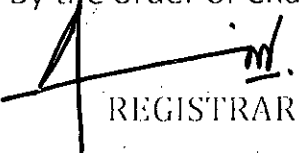


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 934/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	30.11.2023	<p>The implementation petition of Mr. Badar Munir submitted today by Mr. Tajdar Faisal Khan Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____. Original file be requisitioned. AAG has noted the next date. Parcha peshi is given to counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

Bahad Munir **Versus**
..... Appellant

Court
..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Advocate</u> <u>Court</u>	√	
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
3.	Whether appeal is within time?	√	
4.	Whether the enactment under which the appeal is filed mentioned?	√	
5.	Whether the enactment under which the appeal is filed is correct?	√	
6.	Whether affidavit is appended?	√	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	√	
8.	Whether appeal/annexures are properly paged?	√	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
10.	Whether annexures are legible?	√	
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/clear?	√	
13.	Whether copy of appeal is delivered to AG/DAG?	√	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
15.	Whether numbers of referred cases given are correct?	√	
16.	Whether appeal contains cutting/overwriting?	x	
17.	Whether list of books has been provided at the end of the appeal?	√	
18.	Whether case relate to this court?	√	
19.	Whether requisite number of spare copies attached?	√	
20.	Whether complete spare copy is filed in separate file cover?	√	
21.	Whether addresses of parties given are complete?	√	
22.	Whether index filed?	√	
23.	Whether index is correct?	√	
24.	Whether Security and Process Fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	√	
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- Tajdar Faisal Khan

Signature:- [Signature]

Dated:- 30-11-2023

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Implementation Application No. 934 /2023
In Service Appeal No: 659 of 2023

Badar Munir _____ Applicant

Versus

Govt. of Khyber Pakhtun Khwa and others _____ Respondents


INDEX

S.No	Description of documents	Annex	Pages
1	Civil Misc. Application for implementation of judgment		1-2
2	Affidavit		3
3	Copy of appeal & order/judgment dated: 24-08-2023	A-B	4-8
4	Copy of application dated: 04-09-2023	C	9-10
5	Wakalat Nama		11

Through

Dated: 28.11.2023


Applicant


Tajdar Faisal Khan Marwat
Advocate High Court,
Peshawar

minakhel@yahoo.com
2313 96 091 68

①

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Implementation Application No. 934 /2023
In Service Appeal No: 659 of 2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9629

Dated 30-11-2023

Badar Munir S/O Habib ullah

Levy Sepoy, Levies Force, District Lakki Marwat. R/O Mela Shahab Khel,
Tehsil & District Lakki Marwat.

..... Applicant

Versus

- 1. Government of Khyber Pakhtun Khwa,**
Through Chief Secretary,
Civil Secretariat, Peshawar.
- 2. Secretary Home & Tribal Affairs Department,**
Province of Khyber Pakhtun Khwa,
Civil Secretariat, Peshawar.
- 3. Inspector General of Police**
Province of Khyber Pakhtun Khwa,
PPO Office, Peshawar.
- 4. Deputy Commissioner/Commandant Levies Force**
District Lakki Marwat.

..... Respondents

nts

Filed to-day

30/11/23

APPLICATION FOR AND ON BEHALF OF
APPLICANT / APPELLANT FOR
IMPLEMENTATION OF ORDER/
JUDGMENT DATED: 24-08-2023 PASSED BY
THIS HON'BLE TRIBUNAL IN SERVICE
APPEAL NO. 659/2023.

Respectfully Sheweth!

1. That the applicant / appellant filed above cited Service Appeal No. 659/2023 before this Hon'ble Tribunal, challenging the action and inaction of the respondents for pre-mature retirement of applicant/appellant.

2. That the said appeal was argued at length before this august Tribunal and the same was disposed of vide order/judgment dated: 24-08-2023.

{Copy of the Service appeal and order/judgment dated: 24-08-2023 are annexed, mark as **Annex-A & B**}

3. That the applicant after passing of the above order, approached to respondent No. 4 and duly informed him about the order dated: 24-08-2023 of this Hon'ble Tribunal through an application dated: 04-09-2023 which was received by the office through diary No. 1261 dated: 04-09-2023, however, no heed was paid thereto. It would be relevant to mention that the order was passed/announced in open court and in presence of respondents' representative.

{Copy of application is attached, as mark **Annex-C**}

4. That due to the unturned attitude of the respondents, the applicant is constrained to knock at the door of this Hon'ble Tribunal again for the implementation of the order/judgment dated: 24-08-2023.
5. That the respondents have blatantly disregarded the clear directions of this Hon'ble Tribunal and have in fact flouted the process of law by their naked misuse of power.

PRAYER:


It is, therefore, most respectfully prayed that on acceptance of this application, this Hon'ble Tribunal may be pleased to:-

- I. **Direct** the respondents to implement the order/judgment dated: 24-08-2023 passed in S.A No. 659/2023 in letter and spirit, forthwith.
- II. **Any other relief** deemed appropriate in the circumstances of the case may also be granted.


Applicant

Through

Dated: 28.11.2023


Tajdar Faisal Khan Marwat
Advocate High Court
Peshawar.

3

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Implementation Application No. _____/2023
In Service Appeal No: 659 of 2023

Badar Munir _____ Applicant

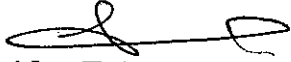
Versus

Govt. of Khyber Pakhtun Khwa and others
_____ Respondents

AFFIDAVIT

I, **Badar Munir S/O Habib ullah** Levy Sepoy, Levies Force, District Lakki Marwat. R/O Mela Shahab Khel, Tehsil & District Lakki Marwat do hereby solemnly affirm and declare upon oath that the contents of accompanied **application** are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Honourable Tribunal.

Identified By:


Tajdar Faisal Khan Marwat
Advocate High Court.


Deponent



(4) 'A'

BEFORE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 659 of 2023



Badar Munir S/O Habib ullahi

Levy Sepoy, Levies Force, District Lakki Marwat. R/O Mela Shahab Khel, Tehsil
& District Lakki Marwat.

..... Appellant

Versus

1. **Government of Khyber Pakhtun Khwa,**
Through Chief Secretary,
Civil Secretariat, Peshawar.
2. **Secretary Home & Tribal Affairs Department,**
Province of Khyber Pakhtun Khwa,
Civil Secretariat, Peshawar.
3. **Inspector General of Police**
Province of Khyber Pakhtun Khwa,
PPO Office, Peshawar.
4. **Deputy Commissioner/Commandant Levies Force**
District Lakki Marwat.

..... Respondents

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL
ACT, 1974 AGAINST THE IMPUGNED NOTIFICATIONS DATED: 22-03-
2021 AND 21-10-2021 VIDE WHICH RETIRING AGE FOR THE POST OF
SEPOY WAS REDUCED FROM 60 YEARS TO 45 YEARS AND AGAINST
THE IMPUGNED ORDER DATED: 12-09-2022 VIDE WHICH
APPELLANT HAS BEEN PREMATURELY RETIRED FROM SERVICE
AND AGAINST THE INACTION OF RESPONDENTS TO DECIDE THE
DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY
PERIOD.

PRAYER:-

ON ACCEPTANCE OF THE INSTANT APPEAL THE IMPUGNED
NOTIFICATIONS DATED: 22-03-2021 & 21-10-2021 MAY KINDLY BE

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5

B

Service Appeal No.1916/2022 titled "Muhammad Salim Vs. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat at Peshawar and others"

RDER

4th Aug. 2023

Kalim Arshad Khan, Chairman: Through this single order this appeal and all the following connected appeals are being decided as all are against the same impugned Notifications No.SO(Police-II)HD/MKD/Levies/Misc./2020 dated 22.03.2021 and No.SO(Police-II)HD/1-3/FEDERAL LEVIES 2021 dated 20. 10.2021. Appeal Nos:1916/2022, 1917/2022, 1918/2022, 1919/2022, 1920/2022, 1921/2022, 1922/2022, 1923/2022, 1924/2022, 1925/2022, 1926/2022, 1927/2022, 1928/2022, 1929/2022, 1930/2022, 1931/2022, 1932/2022, 1933/2022, 1934/2022, 1935/2022, 1936/2022, 1937/2022, 1938/2022, 1939/2022, 1940/2022, 1941/2022, 1942/2022, 1943/2022, 1944/2022, 1945/2022, 1946/2022, 1947/2022, 1948/2022, 1949/2022, 1950/2022, 1951/2022, 1952/2022, 1953/2022, 1954/2022, 1955/2022, 1956/2022, 1957/2022, 1958/2022, 1959/2022, 1960/2022, 1961/2022, 1962/2022, 1963/2022, 1964/2022, 1965/2022, 1966/2022, 1967/2022, 1968/2022, 1969/2022, 1970/2022, 1971/2022, 1972/2022, 1973/2022, 1974/2022, 1975/2022, 1976/2022, 1977/2022, 1978/2022, 1979/2022, 1980/2022, 1981/2022, 1982/2022, 1983/2022, 1984/2022, 1985/2022, 1986/2022, 1987/2022, 1988/2022, 1989/2022, 1990/2022, 1991/2022, 1992/2022, 1993/2022, 1994/2022, 1995/2022, 1996/2022, 1997/2022, 1998/2022, 1999/2022, 2000/2022, 2001/2022, 2002/2022, 2003/2022, 2006/2022, 34/2023, 35/2023, 36/2023, 37/2023, 38/2023, 39/2023, 40/2023, 41/2023, 42/2023, 43/2023, 44/2023, 45/2023, 46/2023, 47/2023,

Page 1

ATTESTED

EXAD
Khyber Pakhtunkhwa
Secy

6

48/2023, 49/2023, 50/2023, 51/2023, 52/2023, 53/2023, 54/2023,
 55/2023, 56/2023, 57/2023, 58/2023, 59/2023, 60/2023, 61/2023,
 62/2023, 63/2023, 64/2023, 65/2023, 66/2023, 67/2023, 68/2023,
 69/2023, 70/2023, 71/2023, 72/2023, 73/2023, 162/2023, 168/2023,
 169/2023, 170/2023, 171/2023, 172/2023, 173/2023, 174/2023,
 175/2023, 176/2023, 177/2023, 178/2023, 179/2023, 180/2023,
 181/2023, 182/2023, 183/2023, 187/2023, 188/2023, 189/2023,
 190/2023, 193/2023, 194/2023, 195/2023, 196/2023, 197/2023,
 198/2023, 199/2023, 200/2023, 201/2023, 202/2023, 203/2023,
 204/2023, 205/2023, 206/2023, 207/2023, 208/2023, 209/2023,
 210/2023, 211/2023, 212/2023, 213/2023, 257/2023, 257/2023,
 258/2023, 259/2023, 315/2023, 322/2023, 408/2023, 409/2023,
 410/2023, 411/2023, 412/2023, 413/2023, 414/2023, 415/2023,
 418/2023, 419/2023, 601/2023, 602/2023, 603/2023, 604/2023,
 605/2023, 625/2023, 626/2023, 629/2023, 630/2023, 631/2023,
 632/2023, 633/2023, 634/2023, 635/2023, 636/2023, 637/2023,
 638/2023, 639/2023, 640/2023, 641/2023, 642/2023, 643/2023,
 644/2023, 645/2023, 646/2023, 659/2023, 660/2023, 661/2023,
 682/2023, 793/2023, 870/2023, 1175/2023, 1258/2023, 1259/2023,
 1288/2023, 1289/2023, 1300/2023, 1372/2023 and Service Appeal No.
 1538/2023,

2. In some of the appeals learned counsel for the appellants are present while some appellants are in person present. Mr. Muhammad Jan, District Attorney alongwith M/S Liaqat Ali DSP, Hakim Zada

[Handwritten signature]
 29/08/23

ATTESTED
[Handwritten signature]
 EXAMINER
 Khush Pakhtoon

Superintendent, Muhammad Asim Khan Assistant, Parvez Khan Assistant and Sharif Ullah Assistant for respondents present.

3. It is noted with serious concern that nobody from the Home Department put appearance. Copy of this order be thus sent to the Worthy Chief Secretary Khyber Pakhtunkhwa and Worthy Secretary, Home and Tribal Affairs Department, Khyber Pakhtunkhwa for information.

4. The matter was heard on more than one dates and could not be decided because of pendency of a CP No.818/2023 before the august Supreme Court of Pakistan. During the course of arguments on some previous dates, Dr. Adnan Khan learned counsel for some of the appellants had informed the Tribunal that the petitioners, who had approached the august Supreme Court of Pakistan, against the judgment of Hon'ble Peshawar High Court, in Writ Petition No.363-M of 2021 dated 29.11.2022, had submitted application for withdrawal of the CP from the august Supreme Court of Pakistan. The august Supreme Court was pleased to dismiss the CP as withdrawn on 07.06.2023. Today, Mr. Taimur Haider, Advocate/counsel for the appellant in Service Appeal No. 162/2023, produced copy of an Act of the Provincial Assembly, named "The Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021" in to which a new section, Section-11 was added, which is reproduced as under:

"11. Reinstatement of the levies personnel. --- All levies personnel, who have been retired from the Force, with effect from 22.03.2021, till the commencement of the Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021 shall be reinstated in the Force as regular employees, with effect from their respective dates of retirement and they shall be deemed as never retired from the Force."

[Handwritten signature]

24.08.2023

ACCEPTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

31/08/2023


of Presentation of Application \$1-
per of Words 28/-
ing Fee \$1-
nt 38/-

of Copy 31/08/2023
of Delivery of Copy

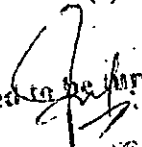
When confronted with the provisions of the newly added Section-11 of the Act of 2021, whereby, all Levies personnel, who had retired from the Force w.e.f 22.03.2021 till the commencement of the Act i.e. 30.11.2021, were reinstated as regular employees w.e.f respective dates of retirement and were deemed to have never retired from the Force, the learned counsel was very fair to say that there was nothing more to be resolved by this Tribunal in these appeals, so is the agreement of other learned counsel as well as appellants present before the Tribunal, because by promulgation of the above Act especially insertion of new Section-11, whereafter, both the impugned Notifications no more remained effective. They, however, contend that even the provisions of the Act were not be complied with/implemented by the respondents. They say they would approach the proper forum for giving effect to/implementation of the provisions of Section-11 of the Act of 2021 and in case their grievances are not addressed in accordance with the terms of the Act, they would recourse to further legal remedies available to them. Disposed of in the above terms. (Copies of this order be placed in all connected appeals).

Consign.

5. *Pronounced in open Court at Peshawar and given under our hands and seal of the Tribunal on this 24th day of August, 2023.*


 (Salah-Ud-Din)
 Member (I)


 (Kalim Arshad Khan)
 Chairman

Certified to be true copy

 FINER
 Khyb Peshawar
 Service Tribunal
 Peshawar

Muzem Shah

31/08/2023
5/-
25/-
30/-
31/08/2023

of Delivery of Copy

of Copy

of Copy

of Copy

ing Fee

er of Words

of Presentation of Application

To

9
c
**THE HON'BLE DEPUTY COMMISSIONER
DISTRICT LAKKI MARWAT.**

Subject: **RE-INSTATEMENT INTO SERVICE IN LIGHT OF
DECISION OF HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL DATED: 24-08-2023 PASSED IN
SERVICE APPEAL No. 659/2023 TITLED: BADAR
MUNIR VS GOVT.**

Worthy Sir,

With reference to the subject cited above, the applicant most respectfully submitted as under:

1. That the applicant was sepoy in Levy Force and performed his duties in accordance with law and rules of Govt. promulgated from time to time.
2. That as per rules in vogue at time of appointment of applicant, retirement age of sepoy of levy force was 60 years.
3. That Hon'ble Secretary Home and Tribal Affairs Department issued impugned notification dated: 22-03-2021 vide which in Rule No. 17 & Schedule III has been substituted and retirement age was reduced to 42 years from 60 years as sepoy of Levy Force.
4. That thereafter, another notification was issued on 21-10-2021 vide which retirement age of sepoy was determined as 45 years.
5. That in light of the above notifications, service of applicant was dispensed with (retired) vide order dated: 12-09-2022 on attaining age of 45 years.
6. That in light of directions of august Peshawar High Court, Peshawar dated: 23-12-2022, applicant moved service appeal No. 659/2023 before august Khyber Pakhtunkhwa Service Tribunal, Peshawar which was allowed/disposed of vide order dated: 24-08-2023. Operative part is reproduced as below:

"Because by promulgation of the above Act especially insertion of new Section-11, whereafter, both the impugned Notifications no more remained effective."

Received

No.	1261
Date	04-09-2023
Return Date	
Action	

D.C Lakki Marwat

- 7. That similar levies employees who have been absorbed in Khyber Pakhtunkhwa Police in light of Act of 2019 are deemed to be retired on their age of superannuation while applicant was treated differently.
- 8. That applicant in light of the above judgment of august Khyber Pakhtunkhwa Service Tribunal, Peshawar most humbly submitted that when the august Tribunal declared the notifications dated: 22-03-2021 and 21-10-2021 as ineffective after promulgation of Act of 2021, so the applicant may kindly be reinstated w.e.f 12-09-2022, the date on which he was retired from service along with all back benefits and his retirement age may be treated as 60 years (age of superannuation).

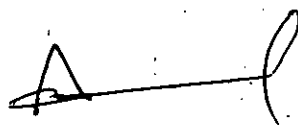
It is, therefore, respectfully prayed that while accepting the instant application, your Honor may very graciously be pleased to pass an order of re-instatement of applicant on his post w.e.f 12-09-2022 along with all back benefits by fixing retirement age as 60 years.

Dated: 04-09-2023

Applicant

**Badar Munir
S/O Habib ullah
Levy Sepoy,
Mela Shahab Khel, Tehsil & District
Lakki Marwat.**

*Attis and
and
Accip
10/*



قیمت
50 روپے

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

ایڈویٹ: 19495 حاجد، حیدر خان مہر

PESHAWAR
BAR ASSOCIATION



بار کونسل ایسوسی ایشن نمبر:

رابطہ نمبر: 0313 9609168

بعدالت جناب: مسز فیس ٹری بیورل R.P.N

منجانب: بدر منیر	دعوی:
	علت نمبر:
	مورخہ:
بدر منیر بنام حکومت	جرم:
	تھانہ:

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
آن مقام حیدر خان مہر کیلئے حیدر خان مہر کو وکیل مقرر
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقریر ثالثت و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست ازہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا طرفہ یا اپیل کی برائگی اور منسوخی، نیز
دائر کرنے اپیل نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سا ختم پر داخست منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانبہ التوا لے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب یا جہتہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند لکھ

المرقوم: 11/2023

العبد کواشد العبد

مقام حیدر خان مہر

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔