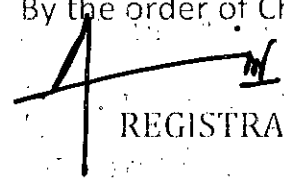


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 433 /2023

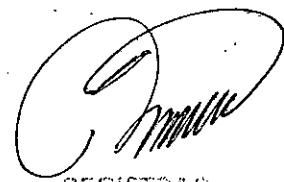
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	30.11.2023	<p>The implementation petition of Mr. Atta Ullah Khan received today by registered post through Sheikh Iftikhar ul Haq Advocate. It is fixed for implementation report before touring Single Bench at D.I.Khan on - _____ . Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

The execution petition in appeal no. 263/2018 received on 17.10.2023 by registered post is returned to the counsel for the petitioner with the following remarks.

- 1- Copy of application moved by the petitioner to competent authority for the implementation of judgment is not attached with the petition. If the application has already been preferred and reasonable time of 30 days has been expired be placed on file. If not, the same process be completed and then after approach to this Tribunal for the implementation of judgment.
- 2- Annexures of the petition is unattested.
- 3- Five more copies/sets of the memo of petition along with annexures complete in all respect be submitted with the petition.

No. 3458 /S.T.

Dt. 26/10 /2023.



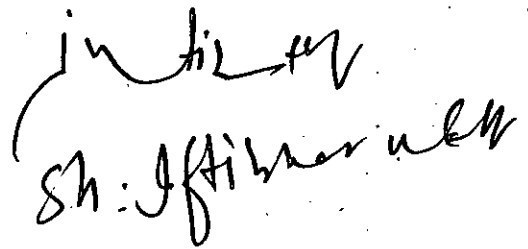
REGISTRAR
KHYBER PAKHTUNKWA
SERVICE TRIBUNAL
PESHAWAR

Sheikh Iftikhar ul Haq Adv.
Hogh Court D.I.Khan.

Respected Sir,

The objections has been removed. Hence resubmitted please Sir.

Dated: 22.11.2023


Sh: Iftikhar ul Haq

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST

Case Title: Atta-ullah Khan vs Govt of KPK etc

S.#	Contents	Yes	No
1.	This appeal has been presented by: _____	✓	
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 pagged?	✓	
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 A.G/D.A.C?	/	
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 cuttings/overwriting?	/	
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:

Atta-ullah Khan

Signature:

Atta-ullah Khan

Dated:

12/10/2023

Through Council

in file no

Su: Atif Khan
A.S.C

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN**

Implementation Petition No. 933 of 2023

In Service Appeal No. 263 /2018

Decided on 30/09/2021

Atta Ullah Khan

Versus

Govt. of KPK etc

INDEX

Sr. #	Particulars of Documents	Annexure	Page
1.	Grounds of CM Petition along with affidavit	--	1-4
2.	Copies of the service appeal and judgment dated 30/09/2023	A & B	5-12
3.	Wakalat nama		-13-

Date: 12 /10/2023

Yours Humble Petitioner

Atta Ullah Khan

Atta Ullah Khan

0345-9847323

Through Counsel

Sheikh Iftikhar ul Haq
A.S.C

Sheikh Iftikhar ul Haq

Advocate Supreme Court

0345-9785926

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN**

Implementation Petition No. 933 of 2023

In Service Appeal No. 263 /2018

Decided on 30/09/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8358

Dated 17-10-2023

**Atta Ullah Khan, Ex Office Assistant, District
Director Agriculture Dera Ismail Khan. 0345-9847323**

..... Petitioner

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Agriculture Khyber Pakhtunkhwa, Peshawar.
2. Director General Agriculture Department Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner Tank.
4. Deputy Commissioner Dera Ismail Khan.

..... Respondents

**IMPLEMENTATION PETITION UNDER KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 READ WITH KPK SERVICE
TRIBUNAL SERVICE TRIBUNAL RULES 1974 AS AMENDED
FOR IMPLEMENTATION OF THE ORDER/JUDGMENT IN
SERVICE APPEAL NO. 263/2018 DECIDED ON 30/09/2021
BY THIS HONOURABLE TRIBUNAL.**

Respectfully Sheweth:-

The Petitioner most respectfully submits as under:-

1. That the petitioner was appointed on 16/09/1974 and promoted as office Assistant on 24/01/2009.
2. That the petitioner was not promoted to BPS-17 being entitled for the same and lastly submitted departmental

appeal and later on within stipulated period the service appeal No. 263/2018 which was allowed on 30/09/2021 with observation, "in view of the foregoing discussion, the instant appeal is accepted with direction to the respondents to consider the case of appellant for proforma promotion to the post of Superintendent (BPS-17) as per his entitlement in accordance with law and complete the process within two months. Copies of service appeal and judgment dated 30/09/2021 are annexed as **Annexure-A & B.**

3. That the respondents/department challenged the same judgment through CPLA No.670-P/2021 which was dismissed on
4. That the respondents are not implementing the aforementioned judgment, hence, the instant implementation petition is being filed before this Honourable Tribunal.

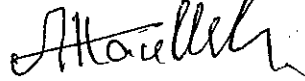
GROUND

- A. That the acts and omissions of the respondent authority to not obeyed/implement the order of this honourable tribunal in its true letter and spirit are clear cut violation of law, statutes and constitution.
- B. That lame excuses on behalf of respondents authorities are not maintainable and respondents were required to implement the judgment of this honourable Tribunal in its true letter and spirit.
- C. That the Counsel for the Petitioner may kindly be allowed to raise further legal grounds during the course of arguments.

It is therefore, humbly requested that the respondents be directed to fully implement the judgment/order of this honourable tribunal dated 30/09/2021.

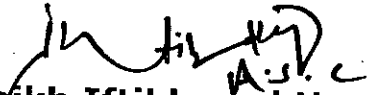
Date: 12/10/2023

Yours Humble Petitioner



Atta Ullah Khan

Through Counsel



Sheikh Iftikhar ul Haq
Advocate Supreme Court

- 4 -

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN**

Implementation Petition No. _____ of 2021

In Service Appeal No. 263 /2018

Decided on 30/09/2021

Atta Ullah Khan

Versus

Govt. of KPK etc

AFFIDAVIT

I, **Atta Ullah Khan**, do hereby solemnly affirm and declare on oath that contents of above Petition are true & correct to the best of my knowledge and that nothing has been concealed from this Honourable Court.

Dated: 12/10/2023

Atta Ullah Khan

DEPONENT

Identified by:

Sheikh Iftikhar ul Haq
Sheikh Iftikhar ul Haq
Advocate Supreme Court



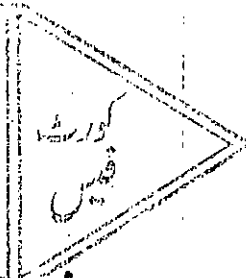


IFTIKHAR-UL-HAQ
Advocate Supreme Court of Pakistan
12201-0316740-9

LIFE MEMBER

M. AHSAN BHOON
President

WASEEM MUMTAZ MALIK
Secretary



جناب صدر پنجو خواہ لٹریٹرس لیسٹریٹس بک ڈپلہٹ

عطاء اللہ خان

Implementation Petition

دفعہ 19

تعمیر بحالی

باعتباریہ
D. J. Khan
مقدمہ درخواستیہ بالادکان میں اپنی طرف سے اس کے خلاف وکالت کی پیشکش یا تصدیق مقدمہ بنام
شیر نسیان خاں الحق ابیدولہ سید عظیم کورٹ آف پاکستان

کو جس میں وکیل شریانی نے وکیل مقرر کیا ہے کہ میں پیشکش پر خود یا پٹا پڑا۔ وہ سہ وکالت حاضر رہتا رہوں گا اور ہر وقت پکارے جانے مقدمہ وکیل صاحب
موجودہ کو اطلاع دے گا کہ حاضر عدالت کروں گا اگر پیشکش پر مقرر حاضر ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب
موجودہ اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکپوری کے علاوہ یا پکپوری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل
پروڈی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر پکپوری کے علاوہ اور بلکہ سماعت ہونے یا بروز تعطیل یا پکپوری کے اوقات کے آگے یا پیچھے پیش ہونے
پر مطالبہ کرنا یا تنہا یا پیچھے تو اس کے ذمہ دار نہ ہوں گے اس کے واسطے کسی مقدمہ کے ادا کرنے یا سماعت نہ واجب کرنے کے کسی صاحب موصوف ذمہ دار نہ ہوں گے مجھ
کو کچھ ساختہ پر وقت صاحب موصوف مثل کردہ ذات خرد منظور قبول ہو گا اور صاحب موصوف کو عرض دہی یا جواب دہی یا درخواست اجراء اسمائے انگری
نظر ثانی کرنی گمانی و بر قسم درخواست بر قسم کے بیان دینے اور پر تاشی یا باض نامہ و فیصلہ بر حلف کرنے اقبال دہی کا بھی اختیار ہو گا اور بصورت مقرر ہونے
تاریخ پیش مقدمہ فرود بیرون از پکپوری صدر بیرونی مقدمہ مرکز نظر ثانی اور وکالتی و برآمدگی مقدمہ یا مندرجہ ذمیری یک طرفہ یا درخواست حکم استانی یا قرقی
یا گرانہی قلم از فیصلہ اجراء انگری بھی صاحب موصوف کو پر بار ادا یا علیحدہ تقابیر دہی کا اختیار ہو گا اور نام ساختہ پرواخذ صاحب موصوف مثل کردہ
از لہ منظور قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو گا کہ مقدمہ مرکز یا اس کے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی
انجیل گمانی یا دیگر معاملہ و قدمہ مذکورہ کسی دوسرے وکیل یا بر سر کار اپنے بجائے یا اپنے ہمراہ مقرر کریں اور یہ مشیر قانون کو بھی ہر امر میں دہی اور ویسے
اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دونوں مقدمہ میں جو کچھ ہر جہان اثناء ہوتے گا وہ صاحب موصوف کا حق ہو گا مگر
صاحب موصوف کو پوری قلم تاریخ پیشکش سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پروڈی نہ کریں اور ایسی صورت
میں جو کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ منظور
12
ماہ اکتوبر 2023
مضمون وکالت نامہ بن لیا ہے اور ایسی طرح سمجھ لیا ہے اور منظور ہے

Attested
Accepted
in title
St. Iftikhar ul-Haq
A.S.C

Attaullah
03459847323

12101-0959070-5

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.



Appeal no. 263 of 2018.

Atta Ullah Khan, Office Assistant, District Director, Agriculture,
D.I.Khan.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 193

Dated 12-2-2018

VERSUS

1. Government of Khyber Pakhtunkhwa through secretary Agriculture, Peshawar.
2. Director General Khyber Pakhtunkhwa Agriculture Deptt: Peshawar.
3. Deputy Commissioner Tank.
4. Deputy Commissioner D.I.Khan.

APPEAL UNDER SECTION 4 OF
KPK SERVICE TRIBUNAL ACT.

That the brief facts of the case are as under:

1. That the appellant was appointed as Junior Clerk on 16-09-1974 and was promoted as Office Assistant on 24-01-2009.
2. That the Muhammad Yousaf was appointed on temporary basis vide office order No. 1414-15/ADO/Agr/dated; 21-12-2005 by DCO (Now DC) D.I.Khan wherein it is already mentioned that the respondent No.5 has not claimed any seniority or right for regular service.
3. That in the light of above order the name of Muhammad Yousaf was not mentioned in the seniority list earlier but his name was put in seniority list of 01-02-2010 without any justification and reason. Copy of seniority list is Annexure A.
4. That the case of Intiaz Hussain etc. are also same. They are not existing in the seniority list but their names were included illegally and unlawfully in the seniority list.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Re-submitted to-day
and filed.

12/2/18
Registrar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT D.I. KHAN**

Service Appeal No. 263/2018

Date of Institution ... 12.12.2018

Date of Decision ... 30.09.2021



Atta Ullah Khan, Office Assistant, District Director Agriculture, D.I Khan.
... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Agriculture, Peshawar and
three others. ... (Respondents)

MR. SHEIKH IFTIKHAR-UL-HAQ,
Advocate

... For Appellants

ASIF MASOOD ALI SHAH,
Deputy District Attorney

... For Respondents

SALAH-UD-DIN
ATIQ-UR-REHMAN WAZIR

MEMBER (JUDICIAL) ATTESTED
MEMBER (EXECUTIVE)

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):-


Brief facts of the case are

that the appellant was initially appointed as Junior Clerk on 16-09-1974 and was promoted to the post of Office Assistant on 24-01-2009. Due to a dispute of seniority with his colleagues. The appellant as well as his other colleague Mr. Muhammad Yousaf filed service appeals No. 989/2013 and 1095/2014 respectively, where one Mr. Imtiaz Hussain was private respondent in both the appeals and which were decided in the terms that representative of the official respondents had stated at the bar that the department has almost 9 vacant posts for promotion, but due to the status quo, the department cannot hold DPC meeting. The representative further stated that name of the appellants as well as private respondents, despite their

disputed seniority, falls in the list, which would be forwarded for consideration to the DPC, hence it was jointly resolved that names of the appellants and private respondents may be forwarded to the DPC for consideration for promotion and if they are otherwise fit and entitled for promotion and if they are accordingly promoted, and if in case they still feel aggrieved with their seniority in the new assignment, they can move departmental appeals as well as service appeals, if so advised, hence both the appeals were disposed of on the above terms. The respondents however did not fulfill their commitment and case of the appellant was not considered for promotion well in time due to another status quo granted in service appeal No. 942/2015 in case of Noor Alam Khan, Office Assistant of the same office. Feeling aggrieved, the appellant filed departmental appeal, but in the meanwhile, the appellant reached his age of superannuation 01-05-2016 and retired from service. The appellant filed the instant service appeal in that continuation with prayers that the appellant may be granted ante-dated promotion to BPS-17 from the date, when he was eligible for promotion to the post of superintendent(BPS-17) alongwith all back benefits.

02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law and actions of the respondents are malafide besides being discriminatory and harsh; that the respondents had stated at the bar that the department has almost 9 vacant posts for promotion and if status quo order was withdrawn, then the department would send the name of the appellant and respondents to DPC for promotion to the post of Superintendent (BPS-17), but the respondents did not convene meeting of DPC till retirement of the appellant; that the respondents issued correct seniority list in 2017, which transpires that the appellant if not retired would have been promoted in 2015, but the appellant was deprived of his promotion due to delay on part of the respondents; that the appellant was entitled for such promotion in every respect and inspite of commitment of the respondents, the appellant was kept deprived of his right of promotion, which was not warranted.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

03.

Learned Deputy District Attorney for respondents has admitted to the fact that in service appeal No 989/2013 in respect of the appellant and that of Mr. Muhammad Yousaf in Service appeal No 1095/2017, the respondents had made commitment for consideration of the appellants as well as private respondents for promotion to the next grade as 9 such posts were lying vacant and all of them could be accommodated for promotion, but in the meanwhile one Mr. Noor Alam Khan vide service appeal No. 942/2015 was granted status quo, due to which the meeting of DPC could not be convened well in time and in the meanwhile, the appellant reached his age of superannuation on 01-05-2016; that such corrected seniority list was issued on the order of this honorable tribunal vide order sheet dated 29-08-2016, where name of the appellant was supposed to be at serial No. 7 of the seniority list, but since the appellant by the time retired from service, hence his name was not included in the seniority list issued in 2017, nor he was given promotion due to his retirement.

04. We have heard learned counsel for the parties and have perused the record. Record reveals that respondents had committed at the bar that case of the appellant will be considered for promotion alongwith other appellant as well as private respondents, as enough vacant posts were available for promotion, but due to un-avoidable circumstances, the appellant could not be promoted, but it has been established that the appellant was entitled for such promotion and vacancy was also available, however the appellant was kept deprived of his right of promotion, which was beyond control of the appellant and for which appellant cannot be blamed. The entitlement of the appellant for promotion was not denied rather the process of promotion was withheld on the excuse of status quo granted by this Tribunal. The record, however shows that when the earlier service appeals were disposed of on the commitment of representative of the respondents on 27.07.2015, no status-quo was in filed till 06.09.2015 and status-quo was granted on 07.09.2015 in service appeal No. 925/2015 filed by one Noor Alam Khan. The respondents were thus having

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

sufficient time for convening meeting of DPC, however it appears that the same was delayed malafidely. We have observed that the appellant was wrongly prevented to get next promotion and as a result of which he was not only deprived of the legitimate right of promotion but was also caused permanent loss of pensionary benefits of the higher grade. In similar circumstances, the Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1537 has granted proforma promotion. Similarly in another judgment of the apex court reported as 1997 SCMR 515 and this Tribunal in Service Appeal No. 731/2015 announced on 25-10-2017 have granted similar relief.

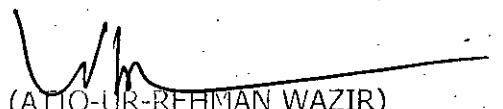
05. In view of the foregoing discussion, the instant appeal is accepted with direction to the respondents to consider the case of the appellant for proforma promotion to the post of Superintendent (BPS-17) as per his entitlement in accordance with law and complete the process within two months. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

30.09.2021



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT, D.I. KHAN



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT, D.I. KHAN

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 29-11-23
Number of Words 4-P
Copying Fee 30/-
Urgent 5/25/
Total 25/
Name of Copyist 29-11-23
Date of Completion of Copy 29-11-23
Date of Delivery of Copy 29-11-23