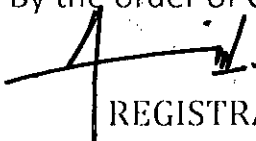


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 10/2024

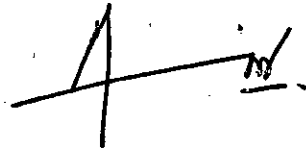
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03.01.2024	<p>The implementation petition of Mr. Abdul Jalil received today by registered post through Mr. Mutee Ullah Rind Advocate. It is fixed for implementation report before touring Single Bench at D.I.Khan 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.393/2016 received today i.e. on 27.11.2023 by registeregi 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 period 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- Copy of judgment is not attached with the petition be placed on it.
- 3- Address of the petition is incomplete be completed according to the rule-6 of the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 4- Chamber address and contact number of the counsel engaged is not mentioned on the index of the petition.
- 5- Two more copies/sets of the petition along with annexures i.e. complete in all respect be submitted with the petition.

No. 3722 /S.F.

DC 28/11 /2023.



REGISTRAR
KHYBER PAKHTUNKWA
SERVICE TRIBUNAL
PESHAWAR

Mr. Murtceullah Rind Adv.
High Court D.I.Khan.

Nata
All abuse objection
has been solved by the
counsel of Petitioner.



Murtceullah
Rind

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR, CAMP OFFICE D.I.KHAN**

EP NO - 10 / 2024

MISCELLANEOUS PETITION NO. _____ OF 2023

EXECUTION PETITION NO. 269 OF 2022

Decided on 21/06/2023

ABDUL JALIL - (Petitioner)

Versus

Govt of KPK & Others - (Respondents)

MISCELLANEOUS PETITION

INDEX

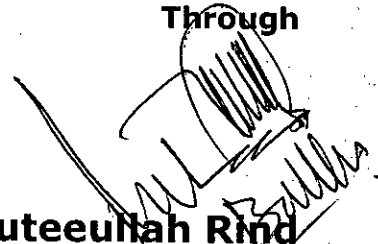
S.No	Particulars of the Documents	Annexure	Page
1	Miscellaneous Petition		<i>1-3</i>
2	Execution Petition		<i>4-6</i>
3	Wakalat Nama	--	<i>7</i>

November 23, 2023

Your humble Petitioner

Abdul Jalil

Through



Muteeullah Rind

Advocate High Court

0348-0998405

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR CAMP OFFICE DIKHAN

EP No 10 / 2024

MISCELLANEOUS PETITION NO. _____ OF 2023

Khyber Pakhtunkhwa
Service Tribunal

EXECUTION PETITION NO. 269 OF 2022

Diary No. 9516

Decided on 21/06/2023

Dated 27-11-2023

Abdul Jalil son of Abdul Latif, r/o Mohallah Ship shah City
Dera Ismail Khan.

(Petitioner)

Versus

1. Govt of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
2. The Board of Revenue Govt. of KPK, Peshawar through its Secretary
3. The Senior Member Board of Revenue Civil Secretariat Peshawar
4. The Secretary Establishment Govt. of KPK, Civil Secretariat Peshawar
5. The Deputy Commissioner / Collector, Dera Ismail Khan

(Respondents)

MISCELLANEOUS PETITION

SUBJECT: **APPLICATION FOR RE-CONSIGNED EXECUTION
PETITION # 269 OF 2023**

Respectfully Sir,

The petitioner is submitted as under:-

1. That the Execution Petition was pending/adjudication before this honourable Court fixed for 21/06/2023, which was filed on same day, due to non-appearance

of petitioner side, with absence of petitioner and his Counsel, Representative of Respondents took advantage to submit implementation report.

2. That the petitioner filed Service Appeal # 393 of 2016 alongwith two others appeal # 360 of 2016 & 361 of 2016 respectively which was aggrieved from one order.
3. That the Respondents implemented order of Appeal # 360 & 361 but the present petitioner/executor is still awaited for implementation of order. Likewise, try to mislead of this honorable court.
4. That the absence of petitioner and his Counsel, the execution petition was filed on 21/06/2023.
5. That the petitioner was not aware and non-issued any Summons for attendance of this court. Please may be rehearing of said execution petition.

It is therefore, humbly prayed that the instant miscellaneous petition may kindly be accepted to rehearing of execution petition and decided on merit.

Petitioner

Abdul Jalil
Through

Muteeullah Rind
Advocate High Court

November/23/
October 25, 2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

MISCELLANEOUS PETITION NO. _____ OF 2023

EXECUTION PETITION NO. 269 OF 2022

Decided on 21/06/2023

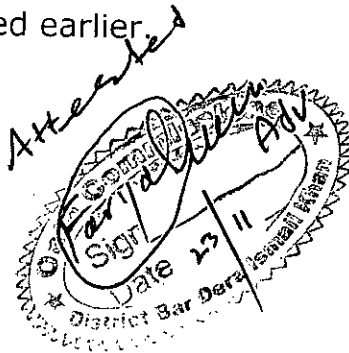
Abdul Jalil (Petitioner)

Versus

Govt of KPK & Others (Respondents)

AFFIDAVIT

I, **Abdul Jalil** son of Abdul Latif, r/o Mohallah Ship shah City Dera Ismail Khan the petitioner, do hereby solemnly affirm and declared on Oath that all the contents of the petition are true and correct to the best of my knowledge and belief and no other petition on the same subject matter was filed earlier.



Deponent
Abdul Jalil
Through Counsel

Muteullah Rina
Advocate High Court



BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Execution Petition No. 269 OF 2023

Diary No. 5018

Dated 28/4/2023

Abdul Jalil son of Abdul Latif r/o Mchallah Shipshah City
Dera Ismail Khan.

(Petitioner)

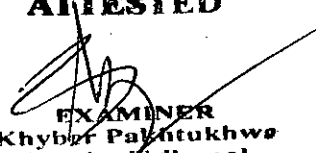
Versus

1. The Govt. of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.
2. The Board of Revenue, Govt. of KPK, Peshawar through its Secretary.
3. The Senior member Board of Revenue Civil Secretariat Peshawar.
4. The Secretary Establishment Govt. of KPK, Civil Secretariat Peshawar.
5. The Deputy Commissioner/Collector Dera Ismail Khan.

(Respondents)

EXECUTION PETITION


That the petitioner hereby applies for execution of the Judgment herein below as follows:

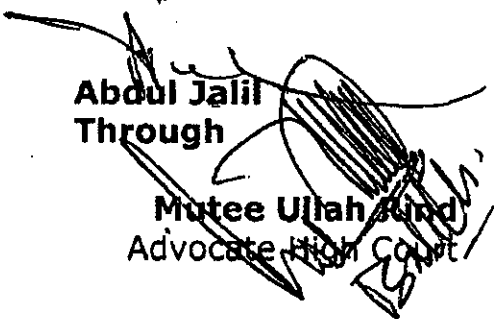
1	Suit No.	Service Appeal No. 361/2016
2	Name of Parties	Abdul Jalil son of Abdul Latif-r/o Mohallah Shipshah Dera Ismail Khan. (PETITIONER)
	ATTESTED  EXAMINER Khyber Pakhtunkhwa Service Tribunal Peshawar	VERSUS <ol style="list-style-type: none">1. The Govt. of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar.2. The Board of Revenue, Govt. of KPK, Peshawar through its Secretary.3. The Senior member Board of Revenue Civil Secretariat Peshawar.4. The Secretary Establishment Govt. of

		KPK, Civil Secretariat Peshawar. 5. The Deputy Commissioner/Collector Dera Ismail Khan (RESPONDENTS)
2	Date of Judgment	24/10/2017
3	Whether any Appeal preferred from Department	Nil
4	Previously execution petition is filled or not	Nil
5	Relief granted in the judgment	The impugned order dated 23/12/2015 is set aside and the appellant is reinstated into service with the direction to the respondents to conduct <i>de-novo</i> enquiry within a period of three months from the date of receipt of this judgment. The issue of back benefits shall be subject to the final outcome of the <i>de-novo</i> inquiry.
6	Amount of Costs, if any	Nil
7	Against whom to be executed	Respondents
8	Mode in which the assistance of the court if required	After announcement of the judgment dated 24/10/2017 the respondents conducted <i>de-novo</i> enquiry in which the petitioner along with two others declared as innocent. Pertinent to mention here that Mr. Qudrat Ullah & Mr. Sher Jan has been reinstated into service on the basis of <i>de-novo</i> enquiry, hence, the present petitioner is also entitled to be treated in accordance with law and is entitled to be reinstated into service as per judgment dated 24/10/2017. After <i>de-novo</i> inquiry the respondents released the arrears and salaries of intervening period i.e. 23/12/2015 to 28/02/2018 to other appellants but refused to the present petitioner.

It is therefore, humbly prayed that the instant petition may kindly be accepted.

March 20, 2023

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

Humble Petitioner
 Abdul Jalil
 Through

 Mutee Ullah
 Advocate High Court

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21.06.2023

01. Nemo for the petitioner. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Abdul Haleem, Superintendent for the respondents present.

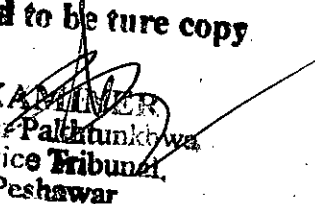
02. Representative of the respondents submitted implementation report whereby in compliance of the judgment of this Tribunal, the grievance of the petitioner has been redressed. Since the order dated of this Tribunal has been complied with, therefore, the instant execution petitioner is filed. Consign.

03. *Pronounced in open court at camp court D.I.Khan and given under my hand and seal of the Tribunal this 21st day of June, 2023.*


(Muhammad Akbar Khan)
Member (E)
Camp Court D.I.Khan

Kamranullah

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 12/10/23
Number of Words page 3
Copying Fee _____
Urgent _____
Total 20/5/23
Name of Copy _____
Date of Completion _____ 12/10/23
Date of Delivery of Copy _____ 12/10/23

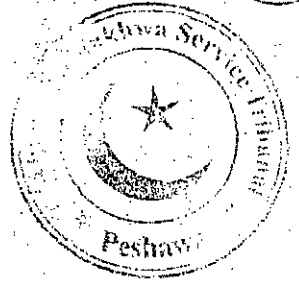
(4)
Annexure

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

Appeal No. 360/2016

Date of Institution ... 04.04.2016

Date of Decision ... 24.10.2017



Qudratullah S/O Ghulam Rasool, Basti Kanjhanwali, D.I.Khan City.
... (Appellant)

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and 4 others. ... (Respondents)

MR. MUHAMMAD ASGHAR KHAN KUNDI,

Advocate

MR. MUHAMMAD ISMAIL ALIZAI,

Advocate

--- For appellant.

MR. FARHAJ SIKANDAR,

District Attorney

... For respondents

MR. AHMAD HASSAN, ...

MR. MUHAMMAD HAMID MUGHAL ...

MEMBER (Executive)

MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.-

This judgment shall dispose of the instant service appeal as well as connected service appeals no. 393/2016 titled Abdul Jali and no. 361/2016 titled Sher Jan as similar question of law and facts are involved therein.

Arguments of the learned counsel for the parties heard and record perused.

FACTS

The brief facts are that the appellant on the allegations of not pursuing Civil Suit against the government was subjected to inquiry and vide impugned order dated 23.12.2015 major penalty of dismissal from service was imposed on him against



which he preferred departmental appeal on 19.01.2016 but was rejected on 14.03.2016, hence, the instant service appeal.

ARGUMENTS

4. Learned counsel for the appellant argued that a civil suit was instituted in the court of Civil Judge D.I.Khan in 2007 regarding declaration of title of 16 Kanal of government land situated in Mauza Shorkot, Tehsil and District D.I.Khan. Respondent no.5 gave an authority letter dated 25.05.2007 to the appellant by authorizing him to represent the Provincial Government in the above court on 02.06.2007 and on subsequent dates. He further contended that the appellant attended the court on 02.06.2007 and there-after authority letter was given to DRA Ghulam Qasim on 20.06.2007, while next date of hearing i.e 21.06.2007 was also attended by him. However, he did not attend the court on 04.07.2007 and defendants were accordingly placed ex-parte. Afterwards the appellant was posted as Naib Tehsildar Nala Gomal and was required to look-after duties of flood control. He submitted an application on 15.06.2007 to the respondent no.5 to relieve him of attending the court in the said case. Finally vide judgment dated 05.01.2008 ex-parte decree was passed in favour of the plaintiff with the directions to allot the said land to the plaintiff. The respondents did not challenge the said order in appellate court. However, they preferred an application under Section 12(2) of CPC before Civil Judge D.I.Khan on 09.07.2013. Mr. Kiramatullah Khan, Tehsildar D.I.Khan was deputed to attend the court in this case. The above application was rejected on 10.11.2014. Similarly Addl. District & Session Judge D.I. Khan vide judgment dated 16.04.2015 dismissed the revision petition of the respondents against order dated 10.11.2014. The respondents have now filed Writ Petition no. 857-d/2015 before Peshawar High Court D.I.Khan Bench and the same is still subjudice. As such Mr. Abdul Jalil appellant in Service appeal no. 393/2016 was never directed/authorize to pursue/attend the court regarding application under 12(2)CPC and as such could not be held responsible for dismissal of application on 10.11.2014. The enquiry officer did not dilate upon this important aspect of the case. DRA Ghulam Qasim was exonerated by the enquiry officer on the sole ground of not receiving the authority letter



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and his request to the District Officer Revenue D.I.Khan to attend the court proceedings. However, the record before the enquiry officer belies the above assertion. Authority letter dated 20.06.2007 issued in favour of DRA, Ghulam Qasim bears countersignatures of the presiding officer alongwith office stamp of the court and order issued dated 21.06.2007 refers to its presentation and attendance of court. Letter regarding exemption from attending court dated 05.02.2006 presented by Mr. Ghulam Qasim before the enquiry officer was much before the subject case instituted on 12.05.2007 and authority letter was issued on 20.06.2007. The enquiry officer was required to take into account these facts. Punishment awarded is very harsh. Casual, unprofessional and lethargic attitude of Government Pleader has not been highlighted by respondent no. 3 nor recommended action against him to the law department. The accused officials were never summoned in person for recording their statements as required under E&D Rules-2011. Opportunity of personal hearing was not afforded to the accused officials. No departmental representative was deputed by the respondents to assist the enquiry officer and present relevant record. Although final show cause notice was served on the appellant, but copy of inquiry report being a mandatory was not annexed with it and it tantamount to illegality and departure from rules. The enquiry officer failed to record statement of witnesses and opportunity of cross examination of witnesses was also not provided to the appellant. Speaking order was not passed on the departmental appeal submitted, hence, Section-24 (A) of General Clauses Act 1897 was violated. Reliance was placed on case as report in 2008 SCMR 1369, 2013 SCMR 817 and SCMR 1743.

On the other hand learned District Attorney argued that the appellant was authorized by the then Tehsildar D.I. Khan to attend/pursue the subject case in the court of the above mentioned Civil Judge D.I.Khan. Initially he attended the court once but did not appear later on and ex-parte decree was issued against the Provincial government due to negligence of the appellant. The provincial government was deprived of 16 Kanal of land because of dereliction showed by appellant toward official duty. All codal formalities were completed before imposition major penalty of dismissal on the appellant and others.



TESTED
 [Handwritten signature]

CONCLUSION.

Careful perusal of record would reveal that glaring discrepancies were noticed in the enquiry proceedings. The accused officials were never summoned in person for recording their statements. No departmental representative was deputed by the respondents to assist the enquiry officer and present relevant record. Though final show cause notice was served on the appellant, but copy of inquiry report being a mandatory requirement was not annexed with it and it tantamount to illegality and departure from rules. The enquiry officer failed to record statement of witnesses and opportunity to cross examine the witnesses to the appellant was also not provided to the appellant. Another lacuna noticed in the enquiry report is that unprofessional and lethargic attitude of Government Pleader has not been highlighted/ discussed nor any action was recommended against him to the law department. Normally it is the responsibility of the Government Pleader to represent/defend the case in the court of Civil Judge on behalf of the provincial government. Speaking order was not passed on his departmental appeal, hence, Section-24 (A) of General Clauses Act 1897 was violated.

Respondent no.5 gave an authority letter dated 25.05.2007 to the appellant by authorizing him to represent the Provincial Government in the above court on 02.06.2007 and on subsequent dates. He further contended that the appellant attended the court on 02.06.2007 and there-after authority letter was given to DRA Ghulam Qasim on 20.06.2007, while next date of hearing i.e 21.06.2007 was also attended by him. However, he did not attend the court on 04.07.2007 and defendants were accordingly placed ex-parte. Afterwards the appellant was posted as Naib Tehsildar Nala Gomal and was required to look-after duties of flood control. That no documentary evidence is available to substantiate that the appellant was deputed as departmental representative to pursue/attend the court of Civil Judge VII D.I.Khan. Learned District Attorney produced an office order of Tehsildar D.I.Khan whereby the appellant was deputed to attend the court of the above judge on behalf of Tehsildar D.I.Khan. However, when confronted on the point whether Tehsildar was competent to pass such order he stated that it was beyond the jurisdiction of Tehsildar to pass such orders. As such orders passed by the Tehsildar D.I.Khan were beyond his



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competence, hence, illegal. Moreover, the appellant attended the court on 02.06.2007 and 21.06.2007 but could not attend the court on the next date of hearing and was later on transferred /posted out.

8. We have no hesitation in saying that without active connivance of the then District Collector Mr. Khan Bakhsh and others this should not have happened. In order to save the senior officers appellant and others were made scapegoat. The respondents owe an explanation for their meaningful silence on the dirty role of senior officers, especially the District Collector. It is not the only case decided against the government rather, D.I.Khan is a happy hunting ground for such dramas but were hushed up for one reason or the other. The appellant has also quoted a case of similar nature in his reply departmental appeal. The role of Civil Judge in the instant case has given rise to many questions and further credence to our observation is given by referring to the order passed by the Peshawar High Court dated 20.01.2016, which is reproduced below:-

"The learned AAG contends that decree has been obtained by the respondents by deploying fraudulent means and fraud has been committed on the Court as the suit land was never resumed for land reforms; moreso, in such like controversy, jurisdiction of Civil Court was barred under Section 26 of the land Reforms Regulation, 1972. but the Courts below had not adverted to this vital aspect of the case, therefore, judgment of both the courts below are not sustainable in the eye of law. Points raised, need consideration: Admit. Notice and record."

9. As a nutshell to the above discussion, the appeal is accepted. Impugned order dated 23.12.2015 is set aside and the appellant is reinstated into service with the direction to the respondents to conduct *de-novo* enquiry within a period of three months from the date of receipt of this Judgment. The issue of back benefits shall be subject to the final outcome of the *de-novo* inquiry. Parties are left to bear their own costs. File be consigned to the record room.

(AHMAD HASSAN)
MEMBER
CAMP COURT D.I.KHAN

(MUHAMMAD HAMID MUGHAL)
MEMBER

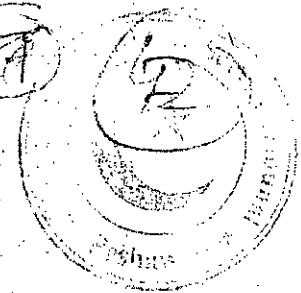
ANNOUNCED
24.10.2017.



Notified by the copy
Peshawar

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Appeal No. 361/2016
Sheer Jan vs S.M.B.R

Order

24.10.2017

Counsel for the appellant and Mr. Farhaj Sikandar, District Attorney alongwith Mr. Mukhtiar Ali, Assistant Secretary for respondents present. Arguments heard and record perused.

This appeal is also accepted as per detailed judgment of today placed on file in connected service appeal No. 360/2016 entitled "Qudratullah-vs- The Govt. of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar and 4 others". Parties are left to bear their own cost. File be consigned to the record room.

Announced:
24.10.2017

SD/

(Muhammad Hamid Mughal)
Member

SD/

(Ahmad Hassan)
Member
Camp court D.I.Khan

Copy of the order
17-11-2017
Peshawar



Number of Pages	800	13-11-2017
Printing Fee	6.00	
Amount		
Total	6.00	
Name of Clerk		
Date of Receipt		17-11-2017
Date of Delivery of Copy		17-11-2017

بخدمت جناب ڈپٹی کمشنر صاحب ضلع ڈیرہ اسماعیل خان

درخواست بمراد حکم فرمائے جانے بابت ادائیگی تنخواہ و بقایا جات تنخواہ بابت

دورانیہ 23/12/2015 تا 28/02/2018

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

- ۱۔ یہ کہ سائل جناب کے زیر سایہ اپنے فرائض منصبی سرانجام دے رہا تھا۔
- ۲۔ یہ کہ سائل کو Dismiss From Service کر دیا گیا تھا۔ سائل نے سروس اپیل نمبر 393 آف 2016 دائر کی جو کہ منظور ہوئی۔ میرے ساتھ دو مزید اہلکار بھی Dismiss from Service ہوئے تھے وہ بھی بحال ہو کر ایک ہی مقدمہ تھا دونوں اہلکاروں کو عرصہ دورانیہ کی تنخواہ مل گئی ہے لیکن میری اپیل نمبر 393 of 2016 پر آج تک عمل درآمد نہیں ہوا لہذا حکم مورخہ 393 of 2016 عمل درآمد کیا جاوے۔ $\frac{10}{24}$ ستمبر 2016ء

لہذا استدعا ہے کہ درخواست حسب صراحت عنوان منظور کی جاوے۔

جناب کی عین نوازش ہوگی۔

مورخہ 03/01/2018

العارض

سائل عبد الجلیل تحصیلدار۔ ڈیرہ اسماعیل خان

MUNEE ULLAH
Advocate
No. 99-3376
Date of Issue: August 2020
Valid upto: August 2023



STENOGRAPHER

کریکٹ
ٹینس

In the Court of Myhr Patel Advocate
Applicant / Petitioner
About Pet vs Govt of KP

Service Tribunal
Petitioner
Camp Office
Kash
D. K.

Misc Application

مختصر درخواست

Ordnance
Munee Ullah Rind Attc

Handwritten text in Urdu, likely the body of the application or petition. It appears to be a request for a service tribunal or related legal matter. The text is dense and written in a cursive style.

2023

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Accepted
Accepted

Munee Ullah
Signature

Signature