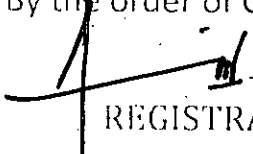


Form- A

FORM OF ORDER SHEET

Court of

Implementation Petition No. 58/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	10.01.2024	<p>The implementation petition of Mr. Muhammad Khan submitted today by Mr. Noor Muhammad Khattak 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 the counsel for the petitioner.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

Excution NO. 58 /2024

D. TAJ Muhammad

VS

GOVT OF KPK

**APPLICATION FOR FIXATION OF THE ABOVE TITLED Excution AT**  
**PRINCIPAL SEAT, PESHAWAR**

Respectfully Sheweth:

1. That the above mentioned Excution is pending adjudication before this Hon'ble Tribunal in which no date has been fixed so far.
2. That according to Rule 5 of the Khyber Pakhtunkhwa Service Tribunal Rules 1974, a Tribunal may hold its sittings at any place in Khyber Pakhtunkhwa which would be convenient to the parties whose matters are to be heard.
3. That it is worth mentioning that the offices of all the respondents concerned are at Peshawar and Peshawar is also convenient to the appellant/applicant meaning thereby that Principal Seat would be convenient to the parties concerned.
4. That any other ground will be raised at the time of arguments with the permission of this Hon'ble tribunal.

**It is therefore prayed that on acceptance of this application the Excution may please be fixed at Principal Seat, Peshawar for the Convenience of parties and best interest of justice.**

Appellant/Applicant

Dated: 09/1/24

Through

**NOOR MOHAMMAD KHATTAK**  
ADVOCATE SUPREME COURT

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Implementation Petition No. 58 /2024

In

Appeal No. 888/2014

**DR TAJ MUHAMMAD**

**VS**

**GOVT OF KPK & OTHERS**

**INDEX**

<b>S. NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
1.	Implementation Petition with Affidavit	.....	1-2
2.	Judgment/Order dated 27/01/2022	"A"	3-6
3.	Application & order dt: 23-1-22	"B" & "C"	7-8
4.	Vakalatnama	.....	9

**PETITIONER**

**THROUGH:**

  
**NOOR MUHAMMAD KHATTAK**  
**ADVOCATE SUPREME COURT**

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Implementation Petition No. 58 /2024 **Khyber Pakhtunkhwa  
Service Tribunal**

In

Diary No. 10488

Appeal No. 888/2014

Dated 10-1-2024

Dr. Taj Muhammad, MO Civil Hospital Bichi North Waziristan

.....**PETITIONER**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- 2- The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar
- 3- The Secretary Health, Civil Secretariat, Peshawar.
- 4- The Director General Health, Civil Secretariat, Peshawar.
- 5- The Director Health Services, FATA, FATA Secretariat, Warsak Road, Peshawar.

..... **RESPONDENTS**

**IMPLEMENTATION PETITION FOR DIRECTING THE  
RESPONDENTS TO OBEY THE JUDGMENT DATED  
27/01/2022 IN LETTER AND SPIRIT.**

**R/SHEWETH:**

- 1- That the applicant/petitioner filed Service Appeal bearing No. 888/2014 before this August Service Tribunal against the charges of absence from duty and was ultimately removed from service vide order dated 21/10/2013.
- 2- That the appeal of the applicant/petitioner was heard and certain directions were given to the respondent department, which are as follows:-

***"In view of the foregoing discussion, we are constrained to partially accept the instant appeal. The appellant is re-instated in service for the purpose of denovo inquiry with direction to the respondents to conduct proper regular inquiry and to afford opportunity of defense to the appellant strictly in accordance with law and rules. Parties are left to bear their own costs."*** Copy of the judgment dated 27/01/2022 is attached as annexure.....**A**

2

- 3- That after obtaining copy of the judgment dated 27/01/2022, the appellant submitted the judgment mentioned above and application for its implementation to the department concerned, but the respondent department is not willing to obey the judgment dated 27/01/2022 in letter and spirit. Copy of the Application is attached as Annexure.....**B**
- 4- That the appellant has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that the respondents may be directed to implement the order dated 27/01/2022 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

Dated: 09-01-2024

**APPLICANT/PETITIONER**

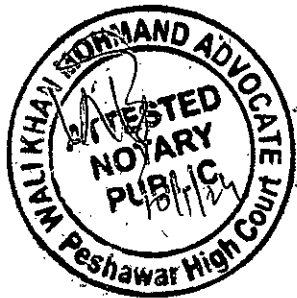
*Taj Muhammad*  
**Dr. Taj Muhammad**

**THROUGH:**

*Noor Muhammad Khattak*  
**NOOR MOHAMMAD KHATTAK  
 ADVOCATE SUPREME COURT**

**AFFIDAVIT**

I Dr. Taj Muhammad, do hereby solemnly affirm that the contents of this **Implementation Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



*Taj Muhammad*  
**DEPONENT**

"A"

(3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEA NO. 826 /2014

Dr. Taj Muhammad M.O Civil Hospital Bichi, NWA

Appellant



Versus

826  
04/6/2014

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar.
3. The Secretary Health Civil Secretariat, Peshawar.
4. The Director General Health, Civil Secretariat, Peshawar.
5. The Director Health Service FATA, FATA Secretariat, Warsak Road, Peshawar.

Respondents.

Service appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 read with section 19 of the Khyber Pakhtunkhwa Efficiency and Disciplinary Rules, 2011 against the impugned order No SO (EII)/(Health )/10-25/2013 Dated 21-10-2013 passed by respondent No 3 and against which appellant filed departmental appeal, which is still pending without disposal.

Prayer:

On acceptance of the instant writ petition this Honorable Tribunal may graciously be pleased to declare the impugned order No SO (EII)/(Health )/10-25/2013 Dated 21-10-2013 passed by respondent No 3 is illegal, unlawful and without lawful authority and set aside the same and re instate the appellant with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present writ petition are as under:-

1. That appellant was appointed as Medical Officer on the recommendation of the Public Service Commission in the year 2005 and was initially posted at DHQ Hospital Lakki and presently serving as M.O at Civil Hospital Bichi, North Waziristan Agency, (Head Quarter Miranshah) Appellant has got about 09 years service

re-submitted to-42

and filed.

26/6/14

ATTESTED

Khyber Pakhtunkhwa Service Tribunal Peshawar

4

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 888/2014

Date of Institution ... 04.06.2014

Date of Decision ... 27.01.2022



Dr. Taj Muhammad M.O Civil Hospital Bichi, NWA.  
... (Appellant)

**VERSUS**

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

Noor Muhammad Khattak,  
Advocate ... For Appellant

Muhammad Adeel Butt,  
Additional Advocate General ... For respondents

**AHMAD SULTAN TAREEN** ... **CHAIRMAN**  
**ATIQ-UR-REHMAN WAZIR** ... **MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQ-UR-REHMAN WAZIR MEMBER (E):-** Brief facts of the case are

that the appellant while serving as Medical Officer in Health Department was proceeded against on the charges of absence from duty and was ultimately removed from service vide order dated 21-10-2013 communicated to the appellant on 31-03-2014. Feeling aggrieved, the appellant filed departmental appeal dated 31-3-2014, which was not responded within the statutory period, hence the instant appeal instituted on 26-06-2014 with prayers that the impugned order dated 21-10-2013 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned order is against law, facts and norms of natural justice, therefore, not tenable and liable

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar


5

to be set aside; that the appellant has not been treated in accordance with law, hence his rights secured under the Constitution has badly been violated; that the appellant was awarded with major punishment without fulfilling the codal formalities as no regular inquiry was conducted nor the appellant was afforded opportunity to defend his cause; that all the proceedings were conducted at the back of the appellant and the appellant was not associated with disciplinary proceedings; that one sided action was taken and the appellant was kept ignorant of the disciplinary proceedings; that no charge sheet/statement of allegation nor any showcuase was served upon the appellant and the appellant was condemned unheard; that the appellant was removed from service on the charges of willful absence, but the appellant regularly performed his duty and salary was released to him up to January 2014; that absence period of the appellant has been regularized by the respondents by treating the period as leave without pay, hence there remains no ground to penalize the appellant to this effect any more.

03. Learned Additional Advocate General for the respondents has contended that absence of the appellant was reported by Ex-Director FATA to secretary health on 11-05-2011, hence disciplinary action was initiated against the appellant by sending notices at his home address; that the same notices were published in leading newspapers, but the appellant did not turn up, hence ex-parte action was taken against him as well as others and were removed from service vide order dated 21-10-2013.

04. We have heard learned counsel for the parties and have perused the record.

05. Available record would suggest that a joint order of removal in respect of doctors and Para-medical staff including the appellant was issued vide order dated 21-10-2013 for the charges of absence from duty. Nothing is available on record to show as to how such notices were sent at home address of the appellant nor any publication of newspapers is available on record. Record is also

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



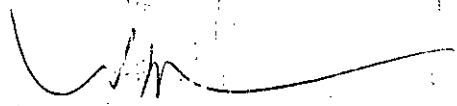
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silent as to whether any inquiry was conducted or show cause notice was served upon the appellant. Both the appellant as well as the respondents did not properly assist the tribunal as to whether the required legal formalities were fulfilled or not and as to whether the appellant performed his duty during the period in time. We are of the considered opinion that the appellant has not been treated in accordance with law and deprived of the opportunity to defend his cause. We have also noted that no regular inquiry was conducted to un-earth the factual controversy of his absence, hence the appellant was concerned unheard.


06. In view of the foregoing discussion, we are constrained to partially accept the instant appeal. The appellant is re-instated in service for the purpose of de-novo inquiry with direction to the respondents to conduct proper regular inquiry and to afford appropriate opportunity of defense to the appellant strictly in accordance with law and rules. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
27.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

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

**Date of Presentation of Application** 01-04-22  
**Number of Words** 1600  
**Copying Fee** 18/-  
**Print** 4/-  
**Total** 22/-  
**Date of Completion of Copy** 04/04/22  
**Date of Delivery of Copy** 04/04/22

**Certified to be true copy**  
  
 Head of Service Tribunal  
 Peshawar

To

The Chief Secretary Khyber Pakhtunkhwa  
Peshawar

Through Proper Channel

Subject: - REPRESENTATION FOR IMPLEMENTATION OF JUDGMENT DATED  
27/01/2022 OF HON'BLE SERVICE TRIBUNAL.

Respected Sir

1. It is stated that the applicant was appointed as Medical Officer in the Health Department, Civil Hospital Bichi North Waziristan FATA (now Merged Area).
2. That the department concerned was proceeded against the appellant on the charges of absence from duty and was ultimately removed from service vide order dated 21/10/2023 communicated to the appellant on 31/03/2014.
3. That the applicant filed departmental appeal, which was not responded within stipulated period.
4. That feeling aggrieved, the applicant filed Service Appeal No 888/2014, which was partially accepted. The appellant is re-instated in service for the purpose of denovo inquiry with direction to the respondents to conduct proper regular inquiry and to afford opportunity of defense to the appellant strictly in accordance with law and rules.

It is, therefore, most humbly requested that on acceptance of this representation, the judgment dated 27/01/2022 of Service Tribunal KP, Peshawar in Service Appeal No 888/2014 may please be implemented in letter and spirit.

Dated: - 07/04/2022

  
Dr. Taj Muhammad

Medical Officer

Civil Hospital Bichi

North Waziristan

FATA (Merged Area)

Attested  
4



**DIRECTORATE GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA PESHAWAR**

All communications Should be Addressed to The Director General  
Health Services Peshawar and not to any official by name.  
Office Ph (091 - 9210269) Exchange (091 - 9210187, Fax (091 - 9210230)

8

11 C 2

**Court Matter/Most Urgent/Out Today**

**OFFICE ORDER**

Dr. Syed Ijaz Ali Shah Member of Service (BPS-19) Project Director IMU Khyber Pakhtunkhwa is hereby appointed as enquiry officer to conduct de-novo inquiry against Dr. Taj Muhammad S/O Maibel Khan MO BS-17 Health Department (who was terminated from service for his willful absence from duty w.e.f. January, 2011 and now re-instated by the court for the purpose of de-novo inquiry) in the light of judgment of Khyber Pakhtunkhwa Service Tribunal announced dated 27.01.2022.

The enquiry officer should probe and investigate into the matter and submit its report within 10-days positively.

**The Matter May Be Treated As Most Urgent Being Court Matter**

Sd/xxxxxx  
Director General Health,  
Services Khyber Pakhtunkhwa.

No. 430-33/E.I (Dr. Taj Muhammad MO P/F)

Dated: 23/01/2023.

Copy forwarded to the: -

1. Secretary to Govt: of Khyber Pakhtunkhwa Health Department for information w/r to his letter No. SO (Lit-II)HD/S.A: 888/2014/Dr. Taj Muhammad dated 28.11.2022.
2. Dr. Syed Ijaz Ali Shah Member of Service (BPS-19) Project Director IMU Khyber Pakhtunkhwa for information and necessary action. A copy of Govt: letter No. letter No., SO (Lit-II)HD/S.A: 888/2014/Dr. Taj Muhammad dated 28.11.2022, along with court announcement dated 27.01.2022 and other enclosures is attached for perusal please.
3. Director (Litigation) DHGS KP, Peshawar for information w/r to his letter No. 4463-68/(Lit) dated 07.12.2022.
4. AE-II DGHS KPK Peshawar for information.

**ATTESTED**

*[Signature]*  
ADDITIONAL D.G. (H R M)  
DIRECTORATE GENERAL HEALTH  
SERVICES KHYBER PAKHTUNKHWA PESHAWAR  
@ 9/01

(9)

**VAKALATNAMA**  
**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

E.P No      /2024

Dr. Taj Muhammad

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Govt

(RESPONDENT)  
(DEFENDANT)

I/We Dr. Taj Muhammad

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated.      /      /2024

*Taj Muhammad*

**CLIENT**

*[Signature]*

**ACCEPTED**

**NOOR MOHAMMAD KHATTAK  
ADVOCATE SUPREME COURT**

*[Signature]*

**WALEED ADNAN**

*[Signature]*

**UMAR FAROOQ MOHMAND**

*[Signature]*

**MUHAMMAD AYUB**

*[Signature]*

**MAHMOOD JAN  
ADVOCATES**

&

**OFFICE:**  
Flat No. (TF) 291-292 3<sup>rd</sup> Floor,  
Deans Trade Centre, Peshawar Cantt.  
(0311-9314232)