


Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Implementation Petition No. 86/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.01.2024	<p>The implementation petition of Mr. Jan Baz Khan submitted today by Mr. Babar Hayat 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 the counsel for the petitioner.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

# **KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR**

## **CHECK LIST**

**Versus**

..... Appellant

..... Respondents

<b>S NO</b>	<b>CONTENTS</b>	<b>YES</b>	<b>NO</b>
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:- Babar Hayat Khan

Signature:- [Signature]

Dated:- 18.1.2024

**BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,**  
**PESHAWAR**

Execution Petition No. 86 /2024

Jan Baz Khan.....**Petitioner**

**V E R S U S**

Director, Elementary & Secondary Education, Govt of  
Khyer Pakhtunkhwa, Peshawar.....**Respondent**

**I N D E X**

<b>S.No</b>	<b>DESCRIPTION OF DOCUMENTS</b>	<b>ANNEX</b>	<b>PAGES</b>
1.	Execution Petition		1-3
2.	Affidavit		4
3.	Copy of the Judgment		5-10
4.	Copy of the Execution		11, 12
5.	Copy of the Order		13
6.	Wakalatnama		



Petitioner/Applicant

Through



**BABAR HAYAT KHAN**

Advocate, Peshawar

Cell: 0333-9727007

Dated: 15-01-2024

①

**BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,**  
**PESHAWAR**

Khyber Pakhtunkhwa  
Services Tribunal

Execution Petition No. 86 /2024

No. 10640

Dated 18-1-2024

Jan Baz Khan S/O Muhammad Nawaz Khan R/O  
Kaki Khas PO Kaki Khas Tehsil & District Bannu  
(Arabic Teacher BPS-15, Govt Middle School No.1  
Bannu)

.....Petitioner

**V E R S U S**

Director, Elementary & Secondary Education,  
Govt of Khyer Pakhtunkhwa, Peshawar.

.....Respondents

**EXECUTION PETITION FOR  
IMPLEMENTATION OF THE JUDGMENT  
DATED 31.05.2023 OF THIS HONOURABLE  
TRIBUNAL IN SERVICE APPEAL NO.  
887/2020 FOR HIS BACK-DATED  
PROMOTION WITH ALL CONSEQUENTIAL  
BENEFITS**

**Respectfully Sheweth:**

1. That the petitioner filed an appeal on 10.02.2020 u/s 4 KP Service Tribunal Act, 1974, against the impugned seniority list for placing the appellant/petitioner at the correct position in the seniority list along with all consequential benefits.
2. That after receiving para wise comments from the respondents, the appeal was accepted in favour of the applicant and the respondents were directed to place the appellant/petitioner in the correct

position in the seniority list with all consequential benefits. (Copy of the judgment dated 31.05.2023 is Annexure A)

3. That the applicant then approached to the office of respondents and filed written application along with attested copy of the judgment dated 31.05.2023 for implementation of the judgment of this honourable Tribunal and include the appellant petitioner from his due date of promotion i.e. 13.02.2020 in the office order of the even date.
4. That the applicant then filed an execution petition no. 559/2023 wherein District Education officer (Male) bannu has complied with his part by submitting all the working papers for promotion of the applicant with back benefits but now the present respondent willfully not implementing the judgement of this honourable Tribunal and the applicant has become a rolling stone in the hands of Directorate Education despite his number of visits to his office in this connection. (Copy of the Execution Petition and Order are attached as Annexure B)
5. That being aggrieved from the action and inaction of the respondent, the applicant having no other option but to file this execution petition.

It is, therefore, most humbly prayed that on acceptance of this execution petition, the implementation of the judgment dated 31.05.2023 of this honourable tribunal in letter and spirit.



Petitioner

Through



**BABAR HAYAT KHAN**  
Advocate, High Court  
Cell: 03339727007

Dated: 15.01.2024

**BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,**  
**PESHAWAR**

Execution Petition No. \_\_\_\_\_/2024

Jan Baz Khan S/O Muhammad Nawaz Khan R/O  
 Kaki Khas PO Kaki Khas Tehsil & District Bannu  
 (Arabic Teacher BPS-15, Govt Middle School No.1  
 Bannu)

.....Petitioner

**V E R S U S**

Director, Elementary & Secondary Education,  
 Govt of Khyer Pakhtunkhwa, Peshawar.

.....Respondents

**A F F I D A V I T**

I, Jan Baz Khan S/O Muhammad Nawaz Khan R/O Kaki Khas PO Kaki Khas Tehsil & District Bannu do hereby solemnly affirm and declare on oath that the contents of the accompanying **Execution Petition** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honble Court.



DEPONENT

(5)

Annexure 'A'

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.**

Service Appeal No.887/2020

Date of Institution... 10.02.2020

Date of Decision... 31.05.2023



Jan Baz Khan S/O Muhammad Nawaz Khan, R/O Kaki Khas P/O Kaki Khas Tehsil & District Bannu, Arabic Teacher (BS-15) Government Middle School, (GMS) No. 1 Bannu. ... (Appellant)

**VERSUS**

Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa, Near GHSS No. 1 Firdos, Peshawar and 41 others.

... (Respondents)

MR. INAYAT ULLAH KHAN,  
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,  
Deputy District Attorney

--- For official respondents.

MR. MIR ZAMAN SAFI,  
Advocate

--- For private respondents No. 3 & 4.

MR. SALAH-UD-DIN  
MR. MUHAMMAD AKBAR KHAN

--- MEMBER (JUDICIAL)  
--- MEMBER (EXECUTIVE)

**JUDGMENT:**

SALAH-UD-DIN, MEMBER:- Precise facts as alleged by the appellant in his appeal are that he was appointed as Arabic Teacher (BPS-15) on contract basis on 22.05.2014 through National Testing Service (NTS) and was later on regularized vide Notification bearing Endorsement No. 1833-61/AE-1/Estab dated 21.03.2018; that initially a seniority list dated 15.10.2019 in respect of Middle School Arabic Teachers was circulated, wherein the name of the appellant was mentioned at serial No. 84, while the names of private respondents No. 3 & 4 were at serial No. 120 & 124 respectively; that the

**ATTESTED**

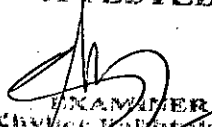
**EXAMINER**  
Khyber Pakhtunkhwa  
Services Tribunal  
Peshawar



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afore-mentioned seniority list dated 15.10.2019 was prepared age-wise but subsequently another seniority list dated 26.10.2019 in respect of Middle School Arabic Teachers was circulated, wherein the appellant was shown junior to private respondents No. 3 & 4, constraining the appellant to file objection petition before the District Education Officer (Male) Bannu, however the same was not responded; that the appellant then filed departmental appeal before the Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar but the same was also not responded; that the appellant then submitted another application to the District Education Officer (Male) Bannu for disposal of objection petition earlier filed by him; that the District Education Officer (Male) Bannu passed hand written order on the application that the applicant being low in his merit position than the competing candidates, was not entitled for promotion and that he shall be promoted on his own turn subject to availability of the posts; that the impugned seniority list dated 26.10.2019 of Middle School Arabic Teachers has been prepared in violation of Clause-8 of terms and conditions prescribed in regularization Notification bearing endorsement No. No. 1833-61/AE-1/Estab dated 21.03.2018 as well as sub-section-2 of Section-4 of Khyber Pakhtunkhwa Employees of Elementary & Secondary Education Department (Appointment and Regularization of Services) Act, 2017, therefore, the same is liable to be corrected.

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

2. On admission of the appeal for regular hearing, notices were issued to the respondents. Official respondents No. 1 & 2 as well as private respondents No. 3 & 4 contested the appeal by way of filing of

replies, wherein they refuted the assertion raised by the appellant in his appeal. Rest of private respondents were proceeded ex-parte vide order dated 12.01.2023.

3. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Deputy District Attorney for official respondents No. 1 & 2 as well as learned counsel for private respondents No. 3 & 4 have controverted the arguments of learned counsel for the appellant and have supported the comments submitted by them.

4. Arguments have already been heard and record perused.

5. A perusal of the record would show that the appellant as well as private respondents were appointed as Arabic Teachers (BPS-15) on contract basis vide appointment order bearing endorsement No.5390-6440/AE-II-Male/AT/Adhoc/Apptt dated 22.05.2014. During the course of their service, Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017 was enacted and vide Notification bearing Endorsement No. 1833-61/AE-1/Estab: dated 21.03.2018 their services were regularized with effect from the date of their initial appointment. Clause-8 of Terms and Conditions as mentioned in regularization Notification dated 21.03.2018 is regarding determination of seniority, which is reproduced as below:-

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

*"Their Seniority shall be determined on the basis of their continuous service in cadre, provided that if the date of continuous service*

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in the case of two or more employees is the same, the employees older in age shall rank senior to the younger one." (Emphasis provided)

6. Moreover, the criteria for determination of seniority inter-se of the employees regularized under Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017 has been provided in Sub-Section 2 of Section-4 of the said Act, which is reproduced as below:-

"4. Determination of seniority.---

(1).....

(2) The seniority inter-se of those employees, whose services are regularized under this Act within the Cadre, shall be determined on the basis of their continuous service in Cadre:

Provided that if the date of continuous service in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one." (Emphasis supplied.)

7. Furthermore, according to Section-5 of the Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017, the provisions of the said act shall have an overriding effect and the provisions of any such law or rules to the extent of inconsistency with the said Act shall cease to have effect.

8. The appellant as well as private respondents were appointed on contract basis on the same date i.e 22.05.2014 and were regularized

ATTESTED

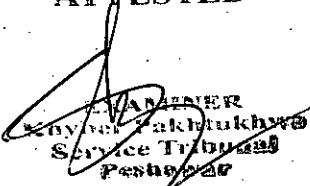
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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through same Notification dated 21.03.2018, therefore, in view of Clause-8 of Notification bearing Endorsement No. 1833-61/AE-1/Estab: dated 21.03.2018 as well as proviso to Sub-Section-2 of Section-4 of Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017, their seniority inter-se was to be determined age-wise. While going through the impugned seniority list dated 26.10.2019, it is evident that inter-se seniority of the appellant and private respondents has been determined on the basis of score obtained by them in written test conducted through NTS, which was not a correct criteria for determination of their inter-se seniority. The NTS score was relevant for their appointment and not for determining their seniority inter-se. The impugned seniority list dated 26.10.2019 to extent of appellant as well as private respondents was prepared wrongly and requires to be corrected in accordance with Clause-8 of terms and condition of Notification bearing Endorsement No. 1833-61/AE-1/Estab: dated 21.03.2018 as well as Sub-Section 2 of Section-4 of Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017.


9. In view of the above discussion, the impugned seniority list dated 26.10.2019 stands set-aside to the extent of those Arabic Teachers, who were appointed on contract basis on 22.05.2014 and whose services were regularized vide Notification bearing Endorsement No. 1833-61/AE-1/Estab: dated 21.03.2018 and it is directed that their inter-se seniority shall be determined age-wise on the basis of ibid Notification

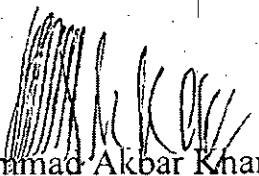
ATTESTED

  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

dated 21.03.2018 as well as Sub-Section-2 of Section-4 of Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment and Regularization of Services) Act, 2017 by placing the name of the appellant at correct position in the seniority list of the concerned Arabic Teachers with all consequential benefits. The appeal in hand stands allowed in the said terms. Needless to mention that this judgment shall have no bearing upon those Arabic Teachers, whose appointments have been made through any order/judgment of court or Tribunal. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
31.05.2023

  
(Salah-Ud-Din)  
Member (Judicial)

  
(Muhammad Akbar Khan)  
Member (Executive)

\*Naeem Amin\*

**Certified to be true copy**

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

Date of Presentation of Application 17-1-24  
Number of Words 6 Page  
Copying Fee 30/-  
Urgent 8/1  
Total 38/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 17-1-24  
Date of Delivery of Copy 17-1-24

Annexure B

(11)

**BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,  
PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Execution Petition No. 559 /2023

Diary No. 6892

Dated 04/08/23

Jan Baz Khan S/O Muhammad Nawaz Khan R/O  
Kaki Khas PO Kaki Khas Tehsil & District Bannu  
(Arabic Teacher BPS-15, Govt Middle School No. 1  
Bannu)

.....Petitioner

**VERSUS**

1. Director, Elementary & Secondary Education  
Govt of Khyer Pakhtunkhwa, Peshawar.
2. District Education Officer (M) Outside Miryan  
Gale Bannu
3. Safdar Ali Shah S/O Ayub Ali Shah (BPS-15, GMS  
Umar Khan Village Mamashkel, Bannu.
4. Muhammad Zainuddin S/O Sahar Gul. (BPS-15)  
GMS Sardaat Khan Mandeo District Bannu



.....Respondents

**EXECUTION PETITION FOR  
IMPLEMENTATION OF THE JUDGMENT  
DATED 31.05.2023 OF THIS  
HONOURABLE TRIBUNAL IN SERVICE  
APPEAL NO. 887/2020 FOR PLACING  
THE APPELLANT AT CORRECT POSITION  
IN THE SENIORITY LIST WITH ALL  
CONSEQUENTIAL BENEFITS**

Respectfully Sheweth:

1. That the petitioner filed an appeal on 10.02.2020  
u/s 4 KP Service Tribunal Act, 1974 against the  
impugned seniority list for placing the

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**SENIOR**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

- appellant/petitioner at the correct position in the seniority list along with all consequential benefits.
2. That after receiving para wise comments from the respondents, the appeal was accepted in favour of the applicant and the respondents were directed to place the appellant/petitioner in the correct position in the seniority list with all consequential benefits. (Copy of the judgment dated 31.05.2023 is attached)
  3. That the applicant then approached to the office of respondents and filed written application alongwith attested copy of the judgment dated 31.05.2023 for implementation of the judgment of this honourable Tribunal and include the appellant/petitioner from his due date of promotion i.e. 13.02.2020 in the office order of the even date. (Copy of the application and office order dated 13.02.2020 are attached)

It is, therefore, most humbly prayed that on acceptance of this execution petition, the implementation of the judgment dated 31.05.2023 of this honourable tribunal in letter and spirit.

*Jamboo*

Petitioner

Through

*Babar Hayat Khan*

**BABAR HAYAT KHAN**  
Advocate, High Court  
Cell: 03339727007

Dated: 04.08.2023

**Certified to be true copy**

*[Signature]*  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Execution Petition No.559/2023 titled "Jan Baz Khan Vs. Government of Khyber Pakhtunkhwa"

ORDER  
16<sup>th</sup> Oct. 2023



1. Learned counsel for the petitioner present: Mr. Habib Anwar, Additional Advocate General present. Respondent No.2 i.e. District Education Officer, (Male) Bannu in person present.

2. Respondent No.2 stated that working paper of the petitioner has been submitted to the Directorate of Elementary & Secondary Education, Peshawar and the issue of back benefits will also be resolved soon. Besides, he requested for release of salaries of the respondents, attached on the previous date. This petition is disposed of with direction to the respondent No.2 to expedite the matter and implement the judgment in letter and spirit. The salaries attached vide previous order, are ordered to be released. Consign.

3. *Pronounced in open Court at Peshawar under my hand and seal of the Tribunal on this 16<sup>th</sup> day of November, 2023.*

(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

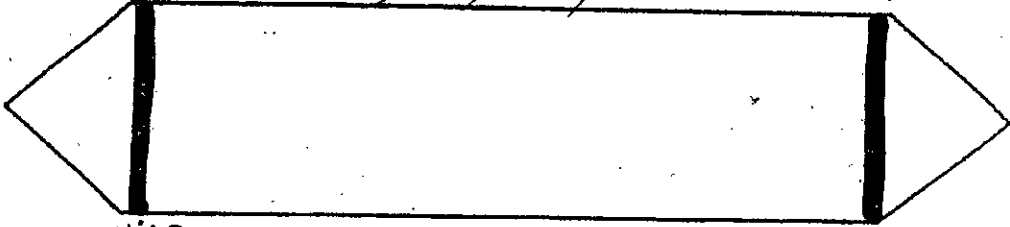
Certified to be true copy

Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 17-01-2024  
Number of Words 3 page  
Copying Fee 15/-  
Urgent 5/5  
Total 20/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 17-01-24  
Date of Delivery of Copy 17-01-24



## بعدالت کسٹریکشن سروسز کے تحت



جاننا ز خان بنام ڈائریکٹر ایگزیکٹو

موزنہ 15.01.2024

مقدمہ Execution

دعویٰ

جرم

### باعث تحریر آنکے

مقدمہ مشدرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام بہاول کیلئے جاننا ز خان

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 تقرر ثالتہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
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 بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

الرقوم 15 ماہ جنوری 2024

العبد \_\_\_\_\_ واہ العبد \_\_\_\_\_

بمقام \_\_\_\_\_ کے لئے منظور ہے۔

13-4242