


Form- A

FORM OF ORDER SHEET

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

Implementation Petition No. 108/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26.01.2024	<p>The implementation petition of Mr. Muhammad Ayub submitted today by Mr. Muhammad Arif Jan 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**

*Execution Petition No 108/2024*

IN Re:

S.Appeal No.1307/2022

Dr. Muhammad Ayub Ex-District Director

.....Petitioner/Appellant

**Versus**

Chief Secretary Govt. of Khyber Pakhtunkhwa, Peshawar and other

.....Respondents

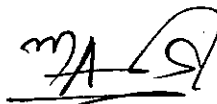
**I N D E X**

S#	Description of documents.	Annexure	Pages
1.	Application for implementation		1-4
2.	Copy of order dated 11-12-2023	A	5-8
3.	Copy of application	B	9
4.	Wakalatnama		10

Dated: 25-01-2024

Appellant

Through



**Muhammad Arif Jan**

Advocate High Court

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 10800

Dated 26/1/24

In Reference:

Execution/Implementation Petition No. 108 /2024

in Service Appeal No. 1307/2022

Dr. Muhammad Ayub Ex-District Director Livestock at Haqdad Abad Moh,  
Hafiz Abad Lakki City District Lakki Marwat..... Appellant:

**VERSUS**

1. Chief Secretary Govt. of Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Agriculture, Livestock, Fisheries and Cooperative Department Khyber Pakhtunkhwa, Peshawar.
3. Director General (Extension), Livestock and Dairy Development Department Khyber Pakhtunkhwa, Peshawar.
4. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department Peshawar.

..... Respondents

**EXECUTION/IMPLEMENTATION PETITION FOR**  
**IMPLEMENTATION OF JUDGEMENT DATED 11-12-2023 IN**  
**ITS TRUE LETTER & SPIRIT**

**Respectfully Sheweth:**

Applicant humbly submits as under:-

(2)

1. That the appellant filed the above titled service appeal for his proforma promotion which was allotted with No. 1307/2022.
2. That this honourable Tribunal after hearing the argument very graciously accepted the service appeal of the appellant vide judgment dated 11-12-2023.
3. That appellant after receiving the attested copy of the judgment, placed the same before the respondents for its implementation as direction was issued in the concluding para-6 of the judgment:

*i. "in view of the above discussion, the appeal is remitted back to the respondent department to consider the appellant for pro-forma promotion on notional base from the date of his colleagues were promoted to BS-20...."*

(Copy of the judgment is attached as annexure -A).

4. That the appellant himself provided the attested copy of the judgment dated above to the respondents concerned well within time, but the respondents are badly failed to comply with the judgment dated 11-12-2023 with the simple excuse that the same has been challenged before the august Supreme Court of Pakistan but neither the applicant has been put on notice nor any restrain order has been provided hence the instant application. **(Copy of application is attached as Annex-B).**
5. That the respondents are duty bound to abide by law and to honor the judgment of this Hon'ble Tribunal in its letter and

spirit, but even then and despite of clear direction, the respondents intentionally avoiding to proceed further in accordance with law rules and regulation governing the subject matter.

6. That in the omission of respondents to act upon the order of this Hon'ble Tribunal speaks of the fact that respondents has undermined the authority of this Hon'ble Tribunal and have not moved even an inch for implementation.
7. That the respondents are badly failed to convene Provincial Selection Board and to redress the grievances of the petitioner.
8. That the respondents have violated the manifest order of this Hon'ble Tribunal, which is amounts to lower the authority of this Hon'ble Tribunal in the eyes of the general public for which the respondents are needed to be booked under the under the law.
9. That the respondents are liable to be treated with iron hands and given exemplary punishment, so that it may serve as a deterrent for the like-minded persons. Needless to mention here, that the leniency shown by this august Tribunal in such like matters has been misunderstood and misconstrued by the contemnors, rather they have got too encouraged and too berserk to obey the Court's order with impunity.
10. That since disposal of appeal and up-till now, the respondents kept the petitioner/appellant into circle between the offices and similarly the respondents also engaged themselves in a false and frivolous correspondence upon the subject matter which of no avail.

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11. That any other ground which has not been mentioned may also be permit to rise at the time of hearing.

It is therefore, humbly prayed to please direct the respondents to implement the judgment dated 11-12-2023 of this Hon'ble Tribunal.



Applicant/Appellant

Through



**Muhammad Arif Jan**

Advocate High Court

### **AFFIDAVIT**

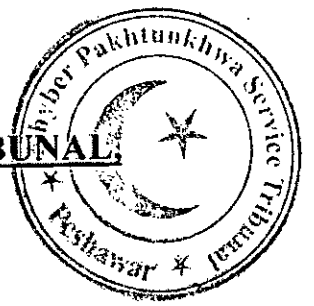
I, do hereby affirm and declare on oath that the contents of this **Application** are true and correct and nothing has been concealed from this honorable court.



DEPONENT



Amex-A (5)



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

Service Appeal No. 1307/2022

**BEFORE:** RASHIDA BANO --- MEMBER (J)  
MUHAMMAD AKBAR KHAN --- MEMBER (E)

Dr. Muhammad Ayub Ex-District Director Livestock at Haqdad Abad Moh, Hafiz Abad Lakki City District Lakki Marwat.....(*Appellant*)

**VERSUS**

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Agriculture, Livestock, Fisheries and Cooperative Department Khyber Pakhtunkhwa, Peshawar.
3. Director General (Extension), Livestock and Dairy Development Department Khyber Pakhtunkhwa, Peshawar.
4. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department Peshawar.....(*Respondents*)

**Present:-**

MUHAMMAD ARIF JAN,  
Advocate --- For Appellant

MUHAMMAD JAN,  
District Attorney --- For respondents.

Date of Institution.....06.09.2022  
Date of Hearing.....11.12.2023  
Date of Decision..... 11.12.2023

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

**JUDGMENT.**

**MUHAMMAD AKBAR KHAN, MEMBER(E):-** Brief facts of the case are that the appellant was joined the service in the respondent Department as Veterinary Officer vide order dated 19.02.1987 and promoted to BPS-18 vide Notification dated 23.12.2009. He got promotion BPS-19 on regular basis vide Notification dated 03.01.2018; that a final seniority list of (BPS-19) officers of Livestock & Dairy Development (Extension Wing) Department Khyber Pakhtunkhwa was issued vide Notification dated

25.10.2021 whereby the appellant was placed at serial No. 4 despite the fact that other three officers were already been promoted to the post of (BPS-20); that respondent No. 4 addressed a letter dated 17.01.2022 to all the Administrative Secretaries to the Government of Khyber Pakhtunkhwa wherein the Provincial Selection Board was schedule for 1<sup>st</sup> week of March, 2022 but later on the date of PSB was postponed till 10<sup>th</sup> March, 2022; that the appellant was retired from service on 29.03.2022 on attaining the age of superannuation; that finally the Provincial Selection Board was scheduled for 06<sup>th</sup> and 07<sup>th</sup> April, 2022 wherein the appellant was not considered for promotion to BPS-20 being retired from service; that 04 posts of BPS-20 were lying vacant and the appellant was not considered for promotion to BPS-20. Feeling aggrieved the appellant filed departmental appeal on 11.05.2022 which was not responded within the statutory period, hence preferred the instant service appeal on 06.09.2022.

02. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant, learned District Attorney and have gone through the record with their valuable assistance.

03. Learned counsel for the appellant contended that the act of commission and omission of the respondents by not considered the appellant for promotion to BPS-20 in the PSB meeting held on 06<sup>th</sup> & 07<sup>th</sup> April, 2022 impugned to the extent of the appellant for which the appellant was entitled is illegal, unlawful,

**ATTESTED**

without lawful authority, hence the respondents be directed to promote the appellant to (BPS-20) from his due date without further delay, reasons and justification without all back benefits; that the government of Khyber



(7)

Pakhtunkhwa did not convene the PSB meeting timely despite the facts of availability of 04 vacant posts of (BPS-20) which were sanctioned since long and notified by the Finance Department but the appellant was kept deprived and junior to the appellant were promoted which was badly affected the privileges and pension of the appellant; that the act of non-consideration of the appellant to (BPS-20) by the respondents is violation of (Appointment Promotion & Transfer) Rules, 1989 as well as fundamental Rules-17; that the name of appellant was placed before the PSB but was deferred and not considered; that 04 posts were laying vacant since long and the appellant was retired from service after attaining the age of superannuation, therefore, the priority should be given to the appellant to be promoted to (BPS-20) but the respondent department intentionally ignored and deprived the appellant with their dishonest attitude; that the appellant served the respondent department with zeal & zest, with devotion, determination and outmost satisfaction of the superiors and have legal vested right to be treated in accordance with law and to be extended equal protection of law, enshrined in Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 alongwith all enabling laws however, the respondents have been denied the right of promotion of the appellant.

04. Learned District Attorney on the other hand contended that the PSB meeting was held on 06<sup>th</sup> & 07<sup>th</sup> April, 2022 and the appellant not in service and he was retired from service on 29<sup>th</sup> March, 2022, therefore, he was not considered by the PSB as per rules; that the respondent No. 4 is authorized to

**ATTESTED**

fix the meeting of PSB on any convenient date in the best public interest; that the meeting of PSB was delayed for the reason that more civil servants could be extended the benefits of promotion to higher scales; that the appellant has

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

7/1

been treated in accordance with the (Appointment Promtion & Transfer) Rules, 1989 and fundamental rules; that the previous PSB took place on 02.12.2021, wherein two senior most officers of Livestock (Extension) Directorate were promoted from BPS-19 to BPS-20. However, one of the officers namely Dr. Rafi Ullah was given promotion on notional bases w.e.f. 12.11.2021 (date of his retirement was 09.12.2021). Moreover, the stance of the appellant that 04 posts were vacant since long is baseless as the next PSB took place on 06<sup>th</sup> & 07<sup>th</sup> April, 2022 i.e. after 04 months, however, the appellant was not in service at that time; that the appellant has been treated in accordance with law & rules and the appellant has been treated in light of the guidelines and directives issued by the respondent No.4.

05 Perusal and scrutiny of record transpires that the appellant rendered service as Veterinary Officer since 19.02.1987 promoted to BPS-18 and further promoted to BPS-9 on regular basis. He retired from service on 29.03.2022 on attaining the age of superannuation. There were 04 posts available for promotion to BPS-20 at the time of placement of the promotion case before the PSB in March 2022. At the time of processing of promotion case of the appellant and his colleagues the appellant stood at serial No. 4 of the seniority list who was eligible for promotion to next higher scale in all respect. His case alongwith other colleagues for promotion to BPS-20 was forwarded to the Administrative/respondent department well before superannuation of the appellant, however, the matter remained in the department for considerable time and by the time working paper was placed before the PSB, the appellant had retired from service on superannuation.

**ATTESTED**

There was no fault on part of the appellant for delay of his promotion case. He

Signature of the attesting officer  
 Service Tribunal  
 Punjab

was eligible for promotion in terms of length of service, completion of service record including ACRs and availability of posts. The delay for placement of the promotion case of the appellant occurred on part of the dealing/Administrative department. There are numerous judgment of the august Supreme Court of Pakistan and this Tribunal allowing the aggrieved civil servant in such like cases for pro forma promotion on notional basis. Reliance is placed on 2012 SCMR 126, 2021 SCMR 1266 and the judgment of This Tribunal rendered in Service Appeal No.552/2015 titled "Mian Zaman Khan Versus Government of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and three others" Service Appeal No. 797/2018 titled "Muhammad Saeed Versus Government of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and 03 others" & Service Appeal No. 625/2018 titled "Anees Ahmed Versus The Secretary to Government of Khyber Pakhtunkhwa, Agriculture, Livestock & Cooperative Department, Civil Secretariat, Peshawar and three others."

06 In view of the above discussion, the appeal is remitted back to the respondent department to consider the appellant for proforma promotion on notional basis from the date his colleagues were promoted to BS-20. Costs shall follow the event. Consign.

07 Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 11<sup>th</sup> day of December, 2023.

(Rashida Bano)  
Member (J)

Certified to be true copy  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

(Muhammad Akbar Khan)  
Member (E)

Date of Presentation of Application 01-01-2024  
Number of Words 5 P  
Copying Fee 25/-  
Urgent 5/-  
Total 30/-  
Name of C 01-01-2024  
Date of 01-01-2024  
Date of 01-01-2024

Annex-B'

9

No: promotion/ BS-20/ 01  
Dated Lakki Marwat the. 1/01/2024

To,

The Director General (Extension),  
Livestock & Dairy Development Department,  
Khyber Pakhtunkhwa, Peshawar.

Subject: **IMPLEMENTATION OF JUDGEMENT OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL IN SERVICE APPEAL NO. 1307/2022, REGARDING PROFORMA PROMOTION OF DR MUHAMMAD AYUB EX-DISTRICT DIRECTOR LIVESTOCK FROM BPS-19 TO BPS-20**

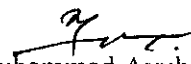
With reference to the subject noted above it please stated that:

The undersigned served the department of livestock and dairy development Khyber Pakhtunkhwa from 19-02-1987 to 29-03-2022 as veterinary officer (Health) BPS-17. Senior Veterinary Officer (Health) BPS-18 and District Director Livestock BPS-19 with good service record. **Before my retirement from service on 29-03-2022, being eligible for promotion,** my promotion case from BPS-19 to BPS-20 was on the agenda of Provincial Selection Board (PSB), I was on the top amongst BPS-19 officers being considered for promotion to BPS-20. Meeting of PSB was delayed and held on 6<sup>th</sup> and 7<sup>th</sup> April, 2022 but I was not considered for promotion due to my retirement from service on 29-03-2022, just seven days before the PSB-meeting and my junior colleagues promoted to BPS-20.

The Department did not respond to the departmental appeal dated 11-05-2022 for proforma promotion of undersigned on notional basis like that granted to one of my senior colleague Dr Rafiullah, Ex-Divisional level Director of the department, in similar situation in previous PSB meeting held on 12/11/2021(Copy of order attached), hence, the undersigned had to file Service Appeal before the Khyber Pakhtunkhwa Service Tribunal. The judgment of the honorable tribunal dated 11-12-2023 is reproduced as, **"In view of the above discussion, the appeal is remitted back to the respondent department to consider the appellant for proforma promotion on notional basis from the date his colleagues were promoted to BPS-20."** (Copy of judgement attached, 05 pages)

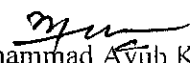
In light of the honorable court decision referred above, it is requested that my case may very kindly be processed to grant me proforma promotion from BPS-19 to BPS-20 on notional basis with all financial benefits.

Enclosure: 1. Copy of judgment 05 pages  
2. Copy of order Dr Rafiullah 01 page

  
(Dr Muhammad Ayub Khan)  
Ex- District Director Livestock  
At Haqdad Abad, Moh, Hafiz Abad Lakki City,  
District Lakki Marwat.

Copy of the above along with enclosure forwarded for information and necessary action to:

1. The Chief Secretary Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Livestock, Fisheries and cooperation department at FATA secretariat, Warsak Road, Peshawar
3. Copy to the Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar for information.

  
(Dr Muhammad Ayub Khan)  
Ex- District Director Livestock  
At Haqdad Abad, Moh, Hafiz Abad Lakki City,  
District Lakki Marwat.

CTC



(10)

## WAKALATNAMA

BEFORE THE HON'BLE KP Service Tribunal, Peshawar

Dr. Muhammad Ayub  
VERSUS

Plaintiff(s)  
Petitioner(s)  
Complainant(s)

Chief Secretary Govt

Defendant(s)  
Respondent(s)  
Accused(s)

By this, power-of-attorney I/we the said Applicant in the above case, do hereby constitute and appoint **MUHAMMAD ARIF JAN** Advocate as my attorney for me/us in my/our name and on my/our behalf to appear, plead, give statement, verify, administer oath and do all lawful act and things in connection with the said case on my/our behalf or with the execution of any decree or order passed in the case in my/our favour/ against which I/we shall be entitled or permitted to do myself/ourselves, and, in particular, shall be entitled to withdraw or compromise the case or refer it to arbitration or to agree to abide by the special oath of any person and to withdraw and receive documents and money from the Court or the opposite party and to sign proper receipts and discharges for the same and to engage and appoint any other pleader or pay him as his fee irrespective of my/our success or failure in case, provided that, if the case is heard at anyplace other than the usual place of sitting of the Court the pleader shall not bound to attend except on my agreeing to pay him a special fee to be settled between us.

Signature of Client

Mu

Accepted.

Muhammad Arif Jan

**Muhammad Arif Jan**  
Advocate High Court  
Peshawar

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