


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 185/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	26.02.2024	<p>The implementation petition of Mr. Muhammad Ilyas 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.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

EXECUTION NO. 185/2023

M. Ilyas

VS

GOVT. OF KPK & OTHERS

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

Respectfully Sheweth:

5. That the above mentioned case is pending adjudication before this Hon'ble Tribunal in which no date has been fixed so far.
6. 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.
7. 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.
8. 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 case may please be fixed at Principal Seat, Peshawar for the Convenience of parties and best interest of justice.

Appellant/Applicant

Dated: 26/2/24

Through


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR


Execution Petition No. 185 /2024
In
Appeal No. 7365/2021

MR. MUHAMMAD ILYAS VS THE EDU: DEPTT:

INDEX

S. NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Implementation Petition with Affidavit	1-2
2.	Judgment dated 27/11/2023	"A"	3-4
3.	Copies of application	"B"	5
4.	Vakalat Nama	6

THROUGH:

PETITIONER
MR. MUHAMMAD ILYAS

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

-1-

Execution Petition No. 185 /2024
In
Appeal No. 7365/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11359

Dated 26-02-2024

Mr. Muhammad Ilyas S/o Khanuk Muhammad, PST BP-12
GPS Bin Beyari, District Dir Upper.

.....PETITIONER

VERSUS

1. The Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (M), District Dir Upper.

..... RESPONDENTS

EXECUTION PETITION UNDER SECTION 7(2)(d) OF THE KP SERVICE TRIBUNAL ACT 1974, RULE 27 OF THE KP SERVICE TRIBUNAL RULES 1974 READ WITH SECTIONS 36 AND 51 OF THE CIVIL PROCEDURE CODE AND ALL ENABLING LAWS ON THE SUBJECT FOR THE IMPLEMENTATION OF THE JUDGMENT DATED 27/11/2023 IN LETTER AND SPIRIT.

R/SHEWETH:

- 1- That the petitioner filed Service Appeal bearing No. 7365/2021 before this august Service Tribunal, against the order dated 27/11/2023, whereby the petitioner has been compulsory retired from service.
- 2- That the appeal of the petitioner was finally heard on dated 27/11/2023 and as such the ibid appeal was disposed of with the following terms by this august Service Tribunal:-

Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

02. During the course of arguments, learned counsel for the appellant submitted a copy of Office Order bearing No 7293-47/F.No.120/DEO(M)/Dir Upper dated 29/03/2022, wherein the District Education Officer (Male) District Dir Upper (respondent No 3) has granted pay protection in respect of fourteen similarly placed employees with effect from their first appointment with all benefits. Since the case of the appellant is the same as that of fourteen employees mentioned in the

aforementioned order, we, therefore, remit the instant appeal to the respondents for consideration on the analogy of the aforementioned fourteen employees/colleagues of the appellant. The appeal in hand is disposed of on the above terms. Consign". Copy of the judgment dated 27/11/2023 is attached as annexure.....A

- 3- That after obtaining copy of the judgment dated 27/11/2023 the same was submitted with the respondents for implementation of his grievance coupled with an application, but the respondents/department failed to do so, which is the violation of the judgment supra. Copy of application is attached as annexure.....B
- 4- That now the petitioner having no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of the instant execution petition the respondents may kindly be directed to implement the Judgment dated 27/11/2023 passed in Appeal No. 7365/2021 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.


PETITIONER
MR. MUHAMMAD ILYAS

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

AFFIDAVIT

I Mr. Muhammad Ilyas S/o Khanuk Muhammad, PST BP-12 GPS Bin Beyari, District Dir Upper, do hereby solemnly affirm that the contents of this Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



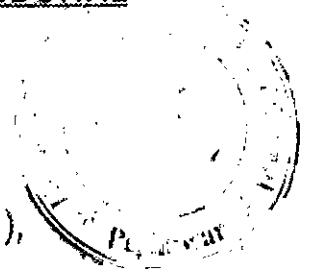

DEPONENT

-3- 'A'

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 7365 /2021

Mr. Muhammad Ilyas S/O Khanuk Muhammad, PST BPS(12),
GPS Bin Beyari, District Dir Upper.



APPELLANT

VERSUS

- 7461
20-8-2021
- 1- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
 - 2- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
 - 3- The District Education Officer Male, District Dir Upper.

RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 24-3-2021 WHEREBY JOINERS TO APPELLANT HAS BEEN PROMOTED TO THE POST OF SPST BPS-14 WHILE THE APPELLANT WAS IGNORED AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT COUNTING THE ADHOC SERVICE OF THE APPELLANT TOWARD LENGTH OF SERVICE FOR PROMOTION AND ALSO AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 24-03-2021 of the respondents may very kindly be rectified/modified to the extent of appellant by directing the respondent to consider the appellant for promotion to the post of SPST BPS-14 with all back benefits including seniroyty and the respondents may further please be directed to grant pay fixation and count the previse adhoc service of the appellant for the purpose of length of service for promotion. Any other remedy which this august Court deems fit may also be awarded in favor of appellant.

File today
20/8/2021

R/SHEWETH:
ON FACTS:

- 1- That appellant is a peaceful and bonafide resident of Village Samai, Tehsil Wari District Dir Upper and belongs to a respectable family.

Certified to be true copy



-4-

Service Appeal No. 7365/2021 titled "Muhammad Ilyas Versus Secretary Elementary & Secondary Education Department Khyber, Peshawar and others"


ORDER
27.11.2023


MUHAMMAD AKBAR KHAN, MEMBER (E):- Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

02. During the course of arguments, learned counsel for the appellant submitted a copy of office order bearing No. 7293-47/F.No.120/DEO(M)/Dir Upper dated 29.03.2022 wherein the District Education Officer (Male) District, Dir Upper (respondent No. 3) has granted pay protection in respect of fourteen similarly placed employees with effect from their first appointment with all benefits. Since the case of the appellant is the same as that of fourteen employees mentioned in the aforementioned order we, therefore, remit the instant appeal to the respondents for consideration on the analogy of the aforementioned fourteen employees/colleagues of the appellant.


03. The instant appeal is disposed of on the above terms. Consign.

04. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 27th day of November, 2023.*


(Rashida Bano)
Member (J)


(Muhammad Akbar Khan)
Member (E)

Kamranullah

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 22/2/24
Number of Words 27
Copying Fee 10/-
Urgent SP
Total 15/-
Name of SP
Date of Copy 22/2/24
Date of Delivery 22/2/24

ایڈمنسٹریٹو سب ڈیو (مردانہ) قلعہ دیر بارا

عنوان: درخواست پیرا (seniority (all back benefits) جناب عالی:

موردیہ گزارش سے کہ سائلان 12/03/2015 سے ابھی تک PST پوسٹ پر اپنے فرائض منصبی سرانجام دے رہے ہیں۔ سائلان کا پہلا آرڈر 12/03/2015 پر جاری ہوا تھا۔ اس کے بعد service میں gap نہ ہونے کے باوجود دوسرا آرڈر 03/05/2017 پر جاری ہوا۔ سائلان کے ساتھ جو colleagues بھرتی ہوئے تھے وہ 24/03/2021 کو SPST پوسٹ پر پرموٹ ہوئے تھے۔ لیکن DEO صاحب نے سائلان کو SPST پوسٹ پر پرمویشن دینے سے انکار کیا تو سائلان عجبوری سیکر Service Tribunal میں ریس جج کیا۔ انہی سائلان کا کورٹ فیصلہ آیا ہے جو درخواست کے ساتھ ہے۔

لہذا آپ صاحبان پیربانی و مائر سائلان کو (seniority + promotion (all back benefits) دینے کے احکامات جاری کرنے۔ تو سائلان تاحیات دعاؤں رہے۔ درخواست گزاران۔

Date: 06/01/2024

- 1 علی آبیر DT GPS کمال پادیش دیربارا
- 2 شیر الرحمن IST GPS بھٹارے دیربارا
- 3 عنایت الرحمن PST GPS سبٹری سلطان جیل دیربارا
- 4 محمد الیاس P.T GPS بین دیربارا
- 5 محمد اسرارہم DT GPS سبٹری دیربارا
- 6 عمران الہی PIT GPS جلیانی دیربارا

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

EP No 12029

M. Ilyas

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Edu : Deptt

(RESPONDENT)
(DEFENDANT)

I/we M. Ilyas.

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. / / 202

Muhammed Ilyas

Red
CLIENT

ACCEPTED

**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**

Waleed
WALEED ADNAN

UMAR FAROOQ MOHMAND

&

Mahmood Jan
**MAHMOOD JAN
ADVOCATES**