


FORM OF ORDERSHEET

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

Misc. application No. 256 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	21/03/2024	<p>The Misc. application in Appeal No. 388/2022 submitted today by respondents no. 1 to 3 through Samina Altaf Director E&amp;SE Department Peshawar. It is fixed for hearing before the Division Bench at Peshawar on _____ . Original file be requisitioned. Parcha Peshi given to the representative of the department.</p> <p style="text-align: right;"> REGISTRAR</p>

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE  
TRIBUNAL PESHAWAR.**

**CM No. 256 /2024 in Service Appeal No: 388/2022**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 11845

Dated 21/3/24

1. Government of KPK through Secretary E&SE KPK.
2. Director Education E&SE KPK.
3. District Education Officer (Male) Karak.....Applicants.

**VERSUS**

**Hamid Khan, Senior Clerk BPS-14, O/O the DEO (M) Karak .....Respondent.**

**INDEX SHEET**

S/#	Description of Documents	Annexure	Pages No.
1	Reply to the titled Application on behalf of Respondents No.1-3 along with affidavit		1-3
2	Copy of the order sheet dated 05-01-2023	A	4
3	Authority letter		5
4	Appel		6

  
(Samina Altaf)  
DIRECTOR

E&SE Department Khyber  
Pakhtunkhwa, Peshawar.

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**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE  
TRIBUNAL PESHAWAR.**

**CM No. 256/2024 in Service Appeal No: 388/2022**

1. Government of KPK through Secretary E&SE KPK.
2. Director Education E&SE KPK.
3. District Education Officer (Male) Karak.....Applicants.

**VERSUS**

**Hamid Khan, Senior Clerk BPS-14, Q/O the DEO (M) Karak .....Respondent.**

**APPLICATION FOR SETTING ASIDE THE EX-  
PARTEE ORDER DATED 05-01-2023 OF THIS  
HONORABLE TRIBUNAL IN FAVOR OF THE  
APPLICANTS /DIRECTOR E&SE KP PESHAWAR.**


**Respectfully Sheweth: -**

The Applicants (Director E&SE KP Peshawar etc) submit as under: -

1. That the titled appeal was pending adjudication before this Honorable Tribunal & has been disposed of vide order dated 05-01-2023, whereby, an Ex-Partee order has been passed against the applicants on account of non-submission of reply on behalf of the respondents No. 1-3 now applicants in the titled application *attached as Annex-A*.
2. That as a matter of fact submission of joint parawise comments in compliance of the notice of this Honorable Tribunal by the Respondent Department needs time as obtaining of signatures from divergent Respondents as a time consuming factor..
3. That law & so many reported Judgments of the Apex Courts of law always favor the disposal of the appeals on merits of the case instead of disposal of the titled appeal on technical grounds.
4. That this Honorable Tribunal has got jurisdiction to honor the titled application on behalf of the applicants/E&SED KP Peshawar having no legal bar in adjudicating the application in hand.
5. That valuable legal rights are attached of the applicants with the titled matter & if the impugned order dated 05-01-2023 regarding Ex-Partee decision against the applicants is not set aside, then they will suffer huge loss.

Therefore, in view of the fore-made submissions, it is most humbly prayed that on the acceptance of this application, this Honorable Tribunal may very graciously be pleased to set-aside the Ex-Partee order dated 05-01-2023 in favor of the Applicants (Director E&SE KP Peshawar) in the interest of equity & justice please.

Dated: \_\_\_\_/\_\_\_\_/2024

  
(Samina Altaf)  
**DIRECTOR**  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar

(2)

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

**CM No. /2024 in Service Appeal No: 388/2022**

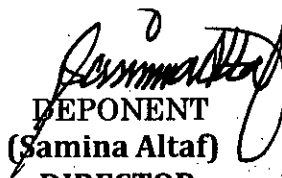
1. Government of KPK through Secretary E&SE KPK.
2. Director Education E&SE KPK.
3. District Education Officer (Male) Karak.....Applicants.

**VERSUS**

**Hamid Khan, Senior Clerk BPS-14, O/O the DEO (M) Karak.....Respondent.**

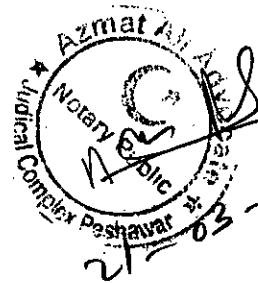
**AFFIDAVIT**

I, Samina Altaf, Director (E&SE) Khyber Pakhtunkhwa Peshawar, do hereby solemnly affirm & declare on oath that the contents of the instant application for setting aside the Ex-Parte order dated 05-01-2023 of this Honorable Tribunal in favor of the applicants /Director E&SE KP Peshawar are true & correct to the best of my knowledge & belief & nothing has been concealed from the ambit of this Honorable Tribunal.

  
DEPONENT  
(Samina Altaf)  
DIRECTOR

E&SE Department Khyber  
Pakhtunkhwa, Peshawar

**ATTESTE**



3

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

APPEAL NO. 388 /2022



Mr. Hamid Khan, Senior Clerk (BPS-14),  
O/O the District Education Officer (M), District Karak.

.....APPELLANT

**VERSUS**

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (M), District Karak.

.....RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 24.11.2021 WHEREBY THE APPELLANT HAS BEEN PROMOTED TO THE POST OF SENIOR CLERK (BPS-14) WITH IMMEDIATE EFFECT RATHER THAN RETROSPECTIVE EFFECT i.e. WITH EFFECT FROM 20.05.2016 WHEN COLLEAGUES AND JUNIOR COLLEAGUES OF THE APPELLANT HAVE BEEN PROMOTED AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

That on acceptance of this appeal the impugned Notification dated 24.11.2021 may very kindly be rectified/modified to the extent of promotion of the appellant with retrospective date i.e. 20.05.2016 with all other consequential benefits and also include/considered the name of appellant for subsequent promotion to the post of Assistant (BPS-16). Any other relief which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

*Brief facts giving rise to the present appeal are as under:*

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

- 1- That the appellant was initially inducted in the respondent Department as Junior Clerk (BPS-05) vide order dated 03.10.1988. That after appointment the appellant took over the charge against the post of Junior Clerk and

(4)

5<sup>th</sup> Jan, 2023

Learned counsel for the appellant present. Syed Naseer Ud Din Shah, Asst: AG for respondents present.

There is nobody present on behalf of the respondents nor did they submit written reply/comments. The time provided in Rule-12 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 for filing reply is seven days before the date fixed but despite providing opportunity the respondents have not filed the comments. They are thus placed ex-parte and their right to file reply stands struck off. Therefore, let this appeal be admitted to full hearing subject to all just and legal objections. The appellant is directed to deposit security fee within ten days. To come up for arguments on 13.04.2023 before D.B.

Rs-100/-  
Appellant Deposited  
Security & Process Fee  
K. J. Shah  
16/1/23

A.


(Kalim Arshad Khan)  
Chairman

13<sup>th</sup> April, 2022

Clerk of counsel for the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney, alongwith Muhammad Khalid, Superintendent for the respondents present.

Due to strike of the Bar today, the case is adjourned to 19.06.2023 for arguments before the D.B. Parcha Peshi given to the parties.

  
(Farzha Paul)  
Member(E)

  
(Rozina Rehman)  
Member (J)

\*Fazal\*



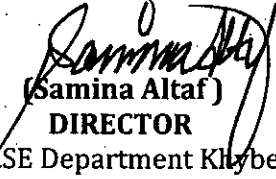
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**DIRECTORATE ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA, PESHAWAR.**

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**AUTHORITY LETTER**

I, Samina Altaf, Director (E&SE) Khyber Pakhtunkhwa Peshawar do hereby authorized Mr. Muhammad Rizwan, Assistant Director Litigation-II of this Directorate for submission of CM Application in **Service Appeal No. 388/2022 case titled Hamid Khan, Senior Clerk, O/O the DEO (M) Karak VS Government of Khyber Pakhtunkhwa & others**, hence, an authority letter is hereby issued in favor of the above-named officer.

  
(Samina Altaf)  
**DIRECTOR**  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar