


Form- A  
FORM OF ORDER SHEET

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

Implementation Petition No. 312/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.04.2024	<p>The implementation petition of Mr. Ahsan Hassan Khan submitted today by Syed Asif Shah Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on . Original file be requisitioned. AAG has noted the next date. Parcha Peshi given to counsel for the Petitioner.</p> <p>By the order of Chairman,</p>  <p><b>REGISTRAR</b></p>

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

Implementation Petition No 312 of 2024  
IN

Service appeal No 1237 of 2022

Ahsan Hassan Khan..... **Petitioner**

**VERSUS**

Chairman Khyber Pakhtunkhwa Environmental  
protection Tribunal Peshawar.... **Respondent**

**IMPLEMENTATION PETITION**  
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**Dated 19.04.2024**

  
**AHSAN HASSAN KHAN**  
**PETITIONER**

Through

  
**SYED ASIF SHAH**  
**ADVOCATE HIGH COURT**  
**MANSEHRA**

Petition

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

Implementation Petition No. 312/A of 2024

IN

Service appeal No 1237 of 2022

Khyber Pakhtunkhwa Service Tribunal

12395

25-04-2024

Ahsan Hassan Khan son of Santaraz Resident of Mohallah Mian Abad Baffa, Tehsil & District Manshra..... **Petitioner**

**VERSUS**

Chairman Khyber Pakhtunkhwa Environmental protection Tribunal Peshawar.

..... **RESPONDENTS**

**PETITION FOR IMPLEMENTATION OF ORDER DATED 13.12.2023 PASSED BY THIS HON'BLE TRIBUNAL IN SERVICE APPEAL NO. 1237 OF 2023 WHEREBY RESPONDENT IS DIRECTED TO REINSTATED THE PETITIONER WITH ALL BACK BENEFITS AND ALSO PROCEED AGAINST THE RESPONDENTS FOR NON COMPLIANCE OF TRIBUNAL ORDER.**

Respectfully sheweth!

- 1) That, petitioner filed the above titled service appeal before this Hon'ble Tribunal against impugned order.
- 2) That, the above mentioned service appeal was accepted as prayed for vide Judgment and order 13.12.2023.

**(Attested copy of Judgment dated 13.12.2023 annexed as annexure "A").**

- 3) That, after obtaining the attested copies of Judgment petitioner approach the respondent by filing the application and given the copies to respondent for implementation, respondent receive the application and Judgment copies, but so far, after passage of sufficient long time, the respondent never issue the reinstatement order nor obey the Judgment of the Honourable tribunal, which is clear cut violation of the Judgment/order of the this Honourable Tribunal .

**(copy of application annexed as annexure "B").**

- 4) That, feeling aggrieved, petitioner having no other remedy is filing the instant petition for implementation.

**PRAYER:**

It is therefore most humbly prayed that on acceptance of the instant implementation petition, the respondents be directed to implement the order/Judgment dated **13.12.2023** passed by this Hon'ble tribunal, if the respondent not implement the order/Judgment of this Honourable Tribunal, than the contempt proceedings be initiated against him.

**Dated 19.04.2024**

  
**AHSAN HASSAN KHAN**  
**PETITIONER**

Through

  
**SYED ASIF SHAH**  
**ADVOCATE HIGH COURT**  
**MANSEHRA**

C Affidavit

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

Implementation Petition No \_\_\_\_\_ A of 2024

IN

Service appeal No 1237 of 2022

Ahsan Hassan Khan..... **Petitioner**

**VERSUS**

Chairman Khyber Pakhtunkhwa Environmental  
protection Tribunal Peshawar.... **Respondent**

**AFFIDAVIT!**

I, Ahsan Hassan Khan son of Santaraz Resident of  
Mohallah Mian Abad Baffa, Tehsil & District  
Mansehra do hereby undertake/solemnly affirm  
that the contents of fore-going contempt of  
court petition are true and correct to the best of  
my knowledge and belief and nothing has been  
concealed or suppressed from this Honorable  
court

**dated :19.03.2024**

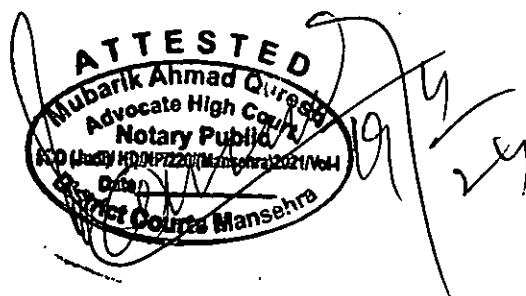


Ahsan Hassan Khan

**(DEPONENT)**

CNIC 13503-0410780-1

**ATTESTED**  
Mubarak Ahmad Qureshi  
Advocate High Court  
Notary Public  
District Courts Mansehra



(Judgment)

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT ABBOTTABAD.**

Service Appeal No. 1237/2022

BEFORE: MR. SALAH-UD-DIN ... MEMBER (J)  
MISS FAREEHA PAUL ... MEMBER (E)

Ahsan Hussan Khan son of Santaraz, resident of Mian Abad Baffa,  
Tehsil and District Mansehra. .... (Appellant)

Versus

1. Chairman, Khyber Pakhtunkhwa Environmental Protection  
Tribunal, Peshawar. .... (Respondent)

Mr. Muhammad Anwar Khan Lughmani,  
Advocate ... For appellant

Mr. Asif Masood Ali Shah,  
Deputy District Attorney ... For respondents

Date of Institution..... 22.08.2022  
Date of Hearing..... 13.12.2023  
Date of Decision..... 13.12.2023

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** Through this single judgment, we intend to dispose of instant service appeal as well as connected Service Appeal No. 1304/2022 titled "Basharat Qayyum Versus Chairman Environmental Protection Tribunal, Khyber Pakhtunkhwa, Peshawar and others", as in both the appeals common questions of law and facts are involved.

2. The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated

11.05.2022, whereby the appellant was removed from service. It has been prayed that on acceptance of the appeal, the impugned order dated

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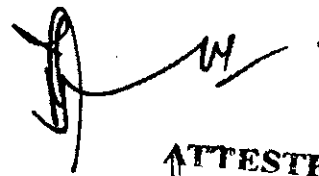
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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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11.05.2022 might be set aside and the appellant to be reinstated into service with all back benefits.

3. Brief facts of the case, as given in the memorandum of appeal, are that the appellant applied for the post of Naib Qasid against a vacant post advertised in daily newspaper Mashriq on 03.08.2018. After codal formalities, he was short listed and was called for interview before the Selection Committee on 31.10.2018. In pursuance of the recommendation of Departmental Selection Committee vide its meeting dated 28.10.2018, the competent authority appointed the appellant, alongwith others. He assumed the charge on 13.05.2019 and started performing his duties. After three years, a newly appointed Chairman issued a show cause notice to the appellant on 01.03.2022 with the allegation that his appointment was as a result of nepotism and favoritism. The appellant replied the same within the specified time and denied the allegations but the respondents without considering his reply and citing any reason, straightaway imposed major penalty of removal from service on him vide order dated 11.05.2022. Feeling aggrieved, the appellant filed a departmental appeal which was kept pending till filing of the instant service appeal on 22.08.2022.

4. Respondent was put on notice who submitted his reply/comments on the appeal. We heard the learned counsel for the appellant as well as the learned Deputy District Attorney for the respondent and perused the case file with connected documents in detail.



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(7)

5. Learned counsel for the appellant, after presenting the case in detail, argued that before passing the impugned order, it was incumbent upon the respondent to appoint the inquiry officer to probe into the allegations but no such inquiry was conducted and the appellant was penalized for the fault which was not attributable to him. He further argued that final show cause notice was not issued to the appellant which was mandatory under the law. He further argued that the impugned order was illegal, unlawful, without jurisdiction, based on malafide and having no legal effect and hence was liable to be set aside. He requested that the appeal might be accepted as prayed for.


6. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was the co-villager of the appointing authority and his appointment was the outcome of favoritism, nepotism and conflict of interest. He further argued that due process of law and codal formalities were not fulfilled in his appointment. According to him, the Environmental Protection Tribunal was permanently at Peshawar and Naib Qasid should have been a local while the appellant belonged to District Mansehra. He requested that the appeal might be dismissed.

7. From the arguments and record presented before us, it transpires that the Khyber Pakhtunkhwa Environmental Protection Tribunal advertised various posts in daily Mashriq, which interalia included the post of Naib

ATTESTED Qasid also. Applications were invited from candidates from the Khyber

Pakhtunkhwa and qualification for the post was mentioned as literate in the

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advertisement. The appellant applied for the post of Naib Qasid and, after fulfilling the required process, was selected and appointed vide an order dated 30.04.2019. On 01.03.2022, he was served with a show cause notice, serial No. 5, 6 & 7 of which is reproduced as follows:-


"5) *AND WHEREAS you being class-iv employee your appointment is against the provisions of section 12(3) Civil Servants (Appointment, Promotion & Transfer) Rules 1989, as you are non local and no reasons have been given as to why locals were rejected.*

6) *AND WHEREAS the post of Naib Qasid in the EPT Peshawar is not transferable.*

7) *AND WHEREAS in addition to the above you are close co-villager rather living in the neighborhood of the authority under whose signature being Chairman of the DSC, you were appointed and thus your very appointment is the result of favoritism and nepotism which is gross violation of the service & appointment Rules."*

8. First of all, we take up serial No. 5 of the showcause notice according to which appointment of the appellant is against the provisions of Section 12 (3) of Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 and that he is a non-local. If we look at the advertisement, there is no mention of the district of candidates who should apply for the post of Naib Qasid, rather applications have been invited from the entire province of Khyber Pakhtunkhwa. Secondly, when we go through Rule 12(3), it appears that it is meant for recruitment to the posts in Basic Pay Scales 1 and 2 or equivalent to be made on local basis. In this case, the post

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of Naib Qasid is in BS- 3 and hence this rule does not apply on the appellant. As far as serial No. 7 of the showcause notice is concerned, it has been stated that the appellant belongs to the same village to which the Chairman of the DSC belongs and that his appointment is a result of favoritism and nepotism which is a gross violation of service and appointment rules. A question that arises here is whether the appellant got selected by himself and issued his appointment order or it was done by the authority competent to select and issue such an order, and the answer to that is very simple that he was selected by a Departmental Selection Committee and accordingly his appointment order was issued by the Chairman Khyber Pakhtunkhwa Environment Protection Tribunal, Peshawar. We fail to understand the charge of gross violation of service and appointment rule committed by the appellant. It was the Chairman who committed this violation, if any, and he should have been asked to explain his position. When confronted whether any disciplinary action was taken against the Departmental Selection Committee who recommended the appellant and the Chairman who issued the appointment order, the learned Deputy District Attorney as well as the departmental representative clearly stated that no such action had been taken against them.

9. After going through the details of the case, we arrive at a conclusion that the appellant could not be penalized for any wrong that has not been done by him. Moreover, he has been in receipt of salaries for three years and has safely completed his probation period also and hence his right to appointment on that position has been established.


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Peshawar

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10. In view of the above, the service appeal in hand, as well as connected Service Appeal No. 1304/2022, is allowed as prayed for. Cost shall follow the event. Consign.

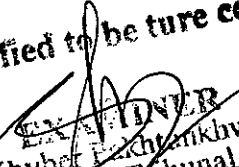
11. Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal this 13<sup>th</sup> of December, 2023.

  
(FAREEHA PAUL)  
Member (E)  
Camp Court, Abbottabad

  
(SALAH-UD-DIN)  
Member (J)  
Camp Court Abbottabad

\*Fazle Subhan, P.S\*

Certified to be true copy

  
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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 01-02-2024  
Number of Words 6 pages  
Copying Fee 30/-  
Urgent 5/-  
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Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 01-02-2024  
Date of Delivery of Copy 01-02-2024

APPLICANT

Dated: 12<sup>th</sup> February-2024

To

The Hon'ble Chairman,  
Environmental Protection Tribunal,  
Peshawar, Khyber Pakhtunkhwa.

(N)

**SUBJECT: - REINSTATE IN SERVICE AS AHSAN HASSAN KHAN NAIB QASID (BPS-03)**

Respected Sir:

The applicant very respectfully submits as follows:

- 1) That the applicant has served this Hon'ble Tribunal as Naib Qasid (BPS-03).
- 2) That unfortunately the applicant was removed from service vide office order bearing No. 695/Admin dated 11-05-2022.
- 3) That the applicant has been reinstated vide judgement appeal No. 1304/2022 dated 13<sup>th</sup> December-2023 by this Service Tribunal, Khyber Pakhtunkhwa Peshawar with all back benefits.

**PRAYER:**

Keeping in view of the above, it is humbly requested the kindly reinstate/restore my service as Naib Qasid-(BPS-03) with all back and consequential benefits.

The applicant remains your obedient.

Ahsan Hassan Khan  
[Signature]

Ahsan Hassan Khan  
Ex-Naib Qasid (BPS-03) :  
Environmental Protection Tribunal  
Peshawar.

[Signature]

# وکالت نامہ

Wakat at

بعدالت جناب سروس ٹریبونل خیبر پختونخواہ پشاور

چیز میں خیبر پختونخواہ ماحولیات وغیرہ

بنام

احسن حسن خان

سروس پیشین

پیشینر / اپیلانٹ

باعث تحریر آئیکہ!

منجانب:

اندریں مقدمہ عنوان بالا اپنی طرف سے برائے بیرونی وجوہ دی بمقام پشاور

## سید آصف شاہ ایڈووکیٹ ہائی کورٹ مانسہرہ

کو بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص زور و عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل بیرونی کرنے کے مجاز نہ ہونگے اگر مقدمہ مقام پکھری کے آگے یا پیچھے سماعت ہونے پر مظہر کو کوئی نقصان پہنچے تو صاحب موصوف ذمہ دار نہ ہوں گے اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی، اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے کا، ہر قسم کا بیان دینے اور سپرد دائی و راضی نامہ و دستبرداری و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا فیصلہ ڈگری و اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ فیس کرنے کا مجاز ہوگا۔ بصورت ضرورت بدوران مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا پیرسٹر کو بجائے خود یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ مجھے کل ساختہ پرداختہ مثل ذات خود منظور و قبول ہوگا۔ لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے۔ مضمون وکالت نامہ سن لیا اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

مورخہ 19.04.2024

احسن حسن خان ساکنہ بفقہ تحصیل بفقہ پکھل ضلع مانسہرہ... پیشینر

Attested & Accepted

Syed Asif Shah

Advocate High Court

0301-8143188