# FORM OF ORDER SHEET

	Coth	
	lṁı	plementation Petition No. 159 /2024
S.No.	Date of order proceedings	Order or other proceedings with signature of judge /
· 1.	2	3
1	22.02.2024	The implementation petition of Mr. Fazal Karim
	; ; ,	submitted today by M. Muhammad Ilyas Orakzai
	;	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.
	1	. By the order of Chairman
•		REGISTRAR
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## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Execution Petition No. 159 In Appeal No. 934/2016 Mr. Fazal Karim, ......(Applicant/Appellant) **VERSUS** 

The Government of Khyber Pakhtunkhwa through Secretary Higher Education Department & Others.....(Respondents)

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Applicant/Appellant

Through\_

Dated: 21/02/2024

Muhammad Ilyas Orakzai

Advocate Supreme Court

Of Pakistan.

Cell No. 0333-9191892

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No/2024	Enviser Pakhtukhwa bessice Pribunal
I <u>ņ</u>	Diary No. 11288
Appeal No. 934/2016	Dated 22-02-202

Mr. Fazal Karim, Driver (BPS-6, Government College Hangu, District Hangu.....(Applicant/Appellant)

#### **VERSUS**

- 1. The Government of Khyber Pakhtunkhwa through Secretary Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2. The Director Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3. The Principal Government College Hangu, District Hangu.
- 4. The District Accounts Officer, District Hangu....(Respondents)

APPLICATION FOR EXECUTION TO EFFECT
THE ORDER DATED 20/10/2021 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR PASSED IN ABOVE
TITLED SERVICE APPEAL NO. 934/2016 IN
TOTO.

### **Respectfully Sheweth:**

1. That the applicant/appellant has filed Service Appeal No. 934/2016 under Section 4 of the Khyber

Pakhtunkhwa Service Tribunal Act, 1974, against the impugned order dated 20/06/2016 whereby the appellant has been retired from service against which the applicant/ appellant filed the above titled appeal which was allowed in favour of applicant/ appellant vide order dated 20/10/2021 as prayed for. (Copies of service appeal and order dated 20/10/2021 are attached as annexure "A").

2. That earlier the applicant/ appellant filed E.P. No. 33/2022 through which the judgment of the Hon'ble Tribunal was conditionally / partially implemented and the applicant/ appellant was reinstated on his service vide order dated 10-15 dated 04/08/2022 thus the and applicant/ appellant made his arrival report and took charge of the same, but for the salaries of the intervening period the Hon'ble Tribunal direct the applicant/ appellant to file Contempt of Court Petition and dispose of the same. (Copies of E.P No. 33/2022, reinstatement order dated 04/08/2022, arrival report, charge report and parole are attached as annexure "B").

(3)

3. That thereafter the applicant/ appellant filed C.O.C No. 19/2023 before the Hon'ble Tribunal which was dispose of due to pendency of CPLA before the August Supreme Court against the order of this Hon'ble Tribunal dated 20/10/2021 and the applicant/ appellant has liberty to file fresh petition if they need so arises. (Copies of COC and order dated 19/04/2023 are attached as annexure "C").

4. That in the above CPLA no leave has been granted to the respondents nor the order and judgment of this Hon'ble Tribunal has been set aside and that will take long time and its decision if in case of CPLA of the respondents would be succeeded then the back benefits of the intervening period of the applicant/ appellant may be recovered from his pension and pensionery benefits.

5. That any other ground will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

It is, therefore most humbly prayed on acceptance of this Execution Petition, the order

dated 20/10/2021 of this Hon'ble Court Tribunal may kindly be implemented to the extent of salaries/ back benefits of the intervening period to the applicant/ appellant.

Applicant/Appellant

Through

Dated: 21/02/2024

**Muhammad Ilyas Orakzai** Advocate Supreme Court Of Pakistan.

#### **AFFIDAVIT:**

I, Mr. Fazal Karim, Driver (BPS-6, Government College Hangu, District Hangu, do hereby solemnly affirm and declare that all the contents of the **Execution Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

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#### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUN PESHAWAR

APPEAL NO. 434 /2016

#### **VERSUS**

1- The Govt: of KPK through Secretary Higher Education Department, Khyber Pakhtunkhwa, Peshawar.

2- The Director Higher Education Department, Khyber Pakhtunkhwa, Peshawar.

3- The Principal Government College Hangu, District Hangu.

4- The District Accounts Officer, District Hangu.

RESPONDENTS

APPEAL UNDER SECTION 4 OF PAKHTUNKHWA SERVICE TRIBUNAL ACT, AGAINST THE IMPUGNED ORDER DATED 20.6.2016 WHEREBY THE SALARY OF THE APPELLANT WAS STOPPED ALONGWITH RECOVERY OF ALREADY DRAWN SALARIES AND AGAINST THE APPELLATTE ORDER DATED 11.8.2016 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTED ON NO GOOD GROUNDS

#### PRAYER:

That on acceptance of this appeal the impugned orders dated 20.6.2016 and 11.8.2016 may very kindly be set aside and the respondents may be directed that not to retired the appellant pre maturely (not on the basis of CNIC but on the basis of the entry recorded in service book i.e. 10.6.1964 instead of 1955). That the respondents may further please be directed to released the monthly salaries of the appellant w.e.f. 1.6.2016 till date. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

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a 16 R/SHEWETH: ON FACTS:

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

1- That appellant is the employee of the respondent Department and is serving the respondent Department as

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ATTESTED

EXAMPLER | Manual Khyber Pakhtukhwa Service Tribunal Peshawar



#### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.934/2016

Date of Institution

01.09.2016

Date of Decision

20.10-2021

Mr. Fazal Karim, Driver (BPS-6), Government College, Hangu,

District Hangu.

(Appellant)

#### **VERSUS**

The Government of Khyber Pakhtunkhwa, through Secretary Higher Education Department Khyber Pakhtunkhwa, Peshawar and three others.

(Respondents)

Noor Muhammad Khattak,

Advocate

.. For Appellant.

Javid Ullah,

Assistant Advocate General

For Respondents.

Ahmad Sultan Tareen

Rozina Rehman

Chairman .

Member (J)

#### **JUDGMENT**

ROZINA REHMAN, MEMBER (J): Brief facts of the case are that appellant was serving as Driver. His age was recorded by Medical Superintendent as 10.06.1964 at the time of his appointment and subsequently, the said entry was recorded in his service book and payroll. His date of birth was inadvertently recorded in his C.N.I.C as 1955 instead of 10.06.1964. He, therefore, filed a Suit in the Civil Court but the same was dismissed. He preferred appeal in the Court of District Judge which was also dismissed. He then filed

ATTESTED

Hyber Pakhtukhw Survice Tribunal Poshawa



departmental appeal which was rejected, hence, the present service appeal.

- 2. We have heard Noor Muhammad Khattak Advocate and Javid Ullah, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.
- 3. Learned counsel for appellant contended that the impugned orders dated 22.06.2016 and 11.08.2016 are against law, facts and norms of natural justice and material on record. He contended that the appellant was not treated in accordance with law and rules as such, Article-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973 were violated by the respondents. Lastly, he contended that according to rules and the judgments of the august Supreme Court of Pakistan, a civil servant should be retired on the basis of entry in the service book and not on the basis of C.N.I.C or any other document, therefore, his date of retirement may be considered as 01.06.2024 instead of 15.06.2015.
- 4. Conversely learned A.A.G submitted that according to Computerized National Identity Card, the date of birth of the appellant is recorded as 1955 and that in the previous record, his name was Gul Karim which was later on changed to Fazal Karim which entry was tempered by the appellant. He further submitted that Civil Suit filed for correction of date of birth in the Civil Court Hangu was dismissed and similarly, his appeal was also dismissed with special cost of

Rs.20,000/- and that the appellant was que to retire







superannuation on 15.06.2015 as per his C.N.I.C, Driving License and other relevant documents, therefore, his salary was stopped and in this regard, a bond was also signed by the appellant with Principal.

From the record it is evident that the present appellant was appointed as Driver (B.P.S-06) and his date of birth was recorded as 10.06.1964. Admittedly, his name was entered and recorded as Gul Karim. Service book of the appellant was produced by the respondents before this Bench and learned A.A.G pointed out towards a note written on first page of the service book in red ink about change of name of the appellant Gul Karim to Fazal Karim vide office letter No.662-64 dated 27.01.1997. Although, learned A.A.G had raised objection as to veracity of the said note but when asked to produce the copy of the said letter, he failed to produce the same. His medical report is also available on file, wherein, his date of birth has been recorded as 10.06.1964. His payroll also shows his date of birth as 10.06 1964. No doubt, Civil Suit filed for rectification of the record was disrnissed by the learned Civil Judge vide judgment dated 18.05.2016. Appeal was also dismissed, where-after, the appellant filed Revision Petition in the august Peshawar High Court, Peshawar and vide judgment dated 18.10.2019, his suit was decreed in his favor ad on the strength of the judgment of the august High Court, correct C.N.I.C was issued in his favor, wherein, his date of birth was recorded as 10.06.1964. The correction pertaining to his date of birth in the National Identity Card was declared by the august Court to be his right and accordingly, he was held entitled to the decree. The objection raised by the learned A.A.G in repesct of taking benefit of

ATTESTED



this fresh entry of correction of his date of birth in his service book has no force because service record favors the contention of appellant.

6. For what has been discussed above, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED. 20.10.2021

> (Ahmad Stiltan Tareen Chairman

(Rozinei Rehman)

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E. P. No. 33/2002 Ament Papul Karin V Grot

29th Nov, 2022

- Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.
- According to letter No. 10-15 dated 04.08.2022, the judgment of the Tribunal has been conditionally implemented subject to the final outcome of the CPLA No. 781-P/2021. After going through the letter, learned counsel submits that the respondents were not making payment of salaries of the intervening period for which he intends to file a contempt application. As regard this petition, he does not press it for the time being. Disposed of accordingly. Consign.
- Pronounced in open court in Peshawar and given .03. under my hand and seal of the Tribunal on this 29th day of November, 2022.

(Kalim Arshad Khan) Chairman

**Certified** 

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### GOVERNMENT DEGREE COLLEGE HANGU

Thall Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517 



No.	10	_	15	

Dated Hangu the 04/08/2022.

To

Mr. Fazal Karim Driver (BPS-06) Govt. Degree College Hangu.

IMPLEMENTATION PETITION FOR DIRECTING THE RESPONDENTS TO Subject: -OBEY THE JUDGEMENT DATED 20-10-2021 IN LE

Memo:

I am directed vide letter No.13637/CA-VII/Estt:Branch/A-167/GDC Handu dated 18/06/2022 to refer to the subject noted above and to implement the judgement dated 20/10/2021, in your service appeal No. 934116 conditionally subjected to the final outcome of CPLA No. 781-P/2021/filed in the instant case and also obtain surety bond on Judicial stamp paper from yourself. You are, therefore, directed to produce the required surety bond in original and submit it to the undersigned along your arrival report for rejoining your post so that I proceed further into the matter.

Govt. Degree College Hangu.

Endst: No \_\_\_\_\_\_\_ Dated Hangu the \_\_\_\_\_ / \_ \( \alpha / 2022. \)

Copy to:

1. Deputy Director (Estt) Higher Education Khyber Pakhtunkhwa, Peshawar.

2. PS to Secretary Higher Education Khyber Pakhtunkhwa, Peshawar.

3. Director Higher Education Khyber Pakhtunkhwa, Peshawar.

Office Record.

Govt. Degree College Hangu.

Received 5/3/2022

The Principal Cost Degree College Hangu Salyceto Stillial Kepart Jacobs pons to your letter No. 10-18 datel 04-08 2022 9 hereby submit my arrival above suports along with the desired surely bond for The state of the same state of Yours Obediently W-lyrial K-Pro Considerately fly v accepted to Am, alloh 16/08/202 



#### OFFICE OF THE PRINCIPAL GOVT. DEGREE COLLEGE HANGU

#### CHARGE ASSUMPTION REPORT

Conditionally given charge of the post of driver to Mr. Fazal Karim Driver GDC Hangu, in light of the judgment of Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 20-102021 in service appeal No. 934116 subject to the condition that this handing over of charge will be deemed null and void if final decision of supreme court comes out against the official in the CPLA NO 781-P/2021, as directed through Directorate of Higher Education Khyber Pakhtunkhwa, Peshawar letter No. 13637/CA-VII/Estt: Branch/A-167/GDC Hangu.

STATION GDC HANGU.

Dated: 16/08/2022(F/N)

Signature Of the official assuming

Charge of Driver

Fazal Karim

Driver

Govt. Degree College Hangu.

#### OFFICE OF THE PRINCIPAL GOVT: DEGREE COLLEGE HANGU

Ends No. 33-31 /Personal File

Dated Hangu the 18/08/2022.

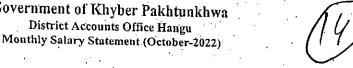
Copy for information

- 1. Director Higher Education Khyber Pakhtunkhwa.
- 2. Dy. Director Establishment Higher Education Khyber Pakhtunkhwa.
- 3. District Account Officer HANGU
- 4. Official Concerned
- 5. Office Record.

PRINCHAPAL GOVT: PEGREECOLLEGE

ATTSTED

### Government of Khyber Pakhtunkhwa District Accounts Office Hangu





Personal Information of Mr FAZAL KARIM d/w/s of AMINULLAH KHAN

Personnel Number: 00210956 Date of Birth: 10.06.1964

CNIC: 1410130115053

Entry into Govt. Service: 07.06.1988

Length of Service: 34 Years 04 Months 026 Days

Employment Category: Active Temporary

Designation: DRIVER

80001982-GOVERNMENT OF KHYBER PAKH

DDO Code: HG4026-PRINCIPAL GOVT: COLLEGE HANGU Payroll Section: 001

Cash Center:

GPF A/C No:

GPF Section: 001

1,010.00 (provisional)

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

GPF Interest applied

Pay Scale Type: Civil BPS: 07

GPF Balance:

Pay Stage: 30

	Wage type	Amount	l	Wage type		Amount:
<u> 1000</u>	Basic Pay	43,610.00	0046	Personal Pay(Maxim Grade)	<del></del>	1,820.00
1001	House Rent Allowance 45%	2,384.00	1	Convey Allowance 2005		1,932.00
	Medical Allowance	1,500.00	1	15% Adhoc Relief All-2013		671.00
2199	Adhoc Relief Allow @10%	443.00		Special Allowance 2021		3,500.00
2341	Dispr. Red All 15% 2022KP	4,576.00	2347	Adhoc Rel Al 15% 22(PS17)		4,576.00
5 <u>001</u>	Adj Special Allowance	5,250.00	5002	,,		3,576.00
501t	Adj Conveyance Allowance	2,898.00	5012	Adjustment Medical All		2,250.00
<u>5155</u>	Adj. Disp. Red All 2022KP	6,864.00	5309	, , , , , , , , , , , , , , , , , , ,		3,020.00
<u>5358</u>	Adj. Adhoc Rel Al 15% 22	6,864.00	5801			68,145.00
5964	Adj Adhoc Relief All 2015	2,659.00				0.00

#### Deductions - General

Wage type		Amount		Wage type	. 1	Amount
3007	GPF Subscription	-1;010.00	3501	Benevolent Fund		-1,200.00
3609	Income Tax	-241.00	3990	Emp.Edu. Fund KPK		-90.00
4004	R. Benefits & Death Comp:	-450.00			_	. 0.00.

#### Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable:

2,165.83

Recovered till OCT-2022:

Exempted: 0.37-

Recoverable:

Gross Pay (Rs.): 166,538.00

Deductions: (Rs.):

Net Pay: (Rs.):

163,547.00

Payee Name: FAZAL KARIM Account Number: CA 3879-8 -

Bank Details: NATIONAL BANK OF PAKISTAN, 230420 HANGU HANGU Kohat; HANGU

Opening Balance:

A 'ailed:

Balance;

Permanent Address: HAYAT ABAD HANGU

City: HANGU

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address: City:

Email: fazalkarim190@gmail.com

System generated document in accordance with APPM 4.6.12.9(210536/26.10.2022/v3.0)

All amounts are in Pak Rupees

\* Errors & omissions excepted (SERVICES/31.10.2022/18:16:04)

### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

C.M. No. \_\_\_\_/2023

Service Appeal No. 934/2016



Mr. Fazal Karim, Driver (BPS-06) Government College Hangu, District Hangu.....(Applicant)

#### **VERSUS**

- 1. Dawood Khan, Secretary Higher Education Department, Government of Khyber Pakhtunkhwa, Peshawar.
- 2. Dr. Subhan Ullah Shah, Director Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3. Muhammad Yaseen, Principle, Government College Hangu, District Hangu.
- 4. Azmat, District Account Officer. District Hangu.....(Respondents)

APPLICATION FOR IMPLEMENTATION OF THE ORDER OF THIS HON'BLE TRIBUNAL DATED 20/10/2021 IN SERVICE APPEAL NO. 934/2016 PASSED IN THE LIGHT OF THE ORDER DATED 29/11/2022 PASSED CHAIRMAN OF THIS HON'BLE TRIBUNAL IN E.P. NO. 33/2022, AND

Certified to be ture con

Service Tribunal

Perpaner.



Khtunkhna



#### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNA PESHAWAR.

C.O.C Application No. 19/2023

Date of institution ..... 11.01.2023

Fazal Karim, Driver (BPS-06) Government College Hangu, District Hangu.

#### · VERSUS

Dawood Khan, Secretary Higher Education Department, Government of Khyber Pakhtunkhwa, Peshawar and 03 others. •

ORDER 19.04.2023

Petitioner alongwith his counsel namely Mr. Muhammad Ilyas Orakzai, Advocate present. Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.

Learned counsel for the petitioner stated that as CPLA filed by the respondents is pending in the worthy apex court, therefore, he does not wants to press the instant petition for the time being, however fresh petition shall be filed if the need so arises.

In view of the above, the petition in hand stands dismissed being not pressed. File be consigned to the record room.

**ANNOUNCED** 19.04.2023

Certified of he ture copy (Salah-Ud-Din) Member (Judicial).

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