


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 408/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.05.2024	<p>The implementation petition of Mr. Faridoon Khan submitted today by Shahzada Irfan Zia Advocate. It is fixed for implementation report before Single Bench at Peshawar on 30 .05.2024.Original file be requisitioned. AAG has noted the next date. Parcha Peshi given to the counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWASERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 408 /2024

In
Service Appeal: 503 /2023

Faridoon Khan S/o Younas Khan Ex-Chowkidar, Office of
District Health Officer Peshawar R/o Mohallah Kanday Bala
Village Pishtakhara Payan Peshawar.

..... Applicant

VERSUS

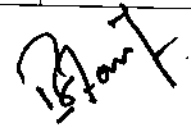
District Health Officer, G-T Road Peshawar.

..... Respondent

INDEX

S.No.	Description of documents	Annexure	Pages
1.	Copy of petition		1-2
2.	Copy of Judgment	A	3-7
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4.	Wakalat Nama		

شہزاد عرفان
Applicant /Petitioner
Through


Shahzada Irfan Zia
Advocate Peshawar
Mobile No. 0300-9345297

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 408 /2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 129912

Dated 27-05-2024

In
Service Appeal: **593/2023**

Faridoon Khan S/o Younas Khan Ex-Chowkidar, Office of
District Health Officer Peshawar R/o Mohallah Kanday Bala
Village Pishtakhara Payan Peshawar.

..... Applicant

VERSUS

District Health Officer, G-T Road Peshawar.

..... Respondent

EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE JUDGMENT
DATED 27/02/2024 OF THIS HONOURABLE
TRIBUNAL IN LETTER AND SPIRIT.

Respectfully Sheweth:

1. That the appellant/Petitioner filed Service Appeal No. **593/2023** before this Hon' able Tribunal which has been decided by this Hon' able Tribunal vide Judgment dated 27/02/2024. (Copy of Judgment is annexed).
2. That the Hon' able Tribunal in the Judgment ibid directed the respondent to conduct a proper inquiry into the matter under the rules, by giving full opportunity to the petitioner/appellant to present his case and cross examine the witnesses and complete the exercise within sixty days of the receipt of the judgment. **(Copy of the Judgment is attached as Annexure-A).**


3. That after getting the copy of the Judgment ibid the applicant filed an application to the respondent for implementation of the Judgment but his request went unheeded. (Annexure-B)
4. That a sufficient period has already been lapsed but till date the Judgment of the Court has not been implemented till date. The Judgment was passed by this Court therefore it is open to the court to enforce the same and the respondent is under the legal obligation to implement the Judgment in letter and spirit.

It is therefore requested that on acceptance of this Petition the respondent may kindly be directed to implement the Judgment of this Hon' able Tribunal in letter and spirit.

Dated 27.05.2024


Applicant /Petitioner

Through

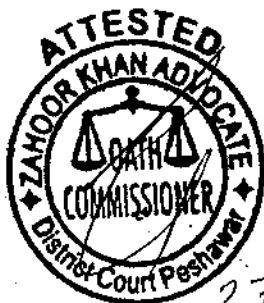

Shahzada Irfan Zia
Advocate Peshawar
Mobile No. 0300-9345297

Certificate: Certified that no such execution Petition has earlier been filed before this court on behalf of applicant on the subject matter.

Advocate

AFFIDAVIT

I, Faridoon Khan S/o Younas Khan Ex-Chowkidar, Office of District Health Officer Peshawar R/o Mohallah Kanday Bala Village Pishtakhara Payan Peshawar (applicant) do here by solemnly affirm and declare on oath that all the contents of the above petition are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon' able Tribunal.

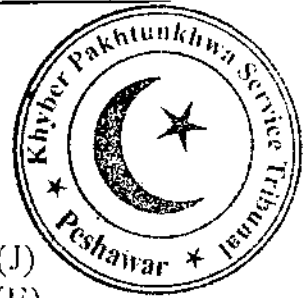



DEPONENT

27/5/24

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 593/2023



BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Mr. Faridoon Khan S/O Younas Khan, Ex. Chowkidar, office of District Health Officer, Peshawar. R/O Mohallah KandayBala, Village Pishtakhara Payan, Peshawar..... (Appellant)

Versus

1. Province of KPK through Secretary Health Department, Civil Secretariat, Peshawar.
2. Director General Health Services, KPK, Peshawar.
3. District Health Officer, GT Road, Peshawar.....(Respondents)

Shahzada Irfan Zia
Advocate ... For appellant

Mr. Muhammad Jan,
District Attorney ... For respondents

Date of Institution.....	20.03.2023
Date of Hearing.....	27.02.2024
Date of Decision.....	27.02.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E):The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 03.11.2022 whereby appointment of the appellant was dispensed with on the pretext of a fake and bogus resignation. It has been prayed that on acceptance of the appeal, the impugned order dated 03.11.2022 might be set aside and respondents might be directed to reinstate the appellant into service with all back benefits, alongwith any other remedy which the Tribunal deemed appropriate.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Chowkidar BPS-3, on the approval of the departmental selection committee under the quota of Retired Class IV Civil Servants vide order dated 04.06.2022, by respondents No. 3. Vide order dated 06.06.2022 passed by respondent No.3, he was directed to perform duties in the office of District Medical Entomologist in dengue emergency. While on official duty, he was informed by the officials of the office of respondent No.3 that his resignation from service was accepted vide order dated 03.11.2022 by respondent No.3. He visited the office of respondent No.3 and vindicated his plea and position that he never tendered any resignation and requested for the copy of the so-called resignation and the impugned order dated 03.11.2022. After some efforts, copy of the impugned order was given to him, without the copy of resignation. He approached the respondent No.2 through his departmental appeal along with application for condonation of delay on 16.12.2022. On his departmental appeal, the respondent No.2 called comments from respondent No.3, but no final order was passed by the authority within the statutory period of 90 days; hence the instant service appeal.

3. Respondents were put on notice who submitted their joint para-wise comments on the appeal. We heard the learned counsel for the appellant as well as learned District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail argued that impugned order dated 03.11.2022 was illegal and void. According to him, the appellant never tendered any resignation from service and the so-

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Service Tribunal
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called resignation was fake, fabricated and bogus and manipulated by some official of the office of respondent No.3. He further argued that the appellate authority, on-departmental appeal of the appellant, was under legal obligation to give the appellant an opportunity of personal hearing, but no such opportunity was given to him. In order to dig out the truth, competent authority and appellate authority both were duty bound to confirm the authenticity of the resignation through an independent inquiry committee but no such mandatory exercise was undertaken by the authorities, the learned counsel argued. He requested that the appeal might be accepted as prayed for.

5. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was inadvertently appointed under the Retired Son's Quota dated 04.06.2022 by the Respondent Department. After the appointment under the Retired Son's Quota, during the final scrutiny of documents, it was found that the appellant's father was an employee of the Population Welfare Department of the Federal Government of Pakistan and not the Health Department of provincial government. The appellant was informed about his status and in response he submitted his resignation to the respondent No.3 which was witnessed by four persons, amongst whom, one was his close relative, Hashmat Bibi, whose thumb impression was also there on the resignation. Learned District Attorney argued that the appellant admitted his fault and that his resignation was accepted by the Competent Authority. He requested that the appeal might be dismissed.

6. Through this service appeal the appellant has impugned an order of the District Health Officer (DHO) Peshawar dated 03.11.2022 vide which the

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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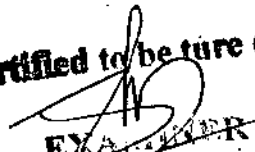
resignation tendered by the appellant had been accepted. According to the appellant, he never tendered that resignation and that it was some manipulation done by someone in the office of DHO Peshawar. Arguments and record presented before us transpires that he was appointed as Chowkidar by DHO Peshawar on 04.06.2022 on retired son quota. As stated by the learned District Attorney, he was appointed erroneously on the said quota as his father was not an employee of the respondent department. When the error in his appointment was highlighted, he preferred tendering his resignation which was accepted. On the other hand, learned counsel for the appellant insisted that he never tendered his resignation and drew attention to the four witnesses by stating that there was no such example of witnesses for a resignation.

7. After hearing the arguments from both the sides, we have arrived at a conclusion that as a controversy has arisen on the resignation of the appellant, it would be in the fitness of the matter to probe into it in order to arrive at an informed decision. The appeal is, therefore, referred to the respondent department to conduct a proper inquiry into the matter of resignation, under the rules, by giving full opportunity to the appellant to present his case and cross examine the witnesses and complete the exercise within sixty days of receipt of this judgment. Cost shall follow the event. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 27th day of February, 2024.*


 (FAREEHA PAUL)
 Member (I)

FazleSubhan P.S

Certified to be true copy

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar


 (RASHIDA BANO)
 Member (J)


SA 593/2023

7

27th Feb. 2024 01. Shahzada Irfan Zia, Advocate for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Safiullah, Focal Person for the respondents present. Arguments heard and record perused.

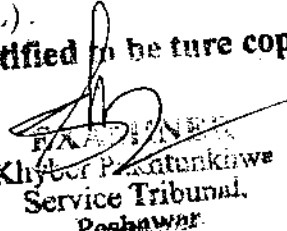
02. Vide our detailed judgment consisting of 04 pages, the appeal is referred to the respondent department to conduct a proper inquiry into the matter of resignation, under the rules, by giving full opportunity to the appellant to present his case and cross examine the witnesses and complete the exercise within sixty days of receipt of this judgment. Cost shall follow the event. Consign.

03. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 27th day of February, 2024.


(FARZEEN PAUL)
Member (E)


(RASHIDA BANO)
Member (J)

Fazal Subhan PS


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

Date of Presentation of Application 27-2-2024
Number of Words 4-P
Copying Fee 20/-
Urgent
Total 20/-
Name of Court
Date of Court 11-3-2024
Date of Delivery 11-3-2024

To

The District Health Officer
Peshawar

Subject: Application for implementation of the
Judgment of the Tribunal dated 27-2-2024.

Respected Sir,

Kindly find enclosed an attested copy of
the Judgment dated 27-2-2024, Passed in Appeal No.
593/2023 titled Faridoon Khan vs Province of KPK etc.

Kindly implement the Judgment Ibid and
obliged.

Yours obediently

Faridoon Khan




Faridoon Khan

Ex. Chowkidar

Cell: 0346-5972100

Dated: 12-3-2024

Attested.
BT

قیمت 50 روپے	43626	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈویکٹ: سزاوارہ مخدومہ صیاد ایڈووکیٹ	بار کونسل ایسوسی ایشن نمبر: 10-7608	PESHAWAR BAR ASSOCIATION
رابطہ نمبر: 0300-9345297		
		
		

بعدالت جناب:

Petitioner (Faridoon Khan)	مخانب:	دعویٰ: Execution Petition
بنام D.H.O, G.T Road Peshawar		علت نمبر: —
		مورخہ: 27-5-2024
		جرم: —
		تھانہ: —

باعت تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
آن مقام Peshawar کے شہزادہ عرفان زیا کو وکیل مقرر
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کالچ اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقرریاں فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری بیکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ براہ راست منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے
المرقوم: 27/05/2024

الع ہد واہ شد الع ہد
مقام Peshawar

Accepted by
[Signature]

فریدون خان

نوٹ: اس وکالت نامہ کی ذمہ داری ناقابل قبول ہوگی۔

Be. No. 10-7608
Cell: 0300-9345297