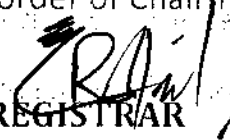


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 574/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	14.06.2024	<p>The implementation petition of Mr.Sairf ur Rehman submitted today by himself. It is fixed for implementation report before touring Single Bench at Swat on 03.07.2024. Original file be requisitioned. AAG has noted the next date. Parcha peshi given to petitioner.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

The execution petition in appeal no. 749/2023 received today i.e. on 12.06.2024 is returned to the counsel for the petitioner with the following remarks.

- 1- A copy of application moved by the petitioners to competent authority for the implementation of judgment is not attached with the petition. If the application has already been preferred and reasonable period of 30 days has been expired be placed on file, If not, the same process be completed and then after approach to this Tribunal for the implementation of Judgment.
- 2- Memorandum of application is not signed by the counsel.
- 3- COC is not maintainable only execution petition can be filed.

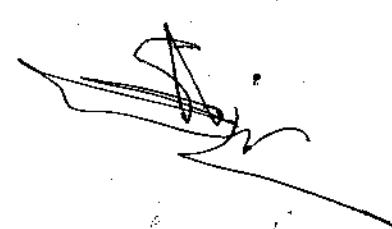
No. 161 /Inst./2024 KPST,

Dt. 12/6 /2024.


OFFICE ASSISTANT
KHYBER PAKHTUNKWA
SERVICE TRIBUNAL
PESHAWAR
12/6/24

Mehnaz Adv.
High Court Swat.

R/Sir,

Resubmitted after
compliance - 

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA
AT PESHAWAR

E.P. No. 574/2024
C.O.C No. _____ / 2024

IN

Service Appeal No. 749 of 2023

Saif Ur Rehman.

... Petitioner

VERSUS

Shamim Akhtar, DEO(F) and another.

... Respondents

INDEX

S.No.	DESCRIPTIONS	ANNEXURE	PAGE NO.
1.	C.O.C application along with certificate	.....	1-3
2.	Affidavit	.....	4
3.	Addresses of the parties	.....	5
4.	Copies of grounds of service appeal and judgment dated 08-12-2023	A	6 + 13
3.	Wakalat Nama	.....	14

Petitioner

Through Counsel


Mehnaz

ADVOCATE HIGH COURT

Office: Sultan Tower, Makanbagh,
Mingora, Swat.

Cell: 0343-9261718

For


Saif Ur Rehman
(Petitioner)

(D)

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

E.P. No. 574/2024
C.O.C No. _____ / 2024
IN
Service Appeal No. **749** of 2023

Khyber Pakhtunkhwa
Service Tribunal

Dist. No. 13468

Dated 12.06.2024

Saif Ur Rehman S/o Ziarat Gul R/o Mohallah Shaheen Abad,
Saidu Sharif, District Swat. ...Petitioner

-- VERSUS --

1. Shamim Akhtar, District Education Officer (Female), District Swat at Gulkada, Saidu Sharif, Swat.
2. Parveen Begum, Headmaster Government Girls Primary School, Afsar Abad, Saidu Sharif, Swat.

...Respondents

Application implementation of order / judgment dated
08-12-2023 passed by this Hon'ble Tribunal and initiating
contempt of Court proceedings against the respondents.

Prayer:

On acceptance of this petition, contempt of court proceedings may kindly be initiated against respondents and respondents be directed to comply / implement the order / judgment dated 08-12-2023, passed in Service Appeal No. 749 / 2023.

Any other remedy not specifically prayed for and this august Court deems it appropriate and efficacious, may also be awarded.

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

Execution Petition No. 574 / 2024

IN

Service Appeal No. 749 of 2023

Saif Ur Rehman.

... Petitioner

VERSUS

Shamim Akhtar, DEO(F) and another.

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Petitioner
Through Counsel


Mehnaz

ADVOCATE HIGH COURT

Office: Sultan Tower, Makanbagh,
Mingora, Swat.

Cell: 0343-9261718

For


Saif Ur Rehman
(Petitioner)

①

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

Execution Petition No. 574 / 2024

IN

Service Appeal No. 749 of 2023

Saif Ur Rehman S/o Ziarat Gul R/o Mohallah Shaheen Abad,
Saidu Sharif, District Swat. ...Petitioner

-- VERSUS --

1. Shamim Akhtar, District Education Officer (Female), District Swat at Gulkada, Saidu Sharif, Swat.
2. Parveen Begum, Headmaster Government Girls Primary School, Afsar Abad, Saidu Sharif, Swat.

...Respondents

Execution Petition for implementation / execution of
order / judgment dated 08-12-2023 passed by this
Hon'ble Tribunal.

Prayer:

On acceptance of this petition, the order / judgment dated 08-12-2023 of this Hon'ble Tribunal may please be execution and the respondents may graciously be directed to comply / implement the order / judgment dated 08-12-2023, passed in Service Appeal No. 749 / 2023 in letter and spirit.

Any other remedy not specifically prayed for and this august Court deems it appropriate and efficacious, may also be awarded.

Respectfully Sheweth:

1. That a Service Appeal No. 769 / 2023, was filed by petitioner against the respondents and others, which was disposed of by this Hon'ble Tribunal vide judgment dated 08-12-2023, whereby the respondents were directed to facilitate the appellant / petitioner by posting him in the same school from where he was transferred out or near to his home (Copies of grounds of appeal and judgment dated 08-12-2023 are annexure A).
2. That respondents were informed regarding the judgment dated 08-12-2023, but even then despite the clear directions of this Hon'ble Tribunal in the judgment dated 08-12-2023, the respondents did not comply with the same and till date neither the petitioner has been facilitated in the same school from where he has been transferred out nor near to his home.
3. That respondents have time and again requested for execution / implementation of the aforementioned judgment of this Hon'ble Tribunal, but in vain.
4. That the respondents have blatantly violated the clear directions of this Hon'ble Tribunal and have committed contempt of Court, therefore the respondents be given exemplary punishment.
5. That respondents are continuously violating the order / judgment of this Hon'ble Tribunal, because till date neither the aforementioned judgment of this Hon'ble Tribunal has been complied with nor the petitioner has been facilitated as per directions of this Hon'ble Tribunal due to which the petitioner is suffering from irreparable loss.
6. That the respondents are illegally and unlawfully prolonging the matter by one and other pretext. The petitioner is a disable person and has been deprived of his rights.
7. That almost 6 months have been passed and till date, the judgment of this Hon'ble Tribunal has not been execution / implemented or complied with, which is sheer violation of law. Though the respondents are duty bound to execute /

13

implement the directions of this Hon'ble Tribunal in its true spirit.

8. That due to the said violations / contemptuous attitude of the respondents, the petitioner is still deprived of his accrued right.
9. That the aforesaid action and inaction of the respondents falls under contempt of court and is liable to be dealt with for initiating proceedings of contempt of court.

It is therefore, most humbly prayed that, on acceptance of this application, the order / judgment dated 08-12-2023 of this Hon'ble Tribunal may please be execution and the respondents may graciously be directed to comply / implement the order / judgment dated 08-12-2023, passed in Service Appeal No. 749 / 2023 in letter and spirit.

Any other remedy not specifically prayed for and this august Court deems it appropriate and efficacious, may also be awarded.

Petitioner

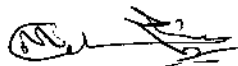

Saif Ur Rehman

Certificate:

Certified that it is the first ever Contempt of Court Application filed in this august court, moreover it no such application is pending is this Hon'ble Tribunal.


Saif Ur Rehman

Counsel for Petitioner:



Mehnaz Advocate Supreme Court

4

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

Execution Petition No. _____ / 2024

IN

Service Appeal No. 749 of 2023

Saif Ur Rehman.

... Petitioner

VERSUS

Shamim Akhtar, DEO(F) and another.

... Respondents

Affidavit:

I, do hereby solemnly affirm and declare on oath that, all the contents of the accompany Execution Petition are true and correct to the best of my knowledge and belief and nothing has been kept concealed or withheld from this august court.

Deponent: _____

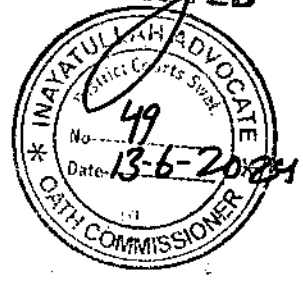
[Handwritten Signature]
Saif Ur Rehman
(Petitioner)

Counsel for Petitioner:

[Handwritten Signature]

Mehnaz Advocate Supreme Court

[Handwritten Signature]
ATTESTED



5

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

Execution Petition No. _____ / 2024

IN

Service Appeal No. **749** of 2023

Saif Ur Rehman.

... Petitioner

VERSUS

Shamim Akhtar, DEO(F) and another.

... Respondents

Addresses of the parties:

Addresses of Petitioner:

Saif Ur Rehman S/o Ziarat Gul R/o Mohallah Shaheen Abad,
Saidu Sharif, District Swat.

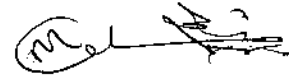
CNIC No. 15602-0281210-7

Cell No. 0347-5743170

Addresses of Respondents:

1. Shamim Akhtar, District Education Officer (Female), District Swat at Gulkada, Saidu Sharif, Swat.
2. Parveen Begum, Headmaster Government Girls Primary School, Afsar Abad, Saidu Sharif, Swat.

Petitioner
Through Counsel



**Mehnaz
Advocate High Court**



For



**Saif Ur Rehman
(Appellant)**

(2495) JW

6

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

Service Appeal No. _____ / 2023

Saif Ur Rehman.

... Appellant

- VERSUS -

Government of Khyber Pakhtunkhwa and others.

... Respondents

INDEX

S.#	Description of documents	Annexure	Pages
1.	Memorandum of service appeal	.....	1-5
2.	Certificate	.....	6
3.	Affidavit	.....	7
4.	Memo Of Addresses	.....	8
5.	Copy of appointment order	A	
6.	Copy of order dated 04-10-2022	B	
7.	Copy of Departmental appeal	.....
8.	Wakalat Nama	.....

APPELLANT

Saif-Ur-Rehman

THROUGH COUNSEL

Muhammad Imran Khoidad Khel
 ADVOCATE HIGH COURT
 Off: Sulian Tower, Legal Floor,
 Room No. 29, Makanbagh,
 Mingora, Swat.
 Cell: 0333-9508552
 Dated: -04-2023

etc
[Signature]

7

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. _____ / 2023

Saif Ur Rehman S/o Ziarat Gul R/o Mohallah Shaheen Abad,
Saidu Sharif, District Swat.

... Appellant

- VERSUS -

1. Government of Khyber Pakhtunkhwa, Through Secretary Secondary & Elementary Education, Khyber Pakhtunkhwa at Peshawar.
2. Director Secondary & Elementary Education, Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (Female), District Swat at Gulkada, Saidu Sharif, Swat.
4. Headmistress Government Girls Primary School Afsar Abad, Saidu Sharif, Swat.

... Respondents

Appeal Under Section 4 of the Service Tribunal Act, 1974, against the transfer order dated 04-10-2022, passed by respondent No. 3, whereby the appellant has been transferred to Government Girls High School Deolai, Tehsil Kabal, District Swat.

Prayer:

On acceptance of this appeal, the impugned order dated 04-10-2022, be declared illegal, unlawful,

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unconstitutional, void and the service of appellant may kindly be kept intact at Government Girls Primary School, Afsar Abad, Saidu Sharif, Swat OR atleast near to the residency of appellant.

Any other relief not specifically prayed for, but this August Court deems proper may also be granted.

Respectfully Sheweth;

1. That the appellant was initially appointed on disable quota through office order dated 09-07-2011 (Copy of appointment order is attached).
2. That the appellant is serving from about 12 years according to the satisfaction of his high ups and till now no complaint has been recorded against the appellant.
3. That due to misconception and upon a baseless and groundless allegations, where under an enquiry committed was constituted, who allegedly conducted the whole enquiry behind the closed doors and there after submitted their report against the appellant, astonishingly without hearing or giving an opportunity to the appellant. After submission of the alleged enquiry report and the recommendation, the appellant was illegally and unlawfully convicted of the act not even committed and as a punishment the appellant was transferred from Government Girls Primary School Afsar Abad, Saidu Sharif, Swat to another Tehsil i.e. Government Girls High School Deolai, Tehsil Kabal, District Swat, vide impugned office order dated 04-10-2022 (Copy of order dated 04-10-2022 is attached).
4. That departmental appeal was filed by appellant on 17-10-2022, which has neither been entertained nor any order has been passed over it (Copy of appeal is attached).
5. That the impugned order is liable to be set aside inter alia on the following grounds.

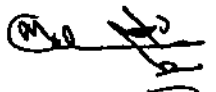
CFC

(M) [Signature]

Grounds:

- i. That the impugned order of transfer is illegal, unlawful and against the principles of natural justice.
- ii. That the appellant has not committed any violation of the rules and regulations, against which the appellant should be punished and to be transferred to another Tehsil.
- iii. That appellant is the resident of Afsar Abad, Saidu Sharif, Swat and has been appointed in Disable Quota and being a disable person, the appellant is facing hardships in transport to another Tehsil, which is against the fundamental rights of disabled person, enshrined in the Constitution of Pakistan.
- iv. That the allegations made against the appellant are completely baseless having no relation with the appellant. It is a matter of fact that after constitution of enquiry committee, it was the duty to prove the allegations against the appellant through cogent, reliable and trustworthy evidence and also after provision of a fair opportunity of hearing. The enquiry committee should have heard the stance of the appellant as well, but in the instant case the whole enquiry has been conducted behind the closed doors and is also one sided, wherein neither the appellant has been heard nor any proper or fair opportunity of hearing has been provided to the appellant, but the allegations were proved without any cogent or reliable evidences and as a result the appellant was punished in shape of transfer. Though the appellant has never committed any such things or could even think about any violation of rules or allegations, the aforesaid baseless allegations and

CTC



(10)

the enquiry conducted on the back of appellant, has not only caused mental stress to a disabled citizen of the country but has also lowered the high esteem of a positive minded / right thinking member of the society, where against the appellant reserve the right to challenge the allegations and the enquiry report in a separate round of litigation.

- v. That appellant could not be held responsible for the act never committed.
- vi. That appellant is innocent.
- vii. That the impugned order is against the law, rules and policy.
- viii. That appellant has never act in a manner, which comes under the meaning of disciplinary ground.
- ix. That appellant is serving the education department since the date of his appointment, and renders a long service, but the whole service of appellant has totally been ignored and overlooked.
- x. That discrimination has been committed with the appellant.
- xi. Further grounds would be agitated during the course of arguments with prior permission.

It is therefore, humbly requested that, on acceptance of this appeal, the impugned transfer order dated 04-10-2022, be declared illegal, unlawful, unconstitutional, void and the service of appellant may kindly be kept intact at Government Girls Primary School, Afsar

HC
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Abad, Saidu Sharif, Swat OR atleast near to the residency of appellant.

Any other relief which is otherwise deemed proper, lawful, efficacious may also be granted in favour of appellant.

Appellant: [Signature]
Saif Ur Rehman
(Chowkidar)
Contact: 0347-5743170

Counsel: [Signature]
Muhammad Imran Khoidad Khel
Advocate High Court

- 2.
- 3.
- 4.
- 5.
- 6.

CTC
[Signature]

Service Appeal No. 749/2023 titled "Saif-ur-Rehman Versus Government of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar and others"

ORDER
08.12.2023



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. The appellant was basically appointed as Chowkidar against disable persons quota. Upon the complaint of Mr. Bakht Zamin father of class 4th student namely Javeria on 22.09.2022 an inquiry was initiated against the appellant and resultantly he was transferred from GGPS Afsar Abad to GGHS Deolai on administrative grounds. The posting transfer is a routine matter and the impugned order does not violate any provision of the Civil Servants Act, 1973, the Khyber Pakhtunkhwa Government Servants (Appointment, Promotion & Transfer) Rules, 1989 and the posting transfer policy of the Provincial Government. However, we observe that the reasons advanced for transfer of the appellant do not hold good as the allegations against him were not proved in the inquiry conducted against him. Moreover, the appellant is a disable person. The present station of duty is stated to be more than 25 kilometers away from his home which is not convenient for a disable person to commute on daily basis. We, therefore, direct the respondents to facilitate the appellant by posting him in the same

Certified to be true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

school from where he was transferred out or near to his home. The appeal in hand is disposed of accordingly. Consign.

03. Pronounced in open court at camp court Swat and given under our hands and seal of the Tribunal on this 08th day of December, 2023.

(Rashida Bano)
Member (J)
Camp Court Swat

(Muhammad Akbar Khan)
Member (E)
Camp Court Swat

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Kamrullah

Date of Presentation of Application: 08-01-24
 Number of Witnesses: 27
 Copying Fee: 10/-
 Urgent: _____
 Total: 10/-
 Name of Member: _____
 Date of Court: 09-02-24
 Date of Disposal: 09-02-24

فیمل ڈی ڈی اوصاحبہ ایجوکیشن ڈیپارٹمنٹ کالج کالونی سید و شریف

سوات

Mr. Shehri Shah Sb:

10/5/24

درخواست بدیں مراد کہ بمطابق حکم / فیصلہ منجانب عدالت سروس ٹریبونل سائیکل کو پوسٹنگ کے احکامات گورنمنٹ گریڈ پر امری سکول آفسر آباد یازد کی سکول میں فرمائے جائیں۔

جناب عالیہ!

سائیکل ذیل عرض ہے۔

1- یہ کہ سائیکل گورنمنٹ پر امری سکول آفسر آباد میں کلاس فور کے پوسٹ پر تعینات تھا۔

2- یہ کہ سائیکل کا تبادلہ غیر شرعی غیر قانونی طور پر متذکرہ سکول سے گورنمنٹ ہائی سکول دیولی کیا گیا ہے۔

3- یہ کہ سائیکل کو نا کردہ گناہوں کی سزا دیکر تبادلہ کیا گیا ہے۔

4- یہ کہ سائیکل نے متذکرہ بالا تبادلہ اور الزامات کو عدالت میں چیلنج کر کے ڈگری / حکم بحق سائیکل حاصل کر کے بے گناہ ثابت کی ہے۔

5- یہ کہ سائیکل سروس ٹریبونل عدالت نے بحق سائیکل اس لوگوں کو ہدایت کی ہے، کہ سائیکل کو پرانا سکول یا قریبی میں تعینات کیا جائے۔

لہذا استدعا ہے، کہ منظور در خواست سائیکل کی پوسٹنگ / تبادلہ پر انے سکول

آفسر آباد یازد کی سکول کیا جائے۔ تاکہ توہین عدالت سے بچا جاسکے






العارض سائیکل۔ سیف الرحمان

مورخہ۔ 10-5-2024

ctc

15

بار کونسل نمبر: RC 09-1634	 	پیرل نمبر: 14429
بار ایسوسی ایشن نمبر:		
رابطہ نمبر: 0343 9261718	ڈسٹرکٹ بار ایسوسی ایشن سوات	
ای میل ایڈریس:		

بعدالت جناب: مسرور مس ٹریبیونل خیر پختونکو ا ضلع شکار سوان

مخائب: پیسینٹ	دعویٰ اور خواست: اپیل
سینف الررحمن بنام	علت نمبر:
شمیم اختر وغیرہ	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے برائے پیروی مقدمہ

آن مقام مکمل شدہ کیلئے منبجا زمرہ ٹریبیونل ڈسٹرکٹ سوات کے لئے مقرر کر گئے

اقرار کیا جاتا ہے، کہ صاحب موصوف کو مقدمہ کی کل کاروائی کو کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث کرنے، دعویٰ، جواب دعویٰ، اقبال دعویٰ اور درخواست برائے سرسبزی مقدمہ، منسوخی ڈگری یکطرفہ، اجراء و پیروی کرنے کا مختار ہوگا۔ نیز دائر کرنے اپیل نگرانی، نظر ثانی و پیروی کرنے کا مختار ہوگا۔ اور مقدمہ مذکورہ کیلئے کل وقتی یا جزوی کاروائی کیلئے کسی دیگر وکیل یا مختار قانون کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ اختیارات حاصل ہوں گے، اور اس کا ساختہ و پرداختہ منظور قبول ہوگا، بدوران مقدمہ جو خرچہ و ہر جانہ کسی بھی سبب سے حاصل ہوگا، وہ وکیل موصوف وصول کرنے کا حقدار ہوگا، کوئی تاریخ پیشی مقام مذکورہ بالا سے باہر ہو، تو وکیل صاحب پیروی مقدمہ کرنے کے پابند نہ ہوں گے، مقدمہ کسی عدالت میں بعدم پیروی خارج ہونے یا ڈگری یکطرفہ ہونے کے صورت میں وکیل صاحب ذمہ دار نہیں ہوں گے،

لہذا وکالت نامہ لکھ دیا کہ سندر ہے

مقام ڈسٹرکٹ سوات کے لئے منظور ہے۔

سینف الررحمن بنام
شمیم اختر وغیرہ