


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 353 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	10.05.2024	<p>The implementation petition of Mr. Aman Ullah submitted today by Mr. Taimur Ali Khan 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 given to counsel for the Petitioner.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution petition No 353 /2024
In Service Appeal No.998/2017

Aman Ullah

V/S

Health Department

INDEX

S.No.	Documents	Annexure	P. No.
1	Memo of execution petition	-----	01-03
	Copy of memo of service appeal	A	04-06
2	Copy of judgment dated <u>20.12.2023</u>	B	07-11
3	Copy of application	C	12
4	Vakalat Nama	-----	13

PETITIONER

THROUGH:

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
Cell# 0333-9390916

& 
SHAKIR ULLAH TORANI
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 353 /2024
In Service Appeal No.998/2017

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12689

Dated 10-05-2024

Aman Ullah, Ward orderly,
Khyber Teaching Hospital, Peshawar.

(PETITIONER)

VERSUS

1. Hospital Director, Khyber Teaching Hospital, Peshawar.
2. Medical Superintendent Khyber Teaching Hospital, Peshawar.
3. Director Finance, Khyber Teaching Hospital, Peshawar.
4. Director General Health, Khyber Pakhtunkhwa, Peshawar.
5. Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.

(RESPONDENTS)

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE JUDGMENT
DATED 20.12.2023 OF THIS HONOURABLE
TRIBUNAL IN LETTER AND SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the petitioner has filed service appeal No. 998/2017 in this Honorable Tribunal against the order dated 08.06.2017, whereby the departmental of the petitioner was rejected for release of monthly salaries along with all service benefits with effect from 08.05.2003 till 03.12.2013 i.e date of reinstatement with the prayer that on acceptance of appeal of the petitioner order dated 08.06.2017 be set aside and the petitioner be allowed monthly salaries with effect from 08.03.2003 till 03.12.2013 i.e date of reinstatement of the petitioner with all service benefits. (Copy of memo of appeal is attached as Annexure-A)
2. That the appeal of the petitioner was heard and decided by this Honorable Tribunal on 20.12.2023. The Honorable Tribunal allowed

the appeal of the petitioner as prayed for. (Copy of judgment dated 20.12.2023 is attached as Annexure-B)

3. That the petitioner has filed an application on 24.01.2024 for implementation of judgment dated 20.12.2023 of this Honorable Tribunal, however, no action has taken on his application to implement the judgment dated 20.12.2023 of this Honorable Tribunal. (Copy of application is attached as Annexure-C)
4. That the Honorable Service Tribunal has allowed the appeal of the petitioner as prayed for in its judgment dated 20.12.2023, but after the lapse of about five months, the respondents did not release of monthly salaries along with all service benefits with effect from 08.05.2023 till 03.12.2023 of the petitioner by implementing the judgment dated 20.12.2023 of this Honorable Tribunal.
5. That in-action and not fulfilling formal requirements by the department after passing the judgment of this Honorable Tribunal, is totally illegal amount to disobedience and Contempt of Court.
6. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 20.12.2023 of this Honorable Tribunal in letter and spirit.
7. That the petitioner has having no other remedy except to file the instant execution petition in this Honorable Tribunal for implementation of judgment dated 20.12.2023 of this Honorable Tribunal.

It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 20.12.2023 of this Honorable Tribunal in letter and spirit. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

Amanullah

PETITIONER

Aman Ullah

THROUGH:

[Signature]
(TAIMUR ALI KHAN)

ADVOCATE HIGH COURT

& *[Signature]*

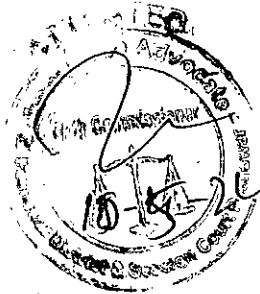
SHAKIR ULLAH TORANI
ADVOCATE

AFFIDAVIT:

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.

Amanullah

DEPONENT



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A

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____/2017

Aman Ullah, Ward Orderly,
Khyber Teaching Hospital;
Peshawar Appellant

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 934

Dated 23-8-2017

1. Hospital Director, Khyber Teaching Hospital, Peshawar.
2. Medical Superintendent, Khyber Teaching Hospital, Peshawar.
3. Director Finance, Khyber Teaching Hospital, Peshawar.
4. Director General Health, KPK, Peshawar.
5. Secretary Health, KP, Peshawar Respondents

><=>><=>><=>><=>>

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST ORDER DATED 18-06-2017 WHEREBY R.
NO. 01 REJECTED THE REPRESENTATION DATED 25-
04-2017 FOR THE RELEASE OF MONTHLY SALARIES
ALONG WITH ALL SERVICE BENEFITS WITH EFFECT
FROM 08-05-2003 TILL 03-12-2013 I.E. DATE OF
REINSTATEMENT OF APPELLANT:**

Respectfully Sheweth:

1. That appellant is working as Ward Orderly in the hospital since 1988. (Copy as Annex "A")
2. That appellant was suspended by R. No. 02 vide order dated 08-05-2003 on account of involvement in criminal case. (Copy as Annex "B")

ATTSTED

3. That as the appellant was innocent and was falsely implicated in the criminal case, so he was acquitted from the baseless criminal case by a competent court of law vide order / judgment dated 20-06-2012. (Copy as Annex "C" & "D")
4. That after acquittal, the appellant was reinstated into his service by R. No. 02 vide order dated 03-12-2013 but no order regarding back benefits i.e. Salaries, seniority, increments etc has been made which badly effects the legitimate rights of the appellant. (Copy as Annex "E")
5. That after reinstatement order, the appellant preferred representation dated 19-12-2013 for allowing back benefits/salaries to the appellant but in-spite of direction of the hon'ble High Court Peshawar for deciding the application, according to Law and Rules, the same has not been decided so far. (Copy as Annex "F" & "G")
6. That the appellant is actively perusing the matter by moving applications for issuance of back benefits/salaries but the respondents has turned deaf ear towards the grievance of the appellant. (Application dated 25-02-2014 & 25-04-2017 Attached as Annex "H" & "I")
7. That the respondents themselves on some many occasions admitted the claim of appellant and apprised each other that the matter of back benefits and salaries be decided in accordance with FR 54 (a) but still the respondents are not resolving the matter of appellant. (Copy as Annex "J")
8. That due to the non-resolving the matter, juniors to the appellant are receiving much more pay than the appellant, and the appellant for no fault on his part is suffering at the hands of respondents.
9. That representation dated 25-04-2017 before R. No. 01, was rejected on 08-06-2017 which copy was received from the office of R. No. 1 on 25-07-2017. (Copies as Annex "K")

Hence this appeal, inter alia, on the following grounds:-

ATTSTED

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GRUNDS:

- a. That appellant was falsely implicated in the case.
- b. That from the date of FIR till acquittal of the appellant, the appellant remained behind the bars and remained jobless so was not able to earn livelihood for his family.
- c. That the Law and judgments of superior courts provides for the issuance of back benefits to the Civil Court who is acquitted of the charges and who remained jobless during the period spent in jail.
- d. That the appellant has the right to receive his salaries during the period of his suspension.
- e. That salaries etc is the basic right of the appellant guaranteed by the Constitution of Pakistan.
- f. That juniors to appellant has been made seniors in terms of pay fixation, seniority etc.
- g. That the appellant reserves the right to agitate any other ground at the time of hearing.

It is, therefore, most humbly prayed that on acceptance of appeal, order dated 08-06-2017 be set aside and appellant be allowed monthly salaries with effect from 08-03-2003 till 03-12-2013 i.e. date of reinstatement of appellant with all service benefits.

Ammullah
Appellant

Dated.22-.08.2017

Through

Saadullah Khan Marwat

ATTSTED

Arbab Saiful Kamal
Arbab Saiful Kamal
Advocates

7 B

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



Service Appeal No. 998/17

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

Aman Ullah, Ward Orderly, Khyber Teaching Hospital Peshawar.
..... (Appellant)

Versus

1. Hospital Director, Khyber Teaching Hospital, Peshawar.
2. Medical Superintendent, Khyber Teaching Hospital, Peshawar.
3. Director Finance, Khyber Teaching Hospital, Peshawar.
4. Director General Health, KPK, Peshawar.
5. Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
.....(Respondents)

Arbab Saiful Kamal, ... For appellant

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

Date of Institution..... 23.08.2017
Date of Hearing..... 20.12.2023
Date of Decision..... 20.12.2023

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 08.06.2017 whereby respondent No. 1 rejected the representation dated 25.04.2017 of the appellant for release of his monthly salaries alongwith all services benefits with effect from 08.05.2003 till 03.12.2013 i.e date of reinstatement of the appellant. It has been prayed that on acceptance of the appeal, the impugned order dated 08.06.2017 might be set aside and the appellant be allowed monthly salaries

ATTESTED

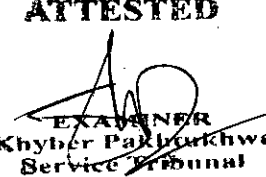
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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w.e.f. 08.05.2003 till 03.12.2013 i.e the date of his reinstatement with all service benefits.


2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was working as Ward Orderly in Khyber Teaching Hospital, Peshawar since 1988. He was suspended by respondent No. 2 vide order dated 08.05.2003 on account of involvement in criminal case. He was falsely implicated and was later on acquitted from the case by the competent court of law vide order/judgment dated 20.06.2012. After acquittal, the appellant was reinstated into his service by respondent No.2 vide order dated 03.12.2013 but no order regarding back benefits i.e. salaries, seniority, increments etc was made, which badly affected his legitimate rights. He preferred representation dated 19.12.2013 for allowing back benefits/salaries but in-spite of direction of the hon'ble Peshawar High Court for deciding the application according to law and rules, the same was not decided. The appellant pursued the matter by moving applications dated 25.02.2014 and 25.04.2017 for allowing the back benefits/salaries but the respondents turned a deaf ear towards his grievance. Representation dated 25.04.2017 before respondent No.1 was rejected on 08.06.2017, copy of which was received by the appellant from the office of respondent No.1 on 25.07.2017; hence, the instant service appeal.

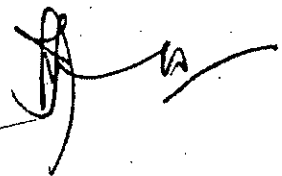
3. Respondents were put on notice who submitted their reply/comments on the appeal. We heard the learned counsel for the appellant as well as the learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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4. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant was falsely implicated in a criminal case and was later acquitted by the court of law. He further argued that from the date of FIR till acquittal of the appellant, he remained behind the bar. Learned counsel contended that under the rules, the appellant had the legitimate right to receive his salaries during the period of his suspension and that basic rights of the appellant were guaranteed by the Constitution of Pakistan but the same had been denied to him. He requested that the appeal might be accepted as prayed for.
5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the impugned order was issued on 08.06.2017 whereas the instant appeal had been filed on 22.08.2017 which was time barred. He argued that the appellant was a habitual offender and absentee. He further argued that the Hon'ble Peshawar High Court directed to consider the case of the appellant for back benefits according to law and rules and hence his case was considered by the Board of Governors of the institution, but being an autonomous body, they had not adopted the Fundamental Rules of the government, therefore, he was not allowed the salary and other benefits of the period he remained under suspension. He requested that the appeal might be dismissed.
6. From the arguments and record, presented before us, it transpires that the appellant, while serving as Ward Orderly in the Khyber Teaching Hospital, Peshawar was involved in a criminal case vide FIR dated 24.03.2003. He was placed under suspension vide an office order dated

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar




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08.05.2003 issued by the Medical Superintendent of the hospital. The appellant remained behind the bar and was later on acquitted by the honorable Lahore High Court vide its judgment dated 20.06.2012. Through an office order dated 03.12.2013 of the Medical Superintendent, Khyber Teaching Hospital, Peshawar, he was reinstated in service, with immediate effect but the back benefit of service were not allowed to him, against which he preferred a writ petition before the honorable Peshawar High Court, which was decided vide order dated 11.02.2014 on the confirmation by the learned counsel for the respondents that the application preferred by the appellant would be decided according to the law and rules. Record produced by the appellant shows that through a letter dated 08.06.2017 of the Hospital Director, Khyber Teaching Hospital, request of the appellant was regretted on the ground that by that time the KTH has become an autonomous institution and hence any opinion of the Law Department that the appellant was entitled to back benefits was not binding on them. Moreover, according to the same letter the institution had not adopted the Fundamentals Rules of the government.

7. There is no dispute on the fact that the appellant is a civil servant and the same has been admitted by the Director General Health Services, Khyber Pakhtunkhwa also in his letter dated 27.03.2015 addressed to the Secretary to Government of Khyber Pakhtunkhwa, Health Department. It is strange to note that the Hospital Director and Board of Governors of the Khyber Teaching Hospital did not realize this fact and straightaway refused the back benefits to the appellant on the ground that they are not bound to accept the opinion of Law Department which indirectly meant that they

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



(11)

rejected the opinion given by the Provincial Government. They should have kept in view the status of the appellant as civil servant, on whom Fundamental Rule 53 (b) was applicable under which he was entitled to full amount of his salary and all other benefits and facilities provided to him under the terms of his service; during the period of suspension. There is no question whether the institution and its board has adopted the Fundamental Rules or not; they are meant for civil servants and the appellant, being a civil servant, has to be treated under these rules.

8. In view of above, the appeal in hand is allowed as prayed for. Cost shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 20th day of December, 2023.*

(FARUHA PAUL)
Member (E)

(RASHIDA BANO)
Member (J)

Fazle Subhan, P.S.

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 23-01-24
Number of Words 50
Copying Fee 25/-
Urgent Yes
Total 34/-
Name of Copyist _____
Date of Completion of Copy 23-01-24
Date of Delivery of Copy 23-01-24

To

The Hon'ble Director General,
Health Services, Khyber Pakhtunkhwa,
Peshawar.

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C

Subject: APPLICATION FOR IMPLEMENTATION OF JUDGMENT
DATED 20.12.2023 OF HON'BLE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL, RENDERED IN
SERVICE APPEAL NO.998/2017.

Respected Sir,

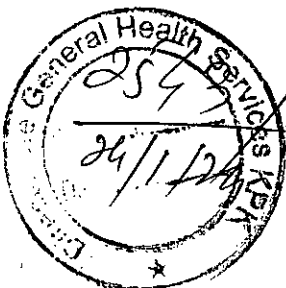
1. That the appellant was suspended by the department on 08.05.2003 on the basis of involvement of criminal case and after acquittal, the appellant was re-instated on 03.12.2013 into service but without back benefits.
2. That the appellant filed Service Appeal No.998/2017 for his monthly salaries alongwith all service benefits of the suspension period w.e.f. 08.05.2003 till 03.12.2013 under FR-53(b) which was accepted on 20.12.2023. (Copy of Judgment is attached).
3. That now the appellant wants to file this application for implementation of the judgment dated 20.12.2023 of Khyber Pakhtunkhwa Service Tribunal, rendered in Service Appeal No.998/2017. (Copy of Judgment is attached).

It is, therefore, most humbly requested that the judgment dated 20.12.2023 may kindly be implemented and release salaries and all other benefits and facilities of suspension period w.e.f. 08.05.2003 till 03.12.2013 of the appellant.

I will pray for your happiness and long life with good health for this act of kindness.

Amanullah
Yours Obediently,

Aman Ullah



VAKALAT NAMA

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NO. _____/2024

IN THE COURT OF Khyber Pakhtun Khwa Service

Arbunad

Aman Ullah (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Health Dept (Respondent)
(Defendant)

I/We, Aman Ullah


Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT AND SHAKIR ULLAH TORANI ADVOCATE**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

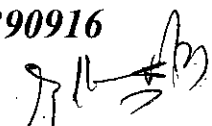
Dated _____/2024

Aman Ullah
(CLIENT)

ACCEPTED


TAIMUR ALI KHAN
Advocate High Court

BC-10-4240
CNIC: 17101-7395544-5
Cell No. 03339390916

& 
SHAKIR ULLAH TORANI
Advocate Peshawar
BC-22-4994
03409146056