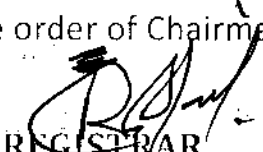


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 455/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	10.06.2024	<p>The implementation petition of Syed Masood Shah submitted today by Syed Noman Ali Bukhari Advocate. It is fixed for implementation report before Single Bench at Peshawar on 12.06.2024. 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  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

EXECUTION PETITION No. 455 /2024
IN
SERVICE APPEAL NO.1334/2019

Syed Masood Shah

VS

Govt: of KP etc.

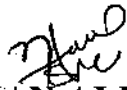
INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Execution Petition	-----	01-02
2.	Copy of Judgment dated 2.2.2022	- A -	03-07
3.	Copy of application	- B -	08
4.	Vakalat Nama	-----	09

PETITIONER


Syed Masood Shah

THROUGH:


(SYED NOMAN ALI BUKHARI)
Advocate, High Court
Peshawar.

Room No.FR-08, 4th Floor,
Bilour Plaza Peshawar Cantt:
Cell # 03065109438

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

EXECUTION PETITION No. 455 /2024

IN

SERVICE APPEAL NO.1334/2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 13257

Dated 10-06-2024

Syed Masood Shah (BPS-18),
Deputy Secretary Information & Public Relation Department,
Peshawar.

(APPELLANT)

VERSUS

1. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary Establishment Department Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Secretary Finance Department Govt: of Khyber Pakhtunkhwa, Civil Secretarial, Peshawar.

(RESPONDENTS)

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 02.02.2022 OF THIS
HONORABLE TRIBUNAL IN LETTER AND
SPIRIT.**

.....

RESPECTFULLY SHEWETH:

1. That the applicant/appellant filed Service Appeal No. 1334/2019 in this august Tribunal on 02.02.2022 with the prayer "on acceptance of this service appeal, the order dated 27.08.2019 may kindly be set aside to the extent of rejection of ante-dation of promotion/monitory benefits of the appellant to BPS-18 with effect from 05.03.2016 and the respondents may further be directed to ante-date the promotion of the appellant to BPS-18 with effect from 05.03.2016"the date when junior to the appellant was promoted to BPS-18" by modifying the order dated 17.5.2019 to the extent of the appellant with all back and consequential and future benefits.
2. That the said appeal was finally heard by the Honorable Tribunal on dated 02.02.2022 and the Honorable Tribunal was kind enough

to accept the appeal of the appellant as prayed for. (Copy of judgment is attached as Annexure-A).

- 3. That the appellant filed application to the competent authority for implementation of the judgment of Honorable Tribunal Khyber Pakhtunkhwa, in the above mentioned appeal but in vain. (Copy of the application is attached as annexure B.)
- 4. That in-action and not fulfilling formal requirements by the respondent after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.
- 5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to pass formal appropriate order.
- 6. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 02.02.2022 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/petitioner.

[Signature]
PETITIONER

Syed Masood Shah

THROUGH:

[Signature]
(SYED NOMAN ALI BUKHARI)
Advocate, High Court
Peshawar.

AFFIDAVIT:

It is affirmed and declared that the content of the execution petition is true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Tribunal.

[Signature]
DEPONENT



A
A

3



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1334/2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1899

Dated 24-9-2019

Syed Masood Shah (BPS-18),
Deputy Secretary, Information & Public Relation Department, Peshawar.
(APPELLANT)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary, Establishment Department Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
4. The Secretary, Finance Department Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

(RESPONDENTS)

Filed to-day

Registrar


24/9/19

Re-submitted to-day
and filed.

Registrar
24/9/19

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 27.08.2019, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT FOR ANTE DATION OF HIS PROMOTION TO BPS-18 FROM DUE DATE I.E 05.03.2016 "THE DATE WHEN JUNIOR TO APPELLANT WAS PROMOTED TO BPS-18" HAS BEEN REJECTED; HOWEVER THE NAME OF THE APPELLANT WAS PLACED AT S. NO.58 AND WAS SHOWN SENIOR TO HIS JUNIORS AND AGAINST THE ORDER DATED 17.05.2019, WHEREBY THE APPELLANT WAS PROMOTED TO BPS-18 WITH IMMEDIATE EFFECT INSTEAD OF HIS DUE DATED I.E 05.03.2016.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(4)

PRAYER:


THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 27.08.2019 MAY KINDLY BE SET ASIDE TO THE EXTENT OF REJECTION OF ANTE-DATION OF PROMOTION/MONITORY BENEFITS OF THE APPELLANT TO BPS-18 WITH EFFECT FROM 05.03.2016 AND THE RESPONDENTS MAY FURTHER BE DIRECTED TO ANTE-DATE THE PROMOTION OF THE APPELLANT TO BPS-18 WITH EFFECT FROM 05.03.2016 "THE DATE WHEN JUNIOR TO THE APPELLANT WAS PROMOTED TO BPS-18" BY MODIFYING THE ORDER DATED 17.05.2019 TO THE EXTENT OF THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL AND FUTURE BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant joined the revenue department as Naib Tehsildar in the year 1994 and due to excellent performance he was promoted to Tehsildar (BPS-16) in the year 2008. The department issued the seniority list of Tehsildar (BPS-16) on 30.06.2010 stood on 31.12.2009, wherein the name of the appellant was placed at S.No.14 while the name of the Muhammad Nasir Khan was placed at S. No.25 in that seniority list. It is pertinent to mentioned here that since his appointment the appellant is performing his duty with great devotion and honesty whatsoever assigned to him and no complaint has been filed against him regarding his performance. (Copy of seniority list of Tehsildar is attached as Annexure-A)
2. That the appellant was promoted to BPS-17 on acting charge basis along with Muhammad Nasir Khan vide order dated 25.03.2010 and in that promotion notification the appellant was at S. No.3, while Muhammad Nasir was S. No.9, which was then promoted on regular basis vide notification dated 21.12.2011. (Copies of notification dated 25.03.2010 and 21.12.2011 are attached as Annexure-B&C)
3. That the Muhammad Nasir Khan field appeal No. 1403/2010 for ante-dation of his regular promotion in this Honourable Tribunal which was accepted on 11.01.2012 along with other connected appeals in which the august Tribunal directed the respondents to antedate the

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1334/2019

Date of Institution ... 24.09.2019

Date of Decision ... 02.02.2022



Syed Masood Shah (BPS-18), Deputy Secretary, Information & Public Relation
Department, Peshawar. (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa, through Chief Secretary, Khyber
Pakhtunkhwa, Civil Secretariat, Peshawar and others. (Respondents)

Syed Noman Ali Bukhari,
Advocate. For Appellant

Muhammad Adeel Butt,
Additional Advocate General For respondents

AHMAD SULTAN TAREEN ... CHAIRMAN
ATIQ-UR-REHMAN WAZIR ... MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant was initially appointed as Naib Tehsildar in the year 1994 and was promoted to the post of Tehsildar BPS16 in the year 2008. As per seniority list dated 30-06-2010, name of the appellant was at serial No. 14, whereas the name of his other colleague namely Nasir Khan at serial No 25. The appellant alongwith Nasir Khan was promoted to BPS-17 on acting charge basis vide order dated 25-03-2010, who later on was regularly promoted vide order dated 21-12-2011. Mr. Nasir Khan filed Service Appeal No 1403/2010 for ante-dation of his regular promotion, which was accepted vide judgment dated 11-01-2012 and promotion of Nasir Khan was ante-dated with effect from 25-03-2010 and later on Nasir Khan was promoted to BPS-18 vide order dated 08-03-2016.

ATTESTED

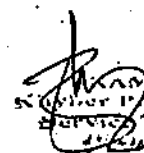
MEMBER (EXECUTIVE)
Khyber Pakhtunkhwa Service Tribunal
Peshawar

6

The appellant also filed Service Appeal No. 1655/2010, which was also decided in favor of the appellant and promotion of the appellant was also ante-dated with effect from 25-03-2010 vide order dated 26-10-2017. The appellant was promoted to BPS-18 vide order dated 17-05-2019 but with immediate effect. Feeling aggrieved, the appellant filed departmental appeal for ante-dation of his promotion with effect from the date, when his junior Nasir Khan was promoted i.e. 05-03-2016, which was rejected vide order dated 27-08-2019, hence the instant service appeal with prayers that the impugned order dated 27-08-2019 may be set aside and promotion of the appellant may be ante-dated with effect from 05-03-2016, the date when his junior Nasir Khan was promoted to BPS-18 with all back and consequential benefits.

02. Learned counsel for the appellant has contended that the impugned orders dated 27-08-2019 and 17-05-2019 are against law, facts and norms of natural justice, therefore not tenable and liable to be set aside; that judgment of this tribunal dated 18-08-2017 ordered for ante-dated promotion of BPS-17 and the same formula equally applies on BPS-18, but the respondents ignored verdict of the judgment of this Tribunal, which is illegal and unlawful; that in the seniority list in BPS-18, name of the appellant is still above the name of Nasir Khan but the appellant was promoted with immediate effect, instead it was required to be effect from the date, when his junior colleague Mr. Nasir Khan was promoted; that inspite of knowing all such fact, departmental appeal of the appellant was rejected without giving any reason or justification; that depriving the appellant from his legal right of promotion to BPS-18 from his due date i.e. 05-03-2016 will also affect his future promotion, which will cause financial loss in shape of pension and other monetary benefits; that the appellant has not been treated in accordance with law and has been deprived of his legal right of promotion to BPS-18 from due date.

ATTESTED


KAMALINDER
NIGAM
Member
Service Tribunal

③ (7)

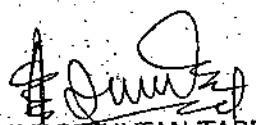
03. Learned Additional Advocate General for the respondents has contended that Nasir Khan was promoted to BPS-18 on fulfillment of all requisites provided in PMS-Rules-2007, as he was due for promotion and was promoted vide order dated 05-03-2016, however the appellant was not at the top of the seniority list at that time, therefore he could not be promoted; promotion of the appellant to BPS-18 was delayed due to involvement of the appellant in case of Voluntary Return (VR) with Nab, but after finalization of disciplinary proceedings, the appellant was promoted to BPS-18 vide order dated 17-05-2019 with immediate effect; that after promotion to BPS-18, seniority of the appellant was re-fixed and was placed senior to his juniors, hence the appellant is not aggrieved to this effect.

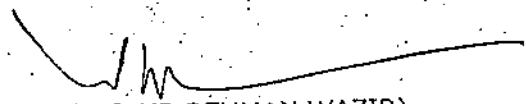
04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that promotion of the appellant to BPS-18 was withheld due to his involvement in VR case and after finalization of disciplinary proceedings against him, the appellant was promoted to BPS-18, which shows that the appellant was cleared of the VR case to the extent of inquiry conducted against him and once he was cleared of the charges, he is entitled to be promoted from the date, when his junior was promoted.

06. In view of the foregoing, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
02.02.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

Certified to be true copy

EX. MANAGER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

To,

The Secretary,
Govt. of Khyber Pakhtunkhwa,
Establishment Department.

B-8

Subject: **APPLICATION FOR JUSTICE -- IMPLEMENTATION OF COURT
JUDGEMENT DATED 02.02.2022 IN SERVICE APPEAL No 1334/2019.**

Respected,

Assalam-o-Alaikum-Wa-Rahmatullah !

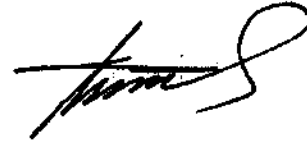
I have the honor to state that my service appeal bearing No 1334 of the year 2019 has been accepted by the Khyber Pakhtunkhwa Services Tribunal vide his Judgment dated 02.02.2022 copy of the Judgment, is enclosed for ready reference.

It is therefore, requested that by implementing the Court decision dated 02.02.2022 I may be promoted to BS-18 with effect from 05.03.2016 with all back/consequential benefits i.e. financial and next promotion to BS-19 with effect from 23.09.2019 when my promotion to BS-19 was deferred due to probation period. please.

Thank You.

Best Regards.

Date: 29.11.2023



SYED MASOOD SHAH
PMS Officer BS-19
Retired Additional Secretary
Revenue & Estate Department

بعدالت

Peshawar Service Tribunal

07/06/24
مقدمہ
مقدمہ سید سعید شاہ
دعویٰ
جرم
2 پنجاب
بنام

باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

کیلئے

آن مقام

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
وزرائی پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل گرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقریر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

20

ہا

المرقوم

الع د گ و الع

کے لئے منظور ہے۔

مقام

عدالت مشفقہ مارٹ
چوک مشفقہ پشاور ٹی اے ڈی
Mob: 0345-9223239

سید رفیق شاہ
سید حفص شاہ
سید کامران شاہ
0310-8840100