


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 315/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	29.04.2024	<p>The implementation petition of Mr. Mehboob Ullah submitted today by Mr. Ashraf Ali Khattak 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. 315/2024

In

Service Appeal No.1571 /2011

Mehboob Ullah,
Clinical Technician (BPS-12),
Type "C" Hospital, Karak City..... Applicant / Petitioner

Versus

The Director General, Health Services,
Khyber Pakhtunkhwa, Peshawar and others Respondents.

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4.	Copy of disposal of Execution Petition	13-01-2017	C	10
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Applicant/Petitioner

Through

As L (u)
Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

&

AD
Ali Bakht Mughal
Advocate,
District Courts, Peshawar

Dated: _____ / 04/ 2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

2nd Execution Petition No. _____/2024

In

Service Appeal No.1571 /2011

Mehboob Ullah,
Clinical Technician (BPS-12),
Type "C" Hospital, Karak City.....**Applicant / Petitioner**

Versus

1. The Director General, Health Services,
Khyber Pakhtunkhwa,
Peshawar
2. The District Health Officer,
District Karak.
3. The District Account Officer,
District Karak
4. Medical Superintendent Type "C" Hospital, Karak
City.....**Respondents.**

**EXECUTION PETITION UNDER SECTION 7(d) OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.**

Respectfully Sheweth,

Facts giving rise to the present execution petition are as under:-

1. That the petitioner filed the above titled service appeal, which was disposed of by this Hon'ble Tribunal on 10-11-2015. The operative part of the Judgment is reproduced as under for easy reference;-

In the circumstances the Tribunal is of the considered view to remit the case to respondent No.1, who is appellate authority with direction to examine the case strickly in accordance with law and rules and decide the departmental appeal of the appellant within a period of 60 days of the receipt of this judgment failing which the instant appeal shall be deemed to have been accepted. Meanwhile the impugned order is set aside and the appellant is re-instated in service for the of proceeding for decision on the departmental

*appeal. Parties are left to bear their own costs.
File be consigned to the record.*

Copy of Order / Judgment dated 10-11-2015 passed by this Hon'ble Tribunal is attached as **Annexure-A**.

2. That respondent No.1 failed to honor the judgment/directions of this Hon'ble Tribunal and appellant was constrained to file execution petition No.20 of 2016 before this Hon'ble Tribunal and during the course of execution proceeding applicant was re-instated w.e from the date of decision.

Copy of Execution Petition and re-instatement order dated 11-01-2017 is attached as **Annexure-B**.

3. That re-instatement means assigning of charge with effect from the date of discharge/removal/dismissal. Applicant appointment order was withdrawn by respondent No.2 vide order dated 11-05-2011 with effect from the initial date of appointment order dated 18-03-2011 therefore, as per direction of this Hon'ble Tribunal, he was entitled to be re-instated with effect from the date of initial appointment order i.e w.e.from 18-03-2011, but applicant was re-instated with effect from the date of the order/judgment of this Hon'ble Tribunal dated 10-11-2015 and thus applicant was caused loss of about 4/5 years of service. More over since the appeal of the appellant was accepted in toto, therefore he was also entitled for all back benefits, which too are out standing against the defaulter Judgment debtor.
4. That erroneously the Execution Petition was disposed of vide order dated 13-01-2017 without reference to the direction of this Hon'ble Tribunal vide its judgment dated 10-11-2015, which is clear in all respect. The disposal of the execution petition is erroneous in its nature and spirit, therefore the present 2nd Execution Petition.

Copy of disposal of Execution Petition is attached as **Annexure-C**.

5. That applicant submitted various applications for the true implementation of the Judgment of this Hon'ble Tribunal, but the respondents have paid no heed to the disposal of the applications.

Copy of applications are attached as **Annexure-D**.

It is therefore, humbly prayed that on acceptance of this application, this Hon'ble Tribunal may graciously be pleased to take action and initiate Contempt of Tribunal proceedings against the respondents and directs them to immediately re-instate the appellant/applicant in true spirit of the Judgment/order dated 10-11-2015 with all back benefits from the date of withdrawal of initial appointment order without further loss of time.

Applicant/Petitioner

Through

As L---
Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

&

Ali
Ali Bakht Mughal
Advocate,
District Courts, Peshawar

Dated: _____ / 04/ 2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**2nd Execution Petition No. _____/2024****In****Service Appeal No.1571 /2011**

Mehboob Ullah,
 Clinical Technician (BPS-12),
 Type "C" Hospital, Karak City.....**Applicant / Petitioner**

Versus

The Director General, Health Services,
 Khyber Pakhtunkhwa, Peshawar and others**Respondents.**


AFFIDAVIT

I, Mehboob Ullah, Clinical Technician (BPS-12), Type "C" Hospital, Karak City do hereby solemnly affirm and declare on oath that the contents of this petition are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Tribunal. It is further declare on Oath that applicant has not moved any execution petition previously for the same matter.


Deponent.

CNIC: 14202-8713629-5

Cell: 0332-9190741



S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	10.11.2015	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>PESHAWAR</u></p> <p style="text-align: center;">APPEAL NO.1571/2011</p> <p style="text-align: center;">(Mehboob Ullah-vs- Director General Health Civil Secretariat, Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER:</u></p> <p>Counsel for the appellant (Mr. Ashraf Ali Khattak, Advocate), Dr. Inaam, Coordinator and Mr. Niaz Muhammad, Senior Clerk alongwith Mr. Ziaullah, GP for respondents present.</p> <p>2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the impugned order dated 11.05.2011 passed by respondent No.3, wherein he withdrew the appointment order of the appellant and against which appellant filed departmental appeal before the respondent No.1 which is still pending before him without disposal. He prayed that on acceptance of this appeal the impugned order may please be set aside and directs the respondents to grant salaries for the services he rendered before the impugned withdrawal order.</p> <p>3. Brief facts giving rise to the instant appeal are that the appellant was appointed as Junior Clinical Technician, Pathology</p>

(BPS-09) vide order dated 29.11.2010 at Khalifa Gul Nawaz Teaching Hospital, Bannu. That the appellant applied for the same post through proper channel and was selected and appointed vide order dated 18.03.2011 at Type "D" Hospital Latamber. That appellant served as such for about more than two months without salaries, which is still pending against the department and the appellant is also entitle for the same. That to the utter dismay and surprise the legal services of the appellant was terminated with a single stroke of pen. Respondent No.3 vide order dated 11.05.2011 withdraw the appointment order of the appellant without adhering to the legal procedure prescribed for the same on the flimsy ground that the appellant has procured his appointment on bogus documents, which has not factual backing. That appellant being aggrieved from the unlawful order preferred departmental appeal before respondent No.1 which was not responded, hence this appeal.

4. Counsel for the appellant argued that respondent had not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article-04 of the Constitution of Islamic Republic of Pakistan, 1973. He further argued that appellant never submitted fake certificate/diploma and withdrawn order of his appointment was therefore, illegal, unlawful and had no legal backing hence liable to be interfered with by this Tribunal. He further submitted that legal service of the appellant had been terminated without conducting any enquiry, without any show cause notice hence was not maintainable in the eyes of law. He further argued that appellant was condemned unheard which was against the principle of natural justice and added that

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CEPS

impugned order had been made in order to accommodate the favourites of Political bosses. He further argued that impugned order had no mention of the relevant law, rules in support of sacking of the appellant from his legal service hence was liable to be set aside by this Hon'able Tribunal.

5. The learned GP argued that terms and conditions of the appointment of the appellant provided that the appellant was initially appointed on probation of one year. His continuation in service was contingent upon satisfactory performance and his services were liable to be terminated without any notice in the probation period. The impugned order was accordingly made in pursuance of the provision of Khyber Pakhtunkhwa Civil Servant Act, 1973 and the rules made there-under and the competent authority who made his order of appointment was competent enough to withdraw the said orders. He further argued that departmental representation was presented before the respondent No.3 but the same was straight-away taken by the appellant without any process for the order of respondent No.1. He argued that on this count also the instant appeal before the Service Tribunal was not maintainable and prayed that the appeal may be dismissed.

6. Arguments of learned counsels for the parties heard at length and record perused with their assistance.

7. From hearing of the counsel for the parties and from perusal of the record, it transpired that the appellant was appointed as Junior Clinical Technicians (Pathology) (BPS-09) vide order

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dated 18.03.2011 by respondent No.3. The said order was however withdraw by the same authority on 11.05.2011 on account of fake/bogus documents of the appellant as declared by Khyber Pakhtunkhwa Medical Faculty Peshawar with immediate effect. The written reply/comments of the respondents of the instant appeal however made no mention of fake documents rather the termination of the appellant was attributed to unsatisfactory performance of the appellant and reliance was made on Section-10 (i) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 and rules relating to probation made there-under. A clear contradiction in the stance of the respondent-department has therefore surfaced which cannot be decided in the absence of relevant material pertaining to the case in hand. (In the circumstances, the Tribunal is of the considered view to remit the case to respondent No.1 who is appellate authority with direction to examine the case strictly in accordance with law and rules and decide the departmental appeal of the appellant within a period of 60 days of the receipt of this judgment failing which the instant appeal shall be deemed to have been accepted. Meanwhile the impugned order is set aside and the appellant is reinstated in service for the purpose of the proceedings for decision on the departmental appeal. Parties are left to bear their own costs. File be consigned to the record.

Operative Judgment Part

Case

[Handwritten signature]

ANNOUNCED
10.11.2015

[Handwritten signature]
MEMBER
[Handwritten signature]
MEMBER

1600
10
10

17.11.2015

20.11.2015
20.11.2015

Attorney at Law
[Handwritten signature]

DISTRICT HEALTH OFFICER
KARAK
Phone & Fax No. 0927290537


OFFICE ORDER

In light of the decision of Khyber Pakhtunkhwa, Service Tribunal Peshawar dated 10.11.2015 in Service Appeal No. 1571/2011 (Mehboob Ullah Vs Governor KPK & Director General Health Services, Khyber Pakhtunkhwa, Peshawar office letter No. 61-62/AE-VI dated 04/01/2017, Mr. Mehboob Ullah S/O Rai Gul Village Spina Banda PO Jandri Tehsil & District Karak is hereby reinstated into service as Clinical Technician Pathology-BPS-12 with effect from the court decision date 10.11.2015, he is hereby directed to perform duty at Type-C Hospital Takhti Nasrati Karak.

Sd/.....
DISTRICT HEALTH OFFICER
KARAK

No. 76-23 /Estb. Peshawar dated 04/01/2017
Copy forwarded to:-

1. The Director General Health Services Khyber Pakhtunkhwa, Peshawar for information w/r to his office letter referred above please.
2. The Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar for information please.
3. The Assistant Director (Litigation) Directorate General Health Services Khyber Pakhtunkhwa Peshawar for information please.
4. The PMO/Type-C Hospital Takhti Nasrati Karak for information.
5. The District Account Officer Karak for information.
6. The Account Section Local Office for information & necessary action.
7. Mr. Mehboob Ullah S/O Rai Gul Village Spina Banda PO Jandri Tehsil & District Karak for information & compliance of the order.


DISTRICT HEALTH OFFICER
KARAK
Accepted to be true
Date

C ANX. C, (10)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 20/2016

In The Matter Of
Appeal No. 1571/2011

A.W.P. PESHAWAR
Service Tribunal
Diary No. 85
Dated 2-2-17

Mehboob ullah S/O Rai Gul R/o Village Spina Banda P.O Jahdrai Tehsil and District
Karak
Appellant

VS



1. The Director General Health Civil Secretariat Peshawar.
2. The District Coordination Officer Karak.
3. The Executive District Officer (Health) Karak

Respondents

APPLICATION FOR THE IMPLEMENTATION OF THE JUDGMENT
OF ORDER DATED 10.11.15 OF THIS HONOURABLE TRIBUNAL

Respectfully submitted,

13.01.2017

Petitioner with counsel and Addl. AG alongwith Dr. Fazle Hadi, DCO Karak for the respondents present. Submitted copy of order dated 11.01.2017 according to which the petitioner has been reinstated in service as Clinical Technician Pathology BPS-12 w.e.f. the date of decision of the Tribunal i.e. 10.11.2015. In view of the afore-stated situation learned counsel for the petitioner requested for withdrawal of the petition.

Dismissed as withdrawn. File be consigned to the record room.

sd/ Chairman

Certified to be true copy
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

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copy

Date of Registration of Petition: 25-1-17

Number of Petition: 20

Consig. Fee: 25

Urgent:

Total: 25

Name of Copy: 25-1-17

Date of Copy: 25-1-17

Date of Delivery: 25-1-17

ANX "D" ①

To
The Worthy,
District Health Officer;
District Karak.

Subject: APPLICATION FOR IMPLEMENTATION OF THE JUDGMENT OF THE HON'BLE SERVICE TRIBUNAL DATED 10-11-2015 PASSED IN SERVICE APPEAL NO:1571 OF 2011, WHEREBY APPLICANT HAS BEEN DIRECTED TO BE RE-INSTATED WITH EFFECT FROM INITIAL APPOINTMENT I.E 18-03-2011.

Respected Sir,

Applicant humbly submits as to the following:-

1. That applicant filed Service Appeal No: 1571/2011, which was disposed of by Hon'ble Service Tribunal, Peshiwar vide Order/Judgment dated 10-11-2015 directing the Your Good Office to re-instate the appellant with all back benefits. Copy attached as Flage-I.
2. That applicant was re-instated during the course of execution proceeding before the Hon'ble Service Tribunal vide order dated 13-01-2017 with effect from the date of Judgment of Hon'ble Service Tribunal dated 10-11-2015 and execution petition was accordingly dispose of vide order dated 13-01-2017.
3. That since applicant initial order was withdrawn with effect from initial appointment dated 18-03-2011 therefore as per direction of the Hon'ble Service Tribunal; applicant was entitled to be re-instated with all back benefits.

No. 125

For Insurance RGL 11-05582

Sum insured Rs. 100000/-

Insured for Rs. (in figures)

Name and address

Weight (in words) Kilo Grams

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Copy

4. That applicant has neither been re-instated with effect from his original appointment nor paid back benefits as per direction of the Hon'ble Service Tribunal.

It is therefore, humbly requested that applicant may kindly be re-instated with effect from 18-03-2011 and may be paid his back benefits for the intervening period.

Your's Obediently,



Mehboob Ullah,

Clinical Technician.

Type C, Hospital,

Karak City.

Dated :20/07/2021

Attested to be true
~~copy~~

To

The Worthy,
Director General Health Services,
Khyber Pakhtunkhwa, Peshawar.

Subject: APPLICATION FOR IMPLEMENTATION OF THE JUDGMENT OF THE HON'BLE SERVICE TRIBUNAL DATED 10-11-2015 PASSED IN SERVICE APPEAL NO.1571 OF 2011, WHEREBY APPLICANT HAS BEEN DIRECTED TO BE RE-INSTATED WITH EFFECT FROM INITIAL APPOINTMENT I.E 18-03-2011.

Respected Sir,

Applicant humbly submits as to the following:-

1. That applicant filed Service Appeal No. 1571/2011, which was disposed of by Hon'ble Service Tribunal, Peshawar vide Order/Judgment dated 10-11-2015 directing the Your Good Office to re-instate the appellant with all back benefits. Copy attached as Flage-I.
2. That applicant was re-instated during the course of execution proceeding before the Hon'ble Service Tribunal vide order dated 13-01-2017 with effect from the date of Judgment of Hon'ble Service Tribunal dated 10-11-2015 and execution petition was accordingly dispose of vide order dated 13-01-2017.
3. That since applicant initial order was withdrawn with effect from initial appointment dated 18-03-2011 therefore as per direction of the Hon'ble Service Tribunal; applicant was entitled to be re-instated with all back benefits.

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4. That applicant has neither been re-instated with effect from his original appointment nor paid back benefits as per direction of the Hon'ble Service Tribunal.

It is therefore, humbly requested that applicant may kindly be re-instated with effect from 18-03-2011 and may be paid his back benefits for the intervening period.

Your's Obediently,




Mehboob Ullah,

Clinical Technician.

Type C, Hospital,

Karak City.

Dated : 15/09/2020


Attested to be true
Copy

WAKALAT NAMA

15

IN THE COURT OF KHIBER PAKHTUNKHWA Service TRIBUNAL
PESHAWAR

Mehboob Ullah Appellant(s)/Petitioner(s)

VERSUS

The director general Health
services KPK Peshawar and others Respondent(s)

I/We _____ do hereby appoint
Mr. Ashraf Ali Khattak Advocate Supreme Court of Pakistan &
Mr. Ali Bakht Mughal Advocate High Courts Peshawar in the above
mentioned case, to do all or any of the following acts, deeds and things.


1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by


Signature of Executants

Asl 5/10
Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

AL
Ali Bakht Mughal
Advocate,
High Court, Peshawar