


Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Implementation Petition No. 377/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	08.05.2024	<p>The implementation petition of Mr. Mukhtar Ahmad submitted today by Mr. Afrasiab Khan Wazir Advocate. It is fixed for implementation report before touring Single Bench at A.Abad 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 SERVICES TRIBUNAL**  
**PESHAWAR**

Execution Petition No. 347/2024  
Appeal No. 1605/2018

**Mukhtar ahmad**

.....Versus.....

**Education Deptt:**

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**APPELLANT**

Through:

  
**AFRASIAB KHAN WAZIR**  
**ADVOCATE HIGH COURT**

Office:

ROOM NO. B-16, GOVT COLLEGE CHOWK,  
NIMRA PLAZA, PESHAWAR.  
CELL: 0312-9888752

**BEFORE THE KHYBER PAKHUNKHWA SERVICES TRIBUNAL PESHAWAR**

EXECUTION PETITION No. 347 /2024  
IN APPEAL NO.1605/2013

Khyber Pakhtunkhwa  
Services Tribunal  
Peshawar  
No. 12689  
Date 08-05-24

Mr. Mukhtar ahmad, S S, GHSS Beer, District Haripur.

.....PETITIONER.

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance, Khyber Pakhtunkhwa, Peshawar.
- 4- The Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 5- District Education Officer Male, E&SE, Haripur.

.....RESPONDENTS.

**EXECUTION PETITION FOR DIRECTING THE RESPONDENTS TO IMPLEMENT THE JUDGMENT DATED 09.07.2019 OF THIS HONORABLE TRIBUNAL IN LETTER AND SPIRIT**

**RESPECTFULLY SHEWETH:**

- 1- That the above mentioned appeal has been decided by this August Service Tribunal vides judgment dated 09.07.2019 in favor of the Petitioner.
- 2- That the petitioner filed the appeal which is decided by this Honorable Tribunal with the direction as follows;  
"we deem it appropriate to remand the case to departmental authority with the direction to decide the departmental appeal dated 04.09.2013 of the appellant within 90 days from the date of receipt of copy of this judgment in accordance with law with further direction to communicate the same to the appellant and thereafter, if the appellant was aggrieved from the order of departmental authority on his departmental appeal than he will be at liberty to approach this tribunal for his grievances. Parties are to left to bear their own costs. File be consigned to the record room. Copy of Judgment dated 09.07.2019 is attached as annexure.....A.
- 3- That the petitioner filed execution petition in which the honorable tribunal disposed off the execution by remanding the case to respondents to decide the departmental appeal of the petitioner within 20 days but still department is not paying

heed to the cause of petitioner and delaying the matter on one pretext or other. **Copy of the order sheet dated 17.05.2022. in execution petition is attached as annexure.....B.**

4- That the petitioner repeatedly knocked the door of the respondents for implementation of the aforementioned judgment and order sheet in execution petition but they are not paying heed to it nor implementing the same.

It is therefore, most humbly prayed that on acceptance of this Execution petition the respondents may please be directed to execute the judgment dated 09.07.2019 & order sheet date 17.05.2022 in letter and spirit.

Dated: 08.05.2024

**PETITIONER**

THROUGH:

**AFRASIAB KHAN WAZIR**  
**ADVOCATE HIGH COURT**

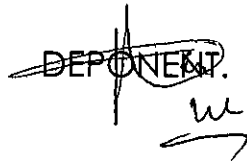
**AFFIDAVIT:**

I Mr. Mukhtar Ahmad resident of District Haripur, do hereby solemnly affirm and declare that the content of this execution petition is true and correct to the best of my knowledge and belief and nothing has been concealed from this August Tribunal so far.

  
DEPONENT.

**CERTIFICATE:**

That earlier execution petition was filed but disposed off by tribunal and remanded the case to the department vide order sheet dated 17.05.2022 while the respondents are not executing the same thus filing another execution petition before this August tribunal.

  
DEPONENT.



(7)

A-(3)

Amma-B

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**  
**AT CAMP COURT ABBOTTABAD**

SERVICE APPEAL NO. 1605/2013

Date of institution ... 05.12.2013

Date of judgment ... 09.07.2019



Mukhtar Ahmed, S.S,  
GHSS Beer, Haripur

(Appellant)

**VERSUS**

1. The Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Secretary Education (E&SE) Khyber Pakhtunkhwa Peshawar.
3. The Director Education (E&SE) Khyber Pakhtunkhwa Peshawar.
4. The District Education Officer, (Male), E&SE, Haripur.
5. The Secretary Finance, Khyber Pakhtunkhwa Peshawar.

(Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR DIRECTING THE RESPONDENTS TO ADJUST THE APPELLANT AS SUBJECT SPECIALIST W.E.F 01.12.2011 WITH ALL PAY AND OTHER SERVICE BENEFITS AND AGAINST NOT TAKING ANY ACTION ON THE APPEAL OF APPELLANT WITH STATUTORY PERIOD OF NINETY DAYS.

*M. Amin*  
*9.7.2019*

Syed Noman Ali Bukhari, Advocate.

For appellant.

Mr. Muhammad Bilal Khan, Deputy District Attorney

For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

MEMBER (JUDICIAL)

MR. HUSSAIN SHAH

MEMBER (EXECUTIVE)

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the

appellant and Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith

Mr. Muhammad Shamim, Section Officer for the respondents present.

Arguments heard and record perused.

**ATTSTED**  
*M. Amin*  
*AD*

2. Brief facts of the case as per present service appeal are that the appellant was serving in Education Department as Subject Specialist. The appellant

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

applied for leave with effect from 01.12.2003 to 30.11.2011 which was duly approved from the EDO Haripur. That after availing the extraordinary leave, the appellant reported his arrival on 26.11.2011 but the appellant was not allowed to perform duty therefore, he filed departmental appeal on 04.09.2013 to respondent No. 2 i.e Secretary Education (E&SE) Khyber Pakhtunkhwa Peshawar but the same was not responded within the statutory period of 90 days hence, the present service appeal on 05.12.2013.

3. Respondents were summoned who contested the appeal by filing of written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Education Department as Subject Specialist and has more than 24 years service in his credit with good record throughout. It was further contended that the appellant applied for leave with effect from 01.12.2003 to 30.11.2011 which was duly approved by the EDO Haripur, however, after availing leave, the appellant reported for his arrival on 26.11.2011 but the appellant was not allowed to perform duty. It was further contended that as per seniority list pertaining to the year 2016 of the Subject Specialists BPS-17, the appellant has been shown at serial no. 35 of the seniority list which as per his contention shows that the appellant is in service. It was further contended that the appellant continuously requesting the respondents for adjustment as Subject Specialist but in vain and finally the appellant submitted his departmental appeal to respondent no. 2 but the same has not been responded within statutory period therefore, he filed the present service appeal. It was further contended that neither the appellant has been proceeded in departmental proceeding by the respondent-department nor the appellant has been terminated or removed from service therefore, the respondent-department was bound to accept his arrival

*M. Anwar*  
9.7.2019

ATTESTED

EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

ATTESTED

report after expiry of extraordinary leave and adjust the appellant at the post of Subject Specialist therefore, prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant is absent from duty since 2003. It was further contended that the extraordinary leave with effect from 01.12.2003 to 30.11.2011 was not sanctioned by the competent authority and the appellant remained absent from duty without permission of the competent authority. It was further contended that the appellant is still abroad. It was further contended that neither original nor appellate final order has been passed against the appellant therefore, the present service appeal is not maintainable under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant has alleged in service appeal that he had applied for leave with effect from 01.12.2003 to 31.12.2006 and than 01.01.2007 to 30.11.2011 which was duly approved by the than EDO Haripur. However, after availing leave, the appellant reported for his arrival on 26.11.2011 but the respondent-department did not allow the appellant to perform his duty and the appellant continuously requested the respondents for his adjustment as Subject Specialist but in vain and finally the appellant submitted departmental appeal to respondent No. 2 but the same has not been responded within the statutory period therefore, filed the present service appeal. Admittedly, there is neither any original order passed by the competent authority nor any final appellate order has been passed by the appellate authority on the departmental appeal of the appellant therefore, we deem it appropriate to remand the case to departmental authority with the direction to decide the departmental appeal dated 04.09.2013 of the appellant within 90 days

from the date of receipt of copy of this judgment in accordance with law with

ATTESTED

EXAMINER

KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

ATTESTED

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further direction to communicate the same to the appellant and thereafter, if the appellant was aggrieved from the order of departmental authority on his departmental appeal <sup>m</sup> then he will be at liberty to approach this Tribunal for his grievances. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
09.07.2019

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER  
CAMP COURT ABBOTTABAD

*Hussain Shah*  
(HUSSAIN SHAH)  
MEMBER  
CAMP COURT ABBOTTABAD

Certified to be true copy

*AS*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

*Mirza  
AP 4*

**ATTSTED**

Date of Presentation of Application 06/10/21  
Number of Words 1500  
Copying Fee 5/2  
Urgent 21/2  
Total 21/2  
Name of C...  
Date of Receipt of Copy 06/10/21  
Date of Delivery of Copy 06/10/21



B-7

①



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

*Execution Petition no. 219/2021*

COC No. .... of 2021

In

Service Appeal No/1605/2013

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1380

Dated 11/10/2021

Mukhtar Ahmed S.S. Government High School Beer District Haripur.

.....Petitioner

**VERSUS**

1. The Chief Secretary KPK Peshawar.
2. The Secretary Education (E&SE) KPK Peshawar.
3. The Director Education (E&SE) KPK Peshawar.
4. The District Education Officer (Male) E&SE Peshawar

.....CONTEMNORS/RESPONDENTS.

**PETITION FOR INITIATING CONTEMPT OF COURT PROCEEDINGS AGAINST THE  
RESPONENTS/ CONTEMNORS FOR NOT IMPLEMENTING THE ORDER/  
JUDGMENT DATED 09-07-2019 PASSED BY THIS HONOURABLE TRIBUNAL IN  
THE AFORESAID SERVICE APPEAL.**

**PRAYER:**

IT IS THEREFORE, very respectfully prayed that on acceptance of instant petition, the contemnors/ respondents be proceeded against in accordance with the law on the subject for not implementing the order/judgment dated 09-07-2019 passed by this Honorable Tribunal, and they further be directed/ordered to implement the order in hand in its true letter and spirit.

Respectfully sheweth;

1. That, aforesaid Service Appeal filed by the petitioner was disposed of by this honorable Tribunal, vide order dated 09-07-2019, with direction "to decide the departmental appeal dated 04-09-2013 of the appellant within 90 days from the date of

**ATTESTED**  
*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

receipt of copy of this judgment in accordance with law with further direction to communicate the same to the appellant and thereafter, if the appellant was aggrieved from the order of departmental authority on his departmental appeal then he will be at liberty to approach this Tribunal for his grievance".

**(Attested copies of Service Appeal and order dated 09-07-2019 are annexed as annexure "A&B").**

2. That the order dated 09-07-2019 was passed in the presence of Mr. Muhammad Bilal Khan, Deputy District Attorney and Mr. Muhammad Shamim, Section Officer for respondents and copy of the same was also duly communicated to them by the office but after the passage of about two (02) years, no step has been taken by the respondents towards the decision of the appeal of the petitioner as directed by this honorable Tribunal vide order dated 09-07-2019.
3. That the matter has been put on the back burner by the respondents by showing defiance to the order dated 09-07-2019.
4. That feeling aggrieved of the willful action/inaction of the respondents, petitioner having no other remedy except to file the present petition inter alia on the following amongst other grounds.

**GROUND:**

- A) That contemnors/respondents are legally bound to implement the judgment of this honorable Tribunal, no sooner they get the same, but they badly failed to discharge their constitutional/legal duty by showing defiance towards implementation of order/judgment dated 09-07-2019.

**ATTESTED**  
**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal**  
**Peshawar**

(B)

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- B) That contemnors/respondents have shown complete defiance to the order of this honorable court by not implementing the same in its true letter and spirit despite lapse of complete 02 (two) years, which act of the respondents have made them liable to be proceeded against in accordance with the law on the subject.
- C) That this honorable court had clearly directed the respondents to implement the order in hand within a period of 90 days from the date of receipt copy of the judgment but they failed to do so without any good legal reason.

**PRAYER:**

It is therefore, very respectfully prayed that on acceptance of this petition the contemnors/ respondents be proceeded against in accordance with the law on the subject for not implementing the order/judgment dated 09-07-2019 passed by this honorable Tribunal, and they further be directed/ ordered to implement the order in hand in its true letter and spirit.

Dated: 11-10-2021

THROUGH

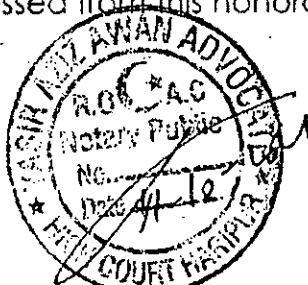
PETITIONER

M. Aslam  
MOHAMMAD ASLAM TANOLI  
ADVOCATE HIGH COURT

**AFFIDAVIT**

I, Mukhtar Ahmed, son of Farid Mohammad resident of House No. 1390, Sector No.1 Khalabat Town Ship (KTS) Tehsil and District Haripur do hereby underfake/ solemnly affirm that the contents of fore-going petition are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this honorable court.

Dated 11-10-2019



ATTESTED  
EXAMINER  
Mukhtar Ahmed  
(DEPONENT)  
Kyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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E.P No. 219/2021

20.01.2022

Petitioner in person present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and sought time for implementation of the judgment under execution. Adjourned. To come up for implementation report on 15.03.2022 before the S.B at Camp Court Abbottabad.

(Salah-ud-Din)

Member (J)

Camp Court A/Abad

17.05.2022

Learned counsel for the petitioner present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Syed Naseer Ud Din Shah, Assistant for respondents present.

Learned counsel for the petitioner submits that the petitioner would be satisfied if further direction is given to the respondents to decide the matter earlier remanded to the respondents vide judgment dated 09.07.2019 within 20 days of receipt of this order and in case the petitioner finds himself aggrieved he would adopt further legal course and in case the matter could not be taken up or decided by the respondents within 20 days, the petitioner will be at liberty to seek redressal but subject to limitation etc. Disposed of accordingly. Consign.

*Pronounced in open court in Camp Court Abbottabad and given under my hand and seal of the Tribunal this 17<sup>th</sup> day of May, 2022.*



(Kalim Arshad Khan)

Chairman

Camp Court Abbottabad.

**Certified to be true copy**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 29-4-24  
Number of Words 5/2  
Copying Fee 5/2  
Urgent 5/2  
Total 10/-  
Name of Copyist —  
Date of Completion of Copy 29-4-24  
Date of Delivery of Copy 29-4-24

**POWER OF ATTORNEY/VAKALATNAMA**

**BEFORE THE HON' KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,  
PESHAWAR**

*Mukhtar Ahmad*

VERSUS

*Education Dept.*

Appeal No. \_\_\_\_\_ -P/2024

On behalf of Petitioner/Appellant No.

I/ we the **petitioners/appellant** hereby appoint **Mr. Afrasiab Khan Wazir** Advocate in the above-mentioned case, to do all or any of the following acts, deeds things.

1. To appear, act, sign, record Statement and plead for me/us in the above-mentioned case in this court /Tribunal or any other Court /Tribunal in which the same may be tried or heard, and other proceedings arising out of or connected therewith.
2. To sign, verify compromise and file or withdraw all proceedings, petitions, appeals, affidavits, and any other documents, as may be deemed necessary of advisable by them for the conduct, prosecution or defense of the said case at its stages.
3. To receive payments of, and issue receipts for, all money that may be or become due and payable to us during the course or on the conclusion of the proceedings.
4. To do all other acts and things which may be deemed necessary or advisable during the proceedings.

**AND HEREBY AGREE:**

- a. To ratify whatever the said advocate may do in the proceedings.
- b. Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of absence from the Court/Tribunal when it is called for hearing.
- c. An advocate shall not be responsible for any concealment, fraud, misrepresentation made by the client before any tribunal, court or forum.
- d. That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof, I/We have signed this power of Attorney/ Vakalatnama hereunder, the contents of which have been read/ explained to me/us and fully understood by me/ us.

~~Terms Accepted~~

Signatures *W*

~~Accepted & Attested~~

~~Afrasiab Khan Wazir~~

~~Advocate Peshawar High Court, Peshawar.~~

~~Office:~~

~~Room No. B-16, Govt College Chowk,~~

~~Nimra Plaza, Faqirabad, Peshawar.~~

~~Cell: 0312-9888752.~~