


Form- A

FORM OF ORDER SHEET

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

Implementation Petition No. 777/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24.07.2024	<p>The implementation petition of Mst. Tahira Bibi submitted today by Mr. Fazal Shah Mohmand Advocate. It is fixed for implementation report before Single Bench at Peshawar on 26.07.2024. 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**

Implementation Petition No 777 /2024

In

Service Appeal No. 896/2022

Tahira Bibi

.....Applicant/Appellant.

**V E R S U S**

Govt and Others

.....Respondents

**I N D E X**

S.No	Description of documents	Annexure	Pages
1.	implementation Petition with Affidavit		1 - 2
2.	Copy of the Order and Judgment dated 06.03.2024	A	3 - 9
3.	Copy of Application	B	10
4.	Wakalat Nama		11

Dated:-23.07.2024

Applicant/Petitioner

Through

Fazal Shah Mohmand ASC

Baseer Ahmad Shah

&

Ibad Ur Rehman Khalil

Advocates High Court.

**OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell #  
0301-8804841**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

①

**PESHAWAR**

Implementation Petition No 777 /2024

Khyber Pakhtunkhwa  
Service Tribunal

In

Diary No. 14482

Service Appeal No. 896/2022

Dated 24-07-2024

Tahira Bibi, EX , PST Government Girls Community Model School Dhakki  
Tehsil Tangi District Charasadda. ....Appellant

**V E R S U S**

1. Director Elementary and Secondary Education Civil Secretariat, Peshawar.
2. District Education Officer Female Charsadda.
3. Government of khyber Pakhtunkhwa through Secretary Elementary & Secondary Education civil secretariat peshawar.
4. Mussarat begum PST GGMS Dhakki Tehsil & District Charsadda.

.....Respondents

**IMPLEMENTATION PETITION UNDER SECTION 7 OF THE  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR  
THE IMPLEMENTATION OF ORDER/JUDGMENT DATED 06-03-  
2024 PASSED BY THIS HONORABLE TRIBUNAL IN THE ABOVE  
TITLED SERVICE APPEAL.**

**Respectfully Submitted:-**

1. That the applicant/appellant earlier filed Service Appeal No. 896/2022 before this honorable Tribunal for her re instatement in service with all back benefits which was decided and the matter was remanded back to the respondents by setting aside the impugned order for re considering it before the DSC with further direction to decide it within one month vide order/judgment dated 06-03-2024. **(Copy of the Order/Judgment dated 06.03.2024 is enclosed as Annexure A).**
2. That the appellant time and again approached respondents for the implementation of the order/judgment dated 06-03-2024 of this honorable Tribunal but of no use . Even she submitted application for the purpose but of no avail. **(Copy of Application dated 07-05-2024 is enclosed as Annexure B).**

- 3. That the respondents are not ready to implement the Order/ Judgment of this honorable Tribunal dated 06-03-2024 in its true spirit for no legal and valid reasons, this act of the respondents is unlawful, unconstitutional and goes against the Orders and Judgment dated 06-03-2024 of this honorable Tribunal.
- 4. That noncompliance of the order of this honorable Tribunal, speaks malafide on part of the respondents and they are bent upon to lower the position of the judiciary in the eyes of the public at large.

**It is therefore prayed, that on acceptance of this Application/Petition, respondents may kindly be directed to implement the Order and Judgment of this honorable Tribunal dated 06-03-2024 passed in Service Appeal No 896/2022 in its true letter and spirit.**

**Dated:-23.07.2024**

**Applicant/Petitioner**

**Through**

*[Signature]*  
**Fazal Shah Mohmand ASC**  
**Baseer Ahmad Shah**  
 &  
*[Signature]*  
**Ibad Ur Rehman Khalil**  
**Advocates High Court**

**AFFIDAVIT**

I, Tahira Bibi, EX , PST Government Girls Community Model School dhakky Tehsil Tangi District Charasadda do hereby solemnly affirm and declare on oath that the contents of the accompanying **Implementation Petition** are true and correct to the best of my knowledge and believe.

*Tahira Bibi*

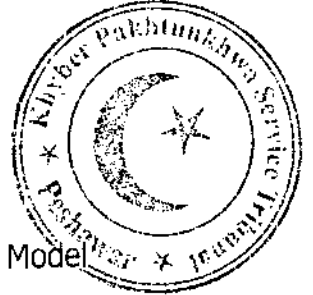
**DEPONENT**



"A"

3

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**



Service Appeal No \_\_\_\_\_/2022

Tahira Bibi Ex Primary School Teacher, Govt. Girls Community Model School Dhakki Tehsil Tangi District Charsadda.

.....Appellant

**V E R S U S**

1. Director, Elementary and Secondary Education, Govt. of Khyber Pakhtunkhwa, Peshawar.
2. District Education Officer (Female) Charsadda.
3. Secretary, Elementary and Secondary Education, Govt. of Khyber Pakhtunkhwa, Peshawar.
4. Musarrat Begum, Primary School Teacher, Govt. Girls Community Model School Dhakki Tehsil Tangi District Charsadda.

.....Respondents

**APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 20-04-2020 OF RESPONDENT NO 2, WHEREBY THE APPOINTMENT ORDER OF THE APPELLANT HAS BEEN WITHDRAWN AND RESPONDENT NO 4 HAS BEEN APPOINTED AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:-**

On acceptance of this appeal the impugned Order dated 20-04-2020, may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

**Respectfully Submitted:-**

**ATTESTED  
TO BE TRUE COPY**

1. That the appellant is the permanent resident of Union Council Dhakki Teshil Tangi District Charsadda and is highly qualified who has acquired her SSC, FA & Arabic (Hons). **(Copies of Certificates are enclosed as Annexure A).**
2. That in the year 2016 respondent No 2 invited applications through advertisement for appointment to various posts including the posts of Primary School Teachers, the appellant being perfectly fit, eligible and coming up to the criteria also applied for the post of Primary School Teacher (BPS-12) (herein after referred to as PST) from Union Council Dhakki. **(Copy of Advertisement is enclosed as Annexure B).**

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar  
22/9/24

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



Service Appeal No. 896/2022

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

Tahira Bibi, Ex-PST, Government Girls Community Model School Dhakki  
Tehsil Tangi District Charsadda. (Appellant)

**VERSUS**

1. Director Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. District Education Officer (Female), Charsadda.
3. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
4. Mussarat Begum, PST, GGCMS Dhakki Tehsil Tangi District Charsadda.

... (Respondents)

Mr. Fazal Shah Mohmand  
Advocate

... For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney

... For respondents

Date of Institution.....08.06.2022  
Date of Hearing.....06.03.2024  
Date of Decision.....06.03.2024

**JUDGMENT**

**RASHIDA BANO, MEMBER (J):**The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer as copied below:

TESTED  
*[Signature]*  
22/7/24  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

"On acceptance of this appeal, the impugned order dated 20.04.2020 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits."

2. Brief facts of the case, as given in the memorandum of appeal, are that respondent department advertised various posts including the post of Primary School Teachers (PST) in the year 2016. The appellant being eligible also applied for it. After conducting test and interview, the appellant secured 47 score whereafter tentative merit list was prepared wherein the appellant was not awarded the score for Arabic (Hons) and the same situation prevailed in the second tentative merit list. The appellant filed appeal for correction, upon which necessary correction was made and secured marks of the appellant came to 100.4 and the appellant alongwith others were appointed vide order dated 19.05.2017. One candidate namely Saima Shah submitted application against the appointment of the appellant, upon which an inquiry was conducted by the Director Education which resulted in favor of the appellant. She filed another application before the Secretary Education, which resulted in her favor. Thereafter, she filed writ petition before Worthy Peshawar High Court, which was disposed of with direction to the D.S.C for reconsideration strictly in accordance with law and rules upon which meeting of D.S.C was convened and it was held that appellant was inadvertently given Arabic (Hons) marks. Thus appointment order of the appellant was withdraw while respondent No.4 was appointed vide order dated 20.04.2020. Feeling aggrieved, she filed

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

departmental appeal and then filed writ petition bearing No. 2598-P/20 which was disposed of with direction to decide the appeal of the appellant not later than one month, hence the instant service appeal.

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

4. Learned counsel for appellant argued that appellant has not been treated in accordance with law, hence her rights secured and guaranteed under the constitution are badly violated. He further argued that the impugned order is illegal, wrong, void ab-initio and against the rules, hence not tenable in the eyes of law; that appellant was validly appointed as PST on 19.05.2017 on adhoc/contract basis and subsequently regularized in the year 2018 and such under the principle of *locus poenitentiae*, the appointment order of the could not be withdrawn; that no regular inquiry was conducted in the case of appellant nor the appellant was heard in person, thus she was condemned unheard; that no charge sheet, statement of allegation, show cause notice was issued to the appellant, which are mandatory requirement of law.

5. Conversely learned Deputy District Attorney contended that appellant has been treated in accordance with law and rules. He further contended that appellant filed appeal on 13.05.2017 for correction of her marks to include the marks of Arabic (Hons) while last date for submission of documents was

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



30.09.2016. The prescribed qualification for the post of PST was FA/ESc under the service rules hence in the presence of prescribed qualification the DSC was not supposed to consider and accept the equivalent certificate of Arabic (Hons) qualification and to consider it at belated stage i.e after the due date and even after the preparation of merit list, hence the original score of the appellant is 96.77 only. He further contended that in light of the court direction DSC meeting was held on 31.12.2019, the DSC scrutinized the relevant record and recommended that the score of the appellant be calculated on her FA qualification which she has submitted for the first time to NTS and the next eligible candidate (Mst. Musarrat) was appointed.

6. Perusal of record reveals that appellant is the permanent of union council Daki Tehsil Charsadda and who had qualification of SSC, FA and Arabic

~~(Hons) Respondent No. 2 in the year 2016 advertised various posts including~~

the post of PST, appellant being eligible applied for the post of PST BPS-12 from U.C Daki. She appeared in the test through NTS and qualified the same with 47 score. She was not awarded the score of Arabic Hons in the tentative merit upon which she submitted departmental appeal on 13.05.2017 whereupon necessary correction was made by awarding score allotted for Honors Degree after which score of the appellant came to 100.4 and resultantly she alongwith others were appointed vide order dated 19.05.2017. One candidate Saima Shah filed application challenging the appointment of the appellant which was dismissed after inquiry by respondent department. She also filed W.P No.

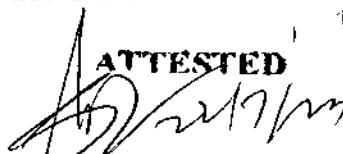
ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

2287-P/20 17 which after hearing was disposed of vide order dated 24.09.2019 with direction to DSC for reconsideration strictly in accordance with law and rules on the subject, upon which meeting of DSC was convened on 12.12.2019 which held that appellant was inadvertently given Arabic score and that respondent No. 4 be appointed, thus the appointment order of the appellant was withdrawn and respondent No.4 was appointed as PST vide 20.04.2020.

7. Perusal of order of worthy Peshawar High Court, Peshawar dated, 24/09/2019 delivered in WP No. 2287 P-/2017 titled as Saima Shah Vs. Government and in the said inquiry report dated 14/04/2019 it was ordered and recommended that matter be placed before DSC for considering it afresh while worthy Peshawar High Court directed DEO(F) District Charsadda to constitute the DSC within a fortnight for consideration of the matter. Impugned order dated 20/04/2020 was passed on the basis of recommendation of scrutiny committee consisting of chairperson, six members and one facilitator dated 31/02/2019. Although in the impugned order it was mentioned as District Selection Committee but same was not decided because DSC consists of three official i.e 1. Chairperson 2. Member nominee from Directorate of Elementary & Secondary Education 3. Member nominee of the Appointing Authority. Therefore it is held that order of worthy Peshawar High Court, Peshawar and recommendation of said inquiry committee was not followed in its true letter and spirit. Matter is remanded back to the respondent by setting aside the impugned order for re-considering it before the DSC with further direction to


RG

ATTESTED  
  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

provide proper chance of hearing to appellant and Mst. Musarrat Begum and decide it within one month after receipt of copy of judgment. Costs shall follow the event. Consign.


8. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 6<sup>th</sup> day of March, 2024.

  
(Fareeha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)

\*Kaleemullah

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 22/7/24  
Number of Words 67  
Copying Fee 30/-  
Urgent 5/7  
Total 35/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 22/7/24  
Date of Delivery of Copy 22/7/24

The District Education Officer,  
(Female) Charsadda.

"8"  
1920  
7/8/24  
(10)

Subject:- REINSTATEMENT ORDER OF PST IN THE LIGHT OF SERVICES TRIBUNAL  
JUDGEMENT/ORDER.

Memo:-

Please refer to the Judgement of the Services Tribunal Peshawar, Services Appeal No: 896/2022

Date of Decision 06.03.2024 (Copy enclosed).

It is submitted in your great honour That I have been appointed as PST along with others vide order No : 3663-75 dated 19.05.2017 (Copy enclosed), where the Service Tribunal Judgement States that the order of the worthy Peshawar High court Peshawar and recommendations of the said inquiry Committee was not followed in its true letter and spirits. The matter is remanded that to the respondent by Setting aside the impugned order, which means that vide order No: 3663-75 dated 19.05.20217 is intact.

Therefore it is humbly requested that to issue my reinstatement order please.

Thanks

Dated \_\_\_\_\_/2024

Obediently Yours

*Tahira Bibi*

TAHIRA BIBI D/O SHER MUHAMMAD  
EX-PST GGCMS DHAKKI (CHARSADDA)

ATTESTED  
*[Signature]*

VAKALATNAMA

11

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Tahira bibi

.....Petitioner/Appellant

**VERSUS**

Govt and others

.....Respondents/Defendants

I, Tahira bibi do hereby appoint and constitute,

**Fazal Shah Mohmand, Ibad Ur Rehman Khalil & Baseer Shah** Advocates  
To act, appear and plead in the above-mentioned matter and to withdraw or compromise the said matter or submit to arbitration any differences or dispute that shall arise touching or in any manner relating to the said matter and to receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said matter.

1. To draft and sign files at necessary pleadings, applications, objections, affidavits or other documents as shall be deemed necessary and advisable for the prosecution of the said matter at all its stages.
2. To employ any other Legal Practitioner, authorizing him to exercise the power as conferred on the undersigned advocate, wherever he may think fit to do so.

AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the above matter. I also hereby agree not to hold the advocate or his substitute responsible for the result of the said matter in consequence of his absence from the court when the said matter is called up for hearing. I further hereby agree that in the event for the whole or any part of the fee to be paid to the advocate remaining unpaid, he shall be entitled to withdraw from the above matter. Received by me on \_\_\_\_\_

BC 105543

Tahira bibi

Client (s)

ACCEPTED BY:

Fazal Shah Mohmand ASC,

Ibad Ur Rehman Khalil

&

Baseer Shah

Advocates, High Court.