


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 650 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	01.07.2024	<p>The implementation petition of Mr. Muhammad Asad Khan received today by registered post through Mr. Hamayun Khan Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on - 25.07.2024. Original file be requisitioned. AAG has noted the next date. Counsel for the petitioner has been informed telephonically.</p> <p>By the order of Chairman  REGISTRAR</p>

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

E.P No. 656 /2024
IN
Appeal No. 1860/2023

Muhammad Asad Khan Computer Operator (BSP-16) DEO (Female) Office
Battagram.

...PETITIONER

VERSUS

Secretary Elementary & Secondary Education, Peshawar and others.

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION

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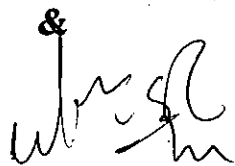
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...PETITIONER

Through

Dated: 28/6 /2024


(HAMAYUN KHAN)

&

(FAZLULLAH KHAN)
Advocates High Court, Abbottabad

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BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

E.P No. 650 /2024
IN
Appeal No. 1860/2023

Muhammad Asad Khan Computer Operator (BSP-16) DEO (Female) Office Battagram.

...PETITIONER

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 13890

Dated 01-07-2024

1. Secretary Elementary & Secondary Education, Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female), Battagram.

...RESPONDENTS

**APPLICATION FOR IMPLEMENTATION OF
JUDGMENT DATED 12/02/2024 PASSED BY THIS
HONOURABLE TRIBUNAL IN APPEAL NO.
1860/2023 TITLED "ASAD KHAN V/S SECRETARY
& OTHERS".**

Respectfully Sheweth:-

1. That petitioner filed service appeal No. 1860/2023 against the impugned order dated 10/01/2023

passed by respondent No. 3. Copy of appeal is attached as Annexure "A".

2. That on 12/02/2024 after hearing of arguments this Honourable tribunal accepted appeal and respondent was directed to release all unpaid salary of the petitioner vide judgment dated 12/02/2024. Copy of judgment dated 12/02/2024 is attached as annexure "B".

3. That on 26/02/2024 petitioner submitted application before the respondent No.3 for release of his unpaid salaries. Copy of application is annexed as Annexure "C".

4. That after laps of more than 05 months respondents had not implemented judgment dated 12/02/2024 of this Honourable tribunal till date and refuse implement the same.

5. That respondent No. 3 instead of complying with the direction of this Honourable Tribunal, straightaway refused to comply with the direction of this Honourable Tribunal.

6. That other point would be raised at the time of arguments kind permission of this Honourable Tribunal.

It is therefore, humbly prayed that on acceptance of instant application respondents be kindly be directed forthwith implement the judgment dated 12/02/2024 passed by this Honourable Tribunal in its true letter and spirit

...PETITIONER

Through


Dated: 28/6/2024


(HAMAYUN KHAN)


(FAZLULLAH KHAN)
Advocates High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Tribunal.



ANNEXURE 'A'

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

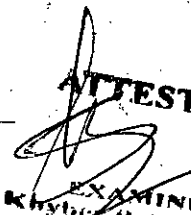
Service Appeal No. 1860/2023

Muhammad Asad Khan, Computer Operator (BPS-16),
DEO (F) Office Battagram..... **Appellant**

VERSUS

1. The Secretary
Elementary & Secondary Education,
Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar
2. The Director
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar
3. The District Education Officer (F)
District Battagram **Respondents**

SERVICE APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT,
1974, AGAINST THE IMPUGNED ACTION OF
THE RESPONDENTS BY NOT RELEASING THE
SALARIES OF THE APPELLANT FROM THE
MONTH OF JANUARY 2023 TILL DATE AND
AGAINST THE IMPUGNED ACTION, BY NOT
TAKING ACTION ON THE DEPARTMENTAL
APPEAL OF THE APPELLANT WITHIN THE
STIPULATED PERIOD OF NINETY DAYS.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Prayer:

By accepting this appeal, the respondents may please be directed to release the appellant's salaries from the month of January 2023, till date and onward

Any other remedy, which this Hon'ble Tribunal deems fit and appropriate may also be granted in favour of the appellant

Respectfully Sheweth:

1. That the appellant has been serving the respondent department as Computer Operator (BPS-16) with fully devotion, commitment and dedication since 01.10.2007.
2. That the appellant was transferred from the office of the DEO (M) Battagram to the office of the DEO (M) Battagram on 21.04.2022. (Copy of office order dated 21.04.2022 is attached as Annexure "A").
3. That vide office order dated 10.01.2023, the appellant was prematurely transferred from the office of DEO (F) Battagram to DEO (M)

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


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Battagram and that too during ban period as the appellant impugned the office order dated 10.01.2023 through departmental appeal which was allowed and the impugned order dated 10.01.2023 was withdrawn through office order dated 20.01.2022. **(Copies of Office Order dated 10.01.2023, Office Order dated 27.12.2022, Departmental Appeal dated 11.01.2023 and Office order dated 20.01.2022 are attached as Annexures "B, C, D & E respectively")**.

4. That the appellant is regular and punctual but despite of that the respondents are not releasing the salaries of the appellant since the month of January 2023, till date. **(Copies of the extracts from attendance register are attached as annexure "F")**.

5. That the appellant then filed departmental appeal for the released of his grievance but the same was not decided within a stipulated period of ninety days: **(Copy of the Departmental Appeal is attached as Annexure "G")**.

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(4)

6. That the appellant being mortally aggrieved, prefers this service appeal for the following amongst others grounds:

GRUNDS:

- A. That as stated in the body of the appeal that the appellant is performing his duty regularly but the impugned action of the respondents by not releasing the salaries of the appellant as illegal, unlawful, against the law, rules, facts, norms of justice and thus ineffective upon the rights of the appellant.
- B. That it is the legal and constitutional rights of the appellant to that his salaries be released on account of performance of his duties but the appellant has been deprived from same which clearly amounts to slavery.
- C. That the appellant has not been treated in accordance with law and he has also been deprived of equal protection of law.
- D. That the respondents are legally bound to release the salaries of the appellant but they have acted otherwise which constrained the

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 Service Tribunal
 Peshawar

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appellant to approach this Hon'ble Service Tribunal.

E. That any other ground, not specifically mentioned, may be raised at the time of arguments, with the prior permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that by accepting this Service Appeal, the respondents may please be directed to release the appellant's salaries from the month of January 2023, till date and onward

Any other relief deems fit and appropriate in the circumstances of the instant appeal may also be passed in favour of the appellant.

AU
Appellant

Through

Akhunzada Ahmad Saeed
Advocate High Court

Ahmad Saeed

Dated 12.09.2023

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
11/6/23

Date of Presentation of Appeal *11/6/23*
Number of Words _____
Copying Fee *30/-*
Urgent _____
Total *30/-*
Name of Copy _____
Date of Completion *11/6/23*
Date of Delivery of Copy *11/6/23*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2023

Muhammad Asad Khan...../ Petitioner

VERSUS

The Secretary, E&SE Peshawar & others...../ Respondents

AFFIDAVIT

I, Muhammad Asad Khan, Computer Operator (BPS-16), DEO (F) Office Battagram, do hereby solemnly affirm and declare that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

ATTESTED
[Signature]
12/23

[Signature]

DEPONENT

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ANNEXURE "B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



BEFORE: KALIM ARSHAD KHAN ...CHAIRMAN
SALAH UD DIN ...MEMBER (Judicial)

Service Appeal No.1860/2023

Date of presentation of appeal.....12.09.2023
Dates of Hearing.....12.02.2024
Date of Decision.....12.02.2024

Muhammad Asad Khan Computer Operator (BPS-16), DEO (F) Office Battagram.....(*Appellant*)

Versus

1. The Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
2. The Director Elementary & Secondary Education Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
3. The District Education Officer (F), Battagram.....(*Respondents*)

Present:

Akhunzada Ahmad Saeed, Advocate.....For appellant
Mr. Muhammad Jan, District Attorney.....For respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGND ACITON OF THE RESPONDENTS BY NOT RELEASING THE SALARIES OF THE APPELANT FROM THE MONTH OF JANUARY 2023 TILL DATE AND AGAINST THE IMPUGNED ACTION, BY NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD OF NINETY DAYS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the memorandum and grounds of appeal, the appellant was serving as Computer Operator in the office of District Education Officer (Female) Battagram. That vide order dated 10.01.2023, he was transferred to the office of District Education Officer (Male) Battagram during ban period. That the appellant filed departmental appeal

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

11/6/24

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against the order dated 10.01.2023, which was accepted and the order was withdrawn vide order dated 20.01.2023; that he resumed duty in the office of District Education Officer (Female) Battagram but his salaries were not released since January, 2023. Feeling aggrieved, he filed departmental appeal for release of his salaries, which was not responded, hence, the instant service appeal.

2. On receipt of the appeal and its admission to full hearing, the respondents were issued notices but they failed to appear and submit reply. Therefore, respondents are placed ex-parte in this case as no reply was submitted.

3. We have heard learned counsel for the appellant and learned District Attorney for the respondents.

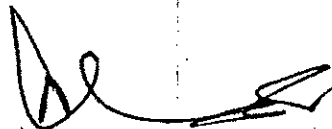
4. The learned District Attorney present on behalf of the respondents has not controverted the fact that the order dated 10.01.2023, whereby, the appellant was transferred from the office of District Education Officer (Female) Battagram to the office of District Education Officer (Male) Battagram, was withdrawn vide order dated 20.01.2023, retaining the appellant as Computer Operator in the office of DEO (Female) Battagram. When asked about why his salaries were withheld? The learned District Attorney, after consulting the official respondents, submitted that there was no post of Computer Operator vacant in the office of DEO (Female) Battagram and the salaries of the appellant were managed to be paid against another post by the DEO (Female) Battagram. This contention is not acceptable because the appellant was transferred from the post of Computer Operator, office of the DEO (Female) Battagram vide order

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EXAMINER
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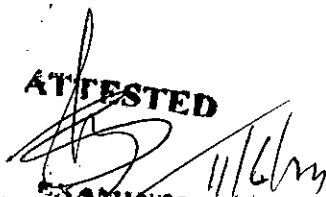
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dated 10.01.2023 and the said order was withdrawn on 20.01.2023 by the Director Education Khyber Pakhtunkhwa, Peshawar. This shows that there was a post of Computer Operator available in the office of DEO (Female) Battagram. Even otherwise, we do not think that the DEO (Female) Battagram has any power to change the cadre or to pay the appellant against another post, especially, when he was posted by the Director Education in her office against the post of Computer Operator. Therefore, in the absence of any rebuttal in the shape of reply, we pass ex-parte order, directing the respondents to release salaries of the appellant forthwith. Consign.

5. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 12th day of February, 2024.



KALIM ARSHAD KHAN
Chairman

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



SALAH UD DIN
Member (Judicial)

Atta-uz-Zam Shah


Date of Presentation of Application 11/6/23
Number of Words 37
Copying Fee 37
Urgent 37
Total 37
Name of Copyist _____
Date of Completion 11/6/23
Date of Delivery of Copy 11/6/23

ORDER

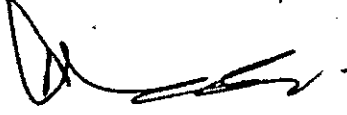
12th Feb. 2024


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1. Learned counsel for the appellant present. Mr. Muhammad Jan, District for the respondents present.
2. Vide our detailed judgment of today, placed on file, in the absence of any rebuttal in the shape of reply, we pass ex-parte order, directing the respondents to release salaries of the appellant forthwith. Consign.
3. *Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 12nd day of February, 2024.*


(Salah Ud Din)
Member (J)

Muazem Shah


(Kalim Arshad Khan)
Chairman

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

