


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 265/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.03.2024	<p>The implementation petition of Mr. Said Muhammad submitted today by Mr. Yasir Saleem 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 PAKHTUNKHUWA SERVICES
TRIBUNAL PESHAWAR

Execution Petition No. 265 /2023
In
Service Appeal No.7869/2021.

Said Muhammad Deputy District Education Officer (DDEO) in OPS, North Waziristan..... (Applicant/ appellant)

VERSUS

Government of Khyber Pakhtunkhwathrough Chief Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar others..... (Respondents)

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✓
Petitioner/ Appellant

Through

YASIR SALEEM
Advocate Supreme Court
of Pakistan
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BEFORE THE KHYBER PAKHTUNKHUWA SERVICES
TRIBUNAL PESHAWAR

Execution Petition No. 265 /2023
In
Service Appeal No.7869/2021.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11940

Dated 27-03-2024

Said Muhammad Deputy District Education Officer (DDEO) in OPS, North Waziristan..... (Applicant/ appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar.
2. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
4. District Education Officer (Male) North Waziristan..... (Respondents)

APPLICATION FOR IMPLEMENTATION OF ORDER DATED 12.04.2023

Respectfully sheweth,

The applicants humbly submit as under;

1. That the captioned appeal was pending before this Honorable Tribunal which has been disposed off vide Order and Judgment dated 12.04.202. The operative part is as under ;

“Learned counsel for the appellant submits that after passage of impugned order of transfer another order was made on 17.02.2023 which was withdrawn vide notification dated 03.03.2023 and consequent upon the same the appellant would be said to be on the post from where he was transferred vide the impugned order. This being so when he was confronted as to what would be determined by the tribunal in this appeal, he was fair and frank enough to say that it has rendered fruitless”.

(Copy of the Order dated 12.04.2023 is attached as Annexure A)


2. That after the order and judgment of this Honorable Authority dated 12.04.2023, initially the appellant was posted on the said post, but now is not allowing him to perform his duties on the said post and adding to his agonies, his salary has also been stopped by the respondents.

3. That it was the response upon whom assurance the appellant requested the this honorable tribunal to dispose of the appeal, but once he withdrawn his appeal, the respondent stopped his salary.
4. That this Honorable Tribunal has ample power to direct the department to allow him to perform his duties and to release his salaries.

It is therefore prayed that the respondents may kindly be directed to allow him to perform his duties and to release his salaries.

Petitioner/ Appellant

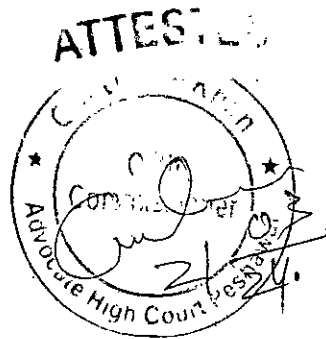
Through


YASIR SALEEM
Advocate Supreme Court
of Pakistan

AFFIDAVIT

It is solemnly affirm and declare on oath that the contents of the petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.


DEPONENT



(5) 1



BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 7689 /2021

Said Muhammad, Deputy District Education Officer (DDEO) in OPS,
North Waziristan.

.....Appellant

VERSUS

1. Government of KPK through Chief Secretary Civil Secretariat Peshawar.
2. Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Director, Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Male), North Waziristan.

.....Respondents

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 26.11.2021 VIDE WHICH THE APPELLANT HAS BEEN TRANSFERRED FROM NORTH WAZIRISTAN AND HIS SERVICES HAS BEEN PLACED AT THE DISPOSAL OF DIRECTORATE OF E&SE AGAINST WHICH HIS DEPARTMENTAL APPEAL DATED 26.11.2021 HAS NOT BEEN RESPONDED TILL DATE.


PRAYER:-

ON ACCEPTANCE OF THIS SERVICE APPEAL ORDER 25.11.2021 TO THE EXTENT OF APPELLANT MAY KINDLY BE SET-ASIDE AND THE APPELLANT MAY BE ALLOWED TO CONTINUE HIS DUTIES AS DDEO, NORTH WAZIRISTAN WITH BACK AND CONSEQUENTIAL BENEFITS.

Respectfully Submitted:-

I very humbly submit few lines for your kind and sympathetic consideration.

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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1. That the appellant has been initially appointed as SST vide order dated 01.09.2009 and was posted as GHS Shamozaï.
2. That ever since appointment the appellant had performed his duties as assigned with great zeal and devotion and there was no complaint what so ever regarding his performance.
3. That during the course of service the appellant was transferred from ADEO Development to DEO Office Miran Shah vide order dated 01.12.2014.
4. That the appellant was promoted as SS vide office order dated 10.05.2018 and posted at GHSS Sarobai Ghari Orakzai where he took his charge and started performing his duties from 11.05.2018.
5. That while performing his duties in the said capacity he was again transferred and posted as DDEO Male Miran Shah North Waziristan in OPS vide notification dated 12.03.2021 against vacant post. *(Copy of notification dated 12.03.2021 is attached A).*
6. That in pursuance to the notification the appellant took charge of his post and started performing his duties. However, after eight months the appellant has been transferred from North Waziristan and his services has been placed at the disposal of Directorate of E&SE Peshawar vide notification dated 25.11.2021. *(Copy of notification dated 25.11.2021 is attached as annexure B).*
7. That being aggrieved from the office order dated 25.11.2021, the appellant filed his departmental appeal dated 26.11.2021 however the same has not been responded till date. *(Copy of departmental appeal 26.11.2021 & postal receipts dated 26.11.2021 are attached C & D).*

ATTESTED

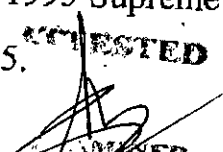

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(S) (3)

8. That the impugned transfer order is illegal, against the facts, constitutional and liable to be set-aside inter alia on the following grounds.

GROUND OF SERVICE APPEAL :

1. That the appellant has not been treated in accordance with law, hence his rights guaranteed and secured under the constitution are badly violated.
2. That in fact there exist no exigencies of service nor the order of transfer cannot be termed as the public interest and does not tenable in the eye of law.
3. That it is pertinent to mention here that the Election Commission has imposed ban on all kinds of posting / transfer till the Local Government Elections that are scheduled to be held on 19.12.2021.
4. That the said order has badly affected the working environment in the office in the sense that the appellant is already working on the said post and the new incumbent is forcing to occupy the post.
5. That the impugned order is illegal, unlawful without lawful authority and passed with malafide intention in just to put the appellant in stress and mental & physical torture not in the prescribed period in violation of transfer posting policy the impugned order is passed is thus nullity in the eye of law and thus not tenable.
6. That the appellant has not yet completed the normal tenure of his posting therefore the impugned order is also in violation of posting and transfer policy of the Provincial Government and also against the judgment of Apex Court reported in PLD 1995 Supreme Court Page 530 and 2013 PLD Supreme Court page 195.

TESTED

MANAGER
Service Tribunal
Postoffice

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- 7. That even otherwise it is not in the interest of department to make its employees rolling stone on one hand and the working atmosphere of the department is disturbed on the other hand and the employees are humiliated in their family life got disturbed.
- 8. That the impugned order is also illegal in the sense that the Election Commission has imposed ban in all kinds of posting / transfer within the province even then the appellant has been transferred due to political reasons on this ground too the impugned orders liable to be set aside.
- 9. That the appellant seeks leave of this Hon'ble Tribunal to take additional grounds at the time of arguments.

It is therefore, humbly requested that on acceptance of this service appeal order 25.11.2021 to the extent of appellant may kindly be set-aside and the appellant may be allowed to continue his duties as DDEO, North Waziristan with back and consequential benefits.

Dated: 09.12.2021

Through

Said M...
Appellant

Yasir Saleem
Advocate, High Court
Peshawar

CERTIFICATE:

It is certified that no such like appeal has earlier been filed by the appellant before this Hon'ble Tribunal.

ADVOCATE

AFFIDAVIT

It is solemnly affirm and declare on oath that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

DEPONENT

Handwritten signature and date 10-12-21

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Appeal No, 7869/2021
Titled "Said Muhammad-vs-Government of Khyber
Pakhtunkhwa through Chief Secretary Civil Secretariat
Peshawar and others"



ORDER:

12th April, 2023

Kalim Arshad Khan, Chairman: Learned counsel for the appellants present. Mr. Muhammad Jan, District Attorney for official respondents present. Syed Noman Ali Bukhari, Advocate for impleaded respondent Present.

2. Learned counsel for the appellant submits that after passage of impugned order of transfer another order was made on 17.02.2023, which was withdrawn vide notification dated 03.03.2023 and consequent upon the same the appellant would be said to be on the post from where he was transferred vide the impugned order. This being so when he was confronted as to what would be determined by the Tribunal in this appeal, he was fair and frank enough to say that it has rendered fruitless. Disposed off accordingly. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 12th day of April, 2023.*

COPIES
K.P.S.T
Peshawar

(Muhammad Akbar Khan)
Member(Executive)

(Kalim Arshad Khan)
Chairman

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 13/3/24
Number of Words page 5
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Urgent 5/-
Total 30/-
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Date of Completion of Copy 13/3/24
Date of Delivery of Copy 13/3/24

جناب سید عرفا اللہ صاحب ایف ڈی سی ایف ایچ کی صیغہ عفو و انصاف سے

25

کمزور حال صحت مندہ سے دوسری ہوئی بنا اور میں نے اطلاع (02-04-023)

بھائیت ODE میں یونٹس ہوا اور تاریخ 23/09/23 کو جاری کیا۔
میں نے خالی ODE یونٹس پر جاری کیا۔ تین سالہ ODE کی طرف
توجیہ عدالت نے Stay دیا تو بعد در دوران دستاویز کی طرف
سے ODE آرڈر کے بغیر ODE پر قبضہ کیا۔

جناب سے استدعا کی جاتی ہے کہ بندہ چونکہ خالی یونٹس پر آیا ہے۔ اس
پے سٹم کے پے نوٹیفیکشن جاری کریں کہ میں ODE پر کام شروع
کروں گا۔ ODE آفیس میرے سے زور دیا دئی گئی ہے۔

عین و لڑیں

اد

الحاج

ایک جاہ نام فرمان سید عرفان

ODE Male

تاریخ 15/9/23

(M) 15/9/23

15/9/23

Attorney to be true
2023

POWER OF ATTORNEY

In the court of Service Tribunal

Said M

Versus

Govt of KPLK

..... Petitioner/Plaintiff/Appellant

.....Respondent/Defendant

KNOW ALL to whom these presents shall come that I the undersigned appoint:

Mr. YASIR SALEEM, Advocate Supreme Court of Pakistan, (herein after called the advocate) to be the Advocate for the Petitioner/Plaintiff/Appellant or Respondent/Defendant in the above mentioned case, to do all the following acts, deeds and things or any of them, that is to say

- 1) To act and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or execution or in any other stage of its progress until its final decision.
- 2) To sign, verify and present pleadings, appeals, cross-objections, petitions for execution, review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of said case in all its stages.
- 3) To withdraw or compromise in the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- 4) 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 case.
- 5) To engage any other Legal practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate whenever he may think fit to do so.

AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

AND I hereby agree not to hold the Advocate or its substitute responsible for the result of the said case and in consequence of his absence from the court when the said case is called up for hearing

AND I hereby that in the event of the whole or any part of the fee agreed by me to be paid to the Advocate remaining unpaid., He shall be entitled to withdraw from the prosecution of the said case until the same is paid.

IN WITNESS WHEREOF I hereunto set my hand to these presents the contents of which have been explained to and understood by me, this 21 day of March 2023.

Executant/Executants _____



Accepted subject to the terms regarding Professional Fee

YASIR SALEEM

Advocate Supreme Court of Pakistan

Legal Advisor, Services & Labor Law Consultant

FR-4, 4th Floor, Bilour Plaza, Peshawar Saddar.

Cell No. 0331-8892589 Email: yasirsaleemadvocate@gmail.com