


Form- A

FORM OF ORDER SHEET

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

Implementation Petition No. 375/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	16.05.2024	<p>The implementation petition of Mr. Liaqat submitted today by Mr. Amjad Ali 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 the 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 = 375 / 2024*

In Re:

Service Appeal No.15918/2020

Liaqat.....Appellant

**VERSUS**

Govt. of Khyber Pakhtunkhwa through  
Secretary Education and others.....Respondents

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Dated: 14.05.2024

Appellant

through

*Amjad Ali*  
ADVOCATE  
SUPREME COURT

Amjad Ali (Mardan)

Advocate

Supreme Court of Pakistan

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Execution Petition No 375/2024

In Re:

Service Appeal No.15918/2020

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 12844

Dated 16-05-2024

Liaqat, Subject Specialist

GGHS Jamra, Tehsil Ghazi

District Haripur.....Appellant

**VERSUS**

- 1) Govt. of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat, Peshawar.
- 2) Chief Secretary, Govt. of Khyber Pakhtunkhwa, Civil Secretariat (Competent Authority), Peshawar.
- 3) Chief Minister, Khyber Pakhtunkhwa, Chief Minister Secretariat, Peshawar.
- 4) Inquiry Committee through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

...Respondents

**APPLICATION FOR IMPLEMENTATION OF  
JUDGMENT DATED 12.12.2023 OF THIS  
HON'BLE TRIBUNAL PASSED IN SERVICE  
APPEAL NO.15918/2020.**

Sir,

Appellant humbly submits as under:-

1. That appellant filed titled Service Appeal No.15918/2020 before this hon'ble Tribunal with the prayer that:-

(2)

**"On acceptance of this appeal, the impugned removal from service order dated 15.01.2020 and appellate order dated 29.10.2020 may please be set aside and appellant may please be reinstated in service with all back monetary and service benefits. It is, further prayed that KP E&D Rules, 2011 may be declared as ultra-vires."**

2. That appeal of the appellant came up for hearing on 12.12.2023, and this Hon'ble Tribunal was pleased to allow the appeal of the appellant with the following order:-

*"it is well settled legal proposition, that regular inquiry is must before imposition of major penalty, whereas, in the case of the appellant, no such inquiry was conducted. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice. In absence of proper disciplinary proceedings, the appellant was condemned unheard, whereas the principle of 'audi alteram partem' was*

*always deemed to be imbedded in the statute and even if there was no such express provision, it would be deemed to be one of the parts of the statute, as no adverse action can be taken against a person without providing right of hearing to him. Reliance is placed on 2010 PLC SC 483.*

*For what has been discuss above, we are unison to set-aside the impugned order, reinstate appellat for the purpose of cross examination upon all the witnesses whose statement recorded during inquiry."*

**(Copy of order/ judgment dated 12.12.2023 is Annexure "A")**

3. That after announcement of judgment dated 12.12.2023, the appellant send the attested copy of the said judgment to the respondents, furthermore, approached the respondents personally time and again for its implementation, but in vain. **(Copy of application of appellant is Annexure "B")**
4. That since announcement of judgment/ order dated 12.12.2023, the same has not yet been implemented, nor any steps whatsoever in this respect have been taken by the respondents, despite several request of the appellant, but in vain.
5. That omission of respondents to act upon the order of this Hon'ble Tribunal speaks of the fact that respondents has undermined the authority of this Hon'ble Tribunal and have not moved even an inch for implementation of the same.
6. That this omission/ act of respondents squarely falls within the ambit of contempt of court as respondents

have conveniently ignored the time frame provided by this Tribunal Court. (4)

It is therefore, humbly requested to please direct respondents to implement the judgment dated 12.12.2023 in its letter and spirit.

Appellant  
through

*Amjad Ali*  
ADVOCATE  
SUPREME COURT  
**Amjad Ali (Mardan)**  
Advocate  
Supreme Court of Pakistan

**AFFIDAVIT**

I, do hereby affirm and declare on oath that the contents of accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

Deponent



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 15918/2020



BEFORE: MRS. RASHIDA BANO ..... MEMBER (J)  
MR. MUHAMMAD AKBAR KHAN ... MEMBER (E)

Mr. Liaqat, Subject Specialist, GGHS Jamra, Tehsil Ghazi,  
District Haripur. .... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat, Peshawar.
2. Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. Chief Minister, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
4. Inquiry Committee through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.

.... (Respondents)

Mr. Amjad Ali  
Advocate ... For appellant

Mr. Muhammad Jan  
District Attorney ... For respondents

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Date of Institution.....19.11.2020

Date of Hearing.....12.12.2023


Date of Decision.....12.12.2023

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 copied as below:

“On acceptance of this appeal, the impugned removal from service order dated 15.01.2020 and appellate order dated 29.10.2020 may please be set-aside and appellant may please be reinstated in service with all back monetary and service benefits. It is, further prayed that KP E&D Rules,

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(6)

2011 may be declared as ultra-vires. Any other relief, deemed fit may also be graciously granted."

2. Facts gathered from the memorandum of appeal are that appellant was initially appointed as Trained PTC Teacher in the year 1992. That later on, vide order dated 30.05.2017 he was appointed as Subject Specialist. While serving, FIR No.178 dated 14.09.2017 was lodged against him in which he was acquitted by the Court. That during the Examination of B.Ed, appellant and one lady S.S namely Mst. Zahida Parveen were charge sheeted on the round of cheating and committing illegalities. An inquiry was conducted by the Secretary Education and Mst. Zahida Parveen (Superintendent) and Mst. Yasmeen Habib (Deputy Superintendent) were found guilty as per inquiry report. That the same inquiry committee conducted separate inquiry in the case of appellant. Resultantly, those ladies were given *censure* while appellant was served with show cause notice which was replied by him. That vide order dated 15.01.2020 the appellant was removed from service by the Secretary Elementary & Secondary Education Khyber Pakhtunkhwa. That feeling aggrieved, he filed departmental appeal which was rejected vide order dated 29.10.2020. Hence, he filed 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 District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that the appellant has not been treated in accordance with law and rules. He further argued that procedure adopted by the respondent is illegal as per Rule 2(f) II proviso of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011, all accused are to be tried jointly and separate trial of all accused of same issue of examination hall is

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Service Tribunal  
Peshawar



illegal. He further argued that on same charge appellant has been acquitted by competent criminal court and on that very charge he was held guilty by respondent and appellant was awarded major penalty of removal from service while Mst. Zahida Parveen and Mst. Yasmeen Habib was given minor penalty of censure which is violation of Article 27 of the Constitution of Islamic Republic of Pakistan. Lastly, he submitted that neither regular inquiry was conducted nor any opportunity of cross-examination was provided to the appellant.

5. Conversely, learned District Attorney for the respondents has contended that appellant was treated in accordance with law and rules. He further contended that the appellant rendered himself liable to be proceeded against under E&D Rules 2011 for the charges of misconduct and therefore, disciplinary proceedings were initiated against him under the rules and after fulfilling all codal formalities the major penalty of removal from service was imposed upon the appellant. He submitted that departmental appeal of the appellant is time barred, hence instant appeal might be dismissed.

6. Perusal of record reveal that appellant was appointed as trained PTC teacher vide order dated 21/03/2019 and was appointed as CT teacher on 04/02/1999. Appellant was promoted as SET General BPS-16 vide order dated 24/07/2003. Appellant was appointed as Subject Specialist BPS-17 vide order dated 30/05/2017, one Tariq Khan lodged FIR No.178 dated 14/09/2017 under section 377, 354, 352, 500 and 507 PPC against the appellant in Police Station Ghazi Haripur. Appellant was acquitted from said charges on 04/01/2020. Respondent/départment issued charge sheet to appellant as well Mst. Zahida Parveen S.S for allowing cheating openly by taking bribes and subjecting students to sexual abuse by appointing Mr. Shahid Khan and Abdul Saeed as inquiry committee members vide order dated 07/09/2018. Inquiry committee submitted report on 01/04/2019. Authority issued final show cause notice to the

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Service Tribunal  
Peshawar

appellant on 3<sup>rd</sup> October 2019 which was replied but vide impugned order dated 15/01/2022 respondent No 1 awarded major penalty of removal from service to the appellant and minor punishment of censure was imposed upon Mst. Zahida Parveen S.S who was superintendent of the examination hall.

7. Perusal of inquiry committee report reveals that statement of Mst. Samiya victim Mr. Rehmat Chowkidar of the examination center. Mst. Zahida Parveen Superintendent and Yasmeen Habib, Deputy Superintendent of examination center, Hall Mst. Faqrat Bibi invigilator but opportunity of cross examination was not provided to the appellant even these statements were not recorded in presence of the appellant. Moreover admittedly appellant was acquitted from the charges by the court of law vide order dated 04/01/2020. Then in such a situation it is incumbent upon respondent to provide proper opportunity of cross examination to the appellant upon all the witnesses mentioned above and consider acquittal from the same charge upon which inquiry was initiated.

8. It is a well settled legal proposition, that regular inquiry is must before imposition of major penalty, whereas in case of the appellant, no such inquiry was conducted. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice. In absence of proper disciplinary proceedings, the appellant was condemned unheard, whereas the principle of '*audi alteram partem*' was always deemed to be imbedded in the statute and even if there was no such express provision, it would be deemed to be one of the parts of the statute, as no adverse action can be

ATTESTED

K. AMIN  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(9)

taken against a person without providing right of hearing to him. Reliance is placed on 2010 PLD SC 483.

9. For what has been discuss above, we are unison to set-aside impugned order, reinstate appellant for the purpose of cross examination upon all the witnesses whose statement recorded during inquiry.

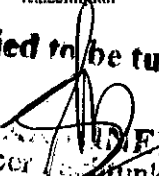
10. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 12<sup>th</sup> day of December, 2023.



(MUHAMMAD AKBAR KHAN)  
Member (E)



(RASHIDA BANO)  
Member (J)

\*Kaleemullah  
**Certified to be true copy**  
  
E. J. J. J. J.  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 30-01-2024  
Number of Words 5 pages  
Copying Fee 25/-  
Urgent 25/-  
Total 25/-  
Name of Copyiest \_\_\_\_\_  
Date of Completion of Copy 15-02-2024  
Date of Delivery of Copy 15-02-2024

Appeal No. 15918/2020  
Lisrat vs Bard

(10)

**ORDER**

12.12.2023 1


Learned counsel for the appellant present. Mr. Mohammad Jan


learned District Attorney alongwith Mr. Alamzeb Khan, Computer Operator for the respondents present.

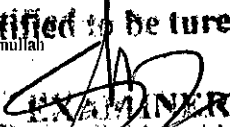


2. Vide our detailed judgment of today placed on file, we are unison to set-aside impugned order, reinstate appellant for the purpose of cross examination upon all the witnesses whose statement recorded during inquiry.

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

  
(Muhammad Akbar Khan)  
Member (E)

  
(Rashida Bano)  
Member (J)

**Certified to be true copy**  
Kaleemullah  
  
**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal**  
**Peshawar**

156/20

09/92/11/28

11

To

The Secretary to Government of Khyber Pakhtunkhwa,  
Elementary & Secondary Education Department, Peshawar.

Subject:

**APPLICATION FOR REINSTATEMENT OF THE APPLICANT IN LIGHT  
OF ORDER & JUDEMENT DATED 12/12/2023 PASSED BY THE  
LEARNED KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

Respected Sir,

With due reverence it is submitted that applicant was serving as Subject Specialist (SS) in Elementary & Secondary Education Department and was appointed on 24/03/1992.

02. That Major Penalty of removal from service was imposed on the applicant Vide Notification No. SO(SM) E&SED/4-5/2018/Liaqat, dated 15/01/2020.

03. That against the above said order the applicant filed an appeal before the Khyber Pakhtunkhwa Service Tribunal, Peshawar for his reinstatement with all back benefits, which was accepted vide order dated 12/12/2023 passed in Service Appeal No.15918/2020, hence, this application. (Attested copy of order dated 12/12/2023 in enclosed herewith).

04. It is, therefore, humbly prayed that in light of the order and judgement of the KP Service Tribunal dated 12/12/2023, the applicant may very graciously be reinstated into service, please.

Yours faithfully,




Liaqat (SS Urdu)  
Govt. Higher Secondary School Jhamra,  
Tehsil Ghazi District Haripur.  
Contact # 0344-9004080

Dated: 20/03/2024

OFFICE OF SECRETARY E&SE DEPTT:

Dialy No. 2687

Dated 20/3/2024

  
ADVOCATE  
SUPREME COURT

بعد التمسوری شریف سید

2024 منجانب امیر ایٹ

18/5/24

مورخہ:

مقدمہ:

دعویٰ:

جرم:

لیاقت بیگ حکومت AP

اجراء Execution in SA 15918/2020 باعث تحریر آفندہ

مقدمہ مندرجہ عنوان بالا اپنی طرف سے واسطے بیروی و جواب دہی وکل کاروائی متعلقہ آن مقام کیلئے امجد علی ایڈووکیٹ سپریم کورٹ آف پاکستان اور ایٹ پروان

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقررات و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زاریں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم بیروی یا ڈگری کی طرف یا ایٹل کی براندگی اور منسوخی نیز دائر کرنے ایٹل گزرائی و نظر ثانی و بیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ بیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سنڈ رہے۔

المرفوعہ: 14 06 14 العیبہ

کے لیے منظور ہے۔

لیاقت بیگ شریف

Amjad Ali

Amjad Ali ADVOCATE SUPREME COURT