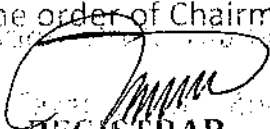


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 822/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	02.08.2024	<p>The implementation petition of Mr. Muhammad Arif submitted today by Mr. Fazal Shah Mohmand Advocate. It is fixed for implementation report before Single Bench at Peshawar on 06.08.2024. 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> <p>By the order of Chairman REGISTRAR</p>

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

Implementation Petition No. 872 /2024

IN

Service Appeal No. 7208/2021

Muhammad Arif.....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa through
Secretary E&SE Department and others.....Respondents

INDEX

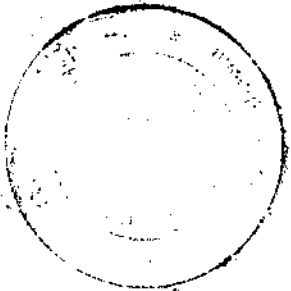
S.No.	Description of documents.	Annexure	Page No
1.	Application for implementation		1-2
2.	Stay application		3-4
3.	Copy of judgment dated 02.05.2024	A	5-6
4.	Application moved by appellant	B	7-8
5.	Wakalatnama		39

Dated: 01.08.2024

M. Arif
Appellant

through

Fazal Shah Mohmand
Advocate
Supreme Court of Pakistan



BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

①

Implementation Petition No. 822 /2024
IN
Service Appeal No.7208/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 14642

Dated 02-08-2024

Muhammad Arif, Senior Director Physical
Education, Govt. Higher Secondary School,
Bamkhel, Swabi

.....Appellant

VERSUS

- 1) Govt. of Khyber Pakhtunkhwa through
Secretary Elementary & Secondary Education
Department, Peshawar.
- 2) Director, Elementary & Secondary Education
Department, Khyber Pakhtunkhwa Peshawar.
- 3) District Education Officer (Male), Swabi.

...Respondents

**IMPLEMENTATION PETITION UNDER
SECTION 7 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1924 FOR THE IMPLEMENTATION OF
ORDER/ JUDGMENT DATED 02.05.2024
PASSED BY THIS HON'BLE TRIBUNAL IN
THE ABOVE TITLED SERVICE APPEAL.**

Respectfully Sheweth:

Appellant humbly submits as under:-

1. That the applicant/ appellant earlier filed Service
Appeal No.7208/2021 before this Hon'ble Tribunal.
2. That appeal of the appellant came up for hearing on
02.05.2024, and this Hon'ble Tribunal was pleased
to allow/ dispose-of the appeal in light of an order
passed by this hon'ble Tribunal in another similar
Appeal No.231/2022 titled "Rehana Yasmin ..Vs..

Education department. (Copy of order/ judgment dated 02.05.2024 is Annexure "A")

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3. That after announcement of judgment dated 02.05.2024, 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 02.05.2024, 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.

It is therefore, humbly requested to please direct respondents to implement the judgment dated 02.05.2024 in its letter and spirit.

Appellant
through

M. Arif
Fazal Shah Mohmand
Fazal Shah Mohmand
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.

M. Arif
Deponent



BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

3

In re;
Implementation Petition No. _____/2024
IN
Service Appeal No.7208/2021

Muhammad Arif.....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa through
Secretary E&SE and othersRespondents

*Application for restraining the respondents
from holding DPC meeting with respect to till
final decision of titled implementation
application.*

Respectfully Sheweth:

Appellant humbly submits as under:-

1. That the applicant/ appellant earlier filed Service Appeal No.7208/2021 before this Hon'ble Tribunal.
2. That appeal of the appellant came up for hearing on 02.05.2024, and this Hon'ble Tribunal was pleased to allow/ dispose-of the appeal in light of an order passed by this hon'ble Tribunal in another similar Appeal No.231/2022 titled "Rehana Yasmin ..Vs.. Education department.
3. That after announcement of judgment dated 02.05.2024, 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.

(4)

4. That now the appellant has come to know that the respondents are going to held DPC meeting in nature future, wherein matter of promotion with respect to various employees/ junior to appellant will be considered while as per the order, the appellant is required to be placed at the top of the seniority list.
5. That the balance of convenience lies in favour of the petitioner as he is having a good prima-facie case.
6. That if the respondents are not retrained from holding the upcoming DPC meeting, the appellant will suffer great loss.

It is therefore, humbly requested to please direct respondents not to held the upcoming DPC meeting till final decision of the accompanying Civil Misc; for impleadment.

M. Arif

Appellant
through

Fazal Shah Mohmand
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.

M. Arif
Deponent



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BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 7208 /2021

Muhammad Arif, Senior Director Physical Education, Govt. Higher Secondary School, Bamkhel Swabi.....**Appellant**

V E R S U S

1. Govt. of Khyber Pakhtunkhwa, through Secretary, Elementary and Secondary Education Department, Peshawar.
2. Director, Elementary and Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male) Swabi.....**Respondents**

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE DECISION COMMUNICATED TO THE APPELLANT VIDE LETTER DATED 19-07-2021 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT FILED AGAINST THE FINAL SENIORITY LIST OF SENIOR INSTRUCTORS PHYSICAL EDUCATION (BPS-18) (MALE) ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT KHYBER PAKHTUNKHWA DATED 26-06-2019, HAS BEEN REGRETTEED.

PRAYER:-

On acceptance of this appeal the impugned order/decision communicated to the appellant vide Letter dated 19-07-2021 and Final Seniority List of Senior Instructors Physical Education (BPS-18) (Male) Elementary and Secondary Education department Khyber Pakhtunkhwa dated 26-06-2019 with subsequent seniority lists if may kindly be varied/modified/set aside to the extent thereby placing the appellant at Serial No 1 of the Seniority List of Senior Instructors Physical Education (BPS-18) (Male) Elementary and Secondary Education department Khyber Pakhtunkhwa and respondents may please be directed to promote the appellant as Chief Instructor Physical Education (BPS-19) w. e. 23-09-2019 i.e from the date his immediate junior has been promoted with allback benefits.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

10/5/21

Respectfully Submitted:-

1. That the appellant is highly qualified, who has passed his Master Degree of Health & Physical Education in the year 1996 who upon the recommendations of KP Public Service Commission was appointed as

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Service Appeal No.7208/2021 titled "Muhammad Arif Vs. Government of Khyber Pakhtunkhwa"

ORDER

2nd May, 2024

Kalim Arshad Khan, Chairman, Learned counsel for the appellant present: Mr. Muhammad Jan, District Attorney for the respondents present.

2. At the very outset, learned counsel for the appellant produced copy of order of the Tribunal passed in similar nature Service Appeal No.231/2022 titled "Rehana Yasmin Vs. Education Department", and requested that the instant appeal might also be disposed of in terms of the said order. The relevant paragraph of the order is as under:

"At the very outset learned counsel for the appellant produced copy of notification dated 29.04.2014 and contended that vide this notification the promotion of the appellant and others, mentioned in the notification from the post of Director Physical Education (DPE) (BPS-16 to BPS-17) on regular basis was given effect from 13.11.2007 instead of 19.05.2009. Learned counsel for the appellant submitted that in the impugned seniority list of 02.03.2021 the date of promotion of the appellant was still written as 19.05.2009 instead of 13.11.2007 and submitted that the appeal might be disposed of with the direction to the official respondents to incorporate the date of promotion of the appellant from BPS-16 to BPS-17 as 13.11.2007 in the impugned seniority list. The learned Additional Advocate General when confronted with the situation submitted that the department ought to have mentioned the correct date of promotion in the notification. The appeal is thus disposed of in the above terms. Costs to follow the event. Consign."

3. The contention of learned counsel for the appellant was found correct as both the appeals are similar in nature. Therefore, instant service appeal is disposed of in terms of the mentioned order. Costs shall follow the event. Consign.

4. Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 2nd day of May, 2024.

Certified to be true copy

(Muhammad Akbar Khan) (Kalim Arshad Khan)
Member (E) Chairman
Peshawar

Date of Presentation of Application _____
Number of W _____
Copying Fee _____
Urgent _____
Total _____
Name of Copy _____
Date of Completion _____
Date of Delivery of Copy _____



(8)

**DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA,
PESHAWAR**

No. 5900-38 /A-25/General cases of PET/SPET/DPE.
Dated Peshawar the: - 10-07 /2024.

To

The Director,
Directorate of Curriculum & Teacher Education
Khyber Pakhtunkhwa, Abbottabad.

All the District Education Officers,
(Male) Khyber Pakhtunkhwa/NMDs

Subject: - **SUBMISSION OF PERs AND OTHER RELEVANT DOCUMENTS IN
R/O MALE SIPE BS-18**

I am directed to refer to the subject cited above and to ask you to furnish following documents and PERs in respect of Male SIPEs BS-18 E&SE to this office till 22-07-2024 for further necessary action, please.

- 1 PERs in r/o Male SIPEs BS-18 w.c.f their date of promotion as SIPE BS-18, duly signed by Principal concerned and countersigned by DEO concerned.
- 2 Non-Involvement Certificate duly signed by Principal concerned and countersigned by DEO concerned
- 3 Service Certificate-duly signed by Principal concerned and countersigned by DEO concerned
- 4 Secondary School Certificate (SSC) copy duly attested/C/S
- 5 Passport size photos (06) in envelope
- 6 Covering letter of DEO

Assistant Director (Sports)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst No. _____

Copy forwarded to: -

1. PA to Director E&SE Khyber Pakhtunkhwa, local office.

ATTESTED

Assistant Director (Sports)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

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محضور جناب سیکرٹری ایگزیکٹو ری ایجنٹ سیکٹری ایجوکیشن خیبر پختونخوا، پشاور

مضمون: درخواست برآمدورنگی سینیاریٹی SIPE BS-18 جاری کردہ 26/06/2019 بحوالہ فیصلہ سروس ٹریبونل خیبر پختونخوا، اپریل 7208/21 فیصلہ مورخہ 02/05/2024

جناب عالی!

گزارش محضورانورد درج ذیل ہے

- (1) یہ کہ مسائل آپ کے زیر سامہ بطور سینیاریٹی سیکشن BS-18 جی ایچ ایس ایس کالو خان (صوابی) میں اپنی فرائض سرانجام دے رہا ہے
- (2) یہ کہ مسائل کو SIPE BS-18 کی فائل سینیاریٹی میں 13/11/2007 کی بجائے 15/06/2009 سے سینیاریٹی دی گئی ہے سیریل نمبر 107
- (3) یہ کہ مسائل کی سروس اپریل 7208/21 کو سروس ٹریبونل نے مورخہ 02/05/2024 کو منظور کیا ہے جس میں واضح طور پر مسائل کو 13/11/2007 سے سینیاریٹی دی گئی ہے
- (4) یہ کہ SIPE کی 26/06/2019 کو جاری کردہ سینیاریٹی پر مسائل سے جو ٹیکہ BS-19 چیف انسٹرکٹرز میں پر مشتمل دیے گئے ہیں لہذا آپ صاحبان کی خدمت میں عرض ہے کہ مسائل کو 26/06/2019 کو SIPE کی جاری کردہ سینیاریٹی میں سروس ٹریبونل فیصلہ 7208/21 کی روشنی میں درست سینیاریٹی نمبر دینے کے احکامات صادر فرمائے، مسائل تاحیات ڈعا گو رہے گا۔

منسلک شدہ

2 (سروس ٹریبونل فیصلہ 7208/21)

(1) شناختی کارڈ فونو کاپی

231/2213 پر 12/2 کا فیصلہ

231/2213 فیصلہ

SIPE BS 18 سینیاریٹی 26-6-2019

العارض

محمد عارف SIPE BS-18

GHSS کالو خان، صوابی

فون نمبر 03420890134

مورخہ 13/05/2024

ڈائری نمبر

1629

dt = 14-05-24

VAKALATNAMA

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Muhammad Asif

.....Petitioner/Appellant

V E R S U S

Govt KP


.....Respondents/Defendants

I, Muhammad Asif 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 1-8-2024.


Client (s)

Muhammad Asif

ACCEPTED BY:


Fazal Shah Mohmand ASC,

Ibad Ur Rehman Khalil

&

Baseer Shah

Advocates, High Court.