


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 1101/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.09.2024	<p>The implementation petition of Mr. Ishtiaq Ahmad submitted today by Mr. Noor Muhammad Khattak Advocate. It is fixed for implementation report before Single Bench at Peshawar on 30.09.2024. Original file be requisitioned. AAG has noted the next date. Parcha Peshi given to counsel for the petitioner.</p> <p>By order of the Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Execution Petition No. 1101 /2024

In

Appeal No. 7552/2021

ENGINEER ISHTIAQ AHMAD

VS

C&W DEPTT:

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Petitioner

Engineer Ishtiaq Ahmad

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Execution Petition No. 1101 /2024

In

Appeal No. 7552/2021

Mr. Engineer Ishtiaq Ahmad, Assistant Engineer (E) BPS-17
MRS Cell Communication & Works Department, Peshawar.

**Khyber Pakhtunkhwa
Service Tribunal**

..... **Petitioner**

Diary No. 16080

VERSUS

Dated 25-09-2024

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
- 2- The Secretary C&W Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Chief Engineer (Center) C&W Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS**

**EXECUTION PETITION UNDER SECTION 7(2)(d) OF THE KP
SERVICE TRIBUNAL ACT 1974, RULE 27 OF THE KP SERVICE
TRIBUNAL RULES 1974 READ WITH SECTIONS 36 AND 51 OF
THE CIVIL PROCEDURE CODE AND ALL ENABLING LAWS ON
THE SUBJECT FOR THE IMPLEMENTATION OF THE JUDGMENT
DATED 03/05/2024 IN LETTER AND SPIRIT.**

R/SHEWETH:

1- That the appellant filed service appeal bearing No. 7552/2021 before this august Service Tribunal against the impugned appellate order dated 28/08/2021 and directions sought to the respondent department for release of monthly salaries w.e.f. 01/04/2021 till date with all back benefits.

2- That the appeal of the appellant was finally heard on dated 03/05/2024 and as such the ibid appeal is accepted as follows:

"10. For what has been discussed above, we are unison to accept the appeal in hand as prayed for. Costs shall follow the event. "Consigned. Copy of the judgment dated 03/05/2024 is attached as annexure.....A

3- That after obtaining copy of the judgment dated 05/07/2024 the same was submitted with the respondents for implementation of his grievance coupled with an application, but the respondents/ department failed to do so, which is the violation of the judgment supra. Copy of application is attached as annexure.....B

4- That petitioner having no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of the instant execution petition the respondents may kindly be directed to implement the Judgment dated 03/05/2024 passed in Appeal No. 7552/2021 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

Ishtiaq Ahmad
Petitioner
Engineer Ishtiaq Ahmad

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

AFFIDAVIT

I, Engineer Ishtiaq Ahmad (petitioner) do hereby solemnly affirm that the contents of this Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Ishtiaq Ahmad
DEPONENT



"A" -3-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.7552/2021

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



**Mr. Engineer Ishtiaq Ahmad, Assistant Engineer (E) BPS-17, MRS Cell
Communication & Works Department.**

.... (Appellant)

VERSUS

1. The Government: of Khyber Pakhtunkhwa through Chief Secretary, Peshawar
2. The Chief Engineer (Center) C&W Department Khyber Pakhtunkhwa Peshawar.

.... (Respondents)

Mr. Noor Muhammad Khattak
Advocate ... For appellant

Mr. Muhammad Jan
District Attorney ... For respondents

Date of Institution.....06.10.2021
Date of Hearing.....03.05.2024
Date of Decision.....03.05.2024

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 copied as below:

“That on acceptance of this appeal the impugned appellate order dated 28.08.2021 communicated to the appellant on 23.09.2021 may kindly be set aside and the respondents may please be directed to release the monthly salaries of the appellant w.e.f 01.04.2021 till date with all back benefits. Any other remedy

R

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

which this august Tribunal deems fit that may also be awarded in favor of the appellant.


2. Brief facts of the case are that the appellant was appointed as an Assistant Engineer (Electrical) in the respondent department on contract basis. Later on, appellant's service was regularized through a notification dated 30.04.2018. He is serving the department quite efficiently and honestly and had received his monthly salary till March 2021. During service, the respondents stopped the monthly salaries of the appellant w.e.f 01.04.2021 till date. Feeling aggrieved, he filed departmental appeal, which was rejected vide order dated 20.08.2021, hence the present service appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

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

5. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s).

6. Perusal of record reveals that appellant was appointed as an Assistant Engineer (Electrical) in the respondent department on contract, and his service was regularized on 30.04.2018. He served efficiently and received his monthly salary until March 2021. However, the respondents stopped his salaries from 01.04.2021, affecting his salary until now.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



7. Perusal of schedule attached to Khyber Pakhtunkhwa employees (Regularization of Service) Act 2018 reveals that MRS Cell in C&W Department was created and appellant was posted there by regularizing his service on 30.04.2018. Section 6 of the Regularization of Service Act, 2018 regulate seniority of all the employees, it says

“whose services were regularized under this act with in the same service or cadre, shall be determine on the basis of their continuous officiation in such service or cadre”

For which Coordinator MRS Cell requested Chief Engineer vide letter dated 01.10.2020 C&W for enrolment of the appellant in the seniority list of the C&W Department but same was not considered.

8. Respondents in their reply have taken the plea that MRS was re-shifted to Finance Department by the approval of Chief Minister, Competent Authority. It is very astonishing that MRS Cell was created by the Act of Parliament and respondents, with simple approval of Chief Minister, re-shifted the MRS Cell to Finance Department. Act of Parliament is the Supreme Legislation and has preference upon any other order or approval of Chief Minister. Therefore re-shifting of MRS Cell to Finance Department from C&W Department upon orders of Chief Minister has no legal effect and Act being Supreme Legislation will prevail upon all other orders of all authorities.

9. As re-shifting of the MRS Cell to Finance Department is in violation of Act of 2018, which is supreme legislation and has preference upon orders of any executive authority, therefore, stopping salary of the appellant despite the fact that he is working in MRS Cell is contrary, against the law, rules and injustice.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

R.


10. For what has been discussed above, we are unison to accept the appeal in hand as prayed for. Costs shall follow the event, Consign.

11. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 3th day May, 2024.


(FAREEHA PAUL)
Member (E)


(RASHIDA BANO)
Member (J)

*Kalcemullah

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 03-5-24
Number of Words 40
Copying Fee 20/-
Urgent ✓
Total 20/-
Name of Copyist _____
Date of Completion 22-7-24
Date of Delivery of Copy 29-7-24

"B" -7-

To :

The office of Secretary Communications & Works Department, KPK
Peshawar

Subject: Request for Implementation of Decisions of The Service Tribunal, KPK

Respected Sir,

Most Respectfully I am writing this application to formally request the implementation of recent decisions made by the Service Tribunal.

(Copies Attached for Kind Perusal)

I have been serving as an Assistant Engineer (BPS-17) in the Communications & Works (C&W) Department under your esteemed office since 2018 to the utmost of my abilities & with dedication.

In light of Service Tribunal's recent decisions, I kindly request your esteemed office to sanction the implementation of Tribunal's rulings at the earliest.

Thanking you in advance for your prompt attention to this matter.

Yours sincerely,

Engr. Ishtiaq Ahmad

Assistant Engineer (BPS-17)

Communications and Works Department, KPK

Contact No: 03000462254

Ishtiaq Ahmad
19/8/2024

Dist No 5121
19/8/2024

Dist No 5121
Date 19-8-2024
Secretary C&W Dept

ATTACHED

VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

EP No /2024

Ishiaz Ahmed

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

C & W Deptt

(RESPONDENT)
(DEFENDANT)

I/We Ishiaz Ahmed

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. / /202



CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT


WALEED ADNAN

UMAR FAROOQ MOHMAND


KHANZAD GUL

&


ABID ALI SHAH
ADVOCATES

OFFICE:
Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Can*tt.
(0311-9314232)