


FORM OF ORDER SHEET

Court of _____

Appeal No. _____ **1682/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30 /09/2024	<p>The appeal of Mr. Yaseen presented today by Mr. Fazal Shah Mohmand Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 03.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 1689 /2024

Yaseen.....Appellant

V E R S U S

DHO & another.....Respondents

I N D E X

S. No	Description of Documents	Annexure	Pages
1.	Service Appeal with Affidavit		1-4
2.	Application for condonation of delay with Affidavit		5-6
3.	Application for release of salaries with Affidavit		7-8
4.	Copy of Appointment Order & Medical Certificate	A, B	9-10
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6.	Vakalat Nama		12

Dated:-30-09-2024

Yaseen
Appellant

Through

Fazal Shah Mohmand
Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 1682/2024

Yaseen S/O Said Afzal Khan, Behishti/Sweeper, Tehsil Headquarter
Hospital Takht-Bhai, District Mardan.Appellant

V E R S U S

1. District Health Officer, Mardan.
2. Director General, Health Services, Govt. of Khyber
Pakhtunkhwa, Peshawar.
3. Secretary, Health Department, Govt. of Khyber Pakhtunkhwa,
Peshawar.Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST
THE NON-PAYMENT OF SALARIES TO THE APPELLANT
AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE
APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE
THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF
NINETY DAYS.

PRAYER:-

On acceptance of this appeal the Omissions and commissions
may kindly be declared illegal and respondents may kindly be
directed to release the appellant his monthly salaries, with
effect from 11-04-2022 till date and onwards with all service
benefits.

Respectfully Submitted:-

1. That the appellant is the permanent resident of District Mardan,
is having disability and was appointed as Behishti/Sweeper in

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(Disable Quota), by respondent No 1 vide Appointment Order dated 11-04-2022 who after being medically fit, was posted to Tehsil Headquarter Hospital Takht-Bhai District Mardan where the appellant reported arrival accordingly and since appointment the appellant performed his duties with honesty and full devotion and to the entire satisfaction of his high ups. **(Copy of Appointment Order dated 11-04-2022 & Medical Certificate is enclosed as Annexure A & B).**

2. That the salary of the appellant was processed however the same has not been paid to the appellant till date, though the appellant since appointment is regularly performing his duties which is evident from the Biometric record of the Hospital without any salary, for the release of which the appellant time and again approached respondents but to no avail.
3. That there after the appellant approached respondents for the release of his salaries w.e.f 11-04-2022 vide departmental appeal dated 01-04-2024 which was processed but to no fruits till date. **(Copy of departmental appeal dated 01-04-2024 is enclosed as Annexure C).**
4. That this action of respondents of not releasing the salaries of the appellant since 11-04-2022, till date and onwards, is against the law, facts and principles of justice on grounds inter-alia as follows:-

G R O U N D S :-

- A. That the omissions and commissions of respondents are illegal, unlawful and void ab-initio.

- B. That mandatory provisions of law and rules on the subject have been badly violated by the respondents and the appellant has not been treated according to law and rules in violation of Article 4, 25, 37 and 38 of the Constitution.
- C. That the appellant was duly appointed the disable quota by respondent No 1, he worked against his post since appointment till date, his salary was duly processed through submission of Source Form but not released.
- D. That the appellant is entitled to the salaries of his post since under Section 17 of the Civil Servants Act, 1973.
- E. That the appellant worked against his post till date and the nonpayment of salaries of such period is not only violation of the injunctions of Islam rather also amount to exploitation in violation of Article 38 of the Constitution besides law of the land.
- F. That there is no omission or commission on part of the appellant and the appellant could not be punished for the fault of others if any.
- G. That the appellant has more than three years of service with unblemished service record.
- H. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Any other relief deemed appropriate and not specifically asked for, may also be granted in favor of the appellant.

Dated:-30-09-2024

Yaseen
Appellant

Through

Fazal Shah Mohmand
FAZAL SHAH MOHMAND
Advocate,
Supreme Court of Pakistan

IBAD UR REHMAN KHALIL
IBAD UR REHMAN KHALIL

&

BASEER SHAH
BASEER SHAH
Advocates High Court

AFFIDAVIT

I, Yaseen S/O Said Afzal Khan, Behishti/Sweeper, Tehsil Headquarter Hospital Takht-Bhai, District Mardan, (the appellant), do hereby 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.

Yaseen
DEPONENT

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No _____/2024

Yaseen.....Appellant

V E R S U S

DHO & another.....Respondents

APPLICATION FOR CONDONATION OF DELAY IF ANY

Respectfully Submitted:-


1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral part of this application.
3. That the issue being of financial matter/recurring cause of action hence the limitation would have no adverse implication, thus the instant appeal is liable to be decided on merit.
4. That the departmental appeal of the appellant is still pending before respondents besides the appellant has performed duties till date against his post.
3. That the law as well as the dictums of the superior Courts also favors decisions of cases on merit.

It is therefore prayed that on acceptance of this application, the delay if any in filing of appeal may kindly be condoned.

Dated:-30-09-2024

Appellant

Through


Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

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AFFIDAVIT

I, Yaseen S/O Said Afzal Khan, Behishti/Sweeper, Tehsil Headquarter Hospital Takht-Bhai, District Mardan, (the applicant), do hereby solemnly affirm and declare on oath that the contents of this **Application**, are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Yaseen
DEPONENT

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No _____/2024

Yaseen.....Appellant

V E R S U S

DHO & another.....Respondents

Application for directing respondents to release the current salaries of the applicant, till the final disposal of titled appeal

Respectfully Submitted:-


1. That the above titled appeal is being filed today, in which no date of hearing has been fixed so far.
2. That the facts and grounds of appeal may kindly be considered as integral part of this application.
3. That the applicant/appellant has got good prima facie case and is sanguine of its success.
4. That the balance of convenience also lies in favor of the applicant/appellant.
5. That the applicant/appellant is still performing duties against his post and if respondents are not directed to release his salaries, the applicant/appellant will suffer irreparable loss.

It is therefore prayed that on acceptance of this application, respondents may kindly be directed to release the current salaries of the applicant, till the final disposal of the titled appeal.

Dated:-30-09-2024

Appellant

Through


Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

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AFFIDAVIT

I, Yaseen S/O Said Afzal Khan, Behishti/Sweeper, Tehsil Headquarter Hospital Takht-Bhai, District Mardan, (the applicant), do hereby solemnly affirm and declare on oath that the contents of this **Application**, are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Yaseen
DEPONENT



حکومت خیبر پختونخوا

DISTRICT HEALTH OFFICER
Mardan (Khyber Pakhtunkhwa)

Ph: # (0937) 9230030 Fax: # (0937) 9230349
Email: mardandho@gmail.com

(9)
Anex A

APPOINTMENT ORDER

Mr. Yaseen S/O Mr. Said Afzal Khan is hereby appointed as Behishti/Sweeper on (Disable Quota) in BPS-3 (9610-390-21310) per Month plus usual allowances as admissible under the rules and posted at in the head of account MR 6468 (THQ) and directed to work at THQ Takht Bhai on the following terms and conditions:-

Terms & Conditions:-

1. He is domiciled in District Mardan.
2. His appointment is purely on temporary basis for a probation period of initially one year and is liable to terminate at any time without assigning any notice or reason.
3. He will not be entitled to any TA/DA for Medical examination and joining the first appointment.
4. His appointment will be subject to medical fitness for Govt. Service.
5. He is liable to serve anywhere in District as well as in Khyber Pakhtunkhwa.
6. He will be governed by such service rules and order as framed by the Government from time to time for the category of government servants to which he belongs.
7. His services can be dispensed with during the probation period, if his work and conduct found unsatisfactory.
8. If he wishes to resign his service, he will submit his resignation two months notice in advance in writing or deposit one month salary in lieu thereof to Govt. Treasury, however he will continue to serve the Govt. till her resignation is accepted by the competent authority.

If he accepts the above-mentioned terms and conditions, he should report to the MS THQ Takht Bhai for duty on his own expenses within seven days after the receipt of this letter, otherwise his appointment order will be considered as cancelled.

No. 7025-30 /DHO

Copy forwarded to the:-

1. District Comptroller of Accounts, Mardan.
2. Deputy DHO Mardan.
3. MS THQ Takht Bhai
4. Accountant DHO Office Mardan.
5. DHIS Cell, DHO Office Mardan.
6. Mr. Yaseen S/O Mr. Said Afzal Khan P.O. Toor Dher Takht Bhai Distt Mardan for information and necessary action.

District Health Officer
Mardan

dated Mardan the 11/10/2022

DISTRICT HEALTH OFFICER

District Health Officer
Mardan

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Annex B

MEDICAL CERTIFICATE

No. 474/21

Name of Official Mr. Yaseen 16102-5037375-9
 Caste of Race Afghan
 Father's Name Said Afzal Khan
 Residence Village & PO Tordher Tehsil
Takht Bhai District Mardan
 Date of Birth 01-04-1984 (As per CML)
 Exact Height by measurement 5-15
 Exact mark of Identification 1711
 Signature of the Official _____
 Signature of the Head of Office _____

Seal of Office

I do hereby certify that I have examined Mr. Yaseen
 for employment in the office of the DHO Office Mardan
 and cannot discover that he had any disease communicable or other constitutional
 affection or bodily infirmity expect Facial deformity. fit for job.

I do not consider this is disqualification for employment in the office of
 the above as Behot / Sweep his age according to his own statement
28 BPS 03 year and appearance about year _____



LEFT HAND THUMB AND FINGER IMPRESSION

Dated 11-04-2022

[Signature]
 11/04/2022
 Medical Superintendent,
 DHQ Hospital, Mardan.
 Medical Superintendent,
 DHQ Hospital, Mardan.

[Signature]
TESTED

بخدمت جناب ڈسٹرکٹ ہیلتھ آفیسر صاحب مردان

عنوان :- درخواست بمراد جاری کرنے کے لئے تنخواہ بنام سائل

جناب عالی :- درخواست سائل حسب ذیل عرض ہے۔

- ۱۔ یہ کہ من سائل یاسین ولد سید افضل خان ساکن تور ڈھیر، تحصیل تخت بھائی ضلع مردان کا ہوں۔
- ۲۔ یہ کہ من سائل کی تعیناتی معزور کوٹہ میں بحیثیت سویپر بمقام تحصیل ہیڈ کوارٹر تخت بھائی (گنجی) میں ہوئی تھی۔ اور سائل مورخہ 11/04/2022 سے اپنی ڈیوٹی سرانجام دے رہا ہوں۔
- ۳۔ یہ کہ سائل کی 24 مہینوں کی تنخواہ ابھی تک جاری نہیں ہوئی ہے۔ اور سائل ابھی تک اپنی ڈیوٹی احسن طریقے سے سرانجام دے رہا ہوں۔
- ۴۔ یہ کہ سائل نہایت غریب اور بال بچہ دار آدمی ہوں۔ اور تنخواہ جاری نہ کرنے سے سائل کو سنگین قسم کی مشکلات درپیش ہو چکے ہیں۔ اور سائل کے چھوٹے چھوٹے بچے فاقوں پر مجبور ہوئے ہیں۔

لہذا استدعا ہے کہ سائل کے تنخواہ جاری کرنے کے لئے احکامات صادر فرمائی جائے۔ سائل مشکور و دعا گو رہیگا۔

تحریر:- 01/04/2024

العارض:- یاسین ولد سید افضل خان ساکن تور ڈھیر، تحصیل تخت بھائی ضلع مردان۔۔۔۔۔ سائل
موبائل نمبر:- 0346-8753035 شناختی کارڈ نمبر:- 16102-5037375-9

ATTESTED

Accepted
 2
 Attached
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 مقام

۲۰۲۲ء ۰۹ ۰۱ ۳۶

مقدمہ میں بیان کیا گیا ہے کہ اس خط میں مذکورہ ذیل باتوں پر اتفاق کیا گیا ہے۔
 ۱۔ اس خط میں مذکورہ ذیل باتوں پر اتفاق کیا گیا ہے۔
 ۲۔ اس خط میں مذکورہ ذیل باتوں پر اتفاق کیا گیا ہے۔
 ۳۔ اس خط میں مذکورہ ذیل باتوں پر اتفاق کیا گیا ہے۔
 ۴۔ اس خط میں مذکورہ ذیل باتوں پر اتفاق کیا گیا ہے۔
 ۵۔ اس خط میں مذکورہ ذیل باتوں پر اتفاق کیا گیا ہے۔
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 ۷۔ اس خط میں مذکورہ ذیل باتوں پر اتفاق کیا گیا ہے۔
 ۸۔ اس خط میں مذکورہ ذیل باتوں پر اتفاق کیا گیا ہے۔
 ۹۔ اس خط میں مذکورہ ذیل باتوں پر اتفاق کیا گیا ہے۔
 ۱۰۔ اس خط میں مذکورہ ذیل باتوں پر اتفاق کیا گیا ہے۔

مستحقین کو

مقام
 ذیلی
 مقدمہ
 نمبر

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مستحقین کو

مستحقین کو

۱۶/۰۲-۵۰۳۷۳۷۵-۹

مستحقین کو