


## Form- A

## FORM OF ORDER SHEET

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

Implementation Petition No. 1119/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	30.09.2024	<p>The implementation petition of Mr. Wali Khan submitted today by Mr. Fazal Shah Mohmand Advocate. It is fixed for implementation report before Single Bench at Peshawar on 03.10.2024. 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**

Implementation Petition No 1119 /2024  
In  
Service Appeal No 1794/2019

Wali Khan.....Petitioner

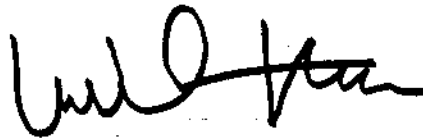
**V E R S U S**

Director and others.....Respondents

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Dated:- 26.09.2024



Petitioner/Appellant

Through

  
Fazal Shah Mohmand  
Advocate

Supreme Court of Pakistan

**OFFICE:-**

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Implementation Petition No 1119 /2024

In

Service Appeal No 1794/2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 16185

Dated 30-09-2024

Wali Khan, Drawing Master, Govt. High School  
Loi Shalman, District Khyber.

.....Petitioner

**V E R S U S**

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

.....Respondents

**IMPLEMENTATION PETITION UNDER SECTION 7 OF  
THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
ACT 1974 FOR THE IMPLEMENTATION OF  
JUDGMENT/ORDER DATED 18-07-2024 PASSED BY  
THIS HONORABLE TRIBUNAL IN THE ABOVE TITLED  
SERVICE APPEAL.**

**Respectfully Submitted:-**

1. That the Petitioner/appellant earlier filed Service Appeal No 1794/2019, before this honorable Tribunal for his due seniority which was remitted to respondents to decide and determine the seniority of the petitioner after ascertaining about terms for fixation of seniority, if any, contained in such instrument, regularizing the service of the petitioner, particularly his seniority vide Judgment dated 18-07-2024. **(Copy of the Order/Judgment dated 18-07-2024 is enclosed as Annexure A).**

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2. That the Petitioner/appellant after obtaining attested copy of the stated Order/Judgment of this honorable Tribunal approached respondents by conveying the same through written application which was duly forwarded but even then the appellant is not treated as per the Judgment *ibid* of this honorable Tribunal. **(Copy of application is enclosed as Annexure B).**
3. That the respondents are not ready to implement the Order/Judgment of this honorable Tribunal in its true spirit for no legal and valid reasons, this act of the respondents is unlawful, unconstitutional and goes against the Judgment and Order dated 18-07-2024 of this honorable Tribunal.
4. That noncompliance of the order of this honorable Tribunal, speaks malafide on part of the respondents and they are bent upon to lower the position of the judiciary in the eyes of the public at large.

**It is therefore prayed, that on acceptance of this Application/Petition, respondents may kindly be directed to implement the Judgment /Order of this honorable Tribunal dated 18-07-2024 passed in Service Appeal No 1794/2019.**

Dated:- 26.09.2024

Petitioner/Appellant

Through

Fazal Shah Mohmand  
Advocate,  
Supreme Court of Pakistan

**AFFIDAVIT**

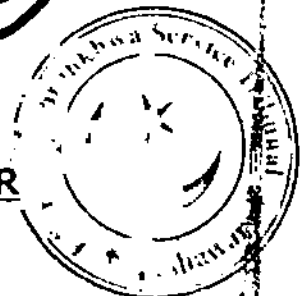
I, Wali Khan, Drawing Master, Govt. High School Loi Shalman, District Khyber, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Implementation Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.



**DEPONENT**

"A"

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**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No \_\_\_\_\_/2019

Wali Khan, Drawing Master, Govt. High School Loi Shalman District Khyber.

.....Appellant

**V E R S U S**

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

**APPEAL APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE SENIORITY LIST OF DRAWING MASTERS (MALE) OF DISTRICT KHYBER ISSUED ON 30-04-2019 WHEREBY THE APPELLANT HAS ILLEGALLY BEEN PLACED AT SERIAL NO 33 INSTEAD OF SERIAL NO 4 AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE APPELLANT DATED 26-08-2019 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 impugned Seniority List issued on 30-04-2019 may kindly be modified to the extent of the appellant by assigning him seniority from the date of continuous regular appointment instead of passing the professional examination by placing the appellant at serial No 4 instead of serial No 33 with all consequential benefits.

**Respectfully Submitted:-**

1. That the appellant was appointed as Drawing Master untrained on 23-01-1991, and he passed the relevant professional training for the subject post on 25-04-2000. Since appointment the appellant performed his duties with honesty and full devotion with spotless service career and to the entire satisfaction of his high ups. (Copy of Appointment Order is enclosed as Annexure A).

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

Before KALIM ARSHAD KHAN ... CHAIRMAN  
Larger AURANGZEB KHATTAK ... MEMBER (Judicial)  
Bench: RASHIDA BANO ... MEMBER (Judicial)  
MUHAMMAD AKBAR KHAN ... MEMBER (Executive)  
FAREEHA PAUL ... MEMBER (Executive)

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*Service Appeal No.1794/2019*

Date of presentation of Appeal.....16.12.2019  
Date of Hearing.....18.07.2024  
Date of Decision.....18.07.2024

Wali Khan, Drawing Master, Government High School Loi Shalman District Khyber.....(*Appellant*)

Versus

1. Director Elementary & Secondary Education, Government of Khyber Pakhtunkhwa, Peshawar.
2. District Education Officer (Male) District Khyber.
3. Secretary to Government of Khyber Pakhtunkhwa, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.....(*Respondents*)

Present:

Mr. Fazal Shah Mohmand, Advocate.....For the appellant  
Mr. Muhammad Jan, District Attorney.....For respondents  
Mr. Ali Gohar Durrani Advocate.....Amicus Curie

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE SENIORITY LIST OF DRAWING MASERS (MALE) OF DISTRICT KHYBER ISSUED ON 30.04.2019 WHEREBY THE APPELLANT HAS ILLEGALLY BEEN PLACED AT SERIAL NO.33 INSTEAD OF SERIAL NO.4 AND AGAINST WHICH DEPARTMENTAL APPEAL OF THE APPELLANT DATED 26.08.2019 HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF NINETY DAYS.

ATTESTED.

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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## JUDGMENT

**KALIM ARSHAD KHAN, CHAIRMAN:** Brief facts of the case, as enumerated in the memo and grounds of appeal are that appellant was appointed as untrained Drawing Master on 23.01.1991 and passed the relevant training for the subject post on 25.04.2000; that the appellant was awarded BPS-15 w.e.f 01.12.2007 instead of 01.10.2005 as per his option and was allowed the increments of untrained period w.e.f 01.12.1991 in consequent to letter dated 12.05.2009; that vide Notification dated 06.03.2017, junior colleagues of the appellant were promoted as Senior Drawing Master (BPS-16) and the appellant was not given the said promotion; that seniority list dated 30.04.2019 was issued wherein, the appellant was placed at Serial No.33 instead of Serial No.4; that feeling aggrieved, he filed departmental appeal on 26.08.2016 but the same was not responded, hence, the instant service appeal.

02. 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.

03. In the instant case, arguments were heard on 12.07.2024 but the learned District Attorney had submitted copies of earlier judgments passed in Service Appeal No.309/2013 titled "Inayat Said Vs. Education Department", Service Appeal No.1253/2016 titled "Shabir Ahmad Vs. Education Department" and Service Appeal No. 610/2022

ATTESTED

*A. Jib-8-24*

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

*[Signature]*

titled "Muhammad Yaqoob Vs. Education Department", wherein, it was decided that seniority should be reckoned from the date of acquiring qualification prescribed for initial recruitment, whereas, Rule-17 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 may not be requiring like that, therefore, the matter was directed to be placed before the larger Bench already constituted in the case of "Muslim Khan Vs. Government of Khyber Pakhtunkhwa" for today i.e. 18.07.2024. The learned counsel for appellant and learned District Attorney assisted the Tribunal on the above point. Mr. Ali Gohar Durrani, Advocate also assisted the Tribunal as amicus curie.

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

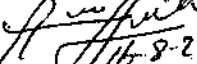
05. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney controverted the same by supporting the impugned order(s). Learned Amicus Curie provided valuable assistance.

06. The appellant has preferred the instant service appeal for seeking modification in the seniority list issued on 30.04.2019 to the extent that

appellant be assigned seniority from the date of continuous regular appointment instead of passing the professional examination by placing him at Serial No.4 instead of Serial No.33.

07. From the record, it is evident that the issue involved in this case is determination of seniority w.e.f the date of regularization. Mr.

ATTESTED



EXAMINER

Khyber Pakhtunkhwa

Service Tribunal

Peshawar





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Muhammad Iqbal, Additional Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar, present in the court, was asked to produce any regularization order of the appellant and/or any document or Act of the Assembly regarding regularization and settlement of seniority of such civil servants. But he could not even refer to any instrument. Therefore, in the absence of any regularization order/Act or instrument, there is no way with the Tribunal but to remit the matter to the respondents to decide and determine the seniority of the appellant after ascertaining about terms for fixation of seniority, if any, contained in such instrument, regularizing the services of the appellant, particularly, his seniority. The exercise shall be conducted and completed within 60 days of the receipt of this judgment. Costs shall follow the event. Consign.

08. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 18<sup>th</sup> day of July, 2024.



**KALIM ARSHAD KHAN**  
Chairman



**RASHIDA BANO**  
Member (Judicial)



**AURANGZEB KHATTAK**  
Member (Judicial)



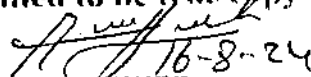
**FAREEHA PAUL**  
Member (Executive)



**MUHAMMAD AKBAR KHAN**  
Member (Executive)

\*Mutazem Shah\*

Certified to be true copy



EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



Date of Presentation of Application 16-8-24

Number of Words 4

Copying Fee 5

Urgent 5

Total 25/-

Name of [Signature]

Date of 1-8-24

Date of Death 16-8-24

ATTESTED

19-08-2024

میں نے اس پر دستخط کیے ہیں۔  
- ایک -

18-07-2024  
میں نے اس پر دستخط کیے ہیں۔




1794/2019  
میں نے اس پر دستخط کیے ہیں۔

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جی

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میں نے اس پر دستخط کیے ہیں۔

قیمت 50/-	57079	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈویکٹ: فضل شاہ محمداور اولسن	بار کونسل ایسوسی ایشن نمبر: 1053-43	  
	رابطہ نمبر: 0301-880484	

بعدالت جناب: سعید کھٹوخواہ سردس ٹریبیونل لیٹاؤ

مخائب: Appellant	دعویٰ: Se E P
ولی فان	علت نمبر:
بنام	مورخہ:
حکومت و عمرہ	جرم:
	تھانہ:

**باعث تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام لسٹاور سعید کھٹوخواہ، سعید، بعدت، عبدالرحمان، خلیل الرحمن، و کوویل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا وکالی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقام: 26/9/2024

المقام لسٹاور سعید کھٹوخواہ

نوٹ: اس وکالت نامہ کی ذمہ داری یا قائل قبول ہوگی۔

اسامہ