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Form- A FORM OF ORDER SHEET

Court of____

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Implementation Petition No.	1268/2024
implementation relation No.	1200/204

	lim	plementation Petition No. 1268/2024	
S.No.	Date of order proceedings	Order or other proceedings with signature of judge	
1 .	2	3	
1.	24.10.2024	The implementation petition of Mr.Maqsood	
		Ahmad submitted today by Roeeda Khan Advocate. It is	
		fixed for implementation report before touring Single	
		Bench at A.Abad on 30 .10.2024. Original file be	
		requisitioned. AAG has noted the next date. Parcha Peshi	
,		given to counsel for the petitioner.	
		By order of the Chairman	
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心理問題	PESHAWAR.		
	Execution Petition No	/2024	-
	In		
	Service Appeal: 1726/	2019	
	Ahmad (PSHT) Government Privailia District Abbottabad.	mary School	Sumbal
	•••••	P	etitioner
	VERSUS		
1. Direct Peshav	or Elementary & Secondary Educ	ation KPK	
		•	
2. Distric	ct education Officer Male Abbotta	bad.	
(Markey and a second		Respond	ents
- streether	Index		
S.No.	Description of documents	Appexure	Pages

1	Copy of petition		1_2
		•	1_2
1 - 1			J - J
2.	Copy of Judgment	Α	i. e
		**	4-4
3	Copy of application	В	١.
<u> </u>	:	•	10
4.	Copy of order dated 22.09.2023	C	11.
5.	Copy of order sheet dated	D .	
	24.04.2024		12-15
6.	Wakalat Nama		طا

Appellant -

Through

Rooeda Khan Advocate High Court, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 2068 /2024
In
Service Appeal: 1726/2019

Maqsood Ahmad (PSHT) Government Primary School Sumbal Darra Havailia District Abbottabad.

...... Petitioner

PRINCIPAL PRINCI

VERSUS

- 1. Director Elementary & Secondary Education KPK Peshawar.
- 2. District education Officer Male Abbottabad.

..... Respondents

EXECUTION PETITION FOR DIRECTING THE RESPONDENT TO PROPERLY IMPLEMENT THE JUDGMENT DATED 02/12/2021 PASSED BY THIS HONORABLE TRIBUNAL BY THE RESPONDENT DEPARTMENT.

Respectfully Sheweth:

before this Hon' able Tribunal which has been accepted by this Hon' able Tribunal vide Judgment dated 02/12/2021. That vide judgment dated 02.12.2021 this Hon' able Tribunal allowed the appeal in hand by setting aside the impugned order and the appellant held entitled for promotion along with consequential benefits from retrospective effect. (Copy of Judgment is annexed as Annexure-A).



- 2. That the Petitioner after getting of the attested copy approached the respondents several times for implementation of the above mention Judgment and properly submitted an application for implementation of the above mention judgment. However they using delaying and reluctant to implement the Judgment of this Hon' able Tribunal. (Copy of application is attached as annexure-B).
- That the Petitioner submitted Execution Petition No. 689/2022 for implementation of the above mention Judgment of this Hon' able Tribunal in response of which the order dated 22.09.2023 was submitted before this Hon' able Tribunal by the Respondent Department. Whereby the appellant was promoted to the post of SST General in BPS-16 with immediate effect instead of retrospective effect. (Copy of order dated 22.09.2023 is attached as annexure-C).
- That the appellant submitted objection petition against the order dated 22.09.2023 and in the meanwhile the above mention execution was dismissed in default on 24.04.2024. (Copy of order sheet dated 24.04.2024 is attached as annexure-D).
- That the Petitioner has no other option but to file the instant execution petition for properly implementation of the Judgment of this Hon' able transports.

 Tribunal.
- 6. That the Respondent Department is legally bound to obey the order of this Hon' able Tribunal by implementing properly the said Judgment.

WWW.

It is therefore requested that on acceptance of the instant execution Petition the respondents may kindly be directed to implement properly the Judgment of this Hon' able Tribunal letter and the Petitioner may kindly be treated according to the Judgment passed by this Hon' able tribunal.

Appellant/Petitioner

Through

Rooeda Khan

Advocate High Court Peshawar

AFFIDAVIT

Sumbal Darra Havailia District Abbottabad do here by solemnly affirm and declare on oath that all the contents of the above petition are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon' able Tribunal.

DEPONENT

BEFORE THE KHYBER PAKHTUNHWA SERVICE TRIBUNAL CAMP COURT, ABBOTTABAD

Service Appeal No: [726 / 2019]

Maqsood Ahmed (PST) Govt Primary School Muslim Town, Circle

Abbottabad, Tehsil & District, Abbottabad,

Versus Da & 29/11/20/9

- Government of Khyber Pakhtunkhwa through Secretary Elementary
 & Secondary Education Department Peshawar.
- 2. Director of Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3. District Education Officer (Elementary & Secondary Education):
 (Male), Abbottabad.

...RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF KHYBER

FIREGRO-GRYPAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST

E-CERTIFIED IMPUGNED ORDER DATED 10/07/2019 ISSUED UNDER

ENDORSEMENT NO 7775-79 WHEREBY RESPONDENT NO 3

IMPOSED MINOR PENALTY OF "WITHHOLDING OF PROMOTION FOR PERIOD OF 03 YEARS" UPON APPELLANT.

THE SAID ORDER IS TOTALLY AGAINST LAW, WITHOUT

JURISDICTION, MALAFIDY AND NO REGULAR INQUIRY HAS BEEN CONDUCTED AGAINST THE APPELLANT. ATTESTED



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Shawar

FORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD

Service Appeal No. 1726/2019

Date of Institution ... 28.11.2019

Date of Decision

... 02.12.2021

Maqsood Ahmed (PST) Government Primary School Muslim Town, Circle Abbottabad, Tehsil & District, Abbottabad.

(Appellant)

VERSUS

Pakhtunkhwa Secretary. of Khyber through Government Elementary & Secondary Education Department Peshawar and two

(Respondents)

MR. MAQSOOD AHMED, Appellant

Pro-se

MR. RIAZ AHMED PAINDAKHEL, Assistant Advocate General

For respondents.

MR, AHMAD SULTAN TAREEN. MR. SALAH-UD-DIN

CHAIRMAN MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts forming the background of the Instant service appeal are that the appellant while serving as PST at GPS Surjai was proceeded against on the allegations of inefficiency, misconduct as well as habitual absence and as a consequence of findings of the inquiry committee, minor punishment in the shape of withholding of promotion for three years as well as recovery of an amount of Rs. 300438/- was awarded to the appellant vide order dated 21.05.2013. The same was challenged by the appellant through filing of

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Service Appeal bearing No. 1252/2013, which was decided vide judgment dated 16.02.2016, whereby the penalty awarded to the appellant was set aside and the respondents were directed to conduct proper inquiry under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. It was during the inquiry proceedings that ASDEO Circle Sherwan informed SDEO (Male) Abbottabad through letter dated 01.07.2016 that the appellant has refused to receive letter No. 5334 dated 23.06.2016 as well as letter No. 5415-18 dated 27.06,2016 addressed to the appellant, where-upon District Education Officer (Male) Abbottabad appointed Sub-Divisional Education Officer (Male) Abbottabad for inquiry into the alleged refusal of receiving of the aforementioned letter by the appellant. On conclusion of the inquiry, competent Authority awarded minor penalty of withholding of promotion for a period of three years to the appellant, which was challenged by the appellant through filing of Service Appeal bearing No. 313/2017, which was allowed by this Tribunal vide judgment dated 19.02.2019 by setting-aside the impugned order with the direction to respondents to conduct de-novo inquiry strictly in accordance with law within a period of 90 days. On conclusion of the de-novo inquiry, the appellant was again awarded minor penalty of withholding of promotion for a period of three years vide order dated 10.07.2019. The departmental appeal of the appellant was rejected on 26.09:2019, hence the

2. Notices were issued to the respondents, who submitted their comments, wherein they denied the assertions made by the appellant in his appeal.

instant service appeal.

The appellant argued that he had not at all refused the receiving of the concerned letters, however the concerned ASDEO submitted false information to the District Education Officer (Male) Abbottabad by alleging that the appellant had refused to receive the letters sent by District Education Officer (Male) Abbottabad. He further contended that this fact has

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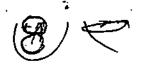
even proved during the inquiry that the letters were not only received by the appellant, rather its replies were also submitted by him to the competent Authority. He further argued that the inquiry committee was blased against the appellant and neither his statement was recorded during the inquiry nor he was provided any opportunity to produce evidence in his defense. He further contended that the inquiry proceedings were conducted in sheer violation of relevant provisions of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, therefore, the impugned order is liable to be set-aside.

- 4. On the other hand, learned Assistant Advocate General for the respondents has contended that the appellant had refused to receive letters issued to him by District Education Officer (Male) Abbottabad, which was blatant violation of service discipline and comes within the ambit of misconduct. He further argued that a regular inquiry was conducted in the matter and the allegations against the appellant stood proved, therefore, he was rightly awarded minor penalty of withholding of promotion for a period of three years.
 - Arguments heard and record perused.
 - 6. A perusal of the record would show that a committee comprising of Mr. Tariq Samar, Principal GHS No. 4 Abbottabad and Mr. Ikram-ul-Haq, Principal GHS Takia Sheikhan was constituted for de-novo inquiry against the appellant. While going through findings of the inquiry committee, it is crystal clear that the only allegation considered by the inquiry committee for probe was that as per report of ASDEO Circle Sherwan, the appellant had refused to receive letter No. 5334 dated 23.06.2016 as well as letter No. 5415-18 dated 27.06.2016 addressed to the appellant by District Education Officer (Male) Abbottabad. It is evident from the record that it was during the proceedings of another inquiry carried against the appellant on certain allegations that letter No. 5334 dated 23.06.2016 as well as letter No. 5415-18 dated 27.06.2016 were issued by District

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ATTESTED

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Education Officer (Male) Abbottabad to the appellant. On 01.07.2016, the then ASDEO Circle Sherwan wrote letter to : SDEO (Male) Abbottabad, alleging therein that the appellant had refused to receive the above mentioned letters. It was in this backdrop that an inquiry was initiated against the appellant by considering his alleged act of refusal of receiving of letters as in-subordination and misconduct. Chanzeb SDEO (Male) Abbottabad, the then ASDEO Circle Sherwan was examined as witness during the inquiry, who has stated that the appellant refused to receive the show-cause notice, therefore, the same was handed over to Head Teacher Gulzar Ahmed, however he then also wrote to Chanzeb that the appellant has refused to receive the show-cause notice. On the other hand, aforementioned Head teacher namely Gulzar Ahmed has stated in his statement that the appellant initially refused to receive show-cause notices, however after about one and half hours, the appellant received the show-cause notices and the ASDEO Circle Sherwan was informed by him in this respect personally. The statement of head teacher namely Gulzar Ahmed clearly shows that the letters were received by the appellant. Moreover, it is not understandable as to what were the reasons, which prompted Chanzeb, the then ASDEO Circle Sherwan, to personally serve the letters upon the appellant, when nothing is available on the record which could show that any such directions were issued to him by his high-ups.

- 7. The appellant has alleged that his statement was not recorded during the inquiry and he was not afforded any opportunity of producing evidence in his defense. The available record supports the contention of the appellant. The aforementioned fact has created material dent in the inquiry proceedings and has caused prejudice to the appellant. In view of material available on record, the impugned order is not sustainable in the eye of law and is liable to be set-aside.
 - 8. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned order and the appellant

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bear their own costs. File be consigned to the record room.

<u>ANNOUNCED</u> 02.12.2021

(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

(AHMAD SOCTAN TAREEN)
CHAIRMAN
CAMP COURT ABBOTTABAD

Certified to be ture copy

Exactiner

Khyber F Ethtuakhwa

Service Tribunal

Peshawar

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Secretary Elementary & Secondary Education Department, KPK, Peshawar.

APPLICATION FOR IMPLIMENTATION OF THE PASSED BY HONOURABLE SERVICE TRIBUNAL PESHAWAR IN SERVICE APPEAL NO.1726 OF 2019 TITLED "MAOSOOD AHMED VERSUS GOVERNMENT OF KPK AND OTHERS.

Bossenbery & Servicial Proposition Kinyber Pathitisith

Bespected Sir,

That, appellant was working as a PST (BPS-12) and on 21/05/2013 department stopped the promotion of applicant for the period of three years and on 16/02/2016 Hon ble Tribunal set aside the impugned order dated 21/05/2013 and conducted a proper inquiry under E&D Rules 2011 in service appeal No.1252/2013.

- 2. That, on 13/07/2016 once again department issued order against the appellant for stoppage of promotion for the period of three years which was also set-asided by the KPK Service Tribunal on 24/08/2017 in service appeal No.1114/2016.
- That, on 13/12/2016 department 3rd time issued order against the appellant for stoppage of promotion for three years and also set-aside the impugned order on 19/02/2019 by Hon'ble Tribunal with the direction to conduct the Denovo Inquiry strictly according with law in Service appeal No.313/2017.
- That, on 10/07/2019 department issued 4th order of the stoppage of the promotion of appellant for the time of three years which was also set-asided by the KI- Service Tribunal on 02/12/2021 in Service appeal No.1726/2019.

It is therefore humbly requested that kindly implement the above said Judgment/ order dated 02/12/2021 passed by Hon'ble KPK Service Tribunal in Service appeal No.1726/2019 with letter and spirit and the applicant may kindly be promoted on the ground of "Seniority cum Fitness" from PST post to SPST (BPS-14), PSHT (BPS-15), SST (Gen) BPS-16 with all constitutional benefits in the light of notifications dated 11/07/2012 and 20/12/2013 issued by the Government of KPK.

(Copies of Judgment and relevant notifications / orders are attached herewith the

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Please and which he had with the arm of the

Your Sincerely;

Madsood Ahmed (SPST)

GPS Muslim Town, Abbottabad

Dated: 22/02/2024

ivate Secretary to Secretary EASE Department Sovernment of Survey Pathtenines

FFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOT

NOTIFICATION

In pursuance to the Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar Notification issued vide Endst: No. 5562-66/File No.117/Promotion of SST/Abbottabad/Estab-I dated 14-09-2023, in compliance with the Judgement of the Honorable Service Tribunal and recommendation of the Departmental Promotion Committee, in the light of Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department Notification No. SO(B&A) /1-18/E&SE/2012 dated 11-07-2012 and Finance Department Notification No. SO(FR) /FD/10-22/2010 dated 16-07-2012, Mr. Maqsood Ahmad PSHT GPS Sambal Dharra (Circle Hajia Gali) Havelian is hereby promoted to the post of SST (General) in BPS-16 (Rs. 28070-2260-95870) plus usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government, on the terms and conditions given below and he is hereby further posted against the vacant post of SST (G) at Govt: Higher Secondary School Khanispur (Ayubia) Abbottabad with immediate effect subject to the condition of the final outcomes of the CPLA No.309-P /2022 filed before the August Supreme Court of Pakistan.

Terms & Conditions:-

1. He shall be on probation for a period as specified in Rules (15) substituted vide No. SO(Plocies0/E&AD/1-3/2017 Dated 07-12-2017 in Appointment, Promotion and Transfer Rules, 1989 (for promotion only)

2. He will be governed by such rules and regulations as may be issued from time to time by

the Government.

3. His services can be terminated at any time, in case his performance is found unsatisfactory during probationary period. In case of misconduct, he shall be proceeded under the rules framed from time to time.

4. Charge report shall be submitted to all concerned.

5. His inter-se-seniority on lower post will remain intact as per Rules (17)(4) of Appointment. Promotion and Transfer Rules-1989.

6. No. TA/DA is allowed for joining his duty.

7. He will give an undertaking to be recorded in his service books to the effect that if any over payment is made to him in the light of this order, will be recovered and if he is wrongly promoted, he will be reversed.

Before handing over charge his documents may be checked, if he have not the required

relevant qualifications as per rule, he may not be handed over charge of the post.

(MUHAMMAD TANVEER) DISTRICT EDUCATION OFFICER (M) ABBOTTABAD.

	•	•	7074-	8	3
•			•		

/EB-I/Promotion/SSTs/2022:

/2023 Dated A.Abad the

.. Copy forwarded to the:-

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

2. District Comptroller of Accounts Abbottabad.

District Monitoring Officer (EMA) Abbottabad.

4. Principal GHSS Khanispur (Ayubia) Abbottabad.

5. PS to Secretary to Govt: of Khyber Pakhtunkhwa, E&SED Peshawar.

Sub Divisional Education Officer (M) Havelian.

AD EMIS branch local office.

ADEO (Litigation) local office.

9. Teacher concerned.

10. Master File

DISTRICT EDUCATION OFFICER (M) ABBOTTABAD

(D) (D)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1726/19

Execution petition No.689/22

Magsood Ahmad

VERSUS

Education Department

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S#	Description of Documents	Annexure	Pages
	Application with affidavit		1-2-
2.	Copy of order sheet dated 24.04.2024	"A"	3-5

APPELLANT

Through

Dated: (2/06/2024

Advocate, High Court Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 1726/19
Execution petition No.689/22

R-A-No-539/2024

13)

Maqsood Ahmad (PSHT) Govt Primary School Sumbal Dara Havelia District Abbottabad

VERSUS

- 1. Director Elementary & Secondary Education KPK Peshawar.
- 2. District Education Officer Male Abbottabad.

APPLICATION FOR RESTORATION OF THE ABOVE TITLE

Execution Petition No. 689/2022 WHICH HAS BEEN

DISMISSAL AND DEFAULT ON 24.04.2024

Respected Shewith,

- 1. That the above titled execution petition was pending before this Hon'ble Tribunal Camp Court Abbottabad which has been dismissal in default on 24.04.2024. (Copy of order is attached).
- That the above titled execution petition was fixed for 25.01.2024 for submitting of written reply of objection petition on behalf of respondents which was not submitted and the case was adjourned for 25.03.2024 for submitting written reply of objection petition on behalf of respondents/departments.
- 3. That on 25.03.2024 tour was cancelled due to the month of Ramzan.
- 4. That after that wrong date was noted by the petitioner i.e 27.05.2024 instead of 24.04.2024 and that facts was known to the petitioner on 27.05.2024 when the petitioner appeared before the Hon'ble Court Abbottabad Bench on 27.05.2024 whereby the petitioner came to know that his execution petition was dismissed in default on 24.04.2024. (Copy of dismissal order dated 24.04.2024 is attached as annexure "A").
- 5. That from the date of knowledge the instant application is well within time and there is no legal bar for acceptance for this application.

It is, therefore most humbly prayed that on the acceptance of the instant restoration application the execution petition of the appellant may kindly be restore.

Dated: 06/06/2024

Petitioner/Appellant

Through

Roeeda Khan Advocates, High Court, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1726/19

Execution petition No.689/22

Magsood Ahmad

VERSUS

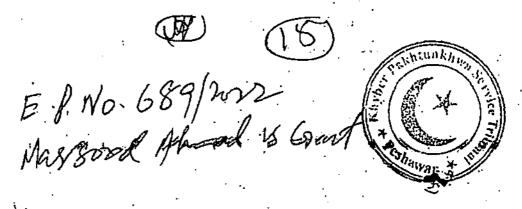
Education Department

AFFIDAVIT

I, Maqsood Ahmad (PSHT) Govt Primary School Sumbal Dara Havelia
District Abbottabad, do hereby solemnly affirm and declare on oath that
contents of the instant application are true and correct to the best of my
knowledge and belief and nothing has been concealed from this Hon'ble
Tribunal.



Deponent



ORDER. 24th April, 2024

KALIM ARSHAD KHAN, CHAIRMAN: Nobody present on behalf of the petitioner. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Sohail Ahmad Zeb, Assistant for the respondents present.

- The case was called several times till last hours of the court but nobody turned up on behalf of the petitioner. In view of the above, the instant execution petition is dismissed in default. Consign.
- Pronounced in open court at camp court Abbottabad and given under my hand and seal of the Tribunal on this 24th day of April, 2024.

ESTED

Adnon Shoh, P.A.

(Kalim Arshad Khan) Chairman

Camp Court Abbottabad

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