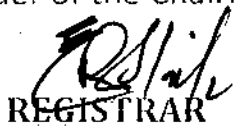


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 1284/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24.10.2024	<p>The implementation petition of Mr. Muhammad Rasheed Khan submitted today by Mr. Muhammad Arsalan Afridi Advocate. It is fixed for implementation report before Single Bench at Peshawar, on 30 .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</p> <p> REGISTRAR</p>

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

E.P
Service-Misc Application No. 1284 /2024
In
E.P No. 973/2023.
In Service Appeal No. 923/2018.

Muhammad Rasheed Khan(Applicant)

VERSUS

Inspector General of Police K.P.K and others.....(Respondents)

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Application		1-03
2.	(Copy of Judgment dated 19/10/2023 is attached as annexure "A").	A	04-09
3.	(Copy of Application is attached as annexure "B").	B	10-12
4.	(Copy of Order dated 28/06/2024 is attached as annexure "C")	C	13-14
5.	Wakalat Nama		15

Applicant

Through

Dated: 24/10/2024

MUHAMMAD ARSALAN AFRIDI
0300-5949951

& **H. Bilal**
HAZRAT BILAL
Advocates High Court,
Peshawar.

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

E.P No: 1284
Service Misc Application No. 1284 /2024

In E.P No. 973/2023.

In Service Appeal No. 923/2018.

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 17/29
Dated 24-10-24

Muhammad Rasheed Khan S/o Mohabat Khan R/o Takia Afridi Abad,
Shabqadar Road, Peshawar.

Naib Qasid(Class-IV), FRP HQR's, Peshawar.

.....(Applicant)

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, Peshawar.
2. Additional Inspector General (Establishment), Khyber Pakhtunkhwa, Central Police Office, Peshawar.
3. Superintendent Establishment, Central Police Office, Peshawar.

.....(Respondents)

**APPLICATION FOR INITIATING CONTEMPT OF
COURT PROCEEDING / IMPLEMENTATION OF
ORDER AND JUDGMENT PASSED IN SERVICE
APPEAL NO. 923/2018 DATED 19-10-2023 AND
IMPLEMENTATION ORDER PASSED IN E.P NO.
973/2023 DATED 28-06-2024 AGAINST THE
RESPONDENTS IN FAVOR OF APPLICANT.**

Respectfully Sheweth:

The Applicant humbly submits as under:

1. That the Applicant has earlier filed a Service Appeal No. 923/2018 which was decided by this honorable tribunal on 19/10/2023.
(Copy of Judgment dated 19/10/2023 is attached as annexure "A").

2. That the Respondents denied the right of Applicant and were not willing to implement the judgment of this honorable tribunal, wherein the Applicant moved an Application for implementation of the above noted judgment on 14/12/2023.

(Copy of Application is attached as annexure "B").

3. That this honorable tribunal vide order dated 28/06/2024 allowed the implementation Application of the Applicant whereby the respondents' legal representative S.P Mr. Wisal Khan appeared and assured this honorable tribunal that they will implement the judgment of this honorable tribunal with its true spirit, further, they will promote the applicant along with its consequential back benefit admissible by law.

(Copy of Order dated 28/06/2024 is attached as annexure "C").

4. That violating the Judgment dated 19/10/2023 and Order dated 28/06/2024, the respondents neither had promoted the Applicant so far nor had any favorable order passed in favor of the Applicant in spite of the fact they assured this honorable tribunal that they implement the same with its true spirit, Hence, the instant Contempt of Court Application.

5. That the petitioner approached the respondents time and again along with the order of this Hon'ble tribunal for compliance, but respondents failed to obey the same.

6. That as there is intentional and deliberate disobedience, non compliance, the respondents committed contempt of Court of the judgment dated 19/10/2023 and order dated 28/06/2024 of this Hon'ble Service Tribunal.
7. That the act of the respondents against the law and natural justice as well as the order of this Hon'ble Service tribunal.

It is, therefore most humbly prayed on acceptance of this application, the contempt of Court proceeding may please be initiated against the respondents, Further, they may also be directed to implement the judgment and order of this Hon'ble tribunal with its true nature and spirit.

Applicant

Through

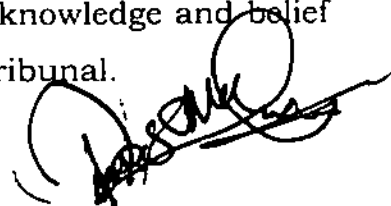
Dated: 24/10/2024

MUHAMMAD ARSALAN AFRIDI

HAZRAT BILAL *H. Bilal*
Advocates High Court,
Peshawar.

AFFIDAVIT

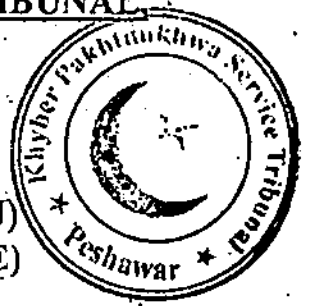
I, Muhammad Rasheed Khan S/o Mohabat Khan R/o Takia Afridi Abad, Shabqadar Road, Peshawar. Naib Qasid(Class-IV), FRP HQR's, Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT
CNIC: 17301-1508599-7
Cell No. 0314-9004715

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 923/2018



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

Muhammad Rasheed Khan S/O Mohabat Khan R/O Takia Afridi Abad,
Shabqadar Road, Tehsil and District Peshawar..... (Appellant)

Versus

1. Inspector General of Police Khyber Pakhtunkhwa, Central Police Office, Peshawar.
2. Additional, Inspector General (Establishment), Khyber Pakhtunkhwa, Central Police Office, Peshawar.
3. Superintendent Establishment, Central Police Office, Peshawar.
4. Director Educational Testing and Evaluation Agency (ETEA), Khyber Pakhtunkhwa, Sector E-8, Phase 7, Hayatabad, Peshawar.
5. Naveed Akhtar S/O Munir Khan, Junior Clerk, Central Police Office, Peshawar.
6. Ejaz Hussain S/O Muhammad Naseer, Junior Clerk Central Police Office, Peshawar.
7. Noor Islam Khan S/O Shams ur Rehman, Junior Clerk Central Police Office, Peshawar.(Respondents)

Mr. Muhammad Arsalan Afridi,
Advocate

For appellant

Mr. Muhammad Jan
District Attorney

For official respondents

Mr. Taimur Ali Khan,
Advocate

For private respondents
No. 5 to 7.

Date of Institution..... 23.07.2018
 Date of Hearing..... 19.10.2023
 Date of Decision..... 19.10.2023

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
23-10-24

JUDGEMENT

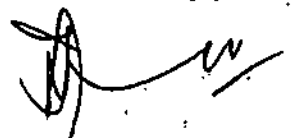
FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 10.11.2017 of respondent No. 1 whereby the appellant was not promoted to the post of Junior Clerk (BPS-11) in disregard of the law by not awarding 04 additional marks of FA and Orphan.

It has been prayed that on acceptance of the appeal, the impugned order dated 10.11.2017 of respondent No. 1 might be set aside and the respondents might be directed to promote the appellant to the post of Junior Clerk (BPS-11) after awarding 04 marks of FA and Orphan.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Class-IV employee in the Frontier Reserve Police, Peshawar on 02.04.2011. Respondent No. 4 (ETEA) conducted selection/screening test for promotion of Class-IV employees to the post of Junior Clerk (BPS-11). Respondent No. 4 prepared the merit list dated 19.08.2017 by allocating test and academic marks to the candidates, except the appellant, who was deprived of 02 marks of FA and 02 marks of Orphan. Private respondents No. 5 to 7 were illegally promoted to the post of Junior Clerk (BPS-11) vide order dated 10.11.2017 by Respondent No. 1 as compared to the right of the appellant to be promoted and appointed on one of the Junior Clerks posts, if the requisite marks were granted to him. The appellant submitted application/representation to Respondent No. 4 on 24.08.2017 to grant him 04 marks to become eligible for promotion to the post of Junior Clerk but no reply was received by the appellant. Thereafter, he submitted two applications to Respondents No. 1 & 2 on 05.09.2017 and 22.11.2017 through Deputy Commandant FRP Peshawar for redressal of his grievance which were forwarded to Respondent No. 2 vide letter dated 05.09.2017 and 22.11.2017. The appellant also submitted application/representation to Respondent No. 2 on 15.12.2017 but no decision was taken. He then filed Writ Petition No. 5269-P/2017 in the Hon'ble Peshawar High Court, Peshawar which was dismissed on

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



25.08.2018 with the observation that the matter was relating to the terms and conditions of a civil servant, for which proper forum was the Service Tribunal. The appellant then filed Review Petition No. 167-P/2018 for the grant of four marks i.e. 02 marks each of FA and Orphan. The review petition met the same fate and was dismissed with the same observations vide order dated 19.06.2018; hence the instant service appeal.

3. Respondents were put on notice who submitted written replies/ comments on the appeal. We heard the learned counsel for the appellant as well as the learned District Attorney for the respondents and perused the case file with connected documents in detail.

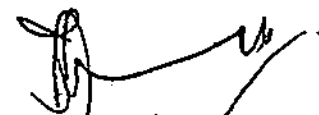
4. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant was illegally deprived from promotion to the post of Junior Clerk (BPS-11) by not awarding him 04 additional marks of FA and Orphan to which he was entitled under the law as per the Standing Order No. 07/2014. He further argued that the respondents had not acted in accordance with law and had illegally not entertained the genuine request of the appellant. He requested that the appeal might be accepted as prayed.

5. Learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant had not claimed FA qualification in his form nor produced before the ETEA authority at the relevant time. Resultantly he was not allocated two additional marks of FA qualification.

6. Learned counsel for private respondents No. 5 to 7 relied on the arguments advanced by learned District Attorney and added that the


ATTESTED

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar



appellant submitted several applications/representations to the respondents but under the law/rules, there was no provision of successive departmental appeals. He requested that the appeal might be dismissed.

7. As contended by the appellant in his service appeal, he was not granted two marks each of his Intermediate qualification and he, being an orphan, by the ETEA authorities, due to which he was deprived of promotion to the rank of Junior Clerk (BPS-11). According to him, if those four marks were added, his seniority would have improved viz-a-viz private respondents No. 5, 6 and 7 and he would have become eligible for promotion. Merit list of passed candidates in the ETEA screening test for promotion/absorption of Class-IV employees as Junior Clerk in Khyber Pakhtunkhwa Police Department held on 19.08.2017 shows that the appellant obtained 27 marks in the test. His highest qualification is shown as Matric. The plea taken by the appellant that he was Intermediate qualified and an orphan and that he had shown it in the form that was submitted to the ETEA was negated by the respondents on the ground that ETEA was asked to clarify the position on which the authority said that there was no such mention of being intermediate qualified and orphan in the form of the appellant. During the course of arguments, respondents were asked to produce the application form of the appellant that was submitted by him to the ETEA, which was duly produced. Perusal of the form shows that the appellant had stated his Intermediate education acquired in 2016. As far as being an orphan is concerned, at Sr. No. 11 of that form, it was ticked as "No". The form was signed by the appellant and verified by the Commandant FRP dated 08.06.2017. The same documents, produced before us during the arguments,

ATTESTED

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



were shown to the learned counsel for the appellant also and he did not put any further arguments on those, which shows that he was satisfied with whatever had been stated therein.

8. In view of the above discussion, it is evident that the appellant was Intermediate qualified and the same was mentioned in the ETEA application form also, but was not taken into account and thus the appellant was deprived of two marks. As far as he being an orphan is concerned, his application form does not support his claim.

9. The appeal in hand is, therefore, partially allowed and respondents are directed to add two marks of Intermediate qualification of the appellant and revise the merit list. They are further directed to consider the promotion of the appellant on the basis of the revised seniority list. Cost shall follow the event. Consign.

10. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 19th day of October, 2023.


(FAREEHA PAUL)
Member (E)


(RASHIDA BANO)
Member (J)

Fazle Subhan, P.S

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
23-10-23

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Application No. 272 Date 22-10-24

Name of Applicant Hazrat Bilal

Number of Words/Pages 8-9

Copying Fee 25/-

Urgent/Ordinary -

Total 25/-

Name & Sign of Copyist Fazle Subhan

Date of Completion of Copy 16-11-2023


Date of Delivery of Copy 23-10-24


SA 923/2018

19th Oct. 2023 01. Muhammad Arsalan Afridi, Advocate for the appellant present. Mr. Muhammad Jan, District Attorney for the official respondents and Mr. Taimur Ali Khan, Advocate for private respondents No. 5 to 7 present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 05 pages, the appeal in hand is allowed and respondents are directed to add two marks of Intermediate qualification of the appellant and revise the merit list. They are further directed to consider the promotion of the appellant on the basis of the revised seniority list. Cost shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 19th day of October, 2023.*


(FAREEHA PAUL)
Member (E)


(RASHIDA BANO)
Member (J)

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

C.M. No. _____/2023 In Service Appeal No. 923/2018

MUHAMMAD RASHEED KHAN S/o Mohabat Khan R/o Takia Afridi abad, Shabqadar Road, Tehsil and District Peshawar.

.....(Petitioner)

VERSUS

- 1. Inspector General Of Police Khyber Pakhtubkhwa, Central Police office, Peshawar.
- 2. Additional Inspector general (Establishment), Khyber Pakhtubkhwa, Central Police office, Peshawar.
- 3. Superintendent Establishment, Central Police office, Peshawar.

..... (Respondents)

APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED 19-10-2023 PASSED BY THIS HONORABLE SERVICE TRIBUNAL IN SERVICE APPEAL NO. 923/2018.

Respectfully Sheweth:

- 1. That the above noted Service Appeal was decided by this Hon'ble Tribunal in favor of petitioner vide judgment dated 19-10-2023.

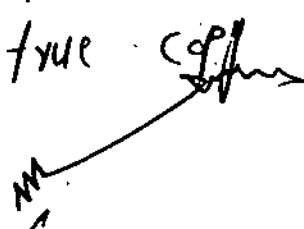
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[Signature]

(Copy of judgment dated 19-10-2023 is attached as annexure "A").

2. That the petitioner has intimated the answering respondents through Application dated 21-11-2023 for implementation of the judgment passed by this honorable tribunal in above mentioned service appeal.
3. That the apex authority (COMMANDANT FRONTIER RESERVE POLICE KHYBER PAKHTUNKHWA, PESHAWAR) of the petitioner/appellant has also sent a letter No/11386/EC, dated 21-11-2023 to the Respondents for consideration and implementation of judgment of this honorable tribunal in favor of Petitioner/Appellant.

(Copy of Implication Application dated 21-11-2023 attached as annexure "B")

4. That the respondents either on one pretext and other are denying not only the vested right of the petitioner/appellant but also have denied the judgment of this honorable court against the law and facts.

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true copy


5. That the respondents have not only violated the prevailing law and rules but also denied celebrated principle,

➤ **That justice should not only be done but should seem to be done".**

6. That there is no bar if the respondents appoint and promote the petitioner/appellant with all back benefit admissible by law as per directions of the judgment dated 19-10-2023 passed by this honorable service tribunal.

It is, therefore, humbly prayed that the judgment dated 19-10-2023, may kindly be implemented and the petitioner/appellant may kindly be promoted as junior clerk with all back benefit admissible by law.

Petitioner/Appellant

Through

Dated: 14/12/2023

Muhammad Arsalan Afridi
&
Hazrat Bilal
Advocates High Court, Peshawar.

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Annexure
"C"

ORDER

28th June, 2024

Mr. Kalim Arshad Khan, Chairman: Learned counsel for the petitioner, Mr. Umair Azam, Additional Advocate General alongwith Mr. Wisal Khan, SP for the respondents present.



2. Substantial compliance of the judgment has been made. The learned counsel for the petitioner, however, apprehends that after granting the desire relief, the consequential benefits for which the petitioner was otherwise entitled might not be so extended. Mr. Wisal Khan, SP says that the petitioner will be granted whatever he was entitled to. Disposed of accordingly. Consign.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 28th day of June, 2024.*

(Signature)
(Kalim Arshad Khan)
Chairman

ATTESTED

"Attest Shait"

(Signature)
10/7/23
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 10/7/23
Number of Words 10
Copying Fee 10/-
Urgent 10/7/23
Total 10/-
Name of Copyist 10/7/23
Date of Completion of Copy 10/7/23
Date of Delivery of Copy 10/7/23

21st May, 2024

1. Learned counsel for the petitioner present. Mr. Arshad Azam, Assistant Advocate General present.

2. On the previous date, Mr. Sulaiman, S.I was present and had requested for time to submit compliance report. Today, nobody is present on behalf of the respondents, nor the judgment of the Tribunal has been implemented, compelling the Tribunal to attach the salaries of the respondents in the manner as prescribed under Section-60(1)(i) of the code of Civil Procedure, 1908, till complete compliance of the judgment. The Accountant General Khyber Pakhtunkhwa shall submit report that salaries are actually attached. To come up for implementation report on 11.06.2024 before S.B. P.P given to the petitioner's counsel.

(Kalim Arshad Khan)
Chairman

Muazzem Shah

11.06.2024

01. Counsel for the petitioner present. Mr. Arshad Azam, Asstt. AG alongwith Suleman, S.I(Legal) for the respondents present.

SCANNED
KFST
Peshawar

02. Representative of the respondents stated that a meeting on the subject was held on 10.06.2024 and that the case is under active consideration of the competent authority. He requested for some time. Granted as a final opportunity. To come up for implementation report on 28.06.2024 before the S.B. PP given to the parties.

(Fareha Paul)
Member(E)

Fazle Subhan, P.S

