


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 819/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	31.07.2024	<p>The implementation petition of Mr. Noor Daraz Khan submitted today by Mr. Muhammad Ilyas Orakzai Advocate. It is fixed for implementation report before Single Bench at Peshawar on 02.08.2024. Original file be requisitioned. AAG has noted the next date. Parcha Peshi given to counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 819/2024

In

Service Appeal No. 2318/2023

Noor Daraz Khan.....(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary
Health and others.....(Respondents)


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Applicant/Appellant

Through

Dated: 31/07/2024


Muhammad Ilyas Orakzai
Advocate Supreme Court
Of Pakistan.
Cell No. 0333-9191892

&

Waleed Adnan
Advocate High Court,
Peshawar.

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 14623
Dated 31-07-2024

Execution Petition No. 819 /2024
In
Service Appeal No. 2318/2023

Noor Daraz Khan S/o Gul Daraz (Junior Clinical Technician
Pharmacy BPS-12) R/o Essa Khel P.O. Shewa, Safali Kabal
Khel, Tehsil Shewa, District North Waziristan.....(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Health, Attached Department, Khyber Road, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Warsak Road, Peshawar.
3. District Health Officer, North Waziristan, Miran Shah, District North Waziristan.....(Respondents)

EXECUTION PETITION FOR
IMPLEMENTATION OF ORDER AND
JUDGMENT DATED 19/04/2024 AND
SUBSEQUENT CORRECTED ORDER
AND JUDGMENT DATED 17/05/2024
OF THE HON'BLE SERVICE TRIBUNAL.

Respectfully Sheweth:

1. That the applicant/appellant has filed Service Appeal No. 2318/2023 under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974,

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against the impugned order dated 18/07/2023 whereby the appellant deprived from promotion despite the fact that appellant was quite eligible and qualified for promotion against which the applicant/appellant filed the above titled appeal which was allowed in favour of applicant/ appellant vide order dated 19/04/2024 and subsequent corrected order dated 17/05/2024 as prayed for. (Copies of service appeal and order dated 19/04/2024 and corrected order dated 17/05/2024 are attached as annexure "A").

2. That the applicant/ appellant filed an application to respondents for implementation of the above order of this Hon'ble Tribunal vide Diary No. 15670 dated 29/05/2024. (Copy of application is attached as annexure "B").
3. That the respondents are delaying the matter without any reason and not honoured the judgment of this Hon'ble Tribunal in letter in spirit, hence this Execution Petition.
4. That any other ground will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

(3)

It is, therefore most humbly prayed on acceptance of this Execution Petition, the order dated 19/04/2024 and subsequent corrected order dated 17/05/2024 of this Hon'ble Court Tribunal may kindly be implemented in toto for the end of justice.

(Signature)

Applicant/Appellant

Through

Muhammad Ilyas Orakzai
Advocate Supreme Court
Of Pakistan.

Dated: 31/07/2024

&
Waleed Adnan
Advocate High Court,
Peshawar.

AFFIDAVIT:

I, Noor Daraz Khan S/o Gul Daraz (Junior Clinical Technician Pharmacy BPS-12) R/o Essa Khel P.O. Shewa, Safali Kabal Khel, Tehsil Shewa, District North Waziristan, do hereby solemnly affirm and declare that all the contents of the **Execution Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

(Signature)

DEPONENT

ATTESTED
IMRAN KHAN ADVOCATE
Auth
Commissioner
High Court Peshawar

31-07-2024

Before Khyber Pakhtunkhwa Service Tribunal

Service Appeal No. 2318/2023

ANNEXA



Noor Daraz Khan S/o Gul Daraz (Junior Clinical Technician Pharmacy BPS-12) R/o Essa Khel P.O. Shewa, Safali Kabal Khel, Tehsil Shewa, District North Waziristan..... (Appellant)

VERSUS

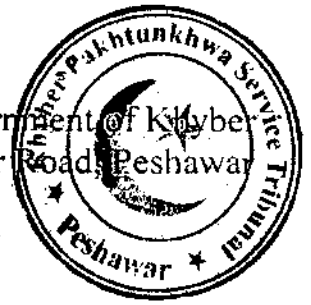
1. Government of Khyber Pakhtunkhwa through Secretary Health, Attached Department, Khyber Road, Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa, Warsak Road, Peshawar.
3. District Health Officer, North Waziristan, Miran Shah, District North Waziristan.....(Respondents)

SERVICE APPEAL U/S 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974, AGAINST THE
IMPUGNED JOINT SONORITY LIST OF
RESPONDENTS DATED 18/07/2023
WHEREBY THE APPELLANT WAS
DEPRIVED FROM PROMOTION
INSPIRE THE FACT THAT THE
APPELLANT WAS QUITE ELIGIBLE FOR
PROMOTION FOR THE POST OF
CLINICAL TECHNOLOGIST PHARMACY
(BPS-17), HOWEVER THE NAME OF

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Service Appeal No. 2318/2023 titled "Noor Daraz Khan versus Government of Khyber Pakhtunkhwa through Secretary Health, Attached Department, Khyber Road, Peshawar and others".

ORDER

19th April, 2024. **Kalim Arshad Khan, Chairman**: Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney alongwith Mr. Yousaf Jamal, Assistant for the respondents present.

2. Vide our detailed order of today passed in connected Service Appeal No. 518/2023 titled "*Munir Ahmad Khan Versus The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar and others*", copy placed in this file, instant service appeal is also disposed of in terms of order passed in the mentioned appeal. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 19th day of April, 2024.*

(Muhammad Akbar Khan)
Member (Executive)

(Kalim Arshad Khan)
Chairman

Nuzem Anis

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 25-4-24
 Number of Words 28
 Copying Fee 10/-
 Urgent 5/-
 Total 15/-
 Name of Copy _____
 Date of Completion of Copy 25-4-24
 Date of Delivery of Copy 25-4-24

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Service Appeal No. 518/2023 titled "Munir Ahmad Khan versus The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar and others".

ORDER

19th April, 2024 **Kalim Arshad Khan, Chairman**: Through this single order, this appeal and Service Appeal No. 2318/2023 titled "Noor Daraz Khan Vs. Government of Khyber Pakhtunkhwa through Secretary Health, Attached Department, Khyber Road, Peshawar and others" are being decided as both are of similar nature.

2. Learned counsel for the appellants present. Mr. Muhammad Jan, District Attorney alongwith Mr. Yousif Jamal, Assistant for the respondents present.

3. The learned counsel for the appellants referred to tentative joint seniority list of Clinical/PHC Technologists (BPS-17) Paramedics Health Department Khyber Pakhtunkhwa, wherein at serial No. 73 to 81, the employees having Pharm-B qualification were initially recruited on the recommendations of Khyber Pakhtunkhwa Public Service Commission against the post of Clinical Technologist Pharmacy (BPS-17). The learned counsel for the appellants referred to serial No. 4 of the Service Rules of the department. According to clause (b) at column No.5 of serial No. 4 of the Service Rules, 20% posts were to be filled by promotion on the basis of seniority-cum-fitness from amongst the Chief Technicians, Senior Technicians and Technicians having qualification prescribed for initial recruitment with three years service as such in the relevant technology. In the note it was provided that for the purpose of promotion, there shall be maintained a joint seniority list of Chief Technicians, Senior Technicians and Technicians with reference to the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

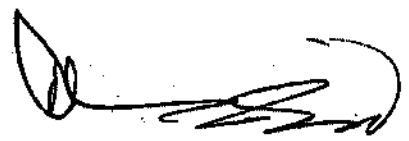
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dates of their acquiring qualification prescribed for initial recruitment in column No. 3. When confronted with the situation whether the qualifications of the appellants and those mentioned at serial No. 73 to 81 of the seniority list (the employees recruited through initial appointment) was different or not to which Yousif Khan representative of the respondents could not controvert the situation and the qualification for initial recruitment was considered to be Pharm-B as is that of the appellants, therefore, there is at present no hurdle in inclusion of the names of the appellants in the joint seniority list of the Clinical/PHC Technologists (BPS-17). This being so the appeal is disposed of with the direction to accordingly include the names of appellants as per rules. Consign.

4. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 19th day of April, 2024.*



(Muhammad Akbar Khan)
Member (Executive)



(Kalim Arshad Khan)
Chairman

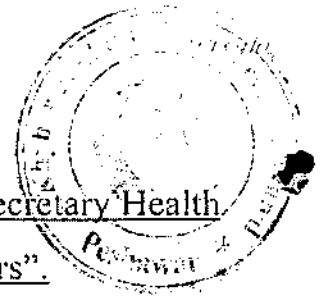
Naeem Anwar

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 25-4-24
 Number of Words 27
 Copying Fee 10/-
 Urgent 15/5
 Total 15/2
 Name of Copy _____
 Date of Completion 25-4-24
 Date of Delivery of Copy 25-4-24

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Misc. Application No. 318/2024 titled "Noor Daraz versus The Secretary Health Department, Khyber Pakhtunkhwa Peshawar and others".

ORDER

17th May, 2024

Kalim Arshad Khan, Chairman: Learned counsel for the applicant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. This application is for correction of typographical errors in Para-3 of the order of this Tribunal dated 19.04.2024 passed in Service Appeal no.518/2023 titled "Munir Ahmad Khan versus The Secretary Health Department, Khyber Pakhtunkhwa Peshawar and others".

3. In the order dated 19.04.2024 in paragraph- 3, it was started with the words that:

"The learned counsel for the appellants referred to tentative joint seniority list of Clinical/PHC Technologists (BPS-17) Paramedics Health Department Khyber Pakhtunkhwa, wherein at serial No. 73 to 81, the employees having "**Pharm-B**" qualification were initially recruited on the recommendations of Khyber Pakhtunkhwa Public Service Commission against the post of Clinical Technologist Pharmacy (BPS-17). The learned counsel for the appellants referred to serial No. 4 of the Service Rules of the department. According to clause (b) at column No.5 of serial No. 4 of the Service Rules, 20% posts were to be filled by promotion on the basis of seniority-cum-fitness from amongst the Chief Technicians, Senior Technicians and Technicians having qualification prescribed for initial recruitment with three years service as such in the relevant technology. In the note it was provided that for the purpose of promotion, there shall be maintained a joint seniority list of Chief Technicians, Senior Technicians and Technicians with reference to the dates of their acquiring qualification prescribed for initial recruitment in column No. 3. When confronted with the situation whether the qualifications of the appellants and those mentioned at serial No. 73 to 81 of the seniority list (the employees recruited through initial appointment) was different or not to which Yousif Khan representative of the respondents could not controvert the situation and the qualification for initial recruitment was considered to be "**Pharm-B**" as is that of the appellants, therefore, there is at present no hurdle in inclusion

ATTESTED

Government of Khyber Pakhtunkhwa
Service Tribunal
Peshawar


23/05/24


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of the names of the appellants in the joint seniority list of the Clinical/PHC Technologists (BPS-17). This being so the appeal is disposed of with the direction to accordingly include the names of appellants as per rules. Consign."

4. In the above paragraph instead of writing word "Pharm-D" inadvertently word "Pharm-B" was written at two places which are sought to be corrected through this application. As such the application is allowed and it is directed that the word "Pharm-B" as mentioned in Para-3 at two places of the order shall be read as "Pharm-D". Application decided accordingly. Consign.


5. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 17th day of May, 2024.


(Muhammad Akbar Khan)
Member(E)


(Kalim Arshad Khan)
Chairman

Adnan Shah, P.A.

Date of Presentation of Application - 24-5-24
Number of Words 27
Copying Fee 10/-
Urgent
Total 10/-
Name of Copyist
Date of Completion 24/5/24
Date of Delivery of Copy 24/5/24

ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
24/5/24

1/10

10/1

10

Date: 01/10/2014
Khyber Pakhtunkhwa

AMEX B⁹⁰



The Director General,
Health Services, G-3
Peshawar Wpk.

Subject: Submission of Court decision

R/Sir,

I have the honour to submit
the Court decision regarding departmental
promotion on higher qualification basis
for your kind information and
necessary action please.

Date: 29/05/2014

Dr. H. S. Khan
[Signature]

Thanks,
Yours Sincerely,
Noor Daryll Khan
C.T. Pharmacy
DHO NWFP, Loral
District

ADG(HR)
for needful on
per court decision/ab
29/05
DD CPJ
put

[Signature]

1/10

Department of Court Services
Laboratory



A case on review to determine
if the Court Services Laboratory
has sufficient information and
resources to conduct a
review of the original
information on which the
Court Services Laboratory
based its original
recommendation.

1/10/74

From
John
Near
G.T.
and
District

1/10/74

1/10/74

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ذوقالت نامہ

بعدالت جناب عبدالرحمن فوانہ سروس سپر ویزن
ضلع۔

مقدمہ تجداری اور دیوان

جناب: صاحب سلسلہ
لورڈ ایف جی ایم بنام گورنمنٹ آف پاکستان
باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں باطنی طرف سے واسطے بیرونی وجوب دہی دکن کاروائی متعلقہ آن مقام لیسٹس کے لیے
محمد الیاس اور کرنٹی ایڈوکیٹ سپریم کورٹ آف پاکستان تحریر کرے
اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز دیکل صاحب کو راضی نامہ کرنے و تقریرات و
نیٹے برصغیر دینے جناب دہی اور اقبال دہی اور بصورت ڈگری کرنے اجراء اور وصولی چیک دہی یہ امر عینی دہی اور درخواست
ہر قسم کی تصدیق و راس پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم بیرونی یا ڈگری یکطرفہ یا اہل کی بنا ڈگری اور مشورتی نیز دائر
کرنے اہل گمانی و بیرونی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور دیکل یا
تیار قانونی کرانے ہمراہ یا اپنے ہمارے تقریر کا اختیار ہوگا اور صاحب مقدمہ مذکورہ کو کسی دہی ہمارے مذکورہ اختیارات حاصل ہوں گے
اور اس کا ساختہ پرواضح منظور قبول ہوگا اور ان مقدمہ میں جو فریڈ و ہر جائز التوائے مقدمہ کے سب سے ہوگا کوئی تاخیر پیش
مقام دورہ پر ہر واحد سے باہر ہونے دیکل صاحب پابند ہوں گے۔ کہ بیرونی مذکورہ کریں۔
لیذا ذوقالت نامہ لکھ دیا تاکہ مشورہ ہے۔

المرقوم:- 31 مارچ 2024ء

Attested & Accepted

Muhammad Ilyas Orakzai

Advocate Supreme Court of Pakistan
SC Enrolment No:- 5801
BC No:- 10-3471
CNIC 14101-0798923-7
Cell 0333-9191892

Handwritten signature

لورڈ ایف جی ایم
سلسلہ
کے لیے
مقدمہ مذکورہ
کا اختیار
ہوگا