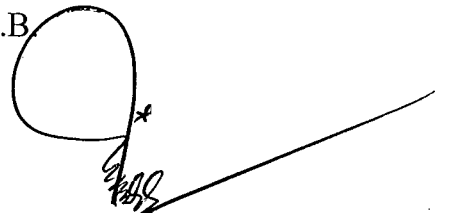


19.07.2022

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Miss Komal Jan, A.D for the respondents present.

Departmental representative produced a copy (dated 07.07.2021) of the transfer order of the spouse of petitioner who has been transferred from the post of Principal (BS-19) GGHSS Qamar Zaman Mandev District Bannu and posted her as Instructor (BSD-19) RITE (F) D.I. Khan against the vacant post. It was stated at the Bar that the request of both wife and husband to be posted at the same placed, has been honoured and they are now posted at the same place and station i.e. D.I. Khan, under the spouse policy. Copy of the transfer order is placed on file.

Learned Additional Advocate General was confronted with the question that the Service Tribunal in its judgement vide order dated 09.07.2022 had specifically directed the respondent department to post the petitioner back to Anti Corruption Court Bannu whereas vide notification dated 13.01.2022 the petitioner has been transferred to the office of District Public Prosecutor D.I Khan against the vacant post. This shows clear deviation from the specific and categoric direction contained in the said judgement. The department is therefore directed to come up with proper implementation report on 21.09.2022 before S.B.


(Mian Muhammad)
Member (E)

25.01.2022

Petitioner in person present. Mr. Muhammad Adeel Butt, Addl: Advocate General alongwith Syed Abdul Mujeeb, A.D (Legal) for respondents present.

Representative of the respondents submitted copy of notification dated 13.01.2022 which is placed on file. A copy of the same is also handed over to the petitioner. Petitioner seeks adjournment due to general strike of the bar. Adjourned. To come up for further proceedings on 14.03.2022 before S.B.


(Mian Muhammad)
Member(E)

14.03.2022


Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 09.06.2022 for the same as before.


Reader.

09.06.2022

None for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Syed Abdul Mujeeb, Assistant Director for respondents present.

Previous date was changed on Reader note. Therefore, notices be issued to petitioner and his counsel. To come up for further proceedings on 19.07.2022 before S.B.


(Fareeha Paul)
Member (E)

Handwritten note:
15.6.2022
M. Butt

23.12.2021 Petitioner in person and Muhammad Rasheed, DDA for the respondents present.

Learned DDA requested for short adjournment to contact the respondents and furnish proper implementation report on next date. Case to come up on 05.01.2022 before S.B.


Chairman

05.01.2022 Counsel for the petitioner and Mr. Muhammad Rasheed, DDA alongwith Syed Abdul Majeed, A.D (Legal) for respondents present.

Representative of the respondents stated that summary has been sent to the Chief Minister which is still pending for approval. He requested for adjournment. Last opportunity is granted. To come up for implementation report on 17.02.2022 before S.B.

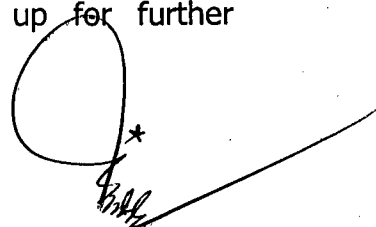


(Rozina Rehman)
Member (J)

23.11.2021

Learned counsel for the Petitioner present. Mr. Noor Zaman Khattak, District Attorney alongwith Syed Abdul Mujeeb, AD(Legal) for respondents present.

Learned District Attorney requested that summary to Chief Minister has already been submitted in compliance of order sheet dated 10.11.2021 and duly brought into the notice of court. However, the same is pending for approval of the competent authority. Learned AAG as well as learned counsel for the petitioner requested for a short adjournment. Last opportunity is allowed to the respondents and it is incumbent upon the respondents to come up with execution/implementation report final and conclusive in all respects, on next date. To come up for further proceedings on 02.12.2021 before S.B.


(Mian Muhammad)
Member(E)

02.12.2021

Learned counsel for the petitioner present. Mr. Noor Zaman Khattak, District Attorney alongwith Syed Abdul Mujeeb, AD(Legal) for respondents present.

Learned District Attorney requested for short adjournment and committed at the bar that he would come up with implementation report on the next date. Adjourned. To come up for further proceedings on 23.12.2021 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

Noted
AD

EP No. 131/2021 , *Kamran Khan vs Govt*

10.11.2021

Petitioner alongwith counsel and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Syed Abdul Mujeeb, Assistant Director (Legal) for the respondents present.

Before passing any direction in furtherance of the previous order it is deemed appropriate to dilate upon powers of this Tribunal to enforce executions. This Tribunal by virtue of sub section (2) of Section 7 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 is deemed as civil court with all powers of such court generally and specially with reference to the execution of the judgment. Section 51 of the CPC is worth reference to point out the powers of civil court and accordingly, the court may on application of the degree holder order execution of the degree among other eventualities by arrest and detention in prison and also in such other manner as the nature of the relief granted may require. Obviously, the exercise of such power is subject to the notice to the Judgment Debtor giving him an opportunity of showing cause as to why a specified coercive measure should not be taken, if the execution is not made. In the present, it is deemed appropriate to issue show cause notice to the respondents No. 2 & 3 that ~~why~~ the official vehicles allotted to them should not be got impounded through appropriate law enforcement agency in addition to stoppage of their salary, if they fail to make execution of the judgment

of this Tribunal. Office is directed to issue show cause notice to the respondents No. 2 and 3 as herein before directed because they despite several opportunities having been given are delaying the execution of the judgment of this Tribunal on one or other pretext. Case to come up on 23.11.2021 before S.B.



Chairman

29.10.2021

Learned counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl: AG alongwith Syed Abdul Mujeeb, AD (Legal) for respondents present.

Learned AAG requested for further time to submit the implementation report on the next date. Adjourned. To come up for implementation report on 05.11.2021 before S.B.



Chairman

05.11.2021

Petitioner alongwith counsel and Mr. Kabirullah Khattak, Addl. AG alongwith Syed Abdul Mujeeb, Assistant Director (Legal) for the respondents present.

Learned AAG on sensitization about the appropriate order under Section 51 CPC has requested for time to take the respondents on board to implement the judgment without further delay. Case to come up for compliance report on 10.11.2021 before S.B.



Chairman

25.10.2021

Petitioner in person and Mr. Muhammad Adeel Butt, Addl: AG alongwith Sahibzadi Yasmeen Ara, Deputy Director (Legal) for the respondents present.

The compliance report is still awaited despite assurance of the representative of the respondents given on 30.09.2021. Representative of the respondents states that implementation of the judgment is expected in the near future. In view of the assurance, another chance is given to the respondents to furnish compliance report on 26.10.2021 before S.B.


Chairman

26.10.2021

Learned counsel for the petitioner and Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Sahibzadi Yasmeen Ara, Deputy Director (Legal) for respondents present.

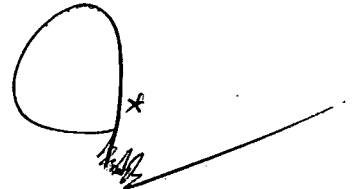
Learned AAG has informed that the concerned section in the Chief Minister office has been sensitized for placing the summary before the Worthy Chief Minister at the earliest. To come up for further proceedings on 29.10.2021 before S.B.


Chairman

30.09.2021

Petitioner in person present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Syed Abdul Mujeeb, Assistant Director for respondents present.

Representative of the respondents pledged at Bar and assured the court that summary has been moved soliciting approval of the Competent Authority (Chief Minister) to transfer the petitioner as per orders of the Service Tribunal dated 09.07.2021. Compliance report will be submitted on the next date of hearing. To come up for further proceedings before the S.B on 25.10.2021.



(MIAN MUHAMMAD)
MEMBER (E)

18.10.2021

Petitioner in person, Syed Mujeebur Rehman, Assistant Director alongwith Kabirullah Khattak, Addl. AG for the respondents present.

The representative of the respondents has stated that the case was fixed for 25.10.2021 but the respondents have been required for attendance for today by notice of the change date. The implementation in light of the assurance given on 30.09.2021 is expected before 25.10.2021 i.e. the date previously given by the Tribunal. The respondents are directed to pursue the summary moved for approval of the competent authority and to submit compliance report on 25.10.2021 positively. Adjourned accordingly.



Chairman

15.09.2021

Petitioner alongwith counsel and Mr. Muhammad Adeel Butt, Addl. AG alongwith Sahibzadi Yasmeen Ara, Deputy Director (Legal) for the respondents present.

Learned AAG assured that the efforts for implementation of the judgment in letter and spirit are in progress and a proper summary has been moved. He has been asked to provide the gist of the summary showing its text aim at implementation of the judgment, which will be placed on file for further necessary action. To come up for the needful on 16.09.2021 before S.B.


Chairman

16.09.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Syed Abdul Mugabe, A.D for the respondents present.

The later has furnished the list of summary as was required to be produced on previous date. Placed on file. Let the petitioner come up with any objection, if he has got. Case to come up on 30.09.2021 before S.B.


Chairman

EP 131/21

08.09.2021

Petitioner in person and Ziaul Qamar Safi, Deputy Director (Admn) and Naeemullah, A.D (Legal) alongwith Kabirullah Khattak, Addl. AG for the respondents present.

It has been brought into notice of this Bench that though a summary has been moved for posting of the petitioner but not in compatibility with the direction given in the judgment of this Tribunal, directing the transfer of the petitioner back to Anti-Corruption Court Bannu forthwith. Any inappropriate action on part of the respondents in the matter of petitioner's transfer or inaction, if found aimed at defeating the judgment of this Tribunal, there is likely-hood that the law may take its course. However, as a matter of judicial restraint, it is deemed appropriate to afford the respondents with an opportunity to produce the transfer order of the petitioner in due compliance of the judgment, obviously subject to decision of the CPLA, if filed by the respondents. Case to come for implementation report on 15.09.2021 before S.B.


Chairman

12.08.2021

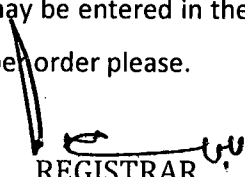


Petitioner in person and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

The respondents despite notice are not in attendance. Learned AAG present on behalf of the respondents shall sensitize them to ensure the compliance of the judgment at credit of the petitioner with specific direction for his transfer back to the Anti-Corruption Court, Bannu forthwith. Obviously, the respondents have got right to impugn the judgment before the Apex Court but if they have not filed CPLA or have filed the same but could not succeed to get the order of suspension of this judgment, they will have to implement the judgment in letter & spirit. However, if they have filed CPLA they may attach the condition of outcome of CPLA to the implementation order. Copy of this order sheet be sent to the respondents No. 2 & 3 for compliance within shortest possible time but positively before next date. Case to come up on 09.09.2021 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. 131 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15.07.2021	<p>The execution petition of Mr. Kamran Khan submitted today by Mr. Afrasiab Khan Wazir Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench at Peshawar on <u>30/07/2021</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	30.07.2021	<p>Counsel for the petitioner present.</p> <p>Notices be issued to the respondents. To come up for implementation report on 12.08.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. _____/2021

IN

Appeal No. 5237/2021

KAMRAN KHAN

VS

PROSECUTION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of Execution Petition	1- 2.
2	Affidavit	3.
3	Copy of Judgment	A	4-6.
4	Vakalat nama	7.

APPELLANT

THROUGH:

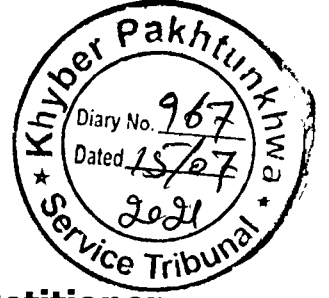

AFRASIAB KHAN WAZIR
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution petition No. 131 /2021

In appeal No. **5237/2021**

Mr. Kamran Khan, Senior Public Prosecutor BPS-19,
Anti-Terrorism Court, District Mardan.



.....Petitioner

VERSUS

- 1- The Government Of Khyber Pakhtunkhwa, Through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Prosecution, Khyber Pakhtunkhwa, Peshawar.

.....RESPONDENTS

EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS DEPARTMENT TO IMPLEMENT THE
JUDGMENT DATED 09.07.2021 IN THE ABOVE TITLED
APPEALS IN LETTER AND SPIRIT

R/SHEWETH:

- 1- That the above mentioned appeal has been decided by this august Service Tribunal vide judgment dated 09-07-2021 in favor of the Petitioner. Copy of the judgment is attached as annexure.....**A.**
- 2- That the Petitioner filed the above mentioned appeal against the impugned order dated 06.01.2021 whereby the petitioner has been transferred from Anti-Corruption Court Bannu to Anti-terrorism Court Mardan.
- 3- That after final arguments this august Service Tribunal decided the appeal in favor of the Petitioner with the directions that:-

"In view of the Foregoing, the instant appeal is accepted and the impugned order dated 06.01.2021 is set aside to the extent of appellant with direction to the respondents to transfer the appellant back to Anti-Corruption Court Bannu forthwith. Parties are left to bear their own costs. File be consigned to record room".

4- That Petitioner after obtaining attested copy of the judgment submitted before the respondents but the respondents are not willing to execute the judgment passed by this august Service Tribunal.

It is therefore, most humbly prayed that on acceptance of this execution petition the respondents may be directed to execute the above mentioned judgment passed by this august Service Tribunal in letter and spirit.

Dated: 15.07.2021.

PETITIONER


KAMRAN KHAN

THROUGH:


AFRASIAB KHAN WAZIR
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Execution Petition No. _____/2021

IN

APPEAL NO. 5237/2021

KAMRAN KHAN

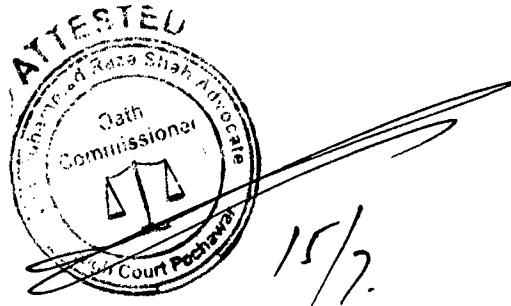
V/S

PROSECUTION DEPTT:

AFFIDAVIT

I **Afrasiab Khan Wazir, Advocate High Court**, on the instructions and on behalf of my client, do hereby solemnly and affirmed that the contents of this **Execution Petition** is true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.


AFRSAIAB KHAN WAZIR
ADVOCATE

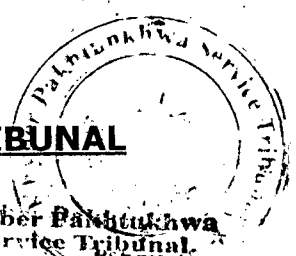


Certificate:

It is certified that no earlier Execution Petition has been file by the appellant.


AFRSAIAB KHAN WAZIR
ADVOCATE

A-4



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

APPEAL NO. 5237 /2021

Khyber Pakhtunkhwa Service Tribunal

Diary No. 5237

Dated 24/5/2021

Mr. Kamran Khan, Senior Public Prosecutor (BPS-19),
Anti-Terrorism Court, District Mardan.....**APPELLANT.**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa, Through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Home & Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director General Prosecution, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS.**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATE 06.01.2021 WHEREBY APPELLANT HAS BEEN TRANSFERRED FROM ANTI-CORRUPTION COURT BANNU TO ANTI-TERRORISM COURT MARDAN, POLITICALLY INFLUENCED IS AGAINST THE PREVAILING LAW & RULES AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal of the appellant the impugned order dated 06.01.2021 may very kindly be set aside up to the extent of appellant and the respondents may please be directed to retain or transfer the appellant on his original place of posting Anti-Corruption Court Bannu or in District Bannu under Spouse Policy. Any other remedy which this August Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant is the employee of the respondent department and currently serving as Senior Public Prosecutor (BPS-19) and since appointment the appellant is performing his duty quiet efficiently and up to the entire satisfaction of his superiors.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Filed to-day
Registrar
24/5/2021

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 5237/2021

Date of Institution ... 24.05.2021

Date of Decision ... 09.07.2021



Mr. Kamran Khan, Senior Public Prosecutor (BPS-19) Anti-Terrorism Court, District Mardan. ... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa, Through Chief Secretary, Khyber Pakhtunkhwa Peshawar and two others. ... (Respondents)

MR. AFRASIAB KHAN WAZIR,
Advocate

... For Appellant

MR.-KABIURLLAH KHATTAK,
Additional Advocate General

... For Respondents

MR. SALAH-U-DIN ...
MR. ATIQ UR REHMAN WAZIR ...

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT

Mr. ATIQ UR REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant while posted as Senior Public Prosecutor (BPS-19) in anti-corruption Court Bannu, was transferred to anti-terrorism Court Mardan vide impugned order dated 06-01-2021. The appellant termed such transfer as political victimization and challenged the impugned order by preferring departmental appeal dated 27-01-2021, which was not responded to, hence the instant service appeal with prayers that the impugned order dated 06-01-2021 may be set aside to the extent of the appellant and the appellant may be posted again on his original place of posting in anti-corruption Court Bannu or in district Bannu under spouse policy.

02. Written reply/comments were submitted by respondents.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

03. Arguments heard and record perused.

04. Learned counsel for the appellant has contended that transfer of the appellant was politically motivated, as wife of the appellant was District Education Officer(Female), who refused the re-appointment/re-instatement of the judicially declared fake candidates of the AT/TT cadres and such candidates were backed by political figures of the District. Since wife of the appellant did not bow before the illegal whims and wishes of the political figures, hence she faced the onslaught in shape of her transfer as OSD, which was challenged by wife of the appellant in this Tribunal; that this Tribunal decided in her favor and she was again adjusted as Principal in Bannu. Learned counsel for the appellant further contended that such elements started targeting the appellant being husband of the then DEO (F) and made various complaints against the appellant; that an inquiry was conducted against the appellant and finally the appellant was exonerated of all the charges leveled in the complaints. Learned counsel for the appellant explained that inspite of his exoneration, the appellant was transferred from southern region to the northern region of the province without any cogent reason. Learned counsel for the appellant argued that such transfer of the appellant is against law and natural justice, hence not tenable and liable to be set aside; that the appellant was not treated in accordance with law and as such the respondents violated article-4 and 25 of Constitution of Pakistan. Learned counsel for the appellant further argued that transfer of the appellant is against Posting/Transfer Policy (Spouse Policy) as wife of the appellant is already serving as Principal in a government school in Bannu; that transfer of the appellant was politically motivated and was not made in the public interest, hence victimized the appellant by blatantly violating clause-1 of the Posting/Transfer Policy. Learned counsel for the appellant prayed that family of the appellant is residing in Bannu and the current transfer of the appellant is causing him huge financial loss, mental agony and physical status of the appellant is not fit for such long journey, hence, in order to meet the ends of justice, the impugned order

ATTESTED

EXAMINER

**Khyber Pakhtukhwa
Service Tribunal
Peshawar**

dated 06-01-2021 being illegal, may be set aside to the extent of the appellant and the appellant may be retained at Anti-corruption Court Bannu or in Bannu. Reliance was placed on PLD 1995 Supreme Court 530, 2014 PLC (C.S) 1032, 2011 PLC (C.S) 592, 2011 SCMR 1, 2015 PLC (C.S) 1215, 2017 PLC (C.S) 1453, 2018 SCMR 1411 and 2021 PLC (C.S) 366. |

05. Learned Additional Advocate General appeared on behalf of official respondents has contended that as per Section-10 of Civil Servant Act, 1973, Every civil servant shall be liable to serve anywhere within the province and it's not up to the choice or wishes of the civil servant. Reliance was placed on 2004 PLC (CS) 705 and 2020 PLC (CS) 1207. Learned Additional Advocate General further contended that transfer of the appellant was made in the public interest and the appellant has been treated in accordance with law and rule.

06. We have heard learned counsel for the parties and have perused the record. Placed on record is judgment of this Tribunal in Service Appeal No 1490/2019, decided on 16-01-2020 in favor of wife of the appellant. This judgment speaks very high of political victimization and the worst form of discrimination meted out to wife of the appellant and which impelled us to carefully examine the impugned order on the point as to whether the impugned order in respect of the appellant was issued in the public interest or otherwise. We have observed that the appellant was transferred to Mardan as Senior Public Prosecutor ATC Mardan vide the impugned order and is placed subordinate to his junior, Mr. Raza Khan, who was transferred to Mardan as District Public Prosecutor in the same transfer order at serial No. 11 of the transfer order. It was noted that Mr. Raza Khan is at Serial No. 34 of the tentative seniority list issued on 27-05-2021, whereas the appellant stands at Serial No. 14 of the said list. Placing a senior officer subordinate to his junior is an unusual practice, which was required to be noticed by the respondents. We are unable to understand as to how the respondents justifies such action. Careful perusal of the impugned order would reveal that while re-shuffling the prosecutors, a joint transfer order was

ATTESTED

issued and a total of 12 officers were re-shuffled, but all except the appellant were adjusted either in the same district or adjacent district, whereas the appellant was transferred to a far flung district much away from his home district, which smacks mala fide on part of the respondents. It was further noted that the appellant was transferred from Anti-Corruption Court Bannu and Mr. Abdul Qadus, Deputy Public Prosecutor (BPS-18) was posted in his place in own Pay & Scale vide Serial No. 12 of the impugned order, which speaks volumes of the high-handedness and misuse of authority by the respondents.

07. Coming to the next question, as to what prompted the respondents to transfer the appellant. Record reveals that a complaint was lodged against the appellant by the same persons, who lodged complaints against his wife, who was District Education Officer (F) Bannu and who refused the re-appointment/reinstatement of the judicially declared fake candidates of the AT/TT cadres and such candidates were daughters of the complainants. Modus operandi adopted by the complainants against the appellant was the same, which was used against his wife. A fact-finding inquiry was conducted against the appellant, where anguish of the complainants against wife of the appellant is evident from their statements recorded in the fact-finding inquiry, who have narrated the story as to how wife of the appellant was removed by lodging complaints and publishing news against her in the newspapers. The inquiry however exonerated the appellant from all the charges leveled against him and the inquiry officer has categorically mentioned that such complaint was based on mala fide and the complainants want to achieve their personal goal by leveling allegations against the appellant, but inspite of such clarifications and exoneration of the appellant from the charges, the appellant was transferred without any cogent reason.

08. While challenging the impugned transfer order, the appellant filed a departmental appeal for cancellation of his transfer with special emphasis on spouse policy, as his wife was also serving as Head Master in a government school in Bannu,

ATTESTED

EXAMINER

Khyber Pakhtunkhwa
Service Tribunal
Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar the 13th January, 2022

NOTIFICATION

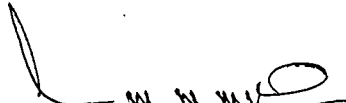
NO. SO(Prosc)/HD/2-10/2020-21/Posting / Transfer: In pursuance of the Khyber Pakhtunkhwa Services Tribunal short order dated 09.07.2021 in Service Appeal No. 5237/2021, the Competent Authority has been pleased to transfer Mr. Kamran Khan Wazir Senior Public Prosecutor (BS-19) from the Anti-Terrorism Court Mardan and post him as Senior Public Prosecutor (BS-19) in the office of District Public Prosecutor D.I.Khan against the vacant post with immediate effect subject to the final outcome of the CPLA pending in the Supreme Court of Pakistan Islamabad.

SECRETARY
HOME DEPARTMENT

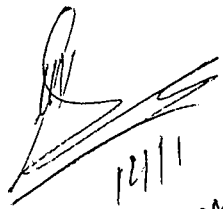
Endst: No. & Date even.

Copy forwarded to the:-

1. Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
2. Accountant General Khyber Pakhtunkhwa.
3. Director General Prosecution, Khyber Pakhtunkhwa.
4. Director Legal, Directorate Prosecution Khyber Pakhtunkhwa
5. Regional Directors Prosecution Mardan & D.I.Khan.
6. District Accounts Officer Mardan & D.I.Khan.
7. PSO to Chief Secretary Khyber Pakhtunkhwa.
8. District Public Prosecutors Mardan & D.I.Khan.
9. Officer concerned through Directorate of Prosecution.
10. Section Officer (Court), Home & TAs Department, Khyber Pakhtunkhwa
11. PS to Secretary Home & TAs Department, Khyber Pakhtunkhwa.
12. Master File.


(Khushi Muhammad Khan)
Section Officer (Prosecution)

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14-1-22

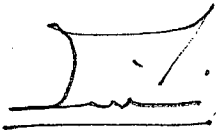

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114/11
ADA Pl.

but the respondents turned deaf ear over his request. We are unable to understand as to how the respondent react adversely to their own policies. Clause (i) of the posting/transfer policy states that all posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the government servants. The situation as explained above shows that the impugned transfer order was not made in the public interest, rather was made on complaint of interest seekers, having no value in the eye of law. Similarly Clause (ix) of the said policy is in respect of posting of husband and wife at one station, which was required to be respected, but the respondents though are custodian of law/rules, but had scant regard for the same. We are of the considered opinion that the appellant was implicated in a fabricated case, who successfully came out of it with clean hands, but still he was victimized for no fault of him. Such act of respondents smacked of discrimination, mala fide and personal grudge against the appellant.

09. In view of the fore going, the instant appeal is accepted and the impugned order dated 06-01-2021 is set aside to the extent of the appellant with directions to the respondents to transfer the appellant back to Anti-Corruption Court Bannu forthwith. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
09.07.2021


(SALAH-U-DIN)
MEMBER (JUDICIAL)


(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 13/7/2021
Number of Words 2800
Copying 30
Urgent 4
Total 34
Date of Completion of Copy 13/7/2021
Date of Delivery of Copy 13/7/2021

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2021

Ramzan Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Prosecution Deptt:

(RESPONDENT)
(DEFENDANT)

I/We Ramzan Khan

Do hereby appoint and constitute **AFRASIAB KHAN WAZIR, Advocate High Court, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2021

Ramzan Khan
CLIENT

Afrasiab Khan Wazir
ACCEPTED
AFRASIAB KHAN WAZIR
ADVOCATE
(bc-17-7299)

Mobile No.0312-9888752



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1723-25 / ST

Dated: 01/09 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

1. Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. The Secretary Home & Tribal Affairs Department,
Government of Khyber Pakhtunkhwa,
Peshawar.
3. Director General Prosecution,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: ORDER IN EXECUTION PETITION NO. 131/2021, MR. KAMRAN KHAN.

I am directed to forward herewith a certified copy of order dated 12.08.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,

S.B

PESHAWAR
E/P No. 131/2021

No.

5237

Appeal No..... of 20

Mr. Kamran Khan

Appellant/Petitioner

Through chief ^{Versus} Secy Pesh.

Respondent

Respondent No.....

The Govt. of KPK Through Chief Secretary
KPK Peshawar.

Notice to: —

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

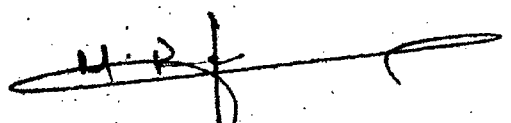
Copy of ^{E/P} appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

6/12

Given under my hand and the seal of this Court, at Peshawar this.....

Oct 21

Day of.....20


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

E/P No 131/2021

Appeal No.....5237..... of 2021

.....Mr. Kamran Khan.....Appellant/Petitioner

Versus

.....Through chief Secy. KP. Pesh. Respondent

Respondent No.....3.....

Notice to:

The Director General Prosecution KPK
Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....18/10/2021.....at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of ^{EIP} appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....6/10.....

Day of.....Oct.....20 21

[Signature]
07/10/2021

[Signature]
Registrar
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT




SUMMARY FOR CHIEF MINSITER

Sr.No.	NAME OF OFFICER WITH DESIGNATION AND BPS	FROM	TO	REMARKS
	Mr. Kamran wazir Senior Public Prosecutor (BPS-19)	Senior Public Prosecutor (BPS-19) Anti Terrorism court Mardan	Senior Public Prosecutor (BPS-19) D.I.Khan against vacant post	The wife of officer is a civil servant and working in education department. He is claiming his posting on spouse policy.

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT**

SUMMARY FOR CHIEF MINSITER

2. Proposal contained in Para-1 of the summary is submitted for approval of the Honorable Chief Minister, Khyber Pakhtunkhwa, in the public interest.



(Ikram Ullah)

Secretary to Govt. of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

Chief Secretary,
Khyber Pakhtunkhwa

Chief Minister



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480, Fax # 091-9211419

Dated Peshawar the July 7th 2021

NOTIFICATION

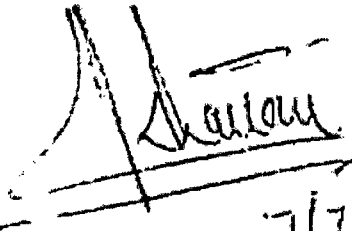
NO.SO(S/F)/E&SE/4-16/2020/Neelofar Kamran: The Competent Authority is pleased to transfer Mst. Neelofar Kamran, Principal (BS-19) GGHSS qamar Zaman Mandev district Bannu and to post her as Instructor (BSD-19) RITE (F) D. I. Khan against vacant post in the public interest with immediate effect.

2. No TA/DA is allowed.

SECRETARY
ELEMENTARY & SECONDARY
EDUCATION DEPARTMENT

Endst: of even No.& date:

- Copy forwarded to the:
1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
 2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
 3. District Education Officers (Female), Bannu/D.I.Khan
 4. District Accounts Officer, Bannu/D.I.Khan
 5. Director EMIS, E&SE Department.
 6. PS to Secretary, E&SE Department.
 7. Officer concerned.
 8. Office order file.


7/7/21
(FAWAD KHATTAK)
SECTION OFFICER (S/F)

DK

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CMA. NO. _____/2021.

IN

CPLA NO. 447-P/2021

Govt. of K.P. through Chief Secretary, Peshawar & others

_____PETITIONERS

VERSUS

Kamran Khan

_____RESPONDENT

APPLICATION UNDER ORDER-XXXIII-RULE-VI OF
THE SUPREME COURT ORDERS & RULES 1980,
FOR EARLY HEARING AND TRANSFER OF CPLA
NO. 447-P/2021, FROM REGISTRY BRANCH OF
PESHAWR TO PRINCIPAL SEAT AT ISLAMABAD.

RESPECTFULLY SEWETH:

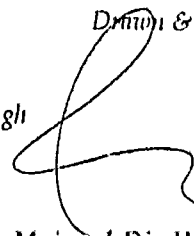
1. That the petitioners have filed the above noted CPLA along-with stay application in the Registry Branch at Peshawar of this august Court.
2. That no date has yet been fixed in the case for hearing due to non-availability of the bench at the Registry Branch at Peshawar.
3. That the respondent has initiated implementation proceeding before the learned Khyber Pakhtunkhwa Service Tribunal Peshawar wherein notice has been issued to the petitioners for implementation and compliance report for 15-09-2021 (Copy of the order is attach).

4. That the learned Khyber Pakhtunkhwa Service Tribunal Peshawar is stressing for implementation of the impugned order in the CPLA mentioned above which is pending before this august Court at branch Registry at Peshawar.
5. That if the above mentioned CPLA is not fixed earlier for hearing the very purpose of the CPLA would be lost and the petitioners will face the execution proceeding of the Service Tribunal Peshawar.
6. That the facts and circumstances explain above an early date of hearing and transfer of case from Registry Branch at Peshawar to the Principal seat at Islamabad may please be order to save the petitioners from inconvenience.
7. That it is in the interest of justice and fair play if this august Court is pleased to fix the above mention CPLA as convenient to this August Court for hearing at Islamabad.

It is, therefore, humbly prayed that the above mentioned CPLA along-with stay application may kindly be transfer from Peshawar Registry Branch to Principal seat at Islamabad for early hearing as convenient to this August Court.

Drafted & Filed by

Through



Moin-ud-Din Humayun
Advocate on Record
Supreme Court of Pakistan
For Government/Petitioners



MARDAN MEDICAL COMPLEX

Teaching Hospital Mardan KPK

OUT PATIENTS DEPARTMENT

RS. 10

Name: Kamran Khan Sex: Male
Age: 53 Years 0 Months 0 Day

Department: General P Address: Mardan

OPD No.: 12109080471059 Date: 02 Sep 2021 11:39:41

R/-

History

Medical Record # 12109080471059
C/O - BPR - 25 days

Opus No 95

Present by: Wahid Gul
Burning defecation Rd.

Ref- 10

Fresh blood.

Clinical Examination

Tab. Daylon 500mg

PE:- 3rd degree

U34 - 4 + 4 + "

external hemorrhoids

U34 - 11 + 11 W/L

at 3, 7 and 11 o'clock.

U1 - 2 - 1 + 1 W/L

Provisional Diagnosis

Tab. Flazyl 400mg

Position

U7 - 1 + 1 + 1

Investigations Required

hyp. Duphalar
Evisal - 4 - 4 - 4

At.

Tab. Biser 500mg

U1 - 0

pt needs hemorrhoidectomy as the ultimate treatment

[Signature]



OFFICE OF THE
DISTRICT PUBLIC PROSECUTOR, MARDAN

No. 1156 /DPP/MRD

Dated: 10 /09/2021

To,

The Director Administration,
Khyber Pakhtunkhwa, Peshawar.

Subject: - LEAVE ACCOUNT OF MR. KAMRAN WAZIR SR. Public
Prosecutor ATC-I MARDAN.

Respected Sir,

With reference to telephonic message, leave account of Mr. Kamran
Wazir Sr. Public Prosecutor ATC-I Mardan is as under,

- i. 25/03/2021 to 26/03/2021 => 02
- ii. 11/06/2021 to 12/06/2021 => 02
- iii. 24/06/2021 to 26/06/2021 => 03
- iv. 07/07/2021 => 01
- v. 09/07/2021 => 01
- vi. 09/09/2021 => 01
- vii. 10/09/2021 to 11/09/2021 => 02

Total 12


RAZA KHAN

District Public Prosecutor,
Mardan

No & Date Even:

Copy forwarded to:

1. The Worthy Regional Director Prosecution, Mardan Division Mardan.
2. Office Copy.

DISTRICT PUBLIC PROSECUTOR,
MARDAN



**DIRECTORATE OF PROSECUTION
KHYBER PAKHTUNKHWA**

No. DPL/S.A No: 5237/2021 / 16000-01.
Dated Peshawar to 10/9/2021.
Office Phone # 091-9212559
Fax # 091-9212559
E-mail kp prosecution@yahoo.com

To

**The Advocate on Record,
Office of Advocate General,
Khyber Pakhtunkhwa, Peshawar.**

Subject: **REQUEST FOR FILING OF APPLICATION FOR EARLY HEARING OF THE CASE TITLED KAMRAN KHAN VS. GOVERNMENT OF KHYBER PAKHTUNKHWA AND OTHERS.**

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith an attested copy of self-explanatory order dated 8.9.2021, passed by the honorable Service Tribunal, Khyber Pakhtunkhwa and to state that the execution petition No. 131/2021 in appeal No. 5237/2021, was fixed for execution proceedings on 8.9.2021, for implementation of order/judgment dated 9.7.2021. The Honorable Tribunal has stressed hard for implementation of the court order and has given last opportunity to the respondents and the case has been adjourned to 15-09-2021.

I am therefore, directed to request you to file an application for early hearing of the CPLA/status quo application before the apex court of Pakistan in order to avoid any embarrassing situation before the honorable Tribunal, please.

Yours faithfully,

Assistant Director Legal

Copy forwarded for information to the:

- PA to Director General Prosecution, KP Peshawar.

Assistant Director Legal

10/9/2021

*Attested copy of
Execution application
and last order sheet
for further process.*

Summary For Chief Minister

Subject

Posting/Transfer of Prosecutors

Initiated By



Print



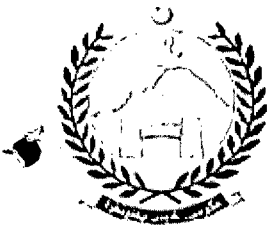
File Tracking ID
HnTAD-14-76-00303

Current Status

✓ Active

Draft For Approval

View Details



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 2321-22 /ST Dated: 22/11/2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To
22-11-21
22/11/2021

1. SECRETARY HOME & TRIBAL AFFAIRS DEPARTMENT, GOVERNMENT OF KHYBER PAKHUTUNKHWA, PESHAWAR.
2. DIRECTOR GENERAL PROSECUTION, KHYBER PAKHTUNKHWA, PESHAWAR.

SUBJECT: SHOWCAUSE NOTICE IN EXECUTION PETITION NO: 131/2021 TITLED
Mr. KAMRAN KHAN-VS-SECRETARY HOME & TRIBAL AFFAIRS
DEPARTMENT, DIRECTOR GENERAL PROSECUTION AND ONE OTHER.

I am directed to say that execution petition No. 131/2021 was filed in this Tribunal against the respondents for disobedience of the order dated: 09-07-2021 passed by this Tribunal in service appeal No. 5237/2021 titled Mr. Kamran Khan Vs Chief Secretary and two others.

That when the above execution petition came up for hearing before this Tribunal on 10-11-2021, the following orders were passed:

"Petitioner alongwith counsel and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Syed Abdul Mujeeb, Assistant Director (Legal) for the respondents present.

Before passing any direction in furtherance of the previous order it is deemed appropriate to dilate upon powers of this Tribunal to enforce executions. This Tribunal by virtue of sub section (2) of section 7 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 is deemed as civil court with all powers of such court generally and specially with reference to the execution of the judgment. Section 51 of the CPC is worth reference to point out the powers of civil courts and accordingly, the court may on application of the degree holder order execution of the degree among other eventualities by arrest and detention in prison and also in such other manner as the nature of the relief granted may require. Obviously, the exercise of such power is subject to the notice to the Judgment Debtor giving him as opportunity of showing cause as to why a specified coercive measure should not be taken, if the execution is not made. In the present, it is deemed appropriate to issue show cause notice to the respondents No. 2 & 3 that why the official vehicles allotted to them should not be got impounded through appropriate law enforcement agency in addition to stoppage of their salary, if they fail to make execution of the judgment of this Tribunal. Office is directed to issue show cause notice to the respondents No. 2 and 3 as herein before directed because they despite several opportunities having been given are delaying the execution of the judgment of this Tribunal on one or other pretext. Case to come up on 23-11-2021 before S.B. "

You are, therefore, served with show cause notice to explain as to why appropriate action may not be initiated against you for non-compliance of order of this Tribunal dated: 09-07-2021.

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

DR

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CMA. NO. _____/2021.

IN

CPLA NO. 447-P/2021

Govt. of K.P. through Chief Secretary, Peshawar & others

-----PETITIONERS

VERSUS

Kamran Khan

-----RESPONDENT

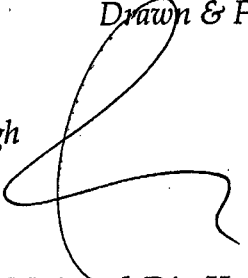
APPLICATION UNDER ORDER-XXXIII-RULE-VI OF
THE SUPREME COURT ORDERS & RULES 1980,
FOR EARLY HEARING AND TRANSFER OF CPLA
NO. 447-P/2021, FROM REGISTRY BRANCH OF
PESHAWR TO PRINCIPAL SEAT AT ISLAMABAD.

RESPECTFULLY SEWETH:

1. *That the petitioners have filed the above noted CPLA along-with stay application in the Registry Branch at Peshawar of this august Court.*
2. *That no date has yet been fixed in the case for hearing due to non-availability of the bench at the Registry Branch at Peshawar.*
3. *That the respondent has initiated implementation proceeding before the learned Khyber Pakhtunkhwa Service Tribunal Peshawar wherein notice has been issued to the petitioners for implementation and compliance report for 15-09-2021 (Copy of the order is attach).*

4. *That the learned Khyber Pakhtunkhwa Service Tribunal Peshawar is stressing for implementation of the impugned order in the CPLA mentioned above which is pending before this august Court at branch Registry at Peshawar.*
5. *That if the above mentioned CPLA is not fixed earlier for hearing the very purpose of the CPLA would be lost and the petitioners will face the execution proceeding of the Service Tribunal Peshawar.*
6. *That the facts and circumstances explain above an early date of hearing and transfer of case from Registry Branch at Peshawar to the Principal seat at Islamabad may please be order to save the petitioners from inconvenience.*
7. *That it is in the interest of justice and fair play if this august Court is pleased to fix the above mention CPLA as convenient to this August Court for hearing at Islamabad.*

It is, therefore, humbly prayed that the above mentioned CPLA along-with stay application may kindly be transfer from Peshawar Registry Branch to Principal seat at Islamabad for early hearing as convenient to this August Court.

Drawn & Filed by
Through 
Moin-ud-Din Humayun
Advocate on Record
Supreme Court of Pakistan
For Government/Petitioners