

18th July 2022 1. None for the petitioner present. Syed Naseer Ud Din Shah, Asst: AG for respondents present.

2. Through this implementation/execution petition, the petitioner Syed Alam Shah has prayed that the respondents might be directed to issue promotion to the petitioner in BS-14 from the date when his juniors were promoted i.e w.e.f 08.01.2016 with all back benefits. The respondents had, on the previous date, produced an order bearing No. DPL/Service Appeal No. 924/2018/15982-8 dated 24.11.2021, wherein the promotion notification dated 03.01.2018, to the extent of Syed Alam Shah, petitioner was considered from 08.01.2016, instead of 03.01.2018, with all back benefits also placing his name at his rightful position in the seniority list. Copy of the said order was handed over to the learned counsel for the petitioner on the previous date but due to unknown reason it was adjourned whereas not only compliance of the judgment seems to have been done but also the prayer in the execution petition has also been granted, therefore, this execution petition is filed. Consign.

3. *Pronounced in open court in Camp Court Abbottabad and given under my hand and seal of the Tribunal on this 18th day of July, 2022.*



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

Draft

18th July 2022 1. None for the petitioner present. Syed Naseer Ud Din Shah, Asst: AG for respondents present.

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3. *Pronounced in open court in Camp Court Abbottabad and given under my hand and seal of the Tribunal on this 18th day of July, 2022.*


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

EP 105/2021.

13.10.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Saeed Naeem, Deputy Director Prosecution for the respondents.

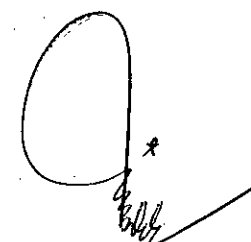
The learned AAG on information from the representative of the respondents states that CPLA against the judgment of this Tribunal has already been filed before the August Supreme Court of Pakistan which is fixed for tomorrow. Let the respondents pursue the CPLA but if they fail to get the judgment of this Tribunal suspended, they will have to issue appropriate order for implementation of judgment of this Tribunal conditionally subject to decision of the CPLA by the August Supreme Court of Pakistan. The respondents are directed to issue the order in compliance with the operative part of the judgment and produce the order on next date. Case to come up for compliance report on 22.12.2021 before the S.B at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

22.12.2021

Learned counsel for the petitioner present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Syed Abdul Mujeeb, AD (Legal) for respondents present.

Respondent-department submitted an office order dated 24.11.2021 in pursuance of the Service Tribunal judgement dated 17.02.2021, the petitioner has been promoted w.e.f 08.01.2016 instead of 03.01.2018, with all back benefits. Copy of the said office order is placed on file as well as handed over to the clerk of learned counsel for the petitioner. Adjourned. To come up for further proceedings on 14.02.2022 before S.B at camp court Abbottabad.


(Mian Muhammad)
Member(E)
Camp Court Abbottabad

13.08.2021

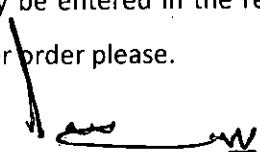

Sardar Muhammad Azeem, Advocate for petitioner
present and heard.

Through this petition, the petitioner sought implementation of the judgment dated 17.02.2021 at his credit. According to operative part of the judgment he was held entitled for promotion w.e.f. 08.01.202016, when his other colleagues were promoted. Therefore, notice of the petition alongwith copy of this order sheet be sent to the respondents, directing them to come up before the Tribunal alongwith implementation report on 13.10.2021 at Camp Court, Abbottabad.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. 105 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.05.2021	<p>The execution petition of Syed Alam Shah submitted today by Sardar Muhammad Azeem 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> <p>This execution petition be put up before S. Bench on <u>13-8-2021</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

خدمت رسید میں ماہ بیکروں کو سرچھوٹا کیا اور

Put up to the worthy chain
with mahant approval

سید عالم شاہ نام

اداء عن 108
21



Reader

درواہہ پر ادوار تاریخ معروہ فرمائے ادوار عنوان باد میں
مقام لیسوا

جی عالی، بیات درواہہ = ذیل میں ہے

(1) رقم سٹی نے ماہ اپریل میں ادوار عنوان باد داخل کیا
حسب ایکٹ کوہ تاریخ پستی معروہ ہو سکی۔

(2) رقم ادوار عنوان باد میں تاریخ معروہ نہ ہونے کا وجہ ہے

سٹی کو تا قابل تلافی نقصان ہو ونا ہے۔ اور یہ معروہ 13 اگست 2021
کو سٹی کے ویکو کا ایک دیگر قسم عدالت انجور میں معروہ ہے (درمدم) ہذا کو 13 اگست میں معروہ کیا جائے

اسد کا حصہ ادوار عنوان باد میں تاریخ پستی لیسوا

معروہ فرمائے کا حکم صادر فرمایا

86/7/21 (تعلیم)

سید عالم شاہ

Fix in Peshawar
for 13/8/2021.

06/8/2021

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHUWA, PESHAWAR

Execution Petition No. _____ 2021

IN

Service Appeal No. 924/18

Syed Alam Shah son of Sikandar Shah (Senior Clerk), resident of Post Officer Lassan Nawab Tehsil and District Mansehra.

...PETITIONER

VERSUS

Secretary of Government of Khyber Pakhtunkhwa Home and Tribunal affairs Department Peshawar & others.

...RESPONDENTS


EXECUTION PETITION

INDEX

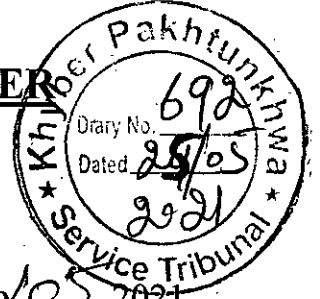
S.#	Description	Page No.	Annexure
1.	Execution petition	1 to 3	
2.	Copy of application for implementation of judgment		"A"
3.	Copy of Judgment		"B"
4.	Wakalatnama		

Through

Dated: 29/11/2021


(Sardar Muhammad Azeem)
Advocate, Abbottabad

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR



Execution Petition No. 105/2021

IN

Service Appeal No. 924/18

Syed Alam Shah son of Sikandar Shah (Senior Clerk), resident of Post Officer Lassan Nawab Tehsil and District Mansehra.

...PETITIONER

VERSUS

1. Secretary of Government of Khyber Pakhtunkhwa Home and Tribunal affairs Department Peshawar.
2. Director General Prosecution Khyber Pakhtunkhwa, Peshawar.

...RESPONDENTS

**EXECUTION PETITION SEEKING FOR
IMPLEMENTATION OF JUDGMENT DATED
17/02/2021 IN SERVICE APPEAL NO. 924/18. BY
THIS HONOURABLE TRIBUNAL KHYBER
PAKHTUNKHWA CAMP COURT ABBOTTABAD.**

Respectfully Sheweth;-

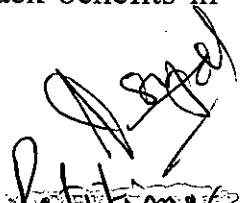
That Facts forming the background of instant service
appeal are arrayed as under;-

1. That the Respondent/ Department granted Promotion to Appellant in BPS-11 from the post of Junior Clerk to BPS-14 Post of Senior Clerk vide Order No. DP/ESA (100) 57-84 dated 03/01/2018 with immediate effect instead of from the date of order when his junior were promoted i-e 08/01/2016.
2. That the petitioner filed Appeal No. 924/18 Before this Honourable Tribunal against his promotion order for amendment in promotion order to the extent that the petitioner may be allowed/ bonafide promotion from the date when his Junior were promoted instead of with immediate effect.
3. That the appeal of the petitioner accepted by this Honourable Tribunal vide Judgment Dated 17/02/2021 at camp court Abbottabad. Copy of Judgment is annexed as Annexure "A".
4. That the petitioner submitted judgment allowing application for Implementation of Judgment before Respondents but the Respondents not implement the Judgment of this Honourable Tribunal uptill

now and attitude of the Respondents is prevaricative.

5. That the Act of the Respondents regarding non implementation of Judgment of this Honourable Tribunal dated 17/02/2021 is clear violation and contempt of this Honourable Tribunal.

It is therefore, respectfully prayed that on acceptance of this petition respondents may graciously be directed to issue promotion order to appellant in BPS-14 from the date when his Junior were promoted i-e 08/01/2016 with all back benefits in the interest of justice.

...
...Petitioner

Through

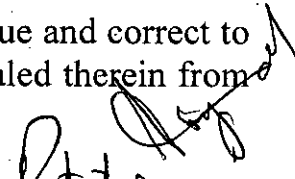
Dated: 29/4/ /2021



(Sardar Muhammad Azeem)
Advocate, Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

...
...Petitioner

23-4-2016 کو جناب کی خدمت میں استعفیٰ کر رہی اور تین روزہ عہدہ پر فرائض کی

تہہ کر رہی اور اس میں سے ایک دن کے لیے عہدہ پر فرائض کی ذمہ داری سونپ کر رہی اور اس

افراد کی خدمت میں عہدہ پر فرائض کی ذمہ داری سونپ کر رہی اور اس کے لیے (رٹائن لفٹ ہے)

تہہ کر رہی کے خلاف ایک نے عہدہ پر فرائض کی درخواست پر (By name)

افراد کی Pending تھی۔

جس کو اس نے سونپ کر رکھا تھا اس میں سے ایک دن کے لیے عہدہ پر فرائض کی ذمہ داری سونپ کر رہی اور اس کے لیے (رٹائن لفٹ ہے)

تہہ کر رہی اور اس میں سے ایک دن کے لیے عہدہ پر فرائض کی ذمہ داری سونپ کر رہی اور اس کے لیے (رٹائن لفٹ ہے)

تہہ کر رہی اور اس میں سے ایک دن کے لیے عہدہ پر فرائض کی ذمہ داری سونپ کر رہی اور اس کے لیے (رٹائن لفٹ ہے)

تہہ کر رہی اور اس میں سے ایک دن کے لیے عہدہ پر فرائض کی ذمہ داری سونپ کر رہی اور اس کے لیے (رٹائن لفٹ ہے)

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924/18

عنوان: درخواست عہدہ پر فرائض کی ذمہ داری سونپ کر رہی اور اس کے لیے (رٹائن لفٹ ہے)

(Trough Proper Chanel)

عہدہ پر فرائض کی ذمہ داری سونپ کر رہی اور اس کے لیے (رٹائن لفٹ ہے)

Handwritten signature or mark.

Sardar Muhammad
Adil
Abdullah

(B)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, ABBOTTABAD

Service Appeal No.924/2018



Date of Institution ... 23.07.2018
Date of Decision ... 17.02.2021

Attested
Sardar Muhammad
Advocate
Abbottabad

Syed Alam Shah son of Sikandar Shah Senior Clerk resident of Post Office Lassan Nawab Tehsil & District Mansehra.

ATTESTED

... (Appellant)

VERSUS

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Secretary of Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department Peshawar and Six others.

... (Respondents)

Sardar Muhammad Azeem,
Advocate

... For appellant.

Riaz Khan Paindakheil,
Assistant Advocate General

... For respondents.

ROZINA REHMAN
ATIQU-UR-REHMAN WAZIR

... MEMBER (J)
... MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER : Brief facts of the case are that appellant was appointed Junior Clerk in BPS-05 in C&W Department on 12.03.1995. He was adjusted in BPS-07 in the Khyber Pakhtunkhwa Law, Parliamentary

17/2/21

Affairs & Human Rights Department on 21.07.2013. Those Junior Clerks who were junior to the appellant were promoted from BPS-11 to BPS-14 during the year 2016 but appellant was not promoted on the pretext that an inquiry was pending against him whereas the said inquiry was decided in his favor. Respondents No.3 to 7 who were junior to appellant were promoted as Senior Clerk in the year 2016 whereas appellant was promoted on 03.01.2018 but with immediate effect. He then filed a departmental appeal but the same was not responded to, hence, the instant service appeal.

2. Learned counsel for appellant argued that the promotion order of the appellant issued with immediate effect is discriminatory and that justice demands that the appellant may be treated in accordance with law from the date when his juniors were promoted.

3. Conversely, learned A.A.G submitted that a meeting of Departmental Promotion Committee was convened on 29.01.2016 for the purpose of promotion of Junior Clerks to the posts of Senior Clerks and that the name of appellant was also included in the working paper however, he was deferred due to pending inquiry against him and after exoneration from the inquiry, appellant was promoted and that question of superseding the appellant by the junior colleagues does not arise and lastly, he submitted that no discrimination to the appellant was committed rather he was promoted in accordance with law and rules. He, therefore, requested for dismissal of the instant appeal.

4. Record reveals that meeting of departmental selection committee was convened for the purpose of promotion of Junior Clerks (BPS-11) to the post of Senior Clerk (BPS-14) and the name of the appellant was also

Attested
Sardar Muhammad
Azeem
Advocate Abbottabad

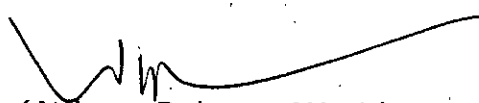
ATTESIED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

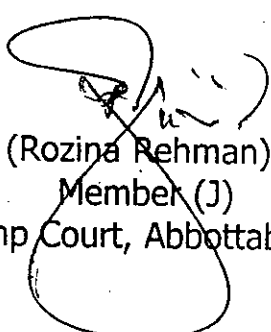
17/2/21

included in the working paper, the committee however deferred his case due to a pending inquiry against him. The appellant after exoneration from the charges, was promoted to the post of Senior Clerk(BPS-14), but with immediate effect and his name was also placed in his due place in the seniority list, whereas the appellant is seeking relief to the effect that his promotion shall be made effective from the date, when his juniors were promoted, as he was deferred and not superseded. The learned attorney when confronted with the proposition conceded to the fact that he was deferred for an inquiry pending against him and after his exoneration, respondents were required to effect his promotion from the date i.e. 08-01-2016 when his other colleagues were promoted.

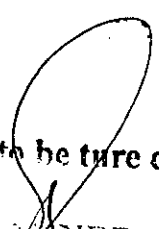
5. In the light of foregoing reasons, the appeal in hand is accepted as prayed for. No orders as to costs. File be consigned to record room

ANNOUNCED.
17.02.2021


(Attiq ur Rehman Wazir)
Member (E)
Camp Court, Abbottabad


(Rozina Rehman)
Member (J)
Camp Court, Abbottabad

Certified to be true copy


Khayam
Service Tribunal,
Peshawar

Date of Presentation of Application 2-3-2021
Number of Words 2000
Copping Fee 32 -
Urgent 4 -
Total 26 -
Name of Copy R
Date of Completion of Copy 2-3-2021
Date of Delivery of Copy 2-3-2021

21.01.2021

Due to COVID-19, the case is adjourned for the same on 17.02.2021 before D.B.


READER

17.02.2021


Appellant present through counsel.


Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Arguments heard. Vide detailed judgment of today of this Tribunal placed on file, the appeal in hand is accepted as prayed for. No orders as to costs. File be consigned to record room.


ANNOUNCED.

17.02.2021


(ATIQU-UR-REHMAN WAZIR)
Member (E)
Camp Court, Abbottabad


(ROZINA REHMAN)
Member (J)
Camp Court, Abbottabd

ATTESTED


ENAB WAZIR
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

وکالت نامہ

کورٹ فیس

بعدالت ان کے سول سٹریٹس پور

عنوان: سید عالم شاہ بنام گورنمنٹ

مخانب: Petitioner

نوعیت مقدمہ Execution petition

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسے پیروی وجواب دہی کل کاروائی متعلقہ آس مقام
سردار عظیم اکو کو بیج اہلکرم بہادر

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب
موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء
وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور
کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار
بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و
قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔
نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف
پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف
مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالش بصیغہ مفلسی کے دائرہ کرنے اور اس کے
پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

الرقوم: 27/4/21

بمقام: سید عالم شاہ

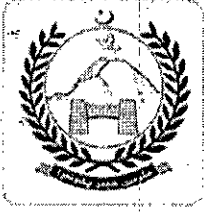
السعد

السعد

Accepted

Sardar Muhammad Azeem

Sardar Muhammad
Azeem
Advocate Abbottabad



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1657-58/ST

Dated: 25/08 /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. 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. 105/2021, SYED ALAM SHAH.

I am directed to forward herewith a certified copy of order dated 13.08.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR



**DIRECTORATE OF PROSECUTION
KHYBER PAKHTUNKHWA**

No. DPL / Service Appeal No. 924/2018

Dated Peshawar 24 / 11 / 2021 / 15982-85

Office Phone # 91-9212559

Fax # 091-9212559

E-mail kpprosecution@yahoo.com

ORDER:

No. DP/E&A/

In pursuance of judgment/order of the Supreme Court of Pakistan in Civil Petition No. 252-P/2021, Dated: 14-10-2021, and Khyber Pakhtunkhwa Service Tribunal decision in Service Appeal No. 924/2018 dated: 17/02/2021, the Competent Authority is pleased to amend the promotion notification dated: 03-01-2018, to the extent of Syed Alam Shah, Senior Clerk/Assistant, by considering his promotion from the 08-01-2016, instead of 03-01-2018, with all back benefits by placing his name at his rightful position in the seniority list.

-Sd-

Director General Prosecution
Khyber Pakhtunkhwa.

Endst : of even No. dated:

Copy forwarded for information to the:

- District Public Prosecutor, Mansehra.
- District Account Office, Mansehra.
- PA to Director General Prosecution, Directorate of Prosecution.
- Official concerned.



[Signature]
Deputy Director Administration

*Mr. Tariq (Supert.) to inform
the official concerned.*

[Signature]
27/11/21 DPP



**DIRECTORATE OF PROSECUTION
KHYBER PAKHTUNKHWA**

No. DPL / Service Appeal No. 924/2018

Dated Peshawar 24 / 11 / 2021 / 15982-8

Office Phone # 91-9212559

Fax # 091-9212559

E-mail kp prosecution@yahoo.com

ORDER:

No.DP/E&A/ _____ : In pursuance of judgment/order of the Supreme Court of Pakistan in Civil Petition No. 252-P/2021, Dated: 14-10-2021, and Khyber Pakhtunkhwa Service Tribunal decision in Service Appeal No. 924/2018 dated: 17/02/2021, the Competent Authority is pleased to amend the promotion notification dated: 03-01-2018, to the extent of Syed Alam Shah, Senior Clerk/Assistant, by considering his promotion from the 08-01-2016, instead of 03-01-2018, with all back benefits by placing his name at his rightful position in the seniority list.

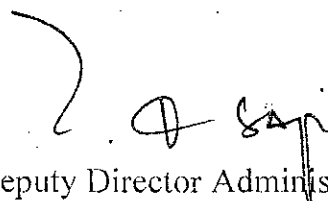
-Sd-

Director General Prosecution
Khyber Pakhtunkhwa.

Endst : of even No. dated:

Copy forwarded for information to the:

- District Public Prosecutor, Mansehra.
- District Account Office, Mansehra.
- PA to Director General Prosecution, Directorate of Prosecution.
- Official concerned.


Deputy Director Administration