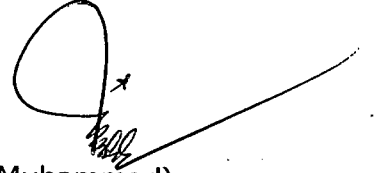


18.08.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Implementation report not submitted. Learned AAG seeks time to contact the respondents for submission of implementation report on the next date. Last opportunity is granted. Adjourned. To come up for implementation report on 10.10.2022 before S.B.



(Mian Muhammad)
Member (E)

09.05.2022

Mir Zaman Safi Advocate present on behalf of petitioner and submitted Wakalat Nama which is placed on file.

Muhammad Adeel Butt, learned Additional Advocate General present. Nemo for respondent Department.

Implementation report was not submitted as none from the respondent Department is available. Notice be issued to the respondent Department with strict directions to submit implementation report on the next date. To come up for implementation report on 28.06.2022 before S.B



(Rozina Rehman)
Member (J)

28.06.2022

None for the petitioner present. Mr. Kabir Ullah Khattak, Additional Advocate General present.

Notices be issued to the petitioner and his counsel. To come up for implementation on 18.08.2022 before S.B.



(Fareeha Paul)
Member (E)

*Noted for
18/8/2022
M. Paul*

23.12.2021

Petitioner alongwith counsel and Mr. Muhammad Adeel Butt, Addl. AG alongwith Fazle Subhan, S.O for the respondents present.

Representative of the respondents produced copy of Notification dated 07.12.2021 whereby the petitioner has been reinstated into service with immediate effect. Placed on file. Let the department come up with appropriate order for treating the absence period of the petitioner in light of the spirit of the judgment. Case to come up on 14.02.2022 before S.B.


Chairman

14.02.2022

Due to retirement of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 06.04.2022 for the same as before.



06.04.2022

Petitioner in person and Mr. Ijaz Akram Section Officer Local Government for the respondents present.

Learned counsel for the petitioner is not available and petitioner seeks adjournment. Representative of the respondents is also directed to furnish proper implementation report on the date fixed. Case is adjourned to 09.05.2022 before S.B.


Chairman

EP 164/21

11.11.2021

Petitioner alongwith counsel and Mr. Kabirullah Khattak, Addl. AG alongwith Rasheed Ahmad, Legal Assistant for the respondents present.

Learned AAG seeks time to take the concerned Authorities on board for implementation of the judgment in letter & spirit. Request is accorded. To come up for compliance report in light of previous order sheet dated 05.11.2021, on 02.12.2021 before the S.B.


Chairman

02.12.2021

Petitioner in person present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Learned AAG requested for short adjournment enabling him to contact the respondents and come up with progress/implementation report. Adjourned. To come up for further proceedings on 23.12.2021 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

03.11.2021

Petitioner alongwith counsel and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned AAG seeks time to contact the concerned Authorities for the needful in light of previous order dated sheet. Request is accorded. Case to come up on 05.11.2021 before S.B.


Chairman

05.11.2021

Petitioner alongwith counsel and Mr. Kabirullah Khattak, Addl. AG alongwith Rasheed Ahmad Khan, Legal Assistant for the respondents present.

The departmental representative has furnished the copy of the note sheet of Law Department sent to the Secretary, Local Government Department with certain observations and also furnished an unsigned note of the latter in response to the observations of the Law Department. The respondents are directed to follow the note sheet and to come up with requirements with reinstatement order of the petitioner in light of recommendations made in minutes of meeting previously produced by the respondents. Case to come up on 11.11.2021 before the S.B.


Chairman

EP 164/2021

01.11.2021

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Fazle Subhan, S.O and Rasheed Ahmad Khan, Legal Assistant for the respondents present.

The representative of the Local Government Department/respondent No. 2 has furnished the copy of summary bearing No. LGE nRDD-55-83-00213 which according to its subject relates to reinstatement of the petitioner. The same is placed on file. The said summary has been marked to the Worthy Chief Minister through route of the Secretary, Law, Secretary Establishment and the Chief Secretary Khyber Pakhtunkhwa, Peshawar. The representative of the parent department is unable to apprise about the fate of this summary enroute. Obviously, the parent department by movement of a self-speaking summary has done the needful for implementation of the judgment but what is its fate enroute, it is not clear. So, it is deemed appropriate to direct for attendance of well conversant officers of the offices of Secretary, Law Department and Secretary Establishment Department Khyber Pakhtunkhwa to know about the fate of the summary in their quarters. Learned AAG shall inform the concerned Secretaries for the said needful. Case to come up on 03.11.2021 before the S.B.


Chairman

15.10.2021

Syed Nomal Ali Bukhari, Advocate present and submitted Wakalat Nama on behalf of the petitioner.

Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Rasheed Ahmad Legal Assistant for respondents present.


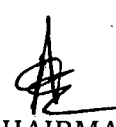

Representative of the respondents requested for a short adjournment in order to produce proper implementation report on the next date. To come up for implementation report on 01.11.2021 before S.B



(Atiq-Ur-Rehman Wazir)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. 164 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03.09.2021	<p>The execution petition of Mr. Syed Hasnain Kazmi 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>08/10/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	23.09.2021	<p>Counsel for the petitioner present. Notices be issued to the respondents. To come up for implementation report on 28.10.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2022

Syed Hasnain Nazmi

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt. of KP & others

(RESPONDENT)
(DEFENDANT)


I/We Syed Hasnain Nazmi

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, 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. ____/____/2022



CLIENT



ACCEPTED
MIR ZAMAN SAFI
ADVOCATE

OFFICE:
Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.
Mobile No.0323-9295295
0317-9743003

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. _____/2021

In

Appeal No. 457/2018

SYED HASNAIN KAZMI

VS

GOVT: OF KPK

INDEX

S.No.	DOCUMENTS	ANNEXURE	PAGES
1.	Memo of Execution petition	1-2
2.	Affidavit	3
3.	Copy of the judgment dated 04.06.2021	A	4-12
4.	Vakalatnama	13

PETITIONER

SYED HASNAIN KAZMI

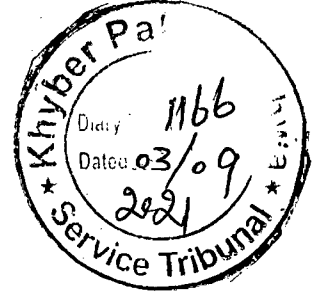
THROUGH:

AFRASIAB KHAN WAZIR
ADVOCATE

CELL NO.0312-9888752

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. 164 /2021
In
Appeal No. 457/2018



Syed Hasnain Kazmi Assistant Director (Jr.) Local Government and Rural Development Department Haripur.

...PETITIONER

VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. The Secretary Local Government & Rural Development Department Khyber Pakhtunkhwa Peshawar.

...RESPONDENTS

EXECUTION PETITION FOR DIRECTING THE RESPONDENT DEPARTMENT TO IMPLEMENT THE JUDGMENT DATED 04.06.2021 IN THE ABOVE TITLED APPEAL IN LETTER AND SPIRIT.

R/SHEWETH:

- 1- That the above mentioned appeal has been decided by this august Service Tribunal Vide judgment dated 04.06.2021 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 12.12.2017 whereby the petitioner has been removed from service.
- 3- That after final arguments this august Service Tribunal decided the appeal in favor of the petitioner with direction as under:

"Therefore, we direct that a fresh Medical Board be constituted by the competent authority to examine the appellant in the light of his past clinical treatment and its record in his possession as well as effects of the illness on his present health condition, if any. Let the Medical Board come up with an independent opinion as to genuineness of the medical history of the appellant in light of record in his possession in juxtaposition with his present health conditions. If the report of SBM constituted at prerogative of the competent authority confirms the genuineness of past clinical history of the appellant's illness; the department, within its competence, will treat the absence period as a leave of the kind due. If the report of SMB is otherwise, the department would be at liberty to follow the due course in dealing with the absence of appellant from duty. Subject to given observation, we set aside the impugned order and direct for reinstatement of the appellant forthwith. The respondents, on the receipt of this judgment, shall move forward for constitution of SMB under intimation to the appellant and shall make it possible that all proceedings herein directed are concluded without delay but not later than 90 days. The back benefits shall follow the outcome of proceedings indicated hereinbefore."

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

It is therefore, most humbly prayed that on acceptance of this execution petition the respondents may directed to

implement the above mentioned judgment passed by this august
Service Tribunal in letter and spirit.

Dated:03.09.2021

PETITIONER

SYED HASNAIN KAZMI

THROUGH:

**AFRASIAB KHAN WAZIR
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. _____/2021

In

Appeal No. 457/2018

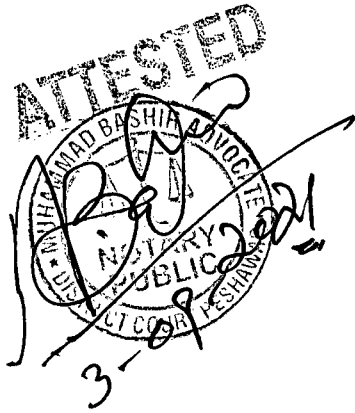
SYED HASNAIN KAZMI

VS

GOVT: OF KPK

AFFIDAVIT

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



AFRASIAB KHAN WAZIR
ADVOCATE

Certificate:

That no earlier Execution Petition has been filed by the Petitioner.

AFRASIAB KHAN WAZIR
ADVOCATE

A-4



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No. 457 /2018

Syed Hasnain Kazmi Assistant Director (Jr.) Local Government and Rural Development Haripur.

.....Appellant

VERSUS

- 1. The Chief Minister KPK Peshawar (The Appellate Authority)
- 2. The Chief Secretary KPK Peshawar.
- 3. The Secretary Establishment KPK Peshawar.
- 4. The Secretary Local Government, Election and Rural Development Department KPK Peshawar.
- 5. The Director General Local Government and Rural Development Department KPK Peshawar.
- 6. The Deputy Commissioner Haripur.
- 7. The Secretary Local Council Board, KPK, Hayatabad, Peshawar.
- 8. The District Officer (Finance and Planning) Haripur.
- 9. Section Officer, (Establishment) Local Government & Rural Development Department, KPK, Peshawar.
- 10. Assistant Director (Sr.), Local Government & RDD, Haripur.
- 11. Tehsil Municipal Officer, TMA, Allai, District Battagram.
- 12. The Resident Audit Officer, TMA Allai, District Battagram.
- 13. The Tesil Officer (Finance) TMA, Allai, District Battagram.

Khyber Pakhtunkhwa Service Tribunal

471

03-4-2018

16-2

....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE FINAL ORDER NO.SO (LG-I)10-430/P.F/93 DATED 05/03/2018 (REFUSAL OF DEPARTMENTAL APPEAL BY THE APPELLATE AUTHORITY---THE CHIEF MINISTER KPK) CONVEYED BY THE SECRETARY TO GOVERNMENT OF KPK IN LOCAL GOVERNMENT, ELECTION AND RURAL DEVELOPMENT DEPARTMENT WHEREBY THE RESPONDENT NO.1 AS AN APPELLATE AUTHORITY DISMISSED THE APPEAL OF APPELLANT AGAINST THE ORDER OF RESPONDENT NO.2 DATED 12/12/2017 IS ILLEGAL AND UNLAWFUL.

PRAYER: ON ACCEPTANCE OF THIS APPEAL, THE APPELLANT MAY VERY GRACIOUSLY BE REINSTATED IN SERVICE WITH ALL BACK BENEFITS, FOUR (4) ILLEGAL NOTIFICATIONS DATED 07/08/2017, 30/08/2017, 08/09/2017 AND 12/10/2017 BE SET ASIDE AND THE RESPONDENTS BE DIRECTED TO SANCTION MEDICAL LEAVE OF THE APPELLANT AS RECOMMENDED BY THE STANDING MEDICAL BOARD.

Filed by
Registrar
3/4/18

Respectfully Sheweth:

Brief facts giving rise to the present appeal are arrayed as under:

- 1. That the appellant on the recommendation of KPK Public Service

Commission joined the Local Government and Rural Development

Re-submitted to Commission and filed.

Registrar
4/4/18

ATTESTED

EXAMINER
Khyber Pakhtunkhwa Service Tribunal Peshawar

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 457/2018

Date of Institution ... 03.04.2018
Date of Decision ... 04.06.2021



Syed Hasnain Kazmi Assistant Director (Jr.) Local Government
and Rural Development Haripur.

... (Appellant)

VERSUS

The Chief Minister Khyber Pakhtunkhwa Peshawar (The
Appellate Authority) and 12 others.

... (Respondents)

Inayat Ullah,
Advocate

... For appellant.

Muhammad Adeel Butt,
Additional Advocate General

... For respondents.


AHMAD SULTAN TAREEN
ROZINA REHMAN

... CHAIRMAN
... MEMBER (J)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN : Appellant was an Assistant
Director in the Local Government & Rural Development Department.
He was removed from service vide order dated 12.12.2017. It is the
legality and validity of this order which has been challenged by him in
the present service appeal filed U/S 4 of the Khyber Pakhtunkhwa
Service Tribunal Act, 1974.

ATTESTED

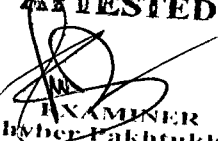

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

6

2

2. Factual account of the grievance of appellant against the departmental authorities originates from the point that the appellant on expiry of Ex-Pakistan leave of four years was required to report for duty but he could not comply with the departmental direction for his own reasons. He applied for medical leave from abroad. His case was referred to the Director General Health Services Khyber Pakhtunkhwa Peshawar for physical examination through Standing Medical Board. After constitution of SMB, the appellant was required to appear before it but he did not appear before the SMB as confirmed by the Medical Superintendent Police Services Hospital Peshawar vide his letter No. 761-62/MA/SMB/2016-17 DATED 17.02.2017. The appellant was directed to resume the duty vide letter dated 08.03.2017 and to explain reasons of his absence but failed to do so and again sent application for grant of leave from abroad. The appellant purports that having returned from abroad, he submitted his arrival report for duty on 30.06.2017; he was posted/adjusted as Assistant Director (Jr.) LG&RDD Haripur vide order No. SO(LG-I)4-116/2017/KC dated 07.08.2017, and he received the salary against said incumbency. The appellant also purports to have been medically examined by the SMB constituted at local level in District H/Q Hospital, Haripur after his posting there; and his disease was confirmed by said SMB. It was after assumption of the charge by the appellant and during his posting at Haripur that the departmental authorities kicked off an ex post facto disciplinary action against the appellant by issuing a show cause notice dispensing with the requirements of formal inquiry. The following allegations were enumerated in the show cause notice:-



ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- i. That on expiry of your ex-Pakistan leave of 04 years, you were posted as Assistant Director, Local Government and Rural Development Department, Swabi on 05.04.2016 vide LG&RDD Notification No. SO(LG-I)4-116/2017/KC, dated 05.04.2016. However, you did not report for duty and submitted an application from abroad for grant of leave on medical grounds;
- ii. That you proceed abroad without prior permission of the Competent Authority. However, your case was referred to Director General, Health Services, Khyber Pakhtunkhwa Peshawar for physical examination through Standing Medical Board. The Board was held on 25.05.2016 but you did not appear before the Board. Again the Medical Board was held on 25.01.2017 as intimated by Chairman Standing Medical Superintendent Police / Services Hospital Peshawar, but you did not appear before the Board as confirmed by the Medical Superintendent Police / Services Hospital, Peshawar vide letter No.761-62/MS/SMM/2016-17, dated 17.02.2017;
- iii. That you were directed through registered letter No.SO(LG-I)10-430/93/PF, dated 08.03.2017 at your home address to resume your duty and also explain the reasons of your absence but you failed to do so and again sent application for grant of leave from abroad;
- iv. That you submitted arrival report for duty on 05.07.2017 and have not justified your absence from duty.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

3. The appellant submitted reply to the above-mentioned show cause notice which could not find favor with the competent authority

and ultimately, he was removed from service vide order dated 12.12.2017. Hence, this appeal after no response of departmental appeal within 90 days.

4. The appellant has challenged his removal on the ground that his removal from service is result of misuse of authority, patently illegal, ultra vires to the law, Constitution and principle of natural justice, equity and fair play. He added that respondent had not treated him in accordance with law, rules and policy on the subject and acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan, 1973. He emphasized that it is inalienable right of every citizen to be treated in accordance with law with the given needs and grounds among others. He prayed for setting aside of the notification of his removal from service and of his reinstatement in service alongwith all back benefits. Additionally, he prayed for any other relief as may be deemed fit and proper in the circumstances of the cases.

5. Conversely, the respondents have opposed the submissions of the appellant in their written reply with preliminary as well as factual grounds. According to them, the appellant was awarded major penalty of removal from service not only on account of his willful absence, but also for misconduct on account of allegations mentioned in the show cause notice. They submitted that there was sufficient evidence, therefore, the competent authority dispensed with the requirement of any inquiry against the appellant in pursuance of Section-7 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and accordingly he was served

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

with show cause notice as per law which was not adequately replied by the appellant. They submitted that the appellant was also afforded an opportunity of personal hearing, where-after, he was awarded major penalty of removal from service. It was also submitted that LG&RDD approached the Director General Health Services, Health Department to arrange Standing Medical Board for medical examination of the appellant but the appellant did not appear before the Board arranged by the Director General Health Services Khyber Pakhtunkhwa under the relevant law and on the other hand, he produced report of so called Medical Board which was arranged through District Nazim Haripur as appellant was posted as Secretary Zilla Council Haripur and this was done just to justify the unauthorized absence of the appellant. They concluded that the appellant was treated strictly in accordance with law and no discrimination was done in his case.

6. Both the parties were given ample opportunity of arguments and they throughout their arguments did not slip from their stance respectively set up in memorandum of appeal and written reply by the appellant and respondents.

7. The allegations against the appellant are that on expiry of Ex-Pakistan leave of four years, he did not report for duty and submitted an application from abroad for grant of leave on medical grounds and SMB was constituted twice but he did not appear before the Board and lastly, he was directed to resume duty and explain the reasons of

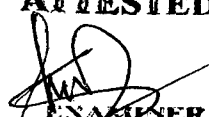
ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

his absence but he failed to do so and again sent an application for grant of leave from abroad.


8. Needless to say that disciplinary proceedings against the appellant were started directly by issuing show cause notice dispensing with the requirement for formal inquiries. We admit that the Competent Authority is within its right to dispense with the departmental inquiry in terms of Rule-5 (1) of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011 when there is sufficient material available which prima facie connects the accused with the commission of misconduct; while in the instant case, the material produced on record, is deficient in all respects and an opinion cannot be legally formed to justify the dispensation of inquiry. In the instant case, we find that no satisfactory reasons have been recorded by the competent authority, thus the appellant was not provided sufficient chance to vindicate himself against the allegations. The main object of the Efficiency & Disciplinary Rules are to maintain administrative and financial discipline in the Department. Similarly, the procedure so prescribed is aimed to give a proper chance of proving his innocence to the accused officer/official and mere issuance of the charge sheet/show cause notice or enquiry cannot be allowed to be used as a device to done away with the services of an employee. In cases where imposition of major penalty is contemplated, holding of regular enquiry is a must, as laid down by the Hon'ble Supreme Court of Pakistan in a number of case laws, but it was not done in this case.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

9. Notwithstanding our observations in the preceding paragraph herein this judgment, we are mindful of the requirements of discipline to be maintained by the Government servants and powers of the authority to proceed in appropriate manner where it finds any deviation from such requirements by a Government servant. In this case, we do not absolve the appellant from his answerability to the competent authority, if he is called upon to justify the ground of illness which he admittedly pressed into service vide applications dated 12.04.2016, 26.04.2016, 27.05.2016, 12.07.2016, 08.03.2017, 06.04.2017, 25.04.2017, 05.05.2017, 07.05.2017, 28.08.2017 and 09.10.2017 enumerated in his memorandum of appeal. However, observance of due process must be the paramount consideration to avoid the blame of violation of fundamental rights enshrined by the Constitution of Pakistan, which are equally relevant in case of Government servant as citizen of Pakistan. We have noted that the appellant got himself medically examined after his posting in Haripur and got a favorable report; but we do not give any weightage to such report because if there was any Medical Board which examined the appellant, was not competently constituted. Therefore, we direct that a fresh Medical Board be constituted by the competent authority to examine the appellant in the light of his past clinical treatment and its record in his possession as well as effects of the illness on his present health condition, if any. Let the Medical Board come up with an independent opinion as to genuineness of the medical history of the appellant in light of record in his possession in juxtaposition with his present health conditions. If the report of SMB constituted at



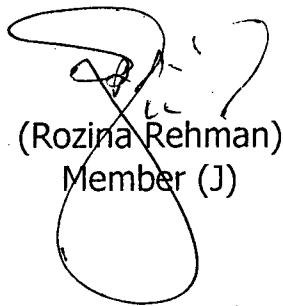
ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

(12)

prerogative of the competent authority confirms the genuineness of past clinical history of the appellant's illness; the department, within its competence, will treat the absence period as a leave of the kind due. If the report of SMB is otherwise, the department would be at liberty to follow the due course in dealing with the absence of appellant from duty. Subject to given observations, we set aside the impugned order and direct for reinstatement of the appellant forthwith. The respondents, on receipt of this judgment, shall move forward for constitution of SMB under intimation to the appellant and shall make it possible that all proceedings herein directed are concluded without delay but not later than 90 days. The back benefits shall follow the outcome of proceedings indicated hereinbefore. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

04.06.2021


(Rozina Rehman)
Member (J)


(Ahmad Sultan Tareen)
Chairman

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Certified to be true copy

Date of Presentation of Application 14-06-2021
Number of Words 3600
Copying Fee 38.00
Urgent _____
Total 38.00
Name of Copyist _____
Date of Completion of Copy 18-06-2021
Date of Delivery of Copy 18-06-2021

بعدالت

ep Servu Wilson perwar

Syed Hamam Qarri
بنام 2 منجانب

vs
Court of PPL

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی کے بارے میں ایک کارروائی متعلقہ

کیلئے اس سبب کان و زوال کی وجہ سے
آن مقام میں اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر خلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے
سب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

20
Syed Hamam Qarri

المرقوم

M. Arif Qarri

کے لئے منظور ہے۔

مقام

“B”

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

No.

Execution Petition 164
Appeal No. of 20 21

Syed Hasmain Kazmi Appellant/Petitioner

Versus
The Chief Secy. KPK Respondent

Respondent No. 1
The 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.....28/10/2021.....at 8.00 A.M. If you wish to urge anything against the appelland/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 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.....24/10.....
Day of.....Oct.....20 21

(For Reply)
Implementation
Report

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.

Execution Petition 164
Appeal No. of 20 *21*

Syed Hasmain Kozmi Appellant/Petitioner

The Chief Secy. KPK Respondent

Respondent No. *2*

27 Notice to: - *The Secretary Local Govt. & Rural Development Deptt. 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.....*28/11/2021*.....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 *EP* 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.....*26/11*.....
Day of.....*SEP*.....20 *21*

(for Reply)

[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.

“B”

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

No.

E/P No 164/2021

457

18

Appeal No.

Syed Hasham Kazmi

of 20

Appellant/Petitioner

Chief Secy Versus Pesh:

Respondent

The Secretary Local Govt, & Rural Development Dept. 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 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.....
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. 164/21

Appeal No. 457 of 2018

Syed Hashain Kazmi Appellant/Petitioner
Versus

The Chief Secy to Govt Respondent

Respondent No. 1

Notice to: The Chief Secretary 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 15/10/2018 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 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 7th

Day of Oct 2018

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.

The Honourable Chairman
Services Tribunal Peshawar.

Place on file.
23/9/2021

Subject: REQUEST FOR RECOMMENDATION FOR DISCIPLINARY ACTION AND INCLUSION OF ADDITIONAL OFFICERS IN EXECUTION PETITION NO.164/21.

It is submitted that the following officers may also be added / included in the subject mentioned Execution Petition and notices be issued to them as they have played a vital role in such a lengthy delay in implementation of the Honourable Services Tribunal judgment dated 04/06/2021 passed in Service appeal No. 457/2018:

1. Mohtasim Bila Shah--Special Secretary Local Govt. and RDD Peshawar.
2. Ehjaz Akram Section Officer (E)-- Local Govt. and RDD Peshawar .
3. Fazal-e-Subhan Section Officer (Lit) -- Local Govt. and RDD Peshawar.

It is my humble submission before this Hon'ble Services Tribunal that in light of the letter dated 24/08/2004, a case may be forwarded to the Chief Secretary KPK for disciplinary action against the officers of the Administrative Department who miserably failed to implement the above mentioned judgment properly and in time. Copy of the letter is attached for your kind perusal please.

Finally it is stated that the respondents also intimated / remained for implementation of the under reference judgment vide application dated 28/07/2021.

Dated : 23/09/2021


Syed Hasnain Kazmi
Assistant Director
Local Govt. & RDD Haripur

(۱۶-۱۷) (۱۸-۱۹) (۲۰-۲۱)

کتابت
مکتبہ
مدرسہ
دہلی

۱- ...
۲- ...
۳- ...
۴- ...
۵- ...
۶- ...
۷- ...
۸- ...
۹- ...
۱۰- ...

۱۱- ...

۱۲- ...

...

- ۱۱- ...
- ۱۲- ...
- ۱۳- ...
- ۱۴- ...
- ۱۵- ...
- ۱۶- ...
- ۱۷- ...
- ۱۸- ...
- ۱۹- ...
- ۲۰- ...
- ۲۱- ...
- ۲۲- ...
- ۲۳- ...
- ۲۴- ...
- ۲۵- ...

...

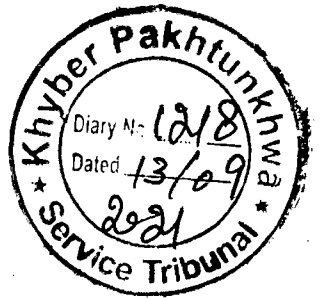
...

(۱۸-۱۹) (۲۰-۲۱)

...

...

The Honourable Chairman,
Services Tribunal, KPK,
Peshawar.



Subject: REQUEST FOR EARLY HEARING OF EXECUTION PETITION
NO. 164/21 IN SERVICE APPEAL NO. 457/2018.

RESPECTFULLY SHEWETH:-

1. That subject mentioned Service Appeal was disposed of on 04/06/2021 with the direction that the appellant may be reinstated in service immediately and the respondents shall move forward for constitution of a fresh Medical Board.
2. That the respondents moved the case to Law Department for filing CPLA / Appeal before the Honourable Supreme Court of Pakistan, but the case was returned to Administrative Department on 04/08/2021, being UNFIT for Appeal.
3. That till date the respondents did not act upon the direction of the Honourable Tribunal, hence the petitioner filed the subject execution petition.
4. That the next / first date of hearing in the above mentioned execution petition which is fixed for 08/10/2021.
5. That the salary of the petitioner is stopped and the petitioner facing financial hardship.

Therefore, it is requested ^{that} an early date for P.H in the subject mentioned execution petition may be fixed preferably at the end of this week, so that notices to the respondents can be issued.

Dated: 13/09/2021

Petitioner


SYED HASNAIN KAZMI
Assistant Director
Local Government & RDI Hairpur
MOB. 0332-3759000

Put up to the
worthy chairman
along with Execution
petition.

13/9/2021

Reader.

Be fixed in the
next week of this month.
13/9/2021

29/09

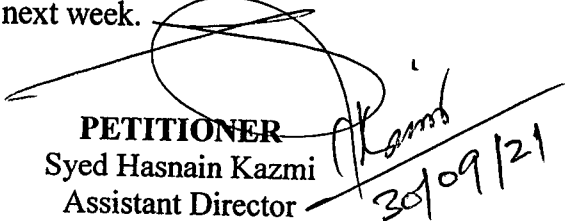
The Honorable Chairman,
Services Tribunal KPK,
Peshawar.

**Subject: REQUEST FOR EARLY HEARING OF EXECUTION PETITION
NO.164/21 IN SERVICE APPEAL NO.457/2018.**

Respectfully Sheweth:

1. That, the subject mentioned Service Appeal was decided on 04/06/2021 with the direction that the appellant may be reinstated in service immediately and the respondents shall move forward for constitution of a **fresh Medical Board**.
2. That, the Honorable Services Tribunal further directed that all proceedings shall be completed without delay but not later than 90 days.
3. That, the attested copy of the judgment dated 04/06/2021, passed in the subject mentioned Services Appeal handed over to the Administrative Department on 18/06/2021.
4. That the respondents moved the case to KPK Law Department for filing CPLA/Appeal before the Honorable Supreme Court of Pakistan, but the case was returned to Administrative Department vide letter dated 04/08/2021, being **UNFIT for filing CPLA / Appeal before the Honorable Supreme Court of Pakistan**.
5. That, on the direction of Honorable Services Tribunal the competently constituted fresh Standing Medical Board vide order dated 24/08/2021 reported in its proceedings dated 01/09/2021 that **in light of patient's past clinical treatment record which is in his possession shows that he remained under treatment for DM+IHD (Diabetes Mellitus and Ischemic Heart Disease) during the disputed period (April, 2016 to June, 2017) and at present he is stable/fit.**
6. That, the salary of the petitioner is stopped and he is facing financial hardships as the respondents have not yet reinstated him in service due to their own self made reasons.
7. That, the Administrative Department / respondents have reminded / intimated vide application dated 28/07/2021 that all proceedings must be concluded within 90 days as per direction of the Hon'ble Services Tribunal.
8. That the next date of hearing in the above mentioned Execution Petition has been fixed for **28/10/2021**.

Therefore, keeping in view the above it is requested that an early date for next hearing in the above mentioned Execution Petition may kindly be fixed during next week.

2nd week of Oct. 28/09/2021

PETITIONER
Syed Hasnain Kazmi
Assistant Director
Local Govt. & RDD Haripur
30/09/21

Through

30/09/2021


(KHALID SAEED)
Advocate High Court
30/09/21



**OFFICE OF THE
MEDICAL SUPERINTENDANT
SERVICES HOSPITAL, PESHAWAR**

Phone: (Off) 091 9210509 (Exch) 091 9223472 Fax: 091 9210543

No. 349-50 /MS/SMB/2020-21


Dated 07/09/2021

Section Officer (Litigation)
Local Government Election & Rural Development
Khyber Pakhtunkhwa
Peshawar.

Subject: - STANDING MEDICAL BOARD

Memo: - With reference to your office letter No. SO(Lit)/LG/2-2/HC/2020 dated 24-08-2021 addressed to Director General Health Services Khyber Pakhtunkhwa on the subject noted above.


Mr. Syed Hasnain Kazmi, Ex- Assistant Director (JR) Local Government was examined by the Standing Medical Board held in this office on 01/09/2021. The proceedings of the Standing Medical Board are sent herewith for further necessary action.


Chairman
Standing Medical Board
Medical Superintendent
Police/Service Hospital
Peshawar

Copy to:

Director General Health Services Khyber Pakhtunkhwa Peshawar for information with reference to his letter No. 6467-70/M Dated 30/08/2021.

*Received
original report of
the SMB dated 01/09/2021*


07/09/2021
at 12:43 pm

OFFICE OF THE CHAIRMAN STANDING MEDICAL BOARD/MEDICAL SUPERINTENDENT POLICE/SERVICES, HOSPITAL PESHAWAR.

The Standing Medical Board comprising the following members assembled in the office of the Medical Superintendent Police/Services, Hospital Peshawar to examine, Mr. Syed Hasnain Kazmi, Assistant Director (JR.) Local Govt.

The Standing Medical Board is of the opinion that patient's previous record shows that he has been treated for DM and IHD (Including coronary Angiography). However currently he is stable cardiac wise. As mentioned in the proceedings of previous SMB on 14-07-2021.

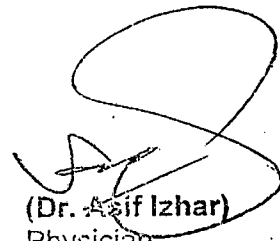
STATION PESHAWAR
DATED: 01/09/2021



(Dr. Niaz Muhammad)
Chairman
Standing Medical Board
Medical Superintendent
Police/Services, Hospital,
Peshawar.



(Dr. Naseer Ahmad)
Ophthalmologist
Police/Services Hospital,
Peshawar...Member...



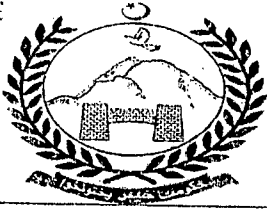
(Dr. Asif Izhar)
Physician
Police/Services, Hospital
Peshawar. Member...



(Dr. Kamran Khan)
Orthopedic Surgeon
Standing Medical Board
Police/Services Hospital, Peshawar



(Dr. Aurangzeb Afridi)
DMS/Secretary
Standing Medical Board
Peshawar...Member...



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

No.SO(Lit)/LD/R 20/LG/2021/
Dated Peshawat the 04/08/2021

178-81

To

1. The Advocate General,
Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa,
Local Govt., Elections & Rural Development Department.

Subject:

**SERVICE APPEAL NO.457/2018 SYED HASNAIN KAZMI
VERSUS ASSISTANT DIRECTOR LOCAL GOVERNMENT AND
RURAL DEVELOPMENT, MALAKAND AND OTHERS**

Dear Sir,

I am directed to refer to Government of Khyber Pakhtunkhwa Local Govt., Elections & Rural Development Department letter No.SO(Lit)/LG/2-283/2017/2951 w.e. dated 07.07.2021 on the subject noted above and to forward herewith minutes of the meeting held on 14-07-2021 in Law Department (which are self explanatory) for perusal and further necessary action, please.

Yours faithfully,

1/11/21
04.08.21

ASSISTANT LAW OFFICER (LIT)

Endst: No.& Date Even.

Copy is forwarded to the:

1. PS to Secretary Law Department Khyber Pakhtunkhwa.
2. PA to Law Officer, Law Department.

ASSISTANT LAW OFFICER (Lit)



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

MINUTES OF THE SCRUTINY COMMITTEE MEETING.

(Add: AGENDA ITEM NO. 26)

SUBJECT: SERVICE APPEAL NO. 457/2018 SYED HASNAIN KAZMI VERSUS ASSISTANT DIRECTOR LOCAL GOVERNMENT AND RURAL DEVELOPMENT, MALAKAND AND OTHERS.

A meeting of the Scrutiny Committee was held on 14.07.2021 at 11:00 A.M. in the office of Secretary, Law Parliamentary Affairs & Human Rights Department under his Chairmanship to determine the fitness of the subject case for filing of Appeal/CPLA in the Supreme Court of Pakistan. Assistant Advocate General (Mr. Saqib Raza) represented the Advocate General, Khyber Pakhtunkhwa.

The Chairman of the Committee invited the representatives of Local Government Department Mr. Fozal-e Subhan, SO (Lit) alongwith Mr. M. Zain Khan, AD (Lit) to apprise the Committee about the background of the case which they did accordingly and stated that the appellant filed the subject service appeal with the prayer that the appellant may graciously be reinstated in service with all back benefits and four illegal notifications dated: 07.08.2017, 30.08.2017, 08.09.2017 and 12.10.2017 may be set aside and the respondents be directed to sanction medical leave of the appellant as recommended by the Standing Medical Board. The Khyber Pakhtunkhwa Service Tribunal set aside the impugned orders vide order dated: 04.06.2021 and directed the Department for reinstatement of the appellant forthwith and held that respondents may on receipt of this judgment, shall move forwarded for constitution of Standing Medical Board under intimation to the appellant and shall make it possible that all proceedings herein directed are concluded without delay but not later than ninety days and also held that the back benefits shall follow the outcome of proceedings indicated herein before. The Scrutiny Committee returned the subject case to the Administrative Department on the following grounds:

GROUNDS/DISCUSSIONS:

- i. The Scrutiny Committee perused the record of the case alongwith the impugned judgment which revealed that the Khyber Pakhtunkhwa Service Tribunal has directed the respondent/Department to move forward for constitution of Standing Medical Board (SMB) which order was not seems to be inconsonance with the factual position of the case, however the Departmental Representative apprised the Scrutiny Committee that in pursuance of the judgment of Khyber Pakhtunkhwa Service Tribunal, the request for arranging the Standing Medical Board has been forwarded vide letter dated: 08.07.2021.
- ii. The Scrutiny Committee further noticed that the Hon'ble Service Tribunal has not properly evaluated the legal and factual aspect of the case, in spite of that prior to taking up of the case with the Scrutiny committee the Administrative Department has implemented the judgment of the Service Tribunal, in such eventuality it would be a futile exercise to file CPLA against the judgment.

ADVICE:

Hence in view of above, it was decided with consensus by the Scrutiny Committee that the subject case may be returned to the Administrative Department as the Department has implemented the judgment of the Khyber Pakhtunkhwa Service Tribunal on their part by sending letter for arrangement of Standing Medical Board.

(TAHIR IQBAL KHATTAK)
SOLICITOR

S.No. 151064

Name of Advocate

BA NO. 737

TBA NO.

BC No.

10 - 3503



R.s.100/=

وکالت نامہ

Finance Secretary
Director B.S. Association

بعدالت حیدر حسین کریمن سروسز سٹریٹ لاہور
عنوان: اصراعیل 164/2018 کابینہ
منجانب: حیدر حسین کانٹری نوعیت مقدمہ اجراء
باعث تحریر آنکہ صوت

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوادی برائے حیدر حسین مقدمہ مقدمہ مقام لاہور کے لیے خاندان سردار خان اور اجراء

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشگی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا ہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشگی پر منظر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی جگہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ پکھری کے علاوہ کسی اور جگہ سماعت ہونے پر یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار ہونے یا پیش کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل سناختہ پر داختمہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراء کے ذمہ دار نہ ہوں گے اور ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ذمہ داری کے ادا کرنے اور ہر قسم کارروائی کے ادا کرنے اور ہر قسم کے بیان دینے اور اس پر تاشی و راضی نامہ و فیصلہ برحلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جانے بیر و نجات از پھر صدر اپیل و برآمدگی مقدمہ یا منسوخی ذمہ داری کے طور پر درخواست حکم امتناعی یا قرتی یا گرفتاری قبل از گرفتاری و اجراء کے ذمہ داری بھی صاحب موصوف کو بشرط ادا کی علیحدہ مختار پیروی کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے کسی جزو کی کارروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشگی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ دیا ہے کہ سند ہے۔
مورخہ: 30/09/21
مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔ دن ماہ سال

نوٹ: وکالت نامہ کی فوٹو کاپی قابل قبول نہ ہوگی

Khaid Saad Awan Advocate

(Signature)

1705160953
1705160953
1705160953



Court Case

GOVERNMENT, OF KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS & RURAL DEVELOPMENT DEPARTMENT

No. SO (Lit)/LG/2-2/HC/2020
Dated Peshawar the, 13th October, 2021

To,

1. The Secretary to Government of Khyber Pakhtunkhwa,
 - I. Establishment Department, Peshawar.
 - II. Law Department, Peshawar.
 - III. Health Department, Peshawar.
2. The Director General, LG,E&RDD.

Subject: MEETING ON REPORT OF STANDING MEDICAL BOARD

I am directed to refer to the subject cited above and to enclose herewith a copy of minutes of the meeting held on 24.09.2021 at 10.30am under the Chairmanship of Secretary LG,E&RDD, which are self-explanatory for perusal and information, please.

Encl as Above

SECTION OFFICER (LITIGATION)

Copy forwarded to the:-

1. Section Officer (Establishment), LG,E&RDD. A copy of the minutes as mentioned above are also enclosed for immediate necessary action under intimation to this section. Syed Hasnain Kazmi has filed an execution petition No.164/2021 in Service Appeal No.457/2018 in the Hon'ble Service Tribunal in which the date of hearing has been fixed as 15.10.2021.
2. PS to Secretary LG,E&RDD.

SECTION OFFICER (LITIGATION)

Subject:


1
582-

**MEETING TO DISCUSS THE REPORTS OF STANDING MEDICAL BOARD
AND LAW DEPARTMENT IN LIGHT OF SERVICE TRIBUNAL JUDGEMENT
UNDER THE CHAIRMANSHIP OF SECRETARY LG, E&RDD ON 24.09.2021
AT 10.30 AM.**

A meeting was held under the chairmanship of Secretary Local Government, Elections and Rural Development Department in his office on 24th September, 2021 at 10.30 am. List of participants is attached.

The meeting started with recitation from the Holy Quran. The chair welcomed all the participants and asked the Director General, Local Government to explain the case. He stated that Syed Hasnain Kazmi, Assistant Director LG&RD appointment was issued in September 1993. He was granted 6 years and 120 days leave. On expiry of his leave, he was to come back for joining of duty which he did not comply and submitted request for grant of additional leave on medical grounds. His case was referred to SMB on 25.05.2016 and subsequently on 25.01.2017 but he did not comply with the orders and reported for duty on 30.06.2017 and avoided attendance of the board.

He was removed from service on 12/12/2017 on account of his willful absence from duty. He filed a Service Appeal against his removal order in the Hon'ble Services Tribunal KPK on 03/04/2018 which was decided on 04/06/2021. The operative part of the judgment is reproduced as under: -



"Therefore, we direct that a fresh Medical Board be constituted by the competent authority to examine the appellant in the light of his past clinical treatment and its record in his possession as well as effects of the illness on his present health condition, if any. Let the Medical Board come up with an independent opinion as to genuineness of the medical history of the appellant in light of record in his possession in juxtaposition with his present health conditions. If the report of SMB constituted at prerogative of the competent authority confirms the genuineness of past clinical history of the appellant's illness; the department, within its competence, will treat the absence period as a leave of the kind due. If the report of SMB is otherwise, the department would be at liberty to follow the due course in dealing with the absence of appellant from duty. Subject to given observation, we set aside the impugned order and direct for reinstatement of the appellant forthwith. The respondents, on the receipt of this judgment, shall move forward for constitution of SMB under intimation to the appellant and shall make it possible that all proceedings herein directed are concluded without delay but not later than 90 days. The back benefits shall follow the outcome of proceedings indicated hereinbefore."

In compliance with the Order of the Hon'able Service Tribunal, he was asked to appear before SMB. The SMB examined him and submitted its report. The said report was not clear about his past treatment history therefore, it was returned to SMB for reconsideration in light of the Judgment. Moreover, the second report also was also not up to the mark and required further investigation. Therefore, the subject meeting was convened and both the reports of SMB were placed before the members for deliberation:-

Report-1

"The Standing Medical Board referred the patient to cardiologist who is of the opinion that cardiac wise he is fit at present moment. He got history of treatment record which may be verified from concerned hospital if needed"

Report-2

"The Standing Medical Board is of the opinion that patient's previous record shows that he has been treated for DM and IHD (including Coronary Angiography). However, currently he is stable cardiac wise. As mentioned in the proceedings of previous SMB on 14.07.2021."

The matter was also taken up with the Law Department for twice and Law Department submitted their opinion / view point regarding the subject case. Their observations alongwith advices are reported below:-

GROUND / DISCUSSIONS:

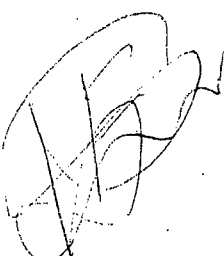
- i. The Scrutiny Committee perused the record of the case alongwith the impugned judgment which revealed that the Khyber Pakhtunkhwa Service Tribunal has directed the respondent / Department to move forward for constitution of Standing Medical Board (SMB) which order was not seems to be inconsonance with the factual position of the case, however the departmental representative apprised the Scrutiny Committee that in pursuance of the judgment of Khyber Pakhtunkhwa Service Tribunal, the request for arranging the Standing Medical Board has been forwarded vide letter dated 08.07.2021.
- ii. The Scrutiny Committee further noticed that the Hon'ble Service Tribunal has not properly evaluated the legal and factual aspect of the case, in spite of that prior to taking up of the case with the Scrutiny Committee the Administrative Department has implemented the judgment of the Service Tribunal, in such eventuality it would be a futile exercise to file CPLA against the Judgment.

ADVICE 1:

Hence in view of above, it was decided with consensus by the Scrutiny Committee that the subject case may be returned to the Administrative Department as the Department has implemented the judgment of the Khyber Pakhtunkhwa Service Tribunal on their part by sending letter for arrangement of Standing Medical Board.

ADVICE 2:

Medical Board in its report found Mr. Syed Hasnain Kazmi, cardiac wise, a fit person at present moment. The Board further advised to verify the treatment record in his possession, from the concerned hospital. Hence, the Administrative Department may verify the same and if the genuineness of his past treatment record of illness is not confirmed, then Administrative Department would be at liberty to follow the due course in dealing with his absence from duty as directed by the Service Tribunal in the ibid judgment.



Syed Hasnain Kazmi, the petitioner was also invited to explain that whether his illness lasted for sixteen months or it was vibrant for a few days. Syed Hasnain Kazmi answered the query that he was patient of cardiac therefore, could not manage to come back Pakistan and remained under treatment there.

The Department granted him Ex- Pakistan leave including performance of Hajj. The Chair was astonished to note that the treatment of this disease do not take such a long time and stunt could be installed in Pakistan and elsewhere Just in an hour.

The representative of Establishment Department presented a paper wherein it was mentioned that chance of personal hearing was granted to him but he could not justify his absence and found guilty of misconduct. The chair also posed this question to him which he okayed.

The representative of Law Department has informed that the Administrative Department has already implemented partially the Judgment of Service Tribunal by writing letter to the Health Department for constitution of Standing Medical Board, therefore it is advised that the petitioner may be reinstated in service.

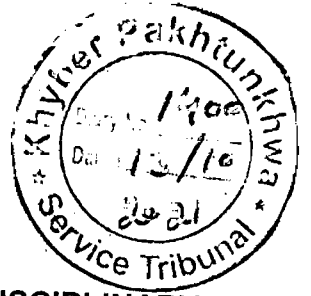
Decision of the meeting:

1. The Judgment of the Hon'ble Service Tribunal Peshawar has been complied with by attending of the SMB by the appellant.
2. As partial action on the Judgment of the Hon'ble Service Tribunal has been taken and reinstatement is required to be made so that Judgment is implemented in its essence.
3. The Service Tribunal vide its judgment declared that if the report of the SMB is otherwise the Department would be at liberty to follow due course in dealing with the absence of appellant from duty. Therefore, reinstatement of the appellant is proposed alongwith carrying out of formal inquiry simultaneously.



15/10

The Hon'able Chairman,
Service Tribunal KPK,
Peshawar.



Subject: REQUEST FOR RECOMMENDATION OF DISCIPLINARY ACTION AND INCLUSION OF ADDITIONAL RESPONSIBLE OFFICERS IN EXECUTION PETITION NO.164/21.

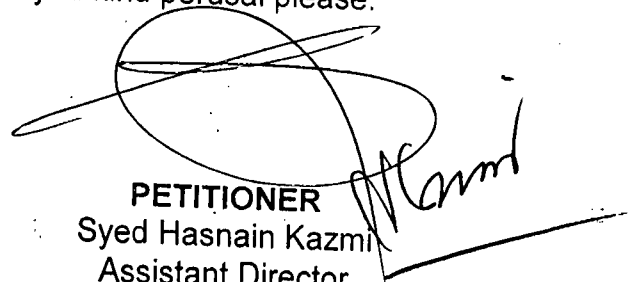
Respectfully Sheweth:

It is submitted that the following officers are also responsible for extra ordinary delay in implementation of the Hon'able Service Tribunal judgment dated 04/06/2021 passed in Service Appeal No.457/2018. Therefore, they may be added / included in the subject mentioned Execution Petition/Contempt Of Court Petition and notices may kindly be issued to them.

- i. **Mohtasim Bila Shah** - Special Secretary Local Govt. and RDD Peshawar.
- ii. **Khuda Bakhsh** - Director General Local Govt. and RDD Peshawar.
- iii. **Ehjaz Akram** -Section Officer (E) Local Govt. and RDD Peshawar.
- iv. **Fazal-e-Subhan**--Section Officer (Lit) —Local Govt. and RDD Peshawar.

It is further submitted that in light of the letter dated 24/08/2004, a case may be forwarded to the Chief Sectary KPK for **Disciplinary Action** against the officers of the Administrative Department who have miserably failed to implement the under reference judgment of the Hon'able Services Tribunal properly and in time. Copy of the letter is attached for you kind perusal please.

*dupes to the court with
relevant ex. Petition*



PETITIONER
Syed Hasnain Kazmi
Assistant Director
Local Govt. & RDD
Haripur

14/10/21

Dated: 13/10/2021

حکومت صوبہ سرحد
اسٹیبلشمنٹ اینڈ ایڈمنسٹریشن ڈیپارٹمنٹ
(ریگولیشن ونگ)

موری پشاور ۱۳ اگست ۲۰۰۳ء

نمبر انریٹ۔ ۶ (ای ایڈ اے ڈی) ۱۸-۲۰۰۳

بخدمت

- ۱۔ تمام انتظامی مستدین حکومت، صوبہ سرحد
- ۲۔ معتمد برائے گورنر، صوبہ سرحد
- ۳۔ معتمد برائے ڈپٹی چیف، صوبہ سرحد
- ۴۔ تمام سربراہان ماتحت ملکہ جات، صوبہ سرحد
- ۵۔ تمام سربراہان خوردنکار نیم خوردنکار ارادہ جات، صوبہ سرحد
- ۶۔ تمام ڈسٹرکٹ و سیشن ججان، صوبہ سرحد
- ۷۔ رجسٹرار پشاور ہائی کورٹ، پشاور
- ۸۔ معتمد مجلس الایات، صوبہ سرحد، پشاور
- ۹۔ معتمد صوبائی پبلک سروس کمیشن، پشاور
- ۱۰۔ ناظم انسداد رشوت ستانی اسٹیبلشمنٹ پشاور
- ۱۱۔ رجسٹرار سروسز ٹریبونل پشاور
- ۱۲۔ تمام ضلعی رابطہ افسران صوبہ سرحد

میں میں ٹریبونل کے فیصلوں کے بروقت تعین

معاون:

جناب عالی!

مجھے ہدایت کی گئی ہے کہ عرض کروں کہ مجاز مآتم کے نوٹس میں یہ بات لائی گئی ہے کہ سروس ٹریبونل کے فیصلوں پر بروقت عمل درآمد نہیں ہو رہا ہے۔ جسکی وجہ سے سرکاری ملازمین کو ان پر عمل درآمد کرانے کے لئے دوبارہ سروس ٹریبونل سے رجوع کرنا پڑتا ہے جسکی وجہ سے ان فیصلوں میں غیر ضروری تاخیر واقع ہوتی ہے۔ ان مشکلات کو مد نظر رکھتے ہوئے یہ فیصلہ کیا گیا ہے کہ تمام انفرادی کیسوں میں فوری طور پر عمل درآمد کیا جائے جبکہ وہ اجتماعی کیسز جن میں معقول رقم کا فرما ہو فوراً ونگر اور متعلقہ محکمہ جات کے مشورے سے عمل کیا جائے جن کیسوں میں سپریم کورٹ آف پاکستان نے حکم اتنا ہی جاری نہ کیا ہو تو متعلقہ محکمہ کو سروس ٹریبونل کے فیصلے کی فورا قبول کرنی چاہیے۔ سروس ٹریبونل کے فیصلوں کو مناسب وقت میں پایہ تکمیل تک پہنچایا جائے بصورت دیگر متعلقہ اشخاص کے خلاف تاحی کارروائی عمل میں لائی جائے گی۔ چیئر مین سروسز ٹریبونل معتمد اعلیٰ صوبہ سرحد کو ان معاملات سے آگاہ رکھیں گے جن معاملات میں غیر ضروری تاخیر واقع ہو رہی ہو خصوصاً محکمہ صحت، تعلیم اور پولیس، جہاں ملازمین کی تعداد دوسرے محکمہ جات سے نسبتاً زیادہ ہے۔

آپ کا مخلص
محمد رفیق
(ایم قاسم جان)
سکیشن آفیسر (ضوابط۔ ۶)

VAKALATNAMA

NO. _____/20

IN THE COURT OF KP SERVICE TRIBUNAL PESHAWAR

Husnain Kazmi

Appellant
Petitioner
Plaintiff

VERSUS

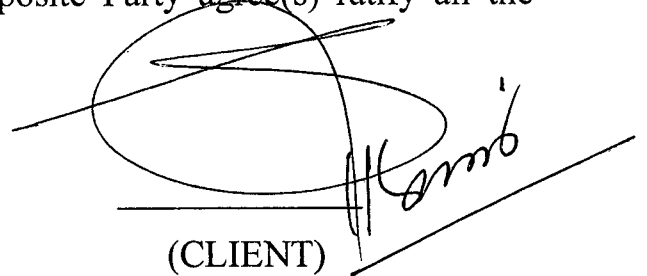
Husnain Kazmi

Respondent (s)
Defendants (s)

I / WE _____

do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE _____/20


(CLIENT)

ACCEPTED


**SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT**



GOVERNMENT OF KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS AND RURAL DEVELOPMENT
DEPARTMENT

SUMMARY FOR CHIEF MINISTER

Subject: RE-INSTatement OF SYED HASNAIN KAZMI, ASSISTANT DIRECTOR
(BS-18 PERSONAL) LOCAL GOVT. & RURAL DEVELOPMENT
DEPARTMENT.

A summary on the above cited subject is submitted for approval of the Chief
Minister, please.

Sami 26/11/24
(Shakeel Ahmad)
Secretary Local Govt. & RDD

Secretary, Law , Parliamentary Affairs and
Human Rights.

Secretary Establishment.

Chief Secretary.

Chief Minister.

26/11/2024



GOVERNMENT OF KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS AND RURAL DEVELOPMENT
DEPARTMENT

SUMMARY FOR CHIEF MINISTER

Subject: RE-INSTATEMENT OF SYED HASNAIN KAZMI, ASSISTANT DIRECTOR (BS-18 PERSONAL) LOCAL GOVT. & RURAL DEVELOPMENT DEPARTMENT.

Syed Hasnain Kazmi, Assistant Director (BS-18 Personal) Local Govt. & Rural Development Department was removed from service on account of wilful absence from duty by the competent authority vide order dated 12.12.2017 (**Annex-I**). Aggrieved of the said orders, he filed Service Appeal No.457/2018 before the Khyber Pakhtunkhwa Service Tribunal, Peshawar which was decided on 4.6.2021 (**Annex-II**). The case was referred to Law Department for filing CPLA vide this Department dated 7.7.2021 (**Annex-III**). Law Department declared the same unfit for filing CPLA vide minutes of the Scrutiny Committee (**Annex-IV**). The appellant was also referred to Standing Medical Board and findings of the standing Medical Board are at **Annex-V**.

2. In view of the above development, a meeting to devise implementation mechanism of the Khyber Pakhtunkhwa Service Tribunal judgment dated 4.6.2021 passed in Service Appeal No.457 of 2018 was held under the chairmanship of Secretary Local Govt. & Rural Development Department on 24.09.2021, which was attended by the representative of Law, Establishment and Health Departments. Minutes of the meeting is at **Annex-VI** and decision, therein, is reproduced as under:-

- 26/14
1. The Judgment of the Hon'ble Service Tribunal Peshawar has been complied with by attending of the Standing Medical Board by the appellant.
 2. As partial action on the Judgment of the Hon'ble Service Tribunal has been taken and re-instatement is required to be made so that Judgment is implemented in its essence.
 3. The Service Tribunal vide its Judgment declared that if the report of the Standing Medical Board is otherwise the Department would be at liberty to follow due course in dealing with the absence of appellant from duty. Therefore, re-instatement of the appellant is proposed alongwith carrying out of formal inquiry simultaneously.

3. In pursuance of the aforementioned decisions and order to implement the judgment of Khyber Pakhtunkhwa Service Tribunal dated 4.5.2021 passed in Service Appeal No.457/2018, it is proposed that Syed Hasnain Kazmi, Assistant Director (BS-18 Personal) may be re-instated into service.

In terms of Rule-4 (1) (a) of the Khyber Pakthunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, Chief Minister, Khyber Pakthunkhwa being competent authority, is requested to approve the proposal contained in para-3 of the summary, please.

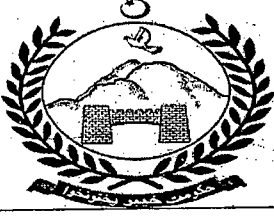
Dani 26/11/21
(Shakeel Ahmad)
Secretary Local Govt. & RDD

Secretary, Law, Parliamentary Affairs and Human Rights.

Secretary Establishment.

Chief Secretary.

Chief Minister.



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT

SUBJECT:- RE-INSTATEMENT OF SYED HASNAIN KAZMI, ASSISTANT DIRECTOR (BS-18 PERSONAL) LOCAL GOVT. & RURAL DEVELOPMENT DEPARTMENT

Reference Para-04 of the summary

05. The instant case has been examined. Previously Law Department, on the basis of judgment of the Service Tribunal, dated 04.06.2021, and report of Medical Board, with regard to the appellant, dated 14.07.2021 (**Annex-VIII**), has already tendered its advice/opinion, vide letter No.SO (OP-I)/LD/15-2/2021/2010-13 dated 17.09.2021 (**Annex-VII**). However, on examination of the Summary, it found that the Medical Report, dated 01.09.2021, at **Annex-V** is not the same, on the basis of which Law Department tendered its previous opinion.
06. Keeping in view the above, it is requested that the Medical Report, at **Annex-V**, may be ascertained/clarified, especially with reference to the previous report of the Medical Board, in order to offer candid opinion.


(Muhammad Abid Majeed)
Secretary, Law Department

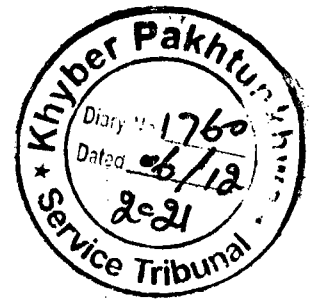
Secretary Local Govt. Department

With reference to para-5 and 6 of the summary, it is submitted that Law Department has rightly observed in para-5, report of the Standing Medical Board on which Law Department tendered advice / opinion vide letter No. SO(OP-I)/LD/15-2/2021/2010-13 dated 17.09.2021 is at **Annex-VIII**. So far report of Standing Medical Board at **Annex-V** is concerned, this is 2nd report received in response of this Department letter No. SO(Lit)/LG/2-2/HC/2020 dated 24.08.2021(**Annex-IX**). This facts has already been highlighted in the minutes of the meeting held under the Chairmanship of Secretary, Local Govt. & Rural Development to discuss the reports of Standing Medical Board on 24.09.2021 (**Annex-VI**). It is added here, that the decisions of the said meeting are reflected in para-2 of the summary.

Law Department is therefore, requested to examine the case in light of the above clarification.

(Shakeel Ahmed)
Secretary LG,E&RDD

Secretary Law.



The Honorable Chairman,
Services Tribunal KPK,
Peshawar.

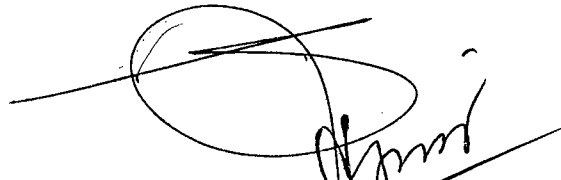
Subject:

**REQUEST FOR EARLY HEARING OF EXECUTION PETITION
NO.164/21 IN SERVICE APPEAL NO.457/2018.**

Respectfully Sheweth:

1. That subject mentioned Service Appeal was disposed off on 04/06/2021 with the direction that the appellants may be reinstated in service immediately and the respondents shall move forward for constitution of a fresh Medical Board.
2. That, the Honorable Services Tribunal further directed that all proceedings shall be completed without delay but not later than 90 days.
3. That, the attested copy of the judgment dated 04/06/2021, passed, in the subject mentioned Services Appeal handed over to the Administrative Department on 18/06/2021.
4. That the respondents moved the case to Law Department for filing CPLA/Appeal before the Honourable Supreme Court of Pakistan, but the case was returned to Administrative Department vide letter dated 04/08/2021, being **UNFIT for filing CPLA / Appeal before the Honorable Supreme Court of Pakistan.**
5. That on the direction of Honorable Services Tribunal the competently constituted fresh standing medical board vide order dated 24/08/2021 reported in its proceedings dated 01/09/2021 that in light of patient's (petitioner) past clinical treatment record which is in his possession shows that he remained under treatment for DM+IHD (Diabetes Mellitus and Ischemic Heart Disease) during the disputed period (April, 2016 to June, 2017).
6. That the salary of the petitioner is stopped and the petitioner is facing financial hardships.
7. The Administrative Department / respondents are reminded / intimated vide application dated 28/07/2021 that all proceedings have to be concluded within 90 days.
8. The Hon'ble Chief Minister KPK is pleased to accord approval for my reinstatement in service and the Administrative Department is supposed to implement the court order in letter and spirit.
9. That the next date of hearing in the above mentioned Execution Petition has been fixed for **23/12/2021.**

Therefore, keeping in view the above it is requested that an early date for next hearing in the above mentioned Execution Petition may kindly be fixed.


PETITIONER
Syed Hasnain Kazmi
Assistant Director
Local Govt. & RDD Haripur

Dated: 06/12/2021



**GOVERNMENT OF
KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS &
RURAL DEVELOPMENT DEPARTMENT**

Dated: the Peshawar 07th December, 2021

NOTIFICATION

No. SOE/LG/3-398/ST/2021.- ¹⁵³⁷⁹ In pursuance of the judgement of Khyber Pakhtunkhwa Service Tribunal dated 04/06/2021 passed in Service Appeal No. 457/2018, the Competent Authority is pleased to re-instate Syed Hasnain Kazmi, Assistant Director (BPS-18-Personal) of Directorate General of LG&RD Khyber Pakhtunkhwa into services with immediate effect.

2. The Competent Authority reserves the right to initiate any further inquiry proceedings under the rules as and when required.

**SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
LOCAL GOVT; ELECTIONS & RURAL DEVELOPMENT
DEPARTMENT**

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa.
2. Director General, Local Government & Rural Development Department.
3. PS to Chief Secretary, Khyber Pakhtunkhwa.
4. PS to Secretary, LG,E&RD Department.
5. Registrar, Khyber Pakhtunkhwa Service Tribunal.
6. Officer concerned.
7. Office Order File.

10/12/2021
SECTION OFFICER (ESTT:)



**GOVERNMENT OF
KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS &
RURAL DEVELOPMENT DEPARTMENT**

No. SOE/LG/3-398/ST/2021
Dated: the Peshawar 17th December, 2021

To

The Director General,
Local Government & Rural Development Department,
Khyber Pakhtunkhwa,
Peshawar.

Subject: **PROPOSAL OF POSTING OF SYED HUSNAIN KAZMI, ASSISTANT
DIRECTOR (BS-18-PERSONAL) OF DIRECTORATE GENERAL OF
LG&RD DEPARTMENT.**

Dear Sir,

I am directed to refer to this department Notification of even No. dated 07/12/2021 wherein Syed Husnain Kazmi, Assistant Director (BS-18-Personal) has reinstated into services in light of the judgment passed by Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 457/2018.

2. I am further directed to request you to furnish his posting proposal to this department.

Yours Faithfully

[Signature]
SECTION OFFICER (ESTT:)

Copy forwarded to the PS to Secretary, LG,E&RD Department.

[Signature]
SECTION OFFICER (ESTT:)

[Signature]
20-12-21

The Hon'ble Chairman,
Services Tribunal KPK,
Peshawar.



Subject: REQUEST FOR EARLY HEARING OF EXECUTION PETITION
NO.164/21 IN SERVICE APPEAL NO.457/2018.

Respectfully Sheweth:

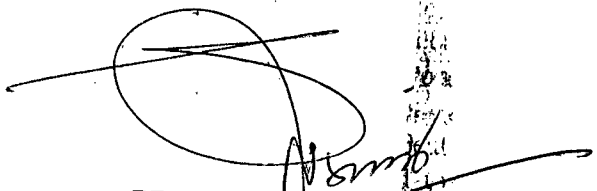
- NFA
06/01/2022
1. That subject mentioned Service Appeal was disposed off on 04/06/2021 with the direction that the appellants may be reinstated in service immediately and the respondent shall move forward for constitution of a fresh Medical Board.
 2. That, the Honorable Services Tribunal further directed that all proceedings shall be completed without delay but not later than 90 days.
 3. That, the attested copy of the judgment dated 04/06/2021, passed in the subject mentioned Services Appeal handed over to the Administrative Department on 18/06/2021.
 4. That the respondents moved the case to Law Department for filing CPLA/Appeal before the Hon'ble Supreme Court of Pakistan, but the case was returned to Administrative Department vide letter dated 04/08/2021, being **UNFIT for filing CPLA / Appeal before the Hon'ble Supreme Court of Pakistan.**
 5. That on the direction of Hon'ble Services Tribunal the competently constituted fresh standing medical board vide order dated 24/08/2021 reported in its proceedings dated 01/09/2021 that in light of patient's (petitioner) past clinical treatment record which is in his possession shows that he remained under treatment for DM+IHD (Diabetes Mellitus and Ischemic Heart Disease) during the disputed period (April, 2016 to June, 2017).
 6. **That the salary of the petitioner is stopped and he is facing financial hardships.**
 7. The Administrative Department / respondents are reminded / intimated vide application dated 28/07/2021 that all proceedings have to be concluded within 90 days.
 8. On the approval of the Competent Authority (Hon'ble Chief Minister KPK) I have been reinstatement in service with immediate effect and the Administrative Department is supposed to implement the judgment in letter and spirit by deciding intervening and disputed period.
 9. That the next date of hearing in the above mentioned Execution Petition has been fixed for 14/02/2022.


Therefore, keeping in view the above it is requested that an early date for next hearing in the above mentioned Execution Petition may kindly be fixed.

Put up to the worthy chairman
with relevant Execution Petition.

Read
4/1/2022
Through

Dated: 04/01/2022


PETITIONER
Syed Hasnain Kazmi
Assistant Director
Local Govt. & RDD Haripur


(SYED NOMAN BUKHARI)
Advocate High Court

Section Officer (Litigation)
Local Govt. and Rural Development Department
KPK Peshawar.



**Subject: CONTEMPT OF COURT PETITION / EXECUTION PETITION
NO.164/21 IN SERVICE APPEAL NO. 457/18.**

Memo:

Reference my applications dated 06/12/2021

I would like to refer Order Sheet dated 11/11/2021 of the subject mentioned Petition, copy attached as ready reference. The Hon'ble Chairman Service Tribunal Peshawar was pleased to pass the following orders:

"Learned AAG seeks time to take the concerned Authorities on board for implementation of the judgment in letter and spirit. Request is accorded. To come up for compliance report in light of the previous order sheet dated 05/11/2021, on 02/12/2021 before the SB."

Again I would like to refer another Order Sheet dated 23/12/2021 of the subject mentioned Petition, copy attached for your kind perusal please. The Hon'ble Chairman Service Tribunal Peshawar was pleased to pass the following orders:

"Representative of the respondents produced a copy of Notification dated 07/12/2021 whereby petitioner has been reinstated in service with immediate effect. Placed on file. Let the department come up with appropriate order for treating the absence period of the petitioner in light of the spirit of the judgment."

The attested copy of the judgment dated 04/06/2021 was received by the Department on 18/06/2021. The operative part of the judgment is reproduced as under:

"Therefore, we direct that a fresh Medical Board be constituted by the competent authority to examine the appellant in the light of his past clinical treatment and its record in his possession as well as effects of the illness on his present health condition, if any. Let the Medical Board come up with an independent opinion as to genuineness of the medical history of the appellant in light of record in his possession in juxtaposition with his present health conditions. If the report of the SMB constituted at prerogative of the competent authority confirms the genuineness of past clinical history of the appellant's illness, the department, within its competence, will treat the absence period as a leave of the kind due. If the report of SMB is otherwise, the department would be at liberty to follow the due course in dealing with the absence of appellant from duty. Subject to given observations, we set-aside the impugned order and direct for reinstatement of the appellant forthwith. The respondents, on receipt of this Judgment, shall move forward for constitution of SMB under intimation to the appellant and shall make it possible that all proceedings herein directed are concluded without delay but not later than 90 days. The back benefits shall follow the outcome of proceedings indicated hereinbefore."

From the perusal of the operative part of the judgment and the above mentioned orders passed by the Hon'ble Chairman on 11/11/21 and 23/12/21 it is crystal clear that I was supposed to be reinstated in service 1st and then within 90 days

after receipt of the judgment have to appear before the competently constituted fresh Standing Medical Board but unfortunately it couldn't happen and the given time of **90 days was expired on 16/09/2021 at 11:59 PM.**

It is added that the Administrative Department moved the case to Law Department vide No.SO(Lit)/LG/2-283/2017/2951 dated 07/07/21 for filing CPLA/Appeal before the Hon'ble Supreme Court of Pakistan, but the case was declared **UNFIT for filing CPLA / Appeal before the Hon'ble Supreme Court of Pakistan** vide No. SO(Lit)/LD/8-20/LG/2021/178-81 dated 04/08/202.

Therefore, keeping in view the above it is requested that the judgment of the Hon'ble Service Tribunal may be implemented in letter and spirit by reinstating me from the date of removal i-e 12/12/2017 and treating the disputed period (April 2016 to June 2017) as spent on duty because the then Departmental Authorities have legalised everything by accepting my Arrival Report on 30/06/2017 and allowing me to perform my duties with all perks and privileges vide Notification No.SO(LG-I)4-116/2017/KC dated 07/08/2017. Subsequently I may be adjusted/authorize to draw my outstanding salary etc. from the Station, Post and Period mentioned below as these sanctioned positions/posts remained vacant in the past:

S.No.	Period	Post, Position, Code & Station
1.	21/03/2016 to 30/06/2017	Assistant Director (Sr.) LG&RDD Haripur (80671343)
2.	01/07/2017 to 07/08/2017	Assistant Director (Jr.) LG&RDD Haripur (80151287)
3.	01/12/2017 to 30/09/2018	Assistant Director (Jr.) LG&RDD Haripur (80151287)
4.	01/10/2018 to 31/12/2019	Delimitation Officer, Delimitation Authority Local Govt. Peshawar/Assistant Director /Deputy Director, Directorate General LG&RDD Peshawar
5.	01/01/2020 to 31/12/2020	Assistant Director (Jr.) LG&RDD Haripur (80151287)
6.	01/01/2021 to 06/12/2021	Assistant Director (Sr.) LG&RDD Haripur (80671343)

An early response shall be highly regarded.

Dated: 04/01/2022.

Cc:

1. The Registrar Hon'ble Service Tribunal Peshawar with reference to above.
2. PSO to Chief Secretary KPK.
3. PS to Hon'ble Minister for Local Govt. & RDD KPK.

FOR INFORMATION AND NECESSARY ACTION PLEASE.

Please send our file.

Reader

4/1/2022

(SYED HASNAIN KAZMI)

Assistant Director
Local Govt. & RDD

(SYED HASNAIN KAZMI)

Assistant Director
Local Govt. & RDD

VAKALATNAMA

BEFORE THE Khyber Pakhtunkhwa Service Tribunal
Peshawar

_____ OF 2022

Hasnain Kazmi

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

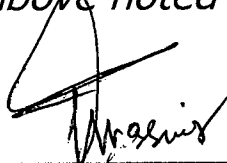
Local Govt: Deptt:

(RESPONDENT)
(DEFENDANT)

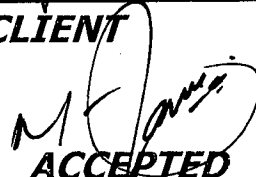
I/We Hasnain Kazmi

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, 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. 09 / 05 / 2022



CLIENT



ACCEPTED

MIR ZAMAN SAFI



**SAID REHMAN
ADVOCATES**

OFFICE:

Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.

Mobile No.0323-9295295

0317-9743003

**COURT MATTER
MOST IMMEDIATE**

COURT MATTER

The Secretary
Local Govt., Election and Rural Development Department
KPK Peshawar.

GOVT. OF PAKISTAN
Diary No. 10097
Date 6-12-21

Subject: **EXECUTION PETITION / CONTEMPT OF COURT PETITION NO.164/21 IN SERVICE
APPEAL NO. 457/18.**

Dear Sir,

Reference Order Sheet dated 11/11/2021 of the subject mentioned Execution Petition, copy attached for your kind perusal please. The Hon'ble Chairman Service Tribunal Peshawar was pleased to pass the following orders:

"Learned AAG seeks time to take the concerned Authorities on board for implementation of the judgment in letter and spirit. Request is accorded. To come up for compliance report in light of the previous order sheet dated 05/11/2021, on 02/12/2021 before the SB."

The Division Bench of the Hon'ble Service Tribunal allowed the Service Appeal No. 457/2018 on 04/06/2021 which means the prayer of the appeal has been accepted. The prayer of the Service Appeal is reproduced as under:

"ON ACCEPTANCE OF THIS APPEAL, THE APPELLANT MAY VERY GRACIOUSLY BE REINSTATED IN SERVICE WITH ALL BACK BENEFITS, FOUR (4) ILLEGAL NOTIFICATIONS DATED 07/08/2017, 30/08/2017, 08/09/2017 AND 12/10/2017 BE SET-ASIDE AND THE RESPONDENTS BE DIRECTED TO SANCTION MEDICAL LEAVE OF THE APPELLANT AS RECOMMENDED BY THE STANDING MEDICAL BOARD."

The attested copy of the judgment dated 04/06/2021 was received by the Department on 18/06/2021. The operative part of the judgment is reproduced as under:

"Therefore, we direct that a fresh Medical Board be constituted by the competent authority to examine the appellant in the light of his past clinical treatment and its record in his possession as well as effects of the illness on his present health condition, if any. Let the Medical Board come up with an independent opinion as to genuineness of the medical history of the appellant in light of record in his possession in juxtaposition with his present health conditions. If the report of the SMB constituted at prerogative of the competent authority confirms the genuineness of past clinical history of the appellant's illness, the department, within its competence, will treat the absence period as a leave of the kind due. If the report of SMB is otherwise, the department would be at liberty to follow the due course in dealing with the absence of appellant from duty. Subject to given observations, we set-aside the impugned orders and direct for reinstatement of the appellant forthwith. The respondents, on receipt of this Judgment, shall move forward for constitution of SMB under intimation to the appellant and shall make it possible that all proceedings herein directed are concluded without delay but not later than 90 days. The back benefits shall follow the outcome of proceedings indicated hereinbefore."

From the perusal of the operative part of the judgment it is crystal clear that I was supposed to be reinstated in service 1st and then within 90 days after receipt of the judgment have to appear before the competently constituted a fresh Standing Medical Board but unfortunately it couldn't happen and the given time of 90 days was expired on 16/09/2021 at 11:59 PM.

Therefore, keeping in view the above it is requested that the judgment of the Hon'ble Service Tribunal may be implemented in letter and spirit by reinstating me from the date of removal i-e 12/12/2017 and treating the disputed period (April 2016 to June 2017) as spent on duty because the then Departmental Authorities have legalised everything by accepting my Arrival Report on 30/06/2017 and allowing me to perform my duties with all perks and privileges vide Notification No.SO(LG-I)4-116/2017/KC dated 07/08/2017.

Dated: 06/12/2021

Cc:

- 1.The Registrar Hon'ble Service Tribunal Peshawar with reference to above.
- 2.Special Secretary Local Govt.& RDD KPK Peshawar.
- 3.Section Officer (Establishment) LGRDD KPK.
- 4.Section Officer (Litigation) LGRDD KPK

FOR INFORMATION AND NECESSARY ACTION PLEASE.

SSCE
6/12/21

(SYED HASNAIN KAZMI)
Assistant Director
Local Govt. & RDD


(SYED HASNAIN KAZMI)

"B"

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

S-B

No.

Appeal No. E. P No. 164 of 20 21
Appellant/Petitioner

Syed Hasnain Kazmi
Versus

The chief Secy KP Pesh. Respondent
Respondent No. 1

Notice to: The Chief Secretary 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 28/6/2022 at 8.00 A.M. If you wish to urge anything against the appeal/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 appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. E.P dated.....

Given under my hand and the seal of this Court, at Peshawar this.....
Day of.....20 13th
May 22

(Implementation Report)

Q 20/5

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.

Appeal No. P. No. 164 of 20

Syed Hashain Kazmi Appellant/Petitioner
Versus

The Chief Secy Kp Pesh. Respondent
Respondent No. 2

Notice to: The Secretary Local Govt, & Rural
Development Dept. 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 28/6/2022 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 appeal is attached.~~ Copy F/P 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 13th

Day of.....May.....20

(Implementation Report)

R 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.

23/5/22