Petitioner present through representative.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General alongwith Afsar Jan Assistant for respondents present.

At the very outset, implementation report in respect of voluntary retirement from service of the present petitioner as Superintendent was produced before the Tribunal. Judgment of this Tribunal has been implemented, therefore, the instant execution petition stands filed being fully satisfied. No order as to costs.

Announced 08.06.2022

(Rozina Rehman)

Member (J)

Form- A

FORM OF ORDER SHEET

Court of	
Execution Petition No.	34/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.01.2022	The execution petition of Mr. Ghulam Nabi submitted today by
	,	Mr. Noor Muhammad Khattak Advocate may be entered in the
		relevant register and put up to the Court for proper order please.
		REGISTRAR
	SAU.	
2-		This execution petition be put up before S. Bench at Peshawar on $\frac{112/22}{}$
		CHAIRMAN
	11.02.2022	Due to retirement of the Worthy Chairman,
	1 Boro Mile	Tribunal is defunct, therefore, case is adjourned
	a d	05.04.2022 for the same as before.
•	to the	Reader
	05.04.2022	Counsel for the petitioner present. Notice be iss
		to the respondents for submission of implementation
		on 08.06.2022 before S.B.

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to

0865.2023)

(Pertioner present firough, spices antative)

Advocate General Calongwith Alsan Can Assistant for Cesponients present

At the very outset implementation continued to countary ement from service of the present petitioner as superintendent was produced before the Tribunal and pentage this Tribunal has been implemented, therefore the instant execution petition stands filed being fully satisfied. No order as to cosis

Announced 08.05 202

(Rozina Pehman)

BEFORE THE KHYBER PAKHTUNKHWA SERVÍCE TRIBUNAL, **PESHAWAR**

SERVICE APPEAL NO. 227/2020 IN

EXECUTION PETITION NO. 34 /2022

GHULAM NABI

V/S SMBR DEPTT:

INDEX

S.N O	DOCUMENTS	ANNEXURE	PAGE
1	Memo of implementation	**********	1 – 2
2	Affidavit	************	3
3	Judgement dt: 08.09.2021	A	4-9
4	Wakalat Nama		10

Dated: 10.01.2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK ADVOCATE

0345-9383141



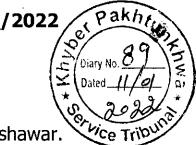
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Implementation Petition No. 34 In Appeal No277/2020

Ghulam Nabi , Ex-Superintendent(BPS-17)

Directorate of Land Record, Khyber Pakhtunkhwa, Peshawar.

PETITIONER



VERSUS

- 1- The Chief Secretary, Khyber Pakhtunkhwa, Peshawar .
- 2- The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director Land Record, Khyber Pakhtunkhwa, Peshawar.

 RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING THE RESPONDENTS TO OBEY THE JUDGMENT DATED 08.09.2021 IN LETTER AND SPIRIT.

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 277/2020 before this august Service Tribunal for setting aside the impugned order of the respondents dated 17-09-2019 regarding compulsory retirement of the appellant and ultimate his reinstatement with all back benefits.
- 3- That after obtaining copy of the judgment dated 08-09-2021 the petitioner submitted the judgment mention above for its implementation to the Department concerned but the respondent Department are not willing to obey the judgment dated 08-09-2021 in letter and spirit.
- 4- That the petitioner has no any other remedy but to file this implementation petition.



It is therefore, most humbly prayed that the respondents may be directed to implement the order dated 08-09-2021 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

GHULAM NABI

NOOR MOHAMMAD KHATTAK ADVOGATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL No. 227/2020

IN
EXECUTION PETITION NO. ____/2022

GHULAM NABI

VS

SMBR DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying **execution petition** are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.

DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

CERTIFICATION

ANNEX A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 277 /2018

Diary No. 297

Mr. Ghulam Nabi, Ex-Superintendent (BPS-17),
Directorate of Land Record, Khyber B-LLL

Directorate of Land Record, Khyber Pakhtunkhwa, Peshawar.

ar. 1/1/2020

VERSUS

1- The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.

2- The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.

3- The Director Land Record, Khyber Pakhtunkhwa, Peshawar.

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 17.09.2019 WHEREBY THE APPELLANT HAS COMPULSORILY BEEN RETIRED FROM SERVICE AND AGAINST THE INACTION OF THE RESPONDENT BY NOT DECIDING THE REVIEW PETITION OF THE APPELLANT WITH IN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 17.09.2019 may very kindly be set aside and the respondents may kindly be directed to re-instate the appellant with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH: ON FACTS:

- 1- That appellant was initially appointed as Junior Clerk on 24.06.1981 and joined the present Department in 1984. Since then performing his duties in this Department quite efficiently, whole heartedly and up to the entire satisfaction of his superior for about 39 long years.
- 2- That while performing my duties the board of revenue asked for the information and certificates of passed candidates for promotion to



EFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 277/2020

Date of Institution

09.01.2020

Date of Decision

08.09.2021

Mr. Ghulam Nabi, Ex-Superintendent (BPS-17), Directorate of Land Record, Khyber Pakhtunkhwa, Peshawar.

(Appellant)

VERSUS

Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar and two others.

(Respondents)

Noor Muhammad Khattak,

Advocate

For appellant.

Muhammad Adeel Butt,

Additional Advocate General

For respondents.

AHMAD SULTAN TAREEN

ROZINA REHMAN

CHAIRMAN:

MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Appellant has filed the instant service appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 17.09.2019, whereby, penalty of compulsorily retirement from service was imposed upon him!

Brief facts of the case are that appellant was appointed as 2. Junior Clerk. He served the Department for about 39 years. While

TESTEL



performing his duties, he was asked for information and certificates of passed candidates for promotion to the post of Naib Tehsildar and accordingly, list with requisite information was forwarded. During preparation of aforesaid list, another letter having the same number and date was forwarded in a hasty manner. A show cause notice was issued to the appellant, wherein five allegations were based for his removal from service and vide order dated 17.09.2019, appellant was compulsorily retired from service. Feeling aggrieved, he preferred review petition but to no avail, hence, the present service appeal.

- 3. Learned counsel for appellant contends that the impugned order is against law, facts and norms of natural justice, hence, not tenable. He argued that the appellant was not treated in accordance with law and rules on the subject and as such, the respondents violated Article-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. It was further submitted that the candidates who did not pass their departmental examination of Naib Tehsildar, were shown in the list of letter dated 03.06.2019 at Serial No.14 & 15 and the appellant was made a scapegoat on the fake & bogus letter having the same number and date which bogus letter was withdrawn/cancelled. Learned counsel submitted that no charge sheet and statement of allegations was served on appellant before issuance of the impugned order and he was condemned unheard.
- 4. Conversely, learned A.A.G submitted that the appellant deliberately issued bogus certificate, whereby, two Kanungos of

Khyber Pakhiukhwa Service Tribinual Peshawaii

08/9/3/



District Peshawar were shown to have passed the departmental examination for promotion to the post of Naib Tehsildar despite the fact that those two Kanungos had not even appeared in the examination. That it was an attempt on the appellant's part to get their unjustified promotion through backdoor with malafide. He submitted that appellant got the clue that his conduct was detected and that a show cause notice was served on him, he, therefore, preferred to withdraw/cancel his earlier letter which proved to be a futile attempt on his part to bluff the Department and in the meanwhile, he requested for early retirement and lastly, he submitted that the appellant has already attained the age of superannulation i.e. 60 years, therefore, any decision in his favor would not accrue any financial gains at this stage.

5. From the record, it is evident that appellant was served with a show cause notice for issuing bogus certificate with regard to passing of departmental examination of Naib Tehsildar in respect of Inayat ur Rehman and Muhammad Nadeem Kanungos of District Peshawar to get their accelerated promotion as Naib Tehsildar, whereas, one of the Kanungo even did not appear at all in the departmental examination of Naib Tehsildar, whereas, Inayat ur Rehman had recently appeared in the departmental examination the result of which was yet to be announced but they were shown as passed and when the appellant came to know about all the facts, then both the letters issued by him were canceled and the certificates were

084 19/9/2)

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provided without any approval of the competent authority and were issued at his own risk tantamount to misconduct. Reply to this show cause notice was submitted, 26.07.2019 and the impugned order was passed on 17.09.2019, whereby, major penalty of compulsorily retirement was imposed upon him. It is settled law that when a major penalty is to be imposed on a civil servant, a regular inquiry is to be held to determine the factual basis of the allegations which are required to be proved in accordance with the law. The appellant was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 which explicitly ordains a regular inquiry before taking any action which can in the relevant context only be dispensed with under Section-5(1) (a) of the Rules ibid in the event of sufficient documentary evidence being available against the civil servant or for reason to be recorded in writing showing satisfaction of the competent authority as to absence of need for holding an inquiry. In the instant case, most of the allegations required explicit proof and no reason for dispensing with the requirement of an inquiry appear to have been recorded. Reliance is placed on Chief Election Commissioner of Pakistan and others Vs. Miss Nasreen Parvez reported in 2009 S.C.M.R 329 and Abdul Ghaffar Vs. Superintendent of Police, South Zone, Karachi reported in 2011 P.L.C (C.S) 387. It is also on record that the appellant also submitted an application seeking retirement from service on 30.07.2019. As per his Secondary School Certificate Examination and his CNIC, his date of birth is 10.12.1960 as such, was due for retirement on 09.12.2020.

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Khyber aklifikhwa Service Tribinal Peshawar

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The impugned order was passed on 17.09.2019 while he himself requested for retirement w.e.f 01.09.2019.

6. The offshoot of the above discussion is that this appeal is partially allowed and the compulsory retirement is converted into voluntary retirement w.e.f 17.09.2019. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED. 08.09.2021

(Ahmad Sultan Tareen) Chairman

(Rozina Rehman) Member (J)

Certified to be ture copy

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Servi	ce Tr	ibunal
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VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

•	APPEAL NO: _		OF 20	21
4 hos	lem pla	b'		APPELLANT) (PLAINTIFF) PETITIONER)
		<u>VERSUS</u>	e t Grandenska	
SN	BL	·		ESPONDENT) DEFENDANT)
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ADVOCATES

KHYBER PAKHTUNKHWA SERVICE TIRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX! (OLD), KHYBER ROAD,
PESHAWAR.
No. E. P. Mo. 34/22
· Appeal No. 2. + + of 2000
Appellant/Petitioner
- The shief Decy Fesh: Respondent
V
Respondent No
Notice to: The Chief Secretary Kpk Peshawar
WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhy Province Service Tribunal Act, 1974, has been presented/registered for consideration, the above case by the petitioner in this Court and notice has been ordered to issue. You a hereby informed that the said appeal/petition is fixed for hearing before the Tribun *on
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 you 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 appeals attached. Copy of appeal has already been sent to you vide th
office Notice Nodateddated
Given under my hand and the seal of this Court, at Peshawar this 1.9.77
April 201 April 201 April 201 Registrar, Registrar, Registrar, Registrar, Registrar, Registrar, Peshawar. Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Careted Mediators.
EACH TO THE COURT OF THE COURT
2. Always quote Case No. White making any correspondence.



GOVERNMENT OF KHYBER PAKHTUNKHWA DIRECTORATE OF LAND RECORDS REVENUE AND ESTATE DEPARTMENT.

Peshawar dated the $\frac{28}{101/2022}$

NOTIFICATION.

No.LR-IV/PF/Ghulam Nabi/ 177 Whereas, Mr. Ghulam Nabi, Superintendent, office of the Director Land Records, Revenue & Estate Department, Khyber Pakhtunkhwa was proceeded against under Rule-5(i)(a) read with Rule-7 of Government of Khyber Pakhtunkhwa Civil Servant (Efficiency and Discipline) Rules, 2011 on account of misconduct.

AND WHEREAS; the competent authority in exercise of the powers under Rule- $4(b)(ii)\ of\ Government\ of\ Khyber\ Pakhtunkhwa\ Civil\ Servants\ (Efficiency\ \&\ Discipline)\ Rules,$ 2011, imposed major penalty of "Compulsorily Retirement" from service upon Mr. Ghulam Nabi vide No.LR-IV/DLR/Estb:/Vol:II/9646, dated, 17.09.2019.

AND WHEREAS; feeling aggrieved, the said accused preferred Service Appeal before Khyber Pakhtunkhwa Service Tribunal Peshawar vide Ne.277/2020, which was partially accepted and the penalty of Compulsory Retirement was converted into Voluntary Retirement with effect from the date of compulsory retirement i.e. 17.09.2019 vide Judgment dated, 08.09.2021

NOW THEREFORE; after having examined the Judgment dated, 08.09.2021 and minutes of the Scrutiny Committee of Law Department dated 29.12.2021, the penalty of "Compulsory Retirement" is hereby converted into "Voluntary Retirement" with effect from the date of compulsory retirement i.e. 17.09.2019.

> Secretary to Govt: of Khyber Pakhtunkhwa, Revenue & Estate Department.

Endst: No.LR-IV/PF/Ghulam Nabi/ 178-87

Copy forwarded to the:-

1) Accountant General, Khyber Pakhtunkhwa.

2) Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar with reference to their letter No.1909/ST, dated, 24.09.2021.

3) Secretary to Govt: of Khyber Pakhtunkhwa, Law, Alimentary Affairs and Human Rights Department.

4) PSO to Chief Minister, Khyber Pakhtunkhwa.

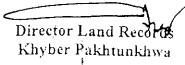
5) PSO to Chief Secretary, Khyber Pakhtunkhwa.

6) Secretary-I, Board of Revenue, Khyber Pakhtunkhwa.

7) Assistant Law Officer (Lit), Govt: of Khyber Pakhtunkhwa, Law, Alimentary Affairs and Human Rights Department with reference to their letter No.ALO(Lit)LD/8-23/Rev/2022/584-87, dated, 11.01.2022.

8) Accountant office of the Director Land Records Khyber Pakhtunkhwa

Appellant concerned.



PENSION ROLL DATA SHEET & PENSION SLIP

Date of issue : 17.05.2022 PPO Type : FRESH PPO Number: 00015466-01 Pensioner II) 00015466

Register No:PEN-I/G- 22 /2021-22 Pensioner's Name: CHULAM NABI

Father / Husband name: GHULAM AKBAR Designation: SUPERINTENDENT -NIC No.: 99901000203

Grade / Scale :17

Department.Min: DIRECTOR LAND MANAGEMENT

Pensioner's Type: SELF

Pension Type: RETIRING PENSION Date of Birth : :10.12.1960

Date of appointment:10,02.1981 Date of retirement: 17.09.2019 Date of Death:

Date of commence :18.09.2019 Date of Restoration 17.09.2032

Accounts office ID :PW

Accounts office Name :AG KP Peshawar Föderal / Province :Khyber Pakhtunkhwa

Length of Qualifying Service :38 years,7 months,7 days Old PPO Number:

No and Date of sanction of pension / Letter No.

T.R-11/PENSION/2238-40

and the date of the other Audit and Accounts officer authourising the Pension/Gratuity/Commutation

Pernament Address:

He/She is also entitled to the following increases

St.	Period	Increase % or amount	Increase Amount	W.E.F.
7 3 4 5 6 7 8 9	JUL_2011 JUL_2015 JUL_2016 JUL_2017 JUL_2018 JUL_2019 JUL_2021 U.	15.00 % 10.00 % 10.00 % 10.00 % 10.00 % 10.00 % Rs. 0.00	4741.33 3635.02 3998.52 4398.37 4838.21 5322.03 5854.23 0.00	18.09.2019 18.09.2019 18.09.2019 18.09.2019 18.09.2019 18.09.2019
10 11 12 13 14 15 16 17 13				
20 21 22 23 34 25 36				

Note: RECOVERY OF O/P'OF PAY RS.63393

Age : 59 years

Last Drawn pay/Emoluments(Rs.): 69470.00 Gross Pension(Rs.) : 48629.00

1/4th Surrendered Portion (Rs.)

Commuted Portion (Rs.) :17020.15. Net Pension (Rs.) :31608.85 Net Family Pension (Rs.) : 0.00 Amount of Commutation(Rs.) : 2633759.00 With Held Amount (Rs.) : 0.00 Life Time Arrears (Rs.) : 0.00

Arrears Of Pension (Rs.) Special Additional Pension (Rs.): 0.00 Commutation Percentage : 35,00 Commutation Table value = 12.90

Recovery on A/C of

Debitable to Govt :Khyber Pakhtunkhwa Total Net Share

Federal: 0.00 -- Punjab : 0.00 Sindh: 0.00 NWEP: 0.00 Balochistan: 0.00 ·Military: 0.00 AJK: 0.00

Autonomous: 0.00

PENSION SLIP

Month: April Year: 2022

Pension roll details

Wage Type	Wage Type Text	Amount
7559 0100 0101 1599 1600	Payment Monthly Pension - Self Pension Increases - Self Medical Allow - Pensioner Med. All, 2015 Pensioner	72299.00 31609.00 32788.00 6322.00 1580.00
		:
· ·		

Bank Details

Bank Account Number: 08980010794401 Bank Branch: POLICE ROAD, PESHAWAR.

POLICE ROAD, PESHAWAR.

Payment Mode :HABIB BANK LIMITED



GOVERNMENT OF KHYBER PAKH REVENUE & ESTATE DEPARTMENT

Phone No. 091- 9210057 FAX No. 0919213989

Facebook ID: www.facebook.com/landrecordkp Twitter ID: @Landrecord.kpk Email: landrecord.kpk@gmail.com

Most immediate Court Matter

> No. DLR.LR-VI (S.A Ghulam Nabi 6 04-607) Peshawar dated the 27/05/2022

To,

The Registrar,

Khyber Pakhtunkhwa Service Tribunal.

Peshawar.

SUBJECT:

EXECUTION PETITION NO. 34/2022 IN SERVICE APPEAL NO. 277/2020 TITLED GHULAM NABI VERSUS SENIOR MEMBER BOARD OF REVENUE, KHYBER PAKHTUNKHWA PESHAWAR.

Respected Sir,

I am directed to refer to Execution Petition. 34 of 2022 received with your notice issued on 19/04/2022 on the subject noted above and to state that order passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar on 08/09/2021 in Service Appeal No. 277/2020 titled Ghulam Nabi versus Govt. of Khyber Pakhtunkhwa has been implemented in letter and spirit. As per order of the Hon'ble Court the compulsory retirement has been converted into voluntary retirement with effect from 17/09/2019 and Pension papers, leave encashment etc in respect of Mr. Ghulam Nabi, Ex-Superintendent, Directorate of Land Records, Khyber Pakhtunkhwa, Peshawar (appellant / petitioner) have been submitted to Accountant General, Peshawar for further necessary action.

Deputy Director Land Records, Khyber Pakhtunkhwa

Endst: No. & Date above.

Copy forwarded to the:

1. Advocate General, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

2. PS to Senior Member, Board of Revenue, Khyber Pakhtunkhwa.

3. PA to Director Land Records, Khyber Pakhtunkhwa.

Deputy Director Land Records, Khyber Pakhtunkhwa