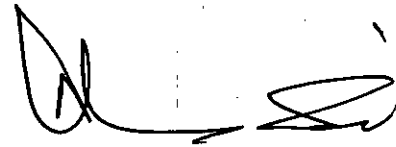


25th July, 2022

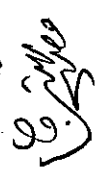
Petitioner in person present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Sajid Khan, ADEO for respondents present.

Representative of the respondents produced order endorsement No. 4279-81/PF Mr. Waheedullah Jan, Ex-S.Qari file dated 19.05.2022, whereby in compliance of the judgment of the Tribunal, the grievance of the petitioner has been redressed. Appellant submits that his grievance has been redressed and does not want to further pursue the case. As a token of admission of his submission he signed the margin of the order sheet. Since, the order of the Tribunal has been complied with, therefore, the instant execution petition is filed. Consign.

Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 25th day of July, 2022.



(Kalim Arshad Khan)
Chairman

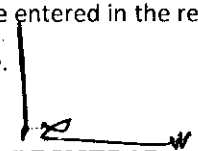

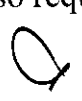
My grievances have been redressed and want to withdraw the instant Execution petition. 

OK

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 284/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	16.05.2022	<p>The execution petition of Qari Wahidullah submitted today by Mr. Muhammad Irshad Mohmand 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-	25-5-22	<p>This execution petition be put up before Single Bench at Peshawar on <u>14-6-22</u>. Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
	14 th June, 2022	<p>Clerk of counsel for the petitioner present.</p> <p>Counsel are on strike. Notice be issued to the respondents. To come up for implementation report on 25.07.2022 before S.B. Original file be also requisitioned.</p> <p style="text-align: right;"> (Kalim Arshad Khan) Chairman</p>



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) MARDAN

& ☎ 0937-933151 , ✉ deomalemardan@gmail.com



Adjustment.

In compliance of the worthy Director E&SE Khyber Pakhtunkhwa Peshawar office order endst:No.4675-78/F.No./appeal for Re-instatement/Estab (M-I) dated 18-05-2022, Mr.Waheedullah Jan Ex-S.Qari GHS Pati Kalan T.Bhai Mardan is hereby adjusted against vacant Senior Qari Post at GHS Babozai Mardan with effect from the date of his restoration i.e. 19-10-2018 till the subject to the outcomes of the final judgment of the Honorable Supreme Court of Pakistan in CPLA filed on 21-03-2022 in the instant case .

(Zulfiqar-ul-Mulk)-
District Education Officer
(Male) Mardan.

Endst:No. 4279-81 /PF Mr.Waheedullah Jan Ex-S.Qari file/Dated 19-05 /2022.

Copy forwarded to:-

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar w/r to his office order endst:No.& date cited above for information please.
2. District Account's Officer Mardan.
3. Principal GHS Babozai Mardan
4. Mr.Waheedullah Jan S.Qari GHS Babozai Mardan.

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Case Title: _____

CHECK LIST

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: _____		
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?		
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?		
17	Whether list of books has been provided at the end of the appeal?		
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____		
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: _____
 Signature: _____
 Dated: _____
 16-05-2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Execution Petition: 284 / 2022

In Service Appeal No: 317 / 2019

Decided on:- 02-02-2022

Qari Waheed ullah

(Applicant)

VERSUS

Government of KPK through Secretary Education Department

Peshawar & Others

(Respondents)

INDEX

S.No	Description of Documents	Annex	Pages
1.	Implementation / Execution Petition		1-2
2.	Affidavit		3
3.	Copy of Service Appeal & Judgment / Order dated 02-02-2022 Passed by this Honorable Tribunal	"A"	4-9
4	Copy of Application		10
5.	Wakalat Nama		11

Applicant: Qari Waheed Ullah
Through

Muhammad Irshad Mohmand
Advocate High Court

& Farhan Sheikh Adocate

Dated 12-05-2022

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Execution Petition: 284 /2022
In Service Appeal No:317 / 2019
Decided on:- 02-02-2022



Qari Waheed ullah s/o Abdur Raziq R/o Takkar Road Saddder colony, Tehsil Takht Bhai District Mardan. **(Applicant)**

VERSUS

1. Government of KPK through Secretary Education Department Peshawar.
2. Director E & SE Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) Mardan **(Respondents)**

**APPLICATION FOR IMPLEMENTATION / EXECUTION OF
JUDGEMENT & ORDER DATED 02-02-2022 IN LETTER &
SPIRIT.PASSED BY THIS HONORABLE TRIBUNAL IN
SERVICE APPEAL NO 317/2019 TITLE QARI WAHEED
ULLAH VS GOVT OF KPK THROUGH SECRETARY
EDUCATION & OTHERS.**

Respectfully Sheweth:-

That the Applicants submit as under:-

1. That the Applicant was performing his duty as Senior Qari in the Respondent Department and was posted at Government High School Patti Kalan District Mardan and thereafter Major Penalty of Compulsory retirement from service was imposed vide order dated 16-11-2017 and thereafter filed Service Appeal before this Honorable Tribunal and after hearing of Argument, this Honorable Tribunal was pleased to allowed the service of the Applicant vide order dated 02-02-2022.(Copy of Service Appeal & judgment / order dated 02-02-2022 is attach as Annex "A")

2

2. That thereafter the Petitioner submitted an application along with judgment & order of this Honorable Tribunal to the Respondent for compliance, but the Respondents are delaying the matter on one pretext and others. **(Copy of Application is Attach as Annex "B")**
3. That by not honouring the judgment / order of this Honorable Tribunal, the Respondents are not only abusing the law and rules, but also intentionally, willfully and deliberately not implementing the judgment / the order of this honorable tribunal.
4. That if this practice is continued on the part of Respondents and not restrained, this will have a bad impression in the eye of public regarding the court order.

Prayer

It is therefore humbly prayed that on acceptance of this application the Respondents be directed to implement the judgment / order dated 02-02-2022 passed by this Honorable Tribunal in letter and spirit by reinstating the Applicant into his service along with all back benefits.

Any other remedy which this August Tribunal deems appropriate may also be granted to the Applicant.


Applicant: Qari Waheed Ullah
Through


Muhammad Irshad Mohmand
Advocate High Court


Farhan Sheikh Advocate
Peshawar

3

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Execution Petition: /2022
In Service Appeal No:317 / 2019

Qari Waheed ullah

(Applicant)

VERSUS

Government of KPK through Secretary Education Department

Peshawar & Others

(Respondents)

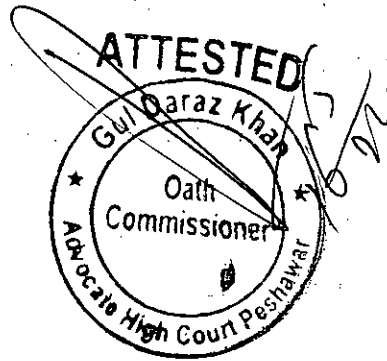
AFFIDAVIT

I Qari Waheed ullah s/o Abdur Raziq R/o Takkar Road Sadder colony, Tehsil Takht Bhai District Mardan.do hereby declare that the contents of this implementation / execution petition is true and correct to the best of my knowledge & belief and nothing has been concealed from this Honorable Tribunal.



DEPONENT

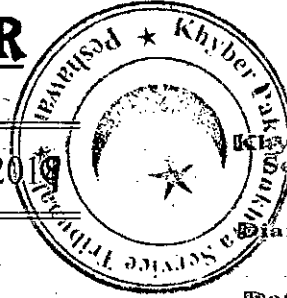
16102-3219989-1



BEFORE THE PROVINCIAL SERVICES TRIBUNAL

PESHAWAR

Appeal No. 317 / 2019



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 298

Dated 01-3-2019

Qari Waheed Ullah son of Abdur Raziq, (Ex-Senior Qari) resident of Takkar road sadder colony, Tehsil Takht Bahi & District Mardan Appellant

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary, Education.
2. The Director (E & SE) Khyber Pakhtunkhwa, Peshawar.
3. The ~~District~~ ^{District} Officer Male (E & SE), Mardan. Respondents

Filed to-day

Registrar

13/19

APPEAL UNDER SECTION 4, OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAIST THE IMPUGNED ORDER OF DIRECTOR (E & SE) KHYBER PAKHTUNKHAWA, PESHAWAR / RESPONDENT No.02, CONTAINED IN OFFICE ORDER/ ENDST 2142-45/F No.39/ VOL: II/ COMPLAINT/ KCT(M) Gen, Dated Peshawar The 12-11-2018, WHEREBY THE APPELLANT REINSTATEMENT INTO SERVICE ORDER IS WITHDRAWN, WHICH IS ILLEGAL, VOID, AGAINST LAW AND FACTS, WHILE DEPARTMENTAL APPEAL FILED ON DATED 28/11/2018, RECEIVED VIDE DAIRY 2037, DATED 29-11-2018, REMAINED UN-RESPONDED EVEN AFTER LAPSE OF 90 DAYS, WHICH IS ILLEGAL AGAINST LAW AND FACTS.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 317/2019

Date of Institution ... 01.03.2019
Date of Decision ... 02.02.2022



Qari Waheed Ullah son of Abdur Raziq, (Ex-Senior Qari) resident of Takkar Road Sadder Colony, Tehsil Takht Bhai, District Mardan.

... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Education and two others.

... (Respondents)

Muhammad Irshad Mohmand,
Advocate

... For appellant.

Naseer ud Din Shah,
Assistant Advocate General

... For respondents.

Salah-Ud-Din

... Member (J)

Rozina Rehman

... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

"On acceptance of instant service appeal, the impugned order of the Director (E&SE) Khyber Pakhtunkhwa Peshawar/Respondent No.2 contained in office order dated 12.11.2018, whereby, the appellant reinstatement into service order is withdrawn, may please be set aside and the appellant may be reinstated into his service with all back benefits."

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

2. Brief facts of the case are that appellant was performing his duty as Senior Qari and was posted at Government High School Patti Kalan. Major penalty of compulsory retirement from service was imposed upon appellant vide office order dated 16.11.2017. Feeling aggrieved, he preferred departmental appeal to the Director E&SE Khyber Pakhtunkhwa on 27.11.2017. The appellate order was not communicated to the appellant even after the lapse of 90 days, he, therefore, filed service appeal in this Tribunal on 15.03.2018. During the pendency of service appeal, his departmental appeal was accepted and he was reinstated into service on 19.10.2018 but the respondent No.2 withdrew the reinstatement order of the appellant on the plea of pendency of service appeal. The appellant preferred departmental appeal against the withdrawal of his reinstatement order but to no avail, hence, the present service appeal.

3. We have heard Muhammad Irshad Mohmand Advocate learned counsel for appellant and Naseer ud Din Shah learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Muhammad Irshad Mohmand Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that the appellant was clearly exonerated from all charges by the respondent No.2 and he was reinstated into service which order clearly shows that the allegations leveled against appellant were false and frivolous. He submitted that once reinstatement order is issued by a competent authority, then it cannot be withdrawn without genuine reasons. He contended that the impugned withdrawal order is therefore, illegal

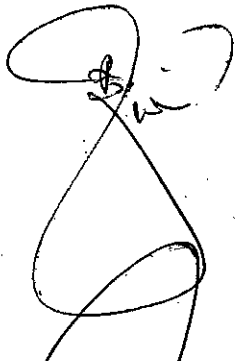
ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

and without lawful authority. Another limb of arguments was that appellant was not afforded a fair opportunity of hearing which is a sine qua non for any action under service law and that the impugned order is not supported by reasons as envisaged in the General Clauses Act.

5. Conversely, learned AAG submitted that the notification regarding reinstatement in respect of the appellant was withdrawn in the light of report of the respondent No.3 as the case of the appellant was subjudice in Service Tribunal. He contended that the appellant was a habitual bad character person who was involved in satanic activities time and again and that the impugned order was passed due to his bad character and immoral activities.

6. From the record, it is evident that appellant Qari Waheed Ullah was proceeded against departmentally under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and vide order dated 16.11.2017 major penalty of compulsory retirement from service was imposed upon appellant. Feeling aggrieved, appellant filed departmental appeal on 27.11.2017 which was rejected vide order dated 23.01.2018, however another notification was issued on 19.10.2018, whereby, the appellate authority accepted his appeal and appellant was reinstated into service with immediate effect while the intervening period i.e. from the date of compulsory retirement till taking over charge was treated as leave without pay. This order was passed during the pendency of Service Appeal No.377/2018, wherein, the order dated 16.11.2017 had been challenged by the appellant. In view of the pendency of the

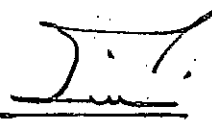

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

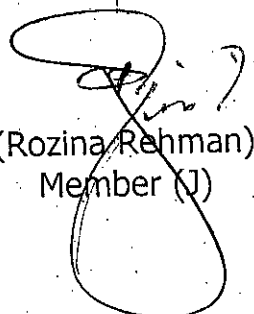
service appeal filed by the appellant, another notification was issued on 12.11.2018 vide which notification regarding reinstatement in respect of appellant issued vide order dated 19.10.2018 was withdrawn. The impugned order dated 12.11.2018 is not supported by cogent reasons as envisaged in the General Clauses Act. Mere pendency of an appeal in the Service Tribunal is no ground for withdrawal of an order which was otherwise issued by the competent authority in view of the entire record. The order of reinstatement into service in respect of the appellant by the competent authority bearing endorsement No.7070-73 dated 19.10.2018 is not denied. The same has been admitted to have been rightly issued by the competent authority.

7. For what has been discussed above, this appeal is accepted. The impugned order dated 12.11.2018 in respect of withdrawal of the reinstatement order is set aside and the appellant is accordingly reinstated into service in the light of order dated 19.10.2018. The intervening period i.e. from the date of compulsory retirement till taking over charge by the appellant has already been treated by the authority as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
02.02.2022

ATTESTED
EXAMINER
Rajinder Pal Singh
Service Tribunal
Jalandhar


(Salah-ud-Din)
Member (J)


(Rozina Rehman)
Member (J)


Order
02.02.2022

Appellant with counsel present.

Naseer ud Din Shah learned Assistant Advocate General
alongwith Sajid Ali ADEO for respondents present.

Vide our judgment of today of this Tribunal placed on file,
this appeal is allowed, this appeal is accepted. The impugned
order dated 12.11.2018 in respect of withdrawal of the
reinstatement order is set aside and the appellant is
accordingly reinstated into service in the light of order dated
19.10.2018. The intervening period i.e. from the date of
compulsory retirement till taking over charge by the appellant
has already been treated by the authority as leave without
pay. Parties are left to bear their own costs. File be consigned
to the record room.


Announced.
02.02.2022


(Salah-Ud-Din)
Member (J)

(Rozina Rehman)
Member (J)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 3/2/2022
2800
30
30- 
15/2/22
Date of Delivery of Copy 15/2/22

(10)

To

The District Education Officer,
Male Mardan.

Subject: - APPLICATION FOR RE-INSTATEMENT IN SERVICE.
R/Sir,

With due reverence and humble submission, I beg to solicit that I was performing my duty as Senior Qari at GHS Pati Kalan Mardan. A partial enquiry was conducted against me and Major Penalty of compulsory retirement was imposed upon me.

I submitted an appeal to the worthy Director E&SE Deptt: Khyber Pakhtunkhwa for justice. The worthy Director E&SE Deptt: Khyber Pakhtunkhwa has re-instated me vide office order dated 12-11-2018. However, later on, the said re-instatement was withdrawn with the plea that my service appeal was under process in the service tribunal. I once again knocked the door of Service Tribunal for justice.

The Hon'able Service Tribunal accepted my appeal and I have been re-instated in service on dated 02-02-2022. The certified verdict of the Hon'able Service Tribunal is attached herewith for ready reference please.

It is therefore requested that I may please be re-instated in service to continue my duty in the best interest of public service.

Dated 15-02-2022

Yours Obediently,






(WAHEEDULLAH JAN)
Senior Qari.

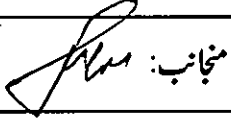
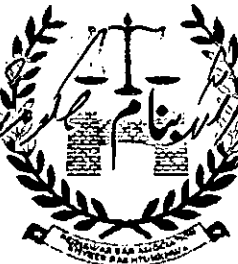
1357 / 01/13
Date - 16-2-22

ATTESTED

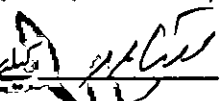
(11)

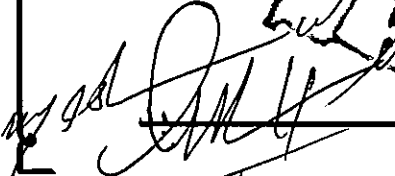
قیمت 50 روپے	123301	  
ایڈووکیٹ: 		
بار کونسل ایسوسی ایشن نمبر: BC-12-3488		پشاور بار ایسوسی ایشن، خیبر پختونخواہ
رابطہ نمبر: 0300-5917744		

بعدالت جناب: سر جسٹس ایسوسی ایشن ر.پ.ک

منجانب: 	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام  کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز ڈیکل صاحب کو راضی نامہ کر کے فیصلہ بر حلف دینے جو اپنی دعویٰ اقبال دعویٰ اور درخواست از برہم کی تصدیق زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل انگریزی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے مختار کے لئے اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیار حاصل ہوں گے اور اس کا سختہ پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو چیز چاہے ہر جانے اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 

16-12-2022

PESHAWAR BAR ASSOCIATION
KHAYBER PAKHTUNKHWA

مقام کے لیے منظور ہے

علیہ وکالت
 علیہ وکالت
 علیہ وکالت

نوٹ: تمام کالات باہر نوٹ کالی تا قابل قبول ہوگی۔ 0300-5917744