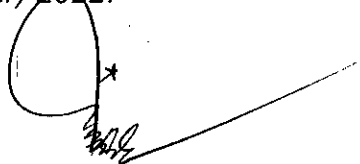


05.09.2022

Petitioner in person present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Hussain Ali, Litigation Officer for the respondents present.

02. Representative of respondent department produced a copy of the office order dated 02.07.2022 whereby the petitioner has been reinstated in service w.e.f the date of removal from service and also adjusted at GPS Bahadar Banda subject to the outcome of CPLA pending before the august Supreme Court of Pakistan. Since the Service Tribunal judgement dated 22.12.2021 has been conditionally/provisionally implemented vide the said office order and the petitioner stated at the Bar that he feels satisfied with the implementation report, as such the Service Tribunal judgement stands implemented. Consign.

03. *Pronounced in open court at Camp Court Swat and given under my hand and seal of the Tribunal this 05th of September, 2022.*


(Mian Muhammad)
Member (E)



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT.

OFFICE ORDER

1. Whereas Mr. Niaz Muhammad PSHT BPS-15 GPS Beha Swat, was proceeded against the Khyber Pakhtunkhwa Government servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the show cause notice.
2. Whereas a show cause notice was issued vide this office Endst: No. 457-61 dated 5.9.2019 for the charges leveled against him.
3. Whereas last year the enrolment of the school was 425 but the same enrolment was reduced to 168 which is a clear proof of his inefficiency on one hand and not taking interest in teaching learning process and decreasing the enrolment on the other hand.
4. Whereas he misbehaved with the Head Master of GHS Beha and lodged a false FIR against him without the approval and consent of the Department.
5. Whereas he was held responsible of wasting the precious time of the students of GHS Beha as well as the innocent kids of GPS Beha.
6. Whereas he filed a court case against his Department without any personal grievances.
7. Whereas the District Education Officer (M) Swat being competent the authority having considered the charges being proved against him, imposed upon him " the major penalty of "REMOVAL FROM SERVICE" under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, rule 4 (b) (iii) of the ibid Rules with immediate effect in the interest of public service vide this office Endst: No. 2012-17 dated 04.10.2019.
8. Whereas the said Mr. Niaz Muhammad filed a service appeal No. 824/2020 before the Honorable Khyber Pakhtunkhwa Service Tribunal, under the title Mr. Niaz Muhammad Ex-PSHT GPS Beha versus Secretary (E&SE) Khyber Pakhtunkhwa Peshawar.
9. Whereas the Honorable Tribunal accepted the service appeal of the appellant vide Judgment dated 22.12.2021 and re-instated the appellant Mr. Niaz Muhammad in service with all back benefits.
10. Whereas the respondent Department filed CPLA before the affix Court against the Judgment dated 22.12.2021 which is Pending before the Honorable Court.
11. Whereas the appellant filed Execution Petition No. 269/2022 in service appeal No: 824/2020 before the Honorable Khyber Pakhtunkhwa Service Tribunal.
12. Whereas the Honorable Khyber Pakhtunkhwa Service Tribunal vide order sheet dated 22.06.2022 directed the respondents to implement the Judgment of this Service Tribunal within 10 days and to submit implementation report on 01.08.2022.

Now keeping in view the above factual position, The undersigned being the competent authority is pleased to re-instate Mr. Niaz Muhammad Ex-PSHT into service w.e.f the date of removal from service and he is adjusted at GPS Bahadar Banda against the vacant post of PSHT subject to the final outcome of the CPLA pending before the apex Court.

(MUHAMMAD RIAZ)
DISTRICT EDUCATION OFFICER (M)
SWAT

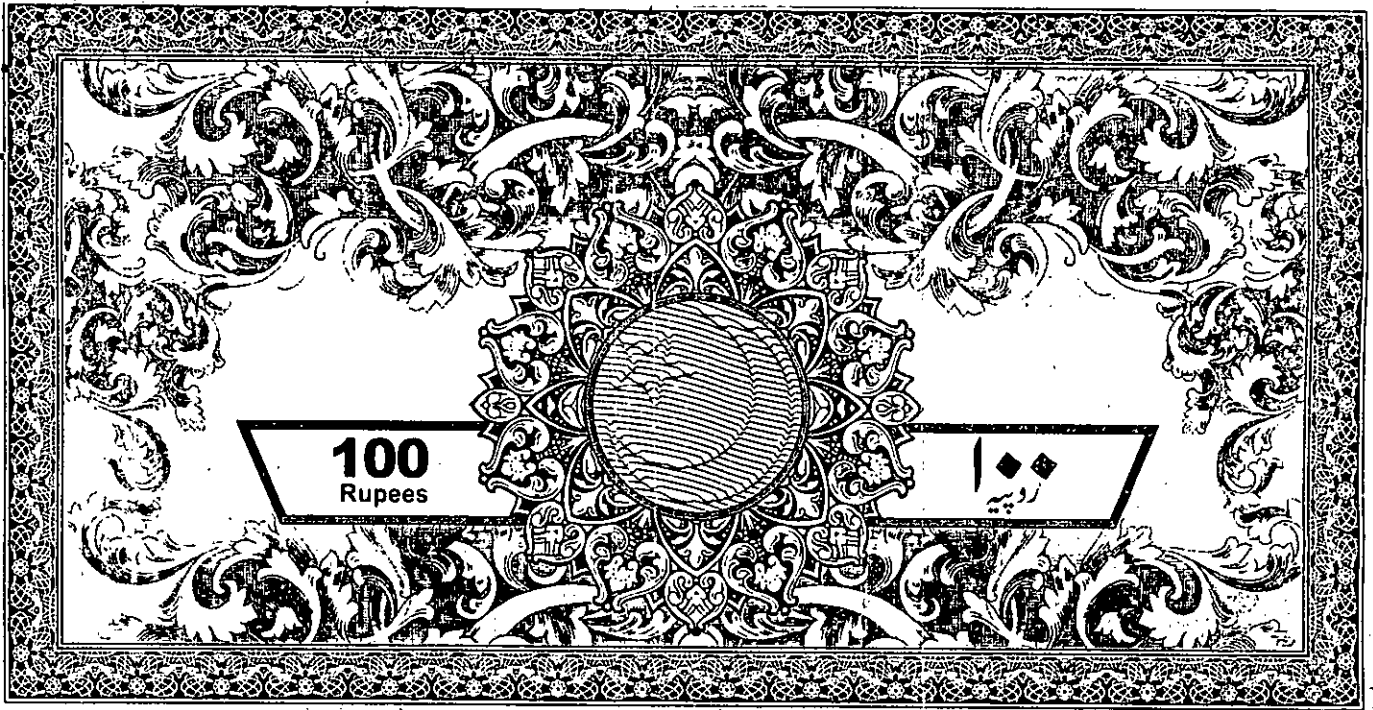
Dated 2 / 7 / 2022

Endst: No: 11818-21 / P.F/GPS Beha/DEO/M.

Copy forwarded to:

- 1- The Director Elementary & Secondary Education KPK Peshawar.
- 2- The District comptrollers of Account Swat at Saidu Sharif.
- 3- The District Monitoring Officer Swat.
- 4- The Sub Divisional Education Officer (M) Matta Swat with the direction to serve the order on the accused teacher.
- 5- P.A to District Education Officer (M) Swat the local office.
- 6- Mr. Niaz Muhammad PSHT GPS Beha Matta (Registered).

DISTRICT EDUCATION OFFICER (M)
SWAT



بعدالت جناب سروس ٹریبیونل خیبر پختون خواہ بمقام سید و شریف سوات
بیان حلفی

شہیدانہ محمد و غیرہ نام حکومت خیبر پختون خواہ وغیرہ

منکہ مسی نیاز محمد ولد صنوبر خان سکنہ بہا تحصیل منہ ضلع سوات کا ہوں۔ اندر میں وقت بقائی ہوش و حواس
خمسہ بہ رضامندی خود اقرار کر کے لکھ دیتا ہوں کہ من محلف نے حکومت خیبر پختون خواہ کے خلاف سروس
ٹریبیونل میں Termination کے خلاف اپیل دائر کی تھی جو من محلف کے حق میں تصفیہ ہو کر اس
وقت اجراء کارروائی عدالت حضور میں زیر سماعت ہے۔ حکومت خیبر پختون خواہ نے متذکرہ حکم کے خلاف
سپریم کورٹ آف پاکستان میں اپیل دائر کی ہے جو کہ تاحال تصفیہ شدہ نہ ہے۔ من محلف اس بات کا اقرار
کرتا ہوں کہ سپریم کورٹ آف پاکستان کے جملہ احکامات من و عن تسلیم کرنے کا پابند رہوں گا اور سپریم کورٹ
کے حکم کے خلاف کسی قسم کی کارروائی نہیں کروں گا۔ لہذا بیان حلفی ہذا سنداً تحریر ہے۔ المرقوم

05/09/2022

الع
نیاز محمد / محلف

شناختی کارڈ نمبر 9-0977432-15501

بازار و کابل و کابل و کابل

60
05/9/22

بازار و کابل

SHAFIQ

16 AUG 2022

22nd June, 2022 Counsel for the petitioner present, Syed Naseer Ud Din Shah, Asst: AG alongwith Mr. Bakht Rehman, Head Master for respondents present.

Implementation report not submitted. Representative of the respondents assured that implementation report shall be submitted positively within 10 days. Last chance is given to the respondents to submit implementation report within 10 days, failing which coercive measure would be taken against them. To come up for implementation report on 01.08.2022 before S.B at camp court Swat. Original appeal also be requisitioned.

(Kalim Arshad Khan)
Chairman

1-8-22

Due to Samson's vacation the case is adjourned to 5-9-22 for the same.

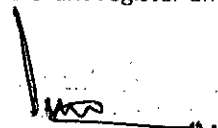
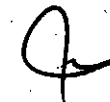

3 25

Form-A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 269/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	28.04.2022	<p>The execution petition of Mr. Niaz Muhammad submitted today by Mr. Taimur Ali 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-	28-5-22	<p>This execution petition be put up before to Single Bench at Peshawar on <u>9-6-22</u>. Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
	09.06.2022	<p>None for petitioner present. Lawyers are on strike.</p> <p>Notice be issued to the respondents for submission of implementation report. Adjourned. To come up for implementation report on <u>12.06.2022</u> before S.B.</p> <p style="text-align: right;"> (Fareeha Paul) Member (E)</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**



Execution Petition No. 269 /2022
In Service Appeal No.824/2020

Mr. Naiz Muhammad, Ex-PSHT (BPS-15),
GPS Beha, Swat.

PETITIONER

VERSUS

1. The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar.
2. The Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer, (Male) Swat.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 22.12.2021 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the petitioner has filed service appeal No.824/2020 in the Honourable Tribunal against the order dated 04.12.2019, whereby the petitioner was removed from service and against not taking action on the departmental appeal of the petitioner within the statutory period of ninety days.
2. The said appeal along with connected appeals were heard by this Honourable Service Tribunal on 22.12.2021. The Honourable Service Tribunal accepted the appeal of the petitioner along with order connected appeals. The impugned order dated 04.10.2019 was set aside and the petitioner was reinstated in service with all back

benefits. (Copy of judgment dated 22.12.2021 is attached as Annexure-A)

3. That the Honourable Tribunal in its judgment dated 22.12.2021 reinstated the petitioner, but after the lapse of about three months the petitioner was not reinstated by the respondents by implementing the judgment dated 22.12.2021 of this Honourable Tribunal.
4. That in-action and not fulfilling formal requirements by the respondents after passing the judgment of this Honourable Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 22.12.2021 of this Honourable Service Tribunal in letter and spirit.
6. That the petitioner has having no other remedy except to file this execution petition for implementation of judgment dated 22.12.2021 of this Honourable Tribunal.

It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 22.12.2021 of this Honourable Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.


PETITIONER

Naiz Muahmmad

THROUGH:

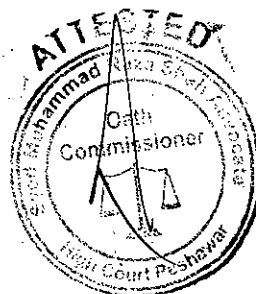

(TAIMUR ALI KHAN)

ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.

28 APR 2022




DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO. 823 /2020

Khyber Pakhtunkhwa
Service Tribunal

No. 988

Dated 04-02-2020

Mr. Mehboob Ali, PST (PBS-12),
GPS Beha, Swat.



VERSUS

1. The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar.
2. The Director (E&SE), Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Male), Swat.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 04.10.2019, WHEREBY THE PENALTY OF WITH HOLDING OF 02 ANNUAL INCREMENT FOR THE YEAR 2019 & 2020 HAS IMPOSED UPON THE APPELLANT AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day

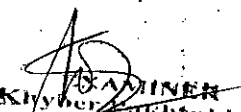
Registrar

04/02/2020

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 04.10.2019 MAY KINDLY BE SET ASIDE AND THE 02 ANNUAL INCREMENT FOR THE YEAR 2019 & 2020 OF THE APPELLANT MAY BE RESTORED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

ATTESTED


REGISTRAR
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 823/2020

Date of Institution ... 04.02.2020

Date of Decision ... 22.12.2021



Mr. Mehboob Ali, PST (PBS-12), GPS Beha Swat.

... (Appellant)

VERSUS

The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

Taimur Ali Khan
Advocate

... For Appellant

Noor Zaman Khattak,
District Attorney

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

... **CHAIRMAN**
... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

This single judgment

shall dispose of the instant service appeal as well as the following connected service appeals, as common question of law and facts are involved therein.

1. Service Appeal bearing No. 824/2020 titled Niaz Muhammad
2. Service Appeal bearing No. 825/2020 titled Jawhar Ali
3. Service Appeal bearing No. 826/2020 titled Akbar Zaib
4. Service Appeal bearing No. 827/2020 titled Ikramullah
5. Service Appeal bearing No. 828/2020 titled Javid Iqbal

ATTESTED

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

02. Brief facts of the case are that the appellants, while serving as Primary School Teacher BPS-12, were proceeded against on the charges of misconduct and four of the appellants were awarded with minor punishment of withholding

of two increments for the years 2019-20 vide order dated 04-10-2019, whereas two of the appellants namely Niaz Muhammad and Javid Iqbal were removed from service vide order dated 04-10-2019 against which the appellants filed departmental appeals dated 16-10-2019, which was not responded within the statutory period, hence the instant service appeal with prayers that the impugned order dated 04-10-2019 may be set aside and two annual increments for the years 2019 and 2020 may be restored with all back benefits and the appellants namely Niaz Muhammad and Javid Iqbal may be re-instated in service with all back benefits.

03. Learned counsel for the appellants has contended that the impugned order dated 04-10-2019 and not taking action on departmental appeal of the appellant are against law, facts and norms of natural justice and material on record, therefore not tenable and liable to be set aside; that no inquiry was conducted against the appellants to dig out the reality about the allegations and penalties has been imposed upon the appellants in a slipshod manner, which is violation of law and rule as well as judgments of superior courts; that no reason has been recorded by the competent authority to dispense with the inquiry, which is violation of law and rule, as such the impugned order is liable to be set aside; that no charge sheet was issued to the appellants before passing the impugned order, which is violation of law and rule; that in reply to the show cause notice, the appellant denied the entire allegations and gave the real picture about the situation and also requested the competent authority that proper inquiry may be conducted through impartial inquiry committee to find out the reality about the allegations, despite no inquiry was conducted by the competent authority and the appellants were punished for no fault of them; that no opportunity of personal hearing was afforded to the appellants before passing the impugned order, which is violation of sub-rule (d) of Rule-7 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011; that the land was donated by the local community for the building of Government

ATTESTED

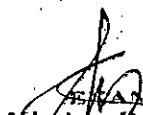
WITNESSES
 JUDICIAL OFFICER
 PAKHTUNKHWA
 GOVERNMENT
 SERVICE TRIBUNAL

Primary School (GPS) Beha and PARASA also constructed building for GPS Beha, but the staff of Government High School(GHS) Beha illegally occupied the newly constructed building , on which the appellants alongwith staff of GPS Beha filed compliant to DEO Swat against the illegal occupation of GPS Beha, despite the building was handed over to GHS Beha, due to which baseless allegations were leveled against the appellants and without conducting regular inquiry, the penalty of withholding of two annual increments for the years 2019 and 2020 has been imposed upon the appellant vide order dated 04-10-2019, whereas major penalty of removal from service has been imposed upon Niaz Muhammad and Javid Iqbal; that the appellants did not commit any misconduct and was punished for no fault on their part.

04. Learned District Attorney for the respondents has contended that the District Education Officer directed the appellants on 03-07-2019 on the school logbook to run GPS Beha in the building of GHS Beha and spare the middle portion of the school for functioning of GHS Beha, as the enrollment of GHS Beha is 425, whereas enrollment of GPS Beha is 168; that such decision was made in the best interest of public service, but the appellants disobeyed the order of District Education Officer; that in the previous year enrollment of GPS Beha was crossing figure of 400 but the appellants declined it to 168, which shows clear position of their inefficiency; that the appellants misbehaved with head master of GHS Beha, lodged an illegal FIR against the staff and locked class rooms for the students, which clearly indicates their misbehavior, misconduct and arrogance; that the appellant wasted precious time of the students, which shows negligence on their part; that due to the reasons mentioned above, the appellant was proceeded against and regular inquiry was dispensed with and the appellant was awarded with minor punishment of withholding of two increments.

05. We have heard learned counsel for the parties and have perused the record.

ATTESTED



EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

06. Record reveals that the issue erupted between the staff of GHS Beha and GPS Beha Swat, when old building of GPS Beha was demolished and new building was constructed and was occupied by GHS Beha. Stance of the appellant was that local community donated land for GPS Beha; hence, the GHS Beha cannot occupy the school building of GPS Beha illegally. Consequently the appellant alongwith other staff was proceeded against and without conducting regular inquiry, show cause notices were served upon them and four of them were awarded with minor penalty of withholding of two increments for the year 2019 and 2020, whereas two of them were awarded with major punishment of removal from service vide order dated 04-10-2019 without affording them opportunity of defense, which was not in accordance with law. We have also observed that disciplinary proceedings conducted against them were result of personal vendetta, which however was not warranted. The appellants were not served with charge sheet/statement of allegations and were proceeded against summarily without adhering to the method prescribed in law.

07. We are of the considered opinion that the appellants have not been treated in accordance with law and were penalized for personal scores without observing the legal formalities.

08. In a situation, we are inclined to accept the instant appeal as well as the connected service appeals. The impugned orders dated 04-10-2019 are set aside and two annual increments for the year 2019, 2020 are hereby restored with all consequential benefits, and the appellants Niaz Muhammad and Javid Iqbal are re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
22.12.2021


(AHMAD SULTAN TAREEN)
CHAIRMAN

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(ATIQ UR REHMAN WAZIR)
MEMBER (E)

Date of Presentation of Application 26/4/22
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Name of Copyist _____
Date of Completion of Copy 26/5/22
Date of Delivery of Copy 26/4/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO. 824 /2020

Khyber Pakhtunkhwa
Service Tribunal
Case No. 985
04-02-2020

Mr. Naiz Muhammad Ex-PSHT (BPS-15),
GPS Beha, Swat.



VERSUS

1. The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar.
2. The Director (E&SE), Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Male), Swat.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 04.10.2019, WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT, WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

~~Effect to day~~
~~Registration~~

4/2/2020 PRAYER:

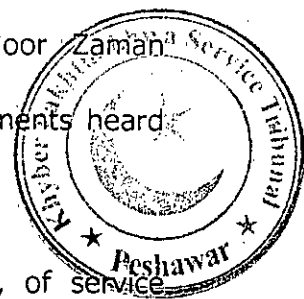
THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 04.10.2019 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Certified *[Signature]* true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


ORDER
22.12.2021


Learned counsel for the appellant present. Mr. Noor Zaman
Khattak, District Attorney for the respondents present. Arguments heard
and record perused.



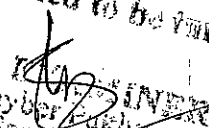
Vide our detailed judgment of today placed on file, of service
appeal bearing No. 823/2020 titled "Mehboob Ali Versus The Secretary
(E&SE) Khyber Pakhtunkhwa, Peshawar and two others", we are inclined
to accept the instant service appeal. The impugned orders dated 04-10-
2019 are set aside and two annual increments for the year 2019, 2020 are
hereby restored with all consequential benefits, and the appellants Niaz
Muhammad and Javid Iqbal are re-instated in service with all back
benefits. Parties are left to bear their own costs. File be consigned to
record room.

ANNOUNCED
22.12.2021


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQU UR REHMAN WAZIR)
MEMBER (E)

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 20/4/22
Number of Words 800
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Urgent —
Total 10/-
Name of Copied —
Date of Completion of Copy 20/4/22
Date of Delivery of Copy 20/4/22

VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Nazir Muhammad

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Education Deptt

(Respondent)
(Defendant)

I/We, Nazir Muhammad

Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2021

(CLIENT)

ACCEPTED

TAIMUR ALI KHAN

Advocate High Court

BC-10-4240

CNIC: 17101-7395544-5

Cell No. 0333-9390916

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar