

Execution Petition 71/2021

, Tariq Mahmood

3<sup>rd</sup> August, 2022

1. Learned counsel for the petitioner present. Mr. Kabirullah Khattak. Addl: AG alongwith Mr. Naseeb Khan. So for respondents present.

2. Vide office order No. SO(Estt-I)FD/1-5/2021 dated 26.10.2021, the major penalty of dismissal from service as well as recovery, imposed upon the petitioner was converted into stoppage of two increments for two years, as directed by the Tribunal. This Tribunal in its judgment dated 13.01.2021. The order shows that the judgment of the Tribunal has been implemented but learned counsel for the petitioner desired that the co-petitioner namely Ayaz was granted some more benefits which were not granted to the petitioner to which the representative of the respondents submitted that his case was under process and he would be treated at par with the said petitioner.

3. Be that as it may, since the compliance of the judgment of the Tribunal has been complied with, therefore, this petition is filed. The petitioner is at liberty to take other legal steps if, at all, in his view, his grievances are not redressed. Consign.

4. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 3<sup>rd</sup> day of August, 2022.*



(Kalim Arshad Khan)  
Chairman

22<sup>nd</sup> June, 2022

Petitioner in person present. Syed Naseer Ud Din Shah, Asst: AG alongwith Mr. Naseeb Khan, SO for respondents present.

Petitioner submitted an application for suspension of promotion proceedings against the post of DAO BPS-18 till disposal of this execution petition. The application is placed on file. To come up for further proceedings on 03.08.2022 before S.B.

*The respects are given last chance to implement the judgement in letter & spirit*

(Kalim Arshad Khan)  
Chairman

21.01.2022

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Naseeb Khan S.O for the respondents present.

Representative of the respondents submitted copy of office order No. SO(ESTT)FD/1-4/2020, dated 20.01.2022 whereby the petitioner has been posted/transferred in the office of District Accounts Officer, Swabi with immediate effect against the vacant post. Copy handed over to the petitioner. To come up for further proceedings on 09.03.2022 before S.B.

  
Chairman

09.03.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 07.06.2022 for the same as before.

  
Reader

07.06.2022

Petitioner in person present.

Muhammad Adeel Butt, learned Additional Advocate General is absent. Naseem Khan Section Officer representative of respondents present.

At the very outset office order dated 26.10.2021 was brought into the knowledge of this Bench vide which major penalty of dismissal from service and recovery of Rs.2676871/- imposed upon petitioner was converted into minor penalty of stoppage of two increments for two years which decision was subject to final decision by the Apex Court in CPLA. The petitioner requested for the grant of back benefits and wanted to submit an application in this regard but lawyers are on general strike. He is directed to the needful before the date and file to come up for further proceedings on 22.06.2022 before S.B.

  
(Rozina Rehman)  
Member (J)

24.11.2021 Petitioner in person present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Naseeb Khan, SO for respondents present.

Representative of respondent No.2 produced a copy of office order dated 26.10.2021 whereby Service Tribunal adjournment dated 13.01.2021 has been implemented partially and only the posting/transfer of petitioner is pending due to ban imposed on posting/transfer by the Election Commission of Pakistan. A copy of the notification of Election Commission of Pakistan dated 04.11.2021 is placed on file. To come up for further proceedings on 18.01.2022 before S.B.



(Mian Muhammad)  
Member(E)

18.01.2022 Petitioner in person present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Naseeb Khan, SO for respondents present.

The latter states that the order towards implementation is on the table of respondent No.2. The implementation report shall be submitted on the next date. To come up for implementation report on 21.01.2022 before S.B.



Chairman

02.11.2021

Petitioner in person and Mr. Kabirullah Khattak, Addl. A.G for the respondents present.

Copy of the order dated 26.10.2021 passed by the Government of Khyber Pakhtunkhwa Finance Department has been produced and placed on file. According to office order No. SO(Estt-I)FD/1-5/2021 of even date, the penalty of dismissal from service + recovery of Rs. 2676871/- imposed upon the petitioner namely Muhammad Tariq (Tariq Mahmood), Assistant Treasury Officer (BS-17) vide order No. SO (Estt)FD/5-14/B.Gram dated 18.01.2017 has been converted into minor penalty of stoppage of two increments for two years. Notwithstanding the fact that the said order has been passed with the condition of making it subject to final decision of the august Supreme Court of Pakistan in CPLA No. 166-B/2021 against the judgment of this Tribunal, he on furnishing of Affidavit for refund of the benefits, if judgment of this Tribunal is not maintained, is held entitled to draw all benefits on account of the order dated 26.10.2021 including the arrears of salary of the intervening period. Moreover, he may approach to the competent authority for his posting in light of the order dated 26.10.2021 of the Finance Department. To come up on 24.11.2021 for further proceedings before S.B.

  
Chairman

EP 71/2021

08.09.2021

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Naseeb Khan, S.O for the respondents present.

Implementation report has not been submitted. The above named representative assured that summary to Chief Minister will be hotly pursued and implementation report will be submitted on next date positively. On assurance of representative of the respondents another chance is given to the respondents. Case to come for implementation report on 04.10.2021 before S.B.




Chairman

04.10.2021

Petitioner in person present. Mr. Muhammad Shafique, Senior Clerk alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Mr. Muhammad Shafique, stated at the bar that he will diligently pursue the case and the implementation report will positively be produced on the next date. Last opportunity given. To come up for submission of implementation report before the S.B on 02.11.2021.



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

E.P. No. 71/2021  
Tasir Mahmood vs. Govt

05.08.2021

Petitioner in person and Mr. Kabirullah Khattak, Addl. AG alongwith Naseeb Khan, S.O (Litigation) and Muhammad Sajid, Superintendent for the respondents present.

According to the copy of the summary produced today, the summary dated 23.06.2021 submitted to the Finance Minister has been signed by the Minister on 04.08.2021 for onward submission to the Chief Minister through in between channel. Keeping the concluding observations in order dated 15.07.2021 intact, let the respondents pursue the said summary for its outcome as a special case. To come up for implementation report on 08.09.2021 before S.B.

  
Chairman

08.09.2021

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Naseeb Khan, S.O for the respondents present.

*due to missing,  
reprinted on  
fresh page.*

Implementation report has not been submitted. The above named representative assured that summary to Chief Minister will be hotly pursued and implementation report will be submitted on next date positively. On assurance of representative of the respondents another chance is given to the respondents. Case to come for implementation report 04.10.2021 before S.B.

Chairman

EP No. 71/2021

15.07.2021

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Nasib Khan, S.O and Muhammad Sajid, Superintendent for the respondents present.

So far the issue of implementation of the judgment of this Tribunal is concerned, the assurances given on behalf of the respondents have proved nothing more than lollypop. This was to happen because the representatives of respondents present before us hail from a lower rank who besides hide and seek tactics can't do nothing when they after carrying direction from here have got a limited access to the higher ranks whose incumbents matter in the decision making. Although they suffer from the grilling when standing before us without decisions which were to be made by their bosses at helms of the affairs in official business; but they remain clueless due to their subordinate position. Obviously, the present case may not get a solution without interest of the Secretary to the Government of Khyber Pakhtunkhwa Finance Department. Therefore, he is expected to discharge his duty towards implementation of the judgment of this Tribunal failing which he may earn an inefficiency report to be communicated to the Establishment Division of the Federal Government where his upward career and conditions in terms of his prestigious service is waiting. Registrar of this Tribunal is directed to send copy of this order to the aforementioned Secretary with copy to his Private Secretary for placing before him directly because there is likelihood that it may not reach him through usual official channels in his office. To come up for implementation report on 05.08.2021 before S.B.

  
Chairman



01.07.2021

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

Representative present in the court states that implementation of the judgment is in process and in this regard he submitted copy of office note sheet. At Paragraph 56 of the said note-part reveals that a summary for Chief Minister has been processed and approval of the competent authority is still awaited. Respondents are once again directed to pursue the matter for speedy outcome and furnish implementation report on 15.07.2021, positively.

  
Chairman

EP No. 71/2021

15.06.2021 Petitioner with counsel present and submitted Wakalatnama which is placed on file. Mr. Muhammad Adeel Butt, Addl. AG alongwith Nasib Khan, S.O and Sajid Superintendent for the respondents present.

On the last date, the respondents were given opportunity for submitting suspension order passed by the Apex Court or to come up with conditional implementation report today. However, neither they have been able to place before the Tribunal suspension order nor conditional order in compliance with the judgment of this Tribunal. The respondents are directed to furnish the conditional order of reinstatement of the petitioner on 18.06.2021 before S.B

  
Chairman

18.06.2021 Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Sajid, Superintendent for the respondents present.

Although the compliance as required on previous date regarding conditional implementation is still awaited but representative of the respondents enlightened the Tribunal with movement of office file towards competent authority for compliance of the order of this Tribunal for conditional order pending decision of the CPLA before the august Supreme Court of Pakistan. The respondents are directed to pursue the matter for speedy outcome and furnish implementation report positively on 01.07.2021 before S.B.

  
Chairman

E.P. No. 71/2021  
Tariq Mehmood vs Govt

07.06.2021

Petitioner in person present.

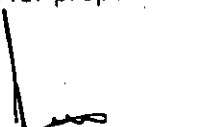

Notices of the Execution Petition be issued to the respondents. Respondents are directed to submit order of suspension by the Apex Court against the judgment under implementation or to issue an order towards implementation of the judgment subject to the decision of CPLA, and implementation report be submitted on next date positively. To come up on 15.06.2021 alongwith connected Execution Petition No. 80/2021 before the S.B.

  
(Rozina Rehman)  
Member(J)

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 71 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22.02.2021	<p>The Execution Petition submitted by Mr. Tariq Mehmood through Mr. Hamayun Khan 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 22/2/2021                 </p> <p>This Execution Petition be put up before Touring S. Bench at Abbotabad on 20.05.2021</p> <p style="text-align: right;">                       CHAIRMAN                 </p>
2-	<p>Application for transfer allowed                      Fined for 07/06/2021 at Principal Seat.</p>	

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

E.P No. \_\_\_\_\_/2021

IN

Appeal No.474/2017

Tariq Mehmood son of Mian Muhammad, resident of CB-29/33, Kakul Road Behind F.G Girls College, Abbottabad.

**...PETITIONER**

**VERSUS**

Govt. of Khyber Pakhtunkhwa through Chief Secretary, Peshawar & others.

**...RESPONDENTS**

**APPLICATION FOR IMPLEMENTATION**

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3.	Copy of judgment	18-26	"B"

  
**...PETITIONER**

Through

Dated: 22 / 2 /2021



**(HAMAYUN KHAN)**

Advocate High Court, Abbottabad

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**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

E.P No. 71 /2021  
IN  
Appeal No.474/2017

Tariq Mehmood son of Mian Muhammad, resident of CB-29/33, Kakul Road Behind F.G Girls College, Abbottabad.

...PETITIONER  
Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 343

Dated 22/02/2021

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
2. Finance Secretary Govt. of Khyber Pakhtunkhwa, Peshawar.
3. Counter General Khyber Pakhtunkhwa, Peshawar.

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED 13/01/2021 PASSED BY THIS HONOURABLE TRIBUNAL IN APPEAL NO. 474/2017 TITLED "TARIQ MEHMOOD V/S GOVT. OF KPK & OTHERS.

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Respectfully Sheweth:-

1. That petitioner filed above mentioned service appeal against impugned order dated 18/01/2017

Filed to-day  
22/2/2021.  
Registration.

2

passed by respondent No. 2 in main service appeal.

Copy of appeal is attached as Annexure "A".


2. That on 13/01/2021 after hearing of arguments this Honourable tribunal accepted appeal of the petitioner and set aside impugned order. Copy of judgment is attached as annexure "B".
3. That thereafter on 20/01/2021 petitioner appeared before respondent No.2 for implementation of judgment dated 13/01/2021 and submit application.
4. That after laps of more than 01 month respondents not implemented judgment of this Honourable tribunal.
5. That respondents instead of complying with the direction of this Honourable Tribunal, straightaway refused to comply with the direction of this Honourable Tribunal.
6. That other point would be raised at the time of arguments kind permission of this Honourable Tribunal.

It is therefore, humbly prayed that on acceptance of instant application respondents be kindly be directed forthwith comply with the directions of this Honourable Tribunal contained in judgment dated 13/01/2021 in, it true letter and spirit

  
...PETITIONER

Dated: 21/2/2021

Through

  
(HAMAYUN KHAN)  
Advocate High Court, Abbottabad



ANNEXURE 'A' 4

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

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 505

Dated 16-5-2017

Service Appeal No. 474 /2017



Tariq Mehmood son of Mian Muhammad, resident of CB-29/33, Kakul Road, Behind F.G Girls College, Abbottabad.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar.
2. Chief Minister, Khyber Pakhtunkhwa, Peshawar.)
3. Finance Secretary to the Govt., Khyber Pakhtunkhwa, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.

...RESPONDENTS

Filed to-day

Registrar

16/5/17.

**SERVICE APPEAL** UNDER ARTICLE 212 OF  
THE CONSTITUTION OF ISLAMIC REPUBLIC  
OF PAKISTAN 1973, READ WITH SECTION 4  
OF KPK SERVICE TRIBUNAL ACT, 1974,  
AGAINST THE IMPUGNED ORDER  
NO.SO(ESTT)/FD/5-14/B.GRAM DATED

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

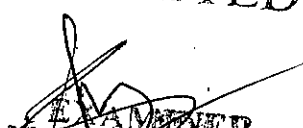
18/01/2017, PASSED BY RESPONDENT NO.2 THROUGH SECTION OFFICER ESTABLISHMENT TREASURIES, WHEREBY, IMPOSING MAJOR PENALTY OF DISMISSAL FROM SERVICE AND RECOVERY OF RS.2,67,68,871/- IS IMPOSED, WHICH IS ILLEGAL, UNLAWFUL, WITHOUT LAWFUL AUTHORITY, PERVERSE, ARBITRARY AND MISUSE OF POWERS, HENCE OF NO LEGAL EFFECTS UPON THE RIGHTS OF THE APPELLANT.

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**PRAYER:** ON ACCEPTANCE OF THE INSTANT APPEAL, THE IMPUGNED ORDER DATED 18/01/2017 PASSED BY RESPONDENT NO.2 MAY GRACIOUSLY BE SET ASIDE AS BEING ILLEGAL, UNLAWFUL, AB-INITIO VOID AND THE APPELLANT MAY KINDLY BE REINSTATED IN THE SERVICE WITH ALL BACK BENEFITS. ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEMS FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE.

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ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Respectfully Sheweth;-

Brief facts of the instant appeal are arrayed as under;-

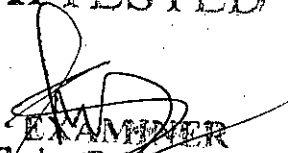
1. That, appellant was appointed as Sub-Accountant (BPS-11) in the year 1990 in Finance Department, KPK.
2. That on the basis of good performance and length of service, appellant was promoted as Assistant Treasury Officer (ATO) BPS-17.
3. That on anonymous application, respondent No.4 initiated one sided inquiry besides other who were directly named in the so-called application also against the present appellant who was not even named in the so-called application. Copy of application is attached as Annexure "A".

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

4. That thereafter respondent No.4 conducted inquiry besides other also against appellant from 18/04/2016 to 20/04/2016 and after conclusion could not prove any kind of allegation against the present appellant in respect of corruption and embezzlement. Copy of inquiry attached as Annexure "B".
5. That thereafter within a span of two days on the same application in which present appellant was not even named another inquiry was conducted by respondent No.3 on the same allegations and charges mentioned in so-called complaint and after inquire into the matter by the respondent No.3, the inquiry officer appointed by respondent No.3 gave his findings to the said effect and at the same time failed miserably to prove any charges of corruption or otherwise against the present appellant. Copy of inquiry report is attached as Annexure "C".

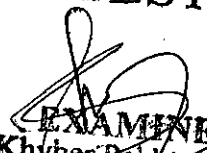
**ATTESTED**

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

6. That as behind the complaint there were some elements within the office as well as outside who aggrieved of the upright and honest approach and behaviour of the present appellant after coming of the knowledge of the exoneration of the present appellant from charges leveled against him. thereafter malafidely again approached respondent No.2 and pressurized him into re-inquiry against present appellant on which respondent No.1 took the cognizance of the allegations level against the appellant and issued directions to the respondent No.4 for conducting another inquiry into the matter and on the direction of respondent No.1 Additional Secretary Finance KPK again conducted inquiry against the appellant and on 16/06/2016 served charge sheet to the appellant and after receiving charge sheet appellant submitted reply to the same. Copies of charge sheet and reply are attached as Annexure "D" & "E".

7. That thereafter on 06/10/2016, Inquiry Officer (Additional Secretary Finance)

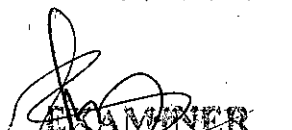
**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

issued show cause notice alongwith questionnaire to the appellant. Copies of show cause and questionnaire are attached as Annexure "F" & "G".

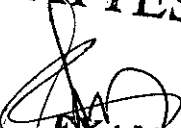
8. That on 17/10/2016, appellant submitted detailed reply to the show cause notice and described all actual facts and at the same time denied all the allegations leveled against him. Copy of reply is attached as Annexure "H".
  
9. That in the meanwhile, on the same application filed by person unknown, the National Accountability Bureau without going into deeper appreciation of evidence and without following the rules regulation and without proper investigation and reference straight away arrested the appellant vide warrant of arrest dated 11/01/2017. Copy of warrant of arrest dated 11/01/2017 is attached herewith as Annexure "I".

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Service Tribunal,  
Peshawar

10. That after the arrest of the appellant, the appellant thereafter filed constitution petition before the Honourable Peshawar High Court Peshawar for release on bail.
11. That after hearing the arguments and going through the record, the Honourable High Court seeing that there was no direct evidence against the appellant, released the appellant on bail vide order dated 08/03/2017.
12. That, during the period when the present appellant was in custody of NAB, the respondents malafidely and in order to humiliate the present appellant, vide order dated 18/01/2017 dismissed the appellant from service alongwith imposing of recovery of Rs. 2.6 million. Copy of impugned order is attached as Annexure "J".
13. That, on 06/02/2017 appellant filed departmental appeal before respondent No. 2

**ATTESTED**

  
**EXAMINER**  
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Service Tribunal,  
Peshawar


through Superintendent Central Jail Peshawar. Copy of departmental appeal is annexed as Annexure "K".

14. That on the departmental appeal of the present appellant, respondents department did not pass any order till date and similarly have not given any response to the appellant. Therefore, feeling aggrieved of the same, the present appellant files this appeal, inter-alia, on the following amongst many others grounds;-

**GROUND:-**

- a. That the impugned order/ act of respondents is illegal, unlawful, without lawful authority, arbitrary, perverse, against the principle of natural justice, hence, ineffective upon the rights of the petitioner and thus liable to be set-aside.

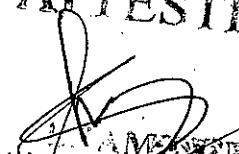
ATTESTED

  
EXAMINER  
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Service Tribunal  
Peshawar



- b. That, the so-called inquiry proceedings are illegal, arbitrary and grossly offensive against the rules governing the subject matter, hence not tenable.
- c. That during the course of self styled inquiry, no evidence was recorded in the presence of appellant and no opportunity of cross examination through counsel or otherwise was allowed to the appellant nor any copy of the same were provided to the appellant therefore, the said inquiry was one sided, haphazard and cosmetic styled inquiry which if allowed will be a mockery to the justice system of the country and therefore, should be set aside and appellant reinstated into service with all back benefits.
- d. That there is no evidence whatsoever against the appellant of his any

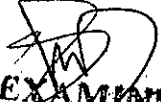
ATTESTED

  
A MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

involvement within the so-called embezzlement regarding the ghost teacher salaries.

- e. That even otherwise according to the job description of the appellant, his job description is regards issuance of stamp papers and supervision of treasury establishment, as regards release of salary etc the same does not fall within the ambit of the appellant. Therefore, on this score also the said inquiry is based on malafide and has been made in order to please the local political figure and in order to settle scores with the appellant, therefore, as the whole inquiry is based on wrong facts, malafide, therefore, the impugned order is liable to be set aside on this score also.
- f. That the appellant has nothing to do with the federal or provincial establishment employees salaries nor


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he is involved in any way in release of their pays nor it was his job description therefore the appellant has wrongly been dismissed from service on account of a one sided, malafide inquiry, whereas, no involvement of the present appellant has been proved by the first two inquiries and as far as the third inquiry is concerned the same was one sided, without affording the appellant the right to cross examination or to bring evidence in his favour, therefore, on account of natural justice and on account of audi-altrum-paltrum the same is liable to be set aside.

- g. That all proceedings were conducted against a well known principle of natural justice and guaranteed fundamental rights of appellant and therefore as the appellant has been condemned unheard, therefore, the impugned inquiry is liable to be set

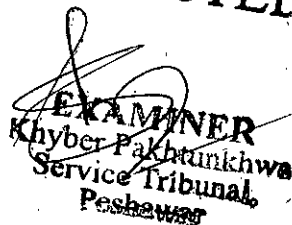
**ATTESTED**

  
KAMMER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

aside and appellant be reinstated into service with all back benefits.

- h. That respondents issued impugned order against the appellant during period when appellant was in judicial lockup and impugned order has not provided within time.
- i. That the impugned act of respondents is a sheer example of highhandedness and political motivation. Hence, liable to be set-aside.
- j. That the impugned act of respondents is a worst example of discrimination and misuse of powers/ authority.
- k. That inside the Account Office there are so many sections for so many different activities and responsibility making under different incharges. Amongst them, District Account

**ATTESTED**

  
**EXAMINER**  
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Service Tribunal,  
Peshawar


Officer, Office Superintendent and Audit Officer play the key roll and appellant is none of them.

1. That even otherwise the distribution of salaries and other financial benefits falls within the ambit of Senior Auditor, Assistant Account Officer and District Account Officer and whereas the present appellant was working as Assistant Treasury Officer within the hierarchy of the department and had no direct role to play regarding the same.

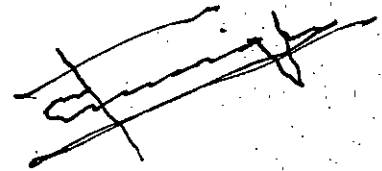
m. That twice, the NAB authorities have made a thorough probe in the matter, but without any success.

n. That other points shall be urged at the time of arguments.

ATTESTED

  
WAZIR  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

It is, therefore, humbly prayed that on acceptance of the instant appeal, the impugned order dated 18/01/2017 passed by respondent No.2 may graciously be set aside as being illegal, unlawful, ab-initio void and the appellant may kindly be reinstated in the service with all back benefits. Any other relief which this Honourable tribunal deems fit and proper in the circumstances of the case.



...APPELLANT

Through

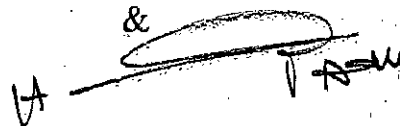
Dated: 10-5 /2017



(FAWAD SALEH)

Senior Advocate Supreme Court of Pakistan,  
Abbottabad

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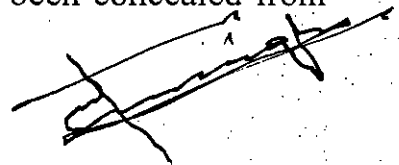


(HAMAYUN KHAN)

Advocate High Court, Abbottabad

**VERIFICATION:-**

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



...APPELLANT

**Date of Presentation of Application** 28/1/21

**Number of Words** 5600

**Copying Fee** 58/-

**Urgent** 58/-

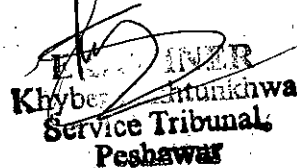
**Total** 58/-

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**Date of Completion of Copy** 29/02/21

**Date of Delivery of Copy** 27/02/21

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Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

# ANNEXURE "B" 18

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.474/2017

Date of Institution: 16.05.2017

Date of Decision: 13.01.2021



Tariq Mehmood son of Mian Muhammad, R/o CB-29/33, Kakul Road, behind FG Girls College, Abbotabad

... (Appellant)

### VERSUS

Government of Khyber Pakhtunkhwa, through Chief Secretary and three others

... (Respondents)

Mr. Hamayun Khan,  
Advocate

Mr. Abdul Hameed,  
Advocate

Mr. Masood Khan,  
Advocate

... For Appellants

Mr. Riaz Ahmed Painsdakhel,  
Assistant Advocate General

... For Respondents

Mr. MUHAMMAD JAMAL

... MEMBER (J)

Mr. ATIQ UR REHMAN WAZIR

... MEMBER (E)

Mr. MIAN MUHAMMAD


... MEMBER (E)

### JUDGEMENT: -

**Mr. ATIQ UR REHMAN WAZIR:** - This judgement shall dispose of the instant service appeal as well as connected Service Appeal No. 673/2017 titled Hamid Younas and Service Appeal No 473/2017 titled Muhammad Ayaz, as similar question of law and facts are involved therein.

2. The instant service appeal was heard by a Division Bench of this Tribunal on 21-02-2019 and judgment was pronounced. The two learned Members, however, differed in their respective opinions essentially, on the point as to whether the appellants were

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treated as per law or not. A larger Bench was, therefore, constituted which heard the matter on 09.12.2020.

3. The facts as laid in the memorandum of appeal in hand, suggest that appellants Muhammad Ayaz, Tariq Mehmood and Hamid Younas were posted as District Accounts Officer, Assistant Treasury Officer and Sub Accountant respectively in District Accounts Office Batagram. During the tenure, they were proceeded against on the charges of fraudulent drawl of money from government exchequer. To this effect, Finance Department as well as Accountant General Office conducted two separate preliminary inquiries each, based on which a formal inquiry was conducted and as per recommendations of the inquiry officer, all the three accused were proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Separate charge sheets and statement of allegations were served upon the appellants to the effect that they were involved in drawl of Rs. 80,30,314/ on account of pay and allowances to the ghost employees/fake appointees in District Education Office Batagram w.e.f. May 2013 to February 2015 and also transfer of pay of ghost employees to District Accounts Office Mansehra. The appellants responded to the charge sheet/statement of allegations, but the inquiry officer recommended that the amount of Rs. 80,30,614/ fraudulently drawn by the appellants may be recovered from them equally as well as recommended major penalty as defined in Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011 and as a consequence, appellants were dismissed from service and recovery of Rs. 26,76,871/ was also ordered to be made from each appellant vide impugned order dated 18-01-2017. The appellants filed departmental appeals but of no avail, hence the instant service appeal with prayers that, impugned orders dated 18-01-2017 may be set aside and the appellants may be re-instated into service with all back benefits.

4. We have heard learned counsel for the appellant as well as learned Deputy District Attorney on behalf of respondents and have thoroughly gone through the available record with their assistance.

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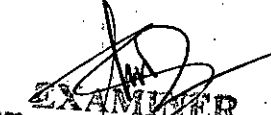
  
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5. Learned counsel for the appellant (Mr. Muhammad Ayaz) contended that the charges leveled against the appellant were vague, evasive and in general terms without indicating details of the cases, breakup and apportionment of responsibilities, which clearly violates Rule 10(1)(b) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. He further added that during the course of inquiry proceedings, neither any departmental representative was appointed as required under Rule 10 (1) (c) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 nor the departmental representative performed his duties as such, as envisaged in Rule 13 of the rules ibid. Similarly, no copy of inquiry report along with enclosures was provided with show cause notice as was required under 14(4) of the rule ibid. Similarly, no departmental representative appeared along with relevant record on the date of hearing as was required under Rule 14 (4) (d) of the rule ibid to substantiate allegations, without which all the proceedings is nullity in the eyes of law.

Reliance was placed on 2018 PLC (CS) 997 and 2019 SCMR 640. The learned counsel further argued that the inquiry conducted by Finance Department was a fact finding inquiry, which speaks only of ten ghost employees with no mention of amount and the penalties were imposed on the basis of the stated fact finding inquiry, which is unlawful and the honorable court in case 2012 CLR 464 has turned down such practice. The learned counsel further added that there were no evidences, examination of prosecution witnesses or opportunity of cross-examination, which was illegal and unlawful and such practice has already been disapproved by the apex court contained in its judgments PLD 1989 SC 335, 1996 SCMR 802, 2018 PLC (CS)997 and 2019 SCMR 640. That both the competent and appellate authorities have awarded the penalty on the recommendations of inquiry officer, which practice is quite incorrect and turned down by the apex court in a latest judgment contained in 2020 PLC (CS) 1291. The learned counsel contended that the impugned order is not a speaking order, lacking necessary ingredients and issued in violation of Section 24-A of the General Clauses Act. Reliance was placed on 2015 PLC (CS) 1125-D and 2015 KLR. He further added that the respondents violated Article 10-A and 4 of the constitution due to non-provision of

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opportunity of free and fair trial and adherence to due process of law, rather it was restricted to selected questions of his choice through questionnaire. Such process of questionnaire has been deprecated by the apex court in its judgment 1993 SCMR 1440. He further added that preliminary inquiries conducted by Finance Department (FD) and Accountant General (AG) Office are contradictory to the effect that Finance Department suggested 10 cases of alleged ghost employees, while Accountant General Office listed it as 18. Besides employee Rahim Dad is shown as appointed on March 2011 by Finance Department, whereas in Accountant General list, the same is shown as appointed on August 2014. Similarly, another employee namely Fazal Wahab in the Finance Department list is shown as appointed on July 2008, while in Accountant General list on May 2013. It was added that both Finance Department and Accountant General lists contained eight appointments prior to the date of posting of appellant i.e. 31-12-2011. Such contradictions in the inquiry reports negate its credibility. He added that neither statement of prosecution witnesses nor other officials, including the alleged ghost employees have been recorded in support of allegations/charges nor was the opportunity of cross-examination afforded to the appellants. The charges against the appellant were firmed up on the basis of suspicion and surmises, therefore not sustainable in the eyes of law. The learned counsel further added that an alleged ghost employee at Sr. No 16 namely Khais Gul has been allowed pension from 2016. Another alleged ghost employee namely Fazal Wahab has already been re-instated in service by this Tribunal vide judgement dated 30-03-2018 in Service Appeal No. 1070/2017. Still another alleged ghost employee namely Mr. Malik Hayat stands re-instated in service by this Tribunal vide judgement dated 12-04-2018 in service appeal No 572/2017, who actually was recruited back in 1996. The stance of appellant to this effect is further substantiated with issuance of a certificate by District Accounts Officer Batagram that eight alleged ghost employees were appointed prior to posting period of the appellant. The learned counsel further added that the appellants have been discriminated to the effect that recovery is to be made from only three accused officials without taking into account the other co-accused of Accountant General Office and Education department,

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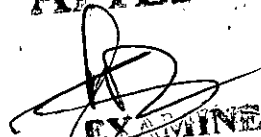
who were also held responsible by the inquiry officer in the same case, but no action whatsoever was taken against them inspite of clear recommendations of the inquiry officer to this effect. That responsibility of the appellant is restricted to 2% random checking of bills, as is evident from findings of the inquiry report, but the penalty so imposed does not commensurate with the offence.

6. Counsel for appellant (Mr. Tariq Mehmood) mainly relied on the arguments put forth by his fellow counsel for the appellant, Mr. Muhammad Ayaz with an addition that job description of the appellant was issuance of stamp paper from treasury and to maintain its record having no connections with fake appointments and drawl of illegal money from government exchequer. That there is no mention of the appellant in the preliminary inquiries conducted by Finance Department and Accountant General Office, but still the appellant was held responsible for an act not committed by him.

7. Learned counsel for the appellant (Hamid Younas) also relied on the arguments of his fellow counsels with an addition that Rule 10(3) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 have been violated by not affording opportunity of personal hearing to the appellant. He further argued that no opportunity of cross-examination was afforded to the appellant, which is unlawful and not sustainable in the eyes of law. Reliance was placed on 1998 PLC (CS) 1338-E, 2008 SCMR 1406, 2016 SCMR 108, 1997 SCMR 1073 and Service Appeal No. 613/2017.

8. Learned Assistant Advocate General on behalf of respondents opposed the contention of the appellants and stated that the appellants were properly proceeded against as per rule and law. Proper charge sheet/statement of allegations were served upon them, to which they responded accordingly. He further contended that proper opportunity of defense was afforded to the appellants. He further added that on the basis of fact finding inquiry, it was established that the appellants were involved in fraudulent drawl of Rs. 80,30,614/ and the charges leveled against them proved during the course of inquiry, hence after fulfilling the required formalities major penalty was awarded to the appellants.

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**Peshawar**

9. We have heard learned counsel for the parties and perused record. It was found that District Accounts Office Batagram and District Education Office Batagram both were involved in the swindle, which was pointed out by an anonymous complainant. Staff posted in DAO Office Batagram comprised of Federal Employees of Accountant General Office as well as Provincial employees of Finance Department (Treasury), so preliminary inquiries were conducted simultaneously by Accountant General Office as well as Finance Department. Both the preliminary inquires recommended only Mr. Hamid Younas, Sub Accountant for disciplinary proceedings, as his user account has been used in the feedings of pay and allowances of ghost employees. The most important recommendation made in both the inquires, which was altogether ignored, was regarding detailed probe to be undertaken by Education Department against District Education Office Batagram for fraudulent drawl/ghost employees, who had drawn salaries from various cost centers of Education Department in District Batagram. The preliminary inquiry conducted by Finance Department however recommended initiating formal inquiry through a committee of Finance Department, Accountant General Khyber Pakhtunkhwa and Director General Audit, which however was conducted by a single inquiry officer from Finance Department and that too only against employees of Finance Department, whereas employees of Accountant General Office and District Education Office Batagram and the ghost employees were altogether ignored. The inquiry was conducted in a slipshod manner only to punish its own employees and no effort was made to broaden the scope of the inquiry to reach the real culprits sitting in the office of District Education Office Batagram as well as Accountant General Office, which was an act of discrimination on part of the respondents. Moreover, Mr. Aurangzeb, senior auditor of the office of DAO Batagram and an employee of the office of Accountant General was also involved in the scam, he however is still in service, which clearly manifests that the appellants were treated in a discriminatory manner and in violation of Article 25 of the constitution. Besides one Fazal Wahab whose name was included in the list of ghost employees was re-instated by this Tribunal vide judgement dated 12-04-2018 rendered in Service Appeal No.

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572/2017. Though appeal was decided on technical grounds but gave credence to the fact that action against the appellants was against the norms of justice/fair play.

10. The formal inquiry conducted is replete with discrepancies, shortcomings, lacunae and illegalities. The inquiry officer was required to sift chaff from the grain, which could be done by following Rule 12 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, he however showed complacency and presented a cut and paste report by mostly relying on earlier fact finding inquiries. The inquiry officer failed to establish as to how in the absence of any incriminating evidence charges can be established against the accused. His findings were based on assumption/suppositions. We could not find basis of apportionment of embezzled amount to be recovered from the appellants, as no criteria, rationale and yardstick was applied by the inquiry officer in reaching the figure of Rs. 2.6 million to be recovered from each accused. The inquiry was also deficient to the effect that it was only conducted against employees of Finance Department. Had it been conducted jointly against staff of Education Department, Accountant General Office staff as well as against the ghost employees, it would have definitely helped in reaching the bottom of the fraud, but the inquiry officer, while ignoring the other co-accused, confined the inquiry only to its own staff and by doing so, apportioned the whole responsibilities pertaining to Education and Accountant General Office employees upon the appellants.

11. We are conscious of the fact that main beneficiary in the fraud were employees of Education department, whether fake or genuine and action against them would have definitely helped in reaching to the bottom of the fraud committed by the concerned. Fraudulent drawl of such a huge amount is not possible without connivance of the District Education Office Batagram, but record reveals that no action whatsoever was taken against either Employees of Accountant General Office or Office of Education in District Batagram inspite of the fact that inquiry officer recommended that Education Department and Accountant General Office may initiate action against their employees

involved in the scam. It was noted that most of the activities regarding appointment of

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staff and other allied issues with regard to drawl of their pay and allowances have been initiated by education department and expenditure incurred was also reconciled and accepted by the department without any complaint. All this was done by the education department in connivance with staff of Accounts Office.

12. The penalties imposed upon appellants does not commensurate with the offense committed, as the District Accounts Officer, Mr. Muhammad Ayaz was charged for 18 ghost employees, who however was not responsible for all of them as record reveals that eight of the employees entered the system before his posting period as DAO Batagram, which shows that wrong doer was already present before his arrival to this post. Furthermore, yardstick for due vigilance is that the auditor concerned would check 100% calculations as a test check whereas the Assistant Accounts would check about 10% calculation as a test check and similarly the Account Officer is to check about 2% calculation as a test check and his responsibility to this effect was negligible. Similarly, Mr. Muhammad Tariq Assistant Treasury Officer was also responsible for 10% check, which also is negligible. Moreover, as his designation indicates that he was basically a treasury officer having no apparent role in activation of salaries and allowances. Moreover, name of Mr. Muhammad Tariq was not mentioned in the preliminary inquiries, but his name appeared in the formal inquiry on the basis of doubt. They however, cannot totally be absolved of their responsibilities as they failed to properly supervise the activities as were required. The role of Mr. Hamid Younas Sub Accountant is of prime importance to the effect that he was 100% responsible for checking as well as he was dealing hand responsible for activation of pay and allowances. He was categorically held responsible by all the three inquires conducted to this effect. Record also shows that all such fraudulent activities were initiated from his user account including activation of pay and its transfer to other cost centers.

13. In view of the situation, the impugned order is set aside to the effect that the appellant Mr. Muhammad Ayaz and appellant Mr. Tariq Mehmood are re-instated into service by converting major penalty of dismissal and recovery into minor penalty of

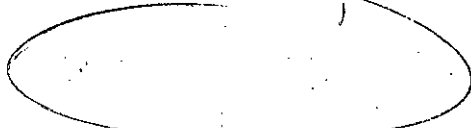
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stoppage of two increments for two years each. Major penalty imposed upon the appellant Mr. Hamid Younas is maintained to the extent of dismissal. Respondents however are directed to conduct inquiry against District Education Office Batagram as well as the ghost employees within three months for recovery of the embezzled amount. No order as to costs. File be consigned to the record room.

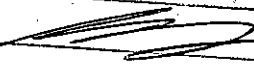
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13.01.2020

  
(ATIQ UR REHMAN WAZIR)  
MEMBER (E)

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (J)

  
(MIAN MUHAMMAD)  
MEMBER (E)

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Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 28-01-2021  
Number of Words 3600  
Copying Fee 38.00  
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کورٹ فیس  
قیمتی

# وکالت نامہ

بعد الت: BEFORE THE PAK-PR SERVICE TRIBUNAL

عنوان: TARIQ MOHAMMAD بنام: Court

منجانب: PETITIONER

نوعیت مقدمہ: EXECUTION

باعث تحریر آنکہ ATD / PESHAWAR

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

Hanayun Khan and Fazalullah Khan

بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے، مگر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے علاوہ کسی اور جگہ سماعت ہونے پر یا بروز پکھری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل سائنٹ پر داختمہ صاحب ہیل کردہ ذات خود منظور و قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط صدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کاروبار وصول کرنے اور رسیدہ دینے اور داخل کرانے کا ہر قسم کا بیان دینے اور سپرد و مالشی اور ارضی نامہ و فیصلہ بر خلاف کرنے و اقبال دعویٰ کا اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یک طرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو شرط ادائیگی علیحدہ پیروی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا ایئر سٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ سند رہے۔ مضمون مختار نامہ سن لیا۔ ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

برمقام: المرقوم: 2/2/11

Accepted by  
[Signature]

طریق محمود  
[Signature]



ORDER

27.05.2021

Instant application has been submitted by the Reader alongwith the appeal.

Instant Execution Petition No. 71//2021 and Execution Petition No. 80/2021 have been filed for implementation of consolidated judgment dated 13.01.2021 in service appeal No. 474/2017. Execution Petition No. 80/2021 has been fixed for 7.6.2021. The request being genuine is allowed and instant Execution Petition is also fixed for 07.06.2021 at Peshawar alongwith E.P No. 80/2021.

  
Chairman

لعرالو بنا با جیسی کہ وہ اس کے لئے لڑیوں کے نام  
KPIK Execution No 74/2021  
گزارہا جیسی کا قرضہ

Put up to the court with  
valuable execution petition

سار



24/5/21

Deed

درخواست گزار  
روکس لڈیوں کے نام کا Execution

بنا علی

کے حسب ذیل قرضوں کے لئے -

1- کہ جس کا قرضہ مال کے نام سے لیا گیا ہے

ذیل حکومتی حکام کو 13-1-2021 کو منسلک ہے

2- کہ اس کا قرضہ لیا گیا ہے Execution

اسٹاک ایڈریس کے لئے لیا گیا ہے

205-2021 کے لئے جس کا قرضہ لیا گیا ہے

3- کہ جس کا قرضہ لیا گیا ہے اس کے لئے لیا گیا ہے

Execution No 80/2021 کے لئے لیا گیا ہے

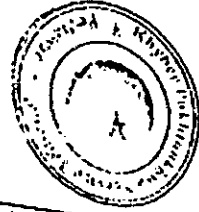
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# 3-1006416-13107-0312-3059888

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 80 /2021



S.No.	Date of order proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
1	08.03.2021	The Execution Petition submitted by Mr. Muhammad Ayaz through Mr. Masood Khan Advocate may be entered in the relevant Register and put up to the Court for proper order please.  REGISTRAR
2		This Execution Petition be put up before S. Bench on <u>02/4/21</u>  CHAIRMAN
	01.04.2021	Counsel for the petitioner present. Notice be issued to respondents for submission of implementation report on 07.06.2021 before S.B. ✓

Date of Presentation of Application 21/4/21  
 Number of Words 800  
 Copying Fee 10/-  
 Urgent 5/-  
 Total 14/-  
 Name of the Judge \_\_\_\_\_  
 Date of Copying of Copy 21/4/21  
 Date of Delivery of Copy 21/4/21

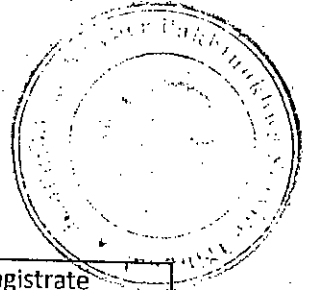
*(Signature)*  
 (Aliq Ur Rehman Wazir)  
 Member (E)

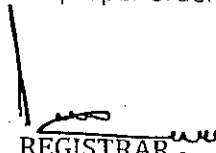

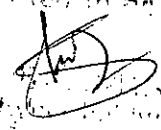
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*(Signature)*  
 MEMBER  
 Service Tribunal  
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FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 71 /2021



S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22.02.2021	<p>The Execution Petition submitted by Mr. Tariq Mehmood through Mr. Hamayun Khan 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 22/2/2021                 </p> <p>This Execution Petition be put up before Touring S. Bench at Abbotabad on <u>22.05.2021</u></p> <p style="text-align: right;">                       CHAIRMAN                 </p> <p> <i>Date of Presentation of Application</i> <u>21/4/21</u> <i>Certified to be true copy</i>  <i>Number of Writs</i> <u>900</u>  <i>Copying</i> <u>20/-</u>  <i>Urgent</i> <u>5/-</u>  <i>Total</i> <u>14/-</u>  <i>Date of Delivery of Copy</i> <u>21/4/21</u> </p> <p style="text-align: right;">                       Service Tribunal                      Faisalwar                 </p>

*C*  
*21/4*

قیمت  
50 روپے

86102



ایڈویکٹ: سولت علی

بار کونسل ایسوسی ایشن نمبر 7920 - BE-10

رابطہ نمبر: 03454845432

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سروس ٹریسٹونل ہاؤس، کونول، خیبر پختونخواہ

دعویٰ:	مناجب: طارق محمود
علت نمبر:	طارق محمود
مورخہ:	بنام
جرم:	سکریٹری جنرل
تھانہ:	

**باعث تحریر آگہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کا جوابی متعلقہ  
آن مقام کے ایڈووکیٹ سولت علی کو ایڈووکیٹ مقرر  
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز ڈیٹیل صاحب کو  
راضی نامہ کرہے اور فیصلہ برحلاف دینے جواب دعویٰ اقبال دعویٰ اور درخواست ازہرہ کی تصدیق  
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا ایڈیل کی برآمدگی اور منسوخی، نیز  
دائر کرنے ایڈیل انگریزی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل باجزوی  
کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ مانے جائے اور اختیار ہوگا اور صاحب  
مقرر شدہ کو وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور ان کا ساختہ پر داخستہ منظور قبول ہوگا  
دوران مقدمہ میں جو خرچہ ہر جانب 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 سندر ہے

المرقوم: 14/06/2021  
PESHAWAR BAR ASSOCIATION  
KHAYBER PAKHTUNKHA

المعتمد: سولت علی  
مقام: طارق محمود سائیل  
Accepted  
Attested  
کے لیے منظور ہے۔  
Snoolant Ali

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔

13101-1006416-3

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 1401 /ST

Dated 23/07/2021


To

The Personal Secretary to Secretary Finance Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

SUBJECT: - **ORDER IN EXECUTION PETITION NO. 71/2021, MR. TARIQ MEHMOOD.**

I am directed to forward herewith a certified copy of order dated  
15.07.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

**REVISION SCHEDULE FOR CONDUCT OF LOCAL GOVERNMENT ELECTION**  
**NOTIFICATION**  
**ELECTION COMMISSION OF PAKISTAN**

(P. 21/2021)

Issued on 4 November 2021

1. Pursuant to the order passed by the Honourable High Court in Civil Petition Nos. 12021-P/2019 and 2021-P/2018 dated 05.11.2021 and Section 59 of the Election Act, 2017 (read with Rule 164) of the Election Commission of Pakistan, 2021 the members residing in the constituencies of the District Councils of Faisalabad, Gujranwala, Lahore, Multan, Rawalpindi, Sindh, Punjab, Balochistan and Islamabad Capital Territory were called upon to elect their representatives to the Local Government of Village Councils, Neighbourhood Councils, Village Councils, and Neighbourhood Councils.

2. Pursuant to the order passed by the Honourable High Court in Civil Petition No. 12021-P/2019 dated 05.11.2021, the Election Commission of Pakistan is pleased to revise the election schedule to the following effect:

3. The following table of various activities of election to the District Councils and Local Government of Village Councils, Neighbourhood Councils, Village Councils and Neighbourhood Councils is hereby notified and in connection therewith, approval and concurrence of the District Councils, Neighbourhood Councils, Village Councils and Neighbourhood Councils are hereby invited.

4. The District Councils, Neighbourhood Councils, Village Councils and Neighbourhood Councils are hereby invited to submit their responses to the Election Commission of Pakistan by the date specified in the following table.

Sl. No.	Activity	Days	Date
1.	Order for issue of nomination papers with the Returning Officers by the candidates.	10 Days	04.11.2021 to 13.11.2021
2.	Submission of names of the nominated candidates on the Returning Officer.	10 Days	04.11.2021 to 13.11.2021
3.	Last date for scrutiny of nomination papers by the Returning Officer.	10 Days	04.11.2021 to 13.11.2021
4.	Issuance of nomination papers to the nominated candidates.	10 Days	04.11.2021 to 13.11.2021
5.	Last date for receipt of nomination papers by the Returning Officer.	10 Days	04.11.2021 to 13.11.2021
6.	Last date for receipt of appeals by the Returning Officer.	10 Days	04.11.2021 to 13.11.2021
7.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
8.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
9.	Last date for withdrawal of candidature and application of revised list of candidates.	10 Days	04.11.2021 to 13.11.2021
10.	Alteration of Election Symbols for contesting candidates and publication of list of contesting candidates.	10 Days	04.11.2021 to 13.11.2021
11.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
12.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
13.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
14.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
15.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
16.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
17.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
18.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
19.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
20.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
21.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
22.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
23.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
24.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
25.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
26.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
27.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
28.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
29.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
30.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
31.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
32.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
33.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
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44.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
45.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
46.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
47.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
48.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
49.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
50.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
51.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
52.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
53.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
54.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
55.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
56.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
57.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
58.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
59.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021
60.	Publication of list of candidates.	10 Days	04.11.2021 to 13.11.2021

To ensure that elections to the local Government are conducted honestly, justly, fairly in accordance with law and to ensure that the corrupt practices are guarded against, the Election Commission of Pakistan directs that:

All Executive Authorities in the Federation and in the Provinces shall neither announce any development project nor use State Resources in Local Government Elections calculated to influence the elections in favor of a particular candidate.

If any person in Government Service misuses his official position in any manner in order to influence results of the elections, he shall be liable to be proceeded against under the Law.

Districts in respect of which election schedule of local government elections has been issued, no transfers/postings of the Government Officers and Officials including Autonomous Bodies Authorities shall be made without prior approval of the Commission.

After the issuance of Election Schedule the President, Prime Minister, Chief Minister, Governor, Speaker and Deputy Speaker of any Assembly, Chairman and Deputy Chairman of Senate, Federal and Provincial Ministers, Advisors to the Prime Minister or Chief Minister or any other holder of public office shall not visit the area of any local

council to announce any government scheme or to canvass or campaign for any candidate or any political party. In case if someone in violation of the district where election are going hold he may visit the district however shall not take part in any kind of political activity.

Districts in respect of which election schedule has been issued, no leave of the Government Officers and Officials including Autonomous Bodies Authorities shall be granted after the issuance of Election Schedule of the Local Government Elections without prior approval of the Commission.

Leave has already been granted to the officer who has not returned his charge without approval of the Hon'ble Commission.

Any holder of public office who is found to have violated any provision of Election Laws or the instructions issued by the Election Commission shall be proceeded against as mandated in law.

The offices of the Election Commission as well as the offices of District Returning Officers and Returning Officers shall remain open on all public holidays if any activity provided in the schedule falls on that day.

All electoral activities mentioned in the (foresaid) schedule shall be undertaken during office hours and the said timing will also be followed on public holidays fixed for any electoral activity of the schedule.

ii. Polling hours will be observed from 08.00 AM to 05.00 PM.

iv. Appellate Tribunals may start proceedings of hearing/deciding of appeals simultaneously from 16.11.2021 to 19.11.2021.

By the order of the Election Commission of Pakistan

The Manager  
Printing Corporation of Pakistan Press  
Islamabad

(NAVEED UR REHMAN)  
Deputy Director (LGE-KP)

(For publication in the Gazette of Pakistan  
Extraordinary (Part-III) of today's date)



**I. Copy forwarded for information to the:-**

1. Secretary to the President, Alwan-e-Sader, Islamabad
2. Secretary to the Prime Minister, Prime Minister, Secretariat, Islamabad
3. Secretary, Cabinet Division, Islamabad
4. Secretary, Ministry of Interior Government of Pakistan, Islamabad
5. The Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar
6. The Secretary, Local Government Department, Pakhtunkhwa, Peshawar
7. The I.G Police Khyber Pakhtunkhwa

**II. Copy also forwarded for information and necessary action to the:-**

- i. The Provincial Election Commissioner Khyber Pakhtunkhwa, Peshawar
- ii. All District Returning Officers
- iii. All Returning Officers
- iv. All Regional Election Commissioner
- v. All District Election Commissioner

Through PEC, Khyber Pakhtun  
Peshawar.

**III. Copy forwarded to the:-**

- i. Director to the Hon'ble CEC.
- ii. PSs / PAs to the Hon'ble MEC-I & II.
- iii. Staff Officer to the Secretary
- iv. Staff Officer to the Special Secretary.
- v. Additional Secretary (Admn).
- vi. Director General (Law).
- vii. Director General (IT)
- viii. Additional Director General (PR)
- ix. Additional Director General (Electoral Rolls).
- x. Additional Director General (TR&E).
- xi. Additional Director General (Budget).
- xii. Additional Director General (Elections-I & II).
- xiii. Additional Director General (Gender Affairs)
- xiv. Deputy Director (LGE-S)
- xv. Deputy Director (LGE-Punish)
- xvi. Deputy Director (Cord)
- xvii. Deputy Director (GS)
- xviii. Deputy Director (PR)
- xix. Deputy Director (Budget)
- xx. Deputy Director (Monitoring)
- xxi. Deputy Director (Web) for uploading the same on ECP's website.

(NAVEDD-UR-REHMAN)  
Deputy Director (LGE-KP)



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT**

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

[facebook.com/GoKPFD](https://www.facebook.com/GoKPFD)

[twitter.com/GoKPFD](https://twitter.com/GoKPFD)

Dated Pesh: the 26.10.2021

**OFFICE ORDER.**

**No.SO(Estt-I)FD/1-5/2021.**

In pursuance of judgment of Khyber Pakhtunkhwa, Service Tribunal in Service Appeal No. 474/2017 dated 13.01.2021 the competent authority has been pleased to convert the major penalty of "Dismissal from service + recovery of Rs. 2,676,871/-" imposed upon Mr. Muhammad Tariq, Assistant Treasury Officer (BS-17) vide order No. SO(Estt)FD/5-14/B.Gram dated 18/01/2017 into minor penalty of "Stoppage of two increments for two years".

2. The above conversion of major penalty in to minor penalty and retirement are subject to final decision of Supreme Court of Pakistan in CPLA No. 166/B/2021 against the Khyber Pakhtunkhwa Service Tribunal decision.

**SECRETARY FINANCE**

**Endst: No. & Date even.**

Copy forwarded for information to:-

1. Registrar, Service Tribunal, Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa.
3. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
4. PS to Secretary, Finance Department.
5. PS to Special Secretary, Finance Department.
6. PA to Additional Secretary (Admn), Finance Department.
7. PA to Provincial Coordinator (PIAC), Finance Department.
8. DAO Battagram.
9. Officer concerned.
10. Office Order file.

*Handwritten signature and date 27/10*

*Handwritten signature and date 27/10*

**Section Officer (Estt-I)**

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWAR**

CM No. \_\_\_\_\_ /2022

IN

E.P No. 71 /2021

Tariq Mehmood

...PETITIONER

**VERSUS**

Govt. of Khyber Pakhtunkhwa & others.

...RESPONDENTS

**APPLICATION**

**INDEX**

<i>S. #</i>	<i>Description</i>	<i>Page #</i>	<i>Annexures</i>
1.	Application alongwith affidavit	1 to 4	
2.	Copy of application and other documents	<b>5 to 42</b>	"A"

  
...PETITIONER

Dated: 8/6 /2022

Through

  
(HAMAYUN KHAN)

Advocate High Court, Abbottabad

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWAR**

CM No. \_\_\_\_\_ /2022

IN

E.P No. 71 /2021

Tariq Mehmood

...PETITIONER

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 382

Dated 22-6-2022

VERSUS

Govt. of Khyber Pakhtunkhwa & others.

...RESPONDENTS

**EXECUTION PETITION**

**APPLICATION FOR SUSPENSION OF  
PROMOTION PROCEEDING AGAINST THE POST  
OF DAO BPS-18 TILL TO SATISFACTION OF  
INSTANT EXECUTION / IMPLEMENTATION  
PETITION.**

---

Respectfully Sheweth:-


1. That the titled execution/ implementation petition is pending before this Honourable Tribunal Since March 2021.

2. That since 13/01/2021 respondents miserably failed to implement the judgment dated 13/01/2021.
3. That now respondents initiated proceeding for promotion but intentionally did not include the name of petitioner candidate for promotion to next post D.A.O BPS-18 and similarly respondent not included the name of petitioner in seniority list according to seniority list year 2014-15.
4. That the petitioner is most senior and eligible for promotion to BPS-18 but due to not implementation of judgment, petitioner still deprived from his lawful and constitutional rights.
5. That all the proceeding for the purpose of seniority and promotion conducting respondent against the judgment dated 13/01/2021.
6. That if respondents before implementation of judgment dated 13/01/2021 issued promotion order of Junior Officer that would be against the fundamental rights of the petitioner and petitioner

will deprived from fruits of judgment dated 13/01/2021.

7. That after judgment dated 13/01/2021 petitioner submitted application/ representation before respondents but till date respondent not included the name of petitioner at proper number of seniority list and similarly not included for promotion. Copy of application and other documents annexed as Annexure "A".

It is therefore, humbly prayed that till to satisfaction of instant execution petition all proceeding for promotion against the post of D.A.O (BPS-18) be stopped/ suspended.



...PETITIONER

Dated: 18/6/2022

Through



(HAMAYUN KHAN)

Advocate High Court, Abbottabad

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWAR**

CM No. \_\_\_\_\_ /2022

IN

E.P No. 73 /2021

Tariq Mehmood

...PETITIONER

VERSUS

Govt. of Khyber Pakhtunkhwa & others.

...RESPONDENTS

**APPLICATION**

**AFFIDAVIT**

I, Tariq Mehmood son of Mian Muhammad resident of CB-29/33 Kakul Road, Behind F.G Girls College, Abbottabad, do hereby affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been suppressed therein.



DEPONENT

**ATTESTED**



-22

To

The Worthy Chief Secretary  
Khyber Pakhtunkhwa  
Peshawar

P/S / CS Khyber Pakhtunkhwa  
DIARY NO 1792 WIE  
Date 20-05-2022

Subject; APPEAL/ REPRESENTATION FOR SENIORITY AND PROMOTION AGAINST THE POST OF DISTRICT ACCOUNT OFFICER (BPS-18).

Respected Sir,

1. That the applicant was appointed Sub-Accountant BPS-11 on 23.05.11990.
2. That thereafter the applicant continuously performed his duties and responsibilities with full devotion and liability till 11.01.2017.
3. That according to Rules and Policy the applicant was promoted time by time and in the year 2006 and was promoted to Assistant Treasury Officer BPS-17.
4. That in the year 2016 department initiated inquiry against the applicant on the basis of so-called application filed by unknown person.
5. That thereafter on 11.01.2017 competent authority issued so-called dismissal order without justification.
6. That the applicant filed service appeal before the Honourable Khyber Pakhtunkhwa Service Tribunal against the impugned dismissal order dated 11.01.2017.



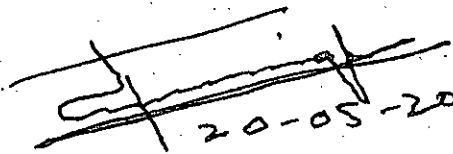
- 6 -
7. That on 13.01.2021 after hearing the arguments learned Tribunal accepted the service appeal and declared impugned order dated 11.01.2017 void against the law.
  8. That thereafter department/ Secretary Finance KPK issued re-instatement order.
  9. That on 31.01.2022 the applicant filed application for redressal of his grievances through proper channel before the Worthy Secretary Finance for the purpose of promotion and seniority etc. Copy of application is attached.
  10. That since re-instatement order Secretary Finance not include the name of petitioner in seniority list for the purpose of promotion.
  11. That Secretary Finance included the names of junior officer namely Ishfaq ur Rehman Serial No. 36 and Muhammad Naeem at Serial No. 37 according to seniority list in the year 2014 while applicant was at serial No. 34 according to seniority list issued by the Secretary Finance Department.
  12. That on 21.04.2022 Provincial Selection Board promoted both the above name Assistant Treasury Officer but not considered the name of applicant for promotion against the post of BPS-18 (DAO) while applicant is senior eligible and entitle for promotion in all respect.
  13. That learned Secretary Finance did not include the name of petitioner for promotion and similarly not forwarded working paper of the petitioner and issued the promotion order of the above named junior officers without lawful justification, rules and policy

14. That on 18.05.2022 Worthy Secretary Establishment again called working paper for promotion for the post of District Account Officer (BPS-18) before 1<sup>st</sup> June 2022, but till date learned Secretary Finance not include the name of applicant and not forwarded working paper for promotion and refused the same without any response.

15. That valuable rights of the applicant are involved and all act of the finance department against the law, rules, policy and natural justice.

It is humbly requested that the working papers of the applicant be placed before the concerned committee (PSB) KPK for the promotion and applicant be placed as a senior than Ashfaq ur Rehman and Muhammad Naeem District Account Officer (DAO) BPS-18 according to seniority list 2014.

Dated; 20/05 /2022

  
20-05-2022

**Tariq Mehmood**  
**Assistant Treasury Officer (BPS-17)**  
**District Account Office Swabi**

1  
**BEFORE THE KHYBER PAKHTUNKHWA,  
SERVICE TRIBUNAL, PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 505

Dated 16-5-2017



Service Appeal No. 474 /2017

Tariq Mehmood son of Mian Muhammad, resident of CB-29/33, Kakul Road, Behind F.G Girls College, Abbottabad.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar.
2. Chief Minister, Khyber Pakhtunkhwa, Peshawar.)
3. Finance Secretary to the Govt., Khyber Pakhtunkhwa, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.

...RESPONDENTS

Filed to-day

Registrar

16/5/17

SERVICE APPEAL UNDER ARTICLE 212 OF  
THE CONSTITUTION OF ISLAMIC REPUBLIC  
OF PAKISTAN 1973, READ WITH SECTION 4  
OF KPK SERVICE TRIBUNAL ACT, 1974,  
AGAINST THE IMPUGNED ORDER  
NO.SO(ESTT)/FD/5-14/B.GRAM DATED

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

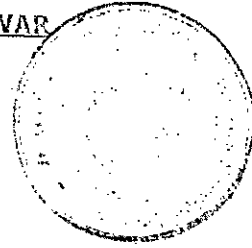
## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

-9-

Service Appeal No.474/2017

Date of Institution: 16.05.2017

Date of Decision: 13.01.2021



Tariq Mehmood son of Mian Muhammad, R/o CB-29/33, Kakul Road, behind FG Girls College, Abbotabad

(Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa, through Chief Secretary and three others

(Respondents)

Mr. Hamayun Khan,  
Advocate

Mr. Abdul Hameed,  
Advocate

Mr. Masood Khan,  
Advocate

Mr. Riaz Ahmed Painsdakhel,  
Assistant Advocate General

Mr. MUHAMMAD JAMAL

Mr. ATIQ UR REHMAN WAZIR

Mr. MIAN MUHAMMAD

... For Appellants

... For Respondents

MEMBER (J)

MEMBER (E)

MEMBER (E)

ATTESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**JUDGEMENT: -**

**Mr. ATIQ UR REHMAN WAZIR:** - This judgement shall dispose of the instant service appeal as well as connected Service Appeal No. 673/2017 titled Hamid Younas and Service Appeal No 473/2017 titled Muhammad Ayaz, as similar question of law and facts are involved therein.

2. The instant service appeal was heard by a Division Bench of this Tribunal on 21-02-2019 and judgment was pronounced. The two learned Members, however, differed in their respective opinions essentially, on the point as to whether the appellants were

treated as per law or not. A larger Bench was, therefore, constituted which heard the matter on 09.12.2020.

3. The facts as laid in the memorandum of appeal in hand, suggest that appellants Muhammad Ayaz, Tariq Mehmood and Hamid Younas were posted as District Accounts Officer, Assistant Treasury Officer and Sub Accountant respectively in District Accounts Office Batagram. During the tenure, they were proceeded against on the charges of fraudulent drawl of money from government exchequer. To this effect, Finance Department as well as Accountant General Office conducted two separate preliminary inquiries each, based on which a formal inquiry was conducted and as per recommendations of the inquiry officer, all the three accused were proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Separate charge sheets and statement of allegations were served upon the appellants to the effect that they were involved in drawl of Rs. 80,30,314/ on account of pay and allowances to the ghost employees/fake appointees in District Education Office Batagram w.e.f. May 2013 to February 2015 and also transfer of pay of ghost employees to District Accounts Office Mansehra. The appellants responded to the charge sheet/statement of allegations, but the inquiry officer recommended that the amount of Rs. 80,30,614/ fraudulently drawn by the appellants may be recovered from them equally as well as recommended major penalty as defined in Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011 and as a consequence, appellants were dismissed from service and recovery of Rs. 26,76,871/ was also ordered to be made from each appellant vide impugned order dated 18-01-2017. The appellants filed departmental appeals but of no avail, hence the instant service appeal with prayers that impugned orders dated 18-01-2017 may be set aside and the appellants may be re-instated into service with all back benefits.

4. We have heard learned counsel for the appellant as well as learned Deputy District Attorney on behalf of respondents and have thoroughly gone through the available record with their assistance.

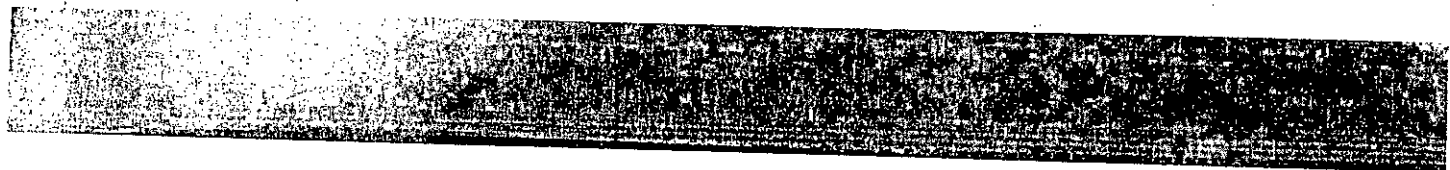
ATTESTED  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

5. Learned counsel for the appellant (Mr. Muhammad Ayaz) contended that the charges leveled against the appellant were vague, evasive and in general terms without indicating details of the cases, breakup and apportionment of responsibilities, which clearly violates Rule 10(1)(b) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. He further added that during the course of inquiry proceedings, neither any departmental representative was appointed as required under Rule 10 (1) (c) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 nor the departmental representative performed his duties as such, as envisaged in Rule 13 of the rules *ibid*. Similarly, no copy of inquiry report along with enclosures was provided with show cause notice as was required under 14(4) of the rule *ibid*. Similarly, no departmental representative appeared along with relevant record on the date of hearing as was required under Rule 14 (4) (d) of the rule *ibid* to substantiate allegations, without which all the proceedings is nullity in the eyes of law.

Reliance was placed on 2018 PLC (CS) 997 and 2019 SCMR 640. The learned counsel further argued that the inquiry conducted by Finance Department was a fact finding inquiry, which speaks only of ten ghost employees with no mention of amount and the penalties were imposed on the basis of the stated fact finding inquiry, which is unlawful and the honorable court in case 2012 CLR 464 has turned down such practice. The learned counsel further added that there were no evidences, examination of prosecution witnesses or opportunity of cross-examination, which was illegal and unlawful and such practice has already been disapproved by the apex court contained in its judgments PLD 1989 SC 335, 1996 SCMR 802, 2018 PLC (CS)997 and 2019 SCMR 640. That both the competent and appellate authorities have awarded the penalty on the recommendations of inquiry officer, which practice is quite incorrect and turned down by the apex court in a latest judgment contained in 2020 PLC (CS) 1291. The learned counsel contended that the impugned order is not a speaking order, lacking necessary ingredients and issued in violation of Section 24-A of the General Clauses Act.

Reliance was placed on 2015 PLC (CS) 1125-D and 2015 KLR. He further added that the respondents violated Article 10-A and 4 of the constitution due to non-provision of

ATTESTED  
 [Signature]  
 Service  
 Khyber Pakhtunkhwa



opportunity of free and fair trial and adherence to due process of law, rather it was restricted to selected questions of his choice through questionnaire. Such process of questionnaire has been deprecated by the apex court in its judgment 1993 SCMR 1440. He further added that preliminary inquiries conducted by Finance Department (FD) and Accountant General (AG) Office are contradictory to the effect that Finance Department suggested 10 cases of alleged ghost employees, while Accountant General Office listed it as 18. Besides employee Rahim Dad is shown as appointed on March 2011 by Finance Department, whereas in Accountant General list, the same is shown as appointed on August 2014. Similarly, another employee namely Fazal Wahab in the Finance Department list is shown as appointed on July 2008, while in Accountant General list on May 2013. It was added that both Finance Department and Accountant General lists contained eight appointments prior to the date of posting of appellant i.e. 31-12-2011. Such contradictions in the inquiry reports negate its credibility. He added that neither statement of prosecution witnesses nor other officials, including the alleged ghost employees have been recorded in support of allegations/charges nor was the opportunity of cross-examination afforded to the appellants. The charges against the appellant were firmed up on the basis of suspicion and surmises, therefore not sustainable in the eyes of law. The learned counsel further added that an alleged ghost employee at Sr. No 16 namely Khais Gul has been allowed pension from 2016. Another alleged ghost employee namely Fazal Wahab has already been re-instated in service by this Tribunal vide judgement dated 30-03-2018 in Service Appeal No. 1070/2017. Still another alleged ghost employee namely Mr. Malik Hayat stands re-instated in service by this Tribunal vide judgement dated 12-04-2018 in service appeal No. 572/2017, who actually was recruited back in 1996. The stance of appellant to this effect is further substantiated with issuance of a certificate by District Accounts Officer Batagram that eight alleged ghost employees were appointed prior to posting period of the appellant. The learned counsel further added that the appellants have been discriminated to the effect that recovery is to be made from only three accused officials without taking into account the other co-accused of Accountant General Office and Education department,

who were also held responsible by the inquiry officer in the same case, but no action whatsoever was taken against them inspite of clear recommendations of the inquiry officer to this effect. That responsibility of the appellant is restricted to 2% random checking of bills, as is evident from findings of the inquiry report, but the penalty so imposed does not commensurate with the offence.

6. Counsel for appellant (Mr. Tariq Mehmood) mainly relied on the arguments put forth by his fellow counsel for the appellant, Mr. Muhammad Ayaz with an addition that job description of the appellant was issuance of stamp paper from treasury and to maintain its record having no connections with fake appointments and drawl of illegal money from government exchequer. That there is no mention of the appellant in the preliminary inquiries conducted by Finance Department and Accountant General Office, but still the appellant was held responsible for an act not committed by him:

7. Learned counsel for the appellant (Hamid Younas) also relied on the arguments of his fellow counsels with an addition that Rule 10(3) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 have been violated by not affording opportunity of personal hearing to the appellant. He further argued that no opportunity of cross-examination was afforded to the appellant, which is unlawful and not sustainable in the eyes of law. Reliance was placed on 1998 PLC (CS) 1338-E, 2008 SCMR 1406, 2016 SCMR 108, 1997 SCMR 1073 and Service Appeal No. 613/2017.

8. Learned Assistant Advocate General on behalf of respondents opposed the contention of the appellants and stated that the appellants were properly proceeded against as per rule and law. Proper charge sheet/statement of allegations were served upon them, to which they responded accordingly. He further contended that proper opportunity of defense was afforded to the appellants. He further added that on the basis of fact finding inquiry, it was established that the appellants were involved in fraudulent drawl of Rs. 80,30,614/ and the charges leveled against them proved during the course of inquiry, hence after fulfilling the required formalities major penalty was awarded to the appellants.



9. We have heard learned counsel for the parties and perused record. It was found that District Accounts Office Batagram and District Education Office Batagram both were involved in the swindle, which was pointed out by an anonymous complainant. Staff posted in DAO Office Batagram comprised of Federal Employees of Accountant General Office as well as Provincial employees of Finance Department (Treasury), so preliminary inquiries were conducted simultaneously by Accountant General Office as well as Finance Department. Both the preliminary inquires recommended only Mr. Hamid Younas, Sub Accountant for disciplinary proceedings, as his user account has been used in the feedings of pay and allowances of ghost employees. The most important recommendation made in both the inquires, which was altogether ignored, was regarding detailed probe to be undertaken by Education Department against District Education Office Batagram for fraudulent drawl/ghost employees, who had drawn salaries from various cost centers of Education Department in District Batagram. The preliminary inquiry conducted by Finance Department however recommended initiating formal inquiry through a committee of Finance Department, Accountant General Khyber Pakhtunkhwa and Director General Audit, which however was conducted by a single inquiry officer from Finance Department and that too only against employees of Finance Department, whereas employees of Accountant General Office and District Education Office Batagram and the ghost employees were altogether ignored. The inquiry was conducted in a slipshod manner only to punish its own employees and no effort was made to broaden the scope of the inquiry to reach the real culprits sitting in the office of District Education Office Batagram as well as Accountant General Office, which was an act of discrimination on part of the respondents. Moreover, Mr. Aurangzeb, senior auditor of the office of DAO Batagram and an employee of the office of Accountant General was also involved in the scam, he however is still in service, which clearly manifests that the appellants were treated in a discriminatory manner and in violation of Article 25 of the constitution. Besides one Fazal Wahab whose name was included in the list of ghost employees was re-instated by this Tribunal vide judgement dated 12-04-2018 rendered in Service Appeal No.

572/2017. Though appeal was decided on technical grounds but gave credence to the fact that action against the appellants was against the norms of justice/fair play.

10. The formal inquiry conducted is replete with discrepancies, shortcomings, lacunae and illegalities. The inquiry officer was required to sift chaff from the grain, which could be done by following Rule 12 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, he however showed complacency and presented a cut and paste report by mostly relying on earlier fact finding inquiries. The inquiry officer failed to establish as to how in the absence of any incriminating evidence charges can be established against the accused. His findings were based on assumption/suppositions. We could not find basis of apportionment of embezzled amount to be recovered from the appellants, as no criteria, rationale and yardstick was applied by the inquiry officer in reaching the figure of Rs. 2.6 million to be recovered from each accused. The inquiry was also deficient to the effect that it was only conducted against employees of Finance Department. Had it been conducted jointly against staff of Education Department, Accountant General Office staff as well as against the ghost employees, it would have definitely helped in reaching the bottom of the fraud, but the inquiry officer, while ignoring the other co-accused, confined the inquiry only to its own staff and by doing so, apportioned the whole responsibilities pertaining to Education and Accountant General Office employees upon the appellants.

11. We are conscious of the fact that main beneficiary in the fraud were employees of Education department, whether fake or genuine and action against them would have definitely helped in reaching to the bottom of the fraud committed by the concerned. Fraudulent drawl of such a huge amount is not possible without connivance of the District Education Office Batagram, but record reveals that no action whatsoever was taken against either Employees of Accountant General Office or Office of Education in District Batagram inspite of the fact that inquiry officer recommended that Education Department and Accountant General Office may initiate action against their employees involved in the scam. It was noted that most of the activities regarding appointment of

staff and other allied issues with regard to drawl of their pay and allowances have been initiated by education department and expenditure incurred was also reconciled and accepted by the department without any complaint. All this was done by the education department in connivance with staff of Accounts Office.

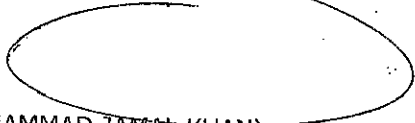
12. The penalties imposed upon appellants does not commensurate with the offense committed, as the District Accounts Officer, Mr. Muhammad Ayaz was charged for 18 ghost employees, who however was not responsible for all of them as record reveals that eight of the employees entered the system before his posting period as DAO Batagram, which shows that wrong doer was already present before his arrival to this post. Furthermore, yardstick for due vigilance is that the auditor concerned would check 100% calculations as a test check whereas the Assistant Accounts would check about 10% calculation as a test check and similarly the Account Officer is to check about 2% calculation as a test check and his responsibility to this effect was negligible. Similarly, Mr. Muhammad Tariq Assistant Treasury Officer was also responsible for 10% check, which also is negligible. Moreover, as his designation indicates that he was basically a treasury officer having no apparent role in activation of salaries and allowances. Moreover, name of Mr. Muhammad Tariq was not mentioned in the preliminary inquiries, but his name appeared in the formal inquiry on the basis of doubt. They however, cannot totally be absolved of their responsibilities as they failed to properly supervise the activities as were required. The role of Mr. Hamid Younas Sub Accountant is of prime importance to the effect that he was 100% responsible for checking as well as he was dealing hand responsible for activation of pay and allowances. He was categorically held responsible by all the three inquires conducted to this effect. Record also shows that all such fraudulent activities were initiated from his user account including activation of pay and its transfer to other cost centers.

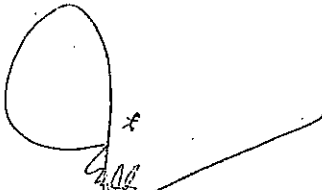
13. In view of the situation, the impugned order is set aside to the effect that the appellant Mr. Muhammad Ayaz and appellant Mr. Tariq Mehmood are re-instated into service by converting major penalty of dismissal and recovery into minor penalty of

stoppage of two increments for two years each. Major penalty imposed upon the appellant Mr. Hamid Younas is maintained to the extent of dismissal. Respondents however are directed to conduct inquiry against District Education Office Batagram as well as the ghost employees within three months for recovery of the embezzled amount. No order as to costs. File be consigned to the record room.

ANNOUNCED  
13.01.2020

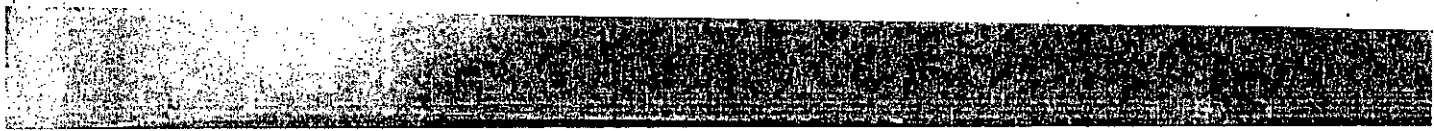
  
(ATIQ UR REHMAN WAZIR)  
MEMBER (E)

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (J)

  
(MIAN MUHAMMAD)  
MEMBER (E)

**Certified to be true copy**  
**EXAMINER**  
Cyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 18/01/2021  
Number of Words 3600  
Copying Fee 38.00  
Urgent \_\_\_\_\_  
Total 38.00  
Name of Copyist [Signature]  
Date of Completion of Copy 19/01/2021  
Date of Delivery of Copy 19/01/2021





GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT



Finance Department, Cash Secretary's Post Box, Peshawar, Khyber Pakhtunkhwa, Pakistan. Telephone: 091-9200111, 091-9200112, 091-9200113, 091-9200114, 091-9200115, 091-9200116, 091-9200117, 091-9200118, 091-9200119, 091-9200120, 091-9200121, 091-9200122, 091-9200123, 091-9200124, 091-9200125, 091-9200126, 091-9200127, 091-9200128, 091-9200129, 091-9200130, 091-9200131, 091-9200132, 091-9200133, 091-9200134, 091-9200135, 091-9200136, 091-9200137, 091-9200138, 091-9200139, 091-9200140, 091-9200141, 091-9200142, 091-9200143, 091-9200144, 091-9200145, 091-9200146, 091-9200147, 091-9200148, 091-9200149, 091-9200150, 091-9200151, 091-9200152, 091-9200153, 091-9200154, 091-9200155, 091-9200156, 091-9200157, 091-9200158, 091-9200159, 091-9200160, 091-9200161, 091-9200162, 091-9200163, 091-9200164, 091-9200165, 091-9200166, 091-9200167, 091-9200168, 091-9200169, 091-9200170, 091-9200171, 091-9200172, 091-9200173, 091-9200174, 091-9200175, 091-9200176, 091-9200177, 091-9200178, 091-9200179, 091-9200180, 091-9200181, 091-9200182, 091-9200183, 091-9200184, 091-9200185, 091-9200186, 091-9200187, 091-9200188, 091-9200189, 091-9200190, 091-9200191, 091-9200192, 091-9200193, 091-9200194, 091-9200195, 091-9200196, 091-9200197, 091-9200198, 091-9200199, 091-9200200.

Dated Pesh, the 28/10/2021

OFFICE ORDER.

No. SO(Estt-I)FD/1-5/2021. In pursuance of Khyber Pakhtunkhwa Service Tribunal judgment dated 13/01/2020 in Service Appeal No. 474/2017, the competent authority has been pleased to convert the major penalty of "Dismissal from service + recovery" of Rs. 2,676,871/- imposed upon Mr Tariq Mehmood Assistant Treasury Officer BS-17, Treasuries & Accounts Establishment, Khyber Pakhtunkhwa vide order No. SO(Estt)FD/5-14/B Gram dated 18/01/2017 into minor penalty of "Stoppage of two increments for two years".

2. Consequent upon the above the officer is re-instated in service w.e.f 18.01.2017.
3. The above conversion of major penalty into minor penalty and re-instatement in service are subject to final decision of Supreme Court of Pakistan in CPLA No. 166/B/2021 against the Khyber Pakhtunkhwa Service Tribunal judgment mentioned above.

SECRETARY FINANCE

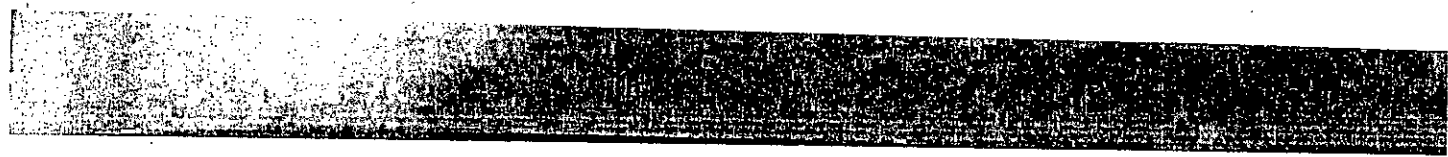
Endst: No. SO(Estt-I)FD/1-5/2021.

Dated 02.11.2021.

Copy forwarded for information to:-

1. Registrar, Service Tribunal, Khyber Pakhtunkhwa
2. Accountant General, Khyber Pakhtunkhwa
3. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
4. PS to Secretary, Finance Department.
5. PS to Special Secretary, Finance Department.
6. PA to Additional Secretary (Admn), Finance Department.
7. PA to Provincial Coordinator (PIAC), Finance Department
8. DAO Battagram.
9. Officer concerned.
10. Office Order file.

Section Officer (Estt-I)





Directorate of Treasuries & Accounts

Khyber Pakhtunkhwa

Treasury Block, District Courts Compound, Behind Jamia Masjid,

Khyber Road, Peshawar.

Phone & Fax: 091-9211856

- 19 -

113

No.1-55/DT&A/22/Promotion ✓ 189

Dated Peshawar the 16-02-2022

To

The Section Officer (Estt-I),  
Govt: of Khyber Pakhtunkhwa,  
Finance Department.

Subject: **APPLICATION FOR SENIORITY & PROMOTION.**

I am directed to refer to the District Accounts Officer, Swabi letter No. DAO/Admin/77 dated 31.01.2022 on the subject noted above & to enclose application in r/o Mr. Tariq Mehmood, Assistant Treasury Officer who has been conditionally re-instated in service and posted at District Accounts Office, Swabi for consideration as per rules/policy please.

Encls: As above.

  
Assistant Director  
Treasuries & Accounts  
Khyber Pakhtunkhwa

**Endst No. & Date Even**

Copy for information is forwarded to the:-

1. District Accounts Officer, Swabi w/r to his letter No referred to above.
2. P.A to Director Treasuries & Accounts Khyber Pakhtunkhwa.

  
Assistant Director  
Treasuries & Accounts  
Khyber Pakhtunkhwa



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

— 26 —

Finance Department Civil Secretariat Peshawar

http://www.finance.gk.p.pk

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Dated Pesh: the 21-04-2022

**OFFICE ORDER**

No.SO(Estt-I)/FD/1-4/2022/T&A/P.T On the recommendation of Provincial Selection Board, in its meeting held on 06.4.2022, following Assistant / Sub Treasury Officers (BS-17) are hereby promoted to the post of District Accounts Officers/ Treasury Officer (BS-18) on regular basis with immediate effect:-

Sr. No	Name of the officer	Present posting
1.	Mr. Ashfaq-ur-Rehman	DAO Haripur (OPS)
2.	Mr. Muhammad Naeem	DAO Torghar (OPS)

- The officers, on promotion, will remain on probation for a period of one year, in terms of Section-6 (2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.
- Consequent upon above, the officers are allowed to actualize their promotions against already occupied posts of District Accounts Officer at Haripur & Torghar.

SECRETARY TO GOVERNMENT  
KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

**Endst: No: & Date even**

Copy forwarded for information & necessary action to:-

- The Accountant General, Khyber Pakhtunkhwa.
- The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
- All DCAs/DAOs in Khyber Pakhtunkhwa.
- PS to Minister for Finance.
- PS to Secretary Finance.
- PS to Special Secretary Finance.
- PA to Add: Secretary (Admin) Finance.
- Officers concerned.
- Office Order file.

21-4-22  
SECTION OFFICER (E-1)



C. L. Khan  
ATO Acting  
Charge  
Basis

(2)

Directorate  
Treasuries & Accounts  
Khyber Pakhtunkhwa

No. 1-45/DT&A/16/Seniority Lt  
Dated Peshawar the 01-01-2016

Treasury Block, District Courts Compound, Bahawal Pind, Muzilli, Khyber Road, Peshawar. Phone & Fax: 091-2211056

1. All the District Comptrollers of Accounts in Khyber Pakhtunkhwa.
2. All the District/Agency Accounts Officers in Khyber Pakhtunkhwa/FATA.

Subject

**TENTATIVE SENIORITY LIST OF DISTRICT/AGENCY ACCOUNTS OFFICERS  
TREASURY OFFICERS AND ASSISTANT/SUB-TREASURY OFFICER I  
KHYBER PAKHTUNKHWA TREASURY ESTABLISHMENT**

Enclosed please find herewith a copy of tentative seniority lists issued by Finance Department vide letter No. SO (Estt)FD/1-45/2015/S.List dated 31-12-2015 in r/o subject officers Treasury Establishment, Khyber Pakhtunkhwa as stood on 31-12-2015 and to state that suggestion/ modification/ representation, if any, to the tentative seniority list or correction in particulars may be communicated with your comments to this Directorate within fifteen days after the receipt of the letter for onward submission to the Finance Department for process.

It is further added that if no representation received within stipulated period, the tentative seniority will be considered as final.

(Habib Ur Rehman)  
Deputy Director  
Treasuries & Accounts  
Khyber Pakhtunkhwa

Encls: No & Date Even

Copy for information is forwarded to the Section Officer (Estt), Finance Department Government of Khyber Pakhtunkhwa with reference to his letter No. SO (Estt)FD/1-45/2015/S.L. dated 31-12-2015

(Habib Ur Rehman)  
Deputy Director  
Treasuries & Accounts  
Khyber Pakhtunkhwa



(54)

**ESTATIVE SENIORITY LIST OF ASSISTANT / SUB-TREASURY OFFICERS (ES-17) OF TREASURY ESTABLISHMENT HYDERABAD PAKISTAN**  
**AS IT STOOD ON 31-12-2015**

NAME OF OFFICER	DOMICILE	EDUCATIONAL QUALIFICATION	WHETHER SAS QUALIFIED OR OTHERWISE	DATE OF BIRTH	DATE OF 1ST ENTRY INTO GOVERNMENT SERVICE	DATE OF REGULAR PROMOTION / PROMOTION IN LOWER POST (DATE)	DATE OF REGULAR PROMOTION / PROMOTION IN HIGHER POST (DATE)	PLACE OF PRESENT POSTING	REMARKS
1. Muhammad Ayaz	Abbottabad	M.A.M.L.B	SAS	14-12-1952	20-15-1971	20-15-1971	20-15-1971	Working as DAO Assistant	
2. Muhammad Haroon	Abbottabad	M.A.	SAS	11-05-1952	21-05-1971	21-05-1971	21-05-1971	Working as DAO Assistant	
3. Javed Akhtar	Abbottabad	B.Com.	SAS	15-01-1957	15-01-1976	15-01-1976	15-01-1976	Working as DAO Assistant	
4. Khalid Kamal	D.I.Khan	M.A.	SAS	15-01-1958	08-01-1981	08-01-1981	08-01-1981	Working as DAO Assistant	
5. Saleem Khan	D.I. (Lower)	M.A.	SAS	18-07-1958	08-08-1982	08-08-1982	08-08-1982	Working as DAO Assistant	
6. Mr Zaib Khan	Kohat	M.A.	SAS	15-01-1962	02-05-1982	02-05-1982	02-05-1982	Working as DAO Assistant	
7. Muhammad Aman	Kohat	M.A.L.L.B	SAS	24-10-1963	23-10-1984	23-10-1984	23-10-1984	Working as DAO Assistant	
8. Amir Tayyab Hussain Shah	Bannu	M.Com.	SAS	30-03-1961	08-05-1984	08-05-1984	08-05-1984	Working as DAO Assistant	
9. Feroze Khan	Bannu	M.A.	SAS	01-01-1961	15-05-1985	15-05-1985	15-05-1985	Working as DAO Assistant	
10. Iqbal Khan	Kohat	B.A.	SAS	04-10-1961	18-07-1985	18-07-1985	18-07-1985	Working as DAO Assistant	
11. Rab Nawaz	Swabi	B.A.	SAS	29-04-1961	05-11-1985	05-11-1985	05-11-1985	Working as DAO Assistant	
12. Atab Ahmad	Peshawar	B.Com.	SAS	10-04-1968	03-12-1986	03-12-1986	03-12-1986	Working as DAO Assistant	
13. Muhammad Farooq	D.I.Khan	M.A.M.Com	SAS	23-06-1963	17-08-1987	17-08-1987	17-08-1987	Working as DAO Assistant	

1	Yad Saadq Hussain	Kurram	B A		01-03-1957	01-03-1979	20-05-1984	07-06-2004	Regular	Working as A.O. in P&D Mangla (on deputator basis)
2	Abdul Wahed	Kohat	M A		20-12-1958	11-07-1977	15-02-1985	07-06-2004	Regular	AAO Kurram
3	Hidayatullah	Mardan	B Sc	SAS	09-10-1964	11-08-1980	11-08-1988	07-06-2004	Regular	DCA Kohat
4	Muhammad Zulfqar	Abbottabad	B A	SAS	06-12-1964	17-08-1988	17-08-1990	07-06-2004	Regular	DCA Mardan
5	Rookhah	Mardan	D Com		14-12-1957	23-05-1977	01-06-1990	07-06-2004	Regular	DAO Manshera
6			M A	SAS	15-04-1967	13-09-1988	13-09-1988	05-04-2005	Regular	DCA Mardan
7	Sayyid-ul-Islam	Dir (Lower)	B A	SAS	01-05-1958	04-09-1984	16-04-1997	12-10-2005	Regular	Working as Accounts Officer Newer Shari Kathor 1872 on Swat
8	Yasir Azam	A/Abad	B A	SAS	03-08-1954	26-09-1988	26-09-1988	04-05-2005	Regular	DAO Haripur
9	Azmatullah	Kohat	M.A	SAS	12-01-1965	21-10-1989	21-10-1989	04-05-2006	Regular	DCA Kohat
10	Muhammad Ismail Khan	Karak	M.A.	-	01-09-1960	08-6-1993	23-12-1986	16-01-2007	Regular	STO Banda Daud Shan Karak
11	Nishad Ali	Buner	M Com	--	01-04-1984	28-10-2010	By initial recruitment	28-10-2010	Regular	Working as AO in Irrigation Dept. (on deputator basis)
12	Sultan Saeed	Nowshera	MBA	-	09-09-1982	28-10-2010	-do-	28-10-2010	Regular	DAO Swabi
13	Mustafa Khan	M Agency	MBA	-	02-02-1971	24-12-2005	-do-	28-10-2010	Regular	Posted as Accounts Officer in P&D Department on deputator basis
14	Saeeda Naz	Peshawar	MBA	-	12-03-1985	28-10-2010	-do-	28-10-2010	Regular	Assistant Director TSA Peshawar
15	Qaisar Imao	Malakand	BEA	-	26-01-1985	23-02-2011	-do-	23-02-2011	Regular	DAO Malakand
16	Muhammad Sharif	DI Khan	B A		15-12-1958	15-05-1980	21-08-1988	25-06-2012	Regular	DAO Tank
17	Dost Dui	Dir	M.A	SAS	01-03-1956	10-04-1985	04-06-2002	25-06-2012	Regular	DAO Malakand
18	Muhammad Khan	A. Abad	B Com	SAS	28-04-1967	21-04-1990	21-04-1990	25-06-2012	Regular	DAO Manshera
19	Tariq Mehmood	A. Abad	M A	SAS	10-02-1967	19-05-1990	19-05-1990	25-06-2012	Regular	DAO Battagram
20	Walid Hakhshah	DI Khan	M Sc	SAS	15-04-1963	18-06-1990	18-06-1990	25-06-2012	Regular	STO Asachi Okman

15

*Handwritten note:* M. A. Khan

Sl. No.	Name	Grade	Age	Joining Date	Relief Date	Remarks
1	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
2	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
3	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
4	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
5	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
6	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
7	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
8	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
9	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
10	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
11	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
12	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
13	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
14	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
15	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
16	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
17	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
18	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
19	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
20	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
21	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
22	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
23	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
24	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
25	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
26	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
27	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
28	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
29	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
30	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
31	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
32	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
33	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
34	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
35	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
36	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
37	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
38	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
39	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
40	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
41	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
42	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
43	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
44	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
45	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
46	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
47	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
48	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
49	Mr. [Name]	SA	34	01-01-1982	02-10-1982	
50	Mr. [Name]	SA	34	01-01-1982	02-10-1982	

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16

SECTION OFFICER (ESTT)  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

(7)  
-25-

No. SO (PSB) ED/1-25/2022/KC  
Dated Peshawar, the May 18, 2022

To

All Administrative Secretaries  
to the Govt. of Khyber Pakhtunkhwa.

**Subject: - REQUEST FOR FURNISHING WORKING PAPERS ON  
PROMOTION FOR PLACEMENT BEFORE THE NEXT PSI  
MEETING.**

Dear Sir,

I am directed to refer to this department letter of even No. Dated 23.12.2021 on the subject and to say that the PSB meeting has been scheduled to be held in June 2022. The working papers (complete in all respects) for promotion to be placed before the PSB meeting may be furnished before the cut off date which is fixed as 01.06.2022.

2. I am further directed to say that no working paper will be received after the mentioned cut off date and that the Administrative department will be responsible for any delay in submission of working papers and the resultant deprivation of any officer for promotion/consideration.

Yours faithfully,

18.5.2022  
SECTION OFFICER (PSB)

ENDST EVEN NO. & DATE.

copy is forwarded to

1. All Section Officers in Regulation Wing of Establishment Department
2. Section Officers (E-I, E-II, E-IV & E-V) Establishment Department
3. PS to Secretary, Establishment, Govt. Khyber Pakhtunkhwa
4. PS to Special Secretary, Regulation Establishment Department
5. PAs to Additional Secretaries (Reg. I & II) Establishment Department
6. PAs to Deputy Secretaries (Reg. I, II & III) Establishment Department

18.5.2022  
SECTION OFFICER (PSB)

To,

-26-

The Secretary,  
Finance, Finance Department  
Government of Khyber Pakhtunkhwa Peshawar

Subject: APPROVAL OF ARREAR OF PAY AND ALLOWANCES AND SENIORITY / PROMOTION.

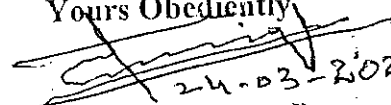
Respected Sir,

With due respect it is stated that;

1. I reinstated in pursuance of Khyber Pakhtunkhwa Service Tribunal Judgment dated 13/01/2020 appeal No.474/2017 and vide Secretary Finance No. SO (Est/1)FD/ 1-5-2021 dated 02/11/2021. (Photocopy attached).
2. An application through proper channel forwarded by DAO / Swabi /77 dated 31/01/2022 for onward submission to directors Treasuries and Accounts Peshawar.
3. The Director Treasuries and Accounts forwarded the above referred application to section officer Estt.1 Finance Department Peshawar vide his No.19-5/DT&A/22/176, dated 15/02/2022 and No. 1-55/DT&A/22 / promotion dated 16/02/2022. (Photocopies attached).
4. My colleague Mr. Muhammad Ayaz Qureshi District Accounts Officer was reinstated under the same case and the same judgment by the service tribunal vide his appeal No.474/2017.
5. All the arrears of pay and allowances was approved in favour of Mr. Muhammad Ayaz Qureshi vide finance department No. B:O-XI/FD / 1-35/2021-22/OSD dated 06/01/2022. (Photocopy attached).
6. Under rule F.R & S.R Volume-I & II,  
F.R 53 (B) F.R 54 (B) Photocopies attached for ready reference the approval of pay and allowance alongwith seniority may kindly be issued under the above referred rule.

In the light of above referred Rules and Facts it is requested that approval / sanction may kindly be granted under the rules and obliged.

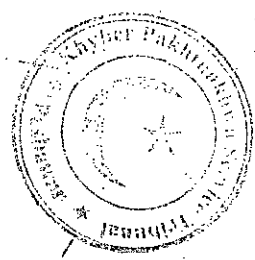
Yours Obediently

  
(Tariq Mahmood)

24.03.2022  
Assistant Treasury Officer  
District Accounts Office Swabi

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

- 27 -



Khyber Pakhtunkhwa  
Service Tribunal

Dirry No. 505

Dated 16-5-2017

Service Appeal No: 474 /2017

Tariq Mehmood son of Mian Muhammad, resident of CB-29/33, Kakul Road, Behind F.G Girls College, Abbottabad.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar.
2. Chief Minister, Khyber Pakhtunkhwa, Peshawar.
3. Finance Secretary to the Govt., Khyber Pakhtunkhwa, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar.

...RESPONDENTS

Filed to-day

~~Registrar~~  
16/5/17

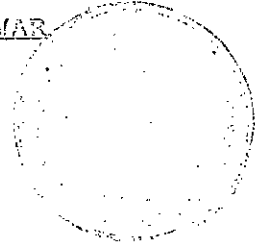
SERVICE APPEAL UNDER ARTICLE 212 OF  
THE CONSTITUTION OF ISLAMIC REPUBLIC  
OF PAKISTAN 1973, READ WITH SECTION 4  
OF KPK SERVICE TRIBUNAL ACT, 1974,  
AGAINST THE IMPUGNED ORDER  
NO.SO(ESTT)/FD/5-14/B.GRAM DATED

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Service Appeal No.474/2017

Date of Institution: 16.05.2017  
Date of Decision: 13.01.2021



Tariq Mehmood son of Mian Muhammad, R/o CB-29/33, Kakul Road, behind FG Girls College, Abbotabad

(Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa, through Chief Secretary and three others

(Respondents)

Mr. Hamayun Khan,  
Advocate

Mr. Abdul Hameed,  
Advocate

Mr. Masood Khan,  
Advocate

Mr. Riaz Ahmed Paindakhel,  
Assistant Advocate General

For Appellants

For Respondents

Mr. MUHAMMAD JAMAL

Mr. ATIQ UR REHMAN WAZIR

Mr. MIAN MUHAMMAD

MEMBER (J)

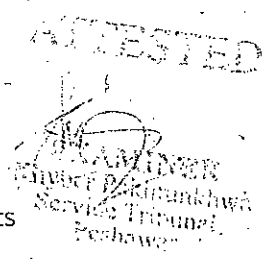
MEMBER (E)

MEMBER (E)

**JUDGEMENT: -**

**Mr. ATIQ UR REHMAN WAZIR:** - This judgement shall dispose of the instant service appeal as well as connected Service Appeal No. 673/2017 titled Hamid Younas and Service Appeal No 473/2017 titled Muhammad Ayaz, as similar question of law and facts are involved therein.

2. The instant service appeal was heard by a Division Bench of this Tribunal on 21-02-2019 and judgment was pronounced. The two learned Members, however, differed in their respective opinions essentially, on the point as to whether the appellants were



treated as per law or not. A larger Bench was, therefore, constituted which heard the matter on 09.12.2020.

3. The facts as laid in the memorandum of appeal in hand, suggest that appellants Muhammad Ayaz, Tariq Mehmood and Hamid Younas were posted as District Accounts Officer, Assistant Treasury Officer and Sub Accountant respectively in District Accounts Office Batagram. During the tenure, they were proceeded against on the charges of fraudulent drawl of money from government exchequer. To this effect, Finance Department as well as Accountant General Office conducted two separate preliminary inquiries each, based on which a formal inquiry was conducted and as per recommendations of the inquiry officer, all the three accused were proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Separate charge sheets and statement of allegations were served upon the appellants to the effect that they were involved in drawl of Rs. 80,30,314/ on account of pay and allowances to the ghost employees/fake appointees in District Education Office Batagram w.e.f. May 2013 to February 2015 and also transfer of pay of ghost employees to District Accounts Office Mansehra. The appellants responded to the charge sheet/statement of allegations, but the inquiry officer recommended that the amount of Rs. 80,30,614/ fraudulently drawn by the appellants may be recovered from them equally as well as recommended major penalty as defined in Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011 and as a consequence, appellants were dismissed from service and recovery of Rs. 26,76,871/ was also ordered to be made from each appellant vide impugned order dated 18-01-2017. The appellants filed departmental appeals but of no avail, hence the instant service appeal with prayers that impugned orders dated 18-01-2017 may be set aside and the appellants may be re-instated into service with all back benefits.

4. We have heard learned counsel for the appellant as well as learned Deputy District Attorney on behalf of respondents and have thoroughly gone through the available record with their assistance.

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 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar



5. Learned counsel for the appellant (Mr. Muhammad Ayaz) contended that the charges leveled against the appellant were vague, evasive and in general terms without indicating details of the cases, breakup and apportionment of responsibilities, which clearly violates Rule 10(1)(b) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. He further added that during the course of inquiry proceedings, neither any departmental representative was appointed as required under Rule 10 (1) (c) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 nor the departmental representative performed his duties as such, as envisaged in Rule 13 of the rules *ibid*. Similarly, no copy of inquiry report along with enclosures was provided with show cause notice as was required under 14(4) of the rule *ibid*. Similarly, no departmental representative appeared along with relevant record on the date of hearing as was required under Rule 14 (4) (d) of the rule *ibid* to substantiate allegations, without which all the proceedings is nullity in the eyes of law.

Reliance was placed on 2018 PLC (CS) 997 and 2019 SCMR 640. The learned counsel further argued that the inquiry conducted by Finance Department was a fact finding inquiry, which speaks only of ten ghost employees with no mention of amount and the penalties were imposed on the basis of the stated fact finding inquiry, which is unlawful and the honorable court in case 2012 CLR 464 has turned down such practice. The learned counsel further added that there were no evidences, examination of prosecution witnesses or opportunity of cross-examination, which was illegal and unlawful and such practice has already been disapproved by the apex court contained in its judgments PLD 1989 SC 335, 1996 SCMR 802, 2018 PLC (CS)997 and 2019 SCMR 640. That both the competent and appellate authorities have awarded the penalty on the recommendations of inquiry officer, which practice is quite incorrect and turned down by the apex court in a latest judgment contained in 2020 PLC (CS) 1291. The learned counsel contended that the impugned order is not a speaking order, lacking necessary ingredients and issued in violation of Section 24-A of the General Clauses Act.

Reliance was placed on 2015 PLC (CS) 1125-D and 2015 KLR. He further added that the respondents violated Article 10-A and 4 of the constitution due to non-provision of

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 Khyber Pakhtunkhwa  
 Service Commission  
 Peshawar

opportunity of free and fair trial and adherence to due process of law, rather it was restricted to selected questions of his choice through questionnaire. Such process of questionnaire has been deprecated by the apex court in its judgment 1993 SCMR 1440. He further added that preliminary inquiries conducted by Finance Department (FD) and Accountant General (AG) Office are contradictory to the effect that Finance Department suggested 10 cases of alleged ghost employees, while Accountant General Office listed it as 18. Besides employee Rahim Dad is shown as appointed on March 2011 by Finance Department, whereas in Accountant General list, the same is shown as appointed on August 2014. Similarly, another employee namely Fazal Wahab in the Finance Department list is shown as appointed on July 2008, while in Accountant General list on May 2013. It was added that both Finance Department and Accountant General lists contained eight appointments prior to the date of posting of appellant i.e. 31-12-2011. Such contradictions in the inquiry reports negate its credibility. He added that neither statement of prosecution witnesses nor other officials, including the alleged ghost employees have been recorded in support of allegations/charges nor was the opportunity of cross-examination afforded to the appellants. The charges against the appellant were firmed up on the basis of suspicion and surmises, therefore not sustainable in the eyes of law. The learned counsel further added that an alleged ghost employee at Sr. No 16 namely Khais Gul has been allowed pension from 2016. Another alleged ghost employee namely Fazal Wahab has already been re-instated in service by this Tribunal vide judgement dated 30-03-2018 in Service Appeal No. 1070/2017. Still another alleged ghost employee namely Mr. Malik Hayat stands re-instated in service by this Tribunal vide judgement dated 12-04-2018 in service appeal No 572/2017, who actually was recruited back in 1996. The stance of appellant to this effect is further substantiated with issuance of a certificate by District Accounts Officer Batagram that eight alleged ghost employees were appointed prior to posting period of the appellant. The learned counsel further added that the appellants have been discriminated to the effect that recovery is to be made from only three accused officials without taking into account the other co-accused of Accountant General Office and Education department,

who were also held responsible by the inquiry officer in the same case, but no action whatsoever was taken against them inspite of clear recommendations of the inquiry officer to this effect. That responsibility of the appellant is restricted to 2% random checking of bills, as is evident from findings of the inquiry report, but the penalty so imposed does not commensurate with the offence.

6. Counsel for appellant (Mr. Tariq Mehmood) mainly relied on the arguments put forth by his fellow counsel for the appellant, Mr. Muhammad Ayaz with an addition that job description of the appellant was issuance of stamp paper from treasury and to maintain its record having no connections with fake appointments and drawl of illegal money from government exchequer. That there is no mention of the appellant in the preliminary inquiries conducted by Finance Department and Accountant General Office, but still the appellant was held responsible for an act not committed by him.

7. Learned counsel for the appellant (Hamid Younas) also relied on the arguments of his fellow counsels with an addition that Rule 10(3) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 have been violated by not affording opportunity of personal hearing to the appellant. He further argued that no opportunity of cross-examination was afforded to the appellant, which is unlawful and not sustainable in the eyes of law. Reliance was placed on 1998 PLC (CS) 1338-E, 2008 SCMR 1406, 2016 SCMR 108, 1997 SCMR 1073 and Service Appeal No. 613/2017.

8. Learned Assistant Advocate General on behalf of respondents opposed the contention of the appellants and stated that the appellants were properly proceeded against as per rule and law. Proper charge sheet/statement of allegations were served upon them, to which they responded accordingly. He further contended that proper opportunity of defense was afforded to the appellants. He further added that on the basis of fact finding inquiry, it was established that the appellants were involved in fraudulent drawl of Rs. 80,30,614/ and the charges leveled against them proved during the course of inquiry, hence after fulfilling the required formalities major penalty was awarded to the appellants.

9. We have heard learned counsel for the parties and perused record. It was found that District Accounts Office Batagram and District Education Office Batagram both were involved in the swindle, which was pointed out by an anonymous complainant. Staff posted in DAO Office Batagram comprised of Federal Employees of Accountant General Office as well as Provincial employees of Finance Department (Treasury), so preliminary inquiries were conducted simultaneously by Accountant General Office as well as Finance Department. Both the preliminary inquires recommended only Mr. Hamid Younas, Sub Accountant for disciplinary proceedings, as his user account has been used in the feedings of pay and allowances of ghost employees. The most important recommendation made in both the inquires, which was altogether ignored, was regarding detailed probe to be undertaken by Education Department against District Education Office Batagram for fraudulent drawl/ghost employees, who had drawn salaries from various cost centers of Education Department in District Batagram. The preliminary inquiry conducted by Finance Department however recommended initiating formal inquiry through a committee of Finance Department, Accountant General Khyber Pakhtunkhwa and Director General Audit, which however was conducted by a single inquiry officer from Finance Department and that too only against employees of Finance Department, whereas employees of Accountant General Office and District Education Office Batagram and the ghost employees were altogether ignored. The inquiry was conducted in a slipshod manner only to punish its own employees and no effort was made to broaden the scope of the inquiry to reach the real culprits sitting in the office of District Education Office Batagram as well as Accountant General Office, which was an act of discrimination on part of the respondents. Moreover, Mr. Aurangzeb, senior auditor of the office of DAO Batagram and an employee of the office of Accountant General was also involved in the scam, he however is still in service, which clearly manifests that the appellants were treated in a discriminatory manner and in violation of Article 25 of the constitution. Besides one Fazal Wahab whose name was included in the list of ghost employees was re-instated by this Tribunal vide judgement dated 12-04-2018 rendered in Service Appeal No.

572/2017. Though appeal was decided on technical grounds but gave credence to the fact that action against the appellants was against the norms of justice/fair play.

10. The formal inquiry conducted is replete with discrepancies, shortcomings, lacunae and illegalities. The inquiry officer was required to sift chaff from the grain, which could be done by following Rule 12 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, he however showed complacency and presented a cut and paste report by mostly relying on earlier fact finding inquiries. The inquiry officer failed to establish as to how in the absence of any incriminating evidence charges can be established against the accused. His findings were based on assumption/suppositions. We could not find basis of apportionment of embezzled amount to be recovered from the appellants, as no criteria, rationale and yardstick was applied by the inquiry officer in reaching the figure of Rs. 2.6 million to be recovered from each accused. The inquiry was also deficient to the effect that it was only conducted against employees of Finance Department. Had it been conducted jointly against staff of Education Department, Accountant General Office staff as well as against the ghost employees, it would have definitely helped in reaching the bottom of the fraud, but the inquiry officer, while ignoring the other co-accused, confined the inquiry only to its own staff and by doing so, apportioned the whole responsibilities pertaining to Education and Accountant General Office employees upon the appellants.

11. We are conscious of the fact that main beneficiary in the fraud were employees of Education department, whether fake or genuine and action against them would have definitely helped in reaching to the bottom of the fraud committed by the concerned. Fraudulent drawl of such a huge amount is not possible without connivance of the District Education Office Batagram, but record reveals that no action whatsoever was taken against either Employees of Accountant General Office or Office of Education in District Batagram inspite of the fact that inquiry officer recommended that Education Department and Accountant General Office may initiate action against their employees involved in the scam. It was noted that most of the activities regarding appointment of


staff and other allied issues with regard to drawl of their pay and allowances have been initiated by education department and expenditure incurred was also reconciled and accepted by the department without any complaint. All this was done by the education department in connivance with staff of Accounts Office.

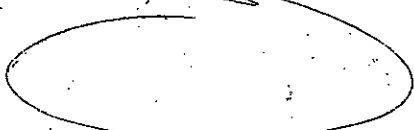
12. The penalties imposed upon appellants does not commensurate with the offense committed, as the District Accounts Officer, Mr. Muhammad Ayaz was charged for 18 ghost employees, who however was not responsible for all of them as record reveals that eight of the employees entered the system before his posting period as DAO Batagram, which shows that wrong doer was already present before his arrival to this post. Furthermore, yardstick for due vigilance is that the auditor concerned would check 100% calculations as a test check whereas the Assistant Accounts would check about 10% calculation as a test check and similarly the Account Officer is to check about 2% calculation as a test check and his responsibility to this effect was negligible. Similarly, Mr. Muhammad Tariq Assistant Treasury Officer was also responsible for 10% check, which also is negligible. Moreover, as his designation indicates that he was basically a treasury officer having no apparent role in activation of salaries and allowances. Moreover, name of Mr. Muhammad Tariq was not mentioned in the preliminary inquiries, but his name appeared in the formal inquiry on the basis of doubt. They however, cannot totally be absolved of their responsibilities as they failed to properly supervise the activities as were required. The role of Mr. Hamid Younas Sub Accountant is of prime importance to the effect that he was 100% responsible for checking as well as he was dealing hand responsible for activation of pay and allowances. He was categorically held responsible by all the three inquires conducted to this effect. Record also shows that all such fraudulent activities were initiated from his user account including activation of pay and its transfer to other cost centers.

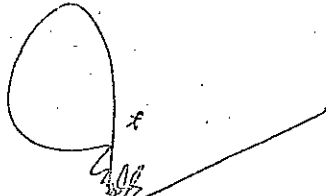
13. In view of the situation, the impugned order is set aside to the effect that the appellant Mr. Muhammad Ayaz and appellant Mr. Tariq Mehmood are re-instated into service by converting major penalty of dismissal and recovery into minor penalty of

Stoppage of two increments for two years each. Major penalty imposed upon the appellant Mr. Hamid Younas is maintained to the extent of dismissal. Respondents however are directed to conduct inquiry against District Education Office Batagram as well as the ghost employees within three months for recovery of the embezzled amount. No order as to costs. File be consigned to the record room.

ANNOUNCED  
13.01.2020

  
(ATIQ UR REHMAN WAZIR)  
MEMBER (E)

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (J)

  
(MIAN MUHAMMAD)  
MEMBER (E)

*Certified to be true copy*  
**EXAMINER**  
Hyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 18/01/2020  
 Number of Words 3600  
 Copying Fee 38.00  
 Urgent \_\_\_\_\_  
 Total 38.00  
 Name of Copyist [Signature]  
 Date of Completion of Copy 19/01/2020  
 Date of Delivery of Copy 19/01/2020



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

19

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Dated Peshawar the 28<sup>th</sup> 10 2021

OFFICE ORDER.

No.SO(Estt-I)FD/1-5/2021. In pursuance of Khyber Pakhtunkhwa Service Tribunal judgment dated 18.01.2020 in Service Appeal No. 474/2017, the competent authority has been pleased to convert the major penalty of "Dismissal from service + recovery of Rs. 2,676,871/-" imposed upon Mr Tariq Mehmood Assistant Treasury Officer BS-17, Treasuries & Accounts Establishment Khyber Pakhtunkhwa vide order No SO(Estt)FD/5-14/B/Gram dated 18.01.2017 into minor penalty of "Stoppage of two increments for two years".

2. Consequent upon the above the officer is re-instated in service w.e.f 18.01.2017.

3. The above conversion of major penalty into minor penalty and re-instatement in service are subject to final decision of Supreme Court of Pakistan in CPLA No. 166/B/2021 against the Khyber Pakhtunkhwa Service Tribunal judgment mentioned above.

SECRETARY FINANCE

Endst: No. SO(Estt-I)FD/1-5/2021.

Dated 02.11.2021.

Copy forwarded for information to:-

1. Registrar, Service Tribunal, Khyber Pakhtunkhwa
2. Accountant General, Khyber Pakhtunkhwa
3. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
4. PS to Secretary, Finance Department.
5. PS to Special Secretary, Finance Department.
6. PA to Additional Secretary (Admn), Finance Department.
7. PA to Provincial Coordinator (PIAC), Finance Department
8. DAO Battagram.
9. Officer concerned.
10. Office Order file.

Section Officer (Estt-I)



DIRECTORATE OF TREASURIES & ACCOUNTS  
KHYBER PAKHTUNKHWA

Treasury House, Lyallpur Cantonment  
District Swabi, Khyber Pakhtunkhwa  
Pakistan  
Phone & Fax: 091-92111956



No. 19/970/Swabi/2022 Dated: Swabi, the 15.02.2022


The Section Officer (Estt-I),  
Government of Khyber Pakhtunkhwa,  
Finance Department.

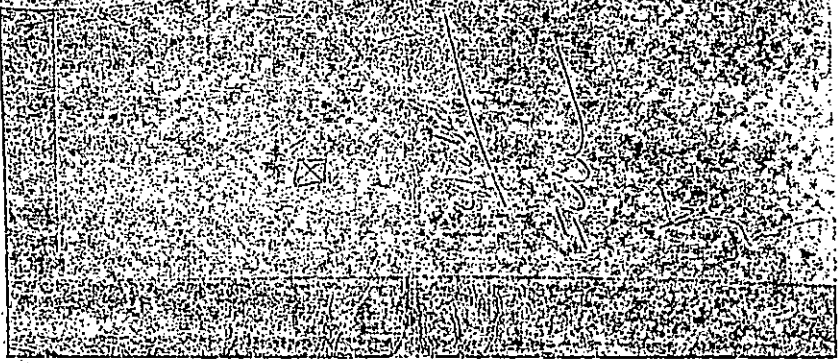
Subject: APPLICATION FOR SANCTION OF ARREAR CLAIM.

I am directed to refer to the District Accounts Officer, Swabi letter No. DAC/Admin/73 dated: 24-01-2022 on the subject noted above & to state that Mr. Tariq Mehmood, Assistant Treasury Officer was re-instated in service w.e.f. 18-01-2017 in pursuance of Khyber Pakhtunkhwa Service Tribunal Judgment dated 15-01-2020 in Service Appeal No. 47A/2017. He has made request for sanction of arrears (copies attached).

It is intimated that the post of Assistant Treasury Officer remained vacant at District Comptroller of Accounts, Swabi w.e.f. 18-01-2017 to 28-02-2021 & w.e.f. 01-03-2021 to 20-01-2022 in District Accounts Office, Swabi.

It is requested that his case may kindly be examined & process please.

  
Deputy Director  
Treasuries & Accounts  
Khyber Pakhtunkhwa





GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT

39-



Finance Department Civil Secretariat, Peshawar

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NO. BO-XI/FD/1-35/2021-22/OSD

Dated Peshawar the 06.01.2022

To

The Director Treasuries & Accounts,  
Khyber Pakhtunkhwa,  
Peshawar.

Subject:- CREATION OF SUPERNUMERARY POST FOR THE PERIOD  
W.E.F. 01.09.2017 - TO 13.12.2018 IN R/O  
MR. MUHAMMAD AYAZ, EX-DAO (BPS-18).

Dear Sir,

I am directed to refer to the Section Officer (Estt-I) Finance Department letter No. SO(ESTT-I)/FD/19-25/2021/SNE dated 18.11.2021 on the subject noted above and to state that in light of Service Tribunal KPK decision and subsequent approval of the Competent Authority, Finance Department agrees to the creation of one supernumerary post of DAO (BPS-18) w.e.f 18.01.2017 to 13.12.2018 under DDO/Cost Centre BM4003-District Accounts Office, Battagram, for the purpose of drawl of pay and allowances in respect of Muhammad Ayaz (Ex-DAO), Battagram, subject to observance of all codal formalities before incurrence of expenditure.

2- The expenditure involved is debitable under Grant. 03 NC21003 (003) Function Classification, 01-General Public Service, 011-Executive & Legislative Organs, Financial, 0112-Financial and Fiscal Affairs, 011206-Accounting Services, BM4003-Treasury Establishment Battagram, and will be met out within the sanctioned budget during current financial year 2021-22.

  
(IQBAL NAWAZ KHAN)  
BUDGET OFFICER-XI

Endst: of even No. & Date

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. District Accounts Officer, Battagram.
3. Master File.

  
BUDGET OFFICER-XI

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+92 (01) 9213024

PERSONNEL	NAME	DATE	WAGE TYPE	DATE	AMOUNT
334288	AYAZ MUHAMMAD	4100	Basic Pay	12.01.2022	2,370,628.00
334288	AYAZ MUHAMMAD	4104	Qualification ...	12.01.2022	27,444.00
334288	AYAZ MUHAMMAD	4108	Medical Allowa...	12.01.2022	95,258.00
334288	AYAZ MUHAMMAD	4112	House Rent All...	12.01.2022	88,579.00
334288	AYAZ MUHAMMAD	4150	Audit & Accoun...	25.01.2022	216,445.00
334288					2,798,354.00
					2,798,354.00

(13)

COMBINED SET  
 OF  
**F.R. & S.R.**  
 VOLUMES I & II

APPLICABLE TO THE FEDERAL CIVIL SERVANTS IN PAKISTAN.

*Handwritten signature or scribble*

Revised by

Ch. Salman Zahoor  
Advocate High Court

**Law Book Land**

Turner Road Chowk A.C. Office  
Near High Court Lahore  
Ph: 042-37237350, 37236422 Cell: 0300-9406252

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CHAPTER VIII.—DISMISSAL, REMOVAL AND SUSPENSION

F.R. 52. The pay and allowances of a Government servant who is dismissed or removed from service cease from the date of such dismissal or removal.

F.R. 53. A Government servant under suspension is entitled to the following payments:-

(a) In the case of <sup>1</sup>[an employee of the Armed Forces] who is liable to revert to Military duty, to the pay and allowances to which he would have been entitled had he been suspended while in military employment.

<sup>2</sup>(b) In the case of a Government servant under suspension, other than that specified in clause (a), he shall be entitled to full amount of his salary and all other benefits and facilities provided to him under the contract of service, during the period of his suspension.]

*Government decision.--*

It has been decided that the rate of the subsistence grant payable to suspended Government servants governed by F.R. 53 (b) shall be enhanced from one-third to one-half of the pay of the suspended Government servant.

<sup>1</sup> In F.R. 53, in clause (a) substituted for the words "Commissioned Officer of the Indian Medical Department or a Warrant Officer" by the S.R.O. 728(I)/93, 2nd August, 1993, Gaz of Pakistan, Extra, Pt. II, P.No. 1339, Aug. 22, 1993.

<sup>2</sup> In F.R. 53, substituted for clause (b) by the S.R.O. 1173(I)/94, dt. 21-9-1994, Gaz of Pakistan, Extra, Pt. II, dated 5th December, 1994.

A doubt has been raised as to whether, in the case of a Government servant who has been suspended while on leave the subsistence grant should be calculated with reference to his leave salary or with reference to his pay. Attention in this connection is invited to F.R. 55, which prohibits grant of leave to Government servants under suspension. Such a Government servant, therefore ceases to be on leave as soon as he is placed under suspension, and the subsistence grant in his case also has to be calculated with reference to the pay which was admissible to him on the eve of the commencement of the leave.

These orders take effect from the 1st of December, 1969.

[G.P., M.F., O.M. No. F. 12 (32)-R3/70, dated the 14th February, 1970.]

[F.R. 54.--Where a Government Servant has been dismissed or removed is reinstated, the revising or appellate authority may grant to him for the period of his absence from duty--

(a) if he is honorably acquitted, the full pay to which he would have been entitled if he had not been dismissed or removed, and, by an order to be separately recorded, any allowance of which he was in receipt prior to his dismissal removal; or

(b) if otherwise, such portion of such pay and allowances as the revising or appellate authority may prescribe.

<sup>1</sup> F.R. 54, substituted by S.R.O. 715(I)/93, 2nd August, 1993, Gaz of Pakistan, Extra, pt. II, p. 1339, Aug. 22, 1993, (Effective from 30th June, 1993.)  
The above amendments will be effective from 30th June, 1993.

-14-

-42-

If a case falling under clause (a), the period of absence from duty will be treated as period spent on duty.

In a case under clause (b), it will not be treated as a period spent on duty unless the revising appellate authority so directs.

Explanation.—In this rule, "revising authority" means the "authority" or "authorized Officer" as defined in the Government Servants (Efficiency and Discipline) Rule, 1973, who passes the final order on the case and not the authority who passes an order on appeal.]

[54A. If a Government servant, who has been suspended pending inquiry into his conduct attains the age of superannuation before the completion of inquiry, the disciplinary proceedings against him shall abate and such Government servant shall retire with full pensionary benefits and the period of suspension shall be treated as period spent on duty.]

F.R. 55. Leave may not be granted to a Government servant under suspension.

F.R. 54A, inserted by S.R.O. 1143 (I/60), dated 10th Nov. 1960, Gazette of Pakistan, Extraordinary, Part II, Page No. 2213, dated Nov. 20, 1960.

(51)

CHAPTER IX.—COMPULSORY RETIREMENT.

F.R. 53. (a) except as otherwise provided in the other clauses of this rule, the date of compulsory retirement of a Government servant, other than a ministerial servant, is the date on which he attains the age of 55 years. He may be retained in service after the date of compulsory retirement with the sanction of the local Government on public ground, which must be recorded in writing, but he must not be retained after the age of 60 years except in very special circumstances.

(b) (i) A ministerial servant <sup>\*\*</sup>[who is not governed by sub-clause (ii)] may be required to retire at the age of 55 years, but should ordinarily be retained in service, if he continues efficient, up to the age of 60 years. He must not be retained after that age except in very special circumstances, which must be recorded in writing and with the sanction of the local Government.

(ii) A ministerial servant—

- (1) who enters Government service on or after the 1st April, 1938, or
- (2) who being in Government service on the 31st March, 1938 did not hold a Men or a suspended lien on a permanent post on that date,

shall ordinarily be required to retire at the age of 55 years. He must not be retained after that age except on public ground which must be recorded in writing, and with the sanction of the local Government. He must not be retained after the age of 60 years except in very special circumstances.

(c) The following are the special rules applicable to particular services:-

- (i) A member of the former Indian Civil Service who is not a Judge of a Chief Court, must retire after 35 years' service granted from the date of his arrival in Indo-Pakistan subcontinent, <sup>\*\*</sup>[or on attaining the age of 60 years, which ever is later; provided that if he has held his post for less than five years, he may, with the sanction of the Governor-General, be permitted to retain it until he has held it for that period.
- (ii) A member of the former Indian Civil Service who is a Judge of a Chief Court, must retire on attaining the age of 60 years.
- (iii) Deleted [By G.P., M.F. Notification No. F. 3 (1)-R(3)/64, dated the 23rd June, 1964.]

Inserted by G.P., M.F. Notification No. 5 (2)-RI (RWP)/62, dated 1st December,