

24th June, 2022 Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Learned Addl: AG seeks time to contact the respondents for submission of proper implementation report. Respondents are directed to submit proper implementation report on the next date positively. To come up for implementation report on 16.08.2022 before S.B at Peshawar.


9

(Kalim Arshad Khan)
Chairman

16.08.2022

Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Dilawar Khan, Deputy DEO for the respondents present.



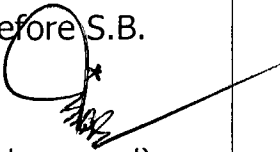
Learned AAG requested for adjournment on the ground to contact the respondents at senior level for submission of implementation report on the next date. The request is acceded to but as a last chance and final/conclusive implementation report be ensured to be submitted on the next date without fail. Adjourned. To come up for implementation report on 13.10.2022 before S.B.


(Mian Muhammad)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 196/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12.04.2022	<p>The execution petition of Mr. Shakirullah submitted today by Naila Jan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before to Single Bench at Peshawar on <u>18-05-2022</u>. Original file be requisitioned. Notices to the appellant and his counsel be also issued for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
	18.05.2022	<p>Learned counsel for the petitioner present.</p> <p>Notice of the present execution petition be issued to the respondents for submission of implementation report. To come up for implementation report on 24.06.2022 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member (E)</p>

*Noted
D. J. J.
18/4/2022*

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 196 /2022

In

Service Appeal No: 62/2019

Shakir Ullah

Versus

Secretary E&SE Peshawar and others

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Dated: 12/04/2022

شاکر ullaہ

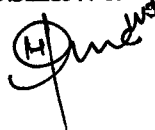
Petitioner

Through

Naila Jan

Advocate, High Court

Peshawar

(H) 

1

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR



Execution petition No. 196 /2022

In

Service Appeal No: 62/2019

Shakir Ullah Ex Chowkidar, GPS Lakki Qamar Din,
Tehsil Domel, District Bannu.

.....Appellant

Versus

1. Secretary Elementary & Secondary Education
Government of Khyber Pakhtunkhwa, Peshawar.
2. Director, Elementary & Secondary Education
Government of Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (M) Bannu.
4. Assistant Commissioner Bannu.

.....Respondents

EXECUTION PETITION FOR
IMPLEMENTATION OF THE
JUDGMENT OF THIS HON'BLE
TRIBUNAL IN APPEAL No.
62/2019 DECIDED ON
22.12.2021

Respectfully Sheweth,

1. That the above mention appeal was decided by
this Hon'ble Tribunal vide Judgment dated

2

22/12/2021. (Copy of the judgment is annexed as annexure "A")

2. That the relevant portion of the judgment is reproduced *"For what has gone above, the appeal is accepted as prayed for and appellant is reinstated into service with back benefits. Parties are left to bear their own costs. File be consigned to the record room"*.
3. That the Petitioner after getting of the attested copy of same approached the Respondents several time for implementation of the above mention judgment. However they are using delaying tactics and reluctant to implement the judgment of this Hon'ble Tribunal.
4. That the Petitioner has no other option but to file the instant petition implementation of the judgment of this Hon'ble Tribunal.
5. That there is nothing which may prevent this Hon'ble Tribunal from implementing of its own judgment.

It is, therefore, requested that on acceptance of this petition the Respondents may directed to implement the judgment of this

3

*Hon'ble Tribunal by reinstating the Petitioner
with all back benefits.*

Dated: 12/04/2022

شاکر علی

Petitioner

Through

Handwritten signature of Naila Jan

Naila Jan

&

Huma Khan

Advocates, High Court

Peshawar

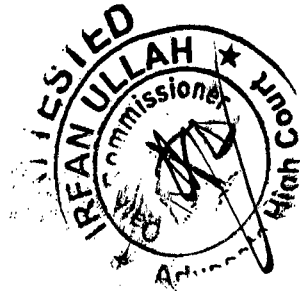
Handwritten signature of Huma Khan

AFFIDAVIT:-

I, Shakir Ullah Ex Chowkidar, GPS Lakki Qamar Din, Tehsil Domel, District Bannu, do hereby solemnly affirm and declare on oath that all the contents of above application are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon'ble Court.

شاکر علی

Deponent



11-4-22

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BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. _____/2022

In

Service Appeal No: 62/2019

Shaki Ullah

Versus

Secretary E&SE Peshawar and others

ADDRESSES OF PARTIES

PETITIONER

Shakir Ullah Ex Chowkidar, GPS Lakki Qamar Din,
Tehsil Domel, District Bannu.

RESPONDENTS

1. Secretary Elementary & Secondary Education
Government of Khyber Pakhtunkhwa, Peshawar.
2. Director, Elementary & Secondary Education
Government of Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (M) Bannu.
4. Assistant Commissioner Bannu.

Dated: 12/4/2022

Petitioner

Through

Naila Jan

Advocate, High Court
Peshawar

D 5



**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

S.A. 62 /2019

Diary No. 18
Dated 4-1-2019

Shakir Ullah Ex Chowkidar, C/PS LAKKI Gama Dins
Tehsil Domel, District Bannu.

----- (Appellant)

Versus

1. Secretary Elementary and Secondary Education
Government of Khyber Pakhtunkhwa
Peshawar.
2. Director Elementary and Secondary Education
Government of Khyber Pakhtunkhwa
Peshawar.
3. District Education Officer male Bannu.
4. Assistant Commissioner Bannu.


----- (Respondents).

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 AGAINST THE IMPUGNED ORDER
DATED 19/07/2017 WHEREBY THE
APPELLANT WAS TERMINATED FROM
SERVICE ILLEGALLY AND ORDER DATED
06/12/2018 WHEREBY DEPARTMENT
APPEAL OF THE APPELLANT WAS
REJECTED WITHOUT LEGAL
JUSTIFICATION.

PRAYERS:-

ON ACCEPTANCE OF THE INSTANT APPEAL
THE IMPUGNED ORDERS DATED 14-07-2017,
AND ORDER DATED 06/12/2018 MAY KINDLY

ATTESTED

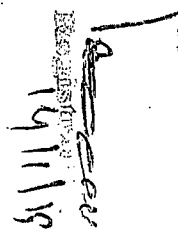

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Filed to-day

Registrar

4/1/19



14/1/19


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No.62 of 2019

Date of Institution ... 04/01/2019

Date of Decision ... 22/12/2021



ShakirUllah Ex-Chowkidar GPS, Lakki Qamar Din Tehsi Domel District
Bannu ... (Appellant)

VERSUS

Secretary Elementary and Secondary Education, Government of Khyber
Pakhtunkhwa and others ... (Respondents)

Present.

Mst. Naila Jan, Advocate ... For appellant.

Mr. Kabirullah Khattak,
Addl: Advocate General, ... For respondents.

MR AHMAD SULTAN TAREEN ... CHAIRMAN
MR. ATIQ-UR-REHMAN WAZIR, ... MEMBER(E)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:-The appellant named
above invoked the jurisdiction of this Tribunal through service
appeal with the prayer as copied below:-

“On acceptance of instant appeal, the impugned
order dated 14/07/2017 and order dated 06/12/2018
may kindly be set aside and the appellant may kindly
be reinstated into Service with all back benefits”

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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2. Brief facts of the case are that the appellant was appointed by the respondent department as Chowkidar after fulfilling all codal formalities and after appointment, the appellant performed his duty to the entire satisfaction of respondents. After joining report, the appellant was posted at Government Primary School Qamar Din Tehsil Domel District Bannu. After about 2/3 months of the service, the respondent transferred the appellant from Government Primary School Qamar DIN to the office of Assistant Commissioner Bannu. The respondents stopped the salary of the appellant without any reason and after approaching them, they neither released the salary nor disclosed to him the reason for stoppage of his salary. The appellant filed a civil suit for release of his salary and during pendency of said suit, Government Pleader produced his removal from service order dated 19/07/2017. Feeling aggrieved, appellant filed various applications but the respondents are not ready to provide the relevant documents to him. Thereafter, the appellant filed a writ petition No. 517-B of 2018 which was decided vide judgment dated 03/10/2018 and the petition was converted as departmental appeal with the direction to decide the same within 30 days. The departmental appeal of the appellant was rejected vide order dated 06/12/2018, hence the present appeal on 04.01.2019.

3. The appeal was admitted for regular hearing on 07.03.2019. The respondents have submitted written reply/comments, refuting the claim

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

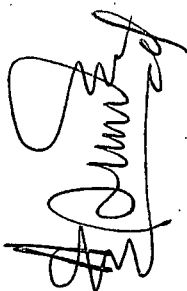
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of the appellant with several factual and legal objections and asserted for dismissal of appeal.


4. We have heard the arguments and perused the record

5. Learned counsel for the appellant argued that the impugned orders are against the law, rules and principle of Natural justice and not tenable in the eye of law; that no charge sheet etc has been issued to the appellant; that no fact finding or regular inquiry was conducted nor did any opportunity of defense has been provided to the appellant; that the appellant was not absent and had performed his duties regularly; that the appellant was not provided an opportunity of fair trial and was not treated in accordance on law on the subject and that the impugned order is not sustainable and is liable to be set aside.

6. Learned Additional Advocate General while rebutting the arguments of learned counsel for the appellant stated that the appellant has not performed his duties after his appointment and remained himself absent from duty; that a proper inquiry has been conducted against the appellant and in view of inquiry report dated 29/06/2017 he was dismissed from service vide order dated 19/07/2017; that the appellant has not moved any departmental appeal before the competent authority. While concluding his arguments, learned AAG requested for dismissal of appeal with cost.

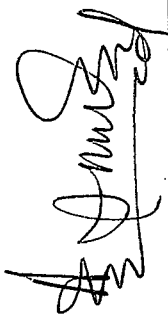


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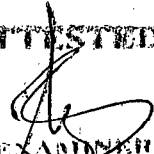

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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7. It is an admitted position that the appellant was appointed as Chowkidar vide order dated 26.12.2016. The appellant has annexed with the service appeal salary slips for the months of February, 2017 to June, 2017. Accordingly, he was paid the salary for the said period which fact gives rise to a presumption that the appellant was on duty during the said period. The appellant submitted in his appeal that nearly about after two or three months of his service, the respondents transferred him from GPS Qamar Deen to the office of Assistant Commissioner, Bannu. The said order as annexed with the appeal was issued by the Assistant Commissioner, Bannu (respondent No. 4) and not by the departmental authority of the appellant. However, copies of said orders were endorsed to respondent No. 3 i.e. District Education Officer (Male) Bannu and HPST, GPS Lakki Qamar Din, Tehsil Domel, District, Bannu. The said order was issued on 14.02.2017 and according to Diary Number and date available on the copy of said order, the same was received in office of respondent No. 3 on 15.02.2017. As already mentioned, the appellant received salary for the month of February, 2017 and onwards despite knowledge of the respondent No. 3 about his detailment to the office of Assistant Commissioner Bannu till further order. It can be safely presumed that the appellant had to perform the duty in office of the Assistant Commissioner Bannu due to silence of respondent No. 3 on order of respondent No. 4 regarding detailment of appellant to his office. The respondent No. 3 in his parawise reply to

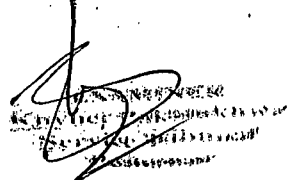


ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

para-3 of the appeal asserted that this para is vague as the appellant has not cleared in his appeal that which respondent and why he was transferred from his posted school to the office of Assistant Commissioner Bannu. It was also added by him that the appellant has not cleared that he had taken over charge in the office of Assistant Commissioner Bannu. To this effect the appellant had not informed his superior concerned. Consequently, absentee notice as well as final show cause notices were served upon the appellant with the direction to resume his duty within stipulated period of time but in vain. Then on direction of DEO (M) Bannu enquiry was conducted against the appellant and a major penalty was recommended to be imposed upon him under E&D Rules, 2011. It was also asserted by respondent No. 3 that the appellant was appointed on 27.12.2016 on the post of Chowkidar and since then he remained absent from government duty as per enquiry report. The said reply of respondent No. 3 is highly random and misleading. According to annexures with the reply, the SDEO (M) Bannu admitted the fact of taking over of charge by the appellant as evident from the contents of notice of absence given to the latter. One of the annexures with the reply pertains to the minutes of meeting of P.T.A in which the issue of absence of the Chowkidar Shakirullah (appellant) from duty in the school was discussed with particular reference to in-action of respondent No. 3. It appears that the appellant was made a scapegoat when issue of his absence from proper

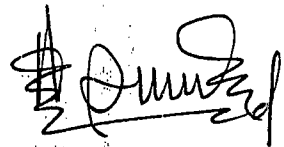
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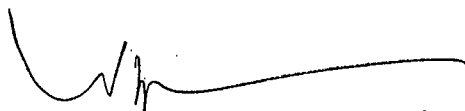
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place of duty stood highlighted. The disciplinary proceedings on their face seem to be a cover up of the silence of respondent No. 3 as then he was at the time of detailment of the appellant for duty in office of the Assistant Commissioner Bannu. Additionally, the appellant has also furnished an affidavit on Stamp Paper duly attested by Oath Commissioner that he after receiving his appointment order started duty in the school where after he was told by the DEO namely Imtiazul Haq for duty with Assistant Commissioner, Bannu. So, he started his duty in the office of Assistant Commissioner, Bannu since 15.02.2017 on the direction of DEO(M) Bannu and he was removed from service during his duty which he was performing honestly on direction of DEO Imtiazul Haq. Affidavit is available on the file.

8. For what has gone above, the appeal is accepted as prayed for and appellant is reinstated into service with back benefits. Parties are left to bear their own costs. File be consigned to the record room.



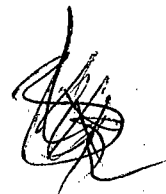
(AHMAD SULTAN TAREEN)
Chairman



(ATIQ-UR-REHMAN WAZIR)
Member(E)

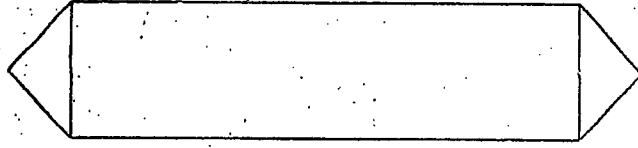
ANNOUNCED Certified to be true copy
22.12.2021

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



Date of Presentation of Application 8/3/22
 Number of Words 2/100
 Copying Fee 26/-
 Urgent 31/-
 Total 30/-
 Name of Copyist _____
 Date of Completion of Copy 8/3/22
 Date of Delivery of Copy 8/3/22

بعدالت KP ادیس ٹریبونل پشاور



2022 منجانب

Petitioner

بنام

شاہد شاہ

تعلیم

مورثہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام پشاور کیلئے نائلہ جان ایڈھے خان

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا کالت نامہ لکھ دیا کہ سندر ہے۔

2022

ماہ اپریل

12

الرقوم

کے لئے منظور ہے۔

مقام پشاور
Attested and
accepted by

H. J. J. J.

“B”

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

Recd

23
 Appeal No. *E.No. 196* of *20*
Shakir ulab Appellant/Petitioner

Secy ESSE Govt of KPK Versus Respondent

Respondent No. *32*

Notice to: *+ DEO (M) Bannu*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on *29/06/2022* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

~~Copy of appeal is attached. Copy of appeal has already been sent to you with this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar, this.....

Day of..... *June* *27* 20 *17th*

(For Simplification Report)

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

"B"

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

No. *Regd*

 = E.No. 196 22
Appeal No. *Shahir ulah* of 20 ..

.....Appellant/Petitioner
Sey Euse Govekus of KPR

.....Respondent
Assistant Commissioner Banna

Notice to: —

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....*29/06/2022*.....at 8.00 A.M. If you wish to urge anything against the appellent/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated..... 17th

Given under my hand and the seal of this Court, at Peshawar this.....
Day of.....*June*.....20 .. 22

For Impl-ment for Report

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

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

No.

F.P 196

SB

Appeal No. Shakir Ullah of 20 22

Appellant/Petitioner

Secy ESSE Govt of KPK Peshawar

Respondent

Respondent No.

Secy ESSE Govt of KPK Peshawar

Notice to: —

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed ~~that~~ ^{on 24/06/2022} the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....20 22

(For Impi-ment-ment Report June)

[Signature]

**Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.**

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

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