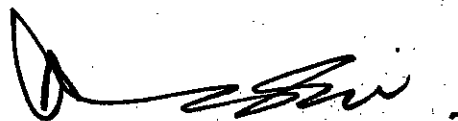


Restoration Application No. 132/2021

Ist June, 2022 Nobody is present on behalf of the petitioner.
Dismissed for non-prosecution. Consign.

3. *Pronounced in open court in Peshawar and given
under my hand and seal of the Tribunal this Ist day of June,
2022.*



(Kalim Arshad Khan)
Chairman

15.12.2021

Junior of learned counsel for the petitioner present.

Former requests for adjournment on the ground that learned senior counsel is not available today. Adjourned. To come up for further proceedings on 07.02.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

07.02.2022

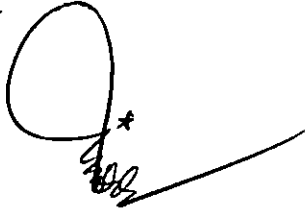
Due to retirement of the Hon'able Chairman, the case is adjourned to 28.03.2022 before S.B for the same.


Reader

28.03.2022

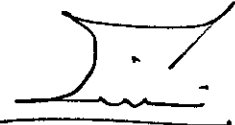
None for the petitioner present. Mr. Kabirullah Khattak Addl: AG alongwith Mr. Faizan, SO, Faheem, Litigation Assistant for respondents present.

Notices be issued to the appellant and h.s counsel. Adjourned. To come up for further proceedings on 01.06.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER(E)

06.10.2021


Mr. Hamad Nasir, junior of learned counsel for the petitioner present. Syed Naseer-ud-Din, Assistant alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Junior of learned counsel for the petitioner sought adjournment on the ground that learned counsel for the petitioner is busy in the august Peshawar High Court. Adjourned. To come up for reply and arguments on restoration application on 15.10.2021 before the S.B.


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

15.10.2021

Junior of learned counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Saleem S.O for respondents present.

Junior of learned counsel for the petitioner requested for adjournment as senior for the petitioner is not available today. Adjourned. To come up for reply/arguments on restoration application on 15.12.2021 before S.B.

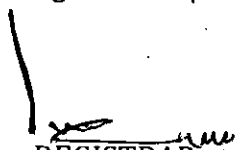



(Atiq-Ur-Rehman Wazir)
Member (E)

Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 132/2021

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	14.07.2020	<p>The application for restoration of Execution Petition No. 66/2017 resubmitted today by Mr. Mukhtiar Ahmad Maneri 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 restoration application is entrusted to S. Bench to be put up there on <u>06/08/21</u>. <i>Notice be given to the respondents for the date fixed.</i></p> <p style="text-align: right;"> CHAIRMAN</p>
	06.08.2021	<p>Junior to counsel for the appellant present and Mr. Kabirullah Khattak, Addl. AG present.</p> <p>Fresh notices be issued to respondents. To come up for reply and arguments on restoration application on 06.10.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>

[Redacted]

[Redacted]
[Redacted]
[Redacted] ADJOURNED FOR THE
[Redacted] present [Redacted] on the ground
[Redacted] learned counsel for the applicant is busy in the august
[Redacted] High Court adjourned to resume arguments on
[Redacted] application on 15.08.2023 before the S.B.

(SALAHUDDIN)
(MEMBER JUDICIAL)

is not [Redacted] [Redacted] [Redacted]
[Redacted] [Redacted] [Redacted]

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

C. M No. _____/2021
In
Execution petition No.66/2017
In
Service Appeal No. 1243/2015

Mst. Shahida Perveen R/o Bachelor Hostel, Qasim Road, D.I
Khan Cantt Near SP FRP Office District D.I Khan

.....**Appellant**

V E R S U S

The Chief Minister, Khyber Pakhtunkhwa, Peshawar through
principal Secretary & others

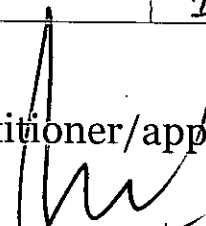
.....**Respondents**

INDEX

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2.	<i>Affidavit</i>	*	4
3.	<i>copies of execution petition and order dated 16.06.2021</i>	"A & B"	5-10
4.	<i>Copy of order sheet dated 19.02.2020</i>	C	11
5.	<i>Wakalat Nama</i>		12

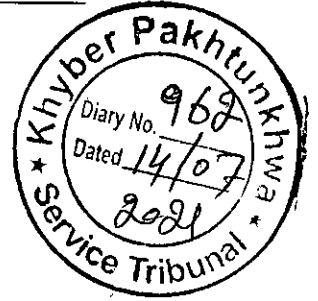
Through

Petitioner/appellant.


MUKHTAR AHMAD MANERI
Advocate Supreme Court of Pakistan
Office # 2, 2nd Floor, Juma Khan Plaza, Near
Directorate of Health, KP, Warsak Road,
Peshawar.
Ph:091-5200710. Mob: 0333-215-6006.
Email: mukhtaradvocate@yahoo.com

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

C. M No. 132 /2021
In
Execution petition No.66/2017
In
Service Appeal No. 1243/2015



Mst. Shahida Perveen R/o Bachelor Hostel, Qasim Road, D.I
Khan Cantt Near SP FRP Office District D.I Khan

.....**Appellant**

V E R S U S

The Chief Minister, Khyber Pakhtunkhwa, Peshawar through
principal Secretary & others

.....**Respondents**

**Application for restoration of the
above titled execution petition.**

Respectfully Sheweth:

1. That the titled execution petition was fixed before this Hon'ble Tribunal, which was disposed off through order dated 16.06.2021. **(copies of execution petition and order dated 16.06.2021 are attached herewith and marked as annexure A & B)**

2. That this Hon'ble Tribunal through the above mentioned disposal order has disposed off the

execution petition with the observation that the objection raised by the above named petitioner/appellant is misconceived and not supported by any provision of the revised leave rule, 1981 to justify that how the sanction of earned leave of 120 days on fully pay and 324 days on half pay was not valid if days of earned leave more than sanctioned leave were available at petitioner credit. The respondents have satisfied the Bench with reference to leave rules, 1981 that the calculation of leave on full pay due and on half pay due has been made under relevant provision of said rules. The objection being baseless is turned down. the execution petition be consigned to the record room, which order is apparently not in continuation of order dated 19.02.2020, wherein it has categorically been mentioned by this Hon'ble Tribunal, that the respondent department directed to submit revised implementation report on 31.03.2020, which was not in accordance with the direction of the judgment so passed. **(Copy of order sheet dated 19.02.2020 is attached herewith and marked as annexure C)**

3. That even the petitioner could not be heard and rather in order in her absence were passed and it is very necessary to hear the petitioner in order to unearth the actual fact of the case and law on the subject as well, because record speak for itself that the judgment of

B

this Hon'ble Tribunal is to be implemented in its letter and spirit, which was not implemented for the reason that the respondent department has misled this Hon'ble court, hence this application for restoration of the above titled execution petition.

It is, therefore, prayed that on acceptance of this application, the execution petition titled above may kindly be restored to its original position by providing the opportunity to the petitioner in order to convinced this Hon'ble court for implementation of the judgment in letter and spirit in the best interest of justice, equity and the law.

Through

Petitioner/appellant.

MUKHTAR AHMAD MANERI
Advocate Supreme Court of Pakistan
Office # 2, 2nd Floor, Juma Khan Plaza, Near
Directorate of Health, KP, Warsak Road,
Peshawar.
Ph:091-5200710. Mob: 0333-215-6006.
Email: mukhtaradvocate@yahoo.com

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

C. M No. _____/2021
In
Execution petition No.66/2017
In
Service Appeal No. 1243/2015

Mst. Shahida Perveen R/o Bachelor Hostel, Qasim Road, D.I
Khan Cantt Near SP FRP Office District D.I Khkan

.....**Appellant**

V E R S U S

The Chief Minister, Khyber Pakhtunkhwa, Peshawar through
principal Secretary & others

.....**Respondents**

AFFIDAVIT

*I, Mst. Shahida Perveen R/o Bachelor Hostel,
Qasim Road, D.I Khan Cantt Near SP FRP Office
District D.I Khan do hereby solemnly affirm and
declare that the contents of this accompanying
application for restoration are true and correct to the
best of my knowledge and belief and nothing has been
concealed from this Honourable Court.*

IDENTIFIED BY



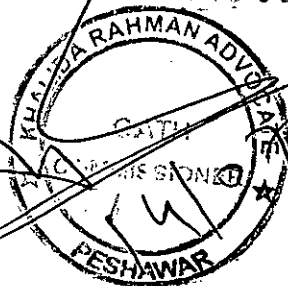
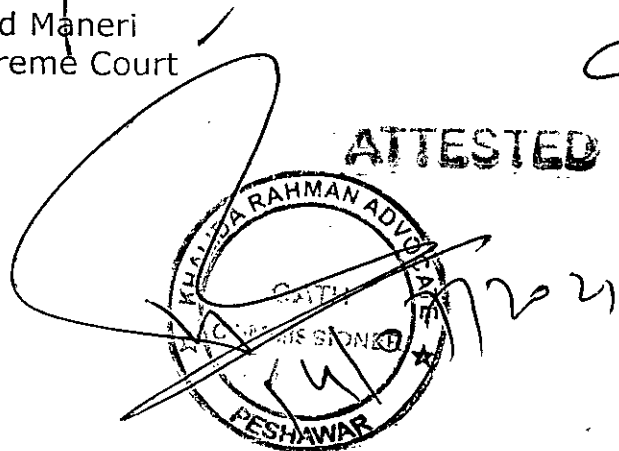
Mukhtar Ahmad Maneri
Advocate, Supreme Court
Of Pakistan

DEPONENT

CNIC: 12101-6879401-0
CELL NO. 0303-2180513



ATTESTED



A 5

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Execution Petition No. 66 /2017

Diary No. 296

Dated 17-4-17

1. Mst. Shahida Perveen, R/O Bachelor Hostel, Qasim Road D.I.Khan Cantt-
Near SP FRP Office District D.I.Khan.

PETITIONER

VERSUS

1. The Chief Minister, Khyber Pakhtunkhwa, Peshawar through Principal Secretary.
2. The Government of Khyber Pakhtunkhwa, through Chief Secretary.
3. The Secretary Government of Khyber Pakhtunkhwa, Elementary & Secondary Education, Civil Secretariat, Peshawar.

RESPONDENTS

**APPLICATION UNDER SECTION 7
(2) (D) OF THE KHYBER
PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 READ WITH
RULE 27 OF THE KHYBER
PAKHTUNKHWA PROVINCE
SERVICE TRIBUNAL RULES 1974
FOR INITIATING CONTEMPT OF
COURT PROCEEDINGS AGAINST
THE RESPONDENTS FOR
DISOBEDIENCE OF THE
ORDER/JUDGMENT DATED
27-10-2016 PASSED BY THIS
HON'BLE TRIBUNAL IN SERVICE
APPEAL NO.1243/2015.**

ATTESTED

Respectfully Sheweth,

Short facts giving rise to the present execution petition are as under:-

1. That the petitioner was awarded major penalty of removal from service in utter violation of law vide order dated 11/8/2015. She after exhausting departmental remedy, invoked the jurisdiction of this Hon'ble Tribunal by way of filing service No.1243/2015 praying therein that the impugned order may graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.
2. That this Hon'ble Tribunal vide judgment dated 27/10/2016 accepted the appeal filed by the petitioner and reinstated her in service. However, the respondents were allowed to conduct de-novo inquiry within a period of 2 months. It was further ordered that in case the respondents failed to conduct and conclude the inquiry within the prescribed time then the interregnum period of appellant from removal till reinstatement shall be treated as "leave of the kind due". It would be advantageous to reproduce herein the relevant portion of the judgment for facility of reference:-

"Hence, in these circumstances we are constrained to accept the instant appeal by setting aside the impugned removal order dated 11/08/2015 and appellate order dated 09.10.2015 and reinstate the appellant into service. The respondents are at liberty to conduct a de-novo inquiry into the matter by providing full opportunity of defence to the appellant strictly in accordance with law and rules and thereafter decide the same within a period of two months after receiving the copy of this judgment. In case, the respondents fail to conduct and

§
ATTESTED

conclude the inquiry within the time specified above then the appellant shall be deemed to have been reinstated in service and the period spent out of service i.e 11/08/2015 till date shall then be treated as leave of the kind due”

(Copy of judgment is appended as Annex-A)

3. That the petitioner after obtaining the certified copy of judgment of this Hon'ble Tribunal, requested the respondents for its implementation vide application dated 01/11/2016.

(Copy of application is appended as Annex-B)

4. That the respondents were under statutory obligation to have complied with the said judgment in letter and spirit but they partially implemented it by reinstating the petitioner only and violated the remaining portion of judgment to conclude the inquiry within the period of 2 months stipulated by this Hon'ble Tribunal.
5. That in case of failure to conclude the inquiry within the prescribed time, the respondents were legally bound to have treated the interregnum period of petitioner from removal till reinstatement as “leave of the kind due”. But they failed to do so and flouted the direction made therein.
6. That the defiant and adamant conduct of the respondents clearly amounts to willful disobedience of the remaining portion of the judgment of this Hon'ble Tribunal and therefore requires to be dealt with iron hands by awarding them exemplary punishment under the relevant law. Reliance in this respect can be placed on the judgment of august Supreme Court of Pakistan reported in **PLD-2012-SC-923 (citation-ff)**. The relevant citation of the judgment is as under:-

ATTESTED

8

P L D 2012 Supreme Court 923
(ff) Contempt of court---

---Court order, implementation of---Contempt through disobedience of court order ("disobedience contempt") by executive and its functionaries--- Effect--Responsibility for implementation (of court's orders) had been made obligatory on other organs of the State, primarily the executive-When a functionary of the executive refused to discharge its constitutional duty, the court was empowered to punish it for contempt.

In view of the above narrated facts, it is, therefore, humbly prayed that appropriate proceedings may graciously be initiated against the respondents for disobedience of the remaining portion of judgment of this Hon'ble Tribunal and they may also be awarded exemplary punishment under the relevant law.

Any other relief deemed proper and just in the circumstances of the case, may also be granted.



Petitioner

Through



Rizwanullah

Advocate High Court, Peshawar.

Dated: 17-04-2017

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ATTESTED

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Execution Petition No. _____/2017

1. Mst. Shahida Perveen, R/O Bachelor Hostel, Qasim Road D.I.Khan Cantt
Near SP FRP Office District D.I.Khan

PETITIONER

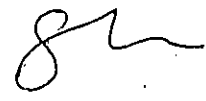
VERSUS

1. The Chief Minister, Khyber Pakhtunkhwa, Peshawar through Principal
Secretary & others.

RESPONDENTS

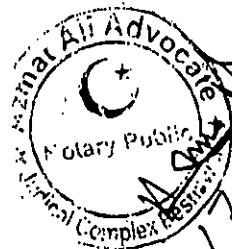
AFFIDAVIT

I, Mst. Shahida Perveen, R/O Bachelor Hostel, Qasim Road D.I.Khan Cantt Near SP FRP Office District D.I.Khan, do hereby solemnly affirm and declare that the contents of the accompanied execution petition are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.


Deponent


ATTESTED

ATTESTED



22-04-2021

Due to demise of the Worthy Chairman, the Bench is defunct, therefore, case is adjourned to 16.06.2021 for the same as before.



10 B

Reader

16.06.2021

None for petitioner and Mr. Muhammad Rasheed, DDA alongwith Saleem Khan, S.O for the respondents present.

The implementation report in compliance with the judgment of this Tribunal has already been submitted as reflected in the order dated 19.02.2020 but the matter lingered on because of an objection on behalf of the petitioner with reference to a certificate of the District Accounts Officer to the effect of existence of 452 days earned leave at credit of the petitioner. The objection is misconceived and not supported by any provisions of the Revised Leave Rules, 1981 to justify that how the sanction of earned leave of 120 days on full pay and 324 days on half pay was not valid, if days of earned leave more than the sanctioned leave were available at petitioner's credit. The respondents have satisfied the Bench with reference to Leave Rules, 1981 that the calculation of leave on full pay due and on half pay due has been made under relevant provisions of said rules. The objection being baseless is turned down. The execution petition be consigned to the record room.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Chairman

ATTESTED

19.02.2020.

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG for the respondents present.

The service appeal of the petitioner was accepted, she was reinstated in service and the period spent out of service i.e 11.08.2015 till date (date of judgment i.e 27.10.2016) shall than was treated as leave of the kind due vide detailed judgment dated 27.10.2016. After the aforesaid judgment, the petitioner submitted implementation application and the respondent-department submitted implementation report dated 22.01.2018 whereby her earned leave w.e.f 11.08.2015 to 08.12.2015 (120 days) on full pay and earned leave w.e.f 09.12.2015 to 27.10.2016 (324 days) were considered on half pay. While learned counsel for the petitioner pointed out that the District Account Officer has issued a certificate whereby 452 days earned leave have been shown at her credit vide certificate dated 20.10.2017 meaning thereby that the judgment of this Tribunal has not been implemented in letter and spirit, therefore, respondent-department is directed to submit revised implementation report on 31.03.2020.

M A

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

31.03.2020.

Due to public holidays on the account of Covid-19, the case is adjourned. To come up for the same before SB on 23.06.2020.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Q
Reader

ATTESTED

12

Power of Attorney.

BEFORE THE KP Service Tribunal

Suit
Application
Appeal
Case
Execution
Writ Petition

em Peshawar
in No. 66 of 2017

Ms. Shalida Pameer

Plaintiffs
Applicants
Appellants
Petitioner
D/H


VERSUS

The chief Minister KP

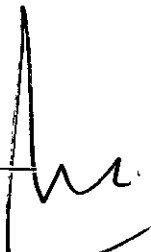
Defendants
Opponents
Respondents
J/D

I/We do hereby appoint Mr. Mukhtar Ahmad Maneri, Advocate Supreme Court of Pakistan to appear and act for me/us in the above mentioned proceedings and to conduct, prosecute and/or defend and/or compromise the same and any other proceedings that may arise out of or be connected with the same, with full power and authority to sign all necessary pleadings, petitions, applications papers and documents, to pay all proper fees and costs, to file and withdraw all documents and to apply for and receive payment of all moneys that may be or become due and payable to me/us during the course or after the completion or conclusion of the said proceedings, and to settle, compromise or to withdraw the said proceedings.

Received on _____ from Petitioner

Signature


Accepted.

ADVOCATE 

ADVOCATE

Mukhtar Ahmad Maneri & Associates
Advocates & Legal Consultants
CNIC # 16202-0997383-9
BC-11-1744

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

C. M No. 132 /2021
In
Execution petition No.66/2017
In
Service Appeal No. 1243/2015

Mst. Shahida Perveen R/o Bachelor Hostel, Qasim Road, D.I
Khan Cantt Near SP FRP Office District D.I Khan

.....**Appellant**

V E R S U S

The Chief Minister, Khyber Pakhtunkhwa, Peshawar through
principal Secretary & others

.....**Respondents**

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5.	<i>Wakalat Nama</i>		12

Through

Petitioner/appellant.

MUKHTAR AHMAD MANERI

Advocate Supreme Court of Pakistan
Office # 2, 2nd Floor, Juma Khan Plaza, Near
Directorate of Health, KP, Warsak Road,
Peshawar.

Ph:091-5200710. Mob: 0333-215-6006.

Email: mukhtaradvocate@yahoo.com

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

C. M No. _____/2021
In
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In
Service Appeal No. 1243/2015

Mst. Shahida Perveen R/o Bachelor Hostel, Qasim Road, D.I
Khan Cantt Near SP FRP Office District D.I Khan

.....**Appellant**

V E R S U S

The Chief Minister, Khyber Pakhtunkhwa, Peshawar through
principal Secretary & others

.....**Respondents**

**Application for restoration of the
above titled execution petition.**

Respectfully Sheweth:

1. That the titled execution petition was fixed before this Hon'ble Tribunal, which was disposed off through order dated 16.06.2021. **(copies of execution petition and order dated 16.06.2021 are attached herewith and marked as annexure A & B)**

2. That this Hon'ble Tribunal through the above mentioned disposal order has disposed off the

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3. That even the petitioner could not be heard and rather in order in her absence were passed and it is very necessary to hear the petitioner in order to unearth the actual fact of the case and law on the subject as well, because record speak for itself that the judgment of

3

this Hon'ble Tribunal is to be implemented in its letter and spirit, which was not implemented for the reason that the respondent department has misled this Hon'ble court, hence this application for restoration of the above titled execution petition.

It is, therefore, prayed that on acceptance of this application, the execution petition titled above may kindly be restored to its original position by providing the opportunity to the petitioner in order to convinced this Hon'ble court for implementation of the judgment in letter and spirit in the best interest of justice, equity and the law.

Through

Petitioner/appellant.

MUKHTAR AHMAD MANER

Advocate Supreme Court of Pakistan
Office # 2, 2nd Floor, Juma Khan Plaza, Near
Directorate of Health, KP, Warsak Road,
Peshawar.

Ph:091-5200710; Mob: 0333-215-6006.

Email: mukhtaradvocate@yahoo.com

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

C. M No. _____/2021
In
Execution petition No.66/2017
In
Service Appeal No. 1243/2015

Mst. Shahida Perveen R/o Bachelor Hostel, Qasim Road, D.I
Khan Cantt Near SP FRP Office District D.I Khkan

.....**Appellant**

V E R S U S

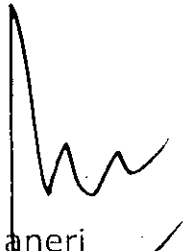
The Chief Minister, Khyber Pakhtunkhwa, Peshawar through
principal Secretary & others

.....**Respondents**

AFFIDAVIT

*I, Mst. Shahida Perveen R/o Bachelor Hostel,
Qasim Road, D.I Khan Cantt Near SP FRP Office
District D.I Khan do hereby solemnly affirm and
declare that the contents of this accompanying
application for restoration are true and correct to the
best of my knowledge and belief and nothing has been
concealed from this Honourable Court.*

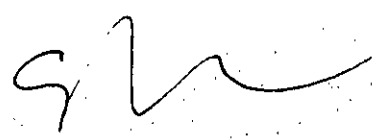
IDENTIFIED BY



Mukhtar Ahmad Maneri
Advocate, Supreme Court
Of Pakistan

DEPONENT

CNIC: 12101-6879401-0
CELL NO: 0303-2180513



A 5

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Execution Petition No: 66 /2017

Diary No. 296

Dated 17-4-17

Mst. Shahida Peryeen, R/O Bachelor Hostel, Qasim Road D.I.Khan Cantt
Near SP FRP Office District D.I.Khan.

PETITIONER

VERSUS

1. The Chief Minister, Khyber Pakhtunkhwa, Peshawar through Principal Secretary.
2. The Government of Khyber Pakhtunkhwa, through Chief Secretary.
3. The Secretary Government of Khyber Pakhtunkhwa, Elementary & Secondary Education, Civil Secretariat, Peshawar.

RESPONDENTS

APPLICATION UNDER SECTION 7
(2) (D) OF THE KHYBER
PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 READ WITH
RULE 27 OF THE KHYBER
PAKHTUNKHWA PROVINCE
SERVICE TRIBUNAL RULES 1974
FOR INITIATING CONTEMPT OF
COURT PROCEEDINGS AGAINST
THE RESPONDENTS FOR
DISOBEDIENCE OF THE
ORDER/JUDGMENT DATED
27-10-2016 PASSED BY THIS
HON'BLE TRIBUNAL IN SERVICE
APPEAL NO.1243/2015.

ATTESTED

Respectfully Sheweth

Short facts giving rise to the present execution petition are as under:-

1. That the petitioner was awarded major penalty of removal from service in utter violation of law vide order dated 11/8/2015. She after exhausting departmental remedy, invoked the jurisdiction of this Hon'ble Tribunal by way of filing service No.1243/2015 praying therein that the impugned order may graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.
2. That this Hon'ble Tribunal vide judgment dated 27/10/2016 accepted the appeal filed by the petitioner and reinstated her in service. However, the respondents were allowed to conduct de-novo inquiry within a period of 2 months. It was further ordered that in case the respondents failed to conduct and conclude the inquiry within the prescribed time then the interregnum period of appellant from removal till reinstatement shall be treated as "leave of the kind due". It would be advantageous to reproduce herein the relevant portion of the judgment for facility of reference:-

"Hence, in these circumstances we are constrained to accept the instant appeal by setting aside the impugned removal order dated 11/08/2015 and appellate order dated 09.10.2015 and reinstate the appellant into service. The respondents are at liberty to conduct a de-novo inquiry into the matter by providing full opportunity of defence to the appellant strictly in accordance with law and rules and thereafter decide the same within a period of two months after receiving the copy of this judgment. In case the respondents fail to conduct and

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ATTESTED

conclude the inquiry within the time specified above then the appellant shall be deemed to have been reinstated in service and the period spent out of service i.e 11/08/2015 till date shall then be treated as leave of the kind due”

(Copy of judgment is appended as Annex-A)

3. That the petitioner after obtaining the certified copy of judgment of this Hon'ble Tribunal, requested the respondents for its implementation vide application dated 01/11/2016.

(Copy of application is appended as Annex-B)

4. That the respondents were under statutory obligation to have complied with the said judgment in letter and spirit but they partially implemented it by reinstating the petitioner only and violated the remaining portion of judgment to conclude the inquiry within the period of 2 months stipulated by this Hon'ble Tribunal.
5. That in case of failure to conclude the inquiry within the prescribed time, the respondents were legally bound to have treated the interregnum period of petitioner from removal till reinstatement as "leave of the kind due". But they failed to do so and flouted the direction made therein.
6. That the defiant and adamant conduct of the respondents clearly amounts to willful disobedience of the remaining portion of the judgment of this Hon'ble Tribunal and therefore requires to be dealt with iron hands by awarding them exemplary punishment under the relevant law. Reliance in this respect can be placed on the judgment of august Supreme Court of Pakistan reported in PLD-2012-SC-923 (citation-ff). The relevant citation of the judgment is as under:-

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P L D 2012 Supreme Court 923
(f) Contempt of court---

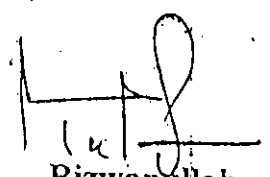
---Court order, implementation of---Contempt through disobedience of court order ("disobedience contempt") by executive and its functionaries--- Effect---Responsibility for implementation (of court's orders) had been made obligatory on other organs of the State, primarily the executive-When a functionary of the executive refused to discharge its constitutional duty, the court was empowered to punish it for contempt.

In view of the above narrated facts, it is, therefore, humbly prayed that appropriate proceedings may graciously be initiated against the respondents for disobedience of the remaining portion of judgment of this Hon'ble Tribunal and they may also be awarded exemplary punishment under the relevant law.

Any other relief deemed proper and just in the circumstances of the case, may also be granted.


Petitioner.

Through


Rizwanullah

Advocate High Court, Peshawar.

Dated: 17-04-2017


ATTESTED

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Execution Petition No: _____ /2017

1. Mst. Shahida Perveen, R/O Bachelor Hostel, Qasim Road, D.I. Khan Cantt
Near SP/FRP Office District D.I. Khan

PETITIONER

VERSUS

1. The Chief Minister, Khyber Pakhtunkhwa, Peshawar through Principal
Secretary & others.

RESPONDENTS

AFFIDAVIT

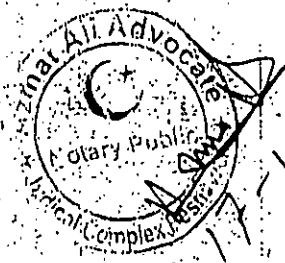
I, Mst. Shahida Perveen, R/O Bachelor Hostel, Qasim Road D.I. Khan
Cantt Near SP/FRP Office District D.I. Khan, do hereby solemnly affirm and declare
that the contents of the accompanied execution petition are true and correct to the best
of my knowledge and belief and that nothing has been concealed from this Hon'ble
Tribunal.

[Handwritten Signature]

Deponent

[Handwritten Signature]
ATTESTED

ATTESTED



22-04-2021

Due to demise of the Worthy Chairman, the case is adjourned to 16.06.2021 as before.



10 B

Reader

16.06.2021

None for petitioner and Mr. Muhammad Rasheed, DDA alongwith Saleem Khan, S.O for the respondents present.

The implementation report in compliance with the judgment of this Tribunal has already been submitted as reflected in the order dated 19.02.2020 but the matter lingered on because of an objection on behalf of the petitioner with reference to a certificate of the District Accounts Officer to the effect of existence of 452 days earned leave at credit of the petitioner. The objection is misconceived and not supported by any provisions of the Revised Leave Rules, 1981 to justify that how the sanction of earned leave of 120 days on full pay and 324 days on half pay was not valid, if days of earned leave more than the sanctioned leave were available at petitioner's credit. The respondents have satisfied the Bench with reference to Leave Rules, 1981 that the calculation of leave on full pay due and on half pay due has been made under relevant provisions of said rules. The objection being baseless is turned down. The execution petition be consigned to the record room.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Chairman

ATTESTED

19.02.2020

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG for the respondents present.

The service appeal of the petitioner was accepted, she was reinstated in service and the period spent out of service i.e 11.08.2015 till date (date of judgment i.e 27.10.2016) shall than was treated as leave of the kind due vide detailed judgment dated 27.10.2016. After the aforesaid judgment, the petitioner submitted implementation application and the respondent-department submitted implementation report dated 22.01.2018 whereby her earned leave w.e.f 11.08.2015 to 08.12.2015 (120 days) on full pay and earned leave w.e.f 09.12.2015 to 27.10.2016 (324 days) were considered on half pay. While learned counsel for the petitioner pointed out that the District Account Officer has issued a certificate whereby 452 days earned leave have been shown at her credit vide certificate dated 20.10.2017 meaning thereby that the judgment of this Tribunal has not been implemented in letter and spirit, therefore, respondent-department is directed to submit revised implementation report on 31.03.2020.

M. A. K.

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

31.03.2020

Due to public holidays on the account of Covid-19, the case is adjourned. To come up for the same before SB on 23.06.2020.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

[Signature]
Reader

ATTESTED

12

Power of Attorney.

BEFORE THE KP Service Tribunal

Suit
Application
Appeal
Case
Execution
Writ Petition

cm — Peshawar
12021
in No. 66 of 2017

Mrs. Shahida Perveen

Plaintiffs
Applicants
Appellants
Petitioner
D/H

VERSUS

The chief Minister KP

Defendants
Opponents
Respondents
J/D

I/We do hereby appoint Mr. Mukhtar Ahmad Maneri, Advocate Supreme Court of Pakistan to appear and act for me/us in the above mentioned proceedings and to conduct, prosecute and/or defend and/or compromise the same and any other proceedings that may arise out of or be connected with the same, with full power and authority to sign all necessary pleadings, petitions, applications papers and documents, to pay all proper fees and costs, to file and withdraw all documents and to apply for and receive payment of all moneys that may be or become due and payable to me/us during the course or after the completion or conclusion of the said proceedings, and to settle, compromise or to withdraw the said proceedings.

Received on _____ from Petitioner

Signature

Accepted.

ADVOCATE

ADVOCATE

Mukhtar Ahmad Maneri & Associates
Advocates & Legal Consultants
CNIC # 16202-0997383-9
BC-11-1744