

16.06.2022

Petitioner present in person. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Khalid Mateen, SO (Litigation) and Sohail Ahmad, Litigation Officer for respondents present.

Representative of the respondents department have sent the matter to Finance Department for consideration in respect of provision of necessary fund for petitioner. Opportunity is granted with direction to submit implementation report within one month positively. To come up for proper implementation report on 17.08.2022 before S.B at camp court Abbottabad.



(Fareeha Paul)
Member (E)
Camp Court A/Abad

19.01.2022

Clerk of learned counsel for the petitioner present. Mr. Muhammad Touseef, ADEO (Litigation) on behalf of respondents No. 1 & 2 and Mr. Shoukat Hussain, Sub-Accountant on behalf of respondent No. 3 alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Representative of respondent No. 3 submitted written reply on behalf of the said respondent, which is placed on file. Representative of respondents No. 1 & 2 sought time. Adjourned. To come up for implementation report on 16.03.2022 before the S.B at Camp Court Abbottabad.



(Salah-ud-Din)
Member (J)
Camp Court A/Abad

16.03.2022

Due to retirement of the Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned for the same before on 18.05.2022



Reader

18.05 2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant AG alongwith Syed Naseer Uddin Shah, SO (Lit) for the respondents 1&2 present and seeks some more time for submission implementation report of the judgement of this Tribunal. Last opportunity is granted to the respondents to submit implementation of the judgement and compliance report on 16.06.2022 before S.B at camp court Abbottabad.

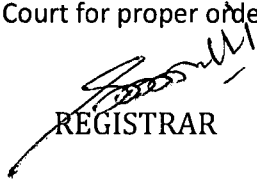




(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 271 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03.11.2021	<p>The execution petition of Mr. Munir Hussain submitted today by Mr. Muhammad Arshad Khan Tanoli 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 touring S. Bench at Abbottabad on <u>01/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
01.12.2021		<p>Counsel for the petitioner present. Notices be issued to the respondents. To come up for implementation report on 19.01.2021 before S.B at camp court, Abbottabad.</p> <p style="text-align: right;"> Chairman Camp Court, A/Abad</p>

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Execution Petition no. 271/2021

Munir Hussain son of Abdul Latif, Vice Principal/ Incharge Principal Govt.
Higher Secondary School Kawai District Mansehra.

...APPELLANT

VERSUS

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

...RESPONDENT

APPLICATION FOR IMPLEMENTATION

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1.	Application alongwith affidavit	1 to 3	
2.	Copy of judgment dated 17/03/2021	4-6	"A"


Hussain

....APPELLANT/ APPLICANT

Munir Hussain

Dated: 30/10 /2021

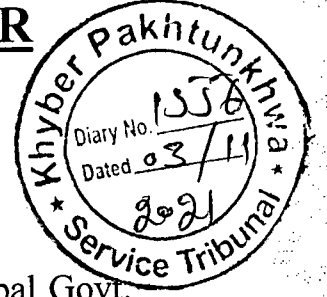
Through



(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Execution Petition No. 271/2021



Munir Hussain son of Abdul Latif, Vice Principal/ Incharge Principal Govt.
Higher Secondary School Kawai District Mansehra.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary KPK, Peshawar & others.
2. Secretary Elementary & Secondary Education, KPK, Peshawar.
3. District Accounts Officer, District Mansehra.

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION OF
JUDGMENT DATED 17/03/2021 SERVICE APPEAL
NO. 723/2018.

Respected Sir,

1. That the appellant/ applicant filed service appeal No. 723/2018 before this Honourable Tribunal which was decided by this Honourable Tribunal vide judgment dated 17/03/2021. (Copy of service appeal No. 723 of 2018 and judgment dated 17/03/2021 is attached as Annexure "A").

2. That this Honourable Tribunal while accepting the service appeal of the appellant/ applicant, directed to respondents to make payment of salary of Higher Grade whose break down is appended below;-

a. BPS-18 dated 17/05/2010 to 30/06/2012.

b. BPS-19 dated 01/07/2012 to till date.

3. That inspite of clear verdict of this Honourable Tribunal, the respondents are not making payment of salaries mentioned in Para No. 2 above.

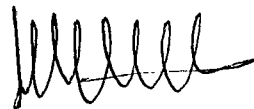
In view of the above it is prayed that respondents may graciously be directed to make payment to appellant/ applicant as per judgment dated 17/03/2021 of this Honourable Tribunal.



....APPELLANT/ APPLICANT
Munir Hussain

Dated: 30/10/2021

Through



(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Munir Hussain son of Abdul Latif, Vice Principal/ Incharge Principal Govt.
Higher Secondary School Kawai District Mansehra.

...APPELLANT

VERSUS

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

...RESPONDENT

APPLICATION FOR IMPLEMENTATION

AFFIDAVIT

I, *Munir Hussain son of Adul Latif, Vice Principal/ Incharge Principal Govt. Higher Secondary School Kawai District Mansehra*, do hereby solemnly 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 concealed from this Honourable Court.

Munir Hussain
DEPONENT
ATTESTED
SOHAIL AYUB TANOLI
NOTARY PUBLIC
ADVOCATE HIGH COURT ABBOTTABAD

Annex-A

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



Appeal. No 723 /2018

Munir Hussain S/o Abdul Latif,

Vice Principal / In charge Principal GHSS Kawai Manshera.


P-4 978
28/5/2018
..APPELLANT

VERSUS

1. Government Of KPK through Chief Secretary KPK, Peshawar.
2. Secretary (E&SE) KPK Peshawar.
3. Secretary Finance KPK Peshawar.
4. Accountant General KPK Peshawar.
5. Director (E&SE)KPK, Peshawar.
6. District Education Officer, (Male) District Mansehra.
7. District Accounts Officer Mansehra.

...Respondents

SERVICE APPEAL UNDER SECTION 4
OF SERVICE TRIBUNAL ACT 1974 FOR
DECLARATION TO THE EFFECT THAT
THE APPELLANT BEING SUBJECT
SPECIALIST BPS-17 SERVED AS
INCHARGE PRINCIPAL AGAINST THE

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

28/5/18.

P-5

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, ABBOTTABAD**



Service Appeal No. 723/2018

Date of Institution ... 28.05.2018
Date of Decision ... 17.03.2021

Munir Hussain S/O Abdul Latif Vice Principal/Incharge Principal
G.H.S.S Kawai Mansehra.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary
Khyber Pakhtunkhwa Peshawar and six others.

... (Respondents)

Muhammad Arshad Khan Tanoli,
Advocate

... For appellant.

Riaz Khan Paindakheil,
Assistant Advocate General

... For respondents.

ROZINA REHMAN

... MEMBER (J)

ATIQU UR REHMAN WAZIR

... MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER : The relevant facts leading to filing of instant appeal are that appellant was serving in BPS-17 as Subject Specialist in Pakistan Studies and was directed by the competent authority to serve as Incharge Principal in addition to his normal duties. As per order of the authority, appellant served as Incharge Principal against the post of Principal (BPS-19). As per notification dated

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

17/3/21

17.08.2012 appellant is eligible for receipt of payment of salary of higher grade, therefore, he filed departmental appeal which was not responded to, hence, the present service appeal.

2. We have heard Muhammad Arshad Khan Tanoli Advocate for appellant and Riaz Khan Paindakheil learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Muhammad Arshad Khan Tanoli Advocate counsel appearing on behalf of appellant, inter-alia, contended that as per notification dated 17.08.2012, appellant is entitled to receive salary of higher post in BPS-18 and 19 i.e. from 17.05.2010 to 30.06.2012 from 01.07.2012 till today. He submitted that he worked against the post of BPS-18 and 19, therefore, eligible to have his dues for the services rendered by him against higher post in addition to his normal duties.

4. Conversely, learned A.A.G contended that the officer does not fulfill the criteria laid down in the Government of Khyber Pakhtunkhwa Finance Department letter dated 17.08.2012 as he was not appointed on the higher post by the authority competent to make appointment on that post.

5. From the record, it is evident that appellant was serving in BPS-17 as Subject Specialist in Pakistan Studies. Upon approval of the competent authority he was directed to act and discharge duties as Incharge Principal against the vacant post of Principal (BPS-18) in the

17/3/21

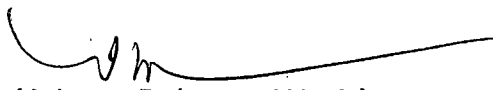
ATTESTED
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

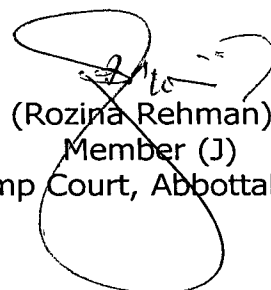
P-6


Government Higher Secondary School Kawai (Mansehra) w.e.f 17.05.2010 till further orders vide notification dated 17.05.2010. The appellant was promoted to the post of Vice Principal (BPS-18) on 01.12.2016, whereas, the post of Principal (BPS-19) is still vacant and he has been performing the duties as Principal against the vacant post of Principal (BPS-19) till today. From the record it becomes crystal clear that appellant was appointed on the higher post by the authority to make appointment on that post and he was fully qualified in every respect to be appointed to that higher post. He discharged all the duties and responsibilities of the higher post independently, therefore, as per notification No.FD(PRC)1-1/2012 dated 17.08.2012, appellant is eligible for receipt of pay of higher grade.

6. In view of the above, appeal stands accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
17.03.2021


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Abbottabad


(Rozina Rehman)
Member (J)
Camp Court, Abbottabad

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 05/3/21
Number of Words 1500
Copying Fee 18/-
Urgent 3/5
Total 27/-
Name of Copyist _____
Date of Completion of Copy 05/4/21
Date of Delivery of Copy 05/3/21

کورٹ فیس

وکالت نامہ

بعدالت Service Tribunal for Peshawar

عنوان: Govt of Peshawar بنام Munir Hussain

منجانب: Peshawar

نوعیت مقدمہ:

باعث تحریر آنکے

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

Adv M. Arshad Khan Taud

Adv کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پرداختہ مجھ کو منظور قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت ناش بصیغہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

المترقوم: 30/10/20

بمقام:

Accepted

عبد

عبد

"B"

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

No.

E.P. No. 271/21

IB

Appeal No. of 20 ..

Munir Hussain Appellant/Petitioner

Versus

Through Chief Secy. Pesh. Respondent
Respondent No. *3* ..

Notice to:

*Distt: Account Officer Distt,
Mansehra.*

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.....*19-1-2021*.....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 *OPV* 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.....*7/12*.....

Day of.....*Dec.*.....2021

at Camp Court Peshawar

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.

Robert R. Brown

10/15/51

Date: 10/15/51

100

10-1-51

W. R. Brown

Office of the County Auditor

10/15/51

W. R. Brown

10/15/51

10/15/51

“B”

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

No.

E. P. NO. 271/21 TB

Appeal No. of 20

Munir Hussain Appellant/Petitioner

Versus

Through Chief Secy. Pk Sh. Respondent

Respondent No. 2

Notice to: —

Secy. Ele. & Sec. Education Pk Sh.

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 19/12/22 at 8:00 A.M. If you wish to urge anything against the appellat/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 vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 7/12 Day of Decr. 2021

at Camp Court Peshawar

[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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"B"

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

No.

E. P. No. 271/21

JIB

Appeal No..... of 20 ..

..... *Munir Hussain* Appellant/Petitioner

Versus

..... *Through Chief Secy. Pesh.* Respondent
Respondent No..... *I*

Notice to:

Quart. of CAPG Through Chief Secy. Peshawar.

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..... *19/12/22* at **8.00 A.M.** If you wish to urge anything against the appellants/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 vide this

office Notice No..... dated.....

Given under my hand and the seal of this Court, at Peshawar this..... *7/12*

Day of..... *Dec* 20*21*

at Camp Court A Road

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

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

[Handwritten signatures and stamps]

Note:

2

Govt

Patrol & Road Dept

1000

10/15/58

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10/15/58
Patrol & Road Dept
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10/15/58

10/15/58

BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHAWA PESHAWAR

Munir Hussain APPELLANT

Versus

Government of KPK through Chief Secretary

..... Respondents

Execution Petition **NO.271/2021**

WRITTEN REPLY ON BEHALF OF
RESPONDENT NO.3.

Respectfully Sheweth:

PRELIMINARY OBJECTION :

- 1) That, the petition in hand is not maintainable in the eyes of law.
- 2) That, petitioner has got no *locus standi* to file the instant petition.
- 3) That, Petition is time bared.
- 4) That, the petition is liable to be set aside.

ON FACTS:

- 1)- Para No 1 is correct.
- 2)- Para No2 is correct.
- 3)- Para No. 3 .. The Respondents No. 1 & 2 may reply.

Dated 18/01/2022.

Mushtaq Ahmad

District Accounts Officer, Mansehra.

(Respondent No.3).

AFFIDAVIT :

I, Mushtaq Ahmad, the District Accounts Officer Mansehra (Respondent No-4) do hereby solemnly affirm and declare on oath that contents of fore-going written reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.


*District Accounts Officer
Mansehra*
MUSHTAQ AHMAD
(Deponent).



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

No.SO(SM) E&SE/court case/Muneer Hussain
Dated Peshawar the June 14, 2022

To

Secretary to Government of Khyber Pakhtunkhwa
Finance Department

Subject: APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED 17.03.2021 IN SERVICE APPEAL NO. 723/2018 IN EXECUTION PETITION NO. 271/2021

Dear Sir,

I am directed to refer to the subject noted and to state that Mr. Muneer Hussain, SS (Pak-Study) GHSS Kawai Mansehra was posted as Incharge Principal (BS-18) against the vacant post by DEO (M) Manshera dated 17.05.2010 (Copy of notification enclosed).

He filed a service appeal in KP Service Tribunal for grant of pay and other benefits of BS-18 w.e.f 17.05.2010 to 30.06.2012. The Honorable court had deliver its judgment dated 17.03.2021, which is reproduce as under:

“from the record, it is evident that appellant was serving in BPS-17 as Subject Specialist in Pakistan Studies. Upon approval of the competent authority he was directed to act and discharge duties as Incharge Principal against the vacant post of Principal BS-18 in the GHSS Kawai Manshera w.e.f 17.05.2010 till further orders vide notification dated 17.05.2010. the appellant was promoted to the post of Vice Principal BS-18 on 01.12.2016, whereas, the post of Principal BS-19 is still vacant and he has been performing the duties as Principal against the vacant post of Principal BS-19 till today. From the record it becomes crystal clear that appellant was appointed on the higher post by the authority to make appointment on that post and he was fully qualified in every respect to be appointed to that higher post. He discharged all the duties and responsibilities of the higher post independently, therefore, as per notification No. FD(PRC)1-1/2012 dated 17.08.2012, appellant is eligible for receipt of pay of higher grade.”. (Copy enclosed)

This department filed CPLA against the said judgment and also approach to Law Department for filing application for early hearing before the Supreme Court of Pakistan (Copy enclosed).

He filed an execution petition No. 271/2021 in SA # 723/2018 order sheet dated 18.05.2022 is reproduced as under:-

"Last opportunity is granted to the respondent to submit implementation of the judgment and compliance report on 13.06.2020 before S.B at comp court Abbottabad. (Copy enclosed)

Keeping in view of the above, necessary approval is solicited in the matter please.

Encl: As Above:

Yours faithfully

**(NAVEED ULLAH SHAH)
SECTION OFFICER (SCHOOLS MALE)**

Copy of the above is forwarded to the:-

1. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar w.r.to his above quoted execution petition No. No. 271/2021 in SA # 723/2018.
2. Director, E&SE Khyber Pakhtunkhwa Peshawar.
3. Section Officer (Lit-II) E&SED Khyber Pakhtunkhwa, Peshawar.
4. PS to Secretary E&SED Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (SCHOOLS MALE)