


17.06.2022

Petitioner present in person. Mr. Muhammad Adeel Butt, Assistant Advocate General alongwith Sohail Ahmad Zeb, Litigation Officer for the respondents present.

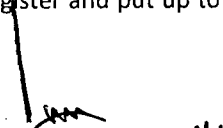

Despite directions notices were not issued. Today copy of the said notice were given to the representative of respondent No.3 for doing the needful. Adjourned. Notices be issued to remaining respondents for the date fixed. To come up for implementation report on 19.08.2022 before S.B at Camp Court Abbottabad.

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

Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. \_\_\_\_\_ 263/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.04.2022	<p>The execution petition of Mr. Muhammad Suleman received today by post 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> <p>This execution petition be put up before to touring Single Bench at A.Abad on <u>20-05-2022</u> Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p style="text-align: right;">CHAIRMAN</p> <p>20.05.2022</p> <p>Petitioner in person present. Syed Naseer ud Din, Assistant Advocate General for respondents present.</p> <p>Notices be issued to the respondents for submission of implementation report on the next date positively. Adjourned. To come up for implementation report before S.B on 17.06.2022 at camp court Abbottabad</p> <p style="text-align: right;"> (Kalim Arshad Khan) Chairman Camp Court Abbottabad</p>

**BEFOE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR CAMP COURT, ABBOTTABAD**

Execution Petition No. 263 /2022

IN

Service Appeal No-1332 of 2018

Muhammad Suleman S/o GhakKar Khan R/O Nagri Bala, SPST,  
G.P.S Tatial , Tehsil & District, Abbottabad.

...APPELLANT

**VERSUS**

1. Government of Khyber Pakhtunkhwa Elementary & Secondary Education Peshawar through Secretary.
2. Director Elementary & Secondary Education KPK, Peshawar
3. District Education Officer (Male) Abbottabad.

...RESPONDENTS

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**EXECUTION PETITION**

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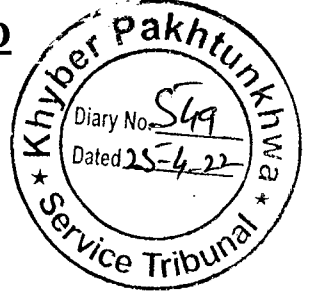
S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE NO
1.	<i>Memo of Execution Petition alongwith certificate</i>		1-2
2.	<i>Copy of Judgment dated 17/01/2022 passed by Hon'ble Tribunal in Service Appeal No.1332/2018.</i>	"A"	3-8
3.	<i>Copy of applications dated 21/02/2022, before respondents No.1, 2 &amp; 3.</i>	"B"	9-11

Dated: 23/04/2022

  
(MUHAMMAD SULEMAN)  
PETITIONER IN PERSON

**BEFOE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR CAMP COURT, ABBOTTABAD**

Execution Petition No. 263 /2022



IN

Service Appeal No-1332 of 2018

Muhammad Suleman S/o GhakKar Khan R/O Nagri Bala,  
SPST, G.P.S Tatial , Tehsil & District, Abbottabad.

...APPELLANT

**VERSUS**

1. Government of Khyber Pakhtunkhwa Elementary & Secondary Education Peshawar through Secretary.
2. Director Elementary & Secondary Education KPK, Peshawar
3. District Education Officer (Male) Abbottabad.

...RESPONDENTS

=====

**SUBJECT: EXECUTION PETITION FOR IMPLIMENTATION OF JUDGMENT  
DATED 17/01/2022 PASSED BY KPK SERVICE TRIBUNAL CAMP  
COURT ABBOTTBAD IN SERVICCE APPEAL NO.1332/2018.**

=====

**RESPECTFULLY SHEWETH:**


1. That, petitioner filed a Service appeal No.1332/2018 on 23/10/2018 against the reversion order from PSHT (BPS-15) To SPST (BPS-14), which was accepted on 17/01/2022 and Tribunal issued direction to the department for the re-instatement of the petitioner at original position / post i.e. PSHT (BPS-15) with all back benefits. **(Copy of Judgment dated 17/01/2022 is attached as Annexure "A")**
2. That, on 15/02/2022, petitioner got the attested copy of above said Judgment and submitted before the respondents through registered post

dated 21/01/2022 alongwith application for implementation of said judgment of Hon'ble Tribunal dated 17/01/2022. (Copy of applications dated 21/02/2022 submitted by petitioner are attached as Annexure "B")

3. That, the respondents are not willing to implement the said judgment and are raising the point for not implementing the said order that the respondents / department intend to file the CPLA in the August Court against the said judgment of KPK Service Tribunal, while according to the Judgment of August Supreme Court, when the Hire court will not suspend the lower court judgment then the respondents are bound to implement the judgment of lower court.

It is therefore, humbly prayed that on acceptance of instant Execution Petition, respondents may kindly be directed to implement the Judgment of this Hon'ble Tribunal dated 17/01/2022 with letter and spirit.

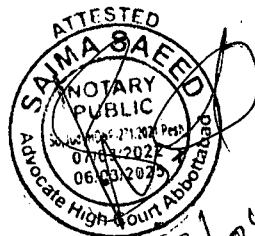
Dated: 23/04/2022

  
Muhammad Suleman  
(Petitioner in person)

**CERTIFICATE:**

It is certify that the contents of instant Execution Petition are true and correct to the best of our knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

  
DEPONENT



23/04/22

3

ANNEXURE

A

BEFORE THE

PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR  
T CAMP COURT, ABBOTTABAD.

Service Appeal No. 1332/2018

Date of Institution ... 23.10.2018  
Date of Decision ... 17.01.2022

Muhammad Suleman S/O Ghakkar Khan R/O Nagri Bala, at  
Present GPS Tatreela, Tehsil & District Abbottabad.

... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa Elementary & Secondary  
Education Peshawar and two others.

... (Respondents)

Choudhry Abdur Rauf Chohan,  
Advocate

... For appellant.

Kabir Ullah Khattak,  
Additional Advocate General

... For respondents.

Salah-Ud-Din

...

Member (J)

Rozina Rehman

...

Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Briefly stating the facts necessary  
for the disposal of the lis in hand are that appellant was appointed as  
PST. While serving at GPS Tutial Battangi, Abbottabad, he was  
implicated in a case registered U/S-409/34 PPC and accordingly, he  
was served with charge sheet and Luqman Ali Khan was appointed as  
Inquiry Officer. Consequently, he was awarded major penalty of  
reduction in rank on 24.03.2016 against which he filed departmental  
appeal on 21.04.2016 which was rejected and thereafter, he filed  
Service Appeal No.672/2016. Vide order dated 22.02.2018 of this

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Tribunal, his appeal was accepted and penalty was set aside. The Department was however, left at liberty to hold de-novo proceedings. In pursuance to judgment of this Tribunal, Dr. Inayat-ur-Rehman Vice Principal GHS No.1 was appointed as Inquiry Officer to conduct de-novo inquiry under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 vide Notification dated 21.03.2018. Charge sheet and statement of allegations were issued to appellant. Inquiry report was submitted and final show cause notice was issued, which was replied. As per recommendation of Inquiry Officer, major penalty of reduction to lower post i.e. from BS-15 to BS-14 was imposed upon him vide order dated 08.06.2018. He filed departmental appeal which was rejected, hence, the present service appeal.

2. We have heard Choudhry Abdu Rauf Chohan Advocate learned counsel for appellant and Kabir Ullah Khattak, learned Additional Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Choudhry Abdur Rauf Chohan Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that impugned order is illegal, wrong, against the service laws and rules being premature. He contended that order of this Tribunal in respect of de-novo proceedings was not complied with according to rules & regulations; that he was not afforded any opportunity of personal hearing. It was further submitted that the Anti-Corruption Department did not find any illegality after proper inquiry and scrutiny of the whole record which is evident from the order of Anti-Corruption

ATTESTED  
 [Signature]  
 Director, Anti-Corruption Department  
 Government of Khyber Pakhtunkhwa  
 Peshawar

⑤

Department, therefore, the entire allegations leveled against the appellant are baseless. It was further submitted that the appellant followed the instructions of the ADO Circle and other high-ups for shifting the text books from GPS Tutial Battangi to GPS Kotlian, Abbottabad and in this regard, statements of responsible Members of PTC are available on file which clearly proves that appellant was falsely implicated in the case and was wrongly proceeded against departmentally for no fault on his part. He, therefore, requested for acceptance of instant service appeal.

4. Conversely, learned AAG submitted that as per report of ASDEO Circle Nathiagali, appellant was carrying text books of Government Primary School Tutial Battangi, Abbottabad in Suzuki No.3837 at Baragali Kasala Road for the purpose of illegal sale and in this regard, FIR No.217 was registered on 08.12.2015 U/S-409/34 PPC at PS Donga Gali, Abbottabad. He submitted that charge sheet and statement of allegations were served upon appellant and proper inquiry was conducted, where-after, he was awarded punishment according to law which does commensurate with the guilt of the appellant.

5. From the record it is evident that appellant Muhammad Suleman while posted as PSHT at GPS Tutial Battangi, Circle Nathiagali Abbottabad was allegedly implicated in case FIR No.217 dated 08.12.2015 registered at Police Station Donga Gali U/S 409/34 PPC. Besides the appellant one Javid Akhtar and Daud (both serving teachers) were also implicated in the above-mentioned FIR. The record is totally silent in respect of departmental proceedings against

  
  
**ATTESTED**

ATTESTED  
BY  
OFFICER IN CHARGE  
POLICE STATION  
DONGA GALI  
ABBOTTABAD



the other two teachers. The present appellant applied for bail before arrest in the above-mentioned FIR and his petition was allowed by a competent court of Law on 26.02.2016. It is crystal clear from the record that his Service Appeal No. 672/2016 was accepted and Department was held at liberty to hold de-novo proceedings vide judgment of this Tribunal dated 22.02.2018. In pursuance to the judgment of this Tribunal, charge sheet and statement of allegations were issued and inquiry Officer was appointed. The inquiry report is available on file which clearly shows that no evidence was recorded by the Inquiry Officer and he relied upon the inquiry report which was rejected by this Tribunal in the earlier round of litigation. The recommendations of the Inquiry Officer are hereby reproduced for ready reference:

**"RECOMMENDATIONS:**

On the basis of above findings/facts concluded during conducting enquiry the following recommendations are suggested for favorable consideration.

- In the light of reports of ASDEO Circle, previously inquiry report conducted by Mr. Luqman Ali Khan Principal GHSS Nagri Bala Abbottabad, rejection of appeals by competent authorities DEO(M) Abbottabad and Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, the undersigned is of the opinion/view that Major penalty already imposed under Khyber

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 Khyber Pakhtunkhwa  
 Peshawar

Pakhtunkhwa Govt: Servants Rules (4) (b) (i), be intact/retain against Mr. Muhammad Suleman SPST and enquiry may be declared as ex-parte vide rules quoted as Annexure-U-II.

- To direct all Heads of Institutions especially primary Schools, with the directions that without prior permission of the competent authority, no Govt: Property can move/shift at any cost. A general circular may please be issued in this regard."

6. From the above, it is evident that despite repeated requests by the appellant, opportunity was not afforded for personal hearing and without submission of reply to the charge sheet, inquiry report was submitted and that too, with the recommendations of earlier inquiry report. Final show cause notice was served upon appellant and a detailed reply was submitted which again was not taken into consideration and no evidence in this regard was collected and same major penalty on the strength of same (old) inquiry report was imposed upon appellant vide order dated 08.06.2018. From the entire record, it is evident that no evidence was recorded by the Inquiry Officer which could show that text books were carrying by the appellant in the Suzuki for the purpose of illegal sale. As there was no case, therefore, the subject inquiry was filed by the Anti-Corruption Establishment Khyber Pakhtunkhwa, Peshawar which report is available on file. Co-employees were not proceeded against departmentally which shows discrimination. Besides members of the PTC produced affidavits which also favor the appellant.

*[Handwritten signature]*

TESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

7. In this view of the matter, the instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED:

17.01.2022

(Salah-ud-Din)  
Member (J)  
Camp Court, Abbottabad

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

*certified in the true copy*  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 15/2/2022  
Number of Copies 2800  
Copies 30  
Pages 4  
Total 34  
Name of Applicant [Signature]  
Date of Completion of Copy 15/2/22  
Date of Delivery of Copy 15/2/22

10

To.

The Director,  
Elementary & Secondary Education, Department,  
KPK, Peshawar.

Subject:


APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED 17/01/2022 IN SERVICE APPEAL NO. 1332 of 2018, PASSED BY KPK SERVICE TRIBUNAL CAMP COURT ABBOTTABAD, TITLED "MUHAMMAD SULEMAN VERSUS GOVT OF KPK THROUGH SECRETARY E&S EDUCATION DEPARTMENT PESHAWAR Etc.

Respected Sir,

- ❖ That, the applicant was working as a SPST (BPS-15) at GPS Tatial Battangi, circle Nathiagali, Tehsil and District, Abbottabad and was awarded the major penalty of "Reduction in Rank" on 24/03/2016 (SPST BPS-14) at which the applicant filed Service Appeal No. 672/2016 against the said order before Hon'ble Tribunal on 14/06/2016 which was accepted on 22/02/2018 and the Tribunal directed to the department for conduct of Denovo Inquiry.
- ❖ That, on 08/06/2018, department intact the above said order dated 24/03/2016, however, once again imposed the major penalty of "Reduction in Rank" upon the applicant in the light of Denovo Inquiry and applicant again file service appeal No. 1332 of 2018 against the said order before the Hon'ble KPK Service Tribunal which was accepted by the tribunal on 17/01/2022 with all back benefits.

It is therefore, humbly requested that the order dated 17/01/2022 of the KPK Service Tribunal may kindly be implemented with letter and spirit and the applicant may be re-instated at original position with all back benefits.

Dated: 21 /02/2022

  
(MUHAMMAD SULEMAN)  
SPST, GPS Tatial,  
Circle Nathiagali, Abbottabad.



To,

The District Education Officer (Male),  
Elementary & Secondary Education, Department,  
Abbottabad.


Subject: APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED 17/01/2022 IN SERVICE APPEAL NO. 1332 of 2018, PASSED BY KPK SERVICE TRIBUNAL CAMP COURT ABBOTTABAD, TITLED "MUHAMMAD SULEMAN VERSUS GOVT OF KPK THROUGH SECRETARY E&S EDUCATION DEPARTMENT PESHAWAR Etc.

Respected Sir,

- ❖ That, the applicant was working as a PSHT (BPS-15) at GPS Tatial Battangi, circle Nathiagali, Tehsil and District, Abbottabad and was awarded the major penalty of "Reduction in Rank" on 24/03/2016 (SPST BPS-14) at which the applicant filed Service Appeal No.672/2016 against the said order before Hon'ble Tribunal on 14/06/2016 which was accepted on 22/02/2018 and the Tribunal directed to the department for conduct of Denovo Inquiry.
- ❖ That, on 08/06/2018, department intact the above said order dated 24/03/2016, however, once again imposed the major penalty of "Reduction in Rank" upon the applicant in the light of Denovo Inquiry and applicant again file service appeal No. 1332 of 2018 against the said order before the Hon'ble KPK Service Tribunal which was accepted by the tribunal on 17/01/2022 with all back benefits.

It is therefore, humbly requested that the order dated 17/01/2022 of the KP Service Tribunal may kindly be implemented with letter and spirit and the applicant may be re-instated at original position with all back benefits.

Dated: 21 /02/2022

  
(MUHAMMAD SULEMAN)  
SPST, GPS Tatial,  
Circle Nathiagali, Abbottabad