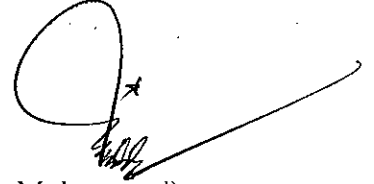


09.06.2022

Petitioner in person present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Yakmin Khan, ADEO for respondents present.

In pursuance of the Service Tribunal judgement dated 08.10.2021, the respondent department has conditionally implemented the said judgement vide office order No. 2703-06 dated 07.06.022, by converting the major penalty of removal from service into compulsory retirement subject to the outcome of CPLA No. 764/P/2021 titled Government Vs Muhammad Riaz (PST). Copy of the said office order is handed over to petitioner. As such, execution petition stands as implemented. Consign.

Pronounced in open court at Swat and given under my hands and seal of the Tribunal this 09th of June, 2022.



(Mian Muhammad)
Member (E)
Camp Court Swat



OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-555110
EMAIL: edobuner@gmail.com

OFFICE ORDER

In compliance with the directive contained in the judgement passed by the Honorable Service Tribunal Peshawar in Service Appeal No. 1125 / 2019 case titled Muhammad Riaz (PST) vs District Education Officer (Male) Buner & others dated 20-10-2021, the undersigned is pleased to conditionally convert the penalty of removal from service with effect from the date of his removal into Compulsory Retirement in respect of Muhammad Riaz Ex-PST (Appellant) subject to the outcome of CPLA No. 764/P/2021 titled Government vs Muhammad Riaz (PST) filed in the instant case in the August Supreme Court of Pakistan .

(IFTIKHAR UL GHANI)


DISTRICT EDUCATION OFFICER (M)

DISTRICT BUNER.

Endst: No. 2703-06 / Dated 07/06 /2022

Copy forwarded for information and necessary action to the: -

- 1. Registrar Honorable Sevice Tribunal Peshawar*
- 2. PS to Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.*
- 3. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.*
- 4. District Accounts Officer Buner.*


DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

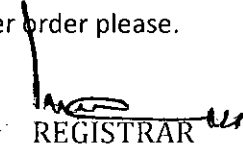

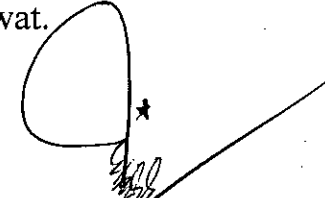
7/6/22

Form- A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 75/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	01.02.2022	<p>The execution petition of Mr. Muhammad Riaz submitted today by Mr. Shams UI Hadi 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 touring Single Bench at Swat on <u>10.5.22</u>. Original file be requisite. Notices to the appelland and his counsel be also issued for the date fixed.</p> <p style="text-align: center;"> CHAIRMAN</p>
	10.05.2022	<p>Petitioner in person present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.</p> <p>Implementation report not submitted. Learned AAG requested for a adjournment. Notices be issued to the respondents for submission of implementation report. Adjourned. To come up for implementation report on 09.06.2022 before S.B at camp court Swat.</p> <p style="text-align: right;"> (Mian Muhammad) Member(E) Camp Court Swat</p>

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.

Execution Petition No. 75/2021
In
Service Appeal No. 1125/2019.

Muhammad Riaz (PST)

R/O Village Marado Tehsil Chagharzy District Buner.....Applicant.

V E R S U S

District Education Officer, (M) Buner..... Respondents

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S.N	Description of Documents	Pages
1.	Memo of Appeal.	1---
2.	Affidavit.	2
3.	Addresses of the Parties.	3
6.	Copy of Judgment dated:08.10.2021	4-7
8.	Wakalat Nama	8

Petitioner

Through



Shams ul Hadi

Advocate, Peshawar.

Dated: 02/12/2021.

Office: Swat Shopping Mall, Opposite Peshawar

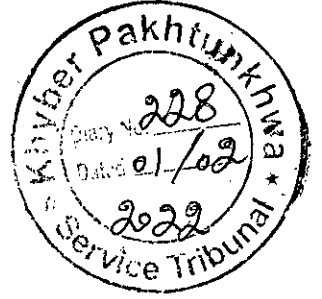
High court Mingora Bench, Swat.

Cell No. 0347-4773440.

BEFORE THE KHYBER PAKHTOON KHWA SERVICES TRIBUNAL**PESHAWAR.**Execution Petition No. 75/2021

In

Service Appeal No.1125/2019.



Muhammad Riaz (PST)

R/O Village Marado Tehsil Chagharzy District Buner.....Applicant.

VERSUS

District Education Officer, (M) Buner..... Respondents

**PETITION FOR IMPLEMENTATION OF THE ORDER/JUDGMENT
DATED:08.10.2021 OF THIS HONOURABLE TRIBUNAL
DELEVERED IN ABOVE TITLE SERVICE APPEAL.**

Respectfully Sheweth:

1. That initially the petitioner filed the above title service appeal before this honorable tribunal which was decided in favour of the petitioner vide judgment dated:08.10.2021, with clear directions to respondents.(Copy of judgment is attached)
2. That the petitioner communicated the judgment to respondents through written application and as such waited for the Implementation of the judgment but the same has not been implanted nor any positive steps has been taken by the respondents for implementation.

It is, therefore, most humbly prayed that On acceptance of this petition respondents may kindly be directed to implement the judgment dated:08.10.2021 passed in service appeal No.1125/2019 letter in spirit.

Through

Petitioner


Shams ul Hadi

Advocate, Peshawar.

Dated: 02/12/2021

BEFORE THE KHYBER PAKHTOON KHWA SERVICES TRIBUNAL
PESHAWAR.

Execution Petition No. /2021..
 In
 Service Appeal No.1125/2019.

Muhammad Riaz (PST)

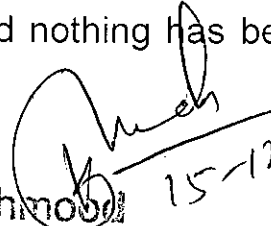
R/O Village Marado Tehsil Chagharzy District Buner.....Applicant.

V E R S U S

District Education Officer, (M) Buner..... Respondents

AFFIDAVIT

I, **Shams ul Hadi**, Advocate, Peshawar do hereby as per information conveyed to me by my client solemnly affirm and declare that the contents of the **petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


 Khalid Mahmood
 Oath Commissioner
 Peshawar High Court


A D V O C A T E

BEFORE THE KHYBER PAKHTOON KHWA SERVICES TRIBUNAL
PESHAWAR.

Execution Petition No. /2021.

In

Service Appeal No.1125/2019.

Muhammad Riaz (PST)

R/O Village Marado Tehsil Chagharzy District Buner.....Applicant.

V E R S U S

District Education Officer,(M) Buner..... Respondents

ADDRESSES OF THE PARTIES

PETITIONER:

Muhammad Riaz (PST)

R/O Village Marado Tehsil Chagharzy District Buner.

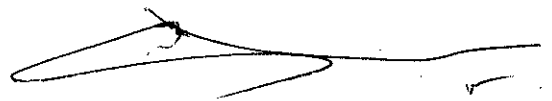
Cell No. 0343 3613761.

RESPONDENTS:

District Education Officer,(M) Buner.

Petitioner

Through



Shams ul Hadi

Advocate, Peshawar.

Dated: 02/12/2021

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BEFORE THE KHYBER PAKHTOON KHWA SERVICES TRIBUNAL, PESHAWAR



Service Appeal No. 1175 /2019.

Khyber Pakhtunkhwa Service Tribunal Peshawar

Diary No. 1779

Dated 04/9/2019

Muhammad Riaz (PST)

R/O Village Marado District Bunir.....Appellant

V E R S U S

- 1. District Education Officer(male) Bunir.
- 2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.....Respondents

APPEAL UNDER SECTION 4 OF KHYBER PUKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST THE IMPUGNED OFFICE ORDERS DATED:17.03.2017.

PRAYER IN APPEAL:

On acceptance of this appeal the impugned Order dated: 17.03.2017 regarding major penalty i-e Removal from service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back.benefits of service.

Respectfully Sheweth:

- 1. That initially the appellant joined the respondent/department since long as P.S.T and as such performed his duties with zeal and zest .

That during his service the appellant requested for Extraordinary leave with written application to respondent No.1 and as such extra ordinary leave without pay with effect from 01.05.2015 to 30.12.2015 was granted/sanctioned to appellant.(Copy of leave sanction notification is annexure-A)

Filed to-day
[Signature]
Registrar
4/9/19

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT SWAT.**

Service Appeal No. 1125/2019

Date of Institution ... 04.09.2019

Date of Decision ... 08.10.2021



Muhammad Riaz (PST) R/O Village Marado District Bunir. ... (Appellant)

VERSUS

District Education Officer (Male) Bunir and another. ... (Respondents)

MR. SHAMS-UL HADI
Advocate ... For Appellant

MR. RIAZ KHAN PAINDAKHEIL,
Assistant Advocate General ... For Respondents

ROZINA REHMAN ... MEMBER (JUDICIAL)
ATIQ-UR-REHMAN WAZIR ... MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant joined education department as primary school teacher on 04-07-1993. The appellant requested for grant of extra ordinary leave, which was granted by the competent authority with effect from 01-05-2015 to 30-12-2015 vide order dated 22-10-2015. On expiry of leave, the appellant again requested for extension in his leave for a period of another year and the appellant was verbally assured that his leave request has been accepted and after expiry of one year, the appellant approached the concerned authority for joining his duty, but he was handed over his removal from service order dated 17-03-2017. Feeling aggrieved, the appellant filed departmental appeal dated 02-05-2019, but the same was not decided within the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

statutory period, hence the instant service appeal with prayers that impugned order dated 17-03-2017 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law and rule, thus acted in violation of the relevant laws laid down for the purpose; that departmental proceedings were conducted on the back of the appellant and no opportunity of defense was afforded to the appellant; that no chance of personal hearing was afforded to the appellant and the appellant was condemned unheard; that the whole departmental proceedings against the appellant was based on personal ill will and the penalty so imposed is harsh, which does not commensurate with guilt of the appellant.

03. Learned Assistant Advocate General for the respondents has contended that after expiry of his leave, the appellant did not assume his duty and remained absent from his lawful duty; that three notices dated 06-01-2017, 21-01-2017 and 06-02-2017 were issued but the appellant did not respond, after which the same showcause notice was published in newspaper dated 02-03-2017, but again the appellant did not turn up, thereafter, major penalty of removal from service was imposed upon the appellant vide order dated 17-03-2017; that the appellant has been treated in accordance with law and no ill will or mala fide is involved on part of the respondents.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was proceeded against in absentia and was not afforded opportunity to defend his cause. As per stance of the appellant, he was orally assured that his leave has been approved, upon which he proceeded on leave but on expiry of one year, he was handed over his removal from service order; that oral order of superior in relation to official business would be as good order as in

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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writing. Reliance is placed on 2008 PLC (CS) 428. It otherwise is a well settled legal proposition that regular inquiry is must before awarding major punishment. The respondents however proceeded the appellant under Rule-9 of E&D Rules, 2011, but the notice was published in only one newspaper, as well as it cannot be ascertained from record that such notices were served upon the appellant. in view of the incomplete proceedings, the penalty so awarded appears to be harsh, particularly looking into his more than 22 years of service.

06. In view of the foregoing discussion, the penalty of removal from service is converted into compulsory retirement. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
08.10.2021

(ROZINA REHMAN)
MEMBER (J)
CAMP COURT SWAT

(ATIQ UR REHMAN WAZIR)
MEMBER (E)
CAMP COURT SWAT

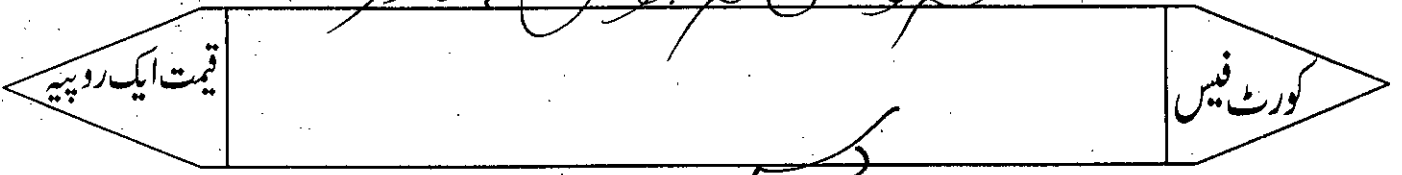
Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 12-1-2022
Number of Words 1600
Cost 18 -
Urgent 4 -
Total 22 -
Name of Copyist [Signature]
Date of Completion of Copy 12-1-2022
Date of Delivery of Copy 12-1-2022

8

بعدالت سروس ٹیم بیونل پشاور۔



مورخہ

مقدمہ 2019-20 E-P
 دعویٰ SA 110125/019
 جرم

۲۰۲۱ منجانب

محمد یونس

حکومت وٹیرن

باعث تحریر آنکے

محمد یونس

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی وجواب دہی و کل کارروائی متعلقہ آن مقام سروس ٹیم بیونل کے شمس الہادی کی ایڈووکیٹ کی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہا گا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا ک سند ہے

المرقوم 1 ماہ ۲۰۲۱

الغواہ شہدہ العبد

کے لئے منظور ہے

سروس ٹیم بیونل

Attested by Shams-ul-Haqi Adli

mob 03339337626

Handwritten signature