


05.09.2022

Nemo for petitioner. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Abdul Jamil, AD for respondents present.

Learned AAG sought time for submission of implementation report. Notice be issued to the petitioner as well as his counsel. To come up for implementation report on 25.10.2022 before S.B.

*Noted by
Najeebuddin
Najeeb
24/09/2022*


(Fareeha Paul)
Member (E)

17th June 2022

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

The respondents have not yet submitted implementation report. They are directed to appear in person along with implementation report on 02.08.2022 before S.B.

Q

(Kalim Arshad Khan)
Chairman

22-8-22

Learned Mr. Arshad Khan
The case is adjourned to

5/9/22



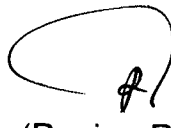
02.08.2022 before S.B.

Raddu

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 159/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.03.2022	<p>The execution petition of Mst. Sheezan Haider submitted today by Naila Jan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <div style="text-align: right;">  REGISTRAR </div>
2-	12.05.2022	<p>This execution petition be put up before to Single Bench at Peshawar on <u>12-05-2022</u>. Original file be requisite. Notices to the appellant and his counsel be also issued for the date fixed.</p> <div style="text-align: right;">  CHAIRMAN </div> <p>Petitioner present through counsel.</p> <p>Notice of the instant execution petition be issued to respondents for submission of implementation report. To come up for implementation report on 17.06.2022 before S.B.</p> <div style="text-align: right;">  (Rozina Rehman) Member (J) </div>

*Noted by
Rozina
Naila Jan
15/04/2022*

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No/ 59 /2022

In

Service Appeal No: 5806/2020

Mst. Sheezan Haider,

Versus

Education, Khyber Pakhtunkhwa, Peshawar


INDEX

S#	Description of Documents	Annex	Pages
1.	Execution Petition with Affidavit		1-2
2.	Addresses of Parties		3
3.	Copy of Judgment	"A"	4-7
4.	Wakalat Nama		8

Dated: 22/03/2022


Petitioner

Through


Naila Jan
Advocate, High Court
Peshawar

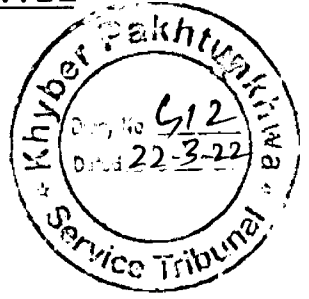
D

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution petition No. 159 /2022

In

Service Appeal No: 5806/2020



Mst. Sheezan Haider, under transfer to GGHS
(Kurvi) Nowshehra.

.....Petitioner

Versus

1. The Director, Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The District Education Officer (F), District Nowshehra.
3. Mst. Ghazala (D.M) presently posted at GGHS (kurvi) Nowshehra.

.....Respondents

EXECUTION PETITION FOR
IMPLEMENTATION OF THE
JUDGMENT OF THIS HON'BLE
TRIBUNAL IN APPEAL No.
5806/2020 DECIDED ON
26/01/2022

Respectfully Sheweth,

1. That the above mention appeal was decided by this Hon'ble Tribunal vide Judgment dated 26/01/2022. (Copy of the judgment is annexed as annexure "A")
2. That the relevant portion of the judgment is reproduced "*In view of the position explained above, the instant appeal is accepted. The impugned order dated 07-10-2019 is set aside and the appellatant is allowed to be retained in*


2

GGHS Kurvi (Nowshehra). Parties are left to bear their own costs.

3. That the Petitioner after getting of the attested copy of same approached the Respondents several time for implementation of the above mention judgment. However they are using delaying tactics and reluctant to implement the judgment of this Hon'ble Tribunal.
4. That the Petitioner has no other option but to file the instant petition implementation of the judgment of this Hon'ble Tribunal.
5. That there is nothing which may prevent this Hon'ble Tribunal from implementing of its own judgment.

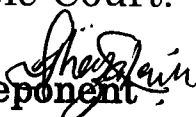
It is, therefore, requested that on acceptance of this petition the Respondents may directed to implement the judgment of this Hon'ble Tribunal by reinstating the Petitioner with all back benefits.

Dated: 22/03/2022

Petitioner
Through
Naila Jan 
Advocate, High Court
Peshawar

AFFIDAVIT:-

I, Mst. Sheezan Haider, under transfer to GGHS (Kurvi) Nowshehra.do hereby solemnly affirm and declare on oath that all the contents of above application are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon'ble Court.


Deponent

3

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Execution petition No. ____ /2022

In

Service Appeal No: 5806/2020

Mst. Sheezan Haider,

Versus

Education, Khyber Pakhtunkhwa, Peshawar

ADDRESSES OF PARTIES

PETITIONER

Mst. Sheezan Haider, under transfer to GGHS
(Kurvi) Nowshehra.


RESPONDENTS

1. The Director, Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The District Education Officer (F), District Nowshehra.
3. Mst. Ghazala (D.M) presently posted at GGHS (kurvi) Nowshehra.
- 4.

Dated: 22/03/2022


Petitioner

Through


Naila Jan
Advocate, High Court
Peshawar



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

Appeal No. 5895 /2020

Diary No. 4658
Dated 04/6/2020

Mst. Sheezan Haider, under transfer to GGHS (Kurvi)
Nowshera.

-----**(Appellant)**

VERSUS

1. The Director, Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The District Education Officer (F), District Nowshera.
3. Mst. Ghazala (D.M) presently posted at GGHS (Kurvi) Nowshera.

-----**(Respondents).**

**APPEAL U/S 4 OF KHYBER
PAKHTUNKHWA SERVICES
TRIBUNAL ACT -1974 AGAINST
THE IMPUGNED ORDER DATED
07/10/2019 OF RESPONDENT
NO.2, WHEREBY THE TRANSFER
ORDER DATED 16/09/2019 WAS
WITHDRAWN WITHOUT ANY
JUSTIFICATION IN TOTAL
VIOLATION OF LAW AND
TRANSFER POSTING POLICY OF
THE PROVINCIAL GOVERNMENT.**

Filed to-day
Registrar
04/06/2020

Registrar
18/6/2020

PRAYER IN APPEAL:-

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

**ON ACCEPTANCE OF THIS
SERVICE APPEAL THE IMPUGNED**

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 5805/2020

Date of Institution ... 04.06.2020

Date of Decision ... 26.01.2022



Mst Sheezan Haider, under transfer to GGHS (Kurvi) Nowshera.

... (Appellant)

VERSUS

The Director, Elementary and Secondary Education, Khyber Pakhtunkhwa Peshawar and two others. (Respondents)

Naila Jan,
Advocate

... For Appellant

Muhammad Adeel Butt,
Additional Advocate General

... For official respondents

Ashraf Ali Khattak,
Advocate

... For private respondent No. 3

AHMAD SULTAN TAREEN ...
ATIQU-UR-REHMAN WAZIR ...

CHAIRMAN
MEMBER (EXECUTIVE)

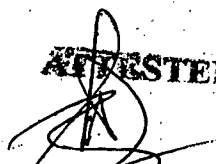
JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant is serving as drawing Master(DM) and was lastly posted at government girls middle school (GGMS) Mera Jalozi at district Nowshera, whereas respondent No. 3 was posted at Government High School Kurvi (Nowshera). Upon mutual consent, both the appellant and respondent No. 3 were mutually transferred against their schools vide order dated 16-09-2019. The appellant submitted her arrival in her respective place of transfer, but respondent No. 3 backed out of her commitment and was not ready to relinquish charge of

ATTESTED


EXAMINER

the post, hence the transfer order dated 16-09-2019 was withdrawn vide order dated 07-10-2019. Feeling aggrieved, the appellant filed departmental appeal, which was not responded with in the statutory period, hence the instant service appeal with prayers that the impugned withdrawal order dated 07-10-2019 may be set aside and the appellant may be retained in GGHS Kurvi, District Nowshera.

02. Learned counsel for the appellant has contended that the impugned order is against law, facts and norms of natural justice, hence not tenable and liable to be set aside; that the impugned order is glaring example of misuse of authority by the respondents; that the respondents instead of implementation of its own order, illegally issued the impugned order of withdrawal; that the impugned order is based on political motivation and nepotism; that the impugned order is against the transfer policy; that the impugned order is pre-mature and the appellant has been transferred without completing her normal tenure; thus the appellant has been made a rolling stone.

03. Learned Additional Advocate General for the official respondents has contended the appellant was transferred as DM to the present school in the month of February 2019, hence she is not entitled for her transfer on account of short tenure in such school; that transfer order dated 16-09-2019 was immediately withdrawn on 07-10-2019 being issued without public interest and the tenure policy; that competent authority under section 210 of General Clauses Act is competent to cancel/withdraw any order issued by him before implementation.


04. Learned counsel for private respondent No. 3 relied upon the arguments advance by learned Additional Advocate General.


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

06. Record reveals that the appellant and respondent No. 3, upon their mutual written consent, were transferred against each other schools vide a valid order. The appellant relinquish her charge and assumed charge in her place of transfer, but respondent No. 3 refused to hand over charge to the appellant, hence the respondents had withdrawn such transfer order after 21 days of its issuance. Placed on record is an explanatory letter dated 16-03-2020 addressed to respondent No. 3 asking for explanation, as to why precious time of the office was wasted by not obeying the order, which was issued on consent of respondent No. 3. Record is silent as to what happened to such explanation but the respondents withdrew such transfer order without taking any further action. Stance of the appellant to the effect that she remained posted outside throughout her career and the school where she was transferred was the nearest station to her home and the other school is nearer to the house of respondent No. 3. By issuance of her transfer order, the appellant had developed vested right over the post, which cannot be taken back so easily, but the appellant spent almost two and half years in litigation in getting relief and by the time, she completed more than her tenure in that school. Now is the time for her to serve in the nearest school, being her vested right.

07. , In view of the position explained above, the instant appeal is accepted. The impugned order dated 07-10-2019 is set aside and the appellant is allowed to be retained in GGHS Kurvi (Nowshera). Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
26.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

Certified to be true copy
MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of 16/2/22

Number of Books 1600

Copy No. 18/-

Total 18/-

Name of Copy No. -

Date of Completion of Copy 17/2/22

Date of Delivery of Copy 17/2/22

8

وکالت نامہ

بعدالت جناب CP کرسٹین پٹیونل لٹڈ
شہزاد احمد بنام نسیم
مخاتب: Petitioner تاریخ 21/03/2022


باعث تحریر آنکہ


مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جواہد ہی بمقام لٹڈ کے لیے ہے۔

نانکہ جان ایڈوکیٹ ہائی کورٹ

کو بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رو بروئے عدالت حاضر ہوتا ہوں گا اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کرونگا اگر پیشی پر من مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے کسی اور جگہ سماعت ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختیار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر ساختہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد نشانی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا قرقی یا گرفتاری قبل اجراء ڈگری بھی موصوف کو بشرط ادا ہوگی علیحدہ مختیار نامہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں نیز ایسے مشیر قانون کو ہر امر میں وہی اور ایسے ہی اختیارات حاصل ہوں گے جیسے کہ صاحب موصوف کو حاصل ہیں اور پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا یہ مختیار نامہ لکھ دیتا کہ سندر ہے۔ مورخہ 21/03/2022۔ مضمون مختیار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

ATTESTED & ACCEPTED


نانکہ جان ایڈوکیٹ پشاور ہائی کورٹ پشاور


شہزاد احمد (Petitioner)

"B"

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

No.

Recd

SB

Appeal No. E.P No 159 of 2022
Sheezan Haider Appellant/Petitioner

Director EGSE Peshawar Respondent

Respondent No. *(3)*

Notice to: — *Mst Shozala (D.M) presently posted at GGS (Curvi) Nowshahra*

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.....*17/06/2022*.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

Copy of ^{*EP*} 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 *30th* Day of.....*May*.....2022

For Impl-men-Im Report

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

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

"B"

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

No.

SB

Recd

Appeal No. E.P.No. 139 of 20 22

Sheezan Haider Appellant/Petitioner
Versus

Director EGSE Peshawar Respondent

Respondent No. (2)

Notice to: — The DEO (F), District Nowshera

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.....17/06/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

Copy of appeal 58 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.....30th

Day of.....May.....20 22

For Implementation Report

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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

"B"

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

No.

58

Appeal No. E.P. No. 159 of 2022

Sheezan Haider Appellant/Petitioner

Versus

Director E&SE KPK Peshawar Respondent

Respondent No. (1)

Notice to: — The Director E&SE KPK 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.....7/06/2022.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

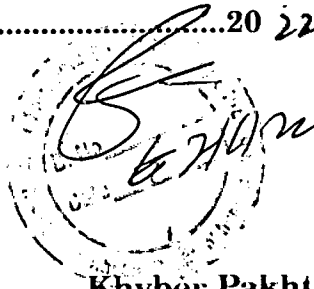
Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition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

Copy of appeal ^{E.P.} 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.....30th.....

Day of.....May.....20 22

For Implementation Report



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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

Note: Always quote case No. while making any correspondence.
The hours of attendance in the court are the same that of the High Court except Sundays and gazetted holidays.

BEHAWAN
KHYBER PAKHTUNKHWA SERVICE TRIBUNALS
BEHAWAN

Handwritten notes:
10. 10/11/2011
10/11/2011
10/11/2011
10/11/2011

Day of 30 11

Given under my hand and the seal of this Court at Behawan, this 30/11

Office Notice No. dated

Copy of appeal is attached. Copy of appeal has already been sent to you and the

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

appeal petition will be heard and decided in your absence. default of your appearance on the date fixed and in the manner aforementioned, the alongwith any other documents upon which you rely. Please also take notice that in this Court at least seven days before the date of hearing 4 copies of written statement advocates only supported by your power of attorney. You are hereby notified that in the case may be postponed either in person or by authorized representative or by any appeal petitioners you are at liberty to do so on the date fixed or any other day to which you are hereby notified that the said appeal petition is fixed for hearing before the Tribunal the above case by the petitioner in this Court and notice has been ordered to issue. You are. PUNJAB SERVICE TRIBUNAL ACT, 1974 has been presented registered for consideration in

WHEREAS an appeal petition under the provision of the KHYBER PAKHTUNKHWA

Notice to: — Mr. ... E. ... K. ...

Respondent No.

Mr. ... E. ... K. ... Behawan

Appellant/Petitioner

Office No. ... of 30 11

No.

BEHAWAN
JUDICIAL COMPLEX (OGD), KHYBER ROAD,
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, BEHAWAN

cc B



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No: 2289-90 /ST Dated: 28/07 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To,

- 1 DIRECTOR ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.
- 2 DISTRICT EDUCATION OFFICER (F) DISTRICT NOWSHEHRA.

Subject: PERSONAL APPEARANCE IN EXECUTION PETITION NO. 159/22 IN CASE TITLE Mst. SHEEZAN HAIDER VS EDUCATION DEPARTMENT

I am directed to forward herewith a certified copy of Order dated 17.06.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As Above.


(WASEEM AKHTAR)

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR