20<sup>th</sup> Sept, 2022

- 1. Learned counsel for the petitioner present. Kabirullah Khattak, Addl: Advocate General alongwith Mr. Badar Muhammad Khan, Deputy Collector Irrigation Division for respondents present.
- 2. Respondents submitted copy of office order endorsement No. 383/18-E dated 06.09.2022, whereby in compliance of the judgment of the Tribunal, the grievance of the petitioner has been redressed. Since the order of the Tribunal has been complied with, therefore, the instant execution petition is disposed off in the above terms. Consign.
- 3. Pronounced in open court in Abbottabad and given under my hand and seal of the Tribunal on this 20<sup>th</sup> day of Sept, 2022.

(Kalim Arshad Khan) Chairman

Camp Court Abbottabad.

# Form- A FORM OF ORDER SHEET

Court of		
	156	
Execution	Petition No. /2022	

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	. 3
: 1	· 17.06.2022	The execution petition of Mr. Haroon Khan submitted today by Mr. Abdul Aziz Khan Tanoli Advocate may be entered in the relevant register and put up to the Court for proper order please.  REGISTRAR
2-	Note De D	This execution petition be put up before touring Single Bench at A.Abad on
	19 <sup>th</sup> July	Khattak, District Attorney alongwith Mr. Taimoor Khan, Executive Engineer, Hazara Irrigation Division, Abbottabad (respondent 1998) present.
		Implementation report not submitted. Respondents directed to submit proper implementation report on the next date positively. To come up for implementation report on 20.09.2022 before S.B at camp court Abbottabad. Original file be also requisitioned.

Chairman
Camp Court Abbottabad



# OFFICE OF EXECUTIVE ENGINEER HAZARA IRRIGATION DIVISION ABBOTTABAD Phone #10992-921246

No. 383 /18-E

dated A.Abad the, 66/09/2022.

#### OFFICE ORDER.

In compliance of order by the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar under service appeal No.1172/2017, announced on 08.07.2019, the competent authority is pleased to promote Mr. Haroon Khan S/o Muhammad Younas of village Sarai Salah District Haripur, who was being penalized with demotion from canal Patwari BPS-7 to (apprentices) Patwari BPS-1 on the basis of poor performance in Govt: duty and decrease in area assessed, from BPS-1 to BPS-9 (Canal Patwari), with observation for one year onwards in the best public interest.

EXECUTIVE ENGINEER

#### Copy to the:-

- 1. The Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar, Abbottabad camp court for information please.
- 2. Chief Engineer (North) Irrigation Department Peshawar for information please.
- 3. Superintending Engineer Swabi Irrigation circle Swabi for information please.
- ✓ 4. Deputy Collector Hazara Irrigation Division Abbottabad for information.
  - 5. Divisional Account Officer, for information please.
  - 6. Zilladar Khanpur Section for information & necessary action.
  - 7. Official concerned.

EXECUTIVE ENGINE

### B

#### **BEFORE THE SERVICES TRIBUNAL (K.P.K) FESHAWAR**

E - Petition No 355 /2022

Haroon Khan, Son of Muhammad Younus, Canal Patwari, Sub-Divisional Office, sub-division Haripur. (R/O Village Sara e Saleh Tehsil Haripur.

.....Petitioner

#### VERSUS

Executive Engineer, Hazara Irrigation Division Abbottabad

.....Respondents

#### **IMPLEMENTATION APPLICATION/EXECUTION**

#### INDEX.

S. #	Description of Documents	Annexure	Page #
1	Implementation application along with Affidavit		1-3
2	Copy of Copy of decision and judgment	"A"	4-6
3	Office order of charges	"B"	8.
4	Application for implementation of court decision	"C"	9
5	Application by petitioner for payment and allowances	"d"	·10
6	Personal and departmental information of petitioner	"E"	11
7	WAKALATNAMA		

Dated:

Through:

(Abdul Aziz Khan Tanoli)

Petitioner

Advocate High Court

**Abbottabad** 

### BEFORE THE SERVICE TRIBUNAL (K.P.K) PESHAWAR

Execution Petition No 355 12022

Haroon Khan son of Muhammad Younus, Canal Patwari, Sub-Divisional office, Sub Division Haripure.

R/O Villáge sara e salah Tehsil haripure.

.....Petitioner. Khyber Palebiukhwa Service Tribunal

Diary No. 223

#### VERSUS

1. Executive Engineer, Hazara Irrigation Division, Abbottabad. Dated 1) /6/2022

....RESPONDENTS.

# IMPLEMENTATION APPLICATION / EXECTUTION PETITION OF JUDGMENT DATE 08-07-2019 OF THIS HONOURABLE COURT AGAINST RESPONDENT

#### Respectfully Sheweth,

- That, petitioner filed service appeal no 1172/2017 before this honorable Tribunal. (copy of service appeal is Annexed as ANNEXURE "A"
- ii. That the appeal of the appellant was decided by this honorable tribunal on 08-07-2019 (Copy of decision/judgment is annexed as annexure "B".
- That after receiving attested copy of judgment of this honorable tribunal petitioner approached the respondent department for his reinstatement at BPS 7 but respondent instead of reinstate the petitioner in BPS-7 reinstate the petitioner in BPS-1. Copy of order and application is annexed as annexure "c"
- That time and again petitioner visited the respondents department with the request to reinstate the petitioner in BPS-7 in light of the judgment of this honorable tribunal but in vain.

That petitioner having no other way except to file the instant implementation application / Execution petition before this honorable tribunal for his redressal.

It is therefore humbly requested that judgment dated 08-07-2019 of this hononarable tribunal may kindly be implemented / executed in later and spirit and respondent may kindly be directed to reinstate the petitioner in BPS-7 further more for the implementation and execution if respondents denied, coercive measure and penal actions against the respondents department may kindly be taken, any other relief which this honorable court may deem fit and appropriate also be granted.

Dated: 14-6-2022

petitioner

Through Counsel

Abdul Aziz Khan Tanoli Advocate High Court

Verification.

It is verified that all the contents of foregoing petition are correct to the best of my knowledge and belief and nothing has been concealed and suppressed from this honorable tribunal.

Dated:

petitioner

### BEFORE THE SERVICE TRIBUNAL (K.P.K) PESHAWAR

Petition No

/2022

Haroon Khan son of Muhammad Younus, Canal Patwari, Sub-Divisional office, Sub-Division Haripure. ......Petitioner.

#### VERSUS

Executive Engineer, Hazara Irrigation Division, Abbottabad.

....Respondents

### **IMPLEMENTATION APPLICATION / EXECUTION PETITION**

#### **AFFIDAVIT**

I Haroon Khan son of Muhammad Younus R/O Village sara e salah Tehsil haripure.deponent do hereby solemnly affirm and declares as under that all the contents above mentioned petition are true and correct to the best of my knowledge and belief.

Dated. 14-6-2022

Deponent

CNIC NO.

Annexan

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

#### SERVICE APPEAL NO. 1172/2017

Date of institution ... 25.09.2017

Date of judgment ... 08.07.2019

Haroon Khan son of Muhammad Younas Khan, Canal Patwari, Sub-Divisional Office, Sub-Division, Haripur,

R/o Village Sara-e-Saleh, Tehsil & District, Haripur.

(Appellant)

#### **VERSUS**

1. Secretary Irrigation Department, Khyber Pakhtunkhwa, Peshawar.

2. Chief Engineer (North), Irrigation Department, Khyber Pakhtunkhwa, Peshawar.

3. Executive Engineer, Hazara Irrigation Division, Abbottabad.

4. Superintendent Engineer Irrigation Swabi Circle, Swabi.

(Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED NO. 1199/18-E DATED 09.05.2017 ISSUED WHEREBY, RESPONDENT NO. 3. WITHOUT CONDUCTING REGULAR INQUIRY, PERSONAL HEARING OR JHOW-CAUSE NOTICE, AGAINST THE LAW, RULE AND FACTS, APPELLANT DEMOTED FROM SCALE NO. 7 TO SCALE NO. (APPRENTICES) PATWARI WITH OBSERVATION FOR ONE YEAR IN FUTURE.

Mr. Abdul Aziz Khan Tanoli, Advocate.

For appellant.

Mr. Muhammad Bilal Khan, Deputy District Attorney

For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI MR. HUSSAIN SHAH

MEMBER (JUDICIAL) MEMBER (EXECUTIVE)

<u>JUDGMENT</u>

MUHAMMAD AMIN KHAN KUNDI, MEMBER: -Counsel for the appellant and Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Brief facts of the case as per present service appeal in that the appellant was serving as Canal Patwari in Irrigation Department. He was imposed major

3

penalty of demotion from BPS-7 to BPS-1 with observation for one year in future vide order dated 09.05.2017 on the allegation of poor performance. The appellant filed departmental appeal on 24.05.2017 but the same was not responded hence, the present service appeal on 25.09.2017.

- 3. Respondents were summoned who contested the appeal by filing of written reply/comments.
- 4. Learned counsel for the appellant contended that the appellant was serving as Canal Patwari in Irrigation Department. It was further contended that the appellant was imposed major penalty of demotion from BPS-7 to BPS-1 with observation for one year in future vide order dated 09.05.2017 on the allegation of poor performance. It was further contended that neither any charge sheet, statement of allegation was served upon the appellant nor proper inquiry was conducted nor the appellant was associated in the inquiry proceeding nor any final show-cause notice alongwith copy of inquiry report was handed over to the appellant therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and prayed for acceptance of appeal.

On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was imposed major penalty of demotion from BPS-7 to BPS-1 with observation for one year in future on the allegation of poor performance. It was further contended that all the codal formalities were fulfilled before imposing the aforesaid penalty therefore, the competent authority has rightly imposed the aforesaid penalty and prayed for dismissal of appeal.

6. Perusal of the record reveals that neither proper charge sheet, statement of allegation was framed or served upon the appellant nor proper inquiry in the mode and manner prescribed under the Khyber Pakhtunkhwa Government



Servants (Efficiency & Discipline) Rules, 2011 was conducted nor the appellant was associated with the inquiry proceeding nor any show-cause notice alongwith copy of inquiry report was handed over to the appellant before imposing the major penalty of demotion from BPS-7 to BPS-1 therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. As such, we partially accept the appeal and set-aside the impugned order. However, the respondent-department is at liberty to conduct de-novo inquiry within a period of 90 days in the mode and manner prescribed under Government Servants (Efficiency & Discipline) Rules, 2011 from the date of receipt of copy of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED 08.07.2019

AA

(MUHAMMAD AMIN KHAN KUNDI)

MEMBER

CAMP COURT ABBOTTABAD

(HUSSAIN SHAH)
MEMBER
CAMP COURT ABBOTTABAD

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### OFFICE OF THE EXECUTIVE ENGINEER



HAZARA IRRIGATION DIVISION ABBOTTABAD Phone No 0992<sup>1</sup>9310246 Fax No (0992-9310246)

No 1199 1182

Date ATD 09/05/2017

OFFICE ORDER

Whereas charges of poor performance in Govt: duty and decrease in area assessed was leveled upon Mr. Haroon Khan and Naiz Ahmed Patwaries attached to Haripur Sub Division during visit of Canal Collector North wing dated 01.09.2016.

Whereas the enquiry was ordered by the worthy Chief Engineer North Wing Peshawar and Mr. Roohul Mohsin Technical Officer, Office of the Chief Engineer Peshawar and Mr. Raham Zeb Deputy Collector Hazara Irrigation Division Abbottabad to probe the matter and submit their findings for further necessary action.. Both the enquiry officers visited the site and submitted their report direct to the Chief Engineer North wing Peshawar. Wherein the Dam Khairbara was constructed with the total cost of Rs.284.840 Millions for total CCA of 1600 Acre, while the Patwari concerned assessed only 8 and 7 Acres per Crop, which was very meager figures.

The enquiry Officers submitted their report alongwith other factors / reasons, the actual Irrigated area was witnessed to be quite larger as compared to the assessment made by the Patwaries in the first 3 years. Whereas the enquiry officers proved the charges leveled upon the accused. Thereby rendered themselves for penalty.

Now being competent authority, penalty has been imposed on both the accused Mr. Haroon Khan S/o Muhammad Younas of village Sarai Saleh Distt: Haripur, designation Canal Patwari BPS-07 and is being demoted from BPS-07 to BPS-1 (apprentices) Patwari with observation for one year in future. And Mr. Naiz Ahmed S/o Umar Khitab village Nokot Distt: Mansehra designation Canal Patwari BPS-07 and is being demoted from BPS-07 to BPS-05 with observation for 6 months in future alongwith (Full attendance in HVC office Abbottabad) in the best public interest.

EXECUTIVE ENGINEER

#### Copy to the:-

- 1. Chief Engineer (North) Irrigation Department Peshawar.
- 2. Superintending Engineer Swabi Irrigation Circle Swabi.
- 3. District Accounts Officer Abbottabad.
- 4. Sub Divisional Officer Irrigation Sub Division Mansehra, Haripur for information.
- 5. Deputy Collector HID Abbottabad.
- 6. All Zilladars in HID Abbottabad.
- 7. DAO/HC/EC (Local) for information & n/action.
- 8. Officials / accused concerned.
- 9. HVC (Local) with the direction to observe his full attendance and report on daily basis.

Mr. Haroon Khan patmari

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#### OFFICE OF THE CHIEF ENGINEER (SOUTH) GOVT: OF KHYBER PAKHTUNKHWA IRRIGATION DEPARTMENT PESHAWAR

Ph: 091-9212116 Fax No. 091-9212652

E-Mail:chiefoffice@yahoo.com

Dated Peshawar the: 61/06/2021

To

Chief Engineer(North) 1) Irrigation Department Peshawar

The Superintending Engineer. . Swabi Irrigation Circle Swabi.

Subject:

APPLICATION FOR IMPLEMENTATION of COURT DECISION "SERVICE TRIBUNAL" DATED 08-07-2019 FOR PAYMENT OF SALARY ALONGWITH ALLOWANCES ACCORDING PRESENT PAY SCAL (BPS-09) SINCE 09-05-2017.

I am directed to refer to the subject noted above and to enclose herewith an application in respect of Mr. Haroon Khan Patwari Section Khan Pur Sub Division Haripur along with its enclosure for further necessary action please.

Encls: As Above.

ADMINISTRATIVE OFFICER

Copy to Mr Haroon Khan Patwari Section Khan Pur Sub Division Haripur w/r to application for information.

INDWICH MANN MOONDH-MASSI MANIPUN

### بخدمت جناب چیف انجنیئر صاحب (نارتھ)اریکیشن ڈیپارٹمنٹ پشاور

# بوساطت: ایکسین صاحب بزاره اریکیفن ڈویژن ایبٹ آباد

درخواست برائے عمل درآ مدیئے جانے فیصلہ وحکم عدالت سروس ٹریبوئل بیٹا درمحررہ 08.07.2019 کرتے ہوئے سائل کوموجودہ سکیل BPS-9 اور ازمور خہ 09.05.2017 سے پخواہ مجعدالا وُنسز کی اوائیگی کا حکم صاً درفر مایا جادئے۔

جناب عالى!

گزارش ہے کہ سائل اربیشن ڈیپارٹمنٹ ڈورین اپیٹ آباد میں عرصہ تقریباً 10 سال سے بطور پڑواری نہر ڈیوٹی سرانجام دے رہا ہے ۔ یہ کہ سائل کوایک ناکردہ جرم میں ایکسین صاحب ایبٹ آباد نے بذریعہ لیٹر نمبری 1199/18E مورخہ BPS-1 مورخہ میں ایکسین صاحب ایبٹ آباد نے بذریعہ لیٹر نمبری 109.05.2017 مورخہ میں ایبل BPS-1 مورخہ کہ سائل نے عدالت یہ کہ سائل نے سزا کے خلاف حسب ضابطہ محکمانہ ایبل کی تھی مدت گزرنے پر جواب نہ آنے پر سائل نے عدالت کہ سائل میں درہے کے بعد مورخہ 2019.07.2019 مورخہ 208.07.2019 کومعز زعدالت بروس ٹرین پڑوں پڑا ور نے فیصلہ صادر فر مایا اور محکمہ کو ہدایت فر مائی کہ سائل کوسابقہ سکیل 7-BPS پر بحال فر مایا جاد کے جس پرسائل نے جناب ایکسین صاحب اربیشن ڈیپارٹمنٹ ایبٹ آباد کوعدالت فیصلہ کی مصدفہ کا پی کے ہمراہ مملد آ مدنہ ہوا ہے۔ نقولات لف ہیں۔

ا الشرار آیر بناب سے استدعاہے کہ سائل کی درخواست ہمدردانہ غور فر ما کر بعدالت سروس ٹرینول پٹاور کے حکم پر عملدرآ مدکرتے ہوئے سائل کوموجودہ سکیل 9-BPS دیئے جانے اور سائل کی تنخواہ مورخہ 25.09.2017 سے بمعہ الاؤنسزادا کرنے کا حکم صادر فرمایا جاوئے۔ آپ کی مہربانی ہوگی ۔ سائل دُعا گورہے گا۔ شکریہ

رابط نمبر 03339342300

الرقوم 25-05-20

العارض ہارون خان (پٹواری نہر) اربیکیشن ڈیبار ٹمنٹ شیکشن خان پورسب ڈویژن ہری بور

<u>کا پی برائے ضروری کاروا کی</u> چیف انجنیئر صاحب (ساؤتھ)اریکیشن ڈیپارٹمنٹ صوبہ خیبر پختو نخواہ پشاور



#### Government of Khyber Pakhtunkhwa District Accounts Office Abbotabad

Monthly Salary Statement (July-2021)

#### Personal Information of Mr HAROON YOUNIS d/w/s of YOUNIS KHAN

Personnel Number: 00701793;

CNIC: 1330203649547

NTN:

Date of Birth: 05.04.1984

Entry into Govt. Service: 08.05.2013

Length of Service: 08 Years 02 Months 025 Days

Employment Category: Active Temporary

Designation: PATWARI

80000297-GOVERNMENT OF KHYBER PAKH

DDO Code: AD4305-

GPF Section: 001

Cash Center:

Payroll Section: 002 GPF A/C No:

Interest Applied: Yes

76,970.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 01

GPE Balance:

Pay Stage: 11

Wage type	Amount	Wage type	Amount
0001 Basic Pay	12,320.00	1001 House Rent Allowance 45%	2.006.00
1210 Convey Atlowance 2005	1,785.00	1300 Medical Allowance	1,500.00
2148 15% Adhoc Relief All-2013	296.00	2199 Adhoc Relief Allow @10%	218.00
2211 Adhoc Relief All 2016 10%	1,075.00	2224 Adhoc Relief All 2017 10%	1,232.00
2247 Adhoc Relief All 2018 10%	1,232.00	2264 Adhoc Relief All 2019 10%	1,232.00
2309 Adhoc Relief All 2021 10%	1,232.00	=== 1743 resist 1472017 1076	0.00

#### Deductions - General

- 1 '			· · · · · · · · · · · · · · · · · · ·			and the second s
L	···	Wage type	Amount	]	'Wage type	Amount
3	001 G.	PF Subscription	-400.00	3501	Benevolent Fund	-600.00
4	004 R	Benefits & Death Comp:	-300.00		, 3	0.00

#### Deductions - Loans and Advances

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Loan (	<ul> <li>Description</li> </ul>	Dringing Language		
<del></del>		Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00

Recovered till July-2021:

0.00

Exempted: 0.00

Recoverable:

Gross Pay (Rs.):

Deductions: (Rs.):

-1.300.00

Net Pay: (Rs.):

Payee Name: HAROON YOUNIS Account Number: 16688-5

Bank Details: NATIONAL BANK OF PAKISTAN, 230301 MAIN BRANCH, ABBOTABAD. MAIN BRANCH, ABBOTABAD.

ABBOTABAD . :

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: MOLLAH RAWAILWAY STATION HARIPUR

City: AD

Domicile: NW - Khyber Pakhtunkhwai

Housing Status: No Official

Temp. Address:

City:

Email:

<u>کورٹ فیس</u>

## وكالت نامير

بعدالت لعدالت العالم عنوان: هو الروائل على لوط سر المروائل على لوط سر المروائل على المروائل والمراح المراح المراح

### باعث تحرمية نكه

مقد مه مندرجہ بین اپنی طرف سے واسے پیروی وجواب دہی کل کا روائی متعلقہ آل مقام کو وکیل مقرر کر کے اقرار کرتا ہوں کہ ما حب موصوف کو مقد مہ کی کل کا دوائی کا کا الم اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعوی اور بصورت دیگر ڈیگری کرانے اجراء وصولی چیک روپیہ وعرضی دعویٰ کی تقدیق اور اس پر و شخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ نہور کی کی لیا کسی جزوی کا روائی کی تقدیق اور اس پر و شخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ نہور کی کی لیا کسی جزوی کا روائی کے لئے کسی اور ویل یا مخارصاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار ہوگا اور اس کی ساختہ پر داختہ جھے کو منظور و بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور و لیے ہی اختیار ات ہوں گے اور اس کا ساختہ پر داختہ جھے کو منظور و تجرب ہونا اور ہوگا ۔ ووران مقدمہ جوخر چہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے سخق و کیل صاحب موصوف نیز بتایا ہوتو و کیل صاحب موصوف یا بند ہوں گے دیوری مقدمہ نہ کورہ کریں اور اگر مخار مقرر کردہ میں کوئی جزو بتایا ہوتو و کیل صاحب موصوف یا بند ہوں گے کہ بیروی مقدمہ نہ کورہ کریں اور اگر مخار مقرر کردہ میں کوئی جزو بتایا ہوتو و کیل صاحب موصوف مقدمہ کی بیروی کے پیند نہوں گے۔ نیز درخواست بمرادا سجارت نائش بھینے مقلمی کے دائر کرنے اور اس کے بیروی کا بھی صاحب موصوف کو اختیار ہوگا ۔

لبذا وكالت نامة تحريركر دياتا كه سندرب

14-06-2022 14 by Adv 367-401: New Adv 36

A SIGOSIO SK STONE

John Hand