




Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 224 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	14.04.2022	<p>The execution petition of Mr. Maqsood Ahmad submitted today by Mr. Taimur Ali Khan 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><i>Noted 18/4/22</i></p>	<p>This execution petition be put up before to Single Bench at Peshawar on <u>27-05-2022</u>. Original file be requisitioned. Notices to the appellant and his counsel be also issued for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
27 th	May, 2022	<p>Clerk of counsel for the appellant present. Mr. Kabir Ullah Khattak, AAG for respondents present.</p> <p>Due to general strike of the bar. Case is adjourned. To come up for the same on 07.07.2022 before S.B.</p> <p style="text-align: right;"> (Kalim Arshad Khan) Chairman</p>

7th July, 2022

~~Clerk of learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl:AG for respondents present.~~
~~Learned AAG seeks time to submit implementation report.~~
~~The instant execution petition pertains to district Dir Lower, therefore, let it be fixed at camp court Swat.~~
~~To come up for implementation report on 04.08.2022 before S.Bat camp court Swat.~~

~~(Signature)~~

7th July, 2022

D

Clerk of learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl:AG for respondents present.

Learned AAG seeks time to submit implementation report. The instant execution petition pertains to district Dir Lower, therefore, let it be fixed at camp court Swat. To come up for implementation report on 04.08.2022 before S.Bat camp court Swat.

9

(Kalim Arshad Khan)
Chairman

4.8.22

Due to summer vacation the case is adjourned to 8.9.22 for the record.

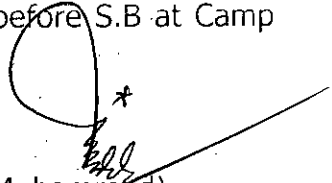
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(Signature)

08.09.2022

Petitioner in person present. Mr. Muhammad Riaz Khan Paindakhel Assistant Advocate General alongwith Mr. Saleem, Section Officer, for the respondents present.

Implementation report not submitted. Representative of the respondents stated at the Bar that implementation of the judgement of Service Tribunal judgement dated 21.10.2021 is under process within the department and final implementation report will be submitted on the next date. Learned Assistant Advocate General also requested for time to contact the respondents to submit implementation report on the next date. Request is acceded to but as a last chance. Adjourned. To come up for final implementation report on 04.10.2022 before S.B at Camp Court, Swat.


(Mian Muhammad)
Member (E)
Camp Court, Swat


06.10.2022

Nemo for appellant.

Riaz Khan Paindakhel, learned Assistant Advocate General alongwith Hayat Khan Assistant Director for respondents present.

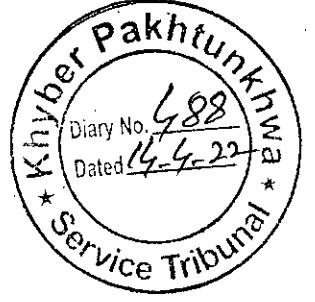
Implementation report was produced vide which the competent authority has set aside the Notification bearing endorsement No.1038-45 dated 12.12.2012 of the Directorate conditionally till the final decision of the august Supreme Court of Pakistan in pending CPLA. The grievances of the petitioner have been redressed, therefore, the execution proceedings stand consigned being fully satisfied. No order as to costs.

Announced.
06.10.2022


(Rozina Rehman)
Member (J)
Camp Court Swat

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Execution Petition No. 224 /2022
In Service Appeal No.909/2013



Maqsood Ahmad, SS (English) BS-17,
GHSS Sarai Bala, Talash, Dir Lower.

PETITIONER

VERSUS

1. Director Elementary & Secondary Education (E&SE) Khyber Pakhtunkhwa, Peshawar.
2. Secretary Elementary and Secondary Education (E&SE) Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer,(Male) Dir Lower.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 21.10.2021 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the petitioner has filed service appeal No.909/2013 in the Honourable Tribunal against the notification dated 12.12.2012, whereby the penalty of withholding of 03 annual increments and recovery of Rs.201641/- has been imposed upon the petitioner with the prayer that the impugned notification dated 12.12.2012 may kindly be set aside and the petitioner be exonerated from the charges/penalties.

2. The said appeal was heard by this Honourable Service Tribunal on 21.10.2021. The Honourable Service Tribunal accepted the appeal of the petitioner as prayed for. **(Copy of judgment dated 21.10.2021 is attached as Annexure-A)**
3. That the Honourable Tribunal in its judgment dated 21.10.2021 set aside the impugned notification dated 12.12.2012 wherein 03 annual increments of the petitioner were withhold, but after the lapse of about five months, the 03 annual increments of the petitioner was not restored as well as recovery of Rs.201641/- shall not be made from the petitioner by issuing proper order in this respect by the respondents by implementing the judgment dated 21.10.2021 of this Honourable Tribunal.
4. That in-action and not fulfilling formal requirements by the respondents after passing the judgment of this Honourable Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 21.10.2021 of this Honourable Service Tribunal in letter and spirit.
6. That the petitioner has having no other remedy except to file this execution petition for implementation of judgment dated 21.10.2021 of this Honourable Tribunal.

It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 21.10.2021 of this Honourable Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.


PETITIONER
Maqsood Ahmad

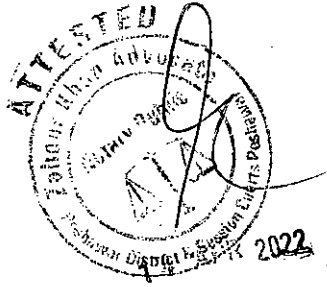
THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.

cell f
DEPONENT





BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S. Appeal No. 909 /2013

G. V. S. Board
Lower District
Dir Lower
279
07-5-13

Maqsood Ahmad

SET, GHS Bajauro, Talash, Dir Lower..... Appellant

Versus

- ① Director, Elementary & Secondary Education (E&SE),
Khyber Pakhtunkhwa, Peshawar.
- ② Secretary, Elementary & Secondary Education (E&SE),
Khyber Pakhtunkhwa, Peshawar.
- ③ Executive District Officer (E&SE) Dir Lower.. Respondents

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE NOTIFICATION DATED 12.12.2012 OF RESPONDENT NO.1, WHEREBY A PENALTY OF WITHHOLDING OF 3 ANNUAL INCREMENTS AND RECOVERY OF RS.201641/- HAS BEEN IMPOSED UPON THE APPELLANT.

Sheweth;

1. That initially appellant was appointed as SST (BPS-16) in the Education Department vide order dated 25.11.2008 (Annex "A"), and after passing B.Ed examination his services were regularized vide order dated 22.09.2010 (Annex "B").

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Right of
Respondents
No. 103
is forfeited
and deleted.
15.8.14

~~15.8.14~~
15/5/13

re-submitted to
and filed;
15/5/13

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 909/2013

Date of Institution ... 07.05.2013

Date of Decision ... 21.10.2021



Maqsood Ahmad, SET, GHS Bajauro, Talash, Dir Lower.

... (Appellant)

VERSUS

Director, Elementary & Secondary Education (E&SE), Khyber
Pakhtunkhwa, Peshawar and two others.

... (Respondents)

MR. MUHAMMAD ISA KHAN,
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General

--- For respondents.

MR. AHMAD SULTAN TAREEN,
MR. SALAH-UD-DIN

--- CHAIRMAN
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts giving rise to filing of the instant service appeal are that vide notification dated 25.11.2008, the appellant was appointed as SST (BPS-16) on contract basis, however later on his services were regularized vide notification dated 22.09.2010. During the course of his service, disciplinary action was initiated against the appellant and he was issued charge sheet on the allegations which are reproduced as below:-

"(a) You were appointed against SST post on contract basis for one year vide Notification

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Edst: No. 5139-5197 dated 25.11.2008 your contract service was regularized vide Notification No. 5173-85 dated 22.09.2010, but according to the report of the enquiry officer you have provided a fake and bogus B.Ed DMC (Roll No: 2109 having S.No. 43750 Registration No. 2003430152 result declared on 31.12.2007 from Oxford Edu: Academy Batkhela) at the time of your contract appointment while you have produced another B.Ed DMC (No. Roll No. 3062 having S.No. 2138 Registration No. 2003430152 result declared on 04.12.2008 from Dir College of Edu: Timargara Dir Lower) at the time of regularization of your contract service.

(b) As per report of the enquiry officer, your DMCs were verified from the Malakand University and the DMC (Roll No. 2109 having S.No. 43750 Registration No. 2003430152 result declared on 31.12.2007 from Oxford Edu: Academy Batkhela) was found fake and bogus.

(c) You have reported for duty on 24.12.2010 (three months and two days late) after the issue of the regularization order dated 22.09.2010.

(d) You have submitted an arrear bill amounting to Rs. 201641/- to the Accounts Officer without the counter signature of the DDO Principal GHSS Wari while he denied that he did not sign the bill.

(e) you have submitted two different relieving certificates to the Headmaster GHS Bajaur, on was signed by the Principal GHSS Wari as DDO for GHS Seri Sultan Khel and the 2nd was signed by the Incharge Headmaster GHS Seri Sultan Khel, but the Principal and Headmaster disowned their signatures and stamps of the schools. Moreover the relieving chit was given the school dispatch No. 56-58 dated 31.03.2011, which is also found fake as per entries in the issue register.

(f) All the signatures of Mr. Naseeb-ur-Rehman Incharge Headmaster GHS Seri Sultan Khel and Abdul Haleem Principal GHSS Wari as DDO of GHS Seri Sultan Khel were found fake and bogus, as they disowned the signatures. The Incharge H.M. and J/Clerk have also stated that the stamp used for signatures on different papers is not available at school.

(g) The stamp used for attestation of Subject Specialist is also fake.

(h) You are expert of bogus signatures. You practiced the signatures of different officers and

ATTESTED

EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

you collected the stamps of SS, HM, DDO and EDO with you. "

On conclusion of the inquiry, minor penalty of withdrawal of three annual increments falling on 01.12.2012, 01.12.2013 and 01.12.2014 as well as recovery of an amount of Rs. 201641/- was imposed upon him vide impugned order dated 12.12.2012, which was challenged by the appellant through filing of departmental appeal, however the same was not responded, hence the instant service appeal.

2. Notices were issued to the respondents, who approached through their representatives, however they did not submit written reply/comments despite several opportunities being provided to them, therefore, vide order dated 15.08.2014, the right of submitting of written reply of the respondents was forfeited. The respondents submitted an application on 29.12.2015, seeking setting-aside of ex-parte proceedings and placing on file written reply/para-wise comments. On 10.12.2018, the learned Assistant Advocate General stated that he did not wish to pursue the application and was willing to argue the matter on strength of available record. Vide order dated 10.12.2018, the application was thus disposed of in terms of submission so made by the learned Assistant Advocate General.

3. Learned counsel for the appellant has contended that the allegations as leveled against the appellant are wrong and baseless and the disciplinary action against him was taken due to ulterior motive; that the educational testimonials of the appellant are genuine and the same have been duly verified by the concerned University/Board; that vague and bald allegations were leveled against the appellant, however no cogent material was produced in support of the same during the inquiry; that the appellant was not at all associated with the inquiry proceedings and was not at all confronted with the fake degree of B.Ed allegedly produced by the appellant at the time of his initial appointment on contract basis; that the appellant has neither submitted any bill of arrears amounting

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal


of Rs. 201641/- to the Accounts Officer nor he had withdrawn such amount, which fact has been affirmed by District Accounts Officer Dir Upper in his letter addressed to the District Accounts Officer Dir Lower; that the appellant was not provided copy of the inquiry report alongwith final show-cause notice and the same has caused prejudice to the appellant; that the inquiry proceedings were conducted in a slipshod manner, without observing the relevant rules of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, therefore, the impugned order is liable to be set-aside.

4. On the other hand, learned Additional Advocate General for the respondents has contended that the appellant had submitted fake degree of B.Ed at the time of his initial appointment and the said fact stood proved during the inquiry conducted against the appellant; that the appellant was also found involved in other charges leveled against him and he was thus found guilty of misconduct; that the appellant was found guilty in regular inquiry conducted against him, therefore, he has rightly been awarded the minor penalty of withdrawal of three annual increments falling on 01.12.2012, 01.12.2013 and 01.12.2014 as well as recovery of an amount of Rs. 201641/-.

5. We have heard the arguments of learned counsel for the appellant as well as learned Additional Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that the appellant was initially appointed as SST (BPS-16) on contract basis vide notification dated 25.11.2008, however his services were later on regularized under the Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009 and notification regarding the regularization of services of the appellant was issued on 22.09.2010. One of the allegation against the appellant is that he while appointed as SST (BPS-16) on contract basis had produced fake and bogus DMC of B.Ed issued from Oxford Education Academy Batkhela, whereas at

ATTESTED


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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

the time of regularization of his contract service, the appellant produced another B.Ed DMC issued from Dir College of Education Timargara Lower Dir. Available on the record is an application of the appellant addressed to the Director, Schools and Literacy Education Department NWFP Peshawar, wherein it has been requested by the appellant that he took the charge on 01.12.2008, while his B.Ed DMC was issued on 04.12.2008 and thus there is a break of three days between the charge assumption and issuance of B.Ed DMC, therefore, his name may be included in the fresh order to be issued regarding regularization. The notification dated 22.09.2010 issued regarding the regularization of services of the appellant also affirms the fact of passing of B.Ed examination by the appellant on 04.12.2008. Copy of the DMC as well as degree of B.Ed showing Roll Number of the appellant as 3062 are available on the record and the same have been verified and found correct by Controller of Examination University of Malakand. We are thus of the opinion that had the appellant submitted any fake B.Ed DMC bearing Roll No. 2109 showing his date of passing of B.Ed examination as 31.12.2007, he would not have submitted the above mentioned application to the Director, Schools and Literacy Education Department NWFP Peshawar. Furthermore, the respondents have not produced any cogent record which could show that the fake DMC bearing Roll No. 2109 issued from Oxford Education Academy Batkhela was submitted by the appellant at the time of his initial appointment on contract basis.

7. One of the allegation against the appellant is that the order regarding regularization of his services was issued on 22.10.2010, while he reported for duty on 24.12.2010. Available on the record is copy of charge report of the appellant, which would show that the appellant assumed the charge on 23.09.2010. The respondents have not produced any cogent record which could support their stance that the appellant assumed the charge on 24.12.2010 i.e with a delay of 03 months and 02 days. Similarly, nothing has been produced by the respondents to show that the rest of the

ATTESTED

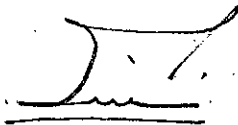
EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

allegations leveled against the appellant were proved. Moreover, the respondents have not been able to produce any documentary proof to negate the contention of the appellant that he was not associated in the inquiry proceedings.


8. It is apparent from the record that on somewhat similar allegations, case FIR No. 1 dated 04.01.2012 under sections 409/419/420/468/471 PPC/5 (2) PC, Act PS ACE Dir Lower was registered against the appellant, however ADL submitted his opinion that as the Degrees of the appellant were found correct and the case being a weak one is not worth of prosecution, therefore, the same may be dropped if agreed. The abovementioned FIR was thus dropped and letter bearing Endorsement No. 8525-27 dated 12.09.2012 was sent by the Director Anti-Corruption Establishment, Khyber Pakhtunkhwa Peshawar to the Assistant Director Crimes, Anti-Corruption, Swat in this respect, copy of which is available on the record.

9. In view of the foregoing discussion, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
21.10.2021

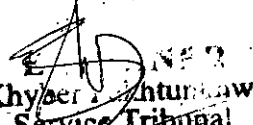


(SALAH-UD-DIN)
MEMBER (JUDICIAL)



(AHMAD SULTAN TAREEN)
CHAIRMAN

Certified to be true copy



Director
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 12/4/22
Number of Words 2800
Copying Fee 34/-
Urgent 57/-
Total 34/-
Name of Copyist _____
Date of Completion of Copy 12/5/22
Date of Delivery of Copy 12/5/22

VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Maqsood Ahmad

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Education Deptt.

(Respondent)
(Defendant)

I/We: Maqsood Ahmad

Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated: _____/2021

[Signature]
(CLIENT)

ACCEPTED

[Signature]
TAIMUR ALI KHAN
Advocate High Court
BC-10-4240
CNIC: 17101-7395544-5
Cell No. 0333-9390916

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar



#D 44

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR**

NOTIFICATION.

1. Whereas, the appellant namely Mr. Maqsood Ahmad S/O Bahadar Khan District Dir Lower was appointed as SST (BS-16) in E&SE Department on contract basis & posted at GHS Serai Sultan Khel Dir Lower vide Notification No. 5139-97 dated 25-11-2008. Later on, his services were regularized w.e.f. 01-01-2009 vide Notification No. 5173-85 dated 22-09-2010 & thereafter he was transferred to GHS Bajawo Dir Lower vide Notification dated 30-11-2011.
2. And whereas, a complaint of Head Master GHS Bajawo against the teacher concerned was received to this Directorate through DEO (M) Dir Lower vide letter dated 21-09-2011, wherein, allegations were leveled against him that at the time of apply (in the year 2008) to the post of SST (B-16), the teacher concerned had submitted fake & forged B.Ed. degree of Malakand university to the E&SE Department. As a result thereof, disciplinary proceedings were initiated against the teacher concerned.
3. And whereas, an inquiry was conducted in to the matter through Mr. Saeed Khan Ex-Principal GCNHS Batkhela, Malakand vide Notification dated 13-10-2011. On conclusion of inquiry proceedings, minor penalty of withdrawal of three annual increments falling on 01-12-2012, 01-12-2013 and 01-12-2014 as well as recovery of amount to the tune of Rs. 201,641/- were imposed upon the teacher concerned vide the impugned Notification dated 12-12-2012.
4. And whereas, feeling aggrieved, the appellant invoked the constitutional jurisdiction under article-212 of the Islamic Republic of Pakistan, 1973 through filing Service Appeal No. 909/2013 before the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar and the same was decided vide judgement dated 21-10-2021 against the E&SE Department, whereby, the impugned Notification dated 12-12-2012 was set aside by the Honorable Court & where against the Respondent Department has filed CPLA before the apex court which is still pending adjudication.
5. And whereas, now the appellant has requested for conditional implementation of the judgement dated 21-10-2021 of Service Tribunal, Peshawar till the final decision of the august supreme Court of Pakistan in pending CPLA against the judgement supra.

Now therefore, in pursuance of the judgement dated 21-10-2021 of the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar & to avoid future litigation in the shape of COC/Execution Petition against the Respondent Department, the undersigned, being a competent authority, is pleased to set aside the Notification bearing Endst: No1038-45 dated 12-12-2012 of this Directorate, conditionally till the final decision of august Supreme Court of Pakistan in pending CPLA against the judgement dated 21-10-21 with immediate effect in the interest of justice.

(Hafiz Dr. Muhammad Ibrahim)
DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Endst: No: 2334-41 / File No. Lit-II/026/19/Notification Dated Peshawar the: 8/9/2022

Copy forwarded for information & action to the:-

- 1 PS to Additional Secretary (C), E&SE Department Khyber Pakhtunkhwa Peshawar.
- 2 District Education Officer (Male) District Dir Lower.
- 3 District Account Officer District Dir Lower.
- 4 Deputy Director (Legal) E&SE Khyber Pakhtunkhwa Peshawar.
- 5 Section Officer (Lit-II) E&SE Department Khyber Pakhtunkhwa Peshawar.
- 6 PA to Director E&SE KP Peshawar
- 7 Officer concerned.
- 8 Master file.

Deputy Director (Estab-M)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar
OL