

22.02.2022

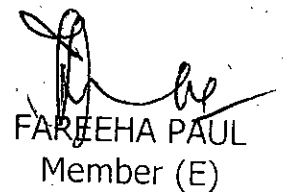
Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 28.04.2022 for the same as before.

  
Reader

28<sup>th</sup> April, 2022

Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned AAG seeks adjournment to submit implementation report. To come up for implementation report on 09.06.2022 before S.B.

  
FARZEHA PAUL  
Member (E)

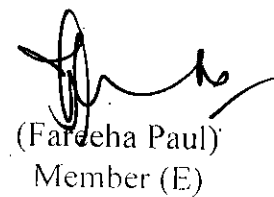
09.06.2022

Petitioner in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Iftikhar Ghani, DEO (M) respondents present.

Representative of respondent department submitted implementation report vide notification Endst; No. 82-87 dated 07.01.2022 which is placed on file and stated that judgment of this Tribunal has been implemented.

In view of the above, instant petition is disposed off. File be consigned to record room.

Announced.  
09.06.2022

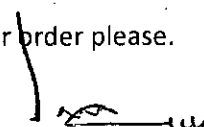


  
(Farzeha Paul)  
Member (E)

## Form- A

## FORM OF ORDER SHEET

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

Execution Petition No. 353/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	29.11.2021	<p>The execution petition submitted by Mr. Quresh Khan through Mr. Akhtar Ilyas 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-	07.01.2022	<p>This execution petition be put up before S. Bench on <u>07/01/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsel for the petitioner present.</p> <p>Notices be issued to the respondents. Case to come up for implementation report on 22.02.2022 before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

Original

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Miscellaneous Petition No. 352/2021**

**IN**

**Service Appeal No. 5696/2021**

Quraish Khan

Ex-PST Govt; Primary School Nagrai, District Buner

\_\_\_\_\_  
Petitioner/ Complainant

**Versus**

Iftikhar Ghani

District Education Officer Male District Buner

\_\_\_\_\_  
Respondent/ Contemnor

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S.No.	Description of Documents	Annexure	Page No.
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4	Minutes of the meeting of the Scrutiny Committee Dated 15-12-2021	B	5
5	Letter No. SO (LIT-II) (E&SED) 1- 6/SA#5696/20/ Quraish Dated 12-01-2022	C	6
6	National Bank of Pakistan Account Statement	D	7
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DEPONENT

CNIC No.15101-0882586-3

①

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Miscellaneous Petition No 352 /2021

IN

Service Appeal No. 5696/2021

Quraish Khan

Ex-PST Govt; Primary School Nagrai, District Buner

\_\_\_\_\_  
Petitioner/ Complainant

Versus

Iftikhar Ghani

District Education Officer Male District Buner

\_\_\_\_\_  
Respondent/ Contemnor

**WRITTEN REPLY ON BEHALF OF RESPONDENT**

Respectfully Sheweth!

**Facts**

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. The respondent has implemented this Honourable court directive in its true spirit and issued the retirement order of the appellant vide No. 82-87 dated 07-01-2022 as per directions of the court. (Voluntary retirement notification is attached as **Annexure A**).

Side by side this department also placed the case for CPLA before the scrutiny committee held at Law department on 15-12-2021, under the chairmanship of Secretary Law, Parliamentary affairs and Human Rights department. The committee after threadbare discussion unanimously decided as follows:

- i. *The scrutiny committee perused the record of the case and the impugned judgement. The departmental Representative present in the meeting apprised the Security committee that the Khyber Pukhtunkhwa Service tribunal has held that the appellant shall stand voluntary retired from 01-07-2016. The departmental Representative further apprised the scrutiny committee that the appellant has received salaries unlawfully for 10 months, i.e., from 01-07-2016 to 30-05-2017 which is outstanding against the appellant. The departmental representative further apprised the security scrutiny committee that the Khyber Pukhtunkhwa Service tribunal has not ordered for recovery of unlawful salaries received by the appellant for 10 months.*

ii. *The Scrutiny Committee held that the Administrative Department may recover the salaries unlawfully received by the appellant as the Khyber Pukhtunkhwa Service Tribunal has not debarred the department from recovery of unlawful salaries received by the appellant.*

The same was communicated to the respondent department vide letter No. SO(Lit-II) E&SED/1-6/SA#5696/20/Quraish Dated Peshawar the 12-01-2022. (Minutes of the meeting and letter are attached as **Annexure B & C**).

5. Incorrect and hence denied. The respondent has implemented the courts orders in letter and spirit and issued voluntary retirement order of the appellant vide No. 82-87 dated 07-01-2022. As for as the corrigendum order is concerned it is in accordance with the essence of the Honourable Court judgement. The Honourable Court has ordered that the appellant stands voluntary retired from 01-07-2016. As the appellant has unlawfully taken salaries in his absence period beyond 01-07-2016 till 30-04-2017 (10 months), the recovery of which is in consonance with the Honourable Court judgement. (Bank statement and Account office record is annexed as **Annexure D & E**).

The respondent in mentioned corrigendum has only corrected a clerical mistake of dates of the absence period, made in his first retirement order, of the appellant and implemented the court judgement in letter and spirit. The same correction is in accordance with the General Clauses Act 1897, Rule 21, which reads as;

*“Whereby any (central act) or Regulations, a power to (issue notifications), orders, rules, or bylaws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and condition (if any) to add, to amend, to vary or rescind any notifications, orders, rules or by laws so issued.”*

6. Incorrect and hence denied. The mentioned corrigendum has not affected the sanctity of this Honourable court judgement. Rather it is in consonance with the essence of the court judgement. The mentioned corrigendum does not affect the rights of the appellant nor does it violate the directives of the Honourable Court. The court ordered his retirement from 01-07-2016, so any amount/ salary taken by him in his absence period after 01-07-2016 is liable to be recovered from him, which will be in accordance with the law and Honourable Court judgement. This Honourable Court has never ordered that any overpayment made to him after 01-07-2016 may not be recovered from him. Rather the court in its judgment upheld that recovery w.e.f 01-09-2015 to 30-06-2016 may not be made which the respondent never ever ordered.

In addition, the scrutiny committee also unanimously decided to recover salaries obtained by the appellant after 01-07-2016. The same minutes and letter were sent to the respondent for implementation. (Minutes and letter are attached as **Annexure B & C**).

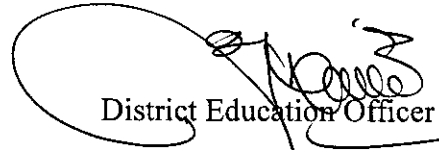
7. Incorrect and hence denied. The respondent implemented court judgement in letter and spirit and issued voluntary retirement order of the appellant vide this office order number 82-87 dated 07-01-2022.

8. Incorrect and hence denied. The respondent has all respect for this Honourable court and can never ever think of disobedience and contempt. The respondent has implemented this

Honourable court judgement in letter and spirit and no violation of the court directives has been made.

- 9. The respondent has all respect for courts and implemented Court judgement in its true spirit.
- 10. The appellant has been treated in accordance with the law and Honourable court directives. The respondent has issued voluntary retirement order of the appellant in accordance with the Honourable court directives; however, the appellant is trying to get something/ unlawful amount which is neither his right nor does this Honourable court judgement supports. The appellant wants to grab the unlawful amount taken by him in the form of salaries after his retirement, 01-07-2016, which is against the essence and spirit of this Honourable court judgement.
- 11. The respondent also seeks the permission of the Honourable court of service tribunal for any advance proof at the time of the arguments.

It is therefore humbly prayed that keeping in view the above submissions, the instant execution petition may very graciously be dismissed.

  
District Education Officer (M)  
Buner 8/1/22

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Miscellaneous Petition No. 352/2021**

**IN**

**Service Appeal No. 5696/2021**

Quraish Khan

Ex-PST Govt; Primary School Nagrai, District Buner

Petitioner/ Complainant

**Versus**

Iftikhar Ghani

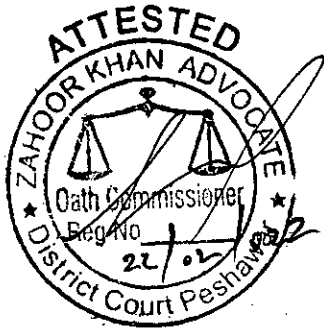
District Education Officer Male District Buner

Respondent/ Contemnor

**AFFIDAVIT**

I, Ubaid ur Rahman, ADEO (Litigation), District Education Office (Male) Buner, do hereby solemnly affirms and state on oath that the whole contents of the reply are true & correct to the best of my knowledge and belief. Moreover, nothing has been concealed from this Hon'ble Tribunal.

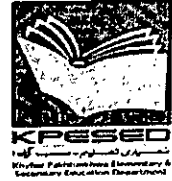
Deponent  
15101-0882586-3



Amexre "A"



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



### Notification

1. **WHEREAS** Mr. Quraish Khan PST GPS Nagrai was proceeded against under E&D Rules 2011 for wilful absence, misconduct and corruption.
2. **AND WHEREAS** he was served with a showcause notice vide this office No.6425-28 dated 14-11-2017 and his reply was found unsatisfactory.
3. **AND WHEREAS**, the then DEO (M) Buner imposed upon him major penalty of "Compulsory Retirement" w-e-f- 1-7-2016 (A.N) and ordered recovery of overpayment amounting Rs. 412885/- from Quraish Khan PST, GPS Nagrai vide this Office No.421-26 dated 20-1-2018.
4. **AND WHEREAS**, the same order was challenged in Khyber Pakhtunkhwa Service Tribunal at camp Court Swat vide service appeal No.755/2018, which was remitted to the Competent Authority vide judgment dated 2/9/2019 for deciding afresh after De-novo inquiry in accordance with law.
5. **AND WHEREAS**, in compliance with the court order, the Competent Authority conducted de-novo inquiry vide this office No.7560-64 dated 12/10/2019. The inquiry committee recommended that penalty of "Compulsory Retirement" already imposed upon Mr. Quraish Khan PST GPS Nagrai may be retained w.e.f 1/7/2016.
6. **AND WHEREAS**, in the light of recommendations of the inquiry report, the then DEO(M) Buner retained penalty of "Compulsory Retirement" upon Mr. Quraish Khan PST GPS Nagrai of Tehsil Mandanr Buner w-e-f- 1-7-2016 vide this office No.469-74 dated 18/2/2020 & overpayment amounting Rs.412885/- w.e.f 1/7/2016 to 30/4/2017 (10 months.) may be recovered and deposited in the Govt; exchequer.
7. **AND WHEREAS**, the same order was challenged in the court of Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No. 5696/2020, which was decided on 14/9/2021 with the directions to convert compulsory retirement into premature voluntary retirement w.e.f 1/7/2016.
8. **NOW**, therefore, in compliance with the Honourable Court Judgment dated 14-09-2021, in service appeal No.5696/2020, the Competent Authority is pleased to convert Compulsory Retirement from Service to Voluntary pre-mature Retirement in respect of Mr. Quraish Khan PST GPS Nagrai w-e-f- 1-07-2016.

(IFTIKHAR UL GHANI)  
DISTRICT EDUCATION OFFICER (M)  
BUNER

Endst; No. 92-97 / Dated 7/1 /2022.

Copy for information to; -

1. Director (E&SE) Khyber Pakhtunkhwa Peshawar.
2. Registrar Khyber Pakhtunkhwa Service Tribunal at Camp Court, Swat.
3. District Monitoring Officer Buner,
4. Sub-Divisional Education Officer (M) Mandanr with the remarks/directives that necessary entry to this effect shall be made in his Service Book accordingly and recovery of overpayment Rs-412885/- for the period of (10 months) w.e.f 1/7/2016 to 30/4/2017 shall be made from his pension/gratuity under intimation to this office.
5. District Accounts Officer.
6. Official Concerned.

DISTRICT EDUCATION OFFICER (M)  
BUNER

*[Handwritten Signature]*  
o/c *[Handwritten Initials]* 7/1/22



5

Amendment "B"

3



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT

MINUTES OF THE SCRUTINY COMMITTEE MEETING.

(AGENDA ITEM NO. 15)

SUBJECT: SERVICE APPEAL NO. 5696/2020 QURAIKH KHAN VERSUS DISTRICT EDUCATION OFFICER (MALE), BUNER AND OTHERS.

A meeting of the Scrutiny Committee was held on 15.12.2021 at 11:00 A.M. in the office of Secretary, Law Parliamentary Affairs & Human Rights Department under his Chairmanship to determine the fitness of the subject case for filing of Appeal/CPLA in the Supreme Court of Pakistan. Assistant Advocate General (Mr. Wilayat Ali Khan) represented the Advocate General, Khyber Pakhtunkhwa.

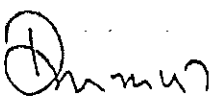
2. The representatives of E&SE Department Mr. Ifitkhar-ul-Ghani, DEO, Buner apprised the Committee about the background of the case and stated that the appellant filed the subject service appeal against the order dated: 18.02.2020 whereby major penalty of compulsory retirement from service w.e.f. 01.07.2016 and recovery of Rs. 412,885/- was imposed upon the appellant. The Khyber Pakhtunkhwa Service Tribunal vide order dated: 14.09.2021 accepted the subject service appeal, set aside the impugned orders and stand the appellant voluntary retired from 01.07.2016 when he himself submitted application seeking premature retirement due to his health issue and further directed the respondents to expedite and process the pension case of the appellant within 30 days. The Scrutiny Committee returned the subject case to the Administrative Department on the following grounds:

GROUND/DISCUSSIONS:

- i. The Scrutiny Committee perused the record of the case and the impugned judgment. The Departmental Representative present in the meeting apprised the Scrutiny Committee that the Khyber Pakhtunkhwa Service Tribunal has held that the appellant shall stand voluntary retired from 01.07.2016. The Departmental Representative further apprised the Scrutiny Committee that the appellant has received salaries unlawfully for 10 months i.e. from 01.07.2016 to 30.05.2017 which is outstanding against the appellant. The Departmental Representative further apprised the Scrutiny Committee that the Khyber Pakhtunkhwa Service Tribunal has not ordered for recovery of unlawful salaries received by the appellant for 10 months.
- ii. The Scrutiny Committee held that the Administrative Department may recover the salaries unlawfully received by the appellant as the Khyber Pakhtunkhwa Service Tribunal has not debarred the Department from recovery of unlawful salaries received by the appellant.

ADVICE:

3. Hence in view of above, it was decided with consensus by the Scrutiny Committee that the subject case may be returned to the Administrative Department accordingly.

  
(TAHIR IQBAL KHATTAK)  
SOLICITOR

6

Amdexne "C"



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

**MOST IMMEDIATE / COURT MATTER**

NO.SO (Lit-II) E&SED/1-6/SA#5696/20/Quraish  
Dated Peshawar, the 12.-01-2022

To

The Director,  
E&SE, Peshawar.

Attention: Assistant Director (Lit-II)

Subject: **REQUEST FOR FILING OF CPLA AGAINST THE JUDGMENT DATED 14.09.2021 OF THE HONORABLE SERVICE TRIBUNAL PESHAWAR IN SERVICE APPEAL NO. 5696/2020 TITLED QURAISH KHAN VS GOVT. OF KHYBER PAKHTUNKHWA EDUCATION DEPARTMENT BEFORE THE AUGUST SUPREME COURT OF PAKISTAN**

I am directed to refer to the subject noted above and to enclose herewith a copy of Govt: of Khyber Pakhtunkhwa, Law, Parliamentary Affairs & Human Rights Department letter No. SO(Lit)/LD/Law/ 87501/E&SED/2022/243-46 dated 03-01-2022 along with minutes of the meeting held on 15-12-2021 under the Chairmanship of Secretary Law Department, Govt. of Khyber Pakhtunkhwa, wherein it was decided with consensus by Scrutiny Committee that the Administrative Department may recover the salaries unlawfully received by the appellant as the Khyber Pakhtunkhwa Service Tribunal has not debarred the Department from recovery of unlawful salaries received by the appellant.

In view of the above, you are requested that necessary action may be taken in light of the minutes of the meeting.

Enc: as above.

Endst: of even No. & date.

Copy forwarded to:-

1. DEO(M, Buner.
2. PA to Deputy Secretary (Legal) E&SE Department.

AD II  
18/01/22

SECTION OFFICER (LIT:II)

SECTION OFFICER (LIT:II)

DD (Lit)

17/01/22

1/22  
18-1-2022

6

Amir "D"

00272112

National Bank of Pakistan

Account Statement

Account Name(s) QURESH KHAN S/O SARFARAZ KHAN

Address: VILL NAGRAI DISTT DAGGAR

STOPEd BY DDO

Postal Code:

Branch Code/Name: 1704 DAGGAR

Region Name: Mardan

Statement of Account

Statement Printing Date: 03-Aug-2017

Town:

District:

City: BUNNER

Province/State: KH.PAKHTOON

Country: PAKISTAN

Product Name: PKR Current Account

Currency: PKR

CIF No: 1374698

Account No: 4016191772

IBAN: PK19NBPA1704004016191772

Your CNIC has expired. Kindly provide a copy of your new CNIC to the bank at the earliest

3

B/F Balance: 10,294.00

From: 02-Jun-2016 To: 31-Jul-2017

S. No.	Date	Particulars	Instno	Memo	Debit	Credit	Balance
1	27-Jun-2016	SALARY		27	0.00	39,528.00	49,822.00
2	28-Jun-2016	CASH WITHDRAWAL	635479		42,000.00	0.00	7,822.00
3	29-Jul-2016	SALARY		29	0.00	39,679.00	47,501.00
4	01-Aug-2016	CASH WITHDRAWAL	635480		42,000.00	0.00	5,501.00
5	31-Aug-2016	SALARY		31	0.00	42,449.00	47,950.00
6	03-Sep-2016	CASH WITHDRAWAL	635481		47,000.00	0.00	950.00
7	30-Sep-2016	SALARY		30	0.00	42,102.00	43,052.00
8	31-Oct-2016	SALARY		31	0.00	41,630.00	84,682.00
9	30-Nov-2016	SALARY		30	0.00	41,630.00	126,312.00
10	31-Dec-2016	SALARY		31	0.00	42,459.00	168,771.00
11	31-Jan-2017	SALARY		31	0.00	39,689.00	208,460.00
12	04-Feb-2017	CASH WITHDRAWAL	635482		150,000.00	0.00	58,460.00
13	28-Feb-2017	SALARY		28	0.00	39,269.00	97,729.00
14	07-Mar-2017	CASH WITHDRAWAL	635484		95,000.00	0.00	2,729.00
15	31-Mar-2017	SALARY		31	0.00	42,039.00	44,768.00
16	04-Apr-2017	CASH WITHDRAWAL	635485		42,000.00	0.00	2,768.00
17	27-Apr-2017	SALARY		27	0.00	41,939.00	44,707.00
18	03-May-2017	CASH WITHDRAWAL	635486		42,000.00	0.00	2,707.00

Total 11 Credit transactions of amount: 452,413.00

Total 7 Debit transactions of amount: 460,000.00

460,000.00 452,413.00

This is a computer generated statement and does not require any signature

Page 1 of 1

pay slip

1-7-2016 to 31-5-2017

Amount "E"

8

Personnel No: 272112 Name: QURAIISH KHAN  
 EE group: 1 Active Permanent Pers.area: DN01 Dist. Govt. KP-Provincial  
 EE subgroup: 12 Grade 12 Cost Center: BD6009 GPS MALE BUNER  
 Choose: 01.01.1900 to 31.12.9999 STy.

STy	Re	Start Date	End Date	Ty	Ar	PS group	Lv	Amount	1st c...	Total amount
0	11	01.07.2017	31.12.9999	P1	17	12	24	35,400.00	PKR	
0	02	01.12.2016	30.06.2017	P1	16	12	24	29,540.00	PKR	
0	11	01.07.2016	30.11.2016	P1	16	12	23	28,740.00	PKR	
0	02	01.12.2015	30.06.2016	P1	15	12	23	23,355.00	PKR	
0	11	01.07.2015	30.11.2015	P1	15	12	22	22,705.00	PKR	
0	02	01.01.2015	30.06.2015	P1	11	12	22	17,500.00	PKR	
0	02	01.12.2014	31.12.2014	P1	11	12	21	17,000.00	PKR	
0	02	01.12.2013	30.11.2014	P1	11	12	20	16,500.00	PKR	
0	02	01.08.2013	30.11.2013	P1	11	12	19	16,000.00	PKR	
0	02	01.12.2012	31.07.2013	P1	11	12	19	16,000.00	PKR	
0	02	01.12.2011	30.11.2012	P1	11	12	18	15,500.00	PKR	
0	11	01.08.2011	30.11.2011	P1	11	12	17	15,000.00	PKR	

*[Signature]*  
 District Accounts Officer  
 Byner at Daggar

**BEFORE KPK SERVICE TRIBUNAL PESHAWAR**

Execution Petition No. *353/2021*  
IN

Service Appeal No. 5696/2020  
Decided on 14-09-2021

**Qurasih Khan**  
Versus  
**DEO (M) Buner & Others**

**INDEX**

S#	Description Of The Documents	Annex	Pages
1.	Application for implementation of order dated 14-09-2021 along affidavit	*	1-3
2.	Copy of Order dated 14-09-2021	A	4-8
3.	Copy of application	B	9
4.	Copy of Corrigendum	C	10
5.	Vakalatnama	*	11

Petitioner  
Through *Akhtar Ilyas*  
**AKHTAR ILYAS**  
ADVOCATE HIGH COURT  
&  
*Changai Khan*  
**CHANGAIZ KHAN**  
ADVOCATE

Dated: 22/11/2021

(1)

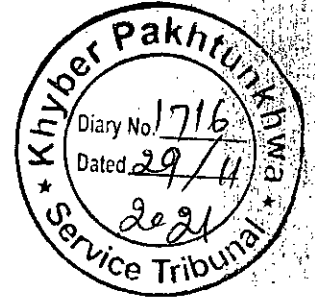
## BEFORE KPK SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 353/2021

IN

Service Appeal No. 5696/2020

Decided on 14-09-2021



**Quraish Khan,**

Ex-PST, GPS, Nagrai, District Buner.

..... **Petitioner**

**Versus**

1. **District Education Officer** (Male), Buner.
2. **Director (E & SE) KPK,**  
Education Directorate, GT Road Peshawar
3. **Head Teacher,** GPS Nagrai, Buner

..... **Respondents**

**PETITION FOR DIRECTING**

**RESPONDENTS TO IMPLEMENT  
THE ORDER DATED 14-09-2021  
PASSED IN SERVICE APPEAL  
NO.5696/2020.**

**Sheweth!**

1. That the appellant filed a Service Appeal No. 5696/2020, the same has been accepted vide order dated 14-09-2021 (**Copy attached as annexure-A**), the operative part whereof is reproduced for ready reference:  
"in view of above factual and legal position, by acceptance of this appeal, we set aside the impugned order and appellant stands voluntarily retired from 01-07-2016 when he himself submitted application seeking

2

premature retirement due to his health issues. In order to relieve the agony of the appellant, the respondents are directed to expedite and process the pension case of appellant **within 30 days** of the receipt of this judgment. Parties by are left to bear their own costs. File to be consigned to the record room"

2. That the above referred judgment has been remitted to respondent No.1 through an application.  
**(Copy of application is attached as annexure-B).**
3. That the letter for compliance of the order has also been sent by worthy Registrar of this Honorable Tribunal as well.
4. That it will be not out of place to mention here that the respondents have not assailed the stated judgment before the august Supreme Court of Pakistan, so the judgment has got finality.
5. That it is astonishing rather shocking to know that the respondents No.1 has issued corrigendum dated 04-11-2021 **(Copy is attached as annexure-C)**, whereby he acted as appellate forum and assumed the jurisdiction of Supreme Court and thus struck down the order passed by the worthy KPK Service Tribunal which is a clear violation of the law on the subject, for which separate application is being filed against the respondent No.1.
6. That the respondents are under legal obligations to implement the order passed by the worthy Service Tribunal in letter and spirit but they failed to do so, hence this petition.
7. That the appellant seeks leave of the Court to urge additional ground at the time of arguments.

**PRAYER:**

It is, therefore, prayed that the order dated 14-09-2021 passed in Service appeal No.5696/2020 may kindly be

(3)

implemented in letter and spirit without further amount of delay.

Petitioner

Through

*[Signature]*  
AKHTAR ILYAS  
ADVOCATE HIGH COURT  
&  
*[Signature]*  
CHAGAIZ KHAN  
ADVOCATE

**AFFIDAVIT**

It is hereby verified and declared on oath that the contents of above application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*[Signature]*  
Deponent

ATTESTED  
Gul Daraz Khan  
Oath  
Commissioner  
Advocate High Court  
*[Signature]*



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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 5696/2020

Date of Institution ... 11.06.2020  
Date of Decision ... 14.09.2021



Quraish Khan, Ex-PST, GPS Nagrai, District Buner,

... (Appellant)

**VERSUS**

District Education Officer (Male), Buner and two others.

... (Respondents)

Akhtar Ilyas,  
Advocate

... For appellant.

Muhammad Adeel Butt,  
Additional Advocate General

... For respondents.

AHMAD SULTAN TAREEN  
ROZINA REHMAN

... CHAIRMAN  
... MEMBER (J)

**JUDGMENT**

ROZINA REHMAN, MEMBER (J): The relevant facts leading to filing of instant appeal are that the appellant rendered services as PST in Education Department. He filed an application for his retirement which was duly forwarded. Astonishingly, on one hand his application was forwarded to the quarter concerned while on the other hand, he stood retired in the Service Book. There was conflict of his date of birth in his C.N.I.C and Service Book, therefore, his forwarded application was not accepted and it was returned that the same be forwarded after correction of date of birth but this process was kept secret from the appellant. That despite duty, his attendance was not marked, he, therefore, filed an application for attendance but in the

meanwhile, major penalty of compulsory retirement was imposed upon the appellant. He filed service appeal which was accepted and case was remanded to the competent authority for de-novo inquiry. He waited for considerable time, but in vain. He, therefore, filed petition for implementation of the order and receipt of notice by the respondents, impugned order was passed on 18.02.2020. He, therefore, filed departmental appeal which was not responded to, hence, the present service appeal.

2. We have heard Akhtar Ilyas Advocate for appellant and Muhammad Adeel Butt learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Akhtar Ilyas Advocate, learned counsel appearing on behalf of appellant, inter-alia, contended that the respondents failed to follow the dicta laid down by the Service Tribunal in Service Appeal No.755/2018. He contended that in the earlier round of litigation, case was remitted for de-novo inquiry and the respondents were required to reinstate the appellant and then to initiate de-novo inquiry but such practice was not undertaken in utter disregard of rules. He submitted that no regular inquiry was conducted in the case of appellant and no witness was examined in his presence. He contended that appellant was condemned unheard as he was not given the right of defense. He submitted that it is settled by now that until and unless the competent authority has accepted resignation, a civil servant cannot be retired from his duty and lastly, he submitted that appellant has not committed any misconduct by way of his absence or by way of any

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embezzlement but even then, harsh punishment was imposed upon appellant.

4. Conversely learned A.A.G submitted that the appellant had not submitted any retirement application to the competent authority rather he purposely deceived the Head Teacher and gave him the impression of retirement from service for which appellant got marked his retirement application and got written in his column in the attendance register that the appellant stood retired w.e.f 01.07.2016. He contended that the Head Teacher marked the application and handed over to the appellant for further submission to the S.D.E.O concerned but the appellant purposely detained application with himself and did not submit the same to the concerned S.D.E.O for further submission to the competent authority (D.E.O). He contended that he remained absent from the date of getting his application marked from the Head Teacher i.e. 01.07.2016 and on the other hand, he did not submit the already marked retirement application to the S.D.E.O concerned in order to keep the S.D.E.O in ignorance and thereby not to stop his salary and get it regularly. Lastly, he submitted that the appellant remained absent w.e.f 01.07.2016 to 30.05.2017 (10 months) for which he regularly took his salaries.

5. From the record, it is evident that appellant Quraish Khan P.S.T submitted an application seeking retirement on 01.07.2016. This entry has properly been made by the Headmaster G.P.S Nagrai in the register of attendance which is not denied by the respondents. As there was conflict in the date of birth of appellant in his C.N.I.C and Service Book, therefore, he once again submitted an application to D.E.O for marking his attendance in the school on 02.08.2018. The



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competent authority without taking any regular inquiry under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 compulsory retired the appellant by way of major punishment, therefore, in the earlier round of litigation, case of the appellant was remitted to the competent authority for decision afresh after de-novo inquiry in accordance with law. As per record, the competent authority constituted an Inquiry Committee vide notification dated 12.10.2019 and the said Committee intimated Head Teacher and the appellant on telephone to be present on 31.10.2019. From perusal of the inquiry report, it is evident that neither charge sheet nor statement of allegation was ever served upon appellant. No show cause was issued and in view of the recommendation of the Inquiry Committee, impugned order was passed on 18.02.2020, whereby, major penalty of compulsory retirement from service was imposed upon appellant w.e.f 01.07.2016 and amount of Rs.412885/- (salary of 10 months) w.e.f 01.09.2015 to 30.06.2016 was ordered to be recovered and deposited in the Government Exchequer. On one hand, the competent authority did not follow the dicta laid down by this Tribunal in Service Appeal No.755/2018 as no charge sheet and statement of allegations were issued in accordance with the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 while on the other hand, he was charged for recovery of an amount of Rs. 412885/- w.e.f 01.09.2015 to 30.06.2016. This period of 10 months was not justified as the record is totally silent in respect of any absence or any sort of misconduct by the appellant from 01.09.2015 to 30.06.2016 as admittedly he submitted application seeking premature retirement on 01.07.2016 and the allegations were

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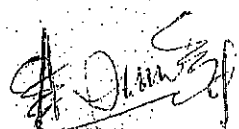
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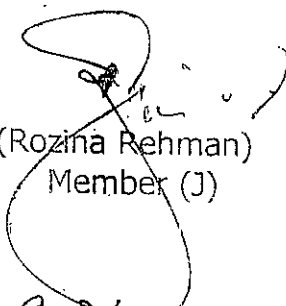
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in respect of recovery of pay for period w.e.f 01.07.2016. The appellant is aged and ailing Government servant who served the Department for more than 28 years but was not treated in accordance with law.

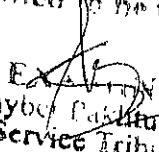
6. In view of the above factual and legal position, by acceptance of this appeal, we set aside the impugned orders and appellant stands voluntary retired from 01.07.2016 when he himself submitted application seeking premature retirement due to his health issues. In order to relieve the agony of the appellant, the respondents are directed to expedite and process the pension case of the appellant within 30 days of the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
14.09.2021

  
(Ahmad Sultan Tareen)  
Chairman

  
(Rozina Rehman)  
Member (J)

Certified to be true copy

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 27-9-21  
Number of Words 2000  
Copying Fee 22/-  
Regent 2  
Total 22/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 30/9/21  
Date of Delivery of Copy 30/9/21

محکمہ مت جناب DEO صاحب مردانہ بو میں

سائیل :- فریش خان ولد سرفراز خان سانی ٹنگری آماری

PST ریپر . GPS ٹنگری

درخواست بلراد ڈیٹا بیس کرنے کے لیے از میڈیکل بروڈ صفد سہیل  
پٹاور گھر 14-9-2021 در درخواست اپیل

1۔ یہ کہ سائیل محکمہ رجسٹریشن میں بطور G-PS - PST

2۔ یہ کہ سائیل کو محکمہ ہڈانے جبری طور پر ڈیٹا بیس کیا گیا ہے۔  
چار لاکھ بارہ ہزار اسی سو پچاسی / 4,12,885 روپیہ کی رقم کا حکم دیا گیا۔

3۔ یہ کہ سائیل نے محکمہ ہڈانے مذکورہ حکم کو سرورسز ٹریبونل ٹاور چیلنج کیا

وہ سرورسز ٹریبونل نے مورخہ 2021-9-14 کو سائیل کو اپیل پر حکم صفد سنایا ہے۔ اور سائیل کی جبری ڈیٹا بیس کے صفد کو محکمہ رجسٹریشن  
ضلع ہڈانے - در دیگوری کو ہی غیر قانونی قرار دیا۔ (فصل صفد لف)

4۔ یہ کہ سائیل کی درخواست بابت ڈیٹا بیس کے حکم کی تھی، جو سرورسز ٹریبونل نے در سنسکا  
دیگوری کی بجائے ہڈانے میں سے ڈیٹا بیس کے حکم کو مسترد کر دیا۔

5۔ یہ کہ بذریعہ درخواست ہڈانے سرورسز ٹریبونل کے صفد پر عمل درآمد کرنے کے لیے

اپنا استدعا ہے کہ دیگوری درخواست ہڈانے سائیل کو بروز صفد گھر  
14-9-2021 بجایے سرورسز ٹریبونل ٹاور کو سائیل کو مورخہ  
2016-07-01 سے ڈیٹا بیس کے حکم کو مسترد کر دیا اور 30 دنوں کے اندر عمل

Attested

Abul

گواہ نذیر ڈیٹا بیس کے صفد



OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) DISTRICT BUNER  
PHONE & FAX NO. 0939-510468  
EMAIL: edobuner@gmail.com



Corrigendum


In partial modification of this office Notification No. 469-74 dated 18/2/2020 regarding Compulsory Retirement awarded to Mr. Quraish Khan PST GPS Nagrai due to absence and unlawful drawl of salaries in the light of inquiries conducted by this office, the dates of absence may be read w.e.f 30/6/2016 to 30/4/2017 (10 Months) instead of 01/9/2015 to 30/6/2016 (10 Months) as contained in the inquiry report.

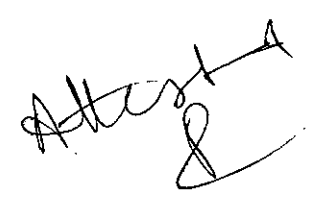
(IFTIKHAR UL GHANI)  
DISTRICT EDUCATION OFFICER (M)  
BUNER

Endst: No. 5040-45 / Dated 4/11/2021

Copy for information to: -

1. Director (E&SE) Khyber Pakhtunkhwa Peshawar.
2. Registrar Khyber Pakhtunkhwa Service Tribunal Peshwar.
3. District Monitoring Officer Buner.
4. Sub Divisional Education Officer (M) Mandanr with the remarks that necessary entry to this effect shall be made in his Service Book accordingly and recovery of Rs-412885/- of the period of (10 months) w.e.f 1/7/2016 to 30/4/2017 shall be made from his pension/gratuity under intimation to this office.
5. District Accounts Officer
6. Official Concerned.

  
DISTRICT EDUCATION OFFICER (M)  
BUNER



VAKALAT NAMA

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

NO. \_\_\_\_\_/2021

Quraish Khan

Appellant(s) / *Petitioner*

VERSUS

DEO & others.

Respondent(s)

I/We, Petitioner, do hereby appoint and constitute **AKHTAR ILYAS (AHC) & CHANGAIZ KHAN** Advocates, 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: 22 / 11 / 2021

*[Signature]*

CLIENT(s)

ACCEPTED

*[Signature]*  
**AKHTAR ILYAS**

BC: 11-1572

&

*[Signature]*  
**CHANGAIZ KHAN**

BC: 19-1507