


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 of. File be consigned to record room.

Announced.
09.06.2022


(Fareeha Paul)
Member (E)

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

28th April, 2022

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


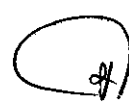
Representative of the respondent department submitted Notification No. 82-87 Dated 07.01.2022, whereby the competent authority converted compulsory retirement from service to voluntarily premature retirement in respect of the petitioner. Copy handed over to the learned counsel for the petitioner. To come up for objections/arguments on 09.06.2022 before S.B.


FARZEHA PAUL
Member (E)

FORM OF ORDERSHEET

Court of _____

Misc. application No. 352/2021.

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	29/11/2021	<p>The Misc. application in service appeal no. 5696/2021 submitted by 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 Petition be put up before S. Bench on <u>07/01/22</u></p> <p>Counsel for the petitioner present. CHAIRMAN</p> <p>Notice of instant Contempt of Court Petition be issued to respondent to appear in person and apprise the Tribunal about the corrigendum issued vide Endst. No. 5040-45, dated 04.11.2021 on the next date. Case to come up on <u>22.02.2022</u> before S.B.</p> <p style="text-align: center;"> (Rozina Rehman) Member (J)</p>

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

Miscellaneous Petition No. ³⁵²2021

IN

Service Appeal No. 5696/2021

Decided on 14-09-2021

Qurasih Khan

Versus

Iffikhar Ghani, DEO (M) Buner.

INDEX

S#	Description Of The Documents	Annex	Pages
1.	Contempt Petition 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

Through

Petitioner / complainant

Akhtar Ilyas

AKHTAR ILYAS

ADVOCATE HIGH COURT

Changaz Khan

CHANGAZ KHAN

ADVOCATE

Dated: 22/11/2021

1

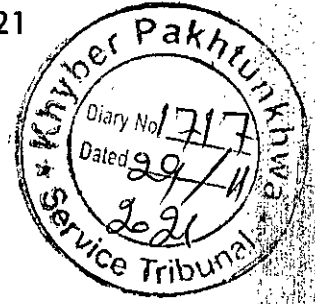
BEFORE KPK SERVICE TRIBUNAL PESHAWAR

Miscellaneous Petition No. 352 /2021

IN

Service Appeal No. 5696/2021

Decided on 14-09-2021



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

..... Petitioner/Complainant

Versus

Iffikhar Ghani,
District Education Officer (Male), Buner.

..... Respondent/Contemnor

PETITION FOR INITIATION OF
CONTEMPT OF COURT
PROCEEDINGS AGAINST THE
RESPONDENT FOR WILLFULLY
VIOLATING THE ORDER DATED 14-
09-2021 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 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 respondent 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.
6. That if the respondent was in any way aggrieved from the order of this Hon'ble Tribunal, he was required to file CPLA before the Hon'ble Supreme Court of Pakistan, but instead of filling CPLA, he himself assumed jurisdiction of appellate Court and issued such a belated corrigendum which has nullity in the eyes of law and thus clearly and manifestly violated the Order of this Hon'ble Tribunal with impunity.
7. That the respondent is not ready to pay any heed to the order passed by this Hon'ble Tribunal, hence he is needed to be punished under the law in field.
8. That the disobedience shown towards the order passed by this Hon'ble Tribunal is deliberate, willful and contemptuous, which amounts to undermining the authority of this Hon'ble Tribunal and for that respondent is liable to be proceeded against for contempt of Court.
9. That the respondent is too berserk to obey the court order and fulfill his obligation, therefore, deserves no leniency.

- 10. That the respondent needs to be treated with iron hands and be given exemplary punishment so that, it may be served as deterrence for like-minded people.
- 11. That any other ground will be raised at the time of arguments with the permission of this Hon'ble Tribunal.

PRAYER

It is, therefore, most humbly prayed that acceptance of this petition this Hon'ble Tribunal may be pleased:

- i. to initiate Contempt of Court proceeding against the respondent and he be punished according to law on the subject; and,
- ii. to grant any other remedy to which the petitioner is deemed fit to be entitled in the circumstances of the case.

Through

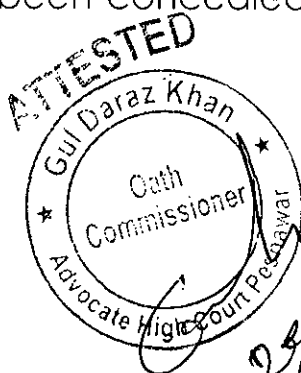
[Signature]
AKHTAR ILYAS
 ADVOCATE HIGH COURT

Petitioner/Complainant

[Signature]
CHAGAIZ KHAN
 ADVOCATE

AFFIDAVIT

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



[Signature]
Deponent

[Handwritten signature]
 29/11/2021

4

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

TESTED
45
MUNICIPALITY
MUNICIPALITY
MUNICIPALITY

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

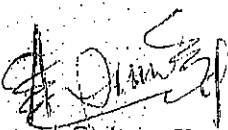
FILED

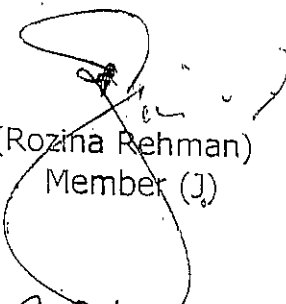
APR 11 2018
DISTRICT JUDGE
JALANDHAR

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.

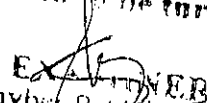
6. In view of the above factual and legal position, by acceptance of this appeal, we set aside the impugned orders and appellant stands voluntary retired from 01.07.2016 when he himself submitted application seeking premature retirement due to his health issues. In order to relieve the agony of the appellant, 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 25/-
Regent -
Total 25/-
Name of Copyist -
Date of Completion of Copy 30/9/21
Date of Delivery of Copy 30/9/21

خدمت جناب DEO صاحب مردانہ بوئیں

سائیل : فریشی خان ولد سرفراز خان سائیل نگری آماری
PST ریجر . GPS نگری

درخواست بعد از دیشا ٹریڈنگ کمپنی از میدنگلی بروئے صفد سرو سٹریٹ ہوسٹل
پٹا در گھرہ 14-9-2021 در خواست اپیدائت / سائیل

1. یہ کہ سائیل حلقہ اچھوٹیشی میں بطور PST - GPS نگری صاحبان

2. یہ کہ سائیل کو حلقہ صفدائے جبری طور پر دیشا ٹریڈنگ کیا گیا اور حلقہ سائیل
چاد لاکھ بارہ ہزار اچھوٹ سو پچاسی / 4,12,885 روپیہ کی ریکوری کا حکم
دیا گیا۔

3. یہ کہ سائیل نے حلقہ صفدائے مذکورہ حکم کو سرو سٹریٹ ہوسٹل پٹا در چیلنج کیا

اور سرو سٹریٹ ہوسٹل نے مدر فر 14-9-2021 کو سائیل کو اپیل پر
حکم صفد سنایا ہے۔ اور سائیل کی جبری دیشا ٹریڈنگ کے صفد کو حکم سنوچ
فرمایا ہے۔ در ریکوری کو بھی نفاذ نوبی قرار دیا۔ (فقہ صفد لف ہے)

4. یہ کہ سائیل کی درخواست بابت دیشا ٹریڈنگ بجاری کی ہے۔ جو سرو سٹریٹ ہوسٹل نے در سٹریٹ
دیکن سائیل کی بجاری کا بنیاد پر میدنگلی دیشا ٹریڈنگ احکامات صفد فرمایا ہے۔

5. یہ کہ بندریم درخواست صفد اس سرو سٹریٹ ہوسٹل کے صفد پر عمل در آمد کی نامہ مطلوب ہے

اپنے 11 سند عالی کہ بطوری درخواست صفد سائیل کو بروئے صفد گھرہ
14-9-2021 بجاری سرو سٹریٹ ہوسٹل پٹا در کو سائیل کو سونہ
2016-07-01 سے دیشا ٹریڈنگ فرمایا جائے اور 30 دن اندر میدنگلی

attested

حکومت نڈیہ دیشا ٹریڈنگ منجھل
[Signature]

(10)



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. 5040-615 / Dated 4/11 /2021.

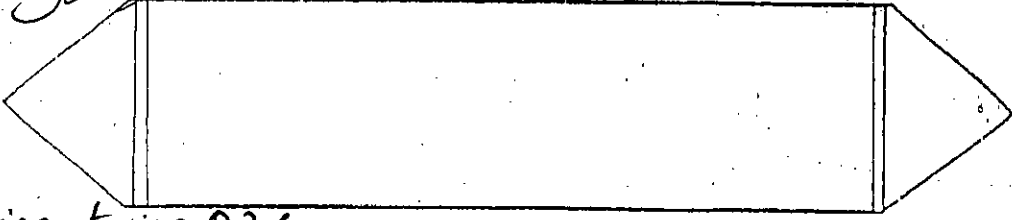
Copy for information to:-

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

Attest


بعد الت خبير ختون فوالسروس لگريونيل ريام



Complainant 2021

قرن شان بنام افتخار غني

- Nsc - / Adt

مقدمه
دعوی
جرم

باعث تحریر آنکے

حکم کا ایک کاپی

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام شمارہ کیلئے افتخار غنی

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحالیف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا سائبہ
پر و اختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانتا تو اپنے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سند ہے۔

الرقوم 22 ماہ نومبر 2021

بمقام
کے لئے منظور ہے۔
29/11/2021



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



Notification

1. WHEREAS Mr. Quraish Khan PST GPS Nagrai was proceeded against under F&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 Mandamr 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. 82-97 / 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) Mandamr 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

c/c

7/1/22

