

11.10.2022

Nemo for petitioner.

Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Farhan, Assistant for respondents present.

Counsel was informed telephonically for the date fixed

Notices be issued to appellant and his counsel for the date fixed. To come up for further proceedings on 31.10.2022 before S.B.


(Fareeha Paul)
Member (E)

01.07.2022

Petitioner present in person. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Farhan Akbar, Assistant for respondents present.

Learned Additional Advocate General seeks time for submission of implementation report. Request accepted. To come up for implementation report on 19.08.2022 before S.B.



(Fareeha Paul)
Member (E)

19.08.2022

Nemo for the petitioner. Mr. Naseer-Ud-Din Shah, Assistant Advocate General alongwith Mr. Tahir Afridi, Law Officer for the respondents present.

Representative of the respondent department submitted copy of the retirement order of the petitioner dated 15.08.2022 whereby the judgement of Service Tribunal dated 05.10.2021 has conditionally/provisionally been implemented by converting the major penalty of "removal from service" into "compulsory retirement" subject to the outcome of CPLA pending before the august Supreme Court of Pakistan. Copy of the order is placed on file. Copy thereof be also provided to learned counsel for the petitioner/petitioner as none of them is in attendance in the court today. Notice be issued to the petitioner and his counsel to attend the court on the next date. Adjourned. To come up for further proceedings on 11.10.2022 before S.B.



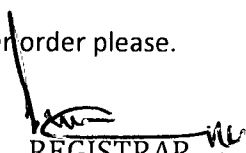


(Mian Muhammad)
Member (E)

*Counsel was informed telephonically due to non-availability of tickets, both were not put on notice.
14/09/2022*

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 160/2022

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 24.03.2022 | <p>The execution petition of Mr. Rozi Khan submitted today by Mr. Naseer Ullah Uzair 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>This execution petition be put up before to Single Bench at Peshawar on <u>31-05-2022</u>. Original file be requisite. Notices to the appellant and his counsel be also issued for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 31.05.2022 | <p>None present for the petitioner. Mr. Kabirullah Khattak, Addl. AG for respondents present.</p> <p>Since no direction was given to the respondents in this Execution petition, therefore, the respondents are directed to implement the judgment and submit implementation report on 01.07.2022 before S.B. Original file be also requisitioned.</p> <p style="text-align: right;"> Chairman</p> |



OFFICE OF THE PRINCIPAL GOVERNMENT GIRLS DEGREE COLLEGE
THANA DISTRICT MALAKAND

Ph No 0932-440428

(ggdcthanaprincipal@gmail.com)

Retirement Order

Dated 15-8-2022

In compliance with vide DHE, KPK, Peshawar letter No 13400/CA-VII/Estt:Branch/A-167/GGDC,Thana dated 13-07-2022 .The undersigned being the competent authority is pleased to accord sanction for **Compulsory Retirement** in respect of **Mr Rozi Khan Ex- Behisti BPS-03** Government Girls Degree College Thana District Malakand (**for conditional implementation of the Judgment subject to the outcome of CPLA field in Supreme Court of Pakistan**), with full pension benefits as due and admissible to him under the rules after completion of 23 years qualifying service as due **On 20-10-2013 (After Noon)** accordingly.

Necessary entry to this effect should be made in the Service Book of the concerned employee accordingly.

PROFESSOR RUBINA SHAFIQR REHMAN
PRINCIPAL
GOVT GIRLS DEGREE COLLEGE
THANA DISTRICT MALAKAND

ENDSTT: NO 408-11 /Pension File: Dated Thana the 15/8 /2022
Copy to the

- 1 Section Officer (C-IV), Higher Education, Govt of Khyber Pakhtunkhwa, Peshawar.
- 2 The Director, Higher Education, KPK, Peshawar.
- 3 The District Accounts Officer, Malakand.
- 4 The Official concerned

PRINCIPAL
GOVT GIRLS DEGREE COLLEGE
THANA DISTRICT MALAKAND

BEFORE THE HONORUABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

EXECUTION PETITION NO. 160 /2022

IN

SERVICES APPEAL NO. 1508/2018 DECIDED ON 05/10/2021

ROZI KHAN

VERSUS

Govt of KPK and Others

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Petitioner

Through


NASEER ULLAH UZAIR

&

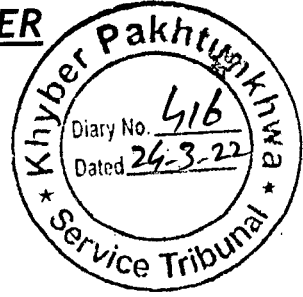

NAFEES AHMAD

Advocates Peshawar

Cell # 0315-0281110

Office: - Office NO. 2, 2nd Floor Saith Waqar Building, District
Courts Peshawar

BEFORE THE HONORUABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR



EXECUTION PETITION NO. 160 /2022

IN

SERVICES APPEAL NO. 1508/2018 DECIDED ON 05/10/2021

Rozi Khan S/O Shafi Ullah R/O Thana District Malakand.

.....PETITIONER

VERSUS

1. Govt of Khyber Pakhtunkhwa, through Chief Secretary KPK, Peshawar.
2. Director Higher Education KPK at Peshawar.
3. Section Officer Department of Establishment & Administration (Regulation Wing).
4. Principal, Government Girls Degree College Thana District Malakand.

RESPONDENTS

EXECUTION PETITION FOR THE IMPLIMENTATION
OF JUDGEMENT / ORDER DATED 05/10/2021
PASSED IN SERVICE APPEAL NO. 1508/2018 IN ITS
STRICT SENSE FOR SETTING ASIDE THE IMPUGNED
ORDER DATED: 04/01/2016 AND HENCE,
CONVERT HIS REMOVAL FROM SERVICE INTO
COMPULSORY RETIREMENT ACCORDING TO THE
JUDGEMENT OF THIS HONORABLE TRIBUNAL
MENTIONED ABOVE.

RESPECTFULLY SHEWETH,

Petitioner submits as under: -

1. That the petitioner filed a services appeal No. 1508/2018 before this Honourable Tribunal decided

on 05/10/2021 for converting the removal of service of the appellant into compulsory retirement (copies attached).

2. That service appeal No.1508/2018 was decided on 05/10/2021 after thorough discussion over the issue pertaining to conversion of Removal from Service of the appellant into Compulsory retirement (copy attached).
3. That the judgment dated: 05/10/2021 clearly elaborates that there is nothing on record which could show that the petitioner / appellant was a habitual absentee and thus decided the appeal in favor of the appellant / petitioner and converted the major penalty of removal from service into compulsory retirement.
4. That the petitioner time and again approached the respondents for implementation of the judgments of this honorable tribunal mentioned above but in vain as such the instant execution petition.
5. That the respondents are bound to implement the judgment of this honorable tribunal and to act upon the same in letter and spirit.
6. That other points be brought in the notice of this Honourable Court and discussed at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of this execution petition the respondent may very kindly be directed to implement the judgment / order dated 05/10/2021 in letter and spirit and to convert the major penalty of removal from service of the appellant / petitioner into compulsory retirement along with all back benefits.

Any other relief which this Honourable Court deem proper may very kindly be granted in favor of the petitioner / appellant, in the larger interests of justice.

Dated: 03/03/2022

عزیزان
Petitioner

Through

نہالہ علیہ
NASEER ULLAH UZAIR
Advocate

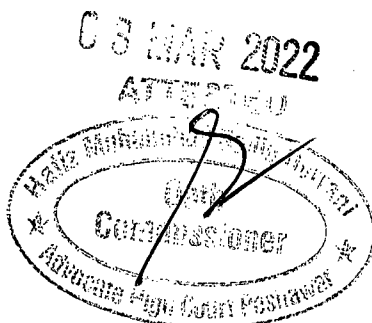
&

نافیس احمد
NAFEES AHMAD

Advocates Peshawar

CERTIFICATE; -

Certified that as per information of my client no such like Execution petition is earlier been filed before this Honourable Court.



ADVOCATE

BEFORE THE HONORUABLE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

EXECUTION PETITION NO. _____/2022

IN

SERVICES APPEAL NO. 1508/2018 DECIDED ON 05/10/2021

ROZI KHAN

VERSUS

Govt of KPK and Others

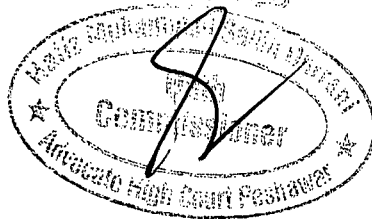
AFFIDAVIT

I, Rozi Khan S/O Shafi Ullah R/O Thana District Malakand, do hereby solemnly affirm and declare on oath that the contents of the instant petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

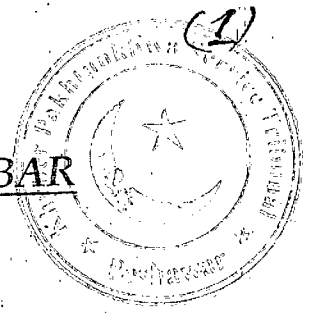
روزی خان
DEPONENT

03 MAR 2022

ATTESTED



BEFORE THE SERVICE TRIBUNAL KHYBAR
PAKHTUNKHWA AT PESHAWAR



Service appeal No. 1508 of 2018

1755

14-12-2018

Rozi Khan S/o Shafiullah R/o Thana District Malakand.

.....(Appellant)

VERSUS

- ✓1. Govt. of Khybar Pakhtunkhwa through chief Secretary at Peshawar.
- ✓2. Director Higher Education Khybar Pakhtunkhwa at Peshawar.
3. Section Officer Department of Establishment and Admn (Regulation Wing).
E.D.O, Malakand.
- ✓5. Principal, Govt. Girls Degree College, Thana District Malakand.

.....(Respondents)

Appeal Under Section 04, of the Khybar Pakhtunkhwa Service Tribunal Act, 1974, against the impugned order dated 04/01/2016.

Prayer in appeal:

On acceptance of this appeal the removal of the appellant may kindly be converted into compulsory retirement.

Any other remedy which this Honourable Tribunal deems fit in the interest of justice may also be granted in favour of the appellant.

Respectfully Sheweth:

1. That the appellant was appointed as a Behist of Govt. Girls Degree College Thana District Malakand on 20/01/1990.
2. That the appellant served as Behist of the said College from 20/01/1990 to November 2013.

Order
on 3/9/18
4

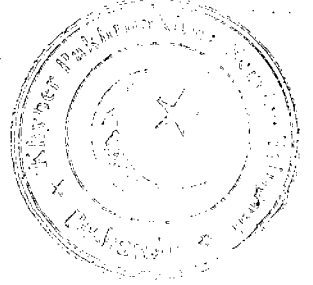
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20/12/18

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, SWAT.

Service Appeal No.1508/2018

Date of Institution ... 14.12.2018
Date of Decision ... 05.10.2021



Rozi Khan S/O Shafiullah R/O Thana District Malakand.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary at
Peshawar and three others.

... (Respondents)

Rozi Khan,
Appellant

... Pro Se.

Asif Masood Ali Shah,
Deputy District Attorney

... For respondents.

Rozina Rehman
Atiq Ur Rehman Wazir

... Member (J)

... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Appellant has filed the instant service appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 04.01.2016, whereby, he was removed from service.

2. Briefly stating the facts necessary for the disposal of the lis in hand are that appellant was appointed as Baheshti who served the Department from 20.01.1990 to November, 2013. Due to worst law & order situation in the area and severe threats to the Government servants from terrorists, appellant opted to leave his hometown. He was, therefore, proceeded against departmentally and was removed from service on the allegations of absence from duty. He filed

departmental appeal which was regretted, hence, the present service appeal.

3. We have heard Rozi Khan appellant and Asif Masood Ali Shah learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Appellant while arguing his case in person, inter-alia, submitted that the order of removal from service is against law and facts as due to law & order situation in the area, he was not able to perform his duties. He further contended that he has put in regular service for a considerable period, therefore, by taking lenient view, major punishment of removal from service may kindly be converted into major punishment of compulsory retirement.

5. Conversely, learned D.D.A submitted that appellant applied for leave which was sanctioned, where-after, he remained absent from duty w.e.f 01.12.2013 till his removal on 04.01.2016, therefore, he was served with notices and in this regard, he was also informed through publication in the newspaper but he failed to report for duty, therefore, he was removed from service according to prevailing rules.

6. From the record, it is evident that the appellant was appointed as Baheshti on 20.01.1990 at Government Girls Degree College Thana. He served the Department for a considerable period of almost 23 years. It is not denied that law & order situation in the area was worst, therefore, he applied for leave which was accordingly sanctioned. However, he did not resume duty, where-after, he was proceeded against departmentally for willful absence. However, there is nothing on record which could show that he was a habitual


RECEIVED

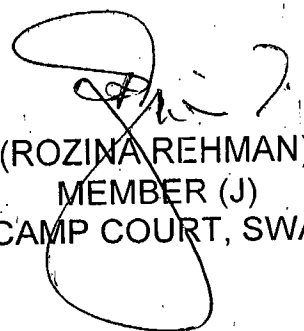
KHAIROPUR DISTRICT
 SERVICE TRIBUNAL
 KHAIROPUR


absentee. Keeping in view the last request of appellant and without touching other merits of the case, we are of the view that since the appellant has put in considerable regular service for almost 23 years, it would be appropriate keeping in view the circumstances of the case to convert major penalty of removal from service into that of compulsory retirement.

7. We, therefore, allow this appeal, set aside the impugned orders of the authority and convert his removal from service into compulsory retirement. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
05.10.2021


(ATIQU UR REHMAN WAZIR)
MEMBER (E)
CAMP COURT, SWAT


(ROZINA REHMAN)
MEMBER (J)
CAMP COURT, SWAT

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 07-02-22
Number of Words 1660
Copying Fee 18/-
Amount _____
Total 18/-
Name of Copyist _____
Date of Completion of Copy 08-02-22
Date of Delivery of Copy 08-02-22

قیمت
50 روپے

114159



ایڈووکیٹ: کبیر اللہ عزیز پسر ایڈووکیٹس اہل
بار کونسل/ایسوسی ایشن بلڈنگ 81-17-17
رابطہ نمبر: 0315028110

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: مسرور مس سہیل

| | |
|-----------|--|
| دعوی: | |
| علت نمبر: | |
| موزنہ: | |
| جرم: | |
| تھانہ: | |

منجانب:



باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام سے وکیل کے لئے کہہ لیا گیا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جو اب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے نگران کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم: 23-11-2023

کے لیے منظور ہے۔

مقام

Uzair Ullah Ullah
Advocate

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔

"A"

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

No.
Recd

E.P No. 160 / 2022

APPEAL No. 1508 of 20 18.

Rozzi Khan

Appellant/Petitioner

Versus

Govt. of KPK Through chig Secy KP Pesh.

RESPONDENT(S)

✓
Notice to Appellant/Petitioner

Rozzi Khan s/o Shafiullah R/o

Thana Distt: Malakand.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 31/5/2022 at 9:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.


Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.