.19th Oct, 2022

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Implementation report has not been filed. Last chance is given to the respondents to file implementation report on the next date positively. This case is regarding consideration for promotion of the petitioner and the said matter could only be dealt with the authorities of the petitioner and not by the respondent No.2 and 4 i.e Secretary Finance and the Headmaster, Muhammad Ajmal Khan. Therefore, those are unnecessary party and deleted from the panel of respondents. Office is directed to make entries in this respect in the memo of the execution petition as well as in the relevant register. To come up for implementation report on 08.11.2022 before S.B.

(Kalim Arshad Khan) Chairman Nemo for petitioner. Lawyers are on general strike.

Notice be issued to respondents for submission of implementation report. To come up for implementation report on 18.07.2022 before S.B.

(Rozina Rehman) Member (J)

18.07.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Asif, Assistant for the respondents present.

Implementation report not submitted. Representative of the respondents requested that time may be granted to him for submission of implementation report. Adjourned. To come up for implementation report before the S.B on 19.10.2022.

(Mian Muhammad) Member (E)

Form- A

FORM OF ORDER SHEET

Court of	
Execution Petition No	257/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.04.2022	The execution petition of Mr. Nasir Hussain submitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the relevant register and put up to the Court for proper order please. REGISTRAR
2-	Neter Mehad Nee Mehad What You	This execution petition be put up before to Single Bench at Peshawar on 7 - 06 - 20 22 . Original file be requisitioned. Notices to the parties be also issued for the date fixed: CHAIRMAN CHAIRMAN CHAIRMAN
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, **PESHAWAR**

SERVICE APPEAL NO. 873/2014

NASIR HUSSAIN

V/S EDUCATION DEPTT:

INDEX

S.N O	DOCUMENTS	ANNEXURE	PAGE
1	Memo of implementation	***********	1 – 2
2	Affidavit	**********	3
3	Judgment dt: 18.01.2022	A	4-8
4	Wakalat Nama		9

Dated: ____.04.2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK 0345/9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Implementation Petition No. 22 / 2022 In Appeal No.873/2014

PETITION	ER
GHS Bushera, Kurram Tribal District.	
Mr. Nasir Hussain, Incharge Headmaster (BPS-17),	

VERSUS

Deleted

vide order 2
Sheet Inted

19-10-22 4-

The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

The Director (E&SE) Khyber Pakhtunkhwa, Peshawar.

Mr. Muhammad Ajmal Khan, Headmaster (BPS-17) C/O of the Director (E&SE) Khyber Pakhtunkhwa, Peshawar.

.....RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING THE RESPONDENTS TO OBEY THE JUDGMENT DATED 18-01-2022 IN LETTER AND SPIRIT.

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 873/2014 before this august Service Tribunal for his antedated promotion.

 - 3- That after obtaining copy of the judgment dated 18-01-2022 the petitioner submitted the judgment mention above for its implantation to the Department concerned

2

but the respondent Department are not willing to obey the judgment dated 18-01-2022 in letter and spirit.

4- That the petitioner has no any other remedy but to file this implementation petition.

It is therefore, most humbly prayed that the respondents may be directed to implement the order/ judgment dated 18-01-2022 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

PETITIONER

NASIR HUSSAIN

THROUGH:

NOOR MOHAMMAD KHATTAK

ADVØCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

EXECUTION PETITION NO._____/2022 IN

SERVICE APPEAL No. 873/2014

NASIR HUSSAIN

VS

EDUCATION DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying **execution petition** are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.

DEPONENT BOOK

CERTIFICATE:

District

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

CERTIFICATION

ANNEX

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBL **PESHAWAR**

APPEAL NO. /2014

Mr. Nasir Hussain, Incharge Headmaster (BPS-17), GHS Bushera, Kurram Agency..... Appellant

VERSUS

- 1-The Additional Chief Secretary FATA, FATA Secretariat Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, 2-Peshawar.
- The Secretary Finance Department, Khyber Pakhtunkhwa, 3-Peshawar.
- The Director of (E&SE) Department, Khyber Pakhtunkhwa, 4-Peshawar.
- The Director of (E&SE) Department FATA, FATA Secretariat 5-Khyber Pakhtunkhwa, Peshawar.
- Mr. Mohammad Ajmal Khan, Headmaster (BPS-17), C/O 6-Director FATA (E&SE) Department, FATA Secretariat, Wrasak Road Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 26.2.2013 WHEREBY JUNIOR COLLEAGUE OF THE APPELLANT i.e. RESPONDENT No.6 HAVE BEEN REGULARLY PROMOTED TO THE POST OF HEADMASTER (BPS-17) WHILE THE APPELLANT HAS BEEN IGNORED WITHOUT ANY REASON AND CLEAR JUSTIFICATION AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF **NINETY DAYS**

AYER:

That on acceptance of this appeal the respondents may be directed to Consider the appellant for regular promotion to the post of Headmaster (BPS-17) from the date when the respondent No.6 was promoted to the post of Headmaster (BPS-17) 26.2.2013 with all consequential i.e. w.e.f. benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R.SHEWETH: ON FACTS:

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNA

Service Appeal No. 873/2014

Date of Institution ...

05.06.2014

Date of Decision

18.01.2022

Mr. Nasir Hussain, Incharge Headmaster (BPS-17), GHS Bushera, Kurram Agency.
... (Appellant)

VERSUS

The Additional Chief Secretary FATA, FATA Secretariat Warsak Road, Khyber Pakhtunkhwa, Peshawar and others. (Respondents)

Noor Muhammad Khattak, Advocate

For Appellant

Muhammad Riaz Khan Paindakheil, Assistant Advocate General

For respondents

AHMAD SULTAN TAREEN ATIQ-UR-REHMAN WAZIR

CHAIRMAN

MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):-

This single judgment

shall dispose of the instant service appeal as well as the following connected service appeals, as common question of law and facts are involved therein.

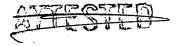
- 1. Service Appeal bearing No. 933/2013 titled Nasir Hussain
- 2. Service Appeal bearing No. 934/2013 titled Dildar Hussain
- 3. Service Appeal bearing No. 874/2014 titled Dildar Hussain

02. Brief facts of the case are that the appellant joined Education Department as Senior English Teacher (Technical-BPS-16) vide order dated 01-04-1987. Vide order dated 30-03-2011, the appellant was posted as Head Master (BPS-17) in his own pay and scale and before this the appellant was also awarded selection grade (BPS-17) vide order dated 21-01-2009. Before merger of SET technical,

ATTESTED

general and science, in the seniority list prepared for SET Technical, the name of the appellant was at serial No. 73 of the seniority list issued on 30-06-2007. Because of different seniority lists of SET technical, science and general, SET who belong to General and Science cadre had been promoted to BPS-17 post on regular basis, while the SET who belong to technical cadre were left out in such promotions. Feeling aggrieved, other colleagues of the appellant filed a writ petition in Peshawar high court for merging the seniority list, which was accepted and in pursuance the respondents merged the seniority list and issued a combined seniority list vide order dated 30-06-2010, but name of the appellant was not included in such seniority list. feeling aggrieved, the appellant filed departmental appeal, which was not responded, hence the instant appeal with prayers that the respondents may be directed to include the name of the appellant at a right place in the list of SET issued vide notification dated 30-06-2010.

- 03. Learned counsel for the appellant has contended that not including the name of the appellant in the combined seniority list of SETs issued on 30-06-2010 is against law, fact and norms of natural justice, hence is liable to be set aside; that the appellant has not been treated in accordance with law, hence his rights secured under the Constitution has badly been violated; that inspite of senior most employee of the respondents department and having more than 25 years service at his credit, the appellant name was ignored in the combined seniority list of SETs; that many colleagues and junior colleagues of the appellant have been regularly promoted on the post of head master, but the appellant has been ignored in such promotions despite the seniority position under the pretext that his name has not been included in the combined seniority list.
- 04. Learned Assistant Advocate General for the respondents has contended that the appellant has been working against the post of SET (Technical) and was adjusted against the post of head master in his own pay and scale vide order



7

dated 30-03-2011, therefore plea of the appellant regarding his promotion and adjustment against the post of head master in BPS-17 is against the facts and notification dated 30-03-2011; that cadre of the appellant is basically SET(Technical), therefore, the respondents department has prepared a separate seniority list for the said cadre, hence being a stranger and out cadre official, the appellant cannot be included in the seniority list pertaining to the SET General and Science, hence he has been rejected for the grant of BPS-17; that it is correct that a combined seniority list has been issued by the respondents vide order dated 30-06-2010, wherein the name of the appellant could not be included due to the non regularization of his service against SET Technical post on the ground that seniority against a post is normally granted from the date of passing of professional qualification/service regularization against the post in question.

05. We have heard learned counsel for the parties and have perused the record.

O6. Record reveals that there were three groups in one cadres of SET i.e. SET Technical, General and Science and separate seniority lists were maintained for each groups. The appellant being SET Technical was at serial No. 73 of the seniority list of SET Technical issued on 30-06-2007. Certain colleagues of the appellant filed Writ Petition No. 870/2010 for merger of the seniority list of all the three groups, which was allowed by the High Court vide judgment dated 05-03-2010. In compliance, the respondents issued a combined seniority list on 30-06-2010, where name of the appellant was not included, against which the appellant filed departmental appeal which was also not taken into consideration. Judgment of the honorable High Court is very clear having no ambiguity and ignoring name of the appellant from joint seniority list is not understandable. Placed on record is a promotion order dated 26-02-2013, where colleagues and junior of the appellant is shown as promoted as head master in BPS-17, but the appellant is left out for no obvious reason. Representative of the respondents later on realized





(8)

that the name of the appellant was erroneously not included in the seniority list, which will be included in the forthcoming seniority list.

07. In view of the foregoing discussion, the instant service appeal as well as connected service appeals are accepted. Respondents are directed to include name of the appellants in appropriate place in the seniority list issued on 30-06-2010 and to consider him for promotion from the date, his juniors were promoted. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED 18.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN

(ATIQ-UR-REHMAN WAZIR) MEMBER (E)

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VAKALATNAMA



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CASE NO:	OF 2022
Nasir Hussain	(APPELLANT)(PLAINTIFF) (PETITIONER)
VER	RSUS
Education Deft	(RESPONDENT)
compromise, withdraw or remy/our Counsel/Advocate is without any liability for his deengage/appoint any other Advocate authorize the said Advocate.	natitute NOOR MUHAMMAD nawar to appear, plead, act, fer to arbitration for me/us as in the above noted matter, efault and with the authority to vocate Counsel on my/our cost. ocate to deposit, withdraw and sums and amounts payable or
Dated/2022	
	CLIENTS ACCEPTED NOOR MUHAMMAD KHATTAK
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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESIIAWAR. JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. 3.8

PESHAWA	kR.	3.B
No.		
Appeal No. E. P. 257		
Nasix Hussain &C) Appellant/Petiti	ioner
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Resp	ondent No. (4)	•••••
Notice to: Mr. Muhammad A Ima C/O of The Director (I Khan, Headm	laster (BPS-17)
c/o of The Director (E&SE) KPL-	Poshawar.
WHEREAS an appeal/petition under the p Province Service Tribunal Act, 1974, has been pre		
the above case by the petitioner in this Court and n	otice has been ordered to	issue. You are
hereby informed that the said appeal/petition is *onat <u>8.00 A.M.</u> If y appellant/petitioner you are at liberty to do so on t	ou wish to urge anythin	ig against the
the case may be postponed either in person or b	y authorised representat	tive or by any
Advocate, duly supported by your power of Attorno	ey. You are, therefore, requ	uired to file in
this Court at least seven days before the date of		
alongwith any other documents upon which you		
default of your appearance on the date fixed an		entioned, the
appeal/petition will be heard and decided in your al	Jsence.	

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Day of.....

Note:

Registrar, , Khyber Pakhtunkhwa Service Tribunal, Peshawar.

The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.

2. Always quote Case No. While making any correspondence.

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

No.	X.R
	Appeal No. E. P. No. 25.7.25.9.3 260. of 282
	Versus
	Respondent No.
Notice to:	- The Director (EBSE) KPK Peshewar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at <u>8.00 A.M.</u> If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such a ddress your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of

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-Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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Always quote Case No. While making any correspondence.

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	Khyber Pakhtun	khwa Service Tribunal,

The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.

Always quote Case No. While making any correspondence.

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Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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

PESHAWAR.

No. APPEAL No E.P. No. 257, 259 of 20 17 Natio Hussain & O other Apellant/Petitioner the Peny (EDSE) MM Pishowas RESPONDENT(S) Respondent No. 4

Appellant/Petitioner M8. Muha J Ajmal Whan
Headmostex (BPI-17) (10 CF the
Director (I-DIE) Will Pethouras. Notice to Appellant/Petitione Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on at 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. for Implementation

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	COMPLEX (OLD), KH	YBER ROAD, SB
	PESHAWAR.25	
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Peshawar.

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Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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

	PESHAWAR.
No.	APPEAL NO E. P. NO. 257,259,200 of 20 2? NOSTR HUSSIM & (2) others
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	to Appellant/Petitioner the Director (ERSE)
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Registrar,

Khyber Pakhtunkhwa Service Tribunal,

Peshawar.