


FORM OF ORDER SHEET

Court of _____

C.O.C application No. 662/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	03/11/2022	<p>The C.O.C application of Mr. Bakht Rawan submitted today by Mr. Faisal Shahab Advocate. Original file be requisitioned. It is fixed for hearing before touring Single Bench at Swat on _____. Notices be issued to appellant and his counsel.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA,
PESHAWAR.

Co-C-Apple no. 662/2022
Service Appeal No ..870... of 2019

Bakth Rawan

Versus

Govt. of kpk through Chief Secretary

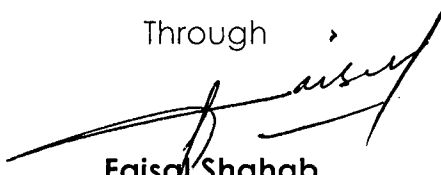
& others.

INDEX

S.#	Description of Documents	Annexures	Pages
1.	PETITION	---	1 to 2
2.	Affidavit	---	3
3.	Memo of addresses	---	4
6.	Copy of order judgment dated 07/04/2022	"A"	5 to 11
7.	copy of application dated 03/06/2022	"B"	12
10.	Wakalat Nama	---	13

Appellant

Through



Faisal Shahab

Advocate High court.

1

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTOONKHWA, PESHAWAR

C.O.C NO 662 /2022

IN
Service Appeal No 870 of 2019

Khyber Pakhtoonkhwa
Service Tribunal

Diary No. 1850

Dated 03/11/2022

Bakht Rawan, Principal (R) Government Degree College, Chakesar, District Shangla.

.....Petitioner

VERSUS

1. Government of Khyber Pakhtoon Khwa through Chief Secretary at Peshawar.
2. Secretary Higher Education Department, Government of KPK.
3. Director Higher Education, Department Peshawar.

.....Respondent

Application under article 204 of constitution of Islamic republic of Pakistan 1973 read with section 3 & 4 of contempt of court ordinance 2003, for initiating proceeding against the respondent in accordance with the ibid law for non compliance of the order/judgment dated :07/04/2022 in service appeal no; 870/2019 of this hon'ble court whereby the respondent were directed that pensionary benefits of the appellant/ petitioner shall be calculated by considering him as retired from the post of principal (BPS 19) with all back benefits but the respondents are irrationally and illegally reluctant and intentionally do not comply with the order/judgment of the august court.

Respectfully Sheweth:

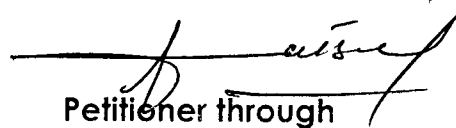
1. That, the petitioner filed service appeal number 870/2019 before this hon'ble court on 2/7/2019.
2. That this hon'ble court after comprehensive and proper judicial proceeding allowed the above mentioned appeal vide order/judgment

dated 07/04/2022. **(Copy of order/judgment dated 07/04/2022 is annexure A)**

3. The vide order/judgment dated; 07/04/2022 this hon'ble court categorically directed the respondents that pensionary benefits of the appellant/ petitioner shall be calculated by considering him as retired from the post of principal (BPS 19) with all back benefits.
4. That the petitioner after getting the attested photocopy of the said order/judgment forwarded / sent it, along with an application dated: 03/06/2022 for further necessary action to the respondent. **(Copy of application dated 03/06/2022 is annexure B)**
5. That the respondents were legally and morally bound to comply with the directions and implement the order/ judgment dated: 07/04/2022 of this hon'ble court but they did not.
6. That the respondents' reluctance and failure to implement the order/judgment dated: 07/04/2022 and complied with the direction of this hon'ble court amount to contempt of court and make them liable to be dealt with as per law and regulation on the subject.

It is therefore very humbly prayed that on acceptance of this petition the respondent may kindly be directed to comply with the direction of this hon'able court and implement the order judgment dated: 07/04/2022

Contempt of court proceedings may also be initiated against the respondents for their action and inaction.



Petitioner through

FAIAL SHAHAB

Advocate

3

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA,
PESHAWAR.**

Service Appeal No of 2022.

Bakth Rawan, Principal (R) Government Degree College, Chakesar,
District Shangla.

.....**Petitioner**

VERSUS

Government of Khyber Pakhtoon Khwa through Chief Secretary at
Peshawar & others.

.....**Respondents**

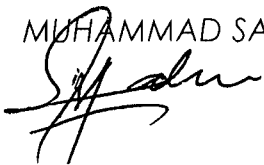
AFFIDAVIT

I, Bakth Rawan, Principal Government Degree College, Chakesar, District
Shangla, through attorney Muhammad Salman do hereby solemnly
affirm and declare on oath that all the contents of this Service Appeal are
true and correct to the best of my knowledge and belief, and nothing has
been concealed from this Honorable Court.

DEPONENT

Bakth Rawan

THROUGH ATTORNEY
MUHAMMAD SALMAN



**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA,
PESHAWAR.**

Service Appeal No of 2022.

Bakth Rawan, X Principal Government Degree College, Chakesar,
village and post office chakesar, District Shangla.

.....Petitioner

VERSUS

Government of Khyber Pakhtoon Khwa through Chief Secretary at
Peshawar and others.

.....Respondents

ADDRESSES OF THE PARTIES

ADDRESS OF THE APPELLANT

Bakth Rawan, X Principal Government Degree College, Chakesar,
District Shangla.

CNIC: 15602-0176884-1

Cell: 0343-9110023

ADDRESSES OF THE RESPONDENTS

4. Government of Khyber Pakhtoon Khwa through Chief Secretary at Peshawar.
5. Secretary Higher Education Department, Government of KPK.
6. Director Higher Education, Department Peshawar.

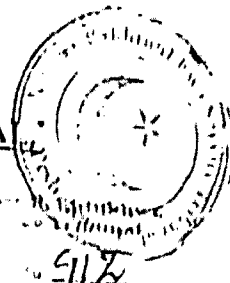


APPELLANT

Bakth Rawan

Annexure A

BEFORE THE HON'BLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR



Service Appeal No. 370 of 2019

Bakht Rawan, Principal Government Degree College Chakesar,
District Shangla. Date: 02-7-2019

Appellant

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Chief Secretary at Peshawar.
- 2) Secretary Higher Education Department, Government of KPK at Peshawar.
- 3) Director Higher Education Department, Peshawar.

Respondents

APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974.

Friday
Chakesar
27/11

Respectfully Sheweth:

1. That the appellant is a regular employee of Higher Education Department, presently posted as Principal Government Degree College Chakesar, District Shangla.
2. That one Mr. Namdar Khan, Lecturer Government Degree College, Chakesar was proceeded under the E&D Rules for his alleged illegal absence from duty by the competent authority.

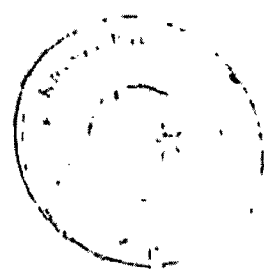
Attested
J

ATTESTED
Principal
Service Tribunal
Peshawar

Service Appeal No. 870/2019

Date of Institution . 02.07.2019

Date of Decision ... 07.04.2022



Bakht Rawan, Principal Government Degree College Chakesar,
District Shangla.
(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary at
Peshawar and two others.
(Respondents)

DR. ADNAN KHAN
Advocate

MR. NOOR ZAMAN KHATTAK,
District Attorney

MR. SALAH-UD-DIN
MS. ROZINA REHMAN

For appellant.

For respondents.

MEMBER (JUDICIAL)
MEMBER (JUDICIAL)

JUDGMENT:

Attested



[Handwritten signature]

SALAH-UD-DIN, MEMBER:-

Precise facts are that the appellant, while posted Incharge Principal/DDO and later on as Principal Government Degree College Chakesar Shangla, had allowed Namdar Alam Lecturer to proceed to Qatar several times without obtaining proper leave as well as NOC and had also released salaries for the period during which Namdar Alam had remained absent from duty. On conclusion of the inquiry, major penalty of reduction to lower post for a period of three years was imposed upon the appellant vide

ATTESTED

[Handwritten signature]
MEMBER
GOVERNMENT OF KHYBER PAKHTUNKHWA
PESHAWAR

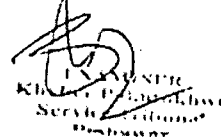
illegally victimized for no fault on his part; that the appellant was proceeded against for wrongdoings of the lecturer Namdar Alam, who was initially removed from service vide order dated 11.09.2018 but the said order was clandestinely withdrawn vide order dated 19.09.2018 and later on, he was not only reinstated but was also promoted as Assistant Professor vide order dated 08.10.2019.

4. On the other hand, learned District Attorney for the respondents has argued that the appellant being Principal of the concerned college was required to have reported absence of the concerned lecturer to the high-ups but he kept mum and assisted the concerned lecturer in withdrawing of his salaries for the period during which he remained absent from duty; that a regular inquiry was conducted against the appellant and he was provided opportunity of personal hearing as well as self defense; that in view of material collected against the appellant during the inquiry, he was found guilty of charges of inefficiency and misconduct, therefore, he has rightly been awarded major penalty of reduction to lower post for a period of three years.

5. We have heard the arguments of learned counsel for the appellant as well as learned District Attorney for the respondents and have perused the record.

6. A perusal of the record would show that one Mr. Namdar Alam Lecturer in Pashto in Government Degree College Chakesar Shangla, was proceeded against on the allegations that several visits to Qatar were made by him without

ATTESTED


 DISTRICT ATTORNEY
 KH. P. D. SHANGLA
 Service Tribunal
 Pashtunistan

obtaining ex-Pakistan leave as well as No Objection Certificate. The appellant being the Principal of the concerned college was also proceeded against departmentally on the allegations that he had allowed lecturer Namdar Alam to proceed abroad without obtaining ex-Pakistan leave as well as NOC and had also released salaries for the period during which Namdar Alam remained absent from duty. It is evident from the record that the issue of visiting of lecturer Namdar Alam to Qatar surfaced, when one Niaz Ahmed S/o Nazir Khan resident of Chekesar District Shangla lodged a complaint, alleging therein that Namdar Alam had been working in Qatar with effect from 2015 to 2017 in split tenures and was also in probation of Qatar residence permit. Disciplinary action was initiated against lecturer Namdar Alam and on conclusion of the inquiry, major penalty of removal from service as well as recovery of salaries for the unauthorized period was awarded to lecturer Namdar Alam vide Notification bearing No. SO(C-II)/HED/12-16/309-12/2018 dated 11.09.2018. The aforementioned notification dated 11.09.2018 was, however withdrawn vide No. SO(C-II)/HED/12-16/2017/Namdar Alam/Pashto/839-42 dated 19.09.2018, without mentioning any reason for its withdrawal. Later on vide Notification, No. SO(C-II)/HED/12-16/1109-13/2018 dated 22.02.2019, which is almost a verbatim copy of the earlier Notification dated 11.09.2018, the same major penalty of removal from service as well as recovery of salaries for the unauthorized period was again awarded to lecturer Namdar Alam. Similarly, the appellant was also awarded major penalty of reduction to

Attested


ATTESTED


 Secretary
 Government of Punjab

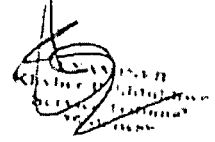
lower post for a period of three years vide Impugned Notification dated 22.02.2019.

7. Vide Notification No. SO (C-II)/HED/12-16/2018 dated 30.05.2019, the penalty awarded to lecturer Namdar Alam was modified and minor penalty of deduction of two increments for two years and recovery of salaries for the unauthorized absence period was awarded to him. Not only the penalty awarded to him was modified, he was also promoted to the post of Assistant Professor (BPS-18) and posted in the same college vide order dated 18.10.2019. On the other hand, the penalty awarded to the appellant was also challenged by him through filing of review petition to the concerned Authority but the same was not at all responded. Disciplinary action against the appellant was the outcome of the alleged wrong doing of Lecturer Namdar Alam, however he has been awarded minor penalty and has also been promoted, while the appellant has been saddled with major penalty, which clearly show double standards on part of the competent Authority.

8. The appellant was notified as Incharge Principal/DDO of the concerned college on 01.03.2016, however lecturer Namdar Alam had already been granted earned leave on half pay with effect from 01.03.2016 to 30.06.2016 by the previous Principal Sardar Alam. The visiting of lecturer Namdar Alam to Qatar without NOC and sanctioned ex-Pakistan leave, was wrong on the part of lecturer Namdar Alam. Nothing is available on the record, which could show that he was allowed

Attested
★

ATTESTED



by the appellant to proceed abroad without obtaining ex-Pakistan leave as well as NOC. Moreover, the available record does not show that incriminating material was put to the appellant in the shape of evidence and he was provided opportunity of cross-examination. The appellant has specifically alleged in ground-D of his appeal that the inquiry officer had not even recorded his statement. In response, the respondents have not annexed any documentary proof alongwith their comments, which could show that the statement of the appellant was recorded during the inquiry.

Affected
★

9. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned order. We have been informed during the course of arguments that the appellant has retired from service, therefore, it is directed that the pensionary benefits of the appellant shall be calculated by considering him as retired from the post of Principal (BPS-19) with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
07.04.2022

(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT SWAT

(ROZINA REHMAN)
MEMBER (JUDICIAL)
CAMP COURT SWAT

Certified to be true copy

Stamp: *Swat District*
Service Tribunal
Performance

Date of Presentation of Application 03/06/22
Number of Pages 2800
Copies 30/-
Fees 30/-
Date of Receipt of Application 06/06/22
Date of Delivery of Copy 06/06/22

-To

The Director,
Higher Education,
Khyber Pakhtunkhwa, Peshawar.

Subject: **RECALL OF STATUS/RE- CALCULATION OF PENSIONARY & OTHER BACK BENEFITS**
W.E.F. 22/02/2019.

Respected Sir,

Enclosed please find herewith a copy of decision by the Hon'ble Khyber Pakhtunkhwa, Services Tribunal Peshawar at Camp Court Swat, on 07/04/2022 in appeal No: 870/2019, filed by the undersigned against the illegal imposition of major penalty of reduction to lower post for three years to (Assistant Professor BPS-18) from the status of Principal, GDC; Chakesar, Shangla (Associate Professor BPS-19).

After my departmental appeal was not entertained, there remained the only way to turn to some legal forum which is the Services Tribunal. The appeal was instituted on 02/07/2019 and decided after thorough probe on 07/04/2022. The contents of the verdict are self-explanatory. The department order has been set aside and my status as to be the Principal at the time of retirement (BPS-19) with further my pensionary and other back benefits to be calculated, considering to have retired from the post of Principal(BPS-19), have been directed.

Now, I request you kindly to honour the decision of the Khyber Pakhtunkhwa, Services Tribunal, Peshawar, Swat Camp Court, revise the retirement order, re-calculate my pensionary benefits @ BPS-19 and recoup less payment of salaries, allowances etc (w.e.f. 22/02/2019 to 19/11/2019).

Yours Obediently,

Sd.

BAKHT RAWAN,
PRINCIPAL (R),
GDC; CHAKESAR,
DISTT: SHANGLA.
0343 9110023

bakhtrawan471@gmail.com

Dated: 03/06/2022.

Postal Address: Village & P.O. Chakesar, Distt: Shangla.

Copy of the above is forwarded for information to:

The Secretary, Higher Education, Khyber Pakhtunkhwa, Peshawar.

PRINCIPAL (R),
GDC; CHAKESAR,
DISTT: SHANGLA.

BEFORE SREVICE TRIBUNAL KHYBER PAKHTUNKHWA

WAKALAT NAMA

COC NO. _____ 2022

Titled:

Bakht Rawan

BL-19-1652

VERSUS

Govt of KPK Through Chief Secretary & others


Hasan Said S/o Minhaj Mian, Resident of Mohallah Guli Gram Saidu Sharif Tehsil Babuzai, District Swat do hereby appoint Faisal Shahab Advocate, High Court, in the above mentioned case, to do all or any of the following acts, deeds and things:-

- 1) To appear, act and plead for me/us in the above-mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
- 2) To sign and verify and file, petitions, appeals, affidavits and applications as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3) To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.
- 4) To do any act necessary or ancillary to the above acts, deed and things.
- 5) To appoint any other counsel to do any/all of the acts, deeds and things.
- 6) I/we, shall appear in the court/tribunal on every date of hearing for assistance and if due to my/our non appearance, any adverse judgment/order/decree is passed, they will not be held responsible.

IN WITNESS whereof I/we have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Signature of Executants(s)

ATTESTED & ACCEPTED BY:


FAISAL SHAHAB Advocate,
High Court
Cell # 0347-9514582

Office room No. S-3, Third floor, Continental Plaza, Makanbagh, Mingora, Swat,