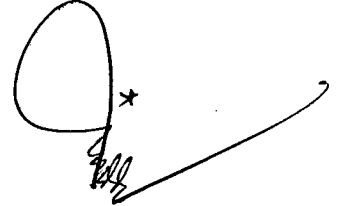


15.07.2022

Junior of learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Implementation report not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission of implementation report. Adjourned. To come up for implementation report on 13.09.202 before S.B.



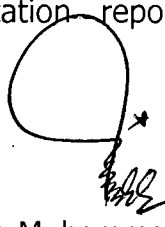
A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line that extends to the right and then curves downwards.

(MIAN MUHAMMAD)  
MEMBER(E)

Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 149/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	17.03.2022	<p>The execution petition of Mr. Arif Shah submitted today by Mr. Anwar Shah 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>19-05-2022</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>
	19.05.2022	<p>Junior to counsel for the petitioner present.</p> <p>Notice of the present execution petition be issued to the respondents for submission of implementation report. To come up for implementation report on 15.07.2022 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member (E)</p>

D

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Implementation Application No. 149 /2022

In Service Appeal No.286/2017

(Service Appeal Remitted on 8-9-2021 with direction to conduct proper Inquiry in accordance with law/rules)

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 392

Dated 17/3/2022

Arif Shah son of Maqbool Shah

Ex-Junior Trade Instructor (BPS-10 in Government Technical Institute, Ekkaghund under Director of IMTE FATA Secretariat, Warsak Road, Peshawar, presently Residing in Village Nahaqi P.O. Daudzai Tehsil and District Peshawar.....Applicant

Versus

1. The Additional Chief Secretary FATA, Fata Secretariat, Warsak Road, Peshawar
2. The Director of Industries, Mineral and Technical Education. Fata Secretariat, Warsak Road, Peshawar
3. The Deputy Director, Industries, Mineral and Technical Education FATA, Fata Secretariat, Warsak Road, Peshawar
4. The Principal Government Technical Institute, Ekkaghund, Mohmand Agency.....Respondents

Application for implementation of Judgment/Order dated 8<sup>th</sup> September 2021 passed by this Honourable Tribunal in above titled Service Appeal in which certain direction were issued to Respondents to conduct proper Inquiry in accordance with law/rules, for which the Respondents failed to conduct any such type of Inquiry after passing of a considerable time, hence the instant Implementation Petition.

*Respectfully Sheweth,*

1. That Applicant Service Appeal bearing No.286/2017 was disposed off/remitted by this Honourable Tribunal to Respondents on 8<sup>th</sup> September 2021 in which certain directions were issued to Respondents to conduct proper Inquiry in accordance with law/rules, the concluding para of the same judgement/Order is reproduced below :-

***“05. In light of the above discussion, the matter is remitted back to the Respondents with direction to conduct proper Inquiry in accordance with law/rules. In view of peculiar facts and circumstances of the case, reinstatement of the appellant shall be subject to the outcome of the inquiry. The appeal is disposed of accordingly.”***

Attested copy of this Judgement/Order dated 8-9-2021 passed by this Hon. Tribunal attached as Annexure-I

2. That this Honourable Tribunal sent judgements/order dated 8<sup>th</sup> September 2021 officially soon after passing the judgement/order, but since then, a considerable period has been elapsed, but the Respondents have not yet finalized/conducted any Inquiry nor contacted any type of communication with the Petitioner in writing till filing of the instant Implementation Application which tantamount to disobedience and thus, the Respondents failed to take any real step in accordance with direction of this Hon. Tribunal.
2. It is, therefore, prayed that Respondents may graciously be ordered to apprise the causes of failure in finalizing any type of Inquiry as per Law/Rules. In such like situation, the Applicant deserves to be reinstated in Service with all back benefits of service.

Petitioner

Through

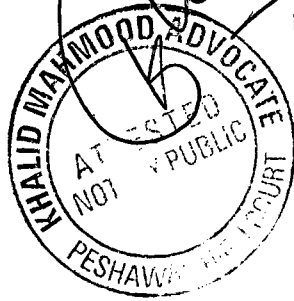
*Anwar Shah*  
15/03/2022  
**Anwar Shah**

**Advocate.**

12, K-3, Phase-III, Hayatabad, Peshawar  
Phone 5817132, 5818446  
Email: [isaac.ali.qazi@gmail.com](mailto:isaac.ali.qazi@gmail.com)  
[www.isaaclaw.org](http://www.isaaclaw.org)

Affidavit

I, Arif Shah son of Maqbool Shah, Ex-Junior Trade Instructor (BPS-10 in Government Technical Institute, Ekkaghund under Director of IMTE FATA Secretariat, Warsak Road, Peshawar, presently Residing in Village Nahaqi P.O. Daudzai Tehsil and District Peshawar solemnly affirm and declare on oath that the contents of the instant Implementation Application are true and correct and that nothing has been concealed intentionally from this Honourable Tribunal.



Deponent

①

④

Before the Khyber Pakhtunkhwa Service  
Tribunal Peshawar

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No. 286 /2017

Diary No. 291

Arif Shah son of Maqbool Shah

Dated 27-3-2017

Ex-Junior Trade Instructor (BPS10) in Government  
Technical Institute, Ekkaghund under Director of IMTE  
FATA Secretariat, Warsak Road, Peshawar. Presently  
Residing in Village Nahaqi P.O. Daudzai Teh/Distt  
Peshawar.....Appellant

Versus

1. The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar
2. The Director of Industries, Mineral and Technical Education FATA Secretariat, Warsak Road, Peshawar
3. The Deputy Director, Industries, Mineral and Technical Education FATA Secretariat, Warsak Road, Peshawar
4. The Principal Government Technical Institute Ekkaghund, Mohmand Agency....Respondents

Filed to-day  
Registrar

1/3/17. **Service Appeal** under Section 4 of the KPK Service Tribunal Act 1974 against the Rejection of Appellant's Department Appeal dated 12-6-2014 addressed to the Respondent-2 available in Earlier Service Appeal No.1131/2014 which Service Appeal was remitted and remanded by this Honourable Tribunal to the Departmental Appellate Authority for decision within stipulated period of one month, hence, on failure in stipulated period, Appellant after expiry of the time frame, filed Implementation Application vide No. 109/2016 on 27-6-2016, thereafter the Respondents rejected the Departmental Appeal delayed by more than 7 months and was enclosed with Compliance Report, which was disposed off by this Honourable Tribunal on 3-3-2017 in Implementation Petition No. 169/2016. (Attested Copy of this Honourable Tribunal dated 3-3-2017 is available as Annexure-XII.

Sd/-

(5) (43)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 286/2017

Date of Institution ... 27.03.2017

Date of Decision ... 08.09.2021

Arif Shah son of Maqbool Shah Ex-Junior Trade instructor (BPS-10) in Government Technical Institute, Ekkaghund under Director of IMTE FATA Secretariat, Warsak Road, Peshawar, Presently Residing in Village Nahaqi P.O Daudzai Teh/Distt. Peshawar

... (Appellant)

VERSUS

The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar and three others.

... (Respondents)

SYED NOMAN ALI BUKHARI  
Advocate

... For Appellant

ASIF MASOOD ALI SHAH,  
Deputy District Attorney

... For Respondents

**SALAH-UD-DIN**  
**ATIQ-UR-REHMAN WAZIR**

**MEMBER (JUDICIAL)**  
**MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQ-UR-REHMAN WAZIR MEMBER (E)**:- Brief facts of the case are that the appellant was initially appointed as Junior Trade Instructor (BPS-10) at Government Technical College vide order dated 30-05-2012. The appellant served in the said institution until April 2014, when his services were terminated on the allegations of fake appointment orders, against which the appellant filed service appeal No. 1311/2014, which was decided on 06-05-2016 and his case was remitted to the departmental appellate authority with direction to decide departmental appeal of the appellant. The appellate authority decided his appeal vide order dated 09-12-2016 and declared his appointment as null and void being fake and bogus. The appellant again filed departmental appeal dated 03-03-2017 against rejection order

dated 09-12-2016, which was not responded, hence the appellant filed the instant service appeal instituted on 28-03-2017 against the rejection of his departmental appeal by the departmental appellate authority with prayer that he may be re-instated in service with all back benefits from 1<sup>st</sup> April, 2014.

02. Learned counsel for the appellant has contended that this Tribunal vide Judgment dated 06-05-2016 had ordered to decide departmental appeal of the appellant within one month, but the same was not decided within the stipulated time frame, rather it was decided on 09-12-2016 with a delay of more than seven months, which was illegal and against the spirit of judgment of this Tribunal; that during the proceedings on departmental appeal, the appellant was not afforded any opportunity to defend his cause, hence he was again condemned unheard; that the appellant was a bonafide civil servant, who had served for 22 months and obtained salary for the period, which is evident from record; that termination of the appellant without serving any charge sheet/statement of allegation and showcause notice is illegal and contrary to the norms of natural justice; that the respondents violated 24-A of the General Clauses Act, 1897 as well as the established principles of Audi alterum partum, besides the well known judgment of the Federal Shariat Court reported as PLD 2010 FSC-1. The learned counsel added that it has been categorically denied by the appellant that no recovery of the salary was made from the appellant; that in view of the facts and grounds, it is abundantly clear that legal as well as fundamental rights of the appellant was infringed by the respondents, hence this sole ground is enough for his re-instatement in service with all back benefits.

03. Learned Deputy District Attorney appearing on behalf of respondents has contended that the appellant has no locus standi and cause of action as he has exhausted all his remedies in this respect; that it has been established that he procured his employment through illegal and fraudulent means by preparing fake and bogus official letters; that the appointment letters has been declared as bogus and fabricated by Forensic Science Laboratories during the course of inquiry conducted by




the anti-corruption establishment; that after judgment of this honorable tribunal dated 06-05-2014, the appellant was duly called vide order dated 14-11-2016 to attend the office for personal hearing on 21-11-2016 but the appellant failed to appear and the competent authority rejected his departmental appeal vide order dated 09-12-2016; that the appellant was neither appointed as junior trade instructor nor any order was issued to this effect, rather the appellant produced fake and bogus orders and to this effect and proper inquiry was conducted, which has declared such appointment as fake and bogus.


04. We have heard learned counsel for the parties and have perused the record. Main contention of the appellant is that the appellant has rendered more than 22 months of service and salaries to this effect have also been credited to the appellant, but he was condemned without providing him opportunity of defense. The respondents in their comments have not annexed any document to show that the statement of the appellant was recorded during the proceedings. Annexed with the appeal are certain salary slips, showing that the appellant had received salary for certain months. The controversy in question could not be settled through proper legal inquiry, which has not been done, therefore, the impugned orders are not sustainable in the eye of law.

05. In light of the above discussion, the matter is remitted back to the respondents with direction to conduct proper inquiry in accordance with law/rules. In view of peculiar facts and circumstances of the case, reinstatement of the appellant shall be subject to the outcome of the inquiry. The appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
08.09.2021

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

Consigned to be file cost  
Khalid  
Secretary  
Islamabad

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

~~Date of Presentation of Application~~ 15/8/21  
~~Number of Words~~ 1202  
~~Copying Fee~~ 14/-  
~~Urgent~~ 13/-  
~~Total~~  
~~Name of Copyist~~  
~~Date of Completion of Copy~~ 28/8/21  
~~Date of Delivery of Copy~~ 28/8/21



"A"

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

No. *Recd*

APPEAL No. *E.P. 149*

*SB*  
of 20 *22*

*Avif Shah*

Appellant/Petitioner

Versus

*Additional Chief Secy FATA, Fata Secretariat, Warsak Road, Peshawar*

RESPONDENT(S)

✓  
Notice to Appellant/Petitioner

*Avif Shah son of Magbool Shah Ex-Junior  
Trade Instructor BPS-10 in Govt Technical Institute, Ekkashund  
under Director of IMTE FATA Secretariat, Warsak Road Peshawar,  
presently residing in Village Nahagi P.O. Dardzai Teh & Distt:  
Peshawar*

Take notice that your appeal has been fixed for Preliminary hearing,  
replication, affidavit/counter affidavit/record/arguments/order before this Tribunal  
on *19/05/2022* at *9:00*

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.

*[Signature]*  
Registrar,

Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

"A"

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

No.

APPEAL No. E.P. NO. 149 of 20 22

Arif Shah

Appellant/Petitioner

Versus

Arif  
7/7/22

the Additional Chief Secy FATA

RESPONDENT(S)

Notice to Respondent no. 1  
Appellant/Petitioner

the Additional chief Secretary  
FATA FATA Secretariat Warsak  
Road Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 15/7/22 at 9 a.m.

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  
Report

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

2