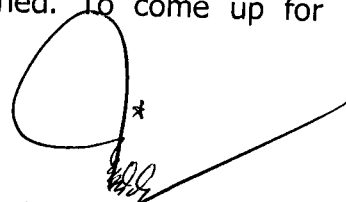


24.08.2022

Petitioner in person 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 on the next date. Adjourned. To come up for implementation report on 13.09.2022 before S.B.


(Mian Muhammad)
Member (E)

31.05.2022

None present for the petitioner. Mr. Kabirullah Khattak, Addl. AG for respondents present.

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 29.06.2022 before S.B. Original file be also requisitioned.



Chairman

29.06.2022

Petitioner present in person. Mr. Kabir Ullah Khattak, Additional Advocate General for respondents present.

Learned AAG ~~and~~ seeks time for submission of implementation report. Request accepted. To come up for implementation report on 08.08.2022 before S.B.



(Fareeha Paul)
Member (E)

8.8.2022 Due to the Public Holiday




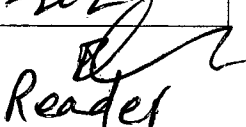
The Case is Adjourned to 24.8.2022


Reader

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 403/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	31.12.2021	<p>The execution petition of Mr. Imran Ullah submitted today by Mr. Bashir Khan Wazir 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-	04.02.2022	<p>This execution petition be put up before S. Bench at Peshawar on <u>04/02/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
4-3-2022	04.02.2022	<p>Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 04.03.2022 for the same as before.</p> <p style="text-align: right;"> Reader</p> <p style="text-align: center; font-size: 1.2em;">Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 31-5-2022</p> <p style="text-align: right;"> Reader</p>

BEFORE THE LEARNED SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

EP NO: 403/2021

In the matter of

Service Appeal No. 6564/2021

Decided on 21.09.2021

Imran Khan..... Appellant

VERSUS

Govt of KPK & others Respondents

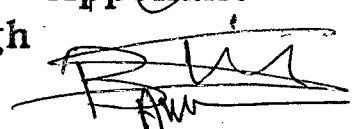
I N D E X

S.No	Description of Documents	Annex	Pages
1.	Application for implementation		1-2
2.	Affidavit		3
3.	Copy of Appeal and order dated 21.9.2021		4-8
4.	Wakalat Nama		9


Appellant

Through

Dated: 08.12.2021


BASHIR KHAN WAZIR
Advocate, High Court
Peshawar

BEFORE THE LEARNED SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

EP NO: 403/2021

In the matter of

Service Appeal No. 6564/2021

Decided on 21.09.2021



Imran Khan S/o Sarfaraz Khan R/o Kabir Kala, Sabir
Abad Tehsil & District Karak

..... **Appellant**

VERSUS

1. Government of KPK, Through Chief Secretary, KPK
Civil Secretariat, Peshawar
2. Secretary Irrigation Khyber Pakhtunkhwa,
Peshawar
3. Director General Small Dams Khyber
Pakhtunkhwa Peshawar
4. Deputy Director (P&C) Small Dams Division Kohat
5. Secretary Finance, Finance Department, Khyber
Pakhtunkhwa, Civil Secretariat Peshawar

..... **Respondents**

APPLICATION FOR THE IMPLEMENTATION
OF THE JUDGMENT AND ORDER DATED
21.09.2021 IN THE CAPTIONED SERVICE
APPEAL OF THIS HON'BLE TRIBUNAL

Respectfully Sheweth:

1. That the above noted Service Appeal was pending adjudication before this Hon'ble Tribunal and was decided vide Judgment and order dated 21.09.2021.
2. That vide judgment and order dated 21.09.2021 this Hon'ble Tribunal allowed the appeal and the

Appellant was reinstated into service with all back benefits. **(Copy of the Appeal, Judgment and Order dated 21.09.2021 is attached)**

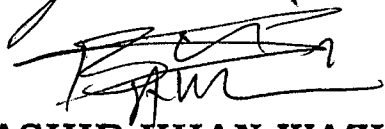
3. That the Judgment and Order of this Hon'ble tribunal was duly communicated to the Respondents by the Appellant vide various Applications for implementation. Thereafter the Appellant is continuously approaching the Respondents for the implementation of the Judgment and Order dated 21.09.2021, however they are reluctant to implement the same
4. That are legally bound to implement the judgment of this Hon'ble Tribunal dated 21.09.2021 in its true letter and spirit without any further delay, which has already been delayed due to the malafide intention of the Respondents.

On acceptance of this Application, the Order and Judgment dated 21.09.2021 of this Hon'ble Court may be implemented in its true letter and spirit.

Dated: 08.12.2021

Through


Appellant / Applicant


BASHIR KHAN WAZIR
Advocate, High Court
Peshawar

BEFORE THE LEARNED SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

In the matter of

Service Appeal No. 6564/2021

Decided on 21.09.2021

Imran Khan..... Appellant

VERSUS

Govt of KPK & others Respondents

AFFIDAVIT

I, Imran Khan S/o Sarfaraz Khan R/o Kabir Kala, Sabir Abad Tehsil & District Karak, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

H
Munir Rehman Advocate
Oath Commissioner
Enrol. No. 8870-78
8-12-2021


DEPONENT

4



BEFORE THE LEARNED SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6021

Dated 11/6/2021

Service Appeal No. 6564 /2021

Imran Khan S/o Sarfaraz Khan R/o Kabir Kala, Sabir
Abad Tehsil & District Karak

..... **Appellant**

VERSUS

1. Government of KPK, Through Chief Secretary, KPK
Civil Secretariat, Peshawar
2. Secretary Irrigation Khyber Pakhtunkhwa,
Peshawar
3. Director General Small Dams Khyber
Pakhtunkhwa Peshawar
4. Deputy Director (P&C) Small Dams Division Kohat
5. Secretary Finance, Finance Department, Khyber
Pakhtunkhwa, Civil Secretariat Peshawar

..... **Respondents**

Filed to-day

Registrar

11/6/2021

SERVICE APPEAL UNDER SECTION 4 OF

KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL ACT 1974 AGAINST THE

IMPUGNED AGAINST THE ORDER DATED

Re-submitted to - day
and filed.

Registrar

17/6/2021

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 6564/2021

Date of Institution ... 11.06.2021
Date of Decision ... 21.09.2021



Imran Khan S/O Sarfaraz Khan R/O Kabir Kala, Sabir Abad Tehsil
& District Karak.

... (Appellant)

VERSUS

Government of KPK, through Chief Secretary, KPK Civil
Secretariat, Peshawar and four others.

... (Respondents)

Bashir Khan Wazir,
Advocate

... For appellant.

Muhammad Adeel Butt,
Additional Advocate General

... For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

... MEMBER (J)
... MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The relevant facts leading to filing of instant appeal are that father of the appellant got retired from Irrigation Department as Class-IV, where-after, the appellant was appointed by the competent authority consequent upon the approval of Departmental Selection Committee on the post of Driver. In the meanwhile, the Deputy Director (P&C) Small Dams Division Kohat issued cancellation/withdrawal order dated 07.10.2019 vide which appointment order of the appellant was withdrawn. He, therefore, filed writ petition which was dismissed, however, the appellant was allowed to seek his remedy as provided under the law. The appellant

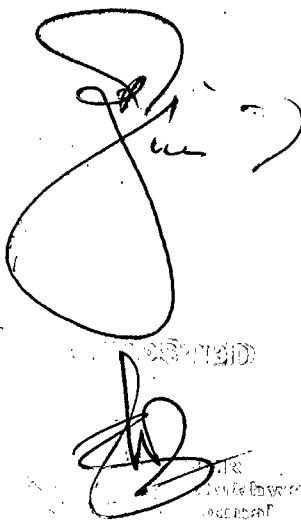
ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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appellant was appointed without any ifs and buts who had concealed his inability of driving and that he was not an obedient Government servant. He submitted that his previous trauma/accident has rendered him ineligible for the job.

5. Perusal of record would reveal that upon the recommendation of Departmental Selection Committee and checking of record for appointment against the post of Driver (B.P.S-06), Imran Khan, the present appellant was appointed vide order dated 16.09.2019 of Deputy Director (P&C) Small Dams Division Kohat. He was medically examined by the Medical Superintendent of D.H.Q Teaching Hospital Kohat and in this regard, proper medical certificate was issued, where-after, he submitted his arrival report but just after few days, his appointment order was withdrawn/canceled by the Deputy Director vide order dated 07.10.2019, wherein, different allegations were leveled. Admittedly, no show cause notice was issued to the appellant. Similarly, charge sheet and statement of allegations were not served upon him. The punishing authority has violated principles of natural justice as the authority itself was the most important witness, prosecutor and judge. Reliance is placed on Province of Punjab through Secretary Home Department, Lahore and others Vs. Malik Mukhtar Ahmad (Retd.) A.S.I reported in 1989 S.C.M.R 551. The arguments of the learned A.A.G in respect of terms and conditions of the service of appellant that his service was temporary and that he was removed from service during probation, does not hold ground because he submitted his arrival report on 19.09.2019 and his order of appointment was withdrawn on



RECEIVED
19/09/2019

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07.10.2019. He did not violate the terms and conditions of his probation period. It was for the authority to give him proper opportunity to improve himself instead of cancellation/withdrawal of his appointment order.

6. For what has been discussed above, this appeal is allowed and appellant is reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

21.09.2021

(Ahmad Sultan Tareen)
Chairman

(Rozina Rehman)
Member (J)

28/12/21

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22/1
4/1
26/1

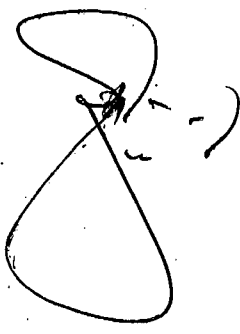
28/12/21
28/12/21

then filed departmental appeal which was not responded to, hence, the present service appeal.

2. We have heard Bashir Khan Wazir 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. It has been contended by the learned counsel for appellant that the impugned orders are wrong, illegal against law and facts as fundamental rights of the appellant were blatantly violated by the respondents who was denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973. He submitted that the appointment of the appellant was made in the light of 100% quota reserved for the retired employees' sons, where-after, he submitted his arrival report after proper medical examination but his order of appointment was withdrawn for the reasons best known to the respondents. Lastly, he submitted that the appellant was discriminated and the respondents violated Articles-4, 25 & 27 of the Constitution of Islamic Republic of Pakistan, 1973 as no show cause notice was served upon the appellant nor charge sheet and statement of allegations were issued. He never remained absent and was fit for duty in the light of medical certificate issued before his assumption of charge.

4. Conversely learned A.A.G who relied upon the comments already submitted by the respondents before the Hon'ble Peshawar High Court, Peshawar in Writ Petition No.1399/2020, argued that the



ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Commission
Peshawar

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بعدالت سروس پرمویشن کی

3-2053-09-00
15-2432-0333-00

2023ء پنجاب
محمد ان خان بنام حکومت

موزخہ
مقدمہ
دعوی
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کاروائی متعلقہ
آن مقام سیکس کیلئے سید اختر حسین کیلئے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ یہ
دیکل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک دروپہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ 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 با اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے 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 سندر ہے۔
Accepted

المرقوم 8
ماہ 12 2023
واہ العب

بمقام سید اختر حسین کے لئے منظور ہے۔