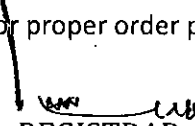





Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 42/2022


| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1 | 13.01.2022 | <p>The execution petition of Mr. Naik Ali Shah received by post today through Sheikh Ifitkhar Ul Haq 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- | 28.03.2022 | <p>This execution petition be put up before touring S. Bench at D.I.Khan on <u>28.03.2022</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsels are on strike. To come up for further proceedings tomorrow on 29.03.2022 before S.B at camp court, D.I.Khan.</p> <p style="text-align: right;"> CHAIRMAN, Camp Court, D.I.Khan</p> |
| | 29.03.2022 | <p>Counsel for the petitioner present.</p> <p>Notice be given to the respondents for the next date. To come up for implementation report on 24.05.2022 before S.B at camp court, D.I.Khan.</p> <p style="text-align: right;"> CHAIRMAN, Camp Court, D.I.Khan</p> |

24.05.2022

Counsel for the petitioner present.

Farhaj Sikandar, learned Deputy District Attorney alongwith Muhammad Kamran ADEO (Litigation) for respondents present.


Implementation report was not submitted. Representative of respondents requested for time to submit implementation report. Last opportunity is granted. To come up for submission of implementation report on 29.06.2022 before S.B at Camp Court, D.I.Khan.


(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan

29th June 2022

Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Muhammad Kamran, ADEO for respondents present.

District Education Officer (M) D.I.Khan present in person and assured the Tribunal that compliance of the judgment of this Tribunal will be submitted on the next date positively. He requested for some time. Granted. To come up for implementation report on 22.08.2022 before S.B at camp court D.I.Khan.


(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan



OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

No. 25331.....


Dated 26-10-2022.....

OFFICE ORDER:

With reference to Service Appeal No. 173/2019 in the Honourable Service Tribunal the services of Mr. Naik Ali Shah PSHT GPS Marwat Colony DIKhan are hereby reinstated w.e.f 22/01/2015.

He has already availed his promotion as SPST on 05/08/2015 and PSHT on 18/01/2020 after reinstatement in the services as per seniority cum fitness. He has been placed in the seniority list according to his date of first appointment and date of birth. It is further added that his absconder period w.e.f 9/11/2012 to 21/01/2015 was declared EOL vide this office Endst No. 6368-71 dated 22/01/2015, so during period of EOL he is not entitled for any benefit.

Moreover, Department is bound to give benefits to Mr. Naik Ali Shah as admissible under the rules.

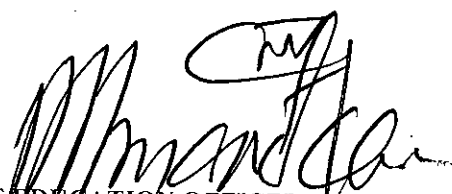

DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

Endst: No. 25332-35,

Dated the DIKhan 26-10- /2022.


Copy for information & necessary action to the-

1. Registrar, Service Tribunal Khyber Pakhtunkhwa, Peshawar.
2. SDEO(M) DIKhan.
3. Mr. Naik Ali Shah PSHT GPS Marwat Colony.
4. Master File


DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

22.08.2022

Due to summer vacation, the case is adjourned for the same on 26.09.2022.


Reader

26th Sept 2022

Petitioner alongwith his counsel present. Mr. Muhammad Adeel Butt, Adll: AG alongwith Mr. Musarrat Hussain Baloach, DEO(M) D.I.Khan for respondents present.

DEO(M)D.I.Khan present in the court assured that he will submit compliance report on the next date positively. Last chance is given to them. To come up for implementation report on 24.10.2022 before S.B at camp court D.I.Khan.



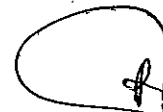
(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan

24.10.2022

Nemo for parties. Lawyers are on strike.

Kabir Ullah Khattak, learned Additional Advocate General present.

Despite last chance, implementation report was not submitted. Learned AAG is directed to make sure the presence of representative of respondents on the next date positively alongwith proper implementation report. Adjourned. To come up for submission of implementation report on 26.10.2022 before S.B at Camp Court, D.I.Khan.



(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan

Execution Petition 43/2022

27th Oct 2022

1. Petitioner alongwith his counsel present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Musarrat Hussain Baloach, DEO(M) D.I.Khan present.

2. Respondents submitted copy of office order bearing Endst No. 25332-35 dated 26.10.2022, whereby in compliance of the judgment of the Tribunal, the grievance of the petitioner has been redressed. Since the order of the Tribunal has been complied with, therefore, the instant execution petition is disposed off in the above terms. Consign.

3. *Pronounced in open court in D.I.Khan and given under my hand and seal of the Tribunal on this 27th day of Oct, 2022.*



(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN**

Implementation Petition No. 42 of 2022

In Service Appeal No. 173 /2019

Decided on 27/09/2021

Naik Ali Shah

Versus

Govt. of KPK etc

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| Sr. # | Particulars of Documents | Annexure | Page |
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| 1. | Grounds of implementation Petition along with affidavit | -- | 1-4 |
| 2. | Copy of service appeal | A | 5-8 |
| 3. | Copy of the judgment dated 27/09/2021 | B | 9-14 |
| 4. | Copy of application dated 06/01/2022 | C | 15-16 |
| 5. | Wakalat Nama | -- | -17- |

Date: 11 /01/2022

Yours Humble Petitioner



Naik Ali Shah

Through Counsel



Sheikh Iftikhar ul Haq

Advocate High Court

0345-9785920

①

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN**

Implementation Petition No. 42 of 2022

In Service Appeal No. 173 /2019
Decided on 27/09/2021



Naik Ali Shah son of Najam Shah (that time SPST)
presently PSHT in GPS Marwat Colony, Dera Ismail Khan.

Cell#0345-6836477, Whatsapp#0343-0981629

..... **Petitioner**

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Education Department Khyber Pakhtunkhawa, Civil Secretariat Peshawar.
2. Director (E&S) Education Department Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) Dera Ismail Khan.
4. District Accounts Officer Dera Ismail Khan.

..... **Respondents**

**IMPLEMENTATION PETITION UNDER KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 READ WITH KPK SERVICE
TRIBUNAL SERVICE TRIBUNAL RULES 1974 AS AMENDED
FOR IMPLEMENTATION OF THE ORDER/JUDGMENT IN
SERVICE APPEAL NO. 173/2019 DECIDED ON 27/09/2021
BY THIS HONOURABLE TRIBUNAL.**

Respectfully Sheweth:-

The Petitioner most respectfully submits as under:-

1. That the petitioner was appointed as PST in the Education Department on 11/02/2006.
2. That during performance of duty the petitioner was malafidely charged in case FIR No. 587 dated 08/11/2012 u/s 302,404,34 PPC registered at P.S Saddar Dera Ismail Khan.
3. That the petitioner was suspended from service on 09/11/2012 and remained suspended till 21/01/2015.
4. That during suspension period the petitioner filed BBA petition on 18/07/2014 which was confirmed on 21/10/2014 in the aforementioned criminal case.
5. That thereafter the appellant was adjusted against the vacant post of PST vide order dated 21/01/2015.
6. That thereafter the appellant was Honourably acquitted from the criminal charges vide judgment dated 21/02/2018 by the learned Additional Sessions Judge-II Dera Ismail Khan.
7. That appellant aggrieved from the seniority list, submitted departmental appeal on 08/10/2018 which was not accepted and later on submitted the above titled service appeal which was consolidated with the service appeal bearing No. 824 and was accepted with the mentioned appeal vide judgment dated 27/09/2021. Copies of the appeal and judgment are annexed as **Annexure-A & B.**
8. That the petitioner filed an application dated 06/01/2022 to the respondents for implementation of order dated 27/09/2021 but the respondents turned deaf ears towards the application of petitioner. Copy of application is annexed as **Annexure-C.**
9. That now the respondents are not implementing the order dated 27/09/2021, hence, the instant implementation petition is being filed before this Honourable Tribunal.

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GROUNDS

- A. That the acts and omissions of the respondents authorities to not obeyed/implement the order of this honourable tribunal in its true letter and spirit are clear cut violation of law, statutes and constitution.
- B. That lame excuses on behalf of respondents/authorities are not maintainable and respondents are required to implement the judgment of this honourable Tribunal in its true letter and spirit.
- C. That the Counsel for the Petitioner may kindly be allowed to raise further legal grounds during the course of arguments.

It is therefore, humbly requested that the respondents be directed to fully implement the judgment/order of this honourable tribunal dated 27/09/2021.

Date: 11 /01/2022

Yours Humble Petitioner


Najk Ali Shah

Through Counsel


Sheikh Iftikhar ul Haq
Advocate High Court

4

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN**

Implementation Petition No. _____ of 2022

In Service Appeal No. 173 /2019

Decided on 27/09/2021

Naik Ali Shah

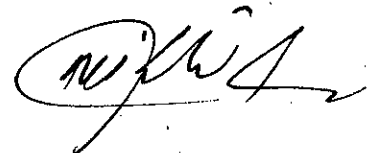
Versus

Govt. of KPK etc

AFFIDAVIT

I, **Naik Ali Shah** son of Najam Shah (that time SPST) presently PSHT in GPS Marwat Colony, Dera Ismail Khan, do hereby solemnly affirm and declare on oath that contents of above Writ Petition are true & correct to the best of my knowledge and that nothing has been concealed from this Honourable Court.

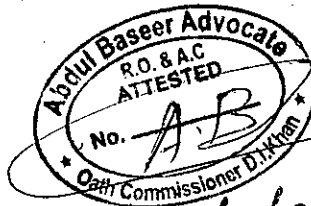
Dated: 11 /01/2022



DEPONENT

Identified by:


Sheikh Iftikhar ul Haq
Advocate High Court



11/1/22

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1

Annex "A"



BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Service Appeal No. 173 /2019

Diary No. 161

Dated 06-2-2019

Naik Ali Shah son of Najam Shah caste Syed r/o Indus Colony, Dera Ismail Khan. Presently posted as SPST at GPS Wanda Balochan, Dera Ismail Khan.

..... (**APPELLANT**)

VERSUS

1. Government of KPK, Through Secretary Elementary & Secondary Education Peshawar
2. The Director (E &S) Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (M) Education Dera Ismail Khan.

..... (**RESPONDENTS**)

Filed to-day

Registrar

6/2/19

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

PRAYER

On acceptance of this appeal the Seniority List of the SPST may kindly be revisited and the appellant be placed at serial# 108 instead of serial#303 by revising/correcting the Seniority List of the year 2018 and the list of year 2019 be made in accordance with revised/correct seniority list by placing the appellant at serial#108 instead of 303 meaning thereby the appellant be placed as per seniority list of year 2016 and after correcting the seniority list the appellant may kindly be given the due right of SST (BPS-16).

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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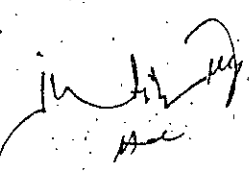
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Respected Sir,

1. That the appellant was appointed on 11/02/2006 against the post of PST vide appointment order No. 2251-23 dated 11/02/2006. Copy of appointment order is annexed as **Annexure-A**.
2. That after the appointment the petitioner served the department with the entire satisfaction of his high-ups and left no stone unturned during his whole service.
3. That in the year 2016, the appellant was placed at correct serial number in the seniority list as per date of appointment/age, but unfortunately the appellant was placed at serial#303 instead of 108 in the seniority list of the year 2018. The appellant came into knowledge of the above seniority list on 05/10/2018 as their colleagues which had been appointed with the appellant was given seniority as PSHT (BPS-15), then the appellant approached to the office of respondent#3, wherein he came into the knowledge of impugned seniority list. The appellant abruptly submitted department appeal/representation on 08/10/2018 which was not accepted within stipulated period, hence, the instant service appeal inter alia the following grounds. Copies of seniority list and departmental appeal along with registered AD receipts are annexed as **Annexure-B & C**.

GROUND

- a. That the impugned seniority list is against the principle of law, service rules and policy and is not with the commence of Easta Code.
- b. That the impugned seniority list has been prepared against the law as juniors to the appellant were seated above from the appellant and the appellant was deferred for no reasons and justification.



c.

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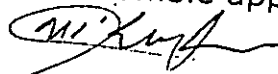
3

- d. That this honourable Tribunal has got vast and ample powers to entertain the instant appeal.
- e. That counsel for the appellant may graciously be allowed to raise additional grounds at the time of arguments.

It is therefore humbly prayed that on acceptance of this appeal the Seniority List of the SPST may kindly be revisited and the appellant be placed at serial# 108 instead of serial#303 by revising/correcting the Seniority List of the year 2018 and the list of year 2019 be made in accordance with revised/correct seniority list by placing the appellant at serial#108 instead of 303 meaning thereby the appellant be placed as per seniority list of year 2016 and after correcting the seniority list the appellant may kindly be given the due right of SST (BPS-16).

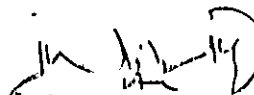
Dated 02/02/2019

Your humble appellant,



Naik Ali Shah

Through counsel:-



Sheikh Iftikhar ul Haq
Advocate High Court

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4

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

In Service Appeal No. _____/2019

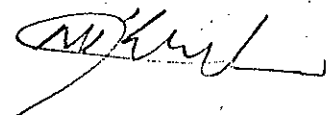
Naik Ali Shah
(**Appellant**)

Versus

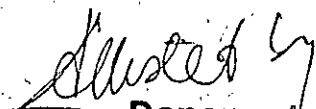
Govt Of KPK, etc
(**Respondents**)

AFFIDAVIT

I, **Naik Ali Shah** son of Najam Shah caste Syed r/o Indus Colony, Dera Ismail Khan. Presently posted as SPST at GPS Wanda Balochan, Dera Ismail Khan, appellant herein, do hereby solemnly affirm on oath that all parawise contents of the accompanying appeal are true and correct to the best of my knowledge, belief and information; that nothing has been concealed or kept secret from this worthy Tribunal, nor anything contained therein is based on exaggeration or distortion of facts.




Dated 02/02/2019


Deponent
Oath Commissioner
RO & AO
District Bar D.I. Khan

VERIFICATION

Verified on oath at DIKhan, this 2nd day of February, 2019, that all contents of the above appeal are true and correct.

Dated 02/02/2019


Appellant

9 Ann-B



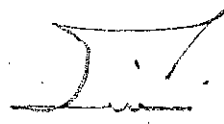
ORDER
27.09.2021

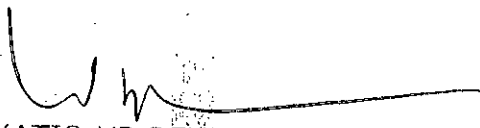
Mr. Sheikh Iftikhar Ul Haq, Advocate, for the appellant present. Mr.

Kamran Khan ADO (Litigation) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

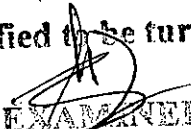
Vide our detailed judgment of today, passed in service appeal bearing No. 824/2018 "titled Naik Ali Shah Vs. Government of Khyber Pakhtunkhwa through Secretary, Education Civil Secretariat Peshawar and three others", the instant appeal is accepted and the appellant stands reinstated in service with effect from the date of his suspension i.e. 10-11-2012 with all back benefits, including restoration of his previous salary, GP Funds, annual increments as well as seniority. The appellant is also held entitled to promotion from the date, when his juniors were promoted. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
27.09.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I KHAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT D.I KHAN

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 13/10/21
Number of Words 800
Copying Fee 10/-
Urgent 4/-
Total 14/-
Name of Officer ---
Date of Completion of Copy 13/10/21
Date of Delivery of Copy 13/10/21

10

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT D.I KHAN

Service Appeal No. 824/2018

Date of Institution ... 26.06.2018

Date of Decision ... 27.09.2021



Naik Ali Shah S/O Najam Shah SPST GPS Wanda Balochan (CRBC) Dera Ismail Khan. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary, Education Civil Secretariat Peshawar and three others. ... (Respondents)

SHEIKH IFTIKHAR UL HAQ
Advocate.

For Appellants

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):- This single judgment shall

dispose of the instant service appeal as well as the connected service appeal bearing No.173/2019 titled Naik Ali Shah Vs. Government of Khyber Pakhtunkhwa, Through Secretary Elementary & Secondary Education Peshawar and two others", as common question of law and facts are involved therein.

02. Brief facts of the case are that the appellant while serving as Primary School Teacher, was found involved in a criminal case FIR No. 587 dated 08-11-2012 U/S 302-404/34 PPC, hence he was suspended from service with effect from 10-11-2012 vide order dated 29-03-2013. The appellant was kept under suspension and no

TESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



further action was initiated against the appellant. In the meanwhile, ad-interim bail was granted to the appellant by the court of Additional Session Judge on 18-07-2014 and later on bail before arrest was confirmed on 21-10-2014. After bail confirmation, the appellant requested for joining his duty, which was accepted and the appellant was adjusted against a vacant post of PST vide order dated 22-01-2015 but his suspension period with effect from 09-11-2012 to 21-01-2015 was treated as extraordinary leave without pay. The appellant was acquitted of the charges vide judgment dated 21-02-2018, thereafter he filed departmental appeal dated 13-03-2018, which was not responded, hence the instant service appeal with prayers that salary of the suspended period i.e. from 09-11-2012 to 21-01-2015 may be released, his GP Fund account may be re-opened, his annual increments may be released annually on due date, he may be placed in due place in the seniority list and he may be promoted to the next grade as juniors of the appellant has been promoted, as well as the order dated 22-01-2015 may be modified and the adjustment order may be converted into re-instatement with all back benefits.

03. Learned counsel for the appellant has contended that the appellant was falsely implicated in an FIR, who was later on honorably acquitted of the charges vide judgment dated 21-02-2018; that the appellant was suspended from service w.e.f 09-11-2012 to 21-01-2015, but the respondents illegally and unlawfully converted the suspension period into leave without pay in violation of CSR-194-A; that suspension is not a punishment and a temporary measure, wherein the employee is entitled to his full emoluments. Reliance was placed on 2014 PLC (C.S) 558, 2016 PLC (C.S) 424, 2016 PLC (C.S) 952 and PLD 1994 Supreme Court 72; that suspension of the appellant was due to registration of a criminal case against the appellant and that ground had subsequently vanished through his acquittal, making him re-emerge as a fit and proper person entitled to continue with his service. Reliance was placed on PLD 2010 Supreme Court 695; that as per FR-54, when a civil servant is honorably

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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acquitted of the charges, he is entitled to full pay, if he had not been dismissed or removed from service; that due to an anomalous adjustment order, the appellant caused irreparable loss in shape of non-opening of old salary account, non-opening of old GP Fund account, non-counting of seniority and non-issuance of annual increments on due date; that the adjustment order is illegal and is liable to be modified; that the appellant was suspended and suspension period is considered as on duty with pay; that the adjustment order needs to be modified, which ultimately would resolve all the allied issues. On the question of limitation the learned counsel added that it has been held in various judgments of the apex court that it would be futile to file departmental appeal before earning acquittal from the charges, upon which the appellant was suspended from service; that the appellant filed departmental appeal just after his acquittal, hence the departmental appeal is well within time.

04. Learned Deputy District Attorney for respondents has contended that the appellant was involved in a criminal case and an FIR to this effect was lodged against him U/S 302, 404/34 PPC; that the appellant went in hiding with effect from 08-11-2021, hence he was suspended from service with effect from 10-11-2012 vide order dated 29-03-2013; that during the period, the appellant did not perform any duty, hence such period was treated as extra-ordinary leave without pay; that status of the appellant in education department was his willful absence from duty; that the impugned order was issued on 22-01-2015, whereas the appellant filed departmental appeal on 13-03-2018, which is badly time barred; that when the departmental appeal is barred by time, the service appeal before this tribunal is incompetent. Reliance was placed on 2011 SCMR 676; that civil servant could not be allowed to put a premium on his abscondence and to use the same as a ground for absence from his official duty. Reliance was placed on 2003 SCMR 338 and CP No. 935/2015; that acquittal of civil servant from criminal charges would have absolutely no bearing

ATTESTED

EXAMINER


Hyder P. Khattak
Service Tribunal
Peshawar

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on merits of case as disciplinary proceedings were to be initiated according to service rules independently. Reliance was placed on 2007 SCMR 562. The learned Deputy District Attorney further added that this Tribunal in Service Appeal No. 138/2013 and Service Appeal No. 23/2013 in similar case has dismissed such cases on the ground of absconson.

05. We have heard learned counsel for the parties and have perused the record. Record reveals that the appellant after his involvement in criminal case was rightly suspended from service as per provisions in CSR-194-A. The respondents did not take any further action against the appellant, until his BBA was confirmed by the trial court on 21-10-2014, thereafter the appellant was adjusted against a vacant post of PST, but his suspension period was treated as extra-ordinary leave without pay, which was not correct, as nothing is available in rules to justify the adjustment order of a civil servant and to convert the suspension period into leave without pay, as a civil servant is entitled to full emoluments during suspension period as suspension is not a punishment, rather a temporary measure. We have observed that the appellant rightly waited until his acquittal from the criminal charges and after acquittal, filed departmental appeal, as the adjustment order created so many issues for him to the effect that he was considered as newly appointed from the impugned order dated 22-01-2015. The appellant lost his Salary account, GP Fund account; his annual increments even his seniority as well as promotion. The departmental appeal preferred by the appellant after his acquittal from criminal case was required to be examined by the respondents, which however was not done. After acquittal from the criminal charges, upon which he had been placed under suspension, there was no reason whatsoever to deprive him of his rights accrued to him and to this effect FR-54 is very clear that if a civil servant is honorably acquitted of the charges, he is entitled to full pay, if he had not been dismissed or removed from service. Since the appellant was only suspended from service and was adjusted against a vacant post

ATTESTED

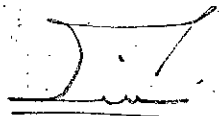

REGISTRAR
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

14

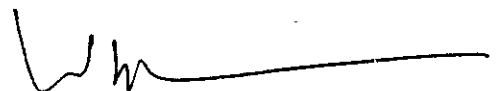
after obtaining BBA, now he earned acquittal from the very charges, upon which he was suspended, hence he is entitled to be re-instated in service with all back benefits.

06. In view of the foregoing discussions, the instant appeals are accepted and the appellant stands re-instated in service with effect from the date of his suspension i.e. 10-11-2012 with all back benefits, including restoration of his previous salary, GP Funds, annual increments as well as seniority. The appellant is also held entitled to promotion from the date, when his juniors were promoted. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
27.09.2021



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I KHAN



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT D.I KHAN

Certified ~~to~~ be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 13-10-21
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Ann-C

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحب ڈیرہ اسماعیل خان

درخواست بمراد عمل درآمد فرمائے جانے حکم و فیصلہ مورخہ 27/09/2021 جاری شدہ ازاں

خیبر پختونخواہ سروس ٹریبونل

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

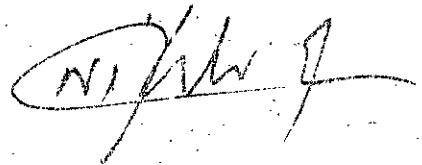
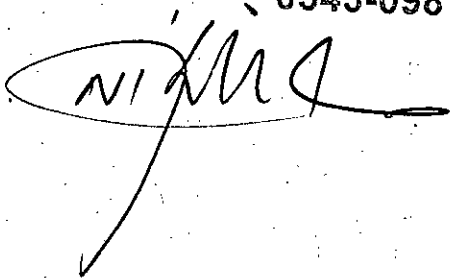
- ۱۔ یہ کہ سائل بطور PST مورخہ 11/02/2006 میں بھرتی ہوا تھا۔
- ۲۔ یہ کہ مورخہ 08/11/2012 کو من سائل کو بددیقی طور پر FIR نمبر 587 زبردفعہ 302,404/34 PPC تھانہ صدر میں غلط طور پر چارج کیا گیا اور مورخہ 10/11/2012 کو سروس سے Suspend کیا گیا۔ من سائل نے مورخہ 18/07/2014 کو ضمانت قبل از گرفتاری دائر کی جو کہ مورخہ 21/10/2014 کو عدالت مجاز نے منظور فرمائی اور بعدہ من سائل کو مورخہ 22/01/2015 کو ایڈجسٹ کر دیا اور دورانہ 09/11/2012 سے لیکر 21/01/2015 کو Leave without pay رکھا۔ بعدہ من سائل کو عدالت ایڈیشنل سیشن جج II ڈیرہ اسماعیل خان نے مورخہ 21/02/2018 کو بری کر دیا اور ایڈجسٹمنٹ کے بعد من سائل کو سینیارٹی اسٹ میں غلط جگہ پر رکھا جس کے خلاف من سائل نے حکمانہ اپیل مورخہ 08/10/2018 کو پیش کی جو کہ فیصلہ نہ ہو سکی بدیں وجہ سائل نے سینیارٹی کی درستی کیلئے مورخہ 06/02/2019 کو سروس اپیل دائر کی جو کہ مورخہ 27/09/2021 کو من سائل کی دیگر اپیل نمبر 824/2018 کے ساتھ منظور ہوئی۔ نقولات لطف ہیں۔

لہذا استدعا ہے کہ درخواست ہذا حسب صراحت عنوان و تشریح منظور فرمائی جائے۔

مورخہ 06/01/2021

نیک علی شاہ ولد نجم شاہ حال تعینات PSHT گورنمنٹ پرائمری سکول مروت کالونی ڈیرہ اسماعیل خان

موبائل نمبر 0343-0981629 و 0345-6836477



16

No. 1430 For Insurance Notice
Stamp No. **RGL57933416**

Rs. Ps.

Letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is due.

Received a registered
addressed to _____ Date Stamp _____

Initials of Receiving Officer _____ Write here "letter", "postcard", "packet" or "parcel"
with the word "insured" before it when necessary.

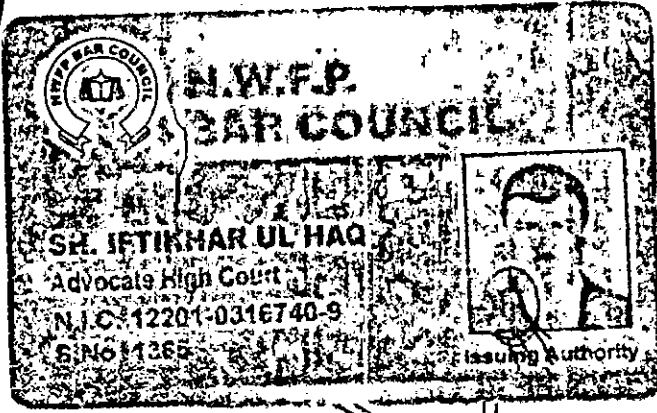
Insured for Rs. (in figures) _____ (in words) _____

Weight _____ Kilo _____ Grams _____

Insurance fee Rs. _____ Ps. (in words) _____

Name and address of sender _____

INSURANCE



17

وکالت نامہ

کورٹ
فیس

حساب رسوس ٹریسینلز حیر سکھو خواہ پٹا وریٹنرز ڈسٹرکٹ ایٹارنی

Petitioner منجانب

Muhs Ali Shah نام Govt of K.P.K

Implementation

دعوی یا جرم

تفصیل دعوی یا جرم

باعث تحریر آنکہ

D-i-Khan - مقدمہ مندرجہ بالا خوان میں اپنی طرف واسطے بیرونی جواب دی برائے پیشی یا تصفیہ مقدمہ منجانب

شیخہ افتخار الحق ریڈو کیس میں کورٹ

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا ہذا بذریعہ رو برد عدالت حاضر ہوتا ہوں گا اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ بیرونی غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ یا پکھری کے اوقات سے پہلے یا بیچے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر پکھری کے علاوہ اور جگہ سمیت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے یا بیچے پیش ہونے پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا سخت نہ رہیں کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ بھ کو کسی ساختہ پر داختم صاحب موصوف مثل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعوی یا جواب دعوی یا درخواست اجراء اسلئے ڈگری نظر ثانی اپیل نگرانی و ہر قسم درخواست، ہر قسم کے بیان دینے اور پر ثالثی یا راضی نامہ و فیصلہ برطرف کرنے اقبال دعوی کا بھی اختیار ہو گا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ بزکور بیرون از پکھری صدر بیرونی مقدمہ مقرر نظر ثانی اپیل و نگرانی و برآمدگی مقدمہ یا منسوخ ڈگری یک طرفہ یا درخواست حکم استغاثی یا قرتی یا گرفتاری قبل از ایمل اجراء ڈگری بھی صاحب موصوف کو بشرط ادا پیشی علیحدہ مقرر ہو گی کا اختیار ہو گا اور تمام سائنہ پر داختم صاحب موصوف مثل کردہ از خود منظور قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو گا کہ مقدمہ مذکورہ یا اس کے کسی ذمہ دار یا کارروائی یا بصورت درخواست نظر ثانی اپیل نگرانی یا دیگر معاملہ و مقدمہ مذکورہ کسی دوسرے وکیل یا ہیر سز کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے شیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا وہ صاحب موصوف کا حق ہو گا مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے
مورخہ 11 مارچ 2022

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

Attested
Accepted
In Witness Whereof
SH. Iftikhar ul Haq

(Signature)

"B"

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

No.

EP NO 42, 43/2022

Appeal No. 173, 824 of 298

Naik Ali Shah (P) Appellant/Petitioner

Through Secretary (ESSE) Peshawar Versus Respondent

Respondent No. 1

Notice to:

Govt of KPK Through Secretary (ESSE) Peshawar

SECRETARY

No.

Dated

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 24-5-2022 at 8.00 A.M. If you wish to urge anything against the appellants/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 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.

X copy not attached.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 1

Day of 4/20/22

along with another connected EPP; is also attached

(at camp court Dikhan)

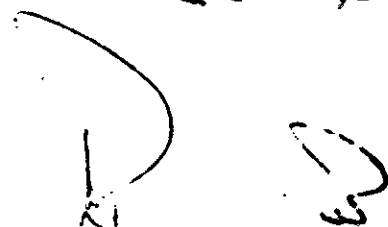
Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

Note: 1. 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.

39 No NSJ NS/2023
137 854
Mark All 2nd
through Secretary (E82E) Postman
18
Govt of KKR through Secretary
(E82E) Postman

24-2-2023

~~copy not attached~~

22 N


along with another
converted copy
is also attached
(at Camp Govt Dikhan)

"B"

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

No.

EP No 42, 43/22 **TB DIK**

Appeal No. 173/19 524/18 of 20

Naik Ali Shah & others Appellant/Petitioner

Through Secy: (ERSE) Pesh. Respondent

Respondent No. 2

Notice to: Director (ERSE) Peshawar

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 24-5-2022 at 8.00 A.M. 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.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

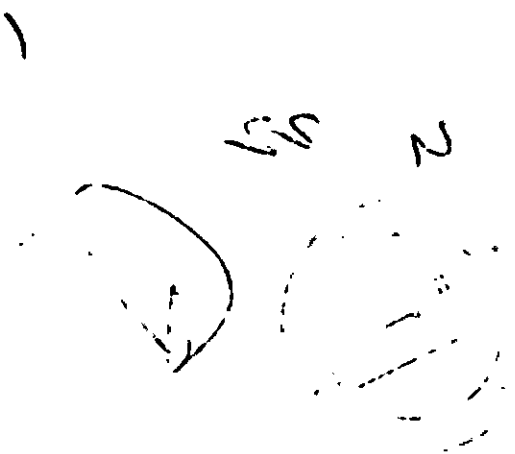
Day of.....
along with another connected application is also attached (at camp court DIKha)

4.20.22
PAID Director Elementary & Secondary Education Khyber Pakhtunkhwa
No. *DIK*
Date
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. 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.

Director (E22) Perkins
Thayer (E22) Perkins
Mark All (E22) Perkins
12/18 20/18
EP No NS 23/23
TIR LIR

2N-2-503



(of Camp Govt Dir) applications is also affected along with other countries

"B"

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

Regd
No. -

EP No 42, 43/22
Appeal No..... 173/19 824/18 of 20

Naik Ali Shah Appellant/Petitioner
Versus

Through Secy: (EGSE) Pesh Respondent
Respondent No..... 3

Notice to: - Distt Education officer (Mal) 0

WHEREAS an ~~appeal~~ ^{Dilkhwa} 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 8.00 A.M. 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 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.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No..... dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of..... 11 22 20

along with another connected application is also attached

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

at Court Dilkhwa
Note: 1. 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.

Copy

FB No NS 23/55
13/11 2018
Mark At 2/11/18

Through 2nd. (E 22E) 2/11/18
Dist Education Officer (M) 3
D/K/18

21-2-55

at camp (out D/K/18)
is also attached
connected with another
along with another

2/11/18
2/11/18

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL NO. 824/2018

IMPLEMENTATION PETITION NO. 43/2022


Naik Ali Shah

VS

Government of KPK

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Respondent No. 03
District Education Officer
(Male) Dera Ismail Khan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL NO. 824/2018

IMPLEMENTATION PETITION NO. 43/2022

Naik Ali Shah

VS

Government of KPK

COMMENTS ON BEHALF OF RESPONDENTS.

PRELIMINARY OBJECTIONS

1. That the petitioner has got no cause of action / locus standi.
2. that the petitioner has not come to the honorable tribunal with clean hands.
3. That the petitioner has filed the implementation petition on malafide objectives.
4. that the instant implementation petition is against the prevailing laws and rules.
5. That the instant petition is barred by the doctrine of laches.
6. That the instant petition is illegal and against the facts.
7. That the petition is not maintainable in its present form.
8. That the petitioner has concealed the material facts from the honorable tribunal.
9. That the petition is badly time barred.

Respectfully Sheweth, Reply on behalf of Respondent No.3. DEO (M)

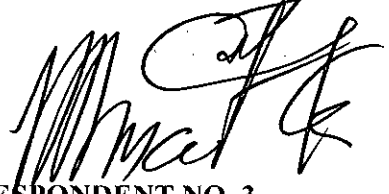
D.I.Khan

Respected Sir, The respondent No.3 humbly submits as under

1. Para pertains to the appointment of petitioner as PST in Education Department on 11-02-2006.
2. Para pertains to the involvement of petitioner in Murder case.
3. Para pertains to the suspension of petitioner.
4. Para pertains to the bail before arrest of petitioner.
5. Para pertain to the adjustment of petitioner.
6. Para pertain to the acquittal of petitioner.
7. Para pertains to the departmental appeal of petitioner on 13-03-2018.
8. Para pertains to the decision of Service tribunal on 27-09-2021.

Respondent No. 3 DEO (M) D.I.Khan has constituted the committee for correction of seniority list, complaints / appeals of all PST's / SPST's / PSHT's. The notification is annexed as Annexure-A so all the grievances of petitioner will be redressed in correction of seniority list issued by the respondent No. 3. The scrutiny committee will decide the case of petitioner under the orders of service tribunal judgement on 27-09-2021.

So it is humbly prayed that implementation petition would be fully implemented as per orders of service tribunal court.


**RESPONDENT NO. 3
D.E.O (M) D.I.KHAN**



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
DERA ISMAIL KHAN

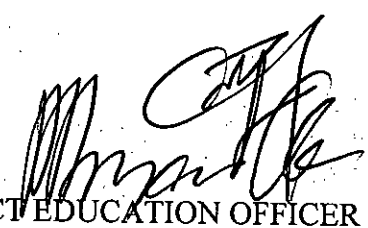
NOTIFICATION:

Consequent upon several appeals lodged by the many teachers of District D I Khan. The committee is constituted to address the complaints/Appeals of all PSTs, SPSTs and PSHTs as per rules law and policy and give the clear curt recommendation regarding seniority list updation within one month for issuance of final updated seniority list of PST cadre the committee consists of following members.

- | | |
|---|----------|
| 1. Muhammad Shafiq Principal GCMHS No 1 D I Khan | Chairman |
| 2. Assim Saeed Principal GHS Himmat D I Khan | Member |
| 3. Moin Ud Din Junior Clerk O/O DEO (Male) D I Khan | Member |

10819-25

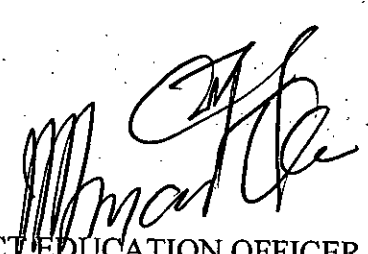
Endst: No. _____ / DEO (M)Estab/PST


DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

Dated 28/5/ /2022

Copy for information & necessary action to the:-

1. Registrar Khyber Pakhtunkhaw Service Tribunal Peshawar.
2. PS to Secretary E&SE KP Peshawar.
3. PA to Director E&SE KP Peshawar.
4. Dy.DEO(M) D I Khan
5. All SDEO (M) D I Khan.
6. All committee Members.
7. All Official concerned.


DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL NO. 824/2018

IMPLEMENTATION PETITION NO. 43/2022

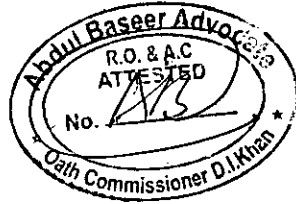
Naik Ali Shah

VS

Government of KPK

Affidavit

I Mr: Muhammad Kamran Khan ADEO Litigation (M) D.I.Khan do solemnly affirm and declare on oath that contents of written reply are correct to the best of my knowledge and nothing has been concealed from this honorable Court



29/6/22

M Kamran Khan
Deponent

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL NO. 824/2018

IMPLEMENTATION PETITION NO. 43/2022

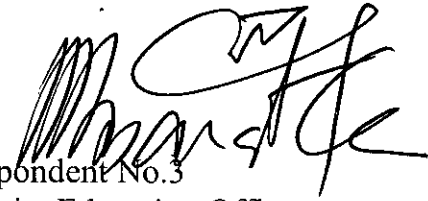
Naik Ali Shah

VS

Government of KPK

Authority

I District Education Officer (M) D.I.Khan do hereby authorized Mr: Muhammad Kamran Khan to attend the honorable Service Tribunal KPK Peshawar on behalf of respondent in connection with submission para wise comments till the decision of implementation petition.


Respondent No.3
District Education Officer
(M) D.I.Khan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL NO. 173/2019

IMPLEMENTATION PETITION NO. 42/2022

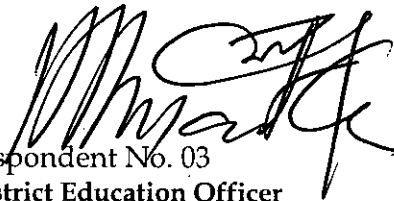
Naik Ali Shah

VS

Government of KPK

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Respondent No. 03
District Education Officer
(Male) Dera Ismail Khan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL NO. 173/2019

IMPLEMENTATION PETITION NO. 42/2022

Naik Ali Shah

VS

Government of KPK

COMMENTS ON BEHALF OF RESPONDENTS.

PRELIMINARY OBJECTIONS

1. That the petitioner has got no cause of action / locus standi.
2. that the petitioner has not come to the honorable tribunal with clean hands.
3. That the petitioner has filed the implementation petition on malafide objectives.
- 4.that the instant implementation petition is against the prevailing laws and rules.
- 5.That the instant petition is barred by the doctrine of leeches.
6. That the instant petition is illegal and against the facts.
7. That the petition is not maintainable in its present form.
- 8.That the petitioner has concealed the material facts from the honorable tribunal.
9. That the petition is badly time barred.

Respectfully Sheweth, Reply on behalf of Respondent No.3. DEO (M)

D.I.Khan

Respected Sir, The respondent No.3 humbly submits as under


1. Para pertains to the appointment of petitioner as PST in Education Department on 11-02-2006.
2. Para pertains to the involvement of petitioner in Murder case.
3. Para pertains to the suspension of petitioner.
4. Para pertains to the bail before arrest of petitioner.
5. Para pertain to the adjustment of petitioner.
6. Para pertain to the acquittal of petitioner.
7. Para pertains to the departmental appeal of petitioner on 08-10-2018.
8. Para pertains to the application of petitioner on 06-01-2022 and decision of Service tribunal on 27-09-2021.
9. Incorrect / not admitted. The respondents are fully implementing the judgement as per the orders of the Honourable Tribunal.

GROUND:

1. Incorrect / not admitted. The para strongly refuted. The respondents has obeyed the orders of service tribunal.
2. Para is strongly rebutted as replied above.
3. That the counsel for respondents may kindly be allowed to raise further legal grounds during the course of arguments.

The orders and judgement of service tribunal court will be fully implemented.

So it is humbly prayed that implementation petition should be waive off up to the extent of respondents:


**RESPONDENT NO. 3
D.E.O (M) D.I.KHAN**



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
DERA ISMAIL KHAN

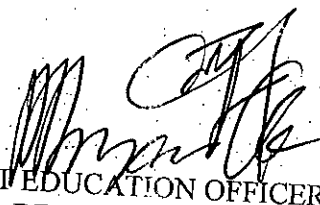
NOTIFICATION:

Consequent upon several appeals lodged by the many teachers of District D I Khan. The committee is constituted to address the complaints/Appeals of all PSTs, SPSTs and PSHTs as per rules law and policy and give the clear curt recommendation regarding seniority list updation within one month for issuance of final updated seniority list of PST cadre the committee consists of following members:

- | | |
|---|----------|
| 1. Muhammad Shafiq Principal GCMHS No 1 D I Khan | Chairman |
| 2. Assim Saeed Principal GHS Himmat D I Khan | Member |
| 3. Moin Ud Din Junior Clerk O/O DEO (Male) D I Khan | Member |

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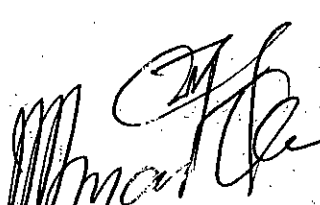
Endst: No. _____ / DEO (M) Estab/PST


DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

Dated 28/5/ /2022

Copy for information & necessary action to the:-

1. Registrar Khyber Pakhtunkhaw Service Tribunal Peshawar.
2. PS to Secretary E&SE KP Peshawar.
3. PA to Director E&SE KP Peshawar.
4. Dy. DEO (M) D I Khan
5. All SDEO (M) D I Khan.
6. All committee Members.
7. All Official concerned.


DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL NO. 173/2019

IMPLEMENTITION PETITION NO. 42/2022

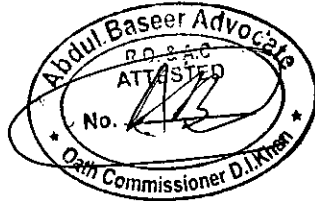
Naik Ali Shah

VS

Government of KPK

Affidavit

I Mr: Muhammad Kamran Khan ADEO Litigation (M) D.I.Khan do solemnly affirm and declare on oath that contents of written reply are correct to the best of my knowledge and nothing has been concealed from this honorable Court



29/6/22

M Kamran
Deponent

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL NO. 173/2019

IMPLEMENTATION PETITION NO. 42/2022

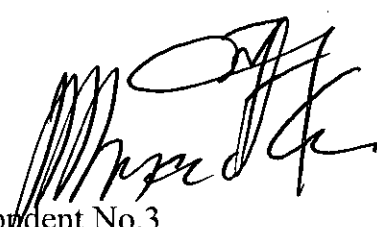
Naik Ali Shah

VS

Government of KPK

Authority

I District Education Officer (M) D.I.Khan do hereby authorized Mr: Muhammad Kamran Khan to attend the honorable Service Tribunal KPK Peshawar on behalf of respondent in connection with submission para wise comments till the decision of implementation petition.



Respondent No.3
District Education Officer
(M) D.I.Khan