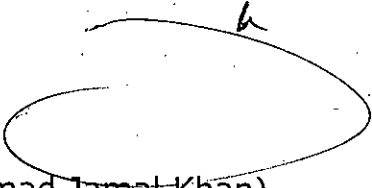


03.11.2020

Petitioner is present in person. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Javed Iqbal, ADO, for the respondents are also present.

Implementation report on behalf of respondents not submitted. Representative of the department requests for further time. File to come up for implementation report on 24.12.2020 before S.B.


(Muhammad Jamal Khan)
Member (Judicial)

24.12.2020

Petitioner in person and Asstt. AG alongwith Javed Iqbal, SDO for the respondents present.

The representative of respondents has provided copy of order dated 02.11.2020 passed by the Apex Court in Civil Petition No. 650-P/2019. In the order, leave to appeal has been granted to the petitioners therein. Moreover, Civil Petition No. 330-P of 2018, submitted by the petitioners therein, has been ordered to be clubbed and heard alongwith Civil Appeal of Arif Shah.

In the circumstances, it shall be appropriate to consign the proceedings in hand to the record. The petitioner may, however, apply for restoration as and when required but only in accordance with law.


Chairman

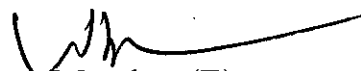
31.08.2020

Appellant alongwith counsel present. Preliminary arguments heard.

The appellant Adnan Yaqoob was reinstated into service vide this Tribunal judgment dated 26.11.2018. The decision was implemented by respondents during the course of execution petition & he was reinstated in service with all back benefits.

The learned counsel contended that the appellant has been reinstated in service with immediate effect and not from the date of his initial appointment i.e. 29.07.2010 the learned Addl. AG admitted to the fact that it might be due to clerical error & the respondents will be asked to rectify it.

Hence the respondents should come up with execution report free from error on 01.10.2020 before S.B.

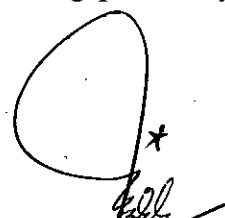

Member (E)

01.10.2020

Petitioner with counsel present.

Mr. Kabirullah, Khattak, Additional Advocate General alongwith Mr. Muhammad Ilyas, Research Officer for respondents present.





Representative of the respondent-department sought reasonable time for execution of the judgment of this Tribunal i.e creation of supernumerary post for the petitioner by the Finance Department. Request is acceded to and the case is adjourned. The learned AAG as well as representative of the respondents are directed to come up with final implementation report on the next date of hearing positively 03.11.2020 before S.B.


(Mian Muhammad)
Member (E)

Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 81 /2020

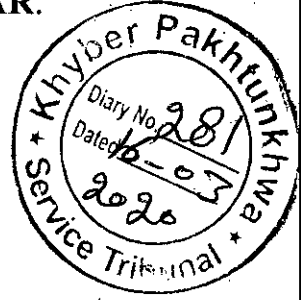
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	16.03.2020	<p>The application for restoration of Execution Petition No. 132/2018 submitted by Syed Noman Ali Bukhari Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	<u>09/03/20</u>	<p>This restoration application is entrusted to S. Bench to be put up there on <u>10/04/2020</u>.</p> <p style="text-align: right;"> MEMBER</p>
10.04.2020		<p>Due to public holiday on account of COVID-19, the case is adjourned to 07.07.2020 for the same. To come up for the same as before S.B.</p> <p style="text-align: right;"> Reader</p>
07.07.2020		<p>Counsel for the petitioner present.</p> <p>The application in hand is for restoration of the execution petition. Record shows that it was on 17.10.2019, when execution proceedings were consigned to the record room because the petitioner produced copy of office order whereby he had been reinstated in service with all back benefits subject to the decision of Apex Court upon CPLA. Notice be served upon respondents for 31.08.2020 before S.B.</p> <p style="text-align: right;"> Member (J)</p>

BEFORE THE K.P SERVICE TRIBUNAL, PESHAWAR.

C.M No: 81 /2020

In

Execution petition no. 132/2018



Adnan Yaqoob

GOVT OF K.P ETC

**SUBJECT: APPLICATION OF RESTORATION OF EXECUTION
PETITIONS NO.132/2018 IN SERVICE APPEAL
NO.308/2016**

RESPECTFULLY SHEWETH :-

1. That the service appeal of the appellant was accepted vide judgment dated 26.01.2018. The Hon'able tribunal was kind enough to accept the appeal and the appellant was re-instated into service with all back and consequential benefits.
2. That thereafter, files execution petition No.132/2018 for the implementation of judgment dated 26-01-2018.
3. That during the pendency of execution petition the department brought order dated 11-10-2019 where by the appellant was re-instated into service with all back and consequential benefits. **Copy of order is attached as annexure-A.**
4. That on the basis of above mentioned order the execution petition was consigned vise order dated 17-10-2019. Direction was given that petitioner is at liberty to apply for restoration of the proceedings in case any part of relief granted to her remained unsatisfied. **Copy of order sheet is attached as annexure-B.**

5. That now the department refusing the back benefits to the petitioner. It is worth to mention here that the salary of the appellant was also started with immediate effect (as initially appointed in 2019) not from the date of initial appointment i.e 29.07.2010, which clearly shows the malafide on the part of the department. So, there is no other remedy, therefore, appellant file application for restoration of execution petition. **Copy of salary slip is attached as annexure-C.**

It is , therefore, most humbly requested that on acceptance of this application the execution petition No: 132/2018 may be restored .Any other remedy which tribunal , deems fit & appropriate may also be awarded to petitioner .



APPLICANT/PETITIONER
ADNAN YAQOOB

THROUGH:



(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

The Research Officer,
Regional RR&MT Laboratory,
C&W Department Peshawar.

u

Subject: ARRIVAL REPORT

R/Sir,

In compliance of Chief Engineer (Centre) C&W Department Peshawar Office Order No. 25-E/724/CEC/C&WD, dated 11-10-2019, vide which Service Tribunal Decision in my case has been implemented and I have been re-instated in Govt. Service with all back benefits to which I am entitled, I hereby submit my arrival report for duty today on 17-10-2019 (F.Noon) and obliged.

Dated: 17-10-2019

(Thanks



(Adnan Yaqoob)

Laboratory Attendant (BPS-02)
o/o Research Officer RR&MT
Laboratory Peshawar

037-A / 6-F
18.10.2019

5

Before, the Khyber pakhtunkhwa service tribunal, Peshawar.

Execution Petition No. 132/2018

Miscellaneous application # 2018

In

Appeal # 308/2016

Khyber Pakhtunkhwa Service Tribunal

Diary No. 493

Dated: 26-4-18

Adnan Yaqoob son of Yaqoob Khushi r/o ST.John High School, outside kohati Gate Peshawar.

..... petitioner

Versus



- 1) Government of KPK. Thorough secretary communication & works, department Peshawar.
- 2) Chief Secretary, KPK, prshawar.
- 3) Chief engineer, centrel design office C&W, department, KPK, peshawatr.

..... Respondents

IMLEMENTATION PETITION

Resectfully sheweth,

Petitioner submits as under.

- 1) That the petitioner filed an appeal before this honorable tribunal against the withdrawn of appointment order through impugned order dated 13/08/10.
- 2) That the said appeal was allowed by this honorable tribunal vide order dated 26/1/18.
- 3) That the decision of this honorable tribunal was conveyed to respondents, but till to date the decision of this court not implemented.
- 4) That the respondents are legally bound to implement the decision in letter in spirit, but intentionally they are lingering the implementation process.
- 5) That respondent's plea is for waiting till decision of CPLA, but in this regard judgment of superior court is very much clear, that mere filling of appeal the executing process could not be stayed.

It is therefore humbly prayed that on acceptance of instant petition, the decision of this court may kindly be implemented, any other relief, which this court deem fit and proper may kindly be awarded to petitioner .

PETITIONER

HAYAT ULLAH KHAN
ASC

THROUGH

Certified to be true copy
Khyber Pakhtunkhwa Service Tribunal, Peshawar

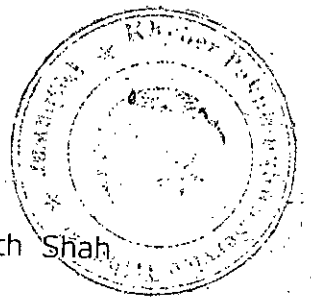
Dated; 26 / 04 /18

EP 132/18

17.10.2019

Adnan Yarsoob vs Govt

6



Petitioner in person and Addl. AG alongwith Shah Room, SDO for the respondents present.

The petitioner has produced copy of office order dated 11.10.2019 whereby he has been reinstated in service with all back benefits subject to the decision of Apex Court upon CPLA submitted by the respondents.

In view of the developments, instant proceedings are consigned to record. The petitioner may, however, apply for restoration of proceedings in case any part of relief granted to him by this Tribunal remained unsatisfied.

As the judgment - under execution has been conditionally implemented the order of attachment of salary of respondent No. 1 passed on 25.06.2019 and repeated on 19.08.2019 is hereby withdrawn.

Chairman

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 16/3/2020
Number of Words 800
Copying Fee 10
Urgent 9
Total 19
Name of Copyist
Date of Completion of Copy 16/3/2020
Date of Delivery of Copy 16/3/2020

Government of Khyber Pakhtunkhwa
Accountant General Khyber Pakhtunkhwa, Peshawar
Monthly Salary Statement (January-2020)

(7)



Personal Information of Mr ADNAN YAQUB d/w/s of YAQOUB KHUSHI

Personnel Number: 00928928 CNIC: 1730190103249 NTN:
 Date of Birth: 28.02.1988 Entry into Govt. Service: 17.10.2019 Length of Service: 00 Years 03 Months 016 Days

Employment Category: Active Permanent

Designation: LABORATORY ATTENDANT 80004075-GOVERNMENT OF KHYBER PAKH
 DDO Code: PR5440-Research Officer Research & Material Testing
 Payroll Section: 007 GPF Section: 003 Cash Center:
 GPF A/C No: Interest Applied: No **GPF Balance:** 1,660.00

Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 04 Pay Stage: 8

Wage type		Amount	Wage type		Amount
0001	Basic Pay	13,420.00	1001	House Rent Allowance 45%	2,187.00
1210	Convey Allowance 2005	1,785.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	287.00	2199	Adhoc Relief Allow @10%	206.00
2211	Adhoc Relief All 2016 10%	1,050.00	2224	Adhoc Relief All 2017 10%	1,342.00
2247	Adhoc Relief All 2018 10%	1,342.00	2264	Adhoc Relief All 2019 10%	1,342.00

Deductions - General

Wage type		Amount	Wage type		Amount
3004	GPF Subscription	-830.00	3501	Benevolent Fund	-300.00
4004	R. Benefits & Death Comp:	-451.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till JAN-2020: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 24,461.00 Deductions: (Rs.): -1,581.00 Net Pay: (Rs.): 22,880.00

Payee Name: ADNAN YAQUB
 Account Number:
 Bank Details: , ,

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address:
 City: PESHAWAR Domicile: - Housing Status: No Official
 Temp. Address:
 City: Email: adnanyaqub146@gmail.com

VAKALAT NAMA

NO. _____/20

IN THE COURT OF KP Service Tribunal, Peshawar

Adnan Taqoob

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

C & W

(Respondent)
(Defendant)

I/We, Adnan Taqoob

Do hereby appoint and constitute **SYED NOMAN ALI BUKHARI Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

Adnan
(CLIENT)

ACCEPTED

SYED
SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar.



OFFICE OF THE RESEARCH OFFICER R&MT LAB, C&W
DEPARTMENT, B/2/30 PHASE 5 HAYATABAD,
PESHAWAR KHYBER PAKHUTANKHWA

No. 1089/6-E Dated 11/11/2020

To

The Administrative Officer/B&A Officer,
Office of the Chief Engineer (CDO),
C&W Department Peshawar

Subject: **CIVIL PETITION NO.650-P OF 2019 GOVT. OF KPK THROUGH
SECRETARY C& W DEPARTMENT VS ARIF SHAH.**

It is submitted that the subject case was attended by Assistant Research Officer Mr. Javed Iqbal of this office on 02.11.2020 in Supreme Court of Pakistan Islamabad.

The Supreme Court of Pakistan order sheet is enclosed herewith for your kind information and further necessary action please.

Encl: As above

J. M. Khan
Research Officer
J.C. Hoda

Copy to PA Chief Engineer (CDO) C&W Department Peshawar.

Research Officer

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Gulzar Ahmed, CJ
Mr. Justice Ijaz ul Ahsan
Mr. Justice Munib Akhtar

CIVIL PETITION NO. 650-P OF 2019

[Against the judgment dated 06.08.2019, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No. 213 of 2017]

Government of KP through Secretary,
Communication & Works Department,
Peshawar and another. ... Petitioner(s)

Versus

Arif Shadi. ... Respondent(s)

For the Petitioner(s) : Barrister Qasim Wadood, Additional
Advocate General, KP
Malik Muhammad Ali, S.O. C & W
Javed Iqbal, S.D.O, Central Design
Office, KP

Respondent(s) : N.R.

Date of Hearing : 02.11.2020

ORDER

GULZAR AHMED, CJ.- The learned Additional Advocate General, KP contends that the employment of the respondent was cancelled on 18.08.2010 against which he availed no remedy but filed service appeal in the year 2017, which was hopelessly time barred and the Khyber Pakhtunkhwa Service Tribunal, Peshawar (the Tribunal) was not justified in condoning such delay and granting him reinstatement in service.

2. The contention raised by the learned Additional Advocate General, KP requires consideration. Leave to appeal is granted to consider, *inter alia*, the same. The appeal shall be heard on the available record but the parties are allowed to file additional documents, if any, within a period of one month. As the matter relates to service, office is directed to fix the same, expeditiously, preferably, after three months.

ATTESTED

Senior Court Associate
Supreme Court of Pakistan

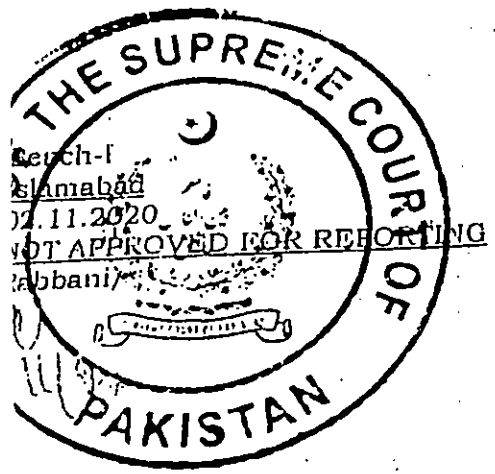
CP 630-P of 2019

3. Civil Petition No.330-P of 2018 be clubbed and heard with the civil appeal arising out of this civil petition.

C.M.A.No.1444-P of 2019

4. In the meantime, the operation of the impugned judgment is suspended.

Sd/-HCJ
Sd/-J
Sd/-J



Certified to be True Copy

[Signature]
Senior Court Associate
Supreme Court of Pakistan
Islamabad

GR No: 16414/20 Civil/Criminal
Date of Presentation: 02-11-20
No of Words: 600
No of Folios: 6
Requisition Fee Rs: 5-00
3.74



OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA, PESHAWAR

NO. 25-E / 724 / CEC / C&WD

DATED PESHAWAR THE 11 / 10 / 2019

OFFICE ORDER

In compliance with the Secretary to Govt: of Khyber Pakhtunkhwa, C&W Department directives memo No. SO(111)/C&WD/3-416/2016 dated 03.10.2019! And in pursuance to the judgment/decision, dated 26.01.2018, passed in Service Appeal No. 308/2016, read with subsequent orders dated 13.09.2018 and 17.09.2019 in the Execution Petition No.132/2018 by the Khyber Pakhtunkhwa Service Tribunal, Mr. Adnan Yaqub S/O Yaqub Khushi having appointment as Lab Attendant (BPS-02) vide Chief Engineer (CDO) C&W Department Offer of Appointment memo No.2-E/304 dated 29.07.2010, later cancelled vide Office Order No. 2-E/361 dated 18.08.2010, is hereby Re-Instated in Service with all back-benefits to which he is entitled.

These orders are subject to the conditions that in case the Apex Supreme Court of Pakistan grants relief in favour of Government in the CPLA since pending adjudication, these orders will stand cancelled automatically.

These orders are issued with the concurrence of kind Secretary C&W Department due to the Non-posting of Chief Engineer (CDO) C&W Department till yet.

CHIEF ENGINEER (CENTRE)

Copy to the:-

1. Secretary to Govt: of Khyber Pakhtunkhwa C&W Department Peshawar with reference to his advice referred to above please.
2. Chief Engineer (CDO) C&W Department Peshawar for information & necessary action.
3. Accountant General Khyber Pakhtunkhwa Peshawar.
4. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
5. Research Officer Road Research & Material Testing Laboratory C&W Department at Hayatabad, Peshawar.
6. Mr. Adnan Yaqub S/O Yaqub Khushi R/O St: John High School O/S Kohatti Gate District Peshawar.
7. Case 275-E

CHIEF ENGINEER (CENTRE)



OFFICE OF THE CHIEF ENGINEER (CDO)
C&W DEPARTMENT POLICE ROAD PESHAWAR
Ph. No. 091-9211133 Fax. 091-9211133

No. Adnan Yaqoob vs Govt./CDO/1002 Dated. 28/09/2020

To

The Accounts Officer,
C&W Department Peshawar.

SUBJECT: RESTORATION OF EXECUTION PETITION NO. 132/2018 IN SERVICE APPEAL 308/2016 ADNAN YAQOOB VERSUS GOVT. OF KPK THROUGH SECRETARY COMMUNICATION & WORKS DEPARTMENT

I am directed to refer to the subject noted above and to state that the appellant Adnan Yaqoob has filed Restoration of Execution Petition No. 132/2018 (Annexure-A) for implementation of the Judgment dated 26-01-2018 i.e. his reinstatement in Govt. Service with All Back Benefits (Annexure-B). The next date of hearing is fixed as 01-10-2020.

Brief history of the case is that the appellant was appointed as Laboratory Attendant (BPS-02) vide this office order No. 2-E/304 dated 29-07-2010 (Annexure-C). Later on, in light of Section Officer (Establishment) C&W Department Peshawar letter No. SOE/C&WD/17-4/2010, dated 13-08-2010 (Annexure-D), his appointment including others was cancelled vide this office letter No. 2-E/361 dated 18-08-2010 (Annexure-E). Feeling aggrieved to the said orders, the appellant went for appeal on 08-06-2016 (Annexure-F) which was accepted and the appellant was reinstated from the date of his termination with all back benefits vide judgment dated 26-01-2018 (Annexure-B). Accordingly the official has been reinstated in Govt. Service vide Chief Engineer (Centre) C&W Department Office Order No. 25-E/724/CEC/C&WD, dated 11-10-2019 (Annexure-G) and he has joined the service on 17-10-2019 (Annexure-H).

In order to avoid contempt of court by giving all back benefits to the official, this office is of the view that there is no other alternative but to approach the Finance Department and request for creation of supernumerary post of Laboratory Attendant (BPS-02 now BPS-04) with effect from 30-07-2010 to 16-09-2019. The S.N.E (fresh) for the year 2018-19 alongwith explanatory memo: received from Research Officer Regional RR&MT Laboratory C&W Department Peshawar letter No. 1247/6-E, dated 25-09-2020 is attached as (Annexure-I).

I am therefore, directed to request that the matter for creation of supernumerary post of Laboratory Attendant BPS-02 for the period from 30-07-2010 to 30-06-2015 and BPS-04 w.e. from 01-07-2015 to 16-09-2019 may be taken up with the Finance Department at the earliest so as to settle the issue once for all please.

Encl./As above

(Mehboob Ali)
Administrative Officer/B&A Officer

Copy forwarded to the:-

1. Research Officer Regional RR&MT Laboratory C&W Department Peshawar with reference to above for information.
2. Section Officer (Establishment) C&W Department Peshawar.
3. Section Officer (Litigation) C&W Department Peshawar.
4. PA to Chief Engineer CDO for information.

(Mehboob Ali)
Administrative Officer/B&A Officer