

Diary No. 274

Dated 4/1/23

Diary No. 2712

Dated 4/1/23

Diary No. 2713

Dated 4/1/23

Diary No. 2714

Dated 4/1/23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition 55/2022 in SA# 5409/2020
Execution Petition 145/2020 in SA# 3891/2020
Execution Petition 109/2020 in SA# 595/2020
Execution Petition 110/2020 in SA# 3652/2020

Gohar Ali, etcAppellants.

VERSUS

Secretary E&SE, Govt: of Khyber Pakhtunkhwa & others..... Respondents.

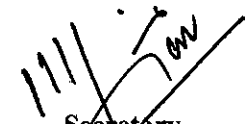
Subject:- **REQEUSTED FOR RELEASE OF MONTHLY SALARY OF THE RESPONDENTS IN THE ABOVE MENTIONED EXECUTION PETITONS**

Respectfully Sheweth,

It is entreated with great reverence before this Honorable Tribunal as under:-

1. That this Honorable Tribunal instructed the Respondents to implement this Honorable Tribunal Order/Judgments in the subject Execution Petitions.
2. That the Respondent Department already issued direction to the concerned officer for implementations of this Honorable Service Tribunal. (Copy enclosed)
3. The Respondents are much merciful for the said delay which was not intentional but due to unavoidable circumstances and due procedure of law.

It is therefore, humbly prayed that on acceptance of this compliance report this Honorable Tribunal may be very graciously pleased to file the show cause notice and release the monthly salary of the Respondents, please.


Secretary
Elementary & Secondary Education
(Respondents)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

MOST IMMEDIATE / COURT MATTER

NO.SO (Lit-II) E&SED/1-5/Miscellaneous/2023
Dated Peshawar, the 02-01-2023

To

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

SUBJECT: CP No.84,377-P/20& 307, 469, 474, 479 TO 549-P/21 GOVT OF KHYBER PAKHTUNKHWA VS MAQSAD HAYAT AND OTHERS (CONVEYANCE ALLOWANCE).

In continuation of this department letter of even No. dated 12.12.2022 on the subject that this department has already communicated the Judgment of August Supreme Court of Pakistan dated 07-07-2022, for strict implementation. But it's brought to the notice of the Competent Authority that some Appellants filed Execution Petitions before the Honorable Service Tribunal, and the honorable court has not only attached the salaries Chief Secretary & Secretary Education, but also issued showcase notices to the officers. This shows gross negligence on your part.

Therefore, you are once-again directed to implement the Judgment of the August Supreme Court of Pakistan in letter and spirit so as to avoid any adverse order from Honorable Court, under intimation to this department.

Being court matter, this is to be treated as Most Urgent.

sd

Deputy Secretary (Legal-I)

Endst.No & date as above.

Copy forwarded to the:-

1. Registrar Service Tribunal, Khyber Pakhtunkhwa, Peshawar.
2. All District Education Officers (Male & Female), Khyber Pakhtunkhwa, with the direction to implement the judgment letter and spirit.
3. Deputy Director (Legal) E&SE Department, with the direction to personally pursue the implementation process and update this office on weekly basis.
4. Section Officer (Lit-I, III & IV) E&SE Department.
5. P.S to Secretary Elementary & Secondary Education Department.
6. P.A to Additional Secretary (General), Khyber Pakhtunkhwa, Peshawar.

Section Officer (Lit-II)

Affzal Khan
SA-5409/2020 EP 55/2022

10.11.2022

Miss Rabia Muzaffar, Advocate junior of learned counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

As per previous order sheet dated 06.10.2022, the department was given last chance for submission of implementation report. However, the department did not come up with the requisite implementation report of the judgement of Service Tribunal dated 27.07.2020 despite last chance. As a result thereof, monthly salary of the respondents No. 1 to 4 is hereby attached till further orders. The Accountant General Khyber Pakhtunkhwa and District Accounts Officers Charsadda be directed not to release salary to the said respondents till further orders by the Tribunal. Adjourned. To come up for implementation report before the S.B on 02.12.2022.

(Mian Muhammad)
Member (E)

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Charsadda

Diary No. 2711

Diary No. _____

Diary No. _____

Diary No. _____

Date 4/11/23

Date _____

Date _____

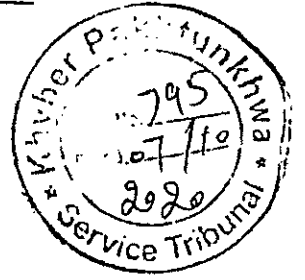
Date -/-

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Implementation Petition No. 145/2020

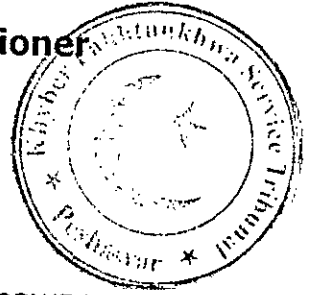
In

Service Appeal No3891/2020



Akhtar Hussain, Primary School Head Teacher, Govt. Primary School
No 2 Shergarh District Mardan.....**Petitioner**

V E R S U S



1. Director Elementary and Secondary Education, KPK Peshawar.
2. District Education Officer (Male) Mardan.
3. Secretary, Elementary and Secondary Education, KPK Peshawar.
4. Govt. of Khyber Pakhtunkhwa through Secretary Finance Department, Peshawar.
5. Accountant General, Khyber Pakhtunkhwa Peshawar.

.....**Respondents**

**PETITION FOR THE IMPLEMENTATION OF
ORDER/JUDGMENT DATED 03-06-2020 PASSED BY THIS
HONORABLE TRIBUNAL IN THE ABOVE TITLED SERVICE
APPEAL.**

Respectfully Submitted:-

1. That the Petitioner/appellant earlier filed Service Appeal No 3891/2020 for restraining respondents from deducting Conveyance Allowance during summer and winter vacations and to pay the Petitioner the illegally deducted amount in this respect, which was disposed of with the observation that the Judgment of Honorable Peshawar High Court passed in the Writ Petition No 3162-P/2019 shall be honored and implemented by the respondents within shortest possible

Certified to be true copy

AKHTAR HUSSAIN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



Execution Petition No. 145/2020

2nd Dec, 2022

1. Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

02. Learned counsel for the petitioner produced copy of a judgment of the Tribunal passed on 12.07.2021 in service appeal No. 12889/2020 and submitted that the execution petition may be disposed of in view of the said judgment. Learned AAG on behalf of the respondents submitted that the order of the Tribunal in the instant matter was passed on 03.06.2020 disposing of the appeal of the appellant in the light of judgment dated 11.11.2019 passed in appeal No. 1452/2019 in the following manner:-

“Learned counsel referred to the judgment passed by learned Federal Service Tribunal in Appeal No. 1888(R)CS/2016 which was handed down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter vacation was held to be within his entitlement and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Honourable Peshawar High Court passed on 01.10.2019 in the case of appellant.

Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar High Court, the appellant will have no cavil about disposal of instant appeal.

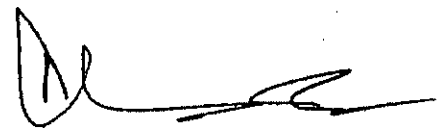
The record suggests that while handing down judgment in the Wirt petition preferred by the appellant, the Honourable High Court not only expounded the definition of “pay” as well as “Salary” but also entitlement of a civil servant for the Conveyance Allowance during the period of vacations. It is important to note that the respondents were represented before the High Court during the proceedings.

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Peshawar

In view of the above noted facts and circumstances and in order to protect the appellant from a fresh round of litigation which may protract over a formidable period, the appeal in hand is disposed of with observation that the judgment of Honourable Peshawar High Court passed in Writ petitions including W.P. No. 3162-P/2019 shall be honoured and implemented by the respondents within shortest possible time. The appellant shall, however, be at liberty to seek remedy in accordance with law in case his grievance is not redressed by the respondents within a reasonable time. File be consigned to the record."

03. In view of the above situation the request of the learned counsel for disposal of the instant petition, in the light of the judgment in appeal No. 12889/2020, is not comprehensible, however, it is requested that the petitions might be disposed of. The learned AAG appearing on behalf of the respondents informed the Tribunal that the relief granted to the petitioner in his appeal, has been duly extended by the department as he was getting the allowance granted vide the judgment passed in the instant matter. It may be because of the relief extended to the petitioner that his learned counsel has requested for decision of the petition. The petitions are thus disposed of on the request of the learned counsel for the petitioner. Consign.

04. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 2nd day of December, 2022.*



(Kalim Arshad Khan)
Chairman

Date of Presentation of Application 21/12/22
Number of Words 1200
Copying Fee 15/-
Urgent 5/-
Total 18/-
Name of Clerk _____
Date of Copy _____
Date of Delivery of Copy 21/12/22

Certified Signature copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 109 / 2020
In
Appeal No.595/2020

MR. Salim Raza, SST (BPS-16),
GHS Dairi Ala Dand, District Malakand.

PETITIONER

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5- The Director of (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING
THE RESPONDENTS TO OBEY THE JUDGMENT
DATED 13.02.2020 IN LETTER AND SPIRIT

R/SHEWETH:

- 1- That the petitioner filed Service appeal bearing No. 595/2020 before this august Service Tribunal against the impugned action of the respondents by illegally and unlawfully deducting the conveyance allowance of the appellants during winter & Summer vacations.
- 2- That the appeal of petitioner was finally heard by this august Tribunal on 13.02.2020 and was decided in favor of the petitioner vide judgment dated 13.02.2020 with the directions to the respondents to redress grievances of the petitioner within a shortest possible time. Copy of the judgment & other documents are attached as annexure..... **A & B.**
- 3- That after obtaining attested copy of the judgment dated 13.02.2020 the petitioner submitted the same before the respondents for implementation but till date the judgment of this Tribunal has not been implemented by the respondent in letter and spirit.

Certified true copy
Service Tribunal
Peshawar

17/12/22



15.12.2022

Learned counsel for the appellant present **Mr. Naseer-ud-Din Shah**, Assistant Advocate General

alongwith **Mr. Tufail**, Assistant for the respondents present.

The department produced copy of correspondence dated 12.12.2022 whereby it has been intimated that the case is under process within the department. Placed on file and copy thereof provided to learned counsel for the petitioner who stated at the Bar that the Supreme Court of Pakistan has recently announced an elaborate judgement in this respect and he would try to get hold of that judgement. He therefore, requested for adjournment. Adjourned. To come up for further proceedings on 28.12.2023 before S.B.

(Mian Muhammad)
Member (E)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 18-12-22

Number of Copies 800

Number of Pages 10/-

Number of Bundles 4/-

Date of Delivery of Copy 18-12-22



Office of the
Accountant General

Fort Road, Khyber Pakhtunkhwa
Peshawar Pakistan
Phone: 091 9211250-54

No. Lit/S.T/Attachment of salary/ 2022/1604-07
To,

Dated: 16.12.2022

The Accounts Officer,
Payroll.....08.....

The Accounts Officer,
Payroll.....10.....

SUBJECT:- ATTACHMENT OF SALARY

Please refer to Registrar Khyber Pakhtunkhwa Service Tribunal
Peshawar letter No.3436/St, dated: 01.12.2022 and order sheet dated: 15.11.2022 on the
subject noted above.

It is requested to attach the salary of the officers as mentioned below in the
Execution Petition No. 109/2020 as per Court orders.

- Secretary E & SE Department, Govt of Kpk Peshawar.
- Secretary Finance Department, Govt of Kpk Peshawar.
- Director E & SE Department, Govt of Kpk Peshawar.

AS/CO
21/12
Most urgent
21-12-22
Accounts Officer
(Litigation)

Copy is forwarded to the:-

1. Registrar, Khyber Pakhtunkhwa, Service Tribunal Peshawar with reference to the above quoted order.
- ✓ 2. Secretary E & SE Department, Govt of Kpk Peshawar.
3. Secretary Finance Department, Govt of Kpk Peshawar.
4. Director E & SE Department, Govt of Kpk Peshawar.

3907
21/12/22
Accounts Officer
(Litigation)

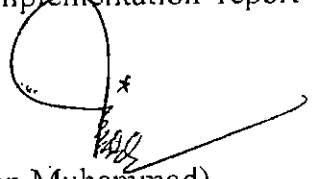
21-12-22

Salim Raza


15.11.2022

Mr. Waleed Adnan, Advocate junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Tufail, Assistant for the respondents present.

Implementation report pertaining to the judgement of Service Tribunal dated 13.02.2021 took considerable time therefore, last chance was given to the respondents on 30.09.2022. Despite last chance, the department could not come up with implementation report today. As a result thereof, the Tribunal is having no other option and is therefore, constraint to attach salary of Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Secretary Finance Khyber Pakhtunkhwa & Director Elementary & Secondary Education Khyber Pakhtunkhwa. The Accountant General Khyber Pakhtunkhwa be directed not to release salary to the said respondents till further orders by the Tribunal. Adjourned. To come up for implementation report before the S.B on 05.12.2022.


(Mian Muhammad)
Member (E)

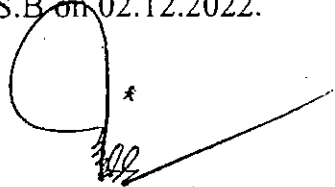
SCANNED
Peshawar


ATTESTED

Khyber Pakhtunkhwa
Secretary

10.11.2022

Miss Rabia Muzaffar, Advocate junior of learned counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

As per previous order sheet dated 06.10.2022, the department was given last chance for submission of implementation report. However, the department did not come up with the requisite implementation report of the judgement of Service Tribunal dated 27.07.2020 despite last chance. As a result thereof, monthly salary of the respondents No. 1 to 4 is hereby attached till further orders. The Accountant General Khyber Pakhtunkhwa and District Accounts Officers Charsadda be directed not to release salary to the said respondents till further orders by the Tribunal. Adjourned. To come up for implementation report before the S.B on 02.12.2022.


(Mian Muhammad)
Member (E)

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Charsadda

Shamim Arq

15.11.2022

Mr. Waleed Adnan, Advocate junior of learned counsel for the appellant-present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Tufail, Assistant for the respondents present.

Implementation report pertaining to the judgement of Service Tribunal dated 08.06.2020 took considerable time therefore, last chance was given to the respondents on 30.09.2022, Despite last chance, the department could not come up with implementation report today. As a result thereof, the Tribunal is having no other option and is therefore, constraint to attach salary of Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Secretary Finance Khyber Pakhtunkhwa & Director Elementary & Secondary Education Khyber Pakhtunkhwa. The Accountant General Khyber Pakhtunkhwa be directed not to release salary to the said respondents till further orders by the Tribunal. Adjourned. To come up for implementation report before the S.B on 05.12.2022.

(Mian Muhammad)
Member (E)

SCANNED
AT
Peshawar

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar