

13.05 2022


Petitioner with counsel present. Mr. Naseer-uddin Shah, Assistant Advocate General alongwith Mr. Shahid Iqbal Assistant (Litigation) for the respondents present.

Representative of the respondents produced copy of office order dated 13.05.2022, whereby the petitioner is conditionally reinstated into service subject to issuance of suspension order by august Supreme Court of Pakistan or final outcome of CPLA.

On the other hand petitioner is satisfied. Disposed of accordingly. Consign.

Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 13th day of May, 2022





(Kalim Arshad Khan)
Chairman

10.01.2022

Petitioner in person present. Mr. Hamid Slaeem, Law Officer alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Representative of respondents stated at the bar that the judgment under execution has been challenged through filing of CPLA before the august Supreme Court of Pakistan.

In this view of the matter, in case no order of suspension of the judgment under execution has been passed by august Supreme Court of Pakistan, the respondents are required to pass a conditional order of implementation of the judgment dated 02.09.2021 passed by this Tribunal, which of course will be subject to outcome of the CPLA. To come up for implementation report on 23.02.2022 before S.B.


(Salah-Ud-Din)
Member (J)

24.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 10.05.2022 for the same before D.B.


Reader

10.05.2022

Petitioner present through counsel.

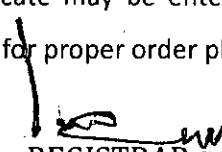

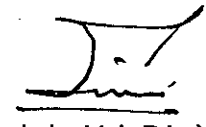
Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Learned AAG requested for adjournment in order to submit proper implementation report. Adjourned. To come up for implementation report on 13.05.2022 before S.B.


(Rozina Rehman)
Member (J)

Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. 230 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.10.2021	<p>The execution petition of Mr. Zahoor Khan submitted today by Mr. Noor Muhammah Khattak Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench on <u>19/11/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	19.11.2021	<p>Learned counsel for the petitioner present. Notices be issued to the respondents for submission of implementation report on 10.01.2022 before the S.B.</p> <p style="text-align: right;"> (Salah-Ud-Din) Member (J)</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

EXECUTION PETITION NO. 230 /2021

IN

APPEAL NO. 1374/2019

ZAHOOR KHAN

V/S

P.S.C DEPTT:

I N D E X

S.N	DOCUMENTS	ANNEXURE	PAGE
1	Memo of implementation	1 - 2
2	Affidavit	3
3	Order/judgment dt: 02.09.2021	A	4-8
4	Wakalat Nama	9

Dated: ___10.2021

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE

FLATE NO. 04, 2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,
WARSAK ROAD, PESHAWAR

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 230 /2021

In

Appeal No.1374/2019



Mr. Zahoor Khan, Ex-Naib Qasid,
Khyber Pakhtunkhwa Public Service Commission, Peshawar.

.....PETITIONER

VERSUS

- 1- The Chairman, Public Service Commission, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary, Public Service Commission, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director Administration, Public Service Commission, Khyber Pakhtunkhwa, Peshawar.

.....RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING THE
RESPONDENTS TO OBEY THE JUDGMENT DATED
02.09.2021 IN LETTER AND SPIRIT.

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 1374/2019 before this August Service Tribunal for his re-instatement to the post of Naib Qasid from due that with all back benefits.
- 2- That the appeal of the petitioner was heard and the appellate authority is directed as follows" ***Consequent upon the above discussion, the appeal in hand as well as connected Appeal bearing No:1375/2019 titled Muslim Khan v/s Chairman Public Service Commission, KPK, Peshawar and two others as well as service appeal bearing no: 1376/2019 titled Taj Wali v/s Chairman KPPSC, Peshawar and two others are allowed by setting aside the impugned orders of dismissal of Appellants and they are re-instated into service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.***" Copy of the judgment dated 02-09-2021 is attached as annexure.....**A.**
- 3- That after obtaining copy of the judgment dated 02-09-2021 the petitioner submitted the judgment mention

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 1374/2019

Date of Institution ... 18.10.2019

Date of Decision ... 02.09.2021



Zahoor Khan, Ex-Naib Qasid, Khyber Pakhtunkhwa Public Service Commission, Peshawar.

... (Appellant)

VERSUS

Chairman, Public Service Commission, Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

Mr. NOOR MUHAMMAD KHATTAK,
Advocate

--- For appellant.

MR. RIAZ AHMED PAINDAKHEIL,
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MR. ATIQ-UR-REHMAN WAZIR--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)JUDGMENT:

SALAH-UD-DIN, MEMBER:- Through this single judgment, we intend to dispose of the instant Service Appeal as well as Connected Service Appeal bearing No. 1375/2019 titled "Muslim Khan Versus Chairman Public Service Commission, Khyber Pakhtunkhwa, Peshawar and two others" as well as Service Appeal bearing No. 1376/2019 titled "Taj Wali Versus Chairman Public Service Commission, Khyber Pakhtunkhwa, Peshawar and two others", as common questions of law and facts are involved in all these appeals.

2. Precise facts giving rise to filing of the instant service appeal as well as connected service appeals mentioned above

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

are that the appellants namely Zahoor Khan, Taj Wali and Muslim Khan were serving in the Khyber Pakhtunkhwa Public Service Commission Peshawar as Naib Qasid, Residence Orderly and Driver respectively. Certain tempering was found in the result, attendance sheets and descriptive sheets as well as attendance sheets of interviews held w.e.f 06-07-2011 to 12-08-2011 for the posts of male Lecturer Botany (BPS-17) in Higher Education Department, which resulted in initiation of disciplinary action against the appellants as well as certain other officials. On conclusion of the inquiry, major penalty of dismissal from service was imposed upon the appellants, therefore, they filed separate departmental appeals, which were also rejected. The appellants have now approached this Tribunal through filing of service appeals for redressal of their grievance.

3. Notice was issued to the respondents, which submitted their comments, wherein they refuted the contention of the appellants.

4. Learned counsel for the appellants has contended that inquiry proceedings were conducted in a slipshod manner and neither the concerned candidates nor the complainant namely Mr. Zubair Shah, the then Member Khyber Pakhtunkhwa Public Service Commission were examined during the inquiry proceedings; that the inquiry proceedings were conducted in utter disregard of the relevant provisions of Khyber Pakhtunkhwa Efficiency & Disciplinary Rules, 2011 and the appellants were not even provided an opportunity of cross-examination of the witnesses; that neither any final show-cause notices were issued to the appellants nor an opportunity of personal hearing was afforded to them; that the inquiry proceedings are tainted with legal lacunas and the penalty imposed upon the appellants cannot be legally based on such inquiry; that a criminal case regarding the alleged incident was also registered vide case FIR No. 18/2011 U/Ss 419/420/486/471 PPC read with section 5(2) of prevention of corruption Act, registered in PS ACE Peshawar, however the appellants have already been acquitted in the said case. Reliance was placed on 2008 SCMR 1369, PLJ 2012 Tr.C.

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

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

APPEAL NO: _____ OF 2021

ZAHOOR KHAN(APPELLANT)
(PLAINTIFF)
(PETITIONER)**VERSUS**PUBLIC SERVICE COMMISSION(RESPONDENT)
(DEFENDANT)I/We ZAHOOR KHAN

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, 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 cost. 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.

Dated. ____/____/2021

**CLIENT****ACCEPTED****NOOR MOHAMMAD KHATTAK****KAMRAN KHAN****&****UMAR FAROOQ MOHAMMAD****SAID KHAN****HAIDER ALI**
ADVOCATES**OFFICE:**

Flat No.4, 2ND Floor,
Juma khan plaza near
FATA Secretariat, Warsak road
Peshawar City. Mobile No. 0345-9383141

"B"

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

No.

Appeal No. E/P. No. 230 to 232 of 20 21
Zahoor Khan & 2 Others Appellant/Petitioner

Versus

The Chairman Public Service Commission Respondent

Respondent No. 2

Notice to: The Secretary Public Service Commission
KPK 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 10/11/2022 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.

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 E/P 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 6th

Day of Dec 20 21

(Implementation Report)

M. De
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.

28

Schools Klang (2) Office
E/P No 930 to 932

The Chairman, Public Service Commission

3

The Secretary, Public Service Commission
Kuala Lumpur

10/11/2021

E/P ✓

28



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M. S. M.

“B”

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

No.

Appeal No. E/P.No. 230 to 232 of 2021!

Zahoor Khan & 2 Others Appellant/Petitioner

Versus

The Chairman Public Service Commission Respondent

Respondent No. 3

Notice to: The Director Administration Public Service Commission, KPK 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 10/11/2021 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 E/P attached. Copy of appeal has already been sent to you vide this office Notice No. dated

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Day of Dec 20 21

Implementation Report

[Signature]
 Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

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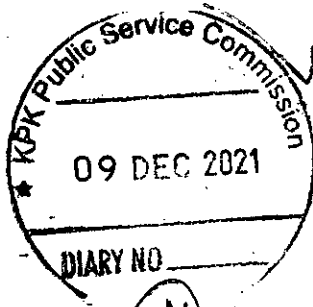
E/PR 930 P 938

Janet Khan (S) others

The Chairman for the Service Commission

The Director of Administration
Service Commission for the Government

10/11/2021



E/P

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PR

4/6/21

“B”

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

No.

Appeal No. E/P No. 230 to 232 of 2021
Zahoor Khan & 2 Others Appellant/Petitioner

Versus

The Chairman, Public Service Commission Pesh.
 Respondent

Respondent No. 1

Notice to:

The Chairman, Public Service Commission
KPK 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 10/11/2022 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 afo rementioned, 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 E/P 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 6th

Day of Dec 2021

Implementation Report

M. R. S.

Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

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F/B No: 2305939

Sarvesh Kumar S (D) Officer

The Chairman, Public Service Commission

+

The Chairman, Public Service Commission

K R Kachar

10/11/2021



9/11/21

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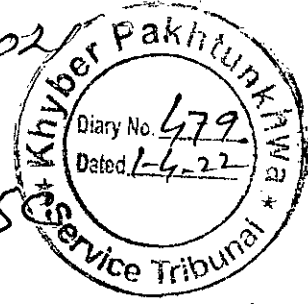
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S.M.

9

Before The KP Service Tribunal, Peshawar.

Execution Petition No. 230 1202



Zahoor Khan (2) v/s Chairman PS
& other.

Put up to the worthy chair-man
with appeal.

Application for Early Hearing

11/4/22

Respectfully Sheweth;

- 1) That the above titled cases are pending adjudication before this Honourable Tribunal and are fixed for hearing on 10.05.2022
- 2) That due to non-functioning of Service Tribunal the case were adjourned on Readrite and fixed in 10.05.2022
- 3) That 10.05.2022 is too far for execution of judgment dated 02/09/2021 which need to be heard at an earlier.

It is, therefore, most humbly prayed that the cases be fixed at an earlier convenient date instead of 10.05.2022.

01/04/2022

Appellant Resul Shah
Taj Wali Shah
(Ex-Driver)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#


Early Hearing _____ -p/20 _____

In case No. EP 230 _____ -p/20 21

Zahoor Khan vs Chairman KPPSC

Presented by Taj Wali Shah on behalf of Appellant. Entered in the relevant register.

Put up alongwith main case


REGISTRAR

Last date fixed	24-02-2022
Reason(S) for last adjournment, if any by the Branch Incharge.	Service Tribunal Defunct.
Date(s) fixed in the similar matter by the Branch Incharge	- 03 connected.
Available dates Readers/Assistant Registrar branch	NFA


Assistant Registrar

REGISTRAR