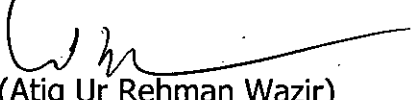


01.04.2021

Petitioner with counsel present. Mr. Kabirullah Khattak learned Addl. AG alongwith Saleem SO for respondents present.

Representative of the respondent department submitted copy of office order dated 22.03.2021 wherein the departmental appeal of the petitioner has been dismissed. Copy of the same is handed over to the petitioner. To come up for further proceedings on 03.06.2021 before S.B.


(Atiq Ur Rehman Wazir)
Member (E)

03.06.2021

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Saleem S.O for the respondents present. On previous date, the respondent department submitted copy of office order dated 22.03.2021 wherein the departmental appeal of the petitioner has been dismissed.

The present Execution Petition has become infructuous and is filed. The petitioner, after exhausting departmental remedy, may approach to this Tribunal in accordance with law, if so advised. File be consigned to the record room.

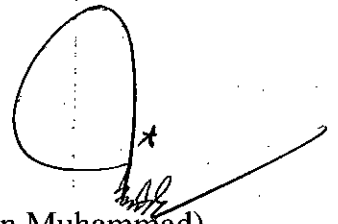

Chairman

31.12.2020

Learned counsel for the petitioner present. Mr. Noor Zaman Khattak, District Attorney for respondents present.

Implementation report not submitted. Learned District Attorney seeking two weeks time to make sure submission of the implementation report on the next date.

Adjourned to 02.02.2021 before S.B.



(Mian Muhammad)
Member(E)

02.02.2021

Petitioner with counsel and Addl. AG alongwith Muhammad Saleem S.O and Abdul Wahid, Litigation Officer for the respondents present.

Representative of respondents requests for further time towards implementation of the judgment. In his view, the exercise will be completed in one month. Learned counsel for the petitioner does not object to the request provided the implementation report is positively submitted on next date.

The proceedings in hand are, therefore, adjourned to 01.04.2021 before S.B.

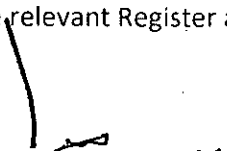

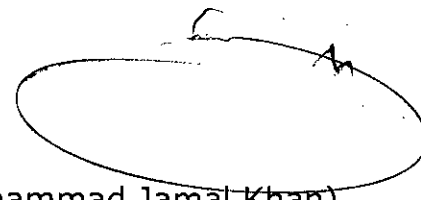


Chairman

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 144 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	0.10.2020	<p>The Execution Petition submitted by Mr. Sherullah through Ibad Ur Rahman 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> <p>2-</p> <p>This Execution Petition be put up before S. Bench on <u>06/11/2020</u>.</p> <p style="text-align: right;">  CHAIRMAN </p>
06.11.2020		<p>Petitioner is present in person. Notice be issued to the respondents for implementation report for 31.12.2020 before S.B.</p> <p style="text-align: right;">  (Muhammad Jamal Khan) Member (Judicial) </p>



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

No.SO (Lit) E&SED/1-3/SA#1264/2015.
Dated Peshawar the, March 22, 2021

Order

WHEREAS Mr. Sher Ullah, was promoted from the post of Budget & Accounts Officer (BS-16) to post of Assistant Director BS-17 on regular basis on the recommendations of the Departmental Promotion Committee vide notification dated 29.08.2014.

2. AND WHEREAS In terms of Rule 15 (2) of Khyber Pakhtunkhwa Government Servants Appointment, Promotion & Transfer (APT) Rules 1989(in-vogue by then), he was on probation for a period of one year extendable for another year. Hence he was on probation upto 28.08.2016.

3. AND WHEREAS final seniority list of Assistant Director was issued on 31.08.2015.

4. AND WHEREAS his date of birth being 13-11-1955, he proceeded on retirement on 12-11-2015 on the basis of superannuation. Hence he retired from service before completion of his probation period on i.e 28.08.2016.

5. AND WHEREAS promotion to next higher grade/post is not considered during probation period as contained in clause-IV (f) of promotion policy 2009 of provincial Government.


6. NOW THEREFORE this departmental appeal has been considered on the above grounds and dismissed, being devoid of merit.

SECRETARY

Endst: Even No. & Date:

Copy of the above is forwarded to:-

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar w/r to judgement dated 09.04.2019 in Service Appeal No 1264 of 2015 in appeal No. 1068/2015.
2. The Director, E & S E Department Khyber Pakhtunkhwa, Peshawar.
3. Director, Curriculum & Teachers Education Abbottabad.
4. Section Officer (Lit-II), E&SE Department.
5. PS to Secretary, E & S E Department Khyber Pakhtunkhwa, Peshawar.
6. Mr. Sher Ullah, Ex-Assistant Director (Administration) (BS-17) Directorate of E&SE Peshawar
7. Office Order File


(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

BEFORE THE HONOURABLE KP SERVICE TRIBUNAL
PESHAWAR.

E.P. NO. _____/2020

IN

APPEAL NO. 1068/2015

Sherullah Ex-Assistan Director (Admn) Directorate of Elementary &
Secondary Education Peshawar.

Versus

Secretary, elementary & Secondary Education Department, Peshawar

INDEX.

<u>S.No.</u>	<u>Description of documents.</u>	<u>Annex:</u>	<u>P.No.</u>
1-	Execution Petition		1-2
2-	Judgment dated 12-3-2012	A	3-
3-	Wakalatnama		

Dated 02/10/2020



IBADUR RAHMAN
Advocate High Court
127-Sarhad Mansion
Hashtnagri, GT Road
Peshawar.

Cell # 0300-5932939

BEFORE THE HONOURABLE KP SERVICE TRIBUNAL
PESHAWAR.

E.P. NO. 144 /2020

IN

APPEAL NO. 1068/2015



Sherullah Ex-Assistan Director (Admn) Directorate of Elementary &
Secondary Education Peshawar.

..... Petitioner

Versus

Secretary, elementary & Secondary Education Peshawar.

..... Respondent

EXECUTION PETITION FOR IMPLEMENTATION
OF JUDGMENT DATED 09-04-2019 PASSED BY
THIS HONOURABLE TRIBUNAL.

Respectfully sheweth.

Petitioner submits as under :-

- 1- That the petitioner/ Appellant filed an Appeal against the notification bearing Endst No. SO (PE) /2-6 DPC meeting / BA & O from BS-16 to BS 17 2014 dated 28/08/2014, whereby the appellant was promoted from BS-16 to BS-17 Assisstant Director Administration, with immediate effect instead of the date of availability of the vacancy.
- 2- That this honouable tribunal disposed-off the appeal with the following observations/directions :-

Admittedly, there is no order of the appellate authority in relation to the grievance of the appellant. Consequently the present case if remanded to the appellate authority (Respondent No.2) for decision of the departmental appeal of the appellant with speaking order. The present service appeal is disposed off in the above terms. Copy of the departmental

appeal of the appellant available on file be also sent to the appellate authority alongwith copy of this judgment, vide judgment dated 09-04-2019. (Copy attached as Annex:-A).

- 3- That since then, the appellant/Petitioner time an again requested the respondents for implementation of the above judgment/order of this honourable tribunal but still no response what so ever from there side.
- 4- That almost one and a half year has passed but still the respondent is reluctant to implement the judgment of this honourable tribunal and the applicant has left with no other option but to approach this honouable tribunal, hence. the applicant in hand.

It is, therefore, humbly prayed that the respondents be directed to implement the judgment/order dated 09-04-2019.

Any other remedy deem proper in the matter and not specifically asked for may also please be given with Costs.

[Handwritten Signature]

Petitioner/Appellant

Through:-

[Handwritten Signature]

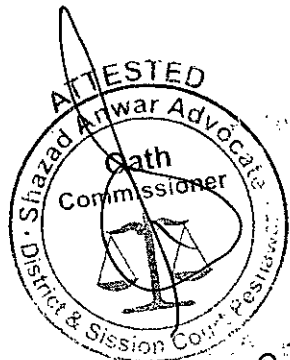
IBADUR RAHMAN
Advocate High Court
Sarhad Mansion
Hashtnagri, GT Road
Peshawar.

DATED 02/9/2020

AFFIDAVIT

Stated on oath that above contents are true and correct to the best of my knowledge and belief.

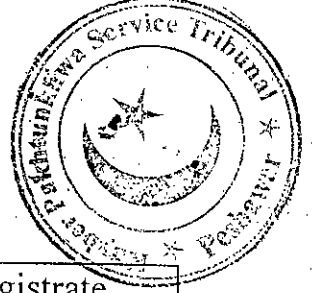
[Handwritten Signature]
Deponent



02-10-2020

Annex - A

3



Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 1068/2015</p> <p style="text-align: center;">Date of Institution 29.09.2015 Date of Decision 09.04.2019</p> <p>Sherullah Assistant Director (Admn) Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar. Appellant</p> <p style="text-align: center;">Versus</p> <p>1. The Chief Secretary Khyber Pakhtunkhwa Peshawar. 2. The Secretary Elementary & Secondary Education, Peshawar. 3. The Director Elementary & Secondary Education Peshawar.</p> <p style="text-align: right;">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Hussain Shah -----Member(J)</p> <p style="text-align: center;"><u>JUDGMENT</u> <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned</p> <p>counsel for appellant and Mr. Zia Ullah learned Deputy District Attorney present.</p> <p>2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 being aggrieved against the promotion order dated 29.08.2014 whereby he was promoted from the post of Budget & Account Officer (BS-16) to the post of Assistant Director (BS-17) with immediate effect. Prayer of the appellant is that the respondents may be directed to promote the appellant to the post of Assistant Director (BS-17) from the date of</p>		

09.04.2019

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

4. 2019

availability of vacancy instead of 29.08.2014.

3. Learned counsel for the appellant argued that under the promotion criteria dated 28.01.2013, the vacant posts of Assistant Director (Admn) & Assistant Director (F&A) BS-17 has to be filled up out of Budget & Account Officers through promotion on the basis of seniority cum fitness. Further argued that the posts of Assistant Director (Admn) & Assistant Director (F&A) remained occupied by the junior most superintendents and other officers of the department hence the appellant's promotion to the post of Assistant Director was due from the date of availability of vacancy but the appellant was promoted to the said post w.e.f 29.08.2014 instead of from the date of availability of vacancy which is against law and norms of justice; that the departmental appeal of the appellant went un-responded.

4. As against that learned Deputy District Attorney argued that the appellant has not filed any departmental appeal against the promotion order dated 29.08.2014; that the appellant was not entitled for the grant of antedated promotion; that as and when the vacancy was available, the competent authority promoted the appellant vide impugned promotion order dated 29.08.2014.

5. Arguments heard. File perused.

6. It is also to be seen that whether under the promotion criteria which was in field prior to the promotion criteria dated 28.01.2013, the appellant was also entitled to promotion to the post of Assistant Director (BS-17) or otherwise.

ATTENDED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


14.2.2019

7. Admittedly, there is no order of the appellate authority in relation to the grievance of the appellant. Consequently the present case is remanded to the appellate authority (Respondent No.2) for decision of the departmental appeal of the appellant with speaking order. The present service appeal is disposed of in the above terms. Copy of the departmental appeal of the appellant available on file be also sent to the appellate authority alongwith copy of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

ATTENDED

MEMBER
 Khayr Peshawar
 Service Tribunal,
 Peshawar


 (Hussain Shah)
 Member




 (Muhammad Hamid Mughal)
 Member

ANNOUNCED
 09.04.2019


Certified to be true copy

MEMBER
 Khayr Peshawar
 Service Tribunal,
 Peshawar

Date of Presentation of Copy 16-4-2019
 Number of Copies 1200-
 Copying Fee 10-
 Urgent 10-
 Total 10-
 Name of Copyist Su
 Date of Completion of Copy 3-5-2019
 Date of Delivery of Copy 3-5-2019

50	62229			
ایڈویکٹ: <u>عباد الہ علی</u>				
بار کونسل ایسوسی ایشن نمبر:				
رابطہ نمبر: <u>0312-5932939</u>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		


بعدالت جناب: خیبر پختونخواہ سروسز ٹریڈیونگ پرائیویٹ لمیٹڈ

Petitioner	مخائب:	EP No	2010
		17	
		10 68/2015	
			دعویٰ:
			مورثہ
			جرم:
			تھانہ

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ

آن مقام لشکر ایڈیلیہ، عباد الہ علی، عمران خان ججی انڈر لٹیشن کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کر کے نو تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی زکو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی کھلم کھلا مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائے التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم: 2/10/2015

 DESHWAR BAR ASSOCIATION
 KHYBER PAKHTUNKHWA
 واہ شہ

مقام لشکر ایڈیلیہ کے لیے منظور ہے۔