

13.01.2022

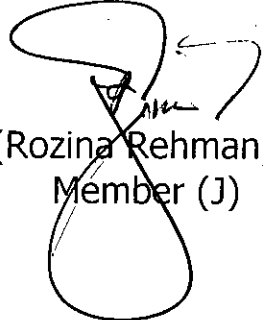
Nemo for petitioner.

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

Perusal of record would reveal that the petitioner submitted an application on 26.10.2021 regarding filing of his execution petition. As per his petition, he has been transferred from Government High School Khar Bajaur No.2 District Bajaur to Government High School Kama Dara of District Bajaur.

As the grievances of the petitioner have been redressed, therefore, in view of his request, the present execution petition stands filed being fully satisfied. File be consigned to the record room.

Announced.  
13.01.2022

  
(Rozina Rehman)  
Member (J)

25.10.2021

Clerk of counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Former requests for adjournment due to illness of learned counsel for the petitioner. Request is accorded. To come up for further proceedings on 22.11.2021 before the S.B.

  
Chairman

22.11.2021

None for the petitioner and Mr. Muhammad Adeel, Addl: AG alongwith Mr. Saleem Khan, SO for respondents present.

Notices be issued to the petitioner and his counsel. Adjourned. To come up for further proceedings on 13.01.2022 before S.B.

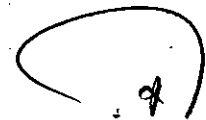
  
(MIAN MUHAMMAD)  
MEMBER (E)

26.07.2021

Petitioner in person present.

Muhammad Adeel Butt learned Additional Advocate General alongwith Saleem Khan Section Officer for respondents present.

Notification dated 5<sup>th</sup> July, 2021 was produced by the representative vide which petitioner was transferred to G.H.S Yarkhun Lasht District Chitral Upper. The petitioner requested for a short adjournment as his counsel is not available. Copy of the notification was handed over to him. On his request, case is adjourned to 03.08.2021 for further proceedings, before S.B.



(Rozina Rehman)  
Member (J)

03.08.2021

Petitioner in person and Addl. AG for the respondents present.

Petitioner seek further time to make available his counsel on next date. Adjourned to 15.09.2021 for further proceedings before S.B.



Chairman

15.09.2021

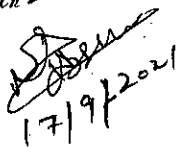
Nemo on behalf the appellant. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Notice be issued to petitioner/counsel for the next date. Case to come up for further proceedings on 25.10.2021 before S.B.



Chairman

Noted for  
Counsel



17/9/2021

E.P No. 120/20

23.06.2021

Petitioner with counsel and Mr. Muhammad Adeel Butt, Addl. AG alongwith Saleem Khan, S.O for the respondents present.


The representative of the department states that the case, for implementation of judgment under execution, has been moved and has reached to the stage of finalization. Seeks adjournment with assurance that compliance report will be submitted within a week time. Adjourned to 06.07.2021 for compliance report before S.B.

  
Chairman

06.07.2021

Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Saleem, S.O (Litigation for the respondents present.

Learned AAG seeks short adjournment to submit implementation report. Adjourned to 26.07.2021 for submission of proper implantation report before S.B.

  
Chairman

09.06.2020

Petitioner with counsel and Mr. Kabirullah Khattak, Addl. AG alongwith Saleem Khan, S.O (Litigation) for the respondents present.


The representative of the respondents present before the Tribunal is unable to explain the departmental steps towards compliance of the judgment of this Tribunal. Needless to say that the judgment was passed on 04.06.2018 with operative part in clear terms including the direction to respondents to issue fresh posting order of the appellant/petitioner in BPS-17, in accordance with law, rules and policy on the subject, within 15 days of the receipt of the judgment. Instead of 15 days, a period of about three years has passed but a very simple judgment of this Tribunal still awaits the compliance on part of the respondents. Obviously, the slackness of the respondents in case of present petitioner is not coverable by any justification to absolve them from chastening by a befitting action but as a matter of judicial restraint, a last chance is given to them for an active drive towards compliance of the judgment in letter and spirit without excuse. The respondents are directed to come up with implementation report on 23.06.2021 before S.B.

  
Chairman

28.01.2021

Petitioner is present in person. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Naser-ud-Din, Assistant, for the respondents are also present.

Petitioner stated that his counsel is indisposed of today and requested for adjournment. Adjourned to 30.03.2021 on which date file to come up for further proceedings before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

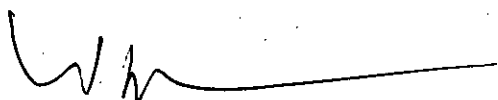
30.03.2021

Petitioner in person and Mr. Kabirullah Khattak, Additional Advocate General alongwith for the respondents present.

Implementation report on behalf of respondents not submitted. Learned Additional Advocate General is seeking further time for consulting the matter with the concerned department.

Petitioner stated that his salary has been stopped by the respondents without his fault and requested that the department may be directed to release his salary.

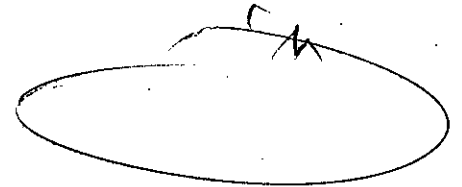
The respondents are directed to release the salary of the appellant without any further delay and submit implementation report on 09.06.2021 before S.B.

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

03.11.2020

Nemo for petitioner. Mr. Kabirullah Khattak, Additional Advocate General is present.

Neither implementation report on behalf of respondents submitted nor representative of the department is present, therefore, notice be issued to the respondents for submission of implementation report for 09.12.2020 before S.B.



(Muhammad Jamal Khan)  
Member (Judicial)

09.12.2020 Petitioner in person and Addl. AG alongwith Fazle Wadood, S.O (Litigation) for the respondents present.

The representative of respondent No. 1 has provided a copy of communication dated 18.11.2020, wherein, advise is sought from the Secretary to Government of Khyber Pakhtunkhwa Establishment Department, Peshawar. The reply of the letter has not yet been received.

The proceedings in hand cannot be adjourned indefinitely due to correspondence by the respondents, therefore, the representative is required to earnestly pursue the furnishing of advise by the quarter(s) concerned. To come up for further proceedings on 28.01.2021 before S.B.

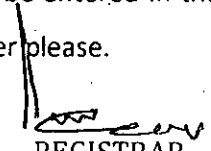




Chairman

FORM OF ORDER SHEET

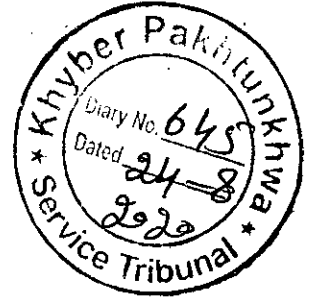
Court of 120

Execution Petition No. 120/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.08.2020	<p>The Execution Petition submitted by Mr. Hafiz Muhammad Sadiq through Mr. Yasir Saleem 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>18/09/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	18.09.2020	<p>Counsel for the petitioner present. Respondents be put on notice for submission of implementation report on 03.11.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p>



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



In the matter of  
Appeal No. 1103/2017  
Decided on 06.04.2018

***Hafiz Muhammad Sadiq, head master GHS Khar No. 2 District Bajour.***

*(Applicant)*

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director, Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer District Bajour.

*(Respondents)*

*Application for the implementation of the Judgment and Order dated 06.04.2018 of this Honourable Tribunal in its true letter and spirit.*

Respectfully Submitted:

1. That the above noted service appeal was pending adjudication in this Honourable Tribunal and was decided vide judgment and order dated 06.04.2018.
2. That vide judgment and order dated 06.04.2018, this Honourable Tribunal while accepted appeal of the appellant in the following terms:
 

***“4. Consequently the impugned order dates 09.10.2017<sup>A</sup> to the extent of the appellant is set-aside and the respondent department is directed to issue fresh posting order of the appellant in accordance with law, rules and policy on the subject, within 15 days of the receipt this judgment.....,”***  
**(Copy of the Judgment and order dated 06.04.2018, is Attached)**
3. That the judgment of this Honorable Tribunal was duly communicated to the Respondents, however they have not issued fresh posting order of the appellant rather his salary has been stopped, which is against the spirit of the judgment and order dated 06.04.2018 of this Honorable Tribunal.


4. That after judgment and order of this Honorable Tribunal, the applicant is continuously approaching the respondents for the implementation of the judgment, however they are reluctant to implement the judgment.
5. That it is pertinent to mention here that there is no restraining order from the Apex Court in the instant case and the respondents are disobeying the order of this Tribunal.
6. That the respondents are legally bound to implement the judgment of this Honorable Tribunal in its true letter and spirit without any further delay.

*It is, therefore, prayed that on acceptance of this application the respondents may please be directed to implement the judgment and order dated 06.04.2018 of this Honourable Tribunal in its true letter and spirit.*



Appellant

Through



YASIR SALEEM  
Advocate High Court  
Peshawar

AFFIDAVIT

I do hereby solemnly affirm and declare on oath that the contents of the above implementation petition are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



Deponent

No. of Order/  
Proceeding

Order or other proceedings with signature of Judge or Magistrate

2

3



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

Service Appeal No. 1103/2017

Date of Institution ... 09.10.2017

Date of Decision ... 06.04.2018

Hafiz Muhammad Sadiq son of Kashar Khan Headmaster.

Appellant

Versus

1. Additional Chief Secretary FATA, FATA Secretariat, Warsak Road Peshawar.
2. The Secretary, Social Sector FATA, FATA Secretariat, Warsak Road Peshawar.
3. Director, Education FATA, FATA Secretariat, Warsak Road Peshawar.
4. Agency Education Officer Bajour.

Respondents

06.04.2018

**JUDGMENT**

MUHAMMAD HAMID MUGHAI, MEMBER - Learned

counsel for the appellant present. Learned Deputy District Attorney present.

2. The appellant has filed the present appeal against the office order dated 09.06.2017 whereby the appellant was transferred from Government High School Khar No.2 Bajour and posted/transferred as SST GHS Bandagae Bajour. The appellant has also challenged the office order dated 16.06.2017 whereby respondent No.5 was posted as Head Master against the post occupied by the appellant at GHS Khar No.2 Bajour.

ATTESTED

Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

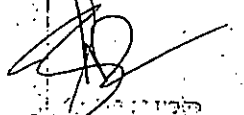
3. Learned counsel for the appellant argued that vide impugned order dated 09.06.2017 the appellant was transferred from the post of Head Master (BS-17) and posted as SST (BS-16) at GHS Bandagac Bajaur. Further argued that being senior most teacher/Head Master the appellant should not have been transferred from the post of Head Master of GHS Khar No.2 Bajour. Learned counsel for the appellant stressed that the impugned orders were passed in violation of law, rules and policy on the subject hence liable to be set aside.

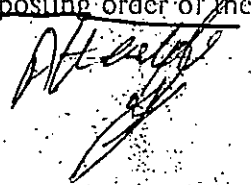
4. As against that learned DDA opposed the present appeal and argued that appellant has already served his tenure at GHS Khar No.2 Bajour hence was rightly transferred out.

5. Arguments heard. File perused.

6. The appellant has already served his normal tenure at GHS Khar No.2 Bajour. However, perusal of record and document produced during the course of arguments would show that the appellant was promoted as Head Master on regular basis and is still getting the salary of the post of Head Master (BS-17). Salary slip of the appellant for the month of August 2017 placed on file. In this backdrop when the appellant was given promotion as Head Master and is also in receipt of salary of the Head Master (BS-17), his posting/transfer as SST, vide impugned order dated 09.06.2017, is not tenable in the eyes of law. Consequently the impugned order dated 09.06.2017, to the extent of appellant is set aside and the respondent department is directed to issue fresh posting order of the

ATTESTED

  
 MEMBER  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar



5


appellant in BS-17, in accordance with law, rules and policy on the subject, within 15 days of the receipt of this judgment. The present appeal is disposed off in the above terms. Parties are left to bear their own costs. File be consigned to the record room after its completion.


ANNOUNCED  
06.04.2018

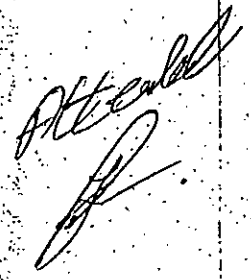
  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

Certified true copy

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation	23-4-18
Number of Words	1200
Copying Fee	8-0
Organ	2-0
Total	10-0
Name of Officer	
Date of Copying	23-4-18
Date of Delivery of Copy	23-4-18



POWER OF ATTORNEY

6

In the Court of KP Service Tribunal Peshawar

Mafiz Muhammad Sadiq

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

VERSUS

Govt of KPK and others

} Defendant  
} Respondent  
} Accused

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_

Fixed for \_\_\_\_\_

I/We, the undersigned, do hereby nominate and appoint

**YASIR SALEEM,  
JAWAD UR REHMAN &  
PIRZADA MUHAMMAD TAYAB AMIN** Advocates Peshawar

my true and lawful attorney, for me in my name and on my behalf to appear at \_\_\_\_\_ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions, An appeal, statements, accounts, exhibits, Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at \_\_\_\_\_ the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_

Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

Jawad ur Rehman  
JAWAD UR REHMAN  
Advocate High Court

Yasir Saleem  
YASIR SALEEM  
Advocate High Court, Peshawar

M. Tayyab  
PIRZADA MUHAMMAD TAYAB AMIN  
Advocate Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

No.SO(SM) E&SED/2-1/2018/adj. of Hafiz Muhammad Sadiq  
Dated Peshawar the November 18, 2020

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Establishment Department.

Subject: - **IMPLEMENTATION OF JUDGEMENT DATED 06.04.2018 IN SERVICE  
APPEAL NO. 1103/2017 FILED BY HAFIZ MUHAMMAD SADIQ (SST) VS  
GOVT.**

Dear sir

I am directed to refer to this department letter of even number dated 28.12.2018 and Establishment Department letter non SO(R-1)E&AD dated 09.01.2019 on the subject cited above and to state that:

1. Promotion Notification dated 27.03.2010 in respect of the appellant is annexed at F/A.
2. He has not actualized his promotion that is why he has filed service appeal in the Service Tribunal. As per verbal discussion with the appellant, the designation of Headmaster is being reflected in his payroll but he is not drawing his salary and allowances of the same post.
3. The Judgement of KP Service Tribunal has not been challenged in the apex Court and has barred by time. Thus, it has gain finality.
4. The Judgement was referred to Law Department and was examined by the scrutiny committee and declared hopelessly time barred.
5. Seniority list of 2010 & 2019 are attached herewith.(F/B).

In view of the above, it is requested to advise this department: -

Whether a fresh order could be issued by this Department in pursuance of the Service Tribunal Judgment.

OR

Note for Chief Secretary may be moved for implementing the said Judgment?

OR

His case for refreshing his order after 10 years (Antedation) may be placed before DPC for re-consideration?

**Encl. As above.**

Your faithfully

(MUJEEB UR RAHMAN)  
SECTION OFFICER (SCHOOLS MALE)

**Endst: Even No. & Date:**

Copy of the above is forwarded to, the: -

1. PS to Secretary E&SE Khyber Pakhtunkhwa, Peshawar.
2. Section Officer(Lit-II) E&SE Khyber Pakhtunkhwa, Peshawar.

  
SECTION OFFICER (SCHOOLS MALE)

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 816-18/ST

Dated 18/05/2021

To

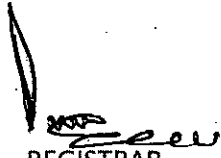
1. The Secretary E&SE Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.
2. Director E&SE,  
Government of Khyber Pakhtunkhwa,  
Peshawar.
3. District Education Officer,  
Government of Khyber Pakhtunkhwa,  
Bajourh.

SUBJECT: -

ORDER IN EXECUTION PETITION NO. 120/2020, MR. HAFIZ MUHAMMAD SADIQ.

I am directed to forward herewith a certified copy of order dated 30.03.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR





GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Phone No. 091-9223533

Dated Peshawar the July 05, 2021.

**NOTIFICATION**

**NO.SO(SM)E&SED/2-1/2018/Hafiz Muhammad Sadiq HM: WHEREAS**, Mr. Hafiz Muhammad Sadiq (BS-17) Headmaster, GHS No.2 Khar Bajaur and posted as SST at GHS Bandagai Bajaur against the vacant post on 09-06-2017.

**AND WHEREAS**, Mr. Hafiz Muhammad Sadiq filed a Service Appeal No. 1103/2017 before the Khyber Pakhtunkhwa Service Tribunal against the said office order and the Khyber Pakhtunkhwa Service Tribunal in its judgment dated 06-04-2018 disposed of the appeal by setting aside the impugned order dated 09-06-2017 and directing the respondents to issue fresh posting order of the appellant in BS-17 in accordance with law, rules and policy.

**AND WHEREAS**, the judgment of the Honourable Khyber Pakhtunkhwa Service Tribunal was examined in the light of relevant applicable laws, rules and policy.

**NOW THEREFORE**, in exercise of power conferred under Section-10 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 and all other such rules in that behalf, the Competent Authority is pleased to order the transfer of Mr. Hafiz Muhammad Sadiq, Headmaster GHS Khar No.2 Bajaur and post him as Headmaster (BS-17), GHS Yarkhun Lasht District Chitral Upper, in the best public interest, with immediate effect:-

**SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA  
E&SE DEPARTMENT**

Endst: of even No. & Date

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director, DPD Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (M), Concerned.
5. District Accounts Officer, Concerned.
6. Section Officer (Lit-II) E&SE Department.
7. PS to Secretary E&SE Department.
8. PA to Additional Secretary (Estb) E&SE Department.
9. Officer concerned.

  
(HAFAEZ UR REHMAN SHAH)  
SECTION OFFICER (SCHOOLS MALE)

ضرورتاً چیمبر میں سے ٹریسنگ چیمبر - کھنڈو ننگواہ پشاور

درخواست نمبر ۱۲۵/۲۰۱۸ افریج عدالت ایس سے

جہا عالی

گزارش یہ ہے کہ میرا ایس عدالت جہا میں ۴/۲۰۱۸ سے چل رہا تھا۔

خداؤ نڈیاک کے فضل و کرم اور عدالت جہا آئی مکمل تعاون سے میرا مسئلہ  
طیپاٹ منٹ نے حل کر لیا ہے۔ اور میرا ٹرانسفر گورنمنٹ جہا سکول چارنمبر ۲ ضلع  
باجوڑ سے گورنمنٹ جہا سکول کمرہ درہ ضلع باجوڑ میں ہو چکا ہے۔ لہذا ضروری  
خبر میں درخواست بجائی ہے۔ کہ میرا ایس Ep No 120/20 عدالت جہا سے

خارج فرمائے مشاور و فنون فرماویں۔

الغرض

آپ کا تعاون کا خط و مدارق جہا ماسٹر IHS کمرہ درہ تحصیل ننگ  
ضلع باجوڑ

~~Handwritten signature~~  
26.10.2021

M.No 03002221748  
HEAD MASTER  
GHS Kama Dara  
District Bajaur

کاپی نمبر ۱۲۵ اعلیٰ سیکرٹری گورنمنٹ آف چیمبر - کھنڈو ننگواہ  
E 8 SE Department

نوٹ: ٹرانسفر آرڈر درخواست سے منسلک ہے