


25.03.2021

Petitioner with counsel present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Sajid Superintendent and Syed Bilal Shah Stenographer for respondents present.

Implementation report not submitted. Representative of respondents requested for time to submit implementation report. Representative of the respondent department is strictly directed to submit implementation report on the next date positively; otherwise punitive action will be taken against the respondents. Last opportunity is granted. To come up for implementation report on 31.05.2021 before S.B.



(Atiq-Ur-Rehman Wazir)
Member (E)

31.05.2021

Petitioner with counsel and Mr. Kabirullah Khattak, Addl. AG alongwith Khalid Gohar Khan, Deputy Director for the respondents present.

Representative of the respondents states that status quo has been granted by the August Supreme Court of Pakistan on 25.05.2021 in the CPLA filed against the judgment under implementation. Now further action for implementation of the judgment depends upon the final outcome of CPLA. This execution petition has become infructuous and is filed. If the judgment of this Tribunal is maintained by the August Supreme Court of Pakistan, the petitioner would be at liberty to file fresh execution petition, if the judgment is not implemented by the department.

File be consigned to the record room.


Chairman

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Syed Munoor Ali Shah
Mr. Justice Munib Akhtar

C.P.739-P/2019

Govt. of Khyber Pakhtunkhwa through Chief Secretary, Peshawar,
etc.

.....Petitioner(s)

Versus

Fazli Ghufraan

.....Respondent(s)

For the petitioner(s): Mr. Shumayl Aziz, Addl. A.G. KPK
a/w Khalid Gohar Khan, DD, Agri. Deptt.
Amanat Ullah, OSD, Finance, KPK.

For the respondent(s): N.R.

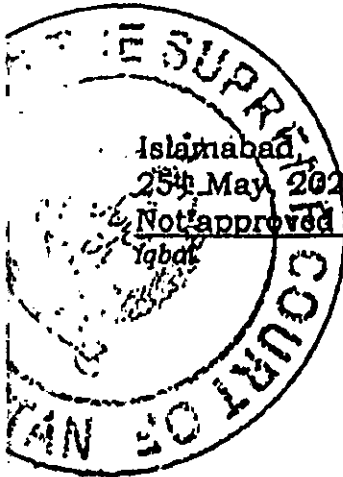
Date of hearing: 25.05.2021

ORDER

Notice for a date to be fixed by the office.

CMA 1640-P/2019:

2. In the meanwhile, parties shall maintain status-quo.



Sd/-J
Sd/-J
Certified to be True Copy
Senior Court Associate
Supreme Court of Pakistan
Islamabad

GR No. 8833/21 Civil/Criminal
Date of Presentation: 25-5-21
No of Nos. of: 300
No of Nos. of: 3

03.12.2020 Counsel for the petitioner and Addl. AG
alongwith Nasib Khan, S.O and Syed Bilal Shah,
Stenographer for the respondents present.

The representative of respondents has provided
copy of memo. dated 19.10.2020 sent by Assistant
Registrar Supreme Court of Pakistan Branch Registry,
Peshawar, wherein, it is communicated that the
transfer of CP No. 739-P/2019 was allowed while the
case was to be fixed in the month of October. Another
copy of letter dated 15.10.2020 by the Finance
Department Government of Khyber Pakhtunkhwa has
also been provided.

In the light of order by the Apex Court it shall be
appropriate to adjourn the proceedings in hand.

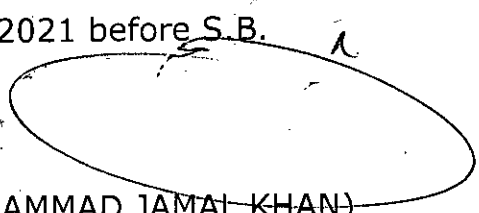
Adjourned to 26.01.2021 before S.B.


Chairman

26.01.2021

Petitioner is present alongwith his counsel namely, Mr.
Asad Mehmood, Advocate. Mr. Kabirullah Khattak, Additional
Advocate General alongwith representatives of the department
Mr. Sajid, Superintendent and Syed Bilal Shah, Stenographer, for
the respondents are also present.

The representative of respondents did not submit
implementation report, he produced a letter dated 06.01.2021
alongwith a working paper and a letter dated 01.01.2021 opting
for conditional implementation of the order passed by this
Tribunal till the decision of the Hon'ble Supreme Court of
Pakistan, unless and until the judgment passed by Tribunal is
modified, set-aside or suspended by the Hon'ble Supreme Court
of Pakistan it shall remain in the field therefore, respondents are
required to give it effect as its mandate warrants. File to come
up for implementation report on 25.03.2021 before S.B.

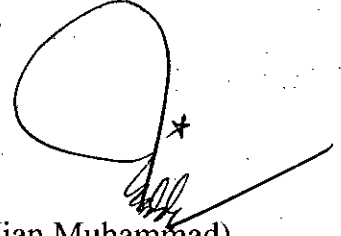

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

18.08.2020

Counsel for the petitioner present. Mr. Ziaullah, DDA
alongwith Mr. Khalid Gohar, DD for respondents present.

Representative of the respondents submitted copy of
letter dated 13.08.2020 regarding implementation of
judgment of this Tribunal and stated that the implementation
report is in process and will be finalized in near future.

Adjourned to 08.10.2020 before S.B.



(Mian Muhammad)
Member(E)

08.10.2020

Petitioner with counsel and Addl. AG alongwith Syed
Bilawal Shah, Junior Scale Stenographer for the respondents
present.

The representative of respondents has provided copies of
correspondence which, on one hand, pertain to the conditional
implementation of the judgment and on the other, regarding
submission of application for early hearing of the case before
the ~~Tribunal~~ *Apex Court*.

The respondents are required to submit the
implementation report on 03.12.2020 in case the judgment
under implementation is not set aside or suspended till then.

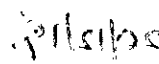
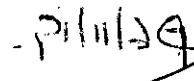


Chairman

17.03.2020 Petitioner in person present. Mr. Kabirullah Khattak learned Addl. AG alongwith Khalid Gohar Khan Deputy Director for the respondents present. Petitioner requested for adjournment on the ground that his counsel is not available today due to general strike of the bar. Adjourned. To come up for further proceedings on 23.04.2020 before S.B.


Member

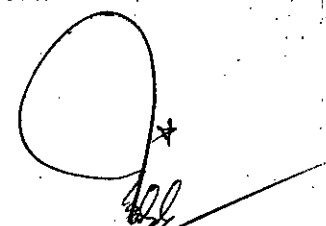
23.04.2020 Due to public holiday on account of COVID-19, the case is adjourned to 16.07.2020 for the same. To come up for the same as before S.B.

 
Reader

16.07.2020 Counsel for the petitioner and Addl: AG alongwith Mr. Zia Ud Din, Assistant for respondents present.

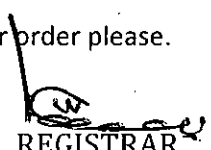


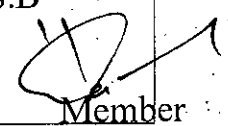
Implementation report not submitted. Learned AAG stated that the respondents have ~~been~~ filed CPLA against the judgment of this Tribunal before the apex court. He is directed to submit suspension order issued by the apex court or proper implementation report.

Adjourned to 18.08.2020 before S.B.


(Mian Muhammad)
Member(E)

Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. 429/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.11.2019	<p>The execution petition of Mr. Fazli Ghufuran submitted today by Mr. Taimur Ali Khan 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	26/11/19.	<p>This execution petition be put up before S. Bench on <u>20/12/19.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	20.12.2019	<p>Petitioner in person present.</p> <p>Issue notice to respondents for submission of implementation report on 10.02.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	10.02.2020	<p>Petitioner in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Navid Hashim Conservation Officer present and furnished reply/implementation report. Learned counsel for the petitioner is not available. Adjourn. To come up for further proceedings/arguments on 17.03.2020 before S.B</p> <p style="text-align: right;"> Member</p>

①

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

Execution Petition No. 429 /2019
In Service Appeal No.1207/2018



Fazli Ghufraan, Soil Conservation Assistant (BPS-17),
Mardan.

PETITIONER

VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary (Agriculture, Livestock & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director General Soil Conservation, Khyber Pakhtunkhwa, Peshawar.
4. The Director Soil Conservation, Khyber Pakhtunkhwa, Peshawar.
5. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 25.09.2019 OF THIS
HONOURABLE SERVICE TRIBUNAL IN
LETTER AND SPIRIT.**
.....

RESPECTFULLY SHEWETH:



1. That the petitioner has filed an appeal bearing No.1207/2018 in this august Service Tribunal against the order dated 29.05.2018, whereby the petitioner was promoted to the post of soil conservation Assistant (BPS-17) with immediate effect instead of due date i.e 13.05.2015 and against not taking action on the departmental appeal of the petitioner within the stipulated period of ninety days.
2. That the said appeal was decide on 25.09.2019 and the Honourable Tribunal was kind enough to accept the appeal with the direction to the respondents to antedate the promotion of the petitioner from the date of occurrence of vacancy for the purpose of pay fixation. **(Copy of judgment dated 25.09.2019 is attached as Annexure-A)**

3. That since the announcement of the judgment, the petitioner has waited for about two months to implement the judgment dated 25.09.2019, but the respondents has not taken action on the judgment dated 25.09.2019 till date.
4. That in-action and not fulfilling formal requirements by the respondents after passing the judgment of this august Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to implement the judgment of this Honourable Service Tribunal in letter and spirit.
6. That the petitioner has having no other remedy except to file this execution petition for Implementation of judgment dated 25.09.2019 of this august Service Tribunal.

It is, therefore, most humbly prayed that on the basis of above the respondents may kindly be restrained not to conduct denovo inquiry after the lapse of statutory period of ninety days as given the judgment dated 25.09.2019 of this august Service Tribunal. Any other remedy, which this august Service Tribunal deems fit and appropriate, may also be awarded in favour of petitioner.

2 A. Ali
Abdul Walid
Advocate

THROUGH:

PETITIONER

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,
 &

(ASAD MAHMOOD)
ADVOCATE HIGH COURT

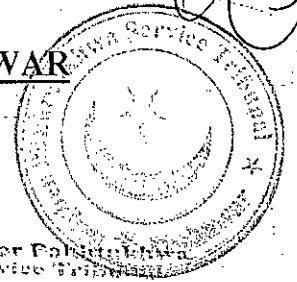
AFFIDAVIT:

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this august Service Tribunal.


DEPONENT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1207 /2018



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1479

Dated 27-9-2018

Fazli Ghufan, Soil Conservation Assistant (BPS-17),
Mardan.

(APPELLANT)

VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Agriculture Livestock & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director General Soil Conservation Khyber Pakhtunkhwa, Peshawar.
4. The Director Soil Conservation Khyber Pakhtunkhwa, Peshawar.
5. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 29.05.2018, WHEREBY THE APPELLANT WAS PROMOTED TO THE POST OF SOIL CONSERVATION ASSISTANT (BPS-17) WITH IMMEDIATE EFFECT INSTEAD OF HIS DUE DATE I.E 13.05.2015 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE WITHIN THE STATUTORY PERIOD NINETY DAYS.

Filed to-day

Registrar

27/9/18

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENT DEPTT: MAY PLEASE BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF SOIL CONSERVATION ASSISTANT (BPS-17) FROM HIS DUE DATE I.E 13.05.2015 BY MODIFYING THE ORDER DATED 29.05.2018 TO THE EXTENT OF THE

Re-submitted to -da-
no file.

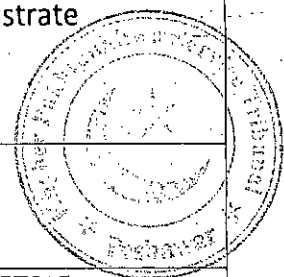
Registrar

1/10/18

Attested

4

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
25.09.2019		<p style="text-align: center;">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</p> <p style="text-align: center;"><u>Appeal No. 1207/2018</u></p> <p>Date of Institution ... 27.09.2018 Date of Decision ... 25.09.2019</p> <p style="text-align: center;">-----</p> <p style="text-align: center;">FazliGhufran Soil Conservation Assistant (BPS-17), Mardan -----Appellant</p> <p style="text-align: center;">Versus</p> <p style="text-align: center;">The Chief Secretary Khyber Pakhtunkhwa Peshawar and other -----Respondents</p> <p style="text-align: center;">Mr. Muhammad Amin Khan Kundi.....Member(J) Mr. Hussain ShahMember (E)</p> <p>JUDGMENT</p> <p>MR.. HUSSAIN SHAH:-Learned counsel for the appellant and Mr. Zia Ullah Learned Deputy District Attorney for the respondents present.</p> <p>2. The appellant preferred the service appeal against the impugned order of respondent No.2, passed on 29.05.2018 wherein the appellant was promoted as Soil Conservation Assistant in BPS-17 with immediate effect, against the post, allegedly vacant since <u>13.05.2015</u>. He preferred Departmental Appeal on 21.06.2018 for antedating of his promotion from occurrence of the vacancy i.e. <u>31.05.2015</u> instead of 29.05.2018 which was not respondent within statutory period of Ninety (90) day hence the appellant preferred the service appeal on 01.10.2018</p> <p>3. In the first round of litigation the appellant filed a service appeal bearing No. 569/2016 in this Tribunal which was heard on 10.01.2018, the appeal was accepted with the direction to the respondents to consider the appellant for promotion against the available vacant post of Soil Conservation Assistant. Consequent upon the judgment of this Tribunal dated 10.01.2018 in appeal Bearing No. 569/2016 the appellant was</p>



ATTESTED

[Signature]
 MEMBER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

Attested
[Signature]

(5)

promoted against the post of Soil Conservation Assistant on 29.05.2018 with immediate effect. In the instant appeal the appellant has come up with the prayers that his promotion to the post of Soil Conservation Assistant BPS-17 may antedated w.e.f 13.05.2015 instead with immediate effect on the grounds mentioned in the appeal.

4. Learned counsel for the appellant argued the case of the appellant in the instant appeal and contended that the appellant was on the top of the seniority list circulated by the competent authority in the year 2015. A post of the Soil Conservation Assistant in (BPS-17) became vacant due to the retirement of one Aziz Ullah Khan vide notification dated 20.02.2015. Further contended that according to the Service Rules 25% quota of the post of Soil Conservation Assistant reserved for promotion of Conservation Inspector on the basis of Seniority-Cum-Fitness and atleast 10 years total service experience at his credit as Field Assistant and Soil Conservation Inspector. Further contended that the appellant was appointed as a Field Assistant on 11.08.1982 and was promoted as Soil Conservation Inspector vide order dated 27.03.2014 w.e.f. 01.01.2012 and as such the appellant was illegible for promotion being the senior most on the seniority list as well as fulfilling the 10 year service experience as required by the service rules of the post at the time when the post of Soil Conservation Assistant BPS-17 became vacant due to the retirement of one Mr. Aziz Ullah Khan. The learned counsel for the appellant relied upon the judgment of August Supreme Court of Pakistan reported as 200% SCMR 1938 and the judgments of the Service Tribunal Appeal No. 1398/2010 Fazal Hussain vs Government and Service Appeal No. 1655/2010 Syed Masood Shah Vs Government. Learned counsel for the appellant also contended that the appeal may kindly be accepted with the prayers.

5. The Learned Deputy District Attorney contested the facts, grounds of

ATTESTED

Attested
 Kh. Ghousia Bano
 Service Tribunal,
 Peshawar


Attested
 A

the appeal and argument of the learned counsel for the appellant and contended that the respondent department ordered the promotion of the appellant against the post of Soil Conservation Assistant BPS-17 as directed by this Tribunal in its judgment dated 10.01.2018 & 29.03.2018. He further explained that vide judgment of 29.03.2018 the Tribunal made correction of Typographical mistake in its previous judgment on 10.01.2018, however in the said judgment the Tribunal did not issued any directions regarding the promotion of the appellant with back date. He further contended that the respondents department ordered the promotion of the appellant in accordance with the provision of the Civil Servant Act, and Rules made their under wherein appointment by promotion is always made with immediate effect as such the appeal may be dismissed with the cost as the same is devoid of any merit.

6. Arguments heard. File perused.

7. After the detailed scrutiny of the documents on record, arguments and counter arguments of the learned counsel of the appellant and the learned Deputy District Attorney this Tribunal observed that the appellant was on the top of the seniority list as circulated by the competent authority in the year 2015. A vacant post became available due to the retirement of one Mr. Aziz Ullah Khan vide notification dated 20.02.2015. The respondent department did not objected nor contradicted the availability of the vacant post during the arguments of the instant appeal as well as during the arguments of a previous appeal No.569/2016. Similarly it was also not challenged the eligibility of the appellant on the basis of qualification and the requisite service experience as prescribed in the service rules for the post of Soil Conservation Assistant. This Tribunal in its previous judgment in the appeal No. 569/2016 observed in its concluding portion of the judgment that " *We are of the view that it is a clear cut case of*

ATTESTED


 JUDGE
 Khairpur Pakhtunkhwa
 Service Tribunal,
 Peshawar

Attested


arbitrary use of official authority, injustice and the appellant is being denied the right of promotion on flimsy grounds.”

8. The questioned before this Tribunal is that had the respondents No.2 &3 processed the case of promotion of the appellant to the competent forum of Provincial Selection Board (PSB) immediate after the vacant post became available for his promotion. This Tribunal seeks guidance from the judgment of August Supreme Court reported as 2006 SCMR-1938.

9. In view of the above discussion the appeal is accepted with the direction to the respondents to antedate the promotion of the appellant from the date of occurrence of vacancy for the purpose of Pay Fixation. Parties are left to bear their own costs. File be consigned to the record room.

Muhammad Amin
(Muhammad Amin Khan Kundi)
Member

Hussain Shah
(Hussain Shah)
Member

ANNOUNCED
25.09.2019

Copy to be made
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Subhanhwa
Subhanhwa
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Date of Presentation of Copy 29-10-19
Number of Copies 2000
Copying Fee 24-00
Urgent 4-00
Total 28-00
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Date of Delivery of Copy 29-10-19

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قیمت
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ایڈوکیٹ: صہموی علی خان
بار کونسل ایسوسی ایشن نمبر:
رابطہ نمبر:

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب:

منجانب: <u>فضل عثمان</u>	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعت تحریر آگہ

فضل عثمان بنام صہموی علی خان

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی کارروائی متعلقہ صہموی علی خان
آن مقام کشمیر اور کیلئے صہموی علی خان، صہموی علی خان اور صہموی علی خان 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 کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں 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 کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ 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

المرقوم:

العبد صہموی علی خان العبد

مقام _____ کے لیے منظور ہے۔

Accepted
&
Altered

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

صہموی علی خان

صہموی علی خان

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 429/2019

Fazali Ghufan Soil Conservation Assistant (BPS-17), Mardan.

PETITIONER

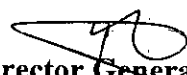
VERSUS

1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, Agriculture, Livestock & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director General Soil Conservation Khyber Pakhtunkhwa Peshawar.
4. The Director Soil Conservation Khyber Pakhtunkhwa Peshawar.
5. The Secretary Finance Department Khyber Pakhtunkhwa Peshawar.

REPOONDENTS

Implementation Report

1. Not agreed, as in compliance of the judgment by Honorable Khyber Pakhtunkhwa Service Tribunal dated: 10-01-2018 & 29-03-2018 the appellant was appointed as Soil Conservation Assistant (BS-17). However, in the court decision it was not mentioned that the appellant might be appointed from the back date therefore the appointment was made with immediate effect.
2. agreed.
3. Not agreed, the case of the petitioner was forwarded to Law Department where it was declared fit for CPLA. The Department then filed a CPLA No.739-P/2019 against the judgment dated: 25-09-2019 in the Honorable Supreme Court of Pakistan.
4. Not agreed, as replied in para 3 that the Department filed a CPLA against the judgment dated: 25-09-2019.
5. Not agreed, the judgment is not in the field, the Department filed a CPLA No. 739-P/2019.
6. No comments.


**Director General
Soil and Water Conservation
Khyber Pakhtunkhwa**



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

NO.SOG(AD)/B-8/2020-21
Dated Peshawar, the August 13, 2020.

To

The Secretary to Government of Khyber Pakhtunkhwa,
Finance Department.

SUBJECT:- CONDITIONAL IMPLEMENTATION OF THE ORDER BY HONORABLE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL TILL THE DECISION OF
THE HONORABLE SUPREME COURT OF PAKISTAN.

Dear Sir,

I am directed to refer to the subject noted above and to enclose
herewith copy of Directorate of Soil and Water Conservation, Khyber
Pakhtunkhwa, Peshawar letters No: 1775/DGSWC/KP dated: 11-08-2020
alongwith its enclosures (which are self-explanatory) for further necessary action.

Encl: As above.

Yours faithfully


SECTION OFFICER (ADMN:)
AGRICULTURE DEPARTMENT

Endst. of even No. & Date.

Copy forwarded to:-

1. The Director General, Soil and Water Conservation, Khyber Pakhtunkhwa, Peshawar with reference to letters No. quoted above.
2. P.S to Secretary Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
3. P.A to Deputy Secretary (Admn:), Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.


SECTION OFFICER (ADMN:)

WORKING PAPER

Subject: CONDITIONAL IMPLEMENTATION OF THE ORDER BY HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL TILL THE DECISION OF HONORABLE SUPREME COURT OF PAKISTAN.

Memo;

Enclosed find herewith a copy of the order by Honorable Khyber Pakhtunkhwa service tribunal, dated 16-07-2020, (Annexure-A) in the above titled case for information and necessary action.

The official concerned Mr. Fazal Ghufraan was initially appointed as Field Assistant (11-08-1982) BPS-06 which was latter upgraded to BPS-09. The official was then promoted to soil conservation inspector vide order dated 27-03-2014 (Annexure-B).

The department issued a circular/notification on 26-03-1997, wherein 25% quota would be filled on promotion in seniority cum-fitness from amongst Soil Conservation Inspectors with at least 10 years total service as a Field Assistant and Soil Conservation Inspector (Annexure- C).

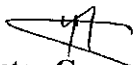
The official was on top of seniority list of 2015 and the post become available on the retirement of one of the official Mr. Aziz Ullah but due to the up-gradation of Field Assistant from BPS-06 to BPS-09; Inspector from BPS-09 to BPS-11, and creation of Agriculture Supervisor post BPS-14, 25% quota reserved of total Field Assistants to Agriculture Inspector for BPS-11, 33% quota of Agriculture Inspector (BPS-11) to Agriculture Supervisor (BPS-14). Similarly 25% quota has been reserved for promotion of Agriculture Supervisor (BPS-14) to the post of Agriculture/Soil Conservation Assistant (BPS-17).

Promotion is always made as per service rules however, the rules after the above up-gradation of the above post service rules was not yet framed and were in process. The official then filed a departmental appeal for promotion w.e.f 13-05-2015 to the post of Soil Conservation Assistant (BPS-17) on 11-04-2016 (Annexure-D), which was rejected on 18-04-2016 (Annexure-E) on the grounds that the promotion against the post of Soil Conservation Assistant (BPS-17) cannot be made at this stage.

The official then filed service appeal No.569/2016 on 13-05-2016. His service appeal was accepted and the official was considered for promotion to Soil Conservation Assistant (BPS-17) (Annexure-F). The appellant along with 04 officials were promoted from the post of Soil Conservation Inspector (BPS-11) to the post of Soil Conservation Assistant (BPS-17) on regular basis with immediate effect vide order dated 29-05-2018 (Annexure-G).

The official then filed a departmental appeal (Annexure-H) on 21-06-2018 mentioning that he should be promoted against the vacant post of Soil Conservation Assistant (BPS-17) w.e.f 13-05-2015 instead of 29-05-2018. The official again filed a service appeal No.1207/2018. His service appeal was accepted with the directions to the respondents to antedate the promotion of the appellant from the date of occurrence of vacancy for the purpose of pay fixation. As in the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar decision (Annexure-I), it was not mentioned that the appellant might be appointed from the back date therefore CPLA filed in Supreme Court of Pakistan (Annexure-J) . However, the Honorable Khyber Pakhtunkhwa Service Tribunal has issued and ordered dated:16-07-2020 (Annexure A) that either suspension order by the apex court or proper implementation report may be submitted till 18-08-2020.

It is therefore requested that in light of the above mentioned order by the Honorable Khyber Pakhtunkhwa Service Tribunal, Finance Department may be approached to release an estimated amount of Rs.0.400 million for conditional implementation of the order till the decision of Honorable Supreme Court of Pakistan.


**Director General
Soil and Water Conservation
Khyber Pakhtunkhwa**



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK & COOPERATIVE DEPARTMENT

Phone-091-9212464, Fax-091-9210033
E-mail Address: agric.litigation@gmail.com

**Court Matter/
Most Immediate**

NO. SO(Lit)AD/3-231/2019
Dated Peshawar the August 4, 2020

To

The Secretary to
Government of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs & Human
Rights Department, Peshawar.

Attention: - Section Officer (Litigation)

SUBJECT: - EARLY HEARING APPLICATION IN THE CASE TITLED " GOVERNMENT OF
KNHYBER PAKHTUNKHWA & OTHERS V/S FAZLI GHUFRAN
(Execution Petition No.429/2019 in S/Appeal No.1207/2018 - Fazli Ghufuran
V/S Chief Secretary, Government of Khyber Pakhtunkhwa & Others.

I am directed to refer to the subject noted above and to forward herewith a copy of letter No.1657/DGSWC; dated 22.07.2020 received from the Director General, Soil & Water Conservation, Khyber Pakhtunkhwa, Peshawar along-with copy of Court Order dated 16.07.2020 passed in Execution Petition & Order dated 25.09.2019 of Khyber Pakhtunkhwa Service Tribunal, Peshawar, which are self explanatory, for further necessary action.

I am further directed to request that the Advocate General/ Advocate On Record, Khyber Pakhtunkhwa, Peshawar may kindly be allowed to file an application for early hearing and application for suspension of impugned Order passed by Khyber Pakhtunkhwa Service Tribunal, Peshawar and transferring the case to the Principal Branch of the Supreme Court of Pakistan at Islamabad in the interest of public service.

Yours Faithfully

Encl. As above.


Section Officer (Litigation)

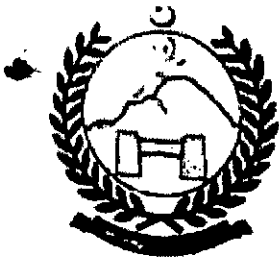
Enclst. No. & Date Even.

Copy forwarded to:

1. The Director General, Soil & Water Conservation, Khyber Pakhtunkhwa, Peshawar w/r to his above referred letter and with the direction that a self contained case may be submitted to Section Officer (Admn;) of Agriculture Department for onward submission to Finance Department for conditional implementation of the order till the decision of Hon'ble Supreme Court of Pakistan.
2. RS to Secretary Agriculture, Khyber Pakhtunkhwa, Peshawar.
3. Master File.


Section Officer (Litigation)

1301
7/6/2020
DATED: 7/6/2020



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE DEPARTMENT

No.SOG(AD)B-8/2020-21
Dated Peshawar the 05-10-2020.

To

The Section Officer (Litigation-II),
Government of Khyber Pakhtunkhwa,
Finance Department.

Subject: CONDITIONAL IMPLEMENTATION OF THE ORDER BY HONORABLE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL TILL THE DECISION OF THE
HONORABLE SUPREME COURT OF PAKISTAN.

I am directed to refer to your letter No.SO(Lit-II)/FD/2-1699/2016 dated 22/9/2020 on the subject cited above and to enclose herewith copy of Assistant Solicitor (Lit), Directorate General of law & Human Rights Khyber Pakhtunkhwa, Peshawar letter No.SOL/DG/Law/9-3(13)Agr/201951722-23 dated 13-8-2020 (which is self explanatory) for information and further necessary action.


2. I am further directed to state that, action taken in the matter already requested vide this Department letter of even number dated 10/9/2020 may please be communicated to this Department at the earliest please.

Encl: As above.


% SECTION OFFICER (ADMN)
AGRICULTURE DEPARTMENT.

CC

PS to Secretary Agriculture, Livestock and Cooperative Department.


% SECTION OFFICER-ADMN:
05/10/2020



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

**MOST IMMEDIATE
COURT MATTER**

**NO.SO (LIT-II)/FD/2-1699/2016.
Dated Peshawar the, 22/09/2020**

To,

The Secretary to Govt: of Khyber Pakhtunkhwa,
Agriculture Livestock and Cooperative Department.

Subject:

**CONDITIONAL IMPLEMENTATION OF THE ORDER BY
HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL TILL THE DECISION OF THE HONORABLE
SUPREME COURT OF PAKISTAN.**

Sir,

P-28/c

I am directed to refer to your letter No. SOG(AD)/B-8/2020-21 Dated 10.09.2020 on the subject noted above and to request that Law Department may be approached for submission of early hearing application in the instant case through Advocate General, Khyber Pakhtunkhwa please.

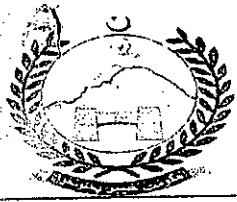
Yours faithfully,

[Signature]
SECTION OFFICER (LIT-II)

Secretary Agriculture
Diary No. 5938
Dated 25-09-2020

[Handwritten notes and signatures]
SST
AS (M)
IS (C)
Immediate Pl.
DS-1 / SO (Admin)
22/9/20

5-117



**DIRECTORATE GENERAL OF LAW & HUMAN RIGHTS
KHYBER PAKHTUNKHWA, STREET B.2 PLOT NO. 21
PHASE 5, HAYATABAD PESHAWAR**

No.SOL/DG/Law/9-3(13)Agri/2019/ 151722-23
Dated Peshawar the 13/08/2020

To

The Advocate General,
Khyber Pakhtunkhwa, Peshawar.

Attention: Advocate on Record

Subject: Execution Petition No. 429/2019 in Service Appeal No. 1207/2018 Fazli Ghufraan Versus Government of Khyber Pakhtunkhwa through Chief Secretary and others.

Dear Sir,

I am directed to refer to Government of Khyber Pakhtunkhwa Agriculture Livestock & Cooperative Department letter No. SO(Lit)AD/3-231/2019, dated: 04.08.2020 on the subject noted above and to request you to file an application for early hearing before the Supreme Court of Pakistan alongwith an application for suspension of impugned judgment dated: 25.09.2019, passed by the Khyber Pakhtunkhwa Service Tribunal and also file an application for transfer of the subject case from Registry Branch, Peshawar to Principal Seat at Islamabad, at an early date, please.

Yours faithfully,

ASSISTANT SOLICITOR (Lit)

Endst: No.& Date Even.

✓
Copy is forwarded to the Secretary to Government of Khyber Pakhtunkhwa Agriculture, Livestock & Cooperative Department with reference quoted above with the request to depute Departmental Representative to the office of Advocate General Khyber Pakhtunkhwa / Advocate on Record alongwith complete record of the subject case for doing the needful, please.

ASSISTANT SOLICITOR (Lit)

Ph: 091-9210172
Fax: 091-9213599

C.P.No.739-P of 2019-SCJ
SUPREME COURT OF PAKISTAN

Dated: Peshawar 19/10 October, 2020.

To:

Mian Sandullah Jandoli,
AOR Peshawar.

SUBJECT: TRANSFER/EARLY HEARING OF C.P.NO.739-P OF 2019.
Govt. of KP, the Chief Secy. Peshawar and others.Petitioner(s)

VERSUS

Fazli Ghufan.

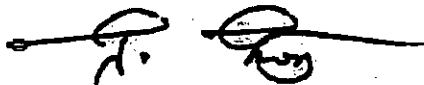
.....Respondent(s)

Dear Sir,

With reference to your application dated 15.10.2020 on the subject noted above, I have the honour to inform you that your application was placed before the Hon'ble Chief Justice of Pakistan and the following order has been passed on 19.10.2020:-

"TRANSFER ALLOWED AND BE FIXED in this month"

Note: Fixation of case will be subject to availability of requisite Bench.



(ASSISTANT REGISTRAR)
Supreme Court of Pakistan
Branch Registry, Peshawar.

L.



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

**MOST IMMEDIATE
COURT MATTER**

NO.SO (LIT-II)/FD/2-1699/2016.
Dated Peshawar the, 15/10/2020

To,

The Section Officer (Admn),
Agriculture Livestock and Cooperative,
Department.

Subject:

**CONDITIONAL IMPLEMENTATION OF THE ORDER BY
HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL TILL THE DECISION OF THE HONORABLE
SUPREME COURT OF PAKISTAN.**

Sir,

I am directed to refer to your letter No. SOG(AD)B-S/2020-21 dated 05.10.2020, on the subject cited above and to state that in reply of Agriculture Department letter even No. SOG(AD)B-*/2020-21 dated 10th September 2020, the competent authority was pleased to recommend application for early hearing may be initiated after fulfillment of codel formalities.

Yours faithful::

*P.O. on file A.
Sog (Lit-)
20/10/2020*

[Signature]
SECTION OFFICER (LIT-II)

[Signature]
20/10/20

*I found a copy
1.1 SO - (Lit) Agri. Dept.
Ltr. Yac. No. 19/10*

Secretary Agriculture
Diary
No.....6655
Dated...19/10/20

carb file



DIRECTORATE OF SOIL & WATER CONSERVATION KHYBER PAKHTUNKHWA

Conserving Soil & Water Resources of Khyber Pakhtunkhwa

Agriculture Training Institute Campus, Opposite Islamia College, Jamrud Road Peshawar

Phone & Fax : 091-924331-5842912 Email: directorsoilconservation@hotmail.com



No 2761 /DGSC
Dated Peshawar, the 1/1, 2020


To

The Section Officer (Admn.)
Government of Khyber Pakhtunkhwa,
Agriculture, Livestock, & Cooperative Department, Peshawar.

Subject: CONDITIONAL IMPLEMENTATION OF THE ORDER BY HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR TILL THE DECISION OF THE HONORABLE SUPREME COURT OF PAKISTAN IN SERVICE APPEAL NO. 1207/2018 FAZLI GHUFRAN VS GOVT. OF KHYBER PAKHTUNKHWA PESHAWAR.

Memo:

It is submitted that on recommendation of your good office the needful was done and early hearing was allowed (letter enclosed) however date of hearing has not been communicated yet. And the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar has directed to implement conditional implementation of the order. As the next date is fixed on 26-01-2021. The Finance Department may be approached, as the working paper for the same has already been submitted to the Finance Department, please.


Director General
Soil Conservation
Khyber Pakhtunkhwa, Peshawar



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

NO.SOG(AD)/B-8/2020-21

Dated Peshawar, the September 10, 2020

To

The Secretary to Government of Khyber Pakhtunkhwa,
Finance Department.

Attention: Section Officer (LIT-II)

SUBJECT:- CONDITIONAL IMPLEMENTATION OF THE ORDER BY THE HONORABLE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL TILL THE DECISION OF
HONORABLE SUPREME COURT OF PAKISTAN

Dear Sir,

I am directed to refer to your letter No. SO (LIT-II)/FD/2-1699/2016 dated: 03-09-2020 on the subject noted above and to state that comprehensive note/ working paper dully signed by the Director General concerned alongwith relevant documents i.e. judgment, CPLA filed by the department, have already been submitted to your office vide this department letter of even No. dated: 13-08-2020. However, the comprehensive note alongwith attested copies of the judgment and CPLA filed in the apex Supreme Court of Pakistan are sent herewith.

2. Keeping in view, the Finance Department is requested to release an estimated amount of Rs.0.400 Million for conditional implementation of the order till the decision of Honorable Supreme Court of Pakistan.

Encl: As above.

[Handwritten signature]
10/09/2020
Section Officer (LIT-II)

Yours faithfully

[Handwritten signature]
SECTION OFFICER (ADMN:)
AGRICULTURE DEPARTMENT

Endst. of even No. & Date.

Copy forwarded to:-

1. The Director General, Soil Conservation, Khyber Pakhtunkhwa, Peshawar. He is requested to depute an officer/official to peruse the case in the Finance Department.
2. PS to Secretary Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
3. P.A to Deputy Secretary(Admn) Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.

[Handwritten signature]
SECTION OFFICER (ADMN:)

AGRICULTURE DEPARTMENT
PESHAWAR
10/09/2020

WORKING PAPER

Subject:

CONDITIONAL IMPLEMENTATION OF THE ORDER BY HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL TILL THE DECISION OF HONORABLE SUPREME COURT OF PAKISTAN.

Memo;

Enclosed find herewith a copy of the order by Honorable Khyber Pakhtunkhwa service tribunal, dated 16-07-2020, (Annexure-A) in the above titled case for information and necessary action.

The official concerned Mr. Fazal Ghufraan was initially appointed as Field Assistant (11-08-1982) BPS-06 which was later upgraded to BPS-09. The official was then promoted to soil conservation inspector vide order dated 27-03-2014 (Annexure-B).

The department issued a circular/notification on 26-03-1997, wherein 25% quota would be filled on promotion in seniority cum-fitness from amongst Soil Conservation Inspectors with at least 10 years total service as a Field Assistant and Soil Conservation Inspector (Annexure- C).

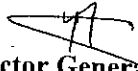
The official was on top of seniority list of 2015 and the post become available on the retirement of one of the official Mr. Aziz Ullah but due to the up-gradation of Field Assistant from BPS-06 to BPS-09, Inspector from BPS-09 to BPS-11, and creation of Agriculture Supervisor post BPS-14, 25% quota reserved of total Field Assistants to Agriculture Inspector for BPS-11, 33% quota of Agriculture Inspector (BPS-11) to Agriculture Supervisor (BPS-14). Similarly 25% quota has been reserved for promotion of Agriculture Supervisor (BPS-14) to the post of Agriculture/Soil Conservation Assistant (BPS-17).

Promotion is always made as per service rules however, the rules after the above up-gradation of the above post service rules was not yet framed and were in process. The official then filed a departmental appeal for promotion w.e.f 13-05-2015 to the post of Soil Conservation Assistant (BPS-17) on 11-04-2016 (Annexure-D), which was rejected on 18-04-2016 (Annexure-E) on the grounds that the promotion against the post of Soil Conservation Assistant (BPS-17) cannot be made at this stage.

The official then filed service appeal No.569/2016 on 13-05-2016. His service appeal was accepted and the official was considered for promotion to Soil Conservation Assistant (BPS-17) (Annexure-F). The appellant along with 04 officials were promoted from the post of Soil Conservation Inspector (BPS-11) to the post of Soil Conservation Assistant (BPS-17) on regular basis with immediate effect vide order dated 29-05-2018 (Annexure-G).

The official then filed a departmental appeal (Annexure-H) on 21-06-2018 mentioning that he should be promoted against the vacant post of Soil Conservation Assistant (BPS-17) w.e.f 13-05-2015 instead of 29-05-2018. The official again filed a service appeal No.1207/2018. His service appeal was accepted with the directions to the respondents to antedate the promotion of the appellant from the date of occurrence of vacancy for the purpose of pay fixation. As in the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar decision (Annexure-I), it was not mentioned that the appellant might be appointed from the back date therefore CPLA filed in Supreme Court of Pakistan (Annexure-J) . However, the Honorable Khyber Pakhtunkhwa Service Tribunal has issued and ordered dated:16-07-2020 (Annexure A) that either suspension order by the apex court or proper implementation report may be submitted till 18-08-2020.

It is therefore requested that in light of the above mentioned order by the Honorable Khyber Pakhtunkhwa Service Tribunal, Finance Department may be approached to release an estimated amount of Rs.0.400 million for conditional implementation of the order till the decision of Honorable Supreme Court of Pakistan.


Director General
Soil and Water Conservation
Khyber Pakhtunkhwa



133

GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

NO.SOG(AD)/B-8/2020-21
Dated Peshawar, the January 6, 2021.

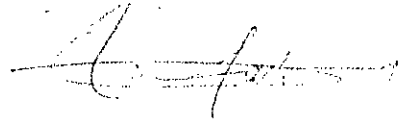
To

The Section Officer (Litigation-II),
Government of Khyber Pakhtunkhwa,
Finance Department, Peshawar.

SUBJECT:- **CONDITIONAL IMPLEMENTATION OF THE ORDER BY THE
HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL TILL
THE DECISION OF HONORABLE SUPREME COURT OF PAKISTAN.** 132/c

I am directed to refer to your office letter No: SO(Lit-II)/FD/2-1699/2016 dated: 15-10-2020 on the subject noted above and to enclose herewith a copy of Directorate of Soil & Water Conservation Khyber Pakhtunkhwa letter No. 2761/DGSC dated: 01-01-2021 (which is self-explanatory) alongwith its enclosure for favour of further necessary action.

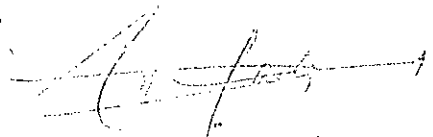
Encl: As above.


SECTION OFFICER (ADMN:)
AGRICULTURE DEPARTMENT

Encl: of even No. & Date.

Copy forwarded to:-

1. Director Soil & Water Conservation Khyber Pakhtunkhwa w/r to his letter No. quoted above.
2. Section Officer (Lit), Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
3. P.S to Secretary Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
4. P.A to Deputy Secretary (Admn:), Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
5. Master file.


SECTION OFFICER (ADMN:)

*Miss Pooje up in
referred file*



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

136

Finance Department Civil Secretariat Peshawar <http://www.finance.gkp.pk> [facebook.com/GoKPDF](https://www.facebook.com/GoKPDF) twitter.com/GoKPDF

NO.BO(PFC-II)FD/1-5/2020-21/Non-Salary Dated Peshawar, the 10th February, 2021

To

The Additional Deputy Commissioner (F&P),
District Mardan.

11/02/21

Subject: **CONDITIONAL IMPLEMENTATION OF THE ORDER BY THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL TILL THE DECISION OF HON'BLE SUPREME COURT PAKISTAN.**

R/Sir,

I am directed to refer to the subject cited above and to state that kindly arrange the salary fixation amount of Rs. 0.400(Million) out of District A/C-IV to implement the Judgement of Hon'ble Service Tribunal dated 25-09-2019, please. (Copy of Judgement is enclosed)

Shahab Uddin
(SHAHAB UDDIN)
BUDGET OFFICER (PFC-II)

ENDST. NO. & DATE EVEN.

A copy is forwarded to:

1. PA to Additional Secretary (PFC), Finance Department.
2. PA to Deputy Secretary (PFC), Finance Department.

Shahab Uddin
BUDGET OFFICER (PFC-II)