

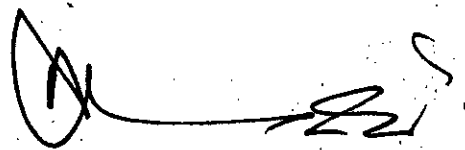
20th April, 2022

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl. AG alongwith Ajmal Khan, Assistant Secretary, Board of Revenue for the respondents present.


2. Representative of the respondents has produced copy of notification No. Estt:1/PF/Rahim Dad/12139-45, dated 19.04.2022, whereby sanction has been accorded to grant of leave encashment of LPR for a maximum period of 180 days in lump-sum in favour of the petitioner. Copy of notification placed on file.

3. In view of the above, the learned counsel for the petitioner says that although the judgment of the Tribunal has been implemented yet there is apprehension that the respondents may create hurdles. Since, the judgement of the Tribunal has been implemented, therefore, this execution application is filed. The applicant is at liberty to take legal steps in case he is faced with any issue regarding implementation of the notification. Consign.

4. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 20th day of April, 2022.*



(KALIM ARSHAD KHAN)
Chairman

	GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT.	
091-9213989	Peshawar Dated the 19/04/2022	091-9214200

NOTIFICATION.

No.Estt:I/PF/Rahim Dad/ 1213945 WHEREAS, Mr. Rahim Dad Ex-Tehsildar (BPS – 16) shall stands retired from Government Service w.e.f 20.10.2014 (A.N) in pursuance of the judgment of Khyber Pakhtunkhwa Service Tribunal Peshawar dated 10.06.2021.

2. AND WHEREAS, he has not availed L.P.R. at his credit and lump sum payment equal to 180-days is admissible to him.

3. NOW THEREFORE, in pursuance of Rule-20 of the Khyber Pakhtunkhwa, Civil Servants, Revised Leave Rules, 1981 read with Finance Department, Khyber Pakhtunkhwa Notification No: SO (SR-IV)5-54/80-Vol-II, dated 24.08.1983, sanction is hereby accorded to grant of leave encashment of L.P.R. for a maximum period of 180-days in lump-sum in favour of Mr. Rahim Dad Ex- Tehsildar (BPS – 16).

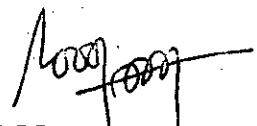
His date of birth is 10.04.1955.

With the approval of
Competent Authority

No. & Date Even.

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Commissioner Hazara Division, Abbottabad.
3. Deputy Commissioner, Abbottabad.
4. District Accounts officer, Abbottabad.
5. Official concerned.
6. Personal file.


(NOOR KHAN)
Assistant Secretary (Estt:)
Board of Revenue

EP 422/18

14th April, 2022

Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl. AG alongwith M. Ajmal Khan, Assistant Secretary for the respondents present.

Learned AAG seeks short adjournment for implementation of the judgment. Adjourned. The respondents are required to appear before the court in person alongwith proper implementation report on 20.04.2022 before S.B.



Chairman

22.12.2021


Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Asif Khan, Asstt. for the respondents present.

Representative of the respondents informed that the petition filed before the august Supreme Court of Pakistan has been dismissed. As per his information the judgment of this Tribunal has got finality. Let the respondents come up with implementation report on 10.02.2022 before the S.B.


Chairman

10.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 31.03.2022 for the same as before.


Reader

31st March, 2022

Junior to counsel for the petitioner present. None present for the respondents.

The respondents be summoned to attend the Tribunal in person alongwith implementation report for the date fixed. Case to up on 14.04.2022 before S.B. Original file may also be requisitioned.


(KALIM ARSHAD KHAN)
CHAIRMAN,

EP 422/18

08.11.2021

Lawyers are on general strike today, therefore, counsel for the petitioner is not available. Mr. Kabirullah Khattak, Addl. AG alongwith Ajmal Khan, Assistant Secretary for the respondents present.

Representative of the respondents has produced copy of letter dated 05.11.2021 addressed to the Advocate on Record by Assistant Registrar august Supreme Court of Pakistan, Branch Registry Peshawar, the Hon'ble Chief Justice of Pakistan has passed the order allowing transfer of appeal and its fixation in next month. There is note in the said letter that fixation of the case will be subject to availability of requisite Bench. As the respondents are making efforts for getting the order of suspension of the judgment of this Tribunal and if they succeed in their pursuit, they may inform this Tribunal accordingly, otherwise they are directed to come up with conditional implementation of the judgment as directed in previous order dated 30.09.2021. To come up on 22.12.2021 before S.B.


Chairman

02.09.2021

Nemo for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Implementation report not submitted. Learned AAG sought time for submission of the same on the next date. Adjourned but as a last chance. To come up for further proceedings before the S.B on ~~30~~ 30.09.2021.


(MIAN MUHAMMAD)
MEMBER (E)

30.09.2021

Learned counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Reply submitted by the respondent-department is not convincing and seems to have been delaying tactics to dodge the court on lame excuses. Neither the court nor learned counsel for the petitioner is satisfied with the said reply. It is evident that the Apex court has not suspended order of the Service Tribunal dated 10.06.2021 and as such respondent department is bound to implement it provisionally subject to the outcome of their CPLA. In the meanwhile, learned AAG requested for adjournment to make further efforts to bring conclusive and final implementation report before the S.B on 08.11.2021.


(MIAN MUHAMMAD)
MEMBER (E)

EP No. 422/2018

29.07.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Ajmal Khan, Assistant Secretary Board of Revenue for the respondents present.

Learned AAG after getting instructions from the departmental representative stated that due to technicality involved in implementation of the order dated 10.06.2021, the matter was referred to the Scrutiny Committee of Law Department which advised that the matter should be referred to the Finance Department Government of Khyber Pakhtunkhwa for guidelines to overcome the hardships in implementation of the order dated 10.06.2021. With the said submission, learned AAG has requested for a time of two months so that the entire exercise could be conveniently accomplished.

In view of the position discussed before, this Execution Petition is adjourned to 30.09.2021 for submission of compliance report.


Chairman

17.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 15.04.2021.



Reader

15.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 10.06.2021 for the same as before.



Reader

10.06.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Haroon, Assistant for the respondents present.

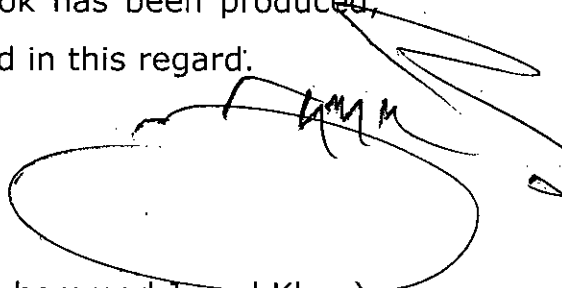
It is an undeniable fact that the penalty of dismissal of the petitioner was converted into penalty of compulsory retirement by the Tribunal. The phenomena of compulsory retirement is embodied in the provision of Section-13(a) of Khyber Pakhtunkhwa Civil Servants Act, 1973. Accordingly, a civil servant shall retire from service on such date after he has completed twenty years of service qualifying for pension or other retirement benefits as the case the competent authority may, in public interests direct.

According to LPC available on record, the date of appointment of the petitioner is reflected as 30.04.1973

into government service. Order of his compulsory retirement was issued on 22.10.2014. Keeping in view the in between period of the said dates, the service of the petitioner at the time of retirement was more than 20 years. The law does not entail any disadvantage for the pensionary and other retirement benefits simply because of the retirement being compulsory. It has been pointed out at the bar that leave encashment of the petitioner and retirement benefits are still pending. As far as the leave encashment is concerned, the respondents are directed to ensure the grant of sanction for unequivocal payment of leave encashment through appropriate authority. As far as the retirement benefits are concerned, petitioner by virtue of Khyber Pakhtunkhwa Civil Servants Retirement Benefits Act, 2014, is entitled for the claim as a matter of right. Even if there is any other benefit admissible under the law after retirement in term of financial benefits, the petitioner is entitled to pursue the same through departmental authority under due course. The respondents are directed to process the case of petitioner for retirement benefits etc. in addition to issue sanction order for leave encashment. To come up for compliance report on 29.07.2021 before S.B.


Chairman

documents, if any, to be produced on the next date of hearing i.e 17.11.2020 before S.B. This Single Bench neither can review nor modify any of the order passed by the worth Chairman or a Member of this august Services Tribunal. The issue highlighted in the preceding para of this order has already been highlighted to in the order sheet of the instant file dated 30.04.2019 and 09.07.2019, decision and adjudication of application could be made only when the relevant statements are submitted. As regards the reference to the dictum of the Hon'ble Supreme Court of Pakistan as referred to earlier no copy of the book has been produced, therefore, no opinion can be expressed in this regard.


(Muhammad Jamal Khan)
Member (Judicial)

17.11.2020 Counsel for the petitioner and Addl. AG for the respondents present.

Learned counsel for the petitioner requests for time to prepare and address arguments regarding remaining portion of pension benefits.

Adjourned to 05.01.2021 before S.B.


Chairman

05.01.2021 Counsel for the petitioner and Addl. AG alongwith Muhammad Haroon, Asstt. for the respondents present.

Learned counsel requests for adjournment due to his engagement before different courts today. Adjourned to 17.02.2021 before S.B.

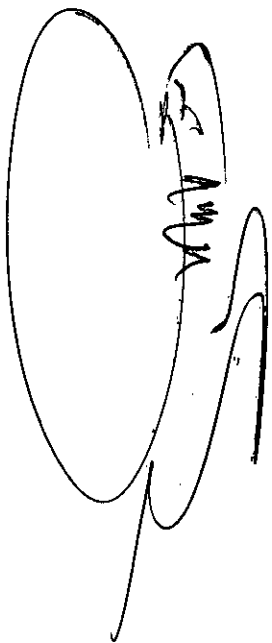

Chairman

Rahim Dad
25.09.2020

Counsel for the petitioner is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents, is also present. Arguments already heard. Petitioner is seeking release of pensionary benefits and implementation of order dated 04.03.2016 and 03.03.2017. The case of petitioner with respect to finalization of his pension cannot be dealt with otherwise except in accordance with law and in this regard application for the release of pension and attached benefits is submitted and respondent No. 3 is bound to process his case and finalize his pension on getting retirement from active service. Any hindrance in this regard is in contravention of the dictum and principle laid down in PLD 2017 Supreme Court 20. Appellant is seeking the release of his pension and pensionary benefits.

2. Conversely, in their reply respondents have submitted that according to the report of Deputy Commissioner Abbottabad appellant was absent from duty with effect from 02.07.2013 to 22.10.2014 therefore, it was contended that in the light of Revised Leave Rules, 1981, he is not entitled for encashment of Rs. 283200/- vide notification dated 06.12.2017 therefore, it was submitted that the application for payment of remaining pension of Rs. 988226/- in view of order sheet dated 09.07.2019 passed by this Hon'ble Tribunal in Execution Petition in hand may be rejected.

3. What was the entitlement of the petitioner to the pension and other allied benefits when his penalty of dismissal from service was converted into compulsory retirement, how much amount he has received so far towards his pension and allied benefits and how much of his pension and other benefits remain to be paid has to be looked into in the light of relevant record to be produced by the petitioner and respondent-department for perusal and appropriate orders therefore, both the parties are directed to render assistance on the issue as to whether any claim of petitioner toward the payment of pension still remains dissatisfied and whether his whole claim with regard to stands satisfied and he has no right in this regard. They are to prepare a comparative statement supported by



the 02/

20.07.2020

Counsel for the appellant is present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Attaullah, Assistant Secretary for the respondents are present. Arguments heard. To come up for order on 20.08.2020 before S.B.

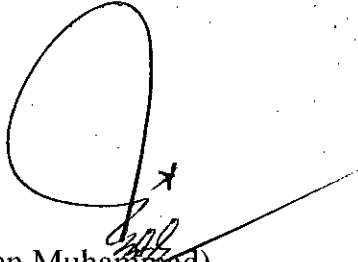
(MUHAMMAD JAMAL KHAN)
MEMBER

20.08.2020

None for the petitioner present. Addl: AG alongwith Mr. Mukhtiar Ali, Assistant Secretary for respondents present.

Since the instant execution was heard by the Learned Member Judicial and fixed for order, therefore, the same be placed before the Learned Member Judicial as per order sheet recorded on 20.07.2020.

Adjourned to 25.09.2020 before S.B.


(Mian Muhammad)
Member(E)

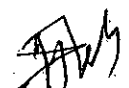
11.02.2020

Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Arif, Superintendent for the respondents present. Learned counsel for the petitioner is stated to have appeared in the early hours. Representative of the department submitted reply of the application dated 17.09.2019. To come up for further proceedings on 18.03.2020 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


18.03.2020

Counsel for the petitioner present. Mr. Kabirullah Khattak learned Addl. AG alongwith Mukhtiar Assistant Secretary for the respondents present. Counsel for the ~~Petitioner~~ seeks adjournment Adjourned. To come up for further proceedings/arguments on 27.04.2020 before S.B.


(Hussain Shah)
Member

27.04.2020

Due to COVID19, the case is adjourned to 20.07.2020 for the same as before.


Reader

Rahim Dad

19.11.2019

Counsel for the petitioner and Addl. AG alongwith Muhammad Arif, Superintendent for the respondents present.

The representative of respondents has produced copy of letter dated 24.10.2019 whereby the Deputy Commissioner Abbottabad has been requested to work-out arrears pertaining to the applicant and to forward the same for submission before the Tribunal. He states that a reminder also followed the letter, however, reply is still awaited. A request for adjournment is, therefore, made.

Adjourned to 23.12.2019 on which date the respondents shall positively come up with implementation report.

23.12.2019

Counsel for the petitioner present. ^{Chairman} Addl: AG alongwith Mr. M. Arif, Supdt alongwith Mr. Muhammad Gul Zeb, Assistant for respondents present. Learned AAG produced a copy of letter dated 12.12.2019 containing response of the Deputy Commissioner, Abbottabad in pursuance to letter of the respondents dated 24.10.2019. Respondents are directed to submit a concise statement in view of the aforementioned facts in order to proceed further ^{in the matter.} Adjourned. To come up for further proceedings on 11.02.2020 before S.B.

Member

26.08.2019 Nemo for petitioner. Addl. AG alongwith Muhammad Arif, Superintendent for the respondents present.

Due to general strike on the call of K.P Bar Council, learned counsel for the appellant is not in attendance. Adjourned to 23.09.2019 for further proceedings before S.B.


Chairman

23.09.2019 Nemo for the petitioner. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Arif, Superintendent for the respondents present.

Due to general strike of Bar instant matter is adjourned to 17.10.2019 before S.B.


CHAIRMAN

17.10.2019 Counsel for the petitioner and Addl. AG alongwith Muhammad Arif, Superintendent for the respondents present.

Learned counsel for petitioner has provided a copy of application addressed to respondent No. 1 and received by his office on 19.09.2019. The application has been made in pursuance to order of this Tribunal dated 09.07.2019. A copy of the application has been handed over to the representative of respondents who shall apprise the Tribunal regarding the decision made on the application on next date of hearing.

Adjourned to 19.11.2019 before S.B.


Chairman

11.06.2019 Counsel for the petitioner and Addl: AG alongwith Mr. Javed Khan, Assistant for respondents present. As per order sheet dated 30.04.2019, learned counsel for the petitioner submitted application as asked for in the aforementioned order sheet and the same is placed on record. A copy of the same was handed over to the learned AAG. Respondents are directed to submit comments on the application referred to above within a period of fifteen days. Adjourned. Case to come up further proceedings on 09.07.2019 before S.B.


(Ahmad Hassan)
Member

09.07.2019 Counsel for the petitioner and Addl: AG alongwith Mr. Muhammad Arif, Supdt for respondents present.

Learned counsel for the petitioner when confronted with the contents of application dated 13.05.2019 in ~~just~~ a position to the order dated 30.04.2019, requested for further time to submit a fresh application containing actual calculation of remaining claim of the petitioner against the respondents.

May do so on or before 26.08.2019. ~~before S.B.~~
Adjourned.


Chairman

01.04.2019

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith M/S Zaki Ullah, Senior Auditor, Sohail Akhtar, Assistant and Javed Khan, Assistant for respondents present.

Representative of the respondents submitted implementation report through which dismissal order of the petitioner was modified/converted into compulsory retirement instead of dismissal from service vide order dated 08.06.2016 and the same is placed on record. A copy of the said report was also handed over to the learned counsel for the petitioner. Adjourned to 30.04.2019 for further proceedings before S.B.


(AHMAD HASSAN)
MEMBER

30.04.2019

Counsel for the appellant and Mr. Usman Ghani District Attorney alongwith M/S Muhammad Arif, Superintendent and Muhammad Sohail, Assistant for the respondents present.

Learned District Attorney referred to notification dated 08.06.2016 whereby, in pursuance to the judgment of this Tribunal, the dismissal of appellant was converted into compulsory retirement w.e.f. 20.10.2014. He also referred to a payment voucher dated 18.12.2017, whereby, the petitioner was paid an amount of Rs. 887510/- towards the pension emoluments of petitioner.

Learned counsel for the petitioner states that the entitlement of petitioner in respect of his pension benefits is much higher than the amount he has already been paid, that too, during the proceedings of implementation of judgment.

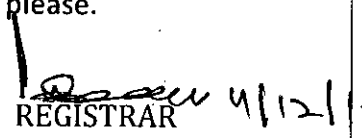
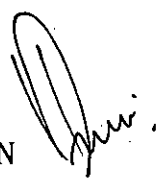
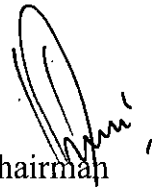

The petitioner is required to submit an application on the next date wherein actual calculation of his remaining claim against the respondents shall be specifically worked out.

Adjourned to 11.06.2019 before S.B.


Chairman

FORM OF ORDER SHEET

Execution Petition No. 422/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	4.12.2018	<p>The Execution Petition of Mr. Rahim Dad submitted to-day by Mr. Aman Ullah Khan Marwat 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 4/12/18</p>
2	07/12/2018	<p>This Execution Petition be put up before S. Bench on - <u>09/01/2019.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
11.03.2019	09.01.2019	<p>Nemo for petitioner. Notices be issued to the petitioner as well as respondents for submission of implementation report on 11.03.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>
11.03.2019		<p>Petitioner absent. Fresh notice be issued to the petitioner. Respondents be also put to notice with the direction to furnish implementation report on ⁰²17.04.2019 before S.B.</p> <p style="text-align: right;"> Member</p>

BEFORE THE LEARNED SERVICE TRIBUNAL KPK

PESHAWAR

COC Petition No. 422 /2018

Rahim Dad Petitioner

VERSUS

SMBR & others Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Contempt of Court Petition		1-4
2.	Affidavit		5
3.	Copy of appeal, order dated 04.03.2016 and order dated 03.03.2017	A	6-17
4.	Copy of Writ Petition No. 3734-P/2017, COC No. 544-P/2017 and order dated 13.09.2018	B	18-19
5.	Wakalat Nama		20

Petitioner

Through

Dated: 03.12.2018



Aman Ullah Marwat
Advocate, Peshawar

1

BEFORE THE LEARNED SERVICE TRIBUNAL KPK

PESHAWAR

COC Petition No. 422 /2018

**Khyber Pakhtukhwa
Service Tribunal**

Diary No. 2906

Dated 4-12-2018

**Rahim Dad S/o Lias Khan R/o Toppi Tehsil and
District Kohat.**

..... Petitioner

VERSUS

1. Senior Member Board of Revenue, KPK Peshawar.
2. Accountant General (AG KPK) AG Office Fort Road Peshawar Cantt
3. Secretary Finance, Government of KPK, Civil Secretariat Peshawar.
4. Zafar Iqbal Senior Member Board of Revenue, KPK Peshawar.

..... Respondents

PETITIONER FOR IMPLEMENTATION OF
THE ORDER DATED 04.03.2016 AND
03.03.2017 WITH THE DIRECTION TO THE
RESPONDENTS TO RELEASE PENSIONARY
BENEFITS AND TO PROCEED THE
RESPONDENTS FOR NONCOMPLIANCE OF
THE ABOVE MENTIONED ORDERS.

2

Respectfully Sheweth:

1. That the Petitioner filed a Writ Petition No. 3734-P/2017 for release of salaries after decision dated 04.03.2016 passed by Hon'ble Service Tribunal in service appeal No. 80/2015 and order dated passed in execution petition dated 03.03.2017. **(Copy of appeal, order dated 04.03.2016 and order dated 03.03.2017 are attached as annexure A)**

2. That the Petitioner filed writ petition No. 3734-P/2017 for release of pensioner benefits, which was converted in to COC Petition bearing No. 544-P/2017, during the pendency of COC Petition partially pensionary benefit were paid and petitioner was directed to approach this Hon'ble Tribunal for implementation and for release of pensionary benefits against the Respondents, hence this COC Petition is being filed. **(Copy of Writ Petition No. 3734-P/2017, COC No. 544-P/2017 and order dated 13.09.2018 are attached as annexure B)**

3. That the Petitioner seeks release of pensionary benefits and implementation of the orders dated 04.03.2016 and 03.03.2017 inter alia on the following grounds:-

GROUNDS:

- A. That it is fundamental right of every citizen guaranteed by the Constitution to be dealt strictly in accordance with law, the Respondents are bound under the law to deal the Petitioner according to law and should not create any hindrance in finalization of his pension, therefore, such action of Respondents is illegal, without such action of Respondents is illegal, without jurisdiction & without lawful authority.
- B. That once Application is submitted by the Respondent No 3 he is bound to process his case and finalize his pension after retirement. Such action of Respondents amount to violation of directions contained in PLD 2017 SC Page 35 and exposes to the contempt of court proceeding.
- C. That it is settled principle of law that everyone is entitled to equal protection of law as the Petitioner has served the departmental for sufficient length of time the Respondents are bound under the pension rules to release him in time and not to create on necessary hurdles such action of Respondents are illegal without lawful authority.
- D. That the Petitioner knocked the doors of Respondents as well as the Court but after clear cut direction given by Service Tribunals but his case

4

was not finalized by the Respondents. Such inaction on the part of Respondents is not permitted by any cannon of law.

E. That the Petitioner seeks leave of this Hon'ble Court to raise any other grounds at the time of hearing, with the kind permission of this Hon'ble Court.


It is therefore, respectfully prayed that keeping in view directions contained in PLD 2007 SC 35 and order dated 03.03.2017 passed by this Hon'ble Tribunal to avoid unnecessary delay in finalization of pension process, this Hon'ble Court is pleased to direct the Respondents to release the pensionary benefits to the Petitioner forthwith and Respondent No 3 and those who were responsible may please be proceeded criminally in the light of directions issues by the Supreme of Pakistan in the Judgment reported in PLD 2007 SC 35.

Any other writ / order / direction deemed proper and just in the circumstances of the case, be also issues / ordered/ given.

Petitioner

Through

Dated: 29.11.2018


Aman Ullah Marwat
Advocate, Peshawar

5

BEFORE THE LEARNED SERVICE TRIBUNAL KPK

PESHAWAR

COC Petition No. _____/2018

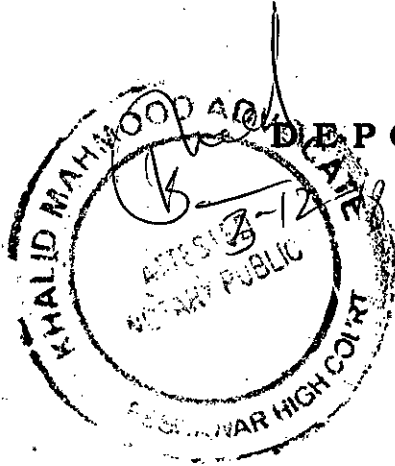
Rahim Dad Petitioner

VERSUS

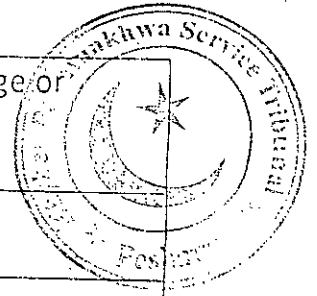
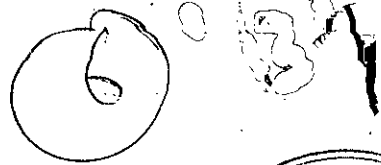
SMBR & others Respondents

AFFIDAVIT

I, **Rahim Dad S/o Lias Khan R/o Toppi Tehsil and District Kohat**, do hereby solemnly affirm and declare on oath that the contents of the accompanying COC Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



DEPONENT



Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	04.03.2016	<p><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p>Appeal No. 80/2015</p> <p>Rahim Dad Versus Government of KPK through Chief Secretary, Peshawar etc.</p> <p><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Khushdil Khan Advocate) and Government Pleader (Ziaullah) with Mukhtiar Ali, Supdt. for the respondents present.</p> <p>2. At the relevant time, the appellant was employee of the Revenue Department holding the post of Tehsildar (BS-16). He was dismissed from service vide impugned order dated 22.10.2014 on the ground of absence from duty. His departmental appeal was also rejected vide order dated 07.01.2015, hence this appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.</p> <p>3. Arguments heard and record perused.</p> <p>4. The learned counsel for the appellant submitted that vide order dated 02.7.2013, the appellant was transferred from the post of Tehsildar, Abbottabad to Tehsildar, Haripur which order was very soon followed by another transfer</p>

ATTESTED

[Handwritten signature]

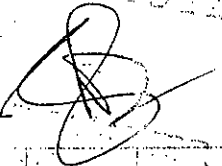
SECRETARY
PESHAWAR

7

order dated 12.07.2013 of the appellant to Dassu Kohistan. That the same was unlawful and premature, compelling the appellant to knock at the doors of the Hon'ble Peshawar High Court, Abbottabad Bench in which petition a stay order was also granted in favour of the appellant. It was further submitted that transfer of the appellant was based on malafide of the then SMBR who was not obliged by the appellant in a wrong mutation of his relative at Abbottabad. It was further stated that charge sheet and statement of allegations dated 26.09.2013 was issued at the office address of Deputy Commissioner, Dassu and a formal enquiry was directed to be conducted by Deputy Commissioner, Batagram. In his appeal, the appellant has denied that he was served with any notice and that the enquiry, if any, was also conducted at his back. The learned counsel for the appellant stressed that the appellant has served the department almost for 40 years and it was also stated before the Tribunal that he has attained his age of superannuation in the year, 2015 but it is evident that extremely harsh penalty was imposed on him without giving him opportunity of hearing. He requested that the impugned orders may be set aside and an appropriate relief may be granted to him.

5. These arguments were resisted by the learned G.P on the grounds that all codal formalities were fulfilled and that as the appellant was absent, therefore, he was rightly dismissed from service.

ATTESTED

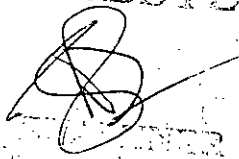
Sd/-
Peshawar

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6. We have heard pro & contra arguments and have perused the record.

7. It was found on record that from the post of Tehsildar, Abbottabad, appellant was transferred to Haripur vide order dated 02.7.2013 followed by another transfer order dated 12.07.2013, by way of which he was transferred to Dasso District Kohistan. It has been admitted by the respondent department in its reply that the said order was challenged by the appellant before the honourable High Court in which a stay order was also issued in favour of the appellant. Charge against the appellant is that pursuant to his transfer, he faxed charge assumption report to his senior but per report of D.C Kohistan, he did not physically reach on the station. Such report of the D.C Kohistan is not available on record but still important aspect of the matter is that while having a stay order in his favour, appellant could not be compelled to report at Dasso, Kohistan. From perusal of the record, it was also found that Writ Petition of the appellant was dismissed for want of jurisdiction by the Hon'ble Peshawar High Court, Abbottabad Bench vide order dated 11.2.2014 but prior to that the appellant had been charge sheeted on 10.09.2013. The allegation of the appellant is that the entire proceedings are tainted with malafide and based on revenge stated above. He also denied to have been associated with any enquiry proceedings or that

ATTESTED


 K. M. Khan
 Secretary, Peshawar

9

he was properly served with any notice. It was not denied that the appellant has rendered 40 years of his service and further that he has attained his age of superannuation in 2015 as stated at the bar. In the stated facts and circumstances of the case, the Tribunal is of the considered view that even if he remained absent as charged by the department, the penalty of dismissal imposed on him is too harsh. Hence, we are inclined to modify the penalty of dismissal from service vide order dated 22.10.2014 into his compulsory retirement to be effective from the said date. The impugned order be read accordingly. This appeal is decided in the above terms. Parties are left to bear their own costs. File be consigned to the record.

Announced
04.03.2016

Sd

(PIR BAKHSH S
MEMBER

Sd

(ABDUL LATIF)
MEMBER

Certified true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 06-12-2017
 Number of Words 2000
 Copying Fee 12-00
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 Total 14-00
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 80 /2015



Rahim Dad,
Ex-Tehsildar,
Dassu District Kohistan.....Appellant

Versus

1. The Govt. of Khyber Pakhtunkhwa,
through Chief Secretary,
Civil Secretariat, Peshawar.
2. The Senior Member Board of Revenue,
Govt. of Khyber Pakhtunkhwa,
Board of Revenue, Revenue and
Estate Department, Peshawar.
3. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Board of Revenue, Revenue and
Estate Department, Peshawar.....Respondents.

~~SECRET~~
No. 80
02-2-2015

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 22.10.2014 PASSED BY RESPONDENT NO.2 THEREBY APPELLANT WAS DISMISSED FROM SERVICE WITH IMMEDIATE EFFECT AGAINST WHICH HE FILED DEPARTMENTAL APPEAL ON 13.11.2014 BEFORE RESPONDENT NO.1 UNDER THE REGISTERED POST WHICH WAS REJECTED AND THE COPY OF WHICH WAS COMMUNICATED ON 07.01.2015 VIDE NO.ESTT:I/PF/RAHIM DAD/543.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

- A. That appellant was the employee of Revenue department holding the post of Tehsildar (BPS-16) at the time of passing the impugned order of his dismissal from service. By an office order dated 02.07.2013 (Annex: A), he was transferred from Tehsildar Abbottabad to Tehsildar Haripur but within a short span of time then he was transferred and posted as Tehsildar

2/2/15
ATTESTED

EXA JINER
Khyber Pakhtunkhwa
Service Tribunal

(11)

Dassu dated 12.07.2013 (**Annex: B**) without legal justification. The said subsequent transfer order was being made in violation of law, rules and policy based on malafide with ulterior motives therefore he challenged the same before Peshawar High Court, Abbottabad Bench in Writ Petition No.555-A/2013 which was later on dismissed on the question of jurisdiction on 11.02.2014 (**Annex: C**).

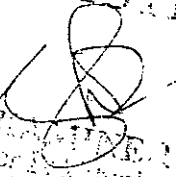
- B. That by notification dated 10.09.2013 (**Annex: D**), appellant was placed under suspension with immediate effect by the order of Respondent No.3 and meanwhile Deputy Commissioner Batagram was appointed as Inquiry Officer vide letter dated 26.09.2013 and Charge Sheet with statement of allegations dated 10.09.2013 (**Annex: E**) addressed to Deputy Commissioner Kohistan therein he was charged for alleged absence thereto he submitted reply but same was remained unattended (**Annex: F**).
- C. That without conducting any inquiry by the Inquiry Officer, the Respondent No.2 acted in arbitrary manner and passed the impugned order dated 20.10.2014 (**Annex: G**) thereby imposed major penalty of dismissal from service upon appellant with immediate effect.
- D. That the appellant filed department appeal on 13.11.2014 (**Annex: H**) before the Respondent No.1 under Section 22 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with rule 3 of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 against the impugned penalty of dismissal under registered post which was rejected and the copy of which was sent to appellant on 07.01.2015 vide No.Esstt:I/PF/Rahim Dad/543 (**Annex: I**).

Hence the present appeal is submitted on the following amongst other grounds:-

Grounds:

- A. That the appellant has never remained absent from duty and the allegations of absence is baseless and wrong tainted with malafide intention as when he was Tehsildar at Abbottabad, the Respondent No.2 (Mr. Waqar Ayoub) pressurized him to attest a fake mutation of one of his close relative which he refused politely being an illegal act on account of which he was annoyed and immediately transfer

ATTESTED


 Esstt: I/PF/Rahim Dad/543
 Khyber Pakhtunkhwa
 Section: Tribunal
 Peshawar

12

him to district Kohistan as a punishment. Then a false case of alleged absence from duty was made out against him at the result of which he was dismissed from service in arbitrary manner which is not sustainable under the law and rules, liable to be set aside.

B. That the Respondent No.2/3 has failed to follow the mandatory procedure as mentioned in rule 9 of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011 and acted in deviation of provisions of the referred rule and resultantly appellant was dismissed from service with immediate effect by the impugned order which is illegal, incompetent and unlawful being violative of the provisions of the said rules.

C. That neither any notice was served upon appellant under registered post nor notice was published in any two leading Newspapers which are the basic requirements of the rules on subject which shows the malafide on the part of Respondent No.2/3 and intentionally passed the impugned order in clandestine manner in order to deprive him of his right of defence. Thus the impugned order is illegal, without lawful authority and of no legal effect and inoperative against the rights of appellant.

D. That no inquiry has been carried out by the Inquiry Officer regarding which no intimation was communicated to appellant about the time and place and thus if any proceeding whatever be, the same has done at the back of appellant.

E. That in paragraph 4 of the impugned order, the Respondent No.2 candidly mentioned that after having examined the charges, evidence produced, statement of accused official, findings of Inquiry Officer, the impugned order was passed is totally incorrect and contrary to the record, no such alleged proceeding was carried out in the case of appellant. It is further proved from the fact that no show cause notice was issued at the conclusion of the alleged inquiry proceedings nor provided him the copy of alleged findings of inquiry to appellant.

F. That no opportunity of personal hearing was given to him inspite of appellant's request in his written reply to charge sheet and statement of allegations thus the Respondent No.2 acted in arbitrary manner and passed the impugned order at the back of him and condemned unheard and thus the impugned order is without lawful authority being violative of principle of natural justice.

ATTESTED
[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

- G. That the Respondent No.2/3 has awarded extreme penalty of dismissal from service to appellant which is not commensurate with the alleged charges of absence which is harsh, unfair and also in violation of rule 9 of the Rules, 2011.
- H. That the impugned order passed in violation of Articles 4 & 10A of the Constitution, 1973 as neither appellant was treated in accordance with law and rules on subject nor provided him right to fair trial which is one of the fundamental rights of appellant guaranteed under Chapter I of Part II of the Constitution, 1973. Thus in such circumstances the impugned order is not sustainable being passed in violation of fundamental rights of appellant.
- I. That Respondent No.1 has not acted in accordance with law and rules and rejected the departmental appeal of appellant in arbitrary manner without legal justification and cogent reasons which is not warranted by law and rules on subject and liable to be set aside.

It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned orders dated 20.10.2014 (dismissal from service) and 07.01.2015 (rejection of departmental appeal) may kindly be set aside and appellant may graciously be reinstated into service with all back benefits.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through **Appellant**
Khush Dil Khan,
 Advocate,
 Supreme Court of Pakistan

Dated: 27 / 01/2015

Certified to be true copy
 Khush Dil Khan
 Advocate
 Peshawar

Date of Presentation of Application 06-12-17
 Number of Pages 1600
 Copying Fee 10
 Urgent _____
 Total 12
 Name of Officer _____
 Date of Completion 6-12-17
 Date of Delivery of Copy 6-12-17

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11/3/2016

Rahim dad Khan VS Govt



03.03.2017

Counsel for the petitioner and M/S Mukhtiar Ali, Supdt. and Zakiullah, Senior Auditor alongwith Addl. AG for the respondents present. Arguments on execution petition heard and record perused.

On the strength of the judgment of this Tribunal the penalty awarded to the petitioner in the shape of dismissal from service was converted into compulsory retirement w.e.f. 22.10.2014. In pursuance of the judgment of this Tribunal notification dated 08.06.2016 was also issued by the Senior Member Board of Revenue.

According to the stance of the petitioner no one is accepting his application for processing his case for financial benefits accruable to him on the strength of the judgment of this Tribunal and the said notification of retirement.

It is directed that the petitioner shall submit such application to respondent No 3 (SMBR) who shall process the same according to law. The execution petition is disposed of accordingly. File be consigned to the record room.

Self Chairman



ANNOUNCED
05.03.2017

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Urgent 2-0
Total 8-0
Name of Copyist [Signature]
Date of Completion of Copy 06-12-17
Date of Delivery of Copy 06-12-17

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

Khyber Pakhtunkhwa
Service Tribunal

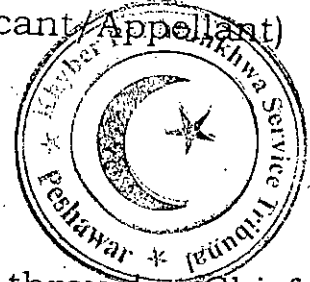
Execution Petition no. 234/16

Diary No. 1144

Dated 1-12-16

Rahim Dad Khan S/o Lais Khan R/o Tappi, Tehsil and District
Kohat.....(Applicant/Appellant)

VERSUS



1. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
2. Accountant General Khyber Pakhtunkhwa, Fort Road, Peshawar.
3. Senior Member Board of Revenue, KPK, Peshawar.....(Respondents)

**APPLICATION U/S 7. (2) (D) FOR
EXECUTING THE ORDER/
JUDGMENT DATED 04/03/2016
DELIVERED BY THIS HON'BLE
TRIBUNAL**

Respectfully Sheweth:

1. That the applicant/ appellant was serving as Tehsildar in the Revenue Department, Abbottabad however on 02/07/2013 the applicant was transferred to Haripur.

ATTESTED

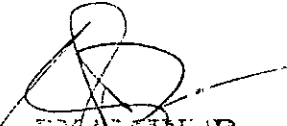
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(2)

16

2. That soon this order was followed by another order dated 12/07/2013 whereby the applicant was transferred to Dasso, Kohistan for no lawful reason.
3. That this order was challenged by the applicant before the Peshawar High Court, Peshawar Abbottabad Bench, where the impugned order was suspended for some time, however the applicant was soon dismissed from service on 22/10/2014 for the alleged absence from duty.
4. That applicant challenged this order in this hon'ble Tribunal through appeal No. 80/2015 which was accepted on 04/03/2016 to the extent that the dismissal order was modified into compulsory retirement. (Copy of the order is attached).
5. That the applicant produced copy of the order to the Revenue Department on which Notification No. 16223 dated 08/05/2016 was issued for compliance of the order/ judgment of this hon'ble Tribunal dated 04/03/2016, and as such the

ATTESTED


ATTESTING OFFICER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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17

date 20/10/2014. (Copy of the notification is attached).

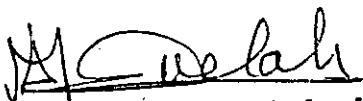
6. That the applicant now wants that the orders of this hon'ble Tribunal dated 04/03/2016 may be complied with for all purposes, directing the respondents to pay all pension expenses, salary and other emoluments admissible under the rules.

It is, therefore, prayed that the order dated 04/03/2016 may be complied-with/executed and the respondents may be directed to give all arrears including pension, salary and other emoluments admissible under the rules.

Applicant/Appellant

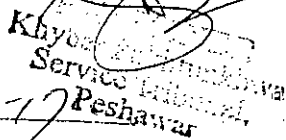
Through

Dated: 29/11/2016

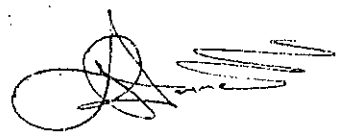

Muhibullah Tarichvi
Advocate High Court,
Peshawar.
Cell No. 0345-3434235

Rahim Dad Khan
Ex-Tehsildar, Haripur

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

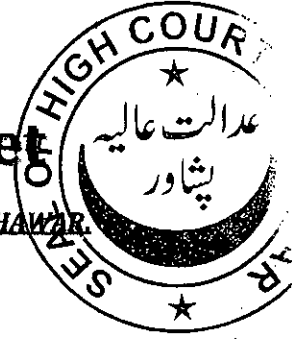
Date of Presentation of Petition: 6-12-17
Number of Petitions: 1250
Docketing Fee: 800
Fees: 200
Date of Completion: 6-12-17
Date of Delivery of Copy: 6-12-17



18

Judgment Sheet

**IN THE PESHAWAR HIGH COURT, PESHAWAR,
JUDICIAL DEPARTMENT.**



JUDGMENT

COC No. 544-P/2017 in W.P. No. 3734-P/2017.
Date of hearing 13.09.2018.
Rahim Dad versus Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others.
Petitioner by Mr. Aman Ullah Marwat, advocate.
State by Mr. Mr. Rab Nawaz, AAG.

WAQAR AHMAD SETH CI:- Petitioner through the instant Constitution petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, prayed that:-

"Keeping in view directions contained in PLD 2007 SC 35 to avoid unnecessary delay in finalization of pension process, this Honourable Court is pleased to direct the respondents to release the pensionary benefits to the petitioner forthwith and respondent No. 3 and those who were responsible may please be proceeded criminally in the light of directions issued by the Supreme Court of Pakistan in the judgment reported in PLD 2007 SC 35.

Any other writ/order/direction deemed proper and just in the circumstances of the case, be also issued/ordered/given."

2. In essence the grievance of the petitioner are that he was employee of Revenue Department holding the post of Tehsildar BPS-16 and transferred from Abbottabad to Haripur vide order dated 02.07.2013, subsequently again transferred from Haripur to Dasso Kohistan vide order dated 12.0.2013. Petitioner challenged his transfer order before august Peshawar High Court Abbottabad Bench, wherein status quo was issued, while in due course of process writ petition was dismissed.

3. Latter on respondent No. 3 on the ground of absence marked the petitioner as absent and dismissed him vide order dated

(DB). Mr. Justice Waqar Ahmad Seth, Hon'ble Senior Puisne Judge and Justice Musarrat Hilal, H.J.
Aamir Bashir Awan, Court Secretary.

ATTESTED
EXAMINER
Peshawar High Court

25 OCT 2018

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19

22.10.2014. The dismissal order was challenged through appeal, which was also dismissed vide order dated 07.01.2015.

4. Petitioner impugned order dated 07.01.2015 before Service Tribunal which was allowed and order of dismissal was modified and dismissal was converted into compulsory retirement since 08.06.2016. Petitioner approached the respondent No. 3 for the release of his pension but was delayed. Thus, consequently execution petition for the implementation of the order passed by the Service Tribunal was filed before the competent authority which was disposed of but the respondent No. 3 still making hurdles in way of release pensionary benefits to the petitioner, hence the instant contempt petition.

5. During the course of arguments learned AAG referred comments available on the file and states that in the case pension payment authority amounting to Rs. 8,87,510 has already been issued to Deputy Commissioner, Abbottabad through District Accounts Officer, Abbottabad, in respect of Mr. Rahim Dad/petitioner. Besides it, petitioner may approach the Service Tribunal, Peshawar for redressal of his agonies if any. Even otherwise, the power of implementation of orders with the Service Tribunal Khyber Pakhtunkhwa, and the judgment to be implemented is of that tribunal; therefore, the better course for the petitioner is to approach that forum.

6. Learned counsel for the petitioner when confronted with the proposition, so advanced by the learned AAG, he also solicited the same.

7. In the light what has been discussed above, petition in hand is disposed of accordingly.

CHIEF JUSTICE

JUDGE

ANNOUNCED
13.09.2018.

(DB). Mr. Justice Waqar Ahmad Seth, Hon'ble Senior Puisne Judge and Justice Musarrat Hilali, HJ.
Aamir Bashir Awan, Court Secretary.

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Qanun-o-Shahadat Order 1984

25 OCT 2018

No. 10687

Date of Presentation of Application 25-10-18

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Urgent Fee

Total

Date of Preparation of Copy 25-10-18

Date of Delivery of Copy 27-10-18

Received By



ایڈوکیٹ *Amanullah Marwal Adv*

بار کونسل ایسوسی ایشن نمبر:

رابطہ نمبر: 0334-9054585

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: *Before the Learned Service Tribunal Pesh*

منجانب:	دعویٰ:
<p>رحیم داد بنام SMBR</p>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
باعث تحریر آنکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام *Peshawar* کیلئے *Amanullah Marwal Adv* کو وکیل مقرر

کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی 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 کاروائی 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 داخستہ 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

03/12/2018

المرقوم:

المرقوم: _____

مقام _____ اور _____ کے لیے منظور ہے۔

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 422/18.

Mr. Rahim Dad son of Lias Khan resident of Toppi Tehsil and District Khatwa.....Appellant

VERSUS

Senior Member Board of Revenue and others.....Respondents

PRELIMINARY OBJECTIONS.

1. That the petitioner has got no cause of action.
2. That the petition is bad for mis-joinder and non-joinder of necessary parties.
3. That the petitioner has been estopped by his own conduct to file the appeal.
4. That the petition is badly time barred.
5. That the petition is not maintainable in its present form.
6. That the petitioner has not come to the Tribunal with clean hands.

PARAWISE COMMENTS OF RESPONDENT NO. 1 & 4 ARE AS UNDER.

1. Correct to the extent of order dated 04.03.2016 and 03.03.2017, which has already been implemented.
2. Incorrect. The appellant has already been granted full pensionary benefits vide District Accounts Officer Abbottabad authority No. 17352 dated 18.12.2017 (Annexure-...), hence the question of COC does not arise.
3. Incorrect. Appeal of the appellant is not maintainable.

GROUND.

- A. Incorrect. The appellant has been dealt in accordance with law. The pensioner has already been paid full pensionary benefits and no discrimination has been done with appellant.
- B. As in 'A' above.
- C. As in Para 1 & 2 of the facts.
- D. The pension case of the appellant has already been finalized by Board of Revenue vide retirement order dated 08.06.2016 (Annexure-B).
- E. The respondent will also seek permission to submit additional grounds at the time of arguments.

Keeping in view of the above, the appeal having no legal grounds may be rejected with cost.



Senior Member,
Board of Revenue
Respondent No. 1 & 4.

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 8/06/2016

NOTIFICATION

No. Estt: I/Rahim Dad/ 16223 The Competent Authority in pursuance of the Service Tribunal, Khyber Pakhtunkhwa judgment/order dated 04.03.2016 has been pleased to modify, the dismissal order from Service in respect of Mr. Rahim Dad Ex-Tehsildar Dassu District Kohistan vide this department Notification No. Estt: I/PF/Rahim Dad /20768-72, dated 20.10.2014 into compulsory retirement.

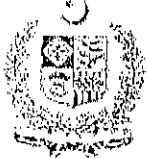
Sd/-
Senior Member

No. Estt: I/Rahim Dad / 16224-28

Copy forwarded for information to the:-

1. Accountant General Khyber Pakhtunkhwa.
2. Commissioner Hazara and Kohat Division.
3. Deputy Commissioner Kohistan and Kohat.
4. District Account Officer Kohistan and Kohat.
5. Raheem Dad, Ex-Tehsildar District Kohistan.

Secretary-I



**DISTRICT COMPTROLLER OF ACCOUNTS
ABBOTTABAD**

Commutation Authority No: - 17352

Date: - 18/12/2017

To,

The DC, ATD

Subject: - Payment Authority for Commuted Value Of Pension

Pension payment order in respect of Mr/Mrs Rahim Dad
son/daughter/widow of Lari Khan Ex B-25
of your office whose pension has been sanction by Bot of the Revenue Dept
vide no 28685 dated 07-12-2017 sum of Rs. 88750/-
Rupees eight lac eighty seven thousand five hundred ten only
pension in respect of the aforesaid pensioner has to be paid to the payee to confirmation of
payees titled the DDO on this authority being a codal formality. This authority duly in-
dorsed by the DDO at the place provided in the bottom may therefore be returned in the
original at the earliest to arrange to the pensioner.

A sum of Rs _____ on A/C of _____ will be
recovered from his computed pension at the time of payment and credited to
head _____ under federal/provincial government.

PPO No 16690-14 having gross pension = 17080-00 less
commuted value of pension 5978-00 Net pension 11102-00 PM debit
able to KPK Government has been issued separately.

[Signature]
District Comptroller of Accounts
Abbottabad. CG. 127

FOR DDO'S USE ONLY

CONFIRMATION OF PAYEE'S TITLE

Title of payee as mentioned above is hereby confirmed it is further certified that payee's
title if found fictitious or fake at any later stage will be born by this office together with
making government loss goods.

Signature of DDO _____

Office Seal _____

Endst. No _____ dated _____

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 422/18.

Mr. Rahim Dad son of Lias Khan resident of Toppi Tehsil and District Kohat.....Appellant

VERSUS

Senior Member Board of Revenue and others.....Respondents

PRELIMINARY OBJECTIONS.

1. That the petitioner has got no cause of action.
2. That the petition is bad for mis-joinder and non-joinder of necessary parties.
3. That the petitioner has been estopped by his own conduct to file the appeal.
4. That the petition is badly time barred.
5. That the petition is not maintainable in its present form.
6. That the petitioner has not come to the Tribunal with clean hands.


PARAWISE COMMENTS OF RESPONDENT NO. 1 & 4 ARE AS UNDER.

1. Correct to the extent of order dated 04.03.2016 and 03.03.2017, which has already been implemented.
2. Incorrect. The appellant has already been granted full pensionary benefits vide District Accounts Officer Abbottabad authority No. 17352 dated 18.12.2017 (Annexure-A), hence the question of COC does not arise.
3. Incorrect. Appeal of the appellant is not maintainable.

GROUND.

- A. Incorrect. The appellant has been dealt in accordance with law. The pensioner has already been paid full pensionary benefits and no discrimination has been done with appellant.
- B. As in 'A' above.
- C. As in Para 1 & 2 of the facts.
- D. The pension case of the appellant has already been finalized by Board of Revenue vide retirement order dated 08.06.2016 (Annexure-B).
- E. The respondent will also seek permission to submit additional grounds at the time of arguments.

Keeping in view of the above, the appeal having no legal grounds may be rejected with cost.


Senior Member,
Board of Revenue
Respondent No. 1 & 4.

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 8/06/2016

NOTIFICATION

No. Estt:I/Rahim Dad/ 16223. The Competent Authority in pursuance of the Service Tribunal, Khyber Pakhtunkhwa judgment/order dated 04.03.2016 has been pleased to modify, the dismissal order from Service in respect of Mr. Rahim Dad Ex-Tehsildar Dassu District Kohistan vide this department Notification No. Estt:I/PF/Rahim Dad /20768-72, dated 20.10.2014 into compulsory retirement.

Sd/-
Senior Member

No. Estt:I/Rahim Dad / 16224-28

Copy forwarded for information to the:-

1. Accountant General Khyber Pakhtunkhwa.
2. Commissioner Hazara and Kohat Division.
3. Deputy Commissioner Kohistan and Kohat.
4. District Account Officer Kohistan and Kohat.
5. Raheem Dad-Ex-Tehsildar District Kohistan.

Secretary-I



**DISTRICT COMPTROLLER OF ACCOUNTS
ABBOTTABAD**

Commutation Authority No: - 17352

Date: - 18/12/2017

To,

The DC, ATD

Subject: - Payment Authority for Commuted Value Of Pension

Pension payment order in respect of Mr/Mrs Rahim Dad
son/daughter/widow of Laz Khan Ex B-01
of your office whose pension has been sanction by Chief of Revenue & Revenue Dept
vide no 28685 dated 07-12-2017 sum of Rs. 88750/-
Rupees eight lac eighty seven thousand five hundred ten only
pension in respect of the aforesaid pensioner has to be paid to the payee to confirmation of
payees titled the DDO on this authority being a codal formality. This authority duly in-
dorsed by the DDO at the place provided in the bottom may therefore be returned in the
original at the earliest to arrange to the pensioner.

A sum of Rs _____ on A/C of _____ will be
recovered from his computed pension at the time of payment and credited to
head _____ under federal/provincial government.

PPO No 16690-H having gross pension = 170800/- less
commuted value of pension 597800/- Net pension 1112200/- PM debit
able to KPK Government has been issued separately.

[Signature]
District Comptroller of Accounts
Abbottabad. 18/12/17

FOR DDO'S USE ONLY

CONFIRMATION OF PAYEE'S TITLE

Title of payee as mentioned above is hereby confirmed it is further certified that payee's
title if found fictitious or fake at any later stage will be born by this office together with
making government loss goods.

Signature of DDO _____

Office Seal _____

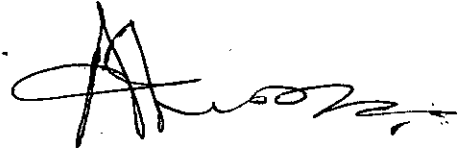
Endst. No _____ dated _____

INDEX

S.No	Description of Documents	Annex	Pages
1.	Memo of application		1
2.	Copy of order dated 30.04.2019		2
3.	Copy of implementation petition		3-6
4.	Copy of last pay slip		7
5.	Copy of pension slip		8

Through

Applicant



Dated: 13.05.2019

Rahim Dad

S/o Lias Khan

R/o Topi, Tehsil and District, Kohat

(Ex-Tehsildar)

Cell: 0333-9618399



Dy No 3270/PS

SMA

13 ⁵/₁₉

To

Senior Member Board of Revenue,
Civil Secretariat, Peshawar

Muhammad Iqbal
13/05/19

Application for release of remaining portion of pensions i.e. encashment, benevolent fund and salaries w.e.f. 02.07.2013 to 22.10.2014 in view of the compliance of the order dated 30.04.2019 passed by Hon'ble Service Tribunal in case titled "Rahim Dad Vs SMBR etc".

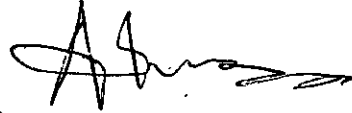
Respected Sir:

With due respect, it is submitted:

1. That the applicant has filed petition for implementation for release of remaining pensionary benefits withheld by respondents, which is fixed for 30.04.2019.
2. That your department has released pensions of the applicant i.e. Rs.887510.61, but, remaining pension (mentioned above) are still withheld by the department without any lawful justification.
3. That Honourable Service Tribunal has directed the applicant to submit application for release of remaining portion of pension on 30.04.2019, hence, this application.

It is, therefore, respectfully submitted that **remaining portion of pensions i.e. encashment, benevolent fund and salaries w.e.f. 02.07.2013 to 22.10.2014** may please be released to the applicant.

Through Applicant



Rahim Dad
S/o Lias Khan
R/o Topi, Tehsil and District, Kohat
(Ex-Tehsildar)
Cell: 0333-9618399

Dated: 13.05.2019

CC to:

1. Chief Secretary, Khyber Pakhtunkhwa
2. Accountant General KP, Peshawar

01.04.2019

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith M/S Zaki Ullah, Senior Auditor, Sohail Akhtar, Assistant and Javed Khan, Assistant for respondents present.



Representative of the respondents submitted implementation report through which dismissal order of the petitioner was modified/converted into compulsory retirement instead of dismissal from service vide order dated 08.06.2016 and the same is placed on record. A copy of the said report was also handed over to the learned counsel for the petitioner. Adjourned to 30.04.2019 for further proceedings before S.B.

(AHMAD HASSAN)
MEMBER

30.04.2019

Counsel for the appellant and Mr. Usman Ghani District Attorney alongwith M/S Muhammad Arif, Superintendent and Muhammad Sohail, Assistant for the respondents present.

Learned District Attorney referred to notification dated 08.06.2016 whereby, in pursuance to the judgment of this Tribunal, the dismissal of appellant was converted into compulsory retirement w.e.f. 20.10.2014. He also referred to a payment voucher dated 18.12.2017, whereby, the petitioner was paid an amount of Rs. 887510/- towards the pension emoluments of petitioner.

Learned counsel for the petitioner states that the entitlement of petitioner in respect of his pension benefits is much higher than the amount he has already been paid, that too, during the proceedings of implementation of judgment.

The petitioner is required to submit an application on the next date wherein actual calculation of his remaining claim against the respondents shall be specifically worked out.

Adjourned to 11.06.2019 before S.B.

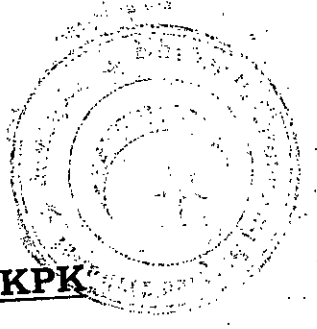
Chairman

Certified to be true copy

Khyber Pakhtunkhwa

Number of copies 07-549
Copies of 07-549
Original 07-549
Date of Delivery 07-549
Date of Delivery 07-549
Date of Delivery 07-549
Date of Delivery 07-549
Date of Delivery 07-549

1



BEFORE THE LEARNED SERVICE TRIBUNAL KPK

PESHAWAR

**Khyber Pakhtunkhwa
Service Tribunal**

COC Petition No. _____ /2018

Diary No. 2306

Dated 4-12-2018

**Rahim Dad S/o Lias Khan R/o Toppi Tehsil and
District Kohat.**

..... Petitioner

VERSUS

- 1. Senior Member Board of Revenue, KPK
Peshawar.**
- 2. Accountant General (AG KPK) AG Office Fort
Road Peshawar Cantt**
- 3. Secretary Finance, Government of KPK, Civil
Secretariat Peshawar.**
- 4. Zafar Iqbal Senior Member Board of Revenue,
KPK Peshawar.**

..... Respondents

PETITIONER FOR IMPLEMENTATION OF
THE ORDER DATED 04.03.2016 AND
03.03.2017 WITH THE DIRECTION TO THE
RESPONDENTS TO RELEASE PENSIONARY
BENEFITS AND TO PROCEED THE
RESPONDENTS FOR NONCOMPLIANCE OF
THE ABOVE MENTIONED ORDERS.

ATTESTED

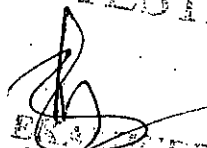
LEARNED MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

2

Respectfully Sheweth:

1. That the Petitioner filed a Writ Petition No. 3734-P/2017 for release of salaries after decision dated 04.03.2016 passed by Hon'ble Service Tribunal in service appeal No. 80/2015 and order dated passed in execution petition dated 03.03.2017. **(Copy of appeal, order dated 04.03.2016 and order dated 03.03.2017 are attached as annexure A)**
2. That the Petitioner filed writ petition No. 3734-P/2017 for release of pensioner benefits, which was converted in to COC Petition bearing No. 544-P/2017, during the pendency of COC Petition partially pensionary benefit were paid and petitioner was directed to approach this Hon'ble Tribunal for implementation and for release of pensionary benefits against the Respondents, hence this COC Petition is being filed. **(Copy of Writ Petition No. 3734-P/2017, COC No. 544-P/2017 and order dated 13.09.2018 are attached as annexure B)**
3. That the Petitioner seeks release of pensionary benefits and implementation of the orders dated 04.03.2016 and 03.03.2017 inter alia on the following grounds:-

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

GROUND:

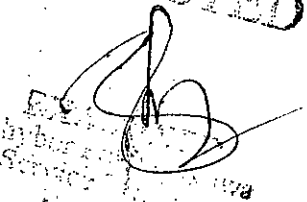
A. That it is fundamental right of every citizen guaranteed by the Constitution to be dealt strictly in accordance with law, the Respondents are bound under the law to deal the Petitioner according to law and should not create any hindrance in finalization of his pension, therefore, such action of Respondents is illegal, without such action of Respondents is illegal, without jurisdiction & without lawful authority.

B. That once Application is submitted by the Respondent No 3 he is bound to process his case and finalize his pension after retirement. Such action of Respondents amount to violation of directions contained in PLD 2017 SC Page 35 and exposes to the contempt of court proceeding.

C. That it is settled principle of law that everyone is entitled to equal protection of law as the Petitioner has served the departmental for sufficient length of time the Respondents are bound under the pension rules to release him in time and not to create on necessary hurdles such action of Respondents are illegal without lawful authority.

D. That the Petitioner knocked the doors of Respondents as well as the Court but after clear cut direction given by Service Tribunals but his case

ATTESTED



Signature of the official and an official stamp of the Service Tribunal.

4

was not finalized by the Respondents. Such inaction on the part of Respondents is not permitted by any cannon of law.

E. That the Petitioner seeks leave of this Hon'ble Court to raise any other grounds at the time of hearing, with the kind permission of this Hon'ble Court.

It is therefore, respectfully prayed that keeping in view directions contained in PLD 2007 SC 35 and order dated 03.03.2017 passed by this Hon'ble Tribunal to avoid unnecessary delay in finalization of pension process, this Hon'ble Court is pleased to direct the Respondents to release the pensionary benefits to the Petitioner forthwith and Respondent No 3 and those who were responsible may please be proceeded criminally in the light of directions issues by the Supreme of Pakistan in the Judgment reported in PLD 2007 SC 35.

Any other writ / order / direction deemed proper and just in the circumstances of the case, be also issues / ordered/ given.

Petitioner

Through.

Dated: 29.11.2018

ATTESTED

Aman Ullah Marwat
Advocate, Peshawar

EX-100
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5

BEFORE THE LEARNED SERVICE TRIBUNAL KPK
PESHAWAR

COC Petition No. _____ /2018

Rahim Dad Petitioner

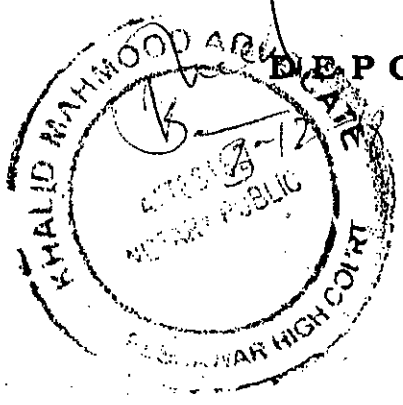
VERSUS

SMBR & others Respondents

AFFIDAVIT

I, **Rahim Dad S/o Lias Khan R/o Toppi Tehsil and District Kohat**, do hereby solemnly affirm and declare on oath that the contents of the accompanying COC Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT



Certificate to be filed copy
[Signature]
KHALID MAHMOOD
NOTARY PUBLIC
PESHAWAR

Date of Execution of Copy 07-5-19
Number of Copies 2000
Copying Fee 12500
Urgent 2500
Total 14000
Name of Copy [Signature]
Date of Copy 07-05-19
Date of Delivery of Copy 07-05-19

OFFICE OF THE DISTRICT ACCOUNT OFFICER ABBOTTABAD

Ph : 0992-9310352, 9310219, Fax # 9310351

No Pr-I/DAO/AD/Misc./293
To

Dated 21/08/2013

The Sisit Officer
Harpur

Subject: TRANSFER OF SERVICE DOCUMENTS.

The service of Mr/Mrs Rahim Dard (Tehsildar)
bearer of Personal No 158368 has been transferred to the Audit
jurisdiction of your office. Therefore his/her personal file (service statement etc) are
enclosed herewith for record of your office please. He / She has been paid upto
31.7.2013 at the following rates. 11 LBS KI/160/100

PAYMENTS

DEDUCTIONS

Basic pay	Rs	23600
S.Pay / P.Pay	Rs	5000
HRA	Rs	1866
NPA	Rs	6555
A.R.A	Rs	1866
D.A	Rs	4720
50% D.A	Rs	3540
AR-2011	Rs	
AR-2012	Rs	
Med:All	Rs	
Conveyance All	Rs	
Gross Pay	Rs	47347

G.P.Fund	Rs	1760
B.Fund	Rs	250
G.Ins	Rs	173
A.G.Ins	Rs	19
I Tax	Rs	60
HR 5%	Rs	1180
ROP	Rs	
GP-Fund A/c		
No		
Net	Rs	

A.O. 70001

He/She is authorized to draw pay & Allowances from _____
to _____ at the above rates.

- Recd Pay & All w. ef 4⁷/₁₃ to 31⁷/₁₃ at the above rates
No. G 60/DAO/HR/Nil of. 14.7.2014
The above named Tehsildar has served as
Havi Pev from 3.7.2013 to 15.7.2013. No payment has
made by this office on this L.P.C.
Havi Pev allowance from 16.7.2013 to 31.7.2013
by DAO Abbottabad may be re-adjusted.
21.8.13
District Account Officer
Abbottabad
DISTRICT
Comptroller of Accounts
ABBOTTABAD
Senior Distt: Accounts Officer
Harpur

SERVICE STATEMENT

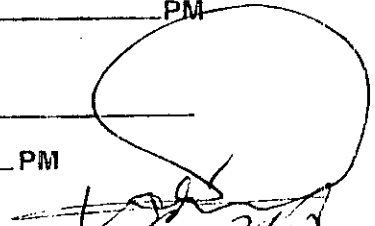
Prior to 13.6.11 the officer was under the Audit jurisdictions of District / Agency Accounts Officers Kohat.

Station	Period	Particulars								Total
		Pay	HRA	NPA	ARA	DA	AR	DA		
1100	12.2.11	1211		116	933	933	103	261	6.55	3277.9
"	1.7.11	2210	2183				1842	1810	655.1	3406.7
13	1.12.11	2380	2487				1885	1866	655.5	3576.7
"	1.7.12	2364	2487				1866	1866	655.5	4287.7
"	1.12.12	2364	2487				1866	1866	655.5	4383.7
"	1.7.13	2364	2487				1866	1866	655.5	4394.7

Handed over charge of the post on Fore /After Noon of 7.7.2013 Detail of leave availed is as under.

From Roppy to 4/7/13 to 31/7/13
DETAIL OF RECOVERIES

1. Motor Care Advance Rs. _____ is recoverable @ Rs. _____ PM
2. HBA Rs. _____ is recoverable @ Rs. _____ PM
3. Interest of HBA / M Car / M Cycle Rs. _____
4. TA Advance Rs. _____ is recoverable @ Rs. _____ PM


 District Account Officer
 Abbottabad

Copy forwarded to the Assistant Account officer GP-Fund Section Local with the request to transfer the GP-Fund Balance in r/o above named officer to the District Accounts Officer Abbottabad at the earliest please.

District Account Officer
 Abbottabad
Forwarded to the District Accounts Officer Abbottabad as per request. Slown To The

PENSION ROLL DATA SHEET & PENSION SLIP

Date of issue : 07.02.2018
 PPO Type : FRESH
 PPO Number : 00158368-01
 Pensioner ID : 00158368
 Pension Register No: PPO NO 16690-H C.NO 14637
 Pensioner's Name : **RAHIM DAD**
 Father / Husband name : **LIAS KHAN**
 Designation: **TEHSILDAR**
 NIC No.: 1430123132933
 Grade / Scale : 09
 Department.Min: **DEPUTY COMMISSIONER ABBOT**
 Pensioner's Type: **SELF**
 Pension Type: **SUPERANNUATION**
 Date of Birth : 12.04 1955
 Date of appointment: 30.04.1973
 Date of retirement: 23.10.2014
 Date of Death:
 Date of commence : 24.10.2014
 Date of Restoration :
 Accounts office ID : AD
 Accounts office Name : Abbotabad
 Federal / Province : Khyber Pakhtunkhwa
 Length of Qualifying Service : 41 years, 5 months, 23 days
 Old PPO Number :
 No. and Date of sanction of pension / Letter No. :
 and the date of the other Audit and Accounts officer authorising
 the Pension/Gratuity/Commutation
 Permanent Address;

Note :
 Age : 63 years
 Last Drawn pay/Emoluments(Rs.): 24400.00
 Gross Pension(Rs.) : **17080.00**
 1/4th Surrendered Portion (Rs.) :
 Commuted Portion (Rs.) : 5978.00
 Net Pension (Rs.) : **11102.00**
 Net Family Pension (Rs.) : **0.00**
 Amount of Commutation(Rs.) : **887510.61**
 With Held Amount (Rs.) : 0.00
 Life Time Arrears (Rs.) : 0.00
 Arrears Of Pension (Rs.) : 0.00
 Special Additional Pension (Rs.) : 0.00
 Commutation Percentage : 35.00
 Commutation Table value : 10.89
 Recovery on A/C of :
 Debitable to Govt : Khyber Pakhtunkhwa
 Total Net Share
 Federal : 0.00 Punjab : 0.00
 Sindh : 0.00 NWFP : 0.00
 Balochistan : 0.00 Military : 0.00
 AJK : 0.00 Autonomous : 0.00

He/She is also entitled to the following increases

Sr. No.	Period	Increase % or amount	Increase Amount	W.E.F.
1	JUL.2010	15.00 %	1665.30	01.01.2018
2	JUL.2011	15.00 %	1915.10	01.01.2018
3	JUL.2012	20.00 %	2936.48	01.01.2018
4	JUL.2013	15.00 %	2642.83	01.01.2018
5	JUL.2014	10.00 %	2026.17	01.01.2018
6	JUL.2015	10.00 %	2228.79	01.01.2018
7	JUL.2016	10.00 %	2451.67	01.01.2018
8	JUL.2017	10.00 %	2696.83	01.01.2018
9	.0.	Rs. 0.00	0.00	
10				
11				
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17				
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21				
22				
23				
24				
25				
26				
27				

PENSION SLIP

Month: January
 Year: 2018

Pension roll details

Wage Type	Wage Type Text	Amount
7559	Payment	3285
0100	Monthly Pension - Self	1110
0101	Pension Increases - Self	185
1599	Medical Allow - Pensioner	25
1600	Med. All. 2015 Pensioner	6

Bank Details

Bank Account Number : 74506
 Bank Branch : MAIN BRANCH KOHAT
 MAIN BRANCH KOHAT
 Payment Mode : NATIONAL BANK OF PAKISTAN

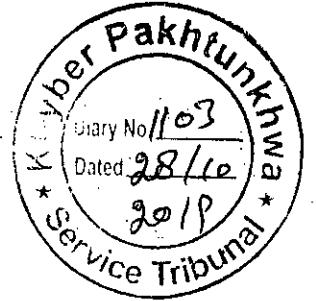


GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.
Facebook ID: www.facebook.com/bor.kpk92
Twitter ID: [@RevenueBoardkp](https://twitter.com/RevenueBoardkp)
Fax No: 091.9213989

No. Estt: I/PF/Rahim Dad/
Peshawar dated the 24/10/2019.

To

The Deputy Commissioner,
Abbottabad.



SUBJECT:- APPLICATION FOR RELEASE OF REMAINING PORTION OF PENSION I.E ENCASHMENT, BENEVOLENT FUND AND SALARIES W.E.F 02.07.2013 TO 22.10.2014.

Dear Sir,

I am directed to refer to your letter No. 5901/AE(Rev) dated 14.06.2019 and to enclose copy of Khyber Pakhtunkhwa Service Tribunal order sheet dated 17.10.2019 alongwith application dated 17.09.2019 submitted by Mr. Rahim Dad Khan son of Lias Khan resident of Topi Tehsil and District Kohat through Aminullah Marwat Advocate Peshawar with the request to work out arrears of the applicant in pursuance of LPC issued by District Accounts Officer Abbottabad vide letter No. PR-I/DAO-ATD/Misc/293 dated 21.08.2013 and provide the requisite report within two weeks positively for onward submission to Service Tribunal Khyber Pakhtunkhwa on priority basis please.

Assistant Secretary (Estt)

No. Estt: I/PF/Rahim Dad/ 34365-67

Copy forwarded to the:-

1. Registrar Khyber Pakhtunkhwa Service Tribunal with reference to order dated 17.10.2019 in COC Petition No. 422/2018 in case titled Rahim Dad Versus Senior Member, Board of Revenue and others.
2. Assistant Secretary (Lit-II), Board of Revenue.
3. Mr. Rahim Dad Khan son of Lias Khan resident of Topi Tehsil and District Kohat through Aminullah Marwat Advocate Peshawar with reference to his application cited above.

Put up to the court along with relevant petition.

29/10/19

Assistant Secretary (Estt)

دستور العمل
۱۳

۱۷/۱۰

To
POSTMASTER
20/11/19
Govt of KPK Peshawar
In Re:

**The worthy SMBR,
KPK, Peshawar**

Rahim Dad
Vs
Govt of KPK and others

Application for payment of remaining pension of Rs.988226/- in view of the order sheet dated 09.07.2019 passed by the Honourable Service Tribunal in execution petition titled "Rahim Dad Vs Govt of KPK"

Respectfully Submitted:

1. That the titled execution petition is pending before the Honourable Service Tribunal, for implementation, which is fixed for 23.09.2019.
2. That the petitioner has been released pension of Rs.887510.61/- by the respondents, but, Rs.988226/- still remain outstanding. The detail of which is reproduced as under:

S.No	Description	Amount
1.	Encashment of leave pay Rs.23,600/- (according to LPC)	Rs.28,3200/-
2.	Pay 14 months & 22 days (according to LPC) w.e.f. 01.08.2013 to 30.11.2013 (4 months i.e. Rs.47347/- p.m)	Rs.1,89,388/-
3.	Pay w.e.f 01.12.2013 to 30.09.2014 (10 months i.e. Rs.48147/- p.m)	Rs.481470/-
4.	Pay w.e.f 01.10.2014 to 22.10.2014 (22 days i.e. Rs.48147/- p.m)	Rs.34168/- (22 days)
Grand Total		Rs.988226/-

It is, therefore, most humbly requested that application may please be released pension of Rs.988226/- for which he is legally entitled.

Applicant
(Rahim Dad)

Through


Amanullah Marwat
Advocate, Peshawar

Date: 17.09.2019

e/c

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 422/18.

Mr. Rahim Dad son of Lias Khan resident of Toppi Tehsil and District Kohat.....Appellant

VERSUS

Senior Member Board of Revenue and others.....Respondents

**PARAWISE REPLY ON THE APPLICATION DATED 17.09.2019 OF APPLICANT
ARE AS UNDER.**

1. According to report of Deputy Commissioner Abbottabad (Annexure-A) the applicant was absent from duties w.e.f 02.07.2013 to 22.10.2014, therefore in light of Revised Leave Rules 1981 he is not entitled for encashment of Rs.28,32,00/- (Annexure-B).
2. The absent period of the applicant w.e.f 01.08.2013 to 22.10.2014 was declared as without pay vide notification dated 06.12.2017 (Annexure-C).
3. As in para 2 above.
4. As in para 1 & 2 above.

Keeping in view of the above, the application for payment of remaining pension of Rs. 988226/- in view of the order sheet dated 09.07.2019 passed by the Honourable Service Tribunal in execution petition titled "Rahim Dad Vs Govt of KPK." having no legal grounds may be rejected with cost.



Senior Member,
Board of Revenue



Raght.

OFFICE OF THE
DEPUTY COMMISSIONER
ABBOTTABAD

No. / 9767 /AE(Rev)
Dated 12/12 /2019

To

The Assistant Secretary (Estt.)
Govt: of Khyber Pakhtunkhwa
Board of Revenue, Revenue & Estate Deptt:
Peshawar.

General Diary
Dy: No. 6437
Date 17-12-19
Revenue & Estate
Khyber Pakhtunkhwa

Subject: **APPLICATION FOR RELEASE OF REMAINING PORTION OF PENSION I.E ENCASHMENT, BENEVOLENT FUND AND SALARIES W.E.F 02.07.2013 TO 22.10.2014**

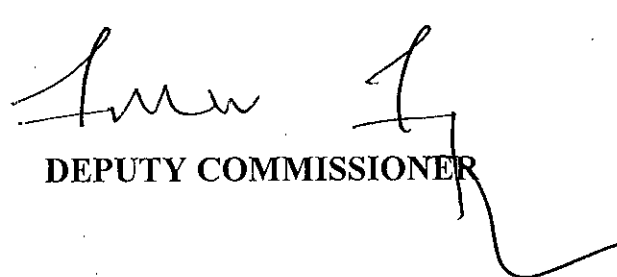
Memo:

Reference your letter No. Estt:I/PF/Rahim Dad/38215 dated 28.11.2019 on the subject cited above.

In this regard, it is stated that Mr. Rahimdad Khan was compulsory retired from service vide notification No.Estt:I/Rahim Dad/16223 dated 08.06.2016 (copy enclosed) when he was posted as Tehsildar Dassu Kohistan. However, his pension case was not accepted by the District Accounts Office Kohistan and later on sent to Abbottabad on the grounds that the Data of the officer is not available in SAP system nor in Audit Register. He remained as Tehsildar Abbottabad prior to his posting to Kohistan hence his pension case received vide your letter No.Estt:I/PF/Rahimdad/2542 dated 02.02.2017 was forwarded to DAO, Abbottabad and his pension payment was made accordingly.

As far as encashment of LPR is concerned, it is evident from his retirement order dated 08.06.2016 that no sanction for leave encashment was accorded by the competent authority i.e Board of Revenue while as per S.No.2-4 in the ibid petition, the absent period w.e.f 01.08.2013 to 22.10.2014 was declared as leave without pay vide notification No.Estt:I/PF/Rahimdad/28498-503 dated 06.12.2017 (copy enclosed).

S.P.R. K
17/12/19


DEPUTY COMMISSIONER

N.W.F.P. Civil Servants Revised Leave Rules, 1981

(6) Leave Ex-Pakistan will be regulated and be subject to the same limits conditions as prescribed in rule 4,5 and 12.

17. Assigning reasons for leave.—It shall not be necessary to specify the reason for which leave has been applied, so long as that leave is due and admissible to a civil servant.

18. Commencement and end of leave.—Instead of indicating whether leave starts / ends in the forenoon or after-noon, leave shall commence from the day following that on which a civil servant hands over the charge of his post. It shall end on the day preceding that on which he resumes duty.

19. Absence after the expiry of leave.—Unless his leave is extended by the leave sanctioning authority, a civil servant who remains absent (except for circumstances beyond his control) after the end of his leave shall not be entitled to any remuneration for the period of such absence and double period of such absence shall be debited against his leave account. Such debit shall if there is insufficient credit in the leave account, be adjusted against future accumulations. Such double debit shall not preclude any disciplinary action that may be considered necessary under any rule for the time being in force after affording a reasonable opportunity to the civil servant concerned to indicate his position.

✓⁴**[20. Encashment of Leave Preparatory to Retirement.**—Where a civil servant opts not to avail the leave preparatory to retirement admissible to him under rule 14, he shall be allowed leave salary for the period for which leave preparatory to retirement is admissible subject to a maximum of 180 days. For the purpose of lump sum payment in lieu of leave preparatory to retirement only the senior post allowance will be included in the leave pay so admissible. The payment of leave pay in lieu of leave preparatory to retirement may be made to the civil servant either in lump sum at the time of retirement or may at his option, be drawn by him monthwise, in arrears, for and during the period of leave preparatory to retirement. This amendment shall take effect from 01.07.1983.]

⁵**[21. In Service Death, etc.**—(1) In case a civil servant dies, or is declared permanently incapacitated for further service by a Medical Board, while in service, a lump sum payment equal to leave pay upto one hundred and eighty days out of the leave at his credit shall be made to his family as defined for the purposes of family pension or, as the case may be, to the civil servant.

(2) For the purpose of lump sum payment under sub rule (1), only the "senior post allowance" will be included in the "leave pay" so admissible.]

22. Recall from Leave.—If a civil servant is recalled to duty compulsorily with the approval of the leave sanctioning authority, from leave of any kind, which he is spending away from his headquarters, he may be granted single return fare plus daily allowance as admissible on tour from the station where he is spending his leave to the place where he is required to report for duty. In case he is recalled to duty at headquarters and his remaining leave is cancelled, the fare then admissible shall be for one way journey only. If the order of recall to the civil servant is optional then the concession above mentioned will not be

4. Rule 20 substituted by Notification No. FD.SO(SR-IV)5-54(Vol:II), dated 24th August, 1983.

5. Rule 21 substituted by Notification No.FD.SO(SR-IV)5-54/80(Vol:III), dated 03.05.1988

Commencement and end of Leave- Instead of indicating whether leave starts/ends in the forenoon or afternoon, leave shall commence from the day following that on which a Civil Servant hands over the charge of his post. It shall end on the day preceding that on which he resumes duty.

Absence after the expiry of Leave- Unless his leave is extended by the leave sanctioning authority, a Civil Servant who remains absent (except for circumstances beyond his control) after the end of his leave shall not be entitled to any remuneration for the period of such absence, and double the period of such absence shall be debited against his leave account. Such debit shall if there is insufficient credit in the leave account, be adjusted against future accumulations. Such double debit shall not preclude any disciplinary action that may be considered necessary under any rule for the time being in force, after affording reasonable opportunity to Civil Servant concerned to indicate his position.

Encashment of Leave preparatory to retirement:

Where a civil servant opts not to avail the leave preparatory to retirement admissible hereunder rule 14, he shall be allowed leave salary for the period for which leave preparatory to retirement is admissible, subject to a maximum of 180 days. For the purpose of lump sum payment in lieu of leave preparatory to retirement only the senior post wage will be included in the leave pay so admissible. The payment of leave pay in lieu of leave preparatory to retirement may be made to the Civil Servant either in lump sum at the time of retirement or may at his option, be drawn by him month-wise, in arrears, for and during the period of leave preparatory to retirement.

This amendment shall take effect from 1.7.1983.

(b) substituted vide FD No.SOSR (IV)5-54/80-Vol-II, dated 24.8.1983.

Government Decision: It has now been decided that;

- a) Unless a civil servant opts to proceed on LPR or submits an application for LPR, he may be deemed to have opted for encashment of LPR according to the rules; and
- b) On receipt of a request from a civil servant deemed to have opted for encashment of LPR, the authority competent to sanction LPR, will issue formal sanction for the payment of cash compensation.

No.FD SO(SR-IV)5-54/80-Vol-II dated 26.2.1986

Clarification:- The Civil Servants seeking retirement on voluntarily basis should be treated equally and the option should not be necessary if they want to encash their LPR. However, a civil servant who wants to proceed on retiring pension shall have to wait for 30 days after qualifying service of 25 years for the purpose of encashment of LPR.

(b) substituted vide FD No.SOSR (IV) 5-54/80/Vol-II, dated 20.11.1986.

EXPLANATORY:- Under the above clarification encashment of LPR is admissible on completion of 25 years qualifying service.

Decision:- A civil servant may either draw leave pay for the period for which leave is admissible subject to a maximum of 6 months in lump sum after retirement or on month-to-month basis during such period as under:

- a) the leave pay may be drawn at any time for which duty has already been rendered; and
- b) the rate of pay shall be the rate admissible at the time the leave pay is drawn. This order shall take with immediate effect. NO. FD.SO(SR-IV)5-54/80-Vol-III, dated 12.4.1988

Decision:-

In case leave of any kind, including Extra Ordinary (Leave without pay), is taken during the last 12 months of service by a retiring civil servant, except on un-avoidable ground, e.g. illness, supported by medical certificate or for the performance of Hajj, the period of such leave will be reduced from 180 days or lesser period for which the encashment is allowed. NO. FD.SO(SR-IV)5-54/80-Vol-III, Dt. 8.2.1990.

21. **In-service Death etc:** 1) In case a Civil servant dies, or is declared permanently incapacitated for further service by a Medical Board, while in service, a lump sum payment equal to leave pay up to 180 days out of the leave at his credit shall be made to his "family" as defined for purposes of the family pension or, as the case may be, to the civil servant.

2) For the purpose of lump sum payment to the family of civil servant who dies while in service only the "Senior Post Allowance" will be included in the "leave Pay" so admissible. Rule-21 substituted vide FD No.SO(SR-IV)5-54/80-Vol-III dated 1.5.1988.

22. **Recall from Leave-** If a civil servant is recalled to duty compulsorily with the approval of leave sanctioning authority, from leave of any kind, which he is spending away from his Headquarters, he may be granted single return fare Plus Daily Allowance as admissible on tour from the station where he is spending his leave to the place where he is required to report for duty. In case he is recalled to duty at Headquarters and his remaining leave is cancelled, then fare admissible shall be for one-way journey only. If the order of recall to the civil servant is optional, then the concession above mentioned will be admissible.

23. **Any Type of Leave may be Applied:-** A civil servant may apply for the type of leave which is due and admissible to him and it shall not be refused on the ground that another type of leave should be taken in the particular circumstances for example, a civil servant may apply for extraordinary leave or leave on half pay even if leave on full pay is otherwise due and admissible to him, or he may proceed on extraordinary leave followed by leave on half pay and full pay rather than on full pay, half pay, and without pay.

24. **Combination of different types of leave, etc:-** One type of leave may be combined with joining time or with any type of leave otherwise admissible to the civil servant.

Provided that leave preparatory to retirement shall not be combined with any other kind of leave.



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 06/12/2017

NOTIFICATION.

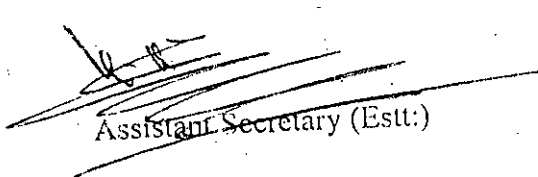
No.Estt:I/PF/Rahim Dad / _____ The Competent Authority is pleased to
treat the absence period w.e.f 01.08.2013 to 22.10.2014 in respect of Mr. Rahim Dad
Ex - Tehsildar Abbottabad (Compulsory retired) on 22.10.2014 as leave without pay.

By order of
Senior Member

No.Estt:I/PF/Rahim Dad / 28498-503

Copy forwarded to the:-

1. Registrar Peshawar High Court Peshawar.
2. Accountant General Khyber Pakhtunkhwa.
3. Commissioner Hazara Division Abbottabad.
4. Deputy Commissioner Kohistan and Abbottabad.
5. District Accounts Officer Kohistan and Abbottabad.
6. Official concerned.


Assistant Secretary (Estt.)

(59)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 8/06/2016

NOTIFICATION

No. Estt./Rahim Dad/ 16223 The Competent Authority in pursuance of the Service Tribunal, Khyber Pakhtunkhwa judgment/order dated 04.03.2016 has been pleased to modify, the dismissal order from Service in respect of Mr. Rahim Dad Ex-Tehsildar Dassu District Kohistan vide this department Notification No. Estt./PF/Rahim Dad /20768-72, dated 20.10.2014 into compulsory retirement.

Sd/-
Senior Member

No. Estt./Rahim Dad/ 16224-28

Copy forwarded for information to the:-

1. Accountant General Khyber Pakhtunkhwa.
2. Commissioner Hazara and Kohat Division.
3. Deputy Commissioner Kohistan and Kohat.
4. District Account Officer Kohistan and Kohat.
5. Raheem Dad-Ex-Tehsildar District Kohistan.

Secretary-I



Raghu

OFFICE OF THE
DEPUTY COMMISSIONER
ABBOTTABAD

No. / 9767 /AE(Rev)
Dated 12/12 /2019

To

The Assistant Secretary (Estt:)
Govt: of Khyber Pakhtunkhwa
Board of Revenue, Revenue & Estate Deptt:
Peshawar.

General Diary
Dy: No. 6437
Date: 17-12-19
Revenue & Estate
Khyber Pakhtunkhwa

Subject: APPLICATION FOR RELEASE OF REMAINING PORTION OF PENSION I.E ENCASHMENT, BENEVOLENT FUND AND SALARIES W.E.F 02.07.2013 TO 22.10.2014

Memo:

Reference your letter No. Estt:I/PF/Rahim Dad/38215 dated 28.11.2019 on the subject cited above.

In this regard, it is stated that Mr. Rahimdad Khan was compulsory retired from service vide notification No.Esst:I/Rahim Dad/16223 dated 08.06.2016 (copy enclosed) when he was posted as Tehsildar Dassu Kohistan. However, his pension case was not accepted by the District Accounts Office Kohistan and later on sent to Abbottabad on the grounds that the Data of the officer is not available in SAP system nor in Audit Register. He remained as Tehsildar Abbottabad prior to his posting to Kohistan hence his pension case received vide your letter No.Esst:I/PF/Rahimdad/2542 dated 02.02.2017 was forwarded to DAO, Abbottabad and his pension payment was made accordingly.

As far as encashment of LPR is concerned, it is evident from his retirement order dated 08.06.2016 that no sanction for leave encashment was accorded by the competent authority i.e Board of Revenue while as per S.No.2-4 in the ibid petition, the absent period w.e.f 01.08.2013 to 22.10.2014 was declared as leave without pay vide notification No.Esst:I/PF/Rahimdad/28498-503 dated 06.12.2017 (copy enclosed).

SPE
12/12/19


DEPUTY COMMISSIONER

59

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 8/06/2016

NOTIFICATION

No. Estt:/Rahim Dad/ 16223 The Competent Authority in pursuance of the Service Tribunal, Khyber Pakhtunkhwa judgment/order dated 04.03.2016 has been pleased to modify, the dismissal order from Service in respect of Mr. Rahim Dad Ex-Tchsildar Dassu District Kohistan vide this department Notification No. Estt:/PF/Rahim Dad /20768-72, dated 20.10.2014 into compulsory retirement.

Sd/-
Senior Member

No. Estt:/Rahim Dad / 16224-28

Copy forwarded for information to the:-

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2. Commissioner Hazara and Kohat Division.
3. Deputy Commissioner Kohistan and Kohat.
4. District Account Officer Kohistan and Kohat.
5. Raheem Dad-Ex-Tehsildar District Kohistan.

Secretary-I



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 06/12/2017

NOTIFICATION.

No.Estt:I /PF/Rahim Dad / _____

The Competent Authority is pleased to

treat the absence period w.e.f 01.08.2013 to 22.10.2014 in respect of Mr. Rahim Dad

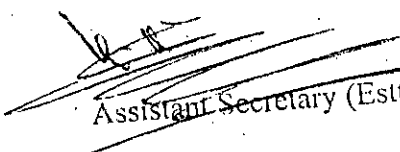
Ex - Tehsildar Abbottabad (Compulsory retired) on 22.10.2014 as leave without pay.

By order of
Senior Member

No.Estt:I /PF/Rahim Dad / 28498-503

Copy forwarded to the:-

1. Registrar Peshawar High Court Peshawar.
2. Accountant General Khyber Pakhtunkhwa.
3. Commissioner Hazara Division Abbottabad.
4. Deputy Commissioner Kohistan and Abbottabad.
5. District Accounts Officer Kohistan and Abbottabad.
6. Official concerned.


Assistant Secretary (Estt.)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 422/18.

Mr. Rahim Dad son of Lias Khan resident of Toppi Tehsil and District Kohat.....Appellant

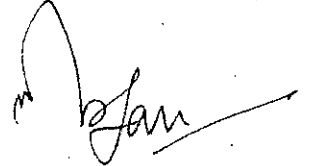
VERSUS

Senior Member Board of Revenue and others.....Respondent

**PARAWISE REPLY ON THE APPLICATION DATED 17.09.2019 OF APPLICANT
ARE AS UNDER.**

1. According to report of Deputy Commissioner Abbottabad (Annexure-A) the applicant was absent from duties w.e.f 02.07.2013 to 22.10.2014, therefore in light of Revised Leave Rules 1981 he is not entitled for encashment of Rs.28,32,00/- (Annexure-B).
2. The absent period of the applicant w.e.f 01.08.2013 to 22.10.2014 was declared as without pay vide notification dated 06.12.2017 (Annexure-C).
3. As in para 2 above.
4. As in para 1 & 2 above.

Keeping in view of the above, the application for payment of remaining pension of Rs. 988226/- in view of the order sheet dated 09.07.2019 passed by the Honourable Service Tribunal in execution petition titled "Rahim Dad Vs Govt of KPK" having no legal grounds may be rejected with cost.



Senior Member,
Board of Revenue



Regd.

OFFICE OF THE
DEPUTY COMMISSIONER
ABBOTTABAD

No. / 9767 /AE(Rev)
Dated 12/12 /2019

To

The Assistant Secretary (Estt:)
Govt: of Khyber Pakhtunkhwa
Board of Revenue, Revenue & Estate Deptt:
Peshawar.

General Diary
Dy. No. 6437
Date 17-12-19
Revenue & Estate
Khyber Pakhtunkhwa

Subject: APPLICATION FOR RELEASE OF REMAINING PORTION OF PENSION I.E ENCASHMENT, BENEVOLENT FUND AND SALARIES W.E.F 02.07.2013 TO 22.10.2014

Memo:

Reference your letter No. Estt:I/PF/Rahim Dad/38215 dated 28.11.2019 on the subject cited above.

In this regard, it is stated that Mr. Rahimdad Khan was compulsory retired from service vide notification No.Esst:I/Rahim Dad/16223 dated 08.06.2016 (copy enclosed) when he was posted as Tehsildar Dassu Kohistan. However, his pension case was not accepted by the District Accounts Office Kohistan and later on sent to Abbottabad on the grounds that the Data of the officer is not available in SAP system nor in Audit Register. He remained as Tehsildar Abbottabad prior to his posting to Kohistan hence his pension case received vide your letter No.Esst:I/PF/Rahimdad/2542 dated 02.02.2017 was forwarded to DAO, Abbottabad and his pension payment was made accordingly.

As far as encashment of LPR is concerned, it is evident from his retirement order dated 08.06.2016 that no sanction for leave encashment was accorded by the competent authority i.e Board of Revenue while as per S.No.2-4 in the ibid petition, the absent period w.e.f 01.08.2013 to 22.10.2014 was declared as leave without pay vide notification No.Esst:I/PF/Rahimdad/28498-503 dated 06.12.2017 (copy enclosed).

Handwritten signature and date
17/12/19

Handwritten signature
DEPUTY COMMISSIONER

(6) Leave Ex-Pakistan will be regulated and be subject to the same limited conditions as prescribed in rule 4, 5 and 12.

17. **Assigning reasons for leave.**—It shall not be necessary to specify the reasons for which leave has been applied, so long as that leave is due and admissible to a civil servant.

18. **Commencement and end of leave.**—Instead of indicating whether leave starts / ends in the forenoon or after-noon, leave shall commence from the day following that on which a civil servant hands over the charge of his post. It shall end on the day preceding that on which he resumes duty.

19. **Absence after the expiry of leave.**—Unless his leave is extended by the leave sanctioning authority, a civil servant who remains absent (except for circumstances beyond his control) after the end of his leave shall not be entitled to any remuneration for the period of such absence and double period of such absence shall be debited against his leave account. Such debit shall if there is insufficient credit in the leave account, be adjusted against future accumulations. Such double debit shall not preclude any disciplinary action that may be considered necessary under any rule for the time being in force after affording a reasonable opportunity to the civil servant concerned to indicate his position.

✓⁴[20. **Encashment of Leave Preparatory to Retirement.**—Where a civil servant opts not to avail the leave preparatory to retirement admissible to him under rule 14, he shall be allowed leave salary for the period for which leave preparatory to retirement is admissible subject to a maximum of 180 days. For the purpose of lump sum payment in lieu of leave preparatory to retirement only the senior post allowance will be included in the leave pay so admissible. The payment of leave pay in lieu of leave preparatory to retirement may be made to the civil servant either in lump sum at the time of retirement or may at his option, be drawn by him monthwise, in arrears, for and during the period of leave preparatory to retirement. This amendment shall take effect from 01.07.1983.]

⁵[21. **In Service Death, etc.**—(1) In case a civil servant dies, or is declared permanently incapacitated for further service by a Medical Board, while in service, a lump sum payment equal to leave pay upto one hundred and eighty days out of the leave at his credit shall be made to his family as defined for the purposes of family pension or, as the case may be, to the civil servant.

(2) For the purpose of lump sum payment under sub rule (1), only the "senior post allowance" will be included in the "leave pay" so admissible.]

22. **Recall from Leave.**—If a civil servant is recalled to duty compulsorily with the approval of the leave sanctioning authority, from leave of any kind, which he is spending away from his headquarters, he may be granted single return fare plus daily allowance as admissible on tour from the station where he is spending his leave to the place where he is required to report for duty. In case he is recalled to duty at headquarters and his remaining leave is cancelled, the fare then admissible shall be for one way journey only. If the order of recall to the civil servant is optional then the concession above mentioned will not be

4. Rule 20 substituted by Notification No. FD.SO(SR-IV)5-54(Vol:II), dated 24th August, 1983.
5. Rule 21 substituted by Notification No. FD.SO(SR-IV)5-54/80(Vol:III), dated 03.05.1988

Commencement and end of Leave- Instead of indicating whether leave starts/ends in the forenoon or afternoon, leave shall commence from the day following that on which a Civil Servant hands over the charge of his post. It shall end on the day preceding that on which he resumes duty.

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Encashment of Leave preparatory to retirement:

Where a civil servant opts not to avail the leave preparatory to retirement admissible under rule 14, he shall be allowed leave salary for the period for which leave preparatory to retirement is admissible, subject to a maximum of 180 days. For the purpose of lump sum payment in lieu of leave preparatory to retirement only the senior post allowance will be included in the leave pay so admissible. The payment of leave pay in lieu of leave preparatory to retirement may be made to the Civil Servant either in lump sum at time of retirement or may at his option, be drawn by him month-wise, in arrears, for and during the period of leave preparatory to retirement.

This amendment shall take effect from 1.7.1983.

no. 20 substituted vide FD No. SOSR (IV) 5-54/80-Vol-II, dated 24.8.1983.

Retirement Decision: It has now been decided that;

- a) Unless a civil servant opts to proceed on LPR or submits an application for LPR, he may be deemed to have opted for encashment of LPR according to the rules; and
- b) On receipt of a request from a civil servant deemed to have opted for encashment of LPR, the authority competent to sanction LPR, will issue formal sanction for payment of cash compensation.

No. FD SO(SR-IV) 5-54/80-Vol-II dated 26.2.1986

Clarification:- The Civil Servants seeking retirement on voluntarily basis should be treated equally and the option should not be necessary if they want to encash their LPR. However, a civil servant who wants to proceed on retiring pension shall have to wait for 30 days after qualifying service of 25 years for the purpose of encashment of LPR.

FD No. (SR-IV) 5-54/80/Vol-II, dated 20.11.1986.

EXPLANATORY:- Under the above clarification encashment of LPR is admissible on completion of 20 years qualifying service.

Decision: A civil servant may either draw leave pay for the period for which leave is admissible subject to a maximum of 6 months in lump sum after retirement or on month-to-month basis during such period as under:

- a) the leave pay may be drawn at any time for which duty has already been rendered; and
- b) the rate of pay shall be the rate admissible at the time the leave pay is drawn. This order shall take with immediate effect. NO. FD.SO(SR-IV)5-54/80-Vol-III, dated 12.4.1988

Decision:-

In case leave of any kind, including Extra Ordinary (Leave without pay), is taken during the last 12 months of service by a retiring civil servant, except on un-avoidable ground, e.g. illness, supported by medical certificate or for the performance of Haj, the period of such leave will be reduced from 180 days or lesser period for which the encashment is allowed. NO. FD.SO(SR-IV)5-54/80-Vol-III, Dt. 8.2.1990.

21. **In-service Death etc:** 1) In case a Civil servant dies, or is declared permanently incapacitated for further service by a Medical Board, while in service, a lump sum payment equal to leave pay up to 180 days out of the leave at his credit shall be made to his "family" as defined for purposes of the family pension or, as the case may be, to the civil servant.

2) For the purpose of lump sum payment to the family of civil servant who dies while in service only the "Senior Post Allowance" will be included in the "leave Pay" so admissible. Rule-21 substituted vide FD No.SO(SR-IV)5-54/80-Vol-III dated 3.5.1988.

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24. **Combination of different types of leave, etc:-** One type of leave may be combined with joining time or with any type of leave otherwise admissible to the civil servant.

Provided that leave preparatory to retirement shall not be combined with any other kind of leave.



GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 06/12/2017

NOTIFICATION.

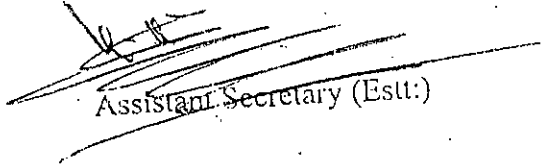
No.Estt:I /PF/Rahim Dad / _____ The Competent Authority is pleased to
treat the absence period w.e.f 01.08.2013 to 22.10.2014 in respect of Mr. Rahim Dad
Ex - Tehsildar Abbottabad (Compulsory retired) on 22.10.2014 as leave without pay.

By order of
Senior Member

No.Estt:I /PF/Rahim Dad / 28.4.18-503

Copy forwarded to the:-

1. Registrar Peshawar High Court Peshawar.
2. Accountant General Khyber Pakhtunkhwa.
3. Commissioner Hazara Division Abbottabad.
4. Deputy Commissioner Kohistan and Abbottabad.
5. District Accounts Officer Kohistan and Abbottabad.
6. Official concerned.


Assistant Secretary (Estt.)

(59)

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE & ESTATE DEPARTMENT

Peshawar dated the 8/06/2016

NOTIFICATION

No. Estt:/Rahim Dad/ 16223 The Competent Authority in pursuance of the Service Tribunal, Khyber Pakhtunkhwa judgment/order dated 04.03.2016 has been pleased to modify, the dismissal order from Service in respect of Mr. Rahim Dad Ex-Tehsildar Dassu District Kohistan vide this department Notification No. Estt./PF/Rahim Dad /20768-72, dated 20.10.2014 into compulsory retirement.

Sd/-
Senior Member

No. Estt:/Rahim Dad / 16224-28

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2. Commissioner Hazara and Kohat Division.
3. Deputy Commissioner Kohistan and Kohat.
4. District Account Officer Kohistan and Kohat.
5. Raheem Dad-Ex-Tehsildar District Kohistan.

Secretary

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Pettition No. 422/2018

Mr. Rahim Dad son of Lias Khan resident of Toppi Tehsil and District Kohat.....Appellant

VERSES

Senior Member, Board of Revenue and others.....Respondents.

COMPLIANCE REPORT

The appellant has already been granted pensionary benefits vide District Accounts Officer Abbottabad Authority No. 17352 dated 18.12.2007. Sofar as the question of leave encashment and salaries w.e.f 02.07.2013 to 22.10.2014 is concerned, the petitioner was absent from duty w.e.f 02.07.2013 to 22.10.2014. Therefore in light of Rule 20 of leave Rules, 1981 the appellant is not entitled for such benefits. As per order of Service Tribunal dated 29.07.2021, case was taken up with Finance Department vide letter dated 26.08.2021. Finance Department opined that as per Services and General Administration letter No. SOR-I(S&GAD)1-46/80, dated 30.06.1988 which clearly indicates that the Government Servant compulsorily retired from service as a measure of punishment under the provisions of the NWFP Government Servants (Efficiency & Discipline) Rules, 1973 should not be granted leave preparatory (Annexure-A). The order dated 10.06.2021 passed by the Service Tribunal has been assailed before the Supreme Court of Pakistan vide CPLA No. 427-P/2021, (Annexure-B). A request has also been made to Law Department for early hearing of the pending CPLA before the Supreme Court of Pakistan (Annexure-C).


Senior Member,
Board of Revenue



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT**

**MOST IMMEDIATE
COURT MATTER**

NO.SO(LIT-II)/FD/2-1903/2018.
Dated Peshawar the, 26/08/2021.

To

W. H. Khan
2/9/21

The Assistant Secretary (Estate)
Government of Khyber Pakhtunkhwa,
Board of Revenue & Estate, Department.

General Diary
Dy: No. *2698*
Date *30-8-21*
Revenue & Estate
Khyber Pakhtunkhwa

S/E

Subject:

**EXECUTION PETITION NO. 422/2018 RAHIM DAD V/S GOVT. OF
KHYBER PAKHTUNKHWA THROUGH SMBR & OTHERS.**

Sir,

I am directed to refer to your letter No. Estt: I/EP/422/18/19064 dated 03/08/2021 on the subject cited above and to enclose herewith photocopy of the "Services & General Administration letter No. SOR-I(S&GAD)1-46/80 dated 30.06.1988, which clearly indicates that in light of NWFP Government efficiency and discipline Rules 1973 facilities of leave preparatory should not be granted please. (copy enclosed)

Yours faithfully,

Encls: As Above.

[Signature]
SECTION OFFICER (LIT-II)

Para: 84 - 88/N

86

GOVERNMENT OF N.W.F.P.
SERVICES & GENERAL ADMN: DEPARTMENT

(Regulation Wing)

No. SOR-I(S&GAD)1-46/80
Dated Peshawar the 30th June, 1988

All the Administrative Secretaries to Government of NWFP,
Secretary to Governor, N.W.F.P.
Secretary to Chief Minister, NWFP.
All Commissioners in N.W.F.P.
All Heads of Attached Departments in NWFP.
All Deputy Commissioners/Political Agents in NWFP.
All Districts and Sessions Judges in NWFP.
Registrar, Peshawar High Court, Peshawar.
Secretary, Public Service Commission, Peshawar.
Secretary, Board of Revenue, NWFP, Peshawar.
Registrar, NWFP Service Tribunal, Peshawar.

GRANT OF LEAVE PREPARATORY TO RETIREMENT TO
GOVERNMENT SERVANTS COMPULSORILY RETIRED
FROM SERVICE AS A MEASURE OF PUNISHMENT UNDER
THE NORTH-WEST FRONTIER PROVINCE GOVERNMENT
SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 1973.

I am directed to say that a question has arisen as to whether a Government compulsorily retired from service as a measure of punishment under the provisions of NWFP Government Servants (Efficiency & Discipline) Rules, 1973 can be granted leave preparatory to retirement under the normal rules or otherwise.

Although according to instructions contained in Establishment Division of Pakistan O.M No.4/8/88-D-I dated the 4th April, 1977, such LPR could not be granted a fresh reference was made to the Establishment Division to confirm that the instructions continue to be valid. In reply it has been stated that the rules continue to hold good.

It has therefore been decided that the Government Servants compulsorily retired from service as a measure of punishment under the provisions of the NWFP Govt: (Efficiency and Discipline) Rules, 1973 should not be granted leave preparatory to

Your Obedient Servant,



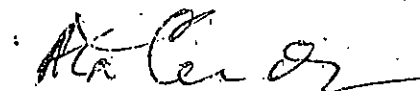
(ZARIN LAD KHATTAK)
Additional Secretary (Regulation)

SOR-I(S&GAD)1-46/80,

Dated Peshawar the 30th June, 1988

Copy forwarded for information and necessary action to:-

- All Additional Secretaries in Services and General Admn: Department.
- All Deputy Secretaries in Services & General Administration Department.
- Private Secretary to Chief Secretary, NWFP.
- All Section Officers/Estate Officer in Services & General Admn: Deptt:.
- Private Secretary to Secretary, Services & General-Admn: Department.
- Librarian, Services and General Administration Department.
- Superintendent I/c Benevolent Fund, Services & General Admn: Deptt:.



(ATA MUHAMMAD)
SECTION OFFICER
(Regulation - I)

D/C

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA NO. 427 P. /2021

Senior Member Board of Revenue,
Khyber Pakhtunkhwa, Peshawar

PETITIONERS

VERSUS

Rahim Dad

RESPONDENT

Appeal from
Counsel for Petitioner
Instituted by

Khyber Pakhtunkhwa Service Tribunal, Peshawar
Advocate General, KPK, Peshawar
Moeen-ud-Din Hidayat, AOR

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA NO. _____/2021

Senior Member Board of Revenue,
Khyber Pakhtunkhwa, Peshawar

-----**PETITIONERS**

VERSUS

Rahim Dad

-----**RESPONDENT**

CONCISE STATEMENT

- 1- Subject matter and the law Claim for leave encashment

Court / Forum	Date of a) Institution b) Decision	Who filed it and with what result
KPK Service Tribunal Peshawar	a) 04-12-2018 b) 10-06-2021	Respondent filed execution petition No. 422/2018 wherein, the impugned order was passed
Points noted in the impugned Judgment	Treatment of points in the impugned judgment	
It is an undeniable fact that the penalty of dismissal of the petitioner was converted into penalty of compulsory retirement by the Tribunal. The phenomena of the compulsory retirement is embodied in the provision of Section-13(a) of the Khyber Pakhtunkhwa Civil Servant Act, 1973. Accordingly, a civil servant shall retire from service on such date after he has completed twenty years of service qualifying for pension or other	According to LPC on record, the date of appointment of the respondent is reflected as 30-04-1973 in to Government service. Order of his compulsory retirement was on 22-10-2014. Keeping in view the in between period of the said dates, the service of the respondent at the time of retirement was more than 20 years. The law does not entail any disadvantage for the pensionary and other retirement benefits simply because of the retirement being compulsory. It has been pointed out at the bar that leave encashment of the petitioner and retirement benefits are still pending. As far as the leave encashment is concerned, the petitioners are directed to ensure the grant of sanction for unequivocal payment of leave encashment through appropriate authority. As far as the retirement benefits are concerned, respondent by virtue of Khyber Pakhtunkhwa civil Servants Retirement Benefits Act, 2014, is entitled for the claim as a matter of right. Even if there is any other benefit admissible under the law	

(B)

retirement benefits as the case the competent authority may, in public interests direct.	after retirement in term of financial benefits, the petitioner is entitled to pursue the same through departmental authority under due course. The petitioners are directed to process the case of respondent for retirement benefits etc. In addition to issue sanction order for leave encashment.
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LAW/RULING ON THE SUBJECT

FOR

1- Constitution of Islamic Republic of Pakistan, 1973

CERTIFICATE:

Certified that I, myself prepared the above concise statement which is correct.

(Moeen-ud-Din Humayun)
Advocate-on-Record
Supreme Court of Pakistan
For Government

①

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA NO. _____/2021

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Secretary Finance Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
4. Zafar Iqbal Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.

PETITIONERS

VERSUS

Rahim Dad S/O Lias Khan R/O Toppi Tehsil and District Kohat

RESPONDENT

CIVIL PETITION FOR LEAVE TO APPEAL UNDER
ARTICLE 212(3) OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973 AGAINST THE
IMPUGNED JUDGMENT/ ORDER OF THE LEARNED
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR DATED 10-06-2021 IN EXECUTION
PETITION NO. 422/2018

RESPECTFULLY SHEWETH:

Substantial questions of law of general public importance and grounds, inter alia, which falls for determination of this august Court are as under:-

1. Whether the impugned judgment / order dated 10-06-2021 of the Khyber Pakhtunkhwa, Service Tribunal, Peshawar passed in Execution Petition No. 422/2018 is not against law, facts of the case and legally not sustainable?

2. Whether the Hon'ble Khyber Pakhtunkhwa, Service Tribunal has exceeded in excise of its jurisdiction by passing the impugned order?
3. Whether the Hon'ble Khyber Pakhtunkhwa, Service Tribunal has the power to entertain the instant petition by issuing the impugned direction?
4. Whether the respondent who willfully absented himself from duty without the sanction and approval of the competent authority is entitle for the salary of the absent period during which he has not performed any duty?
5. Whether Section 13(a) of Khyber Pakhtunkhwa Civil Servant Act, 1973 is applicable to the case of respondent as the respondent is compulsorily retired from service as punishment for misconduct?
6. Whether compulsory retirement is not punishment under the Khyber Pakhtunkhwa Govt. Servant E&D rules, 2011?
7. Whether the respondent has filed departmental or Service appeal challenging the notification dated 06-12-2017 whereby the absent period (i.e w.e.f 01-08-2013 to 22-10-2014) was declared as leave without pay which gives fresh cause of action to the respondent but the same was not challenged before service Tribunal and the same has gained finality.?
8. Whether the pensionary benefit for which the respondent was legally entitled was not paid to the respondent in the light of the judgment of service Tribunal and the respondent is not entitled of any other benefits being compulsory retired which is punishment under the law?
9. Whether the Hon'ble Tribunal can go beyond the order dated 04-03-2016 wherein no directions for payment for the period in which the respondent remained absent from duty is issued?

10. Whether by allowing the encashment of salary for the absent period for which the respondent has already been punished and compulsory retired will not amount to exonerate the respondent from the charges of misconduct for not complying of transfer order and remain absent from duty?

FACTS

II- Facts relevant to the above points of law, inter alia, are as under:-

1. That the respondent was an employee of the Revenue Department holding the post of Tehsildar (BPS-16).
2. That the respondent was dismissed from service vide order dated 22-10-2014 on the charges of non-compliance of posting order and willful absence from duty.
3. That the respondent filed departmental appeal which was also dismissed hence filed Service Appeal No. 80/2015 before the Khyber Pakhtunkhwa, Service Tribunal, Peshawar which was partially allowed vide judgment/order dated 04-03-2016 by modifying the penalty of dismissal from service into compulsory retirement.
4. That in pursuance of the order of the Khyber Pakhtunkhwa, Service Tribunal, Peshawar dated 04-03-2016 the competent authority modified the dismissal order dated 22-10-2014 of respondent vide notification dated 08-06-2016 into compulsory retirement and the pensionary benefits was paid.
5. That the respondent filed execution petition No. 234/2016 in Khyber Pakhtunkhwa Service Tribunal Peshawar which was disposed of vide order dated 03-03-2017 directing the respondent to submit application to SMBR.

(4)

6. That vide notification dated 06-12-2017 the competent authority treated the absence period i.e(w.e.f 01-08-2013 to 22-10-2014) as leave without pay which was not challenged by the respondent and remain intact.
7. That the respondent after lapse of one year filed Execution Petition No. 422/2018 before the Khyber Pakhtunkhwa, Service Tribunal, Peshawar, wherein vide order sheet dated 10-06-2021 the Hon'ble Tribunal was pleased to direct the petitioners to process the case of respondent for retirement benefits etc in addition to issue sanction order for leave encashment. The case was adjourned for compliance.
8. That the petitioners being aggrieved from the order dated 10-06-2021 in Execution Petition No. 422/2018 files the instant CPLA.
9. That the petitioners seek leave to appeal against the impugned judgment and order of Khyber Pakhtunkhwa, Service Tribunal, Peshawar dated 10/06/2021 in Execution Petition No. 422/2018.

It is, therefore, prayed that on acceptance of this petition, leave to appeal against the impugned judgment and order dated 10-06-2021 in Execution Petition No. 422/2018 may graciously be granted.

(Moeen-ud-Din Humayun)
Advocate-on-Record
Supreme Court of Pakistan
For Government

NOTE:

Learned Advocate General, KPK/ Addl. AG /State Counsel shall appear at the time of hearing of this petition.

ADDRESS

Office of the Advocate General, KPK, High Court Building, Peshawar. (Telephone No.091-9210119, Fax No.091-9210270)

CERTIFICATE Certified that no such petition has earlier been filed by Petitioners/ Government against the impugned judgment mentioned above.

Advocate-On-Record

MOST IMMEDIATE
SUPREME COURT MATTER

GOVERNMENT OF KHYBER PAKHTUNKHWA
BOARD OF REVENUE
REVENUE AND ESTATE DEPARTMENT

Face book ID: www.facebook.com/bor.kpk92
Twitter ID: @RevenueBoardkp

No. Lit - I/Summon/2020/ 24925-28
Peshawar Dated the 21 /09/2021.

To

The Secretary to Government of Khyber Pakhtunkhwa
Law & Parliamentary Affairs and Human Right Department.

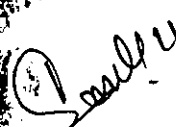
SUBJECT:- CPLA NO. 427-P/2021 TITLED GOVERNMENT OF KHYBER
PAKHTUNKHWA AND OTHERS VERSUS RAHIM DAD.

Dear Sir,

I am directed to refer to the subject noted above and to state that the above titled case is pending/adjudication before the Apex Supreme Court of Pakistan filed by the Provincial Government against the Order dated 10.06.2021 & 29.07.2021 (copy enclosed) passed by the Khyber Pakhtunkhwa Services Tribunal which has not yet fixed for arguments.

Therefore, I am further directed to request you that the Advocate General Khyber Pakhtunkhwa may be asked to file an application for early hearing in the instant case please.

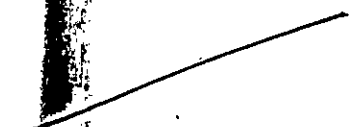
This may be treated as Most Urgent being SUPREME COURT matter.


Assistant Secretary (Lit-I)

No. & Date Even.

Copy forwarded to the:-

1. Advocate General Khyber Pakhtunkhwa at Peshawar for necessary action please.
2. Registrar Khyber Pakhtunkhwa Services Tribunal at Peshawar.
3. Assistant Secretary (Estt) Board of Revenue, Khyber Pakhtunkhwa.
4. Assistant Secretary (Lit:II) Board of Revenue, Khyber Pakhtunkhwa.


Assistant Secretary (Lit-I)