

20th June, 2022

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl AG for respondents present.


Implementation report not submitted. Nobody put appearance on behalf of the respondents. They are directed to appear in person alongwith implementation report. Learned Addl: AG is directed to ensure compliance of the judgment of this Tribunal. To come up for implementation report on 09.08.2022 before S.B.



(Kalim Arshad Khan)
Chairman

9.8.2022

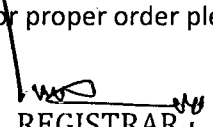


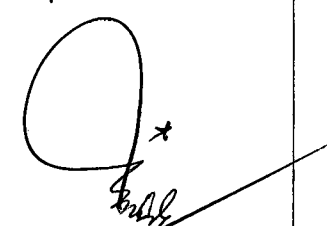
Due to The Public Holiday The
Case is Adjourned to 29-9-2022


Reader.

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 33/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.01.2022	<p>The execution petition of Mr. Fazal Karim submitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This execution petition be put up before S. Bench at Peshawar on <u>11/2/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	11.02.2022	<p>Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 05.04.2022 for the same as before.</p> <p style="text-align: right;"> Reader</p>
	05.04.2022	<p>Petitioner with counsel present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present. present.</p> <p>Implementation report not submitted. Notices be issued to the respondents for submission of implementation report. Adjourned. To come up for implementation report on 20.06.2022 before S.B.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER(E)</p>

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 934/2016
IN
EXECUTION PETITION NO. 33 /2022

FAZAL KARIM **V/S** **H-EDUCATION DEPTT:**

I N D E X

S.N	DOCUMENTS	ANNEXURE	PAGE
1	Memo of implementation	1 - 2
2	Affidavit	3
3	Judgement dt: 20.10.2021	A	4-8
4	Wakalat Nama	9

Dated: 10.01.2022

APPELLANT

Through:

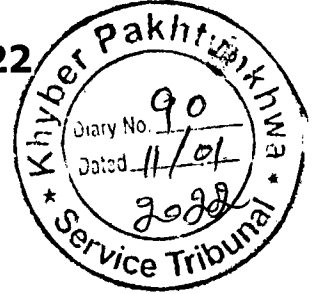
NOOR MOHAMMAD KHATTAK
ADVOCATE
0345-9383141

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 33 /2022

In
Appeal No934/2016



Fazal Karim Driver (BPS-06)
Government College Hangu, District Hangu.

.....PETITIONER

VERSUS

- 1- The Government of KPK through Secretary High Education Department, Khyber Pakhtunkhwa.
- 2- Director Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Principal Government College Hangu, District Hangu.
- 4- The District Accounts Officer, District Hangu.

.....RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING THE
RESPONDENTS TO OBEY THE JUDGMENT DATED
20.10.2021 IN LETTER AND SPIRIT.

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 934/2016 before this august Service Tribunal for not retiring the appellant prematurely (not on the basis of CNIC but on the basis of entry recorded in service book i.e 10-06-1964 instead of 1955 and release of monthly salaries of the appellant w.e.f 1-06-2016 till date.
- 2- That the appeal of the petitioner was heard and the appellate authority is directed as follows " ***For what has been discussed above, instant service appeal is accepted as prayed for.***"
Copy of the judgment dated 20-10-2021 is attached as annexure**A.**
- 3- That after obtaining copy of the judgment dated 20-10-2021 the petitioner submitted the judgment mention above for its implementation to the Department concerned but the respondent Department are not willing to obey the judgment dated 08-10-2021 in letter and spirit.
- 4- That the petitioner has no any other remedy but to file this implementation petition.

2

It is therefore, most humbly prayed that the respondents may be directed to implement the order dated 20-10-2021 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.


PETITIONER

FAZAL KARIM

THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE**

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL No. 934/2016
IN
EXECUTION PETITION NO. _____/2022

FAZAL KARIM

VS

EDUCATION DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying **execution petition** are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

CERTIFICATION

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

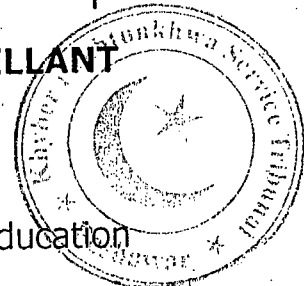
Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 934 /2016

Diary No. 941

Dated: 01-9-2016

Mr. Fazal Karim, Driver (BPS-6),
Government College Hangu, District Hangu..... **APPELLANT**



VERSUS

- 1- The Govt: of KPK through Secretary Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Principal Government College Hangu, District Hangu.
- 4- The District Accounts Officer, District Hangu.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 20.6.2016 WHEREBY THE SALARY OF THE APPELLANT WAS STOPPED ALONGWITH RECOVERY OF ALREADY DRAWN SALARIES AND AGAINST THE APPELLATTE ORDER DATED 11.8.2016 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTEED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned orders dated 20.6.2016 and 11.8.2016 may very kindly be set aside and the respondents may be directed that not to retired the appellant pre maturely (not on the basis of CNIC but on the basis of the entry recorded in service book i.e. 10.6.1964 instead of 1955). That the respondents may further please be directed to released the monthly salaries of the appellant w.e.f. 1.6.2016 till date. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day

Registrar

1/9/16

R/SHEWETH:
ON FACTS:

ATTESTED

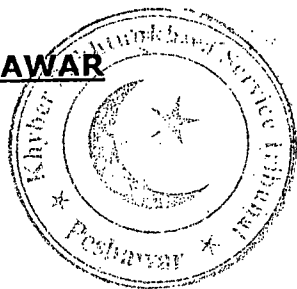
UNASSISTED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant is the employee of the respondent Department and is serving the respondent Department as

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No.934/2016

Date of Institution ... 01.09.2016
Date of Decision ... 20.10.2021

Mr. Fazal Karim, Driver (BPS-6), Government College, Hangu,
District Hangu. ... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa, through Secretary
Higher Education Department Khyber Pakhtunkhwa, Peshawar
and three others.

... (Respondents)

Noor Muhammad Khattak,
Advocate ... For Appellant.

Javid Ullah,
Assistant Advocate General ... For Respondents.

Ahmad Sultan Tareen ... Chairman
Rozina Rehman ... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Brief facts of the case are that
appellant was serving as Driver. His age was recorded by Medical
Superintendent as 10.06.1964 at the time of his appointment and
subsequently, the said entry was recorded in his service book and
payroll. His date of birth was inadvertently recorded in his C.N.I.C as
1955 instead of 10.06.1964. He, therefore, filed a Suit in the Civil
Court but the same was dismissed. He preferred appeal in the Court
of District Judge which was also dismissed. He then filed

~~ATTESTED~~

ATTESTED
MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



⑥

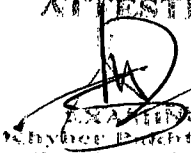
departmental appeal which was rejected, hence, the present service appeal.

2. We have heard Noor Muhammad Khattak Advocate and Javid Ullah, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Learned counsel for appellant contended that the impugned orders dated 22.06.2016 and 11.08.2016 are against law, facts and norms of natural justice and material on record. He contended that the appellant was not treated in accordance with law and rules as such, Article-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973 were violated by the respondents. Lastly, he contended that according to rules and the judgments of the august Supreme Court of Pakistan, a civil servant should be retired on the basis of entry in the service book and not on the basis of C.N.I.C or any other document, therefore, his date of retirement may be considered as 01.06.2024 instead of 15.06.2015.

4. Conversely learned A.A.G submitted that according to Computerized National Identity Card, the date of birth of the appellant is recorded as 1955 and that in the previous record, his name was Gul Karim which was later on changed to Fazal Karim which entry was tempered by the appellant. He further submitted that Civil Suit filed for correction of date of birth in the Civil Court Hangu was dismissed and similarly, his appeal was also dismissed with special cost of Rs.20,000/- and that the appellant was due to retire on

~~ATTESTED~~

ATTESTED

 EXAMINED
 Hyder P. Chaudhry
 Service Tribunal
 Islamabad

superannuation on 15.06.2015 as per his C.N.I.C, Driving License and other relevant documents, therefore, his salary was stopped and in this regard, a bond was also signed by the appellant with Principal.

5. From the record it is evident that the present appellant was appointed as Driver (B.P.S-06) and his date of birth was recorded as 10.06.1964. Admittedly, his name was entered and recorded as Gul Karim. Service book of the appellant was produced by the respondents before this Bench and learned A.A.G pointed out towards a note written on first page of the service book in red ink about change of name of the appellant Gul Karim to Fazal Karim vide office letter No.662-64 dated 27.01.1997. Although, learned A.A.G had raised objection as to veracity of the said note but when asked to produce the copy of the said letter, he failed to produce the same. His medical report is also available on file, wherein, his date of birth has been recorded as 10.06.1964. His payroll also shows his date of birth as 10.06 1964. No doubt, Civil Suit filed for rectification of the record was dismissed by the learned Civil Judge vide judgment dated 18.05.2016. Appeal was also dismissed, where-after, the appellant filed Revision Petition in the august Peshawar High Court, Peshawar and vide judgment dated 18.10.2019, his suit was decreed in his favor and on the strength of the judgment of the august High Court, correct C.N.I.C was issued in his favor, wherein, his date of birth was recorded as 10.06.1964. The correction pertaining to his date of birth in the National Identity Card was declared by the august Court to be his right and accordingly, he was held entitled to the decree. The objection raised by the learned A.A.G in respect of taking benefit of

~~ATTENDED~~

ATTENDED

 CHIEF JUSTICE
 Peshawar High Court
 Peshawar



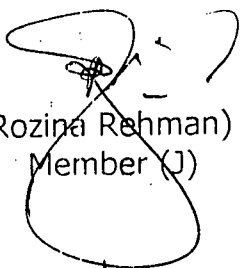
8

this fresh entry of correction of his date of birth in his service book has no force because service record favors the contention of appellant.


6. For what has been discussed above, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
20.10.2021


(Ahmad Sultan Tareen)
Chairman

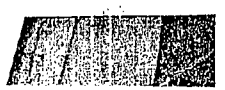

(Rozina Rehman)
Member (J)

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application: 08/11/21
Number of Words: 2000
Copying Fee: 22/-
Amount: 4/-
Total: 26/-
Name of Copyist: _____
Date of Completion of Copy: 08/11/21
Date of Delivery of Copy: 08/11/21

ATTESTED



VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

Fazal Karim (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

H - Education Deptt. (RESPONDENT)
(DEFENDANT)

I/We Fazal Karim

Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2021



CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK


KAMRAN KHAN


SAID KHAN


HAIDER ALI

&


KHANZAD GUL
ADVOCATES

“B”

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

No. 513

Appeal No. F.P No. 33 of 2022.

Fazal Karim Appellant/Petitioner

Versus
Through Secy Higher Education KPK Peshawar Respondent

Respondent No. (1)

Notice to: — The Govt. of KPK through Secy Higher Education Department

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 20/06/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of ^{E.P ✓} appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 20th

Day of April 2022

(For Implmen-
Report)

[Signature]
27/4/22
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

“E”

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

No.

Regd

SB

Appel. No. *E.P.N. 33* of *2022*

Fazal Korim Appellant/Petitioner

Through Secy Higher Education *Versus* KPK Peshawar Respondent

(2)

Respondent No.

Notice to: - *Director Higher Education Department KPK Peshawar*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on *20/06/2022* at 8:00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing, 4 copies of written statement along with any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

E.P.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....*20th*

Day of.....*April*.....*2022*

(For Impl-ment Report)

JK

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

"B"

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

No.

Recd

Appeal No. *E.P No. 33* of 20²²

SB

Fazal Karim

Appellant/Petitioner

Through *Secy Higher Education KPK Peshawar*

Respondent

(4)

Respondent No.

Notice to: *The District Accounts Officer, District Hangu*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on *20/06/2022* at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated

20th

Given under my hand and the seal of this Court, at Peshawar this

Day of *April* 20²²

(For Impl - m... Report)

[Signature]

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

No. 1405

For insurance Notices see reverse
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgment

Rs. Ps. 80

25 MAY 22

RGL81696024

Received a registered
addressed to

Date Stamp

Initials of Receiving Officer

When the "letter", "postcard", "packet" or "parcel"
with the word "insured" before it when necessary.

Insured for Rs. (in figures) Ps. (in words)

Insurance fee Rs. Ps. (in words) Weight Kilo Grams

Name and
address
of sender

Handwritten name and address

F.P.N.

Legal Kamin

Through Govt Higher Education Dept
L.A.

The District Accounts Officer, District Hazratnagar

20/05/2022

10/1

20/5

25

April

(For) (and) Report

OR

Handwritten signature



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No: 2338-4/ST Dated: 3 / 8 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To,

- 1 Secretary Higher Education, Govt. Of Khyber Pakhtunkhwa Peshawar.
- 2 Director, Higher Education, Govt. Of Khyber Pakhtunkhwa Peshawar.
- 3 The Principal Government College Hangu, District Hangu.
- 4 The District Accounts Officer, District Hangu

Subject: PERSONAL APPEARANCE OF EXECUTION PETITION
NO.33/2022 IN CASE TITLE FAZAL KARIM VS EDUCATION.

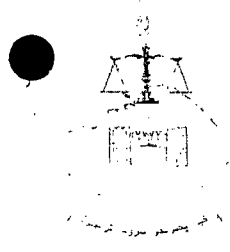
I am directed to forward herewith a certified copy of Order dated 20.06.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As Above.

(WASEEM AKHTAR)

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

o/c



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 2327-28/ST Dated 3 / 8 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

1. The Secretary Health, Government of Khyber Pakhtukhwa, Peshawar.
2. The Director General Drug and Pharmacy, Peshawar.

SUBJECT: SHOWCAUSE NOTICE IN EXECUTION PETITION NO: 172/2022 TITLED MUHAMMAD ARIF HUSSAIN -VS- THE CHIEF SECRETARY, GOVERNMENT OF KHYBER PAKHTUKHWA, PESHAWAR AND OTHERS.

I am directed to say that execution petition No. 172/2022 was filed in this Tribunal against the respondents for disobedience of the order dated: 06-12-2021 passed by this Tribunal in service appeal No. 16580/2020 titled Muhammad Arif Hussain VS The Chief Secretary, Government of Khyber Pakhtukhwa, Peshawar and Others.

That when the above execution petition came up for hearing before this Tribunal on 05-07-2022, the following orders were passed:

"Learned counsel for the petitioner present. None for the respondents present.

Mr. Adeel Butt, Addl: AG on behalf of the respondents put appearance in early hours of the court and assured that he would submit compliance report in the matter in some moments but later on neither compliance was submitted nor he put appearance. Therefore, salaries of the judgement debtors attached. The Accountant General Khyber Pakhtunkhwa is directed to attach the salaries of the respondents not to release the same till further order by this Tribunal. Show cause notice be also issued to the respondents as to why they should not be proceeded under the Contempt of Court Ordinance-2003.

Last Chance is given to the respondents to implement the judgement and submit compliance report on 06-09-2022 before SB."

You are, therefore, served with show cause notice to explain as to why appropriate action may not be initiated against you for non-compliance of order of this Tribunal dated 06-12-2021.

ASSISTANT REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR