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17.06.2021

Due to cancellation of tour, Bench is not available. Therefore, case to come up for the same as before on 30.09.2021.

30.09.2021

None present on behalf of the petitioner. Mr. Muhammad Siddique, ADEO for the respondents present.

According to operative part of the judgment, the order of removal of the petitioner from service was set aside converting the major penalty of removal from service into minor penalty of withholding of one annual increment for one year. The intervening period was treated as leave of the kind due. According to copy of the office order dated 09.08.2019 annexed with the comments of the respondents, the petitioner was reinstated into service by giving effect to the judgment of this Tribunal by reinstating the appellant into service, converting major penalty of removal from service into minor penalty of withholding one increment for one year and treating the intervening period as leave of the kind due. Obviously, the reinstatement order was passed conditionally subject to outcome of CPLA. The benefit of the intervening period treating as leave of kind due are yet to be worked out but let the same be kept pending till outcome of CPLA. If the judgment of this Tribunal is maintained by the August Supreme Court of Pakistan and the department does not voluntarily work out the back benefits relating to the intervening period, the appellant would be at liberty to seek restoration of the

Execution Petition but for the time being there is no need to keep it pending for further proceedings. File be consigned to the record room subject to aforementioned observations.

ľ

Chairman Camp Court, A/Abad

16.03.2021

Junior to counsel for the appellant present.

Riaz Khan Paindakheil learned Assistant Advocate General Congreen for respondents present.

Preceding date was adjourned on a Reader's note, therefore, notice be issued to respondents for submission of implementation report. To come up for implementation report on 17 / 6 / 2021 before S.B at Camp Court, Abbottabad.

(Atiq ur Rehman Wazir) Member (E) Camp Court, A/Abad

Due to covid ,19 case to come up for the same on at camp court abbottabad.

Reader

120

Due to summer vacation case to come up for the same on at camp court abbottabad. 10 1 20

20.10.2020

Appellant present through representative.

Usman Ghani, learned District Attorney alongwith Muhammad Sadique for respondents present.

Lawyers are on general strike, therefore case is adjourned to 15.12.2020 before S.B at Camp Court, Abbottabad. Representative of respondents requested for time to submit implementation report; granted with direction to submit implementation report on the next date positively.

> (Rozina Rehman) Member (J) Camp Court, A/Abad

Due to coup-19 case ad Fourned to 16.03-2021

1 {

24.10.2019

Petitioner absent. Mr. Usman Ghani, District Attorney present. No one is present on behalf of the respondents. On previous date i.e. 22.08.2019 it was directed that notice be issued to petitioner, however the perusal of file reflects that no notice was issued to petitioner. Concerned Moharrir to explain. Petitioner be put to notice for next date fixed as 18.11.2019 before S.B at camp court, Abbottabad. Notice to respondents be also issued to furnish implementation report/parawise comments on the date fixed.

Member

Member Camp court, A/Abad

18.11.2019

Counsel for the petitioner present. Mr. Usman Ghani, District Attorney for respondents present. Learned counsel for the petitioner seeks adjournment. Adjourned. To come up for further proceedings on 17.12.2019 before S.B at Camp Court, Abbottabad.

Member Camp Court Abbottabad

17.12.2019

None present on behalf of the petitioner. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Muhammad Saddique, ADO (Litigation) for the respondents present. Notice be issued to petitioner and his counsel for attendance for 17.02.2020 before S.B at Camp Court Abbottabad.

(Muhammad Amin Khan Kundi) Member Camp Court Abbottabad

Form- A

FORM OF ORDER SHEET

Court of_____

Execution Petition No. 242/2019

.

Date of order proceedings	Order or other proceedings with signature of judge		
2	3		
14.06.2019	: The execution petition of Mr. Muhammad Qureshi submitted		
	today by post through Mr. Abdul Saboor Khan Advocate may be		
	entered in the relevant register and put up to the Court for proper		
	order please.		
	le a cui		
	REGISTRAR 14/6/19		
2-4 6-19			
	This execution petition be put up before touring S.		
	Bench at A.Abad on <u>22-08-19</u> .		
00.0010			
	Petitioner absent. Notice of the present executio		
peti	tion be issued to the respondents, \mathbf{F}		
rep	y/implementation report. Petitioner be also put to notic		
for	24.10.2019. Adjourn. To come up fo		
rep	y/implementation report on the date fixed before S.B a		
Car	np Court Abbottabad.		
•			
	b/		
	Member		
	Camp Court A/Abad		
	2 14.06.2019 2-4 -6-{9 2.08.2019 peti rep for rep!		

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR

Section 2 1

Execution petition No $\frac{242}{0}$ of 2019

IN

K. . . . Bathicking

Service appeal No 1229/2017

Muhammad Qureshi.....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Education, Peshawar and others**respondents**

EXECUTION PETITION

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Dated 12.06.2019

Muhammad Qureshi (Appellant)

Through:-

ABDUL SABOOR-KHAN Advocate High Court

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR

Execution petition No 249 of 2019

A CARLES

IN

Service appeal No 1229/2017

Muhammad Qureshi, Drawing Master (DM) Teacher at Government Middle School Isgal District Kohistan.

.....Appellant

VERSUS

- 1) Govt. of Khyber Pakhtunkhwa, through Secretary Education, Peshawar. Divector
- 2) (District) Elementary Education, Khyber Pkahtunkhwa, Peshawar.
- 3) District Education Officer (Male), Kohistan at Dassu.

.....Respondents

EXECUTION/IMPLEMENTATION OF THE JUDGMENT/ORDER OF THIS HONORABLE TRIBUNAL DATED 20.02.2019 PASSED IN THE AFORESAID SERVICE APPEAL.



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PRAYER:-

On acceptance of the instant execution petition, respondent no 03 be directed to implement the judgment dated 20.02.2019, passed in the aforesaid service appeal by this Honorable tribunal in its true letter and spirits.

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Respectfully Sheweth:-

 That, appellant filed the aforesaid service appeal before this Honorable tribunal for his reinstatement which was partially accepted vide judgment/order dated 20.02.2019.

> (Attested copy of judgment dated 20.02.2019 is annexed as Annexure "A")

2. That, the said judgment/order was duly communicated to respondent no 03 by the registrar office as well as by the petitioner himself, but so far, no effort worth name has been made by respondent no 03 to implement and execute the judgment passed by this Honorable tribunal in the aforesaid service appeal. Hence, the instant execution petition on the following grounds.

GROUNDS:-

- A) That, the aforesaid service appeal has been partially accepted vide judgment dated 20.02.2019.
- B) That, respondents, special respondent no 03, being competent authority is under legal obligation to implement/execute the judgment of this Honorable Tribunal, no sooner he gets the same. The said judgment was communicated to respondent no 03 on 12.03.2019 which was duly received on 20.03.2019, which is evident from the note recorded thereon.
- C) That, so far, despite passage of more than 03 months, respondent no 03 has not implemented the judgment in question nor any serious efforts worth name is been taken to implement and execute the said judgment without any legal as well as factual cause and justification.
- D) That, the more the execution of the judgment is delayed, it is causing irreparable loss to the appellant.
- E) That, after the judgment was announced and no restraining order is in field from the Honorable appeal court, then there

- 3

remains no justification at all with respondent no 03 to delay the execution and implementation of the judgment in question.

F) That, by not implementing the judgment by respondent no 03, he has also made liable to be proceeded for contempt of court of this Honorable tribunal.

G) That, appellant has no other remedy except to file the instant execution petition for implementation of the judgment dated 20.02.2019, passed by this Honorable tribunal in the aforesaid service appeal.

PRAYER:-

On acceptance of the instant execution petition, respondent no 03 be directed to implement the judgment dated 20.02.2019, passed in the aforesaid service appeal by this honorable tribunal in its true letter and spirits.

Dated 12.06.2019

Muhammad Qureshi (Appellant)

Through:-

ABD **Y**KHAN High Court

4

VERIFICATION:

I, Muhammad Qureshi, Drawing Master (DM) Teacher at Government Middle School Isgal District Kohistan, do hereby solemnly affirm and declare the of that contents fore-going Application are true and correct to the best of my knowledge and belief and nothing has been concealed or form this suppressed Honorable Tribunal.

MUHAMMAD ØURESHI

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR

Execution petition No_____ of 2019

IN Service appeal No 1229/2017

Muhammad Qureshi.....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Education, Peshawar and others**respodnents**

EXECUTION PETITION

AFFIDAVIT

I, MUHAMMAD QURESHI, DRAWING MASTER (DM) TEACHER AT GOVERNMENT MIDDLE SCHOOL ISGAL DISTRICT KOHISTAN, DO HERBY SOLEMNLY AFFIRM AND DECLARE ON OATH THAT THE NO SUCH SUBJECT MATTER EXECUTION PETITION IN THE AFORESAID SERVICE APPEAL HAS EVER BEEN FILED BEFORE THIS HONORABLE COURT NOR PENDING NOR DECIDED. THAT THE CONTENTS OF FORE-GOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONOURABLE TRIBUNAL.

Dated: 12.06.2019

DEPONEN Muhammad Oureshi

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AKHTAA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR AT CAMP COURT ABBOTTABAD

SERVICE APPEAL NO. 1229/2017

Date of institution ... 30.10.2017 Date of judgment ... 20.02.2019

Muhammad Qureshi, Drawing Master (DM) Teacher at Government Middle School Isgal District Kohistan.

(Appellant)

haiva

VERSUS

- 1. Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Peshawar.
- 2. Director, Elementary & Secondary Education, Peshawar.
- 3. District Education Officer (Male), Kohistan.

(Respondents)

SERVICE APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER NO. 2002-2006 DATED 29.04.2016 WHEREBY RESPONDENT NO. 3 IMPOSED MAJOR PENALTY UPON THE APPELLANT OF REMOVAL FROM SERVICE WITH RETROSPECTIVE EFFECT.

Mr. Abdul Saboor Khan, Advocate Mr. Muhammad Bilal Khan, Deputy District Attorney For appellant. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI MR. AHMAD HASSAN MEMBER (JUDICIAL) MEMBER (EXECUTIVE)

JUDGMENT

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<u>MUHAMMAD AMIN KHAN KUNDI, MEMBER: -</u> Appellant alongwith his counsel present. Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Education Department as Drawing Master. He was imposed major penalty of removal from service vide order dated 29.04.2016 on the allegation of seven days absence on different occasion from duty. The appellant filed departmental appeal on 18.05.2016 and was rejected on 04.05.2017 which was received to the appellant on 17.10.2017 as alleged by the appellant in para-3 of condonation of delay application hence, the present service appeal on 30.10.2017.

3. Respondents were summoned who contested the appeal by filing of written reply/comments.

4. Learned counsel for the appellant contended that the respondentdepartment have wrongly shown the appellant absent from duty for a period of seven days on different occasions. It was further contended that neither any absent notice was issued at the home address of the appellant nor any advertisement was published in the newspaper regarding the absence of the appellant. It was further contended that same way neither any charge sheet, statement of allegation was served nor departmental proceeding was conducted. It was further contended that the major penalty of removal from service for a period of seven days on different occasions is also very harsh and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant remained absent from lawful duty. It was further contended that all the codal formalities were fulfilled and after fulfilling all the codal formalities, the competent authority has rightly imposed the major penalty of removal from service on the appellant and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Education Department. He was imposed major penalty of removal from service for a period of seven days absent on different occasions mentioned in the impugned order. Admittedly, the punishment awarded to the appellant for alleged seven days absent appeared to be harsh therefore, keeping in view the seven days absence period of the appellant, we partially accept the appeal, set-aside the impugned order and convert the major penalty of removal from service into minor penalty of withholding of one annual increment for one year. The intervening period is treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

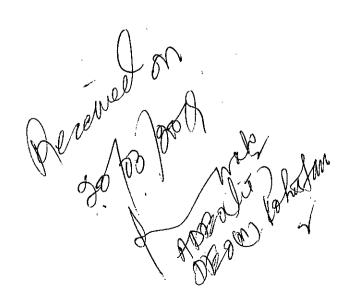
ANNOUNCED 20.02.2019

min (MUHAMMAD AMIN KHAN KUNDI)

MEMBER CAMP COURT ABBOTTABAD

AHMAD HASSAN) **MEMBER** CAMP COURT ABBOTTABAD

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mes Kohis far م باعث تج برآنک ecua ethon مندرجہ بالإسفال من ابنی طرف سے بیروی دجواب دہی بنام م این سر مربع می سب ایدین شرط وکیل مقرر کما ہے میں ہر پیشی پرخود یابذ ریعہ مختار خاص روبر دعدالت حاضر ، وتار ہوں كالور بوقت ليكاريح جانب في مروكيل صاحب موصوف كواطلاح ديكر حاضر كرول كالركسي بيشي برمظهر حاضر ند ،وااور غير حاضر ي کی وجہ سے صلور پر مقدر مہ میر بے خلاف بز گیا تو صاحب موصوف اس کے سی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب مو**صوف صدر مقام چ**ہری کے علاوہ سی اور جگہ چہری سرمہ ہوقات ہے پہلے ماہر دا^{ز قط}یل ہیروی کرنے کے نیاز نہ ہوں کے اگر مقدمہ مقام کچہر کی کے کسی اور جگہ ساعت ہونے پر بردز کچہری کے اوقات کے آگے یا چیچیے ہونے پر مظہر کو کوئی نقصان مہنچ تو ذمہ داریا اس کے داسطے سی معاد ضہ ادا کر نے ، مختار نامہ داہس کرنے کے بھی صاحب موصوف ذمہ دار نہ ۲۰ موضل که بخصی کل ساخت پرداخته صاحب مشل کرده ذارته خود منظور دقبول موگا اور صاحب موصوف کوعرضی دعوی اور درخواست اجراءة كرى ونظر ثاني ايبل نكراني دائر كرف نيز رويبيه وصول كرف ادررسيردينا اورداخل كرف كابرتهم كابيان دينة ادر سبرد . مالتی وراضی نامہ د فیسلہ برخلاف کرنے دا قبال دعویٰ کا اختیار ہوگا اور بط ورت انہیں و برآ مدگی مقدمہ یامنسو ٹی ڈگری یکطر فیہ . در دو است تعلم امتناع یا در گری قبل از فیصله اجرائے دگری بھی صاحب موصوف کو بشرط ادا میلی علیحد ہ بیروی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت انہیل یا اپیل کے واسطے سی دوسرے دکیل یا بیرسٹر کو بجائے اپنے ہمراہ مقرر ہ کریں اورایسے مشیر ے۔ قانونی کو بھی اس امرین دہی اختیارات حاصل ہوں کے جیسے صاحب موصوف کو بوری فیس تاریخ بیش سے پہلے ادانہ کروں کا توصاحب موصوف کو نورا اختیار ہوگا کہ مقدمہ کی ہیروی نہ کریں اورایسی حالت میں میرا مطالبہ صاحب موصوف کے مرخلاف تبيين ہوگا۔لہذا مختارنا مدلکھن یا ہے کہ بیسندر ہے مضمون مختارنا مدین لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔ 100 19 Neste pellout Find

<u>BEFORE THE HONARABLE SERVICE TRIBUNLA CAMP</u> <u>COURT ABBOTTABAD.</u>

Execution Petition No: 442-A/19

MR MUHAMMAD QURESHI APPELLANT

VS

GOVERNMENT KHYBER PAKHTHUNKHWA PESHAWAR THROUGH SECRETARY & OTHERS.

.....RESPONDENT

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<u>BEFORE THE HONARABLE SERVICE TRIBUNLA CAMP</u> <u>COURT ABBOTTABAD.</u>

Execution Petition No: 442-A/19

MR MUHAMMAD QURESHI APPELLANT

VS

GOVERNMENT OF KHYBER PAKHTHUNKHWA PESHAWAR THROUGH SECRETARY & OTHERS.

.....RESPONDENT

Para wise comments of the respondent

<u>Respectfully Sheweth:</u>

A Para wise comments of the respondent is as under.

PRELIMINARY OBJECTION

- 1. That the appellant has no locus standi/cause of action to file instant Execution Petition.
- 2. That the instant Execution Petition is based on mala fide intention.
- 3. That the appellant has not approached this Honorable Tribunal with clean hands.
- 4. That the appellant has suppressing the original facts from this Honorable Tribunal.
- 5. That appellant is not entitled for any relief and Execution Petition is liable to be dismissed due to issued of appellant reinstatement order.
- 6. That the instant Execution Petition is against the propelling law and rules.
- 7. That the instant Execution Petition is not maintainable in its present form.
- 8. That the instant Petition barred by law.
- 9. That the Petitioner is not an aggrieved person under the relevant Article 212 of 1973 Constitution of Pakistan.
- 10. That appellant has already been re instated on his services in abeyance of Honorable Tribunal order dated 20-02-2019.
- 11. That after passing judgment dated 20-02-2019, respondent has approach to high up for CPLA. The process of CPLA is pending before the August Supreme Court of Pakistan.

FACTUAL OBJECTION

 Para No of the appeal is correct. Hence no comments. That after the judgment of this tribunal respondents approach to law Department for CPLA. All the CPLA process is completed but date of hearing is still not fixed.

(Photo copies of receipt and power of authoring is annexed as Annexure "A"& "B")

 Reply of Para No 2 of the Execution Petition is that appellant has been re- instated by respondent No 3 vide Endst: No 4209-15 dated 09-08-2019.

(Photo copy of reinstatement order is annexed as Annexure "C").

- a. Para "a" of the ground is correct further stated that in compliance with Honorable Tribunal judgment dated 20-02-2019, appellant has already been re-instated on his services vide letter No. Endst: No 4209-15 dated 09-08-2019.
- b. Reply of Para "b" of the ground is that appellant has already reinstated. Detail reply has been given in above Paras.
- c. Reply of Para "c" of the ground is that respondent No, 3 is competent authority and has already compliance the Tribunal order.
- d. Para "d" of the ground is incorrect. Appellant has already been reinstated.
- e. Para "e" of the ground is incorrect. Detail reply has already been given in above.
- f. Para "f" of the ground is incorrect.

GROUNDS

g. Para "g" of the ground is incorrect. Appellant has already been re-instated on his services.

It is therefore humbly prayed that in the light of foregoing comments the Execution Petition may graciously be dismissed with cost throughout.

Secretat

Elementary & Secondary Education Deptt: Peshawar. (Respondent No.1)

Government of Khyber Pakhtunkhwa,

Director, Elementary & Secondary Education Peshawar. (Respondent No.2)

District Education Officer (Female) Kohistan (Respondent No.3) hundred only) as expenses for filing C.P.L.A (Photo Stat, binding, Supreme Court tickets and notices to the respondents) in the Supreme Court of Pakistan in its branch registry at Peshawar in connection with case title Service Appeal No. 1229/2017 Muhammad Qureshi Versus Govt. of Khyber Pakhtunkhwa and others.

DEMAND

E OF ADVOCATE GENERAL'KHYI PAKHTUNKHWA' PESHAWAR

00/z. (Rupees Two thousand and

(14) - 76-141114 - 24-14 6 7071

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Annexure

POWER OF ATTORNEY IN THE SUPREME COURT OF PAKISTAN (APPELLATE JURISDICTION)

<u>C.P.L.A. No.</u> /2019

Govt. of Khyber Pakhtunkhwa, and others

VERSUS

Muhammad Qureshi

RESPONDENT(S)

Signed with Official seal stamp

PETITIONER(S)

<u>1 (we) Petitioner/</u>Govt. of KPK in the ab-ve-suit/Appenl/Petition/Reference, do hereby appoint and constitute Mian Snadullah Jandoli. Advocate-on-Record. Supreme Court, for Govt. of Khyber Pakhtunkhwa the Attorney for the aforesaid appellant [or plaintiff(s) or Petitoner(s) or Respondent (s) or defendant (s) or opposite party] to commence that may be taken in respect on any application connected with the same including proceeding in taxation and poplication for review, to draw and deposit noney, to file and take back documents, to accept the process of the Court, defendant (s) or opposite party] in the ab-ve matter and to do all things incidental to such acting for the aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent (s) or defendant (s) or opposite party]. The aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent to a defendant (s) or opposite party]. The aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent to a defendant (s) or opposite party]. The aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent to a defendant (s) or opposite party]. The aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent to a defendant (s) or opposite party]. The aforesaid appellant [or plaintiff (s) or petitioner(s) or respondent to apposite party] agree (s) to ratify all acts done by the aforesaid Advocate-on-Record in pursuance of this authority.

In witness whereof l/we do bereasto set my/our hand (s) this day of

Accepted

(Mian Saudullah Jandoli) Advocate-on-Record Supreme Court of Pakistan (for KPK) Advocate-General's Office KPK, High Court Building, Peshawar, Office Tel. # 091-9210312, 9210119

 Secretary Elementary & Secondary Education Govt. of Khyber Pakhtunkhw I, Peshawar

Girector Elementary & Secondary Educatio Chyber Pakhtunkhwa, Peshawar

Issued on 14-06-2019

3- District Education Officer (Male) Kohista

Distict Eduction



Office of the District Education Officer Anner Ure (Male) Kohiston Phone No.0998-407128

OFFICE ORDER

Whereas Mr. Muhammad Qureshi Ex-DM GMS Isgal Tehsil Kandia District Kohistan submitted his service Appeal No.1229/2017 dated 30/10/2017, Before Honourable Service Tribunal Khyber Pakhtunkhwa Peshawar Camp Court Abbottabad.The Honourable Service Tribunal Peshawar Camp Court Abbottabad accepted his appeal conditionally, the appellant has been re-instated into service and converted his Major Penalty of removal from service into Minor Penalty of Withholding one Increment for one year and the intervening period is treated as leave of the kind due.

Whereas the Department submitted the case to law Department for getting opinion for filing CPLA vide No.2764, dated 25/04/2019.

The Scrutiny committee meeting was held and declared that the case is fit for CPLA.

In view of above facts, Mr Muhammad Qureshi Ex-DM GMS Isgal Tehsil Kandia is hereby re-instated into service conditionally for the outcome of CPLA, as per direction of Honourable Service Tribunal Khyber Pakhtunkhwa Camp Court Abbottabad and adjusted at GMS Karang Tehsil Kandia against vacant post on his own pay and grade with immediate offect.

Note:

No TA/DA is allowed 1.

Charge should be submitted to all concerned .2.

Distrigt Education Officer

(Matco-Kohistan

1 08 12019

Endstt No. $\frac{4904}{5}$ / 5 /DEO(M) KH, Dated _____ Copy of the above is forwarded to the:

Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar ١.

- Additional Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar. 2.
- Deputy District Education Officer (Male) Kohistan 3.
- District Account Officer Kohistan 4.
- ADO (Lit)/Local office 5.
- PA to District Education Officer (Male) Kohistan 6.
- Official Concerned 7.

district Education Officer) Kohistan

Revived & waish