

Execution Petition No. 131/2018
Din Muhammad vs Govt

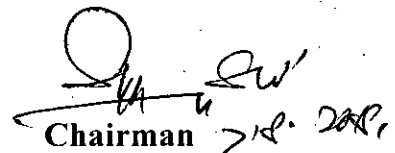
07.08.2018

Petitioner Din Muhammad in person alongwith M/S Saad Ullah Khan Marwat, Advocate and Arbab Saif Ul Kamal, Advocate counsel for the petitioner present. Mr. Akram Khan, Supdt alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present and submitted implementation report annexed with the charge assumption report of the petitioner. However, the learned counsel for the petitioner stated that he has not been allowed to perform duty in the school by the owner of school land where he has been posted. However, this grievance of the petitioner cannot be entertained by this Tribunal being falls beyond its scope of jurisdiction. However, the petitioner will be at liberty to take up the matter with the highups and local police so as to proceed against the culprits in accordance with the law.

So far the back benefits are concerned, the same have not been refused by the respondents so far. However, the moment when he is refused the same, he may apply afresh for execution of judgment of this Tribunal.

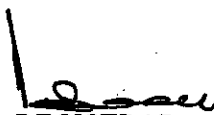


With the above observations the execution petition stands disposed off being implemented. No order as to costs. File be consigned to the record room.

Announced:
07.08.2018


Chairman 21.8.2018

FORM OF ORDER SHEET

Execution Petition No. 131 /2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	25.04.2018	<p>The Execution Petition of Mr. Din Muhammad submitted to-day by Uzma Syed 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 25/4/18</p>
2-	15/05/18.	<p>This Execution Petition be put up before S. Bench on <u>21/05/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	21.05.2018	<p>Counsel for the petitioner present. Notice be issued to the respondents for implementation report for 07.08.2018 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member</p>

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

**Execution Petition No. 131 /2018
In Service Appeal No.693/2014**

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 485

Dated 25/04/2018

Din Muhammad, s/o Khair Muhammad
Work shop Attendant R/O Mina Khel
District & Tehsil Lakki Marwat.

PETITIONER

VERSUS

1. The Secretary Education, Khyber Pakhtunkhwa, Peshawar.
2. The Director Education (E&SE) Khyber Pakhtunkhwa, Peshawar.
3. The EDO/DEO (E&SE) Education, District Lakki Marwat.
4. The DCo/DC, District Lakki Marwat.
5. The District Account Officer, district Lakki Marwat.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 13.02.2018 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the petitioner/ appellant has filed Service Appeal No.693/2014 in this august Service Tribunal for adjustment and payment of Back Benifits.
2. That the said appeal was finally heard on 13.02.2018. The Honorable Tribunal was kind enough to accept the appeal and remit the case to the respondent department for passing appropriate and speaking order on the application dated 20.02.2013 by the competent authority within a period of 60 days from the date of receipt of this judgment, failing on the part of the respondents which the appellant shall be deemed to have been reinstated into service from the date appellate authority re-instated the appellant with all back benefits. **(Copy of Judgment Dated 13.02.2018 is attached).**

3. That as the respondents have failed to pass order on the application dated 20.02.2013 within stipulated period of 60 days from the receipt of the judgment, so according to the direction of Tribunal in Judgment, the judgment attained the finality, therefore, the applicant/petitioner is entitled to as prayed for.
4. That in-action and not fulfilling formal requirements by the respondent after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to pass formal appropriate order.
6. That the petitioner has having no other remedy. but to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 13.02.2018 of this august Tribunal in letter and spirit by adjusting the appellant with all back benefits .Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favour of applicant/appellant.

دین محمد
APPLICANT/Petitioner
Din Muhammad

THROUGH:


ARBAB SAIF UL KAMAL
ADVOCATES HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief.

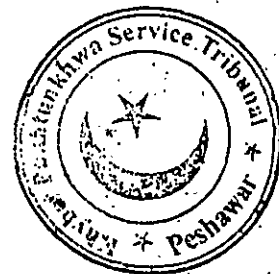
دین محمد
DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No.693/2014

Date of Institution ... 14.05.2014

Date of Decision ... 13.02.2018



Din Muhammad son of Khair Muhammad Workshop Attendant R/O Mina Khel,
District & Tehsil Lakki Marwat. ... (Appellant)

VERSUS

1. Secretary Education Khyber Pakhtunkhwa Peshawar and 4 others.
... (Respondents)

ARBAB SAIFUL KAMAL,
Advocate ... For appellant

MR. KABIRULLAH KHATTAK,
Addl. Advocate General ... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. GUL ZEB KHAN, ...
CHAIRMAN
MEMBER

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN. Arguments of the learned

insel for the parties heard and record peruse:

FACTS

The appellant was terminated from service on 20.09.2012 and on appeal he
einstated on 31.12.2012 but till now he has not been adjusted against any post
y salary is paid to him. The appellant then filed an application before the
Male) Lakki Marwat on 20.02.2013 for adjustment and payment of back

benefits but that application was not responded to and thereafter he filed the present service appeal on 14.5.2014.

ARGUMENTS.

3. The learned counsel for the appellant argued that though on departmental appeal the appellant was reinstated but non-implementation of the said order by DEO (respondent No. 3) would give the appellant a new cause of action and the appellant became aggrieved due to non-implementation of the order of the appellate authority. That he filed an application/representation on 20.2.2013 which was not responded to and thereafter the present service appeal. He further argued that the issue pertained to the terms and conditions of service of the appellant (civil servant) and that this Tribunal has the jurisdiction to adjudicate upon the issue.

4. On the other hand, the learned Addl. Advocate General argued that the present appeal was not maintainable for the reason that there was no original, or appellate order wherefrom the present appellant was aggrieved. That at the most the appellant could have filed another departmental appeal before the higher authority but could not approach this Tribunal.

CONCLUSION.

5. Admittedly the matter is one of the terms and conditions of the civil servant. Though there is no written order wherefrom the appellant is aggrieved but non-honoring of the order of reinstatement passed by the appellate authority would amount to an order wherefrom the appellant is aggrieved. The appellant then submitted application/representation before the DEO for implementation of the said order but the DEO has not honored the appellate order nor has decided the said application. This Tribunal is, therefore, of the view that the matter may be referred to DEO (Male) Lakki Marat for deciding the application dated 20.02.2013 through a

ATTESTE

CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

speaking order within a period of 60 days from the date of receipt of this judgment, failing which the appellant shall be deemed to have been reinstated in service from the date when he was reinstated by the appellate authority with back benefits.

Parties are left to bear their own costs. File be consigned to the record room.

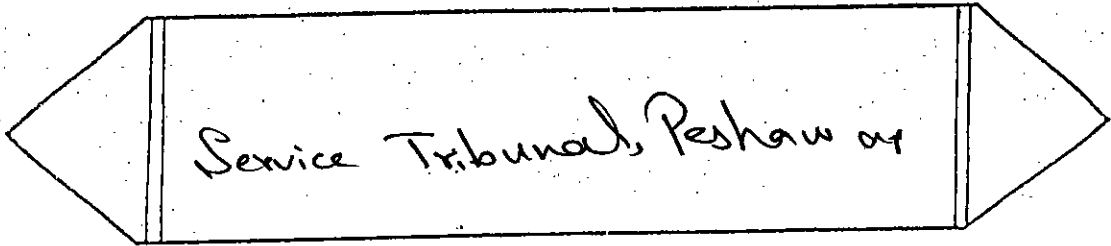
Announced
13.02.2018 *Self-Niaz Muhammad Khan*
Chairman

Self Gulzar Khan,
Member

Certificate of copy
K. S. ...
Peshawar

Date of Presentation of	26-02-2018
Number of	1200
Copying Fee	8.00
Urgent	2.00
Total	10.00
Name of Copy	<i>[Signature]</i>
Date of Copy	26-02-18
Date of Delivery	26-02-18

بعدالت



2 مخائب
بنام

موزخه
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

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

سبب العمل

آن مقام ~~Reshauer~~ کیلئے ~~سید ایڈا ادب~~ ~~سبب العمل~~

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 ثالت ہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ

پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ درجہ التوائے مقدمہ کے سبب سے وہ ہوگا

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

الرقوم

2018

ماہ 4

25

واہ الب

بمقام

Reshauer کے لئے منظور ہے۔