

Execution Petition No. 104/2018
Khizar Hayat vs Agriculture Deptt.

26.03.2019

Counsel for the petitioner present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Akram Khan, Principal Research Officer and Mr. Ilyas Khan, Senior Statistician for respondents present.

Learned counsel for the petitioner argued that though judgment of this Tribunal has been implemented vide order dated 25.03.2019 issued by the respondents but promotion was made with immediate effect, which is contrary to the directions contained in the said judgment. Respondents are directed to produce revised promotion order strictly in accordance with the spirit of judgment of this Tribunal referred to above. Case to come up for further proceedings on 24.06.2019 before S.B at camp court, D.I.Khan.


Member
Camp Court, D.I.Khan


with new my Review

Khizar Hayat 17/5/2019

17.05.2019

Petitioner in person present. Mr. Usman Ghani learned District Attorney alongwith Toheed Iqbal Assistant Director present. Petitioner seeks withdrawal of the instant execution petition on the plea that his grievance has been redressed and submitted application to this effect. Application for release of salary of respondent No.2 received and placed on file.

In view of above, the present execution petition be consigned to the record room being not pressed. Order regarding attachment of salary of respondent No.2 shall be treated as cancelled. No order as to costs.


(Muhammad Hamid Mughal)
Member

ANNOUNCED.
17.05.2019

25.02.2019

Counsel for the petitioner present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Ilyas, PRO for the respondents present.

The service appeal of the petitioner was accepted by this Tribunal vide judgment dated 24.10.2017 and the respondent-department was directed to consider the appellant for promotion to the post of Junior Clerk from the date 18.11.2014 when other Class-IV officials junior to the appellant were promoted. The appeal of the respondent-department was also dismissed by the august Supreme Court of Pakistan vide judgment dated 05.10.2018.

On the previous date this Tribunal directed the respondent-department to implement the judgment of this Tribunal positively failing which the respondent No. 2 i.e Director General Khyber Pakhtunkhwa Agriculture Research Institute personally appear before this Tribunal but neither the judgment of this Tribunal has been implemented nor Director General Khyber Pakhtunkhwa Agriculture Research Institute appeared personally today.

As such, the salary of respondent No. 2 i.e Director General Khyber Pakhtunkhwa Agriculture Research Institute is attached till further orders. To come up for implementation report on 26.03.2019 before S.B Camp Court D.I.Khan.



(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

EP 104/2018

21.01.2019

Petitioner in person and Mr. Farhaj Sikandar, District Attorney alongwith M/S Malak Saadullah, Assistant and Muhammad Akram, S.R.O for the respondents present.

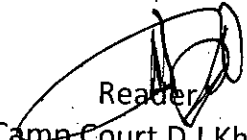
Representative of respondents states that a letter has been sent to the Director Director Khyber Pakhtunkhwa Agriculture Research Institute (respondent No. 2) for further proceedings towards implementation of judgment of the Tribunal. On the other hand the petitioner has produced attested copy of order passed by Apex Court in C.P No. 30-P/2018, on 05.10.2018, whereby the petition of respondents was dismissed and leave to appeal was refused.

There appears to be considerable inaction on the part of respondents in execution of judgment under implementation, therefore, they are required to positively submit the implementation report on 25.02.2019, failing which, respondent No. 2 (Director General, Khyber Pakhtunkhwa A.R.I) shall personally appear before the Tribunal on the date fixed. Adjourned to 25.02.2019 before S.E at camp court, D.I.Khan.

Chairman
Camp Court, D.I.Khan


12.09.2018

12th September has been declared as public holiday on account of 1st Muharram therefore, the case is adjourned for the same on 27.11.2018 before S.B at Camp Court D.I.Khan.


Reader
Camp Court D.I.Khan

27.11.2018

Counsel for the petitioner present. Mr. Usman Ghani, District Attorney for the respondents. present. Implementation report not submitted. Learned District Attorney requested for further adjournment. Adjourned. To come up for implementation report on 21.01.2019 S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

FORM OF ORDER SHEET

Execution Petition No. 104/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	03.04.2018	<p>The Execution Petition of Mr. Khizar Hayat submitted to-day by Mr. Muhammad Anwar Awan Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 3/4/18</p>
2	10-04-18	<p>This Execution Petition be put up before Touring S. Bench at D.I.Khan on <u>22-04-2018</u></p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>
22.06.2018	30-8-18	<p>Petitioner Khizar Hayat, petitioner alongwith Ziaur Rahman, Advocate present and submitted fresh Wakalatnama, which is placed on file. Mr. Saadullah Office Assistant on behalf of the respondents present and made a request for adjournment to implement the order of this Tribunal. Granted. To come up for implementation proof on 30.08.2018 before S.B at camp court, D.I.Khan.</p> <p style="text-align: right;"><i>[Signature]</i> Chairman Camp Court, D.I.Khan</p> <p><i>Petitioner present in person. Ms. M. Akram S.R.D for respondents present today is hereby cancelled, therefore the petition is adjourned for the home on 12-9-18 at camp court D.I.Khan.</i></p> <p style="text-align: right;"><i>[Signature]</i></p>

BEFORE THE KHBER PAKHTOON KHAWA SERVICE TRIBUNAL
PESHAWAR CAMP AT D.I.KHAN.

Implementation/Execution Petition No...104.... of 2018.

Khizar Hayat


VERSUS

Govt. of KPK and others

INDEX

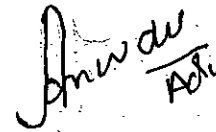
No.	Particulars	Annexure	Pages
1	Implementation /Execution Petition		1 - 2
2	Judgment dated; 24-10-2017	A	3 - 6
3	Wakalat Nama	B	7-

Your humble Petitioner



Khizar Hayat

Dated; 29-03-2018.



Mohammad Anwar Awan
Advocate Supreme Court.

0332-7225053

- 1 -

**BEFORE THE KHYBER PAKHTOON KHAWA SERVICE TRIBUNAL
PESHAWAR CAMP AT D.I.KHAN.**

Implementation/Execution Petition No...104.... of 2018.

Khizar Hayat Library Attendant (BPS-2) Agriculture Research Institute,
D.I.Khan.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 371

Dated 03/04/2018

VERSUS

1. Government of Khyber Pakhtunkhwa through secretary Agriculture, Livestock and cooperative Department Peshawar.
2. Director General Khyber Pakhtunkhwa Agriculture Research Institute Tarnab Peshawar.
3. Director Agriculture Research Institute D.I.Khan.
4. Departmental Promotion/Selection Committee Agriculture Research Institute Tarnab Peshawar.

**IMPLEMENTATION PETITION/EXECUTION
PETITION OF JUDGMENT DATED; 24-10-2017
REGARDING PROMOTION OF PETITIONER.**

Amir
Adk

That the brief facts of the case are as under:

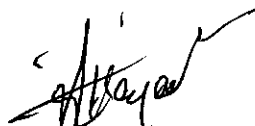
1. That petitioner joined the services as Laboratory Assistant in Agriculture Research Institute on 19-01-1998. Later on in 2011 petitioner served the department as Naib Qasid. The petitioner for about 17 years' service is waiting for his promotion as Junior Clerk but petitioner was ignored. In 2014 Departmental Promotion Committee held a meeting for promotion of employees but petitioner was not promoted so, feeling aggrieved, petitioner firstly filed departmental appeal which was dismissed on 31-12-2014 so petitioner filed Service Appeal which was accepted vide judgment dated; 24-10-2017 with the direction to respondents to consider the appellants for promotion to the post of

junior clerk from the date; 18-11-2014 when other class-IV official junior to the petitioner were promoted. Copy of judgment dated; 24-10-2017 is Annexure A.

- 2. That after the lapse of considerable time Department is hesitating to promote the petitioner on the post of Junior Clerk according to Judgment of Hon'ble Service Tribunal dated; 24-10-2017 in Service Appeal No. 251/15 so petitioner has no other remedy but to file implementation petition.
- 3. That respondents are legally bound to issue the promotion order of petitioner as Junior Clerk w.e.f 18-11-2014 but they are hesitating to implement the judgment of this Hon'ble Court.

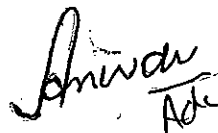
In view of the above, it is, therefore, most respectfully prayed that on acceptance this petition, may kindly implement the judgment dated; 24-10-2017 issued in Service Appeal No.251/15. Any other appropriate relief this Hon'ble court may deem fit in the best interest of justice may also be granted to the appellant.

YOUR HUMBLE APPELLANT



Khizar Hayat
Through Counsel

Dated; 29-03-2018.



Mohammad Anwar Awan
Advocate Supreme Court

AFFIDAVIT

Khizar Hayat do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.


Deponent.

A-3-



BEFORE THE HONORABLE SERVICE TRIBUNAL,

KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No of 2015

Appeal no. 251/15

Khizar Hayat, Library Attendant, BPS-2, Agriculture Research Institute, Tehsil and Dera Ismail Khan

Petitioner

G.W.F. Province Service Tribunal

Diary No. *98*

Dated *11-2-15*

Versus

1. **Government of Khyber Pakhtunkhwa** Through Secretary Agriculture, Livestock & Co-operative Department, Peshawar
2. **Director General**, Agriculture Research Institute, Tarnab, Khyber Pakhtunkhwa, Peshawar
3. **Departmental Promotion/Selection Committee**, Agriculture Research Institute, Tarnab, Peshawar
4. **Director Agriculture Research Institute**, District Dera Ismail Khan
5. **Shahid Saghir Shah** Naib Qasid BS-2/Junior Clerk BS-11, Resident of Zafar Abad Colony Near Water tank, Tank Road Dera Ismail Khan posted at Hazara Agriculture Research Station, Abbotabad
6. **Sanaullah**, Naib Qasid BS-2/Junior Clerk BS-11, Resident of village Yarik Tehsil and District Dera Ismail Khan Posted at Agriculture Research Institute, Dera Ismail Khan
7. **Muhammad Riaz** Naib Qasid BS-2/Junior Clerk BS-11, Posted at Agriculture Research Institute, Tarnab, District Peshawar
8. **Murtaza Shah** Naib Qasid BS-2/Junior Clerk BS-11, Posted at Agriculture Research Institute, Tarnab, District Peshawar
9. **Muhammad Amin** Naib Qasid BS-2/Junior Clerk BS-11, Posted at Agriculture Research Institute, Mingora (Swat)
10. **Qari Husnul Maab** Naib Qasid BS-2/Junior Clerk BS-11, Posted at Agriculture Research Institute, Tarnab, District Peshawar
11. **Zahid Umar** Naib Qasid BS-2/Junior Clerk BS-11, Posted at Agriculture Research Institute, Tarnab, District Peshawar

Respondents

Khizar Hayat

24.03.2015

11/2/15

re-submitted to-~~day~~ and filed.

27/3/15

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 251/2015</p> <p style="text-align: center;">Date of Institution ... 11.02.2015 Date of Decision ... 24.10.2017</p> <p style="text-align: center;">Khizar Hayat, Library Attendant, BPS-2, Agriculture Research Institute, Tehsil and District D.I.Khan.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none">1. Government of Khyber Pakhtunkhwa, through Secretary Agriculture, Livestock & Co-operative department, Peshawar2. Director General, Agriculture Research Institute, Tarnab, Kyber Pakhtunkhwa, Peshawar3. Departmental Promotion/Selection Committee, Agriculture Research Institute, Tarnab, Peshawar.4. Director Agriculture Research Institute, District Dera Ismail Khan5. Shahid Saghir Shah, Naib Qasid BS-2/Junior Clerk BS11, posted at Hazara Agriculture Research Station, Abbottabad.6. Sanullah Naib Qasid BS/Junior Cler BS-11 posted at Agriculture Research Institute, D.I.Khan7. Muhammad Riaz, Naib Qasid BS-2/Junior Clerk BS-11 posted at Agriculture Research Institute Tarnab, District Peshawar8. Murtaza Shah Naib Qasid BS-2/Junior Clerk BS-11 posted at Agriculture Research Institute Tarnab, District Peshawar9. Muhammad Amin Naib Qasid BS-2/Junior Clerk BS-11 posted at Agriculture Research Institute Mingora District Swat10. Qari Husnal Maab Naib BS-2/Junior Clerk BS-11 posted at Agriculture Research Institute Tarnab, District Peshawar11. Zahid Umar Naib Qasid, BS-2/Junior Clerk BS-11 posted at Agriculture Research Institute Tarnab, District Peshawar <p style="text-align: right;">Respondents</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER: - Appellant</u></p>		

24.10.2017

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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present. Learned District Attorney on behalf of the respondents present.

2. The appellant has filed the present appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and made impugned the office order dated 18.11.2014 whereby Naib Qasids/Class IV officials were promoted to the post of junior clerks. The appellant is also aggrieved from the letter dated 31.12.2004 of respondent No. 2 whereby the departmental appeal of the appellant was disposed of.

3. Learned counsel for the appellant argued that thirty three percent quota of Class IV officials is fixed for promotion to the post of junior clerks on the basis of seniority cum fitness. Further argued that the appellant is the senior most Class IV official of the respondent department possessing Secondary School Certificate but was not considered for promotion to the post of Junior Clerk rather in his stead some Class IV officials junior to the appellant were promoted as such. Further argued that the impugned order of promotion is unjust and based on mis-conception of law/rules on the subject hence not tenable in the eyes of law. Learned counsel for the appellant stressed that the appellant is entitled to be promoted from the date other class IV officials junior to the appellant were promoted.

4. As against that learned District Attorney argued that the impugned order of promotion was rightly issued and the appellant was correctly ignored from promotion in as much as on the basis of promotion criteria, vide

Q. 11

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

notification dated 21.11.1983 the appellant was not eligible for promotion and only the Naib Qasids and Daftaris were eligible.

5. Arguments of learned counsel for the appellant and learned District Attorney heard. File perused.

6. Upon hearing arguments of the parties and perusal of the record it transpired that the Departmental Promotion Committee/respondent department having been unaware of the latest relevant notification/promotion criteria dated 20.04.2012, conducted promotions to the post of Junior Clerks while keeping in view the notification/promotion criteria dated 21.11.1983. In the notification /recruitment and promotion criteria dated 2.04.2012, thirty three quota is reserved for promotion to the post of junior clerks from amongst holders of all Class IV posts provided that they possess Secondary School Certificate with two (02) years service as such.

7. In the light of above discussion the present appeal is accepted and the respondent department is directed to consider the appellant for promotion to the post of junior clerk from the date 18.11.2014 when other Class IV Officials junior to the appellant were promoted as such. Parties are left to bear their own costs. File be consigned to the record room.

Announced
24.10.2017

M. Hamid Mughal
Member

Ahmad Hassan
Member

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

B-7

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal BENCH D.I.KHAN.

Khizar Hayat **VERSUS** Govt of KPK

TITLE Implementation

I/WE Khizar Hayat

The Above Named petitioner hereby appoint

MUHAMMAD ANWAR AWAN ADVOCATE SUPREME COURT,

in the above Captioned Cases to all or any of the following Acts Deeds & Things.

- ✓ To Appear, Act & Plead for Me/Us in the above mentioned cases in this Court/Tribunal in which the same may be tried or heard or any other proceedings out of our connected therewith.
- ✓ To Sign, Verify, File OR Withdraw all proceedings, Petitions, Appeals, Affidavits, Applications for Compromise OR Withdrawals OR for the Submission of Arbitration of the said case OR any other Documents may be Deemed Necessary OR Advisable by them by the Conduct, Prosecution OR Defense of the above case at all its stages.
- ✓ To Receive Payments, Issue receipts for all moneys that may be OR become Due & Payable to us during the course on Conclusion of the Proceedings.
- ✓ To do all other Acts & Things, Which may be Deemed Necessary OR Advisable during the course of Proceedings.

AND HEREBY AGREE:

- To Ratify Whatever Advocates may do the Proceedings.
- Not to Hold the Advantages Responsibilities if the said case be proceed Ex-parte OR Dismissed in Default in Consequence of their Absence from the Court when it is called for Hearing.
- That the Advocates shall be entitled to withdraw from the Prosecution of the said case if the Whole or any part of the Agreed Fee Remain Un-Paid.
- That Advocates may be Permitted to argue any other point at the time of Arguments.

In Witness Whereof I/We have signed this Vakalatnama here under the Contents of which have been Read/Explained to Me/Us which is fully understood by Me/Us.

Dated: 30/3/18

Accepted By:



SIGNATURE OF EXECUTANT (S)



**MUHAMMAD ANWAR AWAN
ADVOCATE SUPREME COURT
03339962231**

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Mr. Justice Mushir Alam

Mr. Justice Sajjad Ali Shah

Civil Petition No.30-P of 2018

Against the judgment dated
24.10.2017 passed by Khyber
Pakhtunkhwa Service Tribunal in
Service Appeal No.251 of 2015

Govt. of KPK through Secretary
Agriculture, Livestock & Cooperative
Department Peshawar & others

Petitioner(s)

VERSUS

Respondent(s)

Khizar Hayat & others

For the Petitioner(s) : Mr. Zahid Yousaf Qureshi, Addl. AK. KPK

For the Respondent : Mr. M. Anwar Awan, ASC

Date of Hearing : 05.10.2018

ORDER

Mushir Alam, J. Respondent-Khizar Hayat working as Library Attendant (BPS-2), Agriculture Research Institute, D.I: Khan. claimed promotion which was considered by the learned Khyber Pakhtunkhwa Service Tribunal in accordance with the Rules framed on 20th April, 2012. The case of the respondent falls at Serial No.44 of the Junior Clerk he possessed the requisite qualification as provided therein in column No.3. Learned counsel for the respondents contends that the respondent is covered by the rule framed on 21.11.1983.

2. We are amazed to note that junior clerks feeding cadre is Naib Qasid and Daftari who possess Secondary School Certificate and does not include Library Attendant who by any stretch of imagination was in higher eligibility pedestal and was accordingly rightly considered by the learned Tribunal to meet the criteria.

ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

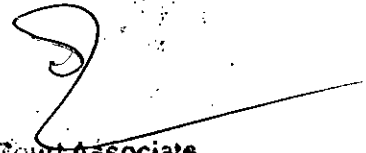
3. Learned Additional Advocate General, KPK states that such anomaly is indeed there, which is sought to be removed by framing Rules to comprehensively cater for all categories of the employees. If that be the case the writ petitioners may frame unified Rules to remove the anomaly and not to cause any prejudice or discrimination with the qualified personnel who should always be considered and awarded for their service in the public service.

4. Accordingly, this petition is dismissed and leave to appeal is declined.

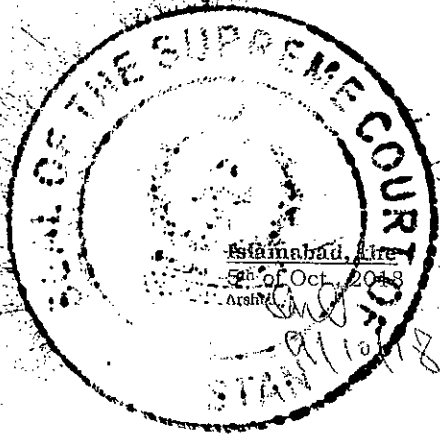
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Sd/-J

Certified to be True Copy

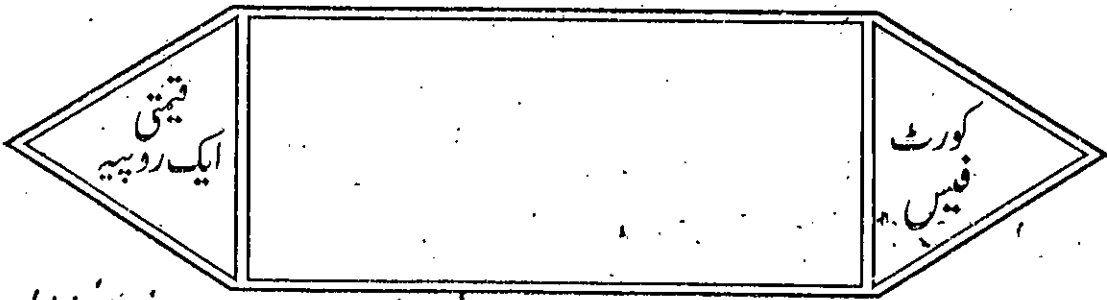


Court Associate
Supreme Court of Pakistan
Islamabad



GR No: 23729/18 Criminal
 Date of Present: 06-10-18
 No of Words: 600
 No of Folios: 6
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 Copy Fee in: 3-72
 Court Fee Stamps: 8-72
 Date of Completion of Copy: 10/10/18
 Date of delivery: 11/10/18
 Compared by: [Signature]
 Received by: M. A. Sheer [Signature]

وکالت نامہ



بعدالت خطاب جیسے صاحب سروس ٹریڈنگ کے ساتھ تختہ الٹیاریڈ

جناب Deewan Agha / Appellat

قذریات نام محکمہ

دعویٰ یا جرم

IMPLEMENTATION PETITION /

تفصیل دعویٰ یا جرم

EXECUTION PETITION باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیرونی وجوہ دہی برائے پیشی یا تفریق مقدمہ بنام جناب وارثان صاحب

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا ہذا بذریعہ رو برو عدالت حاضر ہوتا رہوں گا اور ہر وقت پکارے جانے مقدمہ تکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر کچہری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے یا پیچھے پیش ہونے پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا محنت نہ واجب کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے مجھ کو کل ساختہ پر داخست صاحب موصوف مثل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ یا درخواست اجراء اسلئے ڈگری نظر ثانی اپیل گرائی و ہر قسم درخواست ہر قسم کے بیان دینے اور پر غامض یا راضی نامہ و فیصلہ برصغیر کرنے اقبال دعویٰ کا بھی اختیار ہو گا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مرکز بیرون از کچہری صدر بیرونی مقدمہ مرکز نظر ثانی اپیل و گزرائی و برآمدگی مقدمہ یا منسوخی ڈگری یک طرفہ یا درخواست حکم اقسامی یا قرنی یا گرفتاری قبل از فیما اجراء ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ مقرر بیرونی کا اختیار ہو گا اور تمام ساختہ پرواخذت صاحب موصوف مثل کردہ از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو کہ مقدمہ مرکوزہ یا اس کے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل گرائی یا دیگر معاملہ و قدمہ مذکورہ کسی دوسرے وکیل یا بیرسٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے شیر قانون کو بھی ہر امر میں وہی اور دیے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانب التواہ پڑے گا وہ صاحب موصوف کا حق ہو گا مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے

مورخہ 22 ماہ جون 2018

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

Accepted
 4
 20/6/2018
 In and

Khizar Hayat
 Appellat

حسن کا بیرسٹر اندرون سین زمار کیت بالقابل جائز ہوئی ڈیرہ اسماعیل خان

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Mr. Justice Mushir Alam
Mr. Justice Sajjad Ali Shah

Civil Petition No.30-P of 2018

Against the judgment dated
24.10.2017 passed by Khyber
Pakhtunkhwa Service Tribunal in
Service Appeal No.251 of 2015

Govt. of KPK through Secretary
Agriculture, Livestock & Cooperative
Department Peshawar & others

Petitioner(s)

VERSUS

Respondent(s)

Khizar Hayat & others

For the Petitioner(s) : Mr. Zahid Yousaf Qureshi, Addl. AK. KPK

For the Respondent : Mr. M. Anwar Awan, ASC ✓

Date of Hearing : 05.10.2018

ORDER

Mushir Alam, J. Respondent-Khizar Hayat working as Library Attendant (BPS-2), Agriculture Research Institute, D.I. Khan claimed promotion which was considered by the learned Khyber Pakhtunkhwa Service Tribunal in accordance with the Rules framed on 20th April, 2012. The case of the respondent falls at Serial No.44 of the Junior Clerk he possessed the requisite qualification as provided therein in column No.3. Learned counsel for the respondents contends that the respondent is covered by the rule framed on 21.11.1983.

2. We are amazed to note that junior clerks feeding cadre is Naib Qasid and Daftari who possess Secondary School Certificate and does not include Library Attendant who by any stretch of imagination was in higher eligibility pedestal and was accordingly rightly considered by the learned Tribunal to meet the criteria.

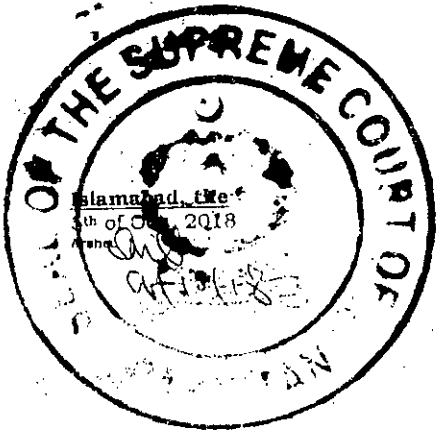
ATTESTED


Secretary
Supreme Court

3. Learned Additional Advocate General, KPK states that such anomaly is indeed there, which is sought to be removed by framing Rules to comprehensively cater for all categories of the employees. If that be the case the writ petitioners may frame unified Rules to remove the anomaly and not to cause any prejudice or discrimination with the qualified personnel who should always be considered and awarded for their service in the public service.

4. Accordingly, this petition is dismissed and leave to appeal is declined.

Self J
Self J



Certified to be True Copy

Civil Associate
Supreme Court of Pakistan

GR No: 24623/18

Date of Present: 13/10/18

No of Words: 600

No of Pages: 6

Registration Fee: 5.00

Copy Fee: 3.72

Cost of Stamp: 8.72

Total Fee: 17.44

Copy: 15/10/18

Prepared by: S.R.I.S

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 167 /ST

Dated 28 / 01 / 2019


To

The Director General Agriculture Research Institute,
Government of Khyber Pakhtunkhwa,
Tarnab Peshawar.

SUBJECT: - ORDER IN EXECUTION PETITION NO. 104/2018, MR. KHIZAR HAYAT.

I am directed to forward herewith a certified copy of order dated 21.01.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 363 /ST

Dated 5-3 / 2019

To

The Accountant General,
Government of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: - ORDER IN EXECUTION PETITION NO. 104/2018, MR. KHIZAR HAYAT.

I am directed to forward herewith a certified copy of order dated 25.02.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

5/c
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 222/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/2/2019	<p style="text-align: center;">The appeal of Mr. Muneeb-ur-Rehman presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;">REGISTRAR</p> <p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on _____.</p> <p style="text-align: right;">CHAIRMAN</p> <p style="text-align: right;"><i>[Handwritten Signature]</i></p>



GOVERNMENT OF KHYBER PAKHTUNKHWA

DIRECTORATE GENERAL AGRICULTURE RESEARCH
KHYBER PAKHTUNKHWA, 25130, PESHAWAR

☎ 091-9221271

web: www.agrires.kp.gov.pk

☎ 091-9221270

E-mail: dgragriresearch@gmail.com



OFFICE ORDER

1. Consequent upon the judgment of the august Supreme Court of Pakistan dated 05.10.2018 in Civil Petition No. 30-P/2018 against judgement dated 24.10.2017 passed by the Hon'ble Khyber Pakhtunkhwa Service Tribunal, DIKhan Bench in Service Appeal No. 251/2015, Mr. Khizar Hayat (Library Attendant) ARI, DIKhan is hereby promoted to the post of Junior Clerk (BS-11) with immediate effect.
2. On his promotion he is hereby transferred from Agricultural Research Institute, DIKhan and posted against the existing vacancy of Junior Clerk (BPS-11) at Hazara Agricultural Research Station Abbottabad in the best interest of public service.
3. Similarly, Rules have been amended following the judgment of august Supreme Court of Pakistan and in future promotions of the Class-IV will conducted as per rules and joint seniority constituted by the department.

SD/-

Director General
Agriculture Research

No. 536-67 /Estt./DGAR

Dated Peshawar the 25/03/2019

Copy to:

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Camp Court DIKhan
2. Section Officer (Litigation) Agriculture, Livestock & Cooperatives Department, Peshawar.
3. The Director, Agricultural Research Institute, DIKhan
4. The Director, Hazara Agricultural Research Station Abbottabad.
5. District Accounts Officers, DIKhan and Abbottabad.
6. The Assistant Accounts Officer, HQ.
7. Official concerned.

For information and necessary action.


Director General
Agriculture Research



GOVERNMENT OF KHYBER PAKHTUNKHWA

DIRECTORATE GENERAL AGRICULTURE RESEARCH
KHYBER PAKHTUNKHWA, 25130, PESHAWAR

☎ 091-9221271 web: www.agrires.kp.gov.pk ☎ 091-9221270
Email: dgragriressearch@gmail.com



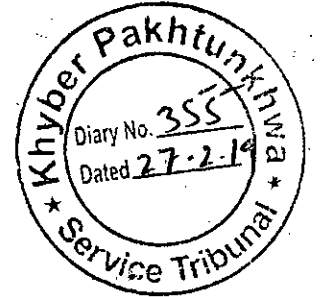
No: 2869 /ICC/DGAR

Dated Peshawar, 27/02/2019

To.

The Registrar
Khyber Pakhtunkhwa Service Tribunal
Peshawar

Subject: RELEASE OF SALARY



Memo:

It is submitted that the case **Implementation/Execution petition No. 104 of 2018** was held for hearing before the Hon'ble Service Tribunal, Camp Court, DIKhan on 25.02.2019. In response to non-implementation of judgment of Hon'ble Tribunal dated 21.01.2019, the salary of the under-signed has been now attached/stopped.

It is now requested that the implementation case of the said judgment is in process and will be decided by the department in its true letter and spirit.

It is now requested that salary of the undersigned may please be released and obliged.

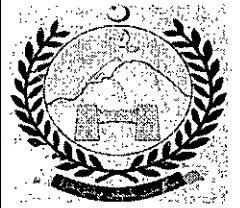
Put up to the court with relevant petition.

[Signature]
Director General
Agriculture Research
Khyber Pakhtunkhwa
Peshawar

Reader
[Signature]
27/2/19



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE GENERAL AGRICULTURE RESEARCH
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Email: dgragriressearch@gmail.com



No: _____/ICC/DGAR

Dated Peshawar, 26/02/2019

To.

The Registrar
Khyber Pakhtunkhwa Service Tribunal
Peshawar

Subject: RELEASE OF SALARY

Memo:

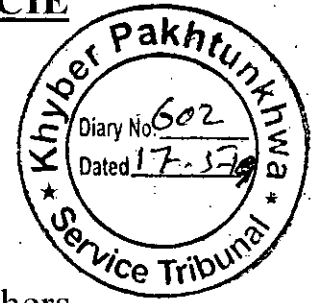
It is submitted that the case **Implementation/Execution petition No. 104 of 2018** was held for hearing before the Hon'ble Service Tribunal, Camp Court, DIKhan. In response to non-implementation of judgment of Hon'ble Tribunal dated 21.01.2019, the salary of the of the under-signed has been now attached/stopped.

It is now requested that the implementation case of the said judgment is in process and will be decided by the department in its true letter and spirit.

It is now requested that salary of the undersigned may please be released and obliged.

Director General
Agriculture Research
Khyber Pakhtunkhwa
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.



Execution Petition No.104/2018

Khizer Hayat--vs—Govt: of Khyber Pakhtunkhwa and others.

APPLICATION FOR WITHDRAWL OF THE INSTANT
EXECUTION PETITION.

Respectfully Sheweth.

1. That the above mentioned execution petition is pending before this Tribunal today.
2. That grievances of the petitioner has been redressed by the respondent-department.
3. The petitioner has no more interested to peruse the instant execution petition.

It is therefore, requested that the instant execution petition may kindly be withdrawn being executed.

put up to the court with relevant Execution Petition.

Dated: 17.05.2019

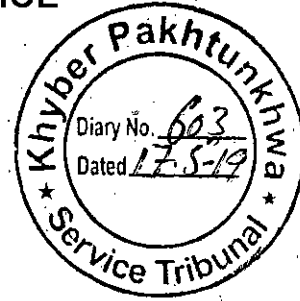
[Signature]

[Signature]
17/5/19.

Petitioner
[Signature]
Khizer Hayat

BEFORE THE LEARNED KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

In the matter of Execution Petition No. 104 of 2018



KHIZER HAYAT VS. GOVT. OF KP

APPLICATION FOR RELEASE OF SALARY, ATTACHED IN ABOVE
CAPTIONED EXECUTION PETITION

Respected Sir;

It is humbly submitting as under;

1. **That** above-mentioned execution petition is pending for disposal in this Hon`ble Tribunal.
2. **That** Judgment/Order of this Hon`ble Court dated 25.3.2019 has been complied/implemented within true letter and spirit by Respondent No. 2 ((Director General, Agriculture Research, KP, Peshawar) and promotion has been granted to the appellant Mr. Khizar Hayat from respective date i.e., 18.11.2014, which is truly in line with the directions of this Hon`ble Tribunal. Therefore, my humble submission is that monthly salary of Respondent No. 2 (Director General, Agriculture Research, KP, Peshawar) may please be released. Copy of promotion order of appellant Mr. Khizar Hayat is attached herewith for kind perusal.

Put up to the court with
relevant part of law

Reader

[Signature]
17/5/19

Sincerely

[Signature]

Incharge (Lit), HQ
Agriculture Research
Khyber Pakhtunkhwa

BEFORE THE KHYBER PAKHTOON KHAWA SERVICE TRIBUNAL
PESHAWAR CAMP AT D.I.KHAN.



Implementation/Execution Petition No... 371... of 2018.

Khizar Hayat Library Attendant (BPS-2) Agriculture Research Institute,
D.I.Khan.

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

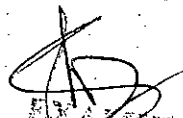
Case No. 371

Dated: 03/04/2018

1. Government of Khyber Pakhtunkhwa through secretary Agriculture, Livestock and cooperative Department Peshawar.
2. Director General Khyber Pakhtunkhwa Agriculture Research Institute Tarnab Peshawar.
3. Director Agriculture Research Institute D.I.Khan.
4. Departmental Promotion/Selection Committee Agriculture Research Institute Tarnab Peshawar.

IMPLEMENTATION PETITION/EXECUTION
PETITION OF JUDGMENT DATED; 24-10-2017
REGARDING PROMOTION OF PETITIONER.

ATTESTED


ATTESTING OFFICER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

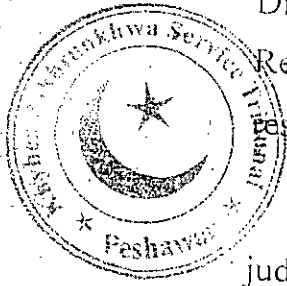
That the brief facts of the case are as under:

1. That petitioner joined the services as Laboratory Assistant in Agriculture Research Institute on 19-01-1998. Later on in 2011 petitioner served the department as Naib Qasid. The petitioner for about 17 years' service is waiting for his promotion as Junior Clerk but petitioner was ignored. In 2014 Departmental Promotion Committee held a meeting for promotion of employees but petitioner was not promoted so, feeling aggrieved, petitioner firstly filed departmental appeal which was dismissed on 31-12-2014 so petitioner filed Service Appeal which was accepted vide judgment dated; 24-10-2017 with the direction to respondents to consider the appellants for promotion to the post of

*Answer
Adk*

Execution Petition No. 104/2018
Khizar Hayat vs Agriculture Deptt.

26.03.2019.



Counsel for the petitioner present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Akram Khan, Principal Research Officer and Mr. Ilyas Khan, Senior Statistician for respondents present.

Learned counsel for the petitioner argued that though judgment of this Tribunal has been implemented vide order dated 25.03.2019 issued by the respondents but promotion was made with immediate effect, which is contrary to the directions contained in the said judgment. Respondents are directed to produce revised promotion order strictly in accordance with the spirit of judgment of this Tribunal referred to above. Case to come up for further proceedings on 24.06.2019 before S.B at camp court, D.I.Khan.

Member
Camp Court, D.I.Khan

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 09-04-18
Number of Words 800
Copying Fee 6-00
Urgent 200
Total 800
Name of Copyist
Date of Completion of Copy 09-04-18
Date of Delivery of Copy 09-04-18



TO BE SUBSTITUTED THE SAME NUMBER AND DATE

DIRECTORATE GENERAL AGRICULTURE RESEARCH
KHYBER PAKHTUNKHWA, 25130, PESHAWAR

☎ 091-9221271 web: www.dgagrires.kp.gov.pk ☎ 091-9221270
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OFFICE ORDER

1. Consequent upon the judgment of the august Supreme Court of Pakistan dated 05.10.2018 in Civil Petition No. 30-P/2018 against judgement dated 24.10.2017 passed by the Hon'ble Khyber Pakhtunkhwa Service Tribunal, DIKhan Bench in Service Appeal No. 251/2015, Mr. Khizar Hayat (Library Attendant) ARI, DIKhan is hereby promoted to the post of Junior Clerk with effect from 18.11.2014.
2. On his promotion he is hereby transferred from Agricultural Research Institute, DIKhan and posted against the existing vacancy of Junior Clerk at Hazara Agricultural Research Station Abbottabad in the best interest of public service.
3. Similarly, Rules have been amended following the judgment of august Supreme Court of Pakistan and in future promotions of the Class-IV will conducted as per rules and joint seniority constituted by the department.

SD/-
Director General
Agriculture Research

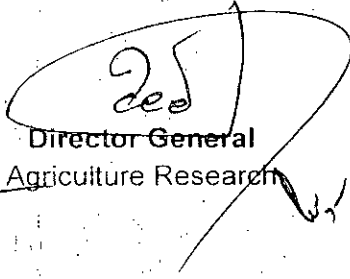
No: 5360-67/Estt./DGAR

Dated Peshawar the 25/03/2019

Copy to:

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Camp Court DIKhan
2. Section Officer (Litigation) Agriculture, Livestock & Cooperatives Department, Peshawar.
3. The Director, Agricultural Research Institute, DIKhan
4. The Director, Hazara Agricultural Research Station Abbottabad
5. District Accounts Officers, DIKhan and Abbottabad.
6. The Assistant Accounts Officer, HQ.
7. Official concerned

For information and necessary action.


Director General
Agriculture Research

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1013 /ST

Dated 23 / 5 / 2019


To

The Accountant General,
Government of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: - ORDER IN EXECUTION PETITION NO. 104/2018, MR. KHIZAR HAYAT.

I am directed to forward herewith a certified copy of order dated 17.05.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.