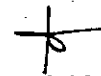


01.08.2019

Counsel for the petitioner and Mr. Usman Ghani, District Attorney for respondents present. Learned counsel for the petitioner seeks adjournment. Adjourned. Case to come up for further proceedings on 11.09.2019 before S.B.



(Ahmad Hassan)  
Member

11.09.2019

Counsel for the petitioner and Addl. AG alongwith Akram Khan Marwat, B&AO for the respondents present.

Learned counsel requests for adjournment of instant matter in order to seek fresh instructions from the petitioner.

Adjourned to 08.10.2019 before S.B.



Chairman

08.10.2019

Counsel for the petitioner and Addl. AG alongwith Muhammad Akram Marwat, B&A Officer for the respondents present.

Learned counsel requests for consigning the instant proceedings to record in view of office order dated 12.03.2018 but with the reservation of right of petitioner to seek remedy against conversion of the intervening period as leave without pay, in accordance with law.

Order accordingly.



Chairman

29.03.2019

Petitioner in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Akram Superintendent present. Petitioner stated that he has been reinstated in service however back benefits are still awaiting. Representative of the respondent department seeks adjournment. Adjourn. To come up for implementation report/parawise comments on 30.04.2019 before S.B

  
Member

30.04.2019

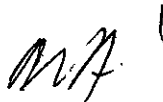
Counsel for the petitioner and Mr. Usman Ghani District Attorney alongwith Akram Khan, Superintendent for the respondents present.

The representative of respondents has produced copy of office order dated 12.03.2018 passed in pursuance to the judgment under implementation. The same is placed on record. To come up for further proceedings on 20.06.2019 before S.B.

  
Chairman

20.06.2019


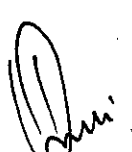
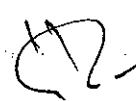
Junior counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG for the respondents present. Junior counsel for the petitioner requested for adjournment on the ground that learned senior counsel for the petitioner is busy before the hon'ble Peshawar High Court, Peshawar and cannot attend the Tribunal today. Adjourned to 01.08.2019 for further proceedings before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 67/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12.2.2019	<p>The execution petition of Mr. Din Muhammad submitted by Mr. Saadullah Khan Marwat Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 12/2/19</p>
2-	22.02.2019	<p>This execution petition be put up before S. Bench on <u>22-2-19</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Learned counsel for the petitioner present. Notice of the present execution petition be issued to the respondents for 29.03.2019. To come up for implementation report on the date fixed before S.B.</p> <p style="text-align: right;"> Member</p>

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

*Execution Petition NO. 67/2019*

Misc Pett: No. \_\_\_\_\_ /2019

Din Muhammad

versus

Secretary & Others

**I N D E X**

<b>S.#</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Page</b>
1.	Memo of Misc Petition		1-3
2.	Copy of Appeal dated 14-05-2014	"A"	4-6
3.	Copy of Judgment dated 28-02-2018	"B"	7-9

*[Handwritten Signature]*

Applicant

Through

*[Handwritten Signature]*

Dated: 31.01.2019

(Saadullah Khan Marwat)

Advocate

21-A Nasir Mension,  
Shoba Bazar, Peshawar.

Ph: 0300-5872676

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR***Execution Petition No. 67/2019*

Misc Pett: No. \_\_\_\_\_ /2019

**IN**

S.A . No. 693 / 2014

**Khyber Pakhtukhwa  
Service Tribunal**Din Muhammad S/O Khair Muhammad,  
Workshop Attendant, R/O Mina Khel,  
Lakki Marwat. ....Diary No. 240Dated 12-2-2019  
Applicant**VERSUS**

1. Secretary, Government of KP,  
Elementary & Secondary Education  
Department, Peshawar.
2. Director of Education, Directorate of  
Elementary & Secondary Education, KP,  
Peshawar.
3. District Education Officer, Elementary &  
Secondary Education, Lakki Marwat.
4. DCO / DC, District Lakki Marwat.
5. District Accounts Officer,  
Lakki Marwat ..... Respondents

⇄&lt;=&gt;⇄&lt;=&gt;⇄&lt;=&gt;⇄&lt;=&gt;⇄

**APPLICATION FOR DIRECTION TO RESPONDENTS  
TO IMPLEMENT THE JUDGMENT DATED 13-02-2018  
OF THE HON'BLE TRIBUNAL PASSED IN APPEAL NO  
693/2014 AND TO INITIATE CONTEMPT OF COURT  
PROCEEDINGS AGAINST THE RESPONDENTS FOR  
NOT HONORING THE JUDGMENT OF THE HON'BLE  
TRIBUNAL WITHIN THE TARGET PERIOD.**

⇄&lt;=&gt;⇄&lt;=&gt;⇄&lt;=&gt;⇄&lt;=&gt;

**Respectfully Sheweth:**

1. That on 14-05-2014, the applicant filed appeal No. 693/2014 before the hon'ble Tribunal for release of monthly salaries withheld since 31-12-2012 till date. (Copy as annex "A")
2. That the said appeal came up for hearing on 13-02-2018 before this hon'ble Tribunal and after thorough probe, judgment was passed, converting the appeal of applicant along with others into departmental appeal's and remitted the same to departmental appellate authority for decision through speaking order after examining the relevant record within a period of 60 days from the date of receipt of the judgment positively. The departmental / appellate authority was further directed to communicate the said order to the appellants and if any party is aggrieved from that order, the said party reserves right to file fresh appeal subject to all just / legal objections. The appeals were disposed off accordingly. (Copy as annex "B")
3. That the said judgment of the hon'ble Tribunal was remitted to the respondents for compliance by applicant as well as by learned Registrar of the hon'ble Tribunal.
4. That the department / respondents honored the said judgment by paying the withheld salaries from the said dates and the other appellants received salaries in lum-sum and the matter was then finalized but the case of the applicant is still pending for the purpose and was not finalized for the reason best known to the respondents.
5. That in the judgment / order dated 13-02-2018, the hon'ble Tribunal directed respondents to decide the matter within period of 60 days but more than 11 months have been elapsed and applicant was not paid the arrears withheld since 31-12-2012 for no legal reason but for ulterior motive.
6. That when similarly and equally cases were finalized by remitting the withheld salaries to the colleagues of applicant, then no reason exists with the respondents to not treat him at par with others.

7. That when the case of the applicant was not finalized within a period of 60 days, the respondents extinguished her right and there is no alternate now remained with respondents to deny the right of the applicant.
8. That from the aforesaid facts and circumstances of the case, respondents are not implementing the judgment of the hon'ble Tribunal in letter and spirit, so they deserve punishment as well as huge cost.

It is, therefore, most humbly requested that judgment dated 13-02-2018 of the hon'ble Tribunal be finalized and applicant be paid the withheld salaries along with fringed benefits since 31-12-2012 with all consequential benefits.

**OR**

In the alternate Contempt of Court proceedings be initiated and they be punished under the Law.

Applicant

Through

Saadullah Khan Marwat

Amjad Khan  
Advocates

Dated: 31-02-2019

A 4

BEFORE THE KHYBER PAKHTUNKHWA,  
SERVICE TRIBUNAL, PESHAWAR

Appeal No \_\_\_\_\_

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

Versus

1. Secretary Education Khyber Pakhtunkhwa, Peshawar.
2. Director Education (E&S) Khyber Pakhtunkhwa, Peshawar.
3. EDO/DEO (E&S) Education, District Lakki Marwat.
4. DCO/DC, District Lakki Marwat.
5. District Account Officer, District Lakki Marwat. (Respondents)

APPEAL UNDER SECTION 4 OF NWFP SERVICE TRIBUNAL  
ACT 1974 FOR THE IMPLEMENTATION OF OFFICE ORDER NO.  
PS/DCO LAKKI/1324-25 DATED: 31-12-2012.

PRAYER:-

On acceptance of the appeal in hand, to comply/implement the office order no. 1324-25 dated: 31-12-2012 as related to the reinstatement of the petitioner / appellant at his original post as workshop attendant at Govt. Centennial Model High School No. 1 Lakki city District Lakki Marawat with effect from the date of termination dated: 20-09-2012 along with full back benefits. Also the salary / monthly pay along with back salaries of the appellant from 31-12-2012 up to date and month-wise salary in future to be released.

Respectfully Sheweth:-

1. That, the petitioner / appellant is a permanent resident of Lakki city District Lakki Marwat. He was appointed as a workshop attendant BPS-1 at G.H.S.No.1 Lakki city in District Lakki Marwat on 01-06-1998. Copies are enclosed as annexure A:

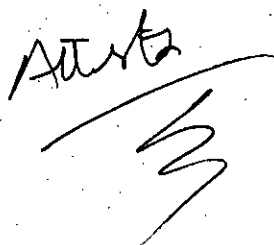
2. That, the petitioner / appellant served about 12 year spotless service at the mentioned post and place. The petitioner / appellant was then illegally transferred not only from the parent place but also from the

*Shawar*  
*Attorneys*



post to G.H.S.S Sarai Nawrang district Lakki Marwat as water carrier on 28-04-2009 and from Serai Nawrang to Multan Mangiwala district Lakki Marwat as Naib Qasid in 2010, respectively. The discriminative and unlawful acts of respondent No.3 continued against the petitioner / appellant and then by the office order No.7422-26 dated 20-09-2012 terminated, without legal justification and just cause, the service of the petitioner. Copies are enclosed as annexure B, C, D:

3. That, the petitioner / appellant then filed the departmental appeal before the concerned appellant authority respondent No.4 within due course against the order No.7422-26. The respondent No.4 heard and decided the appeal on merit by making order No.1324-25 dated 31-12-2012, according to which the appeal is accepted as per prayed. Copies are enclosed as annexure E, F;
4. That, the petitioner / appellant afterward made an application to the respondent No. 4 for the implementation of the order No.1324-25, but all in vain. Therefore, the petitioner / appellant filed a civil suit of Injunction No.75/1 against the respondents in the court of Civil Judge No. 2 District Lakki Marwat in this regard on 12-03-2013. But learnt civil judge return the plaint by making order no. 13 dated 06-09-2013. The petitioner / appellant file civil appeal no. 26/13 against the order No. 13 to the District Judge District Lakki Marwat on 28-09-2013, but the same was dismissed in limine on 24-01-2014. Copies are enclosed as annexure G, H, I;
5. That, the petitioner / appellant then made an application to the respondent No. 1 for the compliance and implementation of order No. 1324-25. In this regard, a letter No. 1-21 dated: 24-02-2014 was issued to respondent No. 3 for the compliance report, but the same was not concluded yet. Thereafter, the petitioner / appellant again made an application to the respondent No. 4 in regard of order No. 1324-25 and respondent No. 4 formally issued letter No. 328 dated: 09-04-2014 to the respondent No. 3 for the implementation and compliance of the order No.1324-25, but all such are fruitless. Copies are enclosed as annexure J, K.;

*Atta*  


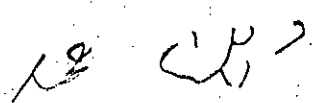
6. That, from the above mentioned facts and figures, it is very much cleared now that the petitioner / appellant has left no other remedy except to invoke the jurisdiction of this forum through the instant appeal under the following grounds:

Grounds:-

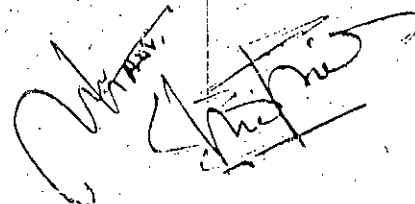
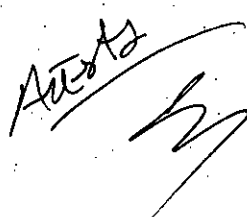
- A. That, delaying tactics in order to avoiding the implementation and compliance of the order No. 1324-25 on the part of Respondents is against Law and Equity.
- B. That, the relief was sought in regard of order No. 1324-25 through the civil court but the same was returned and directed to invoke the jurisdiction of this honorable court, so the instant appeal is also competent in this context under the principles of Law and Equity.
- C. That, the petitioner / appellant knocked at the doors of respondents several times but neither negating nor implementing the concerned order with real spirit which made the petitioner / appellant still aggrieved, so it is malafide on the part of Respondents and is against Law and Policy.
- D. That, the petitioner / appellant has not been treated in accordance with law and not treated equally before the eye of law. In other words, the petitioner / appellant has been discriminated before Law.
- E. That, the counsel for petitioner / appellant also seeks leave of this Honorable Court to argue further Points if rise during the course of arguments.

It is therefore, most humbly prayed that the appeal be accepted as prayed for.

Dated: 08-05-2014

  
Petitioner / Appellant

Din Muhammad  
Through Counsel  
Mohammad Tariq Qureshi,  
Shakir Ullah Khan  
Advocates High Court  
Lakki Marwat

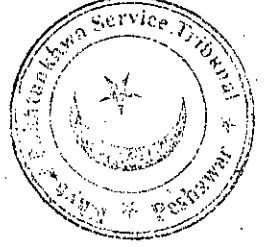
B 7

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, ... For appellant  
Advocate

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

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

**ATTESTED**

**MEMBER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN:- Arguments of the learned  
counsel for the parties heard and record perused.

FACTS

2. The appellant was terminated from service on 20.09.2012 and on appeal he  
was reinstated on 31.12.2012 but till now he has not been adjusted against any post  
nor any salary is paid to him. The appellant then filed an application before the  
DEO (Male) Lakki Marwat on 20.02.2013 for adjustment and payment of back

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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

**ATTESTED**

**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal,**  
**Peshawar**

*Attested*

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 to be made copy  
Khyber Pakhtunkhwa  
State Council  
Peshawar

Date of Presentation of copy	26-02-2018
Number of Words	1200
Copying Fee	8.00
Urgent	2.00
Total	10.00
Name of Copy	[Signature]
Date of Copying	26-02-18
Date of Delivery of copy	26-02-18

[Signature]

بعد الت جہاں سرس ٹریبونل صوبہ سرحد پشاور

منجانب املاٹ

دین محمد بنام محمد قلم

دعویٰ اپیل  
Implanted

باعث شکریہ ایشکے

مستند مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیسٹم سٹینڈ آفٹس خان سرورتنے ایڈوکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے رضی نامہ و تقرر ثالث و فیصلہ برتلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور رضی دعویٰ اور درخواست ہر قسم کی تعلیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور سوسجی بائیں دائرہ کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مشاور قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقدمہ مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پروا ختمہ منظور قبول ہوگا و دوران مقدمہ میں جو فریہ و ہر جانہ التواء مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا دضرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درہ پریہو یا مد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔  
لہذا کالت نامہ لکھ دیا کہ سند ہے۔

المرقوم ۱۹-۵۱-۳۱

العکد

القید

العکد

محمد قلم  
ایڈوکیٹ

محمد قلم  
ایڈوکیٹ

دین محمد

عن رؤیتہ تار  
ایڈوکیٹ