

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 02/2019

Date of institution 02.01.2019

Muhammad Bashir, Ex-Chowkidar, GPS Kohmal, District Haripur.

VERSUS

Government of Khyber Pakhtunkhwa through Secretary (E&SE),
Khyber Pakhtunkhwa Peshawar and three other respondents.

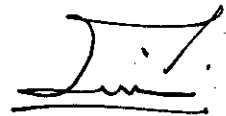
O R D E R
23.08.2021

Syed Noman Ali Bukhari, Advocate, for the petitioner present.
Mr. Muhammad Saleh Mushtaq, ADEO (Litigation) alongwith Mr.
Muhammad Adeel Butt, Additional Advocate General for the
respondents present and stated at the bar that the judgment passed
by this Tribunal has been implemented. In this respect, he produced
relevant documents, which are placed on file.

Learned counsel for the petitioner stated at the bar that as the
judgment passed by this Tribunal has been implemented, therefore,
the execution petition in hand may be filed. In this respect, he
submitted written application, which is placed on file.

In view of the above, the execution petition in hand stands
filed. File be consigned to the record room.

ANNOUNCED
23.08.2021



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

report on the next date i.e. 19.12.2019. On that very date, the representative of respondents submitted implementation report and noted by the Bench. It was disclosed therein that the duplicate service book of the petitioner has been completed and sanction for his pension benefits has also been granted on 18.12.2019. On request of the representative further time was given for final execution of the judgment. On next date i.e. 06.02.2020, a letter for grant of pensionary benefits was forwarded to the District Accounts Officer, Haripur. Respondents were directed vigorously to pursue this case and ensure its early finalization. Then came up the COVID, 19. On 15.06.2020 learned AAG was present on behalf of the respondents but no visible progress was shown in the matter of execution. After many adjournments thereafter, comes the date today but none is present on behalf of the respondents. Although they are represented by the learned AAG but he is not in a position to convince the Bench about the positive fate of the implementation of the judgment. Thus, it necessitates to direct for personal attendance of respondent No. 4 who is at helm of the affairs relating to implementation of the judgment in its letter and spirit. Office is directed to send notice to the said respondent for personal appearance, alongwith copy of this order sheet. Case to come up on 23.08.2021 before S.B.


Chairman

EP 2/2019
07.07.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

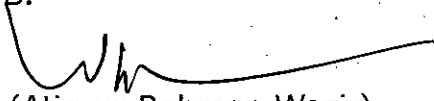
The petitioner through this execution petition seek implementation of the judgment dated 11.11.2017 at his credit. It is there in the operative part of the judgment that the appellant was held to be civil servant and was also held to be entitled for pensionary benefits up to the period of superannuation i.e. 30.06.2007. The other prayer for correction of date of birth was not accepted. The appeal was disposed of in the said term. The Execution Petition was filed on 02.01.2019 and after lapse of about two and half years it is still awaiting the response of the respondents regarding implementation of the judgment at credit of the petitioner. The orders passed subsequent to institution of the Execution Petition have been gone through. The order dated 14.03.2019 would reflect that the Tribunal was informed by learned AAG then present before the Bench that the department had filed CPLA against the judgment under implementation. However, if any suspension order regarding judgment of this Tribunal would have produced, it must have been mentioned in the order sheet but there is no such mention. The same was repeated on 21.05.2019 that the CPLA has been filed. Then there are different adjournments on account of different reasons without any progress shown towards implementation of the judgment. On 18.11.2019, the respondents were directed to submit the implementation

29.03.2021

Nemo for the petitioner. Addl. AG for the respondents present.

In response to order dated 27.01.2021, notices have not been issued to petitioner as well as his counsel. Office is once again required to issue the requisite notices positively for the next date of hearing.

To come up for further proceedings on 01.06.2021 before the S.B.


(Atiq-ur-Rehman Wazir)
Member(E)

01.06.2021

Counsel for the petitioner and Addl;. AG for the respondents present.

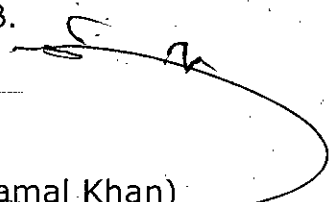
Learned counsel for the petitioner seeks adjournment. Granted. Adjourned to 07.07.2021 for further proceeding before S.B.


Chairman

22.10.2020

Mr. Kabirullah Khattak, Additional Advocate General for the respondents is present.

Since the Members of the High Court as well as of the District Bar Association Peshawar are observing strike today, therefore, the case is adjourned to 09.12.2020 on which date to come up for implementation report before S.B.


(Muhammad Jamal Khan)
Member (Judicial)

09.12.2020 Nemo for petitioner. Addl. AG for respondents present.

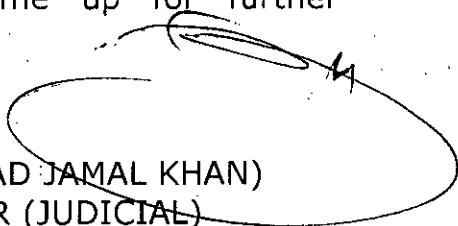
No representative on behalf of the respondents is available so as the petitioner. Adjourned to 27.01.2021 for implementation report before S.B.


Chairman

27.01.2021

Petitioner has not forth come in person nor anyone else representing him is in attendance despite having been called time and again and the last call was made at 03:00 P.M. Mr. Kabirullah Khattak, Additional Advocate General, for the respondents is present.

Petitioner and his respective counsel have to be noticed for 29.03.2021. File to come up for further proceedings before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

15.06.2020

None present on behalf of the petitioner. Notice be issued to petitioner and his counsel for attendance. Mr. Kabirullah Khattak, Additional AG for the respondents present. Respondents are also directed to direct the representative to attend the court on the next date positively. To come up for attendance and implementation report on 23.07.2020 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

23.07.2020

Petitioner is absent. The legal fraternity is observing strike today therefore, no proceedings could be conducted. The case is adjourned to 08.09.2020. To come up for previous proceedings before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER

08.09.2020

Nemo for petitioner. Addl. AG for the respondents present.

Instant matter is adjourned to 22.10.2020 due to non-representation of petitioner today.


Chairman

06.02.2020

Counsel for the petitioner present. Addl:AG alongwith Mr. Gul Badshah, ADEO for respondents present. Representative of the respondents provided a copy of letter dated 04.02.2020, where-under case of the petitioner for grant of pensionary benefits was forwarded to the District Accounts Officer, Haripur. Respondents are directed vigorously to pursue this case and ensure its ^{early} finalization. Compliance report may be submitted on the next date of hearing. Adjourned. To come up for further proceedings on 24.03.2020 before S.B.


Member

24.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 15.06.2020 before S.B.


Reader

16.10.2019 Counsel for the petitioner and Addl. AG for the respondents present.

Learned AAG requests for time to contact the respondents and require the submission of implementation report.

Adjourned to 18.11.2019 before S.B.


Chairman

18.11.2019 Counsel for the petitioner and Addl. AG alongwith Irfanullah, Assistant for the respondents present.

Learned AAG once again requests for time to contact the respondents and submit the implementation report on the next date.

To come up for submission of implementation report on 19.12.2019 before S.B.


Chairman

19.12.2019 Nemo for petitioner. Addl. AG alongwith Gul Badshah, ADO for respondents present.

Representative of respondents has submitted implementation report wherein it is, inter-alia, noted that the duplicate service book of the petitioner has been completed and sanction for his pension benefits has also been granted on 18.12.2019. He, therefore, requests for some more time for final execution of judgment.

Adjourned to 06.02.2020 before S.B.


Chairman

26.08.2019

Nemo for the petitioner. Addl. AG for the respondents present.

Due to general strike on the call of K.P Bar Council learned counsel for the petitioner is not in attendance. Adjourned to 23.09.2019 before S.B.


Chairman

23.09.2019

Nemo for the petitioner. Mr. Kabirullah Khattak, Additional AG for the respondents present.

Due to general strike of Bar learned counsel for the petitioner is also not in attendance. Adjourned to 16.10.2019 before S.B.

16.10.2019

Counsel for the petitioner and Additional AG for the respondents present.

Learned AAG requests for time to contact the respondents and require the submission of implementation report.

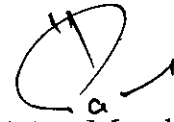
Adjourned to 18.11.2019 before S.B.


Chairman

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15.04.2019

Learned counsel for the petitioner and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Adjournment requested. Adjourn. To come up for further proceedings on 21.05.2019 before S.B.


Member


21.05.2019

No one present on behalf of petitioner. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Said Badshah ADO present and stated that CPLA has been filed ^{against} the judgment of this Tribunal. Adjournment requested. Adjourn. To come up for further proceedings on 02.07.2019 before S.B.


Member

02.07.2019

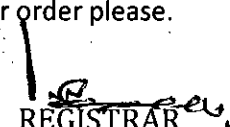
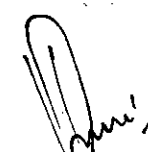


Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, learned counsel for the petitioner is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 26.08.2019 for further proceedings before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 2/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	02.1.2019	<p>The execution petition of Mr. Muhammad Bashir submitted by Syed Noman Ali Bukhari 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 2/1/19.</p>
2-		<p>This execution petition be put up before S. Bench on <u>28/1/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
28.01.2019		<p>Counsel for the petitioner present. Notice be issued to the respondents for implementation report for 14.03.2019 before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>
	14.03.2019	<p>Learned counsel for the petitioner present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Syed Bacha ADO for the respondents present. Learned Additional Advocate General stated that department has filed CPLA against the judgment under implementation. Adjournment requested. Adjourn. To come up for further proceeding on 15.04.2019 before S.B</p> <p style="text-align: right;"> Member</p>

①

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 2 /2019

In Service Appeal No.1208/2013

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 08

Dated 2/1/2019

Mr. Muhammad Bashir, Ex-Chowkidar,
GPS Kohmal, District Haripur.

PETITIONER

VERSUS

1. The Govt of Khyber Pakhtunkhwa through Secretary (E&SE), KP Peshawar.
2. The Secretary Finance Deptt., KP Peshawar.
3. The Director (E&SE) Deptt., KP Peshawar.
4. The District Education Officer (male) District Haripur

RESPONDENTS

.....

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 22.11.2017 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**


.....

RESPECTFULLY SHEWETH:


1. That the applicant/appellant filed Service Appeal No.1208/2013 in this august Tribunal for correction of date of birth and pensionary benefit.
2. That the said appeal was finally heard by the Honorable Tribunal on 22.11.2017 and the Honorable Tribunal was kind enough to partially accept the appeal and pensionary benefit was allowed to appellant. **(Copy of judgment is attached as Annexure-A).**
3. That the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 22.11.2017.

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 to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 22.11.2017 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/petitioner.

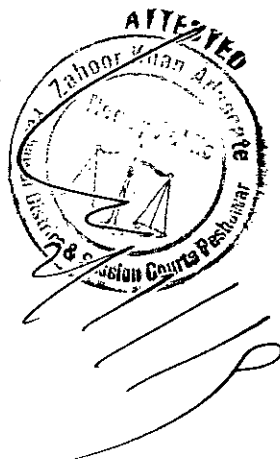

APPLICANT/PETITIONER
Muhammad Bashir

THROUGH:


(SYED NOMAN ALI BUKHARI)
Advocate, High Court
Peshawar.

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 and nothing has been concealed from the Hon'able Tribunal.


The stamp is circular with the text "HIGH COURT PESHAWAR" around the perimeter. Inside the circle, there is a signature and the name "Zahoor Khan" is visible. The word "AFFIDAVIT" is written at the top of the stamp.


DEPONENT

②

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

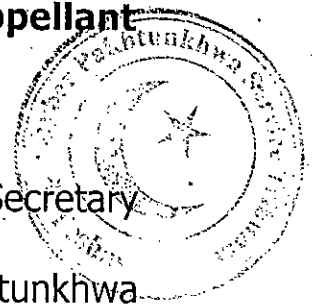
Appeal No. 1208 /2013

[Redacted]
[Redacted]
[Redacted] 26-8-13

Mr. Muhammad Bashir, Chowkidar,
GPS Kohmal, District Haripur.....Appellant

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Khyber Pakhtunkhwa Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.
- 3- The Director of (E&SE) Department, Khyber Pakhtunkhwa Peshawar.
- 4- The District Education Officer (Male), District HaripurRespondents



APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 18-9-2012 WHEREBY THE SERVICES OF THE APPELLANT HAS BEEN TERMINATED RETROSPECTIVELY i.e. WITH EFFECT FROM 30-6-2007 ON THE WRONG PRETEXT THAT APPELLANT HAS COMPLETED HIS SERVICE ON SUPPERANNUATION BASIS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD

PRAYER:

That acceptance of this appeal the impugned order dated 18-9-2012 may be set aside and the respondents may directed to correct the entry of date of birth of appellant in the service book according to appellant National Identity Card and School Leaving Certificate. That the respondents may further be directed not to recover the salaries from the appellant with effect from 30-6-2007 till his original/real date of retirement on superannuation basis. Any other remedy which this august tribunal deems fit may also be awarded in favor of the appellant.

[Redacted]
[Redacted]
6/8/13

R/SHEWETH:
ON FACTS:

- 1- That the appellant was appointment as Chowkidar in the respondent Department vide order dated 7-4-1996. That after appointment the appellant has served the respondent department quite efficiently and up to the entire satisfaction of his superiors. Copies of the appointment order and charge report are attached as annexureA & B.

ATTESTED

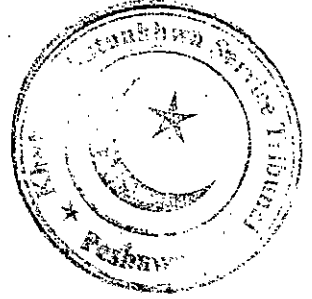
[Signature]
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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT ABBOTTABAD

Service Appeal No. 1208/2013

Date of Institution... 06.08.2013

Date of decision... 22.11.2017



Mr. Muhammad Bashir, Chowkidar, GPS Kohmal, District Haripur.

... (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary (E&SE)
Khyber Pakhtunkhwa Peshawar and 3 others.
(Respondents)

MR. NOOR MUHAMMAD KHATTAK,
Advocate
MR. KABIR ULLAH KHATTAK
Additional Advocate General

... For appellant.

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN,

... CHAIRMAN

... MEMBER

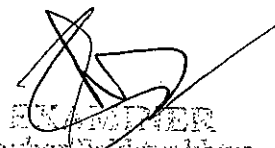
JUDGMENT

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

FACTS

2. The appellant was appointed as Chowkidar on 07.04.1996. At the time of entry
in service the date of birth was written as 1947. The appellant was not paid salary after
30.06.2007. According to appellant he had been working in the school right up to 2012
but he was not paid salary from 2007 to 2012. It appears that the appellant had filed
some applications before respondent no. 4 for correction of his date of birth which was
rejected on 18.09.2012. Against this order he filed the departmental appeal on
12.10.2012 which was not responded to and thereafter he filed the present service appeal
on 06.08.2013.

ATTESTED


MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ARGUMENTS


3. The learned counsel for the appellant argued that correct date of birth of the appellant is 07.02.1952 and not 07.02.1949. That the appellant had also got a decree in his favour regarding correction of date of birth on 15.01.2010 against NADRA. That date of retirement of the appellant according to correct date of birth comes to be 07.02.2012 but the appellant was not paid alary from 30.06.2007. Secondly his services were terminated w.e.f 30.06.2007 instead of issuing order of superannuation. He in this regard relied upon a unreported judgment of Peshawar High Court in writ petition no. 667-P/2014 decided on 13.06.2017 in order to augment his arguments that if a civil due to his ignorance continued to serve the department for some period beyond superannuation he would be entitled for the salary for the said period. Regarding delay in the filing of the present service appeal the learned counsel for the appellant relied upon the judgment reported as 2002 PLC (C.S) 1388 that in cases of pay and pension no limitation shall run against aggrieved civil servant.

4. On the other hand, the learned Addl: AG argued that the present appeal is time barred. That this Tribunal has no jurisdiction as the appellant was appointed on fixed pay/contract appointment. That he was never regularized. Secondly that no order of retirement on superannuation was passed by the department for the reason that he is not a civil servant. He further contended that date of birth of a civil servant could be corrected within two years of the assumption of the charge and not thereafter.

CONCLUSION.

5. The present appeal has got two aspects one is whether the appellant is civil servant or not and if he is a civil servant then surely he would be entitled for the pensionary benefits on attaining the age of superannuation. The second aspect is his date of birth. Before discussion these two aspects this Tribunal is confronted to decide the issue of jurisdiction and limitation first because without seizing the jurisdiction the merits of the appeal cannot be discussed.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

6. The Jurisdiction of this Tribunal in the present case depends upon the determination of the question whether the appellant is civil servant or not and if the answer is in positive then this Tribunal would have jurisdiction and this would automatically decide entitlement of appellant to pension.

7. The appointment letter of the appellant mentions that he was appointed on fixed pay/contract basis but there is nothing on record to show that when his services were regularized. But it is an admitted fact that he continued his services till 30.06.2007. In between these two dates many civil servants were regularized by operation of law. Secondly the very impugned order terminating the services of the appellant on completion of 60 years of age is itself proof of the fact that he was a civil servant. Otherwise what was the fun in terminating the services of the appellant on attaining the age of 60 years. Thirdly in the written reply by the respondents in two paras it has been admitted that the appellant is a civil servant. In para-2 of the reply it has been written that the appellant had concealed the fact of his being civil servant from the civil court and then in ground-F it has been clearly written that the appellant was retired on attaining the age of 60 years on superannuation. So this Tribunal reaches the conclusion that the appellant is a civil servant and this Tribunal has the jurisdiction in the present matter.

8. Coming to the limitation the judgment relied by the learned counsel for the appellant is very much clear on the point that in matter of pension, salary and other financial benefits limitation shall not run against the civil servant. So the issue of limitation is also decided in favour of the appellant.

9. Coming to the second aspect of this appeal i.e; date of birth, the unreported judgment relied upon by the learned counsel of the appellant delivered by the worthy Peshawar High Court is not relevant to the present case in the reported case the appellant was illiterate/ignorant but in the present appeal the appeal is too smart than an educated person. He knew that the date of birth in service record could not be corrected beyond two years. He in fact wanted to correct date of birth in service and was not interested

RECEIVED
 Muzaffar Hussain
 Service Tribunal
 Peshawar


6

correction in CNIC. That is why he preferred an application before the respondent no. 4 for correction of date of birth and when it was not acceded to he filed civil suit by not impleading department as defendant. In concealing the fact of his being civil servant from the civil court he got a decree in his favour. Now he wants to implement that decree in which he did not implead the department against the department which is not allowed by law. In this respect the judgments reported as 1998 SCMR 801 and 2015 PLC (C.S) 1533 are very much relevant. In the first reported judgment it is held that date of birth of civil servant could not be corrected beyond two years of entry in service. The second judgment is on the point that when the department is not made party in a civil suit it is not binding on department. The appellant in order to wriggle out of this situation takes shelter under the grab of ignorance which is not allowed by any means.

10. Keeping in view of the circumstances of the present appeal it cannot be admitted that the appellant had been working in the department beyond 30.06.2007 for five years without any pay and by getting a certificate from the school Head Teacher he would be entitled for the pay of the period beyond 30.06.2007. The reason is that he was fully in the knowledge of his date of birth and was on pursuing the correction of his date of birth during this period first before department and then through filing a civil suit. His case is by no means at par with the case of ignorant person who was held entitled for the benefits of pension beyond superannuation due to ignorance.

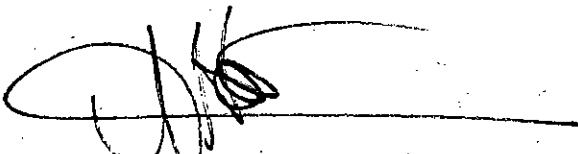
11. According to the appellant his date of birth originally entered in CNIC was 07.02.1949 and not 1947 as entered in the service book. The learned counsel for the appellant argued that at least the date of birth of the appellant should be treated as 07.02.1949 if not 07.02.1952. It has already been decided above that in the service record his date of birth was written as 1947 and if his correct date of birth was 1947 or 1952 he could correct it within two years of the joining of service. He cannot take advantage of documents including school leaving certificate or CNIC for the correction of date of birth in service book beyond two years.


ATTESTED


HEAVY
Muzaffar Khan
Service Tribunal,
Peshawar

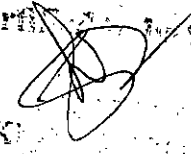
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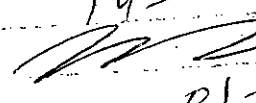
12. As a sequel to above discussion, the appellant is held to be civil servant and is also held to be entitled for pensionary benefits up to the period of superannuation i.e. 30.06.2007. His prayer for correction of date of birth is not accepted. The appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
Member


(Niaz Muhammad Khan)
Chairman
Camp Court, A/Abad

ANNOUNCED
22.11.2017

Certificate of true copy

Service Tribunal,
Peshawar

Date of Presentation of Appeal 01-01-19
Number of Words 2020
Copying Fee 12-00
Urgent 2-00
Total 14-00
Name of Copyist 
Date of Completion of Copy 01-01-19
Date of Delivery of Copy 01-01-19

VAKALAT NAMA

NO. _____/20

IN THE COURT OF K.P.K Service Tribunal, Peshawar

Muhammad Bashir

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Education Deptt.

(Respondent)
(Defendant)

I/We, Muhammad Bashir


Do hereby appoint and constitute **SYED NOMAN ALI BUKHARI and Uzma Syed Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

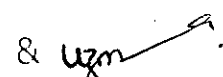
I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20


(CLIENT)

ACCEPTED


SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar.


UZMA SYED
Advocate High Court Peshawar.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Execution Petition No. 02/2019

IN

Service Appeal No. 1208/2013

Muhammad Bashir Ex-IV, District Haripur..... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department
Peshawar & Others (Respondents)

Respectfully Sheweth:-

1. That the above titled Execution petition is pending for adjudication before this Honorable Tribunal and is fixed for hearing on 14-03-2019.
2. That judgment dated 22-11-2017 passed by this Honorable Tribunal in the service appeal No. 1208/2013 of the present appellant has been challenged by the Respondent Department vide CPLA No. 19-P/2018, titled Govt: of Khyber Pakhtunkhwa through Secretary (E&SE Department) & others VS Muhammad Bashir in the august Supreme Court of Pakistan. **(Copy of CPLA is attached as annexure-A)**
3. That the matter of grant of pensionary benefits of the appellant is subjudiced before the appellate court for adjudication, hence the instant execution petition is liable to be dismissed on this score.

Under the circumstances, it is therefore humbly prayed that the above.titled Execution petition may be dismissed without further proceedings till the final orders of the august Supreme Court of Pakistan in this regard, please.

Dated: 14-03-2019


District Education Officer (M)

Haripur.

(For Respondents)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA NO. 19 - P /2018

Government of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education, Peshawar & Others

-----PETITIONERS

VERSUS

Mr. Muhammad Bashir

-----RESPONDENT

Appeal from : KPK, Service Tribunal, Peshawar
Counsel for Petitioner : Advocate General, KPK, Peshawar
Instituted by : Mian Saadullah Jandoli, AOR

INDEX

S.No	Description of documents	Dated	Page
1.	Concise statement	16-01-2018	A-B
2.	C.P.L.A	16-01-2018	1-4
3.	Judgment of KPK, Service Tribunal, Peshawar	22-11-2017	5-10
4.	Grounds of appeal	06-08-2013	11-13
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6.	Charge report		18
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9.	Certificate regarding verification of service		24
10.	Departmental appeal	12-10-2012	25
11.	Termination order	18-09-2012	26
12.	Stay application	16-01-2018	27-28
13.	Affidavits	16-01-2018	29-31

CERTIFIED that the paper book has been prepared in accordance with the rules of the Court and all the documents necessary for due appreciation of the court have been included in it. Index is complete in all respect.

(Mian Saadullah Jandoli)
Advocate on Record
Supreme Court of Pakistan
For Govt. of KPK/petitioners

(A)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA NO. 19 - P /2018

Government of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education, Peshawar & Others

-----PETITIONERS

VERSUS

Mr. Muhammad Bashir

-----RESPONDENT

CONCISE STATEMENT

- 1- Subject matter and the law Claim for Correction of Age as well as Pensionary Benefits
- 2- Which side has filed this petition Government / petitioners

Court / Forum	Date of a) Institution b) Decision	Who filed it and with what result
KPK Service Tribunal Peshawar	a)06/08/2013 b)22/11/2017	Respondent filed service appeal which has been accepted
Points noted in the impugned Judgment	Treatment of points in the impugned judgment	
The learned counsel for the respondent argued that correct date of birth of the respondent is 07/02/1952 and not 07/02/1949. That the respondent had also got a decree in his favour regarding correction of date of birth on 15/01/2010 against NADRA. That date of retirement of the respondent according to correct date of birth comes to be 07/02/2012 but the respondent was not paid salary from 30/06/2007. Secondly his services were terminated	The appointment letter of the respondent mentions that he was appointed on fixed pay/contract basis but there is nothing on record to show that when his services were regularized. But it is an admitted fact that he continued his services till 30/06/2007. In between these two dates many civil servants were regularized by operation of law. Secondly the very impugned order terminating the services of the respondent on completion of 60 years of age is itself proof of the fact that	

...e.f 30/06/2007 instead of issuing order of superannuation.

On the other hand, the learned Additional Advocate General argued that the present appeal is time barred. That this Tribunal has no jurisdiction as the respondent was appointed on fixed pay/contract appointment. That he was never regularized. Secondly that no order of retirement on superannuation was passed by the department for the reason that he is not a civil servant. He further contended that date of birth of a civil servant could be corrected within two years of the assumption of the charge and not thereafter.

he was a civil servant. Otherwise what was the fun in terminating the services of the respondent on attaining the age of 60 years? Thirdly in the written reply by the petitioners in two paras it has been admitted that the respondent is a civil servant. In para-2 of the reply it has been written that the respondent had concealed the fact of his being civil servant from the civil court and then in ground -F it has been clearly written that the respondent was retired on attaining the age of 60 years on superannuation. So this Tribunal reaches the conclusion that the respondent is a civil servant and this Tribunal has the jurisdiction in the present matter.

As a sequel to above discussion, the respondent is held to be civil servant and is also held to be entitled for pensionary benefits up to the period of superannuation i.e. 30/06/2007. His prayer for correction of date of birth is not accepted. The appeal is disposed of in the above terms.

LAW/RULING ON THE SUBJECT

FOR

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- 1998 SCMR 1494
- 3- 1998 PLC (CS) 624
- 4- 1993 PLC(CS) 633

CERTIFICATE:

CERTIFICATE that I myself prepared the above concise statement which is correct.

(Mian Saadullah Jandoli)
Advocate-on-Record
Supreme Court of Pakistan
For Government

①

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA NO. 19-P /2018

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar
2. Secretary Finance Department, Khyber Pakhtunkhwa Peshawar
3. Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar
4. District Education Officer (Male) District Haripur

-----PETITIONERS

VERSUS

Mr. Muhammad Bashir, Chowkidar,
GPS Kohmal, District Haripur

RESPONDENT

CIVIL PETITION FOR LEAVE TO APPEAL UNDER
ARTICLES 212(3) OF THE CONSTITUTION OF
ISLAMIC REPUBLIC OF PAKISTAN, 1973 AGAINST
THE IMPUGNED JUDGMENT/ ORDER OF
LEARNED KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR DATED 22/11/2017 IN
SERVICE APPEAL No.1208/2013

RESPECTFULLY SHEWETH

The substantial questions of law of public importance and grounds, inter alia, which falls for determination of this august Court are as under:-

Whether the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar does not suffer from material illegality, factually incorrect and require interference by this august Court?

Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar has properly and legally exercised its jurisdiction in the matter in hand?

3. Whether the respondent date of birth was not recorded as 1947 in the service book which could be rectified within two years period from the date of appointment?

4. Whether the respondent has no cause of action to ask for correction of date of birth at the verge of retirement or after retirement?

5. Whether the respondent was not rightly removed/ retired from his service on 30/6/2007 being reached to the age of superannuation i.e. 60 years age?

6. Whether after completion of 60 years age and retiring at the age of superannuation the respondent has no right and claim to be retained on service after the age of 60 years?

7. Whether the ex-parte decree obtained by the respondent regarding his correction of age from the Civil Judge is not without jurisdiction as the age is related to term and condition of service which exclusively falls within the jurisdiction of Service Tribunal under article 212 of the Constitution of Islamic Republic of Pakistan, 1973?

8. Whether the respondent was not appointed on fixed pay and never remain as regular employee of the department therefore not entitle for pensionary benefits?

9. Whether the impugned judgment and order of the Hon'ble Service Tribunal is not in utter violation of service law and rules?

Whether the service appeal to respondent was not barred by time and the Hon'ble Service Tribunal has illegally entertained a time barred appeal of respondent?

11. Whether the respondent has not served in the department after 2007 being relieved at the age of superannuation and legally not entitled for any monetary benefits?

12. Whether through the impugned judgment the public exchequer has not been burdened unnecessarily?

FACTS

II- Facts relevant to the above points of law, inter alia, are as under:-

1. That the respondent was appointed as Class-IV in Education Department in 1996 as Chowkidar on fixed pay.
2. That at the time of appointment the respondent date of birth was recorded in the service book 1947 who has to be retired on 30/6/2007 from service.
3. That according to the entry in the service book of 1947, the salary of the respondent was stopped and removed from service on the age of superannuation and the pensionary benefits was refused to the respondent being not a regular employee of the department.
4. That the respondent filed service appeal No.1208/2013 before the Hon'ble Service Tribunal, Peshawar wherein comments were called from the petitioners which were filed accordingly.
5. That the Hon'ble Service Tribunal Peshawar accepted and allowed the service appeal of respondent by treating the respondent a regular employee and also extended the benefits of pension as well as the benefits after the age of removal

for which the respondent has not performed his duty vide order dated 22/11/2017.

6. That the petitioners mortally aggrieved from the impugned judgment/order of the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 22/11/2017 in service appeal No.1208/2013 prefer this CPLA before this august Court.

7. That the petitioners seek leave to appeal against the impugned judgment and order of the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 22/11/2017 in service appeal No.1208/2013.

It is, therefore, prayed that on acceptance of this petition leave to appeal against the impugned judgment and order of the Honble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 22/11/2017 in service appeal No.1208/2013 may graciously be granted.

(Mian Saadullah Jandoli)
Advocate-on-Record
Supreme Court of Pakistan
For Government

NOTE:

Learned Advocate General, KPK/ Addl. AG /State Counsel shall appear at the time of hearing of this petition.

ADDRESS

Office of the Advocate General, KPK, High Court Building, Peshawar. (Telephone No.091-9210119, Fax No.091-9210270)

CERTIFICATE Certified that no such petition has earlier been filed by Petitioners/ Government against the impugned judgment mentioned above.

Advocate-On-Record

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 02/2019

Mr. Muhammad Bashir Ex- Chowkidar GPS Komal Payen, Haripur:

(Appellant)

VERSUS

District Education Officer (M) Haripur & Others.....

(Respondents)

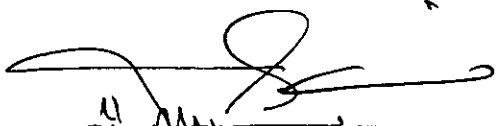
IMPLEMENTATION REPORT

Respectfully Sheweth:-

1. That the above titled Execution petition is fixed before this Honorable Tribunal to-day on 19-12-2019 for further adjudication.
2. That the Judgment dated 22-11-2017 was challenged by the respondent department vide CPLA No.19-P/2018 which was dismissed vide order dated 18-06-2019 by the august Supreme Court of Pakistan, however the Government of Khyber Pakhtunkhwa Finance Department vide Notification dated 22-05-2019 has also regularized the services of fixed pay employees w.e.f the date of their 1st appointment order. **(Copy of judgment dated 18-06-2019 and copy of Finance Department letter dated 22-05-2019 are attached as annexure-A & B)**
3. That the case of the appellant was delayed due to missing of his original Service Book and now a duplicated Service Book for the purpose of his pension and pensionary benefits has been completed and Sanction for the same has also been granted vide letter dated 18-12-2019. **(Copy of service book and copy of sanction dated 18-12-2019 are attached as annexure-C and D)**
4. That the case of the appellant is in progress and shall be completed by observing all codal formalities.

PRAYER

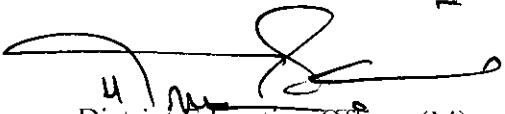
It is therefore, humbly prayed that on acceptance of above made humble submissions, the instant Execution Petition may graciously be dismissed to secure the precious time of this Honorable Tribunal and Department, please.


District Education Officer (M)
Haripur

VERIFICATION:

Certified that contents of forgoing implementation report are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.

Respondents


District Education Officer (M)
Haripur

Annex - A

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Lit.
[Handwritten signature]

PRESENT:

MR. JUSTICE GULZAR AHMED
MR. JUSTICE MUSHIR ALAM

CIVIL PETITION NO. 19-P OF 2018

(On appeal from the judgment dated 22.11.2017 passed by the Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad in Service Appeal No.1208/2013)

4071
25/06/19

Govt of KPK through Secretary Elementary & Secondary Education Peshawar & others

...Petitioner(s)

VERSUS

Muhammad Bashir

...Respondent(s)

For the Petitioner(s):

Mr. Zahid Yousaf Qureshi, Addl. AG KPK
Said Badshah, Litigation Officer

For the Respondent(s):

N.R.

Date of Hearing:

18.06.2019

ORDER

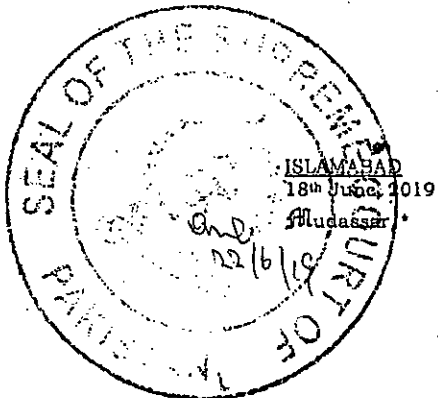
GULZAR AHMED, J.— We have heard the learned Additional Advocate General Khyber Pakhtunkhwa. He contends that the respondent was a contract employee, thus, was not entitled to pensionary benefits. We noted that this aspect and all other aspects of the case have been dealt with in the impugned judgment passed by the learned Khyber Pakhtunkhwa Service Tribunal. No question of law of public importance has been raised in this petition calling for interference under Article 212(3) of the Constitution of Islamic Republic of Pakistan, 1973. Dismissed accordingly.

Sd/-J

Sd/-J

Certified to be True Copy

[Handwritten signature]
Court Associate
Supreme Court of Pakistan
Islamabad



TO BE SUBSTITUTED BEARING SAME NO. & DATE.



GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

Dated Peshawar the 22-05-2019

Annex - B

NOTIFICATION

No.FD(SOSR-II)4-36/2017. In pursuance of the judgement of Peshawar High Court Abbottabad Bench in Writ Petition No. 627-A/2018 dated: 18.12.2018 and Judgements of various Lower Courts as well as supersession of Finance Department policy letter No.BO-I/1-22/2007-08/FD dated: 29.01.2008, the Competent Authority has been pleased to accord sanction of regularization of Fixed Pay Class-IV employees appointed on the basis of policies issued vide Finance Department notifications No. B-I/2-1/92-93/I dated: 04.11.1992 and No.B-I/1-22/94-95/FD Vol-II dated: 24.07.1999 by extending them the status of civil servant as per Civil Servant Act 1973 from the date of their first appointments instead of the date of their regularization w.e.f 01.07.2008 in their respective entities in the best of public interest.

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Endst: No & date even

Copy for information and necessary action is forwarded to the.

1. The Additional Chief Secretary (P&D), Khyber Pakhtunkhwa.
2. The Provincial Police Officer, Khyber Pakhtunkhwa.
3. The Accountant General, Khyber Pakhtunkhwa.
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
6. All Administrative Secretaries Government of Khyber Pakhtunkhwa.
7. All Deputy Commissioners in Khyber Pakhtunkhwa.
8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
9. The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
10. The Director, Local Fund Audit, Khyber Pakhtunkhwa.
11. Director, FMUC, Finance Department.
12. Budget Officer-NI, Finance Department.
13. Budget Officer-I, Finance Department with reference to their letters quoted above.
14. All District Controller of Accounts, Khyber Pakhtunkhwa.
15. All District Account Officers in Khyber Pakhtunkhwa.
16. PS to Chief Secretary, Khyber Pakhtunkhwa.
17. PS to Secretary Finance, Khyber Pakhtunkhwa.
18. PS to Special Secretary Finance Department, Khyber Pakhtunkhwa.
19. PA to Additional Secretary (Regulation), Finance Department.

MAO 72300 KHYBER

Heirs,

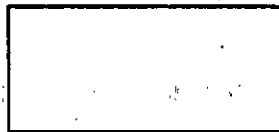
Annex - C

1. _____ 2. _____

3. _____ 4. _____

FIRST APPOINTMENT ORDER:

Left Thumb Impression



Academic and Professional Qualification

Date

Verification/Roll No. Dated

S.S.C.

Sanctioned of Duplicate Service Book

Intermediate

Sanctioned of Duplicate service books, etc.

Bachelor / B.S.

approved by Competent authority, vide SDEO (M) (F) D

Master / M.S.

Khanpur Endst No - 1018 dated 23/11/2019.

SDEO (M)
KHANPUR

Other Qualifications

CERTIFICATES

- 01- Certified that Mr. Muhammad Basim Exchow Sps Rahmal Pawan has not availed any leave w.e.f. date appointment to D/O Retirement.
- 02- He has not received any H.B.A. and Motor Cycle Advance during his service.
- 03- Neither he was suspended nor terminated during his service.
- 04- He has not received any pension claim of his service.

Plan-drawing

Drill Instructing

Court Duties

Reserve Duties

Leadership Examination

SDEO (M)
KHANPUR

Note: The entries on this page should be renewed are re-attested as least every five years in the signature to lines 11 and 12 should be dated

1. Name Muhammad Basim

2. NIC No. 13302-0452843-9

3. Race Dhaund 4. District of Domicile Haripur

5. Residence Village No. Rehman Raen Teh. Khanpur - Haripur
Muhammad Shasif Khan.

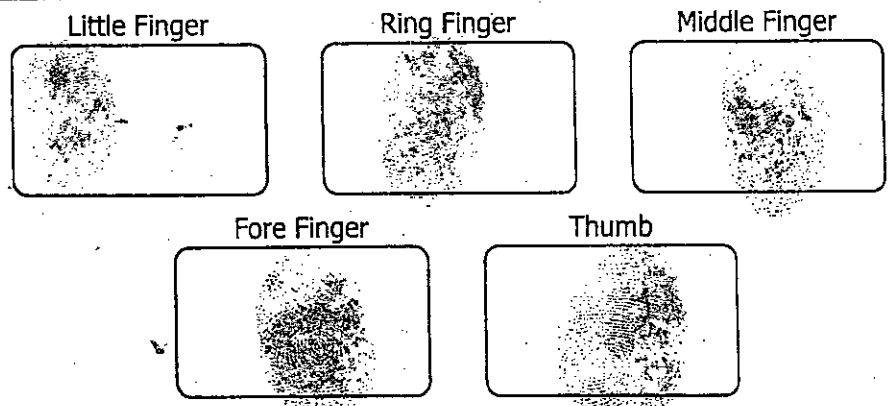
6. Father name and residence -same as above-

7. Date of Birth by Christian era as nearly as can be ascertained: 3/19/47 N.H. - Forty Seven. ✓

8. Exact height by measurement:

9. Personal Marks for Identification:

10. Left Hand Thumb and Finger Impression of (Non Gazetted Officer)



11. Signature of Government Servant:

12. Signature & Designation of the Head of the Office, or other attesting officer.

(Signature)
Rishwan Siddique
ASDEO (M) Kohala
Sub Div. Khanpur, Haripur.

1	2	3	4	5	6	7	8	
Name of Post	Substantive Whether Substantive or officiating and whether permanent or temporary	If officiating state (i) substantive appointment, or (ii) whether service counts for pension under art 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government Servant	
Chow Lps Kotimal Paen.			1200/- P.M			07/1996		
				Fixed				
			4000/-	Fixed		11/2006		
do								
		Entries Revised due to Service Regularized wef D.O. App# in						
		BPS-01						
do		BPS 01 (1245-35-1770)						
			1245/-			7/1996		
do			1280/-			1/96		
			1315/-			1/97		
do			1350/-			1/98		
			1385/-			1/99		
do			1420/-			1/2000		
do			1455/-			1/01		

9 Signature and Designation of the Head of the Office or other attesting Officer in attestation of Column 1-8	10 Date of Termination or Appointment	11 Reason of Termination (such as promotion, Transfer, Dismissal etc)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the Head of the Office or other attesting officer	15 Reference to any recorded punishment or censure or reward or praise of the government servant	
				Nature & Duration of Leave taken	Allocation of period of leave on average pay up to four months for which leave salary is debit able to another government			
					Period			Government to which debit able
SDEO <i>[Signature]</i>					Appointed against vacant post of Chowkidar at GPS Komal			
					Payeen Contract Basis vide SDEO (M) Haripur No. 457			
					Dated 07-04-1996.		<i>[Signature]</i>	
							SDEO (M)	
							SDEO (M)	
SDEO <i>[Signature]</i>	30/11/96	A/nt	SDEO <i>[Signature]</i>		Regularized vide Govt of NWFP Finance Dept NWFP			
SDEO <i>[Signature]</i>	30/11/97	A/nt	SDEO <i>[Signature]</i>		vide Notification No BOI/1-22/2007-2008 Dated 29-01-2008			
SDEO <i>[Signature]</i>	30/11/98	A/nt	SDEO <i>[Signature]</i>		in BPS-01 from the Date of Appnt.		<i>[Signature]</i>	
SDEO <i>[Signature]</i>	30/11/99	A/nt	SDEO <i>[Signature]</i>				SDEO (M) KHANPUR SDEO (M)	
SDEO <i>[Signature]</i>	30/11/2000	A/nt	SDEO <i>[Signature]</i>					
SDEO <i>[Signature]</i>	30/11/01	A/nt	SDEO <i>[Signature]</i>		from 30/11/2000 and		7/4/1996 Rolls	
SDEO <i>[Signature]</i>	7-12/01	Pay scale Revised	SDEO <i>[Signature]</i>				<i>[Signature]</i> SDEO (M) KHANPUR	

9	10	11	12	13		14	15
				Leave			
				Nature & Duration of Leave taken	Allocation of period of leave on average pay up to four months for which leave salary is debit able to another government		
Signature and Designation of the Head of the Office or other attesting Officer in attestation of Column 1-8	Date of Termination or Appointment	Reason of Termination (such as promotion, Transfer, Dismissal etc)	Signature of the head of the office or other attesting officer	Period	Government to which debit able	Signature of the Head of the Office or other attesting officer	Reference to any recorded punishment or censure or reward or praise of the government servant
<i>[Signature]</i> SDEO	30/11/02	A/NT	<i>[Signature]</i> SDEO			Service to 30/11/2002 and other...	1/12/2000 Rolls
<i>[Signature]</i> SDEO	30/11/03	A/NT	<i>[Signature]</i> SDEO				<i>[Signature]</i> SDEO (M) KHANPUH
<i>[Signature]</i> SDEO	30/11/04	A/NT	<i>[Signature]</i> SDEO			Service to 30/11/04	1/12/2002
<i>[Signature]</i> SDEO	30/6/05	Pay scale Revised	<i>[Signature]</i> SDEO				<i>[Signature]</i> SDEO (M) KHANPUH SDEO
<i>[Signature]</i> SDEO	30/11/05	A/NT	<i>[Signature]</i> SDEO			Service to 30/6/2007 and other...	1/12/2004
<i>[Signature]</i> SDEO	30/11/06	A/NT	<i>[Signature]</i> SDEO				<i>[Signature]</i> SDEO (M) KHANPUH
<i>[Signature]</i> SDEO	30/6/07	Retired from service 60 year age	<i>[Signature]</i> SDEO			Sanction of Duplicate Service Bavik 920 Muhammad Bashir Ex Chowkidar GPS Kamal Preen vide approved by the Competent Authority vide SDEO (M) Khanpura No. 1018 Dated 23/11/2019.	<i>[Signature]</i> SDEO (M) KHANPUH

Annexure-D

REVISED

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
HARIPUR

P.No.0995-920150.920151
deomalehrp@yahoo.com

Retirement Sanction/Leave encashment.

In pursuance Govt. of Khyber Pakhtunkhwa Finance Department (Regulation wing) vide notification No.FD/SOSR-II/4-36/2017 dated 22-05-2019 and as approved by the competent authority that the following C-IVs servants of Elementary & Secondary Education Department in District Haripur are hereby allowed to retirement from service with effect from the date noted against each and also leave encashment due & admissible to them under the Revised leave rules-1981.

S.No.	Name & Designation / School	Date of Retirement	Leave encashment due in lieu of LPR	Remarks
1.	Mr. Bholu Khan S/O Jumma Khan Ex-Chowkidar GPS, Pumbala.	30-06-2009 on superannuation. His DOB is 1949 as per S/Book. He died on 3-2-18 after retirement	180-days	Sanction already been granted to him vide this office No.7237-39 dated 30-6-17 is hereby as null & void.
2.	Mr Muhammad Bashir S/O Muhammad Sharif Khan Ex-Chowkidar GPS Komal Payeen	30-06-2007 on superannuation. His DOB is 1947.	180-days	

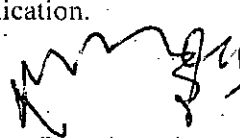
- 1- Necessary entries to this effect should be made in their S/Book, accordingly.
- 2- Recovery of overpayment is outstanding against him should be recovered lumpsum of their pension / Gratuity, if any
- 3- The SDEO (M) Ghazi is hereby directed to make their duplicate Service books of the above named Ex-C-IVs servants on the fulfilling of all required codal formalities in the light of photo state service books documents as per rules.

Sd/-
District Education Officer
(M) Haripur.

1156-58
Endst.No. F.No.4-5/GB/C-IVs F/Pay employees Dated Haripur the 18/12 / 2019

Copy of the above is forwarded for information & necessary action to :-

- 1- The District A/Cs Officer Haripur.
- 2- The SDEO (M) Khanpur with the remarks that all the dues may be paid to the concerned the widow of deceased through cross cheque to avoid any complication.
- 3- ADEO (Litigation) local office.


Superintendent
O/O the District Education Officer
(M) Haripur.
18/12/19



Acct office = 127

127-20

Office of the District Education Officer Male

Haripur

Tel No: 0995-920150 920151 920152.

deomalehrp@yahoo.com

Dated 04/02/2020

No 1292 /F.No 10-3/AB/Pension

To,

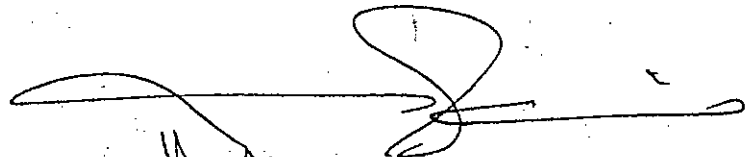
The District Accounts Officer,
Haripur.

Subject: PENSION PAPERS IN RESPECT OF MR. MUHAMMAD BASHIR, EX. CHOWKIDAR
GPS, KOHMAL PAYEN HARIPUR RETIRED FROM SERVICE W.E. FROM 30.06.2007.

Memo:

Reference this office Sanction for the retirement Ends: order No.11156-58/file No 4-5/GB/C-IVs F/Pay dated 18.12.2019. Retired from service w.e. from 30.06.2007 in r/o Mr. Muhammad Bashir, Ex-Chowkidar GPS, Kohmal Payen Haripur. Pension papers (2-Sets) along with original Service Book, the following documents in respect of above named official are enclosed for further process please.

- 1- Service Book (Origin
- 2- Pension Papers.
- 3- Photo copy of CNIC.
- 4- No Demand Certificate
- 5- Non Involvement Certificate.
- 6- LPC
- 7- Pay Stoppage
- 8- Option certificate
- 9- Under Taking
- 10- Specimen Signature
- 11- Thumb & Finger Impressions
- 12- Retirement Sanction
- 13- Option through Bank
- 14- Pay slip
- 15- List of Family members


DISTRICT EDUCATION OFFICER (M)
HARIPUR

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1386 /ST

Dated 19/07 / 2021


To

The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
Haripur.

SUBJECT: - ^{EP:} ORDER IN APPEAL NO. 2/2019, MR. MUHAMMAD BASHIR.

I am directed to forward herewith a certified copy of order dated 07.07.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

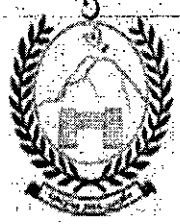

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.



OFFICE OF THE DISTRICT EDUCATION OFFICER (M)

HARIPUR

Ph. No. 0995-920150, 920151
Email: deomalehrp@gmail.com



No. _____ / F No. 7-1/ST/HRP

Dated 23 / 08/2021

To,

The Registrar
Khyber Pakhtunkhwa Service Tribunal
Peshawar.

Reference: Letter No. 1386/ST dated 19-07-2021.

Subject:- **ORDER IN APPEAL NO. 2/2019 MR. MUHAMMAD BASHIR/COMPLIANCE REPORT.**

Memo:

It is submitted that:-

1. The appeal mentioned in the subject is pending before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in which 23-08-2021 is fixed for hearing/personal attendance of the undersigned.
2. That the pension of the appellant has been issued on 04-05-2020 and is continue onward.
(Copies of the Pension Slip and Account Statement are attached herewith)
3. That the order of the Honorable Khyber Pakhtunkhwa Service Tribunal has been complied fully and the order has been executed.
4. That the grievances of the petitioner have been addressed.

Therefore it is very humbly requested that the Execution Petition of the Appellant may very kindly be dismissed please.


District Education Officer (M)
Haripur

Even No. & Date:

Copy forwarded for information to the:-

1. Muhammad Bashir Ex-C-IV R/O Village Kohmal Paen, P/O Barkot, Haripur.
2. Office Copy.


District Education Officer (M)
Haripur

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1386 /ST

Dated 19/07 / 2021


To

The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
Haripur.

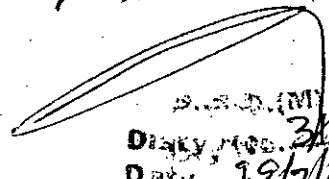
SUBJECT: - ORDER IN APPEAL NO. 2/2019, MR. MUHAMMAD BASHIR.

I am directed to forward herewith a certified copy of order dated 07.07.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

ADFO dit. dit.
T.D.E.O. (Supdt)


Disty. No. 3162
Date 19/7/2021

Execution Petition No = 2/19

in Appeal No: 1208/2013

titled Muhammed Bashir

EP 2/2019

07.07.2021

Counsel for the petitioner and Mr. Muhammad Adeel

Butt, Addl. AG for the respondents present.

The petitioner through this execution petition seek implementation of the judgment dated 11.11.2017 at his credit. It is there in the operative part of the judgment that the appellant was held to be civil servant and was also held to be entitled for pensionary benefits up to the period of superannuation i.e. 30.06.2007. The other prayer for correction of date of birth was not accepted. The appeal was disposed of in the said term. The Execution Petition was filed on 02.01.2019 and after lapse of about two and half years it is still awaiting the response of the respondents regarding implementation of the judgment at credit of the petitioner. The orders passed subsequent to institution of the Execution Petition have been gone through. The order dated 14.03.2019 would reflect that the Tribunal was informed by learned AAG then present before the Bench that the department had filed CPLA against the judgment under implementation. However, if any suspension order regarding judgment of this Tribunal would have produced, it must have been mentioned in the order sheet but there is no such mention. The same was repeated on 21.05.2019 that the CPLA has been filed. Then there are different adjournments on account of different reasons without any progress shown towards implementation of the judgment. On 18.11.2019, the respondents were directed to submit the implementation

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

report on the next date i.e. 19.12.2019. On that date, the representative of respondents submitted implementation report and noted by the Bench. It was disclosed therein that the duplicate service book of the petitioner has been completed and sanction for his pension benefits has also been granted on 18.12.2019. On request of the representative further time was given for final execution of the judgment. On next date i.e. 06.02.2020, a letter for grant of pensionary benefits was forwarded to the District Accounts Officer, Haripur. Respondents were directed vigorously to pursue this case and ensure its early finalization. Then came up the COVID, 19. On 15.06.2020 learned AAG was present on behalf of the respondents but no visible progress was shown in the matter of execution. After many adjournments thereafter, comes the date today but none is present on behalf of the respondents. Although they are represented by the learned AAG but he is not in a position to convince the Bench about the positive fate of the implementation of the judgment. Thus, it necessitates to direct for personal attendance of respondent No. 4 who is at helm of the affairs relating to implementation of the judgment in its letter and spirit. Office is directed to send notice to the said respondent for personal appearance, alongwith copy of this order sheet. Case to come up on 23.08.2021 before S.B.

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


Chairman

Pension Calculation in respect of Muhammad Bashir (BPS-1)

Retired from Government of Khyber Pakhtunkhwa on Superannuation Pension
Opted for 35% commutation

Date of Retirement :	Year - Month - Day 2007 - 06 - 30
Date of Birth :	1947 - 07 - 01
Age at Retirement :	59 y, 11 m, 29 d

Date of Retirement :	2007 - 06 - 30
Date of Appointment :	1996 - 04 - 07
Length Service :	11 y, 2 m, 23 d

Qualifying Service :	11 years
Basic Pay :	2,930.00
Total Emoluments :	2,930.00
Gross Pension :	752.03
35% Commuted Portion :	263.21
Net Pension :	488.82
Commutation Rate :	148.4628
Commutation Amount :	39,076.89
Date of Restoration :	30-06-2019

Net Pension		488.82
15% increase of 2010	73.32	562.14
15% increase of 2011	84.32	646.46
20% increase of 2012	129.29	775.75
15% increase of 2013	116.36	892.11
10% increase of 2014	89.21	981.32
10% increase of 2015	98.13	1,079.45
10% increase of 2016	107.95	1,187.40
10% increase of 2017	118.74	1,306.14
10% increase of 2018	130.61	1,436.75
Minium Pension Payable Rs.		10,000.00
10% increase of 2019	1,000.00	11,000.00
25% Medical Allowance of 2010	140.54	
25% increase on Medical Allowance	35.14	
Net Pension Payable Rs:		11,175.68

PENSION ROLL DATA SHEET & PENSION SLIP

: 29.04.2020
 FRESH
 .er : 00936234-01
 ID : 00936234
 n Register No:7534
 oner's Name : MUHAMMAD BASHIR
 her / Husband name : MUHAMMAD SHARIF
 esignation: CHOWKIDAR
 NIC No.: 1330204528439
 Grade / Scale : 01
 Department.Min: Education Schools
 Pensioner's Type: SELF
 Pension Type: SUPERANNUATION
 Date of Birth :01.07.1947
 Date of appointment:07.04.1996
 Date of retirement: 30.06.2007
 Date of Death:
 Date of commence :01.07.2007
 Date of Restoration :
 Accounts office ID :HR
 Accounts office Name :Haripur
 Federal / Province :Khyber Pakhtunkhwa
 Length of Qualifying Service :11 years,2 months,23 days
 Old PPO Number :
 No. and Date of sanction of pension / Letter No. :
 and the date of the other Audit and Accounts officer authourising
 the Pension/Gratuity/Commutation
 Permanent Address:

Note :
 Age : 60 years
 Last Drawn pay/Emoluments(Rs.): 2930.00
 Gross Pension(Rs.) : 752.03
 1/4th Surrendered Portion (Rs.) :
 Commuted Portion (Rs.) : 263.21
 Net Pension (Rs.) : 488.82
 Net Family Pension (Rs.) : 0.00
 Amount of Commutation(Rs.) : 39077.00
 With Held Amount (Rs.) : 0.00
 Life Time Arrears (Rs.) : 0.00
 Arrears Of Pension (Rs.) : 0.00
 Special Additional Pension (Rs.) : 0.00
 Commutation Percentage : 35.00
 Commutation Table value : 12.37
 Recovery on A/C of :
 Debitable to Govt :Khyber Pakhtunkhwa
 Total Net Share
 Federal : 0.00 Punjab : 0.00
 Sindh : 0.00 NWFP : 0.00
 Balochistan : 0.00 Military : 0.00
 AJK : 0.00 Autonomous : 0.00

He/She is also entitled to the following increases

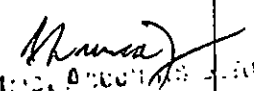
Sr. No.	Period	Increase % or amount	Increase Amount	W.E.F.
1	JUL.2014	Rs. 5512.00	5512.00	01.04.2020
2	JUL.2015	10.00 %	600.08	01.04.2020
3	JUL.2016	10.00 %	660.09	01.04.2020
4	JUL.2017	10.00 %	726.10	01.04.2020
5	JUL.2018	Rs. 2014.00	2014.00	01.04.2020
6	JUL.2019	10.00 %	1000.11	01.04.2020
7	0.	Rs. 0.00	0.00	
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24				
25				
26				
27				

PENSION SLIP

Month: April
 Year: 2020

Pension roll details

Wage Type	Wage Type Text	Amount
1559	Payment	889000.00
0100	Monthly Pension - Self	489.00
0101	Pension Increases - Self	10512.00
1599	Medical Allow - Pensioner	750.00
1600	Med. All. 2015 Pensioner	187.00
5901	Arrears of Pension	777716.00
5905	Adj. Penroll Medical All.	99346.00


 ✓ DISTRICT ACCOUNTS OFFICER
 HARIPUR

Bank Details

Bank Account Number : 3162769203
 Bank Branch : JABREE
 JABREE
 Payment Mode : NATIONAL BANK OF PAKISTAN

PENSION ROLL DATA SHEET & PENSION SLIP

: 02.08.2021
 FRESH
 Ser : 00936234-01
 Ser ID : 00936234 -
 n Register No:7534
 Pensioner's Name : MUHAMMAD BASHIR
 Ser / Husband name : MUHAMMAD SHARIF
 Designation: CHOWKIDAR
 NIC No.: 1330204528439
 Grade / Scale : 01
 Department.Min: Education Schools
 Pensioner's Type: SELF
 Pension Type: SUPERANNUATION
 Date of Birth :01.07.1947
 Date of appointment:07.04.1996
 Date of retirement: 30.06.2007
 Date of Death:
 Date of commence :01.07.2007
 Date of Restoration :
 Accounts office ID :HR
 Accounts office Name :Haripur
 Federal / Province :Khyber Pakhtunkhwa
 Length of Qualifying Service :11 years,2 months,23 days
 Old PPO Number :
 No. and Date of sanction of pension / Letter No. :
 and the date of the other Audit and Accounts officer authorising
 the Pension/Gratuity/Commutation
 Permanent Address:

Note :

Age : 60 years
 Last Drawn pay/Emoluments(Rs.): 2930.00
 Gross Pension(Rs.) : 752.03
 1/4th Surrendered Portion (Rs.) :
 Commuted Portion (Rs.) : 263.21
 Net Pension (Rs.) : 488.82
 Net Family Pension (Rs.) : 0.00
 Amount of Commutation(Rs.) : 39077.00
 With Held Amount (Rs.) : 0.00
 Life Time Arrears (Rs.) : 0.00
 Arrears Of Pension (Rs.) : 0.00
 Special Additional Pension (Rs.) : 0.00
 Commutation Percentage : 35.00
 Commutation Table value : 12.37
 Recovery on A/C of :
 Debitable to Govt :Khyber Pakhtunkhwa
 Total Net Share
 Federal : 0.00 Punjab : 0.00
 Sindh : 0.00 NWFP : 0.00
 Balochistan : 0.00 Military : 0.00
 AJK : 0.00 Autonomous : 0.00

He/She is also entitled to the following increases

Sr. No.	Period	Increase % or amount	Increase Amount	W.E.F.
1	JUL.2014	Rs. 5512.00	5512.00	01.04.2020
2	JUL.2015	10.00 %	600.98	01.04.2020
3	JUL.2016	10.00 %	660.09	01.04.2020
4	JUL.2017	10.00 %	726.10	01.04.2020
5	JUL.2018	Rs. 2014.00	2014.00	01.04.2020
6	JUL.2019	10.00 %	1000.11	01.04.2020
7	JUL.2021	10.00 %	1100.12	01.07.2021
8	0.	Rs. 0.00	0.00	
9				
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PENSION SLIP

Month: July
 Year: 2021

Pension roll details

Wage Type	Wage Type Text	Amount
559	Payment	13038.00
0100	Monthly Pension - Self	489.00
0101	Pension Increases - Self	11612.00
1599	Medical Allow - Pensioner	750.00
1600	Med. All. 2015 Pensioner	187.00

Bank Details

Bank Account Number : 3162769203
 Bank Branch : JABREE
 JABREE
 Payment Mode : NATIONAL BANK OF PAKISTAN

National Bank of Pakistan

Account Statement

Account Title(s) MUHAMMAD BASHIR

Address: VILLAGE KOHMAL POST OFFICE BARKOT

Town:

District:

City: HARIPUR

Province/State: KH.PAKHTOON

Country: PAKISTAN

Product Name:

Currency:

CIF No: 5675590

Account No: 3162769203

IBAN: PK23NBPA1644003162769203

Postal Code:

Branch Code/Name: 1644 Jabree Branch

Region Name: Abbotabad

Statement Printing Date: 30-Jul-2021

User: 00017949

Branch: 1644

Terminal: VDI-ABT

B/F Balance: 325.00

From: 01-Jan-2020

To: 30-Jul-2021

S. No.	Date	Particulars	Instno	Memo	Debit	Credit	Balance
1	11-Jan-2020	GROSS PROFIT		01	0.00	2.59	327.59
2	11-Jan-2020	WithHolding Tax		01	0.52	0.00	327.07
3	30-Apr-2020	DEPOSIT		commutatio	0.00	39,077.00	39,404.07
4	04-May-2020	PENSION		04	0.00	889,000.00	928,404.07
5	11-May-2020	CASH WITHDRAWAL	72813826		428,000.00	0.00	500,404.07
6	11-May-2020	WHT ON CASH WITHDRL			2,568.00	0.00	497,836.07
7	11-May-2020	WITHDRL	72813828		494,000.00	0.00	3,836.07
8	11-May-2020	WHT ON TRANSFER			2,964.00	0.00	872.07
9	20-May-2020	PENSION		20	0.00	11,938.00	12,810.07
10	09-Jun-2020	CASH WITHDRAWAL	72813829		12,500.00	0.00	310.07
11	24-Jun-2020	PENSION			0.00	17,098.00	17,408.07
12	30-Jun-2020	PENSION		30	0.00	11,938.00	29,346.07
13	07-Jul-2020	CASH WITHDRAWAL	72813830		29,000.00	0.00	346.07
14	11-Jul-2020	GROSS PROFIT		01	0.00	1,453.70	1,799.77
15	11-Jul-2020	WithHolding Tax		01	436.11	0.00	1,363.66
16	28-Jul-2020	PENSION		28	0.00	11,938.00	13,301.66
17	04-Aug-2020	CASH WITHDRAWAL	72813832		12,500.00	0.00	801.66
18	01-Sep-2020	PENSION		01	0.00	11,938.00	12,739.66
19	09-Sep-2020	CASH WITHDRAWAL	72813834		11,000.00	0.00	1,739.66
20	30-Sep-2020	PENSION		30	0.00	11,938.00	13,677.66
21	06-Oct-2020	CASH WITHDRAWAL	72813835		13,000.00	0.00	677.66
22	02-Nov-2020	PENSION		02	0.00	11,938.00	12,615.66
23	13-Nov-2020	CASH WITHDRAWAL	72813836		12,000.00	0.00	615.66
24	01-Dec-2020	PENSION		01	0.00	11,938.00	12,553.66
25	09-Dec-2020	CASH WITHDRAWAL	72813837		12,000.00	0.00	553.66

This is a computer generated statement and does not require any signature

National Bank of Pakistan

Account Statement

Account Title(s) MUHAMMAD BASHIR

Address: VILLAGE KOHMAL POST OFFICE BARKOT

Postal Code:

Branch Code/Name: 1644 Jabree Branch

Region Name: Abbottabad

Statement Printing Date: 30-Jul-2021

Account No: 00017949

Branch: 1644

Terminal: VDI-ABT

Town:

District:

City:

Province/State:

Country:

Product Name:

Currency:

CIF No: 5675590

Account No: 3162769203

IBAN:

B/F Balance: 325.00

From: 01-Jan-2020

To: 30-Jul-2021

Sl. No.	Date	Particulars	Instno	Memo	Debit	Credit	Balance
26	31-Dec-2020	PENSION		31	0.00	11,938.00	12,491.66
27	08-Jan-2021	CASH WITHDRAWAL	72813839		11,500.00	0.00	991.66
28	23-Jan-2021	GROSS PROFIT		01	0.00	126.25	1,117.91
29	23-Jan-2021	WithHolding Tax		01	37.88	0.00	1,080.03
30	01-Feb-2021	PENSION		01	0.00	11,938.00	13,018.03
31	11-Feb-2021	CASH WITHDRAWAL	72813840		11,000.00	0.00	2,018.03
32	27-Feb-2021	PENSION		27	0.00	11,938.00	13,956.03
33	09-Mar-2021	CASH WITHDRAWAL	72813841		13,000.00	0.00	956.03
34	31-Mar-2021	PENSION		31	0.00	11,938.00	12,894.03
35	08-Apr-2021	CASH WITHDRAWAL	72813842		11,000.00	0.00	1,894.03
36	29-Apr-2021	PENSION		29	0.00	11,938.00	13,832.03
37	31-May-2021	PENSION		31	0.00	11,938.00	25,770.03
38	08-Jun-2021	CASH WITHDRAWAL	72813843		25,000.00	0.00	770.03
39	30-Jun-2021	PENSION		30	0.00	11,938.00	12,708.03
40	17-Jul-2021	PENSION		17	0.00	13,038.00	25,746.03
41	17-Jul-2021	GROSS PROFIT		17	0.00	189.63	25,935.66
42	17-Jul-2021	WithHolding Tax		17	56.89	0.00	25,878.77
43	30-Jul-2021	CASH WITHDRAWAL	72813844		25,000.00	0.00	878.77

Total 22 Credit transactions of amount: 1,127,117.17

Total 21 Debit transactions of amount: 1,126,563.40

This is a computer generated statement and does not require any signature

Before the 1st Sesson Tribunal Peshawar.

Execution Petitioner No: 02/19.

Bashir Ahmad vs Education Dept-

Subject: Application for consequential the above mentioned Execution

P.O.F.

Jin

23/08/21

Respectfully Sheweth

~~That~~

1. That the above mentioned execution is Pending Before this Honble Tribunal & fixed for today.

2. That the Deptt implemented the judgment of Honble Service Tribunal & Petitioner is satisfied from the same.

3. It is, therefore, requested that the execution of Petition may be consequential due to compliance of judgment.

Petitioner

through

Syed Noor Ali Bulhan
Advocate High Court

Date 23/08/21