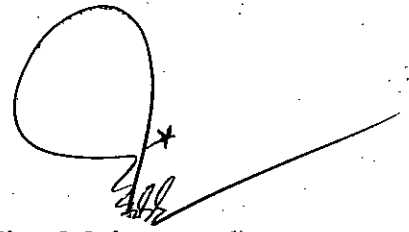


16.07.2020

Counsel for the petitioner and Addl: AG alongwith Mr. Abdul Salam, Audit Officer for respondents present.

Representative of the respondents submitted implementation report which is placed on file. Learned counsel for the petitioner submitted before the court that his grievance has been redressed and ^{he} does not want to proceed further. Since grievance of the petitioner has been redressed therefore, the instant execution petition is hereby dismissed as the petitioner is satisfied. File be consigned to the record room.

Announced:
16.07.2020

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right. The signature is written over the printed name and title.

(Mian Muhammad)
Member(E)

(44)

**MINUTES OF THE DEPARTMENTAL ACCOUNTS COMMITTEE MEETING FOR THE CASE
TITLED "TAJ AKBAR VS AGRICULTURE EXTENSION DEPARTMENT."**

A meeting regarding Departmental Accounts Committee Meeting for the case titled Taj Akbar Vs Agriculture Department has been held on 04.02.2020 under the chairmanship of Additional Secretary Agriculture Department at 10:30 AM in the Committee Room of Agriculture Department.

2. The following participated in the meeting.

- | | |
|----------------------|--------------------------------------|
| ➤ Shakeel Ahmad Shah | Audit Officer o/o DG Audit |
| ➤ Abdul Qayyum | District Director Agriculture Mardan |
| ➤ Ijaz Khan | Section Officer Law Department |
| ➤ Masood Khan | Assistant Finance Department |


3. The meeting started with the recitation from the Holy Quran, the chair welcomed the participants and explained the purpose of the meeting. The forum was informed that during the year 2012-13 audit reported a loss to Government due to allotment of high scale accommodation to lower Government servant amounting to Rs-140,640/- DAC. In its meeting held on 09.03.2015 decided deduction amounting Rs. 140,640/- from the salary of Mr. Taj Akbar Stenographer (BPs-14). Mr. Taj Akbar filed writ petition in Provincial Services Tribunal. The Provincial Services Tribunal in its Judgment dated 23/10/2019 accepted the appeal and the impugned order of DAC dated 09/03/2015 was set aside.


4. Law Department scrutiny committee discussed the case and declared it unfit for CPLA.

5. The Audit Para was discussed, Keeping in view the order of Provincial Services Tribunal and the decision of Scrutiny Committee, It was decided that the court decision has got finality, therefore the Para was settled, in the light of the Judgment of provincial Services tribunal.

5. The Meeting ended with a vote of thanks from the chair.


(SHAKEEL AHMAD SHAH)
Audit Officer

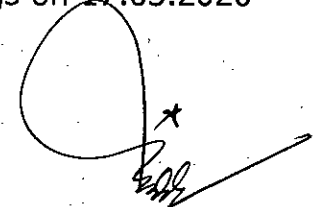

(IJAZ KHAN)
Section officer (Admn)


(MASOOD KHAN)
Assistant Finance Department


(MUHAMMAD KABIR AFRIDI)
Additional Secretary Agriculture

02.03.2020

Counsel for the petitioner present. Addl: AG alongwith Mr. Murad Ali Shah, Supdt for respondent No.3 and Mr. Abdul Salam Khan, Audit Officer for respondent No.4 present. Representative of respondent no. 3 submitted copy of memo. Dated 30.01.2020, whereby respondent no. 3 has been directed to attend the Departmental Accounts Committee Meeting. Copy of the same is placed on file. He further stated that DAC meeting has been convened on 04.02.2020 and approval of the minutes is under process. The implementation report will be submitted on next date of hearing positively. Adjourned. To come up for further proceedings on 17.03.2020 before S.B.


Member

17.03.2020

Petitioner in person present. Mr. Kabirullah Khattak learned Addl. AG alongwith M/S Murad Ali Superintendent for respondent No.3 and Abdul Salam Audit Officer for respondent No.4 present and requested for adjournment on the ground that the implementation report is under process. Adjourned. To come up for further proceedings/implementation report on 03.04.2020 before S.B.


Member

23.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 16.07.2020 for the same. To come up for the same as before S.B.


Reader

E.P No. 118/2018

05.12.2019

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG alongwith M/S Murad Ali Shah, Superintendent and Nasir Nawaz, Assistant Audit Officer for the respondents present.

Representative of respondents has provided copy of memo dated 12.11.2019, issued from the office of respondent No. 1. The respondent No. 4 has thereby been requested for withdrawal of the advance para towards implementation of the judgment. The representative of respondent No. 4 states that the case has been put up to the competent authority and will be responded shortly. The proceedings are, therefore, adjourned to 16.01.2020 for submission of implementation report by the respondents.


Chairman

16.01.2020

Nemo for petitioner. Mr. Murad Ali Shah, Superintendent for respondent No. 1 and Syed Ahmad Ali Shah, AAO for respondent No. 4 alongwith Addl. AG for the respondents present.

The representative of respondent No. 4 has produced copy of memo. dated 10.01.2020, whereby, the respondent No. 1 has been communicated to deal with the matter pertaining to petitioner at its end. On the other hand, the representative of respondent No. 1 states that the letter has not been received by respondent No. 1 and as soon as it is received the matter of implementation of judgment will be taken up for finalization.

In the circumstances, the matter is adjourned to 02.03.2020 for further proceedings.


Chairman

10.10.2019

Learned counsel for the petitioner present. Mr. Kabiurllah Khattak learned Additional Advocate General alongwith Mr. Khalid Zaman Audit Officer for respondent No.4 present. None present on behalf of the respondent No. 1 to 3, therefore, fresh notice be issued to them to attend the court and submitted implementation report on the next date of hearing. Adjourned. To come up for implementation report on 06.11.2019 before S.B.



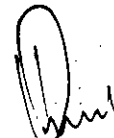
(Hussain Shah)
Member

06.11.2019

Counsel for the petitioner and Salman, Junior Clerk and Khalid Zaman, Audit Officer for the respondents present.

Learned AAG requests for time to go through the documents provided by the respondents in order to further proceed in the matter.

Adjourned to 05.12.2019 before S.B.



Chairman

EP 118/2018

19.08.2019

Counsel for the petitioner and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Murad Ali Shah, Superintendent for the respondents present.

The representative of respondents states that he is not in ~~possession~~^{possession} of the relevant record which will be produced on next date of hearing.

The respondents are required to make available documents supporting their stance as laid in Para-6 of the parawise comments submitted on behalf of respondents No. 1 to 3 under the signature of Director General Agriculture Extension Khyber Pakhtunkhwa Peshawar. The documents so required shall include the copy of withdrawal of office order dated 05.08.2014 as well as the recovery of an amount of Rs. 140640/-.

Adjourned to 17.09.2019 before S.B.



Chairman

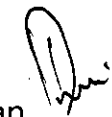
17.09.2019

Counsel for the petitioner and Addl. AG alongwith Murad Ali Shah, Superintendent for respondents present.

The representative of respondent No. 3 has produced copy of letter dated 11.02.2019 wherein respondent No. 2 had been requested to approach the respondent No. 4 to drop/withdraw Audit Advance Para No. 120 for the year 2012-13 pertaining to recovery of House Rent amounting to Rs. 140640/-.

In view of the development the respondents No. 2 & 4 shall be issued notices for submission of implementation report on next date of hearing.

Adjourned to 10.10.2019 before S.B.



Chairman

07.05.2019

Petitioner alongwith his counsel present. Mr. Usman Ghani, District Attorney alongwith Mr. Murad Ali Shah, Assistant for the respondents present and submitted written reply. Learned counsel for the petitioner requested for adjournment. Adjourned to 25.06.2019 for further proceedings before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

25.06.2019

Junior to counsel for the petitioner and Addl: AG alongwith Mr. Murad Ali Shah, Supdt for respondents present. Junior to counsel for the petitioner seeks adjournment. Adjourned. Case to further proceedings on 19.08.2019 before S.B.

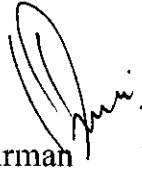

(Ahmad Hassan)
Member



07.1.2019

Counsel for the petitioner and Addl. AG alongwith Mr. Ali Shah, Assistant for the respondents present.

The representative of the respondents seeks time for further instructions in the matter also covering the aspect of reparability or otherwise of the house wherefrom the petitioner was dis-located. To come up for the needful on 20.02.2019 before S.B.


Chairman

20.02.2019

Junior to counsel for the petitioner and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the petitioner seeks adjournment as senior counsel for petitioner is not in attendance. Adjourn. To come up for further proceedings on 04.04.2019 before S.B.


Member

04.04.2019

None for the petitioner present. Addl: AG alongwith Mr. Murad Ali Shah, Assistant for respondents present. Due to general strike of the bar, the case is adjourned. Case to come up for further proceedings on 07.05.2019 before S.B.


(Ahmad Hassan)
Member

27.06.2018

Appellant in person present. Notice be issued to the respondents for implementation report for 08.08.2018 before S.B.

MA
(Muhammad Amin Khan Kundi)
Member

08.08.2018

Counsel for the petitioner and Mr. Kabirullah Khattak, AAG alongwith Muhammad Saleem, audit officer on behalf of respondents present. Representative of respondent submitted reply/comments which is placed on file. To come for further proceeding of 02.10.2018 before S.B

MA
(Muhammad Amin Khan Kundi)
Member

02.10.2018

Junior counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Murad Ali Shah, Office Assistant for the respondents present. Junior counsel for the petitioner made a request for adjournment. Adjourned. To come up for implementation report on 19.11.2018 before S.B.

MA
(Muhammad Amin Khan Kundi)
Member

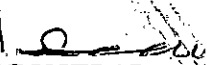


19.11.2018

Counsel for the petitioner present. Mr. Murad Ali Shah, Assistant alongwith Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the petitioner requested for adjournment. Adjourned. Case to come up for implementation report on 07.01.2019 before S.B.

MA
Muhammad Amin Khan Kundi
Member

FORM OF ORDER SHEET

Execution Petition No. 118/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	16.04.2018	<p>The Execution Petition of Mr. Taj Akbar submitted to-day by Mr. Amir Ali Khan 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 18/04/18 </p>
2-	18/04/18.	<p>This Execution Petition be put up before S. Bench on <u>30/04/18.</u></p> <p style="text-align: right;">  MEMBER </p>
	30.04.2018	<p>Appellant in person and Addl: AG for the respondents present. The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 27/06.2018 before S.B.</p> <p style="text-align: right;">  Reader </p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 118 / 2018

In

Service Appeal No. 862/ 2015

DECIDED ON: 23.10.2017

Taj Akbar

Versus

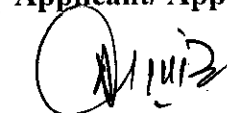
Government of Khyber Pakhtunkhwa & others

INDEX

S.#	DESCRIPTION OF DOCUMENT	ANNEX	PAGE NO.
1.	Memo of Execution Petition	--	1-3
2.	Affidavit	--	4
3.	Memo of Addresses	--	5
4.	Copy of Judgment and Order dated 23.10.2016	A	6-11
5.	Copies of Notice/ Representation alongwith other office documents.	B & C	12-16
6.	Copy of letter dated.03.04.2018	D	17
7.	Wakalatnama	--	--

Applicant/ Appellant

Through



AAMIR ALI KHAN

Advocate High Court (s)

**1st Floor J.K Plaza, Opposite Arbar Road,
University Road, Peshawar.
03219100050**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.Execution Petition No. 118 / 2018

In

Service Appeal No. 862/ 2015**DECIDED ON:** 23.10.2017Khyber Pakhtunkhwa
Service TribunalDiary No. 438Dated 17/4/2018

Taj Akbar,
Junior Scale Stenographer,
Office of the District Director Agriculture,
Agriculture Colony Muslim Abad, Mardan.

.....APPLICANT/ APPELLANT**VERSUS**

1. **Government of Khyber Pakhtunkhwa -**
Agriculture Department at Peshawar.
2. **Director General Agriculture (Extension)**
Khyber Pakhtunkhwa at Peshawar.
3. **District Director Agriculture**
Agriculture Colony Muslim Abad, Mardan.
4. **Director General Audit**
Khyber Pakhtunkhwa at Peshawar.

.....RESPONDENTS

APPLICATION FOR AND ON BEHALF OF THE APPLICANT/ APPELLANT FOR
THE IMPLEMENTATION OF THE JUDGMENT AND ORDER DATED 23.10.2017
PASSED BY THIS HON'BLE TRIBUNAL IN ITS LETTER AND SPIRIT.

Respectfully Sheweth;

The Applicant/ Appellant most earnestly craves permission of this Hon'ble Tribunal to submit as under;

1. **That** the above noted Service Appeal was pending adjudication in this Hon'ble Tribunal and was decided vide Judgment/ Order dated 23.10.2017.

2. That this Hon'ble Tribunal vide Judgment/ Order dated 23.10.2017 accepted the Service Appeal of the Applicant/ Appellant in the following terms:

“Consequently, this Tribunal reaches the conclusion that the impugned order dated. 05.08.2014 is a void order which is set aside and the department is directed not to act on that very order and also allot a suitable accommodation to the appellant in accordance with his status. Parties are left to bear their own costs. File be consigned to the record room.”

(Copy of the Judgment and order dated 23.10.2017 is annexed herewith marked as 'A')

3. That the Judgment of this Hon'ble Tribunal was duly communicated to the Respondents, however, the Respondent Department has not yet considered the Applicant/ Appellant, which is against the spirit of the Judgment and Order dated 23.10.2017 of this Hon'ble Tribunal.

4. That after the Judgment and Order of this Hon'ble Tribunal, the Applicant/ Appellant is continuously approaching the Respondents for the implementation of the Judgment/ Order dated 23.10.2017, however they are reluctant to implement the judgment.

(Copies of representation alongwith other docemnts are attached herewith marked as 'B' and 'C' respectively)

5. That in spite of the Judgment and Order of this Hon'ble Tribunal, The Director General Agriculture (Extension) Khyber Pakhtunkhwa, Peshawar, also directed the respondent No.3 to allot a suitable accommodation to the applicant/ appellant, but the respondent No.3 is still reluctant and not interested to implement the Judgement/ Order of this Hon'ble Tribunal, which clear violation of this Hon'ble Tribunal and the behaviour of the respondent No.3 is contemptuous.

(Copy of the Letter dated.03.04.2018 is attached herewith marked as D)


6. That the Respondents are legally bound to implement the judgment of this Honourable Tribunal in its letter and spirit without any further delay.

It is, therefore, prayed that on acceptance of this application the respondents may please be directed to implement the judgment and order dated 23.10.2017 of this Hon'ble Tribunal in its letter and spirit and to not act upon the Office Order dated.05.08.2017, wherein the penalties has been imposed upon the applicant/ appellant has been declared null and void by this Hon'ble Tribunal and also directed the respondents to allot a suitable accommodation to the applicant/ appellant as per his status.


Applicant/ Appellant

Dated. 17.04.2018

Through


Aamir Ali Khan

Advocate High Court (s)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. ____ / 2018

In

Service Appeal No. **862/ 2015**

DECIDED ON: 23.10.2017

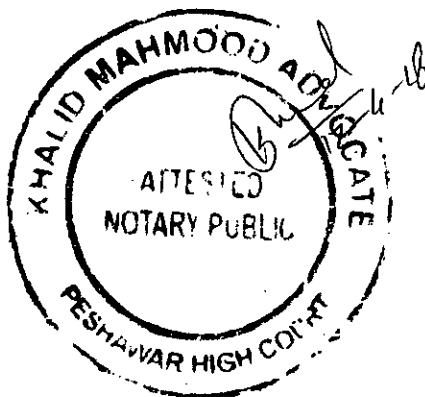
Taj Akbar

VERSUS

Government of Khyber Pakhtunkhwa & others

AFFIDAVIT

I, **Taj Akbar**, Junior Scale Stenographer, Office of the District Director Agriculture, Agriculture Colony Muslim Abad, Mardan do hereby affirm and declare on oath that the contents of the accompanied **EXECUTION PETITION** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



Taj Akbar
DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. _____ / 2018


In

Service Appeal No. **862/ 2015****DECIDED ON:** 23.10.2017**ADDRESSES OF THE PARTIES****APPLICANT/ APPELLANT**

Taj Akbar,
Junior Scale Stenographer,
Office of the District Director Agriculture,
Agriculture Colony Muslim Abad, Mardan.

RESPONDENTS

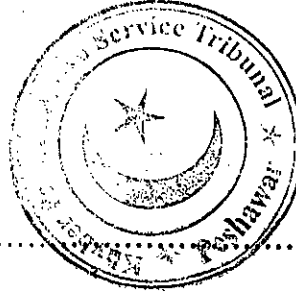
1. **Government of Khyber Pakhtunkhwa**
Agriculture Department at Peshawar.
2. **Director General Agriculture (Extension)**
Khyber Pakhtunkhwa at Peshawar.
3. **District Director Agriculture**
Agriculture Colony Muslim Abad, Mardan.
4. **Director General Audit**
Khyber Pakhtunkhwa at Peshawar.


16.4.2018
Counsel

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal NO. 869 / 2015

Taj Akbar, Junior Scale Stenographer
Office of the District Director Agriculture
Agriculture Colony Muslim Abad Mardan



H.W.F. Province
Service Tribunal

Diary No 896

Dated 29-7-2015

..... Appellant

VERSUS

1. Secretary to the Government of Khyber Pakhtunkhwa
Agriculture Department at Peshawar
2. Director General Agriculture (Extension)
Khyber Pakhtunkhwa at Peshawar
3. District Director Agriculture, Agriculture Colony Muslim Abad Mardan
4. Muhammad Asim Agriculture Officer
Agriculture Colony Muslim Abad Mardan
5. Director General Audit
Khyber Pakhtunkhwa at Peshawar

..... Respondents

SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974 R/W
RULE 19 OF THE KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS
(EFFICIENCY AND DISCIPLINE) RULES 2011

RESPECTFULLY SHEWETH:

The appellant most earnestly craves permission of this Hon'ble Tribunal to submit as under;

BRIEF FACTS:

1. That, the appellant filed a Writ Petition No. 2926-P/2014 in the Hon'ble Peshawar High Court for the relief on the grounds contained therein because at the relevant time this

ATTESTED

Secretary
Service Tribunal,
Peshawar

ATTESTED

To Be True Copy
Advocate

(7)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 862/2015

Date of Institution ... 29.07.2015

Date of decision ... 23.10.2017



Taj Akbar, Junior Scale Stenographer
Office of the District Director Agriculture
Agriculture Colony Muslim Abad Mardan.

... (Appellant)

Versus

1. Secretary to the Government of Khyber Pakhtunkhwa Agriculture
Department at Peshawar and Inspector General of Police, Khyber 4 others.
..... (Respondents)

MR. AAMIR ALI,
Advocate

... For appellant.

MR. ZIAULLAH
Deputy District Attorney

... For respondents.

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

... CHAIRMAN
... MEMBER


JUDGMENT

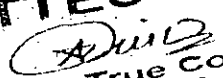
NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was allotted C-type house vide order dated 13.02.2009 by the EDO
Agriculture Mardan. Then there was a disputes regarding the occupation of the said house
which was resolved vide order dated 09.10.2009. There-after the said allotment was
cancelled by the District Director Agriculture Mardan on 20.02.2014 and the appellant
was served with notices regarding vacation of the house to which he replied and
eventually some inquiry was conducted by the department against the appellant on the

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Khyber Pakhtunkhwa
Service Tribunal.

ATTESTED

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Advocate

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ground that the appellant had occupied a house which was not meant for the officials of his status rather it was meant for the officers of BPS-17. The inquiry officer recommended the recovery of amount of Rs. 140640/- on account of house rent. That the said house should be vacated from the appellant and that an adverse entry should be given to the appellant in PER. On the basis of the said inquiry report an audit para was also made. The appellant was also transferred in the meantime to District Shangla for the same reason.

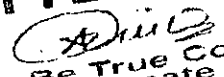
ARGUMENTS

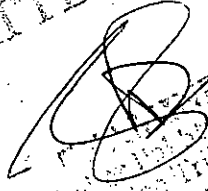
3. The learned counsel for the appellant argued that the house was allotted the appellant by the competent authority. That immediately before that allotment some correspondence took place between the EDO Agriculture and the DCO for declaring certain houses including the disputed one as non-designated. That correspondence culminated into notifying the houses as non-designated with the permission of the DCO and then ~~he~~ allotted the home to the appellant. That no fault laid with the appellant. That the whole inquiry proceedings were against the rules which are liable to be set-aside.

4. On the other hand, the learned Deputy District Attorney argued that the appellant has sought for declaration which is the jurisdiction of the civil courts under Section-42 of the Specific Relief Act. That DCO has never consented to the re-designation of the houses including the disputed house. That in view of order dated 30.11.2006 the competent authority was District Officer Agriculture and not the EDO Agriculture. That the inquiry was properly conducted which has rightly held the appellant responsible for financial loss. That the appellant has not challenged the audit para which is separate to the inquiry proceedings.

CONCLUSION.

5. That record shows that the house in dispute was duly allotted by Executive District Officer Agriculture Mardan on 03.02.2009 to the appellant. In the said very order the

ATTESTED

 To Be True Copy
 Advocate

ATTESTED

 Member
 Services Tribunal,
 Peshawar

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ground that the appellant had occupied a house which was not meant for the officials of his status rather it was meant for the officers of BPS-17. The inquiry officer recommended the recovery of amount of Rs. 140640/- on account of house rent. That the said house should be vacated from the appellant and that an adverse entry should be given to the appellant in PER. On the basis of the said inquiry report an audit para was also made. The appellant was also transferred in the meantime to District Shangla for the same reason.

ARGUMENTS

3. The learned counsel for the appellant argued that the house was allotted the appellant by the competent authority. That immediately before that allotment some correspondence took place between the EDO Agriculture and the DCO for declaring certain houses including the disputed one as non-designated. That correspondence culminated into notifying the houses as non-designated with the permission of the DCO and then ~~be~~ allotted the home to the appellant. That no fault laid with the appellant. That the whole inquiry proceedings were against the rules which are liable to be set-aside.

4. On the other hand, the learned Deputy District Attorney argued that the appellant has sought for declaration which is the jurisdiction of the civil courts under Section-42 of the Specific Relief Act. That DCO has never consented to the re-designation of the houses including the disputed house. That in view of order dated 30.11.2006 the competent authority was District Officer Agriculture and not the EDO Agriculture. That the inquiry was properly conducted which has rightly held the appellant responsible for financial loss. That the appellant has not challenged the audit para which is separate to the inquiry proceedings.

CONCLUSION.

5. That record shows that the house in dispute was duly allotted by Executive District Officer Agriculture Mardan on 03.02.2009 to the appellant. In the said very order the

ATTESTED
[Signature]
 To Be True Copy
 Advocate

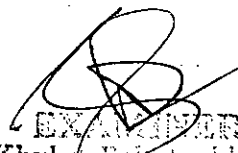
ATTESTED
[Signature]
 District Officer
 Agriculture
 Mardan

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~~11~~

residential accommodation had been declared as non-designated house. The objection of the learned Deputy District Attorney regarding the competency of the EDO is not well founded as he referred to a notification dated 30.11.2006 whereby the District Officers in Agriculture in the whole province were authorized to exercise the power of allotment issued by Director General Agriculture Extension Khyber Pakhtunkhwa Peshawar. As the order dated 13.02.2009 is basically an order of re-designation of accommodation from designated to non-designated and not a simple allotment order. Secondly the appellant had entered into the house after an allotment order as mentioned above and he did not occupy the house without any order. If the said order was passed by an incompetent authority ~~by an officer~~ not then an inquiry should have been conducted against the officer exercising the wrong power but nothing of the sort has been done by the department. Secondly the inquiry conducted by the department is not under the Efficiency & Discipline Rules and is only a fact finding inquiry. Before imposing any penalty it was necessary for the department to have conducted proper inquiry under the Efficiency & Discipline Rules by giving the appellant reasonable opportunity to defend himself through due process of law. Thirdly the very order dated 05.08.2014 is a void order on the ground that the Director General Agriculture has issued an order that an adverse entry should be given to the appellant in PER. It is beyond understanding under which provision of law he has ordered that adverse entry should be given in PER as such penalty is not even visualized by any disciplinary rules. It appears that the appellant was in occupation of the house under an order passed by the Executive District Officer after re-designating the house and he had been paying the rent of his scale. Regarding the prayer of declaration, this Tribunal is not in agreement with the learned Deputy District Attorney for the reason that no where it is mentioned that declarations cannot be granted by this Tribunal. The reason is that whenever any Tribunal or a court modifies, cancels, aids, reverses any order of the judicial or executive authority the first is to declare the order as illegal and thereafter the actual remedy is granted. This declaration is not the one under Section-42 of the Specific Relief Act.

ATTESTED


EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

ATTESTED

 TO BE TRUE
 Advocate

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6. Consequently, this Tribunal reaches the conclusion that the impugned order dated 05.08.2014 is a void order which is set-aside and the department is directed not to act on that very order and also allot a suitable accommodation to the appellant in accordance with his status. Parties are left to bear their own costs. File be consigned to the record room.

Announced 23.10.17 SD/- Niaz Muhammad Khan, Chairman

SD/- Gulzar Khan, Member

Certified to be true copy

Khyber Pakhtunkhwa Service Tribunal, Peshawar

Date of Presentation of Application 23-10-17
Number of Words 2500
Copying Fee 12/-
Urgent
Total 12/-
Name of Copyist
Date of Completion of Copy 30-10-17
Date of Delivery of Copy 30-10-17

ATTESTED

To Be True Copy Advocate

"B"

(12)

Registered AD

Without Prejudice

Date: 13th February 2018

**DISTRICT DIRECTOR AGRICULTURE,
Agriculture Colony Muslim Abad, Mardan.**

INTIMATION OF ORDERS/ DECISION OF HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA IN CASE SERVICE APPEAL NO.862/2015 TITLED TAJ AKBAR VERSUS SECRETARY TO THE GOVT OF KHYBER PAKHTUNKHWA AGRICULTURE DEPARTMENT.

Dear Sir,

We have been instructed by **Taj Akbar**, Junior Scale Stenographer Office of the District Director Agriculture Colony Muslim Abad Mardan (**hereinafter to be referred to as "our client"**) to inform your good office about the following:

1. **THAT**, our client, had filed an appeal No.862/2015 before the Hon'ble Service Tribunal Khyber Pakhtunkhwa, Peshawar against the order No.18/50/Estt/11245-50/DG dated.05.08.2014, where the penalties were imposed upon our client.
2. That, the case came up for hearing on 23.10.2017 and the Hon'ble Tribunal was pleased to allow the appeal of the appellant through judgment dated.23.10.2017, the concluding para is reproduced below for your perusal;

"Consequently, this Tribunal reached the conclusion that the impugned order dated.05.08.2014 is a void order which is set-aside and the Department is directed not to act on that very order and also allot a suitable accommodation to the appellant in accordance which his status. Parties are left to bear their own costs. File be consigned to the record room."

3. That, the order of the Hon'ble Service Tribunal has been passed in favor of the appellant however, appellant has till date been not allotted any accommodation, which is a clear violation of the order of the Hon'ble Service Tribunal.

You are, therefore, put to **NOTICE** to implement/ comply with the order of the Hon'ble Service Tribunal and allot a suitable accommodation as per the status of the appellant within a period of 15 days. In the event of your failure to comply with the present Legal Notice, we have been directed by our client to initiate **CONTEMPT OF COURT PROCEEDINGS** against you in the competent court of law, in which case you shall also be liable for any expenses borne by our client.

NB: A copy of this Notice has been retained at our office for any future correspondence and necessary litigation.

ATTESTED
Amir
To Be True Copy
Advocate

Recd. (SMS) (PP)

purpose a "c" type residence for appellant to appeal.

Amir Ali Khan
Advocate High Court (s)

@ TO

To

The District Director,
Agriculture, Mardan.

13

180

20-3-18

Subject:-

**APPLICATION FOR ALLOTMENT OF RESIDENTIAL
ACCOMMODATION/RESTORATION OF C-TYPE
RESIDENTIAL QUARTER OR OTHERS.**

R/Sir,

With due respect it is re-submitted few lines for your kind consideration that:

- 1) Sir, the Service Tribunal Khyber Pakhtunkhwa Peshawar has been accepted my Service Appeal No.862/2015, and declared decision totally in my favour on dated 23/10/2017.
- 2) Sir, I am also entitled the C-Type accommodation under the entitlement schedule of Government Residential accommodation issued by the Govt. of Khyber Pakhtunkhwa Administration Department Notification 07th January 2015 at Chapter-IV (5) classification and entitlement of accommodation. **(Photo copy attached as Annexure 02 Pages).**
- 3) Sir, the Deputy Commissioner Mardan has already been issued a letter vide No.755/DC(M)DN dated 1/3/2018 to allot an accommodation in Agriculture Office Colony Mardan.

Therefore you are requested may kindly be restored/re-allotted a residential accommodation (C-Type) or others in light of the honourable Service Tribunal Khyber Pakhtunkhwa court decision announced on 23/10/2017 and also some others issues indicated in Office Order No.18/50/Estt/11245-50/DG dated 05/08/2014 **(Photo copy attached as Annexure-B)**, may please be cleared/settled the all issues in compliance of above decision announced by the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar please.

Encl: As above.

Dated 20/03/2018.

Yours Obediently,

Taj Akbar
20/3/18

(Taj Akbar)

Junior Scale Stenographer
Office of the District Director Agriculture,
Mardan.

ATTESTED
[Signature]
**To Be True Copy
Advocate**



DISTRICT DIRECTOR AGRICULTURE

Department of Agriculture (Extension) Government of Khyber Pakhtunkhwa
Canal Road Mardan

Phone # 0937-9230106

No. 2187 /DDA Mardan

Dated. 27/11 /2017

To,

The Deputy Commissioner
Mardan.

Subject:-

**SERVICE APPEAL- TAJ AKBAR, JUNIOR SCALE
STENOGRAPHER VS SECRETARY AGRICULTURE
DEPARTMENT AND OTHERS.**

Memo:-

Kindly refer to the above cited subject. (copy attached).

It is to bring in to your kind notice that B, & C Type residential accommodations at this office are, as per rules/ policy, allotted to officers of grade 18 and 17 respectively.

One C-type residence was allotted to one Taj Akbar, Stenographer BS-12. by the then Executive District Officer Agriculture, light of District Coordination Officer letter No. 1203/DCO dated 09/02/2009 declaring the residence as non-designated.

The Audit Department termed the action as against the rules, hence this office cancelled the said allotment.

Mr. Taj Akbar, filed a suit in the Service Tribunal, and now the Tribunal has ordered to restore the initial allotment order.

The residence now to old-has been declared as un-serviceable, by C&W Department, further the residence can be allotted to grade 17 Officer, and not to lower rank.

This office requests your kind guidance, whether the residence is allotted to appellant, who is not BS-17 or otherwise,

Encl: A.A

ATTESTED
Quil
To Be True Copy
Advocate

[Signature]
District Director,
Agriculture, Mardan.

Ulf/ee
27/11/2017

15



DISTRICT DIRECTOR AGRICULTURE

Department of Agriculture (Extension) Government of Khyber Pakhtunkhwa

Canal Road Mardan

Phone # 0937-9230106

No. 330 /DDA Mardan

Dated. 21/2 /2018

The Deputy Commissioner
Mardan.

Subject:-

**SERVICE APPEAL JUNIOR SCALE STENOGRAPHER VS
SECRETARY AGRICULTURE DEPARTMENT & OTHERS.**

Memo:-

Please refer to your office letter No. 220/DC (M) / DN/ dated Mardan the 17/01/2018 on the captioned subject.

It is reported to your good office that honorable Service Tribunal order in the instant case that allot a suitable accommodation to the appellant in accordance to his status.

Since there is no accommodation available with this office according to the status of the appellant i-e Mr. Taj Akbar Junior scale Stenographer BPS-14 in the colony of Agriculture (Extension)

Therefore it is once again requested that any Government accommodation in District Mardan according to the status of appellant may please be allotted to him in compliance to the Service Tribunal Decision / order.

Enclosed Comt. Division / order.

[Signature]
District Director,
Agriculture, Mardan.

Zaheer-Doc/File/DC Mardan

ATTESTED
[Signature]
To Be True Copy
Advocate

(16)

**OFFICE OF THE
DEPUTY COMMISSIONER,
MARDAN**

No. 755 / DC (M)/DN/

Dated Mardan the 1 / 3 / 2018

To,

The District Director,
Agriculture, Mardan

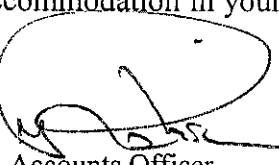
Subject:

**SERVICE APPEAL- TAJ AKBAR, JUNIOR SCALE STENOGRAPHER Vs
SECRETARY AGRICULTURE DEPARTMENT AND OTHERS.**

Memo:

I am directed to refer your office letter No. 330/DDA Mardan dated 21-02-2018 on the subject noted above.

In this connection it is stated that there is no such accommodation available at this time according to the status of appellant. The official may be allotted the accommodation in your respective colony within Agriculture Office.




Accounts Officer
Deputy Commissioner Office
Mardan

Endst: of even No. and date:

Copy forwarded for information to:

PS to Deputy Commissioner, Mardan.



Accounts Officer
Deputy Commissioner Office
Mardan

ATTESTED

**To Be True Copy
Advocate**

(17) "D"

DIRECTORATE GENERAL AGRICULTURE (EXTENSION)
KHYBER PAKHTUNKHWA, PESHAWAR

No.16/115/Estt./ 7158 /DG Dated Peshawar: the 3/4 /2018

To:

The District Director Agriculture (Exten.)
Mardan.

Subject

SERVICE APPEAL NO.862/2015, TAJ AKBER, JUNIOR SCALE
STENOGRAPHER VS SECRETARY AGRI. DEPARTMENT & OTHERS

Memo:

Reference your office letter No.535/DDA(E), dated 19.3.2018.

You are directed to allot suitable residential accommodation to the
official of his status, if available.

103210
DIRECTOR GENERAL



ATTESTED
Quid
To Be True Copy
Advocate

Barista Muhammad Ghay

ایڈووکیٹ / احتیاجی

بار کونسل ابار ایسوسی ایشن

رابطہ نمبر: 0321-9100050


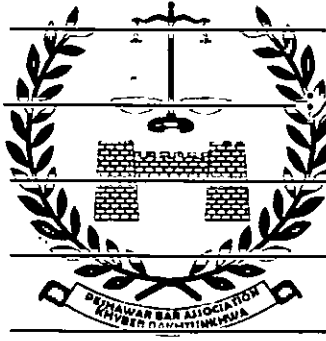



47783

Amir A. Q. Q.

be-11-2559

BEFORE THE HONBLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR بعدالت جناب:

<p>منجانب: TAJ AKBAR (APPELLANT)</p>	<p>دعوی:</p> <p>علت:</p> <p>موردہ:</p> <p>جرم:</p> <p>تھانہ:</p>
	
<p>بامث تحریر آگہ</p>	

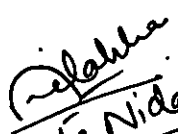
مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

ان مقام پر تیار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو راضی نامہ کرنے و تقرر جمانت و فیصلہ برصن دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں بدستخط کرنے کا اختیار ہوگا نیز بیہودہ پیروی یا تاؤگریزی کیلئے یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظریاتی و پیروی کرنے کا مختار ہوگا اور بیہودہ ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے منجانبے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا سامنے پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے نسبت سے ہوگا وہ وکیل موصوف و قبول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی یا تاؤگریزی کیلئے، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 16th April 2018

بَد _____ وَاَشَدُّ بَد _____

مقام کے لئے منظور ہے۔


 Advocate Nida Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. ~~118~~ /2018 In Service Appeal No. 862/2015
Decided on: 23/10/2017

Taj Akbar S/O Fazal Akbar Junior Scale Stenographer Office of the District Director
Agriculture Mardan
(Appellant)


Versus

1. Government of Khyber Pakhtunkhwa
Agriculture (Extension) Department Peshawar
2. Director General Agriculture (Extension)
Khyber Pakhtunkhwa at Peshawar
3. District Director Agriculture (Extension)
Agriculture Colony Muslim Abad, Mardan
4. Director General Audit
Khyber Pakhtunkhwa at Peshawar

(Respondents)

INDEX

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3	Letter to Deputy Commissioner for Guidance	A	4
4	Reply of Deputy Commissioner	B	5
5	Letter to DC Mardan for allotment suitable accommodation	C	6
6	Reply of Deputy Commissioner Mardan	D	7
7	Letter to Director General Agriculture for Guidance	E	8
8	Reply of Director General Agriculture	F	9


Deponent
Subject Matter Specialist
Horticulture Mardan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 118/2018 In Service Appeal No. 862/2015
Decided on: 23/10/2017

Taj Akbar S/O Fazal Akbar Junior Scale Stenographer Office of the District Director
Agriculture Mardan

(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa
Agriculture (Extension) Department Peshawar
2. Director General Agriculture (Extension)
Khyber Pakhtunkhwa at Peshawar
3. District Director Agriculture (Extension)
Agriculture Colony Muslim Abad, Mardan
4. Director General Audit
Khyber Pakhtunkhwa at Peshawar

(Respondents)

RESPECTFULLY SHWETH,

Para wise comments on behalf of official respondents No.1-3 are submitted as under-

ON FACTS,

1. Correct, hence no comments.
2. Correct, hence no comments.
3. Incorrect, hence denied, as per court decision, the department has neither acted on the office order dated 05/08/2014 nor given any adverse entry in the PER.
4. Incorrect, as the department has fully obeyed the court orders as mentioned above. The applicant has approached the department for the allotment of accommodation. At present the DDA office Mardan has two C-Type Banglows for officers of BPS-17, one B-Type Banglow for officers of BPS-18 to 19 and two D-Type Quarters for class-IV staff. The B-Type and one C-Type Banglows has already been allotted to the status of concerned officers, while one C-Type Banglow is unserviceable. However, in order to honour the court decision the DC Mardan was approached (copy attached as Annex-A) for guidance that wither the unserviceable residence (C-Type Banglow) can be allotted

to the appellant, who is not BPS-17 or otherwise. The DC Mardan replied (Copy attached as Annex-B) that the case may be resolved at your level in light of honourable Service Tribunal decision in the instant case and Rules of Allotment of Residential Accommodation.

In order to honour the court decision the DC Mardan was again approached (copy attached as Annex-C) for allotment of suitable accommodation and according to the status of the applicant but the DC Mardan replied (copy attached as Annex-D) that there is no such accommodation available at this time.

5. Incorrect as in order to honour the court decision respondent No.3 approached the Director General Agriculture Extension (copy attached as Annex-E) to guide the office for taking an appropriate action in light of the court decision to settle the issue. Reference to that letter DGA (E) directed respondent No.3 (copy attached as Annex-F) to allot suitable residential accommodation to the official of his status, **if available** but as mentioned in para-4 there was no suitable residential accommodation accordance with status of the applicant therefore respondent No.3 approached the district administration (Annex-A & C) in order to honour the honourable court decision.
6. True to the extent that the respondents are legally bound to implement the judgement of Honourable Tribunal in its letter and spirit that's why the office order dated 05/08/2014 have already been withdrawn without any adverse entry in the PER and recovery of the stipulated amount of 140640/- on account of house rent.

PRAYER.

In view of the aforementioned submission, the application of the applicant is baseless and may therefore, be dismissed with costs.

**Director General
Agriculture Extension
Khyber Pakhtunkhwa, Peshawar.**

**District Director
Agriculture Mardan**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No.-----/2018 In Service Appeal No. 862/2015
Decided on: 23/10/2017

Taj Akbar S/O Fazal Akbar Junior Scale Stenographer Office of the District Director
Agriculture Mardan

(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa
Agriculture (Extension) Department Peshawar
2. Director General Agriculture (Extension)
Khyber Pakhtunkhwa at Peshawar
3. District Director Agriculture (Extension)
Agriculture Colony Muslim Abad, Mardan
4. Director General Audit
Khyber Pakhtunkhwa at Peshawar

(Respondents)

AFFIDAVIT

I Mr. Muhammad Waseem, SMS (Horticulture) of the District Director
Agriculture Mardan, do hereby solemnly affirm and declare on oath that the contents of
the accompanying parawise comments submitted by Defendant No.1 to 3 are true and
correct to the best of my knowledge and belief that nothing has been concealed from
this Hon' able Court.



DEPONENT
NIC NO.16101-1054746-3

Identified by

Subject Matter Specialist
Horticulture Mardan

A Advocate General,
Khyber Pakhtunkhwa Service Tribunal
Peshawar

Annex - A



DISTRICT DIRECTOR AGRICULTURE

Department of Agriculture (Extension) Government of Khyber Pakhtunkhwa

Canal Road Mardan

Phone # 0937-9230106

No. 2487 /DDA Mardan

Dated: 27/11 /2017

To,

The Deputy Commissioner
Mardan.

Subject:-

**SERVICE APPEAL- TAJ AKBAR, JUNIOR SCALE
STENOGRAPHER VS SECRETARY AGRICULTURE
DEPARTMENT AND OTHERS.**

O.

Mem:-

Kindly refer to the above cited subject. (copy attached).

It is to bring in to your kind notice that B, & C Type residential accommodations at this office are, as per rules/ policy, allotted to officers of grade 18 and 17 respectively.

One C-type residence was allotted to one Taj Akbar, Stenographer BS-12, by the then Executive District Officer Agriculture, light of District Coordination Officer letter No. 1203/DCO dated 09/02/2009 declaring the residence as non-designated.

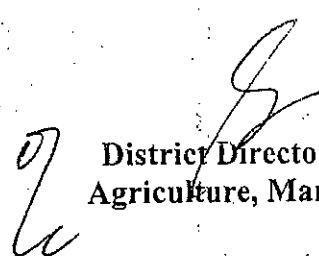
The Audit Department termed the action as against the rules, hence this office cancelled the said allotment.

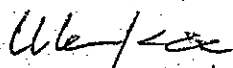
Mr. Taj Akbar, filed a suit in the Service Tribunal, and now the Tribunal has ordered to restore the initial allotment order.

The residence now to old has been declared as un-serviceable, by C&W Department, further the residence can be allotted to grade 17 Officer, and not to lower rank.

This office requests your kind guidance, whether the residence is allotted to appellant, who is not BS-17 or otherwise,

Encl: A.A


District Director,
Agriculture, Mardan.





Annex - 15

OFFICE OF THE
DEPUTY COMMISSIONER,
MARDAN

No. 220 / DC (M)/DN/

Dated Mardan the 17/01/2018

To,

The District Director,
Agriculture, Mardan

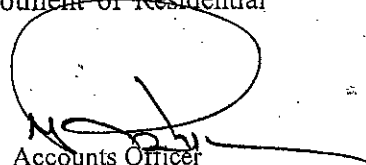
Subject:

SERVIC APPEAL- TAJ AKBAR, JUNIOR SCALE STENOGRAPHER Vs
SECRETARY AGRICULTURE DEPARTMENT AND OTHERS.

Memo:

I am directed to refer your office letter No. 2487/DDA Mardan dated 27-11-2018 on the subject noted above.

In this connection it is stated that the case may, be resolved at your level in light of honorable Service Tribunal decision in the instant case and Rules of Allotment of Residential Accommodation.



Accounts Officer
Deputy Commissioner Office
Mardan

Endst: of even No. and date:

Copy forwarded for information to:
PS to Deputy Commissioner, Mardan.

Sc/BH:
M. Usad O.A

22/1

Accounts Officer
Deputy Commissioner Office
Mardan

(5)

Annex - C



DISTRICT DIRECTOR AGRICULTURE

Department of Agriculture (Extension) Government of Khyber Pakhtunkhwa

Canal Road Mardan

Phone # 0937-9230106

No. 330 /DDA Mardan
To,

Dated. 21/2 /2018

The Deputy Commissioner
Mardan

Subject:-

**SERVICE APPEAL JUNIOR SCALE STENOGRAPHER VS
SECRETARY AGRICULTURE DEPARTMENT & OTHERS.**

Memo:-

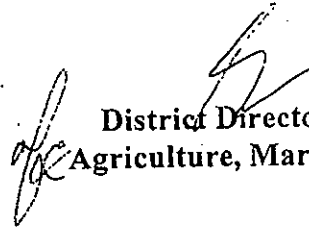
Please refer to your office letter No. 220/DC (M) / DN/ dated Mardan, the 17/01/2018 on the captioned subject.

It is reported to your good office that honorable Service Tribunal order in the instant case that allot a suitable accommodation to the appellant in accordance to his status.

Since there is no accommodation available with this office according to the status of the appellant i.e Mr. Taj Akbar Junior scale Stenographer BPS-14 in the colony of Agriculture (Extension)

Therefore, it is once again requested that any Government accommodation in District Mardan according to the status of appellant may please be allotted to him in compliance to the Service Tribunal Decision / order.

Enclosed with Decision / order.


District Director,
Agriculture, Mardan.

Annex - D

OFFICE OF THE
DEPUTY COMMISSIONER,
MARDAN

No. 755 / DC (M)/DN/

Dated Mardan the 1/3/2018

To,

The District Director,
Agriculture, Mardan

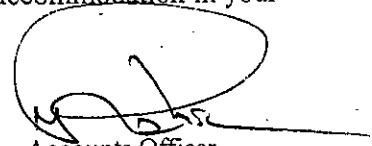
Subject:

SERVICE APPEAL- TAJ AKBAR, JUNIOR SCALE STENOGRAPHER Vs
SECRETARY AGRICULTURE DEPARTMENT AND OTHERS.

Memo:

I am directed to refer your office letter No. 330/DDA Mardan dated 21-02-2018 on the subject noted above.

In this connection it is stated that there is no such accommodation available at this time according to the status of appellant. The official may be allotted the accommodation in your respective colony within Agriculture Office.



Accounts Officer
Deputy Commissioner Office
Mardan

Endst: of even No. and date:

Copy forwarded for information to:

PS to Deputy Commissioner, Mardan.

Accounts Officer
Deputy Commissioner Office
Mardan

5025 (HAF)
Write to DCA
regarding implementation
of the decision in light
of minutes of the meeting
13/3

Answer - E



DISTRICT DIRECTOR AGRICULTURE

Department of Agriculture (Extension) Government of Khyber Pakhtunkhwa

Canal Road Mardan

Phone # 0937-9230106

No. 535 /DDA (E) Dated Mardan the 19.3 /2018.

To,

The Director General
Agriculture Extension
Khyber Pakhtunkhwa
Peshawar.

Subject: SERVICE APPEAL NO 862/2015, TAJ AKBER JUNIOR SCALE STENOGRAPHER VS SECRETARY AGRI: DEPARTMENT & OTHERS.

Memo:

It is reported to your good office that the Honorable Service Tribunal in judgment order/court decision in the aforesaid case has ordered to allot suitable accommodation to the appellant in accordance with his status'' vide service appeal No.862/2015 dated 23/10/2017.

Since there is no suitable accommodation according to the status of the appellant i.e Taj Akber Junior Scale Steno Grapher in the colony of agriculture extension department at Mardan.

Therefore this office requested the Deputy Commissioner Mardan vide this office memo No.2487/DDA Mardan & memo No.330/DDA Mardan dated 27/11/2017 and 21/11/2018 for compliance in light of the aforesaid court decision.

Now the deputy Commissioner Mardan has asked this office vide memo No.220/DC(M)DN/ dated Mardan the 17/01/2018 & Memo No/755/DC(M) DN/ Dated Mardan The 01-03-2018, respectively in response to this office memo' mentioned as above that there is no such accommodation available at this time according to the status of appellant & the case may be resolved at your level in light of the Service Tribunal decision.

It is therefore requested to guide this office for taking an appropriate action in light of the court decision to settle the issue please.

It is further added that minutes of the meeting have not yet received in this office regarding meeting held at law Department regarding the case, on dated 20/12/2017

*Photo copy
given to Supt of this office
on dated 2/8/018*


District Director
Agriculture Mardan.

Annex - 1

Date: 24/4/18
24/4/18

DIRECTORATE GENERAL AGRICULTURE (EXTENSION)
KHYBER PAKHTUNKHWA, PESHAWAR

No.16/115/Estt./ 7158 /DG Dated Peshawar: the 3/4 /2018

To: The District Director Agriculture (Exten.)
Mardan.

Subject: SERVICE APPEAL NO.862/2015, TAJ AKBER, JUNIOR SCALE STENOGRAPHER VS SECRETARY AGR. DEPARTMENT & OTHERS

Memo: Reference your office letter No.535/DDA(E), dated 19.3.2018.

You are directed to allot suitable residential accommodation to the official of his status, if available.

153210
DIRECTOR GENERAL

*Suppl. R-keeper
to be put up in the relevant
file for record. Residential
accommodation will be allotted
to the official concerned as soon
as available in light of this letter
as well as per current decision
16/4/18*

Date 11/7/18

"B"

Date 16/7/18
FILE NO. 16/7/18
MADAN

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

Litigant
10/7

No. 118/18w
Appeal No. 863 of 2015

M. Taj Akbar Appellant/Petitioner

Versus (Secretary)

Secy of KPK Agric Deptt Peshawar Respondent

Respondent No. 2

Notice to: - Director General (Agriculture Extension), KPK Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 8/8/18 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 16/7/18

Day of July 20/18

for plain translation report

SMS (PP)

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

forward to DDA
Mardan

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

Attended the Tribunal
on 8-8-18 next hearing
date is 2-10-2018

Supra HQ
Attend the court
of Service Tribunal on 8/08/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 118 / 2018

In

Service Appeal No. 862/2015

DECIDED ON: 23.10.2017

Taj Akbar

Versus


Government of Khyber Pakhtunkhwa & others

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S.#	DESCRIPTION OF DOCUMENT	ANNEX	PAGE NO.
1.	Memo of Execution Petition	---	1-3
2.	Affidavit	--	4
3.	Memo of Addresses	--	5
4.	Copy of Judgment and Order dated 23.10.2016	A	6-11
5.	Copies of Notice/ Representation alongwith other office documents.	B & C	12-16
6.	Copy of letter dated.03.04.2018	D	17
7.	Wakalatnama	--	--

Through

Applicant/ Appellant


AAMIR ALI KHAN
Advocate High Court (s)

1st Floor J.K Plaza, Opposite Arbar Road,
University Road, Peshawar.
03219100050.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. _____ / 2018

In

Service Appeal No. 862/ 2015

DECIDED ON: 23.10.2017

Taj Akbar,
Junior Scale Stenographer,
Office of the District Director Agriculture,
Agriculture Colony Muslim Abad, Mardan.

.....APPLICANT/ APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa
Agriculture Department at Peshawar.
2. Director General Agriculture (Extension)
Khyber Pakhtunkhwa at Peshawar.
3. District Director Agriculture
Agriculture Colony Muslim Abad, Mardan.
4. Director General Audit
Khyber Pakhtunkhwa at Peshawar.

.....RESPONDENTS

**APPLICATION FOR AND ON BEHALF OF THE APPLICANT/ APPELLANT FOR
THE IMPLEMENTATION OF THE JUDGMENT AND ORDER DATED 23.10.2017
PASSED BY THIS HON'BLE TRIBUNAL IN ITS LETTER AND SPIRIT.**

Respectfully Sheweth;

The Applicant/ Appellant most earnestly craves permission of this Hon'ble Tribunal to submit as under;

1. That the above noted Service Appeal was pending adjudication in this Hon'ble Tribunal and was decided vide Judgment/ Order dated 23.10.2017.

2. That this Hon'ble Tribunal vide Judgment/ Order dated 23.10.2017 accepted the Service Appeal of the Applicant/ Appellant in the following terms:

"Consequently, this Tribunal reaches the conclusion that the impugned order dated. 05.08.2014 is a void order which is set aside and the department is directed not to act on that very order and also allot a suitable accommodation to the appellant in accordance with his status. Parties are left to bear their own costs. File be consigned to the record room."

(Copy of the Judgment and order dated 23.10.2017 is annexed herewith marked as 'A')

3. That the Judgment of this Hon'ble Tribunal was duly communicated to the Respondents, however, the Respondent Department has not yet considered the Applicant/ Appellant, which is against the spirit of the Judgment and Order dated 23.10.2017 of this Hon'ble Tribunal.

4. That after the Judgment and Order of this Hon'ble Tribunal, the Applicant/ Appellant is continuously approaching the Respondents for the implementation of the Judgment/ Order dated 23.10.2017, however they are reluctant to implement the judgment.

(Copies of representation alongwith other documents are attached herewith marked as 'B' and 'C' respectively)

5. That in spite of the Judgment and Order of this Hon'ble Tribunal, The Director General Agriculture (Extension) Khyber Pakhtunkhwa, Peshawar, also directed the respondent No.3 to allot a suitable accommodation to the applicant/ appellant, but the respondent No.3 is still reluctant and not interested to implement the Judgment/ Order of this Hon'ble Tribunal, which clear violation of this Hon'ble Tribunal and the behaviour of the respondent No.3 is contemptuous.

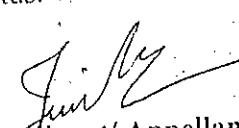
(Copy of the Letter dated.03.04.2018 is attached herewith marked as D)


6. That the Respondents are legally bound to implement the judgment of this Honourable Tribunal in its letter and spirit without any further delay.

It is, therefore, prayed that on acceptance of this application the respondents may please be directed to implement the judgment and order dated 23.10.2017 of this Hon'ble Tribunal in its letter and spirit and to not act upon the Office Order dated.05.08.2017, wherein the penalties has been imposed upon the applicant/ appellant has been declared null and void by this Hon'ble Tribunal and also directed the respondents to allot a suitable accommodation to the applicant/ appellant as per his status.

Dated. _____, 04.2018

Through


Applicant/ Appellant


Aamir Ali Khan.
Advocate High Court (s)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. _____ / 2018

In

Service Appeal No. 862/2015

DECIDED ON: 23.10.2017

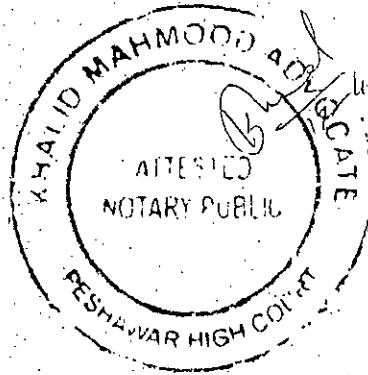
Taj Akbar

VERSUS

Government of Khyber Pakhtunkhwa & others

AFFIDAVIT

I, Taj Akbar, Junior Scale Stenographer, Office of the District Director Agriculture, Agriculture Colony Muslim Abad, Mardan do hereby affirm and declare on oath that the contents of the accompanied EXECUTION PETITION are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



Taj Akbar
DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. _____/2018

In

Service Appeal No. 862/2015

DECIDED ON: 23.10.2017

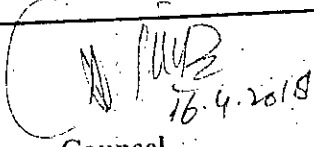
ADDRESSES OF THE PARTIES

APPLICANT/ APPELLANT

Taj Akbar,
Junior Scale Stenographer,
Office of the District Director Agriculture,
Agriculture Colony Muslim Abad, Mardan.

RESPONDENTS

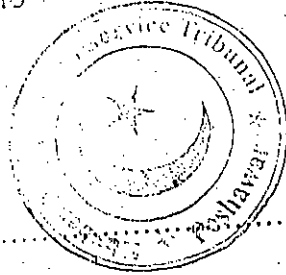
1. Government of Khyber Pakhtunkhwa
Agriculture Department at Peshawar.
2. Director General Agriculture (Extension)
Khyber Pakhtunkhwa at Peshawar.
3. District Director Agriculture
Agriculture Colony Muslim Abad, Mardan.
4. Director General Audit
Khyber Pakhtunkhwa at Peshawar.


Counsel

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal NO. 869 / 2015

Taj Akbar, Junior Scale Stenographer
Office of the District Director Agriculture
Agriculture Colony Muslim Abad Mardan



H.W.P. Province
Service Tribunal
Diary No. 896
Dated 29-7-2015

Appellant

VERSUS

1. Secretary to the Government of Khyber Pakhtunkhwa
Agriculture Department at Peshawar
2. Director General Agriculture (Extension)
Khyber Pakhtunkhwa at Peshawar
3. District Director Agriculture, Agriculture Colony Muslim Abad Mardan
4. Muhammad Asim Agriculture Officer
Agriculture Colony Muslim Abad Mardan
5. Director General Audit
Khyber Pakhtunkhwa at Peshawar

Respondents

SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974 R/W
RULE 19 OF THE KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS
(EFFICIENCY AND DISCIPLINE) RULES 2011

RESPECTFULLY SHEWETH:

The appellant most earnestly craves permission of this Hon'ble Tribunal to submit as under;

BRIEF FACTS:

1. That, the appellant filed a Writ Petition No. 2926-P/2014 in the Hon'ble Peshawar High Court for the relief on the grounds contained therein because at the relevant time this

ATTESTED

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To Be True Copy
Advocate

Ex parte
26/11/15

7
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 862/2015
Date of Institution 29.07.2015
Date of decision 23.10.2017



Taj Akbar, Junior Scale Stenographer
Office of the District Director Agriculture
Agriculture Colony Muslim Abad Mardan.

(Appellant)

Versus

1. Secretary to the Government of Khyber Pakhtunkhwa Agriculture
Department at Peshawar and Inspector General of Police, Khyber & others.
..... (Respondents)

MR. AAMIR ALI,
Advocate

For appellant.

MR. ZIAULLAH
Deputy District Attorney

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. GUI ZEB KHAN,

CHAIRMAN
MEMBER

JUDGMENT

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

FACTS

2. The appellant was allotted C-type house vide order dated 13.02.2009 by the EDO
Agriculture Mardan. Then there was a disputes regarding the occupation of the said house
which was resolved vide order dated 09.10.2009. There-after the said allotment was
cancelled by the District Director Agriculture Mardan on 20.02.2014 and the appellant
was served with notices regarding vacation of the house to which he replied and
eventually some inquiry was conducted by the department against the appellant on the

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(Signature)
To Be True Copy
Advocate

found that the appellant had occupied a house which was not meant for the officials of his status rather it was meant for the officers of BPS-17. The inquiry officer recommended the recovery of amount of Rs. 140640/- on account of house rent. That the said house should be vacated from the appellant and that an adverse entry should be given to the appellant in PER. On the basis of the said inquiry report an audit para was also made. The appellant was also transferred in the meantime to District Shangla for the same reason.

ARGUMENTS

3. The learned counsel for the appellant argued that the house was allotted the appellant by the competent authority. That immediately before that allotment some correspondence took place between the EDO Agriculture and the DCO for declaring certain houses including the disputed one as non-designated. That correspondence culminated into notifying the houses as non-designated with the permission of the DCO and then he allotted the home to the appellant. That no fault laid with the appellant. That the whole inquiry proceedings were against the rules which are liable to be set-aside.

4. On the other hand, the learned Deputy District Attorney argued that the appellant has sought for declaration which is the jurisdiction of the civil courts under Section-42 of the Specific Relief Act. That DCO has never consented to the re-designation of the houses including the disputed house. That in view of order dated 30.11.2006 the competent authority was District Officer Agriculture and not the EDO Agriculture. That the inquiry was properly conducted which has rightly held the appellant responsible for financial loss. That the appellant has not challenged the audit para which is separate to the inquiry proceedings.

CONCLUSION.

5. That record shows that the house in dispute was duly allotted by Executive District Officer Agriculture Mardan on 03.02.2009 to the appellant. In the said very order the

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To Be True Copy
Advocate

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PER
Tribunal
Mardan

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4. On the other hand, the learned Deputy District Attorney argued that the appellant has sought for declaration which is the jurisdiction of the civil courts under Section-42 of the Specific Relief Act. That DCO has never consented to the re-designation of the houses including the disputed house. That in view of order dated 30.11.2006 the competent authority was District Officer Agriculture and not the EDO Agriculture. That the inquiry was properly conducted which has rightly held the appellant responsible for financial loss. That the appellant has not challenged the audit para which is separate to the inquiry proceedings.

CONCLUSION.

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Be True Copy
Date

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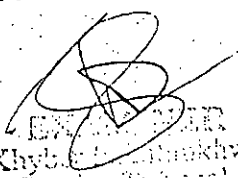
[Signature]
District Officer
Mardan

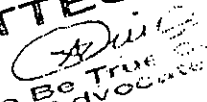
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Z

Residential accommodation had been declared as non-designated house. The objection of the learned Deputy District Attorney regarding the competency of the EDO is not well founded as he referred to a notification dated 30.11.2006 whereby the District Officers in Agriculture in the whole province were authorized to exercise the power of allotment issued by Director General Agriculture Extension Khyber Pakhtunkhwa Peshawar. As the order dated 13.02.2009 is basically an order of re-designation of accommodation from designated to non-designated and not a simple allotment order. Secondly the appellant had entered into the house after an allotment order as mentioned above and he did not occupy the house without any order. If the said order was passed by an incompetent authority ~~by an officer~~ not then an inquiry should have been conducted against the officer exercising the wrong power but nothing of the sort has been done by the department. Secondly the inquiry conducted by the department is not under the Efficiency & Discipline Rules and is only a fact finding inquiry. Before imposing any penalty it was necessary for the department to have conducted proper inquiry under the Efficiency & Discipline Rules by giving the appellant reasonable opportunity to defend himself through due process of law. Thirdly the very order dated 05.08.2014 is a void order on the ground that the Director General Agriculture has issued an order that an adverse entry should be given to the appellant in PER. It is beyond understanding under which provision of law he has ordered that adverse entry should be given in PER as such penalty is not even visualized by any disciplinary rules. It appears that the appellant was in occupation of the house under an order passed by the Executive District Officer after re-designating the house and he had been paying the rent of his scale. Regarding the prayer of declaration, this Tribunal is not in agreement with the learned Deputy District Attorney for the reason that no where it is mentioned that declarations cannot be granted by this Tribunal. The reason is that whenever any Tribunal or a court modifies, cancels, aids, reverses any order of the judicial or executive authority the first is to declare the order as illegal and thereafter the actual remedy is granted. This declaration is not the one under Section-42 of the Specific Relief Act.

ATTESTED


 ADVOCATE
 Khyber Pakhtunkhwa

ATTESTED

 TO Be True &
 Advocate

Consequently, this Tribunal reaches the conclusion that the impugned order dated 05.08.2014 is a void order which is set-aside and the department is directed not to act on that very order and also allot a suitable accommodation to the appellant in accordance with his status. Parties are left to bear their own costs. File be consigned to the record room.

Announced SD/- Niaz Muhammad Khan,
Chairman
23.10.17

SD/- Gulzar Khan,
Member

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 23-10-17
Number of Words 2600
Copying Fee 12/-
Urgent 12/-
Total 12/-
Name of Copy [Signature]
Date of Completion 30-10-17
Date of Delivery of Copy 30-10-17

ATTESTED
[Signature]
To Be True Copy
Advocate

Registered AD

Date: 13th February 2018

Without Prejudice

DISTRICT DIRECTOR AGRICULTURE,
Agriculture Colony Muslim Abad, Mardan.

INTIMATION OF ORDERS/ DECISION OF HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA IN CASE SERVICE APPEAL NO.862/2015 TITLED TAJ AKBAR
VERSUS SECRETARY TO THE GOVT OF KHYBER PAKHTUNKHWA AGRICULTURE
DEPARTMENT.

Dear Sir,

We have been instructed by Taj Akbar, Junior Scale Stenographer Office of the District Director
Agriculture Colony Muslim Abad Mardan (hereinafter to be referred to as "our client") to inform
your good office about the following:

1. THAT, our client, had filed an appeal No.862/2015 before the Hon'ble Service Tribunal Khyber
Pakhtunkhwa, Peshawar against the order No.18/50/Est/11245-50/DG dated.05.08.2014, where
the penalties were imposed upon our client.

2. That, the case came up for hearing on 23.10.2017 and the Hon'ble Tribunal was pleased to allow
the appeal of the appellant through judgment dated.23.10.2017, the concluding para is reproduced
below for your perusal;

"Consequently, this Tribunal reached the conclusion that the impugned order
dated.05.08.2014 is a void order which is set-aside and the Department is directed not to act
on that very order and also allot a suitable accommodation to the appellant in accordance
with his status. Parties are left to bear their own costs. File be consigned to the record
room."

3. That, the order of the Hon'ble Service Tribunal has been passed in favor of the appellant however,
appellant has till date been not allotted any accommodation, which is a clear violation of the order
of the Hon'ble Service Tribunal.

You are, therefore, put to NOTICE to implement/ comply with the order of the Hon'ble Service
Tribunal and allot a suitable accommodation as per the status of the appellant within a period of 15
days. In the event of your failure to comply with the present Legal Notice, we have been directed by
our client to initiate CONTEMPT OF COURT PROCEEDINGS against you in the competent
court of law, in which case you shall also be liable for any expenses borne by our client.

NB: A copy of this Notice has been retained at our office for any future correspondence and necessary
litigation.

ATTESTED

To Be True Copy
Advocate

Amir Ali Khan
Amir Ali Khan
Advocate High Court (s)

Secy PH / 3175 (PP)

*propose a "C" type
residence for
to appellant.*

P.T.O

The District Director,
Agriculture, Mardan.

190
20/3/18

Subject:-

APPLICATION FOR ALLOTMENT OF RESIDENTIAL
ACCOMMODATION/RESTORATION OF C-TYPE
RESIDENTIAL QUARTER OR OTHERS.

R/Sir,

With due respect it is re-submitted few lines for your kind consideration that:

- 1) Sir, the Service Tribunal Khyber Pakhtunkhwa Peshawar has been accepted my Service Appeal No.862/2015, and declared decision totally in my favour on dated 23/10/2017.
- 2) Sir, I am also entitled the C-Type accommodation under the entitlement schedule of Government Residential accommodation issued by the Govt. of Khyber Pakhtunkhwa Administration Department Notification 07th January 2015 at Chapter-IV (5) classification and entitlement of accommodation. (Photo copy attached as Annexure 02 Pages).
- 3) Sir, the Deputy Commissioner Mardan has already been issued a letter vide No.755/DC(M)DN dated 1/3/2018 to allot an accommodation in Agriculture Office Colony Mardan.

Therefore you are requested may kindly be restored/re-allotted a residential accommodation (C-Type) or others in light of the honourable Service Tribunal Khyber Pakhtunkhwa court decision announced on 23/10/2017 and also some others issues indicated in Office Order No.18/50/Estt/11245-50/DCG dated 05/08/2014 (Photo copy attached as Annexure-B), may please be cleared/settled the all issues in compliance of above decision announced by the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar please.

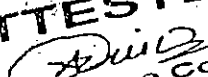
Encl: As above.

Dated 20/03/2018.

Yours Obediently,

(Taj Akbar)

Junior Scale Stenographer
Office of the District Director Agriculture,
Mardan.

ATTESTED

To Be True Copy
Advocate

DISTRICT DIRECTOR AGRICULTURE

Department of Agriculture (Extension) Government of Khyber Pakhtunkhwa

Canal Road Mardan

Phone # 0937-9230106

No. 2187 /DDA Mardan

Dated. 27/11 /2017

To:

The Deputy Commissioner
Mardan.

Subject:-

SERVICE APPEAL- TAJ AKBAR, JUNIOR SCALE
STENOGRAPHER VS SECRETARY AGRICULTURE
DEPARTMENT AND OTHERS.

Memo:-

Kindly refer to the above cited subject. (copy attached).

It is to bring in to your kind notice that B, & C Type residential accommodations at this office are, as per rules/ policy, allotted to officers of grade 18 and 17 respectively.

One C-type residence was allotted to one Taj Akbar, Stenographer BS-12. by the then Executive District Officer Agriculture, light of District Coordination Officer letter No. 1203/DCO dated 09/02/2009 declaring the residence as non-designated.

The Audit Department termed the action as against the rules, hence this office cancelled the said allotment.

Mr. Taj Akbar, filed a suit in the Service Tribunal, and now the Tribunal has ordered to restore the initial allotment order.

The residence now to old has been declared as un-serviceable, by C&W Department, further the residence can be allotted to grade 17 Officer, and not to lower rank.

This office requests your kind guidance, whether the residence is allotted to appellant, who is not BS-17 or otherwise,

Encl: A.A

ATTESTED
[Signature]
To Be True Copy
Advocate

[Signature]
District Director,
Agriculture, Mardan.

[Signature]
27/11/17



DISTRICT DIRECTOR AGRICULTURE

Department of Agriculture (Extension) Government of Khyber Pakhtunkhwa
Canal Road Mardan
Phone # 0937-9230106

No. 330 /DDA Mardan
To.

Dated. 21/2 /2018

The Deputy Commissioner
Mardan.

Subject:-

**SERVICE APPEAL JUNIOR SCALE STENOGRAPHER VS
SECRETARY AGRICULTURE DEPARTMENT & OTHERS.**

Memo:-

Please refer to your office letter No. 220/DC (M) / DN/ dated Mardan
the 17/01/2018 on the captioned subject.

It is reported to your good office that honorable Service Tribunal order
in the instant case that allot a suitable accommodation to the appellant in accordance to
his status.

Since there is no accommodation available with this office according
to the status of the appellant i-e Mr. Taj Akbar Junior scale Stenographer BPS-14 in the
colony of Agriculture (Extension)

Therefore it is once again requested that any Government
accommodation in District Mardan according to the status of appellant may please be
allotted to him in compliance to the Service Tribunal Decision / order.

Enclosed Court Decision / order

[Signature]
District Director,
Agriculture, Mardan.

Zaher-Doc/File/DC Mardan

ATTESTED
[Signature]
To Be True Copy
Advocate

OFFICE OF THE
DEPUTY COMMISSIONER,
MARDAN

No. 755 / DC (M)/DN/

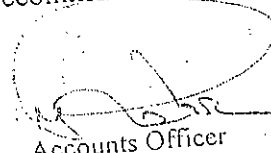
Dated Mardan the 1 / 3 / 2018

To, The District Director,
Agriculture, Mardan

Subject: SERVICE APPEAL- TAJ AKBAR, JUNIOR SCALE STENOGRAPHER Vs
SECRETARY AGRICULTURE DEPARTMENT AND OTHERS.

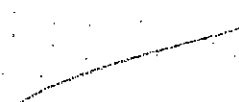
Memo: I am directed to refer your office letter No. 330/DDA Mardan dated 21-02-2018 on
the subject noted above.

In this connection it is stated that there is no such accommodation available at this
time according to the status of appellant. The official may be allotted the accommodation in your
respective colony within Agriculture Office.


Accounts Officer
Deputy Commissioner Office
Mardan

Endst: of even No. and date:

Copy forwarded for information to:
PS to Deputy Commissioner, Mardan.


Accounts Officer
Deputy Commissioner Office
Mardan

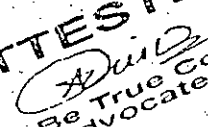
ATTESTED

To Be True Copy
Advocate



Photo copy for supply for attendance the
DISTRICT DIRECTOR AGRICULTURE

*Count 03
dated 8/18
MS*

Department of Agriculture (Extension) Government of Khyber Pakhtunkhwa

Canal Road Mardan

Phone # 0937-9230106

No. 535 /DDA (E) Dated Mardan the 19.3 /2018.

To:

The Director General
Agriculture Extension
Khyber Pakhtunkhwa
Peshawar.

Subject: SERVICE APPEAL NO 862/2015, TAJ AKBER JUNIOR SCALE STENOGRAPHER VS SECRETARY AGRI: DEPARTMENT & OTHERS.

Memo:

It is reported to your good office that the Honorable Service Tribunal in judgment order/court decision in the aforesaid case has ordered to allot suitable accommodation to the appellant in accordance with his status vide service appeal No.862/2015 dated 23/10/2017.

Since there is no suitable accommodation according to the status of the appellant i.e Taj Akber Junior Scale Steno Grapher in the colony of agriculture extension department at Mardan.

Therefore this office requested the Deputy Commissioner Mardan vide this office memo.No.2487/DDA Mardan & memo No.330/DDA Mardan dated 27/11/2017 and 21/11/2018 for compliance in light of the aforesaid court decision.

Now the deputy Commissioner Mardan has asked this office vide memo No.220/DC(M)DN/ dated Mardan the 17/01/2018 & Memo No/755/DC(M) DN/ Dated Mardan The 01-03-2018, respectively in response to this office memo mentioned as above that there is no such accommodation available at this time according to the status of appellant & the case may be resolved at your level in light of the Service Tribunal decision.

It is therefore requested to guide this office for taking an appropriate action in light of the court decision to settle the issue please.

It is further added that minutes of the meeting have not yet received in this office regarding meeting held at law Department regarding the case, on dated 20/12/2017

[Signature]
District Director
Agriculture Mardan.

(17) D

DIRECTORATE GENERAL AGRICULTURE (EXTENSION)
KHYBER PAKHTUNKHWA, PESHAWAR

No. 16/115/Estt./ 758 /DG Dated Peshawar the 3/4 /2018

To: The District Director Agriculture (Extension)
Mardan

Subject: SERVICE APPEAL NO.862/2015, TAJ AKBER, JUNIOR SCALE
STENOGRAPHER VS SECRETARY AGRICULTURE DEPARTMENT & OTHERS

Memo

Reference your office letter No.535/DDA(E), dated 19.3.2018.

You are directed to allot suitable residential accommodation to the official of his status, if available.

N. B. Khan
DIRECTOR GENERAL

ATTESTED
[Signature]
To Be True Copy
Advocate

In the Khyber Pakhtunkhwa Services Tribunal Peshawar
Execution Petition No.118/2018

Mr.Taj Akbar

PETITIONER

Versus

Govt of KP Agriculture Department
&
Director General Audit KP Peshawar

RESPONDENT. 04

I N D E X

S.No	Description of documents	Annexure	Pages
1	Affidavit		1
2	Para wise comments of E.Petition		2



Audit Officer
Admn

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

E. Petition No.118/2018

Mr. Taj Akbar

Petitioner

VERSUS

Govt. of Khyber Pakhtunkhwa Agriculture Deptt Peshawar
&
Director General Audit Khyber Pakhtunkhwa

Respondents No.4

AFFIDAVIT

I, Muhammad Saleem, Assistant Audit Officer, office of the Director General Audit Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying parawise comments on behalf of added respondents are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

DEPONENT

Muhammad Saleem
Assistant Audit Officer
C.N.I.C No. 17102-6644601-7

Before Khyber Pakhtunkhwa Services Tribunal Peshawar.

Execution Petition No. 118/2018

Taj Akbar

Petitioner

Versus

Government of Khyber Pakhtunkhwa Agriculture Department Peshawar

Director General Audit Khyber Pakhtunkhwa

Respondent No. 04

Para wise comments of the E/Petition on behalf of Respondent No.4

Respectfully Sheweth,

Preliminary objection


1. That the appellatant has got no cause of action.
2. That the instant appeal is barred by law.
3. That the instant appeal in not maintainable
4. That the appellatant has got no locus standi.

Reply on facts

1. Correct
2. Correct
3. Not related to replying respondent
4. Not related to replying respondent
5. Not related to replying respondent
6. Correct

Prayer

It is, therefore, submitted with profound respect that this honorable Tribunal may very graciously be pleased to dismiss the instant appeal with cost:


6/2/18
DIRECTOR GENERAL
AUDIT
KHYBER PAKHTUNKHWA
PESHAWAR

MOST IMMEDIATE/



**GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT**

091-9211228, 091-9210033, sectionofficeraba@gmail.com

No. SO(Acctt)/AD/DAC/2012-13
Dated Peshawar, the November 12th, 2019

To,

The Director General (Audit),
o/o Accountant General,
Khyber Pakhtunkhwa, Peshawar.

Subject: **COURT CASE IN RESPECT OF MR. TAJ AKBAR JUNIOR SCALE
STENOGRAPHER VERSUS GOVT. OF KHYBER PAKHTUNKHWA
AGRICULTURE DEPARTMENT.**

I am directed to refer to the subject noted above and to enclose herewith a copy of DG *Agriculture* (Extension) alongwith its enclosures and to state that Advance Para No. 120 for the year 2012-13 were made by the Audit regarding deduction of amounting to Rs. 140640/- from the salary of Taj Akbar Stenographer BPS-14 due to high scale accommodation. Meanwhile the official concerned filed an appeal in service tribunal Peshawar the court decided the case in favor of petitioner and directed that consequently this tribunal reach the conclusion the impugned order dated 05.08.2014 is a void order which is set-aside and the department is directed not to act on that very order and also allot a suitable accommodation to the appellant in accordance with his status. Parties are left to bear their own costs File be consigned to the record room as per judgment of the court may be perused Para No. 6 of the Judgment vide **(Flag A)**.

This Department was approached to Law Department for filing of CPLA before the Scrutiny Committee well in time but the Scrutiny Committee of Law Department consider the subject case not fit for filing of appeal/CPLA which may be perused vide **(Flag-B)**. Now the official filed an execution in Service Tribunal.

You are therefore, requested to give your views / comments to withdraw the Advance Para, please.

Encls. As Above:

Endst: No. & Date Even:

Copy forwarded to:-

1. Director General *Agriculture (Extension)* Department Khyber Pakhtunkhwa, Peshawar w/r to his letter referred to above.
2. P.S to Secretary Agriculture, Livestock & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
3. P.A to Additional Secretary Agriculture Livestock, & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
4. P.A to Deputy Secretary Agriculture Livestock, & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
5. Master File.

(ABDUR RAUF)
SECTION OFFICER (AB&A)

(ABDUR RAUF)
SECTION OFFICER (AB&A)

DDA(E) MARDAN	
Dairy No. 561	Dated: 12/11
SMS Hort	<input checked="" type="checkbox"/>
SMS PP	<input checked="" type="checkbox"/>
SMS Agro	<input type="checkbox"/>
Supdt	<input type="checkbox"/>
Acctl:	<input type="checkbox"/>
O/Asstt:	<input type="checkbox"/>
Steno:	<input type="checkbox"/>
Estt: Clerk	<input type="checkbox"/>

DIRECTORATE GENERAL AGRICULTURE (EXTENSION) KHYBER PAKHTUNKHWA, PESHAWAR

No. Lit. 23460-61 DGA

Dated Peshawar the 19/11/2019

Copy forwarded to:-

1. The District Director Agriculture, Mardan.
2. The Assistant Account Officer, HQ Office.

For information.

Incharge Litigation Section
HQ Office



OFFICE OF THE
DIRECTOR GENERAL AUDIT
KHYBER PAKHTUNKHWA PESHAWAR

Tel: 92-91-9211309

No. Audit/DAC/verification/Agri/2019-20/802

Dated: 10-01-2020

To,

The Secretary to Govt: of Khyber Pakhtunkhwa,
Agriculture Live Stock & Cooperative Department,
Peshawar.

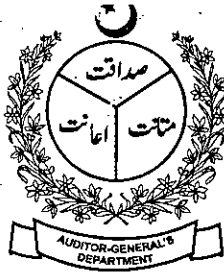
[Signature]
10 JAN 2020

SUBJECT: - COURT CASE IN RESPECT OF MR. TAJ AKBAR JUNIOR SCALE STENOGRAPHER VERSUS GOVT. OF KHYBER PAKHTUNKHWA AGRICULTURE DEPARTMENT.

With reference to your office letter No. SO(Acctt)/AD/DAC/2012-13 dated: 12-11-2019 on the subject noted above.

I am directed to communicate that this being an administrative matter may please be dispensed with by your good office.

[Signature]
Deputy Director Audit




OFFICE OF THE
DIRECTOR GENERAL AUDIT
KHYBER PAKHTUNKHWA
PESHAWAR

DG Audit:(091)9211306
Dir Audit: (091)9222525
Fax: (091)9222417

No. Admn:Audit/C-118 (COURT CASES)/2019-20/334 Dated: 12/02/2020

OFFICE ORDER

The competent authority has been pleased to nominate Abdul Salam Khan, Audit Officer to attend the court of Khyber Pakhtunkhwa Services Tribunal Peshawar on 02-03-2020 in E. Petition No.118/18, Appeal No.862 of 2015 filed by Mr. Taj Akbar VS Govt of Khyber Pakhtunkhwa through Agriculture Secretary etc.


**AUDIT OFFICER
(ADMN)**

Audit

**DIRECTORATE GENERAL, AGRICULTURE (EXTENSION),
KHYBER PAKHTUNKHWA, PESHAWAR**

No. Acctt:/6/69-B-3003 /DGA (E),
Dated Peshawar, the 30/1/ 2020.


IMMEDIATE

To,
The District Director Agriculture
Mardan.

Subject: - HOLDING OF DEPARTMENTAL ACCOUNTS COMMITTEE MEETING.

Enclosed find herewith a photo copy of SO (Acctt:) letter No. SO9Acctt)/AD/DAC/2012-13 dated 27.01.2020 on the subject captioned above.

You are therefore, directed to attend the DAC meeting alongwith its all relevant documents on 04.02.2020 at 10.30^{AM} in the committee room of Agriculture Department regarding Advance Para No.120 for the year 2012-13 under the chairmanship of Secretary Agriculture.


DIRECTOR GENERAL

Endst.No. Acctt: _____ /DGA (E),
Copy to:

Dated Peshawar, the _____ /2020.

1. The Section Officer (Acctt:) Govt. of Khyber Pakhtunkhwa Agriculture Deptt: Peshawar for information.
2. Incharge Litigation HQ.


DIRECTOR GENERAL

DDA (E) MARDAN	
Can. No. 234	Dated: 31/1/2020
SMS Hort	
SMS PP	
SMS Agro	
Supdt	
Acctt:	
O/Asstt:	
Steno:	
Estt: Clerk	

B. Khy

Ru

File

31/1/2020

31/1