

EP 54/18

15.07.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Saifur Rehman, Superintendent and Qasam Superintendent for the respondents present.

Representative of the respondents produced copy of letter dated 18.02.2021 of Finance Department, whereby conditionally implementing the judgment under execution till final decision of August Supreme Court of Pakistan, sanction for a sum of Rs. 2,93,043/- has been accorded. Learned counsel for the petitioner has expressed his satisfaction and requested that instant execution petition may be consigned.

In view of the above, instant execution petition is filed and consigned to the record room. All orders including order dated 14.01.2021 in respect of attachment of salary of the respondents has been redundant.

  
Chairman

16.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 15.03.2021.



Reader

15.03.2021

Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 20.05.2021 before S.B.



Reader

08.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 15.07.2021 for the same as before.



Reader

14.01.2021

Petitioner is present alongwith his counsel Mr. Mir Zaman Safi, Advocate. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Muhammad Ibrar, Assistant Secretary on behalf Secretary Board of Revenue, Mr. Naqeeb Khan, Section Officer on behalf of Finance Department, Mr. Muhammad Sardar, Computer Operator on behalf of Deputy Commissioner Bunir and Mr. Muhammad Haleem Khan, Assistant Accountant, for the respondents are also present.

The representative of Finance Department was queried with regard to making arrangement for payment of an amount tantamounting to Rs. 293043/- in response thereof the representative submitted that by virtue of letter No. BO(PAC)/FD/1-1/BOR/BE 2019-20 dated 27.02.2020 written to the Secretary, Government of Khyber Pakhtunkhwa Revenue and Estate Department the latest position of CPLA pending in the Supreme Court of Pakistan has been solicited but in response thereof the department have not been communicated any information with regard thereto, while looking at the date of referred to letter the head of the concerned department i.e Secretary has not taken any step of conveying the requisite information to the Finance Department. The representative of revenue department was asked about progress in the matter however, it appeared that they are playing dilly dallying with the Tribunal, therefore, with no option left, salaries of representative as well as Secretary Board of Revenue who stands as respondent No. 1 has to be attached and in this regard notice of attachment has to be issued prior to issuance of warrant of attachment to this effect. All the respondents are directed to take the matter seriously by giving effect to the judgment passed by this Tribunal in its letter and spirit, they have to submit implementation report to that effect eliciting full satisfaction of the remaining claim of the petitioner. File to come up for implementation report on 11.03.2021 before S.B.


(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

Notice Received for 16/2/21  
Counsel for Appellant  
Amir Khan  
11/2/21

25.11.2020

Petitioner is present in person. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Saleem Sajid, Superintendent (Finance Department), Mr. Muhammad Haleem Khan, Assistant Accountant and Mr. Muhammad Sardar, Computer Operator, for the respondents are also present.

Although petitioner Yousaf Ali Shah has been granted benefits for the past period of his absence by virtue of office order bearing no. 10126-33/F/12/DC/Buner/Estt: dated 22<sup>nd</sup> July 2019 but the accruing monetary benefits tantamounting to Rs. 293043/- has not been extended to him. The representative of Finance Department is present today who is directed to inform the high-ups and the judgment of the august Service Tribunal be implemented in its letter and spirit by making arrangement for payment of entire arrears. File to come up for requisite arrangement of funds and further proceedings on 14.01.2021 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)


31.08.2020

Learned counsel for the petitioner present. Mr. Kabirullah Khattak learned Addl. AG for the respondents present.

On the previous order sheet date 15.07.2020 Notice be issued to the District Account Officer, Buner to appear in person and assist the Tribunal regarding implementation report, but today District Account Officer, Buner is not present. He is strictly directed to attend the court on the next date of hearing.

Adjourned to 01.10.2020 before S.B.

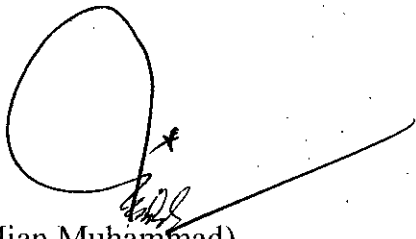
01.10.2020

  
Counsel for the petitioner present. Member (E)

Mr. Kabirullah, Khattak, Additional Advocate General alongwith Mr. Mukhtiar Ali, Assistant Secretary, Mr. Muhammad Haleem, Assistant Account Officer and Mr. Shamshair, Assistant for respondents present.

Learned Addl: AG is directed to get updates from the respondent-department with reference to budget allocation to meet out and cover up the recovery period of the petitioner.

Adjourned to 25.11.2020 for further proceedings before S.B.

  
(Mian Muhammad)  
Member (E)

21.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 15.07.2020 for the same. To come up for the same as before S.B.

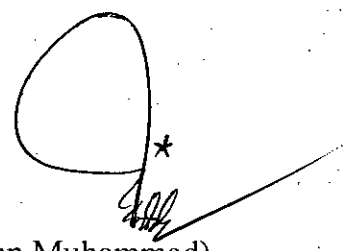
  
Reader

15.07.2020

Petitioner in person present. Addl: AG for respondents present.

Learned counsel for the petitioner is not satisfied with the implementation report submitted by the respondents. He requested that District Accounts Officer, Buner may be summoned in person to assist the Tribunal regarding implementation report. Notice be issued to District Accounts Officer, Buner to appear in person on the next date of hearing alongwith the complete record of the petitioner.

Adjourned to 31.08.2020 before S.B.

  
(Mian Muhammad)  
Member(E)

10.02.2020

Petitioner in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith M/S Muhammad Arif Superintendent and Saif Ur Rehman Superintendent present. Learned AAG stated that the respondent department has taken up the matter with the Finance Department and in this respect, submitted copy of office letter dated 29.01.2020 addressed to Budget Officer-I PAC/Coord, Finance Department Peshawar. Adjournment requested. Adjourn. To come up for further proceedings/implementation report on 16.03.2020 before S.B.

  
Member

16.03.2020

Petitioner in person present. Mr. Kabirullah Khattak learned Addl. AG alongwith M/S Arif Superintendent and Saif Ur Rehman Superintendent for the respondents present. Representative of the respondents seeks time to furnish implementation report. Adjourned. To come up for further proceedings/implementation report on 21.04.2020 before S.B.

  
Member

09.10.2019

Petitioner alongwith counsel and Addl. AG alongwith Attaullah, Assistant Secretary & Muhammad Sardar, Computer Operator for the respondents present.

The representative of respondents has produced a copy of office order dated 22.07.2019 alongwith salary/arrears bill amounting to Rs. 1015103/- pertaining to the petitioner. The petitioner acknowledges the receipt of an amount of Rs. 5,70,000/-. As per the respondents some further adjustment/payment is yet to be made in favour of petitioner after calculation and adjustment of amount already deposited by the petitioner towards refund of salary received during suspension period.

To come up for further proceedings on 06.11.2019 before S.B.

06.11.2019

Counsel for the petitioner and Addl. AG alongwith Saifur Rahman, Superintendent and Muhammad Arif Superintendent for the respondents present.

Learned counsel for petitioner requests for adjournment in order to seek fresh instruction. Adjourned to 19.12.2019 before S.B.

Chairman 

~~19.12.2019~~

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

19.12.2019

~~Nemo for petitioner, Addl. AG alongwith Saifur Rahman, Superintendent for the respondents present.~~

Adjourned due to general strike of the Bar. To come up on 10.02.2020 for further proceedings before S.B.

Chairman 



11.07.2019

Counsel for the petitioner and Addl. AG alongwith Muhammad Sardar, Computer Operator and Muhammad Haris Senior Clerk for the respondents present.

Learned A.A.G requests for adjournment. The respondents are once again required to produce on the next date copy of any order setting aside the judgment under implementation or suspending its operation. Else, the implementation report shall positively be submitted on the next date.

Adjourned to 02.09.2019 before S.B.



Chairman

02.09.2019

Counsel for the petitioner and Mr. Usman Ghani District Attorney alongwith M/S Muhammad Arif, Superintendent and Nimatullah, Tehsildar for the respondents present.

The representative of respondents has produced copy of office order dated 22.07.2019 alongwith "source" for the month of September, 2019 wherein the arrears for the absence period have been included. As per representative the documents have been prepared and sent by D.C Buner to the District Accounts Officer Buner for payment.


To come up on 09.10.2019 for further proceedings.



Chairman

23.04.2019

Petitioner in person present. Addl: AG alongwith Mr. Kaleemullah, SI, Mr. Asadullah, Tehsildar and Mr. Javed, Assistant for respondents present. Due to general strike of the Bar the case is adjourned. Case to come up for further proceedings on 13.06.2019 before S.B.

  
(Ahmad Hassan)  
Member

13.06.2019

Petitioner with counsel and Addl. AG alongwith Muhammad Sardar Computer Operator and Anar Gul, ACO for the respondents present.

The representative of respondents has once again reiterated that the department has preferred CPLA against the judgment under implementation before the Apex Court in which no date of hearing has been fixed so far.

The respondents, in the circumstances, are required to produce copy of any order setting aside the judgment or suspending its operation on the next date of hearing. Else, the implementation report shall positively be submitted after compliance.

Adjourned to 11.07.2019 before S.B.

  
Chairman

27.12.2018

Learned counsel for the petitioner present. Mr. Kabirullah Khattak learned Additional Advocate General present and stated that the respondent department has filed CPLA against the judgment under implementation, and seeks adjournment. Adjourn. To come up for further proceedings 14.02.2019 before S.B

  
Member

14.02.2019

Petitioner in person present. Muhammad Farooq Computer Operator representative of the respondent department present and submitted copy of CPLA which is placed on file and copy of which is handed over to the petitioner. Adjourn. To come up for further proceedings on 20.03.2019 before S.B.

  
Member

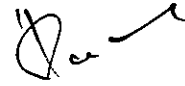
20.03.2019

Petitioner in person and Mr. Kabirullah Khattak learned Addl; AG alongwith M/S Asad Ullah Tehsildar and Qadar Gul HCO for the respondents present. Due to general strike of the bar, the case is adjourned. To come up for further proceedings on 23.04.2019 before S.B.

  
(Hussain Shah)  
Member

24.07.2018

Petitioner absent. Learned counsel for the petitioner absent. Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Atta Ullah Assitant Secretary and Mr. Afzal ACO for the respondents present. Adjourned. To come up for implementation report otherwise reply/para wise comments on 31.08.2018 before S.B



Member

31.08.2018

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional alongwith Mr. Attaullah, Assistant Secretary for the respondents present. Implementation report not submitted. Learned Additional AG requested for further time. Adjourned. To come up for implementation report on 20.09.2018 before S.B.

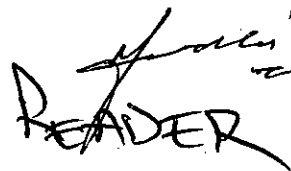


(Muhammad Amin Khan Kundi)

Member

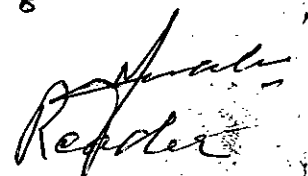
22.9.2018

Due to muhammad nizam  
vacations the case was  
not heard on 20.9.2018  
Adjourned for 12-11-2018

  
READER

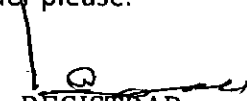

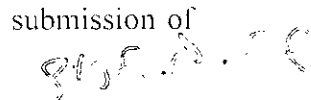

12-11-2018

Due to Retirement of Honorable  
# Tribunal is non functional therefore the  
case is adjourned to come up for  
the same on 27-12-2018

  
Reader

FORM OF ORDER SHEET

Execution Petition No. 54/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	21.02.2018	<p>The Execution Petition of Mr. Yousaf Ali Shah submitted to-day by Mr. Noor Muhammad Khattak 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</p>
2-	26/02/18.	<p>This Execution Petition be put up before S. Bench on <u>05/03/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	05.03.2018	<p>Counsel for the petitioner and Assistant AG present. Notice be issued to the respondent department for submission of implementation report on 02.05.2018 before S.B.</p> <p style="text-align: right;"> (Gul Zeb Khan) Member</p>
	02.05.2018	<p>Junior counsel for the petitioner present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Attaullah, Assistant Secretary and Mr. Naimatullah, Naib Tehsildar for the respondents also present. The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 24.07.2018.</p> <p style="text-align: right;"> Reader</p>

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

Implementation Petition No. 54 /2018

In

Appeal No.1098/2015

**YOUSAF ALI SHAH**

**VS**

**REVENUE DEPTT:**

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3-	Judgment	<b>A</b>	4- 6.
4-	Vakalat nama	.....	7.

**PETITIONER/APPLICANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

**MOBILE NO.0345-9383141**

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

Implementation Petition No. 54 /2018

In

Appeal No.1098/2015

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 204

Dated 21/02/2018

Mr. Yousaf Ali Shah, Patwari (BPS-07)  
Office of the Deputy Commissioner, Buner.

.....PETITIONER

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Peshawar.
- 2- The Commissioner Malakand Division at Saidu Sharif, Swat.
- 3- The Director General Anti Corruption, Khyber Pakhtunkhwa, Peshawar.
- 4- The Deputy Commissioner Buner, District Malakand.

.....RESPONDENTS

**IMPLEMENTATION PETITION FOR DIRECTING THE**  
**RESPONDENTS TO OBEY THE JUDGMENT IN LETTER**  
**AND SPIRIT**

**R/SHEWETH:**

- 1- That the petitioner filed Service appeal bearing No. 1098/2015 before this august Service Tribunal for the grant of back benefits.
- 2- That the appeal of the petitioner was finally heard by this august Tribunal on 08.11.2017 and was decided in favor of the petitioner vide judgment dated 08.11.2017 with the we that "*In view of the above discussion, this appeal is accepted and appellant is entitled for benefits in terms of FR 53(b) for whole of the period*". Copy of the judgment is attached as annexure..... **A.**
- 3- That after obtaining copy of the judgment the petitioner applied to the Department for his claim but the respondent Department is not willing to obey the judgment and till date the respondents have not been allowed/issued back benefits to the appellant.

- 4- That the petitioner has no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of this implementation petition the respondents may be directed to implement the judgment dated 08.11.2017 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

**PETITIONER**

**YOUSAF ALI SHAH**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK**

**&**

**MUHAMMAD MAAZ MADNI  
ADVOCATE**



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

Implementation Petition No. \_\_\_\_\_/2018

In

Appeal No.1098/2015

**YOUSAF ALI SHAH**

**VS**

**REVENUE DEPTT:**

**AFFIDAVIT**

I Noor Mohammad Khattak Advocate on the instructions and on behalf of the petitioner do hereby solemnly affirm that the contents of this implementation petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.




**NOOR MOHAMMAD KHATTTAK**  
**ADVOCATE**



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT SWAT**

**ATTESTED**

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Camp Court, Swat

Service Appeal No. 1098/2015

Date of Institution... 07.10.2015

Date of decision... 08.11.2017

Yousuf Ali Shah, Patwari (BPS- 07) office of the Deputy Commissioner, Buner  
District Buner. ... (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary Board of  
Revenue, Peshawar and 3 others. ... (Respondents)

MR. NOOR MUHAMMAD KHATTAK,  
Advocate ... For appellant.

MIAN AMIR QADAR,  
District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN  
MR. MUHAMMAD HAMID MUGHAL, ... MEMBER

JUDGMENT

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

FACTS

2. Appellant is aggrieved from an order passed on 31.07.2015 issued by  
Deputy Commissioner Buner whereby he was reinstated in service but the period  
of his absence was considered as leave without pay. Against this order the  
appellant filed a departmental appeal on 18.08.2015 which was rejected on  
17.09.2015. thereafter the appellant file the present appeal on 07.10.2015. The  
allegation against the appellant was his involvement in a murder case He was

**ATTESTED**



5

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Camp Court, Swat

suspended on 08.07.2011 till the final decision of the court. The Trial Court sentenced him to life imprisonment on 17.07.2012 but the Apex Court finally acquitted him on 25.2.2015. The appellant was terminated from service in the meantime on 2.12.2014 on the basis of his conviction by the learned Trial Court. When the Apex court acquitted him of the charge, the department reinstated the appellant vide impugned order dated 31.07.2015.

### ARGUMENTS

3. The learned counsel for the appellant argued that there was no departmental proceedings and appellant was suspended, then terminated and reinstated in service solely on the basis of the judgment of courts. He meant that the department just followed the verdicts of the courts in this regard. That under F.R 53 (b) the appellant was entitled for his full salary for the period of his suspension. That he was also entitled for full salary for remaining period under F.R 54. The learned counsel argued that every acquittal is honourable acquittal and relied upon 1998-SCMR-1193.

4. The learned District Attorney argued that the department has rightly ordered the intervening period as leave without pay on the basis of principle of ~~no work no pay~~. That the appellant was not entitled for any pay for the said period.

### CONCLUSION

5. Admittedly there were no departmental proceedings against the appellant and the department followed the judgments of the Courts in criminal case. In view of F.R 53(b) the appellant is entitled for full salary during the period of suspension. So far as the second period is <sup>concerned</sup> no authority has exercised the powers

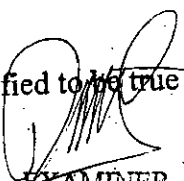
ATTESTED



6

under FR 54 (a). In such event such period shall be treated as spent on duty as per FR 54. Secondly, in accordance with the judgment referred to by the learned counsel for the appellant reported as 1998-SCMR-1193, every acquittal is "honourable acquittal" for the purpose of F.R 54. This Tribunal has already delivered a judgment on this point in appeal No. 669/2014 decided on 25.10.2017 in case entitled "*Darvaiz Khan Vs. Provincial Police Officer and others*"

6. In view of the above discussion, this appeal is accepted and appellant is entitled for benefits in terms of FR 53(b) and 54(a) for whole of the period. Parties are left to bear their own costs. File be consigned to the record room.

**Certified to be true copy**  
  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Camp Court, Swat

Date of Presentation of Application \_\_\_\_\_  
 Number of Words 1200  
 Copying Fee 8.00  
 Urgent 2.00  
 Total 10.00  
 Name of Copyist Pr m d.  
 Date of Completion of Copy 10-11-2017  
 Date of Delivery of Copy 10-11-2017

**ATTESTED**



**VAKALATNAMA**

*Before the Khyber Pakhtunkhwa Service Tribunal*  
OF 2018 *Peshawar*

*Yousaf Ali Shah*

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

*Revenue Department*

(RESPONDENT)  
(DEFENDANT)

I/We *Yousaf Ali Shah*

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, 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 cost. 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.

Dated: \_\_\_\_/\_\_\_\_/2018

*[Signature]*  
\_\_\_\_\_  
CLIENT

*[Signature]*  
**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

OFFICE:  
Flat No.3, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.  
Phone: 091-2211391  
Mobile No.0345-9383141

*Muhammad Haaz Madni*  
*Advocate*

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

CPLA NO. 122-P /2018

Government of Khyber Pakhtunkhwa through  
Secretary Board of Revenue Peshawar & Others

-----PETITIONERS

**VERSUS**

Mr. Yousuf Ali Shah

-----RESPONDENT

*Appeal from*

: Hon'ble Khyber Pakhtunkhwa Service  
Tribunal, Camp Court Swat

*Counsel for Petitioner*

: Advocate General, KPK, Peshawar

*Instituted by*

: Mian Saadullah Jandoli, AOR

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**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

①

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

CPLA NO. \_\_\_\_\_/2018

1. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Peshawar
2. Commissioner Malakand Division at Saidu Sharif Swat
3. Director General Anti-Corruption Khyber Pakhtunkhwa, Peshawar
4. Deputy Commissioner Buner, District Malakand

-----PETITIONERS

VERSUS

Mr. Yousuf Ali Shah Patwari (BPS-07) O/O the Deputy  
Commissioner Buner, District Buner

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, CAMP COURT, SWAT DATED  
08/11/2017 IN SERVICE APPEAL NO.1098/2015

RESPECTFULLY SHEWETH

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

1. Whether the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat suffers from material illegality, factually incorrect and require interference by this august Court?
2. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat has properly and legally exercised its jurisdiction in the matter in hand?

3. Whether the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat is in utter violation of Civil Servant E&D Rules?
4. Whether the respondent has earned dismissal or removal from service after conviction by the trial Court under section 302 PPC?
5. Whether involvement in criminal case and culmination of the same on conviction made liable the respondent of gross misconduct which entails major punishment of dismissal?
6. Whether the respondent was acquitted from the charges on the innocence or acquittal on compromise on payment of diayat amount to the legal heirs?
7. Whether compromise in criminal case on payment of diayat amount to legal heirs of deceased absolves the respondent from the liability of misconduct?
8. Whether the respondent was extended the benefit of compromise by reinstatement into his service with payment of salary as the respondent has not performed the official duty?
9. Whether after conviction of respondent in the criminal case any detailed enquiry was necessary of the disciplinary proceeding against the respondent on the charge of misconduct?
10. Whether the competent authority has authority to avoid the detailed enquiry in the matter of misconduct of the charges on which the respondent was terminated from service?
11. Whether under section 5(b)(1) E&D Rules 2011 the competent authority can dispense with enquiry in the matter when sufficient material in shape of Court verdict was present before him and rightly removed the respondent from service on the charges of misconduct?



12. Whether the petitioners has properly and legally dealt with the issue of absence of respondent in the instant case by refusing back benefits as the respondent has not performed his duty?
13. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat has properly and legally interpreted and applied the law in the subject case?

### FACTS

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

1. That the respondent was serving as Patwari in the Revenue department and posted as Patwari in the District Buner.
2. That the respondent was charged in murder case vide FIR No.440 u/s 302 PPC Police Station Gagra dated 3/7/2011 and after trial was convicted by the learned Sessions Judge, Buner.
3. That after conviction of the respondent the Deputy Commissioner Buner terminated the respondent from his service on the charge of conviction by dispensing the enquiry against the respondent.
4. That the respondent conviction was set aside by the august Supreme Court of Pakistan on compromise of payment of diayat amount to legal heirs of deceased on 25/2/2015.
5. That after the acquittal of respondent, the petitioners reinstated the respondent into his service without back benefits on 31/7/2015.
6. That the respondent filed departmental appeal for the back benefit which was refused vides order dated 17/9/2015.
7. That the respondent then filed service appeal No.1098/2015 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat wherein comments was called from the petitioners which were filed accordingly.

8. That the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat accepted and allowed the service appeal of respondent vide order dated 08/11/2017.
9. That the petitioners being aggrieved from the impugned judgment/order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat dated 08/11/2017 in Service Appeal No.1098/2015 prefer this CPLA before this august Court.
10. That the petitioners seek leave to appeal against the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat dated 08/11/2017 in Service Appeal No.1098/2015.

It is, therefore, prayed that on acceptance of this petition, leave to appeal against the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat dated 08/11/2017 in Service Appeal No.1098/2015 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

(47)

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CMA NO. \_\_\_\_\_/2018

IN

CPLA NO. \_\_\_\_\_/2018

Government of Khyber Pakhtunkhwa through  
Secretary Board of Revenue Peshawar & Others  
-----PETITIONERS

VERSUS

Mr. Yousuf Ali Shah -----RESPONDENT

APPLICATION FOR SUSPENSION OF OPERATION OF THE  
IMPUGNED JUDGMENT/ ORDER OF THE LD. SERVICE  
TRIBUNAL, CAMP COURT, SWAT PASSED IN SERVICE APPEAL  
NO.1098/2015 DATED 08/11/2017 AND TO MAINTAIN THE STATUS  
QUO TILL THE FINAL DECISION OF THE CASE.

RESPECTFULLY SHEWETH:-

1. That the respondent was serving as Patwari in the Revenue department and posted as Patwari in the District Buner.
2. That the respondent was charged in murder case vide FIR No.440 u/s 302 PPC Police Station Gagra dated 3/7/2011 and after trial was convicted by the learned Sessions Judge, Buner.
3. That after conviction of the respondent the Deputy Commissioner Buner terminated the respondent from his service on the charge of conviction by dispensing the enquiry against the respondent.
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5. That after the acquittal of respondent, the petitioners reinstated the respondent into his service without back benefits on 31/7/2015.
6. That the respondent filed departmental appeal for the back benefit which was refused vide order dated 17/9/2015.
7. That the respondent then filed service appeal No.1098/2015 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat wherein comments was called from the petitioners which were filed accordingly.
8. That the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat accepted and allowed the service appeal of respondent vide order dated 08/11/2017.
9. That the impugned judgment of the Honble Service Tribunal is totally illegal against justice and having no backing of law.
10. That the petitioner has a good prima facie case and balance of convenience also lies in maintaining status-quo.
11. That if the impugned judgment and order is not suspended and status-quo is not granted the very purpose of this petition would be lost.

It is, therefore, humbly prayed that the operation of the impugned judgment/order of the Honble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat in service appeal No.1098/2015 Dated 08/11/2017 may graciously be suspended and to maintain status quo till the final decision of the case.

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

(A)

**IN THE SUPREME COURT OF PAKISTAN**  
**(Appellate Jurisdiction)**

CPLA NO. \_\_\_\_\_/2018

Government of Khyber Pakhtunkhwa through  
Secretary Board of Revenue Peshawar & Others  
-----**PETITIONERS**

**VERSUS**

Mr. Yousuf Ali Shah  
-----**RESPONDENT**  
**CONCISE STATEMENT**

- 1- Subject matter and the law Claim for Back 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 Camp Court, Swat	a)07/10/2015 b)08/11/2017	Respondent filed service appeal which has been accepted
<b>Points noted in the impugned Judgment</b>	<b>Treatment of points in the impugned judgment</b>	
<p>The learned counsel for the respondent argued that there was no departmental proceeding and respondent was suspended, then terminated and reinstated in service solely on the basis of the judgment of Courts. He meant that the department just followed the verdicts of the Courts in this regard. That under FR 53(b) the respondent was entitled for his full salary for the period of his suspension. That he was also entitled for full salary for remaining period under FR 54. The learned</p>	<p>Admittedly there were no departmental proceedings against the respondent and the department followed the judgments of the Courts in criminal case. In view of FR 53(b) the respondent is entitled for full salary during the period of suspension. So far as the second period is concerned no authority has exercised the powers under FR 54(a). In such event such period shall be treated as spent on duty as per FR 54.</p> <p>In view of the above discussion this appeal is accepted and respondent is</p>	

B

counsel argued that every acquittal is honourable acquittal. entitled for benefits in terms of FR 53(b) and 54(a) for whole of the period.

The learned District Attorney argued that the department has rightly ordered the intervening period as leave without pay on the basis of principle of no work no pay. That the respondent was not entitled for any pay for the said period.

LAW/RULING ON THE SUBJECT

FOR

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- Civil Servant E&D Rules, 2011

CERTIFICATE:

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

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

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. 122-P /2018

Government of Khyber Pakhtunkhwa through  
Secretary Board of Revenue Peshawar & Others  
-----PETITIONERS

VERSUS

Mr. Yousuf Ali Shah  
-----RESPONDENT

*Appeal from* : Hon'ble Khyber Pakhtunkhwa Service  
Tribunal, Camp Court Swat  
*Counsel for Petitioner* : Advocate General, KPK, Peshawar  
*Instituted by* : Mian Saadullah Jandoli, AOR

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**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. \_\_\_\_\_/2018

Government of Khyber Pakhtunkhwa through  
Secretary Board of Revenue Peshawar & Others  
-----PETITIONERS

VERSUS

Mr. Yousuf Ali Shah  
-----RESPONDENT  
CONCISE STATEMENT

- 1- Subject matter and the law Claim for Back Benefits  
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LAW/RULING ON THE SUBJECT

FOR

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- Civil Servant E&D Rules, 2011

CERTIFICATE:

Certify 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. \_\_\_\_\_/2018

1. Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Peshawar
2. Commissioner Malakand Division at Saidu Sharif Swat
3. Director General Anti-Corruption Khyber Pakhtunkhwa, Peshawar
4. Deputy Commissioner Buner, District Malakand

-----PETITIONERS

VERSUS

Mr. Yousuf Ali Shah Patwari (BPS-07) O/O the Deputy  
Commissioner Buner, District Buner

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, CAMP COURT, SWAT DATED  
08/11/2017 IN SERVICE APPEAL NO.1098/2015

RESPECTFULLY SHEWETH

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

1. Whether the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat suffers from material illegality, factually incorrect and require interference by this august Court?
2. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat has properly and legally exercised its jurisdiction in the matter in hand?

Whether the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat is in utter violation of Civil Servant E&D Rules?

4. Whether the respondent has earned dismissal or removal from service after conviction by the trial Court under section 302 PPC?
5. Whether involvement in criminal case and culmination of the same on conviction made liable the respondent of gross misconduct which entails major punishment of dismissal?
6. Whether the respondent was acquitted from the charges on the innocence or acquittal on compromise on payment of diayat amount to the legal heirs?
7. Whether compromise in criminal case on payment of diayat amount to legal heirs of deceased absolves the respondent from the liability of misconduct?
8. Whether the respondent was extended the benefit of compromise by reinstatement into his service with payment of salary as the respondent has not performed the official duty?
9. Whether after conviction of respondent in the criminal case any detailed enquiry was necessary of the disciplinary proceeding against the respondent on the charge of misconduct?
10. Whether the competent authority has authority to avoid the detailed enquiry in the matter of misconduct of the charges on which the respondent was terminated from service?
11. Whether under section 5(b)(1) E&D Rules 2011 the competent authority can dispense with enquiry in the matter when sufficient material in shape of Court verdict was present before him and rightly removed the respondent from service on the charges of misconduct?

12. Whether the petitioners has properly and legally dealt with the issue of absence of respondent in the instant case by refusing back benefits as the respondent has not performed his duty?
13. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat has properly and legally interpreted and applied the law in the subject case?

### FACTS

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

1. That the respondent was serving as Patwari in the Revenue department and posted as Patwari in the District Buner.
2. That the respondent was charged in murder case vide FIR No.440 u/s 302 PPC Police Station Gagra dated 3/7/2011 and after trial was convicted by the learned Sessions Judge, Buner.
3. That after conviction of the respondent the Deputy Commissioner Buner terminated the respondent from his service on the charge of conviction by dispensing the enquiry against the respondent.
4. That the respondent conviction was set aside by the august Supreme Court of Pakistan on compromise of payment of diayat amount to legal heirs of deceased on 25/2/2015.
5. That after the acquittal of respondent, the petitioners reinstated the respondent into his service without back benefits on 31/7/2015.
6. That the respondent filed departmental appeal for the back benefit which was refused vides order dated 17/9/2015.
7. That the respondent then filed service appeal No.1098/2015 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat wherein comments was called from the petitioners which were filed accordingly.

That the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat accepted and allowed the service appeal of respondent vide order dated 08/11/2017.

9. That the petitioners being aggrieved from the impugned judgment/order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat dated 08/11/2017 in Service Appeal No.1098/2015 prefer this CPLA before this august Court.

10. That the petitioners seek leave to appeal against the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat dated 08/11/2017 in Service Appeal No.1098/2015.

It is, therefore, prayed that on acceptance of this petition, leave to appeal against the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat dated 08/11/2017 in Service Appeal No.1098/2015 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

(47)

IN THE SUPREME COURT OF PAKISTAN  
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CMA NO. \_\_\_\_\_/2018

IN

CPLA NO. \_\_\_\_\_/2018

Government of Khyber Pakhtunkhwa through  
Secretary Board of Revenue Peshawar & Others

-----PETITIONERS

VERSUS

Mr. Yousuf Ali Shah

-----RESPONDENT

APPLICATION FOR SUSPENSION OF OPERATION OF THE  
IMPUGNED JUDGMENT/ ORDER OF THE LD. SERVICE  
TRIBUNAL, CAMP COURT, SWAT PASSED IN SERVICE APPEAL  
NO.1098/2015 DATED 08/11/2017 AND TO MAINTAIN THE STATUS  
QUO TILL THE FINAL DECISION OF THE CASE.

RESPECTFULLY SHEWETH:-

1. That the respondent was serving as Patwari in the Revenue department and posted as Patwari in the District Buner.
2. That the respondent was charged in murder case vide FIR No.440 u/s 302 PPC Police Station Gagra dated 3/7/2011 and after trial was convicted by the learned Sessions Judge, Buner.
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9. That the impugned judgment of the Honble Service Tribunal is totally illegal against justice and having no backing of law.
10. That the petitioner has a good prima facie case and balance of convenience also lies in maintaining status-quo.
11. That if the impugned judgment and order is not suspended and status-quo is not granted the very purpose of this petition would be lost.

It is, therefore, humbly prayed that the operation of the impugned judgment/order of the Honble Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat in service appeal No.1098/2015 Dated 08/11/2017 may graciously be suspended and to maintain status quo till the final decision of the case.

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



**OFFICE OF THE  
DEPUTY COMMISSIONER  
BUNER**

No. 1012633/F/12/DC/Buner/Estt:  
July 22, 2019.

**Office Order**

In pursuance of the Khyber Pakhtunkhwa Service Tribunal Camp Court Swat Judgment in Service Appeal No. 1098/2015 dated 08.11.2017 and after seeking guidance from the high-ups in the implementation of the judgment ibid which letter of the Board of Revenue, Khyber Pakhtunkhwa was communicated through the Commissioner Malakand Division's letter No. 2321-22/2/37-CF/Estt: dated 16.07.2019, the appellant / Mr. Yousaf Ali Shah Patwari is hereby granted benefit for the whole absence period.

This order may be held conditional subject to the final decision of the august Supreme Court of Pakistan in CPLA No. 122-P/2018.

Necessary entries be made in the services book.

  
DEPUTY COMMISSIONER,  
BUNER.

**Endst. No. & Date Even.**

**For Information and Necessary Action w/r to the above:**

1. Senior Member, Board of Revenue, Revenue & Estate Department, Peshawar.
2. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. Commissioner, Malakand Division.
4. Additional Registrar, Khyber Pakhtunkhwa Service Tribunal Camp Court Swat.
5. Advocate General, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
6. District Accounts Officer, Buner.
7. District Nazir (Local) Buner.
8. Yousaf Ali Shah, Patwari.

  
DEPUTY COMMISSIONER,  
BUNER.



**OFFICE OF THE DEPUTY COMMISSIONER BUNER**

FOR THE MONTH OF SEPTEMBER /2019

Cost Centre

B	D	6	1	6	4
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Description: DC. BUNER

Personal No.

3	8	9	5	4	4
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Employee Name: MR. YOUSAF ALI SHAH

Grade

0	9
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Designation PATWARI I.D CODE: -

GENERAL DATA CHANGE			CHANGE IN PAYMENTS/DEDUCTION		Effective Date	Remarks
Info type	Field ID	New contents	Wage Type	Amount		
		Basic Pay	5801	Rs.650190/-	08-07-2011	The official has been granted
		HRA	5002	Rs.41214/-	To	Benefit for the whole absent
		CA	5011	Rs.61536/-	17-07-2012	Period by the Service tribunal
		MA	5012	Rs.37900/-		decided on 08-11-2017 And this
		UAA	5886	Rs.36000/-	01-08-2012	office order No.10126-33 dated
		Stationary Allowance	5059	Rs.4000/-	To	22-07-2019.
		Basta Allowance		Rs.900/-	31-08-2019	
		Patwar Khanna Allowance	5217	Rs.24940/-		
<b>Deduction</b>		AR 10	5098	Rs.68760/-		
GP Fund	Rs.21420/-	AR 11	5911	Rs.20055/-		
B.fund	Rs.6480/-	AR 12	5935	Rs.50392/-		
R &DC	Rs.252/-	AR 13	5309	Rs.27924/-		
GI	Rs.2412/-	AR 14	5950	Rs.10001/-		
<b>Total</b>	<b>Rs.30564/-</b>	AR 15	5964	Rs.999/-		
		AR 16	5975	Rs.4636/-		
		AR 17	5990	Rs.2716/-		
		AR 18	5322	Rs.3066/-		
		AR 19		Rs.438/-		
		<b>G.TOTAL</b>		<b>Rs.1045667/-</b>		
		<b>DEDUCTION</b>		<b>Rs.30564/-</b>		
		<b>N.AMOUNT</b>		<b>Rs.1015103/-</b>		

Prepared By

**DEPUTY COMMISSIONER**  
BUNER

Audited/Checked by

Entered/verified by

No. 8/0-11/DK

dt. 29/01/2020

To..

The Budget officer-I PAC/Coord,  
Finance Department Peshawar

Subject:

ALLOCATION OF BUDGET TO REFUND RECOVERED AMOUNT

Please refer to the subject cited above and to state that one Mr. Yousaf Ali Shah Patwari of this office was suspended from services on the allegations of involvement of in murder case. Later on he was terminated from service on 02/12/2014 on the basis of his conviction by the learned trial court. This office recovered an amount to the tune of Rs. 293,043/- on account of overpayment which were deposited into the treasury vide challan No. 16 dated 31/05/2014 (Copy of the challan enclosed)

Upon the above, the official concerned appealed to the apex court who acquitted him of the charge and consequently the department re-instated the official on 31/07/2015.

However, vide judgment order dated 08/01/2017 for service appeal No. 1098/2015, the court accepted his appeal and entitled him for benefits of the whole period.

Now, this office submitted his claim for refund of Rs. 293,043/- to the District Accounts office Buner who returned the case with the remarks that the case may be taken up with the finance department for grant of sanction and allocation of fund under receipt head of account for further payment to the official concerned.

It is therefore requested that funds amounting to Rs. 293,043/- may be allocated under proper receipt head of account and grant sanction for refunding the same to the official concerned please.

  
ADDITIONAL DEPUTY COMMISSIONER  
FINANCE AND PLANNING BUNER

Endorsement No. and Date Even:

Copy forwarded to the District Accounts officer Buner for information with reference to above.

  
ADDITIONAL DEPUTY COMMISSIONER  
FINANCE AND PLANNING BUNER

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1764 /ST

Dated 22/7 /2020

To

District Accounts Officer,  
Government of Khyber Pakhtunkhwa,  
Bunir.

SUBJECT: - ORDER IN EXECUTION PETITION NO. 54/2018, MR. YOUSAF ALI SHAH.

I am directed to forward herewith a certified copy of order dated 15.07.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above



REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2627/ST

Dated 08/09 / 2020


To

The District Accounts Officer,  
Government of Khyber Pakhtunkhwa,  
Buner.

SUBJECT: - ORDER IN EXECUTION PETITION NO. 54/2018, MR. YOUSAF ALI SHAH.

I am directed to forward herewith a certified copy of order dated 31.08.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

No. 8/0-11/DK

dt. 29/01/2020

To:

The Budget officer-I PAC/Coord.  
Finance Department Peshawar

Subject:

ALLOCATION OF BUDGET TO REFUND RECOVERED AMOUNT

Please refer to the subject cited above and to state that one Mr. Yousaf Ali Shah Patwari of this office was suspended from services on the allegations of involvement of in murder case. Later on he was terminated from service on 02/12/2014 on the basis of his conviction by the learned trial court. This office recovered an amount to the tune of Rs. 293,043/- on account of overpayment which were deposited into the treasury vide challan No. 16 dated 31/05/2014 (Copy of the challan enclosed)

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ADDITIONAL DEPUTY COMMISSIONER  
FINANCE AND PLANNING BUNER

Endorsement No. and Date Even:

Copy forwarded to the District Accounts officer Buner for information with reference to above.

  
ADDITIONAL DEPUTY COMMISSIONER  
FINANCE AND PLANNING BUNER

**OFFICE OF THE DEPUTY COMMISSIONER BUNER**  
No. ADC(F&P)21c-11 *Dated 27/01/2019*

To,

The Budget officer-I PAC/Coord,  
Finance Department Peshawar

Subject: **ALLOCATION OF BUDGET TO REFUND RECOVERED AMOUNT**

Please refer to the subject cited above and to state that one Mr. Yousaf AG Sial Patwari of this office was suspended from services on the allegations of involvement of in murder case. Later on he was terminated from service on 02/12/2014 on the basis of his conviction by the learned trial court. This office recovered an amount to the tune of Rs. 293,043/- on account of overpayment which were deposited into the treasury vide challan No. 16 dated 31/05/2014 (Copy of the challan enclosed)

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Now, this office submitted his claim for refund of Rs. 293,043/- to the District Accounts office Buner who returned the case with the remarks that the case may be taken up with the finance department for grant of sanction and allocation of fund under receipts head of account for further payment to the official concerned.

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**ADDITIONAL DEPUTY COMMISSIONER  
FINANCE AND PLANNING BUNER**

Endorsement No. and Date Even:

Copy forwarded to the District Accounts officer Buner for information with reference to above.

  
**ADDITIONAL DEPUTY COMMISSIONER  
FINANCE AND PLANNING BUNER**



**OFFICE OF THE  
DEPUTY COMMISSIONER  
BUNER**

No. 16/2633 /F/12/DC/Buner/Estt.  
July 22, 2019.

**Office Order**

In pursuance of the Khyber Pakhtunkhwa Service Tribunal Camp Court Swat Judgment in Service Appeal No. 1098/2015 dated 08.11.2017 and after seeking guidance from the high-ups in the implementation of the judgment ibid which letter of the Board of Revenue, Khyber Pakhtunkhwa was communicated through the Commissioner Malakand Division's letter No. 2321-22/2/37-CF/Estt. dated 16.07.2019, the appellant / Mr. Yousaf Ali Shah Patwari is hereby granted benefit for the whole absence period.

This order may be held conditional subject to the final decision of the august Supreme Court of Pakistan in CPLA No. 122-P/2018.

Necessary entries be made in the services book.

  
DEPUTY COMMISSIONER,  
BUNER.

**Endst. No. & Date Even.**

**For Information and Necessary Action w/r to the above:**

1. Senior Member, Board of Revenue, Revenue & Estate Department, Peshawar.
2. Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. Commissioner, Malakand Division.
4. Additional Registrar, Khyber Pakhtunkhwa Service Tribunal Camp Court Swat.
5. Advocate General, Khyber Pakhtunkhwa Service Tribunal, Peshawar
6. District Accounts Officer, Buner.
7. District Nazir (Local) Buner.
8. Yousaf Ali Shah, Patwari.

  
DEPUTY COMMISSIONER,  
BUNER.

**OFFICE OF THE DEPUTY COMMISSIONER BUNER**

FOR THE MONTH OF SEPTEMBER /2019

Cost Centre

R	D	6	1	6	4
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Description: DC. BUNER

Personal No.

3	8	9	5	4	4
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Employee Name: MR. YOUSAF ALI SHAH

Grade

0	9
---	---

Designation PATWARI I.D CODE: -

GENERAL DATA CHANGE			CHANGE IN PAYMENTS/DEDUCTION		Effective Date	Remarks
Info type	Field ID	New contents	Wage Type	Amount		
		Basic Pay	5801	Rs.650190/-	08-07-2011	The official has been granted
		HRA	5002	Rs.41214/-	To	Benefit for the whole absent
		CA	5011	Rs.61536/-	17-07-2012	Period by the Service tribunal
		MA	5012	Rs.37900/-		decided on 08-11-2017 And this
		UAA	5886	Rs.36000/-	01-08-2012	office order No.10126-33 dated
		Stationary Allowance	5059	Rs.4000/-	To	22-07-2019.
		Basta Allowance		Rs.900/-	31-08-2019	
		Patwar Khanna Allowance	5217	Rs.24940/-		
		Deduction	AR 10	5098	Rs.68760/-	
GP Fund	Rs.21420/-	AR 11	5911	Rs.20055/-		
B.fund	Rs.6480/-	AR 12	5935	Rs.50392/-		
R & DC	Rs.252/-	AR 13	5309	Rs.27924/-		
GI	Rs.2412/-	AR 14	5950	Rs.10001/-		
<b>Total</b>	<b>Rs.30564/-</b>	AR 15	5964	Rs.999/-		
		AR 16	5975	Rs.4636/-		
		AR 17	5990	Rs.2716/-		
		AR 18	5322	Rs.3066/-		
		AR 19		Rs.438/-		
		<b>G.TOTAL</b>		<b>Rs.1045667/-</b>		
		<b>DEDUCTION</b>		<b>Rs.30564/-</b>		
		<b>N.AMOUNT</b>		<b>Rs.1015103/-</b>		

Prepared By  
**DEPUTY COMMISSIONER**  
BUNER

Audited/Checked by

Entered/verified by

Order may be held c  
No. 122-P/2018.  
y entries be made  
Date Even.  
on and Necessary  
nber, Board of Rev  
hyber Pakhtunkwa  
r, Malakand Divis  
gistrar, Khyber Pa  
ral, Khyber Pakht  
s Officer, Buner.  
cal) Buner.  
patwari.



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 172-73/ST

Dated 26 / 01 / 2021


To

1. The Accountant General,  
Government of Khyber Pakhtunkhwa,  
Peshawar.
2. Secretary Board of Revenue,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

SUBJECT: - **ORDER REGARDING ATTACHMENT OF SALARY OF SECRETARY BOARD OF REVENUE  
DEPARTMENT Peshawar IN EXECUTION PETITION NO. 54/2019 MR. YOUSAF ALI  
SHAH.**

I am directed to forward herewith a certified copy of order dated 14.01.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 174-76/ST

Dated 26/01/2021

To


1. The Commissioner Malakand Division,  
Government of Khyber Pakhtunkhwa,  
at Saudi Sharif Swat.
2. Director General Anti Corruption,  
Government of Khyber Pakhtunkhwa,  
Peshawar.
3. Deputy Commissioner,  
Government of Khyber Pakhtunkhwa,  
Bunner District Malakand.

SUBJECT: -

ORDER IN EXECUTION PETITION NO. 54/2018, MR. YOUSAF ALI  
SHAH.

I am directed to forward herewith a certified copy of order dated  
14.01.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT**

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

[facebook.com/GoKPFD](https://www.facebook.com/GoKPFD)

[twitter.com/GoKPFD](https://twitter.com/GoKPFD)

No. BO (PAC)/FD/1-1/BOR/BE 2019-20.

Dated 27/02/2020

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Revenue & Estate Department.

Subject: **ALLOCATION OF BUDGET TO REFUND RECOVERED AMOUNT.**

Dear Sir,

I am directed to refer to the Additional Deputy Commissioner Buner letter No. ADC/F&P)/210-11 dated 29/01/2020 (copy enclosed) on the subject noted above and to state that latest position of CPLA No. 122-P/2018 in Supreme Court of Pakistan may be provided for further proper examination of the case.

Encls: As above.

Yours faithfully,

*[Signature]*  
Budget Officer (Coord:/PAC)

**Endst .No & Date even.**

Copy forwarded for information to the Deputy Commissioner, Buner with the request that the case may be routed through Administrative Department.

*[Signature]*  
Budget Officer (Coord:/PAC)

secretarytoCMD@gmail.com

Commissioner Malakand Division

@commissionermkd



**COURT MATTER/  
MOST IMMEDIATE/  
OUT TODAY**

OFFICE OF THE  
COMMISSIONER MALAKAND DIVISION  
SAIDU SHARIF SWAT

No. 219-13 /6/7/Reader/Buner

Dated 02 /02/2021

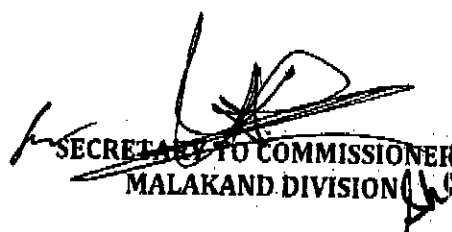
To:

The Deputy Commissioner, Buner.

Subject: **ORDER IN EXECUTION PETITION NO. 54/2018. MR. YOUSAF ALI SHAH.**

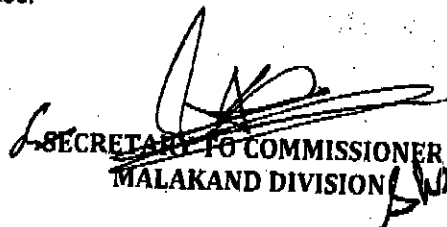
Sir,

I am directed to enclose herewith a copy of the Khyber Pakhtunkhwa, Service Tribunal, Peshawar letter No. 174-76/ST, dated 26.01.2021, along with order dated 14.01.2021 passed by the Tribunal, the contents of which are self-explanatory, for strict compliance, please.

  
SECRETARY TO COMMISSIONER  
MALAKAND DIVISION

No. & Date Even.

Copy forwarded to the Registrar, Hon'ble Khyber Pakhtunkhwa, Service Tribunal, Peshawar with reference to above, for information, please.

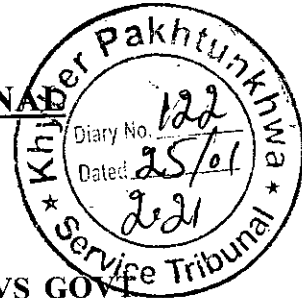
  
SECRETARY TO COMMISSIONER  
MALAKAND DIVISION

*put up to the court with relevant appnl.*

*Reader*

*2/2/2021*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**



**CASE TITLE:- EXECUTION PETITION NO.54/2018 YOUSAF ALI SHAH VS GOVT OF HYBER PAKHTUNKHWA.**

**SUBJECT: - APPLICATION FOR RELEASE OF SALARY.**

1. That the subject mentioned case was fixed before this Tribunal on 14.01.2021. The salary of the Representative and Secretary of the department was attached on the date, due to no response on letter No.BO(PAC)/FD/1-1/BOR/BE-2019-2020. dated 27.02.2020 of Finance Department Khyber Pakhtunkhwa (copy attached).
2. That now the Revenue and Estate Department vide letter No:Bud/SNE/DC /Buner/2020-21/1051-54 dated 15.01.2021(copy enclosed) has informed the Finance Department Khyber Pakhtunkhwa that CPLA in the above mentioned case is still pending before the Supreme Court of Pakistan .The Finance Department has further been requested to release and place a sum of **Rs. 293,043/-** at the disposal of Deputy Commissioner Buner to implement the order of the Honorable Service Tribunal Khyber Pakhtunkhwa.
3. Keeping, in view of the above, the order of this Honorable Tribunal has been implemented, therefore, salary of the Representative and Secretary of Revenue and Estate Department Khyber Pakhtunkhwa may kindly be released.

**Next date of hearing in the subject case is 11.03.2021.**

*put up to the court with relevant appnd.*

*[Signature]*  
26/1/2021

*[Signature]*  
Assistant Secretary (Lit-II)  
Representative Board of Revenue

*Leader -*

*Judicial order.  
Application be laid  
before an SB. in 2nd week  
of February, 2021 with  
cost of service shall be  
borne by the concerned Respondent(s).*

*[Signature]*  
27/1/21

12/09  
*[Signature]*

OFFICE OF THE DEPU

No. ADC(F&P)/ 21-11

MISSIONER BUNER

Dated 29/01/2020

21  
1

To,

The Budget officer-I PAC/Coord,  
Finance Department/Peshawar

Subject: ALLOCATION OF BUDGET TO REFUND RECOVERED AMOUNT

Please refer to the subject cited above and to state that one Mr. Yousaf Ali Shah Patwari of this office was suspended from services on the allegations of involvement of in murder case. Later on he was terminated from service on 02/12/2014 on the basis of his conviction by the learned trial court. This office recovered an amount to the tune of Rs. 293,043/- on account of overpayment which were deposited into the treasury vide challan No. 16 dated 31/05/2014 (Copy of the challan enclosed)

Upon the above, the official concerned appealed to the apex court who acquitted him of the charge and consequently the department re-instated the official on 31/07/2015.

However, vide judgment order dated 08/011/2017 for service appeal No. 1098/2015, the court accepted his appeal and entitled him for benefits of the whole period.

Now, this office submitted his claim for refund of Rs. 293,043/- to the District Accounts office Buner who returned the case with the remarks that the case may be taken up with the finance department for grant of sanction and allocation of fund under receipt head of account for further payment to the official concerned.

It is therefore requested that funds amounting to Rs. 293,043/- may be allocated under proper receipt head of account and grant sanction for refunding the same to the official concerned please.

  
ADDITIONAL DEPUTY COMMISSIONER  
FINANCE AND PLANNING BUNER

Endorsement No. and Date Even:

Copy forwarded to the District Accounts officer Buner for information with reference to above.

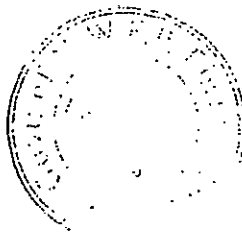
  
ADDITIONAL DEPUTY COMMISSIONER  
FINANCE AND PLANNING BUNER

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**GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT**

20

Finance Department Civil Secretariat Peshawar

<http://www.finance.gkp.pk>

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twitter.com/GoKPPD

No. BO (PAC)/FD/1-1/BOR/BE 2019-20

Dated 27/02/2020

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Revenue & Estate Department.

PS/SMER  
Dy. No. 1625  
Date 03/03/2020  
Govt. of Khyber Pakhtunkhwa

Subject:

**ALLOCATION OF BUDGET TO REFUND RECOVERED AMOUNT.**

Dear Sir,

I am directed to refer to the Additional Deputy Commissioner Buner letter No. ADC/F&P/210-11 dated 29/01/2020 (copy enclosed) on the subject noted above and to state that latest position of CPLA No. 122-P/2018 in Supreme Court of Pakistan may be provided for further proper examination of the case.

Encls: As above.

MBR III  
SMR  
3/3/2020

Yours faithfully,

Budget Officer (Coord:/PAC)

**Endst .No & Date even.**

Copy forwarded for information to the Deputy Commissioner, Buner with the request that the case may be routed through Administrative Department.

Budget Officer (Coord:/PAC)

BRAO  
Beeg-I  
3/3/20

Seeg-I

MBR-III  
03/03/20



GOVERNMENT OF KHYBER PAKHTUNKHWA  
BOARD OF REVENUE  
REVENUE & ESTATE DEPARTMENT

Facebook.com/bor.kpk92

@RevenueBoardkp

091-9210045

No: Bud/SNE/DC/Buner/2020-21/1051-54

Dated: 15/01/2021

To

The Budget Officer (Coord/PAC),  
Government of Khyber Pakhtunkhwa,  
Finance Department.

**SUBJECT: ALLOCATION OF BUDGET TO REFUND RECOVERED AMOUNT.**

I am directed to refer to your letter No.BO(PAC)/FD/1-1/BOR/BE-2019-20 dated 27.02.2020, on the subject noted above and to state that the subject mentioned CPLA is pending before the Supreme Court of Pakistan and has not yet been fixed for regular hearing. It is, therefore, requested to release an amount of Rs. 293,043/- under relevant head of Account and place at the disposal of Deputy Commissioner Buner to enable him to make payment in light of Service Tribunal Judgement dated 08.11.2017 at the earliest, please.

Budget & Accounts Officer

**Endst: No & Date Even:**

Copy forwarded to:-

1. The Commissioner Malakand, Division, Saidu.Sharif Swat.
2. The Deputy Commissioner, Buner.
- ✓ 3. The Assistant Secretary (Lit-I), Board of Revenue, with the request to pursue the case, please.

  
Budget & Accounts Officer



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR



Implementation Petition No. 54 /2018

In  
Appeal No.1098/2015

Mr. Yousaf Ali Shah, Patwari (BPS-07)  
Office of the Deputy Commissioner, Buner.

204  
24/02/2018  
PETITIONER

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Board of Revenue, Peshawar.
- 2- The Commissioner Malakand Division at Saidu Sharif, Swat.
- 3- The Director General Anti Corruption, Khyber Pakhtunkhwa, Peshawar.
- 4- The Deputy Commissioner Bunner, District Malakand.

RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING THE  
RESPONDENTS TO OBEY THE JUDGMENT IN LETTER  
AND SPIRIT

R/SHEWETH:

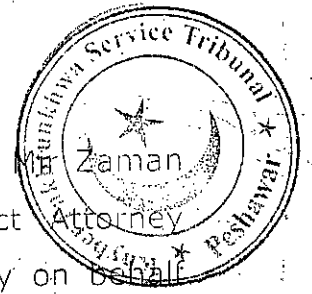
- 1- That the petitioner filed Service appeal bearing No. 1098/2015 before this august Service Tribunal for the grant of back benefits.
- 2- That the appeal of the petitioner was finally heard by this august Tribunal on 08.11.2017 and was decided in favor of the petitioner vide judgment dated 08.11.2017 with the we that " *In view of the above discussion, this appeal is accepted and appellant is entitled for benefits in terms of FR 53(b) for whole of the period*". Copy of the judgment is attached as annexure..... A.

That after obtaining copy of the judgment the petitioner applied to the Department for his claim but the respondent Department is not willing to obey the judgment and till date the respondents have not been allowed/issued back benefits to the appellant.

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

14.01.2021



Petitioner is present alongwith his counsel Mr. Noor Zaman Safi, Advocate. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Muhammad Ibrar, Assistant Secretary on behalf Secretary Board of Revenue, Mr. Naqeeb Khan, Section Officer on behalf of Finance Department, Mr. Muhammad Sardar, Computer Operator on behalf of Deputy Commissioner Bunir and Mr. Muhammad Haleem Khan, Assistant Accountant, for the respondents are also present.

The representative of Finance Department was queried with regard to making arrangement for payment of an amount tantamounting to Rs. 293043/- in response thereof the representative submitted that by virtue of letter No. BO(PAC)/FD/1-1/BOR/BE 2019-20 dated 27.02.2020 written to the Secretary, Government of Khyber Pakhtunkhwa Revenue and Estate Department the latest position of CPLA pending in the Supreme Court of Pakistan has been solicited but in response thereof the department have not been communicated any information with regard thereto, while looking at the date of referred to letter the head of the concerned department i.e Secretary has not taken any step of conveying the requisite information to the Finance Department. The representative of revenue department was asked about progress in the matter however, it appeared that they are playing dilly dallying with the Tribunal, therefore, with no option left, salaries of representative as well as Secretary Board of Revenue who stands as respondent No. 1 has to be attached and in this regard notice of attachment has to be issued prior to issuance of warrant of attachment to this effect. All the respondents are directed to take the matter seriously by giving effect to the judgment passed by this Tribunal in its letter and spirit, they have to submit implementation report to that effect eliciting full satisfaction of the remaining claim of the petitioner. File to come up for implementation report on 11.03.2021 before S.B.

(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

Certified to be true copy

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal.  
Peshawar

No. 210-11 OR 29-01-2019  
2020

2940

To,

The Budget officer-I PAC/Coord,  
Finance Department Peshawar

Subject:

ALLOCATION OF BUDGET TO REFUND RECOVERED AMOUNT

Please refer to the subject cited above and to state that one Mr. Yousaf Ali Shah Patwari of this office was suspended from services on the allegations of involvement of in murder case. Later on he was terminated from service on 02/12/2014 on the basis of his conviction by the learned trial court. This office recovered an amount to the tune of Rs. 293,043/- on account of overpayment which were deposited into the treasury vide challan No. 16 dated 31/05/2014 (Copy of the challan enclosed)

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However, vide judgment order dated 08/01/2017 for service appeal No. 1098/2015, the court accepted his appeal and entitled him for benefits of the whole period.

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ADDITIONAL DEPUTY COMMISSIONER  
FINANCE AND PLANNING BUNER

Endorsement No. and Date Even:

Copy forwarded to the District Accounts officer Buner for information with reference to above.

  
ADDITIONAL DEPUTY COMMISSIONER  
FINANCE AND PLANNING BUNER