

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Execution petition No. _____/2023
In Service Appeal No.11948/2020

Faham Dil Khan

V/S

Chief Secretary & other

INDEX

S.No.	Documents	Annexure	P. No.
1	Memo of execution petition	-----	01-02
2	Copy of judgment	A	03-07
3	Vakalat Nama	-----	8

THROUGH:

APPELLANT



**TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)**

Cell# 0333-9390916

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Execution petition No. _____/2023
In Service Appeal No.11948/2020

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 4541

Dated 27/3/2023

Mr. Faham Dil Khan (Rtd) Senior Instructor, (BPS-19),
Agriculture Training Institute, Peshawar.

PETITIONER

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. The secretary Agriculture Department Government of Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Finance Department Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

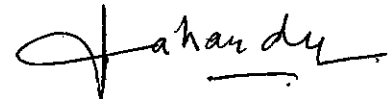
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 25.01.2022 OF THIS
HONORABLE TRIBUNAL IN LETTER AND
SPIRIT.**

RESPECTFULLY SHEWETH:

1. That the petitioner has filed service appeal No.11948/2020 with the prayer to direct the respondents to consider the petitioner for awarding Selection Grade BPS-18 from the date when his colleagues were awarded the same benefits with consequential benefits on the basis of similarly placed person.
2. That said appeal was heard and decided by the Honorable Tribunal on 25.01.2022. the Honorable Tribunal accepted the appeal of the petitioner as prayed for. **(Copy of judgment is attached as Annexure-A)**

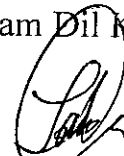
3. That the Honorable Tribunal accepted the appeal of the petitioner on 25.01.2022, but the respondents did not implement the judgment dated 25.01.2022 after the lapse of one year and more than 02 months.
4. That the in-action and not fulfilling the formal requirements by the respondents after passing the judgment of this honorable Service Tribunal, is totally illegal, amount to disobedience and contempt of Court.
5. That the judgment is still in filed and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 25.01.2022 of this Honorable Tribunal in letter and spirit.
6. That the petitioner having no other remedy except to file this execution petition for implementation of judgment dated 25.01.2022 of this Honorable Tribunal.

It is therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 25.01.2022 of this Honorable Service Tribunal in letter and spirit. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also be awarded in favour of the petitioner.


PETITIONER

Faham Dil Khan

THROUGH:



TAIMUR ALI KHAN
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of this execution petition are true and correct to the best of my knowledge and belief.


DEPONENT



A (3)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 11948 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5014

Dated 10/06/2020

Mr. FAham Dil Khan (Rtd) Senior Instructor, BPS-19)
Agriculture Training institute Peshawar.

APPELLANT

VERSUS

1. The Govt of KPK through Chief secretary KP Peshawar.
2. The Secretary, Agriculture Department, Government of KPK, Peshawar.
3. The Secretary Finance Department, KPK, Peshawar.

RESPONDENTS


.....
APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974
FOR AWARDING SELECTION GRADE BPS-18
FROM THE DUE DATE WITH ALL BACK AND
CONSEQUENTIAL BENEFITS AND AGAINST NOT
TAKING ANY ACTION ON THE DEPARTMENTAL
APPEAL OF THE APPELLANT WITHIN
STATUTORY PERIOD OF 90 DAYS.
.....

Filed to-day
10/06/2020
Registrar

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE
RESPONDENTS MAY BE DIRECTED TO
CONSIDER THE APPELLANT FOR AWARDING
OF SELECTION GRADE BPS-18 FROM THE DATE
WITH HIS COLLEAGUES WERE AWARDED THE
SAME BENEFITS WITH CONSEQUENTIAL
BENEFITS ON THE BASIS OF PLACED OF
SIMILAR PLACED PERSON. ANY OTHER
REMEDY, WHICH HIS AUGUST TRIBUNAL
DEEMS FIT AND APPROPRIATE THAT MAY

ATTESTED


REGISTRAR
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

13/06/2020
Registrar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 11948/2020

Date of Institution ... 10.06.2020

Date of Decision ... 25.01.2022



Mr. Faham Dil Khan (Rtd) Senior Instructor, BPS-19 Agriculture Training Institute Peshawar. ... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa Peshawar and others. ... (Respondents)

Syed Noman Ali Bukhari,
Advocate ... For Appellant

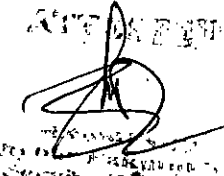
Muhammad Adeel Butt,
Additional Advocate General ... For respondents

AHMAD SULTAN TAREEN ... **CHAIRMAN**
ATIQU-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are

that the appellant was initially appointed as Assistant Publicity Officer Agriculture BPS-17 through public service commission in the year 1983 and remained on joint seniority list until 2004. In pursuance of notification dated 09-10-1997 regarding grant of selection grade, the appellant filed departmental appeal dated 11-02-2020 for grant of selection grade, which was not responded within the statutory period, hence the instant appeal with prayers that respondents may be directed to grant him selection grade BPS-18 from the date when his other colleagues were awarded the same benefits with all consequential benefits.


ATIQU-UR-REHMAN WAZIR
MEMBER (EXECUTIVE)


02. Learned counsel for the appellant has contended that not awarding selection grade to the appellant from the due date and not taking action on the departmental appeal of the appellant are against law, facts and norms of natural justice and material on record, therefore not tenable and liable to be set aside; that the appellant has been deprived of the benefit of selection grade due to fault of others, for which the appellant legally cannot be penalized; that the appellant has been discriminated as his other colleagues, who have been granted selection grade while the appellant was kept deprived of such benefit; that the appellant has not been dealt in accordance with law and rule and has been made to suffer huge financial loss and also deprived the appellant from his legal rights.

03. Learned Additional Advocate General for the respondents has contended that the appellant is not entitled for the grant of selection grade as the honorable courts allowed selection grade to Agriculture Officers, whereas the appellant is holding degree in mass communication; that the appellant does not belong to the group of agriculture graduates, hence his name was deleted from the seniority list of agriculture officers with effect from 2005, therefore the appellant is not entitled to search his name in the seniority list of agriculture graduates; that association of agriculture graduates filed writ petitions in Peshawar High Court and not the appellant for grant of selection grade, which was allowed and selection grade was granted to agriculture officers.

04. We have heard learned counsel for the parties and have perused the record.


05. Record reveals that that the appellant was initially appointed as Assistant Publicity Officer Agriculture BPS-17 through public service commission in the year 1983 and remained on joint seniority list until 2004 with other Agriculture Officers, but his name was deleted from the list of Agriculture Officers under new rules. The Provincial Government vide notification dated 09-10-1997 allowed award of

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

selection grade in different cadres, which was implemented by various departments including agriculture department. The Agriculture Department granted selection grade to Agriculture Officers, but refused the same facility to the officers working in extension wing of agriculture department as well as to the appellant. The agriculture officers working in extension wing of the department filed writ petition No 1412/2006, which was allowed, vide judgment dated 11-04-2007. The respondents filed CPLA in the Supreme Court, which was dismissed vide judgment dated 14-06-2013. In pursuance of the judgments as mentioned above, the officers of extension wing of Agriculture Department were finally granted selection grade vide order dated 13-05-2020. Since the appellant was not party in the said writ petition, hence he filed departmental appeal for similar relief, but was not granted to him as his name was not included in the names of the petitioners, but the supreme court of Pakistan, while dismissing CPLA in the above mentioned case has referred to the judgment of supreme court of Pakistan reported as 1996 SCMR 1185, which has held that if the Tribunal or this court decides a point of law relating to the terms of service of a civil servant, which covers not only the case of the civil servant who litigated, but also those civil servants, who may have not taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the tribunal any other legal forum. The respondents however did not extend the benefit to the appellant as per dictates of the judgment mentioned above; hence, the appellant approached this Tribunal for grant of the said benefit.

06. It is un-disputed that the appellant fulfills the conditions as required for grant of selection grade. The appellant is also employee of agriculture department and is on the same footings as were officers of extension wing of agriculture

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


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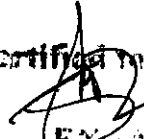
department. The appellant is also holding the required length of service and it would be discriminatory if the same benefit is refused to the appellant.

07. Keeping in view the foregoing, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
25.01.2022

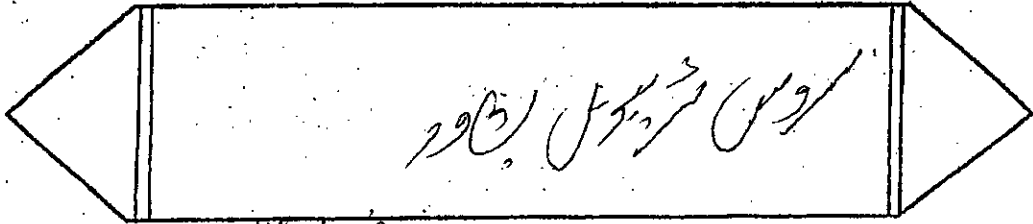

(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATTIQ-UR-REHMAN WAZIR)
MEMBER (E)


Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Date of Completion of Copy 01/03/22
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بعد الت



عظیم دل حالک 2ء پنجاب
عظیم دل حالک بنام محکمہ زراعت

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لیسٹریٹ کے لیے مجموعی حکام اور حاکم اور حاکم
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی براندگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پر داخلہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جاتہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا اوکالت نامہ لکھدیا کہ سند ہے۔

Accepted

Attested

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ماہ

المرقوم

واہ الع

گ

بمقام

بمقام Jahandis کے لئے منظور ہے۔

سائبر الہ