BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution petition No. _____/2023

In

Service Appeal No: 480/2019

Qaim Shah

Versus

Government of Khyber Pakhtunkhwa and others

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Dated: 05/04/2023

Qaim Shah

Petitioner

(In Person)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

(1)

Execution petition No. _____/2023

In

Service Appeal No: 430/2019

Qaim Shah S/o Feroz Shah R/o Ziarat Kaka Sahib, Tehsil & District Nowshera.

.....Petitioner

Versus

1. The Secretary Elementary and Secondary Education KPK Peshawar.
2. The Director Elementary and Secondary Education KPK, Peshawar.
3. The Secretary Finance Department KPK, Peshawar.
4. The District Education Officer (Male) Nowshera.

.....Respondents

EXECUTION PETITION FOR IMPLEMENTATION OF THE JUDGMENT OF THIS HON'BLE TRIBUNAL IN APPEAL No. 430/2019 DECIDED ON 15/04/2022

Respectfully Sheweth,

1. That the above mention appeal was decided by Hon'ble Peshawar High Court Peshawar vide

Judgment dated 15/04/2022 **(Copy of the judgment is annexed as annexure "A")**

2. That the relevant portion of the judgment is reproduced "*on 12-04-2022, the appellant had himself argued the appeal and it was fixed for order today, but today the learned counsel for the appellant, produced copy of Notification No. SO (B&A)/1-18/E&SE/2012 dated 11-07-2012 and has also referred to the application of the appellant submitted to the then Executive District Officer, Nowshera that the posts of all PST Teachers were upgraded vide notification dated 11-07-2012, while such treatment was not given to the appellant. When confronted with the situation, learned Addl. AG for the respondents and Mr. Shoaib Akhtar ADEO (M) Nowshera, did not controvert the notification and submitted that for seeking up gradation, the appellant might make application to the to the department with all annexures and copy of this notification. But when asked about the application already submitted by the appellant and then this appeal, they said the Tribunal may make appropriate order in this respect. On the precious date too the departmental representative Mr. Shoaib Akhtar ADEO (Legal) had stated at the bar, that post of the appellant would be upgraded to BPS-12 from*

the date of issuance of the above referred notification, if he made an application. Such indifferent attitude is taken serious notice of, the department ought to have extended benefits of the notification to all such employees to whom it could extend such benefit without making any application. Therefore, in case the benefits of the above notification were to be extended to the appellant, the respondents should have themselves extended such benefits at the relevant point and time. While disposing of appeal, it is directed that in case the appellant is entitled to the benefits of the notification, he shall be given those w.e.f the date of notification. This appeal is decided in the above terms. Consign".

3. That the Petitioner after getting of the attested copy of same approached the Respondents several time for implementation of the above mention judgment. However they are using delaying tactics and reluctant to implement the judgment of this Hon'ble Tribunal.

4. That the Petitioner has no other option but to file the instant petition implementation of the judgment of this Hon'ble Tribunal.

(4)

5. That there is nothing which may prevent this Hon'ble Tribunal from implementing of its own judgment.

It is, therefore, requested that on acceptance of this petition the Respondents may directed to implement the judgment of this Hon'ble Tribunal by reinstating the Petitioner with all back benefits.

Dated: 05/04/2023

Qaim Shah

Petitioner

(In Person)

AFFIDAVIT:-

I, **Qaim Shah S/o Feroz Shah R/o Ziarat Kaka Sahib, Tehsil & District Nowshera,** do hereby solemnly affirm and declare on oath that all the contents of above application are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon'ble Court.

Qaim Shah

Deponent

5-04-2023

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BEFORE THE PESHAWAR HIGH COURT PESHAWAR

Appeal no. 430/2019

W.P No. 1382-P ..... of 2017

Qaim Shah S/O Feroz Shah R/O Ziarat Kaka Sahib, Tehsil & District Nowshera.

(PETITIONER)

Versus

1) The Secretary Elementary and Secondary Education KPK Peshawar.
2) The Director Elementary and Secondary Education KPK, Peshawar.
3) The Secretary Finance Department KPK, Peshawar.
4) The District Education Officer (Male) Nowshera.

(RESPONDENTS)

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.

Respectfully Sheweth,

The Petitioner humbly submits as under:

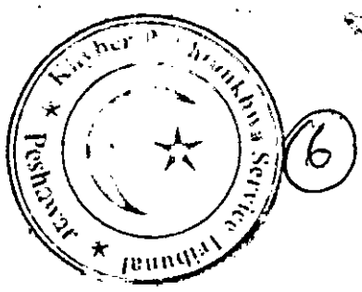
1) That the Petitioner was appointed as a PTC in BPS-07 by the competent authority vide order dated 08-05-1988. The petitioner since then continuously performing his duty

FILED TODAY
Deputy Registrar
15 MAR 2017

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Service Appeal No. 430/2019

(Qaim Shah)



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15th April, 2022 Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Shoaib Akhtar ADEO (Legal) for the respondents present.

On 12.04.2022, the appellant had himself argued the appeal and it was fixed for order today, but today the learned counsel, for the appellant, produced copy of Notification NO. SO (B&A)/1-18/E&SE/2012 dated 11.07.2012 and has also referred to the application of the appellant submitted to the then Executive District Officer, Nowshera that the posts of all PST Teachers were upgraded vide notification dated 11.07.2012, while such treatment was not given to the appellant. When confronted with the situation, learned Addl. AG for the respondents and Mr. Shoaib Akhtar ADEO (M) Nowshera, did not controvert the notification and submitted that for seeking upgradation, the appellant might make application to the department with all annexures and copy of this notification. But when asked about the application already submitted by the appellant and then this appeal, they said the Tribunal may make appropriate order in this respect. On the previous date too the departmental representative Mr. Shoaib Akhtar ADEO (Legal) had stated at the bar, that post of the appellant would be upgraded to BPS-12 from the date of issuance of the above referred notification, if he made an application. Such indifferent attitude is taken serious

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(7)

notice of, the department ought to have extended benefits of the notification to all such employees to whom it could extend such benefit without making any application. Therefore, in case the benefits of the above notification were to be extended to the appellant, the respondents should have themselves extended such benefits at the relevant point and time. While disposing of appeal, it is directed that in case the appellant is entitled to the benefits of the notification, he shall be given those w.e.f the date of notification. This appeal is decided in the above terms. Consign.

Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 15th day of April, 2022.

SD

(ROZINA REHMAN)
MEMBER (J)

SD

(KALIM ARSHAD KHAN)
CHAIRMAN

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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