


FORM OF ORDER SHEET

Court of \_\_\_\_\_

12(2) CPC Petition No. 561/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	07/08/2023	<p>The Petition U/S 12(2) CPC in appeal no. R. 12(2) R submitted Secretary Sports &amp; Youth Affairs and Affairs through Mr. Muhammad Wisal Section Officer Litigation. It is fixed for hearing before Division Bench at Peshawar on <u>09-08-2023</u>. Original file be requisitioned.</p> <p>By the order of Chairman  REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNEL PESHAWAR.**

Petition 12 (2) No. 561 /2023

Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar  
& Others.

.....Petitioners

**VERSUS**

Mr. Muhammad Fayaz,

.....Respondent

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Deponents

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNEL PESHAWAR.**

Petition 12 (2) No. 561 /2023

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 6902  
Dated 07/08/23

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa, Sports & Youth Affairs Department, Peshawar.
4. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar.

.....Petitioners

**VERSUS**

Mr. Muhammad Fayaz, Junior Clerk, in Planning Cell Secretary to Government of Khyber Pakhtunkhwa, Sports & Youth Affairs, Department, Peshawar.

.....Respondent

**PETITION U/S 12(2) CPC ORDER DATED 24.05.2019 PASSED BY THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR, WHICH WAS OBTAINED THROUGH MISREPRESENTATION, GROSS CONCEALMENT OF FACTS, HENCE BASED UPON FRAUD, COLLUSION AND MISREPRESENTATION.**

**Respectfully Sheweth:**

**FACTS:**

1. That the address of the parties as recorded in the heading above are sufficient for effecting service upon the parties.
2. That respondent presented appeal before the Hon'ble Service Tribunal Khyber Pakhtunkhwa Peshawar for regularization and granting seniority from the date of his appointment. consequently, the appeal of the respondent was disposed of with the directions: -

"we consider that the request of the appellant is allowable to the extent of inclusion of his name in the relevant seniority list in case he has been regularized into service. The respondents, therefore, required to do the needful in accordance with law and rules. Instant appeal is disposed of in the said terms. The appellant may, however, approach the appropriate forum in the case he is left with any other grievance against the respondents. File be consigned to the record room". (Copy of service appeal and judgment is attached as Annex- "A&B")


3. That the petitioners challenged the said judgment before the august Supreme Court of Pakistan. **(Copy of CPLA is attached as Annex-C)**
4. That the respondent filed execution petition for the implementation of the said judgment before this Hon'ble Service Tribunal. **(Copy of execution petition is attached as Annex-D)**
5. That the respondent concealed the relevant and important fact from this Hon'ble Service Tribunal, that no notification regarding regularization of his services was issued by the competent authority and his services are still temporary and committed fraud & misrepresentation.
6. That all the essential ingredients provided by 12 (2) CPC are available to set aside the impugned judgment on the following grounds inter alia.

**GROUND:**

- A. That the respondent is neither regular servant nor any notification for regularization of his services has been issued.
- B. That the respondent committed fraud and misrepresentation before this Hon'ble Service Tribunal by asserting himself as a regular servant.
- C. That the Respondent fraudulently obtained the impugned decrees, they concealed crucial points of the case from the Hon'ble Service Tribunal.

- D. That the Judgment/Order dated: 24.05.2019 passed by the Hon'ble Service Tribunal, Peshawar is erroneous, wrong and passed without considering the legal and factual grounds because that the court has overlooked the fact mentioned in the reply/comments of the petitioner.
- E. That the impugned Judgments / Orders of the Hon'ble Service Tribunal is against the law and facts, and utter disregard of the material available on record, hence, the same is untenable and liable to be set aside / reversed.
- F. That any other ground will be taken at the time of arguments with the prior permission of this Hon'ble Service Tribunal.

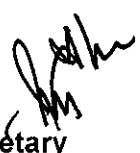
It is, therefore, very humbly prayed that on acceptance of this petition, the impugned judgment/ Order dated 24.05.2019 of the Hon'ble Service Tribunal Peshawar may please be set aside in the best public interest.

  
Secretary

Government of Khyber Pakhtunkhwa,  
Sports & Youth Affairs Department  
(Petitioner No.01 & 03) 27/02

  
Secretary

Government of Khyber Pakhtunkhwa,  
Establishment Department  
(Petitioner No.2)

  
Secretary

Government of Khyber Pakhtunkhwa,  
Finance Department  
(Petitioner No.3)

Petition 12 (2) No. \_\_\_\_\_/2023

Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar  
& Others.

.....Petitioners

VERSUS

Mr. Muhammad Fayaz,

.....Respondent

**AFFIDAVIT**

I Muhammad Wisal, Section Office(Litigation), Sports & Youth Affairs Department, do hereby solemnly affirm and declare on oath that the contents of this petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'able Service Tribunal Khyber Pakhtunkhwa, Peshawar.

*(Signature)*

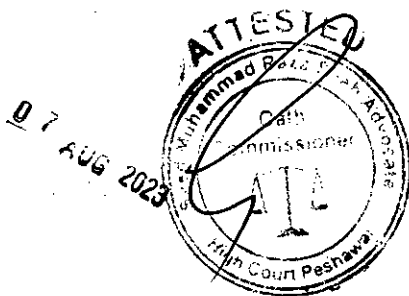
DEPONENT

CNIC No. 17301-8037228-3

Cell No# 03339130998

*It is further stated on oath that in this appeal the answering respondents have neither been placed ex-parte nor their defense has been struck off/cost.*

*(Signature)*



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNEL PESHAWAR.

Petition 12 (2) No. \_\_\_\_\_/2023

Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar & Others.

.....Petitioners

VERSUS

Mr. Muhammad Fayaz,

.....Respondent

*Application for suspension of the execution proceeding till the final decision of the 12(2) petition.*

*Respectfully Sheweth:*

1. That the above noted petition is being filed before this Hon'ble Service Tribunal, in which no date of hearing has yet been fixed.
2. That the petitioners have got a good prima facie case in their favor, and are sanguine about its success.
3. That the balance of convenience also lies in favor of the petitioners.
4. That the execution proceeding is pending before this Hon'ble Service Tribunal wherein if the name of the respondent enter into seniority list without any regularization order would affect the valuable rights of other employees and the whole purpose of filing of main petition of 12(2) CPC will become infructuous.

It is, therefore, respectfully prayed that on acceptance of this application, the execution proceeding may kindly be suspended, till the final decision of 12(2) petition.

Secretary

Government of Khyber Pakhtunkhwa,  
Sports & Youth Affairs Department  
(Petitioner No.01 & 03)

27/07

Secretary

Government of Khyber Pakhtunkhwa,  
Establishment Department  
(Petitioner No.2)

Secretary

Government of Khyber Pakhtunkhwa,  
Finance Department  
(Petitioner No.4)

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BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

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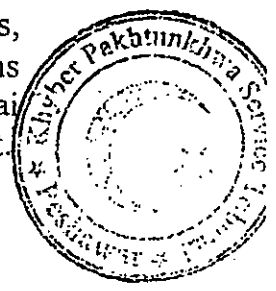
Khyber Pakhtunkhwa Service Tribunal

Case No. 126

Date 06-7-2018

Service Appeal No. 874 /2018.

Muhammad Fayaz s/o Fida Muhammad (Junior Clerk) in Planning Cell of Secretary to Government of KPK, Sports, Tourism, Archaeology, Youth Affairs & Museums Department, Peshawar, resident of Mohallah Hanzai Palosai Road Tehkal Bala, Peshawar.....Appellant.



--Vs--

- 1-Chief Secretary, Government of KPK, Peshawar
- 2-Secretary to Government of Khyber Pakhtunkhwa Establishment Department, Civil Secretariat, Peshawar.
- 3-Secretary to Government of Khyber Pakhtunkhwa, Sports, Tourism, Archaeology, Youth Affairs & Museums Department, 13-A Khyber Road, Peshawar Cantt.
- 4-Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar.
- 5-The Accountant General, Khyber Pakhtunkhwa, Peshawar.....Respondents.

Filed today

Registered  
6/7/18

Service Appeal against the Order No. SOE.IV (E&AD) 1-10/2014, dated 25.06.2018 of the learned respondent No.2.

Attested

Submitted to day  
Filed.

Registrar  
10/7/18

Prayer in Appeal.

By acceptance of this appeal, the impugned Order dated 25.06.2018 of the learned respondent No.2 may be set aside and regularizing the service of the appellant and giving him seniority from the date of his appointment with all back benefits and

ATTESTED

Registrar  
Peshawar

including his name in the joint seniority list maintained by the respondents No.1 and 2.

Respectfully Sheweth:

The appellant respectfully submit as under:-

FACTS.

1- That Muhammad Fayaz, appellant was appointed as Junior Clerk (BPS.05) vide his appointment letters dated 30.10.1995 by the Government of KPK, Sports, Culture, Archive and Tourism Department, Peshawar. Copy of the appointment letters of the appellants are attached herewith. (P-40)

2- That one Miss. Rukhsana Qureshi was also appointed on the said date i.e. 30.10.1995 by the said Department as Data Entry Operator (BPS-11). Copy of her appointment letter is attached herewith. (P-48)

3- That later on, Miss. Rukhsana Qureshi filed a Writ Petition No.1617/2008 in the Hon'ble High Court, Peshawar and she was declared as regular civil servant within the meaning of section 2 of KPK Civil Servants Act, 1973 with all benefits and the other relief of re-fixation of her pay was not granted as the matter related to KPK Service Tribunal under Article 212(2) of the Constitution of the Islamic Republic of Pakistan, 1973, vide judgment dated 16.11.2010 which was confirmed by the Hon'ble Supreme Court of Pakistan vide judgment

Attested  
(Signature)

TESTED

Signature  
Date  
Place

including his name in the joint seniority list maintained by the respondents No.1 and 2.

Respectfully Sheweth:

The appellant respectfully submit as under:-

FACTS.

- 1- That Muhammad Fayaz, appellant was appointed as Junior Clerk (BPS.05) vide his appointment letters dated 30.10.1995 by the Government of KPK, Sports, Culture, Archive and Tourism Department, Peshawar. Copy of the appointment letters of the appellants are attached herewith. (P-47)
- 2- That one Miss. Rukhsana Qureshi was also appointed on the said date i.e. 30.10.1995 by the said Department as Data Entry Operator (BPS-11). Copy of her appointment letter is attached herewith. (P-48)
- 3- That later on, Miss. Rukhsana Qureshi filed a Writ Petition No.1617/2008 in the Hon'ble High Court, Peshawar and she was declared as regular civil servant within the meaning of section 2 of KPK Civil Servants Act, 1973 with all benefits and the other relief of re-fixation of her pay was not granted as the matter related to KPK Service Tribunal under Article 212(2) of the Constitution of the Islamic Republic of Pakistan, 1973, vide judgment dated 16.11.2010 which was confirmed by the Hon'ble Supreme Court of Pakistan vide judgment

Attested  
(Signature)

RECEIVED

(Signature)

dated 3.7.2012. Copies of the Judgments are attached herewith. (P-63-65)

4- That the appellant then also filed Writ Petition No.1992 of 2013 in the Hon'ble High Court, Peshawar in which it was ordered that equal treatment to be extended to the appellants with those employees who have been granted relief by the Hon'ble Courts.

5- That the appellant then requested the Secretary, Establishment Department, Government of KPK, Peshawar to regularize the services of the appellant and give him seniority from the date of their appointments and including their names in the joint seniority list maintained by the Establishment Department, Government of KPK and the Government of KPK, Sports and Tourism Department, Peshawar has also sent a letter dated 31.12.2013 to the respondents requesting them that the services of the appellants in need to be placed on joint seniority list of Establishment and Administration Department respectively. Copy of the letter is attached herewith. (P-81)

6- That the appellants had also submitted an application for contempt of court against the respondents vide COC No.110/2014 in Writ Petition No.1992 of 2013 and it was ordered by the Hon'ble High Court on 27.1.2015 that since the reply filed by the respondents would reflect that substantial compliance has been made

Attested

(Signature)

TESTED

(Signature)

by the concerned authority, the COC was not pressed with permission to seek legal remedy before the proper forum i.e. KPK Service Tribunal, Peshawar. (Copy of the order dated 27.1.2015 is attached herewith). (P-79-80)

7- That the appellant had submitted two departmental appeals one on 26.03.2013 which was sent to the respondents No.1 and 2 by respondent No.3 vide letter dated 26.03.2013 and then another appeal was also filed by the appellant through proper channel on 24.02.2015 but with no response.

8- That the appellant then filed Service Appeal No.495 of 2015 in this Hon'ble Tribunal and the respondents were directed to dispose of the departmental appeals mentioned above within a period of sixty days and thereafter the appellant has all the legal rights to challenge the same, if so aggrieved vide judgment dated 11.4.2018. (The attested copy of the judgment of this Hon'ble Tribunal is attached herewith). (P-10-11)

9- That on the basis of the said judgment dated 11.4.2018 of the learned Khyber Pakhtunkhwa Service Tribunal, Peshawar, the respondent No.2 has passed the impugned order dated 25.6.2018 against the appellant by refusing his regularization and giving him seniority from the date of his appointment and including his name in the joint seniority list maintained by the respondents No.1 and 2 which was claimed by the appellant in the Departmental

Attested

(Signature)

TESTED

(Signature)  
Khyber Pakhtunkhwa  
Service Tribunal, Peshawar

Appeal and hence this appeal is again submitted on the following grounds:- (P-9)

Grounds of Appeal.

- 1- That the impugned order dated 25.06.2018 of the learned respondent No.2 is illegal, against facts and is liable to be set aside.
- 2- That the learned respondent No.2 has not decided the Departmental Appeals on merits as ordered by this Hon'ble Tribunal in the Remand Order dated 11.4.2018 and only relied on Rule 3 (2) of the Khyber Pakhtunkhwa (Provincial Information Technology Group) Service Rules, 2006, which is not applicable to the facts of the present case, particularly, when the Hon'ble High Court, Peshawar and the Hon'ble Supreme Court of Pakistan have decided such matters on merits.
- 3- That the appellant has not been treated in accordance with law and the respondents have acted in violation of Articles 4 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973 as well as the service law and rules.
- 4- That the appellant is admittedly working in the same planning Cell in which Miss. Rukhsana Qureshi was inducted and her status was declared as regular Civil Servants by the Hon'ble High Court in writ jurisdiction for all intents and purposes, so appellant is also entitled for similar treatment.

Attested

(Signature)

TESTED

(Signature)  
Vice-Chief Justice,  
Peshawar

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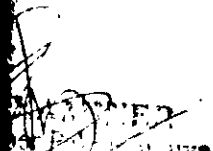
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5- That since the law has been laid down by the Hon'ble Court by declaring the status of Miss. Rukhsana Qureshi as a regular Civil Servant and also included her name in the joint seniority list of Secretariat employees, therefore, respondent No.3 recommended the case of appellants to the Establishment Department but the Establishment Department in clear departure of the judgment laid down by the August Supreme Court of Pakistan in plethora's of judgments that " if the Courts decides a point of law, the dictates of justice and good governance demand that benefits of same be extended to those civil servants who have not even litigated for, instead of compelling them to approach to the tribunal or any other legal forum" in case of Hamid Akhtar Nazi reported in 1996 SCMR-1185 and other judgments as well.

6- That the respondents have failed to discharge their legal obligations to act fairly, justly in accordance with the law, whereby, the right of regularization and also included their names in the joint seniority list have been denied to the appellant.

7- That despite of clear writ issued by the Hon'ble High Court, against which the leave to appeal has been refused by the august Supreme Court of Pakistan, respondents are adamant to declare the status of the appellants as a regular Civil Servant and also to include his name in the joint seniority list.

Attested  


TESTED  
  
 Vice-Chief Justice  
 Peshawar



8- That it has wrongly stated in the impugned order that none of the appeal of the appellant are pending with the respondents, although, the first Departmental Appeal appellant was sent by respondent No.3 vide letter No.SOG/2477, dated 26.03.2013 (P.35) and so the second Departmental Appeal was also sent to him on 25.02.2015 (P.39) and these facts have been admitted in facts No.6 of the Parawise comments, which was submitted by the respondents in the Service Appeal of the appellant bearing No.495 of 2015.

It is, therefore, humbly prayed that by acceptance of this service appeal, the impugned Order dated 25.06.2018 of learned respondent No.2 may be set aside and the respondents may be directed to regularize the service of the appellant for all intents and purposes under the Civil Servants Act, 1973 from the date of his appointment with all back benefits and also include his name in the joint seniority list maintained by the respondents No.1 and 2.

Dated: 4/7/2018.

Appellant,

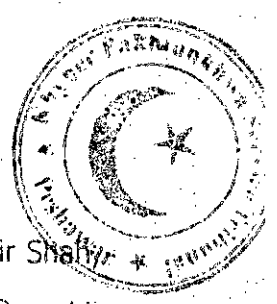
Attested

Certified to be true copy  
  
 Peshawar Service Tribunal  
 Peshawar

Through: (Haji Muhammad Zahir Shah),  
 Advocate, Peshawar.

HAJI MUHAMMAD ZAHIR SHAH  
 Advocate  
 Supreme Court of Pakistan  
 Peshawar





874/2018

Muhammad Fayaz vs Govt

24.05.2019

Appellant alongwith his counsel (Haji Muhammad Zahir Shakir Advocate) and Mr. Ziaullah DDA alongwith Mumtaz Qureshi, Junior Clerk for the respondents present.

The matter was argued at sufficient length. When learned counsel for the appellant was asked regarding the date of regularization of service of the appellant it was stated that throughout the record the said date was not available. The appellant also stated at the bar that the respondents were not handing him over any document pertaining to the date of regularization of his service although he has been in receipt of salary as a regular employee. In the circumstances, learned counsel stated that the appellant shall be satisfied at present in case his name is included in the seniority list from the date of his regularization in service in accordance with law and rules.

We consider that the request of appellant is allowable to the extent of inclusion of his name in the relevant seniority list in case he has been regularized into service. The respondents are, therefore, required to do the needful in accordance with law and rules. Instant appeal is disposed of in the said terms. The appellant may, however, approach the appropriate forum in case he is left with any other grievance against the respondents.

File be consigned to the record room.

*[Signature]*  
Member

*[Signature]*  
Chairman

Affixed  
*[Signature]*

Announced  
24.05.2019

Certified to be true copy  
*[Signature]*  
Khalid Ahmad Khan  
Secretary  
Service Tribunal,  
Faisalabad

27-5-19  
800  
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600  
Date of Copying  
Date of Completion of Copy 12-6-19  
Date of Delivery of Copy 12-6-19

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

CPLA NO. 525-P/2019

Government of Khyber Pakhtunkhwa through  
Chief Secretary, Peshawar & Others


-----PETITIONERS

VERSUS

Muhammad Fayaz

-----RESPONDENT

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

*Attested*  


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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./petitioners

*Attested*  


(A)

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. \_\_\_\_\_/2019

Government of Khyber Pakhtunkhwa through  
Chief Secretary, Peshawar & Others

-----PETITIONERS

VERSUS

Muhammad Fayaz

-----RESPONDENT

CONCISE STATEMENT

*Attested*  
*(Signature)*

- 1- Subject matter and the law. Seniority & Up-gradation
- 2- Which side has filed this petition Government / petitioners

Court / Forum	Date of a) Institution b) Decision	Who filed it and with what result
KPK Service Tribunal Peshawar	a)06-07-2018 b)24/05/2019	Respondent filed service appeal which has been accepted
Points noted in the impugned Judgment	Treatment of points in the impugned judgment	
The matter was argued at sufficient length. When learned counsel for the respondent was asked regarding the date of regularization of service of the respondent it was stated that throughout the record the said date was not available. The respondent also stated at the bar that the petitioners were not handing him over any document pertaining to the date of regularization of his service although he has been in receipt of salary as a regular.	We consider that the request of respondent is allowable to the extent of inclusion of his name in the relevant seniority list in case he has been regularized into service. The petitioners are therefore required to do the needful in accordance with law and rules. Instant appeal is disposed of in the said terms. The respondent may, however, approach the appropriate forum in case he is left with any other grievance against the petitioners.	



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<p>employee. In the circumstances learned counsel stated that the respondent shall be satisfied at present in case his name is included in the seniority list from the date of his regularization in service in accordance with law and rules.</p>	
--	--

LAW/RULING ON THE SUBJECT

FOR

1- CONSTITUTION OF PAKISTAN, 1973

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

*Attested*  
*(Signature)*

(1)

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. \_\_\_\_\_/2019

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar
2. Secretary to Government of Khyber Pakhtunkhwa Establishment Department, Civil Secretariat, Peshawar
3. Secretary to Government of Khyber Pakhtunkhwa Sports, Culture, Tourism, Youth Affairs, Archaeology & Museums Department, 13-A Khyber Road, Peshawar Cantt
4. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Civil Secretariat, Peshawar
5. Accountant General, Khyber Pakhtunkhwa, Peshawar

-----PETITIONERS

VERSUS

Muhammad Fayaz S/o Fida Muhammad (Junior Clerk) in Planning cell of Secretary to Government of Khyber Pakhtunkhwa Sports, Tourism, Archaeology, Youth Affairs & Museums Department Peshawar R/o Mohallah Hanzai Palosai Road, Tehkal Bala, Peshawar

RESPONDENT

CIVIL PETITION FOR LEAVE TO APPEAL UNDER ARTICLES 212(3) OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 AGAINST THE IMPUGNED JUDGMENT/ ORDER OF LEARNED KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR DATED 24/05/2019 IN SERVICE APPEAL NO.874/2018

RESPECTFULLY SHEWETH


Attested  


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, Peshawar does suffer from material illegality, factually incorrect and require interference by this august Court?



2. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar 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, Peshawar is in utter disregard of law and service rules?
4. Whether impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar is very much vague and does not qualify the requirement of legal judgment as the basic dispute regarding the employment of respondent has not been determined by the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar in the impugned judgment?
5. Whether the respondent is the employee of Sports Department and not of Establishment Department of Secretariat as both the departments have different entity and service rules?
6. Whether the respondent could not be adjusted in the Establishment Department being the employee of Sports and Culture Department and having no nexus with Establishment Department of Secretariat?
7. Whether the respondent was initially appointed in the Cell/project of Sports Department and nowhere the respondent has been regularized as evident from the record and admission of respondent in his service appeal?
8. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar has not adverted to the real question in controversy between the parties by giving a very vague judgment which does not disclose real dispute?
9. Whether the respondent case was compared with the case of Miss. Rohsana Qureshi and not found to be similarly placed person therefore the benefits of that case was not extended?
10. Whether the impugned judgment of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar does not disclose the nature of seniority nor the employee of department in whose seniority the respondent name be figured in it?

Attested  


3

- 11. Whether without impleading the affectees in case of entering the name of respondent in the seniority list, the service appeal of respondent was not competent and maintainable?
- 12. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar has not adverted to the important legal aspect of the case of non-impleading of the affectees in panel of respondent and straightway the allowing of appeal is not against law and justice?
- 13. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar has properly and legally construed the record and material in its true perspective?
- 14. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar 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 appointed as Junior Clerk on 30/5/1995 in project Planning Cell Information Department of Khyber Pakhtunkhwa who joined his service in Sports Culture, Tourism Archaeology Department.
- 2. That one Miss Rokhsana QAureshi had also been appointed as Data Entry Operator (BPS-11) on 30/10/1995 in Sports Department against project post who was later on regularized.
- 3. That the respondent filed writ petition No.1992-/2013 alleging therein that the respondent is similarly placed person with Miss. Rukhsana Qureshi and he be also given the same treatment which was allowed without notice and without calling any comments from the petitioners.
- 4. That the petitioners in compliance of the judgment referred above examined the case of respondent but not found similarly placed to Miss.Rukhsana Qureshi therefore did not extend the benefit of her case.
- 5. That the respondent filed departmental appeal which was rejected.

*Attested*  
*(Signature)*

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- 6. That the respondent then filed service appeal No.874/2018 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar wherein comments were called from the petitioners which was filed.
- 7. That the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar in disregard of law and facts of the case allowed the service appeal of respondent vide order dated 24/5/2018.
- 8. That the petitioners being aggrieved from the impugned judgment/order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 24/05/2019 in Service Appeal No.874/2018 prefers this CPLA before this august Court.
- 9. That the petitioners seek leave to appeal against the impugned judgment and order dated 24/05/2019 in Service Appeal No.874/2018.

It is, therefore, prayed that on acceptance of this petition, leave to appeal against the impugned judgment and order of Khyber Pakhtunkhwa, Service Tribunal, Peshawar dated 24/05/2019 in Service Appeal No.874/2018 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

*Attested*  


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

Execution petition No. 560/2022

In appeal No.457/2018

Mr. Muhammad Fayaz, Junior Clerk, in Planning cell Secretary to Government of KPK, Sports, Tourism, Archaeology, Youth Affairs & Museums department, Peshawar.....**Petitioner**

**VERSUS**

- 1- Chief Secretary, government of kpk, Peshawar.
- 2- Secretary to Government of khyber Pakhtunkhwa Establishment Department, Civil Secretariat, Peshawar.
- 3- Secretary to Government of KPK, Sports, Tourism, Archaeology, Youth Affairs & Museums department, Peshawar.
- 4- Secretary to Government of Khyber Pakhtunkhwa, finance Department, civil secretariat, Peshawar.
- 5- The accountant General, Khyber Pakhtunkhwa.

.....**RESPONDENTS**

**EXECUTION PETITION FOR DIRECTING THE**  
**RESPONDENTS DEPARTMENT TO IMPLEMENT THE**  
**JUDGMENT/ORDER DATED 24.05.2019 IN THE**  
**ABOVE TITLED APPEALS IN LETTER AND SPIRIT**

**R/SHEWETH:**

- 1- That the above mentioned appeal has been decided by this august Service Tribunal vide judgment/order dated 24.05.2019 in favor of the Petitioner. Copy of the judgment/order is attached as annexure.....**A.**
- 2- That the Petitioner filed the above mentioned appeal against the impugned order dated 25.06.2018 and regularization of his service and granting seniority from the date of his appointment.
- 3- That after final arguments this august Service Tribunal decided the appeal in favor of the Petitioner with the directions that:-

**" we consider that the request of the appellant is allowable to the extent of inclusion of his name in the relevant seniority list in case he has been regularized into service. The respondents, therefore, required to do the needful in accordance with law and rules. Instant appeal is disposed of in the said terms. The appellant may, however, approach the appropriate forum in the case he is left with any other grievance against**

*Attested*  
*(Signature)*

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**the respondents. File be consigned to the record room.**

4- That Petitioner after obtaining attested copy of the judgment submitted before the respondents but the respondents are not willing to implement the judgment passed by this august Service Tribunal.

It is therefore, most humbly prayed that on acceptance of this execution petition the respondents may be directed to implement the above mentioned judgment/order passed by this august Service Tribunal in letter and spirit.

Dated: 20.09.2022.

**PETITIONER**

**MUHAMMAD FAYAZ**

**THROUGH:**

**AFRASIAB KHAN WAZIR  
ADVOCATE**

*Attested*  
*(Signature)*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNEL PESHAWAR**

Execution Petition No. \_\_\_\_\_/2022

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In Appeal No.874/2018

Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar and Others.

.....Petitioners

**VERSUS**

Mr. Muhammad Fayaz,

..... Respondent

**OBJECTION PETITION AGAINST THE ORDER DATED 24.05.2019 IN APPEAL NO. 874/2018.**

**Respectfully Sheweth:**


**Facts:**

1. Para 1 of the execution petition is correct to the extent that the Hon'ble Service Tribunal has decided the instant appeal while rest of the Para is incorrect. That no judgment/order was passed in favor of the petitioner.

2. Para 2 of the execution petition is correct.

3. Para 3 of the execution petition is correct to the extent that the Hon'ble Service Tribunal issued direction to this Office for consideration of the request of the appellant to the extent of inclusion of his name in the relevant seniority list in case he has been regularized in to service while rest of the para is incorrect. That the judgment of Hon'ble Service Tribunal was taken into consideration by the Competent Authority wherein it transpired that notification regarding regularization of the appellant is not issued by the competent authority and his services are still temporary with this Office.

It is therefore, humbly prayed that on acceptance of the Reply/Objections, the execution petition may kindly be dismissed with cost.

  
Secretary


Government of Khyber Pakhtunkhwa,  
Sports & Youth Affairs Department  
(Petitioner No.01 & 03) 27/07

  
Secretary

Government of Khyber Pakhtunkhwa,  
Establishment Department  
(Petitioner No.2)

  
Secretary

Government of Khyber Pakhtunkhwa,  
Finance Department  
(Petitioner No.3)

A Husted  




GOVERNMENT OF, KHYBER PAKHTUNKHWA, .

SPORTS & YOUTH AFFAIRS DEPARTMENT.

13-A, KHYBER ROAD, PESHAWAR CANTT:



091- 9223448.



091-9212535.



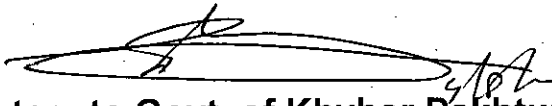
Sportslitigation@gmail.com

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NO. SO (LIT)/S&TD/1- 80/2001/ M.Fayaz  
Dated Peshawar the, \_\_\_ August , 2023.

**AUTHORITY LETTER**

Mr. Wisal Muhammad (BPS-17), Section Officer (Litigation), Sports & Youth Affairs Department is hereby authorized to attend the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Execution Petition titled "Muhammad Fayaz VS Government of Khyber Pakhtunkhwa through Chief Secretary and others on behalf of the undersigned till the final decision of the case.

  
Secretary to Govt. of Khyber Pakhtunkhwa,  
Sports, & Youth Affairs Department.

**SECRETARY**  
Sports and Youth Affairs  
Department Khyber Pakhtunkhwa