

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER


PAKHTUNKHWA PESHAWAR

E.P No. 489/2023 in Service Appeal No.1539 /2008

Maqсад Hayat Vs Secretary (E&SE) KP & others

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District Education Officer,
(Male) Peshawar

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BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER

PAKHTUNKHWA PESHAWAR

E.P No. 489/2023 in Service Appeal No.1539 /2008

Maqsad Hayat Vs Secretary (E&SE) KP & others

Reply on behalf of Respondents No.1,3 & 4.

Khyber Pakhtunkhwa
Service Tribunal

Entry No. 8040

Dated 3/10/23

Respectfully Sherweth:

The Respondent, submit below:

1. That Para No.01 is correct to the extent that the Petitioner filed appeal No.1539/2008 and the same was decided on dated 26-05-2009 in light of the Court decision and the Respondent Department implemented the same.

(Copy of Notification is attached as Annex-A)

2. That reply of Para No.02 has already been discussed in Para No.01.
3. That in reply of Para No.03, it is submitted that the appellant itself admitted that the Secretary Elementary & Secondary Education has implemented the Court judgment and issued Notification on 28-07-2019 in light of Court judgment. The Notification is already Annex as Annex-A of the reply.
4. That in reply to Para No.04 it is submitted that at that time the qualification of Mr. Sohrab Hayat was M.Ed. which is professional qualification while 03 advance increment had to be awarded on academic qualification i.e. M.A/ MSc. Therefore, the petitioner filed the said petition. Furthermore the petitioner Mr. Maqsad Hayat did not file any Execution Petition for implementation within the prescribed time under the Law.


It is further submitted that the Respondent Department has already filed CPLA in Supreme Court of Pakistan against the order of this Hon'ble Tribunal passed in the instant Execution Petition, No: 22/2024.

(Copy of CPLA is attached as Annex-B)

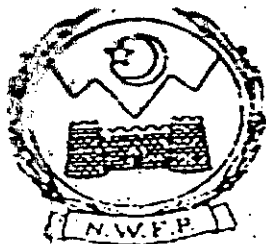
It is also Worth mentioning here that the Petitioner (Mr. Sohrab Hayat) has already withdrawn his E.P No. 22/2011 on dated 17-08-2023. Therefore, the petitioner (Mr. Sohrab Hayat) is estopped to file the instant Execution Petition.

5. That in reply to Para No.05, it is submitted that this Hon'ble Tribunal passed the judgment on 26-05-2009 and the Respondent Department Implemented the said judgment in true letter spirit. Furthermore if the petitioner is aggrieved from the said Notification, he should have filed Execution Petition against the said Notification in this Ho'ble Tribunal within the prescribed time under the law.
6. That Para No.06 is incorrect, misleading and against the facts. The Respondents have already implemented the judgment of this Worth Tribunal in letter and spirit. *Further more the Respondent depart wrote Letters To provide original Service book, and Notification, But He did not provide till ^{date} (Letter is annex c)*
7. That Para No.07 is incorrect, misleading and against the facts. The Petitioner has no cause of action to file the instant petition in this Hon'ble Tribunal.

It is therefore; requested that Execution Petition may kindly be dismissed with cost.


District Education Officer
(Male) Peshawar

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Annex - "A"
B - (B)



**GOVERNMENT OF NWFP
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**
Dated Peshawar the 28-7-2009.

NOTIFICATION.

No. SO(PE)E&SED/Adv: Incr:/09. Consequent upon the judgement of August Supreme Court of Pakistan in CPLA No. 525 of 2007 and CPLA No. 526 of 2007, the Competent Authority has been pleased to declare that all other similarly placed teachers with the original appellant in the above mentioned cases shall also be entitled to the benefits of the Finance Department Notification vide circular letter No. F.D/PRC/1-1/89, dated 07-08-1991 and vide circular letter No. FD/PRC/1-1/83, dated 11-08-1991 with effect from the date of issue or with effect from date of acquiring higher qualification, whichever ever is later.

Secretary to Govt. of NWFP
E&SE DEPARTMENT.

Encls. Of every No. & date.

Copy is forwarded to:-

1. The Secretary to Government of NWFP, Finance Department Peshawar.
2. The Secretary to Government of NWFP, Establishment & Administration Department, Peshawar.
3. The Secretary to Government of NWFP, Law Department.
4. The Director Elementary & Secondary Education NWFP, Peshawar.
5. The Director Curriculum & Teacher Education NWFP, Abbotabad.
6. The Director PITE, NWFP, Peshawar.
7. The Director Education FATA, Peshawar.
8. The Accountant General NWFP Peshawar.
9. All District Accounts Officers in NWFP.
10. All Executive District Officers (ERSE) in NWFP.
11. All District Coordination Officers in NWFP.
12. Registrar Supreme Court of Pakistan, Islamabad.
13. Registrar Peshawar High Court, Peshawar.
14. Registrar NWFP Service Tribunal Peshawar.
15. P.S.O to Chief Minister NWFP.
16. P.S to Chief Secretary NWFP.
17. P.S to Additional Chief Secretary (FATA) Civil Secretariat FATA, Peshawar.
18. P.S to Minister for Education NWFP.
19. P.S to Secretary Elementary & Secondary Education Department.
20. Section Officer (Litigation) E&SE Department.

[Signature]
SECRETARY

[Signature]

[Signature]

TESTED

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

CPLA NO. _____/2022

Government of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education, Peshawar & Others

VERSUS -----PETITIONERS

Mr. Sehrab Hayat

-----RESPONDENT

CONCISE STATEMENT

1	Subject matter and the law	Implementation of the Order	
2	Controversy between the parties	The respondent filed Execution Petition No.22/2011 in Service Appeal No.1542/2008 before the Learned Khyber Pakhtunkhwa Service Tribunal, Peshawar in which petitioners filed objection petition. The objection petition of petitioners was held not acceptable and petitioners were directed to implement the order dated 26/5/2009 vide impugned order.	
3	Which side has filed this petition	Government / Appellants	
	Court / Forum	Date of a) Institution b) Decision	Who filed it and with what result
	Learned Khyber Pakhtunkhwa Service Tribunal, Peshawar	a)15/02/2011 b)16/11/2022	Respondent filed Execution Petition in which the petitioners were asked to submit final and conclusive implementation report
	Points noted in the impugned Judgment	Treatment of points in the impugned judgment	
	Petitioner's points not noted.	It is evident from the Court file that the respondent has approached the Service Tribunal though the instant execution petition seeking implementation of the judgment dated 26/05/2009 against which the petitioners did not file CPLA in the august Supreme Court of Pakistan. Perusal of the previous order sheets would reveal the delaying tactics exhibited on the part of the petitioners on one pretext or the other. Today, representative of petitioner No.2 produced a copy an unapproved summery before Tribunal taking the plea on the basis of opinion of law department contained in Para 6 thereof which makes a reference to Section 2 of the "Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments of Higher Educational Qualification Act, 2012." It was further stated at the Bar that the august Supreme Court of Pakistan has set aside the impugned	

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District Education Officer
(Male) Peshawar

No: _____ /

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Dated: _____ / _____ /2023

Reminder # 3

To

MR. Maqsad Hayat,
SST (G) BPS-16
GMS Khur Khuri, District Peshawar

Subject: - **PROVISION OF ORIGINAL SERVICE BOOK AND SANCTION OF ADVANCE INCREMENTS ON HIGHER QUALIFICATION IN COMPLIANCE OF JUDGMENT DATED 26-05-2009 PASSED IN SERVICE APPEAL 1593/2008.**

Memo;

You are directed to provide the documents mentioned in the above subject within a 03 days positively to process your case in compliance of Execution Petition 489/2023 titled Sohrab Hayat Vs Government of KPK & others.


Your early reply will be highly appreciated being a Court matter.

DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

Endst No. 2693-94. Dated 26/09 /2023

Copy of the above is forwarded for information und necessary action to the:-

1. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar. w/r E.P No.489/2023 titled Sohrab Hayat Vs Government of KPK & others
2. Section Officer (Litigation -II) E&SED Khyber Pakhtunkhwa Peshawar.


DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR







District Education Officer
(Male) Peshawar

No. 4664 /

Dated: 30 / 09 / 2023

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To

MR. Maqsad Hayat,
SST (G) BPS-16
GMS Khur Khuri, District Peshawar

Subject: - **PROVISION OF ORIGINAL SERVICE BOOK LETTER NO.F.D NO.(SR-D2-123 2010 DATED 15-12-2010 AND ON ACCOUNT OF M.A W.E.F 19-09-1997 TO 31-01-2011 UNDER SANCTION NO. EDO (SE) VIDE 2252-60 S.NO 28 DATED 02-02-2011 IN COMPLIANCE OF JUDGMENT DATED 26-05-2009 PASSED BY HON'BLE SERVICE TRIBUNAL IN SERVICE APPEAL 1593/2008.**

Memo;

You are directed to provide the documents mentioned in the above subject within a 03 days positively to process your case in compliance of Execution Petition 489/2023 titled Sohrab Hayat Vs Government of KPK & others. Next date is fixed on 03-10-2023.

Your early reply will be highly appreciated being a Court matter.

DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

Endst No. 4665-66 / Dated 30 / 09 / 2023

Copy of the above is forwarded for information und necessary action to the:-

1. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar. w/r E.P No.489/2023 titled Sohrab Hayat Vs Government of KPK & others
2. Section Officer (Litigation -II) E&SED Khyber Pakhtunkhwa Peshawar


DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR



BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

E.P No. 489/2023 in Service Appeal No.1539 /2008


Maqсад Hayat Vs Secretary (E&SE) KP & others

Affidavit

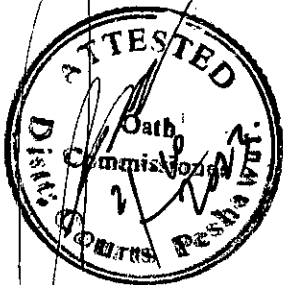
I, Sajjad Akhtar Iqbal, District Education Officer (Male)

Peshawar do hereby solemnly affirm and declare on oath that the contents of the reply on behalf of respondents is correct to the best of my knowledge and nothing has been concealed from this Hon,ble Tribunal.

It is further stated the opposing respondents have neither been placed ex-parte nor their defences been struck off.

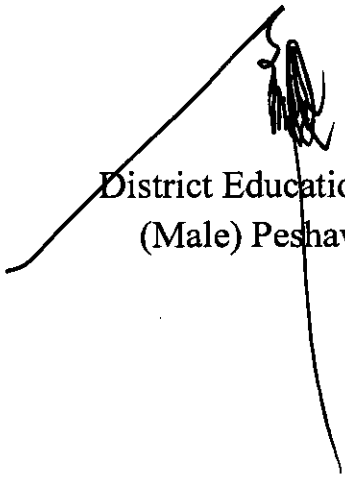

DEPONENT

Identify by



AUTHORITY LETTER

Mr. Arshad Ali, ADEO (Litigation) office of the District Education Officer (Male) Peshawar is hereby authorized to submit this reply in E.P No.489/2023 appeal No.1539/2008 titled Maqsad Hayat VS Govt: of KPK & others on behalf of the Education Department (E &SE) KP Peshawar.



District Education Officer
(Male) Peshawar