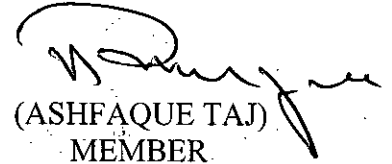


E.P 112/2015

24.02.2017

Petitioner with counsel and Mr. Hameed-ur-Rehman AD (litigation) alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Learned counsel for petitioner submitted application showing break-up for arrears received by the petitioner. Copy of which is handed over to respondents. To come up for arguments/further proceedings on 28.04.2017 before S.B.

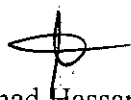
  
(ASHFAQUE TAJ)  
MEMBER

28.04.2017

Counsel for the petitioner and Addl. AG for the respondents present. Counsel for the petitioner submitted before the court that his grievances have been redressed by the Department and he ~~has~~ is no more interested in prosecution of the case. In view of the above the present execution petition is hereby dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED:

28.04.2017

  
(Ahmad Hassan)  
Member

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

Execution Petition 112/2015  
In Appeal No.774/2014

Mamoor Shah

V/S

Education Deptt:

**APPLICATION FOR BACKUP IN THE ARREARS RECEIVED BY THE PETITIONER.**

**RESPECTFULLY SHEWETH:**

- 1) That the petitioner has filed the instant execution petition for the implementation of judgment dated 6.7.2015 of this august Tribunal.
- 2) That on the basis of execution petition, arrears of the petitioner was paid to him, however there are some amount which is still not paid to the petitioner as Adhoc Allowance of the petitioner was became Rs.91,776, but he was paid Rs.75,985 which means that the petitioner has been paid less amount of Rs.15,000 which is still due on part of the department. (Copy of arrears break up is attached as Annexure-R-1)
- 3) That it interest of justice to pay the due amount of Rs.15,000 to petitioner in order to implement the judgment in its true letter and spirit.

It is therefore humbly prayed that on this acceptance of this application, the responent may be directed to pay the due amount of Rs.15,000 to petitioner in order to implement the judgment in its true letter and spirit. Any other remedy which this august Tribunal deems fit and proper may also be awarded in favour of the petitioner.

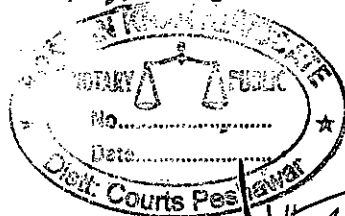
APPELLANT/PETITIONER

Through:

(M. ASIF YOUSAFZAI )  
ADVOCATE SUPREME COURT,  
&   
(TAIMUR ALI KHAN )  
ADVOCATE HIGH COURT.

**AFFIDAVIT**

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



DEPONENT

**Dist. Govt. NWFP-Provincial**  
**District Accounts Office Nowshera**  
**Monthly Salary Statement (September-2016)**



**Personal Information of Mr MAMOOR SHAH d/w/s of WALAYAT SHAH**

Personnel Number: 00757173 CNIC: 1720124411041 <sup>2012</sup> NTN:  
 Date of Birth: 11.12.1969 Entry into Govt. Service: 26.05.2012 Length of Service: 01 Years 04 Months 006 Days

**Employment Category: Active Temporary**

Designation: SENIOR PRIMARY SCHOOL TEA 80003682-DISTRICT GOVERNMENT KHYBE

DDO Code: NR6010-DY: DISTT OFFICER (M) NSR

Payroll Section: 001 GPF Section: 001 Cash Center:

GPF A/C No: Interest Applied: No GPF Balance: 43,145.00

Vendor Number: -

**Pay and Allowances:** Pay scale: BPS For - 2016 Pay Scale Type: Civil BPS: 12 Pay Stage: 3

Wage type		Amount	Wage type		Amount
0001	Basic Pay	13,540.00	1000	House Rent Allowance	1,307.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1973	Adhoc Allowance 2010@ 50%	2,178.00	2148	15% Adhoc Relief All-2013	350.00
2199	Adhoc Relief Allow @10%	275.00	2211	Adhoc Relief All 2016 10%	1,354.00
5002	Adjustment House Rent	55,105.00	5011	Adj Conveyance Allowance	88,536.00
5012	Adjustment Medical All	47,094.00	5309	Adj. 15% Adhoc Allowance	32,250.00
5801	Adj Basic Pay	346,958.00	5698	Adj. Adhoc Allowance 50%	75,985.00
5911	Adj. Adhoc Relief 2011	22,981.00	5938	Adj. Adhoc Relief All 2012	53,500.00
5950	Adj: Adhoc Relief All-2014	11,900.00	5964	Adj Adhoc Relief All 2015	7,830.00

**Deductions - General**

Wage type		Amount	Wage type		Amount
3501	Benevolent Fund	-180.00	3511	Addl Group Insurance	-13.00
3604	Group Insurance	-115.00	3609	Income Tax	-2,188.00
3990	Emp. Edu. Fund KPK	-100.00	6001	Adj Benevolent Fund	-6,695.00
6006	Adj Group Insurance	-484.00	6075	Adj GPF	-43,145.00
6145	Adj Addl Group Insurance	-4,277.00	6164	Adj E.E.F NWFP Fund	-3,719.00

**Deductions - Loans and Advances**

Loan	Description	Principal amount	Deduction	Balance

**Deductions - Income Tax**

Payable: 36,465.20 Recovered till September-2016: 2,188.00 Exempted: 14586.01 Recoverable: 19,691.19

**Gross Pay (Rs.): 765,499.00 Deductions: (Rs.): -60,916.00 Net Pay: (Rs.): 704,583.00**

Payee Name: MAMOOR SHAH

Account Number: 03277900124103

Bank Details: HABIB BANK LIMITED, 220327 AZA KHEL BALA, NOWSHERA. AZA KHEL BALA, NOWSHERA., NOWSHERA

Leaves: Opening Balance: Availed: Earned: Balance:

**Permanent Address:**

City: NOWSHERA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: mamoorshahnsr@gmail.com

Petitioner alongwith counsel and Addl. AG alongwith

**OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER, (MALE) NOWSHERA**

Arrear of regular allowances in respect of Mr. Mamoor Shah w.e.f 26/05/2012 BPS-12

--- Mamoor Shah BPS-12

													4645	4355	757173					
Period		B-PAY	HRA	MA	CA	AA-2010	ARA-2011	ARA-2012	ARA-2013 15%	ARA-2014 10%	ARA-2015 10%	ARA-2016 10%	TOTAL	GPF	H/F	ADD GP/NS	GRP/NSR	EEFF	TOTAL	G:Total
RATE	1	5800	1306	1000	1150	1765	653	0	0	0	0	0	9871	1160	180	13	115	100	0	9871
26/05/2012 to 31/05/2012	06 d	1123	253	193.548	222.581	341.6	126.4	0	0	0	0	0	2259	224.5	35	2.52	22	19	303	1956
RATE	1	7000	1306	1000	2720	2177	653	1400	0	0	0	0	1483	1160	180	13	115	100	1568	9915
01/07/2012 to 11/2013	16	112000	20896	16000	43520	34832	10448	22400	0	0	0	0	260096	18560	2880	208	1840	1600	25088	235008
RATE	1	8000	1306	1000	2720	2177	653	1600	1200	0	0	0	18656	1160	130	13	115	100	1568	17088
12/2013 to 11/2014	12	96000	15672	12000	32640	26124	7836	19200	14400		0	0	223872	8120	1,260	91	805	700	10976	212896
RATE	1	8500	1306	1200	2856	2177	653	1700	1275	850	0	0	20517	1160	180	13	115	100	0	20517
12/2014 to 06/2015	7	59500	9142	8400	19992	15239	4571	11900	8925	5950	0	0	143619	8120	1,260	91	805	700	10976	132643
RATE	1	1005	1306	1500	2856	2177	0	0	1275	850	1100	0	22069	1160	180	13	115	100	0	22069
07/2015 to 11/2015	5	55025	6530	7500	8568	10885	0	0	6375	4250	5500	0	104633	5800	900	65	575	500	7840	96793
RATE	1	11655	1306	1500	2856	2177	0	0	1275	850	1165	0	22781	1160	180	13	115	100	1468	21316
12/2015 to 01/2016	2	23310	2612	3000	5712	4354	0	0	2550	1700	2330	0	45568	2320	360	26	230	200	3136	42432
Jan-00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total		345,958	55,105	47,094	110,655	91,776	22,981	53,500	32,250	11,900	7,830		780047	43145	6695	434	4277	3719	58319	721728

Certified that the arrear of regular pay & allowances w.e.f 26/05/2012 to 31/01/2016 not drawn previously certified that the arrear pf pay and allownaces in respect of Mr. Syed Asad Ali Shah PST B-12

*Mamoor Shah*

15.4.2016

Petitioner with counsel and M/S Khursheed Khan, SO, Hameedur Rahman, AD and Inayatullah, ADO alongwith Addl: A.G for respondents present. Requested for adjournment. Last opportunity granted. In case the respondents failed to implement the judgment in letter & spirit further coercive measures will be taken against the respondents. To come up for implementation report on 29.07.2016.

  
Chairman

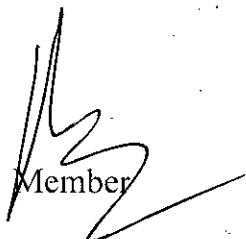
29.07.2016

Petitioner with counsel, M/S Hameedur Rahman, AD and Inayatullah, ADO alongwith Addl. AG for the respondents present. Representative of respondents No. 3 informed the Tribunal that in pursuance of the implementation of the judgment bill of the petitioner was submitted to District Accounts Office, Nowshera which was not honoured. Let a notice be issued to District Accounts Officer, Nowshera to explain as to why he shall not be proceeded against for defaming the judgment of this Tribunal. To come up for implementation report on 14.10.2016 before S.B

  
Chairman

14.10.2016

Petitioner alongwith counsel and Addl. AG alongwith M/S Inayat ur Rehman, ADO, Hameed ur Rehman, AD and Noor Rehman, Senior Auditor for the respondents present. Representative of the District Account Officer Noshehra submitted pay-roll of the petitioner for the month of September,2016 however learned counsel for the petitioner submitted that the same is not according to judgment of the Tribunal. Counsel for the petitioner is directed to submit proper breakup which has not been paid to the petitioner. To come up for further proceedings on 30.12.2016 before S.B.

  
Member

30.12.2016

Petitioner with counsel and Mr. Hameedur Rahman, AD alongwith Addl. AG for the respondents present. Counsel for the petitioner requested for adjournment. To come up for written objection/break up from the side of petitioner and further proceedings on 24.02.2017.

  
Chairman



15.4.2016

Petitioner with counsel and M/S Khursheed Khan, SO, Hameedur Rahman, AD and Inayatullah, ADO alongwith Addl: A.G for respondents present. Requested for adjournment. Last opportunity granted. In case the respondents failed to implement the judgment in letter & spirit further coercive measures will be taken against the respondents. To come up for implementation report on 29.07.2016.

  
Chairman

29.07.2016

Petitioner with counsel, M/S Hameedur Rahman, AD and Inayatullah, ADO alongwith Addl. AG for the respondents present. Representative of respondents No. 3 informed the Tribunal that in pursuance of the implementation of the judgment bill of the petitioner was submitted to District Accounts Office, Nowshera which was not honoured. Let a notice be issued to District Accounts Officer, Nowshera to explain as to why he shall not be proceeded against for defaming the judgment of this Tribunal. To come up for implementation report on 14.10.2016 before S.B

  
Chairman

30.10.2015

Petitioner with counsel present. Notice be issued to the respondents for 12.2.2016 before S.B.

  
Chairman

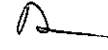
03.12.2015

Counsel for the petitioner present and submitted application for fixation of execution petition for an early date. Allowed. To come up for further proceedings/implementation report on 1.1.2016 instead of 12.2.2016 before S.B. Respondents be informed accordingly.

  
Chairman

21-01-2016  
01.01.2016

Petitioner in person and Mr. Irshad Muhammad, SO along with Assistant AG for respondents present. Requested for adjournment. To come up for further proceedings/implementation report on 12.2.2016 before S.B.

  
Member

12.02.2016

Petitioner with counsel, M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (lit.) and Inayatullah, ADO along with Addl: A.G for respondents present. Requested for adjournment as the implementation process is not yet concluded. Adjourned for further proceedings/implementation report to 15.4.2016 before S.B.

  
Chairman





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

Implementation Petition No. \_\_\_\_\_/2015  
In Service Appeal No.774/2014

G.W.F Province  
Service Tribunal  
Diary No. 1071  
Dated 17/07/15

Syed Mamoor Shah,  
PST, Government Primary School No.1,  
Azakhel Bala, District Nowshera.

**PETITIONER**

VERSUS

1. The Secretary, E&S Education Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Director, E&S Education, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (E&SE) (Male), Nowshera.
4. The Secretary, Finance Department, Government of Khyber Pakhtunkhwa, Peshawar.

**RESPONDENTS**

.....  
**IMPLEMENTATION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE JUDGMENT  
DATED 06.07.2015 OF THIS HONOURABLE  
TRIBUNAL IN LETTER AND SPIRIT.**  
.....

**RESPECTFULLY SHEWETH:**

1. That the petitioner was appointed as PST (BPS-7) and assumed the charge of the post of PST on 26.05.2012.
2. That from the date of appointment, the respondent department has not been paid his salaries to the appellant.
3. That the appellant submitted his appeal to the competent authority, but not responded. Therefore, the appellant filed Service Appeal No.774/2014 in this Honourable Tribunal for the release of his salaries and against not taking action on his departmental appeal within statutory period.
4. That finally the appeal of the appellant was heard on 06.07.2015 and the Honourable Service Tribunal was pleased to accept the appeal of the appellant with direction the respondent department

to decide appeal of the appellant within one month positively failing which the appellant would be entitled for the payment of salaries. Copy of Order is attached as Annexure-A.


5. That after obtaining the copy of the Judgment, the petitioner approached the respondent department for release of his salaries but the same has not been done so far.
6. That the conduct and attitude of the respondents shows that they are not willing to obey the legal verdict of the legal forum.
7. That the petitioner has having no other remedy, therefore, the petitioner is constrained to file this Implementation Petition.

It is, therefore, most humbly prayed that the respondents may be directed to release the salaries of the appellant from the date of his appointment in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favour of appellant.

APPELLANT

  
Syed Mamoor Shah

THROUGH:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR

**AFFIDAVIT:**

It is affirmed and declared that the contents of the above Implementation Petition are true and correct to the best of my knowledge and belief.

  
DEPONENT



be drawn. It has also been stated that case of age relaxation of the appellant is under process. Rejoinder from the appellant side was also filed wherein he has pleaded that as the appellant is performing duty therefore, he is entitled for salary.

4. Arguments heard and record perused.

5. The learned counsel for the appellant

submitted that the department has not disputed either appointment order of the appellant nor that the appellant has been performing his duty regularly. It was further submitted that by any stretch of interpretation of the legal jurisprudence or natural justice, the appellant is entitled for payment of salaries right from the date of his appointment and any refusal in this respect would amount to subject the appellant to forced labour which is against the Constitution of Islamic Republic of Pakistan.

The learned counsel for the appellant concluded that service certificate secured from Headmaster, GPS No. 1 Azakhel Bala and ASDFO Pabli Circle, District Nowshera (Copy available on file) clearly shows that the appellant has been continuously rendering his services as PST Teacher. He requested that the appeal may be accepted and the department be directed for the payment of salaries to the appellant.

6. The learned Government Pleader resisted this

**ATTACHED**  
 Khyber Pakhtunkhwa  
 Government  
 Service Commission  
 Peshawar

appeal on the grounds that the appellant has got no cause of action as the appeal is not filed against any original or appellate order, therefore, the appeal is not competent as required by Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. It requested that the appeal may be dismissed.

7. We have gone through the material available

on record, particularly copy of the appointment order dated 25.5.2012, charge report, copies of pages from attendance register and the service certificate of the Headmaster, GPS No. 1 Azakhel Bala, in the light of which the Tribunal is lead to form a tentative opinion that as after proper appointment order and assumption of charge, the appellant has been performing duty, therefore, he would be entitled for payment of his salaries. The plea of the respondents-department that as the case of the appellant was that of over age, therefore, he cannot be entitled for salary, would not be acceptable for the reason as to why appointment order had been issued to the appellant and further that what action has been taken against the defaulting appointing authority who appointed appellant before his age relaxation was procured?

8. Since departmental appeal of the appellant

dated 12.2.2014 has not been decided by the appellate authority, therefore, the Tribunal would prefer to direct

ATTESTED  
Khyber Pakhtunkhwa  
Service Tribunal  
Secretary  
Peshawar

the appellate authority to decide appeal of the appellants within one month positively failing which the appellants would be entitled for the payment of salary. However, an undertaking be obtained from the appellants that in case of detection of any fault or mis-statement on his part he will be liable to return the said arrears. The appeal is disposed off in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
06.7.2015

(PIR BAKHSI SHAH)  
MEMBER

(ABDUL LATIF)  
MEMBER

Certified to be a true copy  
EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application	11-9-2015
Number of Words	1600
Copying Fee	10
Urgent	10
Total	10
Name of Copyist	
Date of Completion of Copy	14-9-2015
Date of Delivery of Copy	14-9-2015

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1343 /ST

Dated 15 / 8 /2016

To


The District Account Officer,  
Nowshehra.

Subject: -

ORDER.

I am directed to forward herewith a certified copy of order dated 29.7.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.



# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar

S. Mamoor Shah

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Education Deptt:

(Respondent)  
(Defendant)

I/We Mamoor Shah (Appellant)

Do hereby appoint and constitute **M.Asif Yousafzai, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

Mamoor-Shah  
( CLIENT )

ACCEPTED

M. Asif Yousafzai  
**M. ASIF YOUSAFZAI**  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240