


18.04.2018

Petitioner in person and Mr. Usman Ghani, District Attorney alongwith Syed Hajjad Hussain Shah, Litigation Officer for the respondents present. The departmental representative submitted implementation report on behalf of respondent No. 3 wherein instead of executing the order, the department had written that a CPLA has been filed before the august Supreme Court of Pakistan. But there is no suspension or stay order granted by the august Supreme Court of Pakistan. The department is directed to accept the charge assumption report of the petitioner from tomorrow. To come up for implementation report on 27.6.2018 before the S.B at camp court, Abbottabad.


  
Chairman  
Camp court, A/Abad

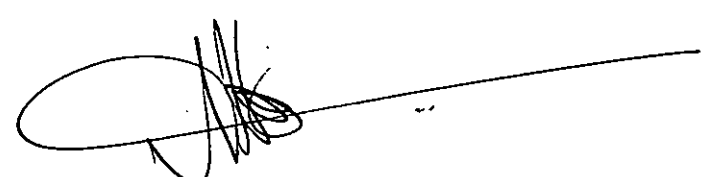
27.06.2018

Petitioner Abdul Shakoor in person present. Mr. Saqib Shahzad, Assistant on behalf of the respondents alongwith Mr. Usman Ghani, District Attorney for the respondents present.

The petitioner produced implementation report which shows that the petitioner has been reinstated in service, however, subject to the decision of august Supreme Court of Pakistan in CPLA filed by the respondents.




In view of the above stated circumstances, the petitioner is no more interested to pursue the present proceedings and filed. File be consigned consigned to the record room.

  
Chairman  
Camp court, A/Abad

  
ANNOUNCED  
27.06.2018

FORM OF ORDER SHEET

Execution Petition No. 257/2017

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	27.12.2017	<p>The Execution Petition of Mr. Abdul Shakoor received to-day by post may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 27/12/17</p>
2-	11-1-2018	<p>This Execution Petition be put up before touring S. Bench at A.Abad on <u>21-2-2018</u></p> <p style="text-align: right;"> CHAIRMAN</p>
21.02.2018		<p>Petitioner in person present. Notices be issued to the respondents. To come up for reply/implementation report on 18.04.2018 before S.B.</p> <p style="text-align: right;"> Member Camp court, A/Abad.</p>

**BEFOE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR CAMP COURT, ABBOTTABAD**

Execution Petition No. 257/2017

IN

Service Appeal No-478/2016

Abdul Shakoor Ex-PST, GPS Banda Ghazan , District Abbottabad

.....PETITIONER

Khyber Pakhtunkhwa  
Service Tribunal

VERSUS

Diary No. 1122

Dated 27/12/2017

1. Secretary E&S Education, Khyber Pakhtunkhwa, Peshawar.
2. Director E&S Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), District, Abbottabad.

.....RESPONDENTS

**SUBJECT: EXECUTION PETITION FOR IMPLIMENTATION OF  
JUDGMENT WITH LETTER AND SPIRIT PASSED IN  
ABOVE TITLE SERVICE APPEAL NO-478/2016 DATED  
17-10-2017,**

**RESPECTFULLY SHEWETH:**

1. That the petitioner was working as PST in Education Department, District Abbottabad at GPS Banda GHazan, Abbottabad and on 11/12/2015, petitioner was retired compulsory from service by respondent No.3 (Copy of order is annexed as Annexure "A").
2. That, on 28/12/2015, petitioner filed Departmental Appeal before respondent No. 2 against the order dated 11/12/2015 issued by respondent No.3. and respondent No.2 fail to decide the Departmental appeal of petitioner within specific period and petitioner was compel U/S (4) of Service Tribunal Act 1974 of Khyber Pakhtunkhwa, to approach this Hon'ble Tribunal on 21/04/2016.


3. That, on 17/10/2017, this Hon'ble Tribunal accepted the appeal of petitioner and set aside the impugned order dated 11/12/2017 of respondent No.3, and reinstated the petitioner in service. The relevant Para of judgment of this Hon'ble Tribunal is as under:-

*“as a sequel to above discussion, this appeal is accepted the impugned order, is set aside and the appellant is re-instated in service”. (Copy of Judgment is annexed as annexure “B”).*

4. That, on 20/10/2017, petitioner submitted an application before respondent No.3 alongwith certified copy of judgment for implementation of order of this Hon'ble Tribunal. (Copy of application is annexed as annexure “C”).

**It is therefore, humbly prayed** that on acceptance of instant Execution Petition, respondents may be directed to implement the Judgment of this Hon'ble Tribunal with letter and spirit and direction may also be issued to the respondents for immediate reinstatement of petitioner in service without delaying tactic because respondents are bound to implement the judgment of this Hon'ble Tribunal with letter and spirit. Otherwise contempt of court proceeding may be initiated against the respondents.

Dated: 23/12/2017

  
ABDUL SHAKOOR EX- PST  
(PETITIONER IN PERSON)

**AFFIDAVIT:**

I, Abdul Shakoor Ex-PST, GPS Banda Ghazan , District Abbottabad, **Petitioner**, do hereby solemnly affirm and declare on oath that the contents of instant Execution Petition are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

  
DEPONENT

A  
Annex A  
197

3

**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD**

**NOTIFICATION**

WHEREAS, you Mr. Abdul Shakoor while serving as PST at GPS Banda Ghazan, Abbottabad were proceeded for having committed the following acts which constitute inefficiency and misconduct under Rule-3 of the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011.

1. AND WHEREAS, your transfer on deputation for three years was approved vide Government of Pakistan, Federal Directorate of Education Islamabad letter No.F.03-5/2010 (SA) FDE dated 12.2.2010, wherein it is clearly recorded at S.No. (viii) of terms and conditions of above deputation letter that you will be repatriated to the parent department after completion of deputation period and no extension in deputation period will be granted.

2. AND WHEREAS, you were placed at the disposal of Federal Directorate of Education Islamabad on deputation basis for a period of three years (03)) vide Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department Order No.SO(PE)5-2/02/IPT/Abbottabad dated 20.5.2010 and you were posted as MTT (BS-9) at F.G.Boys Secondary School Khana Dak (FA) Islamabad for a period of three years w.e.f. 12.11.2010 to 11.11.2013 vide Government of Pakistan, Federal Directorate of Education Islamabad Office Order No.F.3-5/2010(SA)FDE dated 23.12.2010.

3. AND WHEREAS, your deputation period was expired on 11.11.2013 but you failed to join your parent department after expiry of deputation period; you remained wilful absent from duty w.e.from 12.11.2013 to 30.01.2015 and applied for adjustment on 02.2.2015 w.e.from 31.1.2015.

4. AND WHEREAS, you were directed through Sub Divisional Education Officer Abbottabad vide this office Memo: Nos.1069 dated 12.2.2015 and 1195 dated 19.2.2015 to provide notification of extension in deputation period from 12.11.2013 to 12.11.2015 (two years) but you have failed to provide the same upto now.

5. AND WHEREAS, you remained on unauthorized deputation inspite of direction of the Department to report back but you have not complied as per Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department letter No. SO (PE) 5-2//IPT/08/Battagram/2014 dated 03.4.2015.

6. AND WHEREAS, Show Cause Notice regarding your wilful absence from duty & misconduct was served upon you through Sub Divisional Education Officer (Male) Abbottabad vide this office Memo: Nos.5416 dated 05.6.2015.

7. AND WHEREAS, on receipt of your unsatisfactory reply dated 16.6.2015; you were summoned for personal hearing on 27.6.2015 through SDEO (M) Abbottabad vide this office Memo: No.5828 dated 24.06.2015. You appeared for personal hearing on the scheduled date and failed to defend the charges levelled against you.

8. AND By reason of the above, charges levelled against you have been proved and you were found guilty of misconduct, wilful absenting yourself from duty, inefficiency, and professional dishonesty under Rule-3 of the Khyber Pakhtunkhwa Govt: Servants (E&D) Rules-2011.

NOW THEREFORE, the Competent Authority, in exercise of the power conferred upon him under Rule-4(1)(b) Sub Rule (ii) of Khyber Pakhtunkhwa, Government Servant (Efficiency & Discipline) Rules, 2011 is pleased to impose Major Penalty of "COMPULSORY RETIREMENT" upon Mr. Abdul Shakoor PST GPS Banda Ghazan Abbottabad w.e.from. 12.11.2013 with recovery of pay drawn during the absent period w.e.from. 12.11.2013 to 31.1.2015 out of his emoluments/pension/G.P.Fund.

*[Signature]*  
DISTRICT EDUCATION OFFICER (M)  
ABBOTTABAD

Endst: No. 9665-68 /EB/IPT/F.No.24/Vol:1

Dated 11-12 /2015

Copy for information & necessary action to the:-

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Abbottabad.
3. Sub Divisional Education Officer (Male) Abbottabad with the direction that entry be recorded in the Service book of the teacher concerned.
4. Teacher concerned.

*[Signature]*  
DISTRICT EDUCATION OFFICER (M)  
ABBOTTABAD

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT ABBOTTABAD

Service Appeal No: 478/2016

Date of Institution... 21.04.2016

Date of decision... 17.10.2017

Abdul Shakoor Ex-PST, GPS Banda Ghazan, Abbottabad. ... (Appellant)

Versus

1. The Secretary Education Khyber Pakhtunkhwa, Peshawar and 2 others.  
... (Respondents)

SYED NOMAN ALI SHAH BUKHARI &  
SARDAR M. AKMAL,

Advocates ... For appellant.

MR. MUHAMMAD BILAL

Deputy District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN

MR. MUHAMMAD AMIN KHAN KUNDI, ... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned  
counsel for the parties heard and record perused.

FACTS

2. The appellant was compulsorily retired on 11.12.2015, against which he filed  
departmental appeal on 28.12.2015 which was not responded to and thereafter the present  
service appeal on 21.04.2016.

3. The charge against the appellant was that he was sent on deputation to Federal  
Government for a period of three years but he did not report to his parent department  
after the expiry of period of deputation.



ARGUMENTS

4. The learned counsel for the appellant argued that the appellant was sent on deputation for three years but on the expiry of period of deputation, the appellant applied for extension of period of deputation and the borrowing department started correspondence with the lending department regarding extension of period of deputation. That he was finally repatriated by the borrowing department and he reported for duty to the parent department. That the appellant had been performing his duty in the borrowing department under the impression that his deputation period has been extended. That soon after his repatriation, the appellant reported to his parent department. That in similar situation, the august Supreme Court of Pakistan has ruled that the order of compulsory retirement was not justified under the law. In this regard, the learned counsel for the appellant relied upon judgments reported as 1990-SCMR-1170 and 1992-PLC(C.S) 782. The learned counsel for the appellant further argued that the impugned order is from back date and in view of judgment reported as 1985-SCMR-1178 such order is not only unlawful but void.

5. On the other hand, the learned Deputy District Attorney argued that in the very order of deputation it was specifically mentioned that the deputationist would report back to the parent department after expiry of the deputation period and that no further extension would be granted.

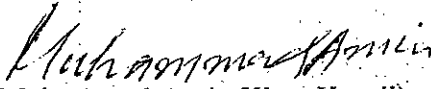
CONCLUSION.

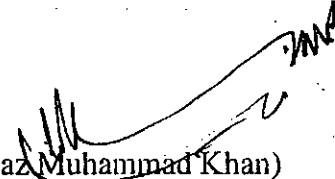
6. The appellant admittedly was on deputation for 3 years. It is also an admitted position that there had been correspondence between the borrowing department and lending department about the extension of time of deputation. That the appellant had been serving in the borrowing department till his repatriation by the borrowing department. In

view of the judgment referred to above such penalty is illegal and the retrospective effect of the order is also void and illegal.

7. As a sequel to the above discussion, this appeal is accepted, the impugned order is set aside and the appellant is reinstated in service. Parties are left to bear their own costs.

File be consigned to the record room.

  
(Muhammad Amin Khan Kundi)  
Member

  
(Niaz Muhammad Khan)  
Chairman  
Camp Court, A/Abad

ANNOUNCED

17.10.2017



(7)

Amman C

حکومت جناب ڈسٹرکٹ ایجوکیشن آفیسر سردانہ ایسٹ آباد

معنون درخواست گزار کے تعیناتی بذریعہ سروسز ٹریبونل

جناب عالی

گزارش ہے کہ فزوی کو حکمہ پزیرانہ 2013-11-12 سے ریٹائر کر دیا گیا۔

جس کے خلاف فزوی نے سروسز ٹریبونل پشاور بیچ ایسٹ آباد میں

اپیل کیا تھا۔ فزوی کے حق میں فیصلہ دیا گیا۔

لیذا جناب سے التماس ہے کہ فزوی کو سکول میں تعینات کیا

جائے۔ فیصلہ کی کاپی ساتھ منسلک ہے۔ فزوی کو 2015-01-02

سے بحال تعینات کیا جائے۔

العارض

عبدالغفور PSJ  
20/10/2017

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR AT CAMP COURT ABBOTTABAD.**

Execution Petition No. 257/2017

In

Service Appeal No. 478/2016

Abdul Shakoor.....Appellant

**VERSUS**


Secretary Education, Khyber Pakhtunkhwa, Peshawar & Others ...Respondents

**IMPLEMENTATION REPORT ON BEHALF OF RESPONDENT NO. 03**

**INDEX**

Sr.No	Description	Page Nos	Annexures
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2	Copy of CPLA No. 554-P/2017	03 to 10	"A"

Dated: 16/04/2018

  
District Education Officer (M)  
Abbottabad.  
(Respondent No. 03)

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.**

No.

*E. P. No. 257*

Appeal No..... of 20

*Abdul Shakoor*.....Appellant/Petitioner

Versus

*Govt. Edu. K.P.K. Distt. Pesh.*.....Respondent

Respondent No.....*3*

Notice to: —

*Distt. Education officer (Male)  
Distt. Abbottabad*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on *18/4/2018*.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

*OR*  
Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this *1st*.....

Day of.....*March*.....20*18*

*(at Camp Court A. Road)*

*[Signature]*  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

No.

*E.P. No. 257/17*

*FB*

Appeal No..... of 20 ..

*Abdul Shakoor*..... Appellant/Petitioner

Versus

*Secy. Edu., K.P.K. Pesh.*..... Respondent

Respondent No..... *I*.....

Notice to: —

*Secy. Education, Govt. of K.P.K. Peshawar*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on *18/4/2018*.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....*Est*.....

Day of.....*March*.....20*18*.

*(at Camp Court A Road)*

*A/13*

*[Signature]*

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

No.

*E. P. No. 257/17* 713

Appeal No..... of 20

*M. Abdul Shakoor*..... Appellant/Petitioner

Versus

*Secy. Edu. K P K Peshawar*..... Respondent

Respondent No..... *2*

Notice to: —

*Director, E. & Secy Education  
Govt. of KP Peshawar*

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on..... *18/4/2018*.....at **8.00 A.M.** If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing **4 copies** of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

*2 P*  
Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this~~  
office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this..... *18*.....

Day of..... *Feb.*.....20 *18*

*(at camp court A. Head)*

*06/3/18*

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR AT CAMP COURT ABBOTTABAD.**

Execution Petition No. 257/2017

In

Service Appeal No. 478/2016

**Abdul Shakoor.....Appellant**

**VERSUS**

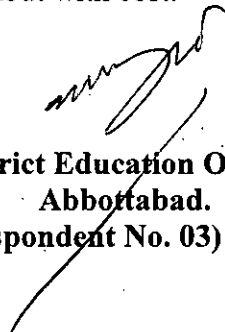
**Secretary Education, Khyber Pakhtunkhwa, Peshawar & Others ... Respondents**

**IMPLEMENTATION REPORT ON BEHALF OF RESPONDENT NO. 03**

**Respectfully Sheweth:-**

1. That the Para No. 1, of the instant Execution Petition relates to service record of the petitioner.
2. That the Para No. 2, of the instant Execution Petition is relates to record.
3. That the Para No. 3, of the instant Execution Petition is correct. Furthermore, department has challenged the judgment dated 17-10-2017 before the August Supreme Court of Pakistan CPLA No. 554-P/2017 which is pending adjudication before Honourable Supreme Court of Pakistan. (Copy of CPLA No. 554-P/2017 is annexed herewith as annexure "A").
4. In reply to Para No. 4, of the Execution Petition comprehensive reply has already been given in Para No. 3.

It is therefore, humbly prayed that the instant Execution Petition of the petitioner may kindly be dismissed throughout with cost.

  
**District Education Officer (M)**  
**Abbottabad.**  
**(Respondent No. 03)**

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR AT CAMP COURT ABBOTTABAD.**

Execution Petition No. 257/2017

In

Service Appeal No. 478/2016

**Abdul Shakoor.....Appellant**

**VERSUS**

**Secretary Education, Khyber Pakhtunkhwa, Peshawar & Others ... Respondents**

**AFFIDAVIT**

I, Mr. Qazi Tajamal Hussain, District Education Officer (M) Abbottabad, declare on oath that the contents of the forgoing Implementation Report are correct and true according to the best of my knowledge and belief and nothing has been suppressed / concealed from this Honorable Tribunal.

  
**DEPONENT**

Anx (A)  
23

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. 554-P /2017

Secretary Elementary & Secondary Education Department,  
Government of Khyber Pakhtunkhwa, Peshawar & Others  
-----PETITIONERS

VERSUS

Abdul Shakoor

-----RESPONDENT

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

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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. of KPK/petitioners

①

05

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. 554-8 /2017

1. Secretary Elementary & Secondary Education Department,  
Government of Khyber Pakhtunkhwa, Peshawar
  2. Director Elementary & Secondary Education Khyber  
Pakhtunkhwa, Peshawar
  3. District Education Officer (M) Abbottabad
- PETITIONERS

VERSUS

Abdul Shakoor, Ex-PST GPS, Banda Ghazan, Abbottabad

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 HON'BLE  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR CAMP COURT ABBOTTABAD DATED  
17/10/2017 IN SERVICE APPEAL NO.478/2016

RESPECTFULLY SHEWETH

The substantial questions of law of 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 Camp Court Abbottabad does not

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

2. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad has properly and legally exercised its jurisdiction in the matter in hand?
3. Whether the impugned judgment and order of Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad is not in violation of E&D Rules, 2011?
4. Whether willful absence from duty does not constitute gross misconduct which entails major punishment?
5. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad has not advanced any legal, solid and valid reason for setting aside the compulsory retirement of respondent?
6. Whether the respondent deputation period was not specific and fixed and on expiry of the said the respondent was bound to approach to his parent department for duty which was not done by the respondent?
7. Whether while allowing the respondent deputation the date 12/11/2010 to 11/11/2013 was not mentioned in his order of deputation?
8. Whether the conduct of respondent does not show and established the gross misconduct by not joining his parent department after expiry of deputationist period?
9. Whether a proper show cause notice was not issued to the respondent regarding his absence which was not replied properly and the respondent did not appear before the competent authority therefore the punishment of compulsory retirement was correctly imposed on the respondent?

10. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad has not pointed out any mitigating circumstances for setting aside the punishment of respondent awarded to him under the E&D Rule, 2011?
11. Whether the punishment awarded to the respondent does not commensurate with the charge leveled against the respondent?
12. Whether the impugned judgment is not legal judgment having no legal reasons for setting aside the punishment awarded to the respondent?

#### FACTS

- 11- Facts relevant to the above points of law, inter alia, are as under:-
1. That the respondent was serving in the Education Department as Teacher who applied for deputation to the Federal Directorate of Education Islamabad for a period of three years w.e.f 12/11/2010 to 11/11/2013.
  2. That the respondent was clearly directed to report to his parent department on expiry of his deputation period which was not complied and the respondent remained absent from duty, therefore show cause notice was issued to the respondent who did not reply the same nor appeared before the competent authority, therefore ex-parte proceeding was initiated against the respondent.
  3. That the respondent was compulsory retired from service vide order dated 11/12/2015 by the competent authority by not appearing for personal hearing vide notice dated 24/6/2015 before the competent authority.
  4. That the respondent filed departmental appeal which was also dismissed vide order dated 28/12/2015.
  5. That the respondent filed service appeal No.478/2016 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad

wherein comments was called from the petitioners which were filed accordingly.

- 6. That the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad set aside the compulsory punishment of respondent and reinstated the respondent into his service vide order dated 17/10/2017 in service appeal No.478/2016
- 7. That the petitioners mortally aggrieved from the impugned judgment/order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad dated 17/10/2017 in Service Appeal No.478/2016 prefer this CPLA before this august Court.
- 8. That the petitioners seek leave to appeal against the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad dated 17/10/2017 in Service Appeal No.478/2016.

It is, therefore, prayed that on acceptance of this petition leave to appeal against the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad dated 17/10/2017 in Service Appeal No.478/2016 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

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CMA NO. \_\_\_\_\_/2017

IN

CPLA NO. \_\_\_\_\_/2017

Secretary Elementary & Secondary Education Department,  
Government of Khyber Pakhtunkhwa, Peshawar & Others  
-----PETITIONERS

VERSUS

Abdul Shakoor -----RESPONDENT

APPLICATION FOR SUSPENSION OF OPERATION OF THE  
IMPUGNED JUDGMENT/ ORDER OF THE HON'BLE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CAMP  
COURT ABBOTTABAD PASSED IN SERVICE APPEAL  
NO.478/2016 DATED 17/10/2017 AND TO MAINTAIN THE STATUS  
QUO TILL THE FINAL DECISION OF THE CASE.

RESPECTFULLY SHEWETH:-

1. That the respondent was serving in the Education Department as Teacher who applied for deputation to the Federal Directorate of Education Islamabad for a period of three years w.e.f 12/11/2010 to 11/11/2013.
2. That the respondent was clearly directed to report to his parent department on expiry of his deputation period which was not complied and the respondent remained absent from duty, therefore show cause notice was issued to the respondent who did not reply the same nor appeared before the competent authority, therefore ex-parte proceeding was initiated against the respondent.
3. That the respondent was compulsory retired from service vide order dated 11/12/2015 by the competent authority by not appearing for personal hearing vide notice dated 24/6/2015 before the competent authority.

That the respondent filed departmental appeal which was also dismissed vide order dated 28/12/2015.

- 5. That the respondent filed service appeal No.478/2016 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad wherein comments was called from the petitioners which were filed accordingly.
- 6. That the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad set aside the compulsory punishment of respondent and reinstated the respondent into his service vide order dated 17/10/2017 in service appeal No.478/2016
- 7. That the petitioners mortally aggrieved from the impugned judgment/order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad dated 17/10/2017 in Service Appeal No.478/2016 prefer this CPLA before this august Court.
- 8. That the impugned judgment of the Service Tribunal is totally illegal against justice and having no backing of law.
- 9. That the petitioner has a good prima facie case and balance of convenience also lies in maintaining status-quo.
- 10. That if the impugned judgment and order is not suspended and status-quo is not granted the very purpose of this petition would be lost.

It is, therefore, humbly prayed that the operation of the impugned judgment/order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad in service appeal No.478/2016 Dated 17/10/2017 may graciously be suspended and to maintain status quo till the final decision of the case.

(Mian Saadullah Jandoli)  
Advocate-on-Record  
Supreme Court of Pakistan  
For Government

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR AT CAMP COURT ABBOTTABAD.**

Execution Petition No. 257/2017

In

Service Appeal No. 478/2016

**Abdul Shakoor.....Appellant**

**VERSUS**

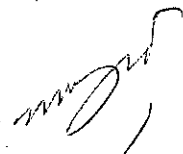
**Secretary Education, Khyber Pakhtunkhwa, Peshawar & Others ...Respondents**

**IMPLEMENTATION REPORT ON BEHALF OF RESPONDENT NO. 03**

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<b>Sr.No</b>	<b>Description</b>	<b>Page Nos</b>	<b>Annexures</b>
1	Implementation Report alongwith affidavit	01 to 02	
2	Copy of CPLA No. 554-P/2017	03 to 10	"A"

Dated: 16/04/2018

  
**District Education Officer (M)  
Abbottabad.  
(Respondent No. 03)**



**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR AT CAMP COURT ABBOTTABAD.**

Execution Petition No. 257/2017

In

Service Appeal No. 478/2016

**Abdul Shakoor.....Appellant**

**VERSUS**

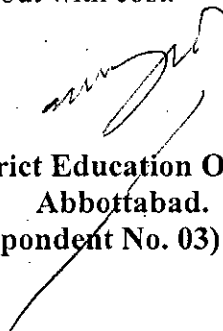
**Secretary Education, Khyber Pakhtunkhwa, Peshawar & Others ...Respondents**

**IMPLEMENTATION REPORT ON BEHALF OF RESPONDENT NO. 03**

**Respectfully Sheweth:-**

1. That the Para No. 1, of the instant Execution Petition relates to service record of the petitioner.
2. That the Para No. 2, of the instant Execution Petition is relates to record.
3. That the Para No. 3, of the instant Execution Petition is correct. Furthermore, department has challenged the judgment dated 17-10-2017 before the August Supreme Court of Pakistan CPLA No. 554-P/2017 which is pending adjudication before Honourable Supreme Court of Pakistan. (Copy of CPLA No. 554-P/2017 is annexed herewith as annexure "A").
4. In reply to Para No. 4, of the Execution Petition comprehensive reply has already been given in Para No. 3.

It is therefore, humbly prayed that the instant Execution Petition of the petitioner may kindly be dismissed throughout with cost.

  
**District Education Officer (M)**  
**Abbottabad.**  
**(Respondent No. 03)**

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR AT CAMP COURT ABBOTTABAD.**

Execution Petition No. 257/2017

In

Service Appeal No. 478/2016

**Abdul Shakoor.....Appellant**

**VERSUS**

**Secretary Education, Khyber Pakhtunkhwa, Peshawar & Others ...Respondents**

**AFFIDAVIT**

I, Mr. Qazi Tajjamal Hussain, District Education Officer (M) Abbottabad, declare on oath that the contents of the forgoing Implementation Report are correct and true according to the best of my knowledge and belief and nothing has been suppressed / concealed from this Honorable Tribunal.

  
**DEPONENT**

Ann <sup>cc</sup> A <sup>2</sup>  
203

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

CPLA NO. 554-P /2017

Secretary Elementary & Secondary Education Department,  
Government of Khyber Pakhtunkhwa, Peshawar & Others  
-----**PETITIONERS**

VERSUS

Abdul Shakoor -----**RESPONDENT**

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

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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. of KPK/petitioners

①

OS

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CPLA NO. 554-8 /2017

1. Secretary Elementary & Secondary Education Department,  
Government of Khyber Pakhtunkhwa, Peshawar
  2. Director Elementary & Secondary Education Khyber  
Pakhtunkhwa, Peshawar
  3. District Education Officer (M) Abbottabad
- PETITIONERS

VERSUS

Abdul Shakoor, Ex-PST GPS, Banda Ghazan, Abbottabad

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 HON'BLE  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR CAMP COURT ABBOTTABAD DATED  
17/10/2017 IN SERVICE APPEAL NO.478/2016

RESPECTFULLY SHEWETH

The substantial questions of law of 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 Camp Court Abbottabad does not

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

2. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad has properly and legally exercised its jurisdiction in the matter in hand?
3. Whether the impugned judgment and order of Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad is not in violation of I&D Rules, 2011?
4. Whether willful absence from duty does not constitute gross misconduct which entails major punishment?
5. Whether the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad has not advanced any legal, solid and valid reason for setting aside the compulsory retirement of respondent?
6. Whether the respondent deputation period was not specific and fixed and on expiry of the said the respondent was bound to approach to his parent department for duty which was not done by the respondent?
7. Whether while allowing the respondent deputation the date 12/11/2010 to 11/11/2013 was not mentioned in his order of deputation?
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9. Whether a proper show cause notice was not issued to the respondent regarding his absence which was not replied properly and the respondent did not appear before the competent authority therefore the punishment of compulsory retirement was correctly imposed on the respondent?

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11. Whether the punishment awarded to the respondent does not commensurate with the charge leveled against the respondent?
12. Whether the impugned judgment is not legal judgment having no legal reasons for setting aside the punishment awarded to the respondent?

#### FACTS

- 11- Facts relevant to the above points of law, inter alia, are as under:-
1. That the respondent was serving in the Education Department as Teacher who applied for deputation to the Federal Directorate of Education Islamabad for a period of three years w.e.f 12/11/2010 to 11/11/2013.
  2. That the respondent was clearly directed to report to his parent department on expiry of his deputation period which was not complied and the respondent remained absent from duty, therefore show cause notice was issued to the respondent who did not reply the same nor appeared before the competent authority, therefore ex-parte proceeding was initiated against the respondent.
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wherein comments was called from the petitioners which were filed accordingly.

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- 8. That the petitioners seek leave to appeal against the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad dated 17/10/2017 in Service Appeal No.478/2016.

It is, therefore, prayed that on acceptance of this petition leave to appeal against the impugned judgment and order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad dated 17/10/2017 in Service Appeal No.478/2016 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



(59)

(69)

IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

CMA NO. \_\_\_\_\_/2017

IN

CPLA NO. \_\_\_\_\_/2017

Secretary Elementary & Secondary Education Department,  
Government of Khyber Pakhtunkhwa, Peshawar & Others  
-----PETITIONERS

VERSUS

Abdul Shakoor -----RESPONDENT

-----

APPLICATION FOR SUSPENSION OF OPERATION OF THE  
IMPUGNED JUDGMENT/ ORDER OF THE HON'BLE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CAMP  
COURT ABBOTTABAD PASSED IN SERVICE APPEAL  
NO.478/2016 DATED 17/10/2017 AND TO MAINTAIN THE STATUS  
QUO TILL THE FINAL DECISION OF THE CASE.  
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RESPECTFULLY SHEWETH:-

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2. That the respondent was clearly directed to report to his parent department on expiry of his deputation period which was not complied and the respondent remained absent from duty, therefore show cause notice was issued to the respondent who did not reply the same nor appeared before the competent authority, therefore ex-parte proceeding was initiated against the respondent.
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8. That the impugned judgment of the Service Tribunal is totally illegal against justice and having no backing of law.
9. That the petitioner has a good prima facie case and balance of convenience also lies in maintaining status-quo.
10. That if the impugned judgment and order is not suspended and status-quo is not granted the very purpose of this petition would be lost.

It is, therefore, humbly prayed that the operation of the impugned judgment/order of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar Camp Court Abbottabad in service appeal No.478/2016 Dated 17/10/2017 may graciously be suspended and to maintain status quo till the final decision of the case.

(Mian Saadullah Jandoli)  
Advocate-on-Record  
Supreme Court of Pakistan  
For Government

**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD**

**REINSTATEMENT**

In pursuance to Judgment of Honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad passed in Service Appeal No.478/2016 dated 17.10.2017 & order sheet dated 18.4.2018, Mr. Abdul Shakoor, Ex-PST GPS Banda Ghazan, Abbottabad is hereby reinstated in service and further posted at GPS Dannah (Lora) Havelian with immediate effect till the decision of CPLA filed before the August Supreme Court of Pakistan.

SD —  
DISTRICT EDUCATION OFFICER (M)  
ABBOTTABAD

Endst: No. 7398-7402 / PF Abdul Shakoor (Litig)

Dated 26/6/2018

Copy forwarded to the:-

1. Registrar Honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad w/r to Judgment passed in Service Appeal No. 478/2016 dated 17.10.2017.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Comptroller of Accounts Abbottabad
4. Sub Divisional Education Officer (Male) Abbottabad & Havelian.
5. Mr. Abdul Shakoor, Ex-PST GPS Banda Ghazan presently reinstated & posted at GPS Dannah (Lora) Havelian.

  
DISTRICT EDUCATION OFFICER (M)  
ABBOTTABAD