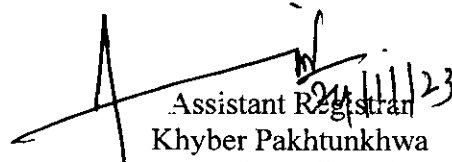


Cost of Rs. 10,000/- received in ^{Execution Petition} ~~Service Appeal~~ No. 271/2021 in SA 723/18

Titled Munir Hussain vs. Education

in the office of Assistant Registrar, Vide Order 23/11/23, submitted Dated: 24/11/2023.


Assistant Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL**

E.P No.271/2021 IN SERVICE APPEAL NO.723/2018

Munir Hussain..... Appellant

VERSUS

Secretary E&SED & Others ... Respondent

INTERIM COMPLIANCE REPORT ON BEHALF OF RESPONDENT NO.2

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S.NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Compliance Report		01
2	Finance Department Notification dated 17.08.2012	A	02-03
3	Letters to Finance Department by E&SED for implementation of the Judgment.	B	04-07
4	Copy of Execution Petition	C	08-10
5	Authority Letter		11-11
6	Affidavit		12-12

DEPONENT

Office# 091-9211128

27-11-2023

1

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL**

E.P No.271/2021 IN SERVICE APPEAL NO.723/2018

Munir Hussain..... Appellant

VERSUS

Secretary E&SED & Others ... Respondent

INTERIM COMPLIANCE REPORT ON BEHALF OF RESPONDENT NO.2

Respectfully sheweth:

Khyber Pakhtunkhwa
Service Tribunal

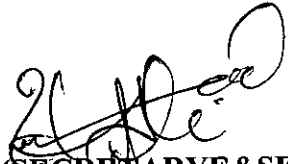
Diary No. 9432

Respondents humbly submits as under:-

- Dated 24-11-23
1. That appellant filed Service Appeal No.723/2018 with the following prayer: **“ On acceptance of this respondents may be directed to make payment pay and allowances of the BPS-18 w.e.f 17.05.2010 to 30.06.2012 & BPS-19 w.e.f 01.07.2012 to till date on account of serving against the post of Principal besides post of BPS-18 & 19 may also be allowed”.**
 2. That Honorable Service Tribunal vide Judgment dated 17.03.2021 accepted the S.A as prayed for.
 3. That the appellant filed the instant Execution Petition for the Implementation of the ibid Judgment.
 4. **That in light of condition No.vii of Finance Department Notification bearing No.FD(PRC)/1-1/2012 dated 17.08.2012 (Annex-A) the pay of the Higher post will be given with the concurrence of Finance Department**, therefore, E&SED forwarded the case of the appellant to the Competent Forum/Finance Department for sanction vide this department letter dated 14.06.2022, 15.11.2023 & 22.11.2023 (Annex-B).
 5. That Finance Department has not yet conveyed the requisite sanction/concurrence. The Elementary & Secondary Education Department will take prompt action as and when the requisite concurrence/sanction received from the Finance Department.
 6. That Elementary & Secondary Education Department has implemented the Honorable Service Tribunal Judgment on its part and the action required to be taken remains on the part of **Finance Department which has not been arrayed in the list of Respondents.** (Annex-C Execution Petition)

Prayer

In view of the above, it is requested that Compliance Report in the instant Execution Petition may kindly be accepted on behalf of Respondent No.2


(SECRETARY E&SED)
(RESPONDENTS NO.2)
Motasim Billah Shah



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GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD (PRC) 1-1/2012
Dated Peshawar the: 17-08-2012

To:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa.
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
7. All District Coordination Officers in Khyber Pakhtunkhwa.
8. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
9. The Registrar, Peshawar High Court, Peshawar.
10. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
11. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject: APPOINTMENT OF AN OFFICER OF LOWER GRADE TO A POST OF HIGHER GRADE AND GRANT OF PAY OF THE HIGHER POST.

Dear Sir,

In pursuance to the Finance Division's Office Memorandum No.F.8(4)R-2/97-1204709 dated 24-02-2009, the Government of Khyber Pakhtunkhwa has decided that pay of the higher post will be admissible to civil servants during the period of appointment on higher post subject to the following conditions:-

- i. The officer has been appointed on the higher post by the authority competent to make appointment on that post.
- ii. The officer is fully qualified in every respect to be appointed to that higher post.
- iii. The officer discharges all the duties and responsibilities of the higher post independently and severed all connections with his lower post.
- iv. The pay of the higher post will be fixed presumptively w.e.f the date the officer assumes charge of the higher post and it will include the increments of the pay scale of the higher post for the period of higher post appointment on that post. In such cases premature increment shall not be admissible. However, the officer will be entitled to the arrears of pay and allowances from the date he assumes the charge of the higher post.
- v. On relinquishment of charge of the higher post or on transfer or on regular promotion to that higher post, the pay will be re-fixed with reference to original scale of pay of the post held by the officer and increments carried (if any) on higher post will count for increments in his original scale as per provisions of FR-26.

Attested
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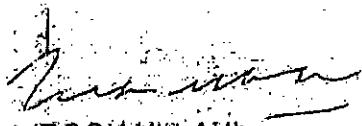
vi. The pay of the higher post shall not be accounted for the calculation of emoluments towards the pension.

vii. The Pay of the higher post will be given only with the concurrence of Finance Department.

2. All Administrative Departments are advised that only those cases may be referred to Finance Department which are covered under sub-para (i) to (iii) of para-1 above and pay of the concerned officers may be fixed / re-fixed in terms of sub-para (iv) to (vi) of para-1 above after obtaining prior concurrence of the Finance Department.

3. The above orders will be admissible w.e.f 16-12-2009.

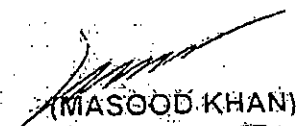
Yours Faithfully,


(ROOH ULLAH)
Addl. Secretary (Regulation)

Endst: No FD(PRC) 1-1/2012, Dated Peshawar the 17th August, 2012

A Copy is forwarded for information to the:-


- 1 Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2 Secretaries to Government of Punjab, Sindh & Balochistan, Finance Department.
- 3 All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa.

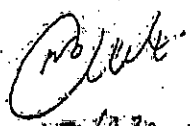

(MASOOD KHAN)
Deputy Secretary (Reg-II)

Endst: No & Date even.

A copy for information is forwarded to:-

- 1 The Director, Treasuries & Accounts, Khyber Pakhtunkhwa.
- 2 All the District Comptroller of Accounts in Khyber Pakhtunkhwa.
- 3 The Director, Local Fund Audit, Khyber Pakhtunkhwa, Peshawar.
- 4 The Director, FMIU, Finance Department.
- 5 The Treasury Officer, Peshawar.
- 6 All the Senior District Accounts Officers, Khyber Pakhtunkhwa.
- 7 All the District & Agency Accounts Officers, Khyber Pakhtunkhwa.
- 8 All the Section Officers / Budget Officers in Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 9 The Private Secretary to Minister Finance, Khyber Pakhtunkhwa.
- 10 The Private Secretary to Secretary / P.As to Special Secretary, Additional Secretaries / Deputy Secretaries in Finance Department.


(SHAUKAT ULLAH)
Section Officer (SR-1)



Attended
*

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

No SO(SM) EBSE/court case/Muneer Hussain
Dated Pothohar the June 14, 2022

To

Secretary to Government of Khyber Pakhtunkhwa
Finance Department

Subject: APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED
17.03.2021 IN SERVICE APPEAL NO. 723/2018 IN EXECUTION
PETITION NO. 271/2021

Dear Sir,

I am directed to refer to the subject noted and to state that Mr. Muneer Hussain, SS (Pak-Study) GHSS Kawal Manshera was posted as Incharge Principal (BS-18) against the vacant post by DEO (M) Manshera dated 17.05.2010 (Copy of notification enclosed).

He filed a service appeal in KP Service Tribunal for grant of pay and other benefits of BS-18 w.e.f 17.05.2010 to 30.06.2012. The Honorable court had deliver its judgment dated 17.03.2021, which is reproduce as under

"from the record, it is evident that appellant was serving in BPS-17 as Subject Specialist in Pakistan Studies. Upon approval of the competent authority he was directed to act and discharge duties as Incharge Principal against the vacant post of Principal BS-18 in the GHSS Kawal Manshera w.e.f 17.05.2010 till further orders vide notification dated 17.05.2010. the appellant was promoted to the post of Vice Principal BS-18 on 01.12.2010, whereas, the post of Principal BS-19 is still vacant and he has been performing the duties as Principal against the vacant post of Principal BS-19 till today. From the record it becomes crystal clear that appellant was appointed on the higher post by the authority to make appointment on that post and he was fully qualified in every respect to be appointed to that higher post. He discharged all the duties and responsibilities of the higher post independently, therefore, as per notification No. FD(PRC)1-1/2012 dated 17.08.2012, appellant is eligible for receipt of pay of higher grade." (Copy enclosed)

This department filed CPLA against the said judgment and also approach to Law Department for filing application for early hearing before the Supreme Court of Pakistan (Copy enclosed).

He filed an execution petition No. 271/2021 in SA # 723/2018 order sheet dated 18.05.2022 is reproduced as under:-

Attended
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"Last opportunity is granted to the respondent to submit a compliance report of the judgment and compliance report on 13.06.2020 before the High Court Abbottabad. (Copy enclosed)

Keeping in view of the above, necessary approval is solicited in this matter please

Encl: As Above:

Yours faithfully

(NAVEED ULLAH SHAH)
SECTION OFFICER (SCHOOLS MALE)

Copy of the above is forwarded to the:-

- 1 Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar w.r.to his above quoted execution petition No. No. 271/2021 in SA #723/2018
- 2 Director, E&SE Khyber Pakhtunkhwa Peshawar.
- 3 Section Officer (Lit-II) E&SED Khyber Pakhtunkhwa Peshawar.
- 4 PS to Secretary E&SED Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (SCHOOLS MALE)

Attended
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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9223533 Email: sschoolmale@gmail.com

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No.SO(SM) E&SE/Court Case/Munir Hussain/2023
Peshawar, Dated 15.11.2023

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department.


15/11/2023

Subject: - **APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED
17.03.2021 IN SERVICE APPEAL NO. 723/2018 IN EXECUTION
PETITION NO. 271/2021**

Dear Sir,

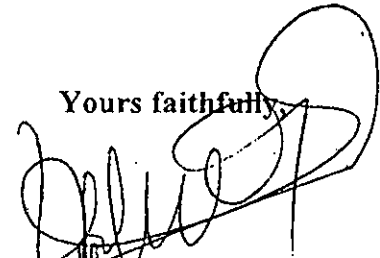
I am directed to refer to your letter No. FD(SOSR-I)/1-1/2022/Mr. Munir Hussain dated 25.07.2022 on the subject noted above and to enclose herewith a copy of letter No. 1623/F.No. SA No. 723-A/2018/Mr. Munir Hussain Court case dated 25.11.2022 received from Directorate E&SE Khyber Pakhtunkhwa along-with copy of Service Tribunal Order dated 23.10.2023 in execution petition No. 271/2021 and to state that the Hon'ble Service Tribunal has sought proper implementation report in the subject case and the case is fixed before Service Tribunal Camp Court Abbottabad on 27.11.2023.

2. The above in view, it is requested to conditionally implement the judgment of Service Tribunal dated 17.03.2021 subject to outcome of CPLA in the Supreme Court of Pakistan, please.

Encl: as above.



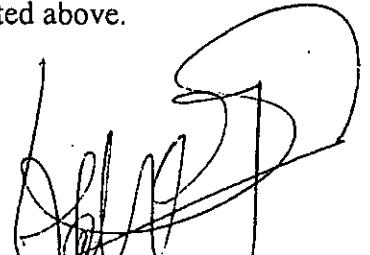
Yours faithfully,


(ABDUL HAQ)

SECTION OFFICER (SCHOOLS/MALE)

Copy of the above is forwarded to:-

1. PS to Secretary E&SE Department Khyber Pakhtunkhwa Peshawar.
2. Director E&SE Khyber Pakhtunkhwa w/r to his letter quoted above.
3. Section Officer Lit-II, E&SE Department


SECTION OFFICER (SCHOOLS/MALE)

Attended
AP



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9223533 Email: sschoolmale@gmail.com

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Reminder-I

No.SO(SM) E&SE/Court Case/Munir Hussain/2023
Peshawar, Dated 22.11.2023

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department.

Subject: - APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED
17.03.2021 IN SERVICE APPEAL NO. 723/2018 IN EXECUTION
PETITION NO. 271/2021

I am directed to refer to this department letter of even No. dated 15.11.2023 on the subject noted above and to state that reply is still awaited at your end which may be furnished to this department for further necessary action; please.

Encl: as above.

(ABDUL HAQ)
SECTION OFFICER (SCHOOLS/MALE)

Copy of the above is forwarded to PS to Secretary E&SE Department Khyber Pakhtunkhwa Peshawar.

SECTION OFFICER (SCHOOLS/MALE)

Attended
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3-612

GS&PD-4441-RST-12,000 Forms 23,00 23/PUC Jobs/Form A&B Ser Tribunal/P2

PS/C.S Khyber Pakhtunkhwa

Diary No. 80 w/e

Date: 6-1-2022

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

No.

E. P. No. 271/21

IB

Appeal No. of 20 ..

Munir Hussain Appellant/Petitioner

Versus

Through Chief Secy. Pesh. Respondent

Respondent No.

Notice to:

Quart. of Capt. Through Chief Secy, Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa 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.....19-1-2022.....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.

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....21/1.....

Day of.....Dec.....2021

at Camp Court Peshawar
D.S. AS (S) on leave
Additional Secretary
PS to Chief Secretary

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.

Attended
X

SOLCIT
A. H.

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BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Execution Petition no. 271/2021

Munir Hussain son of Abdul Latif, Vice Principal/ Incharge Principal Govt.
Higher Secondary School Kawai District Mansehra.
...APPELLANT

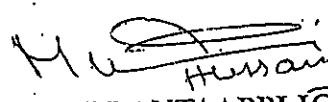
VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary KPK, Peshawar &
others.
...RESPONDENT

APPLICATION FOR IMPLEMENTATION


INDEX

S. #	Description	Page No.	Annexure
1.	Application alongwith affidavit	1 to 3	
2.	Copy of judgment dated 17/03/2021	4-6	"A"

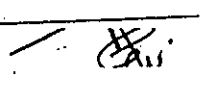

.....APPELLANT/ APPLICANT
Munir Hussain

Through

Dated: 30/10/2021


(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

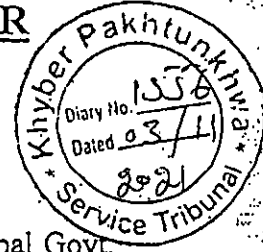
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**BEFORE THE CHAIRMAN SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR**

Execution petition no. 271/2021



Munir Hussain son of Abdul Latif, Vice Principal/ Incharge Principal Govt.
Higher Secondary School Kawai District Mansehra.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary KPK, Peshawar & others.
2. Secretary Elementary & Secondary Education, KPK, Peshawar.
3. District Accounts Officer, District Mansehra.

...RESPONDENTS

APPLICATION FOR IMPLEMENTATION OF
JUDGMENT DATED 17/03/2021 SERVICE APPEAL
NO: 723/2018.

Respected Sir,

1. That the appellant/ applicant filed service appeal No. 723/2018 before this Honourable Tribunal which was decided by this Honourable Tribunal vide judgment dated 17/03/2021. (Copy of service appeal No. 723 of 2018 and judgment dated 17/03/2021 is attached as Annexure "A").

Attested
[Signature]

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**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL**

E.P No.271/2021 IN SERVICE APPEAL NO.723/2018

Munir Hussain..... Appelant

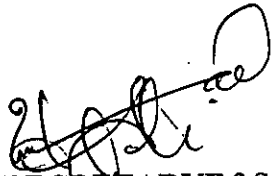
VERSUS

Secretary E&SED & Others ... Respondent

INTERIM COMPLIANCE REPORT ON BEHALF OF RESPONDENT NO.2

AUTHORITY LETTER

Amjad Ali, Section Officer, Elementary & Secondary Education,
Department is hereby authorized to submit Compliance Report in the subject tiled
Execution Petition on behalf of Respondents No.2.


(SECRETARY E&SED)
(RESPONDENTS NO.2)
Motasim Billah Shah

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL**

E.P No.271/2021 IN SERVICE APPEAL NO.723/2018

Munir Hussain..... Appellant

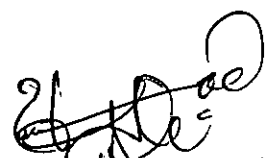
VERSUS

Secretary E&SED & Others ... Respondent

INTERIM COMPLIANCE REPORT ON BEHALF OF RESPONDENT NO.2

AFFIDAVIT

I the undersigned do hereby solemnly affirm and declare that the contents of the accompanying Compliance Report submitted by the Respondent No. 2 are true & correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



(SECRETARYE&SED)
(RESPONDENTS NO.2)

Motasim Billah Shah

