

02.01.2019

Neither petitioner nor his counsel present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Notice be issued to petitioner and his counsel for attendance for 13.03.2019 before S.B.


Muhammad Amin Khan Kundi
Member


13.03.2019

Petitioner absent. Learned counsel for the petitioner absent. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Petitioner be put to notice for 17.04.2019 before S.B


Member

17.04.2019

Petitioner absent. Learned counsel for the petitioner absent. Mr. Zia Ullah learned Deputy District Attorney alongwith Inayat Ullah ADO present. On the previous dates too, no one appeared on behalf of petitioner. Consequently the present execution petition be consigned to the record room being not pressed. No order as to costs.


(Muhammad Hamid Mughal)
Member

ANNOUNCED.
17.04.2019

31.07.2018

Neither appellant nor his counsel present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Case to come up for further proceedings on 12.09.2018 before S.B.



Chairman

11.09.2018

Since 12th September 2018 has been declared as public holiday, by the Provincial Government on account of 1st Mukharram-ul-Haram, therefore the case is adjourned to 01.10.2018 for further proceedings before S.B.

01.10.2018

None present on behalf of the petitioner, Mr. Kabirullah Khattak, Additional AG for the respondents present. Notice be issued to petitioner and his counsel for attendance for 14.11.2018 before S.B.



(Muhammad Amin Khan Kundi)
Member

*Noted
for the date fixed
31/10/2018*

2-14-11-2018

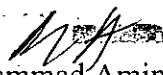
*Due to Retirement of Honorable
Chairman the Tribunal is non functional
therefore the case is adjourned to
up for the same on 2-1-2019*

Reader

E.P No. 195/2016

25.08.2017

None present on behalf of the petitioner. Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Implementation report not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for implementation report on 13.10.2017 before S.B. Notice be also issued to petitioner and his counsel for attendance for the date already fixed.


(Muhammad Amin Khan Kundi)
Member


13.10.2017

Clerk to counsel for the petitioner and Addl:AG alongwith for respondent present. Clerk to counsel for the petitioner requested for adjournment. Adjourned. To come up for further proceedings on 08.12.2017 before S.B.


(AHMAD HASSAN)
MEMBER

08.12.2017

Clerk to counsel for the petitioner present. Mr. Usman Ghani, District Attorney for the respondents present. Learned District Attorney seeks adjournment for further progress report on the date fixed. Adjourned. To come up for further proceedings on 16.01.2018 before S.B.


(Gul Zeb Khan)
Member (E)


24.02.2017

None present for petitioner. Mr. Muhammad Adeel Butt, Additional AG for respondents present. Notice for prosecution be issued to petitioner and his counsel for 28.04.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER

28.04.2017

Clerk to counsel for the petitioner and Addl. AG for the respondents present. Clerk to counsel for the petitioner requested for adjournment. Request accepted. To come up for implementation report on 30.06.2017 before S.B.


(Ahmad Hassan)
Member

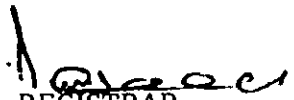

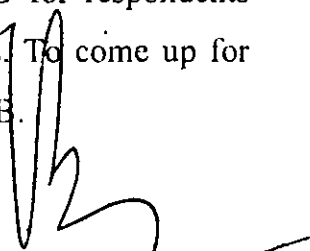

30.06.2017

None for the petitioner present. Addl: AG for respondents present. To come up for implementation report on 25.08.2017 before S.B.


(Ahmad Hassan)
Member

FORM OF ORDER SHEET

Execution Petition No. 195 /2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26.10.2016	<p>The Execution Petition of Mr. Hakim Khan submitted to-day by Mr. Gohar Ali Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	31-10-2016	<p>This Execution Petition be put up before S. Bench on <u>07-11-2016</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	07.11.2016	<p>Counsel for the petitioner and Addl. AG for respondents present. Notices be issued to the respondents. To come up for implementation report on 18 12.2016 before S.B.</p> <p style="text-align: right;"> Member</p>
	16.12.2016	<p>Counsel for the petitioner and Asst. AG for the respondents present. Requested for adjournment. To come up for implementation report on 24.02.2017 before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Misc. Application No.

Execution Petition no. 195/2016

Dr. Hakim Khan(Petitioner)

VERSUS

Secretary to Government of Khyber Pakhtunkhwa Agriculture,
Livestock & Cooperative Department, Peshawar and
others.....(Respondents)

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Application		1-3
2.	Affidavit		4
3.	Addresses of the parties		5
4.	Copy Order dated 20/04/2016	A	6-8
5.	Wakalat Nama		9

Appellant/Petitioner

Calicut

Through

Al

Dated: 25/10/2016

Gohar Ali Khwaishgi
Advocate High Court,
Peshawar.
Cell No. 0345-9082942

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

Execution Petition no. 195/2016

Misc. Application No. _____/2016

In

Service Appeal No. 557/2013

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1060

Dated 26-10-16

Dr. Hakim Khan S/o Malik Zardad Khan, Assistant Professor
Agriculture Department, Hazara University Haripur R/o Malik
Zardad Colony, Battagram.....(Petitioner)

VERSUS

1. Secretary to Government of Khyber Pakhtunkhwa Agriculture,
Livestock & Cooperative Department, Peshawar.
2. Chief Secretary Khyber Pakhtunkhwa, Peshawar.
3. Chief Minister Khyber Pakhtunkhwa, Peshawar.
4. Secretary Establishment Khyber Pakhtunkhwa, Peshawar.
5. Director General Agriculture Department, Peshawar.
.....(Respondents)

**APPLICATION FOR THE IMPLEMENTATION OF
THE ORDER OF THIS HON'BLE TRIBUNAL
DATED 20/04/2016, PESHAWAR IN SERVICE
APPEAL NO. 557/2013.**

Respectfully Sheweth:

1. That the petitioner had earlier filed a Service Appeal
No. 557/2013 for the redressal of his grievance
against the respondents which was disposed off on

20/04/2016 in favour of the appellant, in which the respondents were directed to dispose off, preferable within two months. (Copy of Order dated 20/04/2016 is attached as annexure "A").

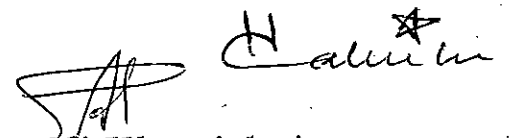
2. That petitioner approached to respondents, for implementation of the order of this Hon'ble Court, but, till date no decision was taken upto the period of six months.
3. That in this very order dated 20/04/2016 this Hon'ble Court directed the respondents to implement the order of this Hon'ble Court in letter and spirit.
4. That the respondents are badly failed reluctant and prolonging the matter upto 20/04/2016, which reflected the denial of the respondents, the appellant/. petitioner was awaited the response of the respondents in the same transaction repeated the previous story by respondents.

5. That the act of the respondents is against the law and natural justice as well as the order of this Hon'ble Tribunal.

It is, therefore most humbly prayed on acceptance of this application/ petition the respondents No. 1 to 5 may be directed to implement the order of this Hon'ble Tribunal dated 20/04/2016 passed in Service Appeal No. 557/2013 in the best interest of justice please.

Appellant/Petitioner

Through



Dated: 25/10/2016

Gohar Ali Khwaisghi
Advocate High Court,
Peshawar.



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Misc. Application No. 557/2013

Dr. Hakim Khan(Petitioner)

VERSUS

Secretary to Government of Khyber Pakhtunkhwa Agriculture,
Livestock & Cooperative Department, Peshawar and
others.....(Respondents)

AFFIDAVIT

I, Dr. Hakim Khan S/o Malik Zardad Khan, Assistant
Professor Agriculture Department, Hazara University Haripur
R/o Malik Zardad Colony, Battagram, do hereby solemnly
affirm and declare on oath, that the contents of the
Application are true and correct to the best of my knowledge
and belief and nothing has been concealed from this Hon'ble
Tribunal.

H. Hakim Khan ★



DEPONENT

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Misc. Application No. 557/2013

Dr. Hakim Khan(Petitioner)

VERSUS

Secretary to Government of Khyber Pakhtunkhwa Agriculture,
Livestock & Cooperative Department, Peshawar and
others.....(Respondents)

ADDRESSES OF THE PARTIES

PETITIONER:

Dr. Hakim Khan S/o Malik Zardad Khan, Assistant Professor
Agriculture Department, Hazara University Haripur R/o Malik
Zardad Colony, Battagram.

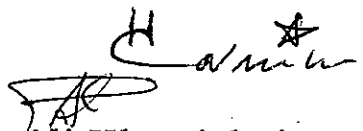
RESPONDENTS:

1. Secretary to Government of Khyber Pakhtunkhwa Agriculture,
Livestock & Cooperative Department, Peshawar.
2. Chief Secretary Khyber Pakhtunkhwa, Peshawar.
3. Chief Minister Khyber Pakhtunkhwa, Peshawar.
4. Secretary Establishment Khyber Pakhtunkhwa, Peshawar.
5. Director General Agriculture Department, Peshawar.

Appellant/Petitioner

Through

Dated: 25/10/2016


Gohar Ali Khwaishgi
Advocate High Court,
Peshawar.

Annex A
P-6

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 557/2013

Date of institution ... 19.03.2013
Date of judgment ... 20.04.2016



DR. HAKIM KHAN
S/o Malik Zardad Khan,
Ex-Research Officer Hazara Agriculture Research Station Abbottabad Agriculture
Deptt: Khyber Pakhtunkhwa Recently Asstt: Professor Agriculture Depatt:
Hazara/University Haripur.
R/o Malik Zardad Colony, Battgram. ... (Appellant)

VERSUS

1. The Secretary to Govt: of Khyber Pakhtunkhwa Agriculture, Livestock & Cooperative Deptt: Peshawar.
2. The Chief Secretary Khyber Pakhtunkhwa Peshawar.
3. The Hon'ble Chief Minister Khyber Pakhtunkhwa Peshawar.
4. The Secretary Establishment Khyber Pakhtunkhwa Peshawar.
5. The Director General Agriculture Deptt: Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER OF THE RESPONDENTS NO.1 TO 3 VIDE ORDER NO. SOE (AD) 7-55/2006 DATED 09.02.2010 OF THE RESPONDENT NO.1, NO. SOE (AD) 7-5506-07 DATED 27.12.2011 OF RESPONDENT NO.2 AND ALSO NO. SOE (A.D) 7-55/06/07 DATED 21.02.2013 OF RESPONDENT NO.3 WHO DID NOT CONSIDER THE/ RESIGNATION OF APPELLANT WITH EFFECT FROM 31.08.2009 A REQUESTED BY THE APPELLANT BUT RESPONDENT GAVE EFFECT TO THE RESIGNATION WITH EFFECT FROM 31.07.2010 AND THE INTERVENING PERIOD WAS TREATED AS EXTRA ORDINARY LEAVE WITHOUT PAY, WHICH IS ILLEGAL, UNLAWFUL AND AGAINST THE RULES, TREATED DISCRIMINATORY AS THE SAME RELIEF IS EXTENDED TO OTHER AND DEPRIVING THE APPELLANT.

Go har Ali, Advocate.
Mr. Ziaullah, Government Pleader.

.. For appellant.
.. For respondents.

MR. PIR BAKHSH SHAH
MR. ABDUL LATIF

.. MEMBER (JUDICIAL)
.. MEMBER (EXECUTIVE)

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(7) ✓

JUDGMENT

PIR BAKHASH SHAH, MEMBER: Appellant was a Research Officer

(BPS-17) in the Agriculture Department. He was selected as Assistant Professor in Hazara University vide order dated 05.08.2009. This order was further modified vide order dated 11.11.2010 in the following manner "the appointment shall stand approved as Assistant Professor in BPS-19 w.e.f 01.09.2009 from the date he joined Hazara University and professional duty as such" According to record his resignation from Agriculture Department was accepted w.e.f. 31.07.2010 vide notification dated 09.02.2010 and his unauthorized absence w.e.f 31.08.2009 to 31.07.2010 was treated as his Extra Ordinary Leave without pay. It evident that the appellant stands retired from Agriculture Department w.e.f 31.07.2010. In this appeal under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974, he has made the following prayer "Therefore, it is requested that the respondents may please be directed to consider/give effect to the resignation of the appellant w.e.f. 31.08.2009 and impugned order dated 31.07.2010 and its refusal by the respondents may please be set aside".

2. Arguments heard and record perused.

3. After hearing arguments of both the parties for sufficient long time and perusal of the record, the only ground which appellant could make for a favourable approach of this Tribunal was his alleged ground of discrimination. In this regard a plea was taken that in a similar case, resignation of one Dr. Ayub had been ante-dated by the department which concession, was unjustifiably declined to the appellant. In the circumstances when complete details of the said case are not before us, the department can better judge whether ante-dation of resignation in case of Dr. Ayub was legal, justified and in the domain of the rules regulation and if so whether case of the appellant is identical on all fours with that case. This being so, the Tribunal is

inclined to remit the case to the respondent-department with the direction to once

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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again examine the case of the appellant keeping in view the above observations and to decide the same afresh, preferably within a period of two months on its merits, according to law. Appeal is disposed of accordingly. Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED
20.04.2016

Jdl

(PIR BAKHSH SHAH)
MEMBER

Jdl

(ABDUL LATIF)
MEMBER

Certified to be true copy

E. BAKHSH SHAH
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 12-05-2016
 Number of Words 1200
 Copying Fee 8000
 Urgent 2000
 Total 10000
 Name of Copyist PMJ
 Date of Completion of 12-05-2016
 Date of Delivery of 12-05-2016

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72591

ایڈووکیٹ/دستخط:
بارکوس ابار ایسوسی ایشن نمبر: 805
رابطہ نمبر: 03459082942

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: سرسٹریٹجیٹل ضمیمہ کھٹوں خواہ ل در

منجانب:	دعوی:
	علت نمبر:
	مورد:
	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 ان مقام ل کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقریر حالت و فیصلہ برصفت دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق
 زریں ہر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوفی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ ہر داختم منظور و قبول ہوگا دوران مقدمہ
 میں جو خرچہ ہر جہان التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام
 دورہ یا عد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم:

العبد _____ واہ شد _____ العبد

مقام ل کے Allested & accepted کے لئے منظور ہے۔