

30.07.2018


Syed Sajid Shah, Petitioner in person alongwith his counsel Mr. Amjad Ali, Advocate present. Mr. Kabriullah Khattak, Addl: AG for respondents present. The main grievance of the petitioner is that though all the back benefits have been granted to him but salary has not been fixed by the Account branch of district Swabi. As such being an old issue of 2016 and with the consult to the parties, District Account Officer, Swabi is directed to personally attend this Tribunal alongwith their comprehensive report on 11.09.2018 before S.B.


Chairman

11.09.2018


Petitioner Syed Sajid Shah in person alongwith his counsel Mr. Amjad Ali, Advocate present. Mr. Kabirullah Khattak, Addl: AG for respondents present. On previous date the District Account Officer are directed to personally attend this Tribunal but he is not present today. At this Stage, the petitioner stated that since he is coming from Islamabad, whereas the respondents are not taken interest. As such he requested to allow him to withdraw the present execution petition as he wants to take up the matter with the quarter concerned and in case his grievance is not redress^{ed}, then he may be allowed to apply afresh before this Tribunal. The request is allowed and the present execution petition is dismissed being withdrawn. However, the petitioner will be at liberty to approach this Tribunal afresh if his grievance is not redress^{ed}. File be consigned to the record room.

Announced:
11.09.2018


Chairman 11. 9. 201 8.

01.02.2018

Petitioner in person and Mr. Usman Ghani, District Attorney for respondents present. Petitioner seeks adjournment as his counsel is not available due to general strike of the Bar. Adjourned. To come up for further proceedings on 28.03.2018 before S.B.

A/A

(Ahmad Hassan)
Member(E)

28.03.2018


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 21.06.2018 before S.B.

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Not for 21/6/2018
Clark
[Signature]

(Muhammad Amin Khan Kundi)
Member

21.06.2018


Petitioner in person and Addl: Ag for respondents present. Petitioner seeks adjournment. Adjourned. To come up for further proceedings on 30.07.2018 before S.B.


(Ahmad Hassan)
Member

E.P No. 85/2016

06.10.2017

Petitioner with counsel presents. Mr. Kabirullah Khattak, Additional AG alongwith Mesri Khan, Senior Auditor for the respondents also present. Adjourned. To come up for further proceedings on 17.11.2017 before S.B.


(Muhammad Amin Khan Kundi)
Member

17.11.2017

Counsel for the appellant present. Mr. Kabir Ullah Khattak, Addl: AG alongwith Mesri Khan, Senior Auditor for the respondents present. Representative of the respondent department submitted document which is placed on file. To come up for further proceedings on 20.12.2017 before S.B.


(Gul Zeb Khan)
Member

20.12.2017

Clerk to counsel for the petitioner present. Mr. Riaz Pinda Kheil, learned Assistant Advocate General for the respondents present. Respondent No. 2 present. Clerk to counsel for the petitioner seeks adjournment. Adjourned. To come up for further proceedings on 01.02.2018 before S.B


(Muhammad Hamid Mughal)
MEMBER

21.04.2017

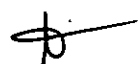
Petitioner with counsel and Mr. Misri Khan, Senior Auditor alongwith Addl. AG for the respondents present. Representative of the respondents stated the case of the petitioner is under process hence, adjournment be granted. Request accepted. To come up for further proceedings on 09.06.2017 before S.B.


(Muhammad Amin Khan Kundi)

Member

09.06.2017

Petitioner in person and Mr. Mesri Khan, DAO alongwith Addl. AG for the respondents present. Representative of the respondent-department requested for adjournment. Request accepted. To come up for further proceedings on 18.08.2017 before S.B.


(Ahmad Hassan)
Member

18/8/2017

Petitioner in person and Mr. Kabirullah Khattak, Assistant AG alongwith Mr. Mesri Khan, ADO for respondents present. Petitioner moved an application for adjournment. Adjourned. To come up for further proceedings on 6/10/2017 before SB.


(GUL ZEB KHAN)
MEMBER

10.02.2017


Counsel for the petitioner and Mesri Khan, Senior Auditor alongwith Assistant AG for respondents present, Counsel for the petitioner submitted rejoinder which is placed on file. To come up for arguments on 03.03.2017 before S.B.


Member

03.03.2017


Petitioner with counsel and Mr. Misri Khan, Senior Auditor alongwith Addl. AG for the respondents present. Arguments *heard and record Perused.*

According to the judgment of the august Supreme Court of Pakistan the petitioner has been reinstated in service however the competent authority has not passed any order regarding his entitlement/dis-entitlement to the salary etc. and the Accounts Office has therefore raised objection over the payments of arrears to the petitioner. It is thus directed that the competent authority shall pass orders in respect of entitlement of the petitioner to financial benefits including salary etc. within a period of one month. To come up for further proceedings on 21.4.2017 before S.B.


Chairman

17.06.2016

None for petitioner present. Addl. AG for the respondents present. Requested for adjournment. To come up for implementation report on 26.08.2016 before S.B.


Chairman

26.08.2016

Petitioner in person and Mr. Misri Khan, Senior Auditor alongwith Addl. AG for the respondents present. Reply submitted, copy whereof supplied to petitioner. Counsel for the petitioner is not in attendance. Seeks adjournment. To come up for arguments on 02.12.2016 before S.B.


Chairman

02.12.2016

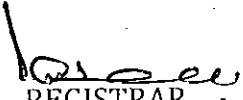


Counsel for the petitioner and Mr. Ziaullah, GP for respondents present. None present on behalf of respondents. Notice be issued to the respondents. To come up for arguments on 10.02.2017 before S.B.


Member

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 25/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1-	05.05.2016	<p>The Execution Petition of Syed Sajid Shah submitted today by Mr. Amjid 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-		<p>This Execution Petition be put up before S. Bench on <u>19.5.16</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	19.05.2016	<p>Petitioner in person present. Notice be issued to the respondents for <u>17.06.2016</u> before S.B.</p> <p style="text-align: right;"> Member</p>

BEFORE THE CHAIRMAN, KPK SERVICE TRIBUNAL PESHAWAR

Execution Petition no. 88/2016

C.O.C No. _____/2016

Syed Sajid Ali Shah Bacha.....Petitioner

VERSUS

Mirza Ali Khan & Others.....Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Contempt application		1-3
2.	Affidavit		4
3.	Judgment of Service tribunal dated 07.08.2013		5-9
4.	Judgment of Supreme Court dated 10.02.2016		10-11
5.	Copy of application for implementation		12
6.	Copy of reinstatement order		13
7.	Copy of bill attached		14
8.	Wakalatnama		15

Through

Petitioner


Amjad Ali Mardan
Advocate, Supreme Court

Date: 05/05/2016

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BEFORE THE CHAIRMAN, KPK SERVICE TRIBUNAL PESHAWAR

Execution petition No. 85/2016

C.O.C.No. _____/2016

K.P. Province
Service Tribunal
Diary No. 346
Dated 5-5-16

Syed Sajid Ali Shah Bacha

Patwari Halqa, Deputy Commissioner, Swabi

..... Petitioner

Versus

- 1) Mirza Ali Khan District Accounts Officer, Swabi.
- 2) Misri Khan Senior Auditor District Accounts Office,
Swabi.

..... Respondents

***Application u/s 3/4 of the Contempt
of Court Act, 1976 r/w all the enabling
provisions of CPC and Cr.PC for
disobeying the order of Hon'ble
Supreme Court dated 10.02.2016***

Sir;

Petitioner humbly submits as under:-

- 1) That petitioner was dismissed from service vide order dated 08.10.2013.
- 2) That departmental appeal was dismissed vide order dated 19.02.2014.
- 3) That service appeal was partly allowed vide order dated 07.08.2013 by converting dismissal into

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compulsory retirement.

(Copy of judgment of

Service Tribunal is attached)

- 4) That the Hon'ble Supreme Court vide order dated 10.02.2016 set-aside all the aforementioned orders and further held that when all the aforementioned orders are no more in the filed, there shall be no hurdle in reinstatement of petitioner. (Judgment of Supreme Court dated 10.02.2016 is attached)
- 5) That petitioned filed an application for implementation before D.C Swabi for reinstatement as well as arrears of salary. (Copy of application for implementation is attached)
- 6) That D.C Swabi reinstated petitioner vide order dated 21.03.2016 and posted petitioner in Swabi. (Copy of reinstatement order is attached)
- 7) That D.C Swabi being the competent authority duly signed and forwarded bill for petitioner for arrears of salary. (Copy of bill is attached)
- 8) That respondent No.1 endorsed following objections.
 - a. Returned with the remarks that the date of reinstatement has not been specified.
 - b. Pay for 01.12.2001 to 15th May be got verified from pay fixation party.
- 9) That both the objections are incorrect, misconceived, just to flout the judgment of Hon'ble Supreme Court as the order is absolutely clear by setting aside dismissal

3

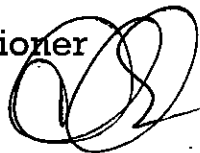
order and further clarifying that there would be no hurdle in reinstatement and further order of reinstatement of competent authority then objection that date of reinstatement has not been specified is a very super-technical objection, which can't sustain in front of clear judgment of Hon'ble Supreme Court. **Moreover, reinstatement means, replantation from where evicted.**

- 10) That this attitude of respondent is clearly contemptuous and is to be punished for six months imprisonment as per law of contempt plus 188 PPC r/w 476 Cr.PC.
- 11) That pay fixation party has got nothing with the orders of the Court.

It is, therefore, humbly prayed that respondent may please be convicted and sentenced to six months imprisonment as per law of contempt r/w Section 188 r/w 476 Cr.PC and other enabling provisions of CPC and order of Hon'ble Supreme Court may please be implemented in true letter and spirit.

Petitioner

Through


Amjad Ali (Mardan)
Advocate
Supreme Court of Pakistan

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BEFORE THE CHAIRMAN, KPK SERVICE TRIBUNAL PESHAWAR

C.O.C.No. _____/2016

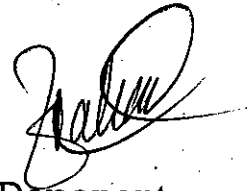
Syed Sajid Ali Shah Bacha..... Petitioner

Versus

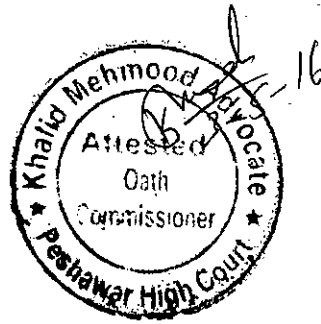
Mirza Ali Khan and others..... Respondents

AFFIDAVIT

I, Fahad Nawaz Advocate Counsel for Petitioner, do hereby affirm and declare on as per information furnished by my client that the contents of the accompanying **Contempt Application** are true and correct and nothing has been concealed from this Hon'ble Tribunal.



Deponent



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.



As.a.No. 301 /2014

318
03-3-2014

Syed Sajid Ali Shah Ex-Patwari Mauza Yaqoobi,
Tehsil Razar, District Swabi
S/O Syed Sahib Gul
R/O Saadat Mohallah Village Ismaila
Tehsil Razzar District Swabi..... Appellant

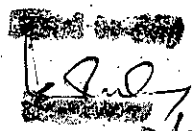
VERSUS

- 1) Govt. of Khyber Pakhtunkhwa through Secretary Revenue, Civil Secretariat, Peshawar.
- 2) Commissioner Mardan Division, Mardan.
- 3) Deputy Commissioner/ District Collector, Swabi..... Respondents

Service Appeal U/S 4 of the Service Tribunal Act, 1974 against the final order (original) dated 08.10.2013 received on 11.10.2013 passed by respondent No.2 wherein appellant has been dismissed from service and order dated 19.02.2014 passed by respondent No.3, which is illegal, against law and facts.

Prayer:

On acceptance of this appeal, order dated 08.10.2013 and order dated 19.02.2014 may please be set aside and appellant may please be reinstated in service with all back benefits.

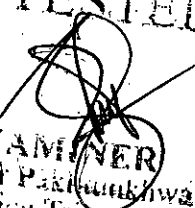

3/3/2014

Sir,

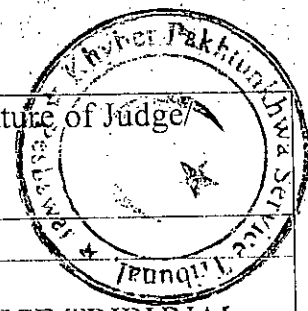
Appellant submits as under:-

- 1) That appellant was appointed as patwari vide order dated 16.12.1985.

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge/Magistrate
1	2	3
1.	07.08.2015	<p>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p>Appeal No. 301/2014</p> <p>Syed Sajid Ali Shah Versus Government of KPK through Secretary Revenue Deptt. Peshawar etc.</p> <p>JUDGMENT</p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr. Amjad Ali Shah, Advocate) and Government Pleader (Mr. Muhammad Jan) with Mukhtiar Ali, Supdt. for the respondents present.</p> <p>2. Appellant, Syed Sajid Ali Shah was Patwari Halqa Yaqoobi District Swabi at the relevant time. In his time, a Mutation No. 2066 took-place in which respect appellant was charge sheeted for taking illegal gratification of a sum of Rs. 56,000/- from one Mr. Falak Naz, nephew/representative of purchaser Farhad Khan. The competent authority vide order dated 08.10.2013 dismissed the appellant from service and his departmental appeal was also rejected vide order dated 19.02.2014, hence this appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.</p> <p>3. Arguments heard and record perused.</p> <p>4. The learned counsel for the appellant submitted that no charge sheet was served on the appellant, no proper enquiry was conducted and without</p>

ATTESTED


EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

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giving opportunity of defence or personal hearing to the appellant, he was dismissed from service. He maintained that steps taken by the respondent-authority are in violation of the law and rules, therefore, the impugned orders cannot be maintained. He further submitted that the allegations of illegal gratification being false and unfounded were not proved on record and penalty against the appellant was imposed without any justification. In this regard, he referred to the supportive statements of Tehsildar as well as purchaser Farhad Khan. He submitted that the penalty is too harsh and excessive and that the impugned orders being unlawful may be set aside and the appellant be reinstated in service with full back benefits.

5. The learned Government Pleader rebutted the arguments by stating that the competent authority had the information and knowledge about the illegal gratification taken by the appellant and he was legally competent to dispense with regular enquiry. He further stated that show cause notice/charge sheet were issued to the appellant and it is evident from record that full opportunity of defence and personal hearing was provided to him. He submitted that the appeal may be dismissed.

6. According to para-4 of the memo: of appeal, Mutation No. 2066 was attested by Revenue Officer on

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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29.08.2013. Its copy is also available on file which shows that the same was entered by the appellant on 25.06.2013. Perusal of the impugned order dated 08.10.2013 revealed that after charging the appellant for gratification, his written statement was procured, witnesses were heard including the appellant on 19.09.2013. That these proceedings took place are sufficient to establish that appellant was not proceeded all of a sudden and that opportunity of hearing was provided to the appellant. Further the record also shows that statement of the purchaser Farhad Khan and his nephew Falak Naz were also recorded which would not have been possible had the proceedings not taken place on 19.09.2013. It is already stated that the Mutation in question was entered by the appellant long before of this date and was attested by the Revenue Officer. So the question of any ill intention or malafide does not arise on the part of the competent authority. According to Section 5 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, the competent authority is vested with jurisdiction to dispense with regular enquiry. On the other hand, the above situation clearly shows that the impugned order was not passed abruptly and without specific and solid information. Regarding statement of the appellant and opportunity of personal hearing to him shows that he was given opportunity of proper defence as contemplated by law and rules. Hence this Tribunal

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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would not agree with learned counsel for the appellant that the impugned order is unlawful or that due process of law was not observed. This being so, the appellant has stated that he was appointed as Patwari vide order dated 16.12.1985. It reflects that he has put in a lot of service for the department and that the mutation was also verified and attested by other officers. The appellant has been dismissed from service by way of the impugned order and in view of the long service of the appellant, we would like to convert punishment of dismissal from service into compulsorily retirement of the appellant. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED 07.08.2015
Sd/- Pir Bakht Shah,
Member
Sd/- Abdul Latif,
Member

Certified to be true copy
EX. 100
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 04-05-2016
Number of Words 2000
Copying Fee 12
Urgent 2
Total 14
Name of Copyist
Date of Completion of Copy 04-05-2016
Date of Delivery of Copy 04-05-2016

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE DOST MUHAMMAD KHAN
MR. JUSTICE QAZI FAEZ ISA

Civil Petition No.2998/2015

(On appeal from the judgment dated
7.08.2015 passed by KPK Service
Tribunal, Peshawar in Appeal
No.301/2014)

Syed Sajid Ali Shah

....Petitioner

Versus

Govt. of KPK thr. Secretary, Peshawar & others

....Respondents

For the petitioner: Mr. Amjad Ali, ASC

For Govt. of KPK: Mian Arshad Jan, Addl. A.G. KPK
Gul Ghazi Khan, Tehsildar Swabi

Date of hearing: 10.2.2016

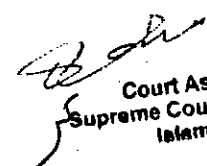
ORDER

Dost Muhammad Khan, J.— Through this petition, the petitioner has sought leave to appeal against the judgment of the KPK Service Tribunal, Peshawar, dated 07.08.2015, whereby the appeal of the petitioner, namely, Syed Sajid Ali Shah, was partly allowed and his order of dismissal from service by the competent authority was converted into compulsory retirement.

We have heard the learned ASC for the petitioner and the learned Additional Advocate General, KPK and have gone through the record.

2. The first and the vital law point, involved in this matter, is that Rule 5 of the E & D Rules, dealing with the civil servants, has not been complied with because on one hand the competent authority imposed major penalty upon the petitioner, dismissing him from

ATTESTED


Court Associate
Supreme Court of Pakistan
Islamabad

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service, while on the other hand the regular inquiry, required under the Rules, was dispensed with without recording any reason, much less plausible, for acting in that manner.

3. Confronted with the above legal position, the learned Additional Advocate General stated that if a chance for de-novo inquiry is allowed to the respondent authority, then he will have no objection to the setting aside of the impugned order of the competent authority.

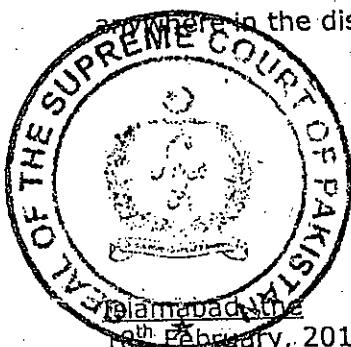
4. Accordingly, this petition is converted into appeal and the same is allowed. The impugned judgment of the KPK Service Tribunal dated 07.08.2015 is set aside along with the dismissal order dated 08.10.2013 and the order passed on the departmental appeal, dismissing the same, by the competent authority dated 19.02.2014. However, the respondent, if so wishes or so advised, may hold a fresh inquiry but it should be in conformity with the rules and the law on the subject.

5. Needless to remark that when all the above orders are no more in the field, there shall be no hurdle in the re-instatement of the petitioner during inquiry, if so desired by the competent authority, however, it would be within the domain of the authority to post him

anywhere in the district.

Sd/- Dost Muhammad Khan, J
Sd/- Qazi Faez Isa, J

Certified to be True Copy



Islamabad, the
10th February, 2016

Nisar/-

Not Approved For Reporting.

(Signature)
17-2-16
Court Associate
Supreme Court of Pakistan
Islamabad

GR No:	2586/16	Civil/Criminal
Date of presentation	11-2-16	
No. of pages	6	
No. of exhibits	5	
Reason for delay	3	
Court fees	8	
Date of delivery	12-2-16	
Date of delivery	12-2-16	
Comptroller		
Receiver		

22/01/18

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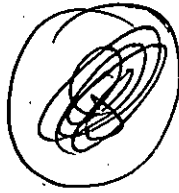
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(12)

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OFFICE OF THE
DEPUTY COMMISSIONER,
DISTRICT SWABI

No. 369-78 /DCS/DK/P.T

Date 21 /03/2016.

OFFICE ORDER

Syed Sajid Ali Shah Ex-Patwari of Revenue and Estate Department, who was dismissed from service vide this office order No. 1129-36/DK-I/Complaint dated 8/10/2013 is re-instated in service in the light of Judgment passed by the Honorable Supreme Court of Pakistan Islamabad in Civil petition No. 2998/2015 dated 10/2/2016, conveyed vide Assistant Secretary, Board of Revenue Khyber Pakhtunkhwa, Peshawar letter No. Esst:VII/Court/Cases/8083 dated 8/3/2016 & Assistant to Commissioner (Rev), Mardan Division, Mardan letter No. 463/ACR/Court matter dated 02/03/2016.


DEPUTY COMMISSIONER,
SWABI

NO & DATE EVEN:

Copy forwarded to:-

1. The Commissioner, Mardan Division, Mardan.
2. The Assistant Secretary, Board of Revenue, Khyber Pakhtunkhwa, Peshawar
3. The District Accounts Officer, Swabi.
4. The Assistant Commissioner, Swabi & Lahor.
5. All Tehsildars in the District Swabi.
6. Official Concerned.


DEPUTY COMMISSIONER,
SWABI

① Recd with the account that the date of reinitiation has not been 15 may be pay for 101 part not valid for part copy of part attached

PAYROLL SYSTEM
AMENDMENT FORM
SINGLE EMPLOYEE ENTRY

OFFICE OF THE DEPUTY COMMISSIONER, SWABI

For the month of April /2016

DDC Code:

S U 6 2 7 8

Personal No

0 0 2 3 6 4 6 5

Employee Name Syed Sajid Ali Shah

Grade

0 9 Patwari

National ID

Card No.

Salary Status: Start

Stop

Form: Pay02

Date 05/4/016

page No

1687
Date 12-4-16
D.A.G Swabi

Pay Active.

Pay Adjustment

GENERAL DATE CHANGE		CHANGE IN PAYMENT/ DEDUCTION		Effective date	Remarks
Field ID	New Contents	Rupees		w.e. to	
0001- B.Pay = 17420/-	5801- B.Pay = 401420/-	GP/F = 16660/-		w.e. to	Re-initiated into Service rule Supreme court of Pakistan. order attached.
1000- H.R.A = 1146/-	5002- H.R.A = 32901/-	B/F = 5040/-		09.10.013 To	
1210- C.A = 1932/-	5898- AR-2010 = 100770/-	AGI = 196/-		31.3.016.	
1300- M.A = 1500/-	5911- AR-011 = 30231/-	G.I = 1876/-			
1948- A.R = 3510/-	AR-012 = 70511/-	Total = 23772/-			
1970- A.J = 1053/-	5059 Stationery = 13000/-				
2118- AR = 1742/-	5217 P.R AR = 80600/-				
1555- Stationery = 500/-					
1617- P.K = 3100/-					
Total = 31903/-		Total = 729433/-			

GP/Fund = 5857 - 31903/-
B/F = 1801 - 849/-
AGI = 7/-
G-I = 67/-
= 849/-
Net = 31054/-

729433/-
- 23772/-
Net = 705661/-

Deputy Commissioner
DEPUTY COMMISSIONER, SWABI

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Period	4000	484A	48410	4811	4812	99F	88F	481	SI	net
9/12 - 30 1/3	12280	1116	3510	1053	2456					14508
	8715/-	813/-	2490	742	1243					

12 - 30 1/4	12269	1146	3510	1053	2456	595	180	7	67x12	= 234912/-
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12 - 30 1/5	13210	1146	3510	1053	2456	595	180	7	67x07	= 142492/-
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12 - 30 1/5	16929	1146	3510	1053	2456	595	180	7	67x05	= 124205/-
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12 - 31 3/16	17420	1146	3510	1053	2456	595	180	7	67x04	= 98944/-
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401420/- 32890/- 100770/ 30231/ 70511/- 16660/ 504/ 184/ 1836/ = 618261/-

Station	Office	Particulars	Amount
Station	Office	300 x 26 = 18000/-	18000
Station	Office	3100 x 26 = 80600/-	80600
			93600
			705661/-

Deputy Commissioner

[Signature]

Service Tribunal

Peshawar

Petitioner's Name: 2016

By: Syed Sajid Baqir vs Mirza Ali Iqbal etc

مقدمہ
دفعہ
نمبر

مقدمہ نمبر: 2016/16
Mandamus Peshawar
Federal New Law Advocate

مقدمہ نمبر: 2016/05
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مقدمہ نمبر: 2016/05
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Accepted
Peshawar
مقدمہ نمبر: 2016/05
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BEFORE THE KHYBER PAKHTUN KHWA SERVICES TRIBUNAL, PESHAWAR

Syed Sajid Ali Shah Patwari

VERSUS

Mirza Ali Khan District Accounts Officer Swabi

&

Misri Khan Senior Auditor, District Accounts Office Swabi

Subject: **E.Petition No: 85/16**

Respectfully Sheweth:

In compliance with the Hon'ble Court orders I submit the following reply:

- Para 1: Correct
Para 2: Relates to DC Office, Swabi
Para 3: Correct
Para 4: Correct
Para 5: Relates to DC Office, Swabi.
Para 6: Correct
Para 7: Correct
Para 8: Correct
Para 9: Incorrect on the following grounds:

That gross claim on account of pay and allowances amounting to Rs: 729433/- pertaining to period from 09.10.2013 to 31.03.2016 was received in District Accounts Office Swabi from the office of the Deputy Commissioner Swabi in the month of April 2016, which was returned with the remarks that date of re-instatement had not been specified as the question of payment of pay & Allowances pertaining to the intervening period i.e 08.10.2013 to 09.02.2016 was involved, in which the appellant remained out of service.

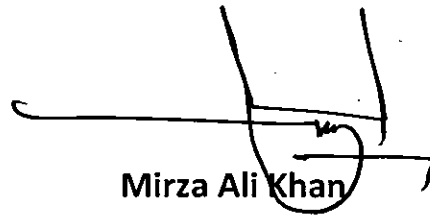
More over pay from 01.12.2001 to 01.07.2015 had not been got verified from the pay fixation party which falls in the preview of responsibility of Drawing & Disbursing Officer. A fresh claim on account of pay & allowances pertaining to period 10.02.2016 to 31.05.2016 was received in 06.2016 which has already been paid to the appellant in the month of June 2016. It is important to submit that instead of submission of fresh claim in 06.2016 in lieu of previous claim submitted in 04.2016, The Deputy Commissioner Swabi being Drawing & Disbursing Officer was required to justify the claim submitted in

04.2006. Instead ^{of} which he submitted claim pertaining to period 10.02.2016 to 31.05.2016 which shows that Deputy Commissioner Swabi was not agreed to issue revised re-instatement order showing clear cut the intervening period as duty. Moreover payment of arrear claim is also liable to FR-54.(copy submitted). The most important point to which the kind attention of the hon'ble Court is invited, that this office has already made request to the deputy commissioner swabi vide this office letter No: DAO/PR /1062 dated 16.06.2016 (copy submitted) to intimate this office a clear decision regarding the intervening period 08.10.2013 to 09.02.2016. But reply is still awaited which also shows that deputy commissioner swabi is ^{not} ready to make payment of service for the period in which the appellatant remained out of service.

Keeping in view the position explained above the Hon'ble court is requested that the deputy commissioner swabi may kindly be asked for arrear claim as the respondent is not at fault being implemented the judgement of the Supreme Court of Pakistan w.e.f 10.02.2016.



Misri Khan
Senior Auditor
District Accounts Office, Swabi



Mirza Ali Khan
District Accounts Officer, Swabi
DISTRICT ACCOUNTS OFFICER
SWABI

out by 5-day.

OFFICE OF THE ACCOUNTS OFFICER SWABI

No. DAO/PPU

1062

Dated 16/6/2016

To,

The Deputy Commissioner
Swabi

Subject: **RE-INSTATEMENT OF SYED SAJID ALI SHAH PATWARI REVENUE.**

Memo,

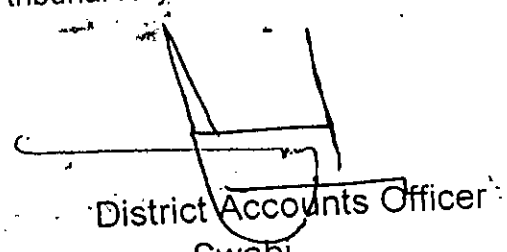
1. It is submitted that dismissal & compulsory retirement order in respect of Syed Sajid Ali shah patwari (revenue) has been set aside by the honourable supreme court of Pakistan DT: 10.02.2016.

2. The official concerned has been re instated in service vide your order No: 369-78 dated 21.03.2016 which is silent regarding decision of intervening period that is 08.10.2013 to 09.02.2016 as the claim pertaining to period 10.02.2016 to 30.03.2016 as received from your office has been feeded to system.

3. It is brought to your kind notice that the official concerned has filed a suit for implementation/contempt of court before the Khyber PakhtoonKhwa Services tribunal Peshawar (date of hearing is 26.08.2016)

4. In view of above it is therefore requested that clear decision regarding treatment of intervening period i.e 08.10.2013 to 09.02.2016 may kindly be communicated to this office and send also claim if the above period is treated as duly supporting with revised re instatement order, enabling this office to make payment to the official concerned in due course of time. This will facilitate this office to submit cogent reply to the honourable service tribunal Khyber Pakhtun Khwa Peshawar in due course of time.

Encl: service book in original


District Accounts Officer
Swabi

7.162 (FR 54) In cases where the suspension of a Government Servant is held to have been unjustifiable or not wholly justifiable or he is re-instated after being dismissed, removed from service or suspended, the revising or appellate authority may grant him the following pay and allowances for the period of absence —

- (a) If the Government servant has been honourably acquitted, he shall be given the full pay to which he would have been entitled but for his dismissal, removal or suspension. The period of absence in such cases is treated as spent on duty. For this purpose F. R. 54 should be treated as absolute and unconditional and no question should be raised as to whether there was a post or not against which he could be adjusted for the period of his absence or that he had no longer been and another Government servant was appointed substantively in his place. If the condition of ten had first to be satisfied the servant would not have been absolute.

- (b) Where a Government servant has not been honourably acquitted, he may be granted such portion of pay as may be prescribed by the competent authority. In this case the period of absence is not treated as spent on duty unless the revising or appellate authority directs that it should be treated as duty. The competent authority may also direct that the period spent under suspension may be regarded as leave and the Government servant paid leave salary as permitted under the rules. The period of suspension can be treated even as extraordinary leave, but in such a case no recovery will be made of the subsistence grant and allowances already paid to the suspended Government servant. It has been held that F.R. 54 permits an appellate authority to convert a period spent under suspension into ordinary leave.

[Finance Division O. M. No. F. R. (12) FR ZRWP/62, dated 29-9-1962.]

- (c) The amount of arrears payable to the Government servant concerned whether he is reinstated as a result of a Court judgement or acceptance of his appeal by the departmental authority, will be reduced by the amount earned by way of salary or as profit on account of his having accepted some employment or been engaged in some profitable business during the period he remained dismissed, removed or suspended, and for the determination of the amount a committee will be constituted consisting of two officers from the Administrative Division and a representative of the Government Division.

[Finance Division Notification No. S.R.O. 45 (REVISED) dated 4-9-1960.]

BEFORE THE KHYBER PAKHTUN KHWA SERVICES TRIBUNAL, PESHAWAR

Syed Sajid Ali Shah Patwari

VERSUS

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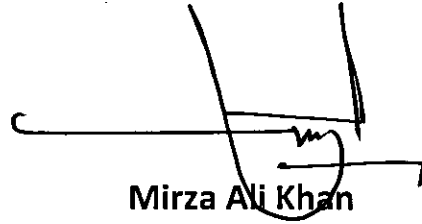
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1A
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Misri Khan
Senior Auditor
District Accounts Office, Swabi



Mirza Ali Khan
District Accounts Officer, Swabi
DISTRICT ACCOUNTS OFFICER
SWABI

out by 15-day.

OFFICE OF THE ACCOUNTS OFFICER SWABI

No. DAO/PR/

1062

Dated 16/10/2016

To,

The Deputy Commissioner


Swabi

Subject: RE-INSTATEMENT OF SYED SAJID ALI SHAH PATWARI REVENUE.

Memo,

1. It is submitted that dismissal & compulsory retirement order in respect of Syed Sajid Ali shah patwari (revenue) has been set aside by the honourable supreme court of Pakistan DT: 10.02.2016.
2. The official concerned has been re instated in service vide your order No: 369-78 dated 21.03.2016 which is silent regarding decision of intervening period that is 08.10.2013 to 09.02.2016 as the claim pertaining to period 10.02.2016 to 30.06.2016 as received from your office has been feeded to system.
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[Finance Division O. M. No. F. R(12) PR 2(RW)PK2, dated 29.9.1962.]

[Finance Division Notification No. S.R.O. 45 (45)/60, dated 4.9.1960.]

BEFORE THE CHAIRMAN, KPK SERVICE TRIBUNAL

PESHAWAR

In re:

COC No. _____/2016

Syed Sajid Ali Shah Bacha.....Appellant

V/S

Mirza Ali Khan and othersRespondents

REJOINDER ON BEHALF OF THE PETITIONER

Sir,

Petitioner/ Decree holder humbly submits as under:-

- 1-8. Paras 1-8 of appeal have been admitted as correct.
9. Para-9 of the Contempt Petition is correct and that of reply is incorrect, misconceived, denied. The august Supreme Court clearly ordered that all the dismissal orders are no more in field then it means reinstatement i.e. replantation, no fault of petitioner. It's strange that after receiving notice from Hon'ble Tribunal, now, trying to shift burden of D.C Office, whereas, he has sent the claim under his seal and sign.
10. Para-10 regarding attitude of punishment is not answered, which means admission.

It is, therefore, humbly requested that Contempt/
E.petition may please be accepted with cost.

Petitioner/ Decree Holder
Through

Amjid Ali (Mardan)
Advocate

Supreme Court of Pakistan

AMJID ALI
Advocate
SUPREME COURT

BEFORE THE CHAIRMAN, KPK SERVICE TRIBUNAL

PESHAWAR

In re:

COC No. _____/2016

Syed Sajid Ali Shah Bacha.....Appellant

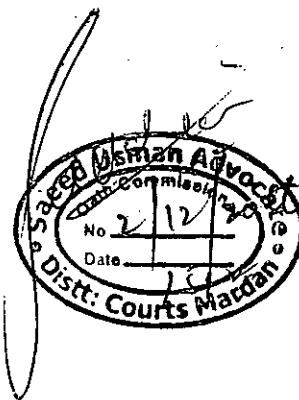
V/S

Mirza Ali Khan and othersRespondents

AFFIDAVIT

I, do hereby affirm and declare as per information furnished by my client that the contents of the accompanying **Rejoinder** are true and correct and nothing has been concealed from this Hon'ble Court.


Deponent



BEFORE THE CHAIRMAN, KPK SERVICE TRIBUNAL

PESHAWAR

In re:

COC No. _____/2016

Syed Sajid Ali Shah Bacha.....Appellant

V/S

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Advocate

Supreme Court of Pakistan

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Advocate
SUPREME COURT

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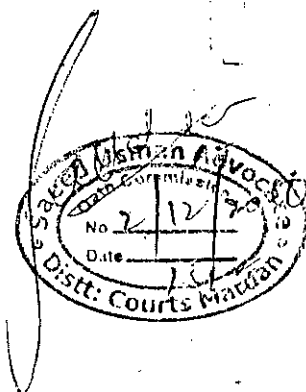
V/S

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Deponent



out by today.

OFFICE OF THE ACCOUNTS OFFICER SWABI

No. DAO/PR/

1062

Dated 16/10/2016

To,

The Deputy Commissioner
Swabi

Subject: **RE-INSTATEMENT OF SYED SAJID ALI SHAH PATWARI REVENUE.**

Memo,

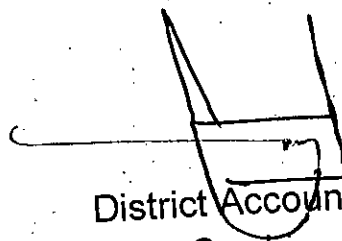
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Encl: service book in original


District Accounts Officer
Swabi

BEFORE THE CHAIRMAN, KPK SERVICE TRIBUNAL

PESHAWAR

In re:

COC No. _____/2016

Syed Sajid Ali Shah Bacha.....Appellant

V/S

Mirza Ali Khan and othersRespondents

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Amjid Ali (Mardan)

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Supreme Court of Pakistan

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SUPREME COURT

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PESHAWAR

In re:

COC No. _____/2016

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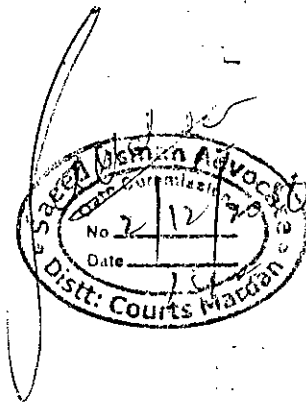
V/S

Mirza Ali Khan and othersRespondents

AFFIDAVIT

I, do hereby affirm and declare as per information furnished by my client that the contents of the accompanying **Rejoinder** are true and correct and nothing has been concealed from this Hon'ble Court.

Deponent






OFFICE OF THE
DEPUTY COMMISSIONER,
DISTRICT SWABI

No. 300 /DCS/DK/PT

Date 05 /04/2017

OFFICE ORDER

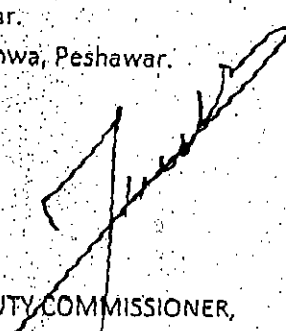
Pursuant to august Khyber Pakhtunkhwa Service Tribunal, Peshawar vide order passed in Writ Petition No. 85/2016 dated 3/3/2017, Syed Sajid Ali Shah Patwari, already re-instated in service in light of the judgment of Honorable Supreme Court of Pakistan vide order in Civil Petition No. 2998/2015 dated 10/2/2016, is hereby entitled for financial benefits as admissible under the rules for the period 8/10/2013 to 20/3/2016 for which the official concerned has not been paid any emolument so far.


DEPUTY COMMISSIONER,
SWABI

NO & DATE EVEN:

Copy forwarded to:-

1. The Commissioner, Mardan Division, Mardan.
2. The Registrar Service Tribunal Khyber Pakhtunkhwa, Peshawar.
3. The Assistant Secretary, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
4. The Additional Deputy Commissioner, Swabi.
5. The District Accounts Officer, Swabi.
6. The Assistant Commissioner, Swabi & Lahor.
7. *Bill Clerk Local*


DEPUTY COMMISSIONER,
SWABI

DEBIT SUICIDE ...
 02-16-2017 ...
 PAYMENTS ...
 0801 Basic Pay 11,470.00
 1000 House Rent Allowance 272.00
 1210 Convey Allowance 20 1,782.00
 1300 Medical Allowance 1,500.00
 1510 Gratuity Allowance 100.00
 1560 House Renter's Tax 150.00
 1940 Arrear Pay 1,617.00
 2140 15% Adm. Allowance 486.00
 2199 Arrear Salary 312.00
 2211 Arrear Salary 1,642.00

PAYMENTS 22,019.00
 Branch Code: ...
 DEBIT SUICIDE ...
 DEDUCTIONS ...
 ALLIED BANK LIMITED ...
 28,712.00 ...

01-4-2017

00236288 ...
 PAYMENTS ...
 0801 Basic Pay 28,000.00
 1000 House Rent Allowance 1,220.00
 1210 Convey Allowance 20 1,750.00
 1300 Medical Allowance 1,500.00
 1940 Arrear Pay 1,750.00
 2140 15% Adm. Allowance 740.00
 2199 Arrear Salary 50.00
 2211 Arrear Salary 2,600.00

PAYMENTS 39,770.00
 Branch Code: ...
 DEDUCTIONS ...
 UNITED BANK LIMITED ...
 2,470.00 ...
 Net Pay 36,770.00 01.04.2017 ...
 Acct. No: 193253-2

00236410 ...
 PAYMENTS ...
 0801 Basic Pay 30,740.00
 1000 House Rent Allowance 1,140.00
 1210 Convey Allowance 20 1,940.00
 1300 Medical Allowance 1,500.00
 1510 Gratuity Allowance 1,500.00
 1617 Patrol Vehicle Allowance 1,100.00
 1940 Arrear Pay 3,110.00
 2140 15% Adm. Allowance 622.00
 2199 Arrear Salary 390.00
 2211 Arrear Salary 2,023.00

DEDUCTIONS ...
 5002 Arrear Salary 32,027.00
 5011 Arj Conveyance Allowance 52,000.00
 5012 Arj Medical Allowance 31,697.00
 5217 Arj House Renter's Tax 55,090.00
 5309 Arj House Renter's Tax 50,042.00
 5801 Arj Basic Pay 497,130.00
 5896 Arj House Renter's Tax 48,180.00
 5911 Arj House Renter's Tax 27,002.00
 5930 Arj House Renter's Tax 1,100.00
 5950 Arj House Renter's Tax 1,500.00
 5960 Arj House Renter's Tax 10,002.00
 5975 Arj House Renter's Tax 1,660.00

PAYMENTS 67,331.00
 INCOME TAX 58,970.49 13,140.00 45,851.56
 LFSHR000221 ...
 Net Pay 13,140.00

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Before the honorable Services Tribunal Peshawar

Sajid Ali Shah (Petitioner) v/s District Accounts Officer Swabi.

Subject: **Reply on Points Raised By The Petitioner On 6/10/2017.**

(A) It is submitted that payment on account of pay & allowances has already been made ^{to} the petitioner in compliance with the judgment of the Honorable Supreme Court of Pakistan as well as implementation order of the Honorable Services Tribunal Peshawar.

It is submitted that the petitioner raised on 06/10/2017 the following points.

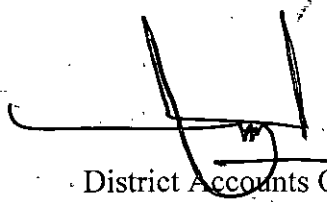
- i. Deduction of income tax.
- ii. Deficiency in salary.

(B) This office submits the following replay on the above 2 points.

i. It is pertinent to submit that deduction on account of income tax has been made according to the formula devised by the FBR Islamabad connected with our accounting system on which no any account office has any sort of control. However the petitioner can approach to income tax department through his Employer that is Deputy Commissioner Swabi for seeking relief.

ii. It is submitted that Drawing & Disbursing Officer has not got verified his pay from pay fixation party established for ^{the} purpose in question ^{by} the Accountant General Khyber Pakhtunkhwa Peshawar since long.

(C) In view of the above clarification, The Honorable Court is requested to direct the petitioner to approach to the relevant forum for seeking relief on the above two issues.


District Accounts Office

Swabi/2/10/61)

Before the honorable Services Tribunal Peshawar

Sajid Ali Shah (Petitioner) v/s District Accounts Officer Swabi.

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District Accounts Office

Swabi 12/10/17

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(A) It is submitted that payment on account of pay & allowances has already been made ^{to} the petitioner in compliance with the judgment of the Honorable Supreme Court of Pakistan as well as implementation order of the Honorable Services Tribunal Peshawar.

It is submitted that the petitioner raised on 06/10/2017 the following points.

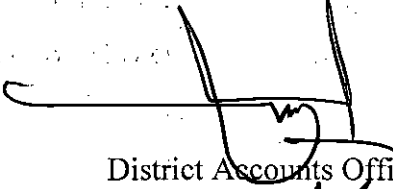
- i. Deduction of income tax.
- ii. Deficiency in salary.

(B) This office submits the following replay on the above 2 points.

i. It is pertinent to submit that deduction on account of income tax has been made according to the formula devised by the FBR Islamabad connected with our accounting system on which no any account office has any sort of control. However the petitioner can approach to income tax department through his Employer that is Deputy Commissioner Swabi for seeking relief.

ii. It is submitted that Drawing & Disbursing Officer has not got verified his pay from pay fixation party established for purpose ^{the} in question ^{by} the Accountant General Khyber Pakhtunkhwa Peshawar since long.

(C) In view of the above clarification, The Honorable Court is requested to direct the petitioner to approach to the relevant forum for seeking relief on the above two issues.


District Accounts Office
Swabi

14/10/2017

Before the honorable Services Tribunal Peshawar

Sajid Ali Shah (Petitioner) v/s District Accounts Officer Swabi.

Subject: Reply on Points Raised By The Petitioner On 6/10/2017.

(A) It is submitted that payment on account of pay & allowances has already been made ^{to} the petitioner in compliance with the judgment of the Honorable Supreme Court of Pakistan as well as implementation order of the Honorable Services Tribunal Peshawar.

It is submitted that the petitioner raised on 06/10/2017 the following points.

- i. Deduction of income tax.
- ii. Deficiency in salary.

(B) This office submits the following replay on the above 2 points.

i. It is pertinent to submit that deduction on account of income tax has been made according to the formula devised by the FBR Islamabad connected with our accounting system on which no any account office has any sort of control. However the petitioner can approach to income tax department through his Employer that is Deputy Commissioner Swabi for seeking relief.

ii. It is submitted that Drawing & Disbursing Officer has not got verified his pay from pay fixation party established for purpose in question ^{the} by the Accountant General Khyber Pakhtunkhwa Peshawar since long.

(C) In view of the above clarification, The Honorable Court is requested to direct the petitioner to approach to the relevant forum for seeking relief on the above two issues.


District Accounts Office

Swabi 12/10/17

Before the honorable Services Tribunal Peshawar

Sajid Ali Shah (Petitioner) v/s District Accounts Officer Swabi.

Subject: Reply on Points Raised By The Petitioner On 6/10/2017.

(A) It is submitted that payment on account of pay & allowances has already been made ^{to} the petitioner in compliance with the judgment of the Honorable Supreme Court of Pakistan as well as implementation order of the Honorable Services Tribunal Peshawar.

It is submitted that the petitioner raised on 06/10/2017 the following points.

- i. Deduction of income tax.
- ii. Deficiency in salary.

(B) This office submits the following replay on the above 2 points.

i. It is pertinent to submit that deduction on account of income tax has been made according to the formula devised by the FBR Islamabad connected with our accounting system on which no any account office has any sort of control. However the petitioner can approach to income tax department through his Employer that is Deputy Commissioner Swabi for seeking relief.

ii. It is submitted that Drawing & Disbursing Officer has not got verified his pay from pay fixation party established for purpose in question ^{the} by the Accountant General Khyber Pakhtunkhwa Peshawar since long.

(C) In view of the above clarification, The Honorable Court is requested to direct the petitioner to approach to the relevant forum for seeking relief on the above two issues.


District Accounts Office

Swabi/2/10/61)

Before the honorable Services Tribunal Peshawar

Sajid Ali Shah (Petitioner) v/s District Accounts Officer Swabi.

Subject: Reply on Points Raised By The Petitioner On 6/10/2017.

(A) It is submitted that payment on account of pay & allowances has already been made ^{to} the petitioner in compliance with the judgment of the Honorable Supreme Court of Pakistan as well as implementation order of the Honorable Services Tribunal Peshawar.

It is submitted that the petitioner raised on 06/10/2017 the following points.

- i. Deduction of income tax.
- ii. Deficiency in salary.

(B) This office submits the following replay on the above 2 points.

i. It is pertinent to submit that deduction on account of income tax has been made according to the formula devised by the FBR Islamabad connected with our accounting system on which no any account office has any sort of control. However the petitioner can approach to income tax department through his Employer that is Deputy Commissioner Swabi for seeking relief.

ii. It is submitted that Drawing & Disbursing Officer has not got verified his pay from pay fixation party established for purpose in question ^{the} by the Accountant General Khyber Pakhtunkhwa Peshawar since long.

(C) In view of the above clarification, The Honorable Court is requested to direct the petitioner to approach to the relevant forum for seeking relief on the above two issues.


District Accounts Office

Swabi/2/10/6/17