

Execution Petition No. 665/2023 titled "Faqir Taj Vs. The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others" and 25 connected petitions

ORDER

7th May, 2024

Kalim Arshad Khan, Chairman: Through this single order this petition

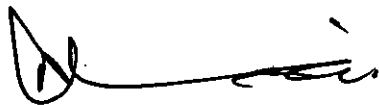
and all the following connected 25 petitions are being decided together

as all are of similar nature. Detail of the connected petitions, is as under:

S.No.	Execution Petition Nos.	Title
1.	666/2023	Izhar Ud Din
2.	667/2023	Sadbar Khan
3.	668/2023	Atiq Ullah
4.	669/2023	Gohar Ali
5.	670/2023	Tajamul Shah
6.	671/2023	Rasool Khan
7.	672/2023	Amir Badshah
8.	673/2023	Naik Bahadar
9.	674/2023	Ezat Gul
10.	675/2023	Mubarak Zeb
11.	676/2023	M. Usman Ghani
12.	677/2023	Aziz Ur Rehman
13.	678/2023	Bahadar Sher
14.	679/2023	Usman Shahid
15.	680/2023	Lal Wazir
16.	681/2023	Fazal Karim
17.	682/2023	Shah Tamrez Khan
18.	683/2023	Rasool Muhammad
19.	684/2023	Khayal Zarin
20.	685/2023	Sherin Zada
21.	686/2023	Amir Zada
22.	687/2023	Muhammad Riaz
23.	837/2023	Yousaf Khan
24.	839/2023	Noor Nawaz
25.	840/2023	Mamoor Khan

2. Learned counsel for the petitioners present. Mr. Arshad Azam, Assistant Advocate General for the respondents present.

3. Through the instant petitions, the petitioners seek implementation of the order dated 24.08.2023 passed in Appeal No.1916/2022 titled "Muhammad Salim Vs. The Government of Khyber Pakhtunkhwa through

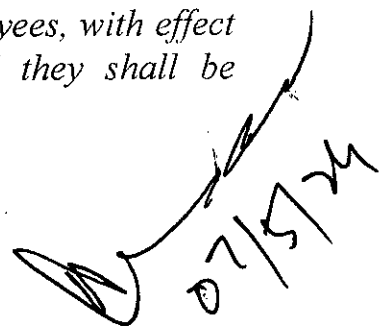


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Chief Secretary, Civil Secretariat at Peshawar and others". A number of service appeals including those in which the instant applications have been filed, were decided vide order dated 24.08.2023 in the following manner:

"4. *The matter was heard on more than one dates and could not be decided because of pendency of a CP No.818/2023 before the august Supreme Court of Pakistan. During the course of arguments on some previous dates, Dr. Adnan Khan learned counsel for some of the appellants had informed the Tribunal that the petitioners, who had approached the august Supreme Court of Pakistan, against the judgment of Hon'ble Peshawar High Court, in Writ Petition No.363-M of 2021 dated 29.11.2022, had submitted application for withdrawal of the CP from the august Supreme Court of Pakistan. The august Supreme Court was pleased to dismiss the CP as withdrawn on 07.06.2023. Today, Mr. Taimur Haider, Advocate/counsel for the appellant in Service Appeal No. 162/2023, produced copy of an Act of the Provincial Assembly named "The Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021" in to which a new section, Section-11 was added, which is reproduced as under:*

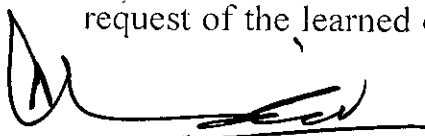
"11. Reinstatement of the levies personnel. --- All levies personnel, who have been retired from the Force, with effect from 22.03.2021, till the commencement of the Provincially Administered Tribal Areas Levies Force (Amendment) Act, 2021 shall be reinstated in the Force as regular employees, with effect from their respective dates of retirement and they shall be deemed as never retired from the Force."

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When confronted with the provisions of the newly added Section-11 of the Act of 2021, whereby, all Levies personnel, who had retired from the Force w.e.f 22.03.2021 till the commencement of the Act i.e. 30.11.2021, were reinstated as regular employees w.e.f respective dates of retirement and were deemed to have never retired from the Force, the learned counsel was very fair to say that there was nothing more to be resolved by this Tribunal in these appeals, so is the agreement of other learned counsel as well as appellants present before the Tribunal, because by promulgation of the above Act especially insertion of new Section-11, whereafter, both the impugned Notifications no more remained effective. They, however, contend that even the provisions of the Act were not be complied with/implemented by the respondents. They say they would approach the proper forum for giving effect to/implementation of the provisions of Section-11 of the Act of 2021 and in case their grievances are not addressed in accordance with the terms of the Act, they would recourse to further legal remedies available to them. Disposed of in the above terms. (Copies of this order be placed in all connected appeals). Consign."

4. The above paragraph of the order, sought to be implemented through these petitions, would transpire that the Tribunal had not decided any issue nor was anything resolved by the Tribunal. So much so, no direction in any shape was given by the Tribunal, rather the matter was decided on the request of the learned counsel for the appellants, who had stated at the bar

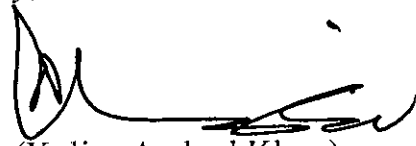

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that the appellants would approach the proper forum for giving effect to the provisions of Section-11 of the Act of 2011 and in case, their grievances were not redressed, in accordance with the terms of the Act, they would recourse to further legal remedies. Therefore, in case any of their grievances are not redressed, despite their approaching the concerned authorities, they have the right to get redressal of their grievances by resorting to proper legal course, which of course, is not the instant one.

5. For the sole reason, that these being execution/implementation petitions and the Court/Tribunal cannot go beyond the terms of the order, whereas, there was nothing resolved any direction given in the order, these petitions are filed. Copy of this order be placed on files of all connected execution petitions. Consign.

6. *Pronounced in open Court at Peshawar and given under my hand and seal of the Tribunal on this 7th day of May, 2024.*


(Kalim Arshad Khan)
Chairman

Mutazem Shah