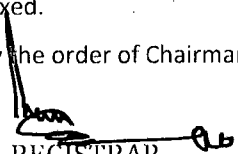


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 550/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15.09.2022	<p style="text-align: center;">The execution petition of Mureeb Haseen submitted today by Mr. Tairmur Ali Khan Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 350 /2022
In Service Appeal No.17/2021

Mureeb Haseen

VS

Education Department

.....
INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of execution Petition	-----	1-3
2.	Copy of judgment dated 06.01.2022	A	4-9
3.	Vakalat Nama	-----	10

PETITIONER

THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

Contact No. 03339390916

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. _____/2022
In Service Appeal No.17/2021

Mureeb Haseen D/O Umar Hayat Khan, Ex-SST (Maths/Physics) BS-16
GGHS Bahadar Mughal Khel Bannu.

PETITIONER

VERSUS

1. The Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer, (Female) Bannu.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 10.01.2022 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the petitioner was appointed as SST (Maths/Physics) in BPS-16 vide order dated 22.05.2017 which was withdrawn vide order dated 14.12.2017 with immediate effect on the issue of qualification, against which the petitioner filed appeal for restoration of her appointment, which was considered and an inquiry was conducted. The inquiry officer recommended in the favour of the petitioner, but the respondents issued another order dated 18.09.2020, whereby her appointment was withdrawn with effect from the date of appointment, against which the petitioner filed departmental appeal dated 30.09.2020 which was rejected vide order dated 28.12.2020.

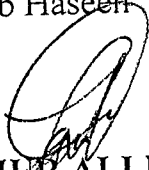
2. That the petitioner filed service appeal No.17/2021 in the Honorable Tribunal against the impugned orders dated 18.09.2020 and 28.12.2020 with the prayer that impugned order may be set aside and may be reinstated her in service with all back benefits.
 3. The said appeal was heard and decided by this Honorable Service Tribunal on 06.01.2022. The Honorable Service Tribunal mentioned in its judgment dated 06.01.2022 that the impugned order are liable to be set at naught and the petitioner is entitled to be reinstated with all back benefits, but since the appellant is no more interested to re-join education department as she has joined another service in prosecution department in BPS-16, hence she is held entitled to the salaries and ancillary benefits for the period from 22.05.2017 to 14.12.2017 with direction to the respondents to release her salaries as well as ancillary benefits if any, for the mentioned period forthwith. **(Copy of judgment dated 06.01.2022 is attached as Annexure-A)**
 4. That the Honorable Tribunal mentioned in its judgment dated 06.01.2022 that the impugned order are liable to be set at naught and the petitioner is entitled to be reinstated with all back benefits, but since the appellant is no more interested to re-join education department as she has joined another service in prosecution department in BPS-16, hence she is held entitled to the salaries and ancillary benefits for the period from 22.05.2017 to 14.12.2017 with direction to the respondents to release her salaries as well as ancillary benefits if any; for the mentioned period forthwith, but after the lapse of more than 08 months the respondents did not release the salaries as well as ancillary benefits if any for the period from 22.05.2017 to 14.12.2017 of the petitioner till date by implementing judgment dated 06.01.2022 of this Honorable Tribunal.
 5. That in-action and not fulfilling formal requirements by the respondents after passing the judgment of this Honourable Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
 6. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 06.01.2022 of this Honourable Service Tribunal in letter and spirit.
-

7. That the petitioner has having no other remedy except to file this execution petition for implementation of judgment dated 06.01.2022 of this Honourable Tribunal.

It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 06.01.2022 of this Honorable Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.


PETITIONER
Mureeb Haseen

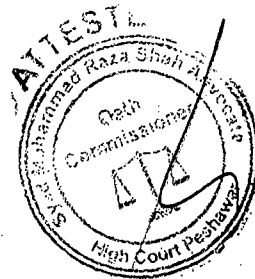
THROUGH:

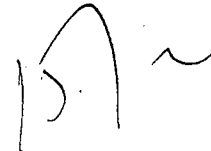

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
PESHAWAR

AFFIDAVIT

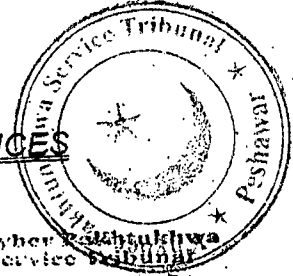
It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.


DEPONENT





BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR



Khyber Pakhtunkhwa
Services Tribunal

Diary No. 09

Dated 05/11/2021

S.A.No. 17 /2021

Mureeb Haseen daughter of Umar Hayat Khan
Ex-SST (Maths Phy) (BS-16)
GGHS Bahadar Khel Mughal Khel Bannu..... Appellant

Versus

- 1) Secretary, Elementary & Secondary (E&S) Education, Khyber Pakhtunkhwa, Peshawar.
- 2) Director Elementary & Secondary (E&S) Education, Khyber Pakhtunkhwa, Peshawar.
- 3) District Education Officer (Female) Bannu..... Respondents

SERVICE APPEAL UNDER SECTION 4
OF THE SERVICES TRIBUNAL ACT,
1974 AGAINST THE IMPUGNED
ORDER RECEIVED ON 18.09.2020
WHICH WAS QUESTIONED IN THE
DEPARTMENTAL APPEAL DATED
30.09.2020 BEFORE RESPONDENT
No.1 i.e. SECRETARY ELEMENTARY
AND SECONDARY EDUCATION, KP,
HOWEVER, THE SAME WAS
DECLINED VIDE FINAL ORDER DATED
28.12.2020, HENCE THE INSTANT
APPEAL IS BEING FILED WITHIN 30
DAYS, WHICH IS WELL WITHIN TIME.

Filed by day
05/11/2021
Registrar

ATTESTED

Khyber Pakhtunkhwa
Services Tribunal
Peshawar

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 17/2021

Date of Institution ... 05.01.2021
Date of Decision ... 06.01.2022



Mureeb Haseen daughter of Umar Hayat Khan Ex-SST (Maths-Phy) (BS-16)
GGHS Bahadar Khel Mughal Khel Bannu. ... (Appellant)

VERSUS

Secretary, Elementary & Secondary (E&SE) Education, Khyber Pakhtunkhwa,
Peshawar and two others. ... (Respondents)

Mureeb Haseen,
Appellant

... In Person

Muhammad Rasheed,
Deputy District Attorney

... For respondents

AHMAD SULTAN TAREEN ...
ATIQU-UR-REHMAN WAZIR ...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are

that the appellant was appointed as Senior Subject Teacher (SST) Maths-Physics in BPS-16 vide order dated 22-05-2017. In compliance, the appellant assumed charge of her duty and started performing her duty. Appointment order of the appellant was withdrawn vide order dated 14-12-2017 with immediate effect on the issue of her qualification, against which the appellant filed appeal for restoration of her appointment, which was considered and an inquiry was conducted. The inquiry officer recommended in favor of the appellant, but the respondents issued another order dated 18-09-2020, whereby her appointment order was withdrawn with effect from the date of her appointment, against which the appellant filed departmental appeal dated 30-09-2020, which was rejected

ATTESTED

(Signature)
Secretary
Khyber Pakhtunkhwa Service Tribunal
Peshawar

vide order dated 28-12-2020, hence the instant service appeal with prayers that impugned orders dated 18-09-2020 and 28-12-2020 may be set aside and the appellant may be re-instated in service with all back benefits.

02. The appellant herself argued the case and contended that the impugned order dated 18-09-2020 is void ab initio and against the facts and record, as it is a settled law that no order can be passed with retrospective effect; that the impugned order is violative of section-24 of the General Clauses Act, as the competent authority failed to pass a speaking order with sound reasoning in the light of recommendations recorded by inquiry officer; that the inquiry officer categorically stated that there is negligence on part of the scrutiny committee and the appellant possess the basic qualification for appointment. It was further recommended that the appellant performed duty for a period of seven months, which makes her entitle for drawl of such salary; that the district education officer also recommended to re-instate her in service, as she fulfilled the requisite qualification; that the impugned order is not tenable in light of recommendations furnished by inquiry officer as well as the district education officer; that the appellant did not commit any irregularity and was rightly appointed after observing all the codal formalities; that the appellant has now joined another job in prosecution department in BPS-16, which she earned by qualifying competitive exam of public service commission, hence the appellant is no more interested to join education department anymore; that the appellant performed duty with effect from 22.5-2017 to 14-12-2017, which is evident from record as well as from comments of the respondents, hence salary for the period may be released with consequential benefits, if any.

03. Learned Deputy District Attorney for the respondents has contended that the appellant is not entitled to be re-instated against the post of SST post, as at the time of recruitment the appellant did not possess the prescribed qualification for the post in question; that the appellant got the prescribed qualification after

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

due date; that appointment order of the appellant was withdrawn vide order dated 14-12-2017 with immediate effect and later on vide another order, her appointment order was withdrawn with effect from the date of her appointment i.e. 22-05-2017; that an inquiry to this effect was also conducted, findings of which does not support stance of the appellant; that appointment order of the appellant was rightly withdrawn and case of the appellant being devoid of merit may be dismissed.

04. We have heard both the parties and have perused the record.

05. Record reveals that respondents advertized interalia, posts of SST (Physics-Maths) (BPS-16). Required qualification for the post was bachelor degree in second division with the following two subject i.e. (1) Physics-maths-A OR Physics-maths-B or Physics-statistics and (2) MA Education OR Bachelor in Education. The appellant was holding bachelor degree of BSC in session 2009-12 with statistics-maths-A and obtained physics as an additional subject in session 2016-17. Record would reveal that the appellant was equipped with the required qualification and to this effect; the concerned university has also verified her antecedents. The appellant was appointed as SST with recommendations of the departmental selection committee vide order dated 22-05-2017 and in compliance, the appellant assumed charge of her duty and served for almost seven months, but the respondents without proper inquiry withdrew her appointment order vide order dated 14-12-2017 under the pretext that she had submitted fake DMC for her additional subject of physics. The concerned university at a belated stage vide its letter dated 17-08-2018 verified such DMC to be genuine. Upon appeal submitted by the appellant, an inquiry was conducted and the inquiry officer found that there is negligence on part of the scrutiny committee, as the appellant possessed the required qualification for appointment as SST. The inquiry officer further found that the appellant served for seven months; hence, she is entitled for the salaries, as she had performed her duty.

ATTESTED
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

Upon receipt of inquiry report, respondent No. 2 sought comments of respondent No. 3, while respondent No. 3 in her comments had suggested that the appellant may be re-instated in service as she fulfilled the requisite qualification at the time of her appointment and had also performed more than six months duty, but respondent No. 3 also observed that since the inquiry officer recommended her for release of her salary for the period she performed duty, but such step would generate affirmative response to the appellant and after getting salary, she will resort to further litigation, hence her order of appointment may be withdrawn with effect of date of appointment i.e. 22-05-2017. The competent authority ignored recommendations pertaining to her re-instatement, but recommendation pertaining to withdrawal order of her appointment with retrospective effect was accepted and such order was modified and her appointment was withdrawn with effect from the date of her appointment, depriving the appellant from the salaries even for the period she performed duty. With such mindset, the officers sitting at the helm of affairs would be required to be taken to task.

06. We have observed that the appellant has not been treated in accordance with law and her appointment order was illegally withdrawn, for which she suffered for longer for no fault of her. In spite of the fact that both the inquiry officer as well as respondent No. 3 recommended that the appellant possessed the requisite qualification at the time of her appointment and it was negligence on part of the scrutiny committee wrongly assessing her antecedents, the respondent No. 2 withdrew her appointment order, which however was not warranted. In view of the situation, the impugned orders are liable to be set at naught and the appellant is entitled to be re-instated with all back benefits, but since the appellant is no more interested to re-join education department as she has joined another service in prosecution department in BPS-16, hence she is held entitled to the salaries and ancillary benefits for the period from 22-05-2017 to

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

14-12-2017 with direction to the respondents to release her salaries as well as


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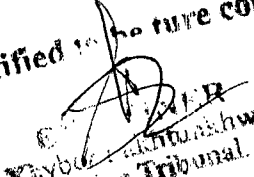
Service Tribunal
Peshawar

ancillary benefits if any, for the mentioned period forthwith. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
06.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

Certified to be true copy

Kaybilashwara
Service Tribunal
Peshawar

~~Date of Presentation of Application 15/8/22~~
~~Number~~
~~Date of Delivery of Copy~~

~~Date of Presentation of Application 15/8/22~~
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~~Urgent 5/5~~
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بعدالت

KP Service Tribunal
Islamabad

Musab Hassan 2 منجانب

Musab Hassan vs Edwal

مورخہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیر میں صاحب ہی کل کاروانہ متعلقہ

آن مقام لیسٹ اور کیلئے سمجھنے والی جان اور محمد سلطان اور دیگر
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے
سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Accepted
20
Ac

المرقوم

العہدہ العہدہ العہدہ

کے لئے منظور ہے۔

crath

مقام
Muhammad Nouman
Adv.