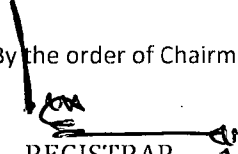


Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 559/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	20.09.2022	<p>The execution petition of Mst. Rehana Parveen submitted today by herself. 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>

**SCANNED**  
**KPST**  
**Peshawar**

BEFORE THE KHYBER PAKHTUNKHWA

*AA9*

SERVICE TRIBUNAL PESHAWAR

S.A 7070/2021

*E.P. NO. 559/2022*

Ms.Rehana Perveen.....Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa

Through Secretary, Higher Education Department,

Peshawar and others.....

INDEX			
S.No	Description of documents	Annexure	Page No
	Application along with Affidavit		
1	Court Decision	A	1-9
2	Department Appeal for implementation of Court decision	B	10-11

*[Handwritten Signature]*

BEFORE THE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

CM NO ..... / /2022

Service Appeal No 7070/2021

*E. P. NO. 559/2022*

Rehana Perveen D/O Master Hakim ud in (Associate Professor) in Government Girls College  
Nahaqi

(Appellant)

**Versus**

1. Government of Khyber Pakhtunkhwa Through Chief Secretary, Civil Secretariat, Peshawar.
2. Government of Khyber Pakhtunkhwa through Secretary Higher Education, Department Civil Secretariat, Peshawar.
3. Director, Higher Education Department Khyber Pakhtunkhwa Civil secretariat, Peshawar.

***Application for Implementation of Judgment Dated 28/2/2022 of this  
Honorable Tribunal.***

Respectfully Submitted:

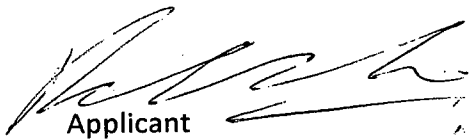
- I. That the applicant has filed Service Appeal before the Honorable Tribunal which was decided in favor of the applicant vide Judgment dated 28/2/2022 (Annex-A).
- II. That the above noted Service appeal was decided by this Honorable Tribunal on the following terms:

"In view of the above discussion, the competent Authority shall issue correct seniority list of Associate Professor(BPS-19), wherein the appellants and private respondents shall retain their inter-se as they were having in the lower post i.e post of Assistant Professor (BPS-18) . the competent Authority shall also issue corrigendum Notification regarding the regular promotion of the appellants to the post of Associate Professor(BPS-19) by giving it effect from the date on which the appellants became eligible for such promotion in the year 2015. The appellants shall, however not be entitled to seniority over those Associate Professor (BPS-19), who were inducted on such post through initial recruitment upon the recommendations of Khyber Pakhtunkhwa Public Service Commission, Prior to regular promotion of the appellants as Associate Professor (BPS-19). The appeals are disposed of accordingly. Parties are left to bear their own costs, File be consigned to the room."

- III. That thereafter the applicant approached to the respondent department for implementation of judgment of this Honorable court by submitting an application (Annex- B).
- IV. That the respondents will fully not implementing the order and judgement of this honourable tribunal

It is therefore most humbly prayed that on acceptance of this application the respondent may kindly be directed to implement the judgment dated 28/2/2022 of this Honorable tribunal.

23



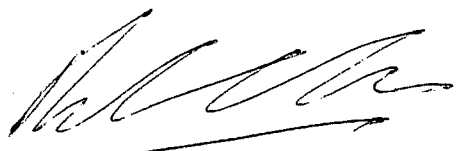
Applicant  
Rehana Perveen Associate

Professor)

Govt Girls College  
Nahaqi.

**Affidavit**

It is solemnly affirm on an oath that contents of above application are true and correct to the best of my knowledge and belief.



TESTED  
Rashed  
KPK  
2022

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR****Service Appeal No. 6706/2021**

Date of Institution ... 02.07.2021

Date of Decision ... 28.01.2022



Khola Anwar D/O Syed Anwar Shah (Associate Professor) in  
Government Girls Postgraduate College Kohat. ... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Chief Secretary, Civil  
Secretariat, Peshawar and 54 others. ... (Respondents)

MR. ZARTAJ ANWAR,  
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,  
Additional Advocate General

--- For official respondent

MR. NOOR MUHAMMAD KHATTAK,  
Advocate

--- For private respondent

**Service Appeal No. 7070/2021**

Date of Institution ... 12.07.2021

Date of Decision ... 28.01.2022

Rehana Parveen, Associate Professor (BPS-19), Government  
Degree Girls College, Nahaqi Peshawar. ... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Chief Secretary, Civil  
Secretariat, Peshawar and 57 others. ... (Respondents)

MR. TAIMUR ALI KHAN,  
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,  
Additional Advocate General

--- For official respondents

MR. NOOR MUHAMMAD KHATTAK,  
Advocate

--- For private respondents

MR. SALAH-UD-DIN  
MS. ROZINA REHMAN

ATTESTED  
  
MEMBER (JUDICIAL)

MEMBER (JUDICIAL)  
MEMBER (JUDICIAL)

**JUDGMENT:****SALAH-UD-DIN, MEMBER:-**

Through this single judgment we intend to dispose of the above titled service appeals as common questions of law and facts are involved in both the appeals.

2. Precise facts as alleged by the appellant Mst. Khola Anwar in Service Appeal bearing No. 6707/2021 are that vide Notification dated 02.06.2008, she was appointed as Assistant Professor (Computer Science) BPS-18 upon recommendations of Khyber Pakhtunkhwa Public Service Commission. Private respondent No. 6 namely Roshan Zohra was also appointed upon recommendations of Khyber Pakhtunkhwa Public Service Commission, however as per the inter-se seniority list of Female Assistant Professors (BPS-18) issued by Khyber Pakhtunkhwa Public Service Commission vide Notification dated 17.10.2009, she was placed junior to the appellant. Similarly, rest of the private respondents were promoted as Assistant Professors (BPS-18) in the year 2009 and were junior to the appellant. The seniority list of Assistant Professor (BPS-18) as issued in the year 2013 was prepared correctly and the appellants as well as private respondents were placed at correct positions in the said seniority. In the year 2014, private respondents were promoted as Associate Professor (BPS-19) on regular basis, while the appellant having dealth in her service was promoted as such on acting charge basis. The appellant was promoted to the post of Associate Professor (BPS-19) vide Notification dated 09.08.2017 with immediate effect, however she was entitled to have been promoted as such from the date, when her batch mates/juniors were promoted. The respondent-department issued seniority list of Associate Professors (BPS-19) in the year 2018, wherein private respondents, who were junior to the appellant, were placed senior to the appellant, therefore, she filed Service Appeal before this Tribunal. During pendency of the appeal, respondent-department issued final seniority list pertaining to the year 2020, therefore, the aforementioned service appeal

(P. 6707/2021)

was withdrawn by the appellant with the permission to file afresh one. The appellant being aggrieved of seniority list of Associate Professors pertaining to year 2020, filed departmental appeal, which was not responded within the stipulated period of 90 days, therefore, she filed the instant service appeal for redressal of her grievance.

3. Precise facts as alleged by the appellant Mst. Rehana Parveen in Service Appeal bearing No. 7070/2021 are that she was initially appointed as Lecturer in the year 2002 and was later on regularized vide Notification dated 12.10.2005. The appellant was appointed as Associate Professor (Physics) BPS-18 upon recommendations of Khyber Pakhtunkhwa Public Service Commission vide office order dated 28.06.2008. Private respondent No. 5 to 8 were also appointed upon recommendations of Khyber Pakhtunkhwa Public Service Commission, however as per the inter-se seniority list of Female Assistant Professors (BPS-18) issued by Khyber Pakhtunkhwa Public Service Commission vide Notification dated 17.10.2009, they were placed junior to the appellant. Similarly, rest of the private respondents were promoted as Assistant Professors (BPS-18) in the year 2009 and were junior to the appellant. The seniority list of Assistant Professor (BPS-18) as issued in the year 2013 was prepared correctly. In the year 2014, private respondents were promoted as Associate Professor (BPS-19) on regular basis, while the appellant having dealth in her service was promoted as such on acting charge basis. The appellant was promoted to the post of Associate Professor (BPS-19) vide Notification dated 09.08.2017 with immediate effect, however she was entitled to have been promoted as such from the date, when her batch mates/juniors were promoted. The respondent-department issued final seniority list of Associate Professors (BPS-19) in the year 2020, wherein junior of the appellant were placed senior to her, therefore, she filed departmental appeal, however the same was not responded within the stipulated period of 90 days, therefore, the appellant filed the instant service appeal for redressal of her grievance.

4. Notices were issued to the respondents in both the appeals, who submitted their comments, wherein they refuted the assertions made by the appellants in their appeals.

5. Mr. Zartaj Anwar, Advocate, representing the appellant in Service Appeal bearing No. 6706/2021 has contended that private respondents No. 06 Mst. Roshan Zohra was placed junior to the appellant in the inter-se seniority list issued by the Khyber Pakhtunkhwa Public Service Commission, however she has been placed senior to the appellant in the impugned seniority list of Associate Professors (BPS-19) pertaining to the year 2020. He next contended that the appellant was appointed as Assistant Professor (BPS-18) in the year 2008, while private respondents, except Mst. Roshan Zohra were promoted as Assistant Professors (BPS-18) in the year 2009 but it is astonishing that even they were placed senior to the appellant in the impugned seniority list. He further argued that the appellant has not been superseded, therefore, there was no legal justification to place her juniors as senior to her in the impugned seniority list. He next contended that the appellant has not been treated in accordance with law as her rights guaranteed under the law as well as constitution were badly violated. He also argued that inter-se seniority of similarly placed Associate Professors (Male) has been maintained by the competent Authority upon their regular promotion to the said post, however the appellant was wrongly and illegally deprived from her due seniority by treating her with discrimination. He next argued that upon filing of representation by the appellant against the impugned seniority list, a meeting under the Chairmanship of Deputy Secretary (Colleges), Higher Education Department was convened on 10.03.2021 and the stance of appellant regarding her seniority was admitted as per minutes of the said meeting, which were also sent to the Director Higher Education Khyber Pakhtunkhwa Peshawar but the same were not implemented. He further argued that the appellant was serving on acting charge basis as Associate Professor, whose required service length for regular promotion to the post of Associate Professor (BPS-19) was completed in





the year 2015 but the competent Authority unnecessarily delayed the meeting of Provincial Selection Board and she was promoted vide Notification dated 09.08.2017 with immediate effect. Reliance was placed on 1996 SCMR 1185, 2009 SCMR 1, 2010 SCMR 1301, PLD 2013 Supreme Court 195 and 2006 SCMR 1938.

6. Mr. Taimur Ali Khan, Advocate, representing the appellant in Service Appeal bearing No. 7070/2021 adopted the arguments advanced by Mr. Zartaj Anwar, Advocate, representing the appellant in Service Appeal bearing No. 6706/2021.

7. On the other hand, Mr. Noor Muhammad Khattak, Advocate, representing private respondents in both the appeals has contended that private respondents were promoted to the post of Associate Professors (BPS-19) on regular basis vide Notification dated 10.03.2014, while the appellants were having dearth in length of their service required for promotion to the post of Associate Professors (BPS-19), therefore, they were promoted on acting charge basis vide same Notification dated 10.03.2014. He next contended that as the appellants were regularly promoted to the post of Associate Professors (BPS-19) vide Notification dated 09.08.2017, therefore, they could not claim seniority over private respondents for the reason that as per Section-8 of Civil Servants Act, 1973 read with Rule-17 of Appointment, Promotion and Transfer Rules, 1989, seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post/cadre. He next contended that while promoting private respondents to the post of Associate Professors (BPS-19) vide Notification dated 10.03.2014, the appellants were superseded, therefore, they could not be considered as senior to private respondents. He further argued that the appellants without ante-dation of their promotion to the post of Associate Professors (BPS-19) could not claim seniority. In the last he argued that the impugned seniority list has been correctly prepared in compliance of Section-8 of the Civil Servants Act, 1973 read

10/11/2021  
A. S.

with Rule-17 of Appointment, Promotion and Transfer Rules, 1989, therefore, the appeals are liable to be dismissed with costs. Reliance was placed on 2011 SCMR 1584, 2015 SCMR 847, 2015 PLC (C.S) 1231 and 2000 PLC (C.S) 206.

8. Mr. Muhammad Adeel Butt, Additional Advocate General representing official respondents has adopted the arguments advanced by learned counsel for private respondents.

9. Arguments heard and record perused.

10. A perusal of the record would show that the appellants as well as private respondents No. 5 to 8 in Service Appeal bearing No. 7070/2021 were appointed as Assistant Professors (BPS-18) on recommendations of Public Service Commission in the year 2008 and their inter-se seniority list was sent by Khyber Pakhtunkhwa Public Service Commission to the Secretary to Government of Khyber Pakhtunkhwa Higher Education Department Peshawar vide letter dated 17.10.2009. Private respondents namely Fehmida Gul and Shumaila Firdous were initially inducted as Lecturer (BPS-17) and were promoted as Assistant Professor (BPS-18) in the year 2012, while rest of the private respondents were also initially inducted as Lecturers and were promoted to the post of Assistant Professors (BPS-18) in the year 2009. When the seniority list of Assistant Professors (BPS-18) was issued vide order dated 24.10.2013, the appellants as well as the private respondents were placed at correct positions and none of them raised any grievance regarding their seniority. Vide Notification dated 10.03.2014, private respondents, who were promoted to the post of Assistant Professors (BPS-18) in the year 2009 as well as 2012 alongwith private respondents inducted as Assistant Professors (BPS-18) on the recommendations of Khyber Pakhtunkhwa Public Service Commission were promoted to the post of Associate Professors (BPS-19) on regular basis as they qualified the required service length prescribed for promotion to the post of Associate Professors (BPS-19). The appellants were, however promoted on acting charge basis as they were having dearth

in the prescribed length of service required for promotion to the post of Associate Professors (BPS-19). The appellants were then promoted to the post of Associate Professors (BPS-19) on regular basis vide Notification dated 09.08.2017 with immediate effect.

11. Controversy, regarding seniority erupted, when the appellants were shown in the impugned seniority list as junior to those private respondents, who were either placed junior to them in the seniority list issued by Khyber Pakhtunkhwa Public Service Commission or were promoted as Assistant Professors (BPS-18) in the year 2009 and 2012. According to the seniority list of Associate Professors (BPS-19) circulated in the year 2013, private respondents were placed junior to the appellants, however in the impugned seniority list pertaining to the year 2020, inter-se seniority of Associate Professors (BPS-19), initially inducted as Assistant Professors (BPS-18) through Public Service Commission as well as seniority of Associate Professors (BPS-19), who were promoted as Assistant Professors (BPS-18) in the year 2009 and 2012 was disturbed and the appellants were placed junior to those, who were junior to the appellants in the seniority list of Assistant Professors (BPS-18) pertaining to the year 2013. The appellants were though regularly promoted in the year 2017, however their promotion to the post of Associate Professors (BPS-19) on regular basis was deferred merely for the reason that they were lacking the prescribed length of service required for promotion to the post of Associate Professors (BPS-19). The only hurdle was lack of required length of service due to which, the appellants could not be regularly promoted to the post of Associate Professor (BPS-19) alongwith the private respondents in the year 2014. The appellants thus could not be considered to have been superseded. The appellants as well as private respondents were having same batch of Associate Professors (BPS-19), therefore, irrespective of the date of their regular promotion to the post of Associate Professors (BPS-19), they will retain their inter-se seniority, which they retained in the lower post i.e



Assistant Professor (BPS-18). In view of Section-8 Clause-4 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Section-17 (1)(b) of Appointment, Promotion and Transfer Rules, 1989 inter-se seniority of the appellants and private respondents could not have been disturbed particularly when no fault lie on part of appellants in their deferment for regular promotion to the post of Associate Professors (BPS-19) in the year 2014. While issuing the impugned seniority list, mere regular promotion to the post of Associate Professors (BPS-19) has been made as yardstick for determining seniority, which in the given circumstances could not be considered as a legal yardstick for determining inter-se seniority of the appellants and private respondents.

12. It is also pertinent to mention that upon filing of representation by the appellant Khola Anwar against the impugned seniority list, a meeting under the Chairmanship of Deputy Secretary (Colleges), Higher Education Department was convened on 10.03.2021 and the stance of appellants regarding their seniority was admitted as per minutes of the said meeting, which were also sent to the Director Higher Education Khyber Pakhtunkhwa Peshawar but the same were not implemented. Even otherwise too, it does not appeal to logic that those private respondents, who were serving as Lecturers (BPS-17) at the time of induction of the appellants as Assistant Professors (BPS-18) in the year 2008 have been placed senior to the appellants in the impugned seniority list.

13. The appellants were appointed as Assistant Professors (BPS-18) upon recommendations of Khyber Pakhtunkhwa Public Service Commission in the year 2008. The appellants were initially recruited in BPS-18, therefore, as per promotion policy, 07 years service was required for their promotion to the post of Associate Professors (BPS-19). The appellants were already serving on acting charge basis as Associate Professors (BPS-19) and they were eligible for their regular promotion in the year 2015 but their regular promotion was delayed and they were promoted as Associate Professors (BPS-19) vide Notification dated 09.08.2017 with immediate effect. The

regular promotion of the appellants to the post of Associate Professors (BPS-19) became due in the year 2015, therefore, competent Authority was required to have given effect to the Notification of their regular promotion to the post of Associate Professors (BPS-19) with effect from the date when the appellants became eligible for their regular promotion to the said post in the year 2015. Wisdom in this respect derived from judgment of august Supreme Court of Pakistan reported as 2006 SCMR 1938.

14. In view of the above discussion, the competent Authority shall issue correct seniority list of Associate Professors (BPS-19), wherein the appellants and private respondents shall retain their inter-se seniority as they were having in the lower post i.e post of Assistant Professors (BPS-18). The competent Authority shall also issue corrigendum Notification regarding the regular promotion of the appellants to the post of Associate Professors (BPS-19) by giving it effect from the date on which the appellants became eligible for such promotion in the year 2015. The appellants shall, however not be entitled to seniority over those Associate Professors (BPS-19), who were inducted on such post through initial recruitment upon the recommendations of Khyber Pakhtunkhwa Public Service Commission, prior to regular promotion of the appellants as Associate Professors (BPS-19). The appeals are disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED**  
28.01.2022

(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

(ROZINA REHMAN)  
MEMBER (JUDICIAL)

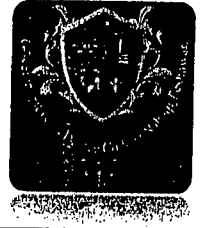
Should be true copy  
Khyber Pakhtunkhwa  
Public Service Commission  
Peshawar

Date of Deposition of Affidavit 20/9/22  
Number of Words 2600  
Copying Fee 28/-  
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Date of Collection of Copy 20/9/22  
Date of Delivery of Copy 21/9/22



OFFICE OF THE PRINCIPAL  
GOVT. GIRLS DEGREE COLLEGE NAHAQI, PESHAWAR

Email: ggdcnahaqipeshawar333@gmail.com  
Tel: 091- 2960728 Fax: 091- 2960756



No.GGDC/NHOI/17/2022

Dated: 23/02/2022.

To

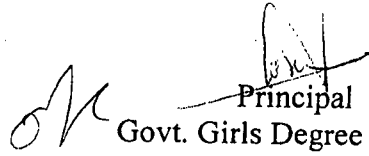
The Director Higher Education  
Khyber Pakhtunkhwa Peshawar.

Subject:

COURT DECISION.

R/Sir,

Enclosed please find herewith a copy of Court decision regarding correction in Seniority list of Female Associate Professors (BPS-19) for further necessary action.

  
Principal  
Govt. Girls Degree College  
Nahaqi Peshawar.

The Principal  
Govt Girls Degree College Nahaqi, Peshawar

Subject: Implementation of Court decision

R/Madam, with due respect it is stated that Court (Service Tribunal Peshawar) has given the decision regarding my seniority in BPS-19. Now, I request you to please forward my case for further necessary action to Directorate Higher Education Peshawar. The Court decision is along with my application.

Dated  
23/2/22

Thanking you  
yours truly  
Mrs Rehema Perveen  
Associate Prof & physics  
GGDC, Nahaqi, Peshawar