


19th July 2022 1. None for the petitioner present. Syed Naseer Ud Din Shah, Asst: AG alongwith Mr. Shuja Ali, Litigation Assistant for respondents present.

2. In compliance with the judgment the respondents/judgment debtor submitted compliance report as well as notification Endst: No. 2384-89/PF dated 24.03.2022 and according to the representative, notification is in line with the judgment that is why the petitioner has not turned up. Disposed of accordingly. Consign.

3. *Pronounced in open court in Camp Court Abbottabad and given under my hand and seal of the Tribunal on this 19th day of July, 2022.*

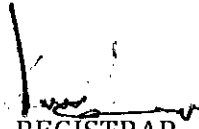





(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 391/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24.12.2021	<p>The execution petition of Mst. Sajida Bibi submitted today in person may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This execution petition be put up before touring S. Bench at A.Abad on <u>20.01.2022</u>.</p> <p> CHAIRMAN</p>
	20.01.2022	<p>Husband of the petitioner present. Notices be issued to the respondents for submission of implementation report on 15.02.2022 before the S.B at Camp Court Abbottabad.</p> <p> (Salah-ud-Din) Member (J) Camp Court A/Abad</p>

**BEFOE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, CAMP COURT, ABBOTTABAD.**

Execution Petition No. 391 2021.

IN

SERVICE APPEAL NO: 6335 /2020

Sajida Bibi Ex-SPST, GGPS, Lari Banota, Tehsil & District, Abbottabad.

.....PETITIONER

VS

GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY E&SE, KPK
PESHAWAR & 03 Others.

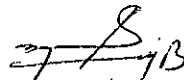
.....RESPONDENTS

EXECUTION PETITION

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE NO
1.	<i>Memo of Execution Petition alongwith certificate</i>		1-2
2.	<i>Copy of impugned order dated 02/01/2020.</i>	"A"	3
3.	<i>Copy of incomplete compliance report dated 15/12/2020 in E/P No.150/2020.</i>	"B"	4-8
4.	<i>Copy of retirement from service order dated 30/06/2020.</i>	"C"	9
5.	<i>Copy of Judgment dated 30/09/2021.</i>	"D"	10-14
6.	<i>Copy of application for implementation of Judgment dated 28/11/2021.</i>	"E"	15

Dated: 21 /12/2021


SAJIDA BIBI (Ex-SPST)
PETITIONER IN PERSON

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT, ABBOTTABAD.**

Execution Petition No. 391 /2021.

IN

SERVICE APPEAL NO: 6335 /2020

Sajida Bibi Ex-SPST, GGPS, Lari Banota, Tehsil & District, Abbottabad.

**Khyber Pakhtunkhwa
Service Tribunal...PETITIONER**

Diary No. 1857

VS

Dated 24/12/2021

1. GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY E&SE, KPK PESHAWAR.
2. DIRECTOR ELEMENTARY & SECONDARY EDUCATION, KPK, PESHAWAR.
3. DISTRICT EDUCATION OFFICER (MALE) ELEMENTARY & SECONDARY EDUCATION, ABBOTTABAD.
4. SUB-DIVISIONAL EDUCATION OFFICER (MALE) TEHSIL, HAVELIAN, DISTRICT, ABBOTTABAD.

.....RESPONDENTS

SUBJECT: APPLICATION FOR EXECUTION/IMPLIMENTATION OF JUDGMENT DATED 28/09/2021, PASSED IN SERVICE APPEAL NO. 6335/2020 PASSED BY HONORABLE SERVICE TRIBUNAL KPK PESHAWAR, CAMP COURT ABBOTTABAD.

RESPECTFULLY SHEWETH:

It is very humbly submitted as under:-

1. That, petitioner was working as a SPST at GGPS, Lari Banota, Abbottabad. petitioner submitted an application before respondents No. 3&4 for retirement under Medical grounds on 10/04/2019 but in response, respondents No.3 & 4 initiated an inquiry against the petitioner under so-call allegations, resultantly respondent No.3 &4 Passed order against the petitioner on 02/01/2020 in which the petitioner was declared forcefully absent from duty w.e.f. 10/11/2017 to 01/01/2020 and imposed the recovery for the above said period which amounting to Rs. 13,74,513.
2. That, meanwhile petitioner retired from service under Medical grounds on 30/06/2020 w.e.f. 12/02/2020 and petitioner aggrieved by the order dated 02/01/2020 and filed a Service appeal No.6335/2020 before this honourable Tribunal and on 17/09/2020 honourable Tribunal suspended the impugned order dated 02/01/2020 and issued directions to respondent for release of the pensionary benefits of the petitioner.

3. That, respondents did not implemented the order dated 17/09/2020 at which the petitioner filed execution petition No. 150/2020 for the implementation of order dated 17/09/2020, resultantly respondents submitted incompletely compliance report before this honourable Tribunal on 15/12/2020.
4. That, on 30/09/2021 honourable Tribunal set-aside the impugned order and absolved the recovery amount but the absent period was treated as "Leave kind of due".
5. That, the petitioner submitted an application for the compliance of the order dated 30/09/2021 but all in vain and respondents did not bother to compliance the order of Tribunal. And did not pay till now the petitioner's following dues:-
 - i) Gratuity, which was paid to the petitioner for the period of 12/06/1095 to 09/11/2017 while the petitioner should be paid the gratuity from 12/06/1095 to 12/02/2020.
 - ii) Leave encashment (totally unpaid)
 - iii) Regular Salary w.e.f. 01/08/2019 to 11/02/2020.
 - iv) Monthly pension w.e.f. 12/02/2020 to 30/06/2020.
6. That, petitioner submitted an application alongwith verified copy of judgment on 28/11/2021 before the respondents but the respondents are fully denied to implement the said Judgment and are raising the point for not implementing the said order that the department had filed the CPLA in the August Court Peshawar Registry against the said judgment of KPK Service Tribunal, while August Court has neither issued any stay order nor suspended the judgment of this Hon'ble Tribunal but according to the Judgment of August Supreme Court, when the Hire court will not suspend the lower court judgment then the respondents are bound to implement the judgment of lower court.

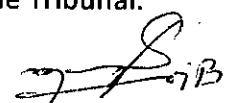
It is therefore, humbly prayed that Respondents, once again, may graciously be directed to implement the order dated 30/09/2021 with letter and spirit and to make all the above said payment to the petitioner without creating any further hurdles.

Dated: ___/12/2021


SAJDA BIBI (EX-SPST)
....PETITIONER IN PERSON

Certificate:-

Certified that the contents of instant **Petition** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.


....DEPONENT
.... PETITIONER IN PERSON

OFFICE OF THE DISTRICT EDUCATION

OFFICER (FEMALE) ABBOTTABAD

PH# No. 0992-342533 FAX: 0992-342314

E-mail deefemale_abbottabad@yahoo.com

No: _____ Dated: _____/1/2020

ON:

Mst: Sajjida Bibi PSHT GGPS Lari Banota was proceeded against under the Khyber Pakhtunkhwa Act (Efficiency & Disciplinary Rules 2011 for the charge of having been willful absent from Govt Duty 2017 to up till date.

AND WHEREAS A fact finding inquiry is initiated against the accused official for the charges leveled in accordance with the rules.

AND WHEREAS Mst: Sajjida PSHT GGPS Lari Banota has been served Show cause Notice Endst No. 22-10-2019 that she was not present in school.

AND WHEREAS Mst: Sajjida PSHT GGPS Lari Banota was called for personal hearing (Letter Endst Dated 5-11-2019) and appeared before the under signed on 7-11-2019 but failed to satisfy regarding the charges.

AND WHEREAS inquiry committee was constituted comprising the following officers to conduct inquiry against the accused official and charge sheet and statement of allegation was served Endts No 9826-2019.

- i. Mst: Nazia Shamraiz SS Economics GGHSS Dhamtour.
- ii. Mst Abida Bibi SS Chemistry GGHSS Richbehni.

AND WHEREAS the competent authority (District Education Officer Female Abbottabad) after considered the charges and evidence on record, enquiry report, in the view of that the charges against the official have been proved.

NOW THEREFORE in exercise of the power conferred under section E & D rule 2011, the district Officer (Female) Abbottabad being the competent authority is pleased to impose penalty, recovery of absent period w.e.f 10-11-2017 to 1-1-2020 and conversion of absent period into Extra Ordinary Leave.

Sd/-
DISTRICT EDUCATION OFFICER
(FEMALE) ABBOTTABAD

10840-46
Dated: 2/1/2020

Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
Deputy Commissioner Abbottabad.
District Monitoring Officer Abbottabad.
District Accounts Officer Abbottabad.

IO (F) Abbottabad with direction to recover outstanding amount of absent period w.e.f 10-11-2017 to 01-01-2020 and intimate to undersigned also process the request of Mst Sajjida for Medical Board.
Office File.

Sd/-
DISTRICT EDUCATION OFFICER

OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE ABBOTTABAD.

No. 9697 / AB-P. File P. Case

Dated 16/12/2020

(4)

AN (E)

To:-

The District Accounts Officer,
Abbottabad.

Subject:-

**PENSION CASE ON MEDICAL GROUND IN RESPECT OF
MST:SAJIDA BIBI EX-SPST (BPS-14) GGPS LARI BANOTA
ABBOTTABAD.**

Memo:-

Enclosed please find herewith Pension Case in respect of the above name Official Retired form Service on Medical Ground on 12-02-2020 (AN) and sanction of retirement/Encashment has already been issued by the Estt: Branch of this Office vide Endst: No.4193-94/EB-I/R/Cases Vol: 02-019 dated 30/06/2020. It is further added that Notification No.10840-46 dated 02-01-2020 (EOL 10.11.2017 to 10.01.2020) enter at Page No.19 in her Service Book has been suspended by the Honorable Khyber Pakhtunkhwa Service Tribunal dated 28-09-2020 as well as the order 19-11-2020 till the next date. (Copy attached) and further directed by the Honorable court on 01.12.2020 for release the pensionary documents. Hence her Pension case is submitted for further process under the rules please.

S.N	DETAIL OF DOCUMENTS	REMARKS
1	Service book. (Original)	Original
2	CNIC Sajida Bibi, Ex-SPST	Copy
3	Pension papers/Photo graphs	Original
4	Invlidation Certificate (Original)	Original
5	Verification of Invalidation Certification (Copy)	Copy
6	Retirement Order	Original
7	Last Pay Certificate	Original
8	Clearance Certificate/Option of 35% Commutation	Original
9	Non-Involvement Certificate/No Demand Certificate	Original
10	Declaration/Under Taking/Specimen Signatures/ Fingers & Thumb Impressions	Original
11	Certificate regarding Bank Loan/Accuracy Certificate	Original
12	Pension Service Certificate	Original
13	List of Family Members	Original
14	Notification No.10840-46 Dated 02/01/2020 regarding (E.O.L)	Copy
15	K.P.K.Service Tribunal Order (Copy)	Copy
16	Bank NDC	Original
17	Pay Slip 09/2019	Original

Endst No 9698

Dtd 16/12/2020

C/c District Education Officer
(Female) Abbottabad

Copy to the Sub Disvisional Education Officer (Female) Primary Abbottabad with reference to her No.873 dated 8-12-2020 for information.

C/c District Education Officer
(Female) Abbottabad



PAKISTAN

National Identity Card

Name: Sajida Bibi

Husband Name: Muhammad Shahi

Gender: Female

Country of Stay: Pakistan

Identity Number: 13101-3564073-0

Date of Birth: 10.03.1973

Date of Issue: 30.10.2015

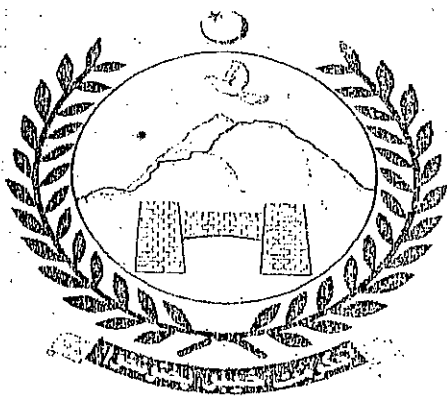
Date of Expiry: 30.10.2025



Holder's Signature



National Education Authority



PENSION PAPERS.

Name. Mst. Sajida Bibi.

Father/Husband Name. Bostan Khan.

CNIC No. 13101-3564073-0

Designation. SPST BPS-14.

Department. PRY: EDU: / GGPS Larri (Boi) Abbottabad.

Personal No. 00005834.

Date of Retirement/Death. 12-02-2020 (AN).

(5)

FORM 3 (PEN)

**APPLICATION/CERTIFICATES TO BE GIVEN BY THE PENSIONER FOR
PENSION/GRATUITY/COMMUTATION.**

(To be given by retiring Government Servant for the grant of pension in case of
superannuation/retiring/invalid/compensation/compulsory retirement).

To

The District Education Officer
(Female) Abbottabad.

Sir,

It is submitted that I Mst. Sajida Bibi Name Bostan Khan Designation/Post held SPST BPS-14 on Regular (Please indicate kind appointment i.e. Regular/Officiating or Acting charge/ Current charge w.e.from 12-06-1995 CNIC No. 13101-3564073-0 (copy enclosed).

Nationality Pakistani. Personal No. 00005834 Cell No (i) 0312-0045786 (ii) Nil

Gmail _____ Postal Address: Village & P.O. Lower Malikpura Chitta Pul Abbottabad that I have retired/ have been permitted to retire from service/ I am due to retire/has been retired compulsory on (dated) 12-02-2020 (AN) My pension/commutation /gratuity may be transferred / credited by the Accounts Office in the Bank/ Post Office/ Treasury Office

National Bank of Pakistan (0301) Main Branch Abbottabad Account No. 24081-3.

(DCS Form (where applicable) and list of my family members is enclosed).

UNDERTAKINGS

1. I hereby declare that I am not in receipt of any other pension, military or otherwise except PPO No _____ Nil _____ dated _____ Nil _____ Amount _____ Nil _____ Department _____ Nil _____ retired on _____ Nil _____.
2. I do hereby undertake that government may, within one year from the issue of Pension Payment Order, recover any of its dues from the pension granted to me.
3. I hereby declare that I shall not take part in any elections or engage myself in political activities of any kind within two years from the date of retirement.
4. I do hereby declare that I have neither applied for nor received any pension/commutation/gratuity in respect of any portion of this service included in the application and respect of which pension/gratuity is claimed herein, nor shall I submit any application hereafter without quoting a reference to this application and to the orders which may be passed thereon.
5. I hereby undertake to refund if the amount of pension granted to me afterwards found to be in excess of that to which I am entitled under the regulation.
6. I do hereby declare that I have not received any pension or gratuity in respect of any portion of the service included in this application.
7. I hereby opt for communication @ 35% (subject to a maximum of 35 %) of my gross pension.

Dated: 03-10-2020.

Signature _____

Name (Mst. Sajida Bibi) Ex-SPST GGPS Larri (Boi) ATD.
Retiring Government Servant (Pensioner)

Head of Office/Department.

(Note:-Pension to be verified by Pension Sanction Authority/ DDO)

(Page-2)

N. C.
Sub Divisional Education Officer
(Female) Abbottabad

(7)

FORM 3 (PEN)

**APPLICATION FORM TO BE USED IN CASE OF SUPERANNUATION / RETIRING / INVALID /
COMPENSATION / COMPULSORY RETIREMENT.**

(To be issued by the Sanctioning Authority 90 days before superannuation / retirement of the retiring
Government Servant).

Subject: SANCTION OF PENSION ON SUPERANNUATION / RETIRING / INVALID / COMPENSATION AND
COMPULSORY RETIREMENT.

On attaining the age of superannuation / having applied for retiring / invalid / compensatory pension vide application dated _____ OR has been retired compulsorily vide Notification No. 4193-94/EB-I/R/Cases/Vol-02-019 Dated 30-06-2020 issued by The District Education Officer (F) Abbottabad.

Mst. Sajida Bibi D/O Bostan Khan Designation SPST BPS-14 drawing pay / emoluments Rs 33,900/-PM (reckonable towards pension) in BS 14 on Regular basis (please indicate nature of appointment i.e. Regular/Officiating or Acting charge/ Current charge w.e. from 14-06-1995) Personal No. 00005934 CNIC No. 13101-3564073-0 Presently posted as SFST has retired / has been permitted to retire / is due to be retired / has been retired compulsorily from the Government service (tick whichever is applicable) on 12-02-2020 (AM) (date), after the availing LPR for 120 days / Leave encashment in lieu of LPR Rs _____

Pension calculation.

Gross Pension.	<u>Rs. 19,775/-PM</u>
Commutation.	<u>Rs. 6,921/25 X 244,2660 = 16,90,626/05.</u>
Net Pension.	<u>Rs. 12,853/75</u>

Other Benefits.

i) _____ Rs _____
ii) _____ Rs _____

Gratuity. (in case where qualifying service is years or more but less than 10 years Rs _____)

- His/her date of birth is -10-03-1973 Date of 1st entry into government service is 14-06-1995 and EOL availed Nil days. Total length of qualifying service for pension is 24 years, 07 Months & 26 days. (Says 25 Years)
- Certified that no inquiry is pending against him/her.
- Certified that no recovery is outstanding against him/her.
- Certified that:-
 - Advances drawn (if any) stand fully repaid, along with interest.
 - An amount of Rs Nil on account of Nil (HBA/MCA/etc). Principal amount along with interest is outstanding which may be recovered from the pension.
- Anticipatory pension up to (____%) of full pension is sanctioned as admissible to him/her.
- Certified that deficiency / disciplinary / criminal case pending against the aforementioned retired government servant has been finalized. Therefore, final pension payment @ ____%. (After adjustment of already paid amount of anticipatory pension) and commutation amounting Nil (Subject to a maximum of 35 % of gross pension), as determined by concerned Accounts office, may be paid.

Undersigned is satisfied that the service of retiring employee has been satisfactory. Administrative and financial sanction for grant of pension / commutation @ 35% upto maximum of 35% of gross pension, if so opted by the retiring government servant, to be determined by the Accounts office, is hereby accorded in favour of Mst. Sajida Bibi Ex-SPST through Bank / Post Office / Treasury National Bank of Pakistan (0301) Main Branch Abbottabad Account No. 24081-3 (Mentioned in DCS form enclosed) as admissible under the rules.

(Page-4)

Sajida
Nir

Sub Divisional Education Officer
(Female) Abbottabad

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FORM 3 (PEN)

OR

7a. Undersigned is satisfied that the services of Mr. / Mst. _____ has not been satisfactory and it has been decided that the full pension / gratuity found to the Audit / Accounts Officer to be admissible under the rules should be reduced by the specific amount of percentage given below.

- i. Amount of percentage of reduction in pension. _____ NIL _____
- ii. Amount of percentage of reduction in gratuity. _____ NIL _____
- iii. Sanction is hereby accorded to the grant of pension / gratuity as so reduced.

i. The payment of pension and / or gratuity may commence w.e from 13-02-2020.

Following documents attached.

- ✓ Pension application.
- ✓ Notification of retirement.
- ✓ Last Pay Certificate/ Last pay-slip.
- ✓ Pension contribution receipts/ Bank Challan / Acceptance certificate (in service death).
- ✓ Original service book along with its attested copy / Service statement (in case of gazetted government servant).
- ✓ N.D.C from Estate office in case of Government accommodation.
- ✓ Three attested photographs of pensioner.
- ✓ Dependents Lists.
- ✓ Specimen Signatures /Left / Right hand thumb and fingers impression Form.
- ✓ No Demand, Declaration, Undertaking & Option Certificate.
- ✓ Pensioner Bank Account Details.

HEAD OF OFFICE / DEPARTMENT.

[Signature]
Sub Divisional Education Officer
(Female) Abbottabad

SIGNATURE WITH STAMP
PENSION SANCTIONING AUTHORITY.

[Signature]
District Education Officer
(Female) Abbottabad

1. The AGPR / Accounts Office is requested to grant pension and endorse a copy of computerized pension payment order (C.P.P.O) / Pension Payment Order (P.P.O) to this department / office.

Mst Sajida Bibi Ex-SPST you are hereby informed that your commutation (if opted) and first monthly pension shall be transferred / credited by the Accounts Office in the Bank /Post Office / Treasury office National Bank of Pakistan (0301) Main Branch Abbottabad Account No. 24081-3 as opted by you.

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OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) ABBOTTABAD.

SANCTION FOR RETIREMENT OF MEDICAL GROUND

Consequent upon the decision of standing Medical Board Medical Superintendent Service Hospital Abbottabad, received vide letter No.1852, dated 17-03-2020 & Verification letter No. 2484 dated 15-04-2020 Mst. SAJIDA BIBI SPST/B-14 Govt. Girls Primary School LARI BANOTA (Boi) Abbottabad is completely and permanently in-capacitated for further service w.e.f. 12-02-2020 & as approved by competent authority. She is hereby allowed to retire from service with effect from 12-02-2020 (AN) on Medical Grounds.

Moreover she is also allowed to (120 days) leave encashment in lieu of L.P.R. due and admissible to her under the rules.

- Note: - 1. Necessary entry to this effect should be made in her service book.
2. Recovery of overpayment if any should be made from her pension/gratuity etc.
3. Ex-Post Facto Sanction of leave wef: -20-11-2015-to-11-12-2015(22 days) on full pay.

Sd-
DISTRICT EDUCATION OFFICER
(FEMALE) ABBOTTABAD.

Order NO. 4193-94 /EB-I/R/Cases Vol: 02-019. Dated A.Abad the 30/6/2020

Copy to the:

1. The S.D.E.O. (F) Primary Abbottabad with reference to her No. 471 dated 04-05-2020 a/w service book.
2. The District Accounts Officer Abbottabad.


Dy: DISTRICT EDUCATION OFFICER
(FEMALE) ABBOTTABAD.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**Appeal No.6335/2020****Date of Institution ... 19.06.2020****Date of Decision ... 30.09.2021**

Sajida Bibi SPST, Government Girls Primary School, Lari Banota resident of House No. 40/3, Lower Malikpura, Madni Mohallah, Chittapul, Tehsil and District Abbottabad. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary & Second Education, Peshawar and three others.

...(Respondents)

Present.

Mr. Abdur Rauf Chohan,
Advocate

... For appellant.

Mr. Muhammad Riaz Khan Pairidakhel,
Asstt. Advocate General,

... For respondents.

MR AHMAD SULTAN TAREEN
MRS. ROZINA REHMAN,

... CHAIRMAN
... MEMBER(J)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:- The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:-

"It is respectfully prayed before this Honourable Tribunal that the instant appeal may graciously be accepted and impugned notification dated 02.01.2020 be set aside and the so-called absent period may kindly be treated as a duty."

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

According to factual account discernable from the Memorandum of Appeal and copies of record annexed therewith, the appellant was serving as SPST in the Elementary & Secondary Education Department in District, Abbottabad with posting in the school namely GGPS Lari Banota where she took over the charge on 13.11.2017. While she was performing her duty in the said school, she in the meantime got seriously ill and submitted an application to respondents No. 3 & 4 for her retirement on medical ground due to her being not able to perform her duty because of serious illness. However, they i.e. respondents No. 3 & 4 instead of paying heed to the said application started so-called enquiry against the appellant resulting into her mental torture without any lawful reason. She again submitted an application on 05.09.2019 for her retirement on medical ground which remained pending for long time. The respondent No. 3 on 20.09.2019 directed for enquiry against the appellant and the enquiry officer after enquiry submitted his report on 07.10.2019 to the respondent No. 3. The latter issued show cause notice to appellant on 22.10.2019 which was replied by her on 01.11.2019 within time. The appellant, through letter dated 05.11.2019 issued by respondent No. 3 was called for personal hearing before the said respondent on 07.11.2019. She submitted application to the respondents for provision of relevant record which can be helpful for personal hearing but the respondent No. 3 failed to provide the necessary relevant record. The appellant for the third time submitted an application on 18.11.2019 for her retirement on medical ground but once again the application of the appellant was not treated due to personal grudges and malafide practice on the part of respondents No. 3 & 4. The respondent No. 3 issued charge sheet/statement of allegations on

[Handwritten signature]

ATTESTED

[Handwritten signature]
 EXAMINER
 Northern Federal
 Service Tribunal
 Islamabad

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20.11.2019 on the same charges leveled against the appellant in previous enquiry which was replied on 27.11.2019 before the committee which submitted the enquiry report to the respondent No. 3. Consequently, the respondent No. 3 vide order dated 02.1.2020 imposed upon the appellant the penalty of recovery of amount of absence period w.e.f. 10.11.2017 to 01.01.2020 and conversion of absence period into extraordinary leave. The departmental appeal was filed on 08.03.2020 against the impugned notification dated 02.01.2020 which remained pending till filing of the Service Appeal at hands. It is also stated in the appeal that after imposition of the aforementioned penalty, the respondent No. 3 vide letter bearing endorsement No. 183/Medical Board, dated 11.01.2020 requested to Medical Superintendent, Benazir Butto Shaheed Hospital, Abbottabad for constitution of Medical Board. The opinion of the Medical Board was submitted to the respondent No. 3 vide memo. bearing No. 1852/Estab. Dated 17.03.2020 as annexed with the appeal is available on file. Accordingly, the Board after examination of the appellant on 12.02.2020 came up with the opinion that she was completely and permanently incapacitated for further services in consequences of "Hypothyroidism, HTN, Epilepsy". The appellant having received no response to the departmental appeal submitted by her on 08.03.2020, preferred this appeal, notices whereof were given to the respondents. They having got the notice attended the proceedings in due course of time and filed their parawise comments refuting the claim of the appellant and asserted for disposal of the appeal with cost, pressing into service various legal and factual objections.

2. We have heard the arguments and perused the record.

ATTESTED


 CHIEF CLERK
 SERVICE TRIBUNAL
 Abbottabad

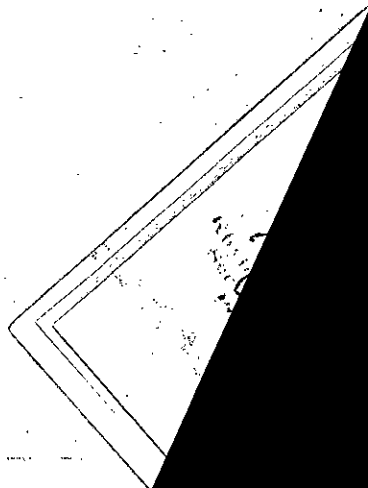
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3. The respondents No. 1 to 4 in their joint comments have ruminated the allegations of absence of the appellant from duty with different styles almost in every Paragraph of their reply to the Memorandum of Appeal but they could not be able to deny the submission of applications by the appellant with different intervals seeking retirement on medical ground. The only exception was taken by the respondents to rebut the genuineness of the applications on medical ground that she did not fell ill suddenly, she may have been ill before but she neither applied for medical leave nor did she ever get a medical leave. The said justification of the respondents to cover their inaction in the matter of appellant's applications for retirement on medical ground is more than perverse. The invalid pension/retirement is the part of terms and conditions of service within the meaning of Pension Rules. If the appellant had applied for retirement on medical ground, it was not the prerogative of the respondents to sit idle without further proceedings to have a medical board constituted for examination of the appellant as to her validation or invalidation for retention in service. The respondents, having failed in processing of the repeated applications of the appellant for retirement on medical ground, have violated her fundamental right of treatment under due process as enshrined by Article 10-A of the Constitution of Islamic Republic of Pakistan. There was no denial to the fact during the course of arguments at the bar it was revealed that the appellant stood retired on medical ground on 12.02.2020 followed by sanction of pension/leave encashment benefits. The only point for determination before us relates to the recovery of amount imposed upon the appellant through the impugned order. Needless to say that the proceedings conducted on account of purported absence of the appellant

Samir
Samir

ATTESTED


[Signature]
 CLERK
 PAKISTAN
 TRIBUNAL




(14)

from duty were not justified when she had applied for retirement on medical ground. The delay in constitution of the Medical Board for examination of the appellant as to her fitness or otherwise for retention in service is not attributable to her when she made successive applications for invalid pension. Therefore, she was wrongly proceeded against within the meaning of E&D rules and penalty of the recovery of amount of absence period and its conversion into E.O.L through impugned order is not tenable being result of an erroneous disciplinary proceedings.

For what has been discussed above, the impugned order is set aside and consequently, the appellant is absolved from recovery of amount of absence period treating the said period as kind of the leave due. Parties are left to bear their own costs. File be consigned to the record room.

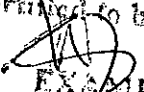

(AHMAD SULTAN TAREEN)
Chairman
(Camp Court, Abbottabad)


(ROZINA REHMAN)
Member
(Camp Court, Abbottabad)

ANNOUNCED
30.09.2021

Date of Presentation of Application 22/10/21
Number of Words 2400
Copy Fee 26/-
Grant 4/-
Total 30/-
Name of Applicant _____
Date of Completion of Copy 22/10/21
Date of Delivery of Copy 22/10/21

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

15

To

1. The Secretary, Elementary & Secondary Education Department, KPK, Peshawar.
2. Director Elementary & Secondary Education Department, KPK, Peshawar.
3. District Education Officer (Female) Elementary & Secondary Education Department, Abbottabad.

SUBJECT: APPLICATION FOR IMPLIMENTATION OF THE JUDGMENT DATED 30/09/2021 PASSED BY KPK SERVICE TRIBUNAL CAMP COURT, ABBOTTABAD, IN SERVICE APPEAL NO. 6335 OF 2020 TITLED "SAJIDA BIBI VS SECRETARY EDUCATION AND 03 OTHERS.

Respected Madam,

It is very humbly submitted that the impugned order dated 02/01/2020 issued by DEO (Female) Abbottabad was set-aside by the KPK Service Tribunal Camp Court, Abbottabad.

That, the following benefits are outstanding against the department:-

- a. Leave encashment
- b. Regular pay w.e.f. 01/08/2019 to ~~01/01/2020~~ 12/2/2020: (Qualification 133 w.e.f. 30/6/2020)
- c. Gratuity period from 10/11/2017 to ~~01/01/2020~~ 12-2-2020

It is therefore requested that kindly make sure the implementation of the said Judgment dated 30/09/2021 of Hon'ble Tribunal with letter and spirit and the above mentioned benefits of the applicant, may kindly be released forthwith.

(Copy of Judgment is attached herewith the application)

Received
13/12/2021

Sincerely;

SAJIDA BIBI

SAJIDA BIBI (Ex-SPS)
GGPS, Lari Banota,
Tehsil & District, Abbottabad
Dated: 05.11.2021

100

**BEFORE THE HONRABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR CAMP COURT ABBOTTABD.**

EXECUTION PETITION NO 391-A/2021

MST SAJJIDA BIBI..... APPELLANT

VS

**GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH
SECRETARY EDUCATION DEPARTMENT PESHAWAR &
OTHERS.....RESPONDENTS**

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2.	Annexure	"A"	4


Respondents

Dated _____

Through Representative

**BEFORE THE HONRABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR CAMP COURT ABBOTTABD.**

EXECUTION PETITION NO 391-A/2021

MST SAJJIDA BIBI..... APPELLANT

VS

**GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH
SECRETARY EDUCATION DEPARTMENT PESHAWAR &
OTHERS.....Respondents**

Para wise comments on behalf of the respondents No 1 to 4

Respectfully Sheweth:

Para wise comments on behalf of the respondents No 1 to 4 are as under.

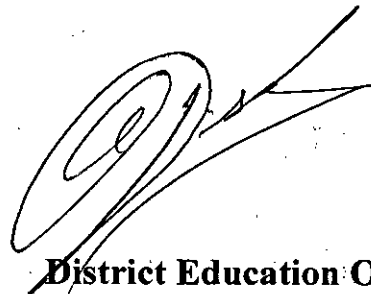
PRELIMINARY OBJECTION

1. That the appellant has no locus standi/cause of action to file instant Execution Petition.
2. That the appellant is stopped to agitate the instant matter before this Honorable Tribunal.
3. That the appellant has not approached this Honorable Tribunal with clean hands.
4. That the appellant has filed instant Petition with malafide intention for wrongful gain and suppressing the original facts, from this Honorable Tribunal, hence the appeal is liable to be dismissed.
5. That the appellant is treated as per rules and law and policy. Therefore appellant is not entitled for any relief and hence instant Petition is liable to be dismissed without further proceeding.
6. That the instant appeal is not maintainable in its present form.
7. That the instant Petition is against the law/service rules hence not maintainable in the eye of law and liable to be dismissed.
8. That the appellant has filed the present appeal just to pressurize the respondents.
9. That the act of the respondent with in law and rules after fulfillment of the codal formalities hence Petition is liable to be dismissed.
10. That the Notification bearing No. 10840-46, dated 02-01-2020, is in accordance of rules and law.

FACTUAL OBJECTION

1. Reply of Para No 1 of the Execution Petition is that Notification bearing No. 10840-46, dated 02-01-2020, was issued at that time after fulfilling all the legal formalities on the basis of absence of the appellant against which the Petitioner has filed service appeal No. 6335-A/2020 which has been decided.
2. Para No 2 of appeal is correct to the extent that the Petitioner has filed a Service appeal against the Notification No. 10840-46, dated 02-01-2020, Honorable Tribunal directed the respondents to send the pension case of the Petitioner to concern being effect by Cancer on humanitarians grounds. The Pension case of the appellant was sent to send to District Account Office Abbottabad for process in compliance with Tribunal order vide order dated 19-11-2020.
3. Para No 3 of the Execution Petition is incorrect. Further stated that during the pendency in compliance the case sent to the DAO and report submitted in the court.
4. Para No 4 of the Execution Petition is correct. Honorable Service Tribunal decided the service appeal dated 30-09-2021. In compliance with Honorable Service Tribunal order undersigned examine the case of the appellant for kind of leave due, issue the notification No.2384-89 dated 24-03-2022. **(Photocopy of Notification is annexed as as Annexure "A")**
5. Para No 5 is incorrect and denied. The detail report has mentioned in the Notification which issued in compliance with Honorable Service Tribunal order in Para No. 4.
6. Para No 6 of the appeal is incorrect and denned detail report has already been given in Para 5 of the reply.

IT IS THEREFORE HUMBLY PRAYED THAT IN THE LIGHT
OF FOREGOING COMMENTS THE EXECUTION PETITION OF
THE PETITIONER MAY GRACIOUSLY BE DISMISSED WITH
COST THROUGHOUT.



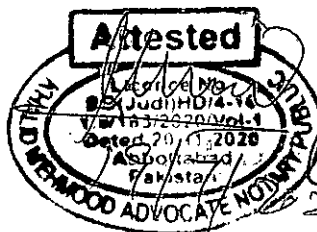
District Education Officer
(Female) Abbottabad.

(Respondent No 3)

AFFIDAVIT

Stated on oath that the contents of instant Para wise comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Respondent No 3



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) ABBOTTABAD

NOTIFICATION.

Whereas Mst. Sajida Bibi, PST GGPS Lari Banota's absent period w.e.from 10.11.2017 to 01.01.2020 was treated without pay vide Notification No. 10840-46 dated 02.01.2020.

Whereas Mst. Sajida Bibi, filed Department appeal which was not entertained and later on she filed service appeal No.6335-A/20 before Honorable Service Tribunal KPK Peshawar.

Whereas during the pendency of the case service Tribunal directed the respondent vide order dated 19/11/2020, verdict "to release the pensionary documents of petitioner by delivering there copies required for making arrangements for her treatment. They are further directed to implementation report positively alongwith replication to the application".

Whereas in compliance with the Honourable Service Tribunal Order dated 19.11.2020, the pension case of the appellant was submitted to the District Accounts Officer Abbottabad vide Endst: No.9698 dated 16.12.2020 without deduction of absent period at that time.

Whereas Honourable Service Tribunal KPK Peshawar decided the Service Appeal of the appellant dated 30.09.2021, verdict "the impugned order is set aside and consequently, the appellant is absolved from recovery of amount of absence period treating the said period as kind of the leave due".

Whereas in compliance with the judgment dated 30.09.2021, again examine the pension case of the said appellant and found that her absent period w.e.from 10.11.2017 to 01.01.2020 (2-years, 01-month & 21-days). There is only 115-days leave at credit on the appellant part. The absent period found as EOL w.e.from 10.11.2017 to 01.01.2020 (777-days). As per this office order dated 30.06.2020, she has already availed-extra amount whereas her service reduced from 25-years to 23-years. The detail is as under:-

ROP OF SALARY DRAWN OF ABSENT PERIOD.

FROM	TO	DAYS	MONTHS	AMOUNT
10.11.2017	30.11.2017	21	0	25904
01.12.2017	30.11.2018	0	12	505512
01.12.2018	30.06.2019	0	07	302610
01.07.2019	31.07.2019	0	07	46702
				880728

RECOVERY OF COMMUTATION AMOUNT.

AMOUNT OF COMMUTATION @ 25 YEARS SERVICE	AMOUNT OF COMMUTATION @ 23 YEARS SERVICE	ROP OF COMMUTATION
1690626	1448014	242612
	TOTAL ROP	1123340

Now therefore consequent upon the decision of the Honourable Service Tribunal dated 30.09.2021, in exercise of the powers, she is imposed penalty of recovery of overpayment amounting to Rs.880724/- towards salary illegally drawn w.e.from 10.11.2017 to 31.07.2019 and Rs.242612/- towards pension gratuity due to claiming 25 years' service instead of 23 years and however she is allowed to claim 115 days leave encashment in supersession of this office order Endst: No.4193-94/EB-I/R/Cases Vol:02-019 dated 30.06.2020.

Sd/-
DISTRICT EDUCATION OFFICER
(FEMALE) ABBOTTABAD

Endst: No. 2384-89 /PF

Dated 24/3 /2022.

Copy of the above is forwarded to:-

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
2. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
3. The District Accounts Officer, Abbottabad.
4. The Sub Divisional Education Officer (Female) Abbottabad.
5. Mst. Sajida Bibi, Ex- SPST GGPS Banota (Circle Boi).

Sd/-
DISTRICT EDUCATION OFFICER
(FEMALE) ABBOTTABAD
22/3/2022