

Restoration Application 347/2022

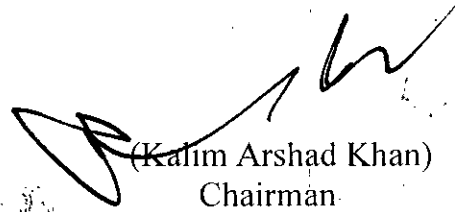
23rd June, 2022

Counsel for the petitioner present. Mr. Muhammad Riaz Khan, Painsdakhel, Assistant Advocate General for respondents present.

Learned counsel for the petitioner submits that application for restoration of the execution petition was not only misconceived but on stated facts. He further submits as august Supreme Court of Pakistan vide order dated 09.5.2022 had dismiss the CPLA filed by the respondent-department copy of which has been placed on file, he does not press this application and intends to file second execution application in the light of the judgment of the august Supreme Court of Pakistan. Order accordingly. Consign.

Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 23rd day of June, 2022.






(Kalim Arshad Khan)
Chairman

Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 347/2022

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	14.06.2022	<p>The application for restoration of Execution Petition No. 67/2020 submitted today by Mr. Mehtab Sikandar Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2	17-6-22 <i>Noted M</i>	<p>This restoration application is entrusted to Single Bench at Peshawar to be put up there on <u>23-6-22</u>. Original file be requisitioned. Notices to the appellant and his counsel be also issued for the date fixed.</p> <p> CHAIRMAN</p>

(1)

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

Restoration Application No. 347/2022

In Re:

Execution Petition No. 67 /2020

Khyber Pakhtunkhwa
Service Tribunal

Registry No. 272

Dated 14/6/2022

Nighat Shaheen

Versus

Government of KP through Secretary Elementary & Secondary
Education, Peshawar

Application for restoration of Execution Petition / Grant of
Pension adjourned sine-die on 13.01.2022 due to pendency of
CPLA No. 354-P/2018

Respectfully Sheweth:

1. That the above noted Execution Petition / Grant of Pension was pending adjudication before this Hon'ble Tribunal which was adjourned Sine-die on 13.01.2022 due to pendency of CPLA No. 354-P/2018.
2. That the above noted CPLA No. 354-P/2018 filed by Provincial Government, dismissed vide order dated 09.05.2022 by August Supreme Court of Pakistan.
(Attested copy of the Order is annexed).

3. That this Hon'ble Tribunal was pleased to convert dismissal of applicant into compulsory retirement vide judgment dated 16.01.2018 in Appeal No. 411/2017 but the said judgment was challenged before the August Supreme Court of Pakistan and as such, inspite of having 24 years of service, the applicant is still deprived from her pension and pensionery benefits.

It is, therefore, humbly prayed that on acceptance of this application, the above noted execution petition may pleased be restored on its own number and the respondents be directed to prepare pension documents of the applicant as early as possible, in the interest of justice.

Applicant

Through

M/S. Kanchas
Mehtab Sikandar
Advocate Peshawar

Dated: 13.06.2022

AFFIDAVIT:

As per instruction of my client, I, do hereby solemnly affirm and declare that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT

M/S. Kanchas
Advocate

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

3

Present:

Mr. Justice Sardar Tariq Masood
Mr. Justice Muhammad Ali Mazhar

CIVIL PETITION NO.354-P OF 2018

(On appeal against the judgment dated 16.01.2018 passed by
KPK Service Tribunal, Peshawar, in Appeal No.411 of 2017)

Govt. of KP thr. Secy. Elementary
& Secondary Education, Peshawar etc ... Petitioners

Versus

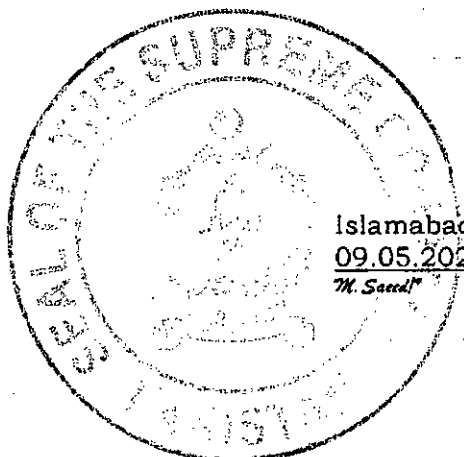
Nighat Shaheen ... Respondents

For the petitioners : Mr. Atif Ali Khan, Addl. AG KP.
For the respondent : Mr. Muzammil Khan, ASC
(via video link from Peshawar)
Date of hearing : 09.05.2022

ORDER

SARDAR TARIQ MASOOD, J.- Instant petition is barred by 12 days and the reason set out in the application for condonation of delay that due to lengthy correspondence between various tiers of department and the process of the decision taken by Constituted Law Committee for fitness of the case for filing of CPLA, is not a valid ground to condone the delay. Consequently, Civil Misc. Application No.695-P/2018 is dismissed, as a result thereof Civil Petition No.354-P/2018, is also dismissed being barred by time. *f*

Sd/-J
Sd/-J



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Senior Court Associate
Supreme Court of Pakistan
Islamabad

CR No: 11102/2022
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Date of Delivery: 20/6/2022
Received by: Muzammil Khan

①

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

C.Misc Application No. 67 /2020
In re Service Appeal No.411/2017



Night Shaheen P.S.T Govt. Girls Primary School, Tehsil & District Swabi.

Applicant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary S & Education Civil Secretariat, Peshawar.
2. Director Secondary and Elementary Education, KK Dabgari Garden Peshawar.
3. District Education Officer (F), Swabi.
4. Sub Divisional Education Officer (F), Swabi.
5. Principal Govt Girls Primary Scholl No.3 Zaida, Tehsil & District Swabi.



Respondents

APPLICATION FOR DIRECTION TO RESPONDENTS NO. 3 AND 4 EITHER TO RECONSTITUTE SERVICE BOOK OF THE APPLICANT OR DIGOUT OLD ONE AND GRANT PENSION AND PENSIONARY BENEFITS TO THE APPLICANT IN LIGHT OF ORDER DATED 16.01.2018.

Respectfully Sheweth:

1. That applicant approached this Hon'ble Tribunal in the captioned service appeal which was ultimately disposed off vide order dated 16.01.2018 converting the dismissal of applicant into compulsory retirement. (copy of the appeal and order thereon is annexed as annexure "A").
2. That the payment of pension was delayed for the only reason that service book of the applicant is not available and as such application for implementation of judgment was filed in execution petition No.158/2018 whereupon the department submitted office order dated 17.10.2019 conditionally accepted conversion to compulsory retirement where after the execution petition was disposed off vide order dated 30.10.2019. (Copy of the office order dated 17.10.2019, application and order dated 30.10.2019 are annexed as annexure "B").
3. That there after pension of the petitioner was not granted on the plea that service book of the applicant has been taken away by father of the applicant and as such not available, rather asked the applicant to provide it, but the matter is not so and the applicant or for that matter her father had already returned. In time the service book which is evident from the grant of leave office order dated 6.1.2010 and original service book has been sent to the respondent No.4 by the respondent No.3 (copy of the office order is annexed as annexure "C").
4. That pension/pensionary benefits is the sole assets of applicant being a teacher, rendered services in the department for long 23/24 years.

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Khyber Pakhtunkhwa Service Tribunal
Peshawar

EP 67/20

21.10.2021.

Junior to counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Fazle Khaliq, ADEO (Litigation) for the respondents present.

Learned counsel for the petitioner requests for time to prepare the arguments. Request is accorded. To come up for arguments on execution petition on 22.11.2021 before S.B.


Chairman

22.11.2021

None for the petitioner present. Mr. Muhammad Adeel, Addl: AG alongwith Mr. Fazal Khaliq, ADEO (Litigation) for respondents present.

Notices be issued to the petitioner and her counsel. Adjourned. To come up for further proceedings on 13.01.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

13.01.2022


Nemo for petitioner.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Fazal Khaliq ADEO for respondents present.

Despite notice to petitioner and her counsel, none is before this Bench on behalf of the petitioner. As such, this petition stands filed. However, the petitioner may seek its restoration in accordance with law. File be consigned to the record room.

Announced.
13.01.2022

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


(Rozina Rehman)
Member (J)

(1)

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

Restoration Application no 347/2022

In Re:

Execution Petition No. 67 /2020

Nighat Shaheen

Versus

Government of KP through Secretary Elementary & Secondary
Education, Peshawar

Application for restoration of Execution Petition / Grant of Pension adjourned sine-die on 13.01.2022 due to pendency of CPLA No. 354-P/2018

Respectfully Sheweth:

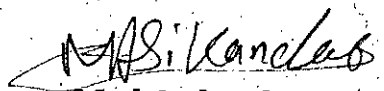
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2. That the above noted CPLA No. 354-P/2018 filed by Provincial Government, dismissed vide order dated 09.05.2022 by August Supreme Court of Pakistan. (Attested copy of the Order is annexed).

3. That this Hon'ble Tribunal was pleased to convert dismissal of applicant into compulsory retirement vide judgment dated 16.01.2018 in Appeal No. 411/2017 but the said judgment was challenged before the August Supreme Court of Pakistan and as such, inspite of having 24 years of service, the applicant is still deprived from her pension and pensionery benefits.

It is, therefore, humbly prayed that on acceptance of this application, the above noted execution petition may pleased be restored on its own number and the respondents be directed to prepare pension documents of the applicant as early as possible, in the interest of justice.

Applicant

Through

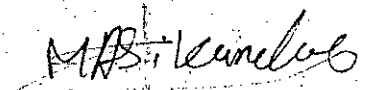

Mehtab Sikandar
Advocate Peshawar

Dated: 13.06.2022

AFFIDAVIT:

As per instruction of my client, I, do hereby solemnly affirm and declare that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT


Advocate

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DEPONENT

M/S. Kandab
Advocate

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

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Present:

Mr. Justice Sardar Tariq Masood
Mr. Justice Muhammad Ali Mazhar

CIVIL PETITION NO.354-P OF 2018

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Govt. of KP thr. Secy. Elementary
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Versus

Nighat Shaheen ... Respondents

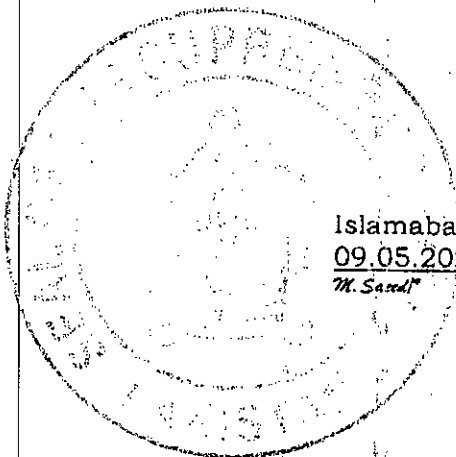
For the petitioners : Mr. Atif Ali Khan, Addl. AG KP.
For the respondent : Mr. Muzammil Khan, ASC
(via video link from Peshawar)
Date of hearing : 09.05.2022

ORDER

SARDAR TARIQ MASOOD, J.- Instant petition is barred by 12 days and the reason set out in the application for condonation of delay that due to lengthy correspondence between various tiers of department and the process of the decision taken by Constituted Law Committee for fitness of the case for filing of CPLA, is not a valid ground to condone the delay. Consequently, Civil Misc. Application No.695-P/2018 is dismissed, as a result thereof Civil Petition No.354-P/2018, is also dismissed being barred by time. *f*

Sd/-J

Sd/-J



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Senior Clerk
Supreme Court of Pakistan
Islamabad

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Date of Completion 7/6/22
Date of Delivery 10/6/2022
Responsible Muzammil Khan

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BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

C.Misc Application No. 67/2020
In re Service Appeal No.411/2017



Nighat Shaheen P.S.T Govt. Girls Primary School, Tehsil & District Swabi.

Applicant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary S & Education Civil Secretariat, Peshawar.
2. Director Secondary and Elementary Education, KK Dabgari Garden Peshawar.
3. District Education Officer (F), Swabi.
4. Sub Divisional Education Officer (F), Swabi.
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APPLICATION FOR DIRECTION TO RESPONDENTS NO. 3 AND 4 EITHER TO RECONSTITUTE SERVICE BOOK OF THE APPLICANT OR DIGOUT OLD ONE AND GRANT PENSION AND PENSIONARY BENEFITS TO THE APPLICANT IN LIGHT OF ORDER DATED 16.01.2018.

Respectfully Sheweth:

1. That applicant approached this Hon'ble Tribunal in the captioned service appeal which was ultimately disposed off vide order dated 16.01.2018 converting the dismissal of applicant into compulsory retirement. (copy of the appeal and order thereon is annexed as annexure "A").
2. That the payment of pension was delayed for the only reason that service book of the applicant is not available and as such application for implementation of judgment was filed in execution petition No.158/2018 whereupon the department submitted office order dated 17.10.2019 conditionally accepted conversion to compulsory retirement where after the execution petition was disposed off vide order dated 30.10.2019. (Copy of the office order dated 17.10.2019, application and order dated 30.10.2019 are annexed as annexure "B").
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4. That pension/pensionary benefits is the sole assets of applicant being a teacher, rendered services in the department for long 23/24 years.

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

EP 67/20

21.10.2021.

Junior to counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Fazle Khaliq, ADEO (Litigation) for the respondents present.

Learned counsel for the petitioner requests for time to prepare the arguments. Request is accorded. To come up for arguments on execution petition on 22.11.2021 before S.B.


Chairman

22.11.2021

None for the petitioner present. Mr. Muhammad Adeel, Addl. AG alongwith Mr. Fazal Khaliq, ADEO (Litigation) for respondents present.

Notices be issued to the petitioner and her counsel. Adjourned. To come up for further proceedings on 13.01.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

13.01.2022

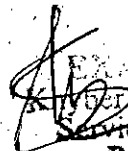
Nemo for petitioner.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Fazal Khaliq ADEO for respondents present.

Despite notice to petitioner and her counsel, none is before this Bench on behalf of the petitioner. As such, this petition stands filed. However, the petitioner may seek its restoration in accordance with law. File be consigned to the record room.

Announced.
13.01.2022

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EXAMINER
Peshawar Service Tribunal
Peshawar


(Rozina Rehman)
Member (J)

(1)

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

Restoration Appli. No - 347/2022

In Re:

Execution Petition No. 67 /2020

Nighat Shaheen

Versus

Government of KP through Secretary Elementary & Secondary
Education, Peshawar

Application for restoration of Execution Petition / Grant of Pension adjourned sine-die on 13.01.2022 due to pendency of CPLA No. 354-P/2018

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Applicant

Through

M.S. Sikandar
Mehtab Sikandar
Advocate Peshawar

Dated: 13.06.2022

AFFIDAVIT:

As per instruction of my client, I, do hereby solemnly affirm and declare that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT

M.S. Sikandar
Advocate

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

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Present:

Mr. Justice Sardar Tariq Masood
Mr. Justice Muhammad Ali Mazhar

CIVIL PETITION NO.354-P OF 2018

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Govt. of KP thr. Secy. Elementary
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Versus

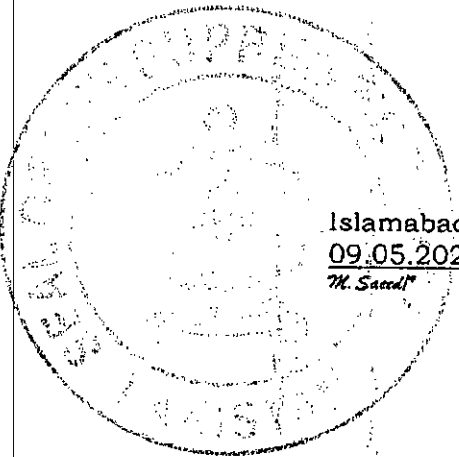
Nighat Shaheen Respondents

For the petitioners : Mr. Atif Ali Khan, Addl. AG KP.
For the respondent : Mr. Muzammil Khan, ASC
(via video link from Peshawar)
Date of hearing : 09.05.2022

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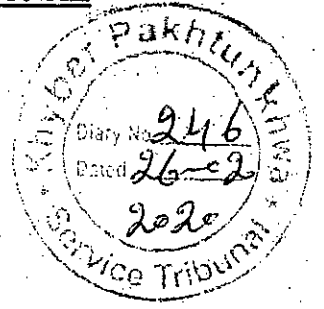
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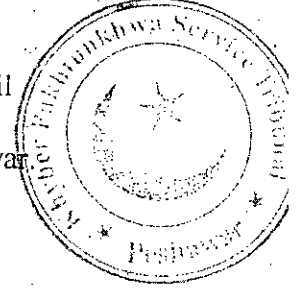


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Applicant

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Khyber Pakhtunkhwa
Service Tribunal
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Junior to counsel for the petitioner and *Mr. Muhammad Adeel Butt, Addl. AG alongwith Fazle Khaliq, ADEO (Litigation) for the respondents present.

Learned counsel for the petitioner requests for time to prepare the arguments. Request is accorded. To come up for arguments on execution petition on 22.11.2021 before S.B.

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Notices be issued to the petitioner and her counsel. Adjourned. To come up for further proceedings on 13.01.2022 before S.B.

(MIAN MUHAMMAD)
MEMBER (E)

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Nemo for petitioner.

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EXAMINER
Ayub Pakhtunshwa
Service Tribunal
Peshawar

(Rozina Rehman)
Member (J)

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Nighat Shaheen

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Government of KP through Secretary Elementary & Secondary
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Application for restoration of Execution Petition / Grant of
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Advocate

IN THE SUPREME COURT OF PAKISTAN

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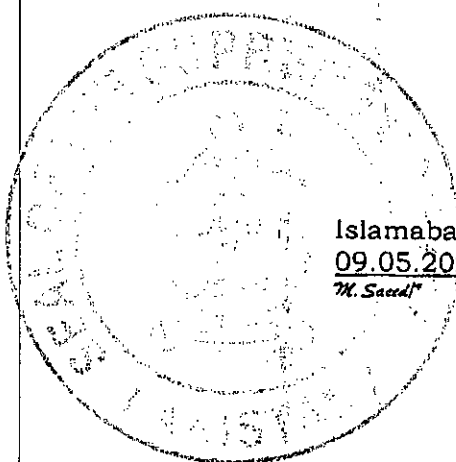
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(via video link from Peshawar)

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Supreme Court of Pakistan
Islamabad

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BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

C.Misc Application No. 67/2020
In re Service Appeal No.411/2017

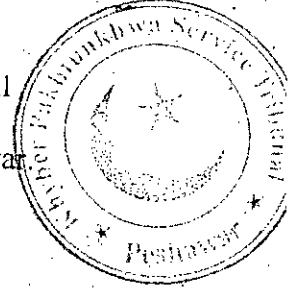


Nighat Shaheen P.S.T Govt. Girls Primary School, Tehsil & District Swabi.

Applicant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary S & Education Civil Secretariat, Peshawar.
2. Director Secondary and Elementary Education, KK Dabgari Garden Peshawar.
3. District Education Officer (F), Swabi.
4. Sub Divisional Education Officer (F), Swabi.
5. Principal Govt Girls Primary Scholl No.3 Zaida, Tehsil & District Swabi.



Respondents

APPLICATION FOR DIRECTION TO RESPONDENTS NO. 3 AND 4 EITHER TO RECONSTITUTE SERVICE BOOK OF THE APPLICANT OR DIGOUT OLD ONE AND GRANT PENSION AND PENSIONARY BENEFITS TO THE APPLICANT IN LIGHT OF ORDER DATED 16.01.2018.

Respectfully Sheweth:

1. That applicant approached this Hon'ble Tribunal in the captioned service appeal which was ultimately disposed off vide order dated 16.01.2018 converting the dismissal of applicant into compulsory retirement. (copy of the appeal and order thereon is annexed as annexure "A").
2. That the payment of pension was delayed for the only reason that service book of the applicant is not available and as such application for implementation of judgment was filed in execution petition No.158/2018 whereupon the department submitted office order dated 17.10.2019 conditionally accepted conversion to compulsory retirement where after the execution petition was disposed off vide order dated 30.10.2019. (Copy of the office order dated 17.10.2019, application and order dated 30.10.2019 are annexed as annexure "B").
3. That after pension of the petitioner was not granted on the plea that service book of the applicant has been taken away by father of the applicant and as such is not available, rather asked the applicant to provide it, but the matter is not so and the applicant or for that matter her father had already returned. In time the service book which is evident from the grant of leave office order dated 6.1.2010 and original service book has been sent to the respondent No.4 by the respondent No.3 (copy of the office order is annexed as annexure "C").
4. That pension/pensionary benefits is the sole assets of applicant being a teacher, rendered services in the department for long 23/24 years.

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

EP 67/20

21.10.2021.

Junior to counsel for the petitioner and *Mr. Muhammad Adeel Butt, Addl. AG alongwith Fazle Khaliq, ADEO (Litigation) for the respondents present.

Learned counsel for the petitioner requests for time to prepare the arguments. Request is accorded. To come up for arguments on execution petition on 22.11.2021 before S.B.


Chairman

22.11.2021

None for the petitioner present. Mr. Muhammad Adeel, Addl. AG alongwith Mr. Fazal Khaliq, ADEO (Litigation) for respondents present.

Notices be issued to the petitioner and her counsel. Adjourned. To come up for further proceedings on 13.01.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

13.01.2022

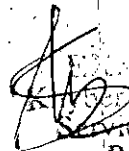
Nemo for petitioner.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Fazal Khaliq ADEO for respondents present.

Despite notice to petitioner and her counsel, none is before this Bench on behalf of the petitioner. As such, this petition stands filed. However, the petitioner may seek its restoration in accordance with law. File be consigned to the record room.

Announced.
13.01.2022

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MEMBER
Justice Tribunal
Peshawar


(Rozina Rehman)
Member (J)