


17.06.2022

Husband of the petitioner present. Mr. Muhammad Adeel Butt, Assistant Advocate General alongwith Shuja Ali, ADEO for the respondents present.

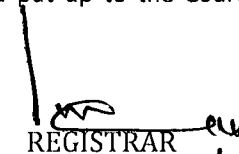

Despite directions notices were not issued. Therefore, fresh notices be issued to respondents for the date fixed. To come up for implementation report on 19.08.2022 before S.B at Camp Court Abbottabad.

  
(Fareeha Paul)  
Member (E)  
Camp Court A/Abad

Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 264/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.04.2022	<p>The execution petition of Mst. Rabia Khatoon received today by post may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	20.05.2022	<p>This execution petition be put up before to touring Single Bench at A.Abad on <u>20.05-2022</u>. Original file be requisitioned. Notices to the parties be also issued for the date fixed.</p> <p style="text-align: right;">CHAIRMAN</p> <p>Husband of the petitioner on behalf of the petitioner present. Syed Naseer ud Din, Assistant Advocate General for respondents present.</p> <p>Notices be issued to the respondents for submission of implementation report on the next date positively. Adjourned. To come up for implementation report before S.B on 17.06.2022 at camp court Abbottabad</p> <p style="text-align: right;"> (Kalim Arshad Khan) Chairman Camp Court Abbottabad</p>

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

Execution Petition No. 264/2022

IN  
Service Appeal No-747 of 2020

Rabia Khatoon W/o Gul Hameed Ex-A.T R/O Village Banda  
Phagwarian, P.O GPO, Abbottabad, Tehsil & District, Abbottabad.  
Mobile No.0307-9403667

...APPELLANT

**V E R S U S**

Government of Khyber Pakhtunkhwa Elementary & Secondary  
Education Peshawar through Secretary & 03 Others.

...RESPONDENTS

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**EXECUTION PETITION**

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1.	<i>Memo of Execution Petition alongwith certificate</i>		1-2
2.	<i>Copy of Judgment dated 18/01/2022 passed by Hon'ble Tribunal in Service Appeal No.747/2020.</i>	"A"	3-7
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Dated: 23/04/2022

  
(RABIA KHATOON)  
PETITIONER IN PERSON

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

Execution Petition No. \_\_\_\_\_/2022

IN

Service Appeal No-747 of 2020



Rabia Khaton W/o Gul Hameed Ex-A.T R/O Village Banda  
Phagwarian, P.O GPO, Abbottabad, Tehsil & District,  
Abbottabad. Mobile No.0307-9403667

...APPELLANT

**V E R S U S**

1. Government of Khyber Pakhtunkhwa Elementary & Secondary Education Peshawar through Secretary.
2. Director Elementary & Secondary Education KPK, Peshawar
3. District Coordination Officer, Abbottabad now Deputy Commissioner, District, Abbottabad.
4. District Education Officer (Female) Abbottabad.

...RESPONDENTS

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**SUBJECT: EXECUTION PETITION FOR IMPLIMENTATION OF JUDGMENT  
DATED 18/01/2022 PASSED BY KPK SERVICE TRIBUNAL CAMP  
COURT ABBOTTBAD IN SERVICE APPEAL NO.747/2020.**

=====


**RESPECTFULLY SHEWETH:**

1. That, petitioner filed a Service appeal No.747/2020 on 30/01/2020 against the Removal from Service order dated 12/11/2012 which was accepted on 18/01/2022 and Tribunal issued direction to the department for the reinstatement of the petitioner. (Copy of Judgment dated 18/01/2022 is attached as Annexure "A")

2. That, on 10/03/2022, petitioner got the attested copy of above said Judgment and submitted before the respondent No.3 on 15/03/2022 alongwith application for implementation of said judgment of Hon'ble Tribunal dated 18/01/2022. **(Copy of applications dated 15/03/2022 submitted by petitioner are attached as Annexure "B")**
3. That, the respondents are not willing to implement the said judgment and are raising the point for not implementing the said order that the respondents / department intend to file the CPLA in the August Court against the said judgment of KPK Service Tribunal, while 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 on acceptance of instant Execution Petition, respondents may kindly be directed to implement the Judgment of this Hon'ble Tribunal dated **18/01/2022** with letter and spirit.

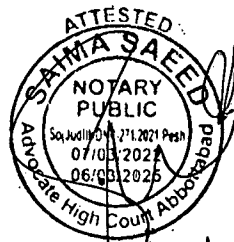
**Dated: 23/04/2022**

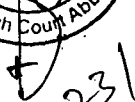
  
**Rabia Khaatoon**  
**(Petitioner in person)**

**CERTIFICATE:**

It is certify that the contents of instant Execution Petition are true and correct to the best of our knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

  
**DEPONENT**



  
23/04/22

A

3

ANNEXURE  
A

BEFORE

HYDERABAD PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR  
AT CAMP COURT, ABBOTTABAD.



Service Appeal No. 747/2020

Date of Institution ... 30.01.2020  
Date of Decision ... 18.01.2022

Rabia Khatoon, wife of Gul Hameed, Ex-A.T, GGHS, Beerangali,  
Abbottabad, Resident of Banda Phagwarian, Tehsil & District  
Abbottabad.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary E&SE Khyber  
Pakhtunkhwa Peshawar, and three others.

(Respondents)

Choudhry Abdur Rauf Chohan,  
Advocate

For appellant.

Kabir Ullah Khattak,  
Additional Advocate General

For respondents.

Salah-Ud-Din  
Rozina Rehman

Member (J)  
Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the  
jurisdiction of this Tribunal through above titled appeal with the  
prayer as copied below:

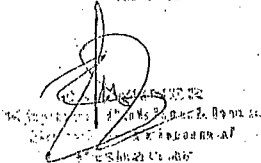
"It is respectfully prayed before this Honorable  
Tribunal that the instant appeal may graciously be  
accepted and impugned "Removal from Service  
Order" dated 12.11.2012 issued under Endorsement  
No.1596, may kindly be set aside and appellant may  
graciously be reinstated in service with all back

2. Brief facts of the case are that appellant was appointed as Arabic Teacher. She was promoted from BS-09 to BS-14. During her service while working at GGMS Sheikhul Bandi, she was transferred to GGHS Havelian and thereafter she was transferred time and again and was adjusted in far flung areas of District Abbottabad. It was on 12.11.2012 when respondent No.3 issued order of her removal from service on the allegations of absentia. She submitted departmental appeal which was rejected, hence, the present service appeal.

3. We have heard Choudhry Abdur Rauf Chohan Advocate learned counsel for appellant and Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Choudhry Abdur Rauf Chohan Advocate learned counsel appearing on behalf of appellant, inter-alia, submitted that the impugned orders are illegal, unlawful and against law and policy as appellant was not treated in accordance with law and canons of natural justice. He contended that the appellant was not given fair trial as enshrined under Article-4 & 25-A of the Constitution of Islamic Republic of Pakistan, 1973 because no regular inquiry was conducted against appellant. It was argued that major penalty cannot be imposed upon any civil servant without conducting regular inquiry in accordance with law and that the appellant was made a rolling stone without any legal justification and was transferred to far flung areas time and again which act of the respondents is clear violation of Article-35 of the Constitution of Islamic Republic of Pakistan, 1973.

ATTENDED



Assistant Advocate General  
District Court  
Abbottabad

Lastly, he submitted that appellant was not provided any opportunity of personal hearing, therefore, the impugned order is against law on the subject and in violation of Rule-9 & 25 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

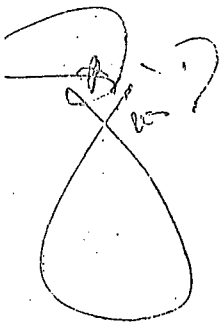
5. Conversely, learned AAG contended that appellant was transferred from GGHS Sheikhu Bandi to GGHS Mohri Bed Behran but she failed to perform her duty and remained absent. Her concerned Headmistress sent her absence report to the EDO Office, therefore, she was served with a show cause notice. She was then transferred to GGHS Beerangali on humanitarian grounds but her willful absence continued even at the new station. Again a show cause notice was issued and that all the allegations were admitted by the appellant. Lastly, he contended that she was dealt with in accordance with law.

6. Perusal of record would reveal that appellant was appointed as Arabic Teacher (BPS-09) on 19.05.1992. During her service, she was transferred to different areas in District Abbottabad. She remained absent w.e.f 24.11.2008, therefore, she was served with show cause notices dated 11.01.2011 and 12.02.2011. She was finally issued final show cause notice on 09.05.2011 with direction to appear for personal hearing. During hearing, she submitted an affidavit admitting the charges of absence and requesting for adjustment at any station. Accordingly, she was adjusted at GGHS Beerangali, Abbottabad against vacant post on 30.07.2011 and accordingly she assumed charge on 23.08.2011. She was then proceeded against departmentally on the allegations of absentia once again. She was

REGISTERED  
  
 Registrar  
 Government Servants (Efficiency & Discipline) Rules, 2011  
 Abbottabad



issued a show cause notice on 01.12.2011. Consequently, she was removed from service w.e.f 24.11.2008 vide order dated 12.11.2012. From the impugned order bearing endorsement No.1596 dated 12.11.2012, it is crystal clear that past transaction in respect of her alleged absence was closed by the authority and she was adjusted at GGHS Berrangali, Abbottabad against vacant A.T post vide office order dated 30.07.2011. The present appellant in compliance with the orders of authority, assumed charge on 23.08.2011 which fact is not disputed. The respondents failed to convince us in this regard as to how the lady appellant was punished w.e.f 24.11.2008 on account of past and closed transaction as she was let off for that period by the authority itself and her proper adjustment order was issued. The impugned order was passed on 12.11.2012 and she filed departmental appeal on 23.11.2012 which is well within time. She submitted different applications and appeals before the authority for the redressal of her grievances and which appeals/applications were properly forwarded which is evident from the record and it was on 09.01.2020 when appeal in respect of the present appellant was filed by the competent authority, therefore, she filed service appeal on 30.01.2020. It has been held by the Apex Court in numerous judgments that the civil servant has the choice either to file appeal immediately on the expiry of ninety days from the date of filing of departmental appeal or wait for the decision upon his departmental appeal. Reliance is placed on 1982 SCMR 582. In the instant case, the appellant opted for the latter which is in consonance with the judgment of the Apex Court. The appeal is, therefore, well within time



as the appellant was not only proceeded against departmentally on the allegations of absence after her adjustment but also for the past and closed transaction, therefore, the order passed by the authority is not in accordance with law.

7. In view of the above discussion, the appeal in hand is accepted by setting-aside the impugned order and the appellant stands reinstated in service. The intervening period during which the appellant did not perform her duty shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
18.01.2022

(Salah-ud-Din)  
Member (J)  
Camp Court, A/Abad

(Rozina Rehman)  
Member (J)  
Camp Court, A/Abad

Certified to be true copy

Date of Presentation of Application	25/02/2022
Number of Pages	2/06
Number of Pages	26/-
Page No	-
Page No	26/-
Page No	-
Date of Completion of Copy	10/03/2022
Date of Delivery of Copy	10/03/2022

8

ANNEXURE  
B

To,

The District Education Officer (F)  
E&SE, District Abbottabad.

Subject: ARRIVAL REPORT IN COMPLIANCE WITH JUDGMENT DATED 18/01/2022  
PASSED BY KPK SERVICE TRIBUNAL CAMP COURT, ABBOTTABAD IN  
SERVICE APPEAL NO.747/2020

Respected Madam:

1. That, the applicant was working as a (A.T) "Arabic Teacher" at GGHS Birangali, Abbottabad and was removed from service w.e.f. 24/11/2008 vide order Endst: No.1596, dated 12/11/2012, issued by District Coordination officer, Abbottabad.
2. That, the applicant filed Service Appeal against the impugned order dated 12/11/2012 before the KPK Service Tribunal which was accepted on 18/11/2022 in Service Appeal No.747/2020 and the applicant was re-instated in service and the impugned order was set-aside. (Certified copy of the Judgment is attached)

It is therefore, very humbly requested that implement the Judgment dated 18/11/2022 passed by KPK Service Tribunal Camp Court, Abbottabad with letter and spirit and:-

- i) Issue adjustment order of the applicant.
- ii) Release all the back benefits of the applicant w.e.f. 24/11/2008 to 11/11/2012.

*[Handwritten Signature]*

Rabia Khatoon (Ex-A.T)  
GGHS, Birangali, District Abbottabad  
Dated: 15/03/2022  
Contact#: 0307-9403667

Copy for information to:-

1. Honourable Registrar KPK Service Tribunal, Peshawar with reference to Service appeal No.747/2020.
2. Secretary E&SE, KPK, Peshawar.
3. Director E&SE, KPK, Peshawar.

*ADBO (Lit)  
for n/a P12  
File  
2/3/2022*

*1121  
2/3/2022*