15.06.2022

Junior to counsel for the appellant present.

He made a request for adjournment as senior counsel is busy before Hon'ble Peshawar High Court; Adjourned by way of last chance. To come up for preliminary hearing 15.08.2022 before S.B at Camp Court, Abbottabad.

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

17.10.2022

<u>Nemo</u> for appellant.

Notices be issued to appellant and his counsel for the date fixed. To come up for preliminary hearing on 14.11.2022 before S.B at camp court Abbottabad.

(Fareeha Paul) Member (E)

Form-A

FORM OF ORDER SHEET

Court of

227/2022 Case No.-Order or other proceedings with signature of judge S.No. Date of order proceedings 3 2 1 The appeal of Mst. Gul Nargis received today by post through Abdul 24/02/2022 1-Saboor Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR This case is entrusted to touring S. Bench at A.Abad for preliminary 2hearing to be put there on Angle Contract RMAN Nemo for appellant. 21.04.2022 appellant/counsel for Notice be issued to 15.06.2022 for preliminary hearingbefore S.B at Camp Court, Abbottabad. (Rozina Rehman) Member (J) Camp Court, A/Abad

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR

Service appeal No 227 of 2022

Gul Nargas.....Appellant

VERSUS

Director Elementary and Secondary Education Peshawar etc**Respondents**

APPEAL

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Dated 21.02.2022

Gul Nargas (Appellant)

No

Through:-

ABDUL SABOOR KHAN Advøcate High Court

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR

Service appeal No _____ of 2022

Mst. Gul Nargas, Ex-Primary School Teacher, Government Girls Primary School, Rafiq Shah Abad, Tehsil Dassu, District Kohistan upper.....**Appellant**

VERSUS

- 1) The Director Elementary and secondary Education Peshawar.
- 2) The District Education officer (Female) District Kohistan upper at Dassu.

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDERS NO 1528-35 DATED 10.06.2021, PASSED BY RESPONDENT NO. 02 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE UPON THE APPELLANT WAS IMPOSED.

PRAYER:-

On acceptance of the instant service appeal, the impugned order bearing No **1528-35** dated **10.06.2021**, passed by respondent No. 02 may kindly be setaside declaring as illegal, unlawful, voidabnito and against the law and rules on the subject consequently, appellant be reinstated into service with all back benefits.

Respectfully Sheweth:-

1.

That, appellant and so many others were appointed as **PSTs** by competent authority in the Year **2006**, after observing the legal process.

> (copy of appointment order annexed as annexure "A").

That, right from 2006, petitioner kept on performing her duty as **PST** regularly and to the entire satisfaction of the competent authority (respondent **No. 02**).

3.

2.

That, respondent **No. 02,** all of a sudden, at the back of the appellant, with a single stoke of pen imposed major penalty of removal from service upon the appellant vide impugned order dated **10.06.2021** in utter violation of the law and rules on the subject.

(Copy of impugned order dated 10.06.2021 annexed as Annexure "B").

4.

That, appellant filed Departmental appeal with respondent **No. 01** against the impugned order dated **10.06.2021**

issued by respondent **No. 02** but that has not been responded so far.

(Copies of Departmental appeal along with postal receipt annexed as annexure "C").

5.

`ب

That, felling aggrieved, from the impugned order dated **10.06.2021**, appellant having no other remedy except to file the present service appeal before this worthy tribunal for interference inter alia on the following amongst other grounds.

GROUNDS:-

A)

That, the impugned order dated **10.06.2021** is patently and seemingly illegal, unlawful, without lawful authority, without jurisdiction and of having no legal effect, liable to be setaside.

B) That, the appellant was appointed by competent authority in the year 2006, since then, she had been performing her duty regularly.

C) That, the appellant was never directed to improve the qualification as claimed in the impugned order nor the respondent No. **02** had authority or jurisdiction to issue such like direction after about **14/15** years of service.

4

That, all the similarly placed teachers who were appointed along with the petitioners in BPS-04 as PSTs are still in service. Only appellant has been targeted, singled out and discriminated with.

That, appellant also never remained absent from duty as alleged in the impugned order, nor any details in respect of the absence period are mentioned in the impugned order.

F) That, the impugned order is entirely based upon oral false allegations, in support of which neither any material was placed before respondent No. 02 nor he examined nor he applied his independent mind before imposing major penalty upon the appellant.

G) That, before passing the impugned order no notice whatsoever was served upon the appellant nor she was provided an opportunity to rebut the allegations. The impugned order was passed at the back of the appellant by keeping her in complete dark.

 H) That, on the stoppage of the salary of the appellant in the year 2016, appellant filed a writ petition bearing

E)

D)

No. 1258 of 2020 before the Hon'ble Peshawar High Court Bench Abbottabad which was disposed of in favour of the appellant vide order dated 08.06.2021 Soon, thereafter, the impugned order was passed by respondent No. 02 seemingly with mala-fide intention.

> (Certified copies of writ petition and order dated 08.06.2021 are annexed as annexure "D").

That, the Hon'ble Peshawar High Court directed respondent No. **02** to release the stopped salaries of the appellant while brushing aside the stance of the Department with regard to alleged low qualification.

That, instead of, implementing the order of the Hon'able Peshawar High Court, the Department imposed major penalty of removal from service upon the appellant which act of the respondent No. **02** goes a long way to suggest "mala-fide" on his part.

K) That, due and prescribed process was not adopted by the Department before issuing the impugned order and on this count alone, it is liable to be setaside.

L) That, appellant had a long unblemished service record at her credit

I)

J)

and she has been removed from service with a single stroke of pen without observing due process of law on the subject.

PRAYER:-

On acceptance of the instant service appeal, the impugned order bearing No **1528-35** dated **10.06.2021**, passed by respondent No. 02 may kindly be setaside declaring as illegal, unlawful, voidabnito and against the law and rules on the subject consequently, appellant be reinstated into service with all back benefits.

Dated 21.02.2022

Gul Nargas (Appellant)

Through:-

ABDUL SABOOR KHAN Advocate High Court

VERIFICATION:

I, Gul Nargas, Ex-Parimary School Teacher, Government Girls Primary School, Rafiq Shah Abad, Tehsil Dassu, District Kohiatan upper, do hereby soleundy affirm and declare that the contents of fore-going Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed form this Honorable Tribunal.

Gul Nargas

6

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR

Service appeal No _____of 2022

.....Appellant

Gul Nargas.....

VERSUS

Director Elementary and Secondary Education Peshawar etc**Respondents**

APPEAL

AFFIDAVIT

I, Mst. Gul Nargas, Ex-Primary School Teacher, Government Girls Primary School, Rafiq Shah Abad, Tehsil Dassu, District Kohistan upper, do herby solemnly affirm and declare on oath that the no such subject matter appeal has ever been filed before this honorable tribunal nor pending nor decided further affirms on oath that the contents of fore-going service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this honourable tribunal.

Dated 21.02.2022



GUL NARGAS DEPONENT

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR

Service appeal No _____ of 2022

Gul Nargas.....Appellant

VERSUS

Director Elementary and Secondary Education Peshawar etc**Respondents**

APPEAL

APPLICATION FOR CONDONATION OF DELAY IN PRESENTING THE INSTANT SERVICE APPEAL.

Respectfully shewith!

- 1). That, this application may kindly be treated as part and parcel of the main appeal.
- 2). That, the impugned order was reportedly passed on 10.06.2021, not communicated to the appellant. She herself collected the same from the office on **07.07.2021**, against which, she filed Departmental appeal on **30.07.2021** which has not been responded so far.
- 3). That, appellant kept on visiting the office of respondent No. 01 time and again for getting her Departmental appeal decided but she was being told and assured that she was going to reinstated, due to which, appellant could not file the instant service appeal within time.
- That, the impugned order on its very face value is a void order and under the law, no limitation runs against a void order.

8

That, the instance application for condonation of delay merits acceptance in the larger interest of justice, fair play and in view of the peculiar facts and circumstances under which the impugned order was passed.

6).

5).

That, otherwise, on merits, appellant has a good prima facie case.

It is therefore very humbly prayed that delay in filing the instant service appeal may kindly be condoned and the case of the appellant be decided on merits in the larger interest of justice and fair play.

Through:-

Dated 21.02.2022

Gul'Nargas (Appellant)

ABDUL SABOOR KHAN Advocate High Court

AFFIDAVIT!

I, Gul Nargas, Ex-Parimary School Teacher, Government Girls Primary School, Rafiq Shah Abad, Tchsil Dassu, District Kohistan upper, do hereby solemnly affirm and declare that the contents of fore-going application are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed form this Honorable Tribunal.



Comments in the second second

BEFORE THE SERVICE TRIBUNAL K.P.K PESHAWAR

Service appeal No _____ of 2022

Gul Nargas......Appellant

VERSUS

Director Elementary and Secondary Education Peshawar etc**Respondents**

APPEAL

CORRECT ADDRESSES OF THE PARTIES

APPELLANT:

Mst. Gul Nargas, Ex-Primary School Teacher, Government Girls Primary School, Rafiq Shah Abad, Tehsil Dassu, District Kohistan upper.

RESPONDENTS:

- 1) The Director Elementary and secondary Education Peshawar.
- 2) The District Education officer (Female) District Kohistan upper at Dassu.

Dated 21.02.2022

Through:- /

GUL NARGÃS (Appellant)

ABDUL SABOOR KHAN Advocate High Court

10

OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS AND LITERACY

AND A PRODUCTION OF A DESCRIPTION

NNX

Consequent upon the approval of Departmental Selection Committee the competent authority has been pleased to appoint the following (Female) Middle Passed Untrained candidates Fresh of Tehsil Dassu (Union Council wise) against the vacant Posts of PTC in BPS-04 (Rs.2345-100-5345) Fixed plus Usual Allowances as admistable under the rules on contract basis for a period of three years according to the Merit policy issued by the Government of NMFP Schools & Literacy Department in the Schools noted against each with immediat effect in the interest of public service.

AND DIAPOTER

NTMENT ORDER

S.N. Name of candidate Father's Name Residence/ Network Apptil School where posted Remarks 1 Lal prin. Said Amir Onasu PTC GOPS Dassu Village Apst V.Post 2 Gul Shan Kaliq shini Bar Jalkot PTC GOPS Knop Apst V.Post 3 Umar Obio Adul Hannan Bar Jalkot PTC GOPS Lakon Apst V.Post 4 Gul Phane Bar Jalkot PTC GOPS Ed Jakot Apst V.Post 5 Sergena Bibl Abdul Hannan Bar Jalkot PTC GOPS Ed Jakot Apst V.Post 7 Bibl Phane Saif ulan Daftar Dade PTC GOPS Ed Jakot Apst V.Post 7 Bibl Phana Bar Jalkot PTC GOPS Dadbon Apst V.Post 10 Sinta Idarjan Maxeder Baryar PTC GOPS Dadbon Apst V.Post 13 Sinta Idarjan Maxeder Baryar PTC GOPS Dadbon Apst V.Post 14 Sinta Idarjan <th></th> <th></th> <th></th> <th>I I I I I I I I I I I I I I I I I I I</th> <th>steach-with a</th> <th>nmedia</th> <th>it effect</th> <th>in the interest of a</th> <th>oublic service</th> <th></th>				I I I I I I I I I I I I I I I I I I I	steach-with a	nmedia	it effect	in the interest of a	oublic service	
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1. Their appointments are purly on temporary basis and liable to termination at any time / stage with out assigning any reason/notice.

2 Their Certificates if not verified earlier, should be verified by the DDO (M) ie Mr.Abdur Rehman I/C Dy:DO (F) S&L Kohistan before handing over their charge.

3 Charge reports should be submitted to all concerned.

4 No TA/DA is allowed to any one.

5 They will be governed by such rules and regulations enforced and as prescribed by the

- Government from time to time for the category of the Government Servants to which they 6 In case any of the above candidates failed to assume the charge of their posts with in fifteen
- days, their appointments will automatically stand cancelled. 7 They should not be allowed to take over charge if their age is less than 18-years and above 35-
- 8 They should produce age and health certificate from EDO Health Kohistan before taking of
- 9

They should not be handed over charge and their salaries should not be drawn by Drawing & Disbursing Officers concerned till verification of their Degrees/ Certificates e.t.c from the concerned Universities/ Boards/ Institutions by the concerned DDO's

> Executive District Officer Schools & Literacy Kohistan

Endst:No. 🕅

LI AppUPTC's (M)U/C Wise Merit /2006 Dated Kohistan the Copy of the above is forwarded to:-2006.

- . Director Schools & Literacy NWFP Peshawar.
- P/S to Minister of Education NWFP Peshawar. 2
- 3
- P/S to Secretary Government of NWFP (S & L) Department Peshawar. **District Nazim Kohistan** 1.. .
- District Coordination Officer Kohistan with reference your Notification No.10232-36 dated 20/11/2006 & 10407-10 dated 24/11/2006.

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- e District Accounts Officer Kohistan.
- District Officer Schools & Literacy Kohistan. 3
- Deputy District Officer (F)S&L Kohistan. Candidates concerned.

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Executive District Officer Schools & Literacy Kohistan

E LIE HETERGE EDUCATION OFFICIA (E) HOMSTAN (UPPER)

Of sectemalekidistamper@gnail.com

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OFFICE ORDERT REALTINGLERIORS SERVICE

 Whereas Mst. Gul Margas Middle Pass, was appointed as Grade 4 PST teacher at GGPS Rafig Shah Abad in 2006 as stop gap arrangement for a period of three years.

 $\Sigma_{\rm ev}$. Mhereas the prescribed qualification for PST teacher at that time was matrix with PTC.

- Milereas she was directed to improve her qualification as per the requirement of basic criteria for PTC teacher according to the merit policy of the government in vogue, but she badly failed,
- Whereas as per EMA Report she remained habitually and wilfully absent from her duty, during the visits of the concerned DCMA, without proper permission/intimation or leave...
- Whereas she was directed time and again to perform her duty property and do not waste the precious line of the students, but she badly failed to comply.
- Whereas the bas drawn ber salary flegally during the absent period from her duty.
- 1 Writering as per report of the SDEO/ASDEO concerned the doesn't perform her didy
- 3 Whenak a show could rolled was served upon her vide this office Endst: No. 1150 54, Dated: 28-9-2021.
- Whereas the badly failed to submit reply to the show cause in her defense within stipulated period.
- 10 Whereas she hadly failed to avail the chonce of personal hearing.
- 1). Whereas lawing low qualification, she is unable to teach the existing syllabus to the students properly.
- 32 Whereas while going through the material on record and personal observations of the undersigned, all the charges/allegations levelled against her have been proved to the full satisfaction of the undersigned.

Therefore the undersigned being the competent authority, do hereby impose Major Penalty of Removal from Service, upon Mst. Gul Nargas, Grade 4 PST teacher at GGPS Rafiq Shah Abad Kohlstan Upper under Ride 4(b) of E8D Rules 2013, with immediate effect, in the integest of public service..

(MUNAR/IMAD AB/IIN) District Education Officer (F) District Kohistan Upper, Dated: _____(Q___/06/2021

rnd ga.

Copy for information and necessary action forwarded to:

- R Ge PA to Director Elementary & Secondary Education, Rhyber Palditunkhwa, Pashawar,
- 2. The Deputy Commissioner Kohistan Upper, 1
- 3. The District Accounts Officer Kohistan Upper.
- 4 The PA to District Education Officer (F) Kohistan Upper.
- 5. The Deputy District Education Officer (F) Kohistan Upper.
- The SDEO/DDO concerned with the direction to stop the pay of the concerned teacher and make medessary entries in her service book immediately.
- Highdacher concerned,
 Copy to Master File for record.

District Education Officer (F) District Kohistan Upper

BETTER COPY

OFFICE OF THE DISTRICT EDUCATION OFFICER (F) KOHISTAN UPPER

OFFICE ORDER/REMOVAL FROM SERVICE

- 1. Whereas Mst Gul Nargas Middle pass, was appointed as Grade 4 PST Teacher at GGPS Rafiq Shah Abad in 2006 as stop gap arrangement for a period of three years.
- 2. Whereas the prescribed qualification for PST Teacher at that time was metric with PTC.
- 3. Whereas she was directed to improve her qualification as per the requirement of basis criteria for PTC teacher according to the merit policy of the government in vogue, but she badly failed.
- 4. Whereas as per EMA report she remained habitually and willfully absent from her duty, during the visits of the concerned DCMA, without proper permission/intimation or lave.
- 5. Whereas she has directed time and again to perform her duty properly and do not waste the precious time of the students, but she badly failed to comply.
- 6. Whereas she has drawn her salary illegally during the absent period from the duty.
- 7. Whereas as per report of the SDEO/ASDEO concerned she doesn't perform her duty.
- 8. Whereas show cause notice was served upon her vide this office Endst: No. 1150-54, dated 28.04.2021.
- 9. Whereas she badly failed to submit reply to the show cause in her defense within stipulated period.
- 10. Whereas she badly failed to avail the chance of personal hearing.
- 11. Whereas having low qualification, she is unable to teach the existing syllabus to the students properly.
- 12. Whereas while going through the material on record and personal observations of the undersigned, all the charges/allegations leveled against her have been proved to the full satisfaction of the undersigned.

Therefore the undersigned being the competent authority, do hereby impose Major penalty of Removal from service upon Mst. Gul Nargas, Grade 4 PST teacher at GGPS Rafiq Shah Abad Kohistan upper under Rule 4(b) of E&D Rules 2011, with immediate effect, in the interest of public service.

(MUHAMMAD AMIN) DISTRICT EDUCATION OFFICER (F) DISTRICT KOHISTAN UPPER.

End No. 1028-35

Dated: 10.06.2021

Copy for information and necessary action forwarded to:

- 1. The PA to Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 2. The Deputy Commissioner Kohistan upper.
- 3. The PA to District Education Officer (F) Kohistan upper.
- 4. The PA to District Education Officer (F) Kohistan upper.
- 5. The Deputy District Education Officer (F) Kohistan Upper.
- 6. The SDEO/DDO Concerned with the direction to stop the pay of the concerned teacher and make the necessary entries in the her service book immediately.
- 7. The Teacher concerned.
- 8. Copy of Master File for record.

(MUHAMMAD AMIN) DISTRICT EDUCATION OFFICER (F) DISTRICT KOHISTAN UPPER.

Anial & C

BEFORE THE DIRECTOR ELEMENTARY & SECONDARY EDUCATION PESHAWAR

Subject:

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Departmental appeal against the impugned order No. **1528-35** dated **10.06.2021** passed by District Education Officer (Female) District Kohistan upper, whereby appellant has been removed from service with immediate effect under Rule-4(b) of E&D Rules, 2011.

Respectfully Sheweth:-

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3.

That, the appellant was appointed against the post of **PST** in a prescribed manner by competent authority in the year **2006**, and since then, performed duties until the impugned order was passed.

That, the authority without observing due process of law passed the impugned order dated **10.06.2021** imposing major penalty upon the appellant without hearing her. Hence, the impugned order is liable to be setaside. (Copy of impugned order annexed herewith).

That, on the stoppage of the salary of the appellant, she filed a writ petition before Hon'ble Peshawar High Court, at

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Abbottabad bench which was disposed of in favor of the appellant. Thereafter, the authority passed the impugned order which reflects matafide on the part of the Department.

That, the Hon'ble Peshawar High Court directed the authority to release the salary of the appellant while brushing aside the stance of the Department with regard to the alleged low qualification of the appellant.

That, the order of Hon'ble Peshawar High Court was not implemented by the authority and instead the impugned order was passed.

That, the allegations cited in the impugned order are false, baseless, unsubstantiated and vague. The Department did not bother to hear the appellant, rather passed the impugned order in a mechanical manner, violating the vested rights of the appellant.

That, no notice in writing or otherwise was served upon the appellant for improving the qualification, nor there exists any rule for the said purpose.

That, appellant never remained absent from her duty. The impugned order is

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also silent with regard to the period of the absence.

That, no enquiry whatsoever was ever held to prove the allegations leveled against the applicant.

That, the applicant has been removed from service in a slipshod manner by a single stroke of pen violating the procedure prescribed by the law on the subject.

11.

That, without confronting the applicant with the allegations mentioned in the impugned order, she has been removed from service which is totally illegal, unlawful, without lawful authority and of having no legal effect.

12.

order was impugned the That. reportedly passed on 10.06.2021, not appellant. the communicated to the office by collected from the appellant on 07.07.2021.

HUMBLY VERY THEREFORE IS IT lo the acceptance that on PRAYED the departmental - appeal, instant impugned order dated 10.06.2021 bc declared as patently illegal, unlawful, without lawful authority, of having no legal effect, set aside the same and appellant be re-instated into service with all back benefits.

Dated 30.07.2021

Mst Gul Nargas, Ex-PST Teacher at Govt. Girls Primary School Rafiq Shah Abad, Tehsil Dassu, District Kohistan upper.....**Appellant** Cell No. 0341-7728876

BEFORE THE PESHAWAR HIGH COL BENCH ABBOTTABAD

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W.P. No.<u>1258</u>2020

SHAWAR HIG

4880TTABAD

Mst. Gul Nargas, daughter of Sher Bhadar, resident of village Loihi, Tehsil Dassu, District Kohistan posting at PST Teacher at GGPS, Mamoki ser, District Kohistan Upper.

..... Petitioner

VERSUS

Director, Elementary & Secondary Education Department Khyber Pakhtunkhawa, Peshawar.

(1)

Certified to be True Cop EXAMINER

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District Education Officer (Female) District upper Kohistan at Dassu.

...... ... Respondents

PETITION UNDER ARTICLES 199 OF WRIT CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973, FOR A DECLARATION TO THE EFFECT THAT STOPPAGE OF SALARY OF THE PETITIONER IN THE WAKE OF LETTER NO. 1973/F NO 04/F/INQUIRY DATED 14.12.2016, **INSTEAD OF UPGRADING THEM FROM BPS-04** TO BPS-12 AS PER THEIR ENHANCED **QUALIFICATION** ACCORDING TO THE <u>REQUIREMENT FOR THE POST OF PST.</u>

PRAYER:

IT IS, THEREFORE, MOST RESPECTFULLY PRAYED THAT THIS HONOURABLE COURT MAY GRACIOUSLY BE PLEASED TO:-

- A). Direct the respondents to release the withheld monthly salaries of the petitioner from May, 2016 up to date.
- B). Further direct the respondents to upgrade the petitioner from BPS-04 to BPS-12.
- C). Direct the respondents to extend the benefits of the judgments dated 20.06.2019 and 26.09.2019 passed by this Honourable court in writ petitions No. 978-A of 2017,1030-A of 2017 and 90-A of 2020 as well as judgment handed down in WP No.____ A of 2020 dated 22.09.2020, to the petitioner being similarly placed.

Certified to be True Copy EXAMINER 2822 9 FEB Peshawar High Court Atd. Bench Authorized Under

D).

issue any other writ or order or direction to respondent and pass such other orders and further orders as may be deemed necessary on the facts and in circumstances of the case.

ED TODAY

ABBOTTA

Respectfully shewith!

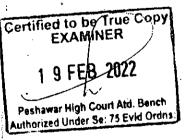
 That, the petitioner was appointed as PST Teachers in BPS-04, by competent authority in a prescribe manner vide appointment order dated 01.12.2006.

> (Copies of appointment order and other documents are annexed as Annexure "A").

- That, petitioner in the meanwhile, enhanced their qualifications required for the post in question.
 - 3). That, in due course, it was decided by respondents that the **PST** teachers who have not qualified Matric, the basic qualification for appointment as PST, his or her services shall be dispensed with and likewise, those who have enhanced the requisite qualification shall be upgraded to **BPS-12**.

That, though, the service of the petitioner were not dispensed with, but respondents ordered stoppage of salary on the ground of having no post code in which they be allowed salaries against the post of PST BPS-04, with effect from 01.05.2016 up till now without passing any order in writing.

That, similarly placed aggrieved Teachers questioned the impugned action of stoppage of salaries before this Honourable court through writ petitions No. 978-A of 2017 and



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1030-A of 2017, which were allowed as prayed for by this Honourable court vide 20.06.2019 and dated Judgments 26.09.2019 as well as Judgment dated 22.09.2020 delivered in WP _____A of 2020.

> (Attested copies of writ petitions and judgments dated 20.06.2019, 26.09.2019 and 22.09.2020 are annexed as annexure "B,C&D").

6).

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uthorized Under

1 9 FEB 2022

Peshawar High Court Atd. Bench

B).

That, respondents are legally bound to give the benefits of the aforesaid judgments to the petitioner being similarly placed, but they are not giving the benefits of the same to the petitioner without any reason, hence, the present writ petition on the following amongst others grounds.

GROUNDS:

That, petitioner was appointed in a A). competent by prescribed manner authority against the post of PST.

> That, petitioner, remained the in service of respondents Department as PST and there is no objection about the performance of duty.

That, the petitioner belong to an C). extreme backward and hardship area and hail from a very poor background, having a large family to support, 5

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therefore, stoppage of their salary and not granting them the due grade in a straight blow on the backbone.

D).

E).

That, it is the fundamental right of the petitioner that they be paid the pay of the post because respondents are getting regular duties from them.

advanced for That, the reason salaries of the the withholding petitioner is that there is no post code in which they be allowed salaries against the post of PST BPS-04 has already been declared absurd by this Honourable court in the aforesaid judgments passed in the cases of similarly placed aggrieved teachers.

Certified to be True Copy EXAMINER ANZI Peshawar High Court Ald. Bench horized Under Se: 75 Evid Ordns

PRAYER

IT IS, THEREFORE, most respectfully prayed that this Honourable court may graciously be pleased to:-

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respondents

Direct the respondents to release the A): the withheld monthly salaries of petitioner from May, 2016 up to date.

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direct

Further B). upgrade the petitioner from BPS-04 to

BPS-12.

C).

Direct the respondents to extend the benefits of the judgments dated 20.06.2019 and 26.09.2019 passed by this Honourable court in writ petitions No. 978-A of 2017,1030-A of 2017 and 90-A_of, 2020 as well as judgment handed down in WP No.____ A of 2020 dated 22.09.2020, to the petitioner being similarly placed.

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D). issue any other writ or order or direction to respondent and pass such other-orders and further orders as may be deemed necessary on the facts and in circumstances of the case.

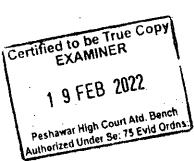
Dated: 03.10.2020

Mst. Gµl Nargas Petitioner

Through

ABOOR KHAN ABD ADVOCATE HIGH COURT





PESHAWAR HIGH COURT, ABBOTTABÀ FORM OF ORDER SHEE

Court of.....

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Case No.....

HAWAR

Date of Order of Proceedings	Order or other Proceedings with Signature of mage (6)	
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08.06.2021.	WP No. 1258-A/2020.	
	Present: Mr. Abdul Saboor Khan, Advocate for petitioner.	
•	***	
	MOHAMMAD IBRAHIM KHAN, J. Mst. Gul Nargas, the	
	petitioner, through this petition under Article 199 of the	
	Constitution of Islamic Republic of Pakistan, 1973, has invoked	
. .	the jurisdiction of this Court with the following prayer:-	
	It is therefore, most respectfully prayed that this	
	Hon'ble Court may graciously be pleased to:-	

- A. Direct the respondents to release the withheld monthly, salaries of the petitioner from May, 2016.
- B. Further direct the respondents to upgrade the petitioner from BPS-4 to BPS-12.
- C. Direct the respondents to extent the benefits of judgments dated: 20.06.2019 and 26.09.2019 passed by this Hon'ble Court in writ petitions No. 978 of 2017, 1030-A/2017 and 90-A/2020 as well as judgment handed down in WP No.____ of 2020 dated: 22.09.2020, to the petitioner being similarly placed.

Perusal of the record reveals that this Court had earlier decided the similar issue as agitated through WP No.

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1030-A/2017 titled: Mst. Faiza & Seven others Vs. Government of Khyber Pakhtunkhwa & others, wherein, it has been held as under:-

> Admittedly, the petitioners remained in the service of respondent department as PST, there is no objection about the performance of the petitioners and in case there was any complaint, besides they should have been terminated at the relevant time after the expiry of their initial tenure of appointment of three years. Since, it was the respondents, who allowed them to continue in the service on whatever qualification they had, the petitioner shall not suffer for inaction of the respondents. Admittedly, most of the petitioners have improved their qualification but the respondents again showed slackness in allowing upgradation or placing them in the pay scale of the post on which they are working. It is the fundamental right of the petitioners that they be paid the pay of the post, because when the respondents are getting the duties from the petitioners of the post of PST then they are entitled to the pay of the post. Reference can be made to the cases reported as 2006 SCMR 1938, 2010 PLC(CS) 284 and NLR 2008 Service 165. It is thus rather absurd to hear from the mouth of respondents that there is no post code in which the petitioners be allowed salaries against the post of PST BPS-4. We have thus, no other option but to direct the respondents No.3 and 4 to settle the matter and to release salaries to the petitioners (except petitioner No.4) from the date when it is withheld. The necessary

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exercise must be completed within a period of two months.

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3. Thus, in view of the above, the instant writ petition is disposed of with directions to the respondents to look into the grievance of petitioner in the light of judgment of this Court rendered in Writ Petition No. 1030-A/2017 and settle the dispute of release of salary of the petitioner, within period of two months. However, the petitioner is at liberty to approach this Court again, if her grievance is not redressed in accordance with law.

nad Ibrahim Khan and Ho

JUDGE

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گلزگس

منجانب:

بنام

بعدالت جناب KPK سروس ٹرا بیونل پیثا ورکیمپ کورٹ ایبٹ آیا د

ا پېلانت

باعث تحريراً نكه!

ڈائر یکٹرایلیمینٹر یا ینڈ سینڈریا یجوکیش دغیرہ **سروس ایپل**

عبدالصبورخان ايثرووكيك ماتى كورم

ائدری مقد معنوان بالا اپنی طرف سے برائے ہیروی وجواب دہی بہتا م لیشا ور م لی کور مد کو بدیں شرط و کسل مقرر کیا ہے کہ مٹ ہر میڈی پر خود یا بذ راید مختیا رخاص زویز وعد الت حاضر ہوتا رہوں گا اور بوقت پکار ے جانے و کسل صاحب موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کی میڈی پر مغلیر حاضر ندہوا اور غیر حاضر کی کا جہ ہے کی طود پر مقد مد میر بے خلاف ہو گیا تو صاحب موصوف الطلاع دیکر حاضر کروں گا۔ اگر کی میڈی پر مغلیر حاضر ندہوا اور غیر حاضر کی کا وجہ ہے کی طود پر مقد مد میر بے خلاف ہو گیا تو صاحب موصوف الطلاع دیکر حاضر کروں گا۔ اگر کی میڈی پر مغلیر حاضر ندہوا اور غیر حاضر کی کا وجہ ہے کی طود پر مقد مد میر بے خلاف ہو گیا تو صاحب موصوف اس بے کی طرح ذمہ دار ندہوں گے۔ نیز و میل صاحب موصوف صدر مقام پر چہر کی کے علاوہ کی اور جگہ چہر کی کے مقررہ اوقات سے موصوف ذمہ دار ندہوں گا در ما حب موصوف کو عرضی دعوا کر ہے آگ یا پیچھے ساحت ہونے پر مظہر کو کوئی نقصان پہنچ تو صاحب موصوف ذمہ دار ندہوں گے اور صاحب موصوف کو عرضی دعوا کا اور درخوا ست اجراح ڈرکری دنظر طانی ، ایک مگر انی دائر کر نے نیز ہر قسم کی درخواست پر دستخلا تعد لی کر انے کا بھی اختی اور کو تکا یا ڈرک کی اجراح کا اور اور تسیر کر اور دائر کر نے نیز ہر قسم کی درخواست پر دستخلا تعد لین کر نے کا بھی اختیار ہوگا اور کو تھم یا ڈرک کی اجراء کرانے اور ہر تم کا رو ہے دصول کر نے اور رسید دیے آور داخل میڈو داخل میں دی دی تعد در میں دہائی دراخی نا مدور تھی ہوگا واد کی تھی اور خلی کا اختیار ہوگا واد ہورت ایک محراف درخواں کر نے کا ، ہر تم کا بیان دینے اور سر داخلی دراخی کا محرا دی واد خلی کو گو کا اور پر محرا دادا یکی علیم دونی اور کر کی مرد کار میں دور کا میں بادر کی بی کی میر کر کی میں دیں اور ایک میڈر کر میں اور ایسی مشیر تا نونی کو کی اس امر میں دوی اختیا رات میں دوں اختی در می دور داخلی ہوں ہوں کی دور کی میں موسوف کو پر دان مقد مدی کی دور در سے محرون کی ہر کی دور دور سے محرون کو پر دان محرم کی دور دور سے محرون کی دور دور سے محرون کی دور کی دوس دور کی بیر دور داست کی دور کی دوسر ہے دو پر دور ہو سے محصوف کو پر دان محرم دور کی دوسی دور دور دور سے محرون کی دوسی دون دوسی دون دور در سے دور دور دور دور سے محرون دور دور سے محرون کی دوسی دونی دور کی دور دور دور دو ما حب موصوف کو پر دال

مور ت 21.02.2022

گل نرگس سابقه پرائمری سکول شیچرگورنمنٹ گرلز پرائمری سکول رفیق شاہ آباد خصیل داسوضلع کو ہتان اپر........ پیلانٹ

Attested & Accepted Abdul Saboor Khan Advocate High Cout

GS&PD.KP-1621/4-RST-6,000 Forms-05.07.17/P4(Z)/F/PHC Jos/Form A&B Ser. Tribunal "A" KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR. JUDICIAL COMPLEX (OLD), KHYBER ROAD, eee PESHAWAR. No. APPEAL No. 227 of 20 2.2 Gul Nargas **Apellant/Petitioner** Versus Director (ESSE) Reh **RESPONDENT(S)** Notice to Appellant/Petitioner Abdul Saboor Cham (Advocate) High coust Mansehm Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 15-6-22 at 8'00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at and Court AlAbad.

Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar. GS&PD.KP-1621/4-RST-6,000 Forms-05.07.17/P4(Z)/F/PHC Jos/Form A&B Ser. Tribunal

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on 6-22 at 8.00 A.A.

Registrar, E Knyber Pakhtunkhwa Service Tribunal, Peshawar.

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Registrar

Khyber Pakhtunkhwa Service Tribunal, Peshawar.

GS&PD.KP-1621/4-RST-6,000 Forms-05.07.17/P4(Z)/F/PHC Jos/Form A&B Ser. Tribunal "A" KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR. JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. TB A/A AP RO No. 227 of 20 22 APPEAL No..... Mst Gul Nargas **Apellant/Petitioner** Versus Director GERSED Red. **RESPONDENT(S)** Notice to Appellant/Petitioner MST Gul Nargas EXPST GGPS Rafig Shah Abad Teh Dassy Distt Kohiston IPPer

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Khyber Pakhtunkhwa Service Tribunal, Peshawar.