


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

Nemo 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.

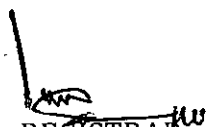

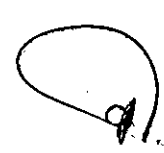

(Fareeha Paul)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 227/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/02/2022	<p>The appeal of Mst. Gul Nargis received today by post through Abdul Saboor Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR.</p> <p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put there on 21.04.22</p> <p style="text-align: right;"> CHAIRMAN</p> <p>21.04.2022</p> <p>Nemo for appellant.</p> <p>Notice be issued to appellant/counsel for 15.06.2022 for preliminary hearing before S.B at Camp Court, Abbottabad.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J) Camp Court, A/Abad</p>

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No 227 of 2022

Gul Nargas.....Appellant

VERSUS

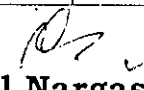
Director Elementary and Secondary
Education Peshawar etcRespondents

APPEAL

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Dated 21.02.2022


Gul Nargas
(Appellant)

Through:-


ABDUL SABOOR KHAN
Advocate High Court

1

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 set-
aside declaring as illegal, unlawful, void-

abnito 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").

2. 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. That, respondent **No. 02**, all of a sudden, at the back of the appellant, with a single stroke 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. 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.

GROUND:-

- 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 set-aside.
- 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.

- D)** 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.
- E)** 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

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").

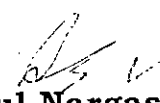
- I) That, the Hon'ble Peshawar High Court directed respondent No. **02** to release the stopped salaries of the appellant while brushing aside the stance of the Department with regard to alleged low qualification.
- J) That, instead of, implementing the order of the Hon'able Peshawar High Court, the 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 set-aside.
- L) That, appellant had a long unblemished service record at her credit

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 set-aside declaring as illegal, unlawful, void-abnito 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-Primary School Teacher, Government Girls Primary School, Rafiq Shah Abad, Tehsil Dasso, District Kohistan upper, do hereby solemnly 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 from this Honorable Tribunal.


Gul Nargas

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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**

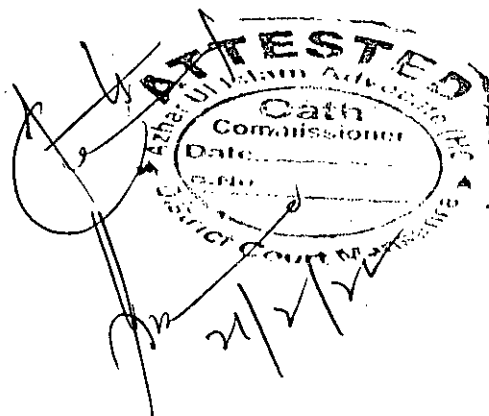
APPEAL

AFFIDAVIT

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

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.
- 4). That, the impugned order on its very face value is a void order and under the law, no limitation runs against a void order.

- 5). 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). 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.

Dated 21.02.2022


Gul Nargas
(Appellant)

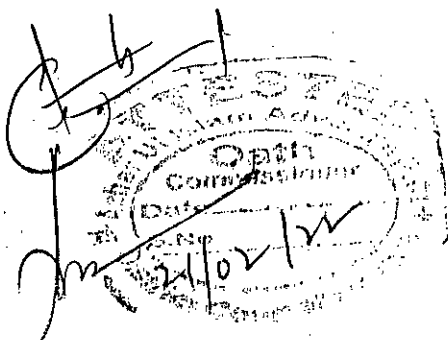
Through:-


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.


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 etcRespondents

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.

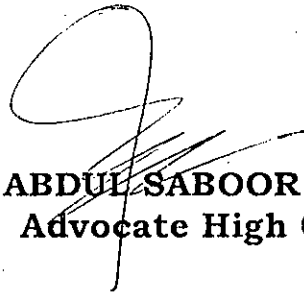
RESPONDENTS:

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

Dated 21.02.2022


GUL NARGAS
(Appellant)

Through:-


ABDUL SABOOR KHAN
Advocate High Court

OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS AND LITERACY
KOHISTAN AT DASSU

ANNEX (A)
R-11

APPOINTMENT ORDER

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 admisible under the rules on contract basis for a period of three years according to the Merit policy issued by the Government of NWFP Schools & Literacy Department in the Schools noted against each with immediat effect in the interest of public service.

S.No	Name of candidate	Father's Name	Residence/ U/C	Apptt as	School where posted	Remarks
1	Lal pari	Said Amir	Dassu	PTC	GGPS Dassu Village	Agst V.Post
2	Gul Shan	Rafiq shah	Bar Jalkot	PTC	GGPS Koop	Agst V.Post
3	Umar Jan	Khaiyanoos	Bar Jalkot	PTC	GGPS Koop	Agst V.Post
4	Gul Panarr Bibi	Abdul Hanan	Bar Jalkot	PTC	GGPS Saddam Dadir	Agst V.Post
5	Sergena Bibi	Abdul Hanan	Bar Jalkot	PTC	GGPS East Jalkot	Agst V.Post
6	Salmr Bibi	Qalandar Khan	Bar Jalkot	PTC	GGPS East Jalkot	Agst V.Post
7	Bibi Hawa	Saif ullah	Jaffar Dader	PTC	GGPS Khaloot	Agst V.Post
8	Gul Niz Bibi	Bakhtiar	Bar Jalkot	PTC	GGPS Khaloot	Agst V.Post
9	Naseema	Nawab Khan	Bar Jalkot	PTC	GGPS Dadboon	Agst V.Post
10	Saira Marjan	M.Qadeer	Baryar	PTC	GGPS Dadboon	Agst V.Post
11	Shakila	M.Saeed	Baryar	PTC	GGPS Barishaha	Agst V.Post
12	Gul Nargis	Siner Bhadar	Baryar	PTC	GGPS Mamokl Ser	Agst V.Post
13	Maheena Bibi	Ghulam Haider	Baryar	PTC	GGPS Mamokl Ser	Agst V.Post
14	Sahar Bibi	Son Main	Baryar	PTC	GGPS Sheroi Baik	Agst V.Post
15	Nizakat Begum	Shah Zareen	Baryar	PTC	GGPS Jaakh	Agst V.Post
16	Bibi Fatima	Masta Khan	Baryar	PTC	GGPS Jaakh	Agst V.Post
17	Kul Soom	Sikandar Khan	Baryar	PTC	GGPS Jamra Jalkot	Agst V.Post
18	Farzana Bibi	Sher wali Khan	Baryar	PTC	GGPS Jamra Jalkot	Agst V.Post
19	Gul Badan	M.Miskeen	Baryar	PTC	GGPS Kuz Gaheen	Agst V.Post
20	Cul Badan	Gharib Shah	Kaigah	PTC	GGPS Dhannat	Agst V.Post
21	Nargis	Mohammad Ashraf	Dassu	PTC	GGPS Dassu Village	Agst V.Post
22	Yasmin Bibi	Hassan Shah	Dassu	PTC	GGPS Dassu Village	Agst V.Post
23	Serwesa bibi	Ali Akbar	Dassu	PTC	GGPS Uchar Ser	Agst V.Post
24	Hussan Pari	Hasham Khan	Teyal	PTC	GGPS Sheshi Rait	Agst V.Post
25	Gul Naba	Janan Khan	Dassu	PTC	GGPS Uchar Ser	Agst V.Post
26	Gul Chaman	Sikandar Khan	Dassu	PTC	GGPS Dassu Colony	Agst V.Post
27	Gul Hamida	Janan Khan	Dassu	PTC	GGPS Dassu Colony	Agst V.Post
28	Lugash	Mustaqeem	Teyal	PTC	GGPS Shai Dar	Agst V.Post
29	Laiba	M.Jenan	Dassu	PTC	GGPS Dassu Colony	Agst V.Post
30	Hussan Jan	Hasham Khan	Teyal	PTC	GGPS Shai Dar	Agst V.Post
31	Hussan Bano	Shahalam	Dassu	PTC	GGPS Dassu Colony	Agst V.Post
32	Sumbal	Abdur Raouf	Dassu	PTC	GGPS Dassu Colony	Agst V.Post
33	Zeba Hamid	Abdul Hamood	Dassu	PTC	GGPS Dassu Colony	Agst V.Post
34	Gul Parri	M.Sharif	Dassu	PTC	GGPS Dassu Village	Agst V.Post
35	Shazia	M.Miskeen	Dassu	PTC	GGPS Dassu Village	Agst V.Post
36	Gul Safa	Mohammiad Alam	Dassu	PTC	GGPS Jalb Chortoo	Agst V.Post
37	Bibi Najina	Utall	Goshali	PTC	GGPS Mohd:Shaha Dadir	Agst V.Post
38	Rukhsana Bibi	AlamGir	Goshali	PTC	GGPS Mohd:Shaha Dadir	Agst V.Post
39	Bibi Rashida	Saif-ul Malook	Goshali	PTC	GGPS Samarabad	Agst V.Post
40	Saira bano	M.Miskeen	Goshali	PTC	GGPS Bar Bak	Agst V.Post
41	Farcegh Bibi	Saif Ul Malook	Goshali	PTC	GGPS Dadir,Goshali	Agst V.Post
		Jumshed	Goshali	PTC	GGPS Dadir Goshali	Agst V.Post
		Saif-ul Malook	Goshali	PTC	GGPS Jahnnra Dadir	Agst V.Post
		Shamal Khan	Goshali	PTC	GGPS Jalb Chortoo	Agst V.Post
		Saif ur Rahman	Goshali	PTC	GGPS Jalb Chortoo	Agst V.Post
		Said Nadir	Komila	PTC	GGPS Bar Komila	Agst V.Post
		Sher Khan	Harban	PTC	GGPS Gakuz	Agst V.Post

Contd:P-02

Assistant District Officer
Literacy Department
District Kohistan

P-11A

Page No-02

48	Gul fer	M.Faqeer	Harban	PTC	GGPS	Gakuz	Agst V.Post
49	Bibi Miryam	M.Ibrahim	kuz Jalkot	PTC	GGPS	Shakari	Agst V.Post
50	Lazaba Bibi	Shams ur Rahman	Dilbar Dadir	PTC	GGPS	Jalo Chortoo	Agst V.Post
51	Kulsoom bibi	Barkat Khan	kuz Jalkot	PTC	GGPS	Jalkot Village	Agst V.Post
52	Gul Shad	Sher Mohammad	kuz Jalkot	PTC	GGPS	Jalkot Village	Agst V.Post
53	Begum Hakeem	Abdul Khan	Seo	PTC	GGPS	Seo Village	Agst V.Post
54	Najma Bibi	Ser Baz Khan	Dassu	PTC	GGPS	Jalo Chortoo	Agst V.Post
55	Nelam Bibi	Shales' Khan	Sazin	PTC	GGPS	Sultanabad	Agst V.Post
56	Sobia Akram	Mohammad Akram	Sazeen	PTC	GGPS	Sultanabad	Agst V.Post

CONDITIONS:-

1. Their appointments are purely 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 TADA 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-years
8. They should produce age and health certificate from EDO Health Kohistan before taking of charge.
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. 10232-36 / App/PTC's (M)U/C Wise Merit /2006 Dated Kohistan the 27/12/2006.

Copy of the above is forwarded to:-

1. Director Schools & Literacy NWFP Peshawar.
2. P/S to Minister of Education NWFP Peshawar.
3. P/S to Secretary Government of NWFP (S & L) Department Peshawar.
4. District Nazim Kohistan
5. District Coordination Officer Kohistan with reference your Notification No.10232-36 dated 20/11/2006 & 10407-10 dated 24/11/2006.
6. District Accounts Officer Kohistan.
7. District Officer Schools & Literacy Kohistan.
8. Deputy District Officer (F)S&L Kohistan.
9. Candidates concerned.

Executive District Officer
Schools & Literacy Kohistan

Handwritten signature and date: 20/02/21

DISTRICT EDUCATION OFFICER (F) KOHISTAN (UPPER)

mailto:saifmulek@kohistanupper@gmail.com

Handwritten marks: P-12

Handwritten signature: Arwa B

OFFICE ORDER/ REMOVAL FROM SERVICE

1. Whereas Mst. Gul Nargis 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 matric with PTC.
3. Whereas she was directed to improve her qualification as per the requirement of basic criteria for PST 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 leave.
5. Whereas she was 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 her duty.
7. Whereas as per report of the SDEO/ASDEO concerned she doesn't perform her duty.
8. Whereas a show cause notice was served upon her vide this office Endst. No. 1150/54, Dated: 28-4-2021.
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 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 Nargis, 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.

(SAIF MUHAMMAD ARWA)
District Education Officer (F)
District Kohistan Upper.

End No. 1150/54 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 District Accounts Officer Kohistan Upper.
4. The PA to District Education Officer (F) Kohistan Upper.
5. The Deputy District Education Officer (F) Kohistan Upper.
6. The SDEO/ODO concerned with the direction to stop the pay of the concerned teacher and make necessary entries in her service book immediately.
7. The teacher concerned.
8. Copy to Master File for record.

Handwritten signature
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.

Accepted
8/1/22

P- (14)
Amal ©

**BEFORE THE DIRECTOR ELEMENTARY &
SECONDARY EDUCATION
PESHAWAR**

Subject: 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:-

1. 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.
2. 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 set-aside. **(Copy of impugned order annexed herewith).**
3. That, on the stoppage of the salary of the appellant, she filed a writ petition before Hon'ble Peshawar High Court, at

Agreed
21/2/22

P.

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

4. 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.
5. That, the order of Hon'ble Peshawar High Court was not implemented by the authority and instead the impugned order was passed.
6. 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.
7. 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.
8. That, appellant never remained absent from her duty. The impugned order is

Appellant
21/2/21

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also silent with regard to the period of the absence.

9. That, no enquiry whatsoever was ever held to prove the allegations leveled against the applicant.
10. 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. That, the impugned order was reportedly passed on 10.06.2021, not communicated to the appellant, collected from the office by the appellant on 07.07.2021.

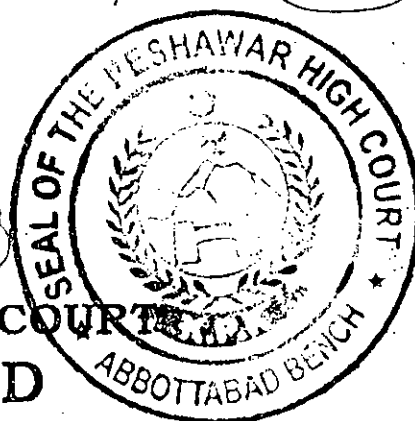
IT IS THEREFORE VERY HUMBLY PRAYED that on acceptance of the instant departmental appeal, the impugned order dated 10.06.2021 be declared as patently illegal, unlawful, without lawful authority, of having no legal effect, set aside the same and appellant be re-instated into service with all back benefits.

Dated 30.07.2021

[Signature]

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

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Amna D

**BEFORE THE PESHAWAR HIGH COURT
BENCH ABBOTTABAD**

W.P. No. 1258 2020

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

- (1) Director, Elementary & Secondary Education
Department Khyber Pakhtunkhawa, Peshawar.
- District Education Officer (Female) District
upper Kohistan at Dassu.

..... Respondents

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Authorized Under Sec. 75 Btd Ordns.

*No. 5539
17-10-2020*

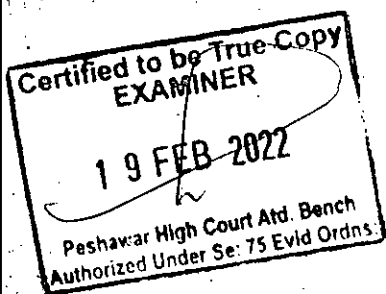
FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
17/10

WRIT PETITION UNDER ARTICLES 199 OF
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
REQUIREMENT FOR THE POST OF PST.

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.
- 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.



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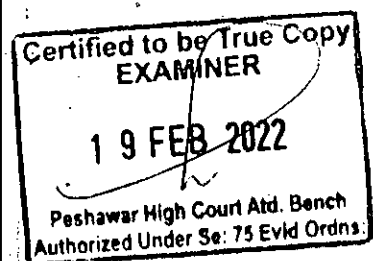
P-19

Respectfully shewith!

- 1). 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").

- 2). 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**.
- 4). 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.
- 5). 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 Judgments dated 20.06.2019 and 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). 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.

GROUND:

- A). That, petitioner was appointed in a prescribed manner by competent authority against the post of PST.
- B). That, petitioner, remained in the service of respondents Department as PST and there is no objection about the performance of duty.
- C). That, the petitioner belong to an extreme backward and hardship area and hail from a very poor background, having a large family to support,

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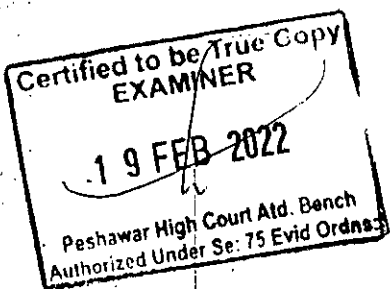
therefore, stoppage of their salary and not granting them the due grade in a straight blow on the backbone.

- D). 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.
- E). That, the reason advanced for withholding the salaries of the 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.

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**.



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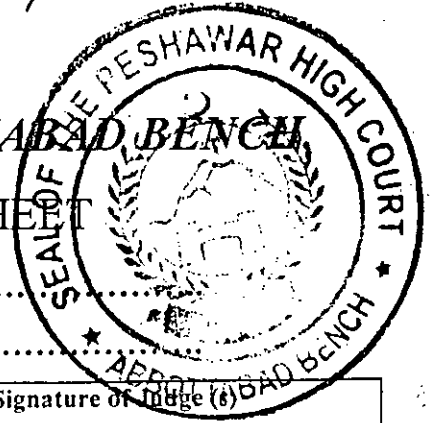
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PESHAWAR HIGH COURT, ABBOTTABAD BENCH

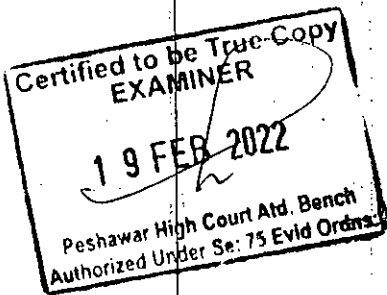
FORM OF ORDER SHEET

Court of.....

Case No.....of.....



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
08.06.2021.	<p><u>WP No. 1258-A/2020.</u></p> <p>Present: Mr. Abdul Saboor Khan, Advocate for petitioner.</p> <p style="text-align: center;">***</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.</u> <i>Mst. Gul Nargas</i>, the petitioner, through this petition under Article 199 of the <i>Constitution of Islamic Republic of Pakistan, 1973</i>, has invoked the jurisdiction of this Court with the following prayer:-</p> <p style="text-align: center;">It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-</p> <p style="text-align: center;">A. <i>Direct the respondents to release the withheld monthly salaries of the petitioner from May, 2016.</i></p> <p style="text-align: center;">B. <i>Further direct the respondents to upgrade the petitioner from BPS-4 to BPS-12.</i></p> <p style="text-align: center;">C. <i>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.</i></p> <p>2. Perusal of the record reveals that this Court had earlier decided the similar issue as agitated through WP No.</p>



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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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Authorized Under Sec: 75 Evid Ordns.

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exercise must be completed within a period of two months.

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.

JUDGE

JUDGE

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19 FEB 2022
Peshawar High Court Ald. Bench
Authorized Under Sec: 75 Evid Ord.

Tahir PS.

Hon'ble Justice Mohammad Ibrahim Khan and Hon'ble Justice Shakeel Ahmed.

وکالت نامہ

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بعدالت جناب KPK سروس ٹرایبونل پشاور کیمپ کورٹ ایبٹ آباد

ڈائریکٹر ایڈمنسٹریٹو اینڈ سیکنڈری ایجوکیشن وغیرہ

بنام گل زنگس

سروس اپیل

اپیلانٹ

باعث تحریر آنکھ!

منجانب:

عبدالصبور خان ایڈووکیٹ ہائی کورٹ

اندریں مقدمہ عنوان بالا اپنی طرف سے برائے پیروی و جواب دہی بمقام پشاور ہائی کورٹ

کو بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص زویہ و عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہو اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پشاور کے علاوہ کسی اور جگہ پشوری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہونگے اگر مقدمہ مقام پشاور کے آگے یا پیچھے سماعت ہونے پر مظہر کو کوئی نقصان پہنچے تو صاحب موصوف ذمہ دار نہ ہوں گے اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراء کے ڈگری و نظر ثانی، اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے کا، ہر قسم کا بیان دینے اور سپرد ثالثی و راضی نامہ و دستبرداری و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا نظر فرخواست حکم اتنا ہی یا فیصلہ ڈگری و اجراء ڈگری بھی صاحب موصوف کو بشرط ادا نیگی علیحدہ فیس کرنے کا مجاز ہوگا۔ بصورت ضرورت بدوران مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا بیرسٹر کو بجائے خود یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ مجھے کل ساختہ پرداختہ مثل ذات خود منظور و قبول ہوگا۔ لہذا وکالت نامہ لکھ دیا ہے تاکہ سندر ہے۔ مضمون وکالت نامہ سن لیا اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

مورخہ 21.02.2022

گل زنگس سابقہ پرائمری سکول ٹیچر گورنمنٹ گرلز پرائمری سکول رفیق شاہ آباد تحصیل داسوئیل کوہستان اپر..... اپیلانٹ

Attested & Accepted
Abdul Saboor Khan
Advocate High Court

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

Regel

TR

No.

APPEAL No. *227* of 20 *22*

Gul Nargis

Appellant/Petitioner

Versus

Director (EGSE) Pesh

RESPONDENT(S)

Counsel
Notice to Appellant/Petitioner *Abdul Saboor Khan*
(Advocate)

High Court Manshera

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 our court
AIABad.*

[Signature]

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No. *Regel*

TR

APPEAL No. *227* of 20 *22*

Gul Nargis

Appellant/Petitioner

Versus

Director (EGSE) Pesh

RESPONDENT(S)

Notice to Appellant/Petitioner *Counsel* *Abdul Saboor Khan*
(Advocate)
High Court Mansehra

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*at imp court
A/Abad*

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No. *Nargis*

EP No.
APPEAL No.....

227

of 20

22

TB A/A

Mst Gul Nargis

Appellant/Petitioner

Versus

Director (EESE) Pesh

RESPONDENT(S)

Notice to Appellant/Petitioner

Mst Gul Nargis Ex PST

GGPS Rafiq Shah Abad

Teh DASSU Distt Kohistan

UPPEX

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 camp court
At Abad.*

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

Nargis

EP 100

TB A/A

APPEAL No.....*227*..... of 20 *22*

Mst Gul Nargis

Appellant/Petitioner

Versus

Director (ESE) P.S.

RESPONDENT(S)

Notice to Appellant/Petitioner

*Mst Gul Nargis EX PST
GGPS Rafiq Shah Abad
Teh DASSU DISTT Kohistan
UPPER*

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 A.M.*

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 Camp Court
At Abad*



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.