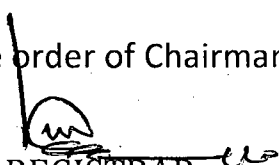


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 661/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	02.11.2022	<p>The execution petition of Mst. Samina Gul submitted today by Mr. Muhammad Anwar Khan Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p>By the order of Chairman  REGISTRAR,</p>

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR
Execution Petition No. 661 / 2022 in service Appeal
No. 280/2018.

Mst Samina Gul w/o Late Maahzullah;
Ex- CT Teacher Government High Scholl Zaryab Colony
Peshawar .

AAQ

.....Applicant

V E R S U S

Mohtasim Billah Secretary Elementary & Secondary
Education Department, Khyber Pakhtun Khawa Block
A Civil Secretariat, Peshawar & Others.

.....Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Execution Petition		1-2
2.	Affidavit		3
3.	Judgment		4-9
4.	Applications		10-11
5.	Wakalat Nama		—

Samina Gul
Applicant

Through

Muhammad Anwar Khan

Muhammad Anwar Khan
(Pushtun Ghari)

Advocate, High Court
Peshawar.

Date: 20/10/2022

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

Execution Petition No. 661 / 2022 in service Appeal No. 280/2018.

Mst Samina Gul w/o Late Maahzullah,

Ex- CT Teacher Government High Scholl Zaryab Colony Peshawar .

.....Appellant

V E R S U S

1. Mohtasim Billah Secretary Elementary & Secondary Education Department, Khyber Pakhtun Khawa Block A Civil Secretariat, Peshawar
2. Hafiz Ibrahim Khan Director Elementary & Secondary Education, Near Government Higher Secondary School No 1 Peshawar City.
3. Sajjad Akhtar District Education Office (Male), Near Government Higher Secondary School No 1 Peshawar City.

.....Respondents

EXECUTION PETITION FOR THE IMPLEMENTATION OF JUDGEMENT DATED 29/03/2022 IN THE titled SERVICE APPEAL ON BEHALF OF THE APPELLANT.

Respectfully Sheweth:

The Appellant/Petitioner submits as under:

1. That the titled service Appeal was pending for disposal before this Hon'able Service Tribunal & has been decided in favour of the appellant/petitioner vide judgment dated 29/03/2022 with the direction to the respondents Department to allow the appellant's family pension. **(Copy of judgment is attached as Annexure A).**
2. That aggrieved from the judgment dated 29/03/2022 the Respondents has been approached by the appellant to issue family pension but till date no payment of family pension has been sanctioned. The Respondents Department are not going to implement the judgment of this honorable service tribunal.

3. That the Appellant has filed an application to director elementary and secondary as well as secretary elementary and secondary education Khyber Pakhtun Khawa but till date no process for issuing family pension to petitioner. Respondents are not considering the court decision. **(Copy of application are attached as Annexure B).**

4. That in spite clear cut judgment of this honorable service tribunal direction of the appellate authority, the District Education Officer (Male) Peshawar is reluctant to implement the judgment dated 29/03/2022 of this Hon'able Tribunal on malafide intention & has committed contempt of court.

Therefore, it is humbly prayed that on acceptance of this petition, this Honorable Tribunal may very graciously be pleased to direct the respondents to implement the judgment dated 29/03/2022 of this Hon'able service Tribunal in the titled case in true, letter & spirit & interest of justice.

Through

Appellant

Samina

**Muhammad Anwar Khan
(Pashton Ghari)**

Advocate High Court,
Peshawar

Date: 3/10/2022

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

Execution Petition No. / 2022 in service Appeal No.
280/2018

Mst Samina Gul w/o Late Maahzullah,
Ex- CT Teacher Government High Scholl Zaryab Colony Peshawar.

.....Appellant

V E R S U S

1. Mohtasim Billah Secretary Elementary & Secondary Education Department, Khyber Pakhtun Khawa Block A Civil Secretariat, Peshawar
2. Hafiz Ibrahim Khan Director Elementary & Secondary Education, Near Government Higher Secondary School No 1 Peshawar City.
3. Sajjad Akhtar District Education Office (Male), Near Government Higher Secondary School No 1 Peshawar City.

.....Respondents

AFFIDAVIT

I, Mst. Samina Gul Wife of Late Maazullah EX- CT Teacher R/o Village Main Gujar Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Execution petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Samina Gul
DEPONENT

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

Service Appeal No. 280 /2018

Khyber Pakhtunkhwa
Services Tribunal

Diary 289

Date 21-3-2018

Mst Samina Gul w/o Late Maat zullah,
Ex- CT Teacher Government High Scholl Zaryab Colony
Peshawar
.....**Appellant**

V E R S U S

1. Government of Khyber Pakhtun Khwa through Secretary Elementary & Secondary Education Department, Khyber Pakhtun Khawa Civil Secretariat, Peshawar
- * 2. Secretary Finance Department, Civil Secretariat, Peshawar
3. Director Elementary & Secondary Education, Near Government Higher Secondary School No 1 Peshawar City.
4. District Education Office (Male), Near Government Higher Secondary School No 1 Peshawar City.
- * 5. District Account Officer, Office of Accountant Gernal, Fort Road Peshawar Cant

.....**Respondents**

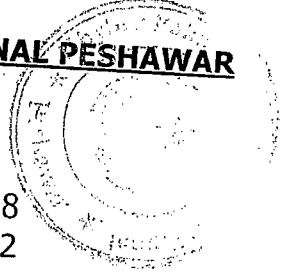
1/3/18

Alhasan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 280/2018

Date of Institution ... 01.03.2018
Date of Decision ... 29.03.2022



Mst. Samina Gul W/O Late Maahzullah, Ex-CT Teacher
Government High School Zaryab Colony, Peshawar.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary
& Secondary Education Department, Khyber Pakhtunkhwa Civil
Secretariat Peshawar and four others.

... (Respondents)

Muhammad Anwar Khan,
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:

“On acceptance of this appeal, the respondents be
directed to allow the appellant's Family Pension of
Late Maahzullah Ex-CT Teacher of Education
Department who died in Jail and was in Government
service as final order of his removal or dismissal

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

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2
from service had not been issued till his death in the judicial lockup. The respondents be directed to pay Family Pension to the appellant".

2. Brief facts of the case are that late Maahzullah was the husband of appellant who was a permanent Government employee of Education Department and was posted as CT Teacher at Government High School Zaryab Colony Peshawar. He was implicated in a murder case, where-after, he was granted bail before arrest but later on, his bail before arrest was canceled and he was sent to judicial lockup. He was tried in a court of Law and was convicted. He died in jail before filing appeal against the judgment of the Trial Court. He was having total service of nine years and three months, therefore, the appellant being widow, requested for condonation of nine months which was not honored. She also submitted applications for condonation to Director of Education but to no avail. The Finance Department vide letter to Secretary Education had asked for condonation in period of service for the purpose of pension but fiasco, hence, the present service appeal.

3. We have heard Muhammad Anwar Khan Advocate learned counsel for appellant and Kabir Ullah Khattak, learned Additional Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Muhammad Anwar Khan Advocate learned counsel appearing on behalf of appellant, inter-alia, submitted that not granting the family pension as claimed by the appellant and by not responding her departmental appeal is against law, facts and natural justice. It was submitted that as per rules, appellant is entitled to family pension but

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AS

the respondent Department by ignoring all the laws and rules kept the appellant deprived of her legal right. Learned counsel further submitted that her husband had a clean service record throughout his carrier who was never proceeded against departmentally nor there was any bad entry in his service record and that he was going to file appeal against his conviction but died in jail without termination from service, therefore, on acceptance of this appeal, the respondents be directed to condone nine months of service of the deceased and to sanction family pension for the family of the deceased.

5. Conversely, learned AAG submitted that the deceased failed to inform the Department in respect of registration of FIR against him on 03.04.2008 and that he had applied for station leave on 10.04.2008. The Capital City Police informed the Department vide letter dated 13.05.2008 in respect of his involvement, therefore, he was suspended on 18.09.2008. It was further submitted that his qualifying service was nine years, two months and four days while for family pension, ten year service is needed, therefore, the appellant is not entitled for family pension.

6. From the record it is evident that late Maahzullah was serving as CT Teacher at Government High School Zaryab Colony, Peshawar. He was implicated in case FIR No.163 dated 03.04.2008 registered U/S 302 334/34 PPC Police Station Daudzai. Admittedly, he was arrested in the above-mentioned case by the local police and was sent to judicial lockup where he died on 05.03.2009. it is also not disputed that he was suspended from service vide order No.5496-98 dated 18.09.2008 and at the time of his death in Central Jail Peshawar, his

Signature

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Signature

total qualifying service was nine years, two months and four days. From the record, it is crystal clear that the deceased was in Government service and final order of removal or dismissal from service in pursuant to the judgment of the court had not been issued by the respondent Department till his death in the judicial lockup. No doubt, he was convicted by the Trial Court, however, he was entitled to file a criminal appeal before the august Peshawar High Court, Peshawar but in the meanwhile, he died on 05.03.2009 which is evident from his death certificate and which fact is not disputed. Mst. Samina Gul, the present appellant was legally wedded wife of late Maahzullah and out of the wedlock, four children were born. All the four children are in custody of their mother i.e. the present appellant and she repeatedly requested for the grant of family pension in respect of her late husband but fiasco. Admittedly, his total service was nine years, three months and four days while qualifying service for family pension is ten years. Under Notification No.SOS-III (FD) G-112/82 dated 04.11.1982 read with Civil Servants Rule.174-D, competent authority is empowered to grant one year condonation but her repeated requests were not honored. Conditions for the grant of pension do exist in her favor as her husband was a Government servant and his service was pensionable. He had not been dismissed or removed from service till his death in Central Jail, Peshawar. Admittedly, a deficiency of Six months or less in the qualifying service of a Government Servant shall be deemed to have been condoned. A deficiency of more than six months but less than a year, may be condoned by the competent authority but in the instant case despite a

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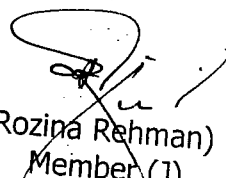

deficiency of nine months in the qualifying service of late Maahzullah, request of his widow was not honored and the said deficiency was not condoned despite the fact that he had not been dismissed or removed from service and admittedly, he was in Government service till his death in the Central Prison, Peshawar.

7. The late Maahzullah was never proceeded against departmentally during his lifetime. He was convicted by the Trial Court but his right to appeal was yet to be exercised when in the meanwhile, he died in Central Prison, Peshawar. Disciplinary proceedings never initiated during his lifetime, therefore, the benefits to which legal heirs of a civil servant are entitled, did not abate upon his death. He had admittedly put in nine years, two months and four days service, hence, he being on a permanent post until his death, his widow is entitled to receive pension.

8. Keeping in view the above discussion, instant service appeal is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
29.03.2022


(Salah-ud-Din)
Member (J)


(Rozina Rehman)
Member (J)

Attested


Number of Pages	24/06
Number of Lines	23/5
Number of Words	26/5
Date of Submission	24/5/22
Date of Receipt	24/5/22

خدمت جناب ڈی او صاحب گورنمنٹ خیر پختہ خوا

بشارت

جناب عالی،

گزشتہ برس کے سیرے سٹیٹ کے پٹیشن کا کسے باغی
سال تک مختلف ججوں کے سالانہ حوالے ہیں سال میں اس
صورت میں باغی کا منسلک پٹیشن ججز کے قلم نکل گیا کہ یہ کسے
باغی کو رٹ کا پٹیشن اس کا منسلک سیرے میں ٹرا کبوتل کرنے
اس کے بعد دو سال میں سیرے میں ٹرا کبوتل کرنے میں کسے
کا منسلک باغی رہ گئی میں کیا کہ یہ پٹیشن سیرے اور سیرے
ججوں کا حق ہے اس کو جاری کر دیا جائے۔ آپ سے
گزشتہ پٹیشن ہے کہ یہ پٹیشن کا سلسلہ باقاعدہ طور پر جاری کرنے
کا حکم دے

شکرہ

العرفی

مختار گل

Saujana Lal

22-4-29

Attest

الحمدت جناب سید سٹی ایجوکیشن آفیسرز خیر مختلفہ
پشاور

جناب عالی :-

گزشتہ سال سے کہ میرے شہر کے پنشن کا کسے باجے
سال تک مختلف جگہوں کے مسائل حل ہوتے ہیں سال
میں صرف اسے باقی کا مسئلہ پنشن جگہ کے نقل سےج نے کہا
کہ یہ کسے باجے ٹورٹ پنشن بلکہ سروسس ٹرا بیونل
کا ہے وہی اسے کو حل دے گا۔ دو سال بعد اسے کا
مسئلہ باجے حق میں ہے کہ پنشن بجے ادا کر
دیا جائے بعد پینشن باقاعدہ طور پر جاری کر دیا جائے
آپ سے گزشتہ سال سے کہ سروسس ٹرا بیونل کے مسئلہ
کے مطابق میرا پنشن جاری کر دیا جائے۔

شکرہ

الحمدت

محمد علی

Laminia Lal

30-7-22

Attest

قیمت
50 روپے

40957



12

ایڈوکیٹ محمد المورخان
بار کونسل / ایسوسی ایشن نمبر: BC-108797
رابطہ نمبر: 0333 926237

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: سر جسٹس مولانا

<p>مخانب: تمیز گل</p>  <p>سکریٹری</p>	دعوی:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ لکھنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست ازہر تنظیم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور غلطی، نیز دائرہ کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو کوئی حرج نہ ہوگا، نیز اختیار حاصل ہوں گے اور اس کا ساختہ پروا خیز منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب یا ہند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا نکات نامہ لکھ دیا تاکہ سند رہے



المقوم:

العبد العبد
Attested & Accepted
کے لیے منظور ہے

نوٹ: اس نکات نامہ کی فونو کاپی ناقابل قبولی ہوگی۔

Sanivalda