

17th Oct., 2022

Counsel for the petitionert present. Mr. Kabirullah Khattak, Addl. AG alongwith Tauseef Ahmad, ADEO for the respondents present.

Learned counsel for the petitioner seeks adjournment in order to further prepare the brief. Adjourned. To come up for further proceedings on 04.11.2022 before S.B.



(Kalim Arshad Khan)
Chairman

15.07.2022

Junior of learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Implementation report not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission of implementation report. Adjourned. To come up for implementation report on 02.09.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER(E)

02.09.2022

Learned counsel for the petitioner present. Mr. Naseer-Ud-Din Shah, Assistant Advocate General alongwith Mr. Touseef Ahmed, ADEO for the respondents present.

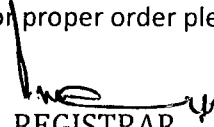

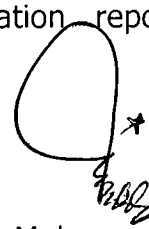
In pursuance of the judgement of Service Tribunal dated 11.11.2021, the respondent department conducted regular inquiry against the petitioner. In the light of recommendations of the inquiry committee, the petitioner could not be reinstated in service and the earlier impugned order dated 22.11.2017 has been kept intact. Implementation report containing the inquiry report and connected documents placed on file. Copy thereof provided to learned counsel for the petitioner. Learned counsel for the petitioner requested for adjournment so as to gain time to go through the reply/implementation report. Adjourned. To come up for further proceedings on 17.10.2022 before S.B.


(Mian Muhammad)
Member (E)

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____ 168/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	31.03.2022	<p>The execution petition of Mst. Nazma Ali submitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	<p><i>Noted</i> <i>19/05/22</i> <i>Noor Mohd Khattak</i></p>	<p>This execution petition be put up before to Single Bench at Peshawar on <u>19-05-2022</u>. Original file be requisite. Notices to the appellant and his counsel be also issued for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
	19.05.2022	<p>Learned counsel for the petitioner present.</p> <p>Notice of the present execution petition be issued to the respondents for submission of implementation report. To come up for implementation report on 15.07.2022 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member (E)</p>

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

EXECUTION PETITION NO. 168 /2022

IN
APPEAL NO.1639/2019

NAZMA ALI

V/S

EDUCATION DEPTT:

I N D E X

S.N	DOCUMENTS	ANNEXURE	PAGE
0			
1	Memo of implementation	1 - 2
2	Affidavit	3
3	Order/judgment dt: 11.11.2021	A	4-7
4	Wakalat Nama	8

Dated: ___03.2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE
0345-9383141

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 168 /2022

In

Appeal No. 1639/2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 464

Dated 31-3-2022

Mst. Nazma Ali, Ex-Certified Teacher (BPS-15),
GGMS Rajjar, District Charsadda

..... **PETITIONER**

VERSUS

- 1- The Director E&SE Department, Khyber Pakhtunkhwa, Peshawar
- 2- District Education Officer (F), District Charsadda.
- 3- District Accounts Officer, District Charsadda

..... **RESPONDENTS**

IMPLEMENTATION PETITION FOR DIRECTING THE
RESPONDENTS TO OBEY THE JUDGMENT DATED
11-11-2021 IN LETTER AND SPIRIT.

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 1639/2019 before this august Service Tribunal for his removal from the post of Certified Teacher from due that with all back benefits.
- 2- That the appeal of the petitioner was heard and the appellate authority is directed as follows

" In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned order and the appellant is reinstated in service with the directions to the respondents to conduct regular inquiry within a period of 90 days of receipt of copy of this judgment. Needless, to mention that the appellant shall be associated with the inquiry by providing her fair opportunity of defending herself. Keeping in view the peculiar nature of the controversy in question, the issue of release of salary of the appellant as well as grant of back benefits shall be subject to final outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room. Copy of the judgment dated 11-11-2021 is attached as annexureA.

2

- 3- That after obtaining copy of the judgment dated 11-11-2021 the petitioner submitted the judgment mention above for its implantation to the Department concerned but the respondent Department are not willing to obey the judgment dated 11-11-2021 in letter and spirit.
- 4- That the petitioner has no any other remedy but to file this implementation petition.

It is therefore, most humbly prayed that the respondents may be directed to implement the order dated 11-11-2021 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

PETITIONER



NAZMA ALI

THROUGH:

**NOOR MOHAMMAD KHATTAK
ADVOCATE**



3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

EXECUTION PETITION NO. _____/2022
IN

SERVICE APPEAL No. 227/2020

MST NAZMA ALI

VS

EDUCATION DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying **execution petition** are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.




DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.


CERTIFICATION

ANNEX "A"

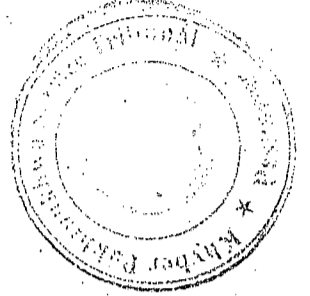
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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 1639/2019

Date of Institution ... 04.12.2019

Date of Decision ... 11.11.2021



Mst. Nazma Ali, Ex-Certified Teacher (BPS-15), GGMS Rajjar,
District Charsadda.

... (Appellant)

VERSUS

The Director of E&SE Department, Khyber Pakhtunkhwa, Peshawar
and two others.

... (Respondents)

MR. UMAR FAROOQ,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MR. ATIQ-UR-REHMAN WAZIR

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precisely stated the facts as alleged by the appellant in her appeal are that vide Notification dated 28.01.2011, the appellant was appointed as C.T BPS-15 upon recommendations of Departmental Selection Committee; that the appellant after taking charge of her post, performed her duty with zeal and zest in various schools; that the appellant was performing her duties in Government Girls Middle School Rajjar, when her salary was stooped/withheld by the respondents with effect from 01.10.2017 without any reason and justification, therefore, the appellant preferred

ATTESTED

PNANWNER
Khyber Pakhtunkhwa
Services Tribunal
Peshawar

ATTESTED
10/12/2021

departmental appeal followed by Service Appeal bearing No. 1504/2018 before this Tribunal; that during the pendency of the aforementioned service appeal, the appellant was dismissed from service vide impugned order dated 19.07.2019, communicated to the appellant on 17.08.2019, which was challenged by the appellant through filing of departmental appeal, however the same was not responded, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they denied the assertions made by the appellant in her appeal.

3. Learned counsel for the appellant has contended that the appellant was properly appointed as C.T (Female), upon the recommendations of Departmental Selection Committee and has served in various schools; that the service book of the appellant was prepared and she was receiving salaries till stoppage of the same by the respondents on 01.10.2017; that upon transfer of the appellant to various schools, the concerned officers have verified the appointment order as well as service of the appellant through written letters; that any show-cause notice, charge sheet or statement of allegations was not issued to the appellant and she was condemned unheard; that the appellant was neither issued final show-cause notice nor was she afforded the opportunity of personal hearing; that whole of the proceedings were conducted at the back of the appellant without associating her in the inquiry proceedings, therefore, the impugned order is liable to be set-aside and the appellant is entitled to be reinstated in service with all back benefits. Reliance was placed on 2003 PLC (C.S) 365, 2008 SCMR 1369, 2008 SCMR 609, 2011 SCMR 1618 and 2011 SCMR 1220.

4. On the other hand, learned Additional Advocate General for the respondents has contended that after a thorough inquiry into the matter, the appointment as well as all record pertaining to the service of the appellant was found fake and bogus; that the appellant was associated in the inquiry and

ATTESTED

WITNESSED
 (Signature)
 (Name)
 (Designation)

ATTESTED

proper opportunity of self defence as well as personal hearing was provided to her; that the inquiry officer has found the appointment order of the appellant as fake and recommended that FIR may be registered against the appellant and the salaries received by her may be recovered and refunded in the government exchequer; that a proper legal inquiry was conducted into the matter by complying all legal and codal formalities, therefore, the impugned order may be kept intact and the appeal in hand may be dismissed. Reliance was placed on judgments dated 28.01.2019, 09.08.2017 and 13.01.2021 rendered by this Tribunal in Service Appeals No. 540/2014, 161/2014 and 13/2018 respectively.

5. Arguments heard and record perused.

6. A perusal of the record would show that it is the contention of the appellant that she was appointed as C.T (BPS-15) vide notification dated 28.01.2011 upon recommendations of Departmental Selection Committee, where-after she served in various schools and was also receiving salary, which was wrongly and illegally stopped by the respondents with effect from 01.10.2017. On the other hand, it is the contention of respondents that the very appointment order of the appellant was fake, therefore, an inquiry was conducted in the matter and she was dismissed from service vide order dated 19.07.2019. While going through the impugned order dated 19.07.2019, it is evident that the appellant was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, however it is astonishing that no charge sheet or statement of allegations was issued to the appellant. Similarly, final show-cause notice was also not issued to the appellant. In these circumstances, the proceedings so taken by the respondents cannot be considered a regular inquiry. Moreover, the respondents have not confronted the appellant with the alleged documentary evidence relied by them for declaring the appointment order of the appellant as fake. The respondents have failed to show that the appellant was provided fair

ATTESTED

WITNESSES

Signature

Official Seal

Stamp

Date

Place

Signature

Official Seal

Stamp

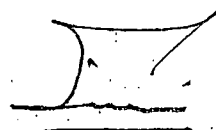
Date

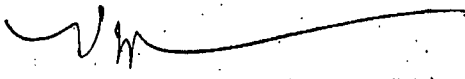
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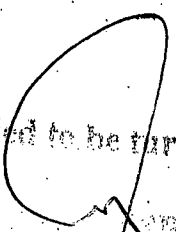
opportunity of defending herself. The appellant has allegedly rendered service of more than 07 years, therefore, in order to meet the end of justice, conducting of a full-fledged inquiry in accordance with relevant law/rules is required for determination of the fact as to whether the appointment order of the appellant was genuine or fake.

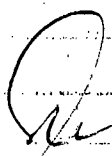
7. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned order and the appellant is reinstated in service with the directions to the respondents to conduct regular inquiry within a period of 90 days of receipt of copy of this judgment. Needless, to mention that the appellant shall be associated with the inquiry by providing her fair opportunity of defending herself. Keeping in view the peculiar nature of the controversy in question, the issue of release of salary of the appellant as well as grant of back benefits shall be subject to final outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
11.11.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of presentation of Application 16-12-21
2000
22 -
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26 -

16-12-21
Date of receipt of Copy 16-12-21



VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

EXECUTION PETITION NO: _____ OF 2022

_____ (APPELLANT)
MST NAZMA ALI (PLAINTIFF)
(PETITIONER)

VERSUS

_____ (RESPONDENT)
EDUCATION DEPTT: _____ (DEFENDANT)

I/We Mst, Nazma Ali
Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022

CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

UMER FAROOQ MOHMAND

KAMRAN KHAN

HAIDER ALI

& Ghazal
KHANZAD GUL
ADVOCATES