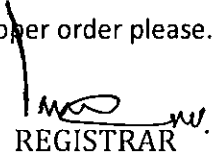



Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 119/2022 _____

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 26/01/2022 | <p>The appeal of Mst. Ambar Nosheen presented today by Mr. Muhammad Farooq Malik Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p> |
| 2- | | <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>27/01/22</u>.</p> <p> CHAIRMAN</p> |

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Peshawar

directions, separate service appeals (07) have been filed and learned counsel appeared for preliminary hearing today, as per direction of Peshawar High Court. Learned counsel's attention was invited towards CRL-89 regarding absorption but he expressed ignorance about that and could not respond to the query of Bench.

It was further contended that husband of the appellant is a Federal government employee and both the Federal and Provincial Government's wedlock policies are in consonance with each other. References/ precedents have been attached with the memorandum of appeal which establishes the fact that the respondent-department has allowed regular employees absorption in Federal Government as well extension in deputation period beyond five years. Since this a selective approach adopted by the respondent-department when allowing certain similarly placed employees while regretting request of the appellant leading to discrimination and violation of Article-25 and 27 of the constitution.

The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 23.02.2022 before S.B.

Application for suspension of impugned order of the Provincial Government dated 23.11.2021 and that of Federal Directorate of Education Islamabad dated 28.12.2021 has also been submitted with memo of service appeal which is also served on the respondents for submission of their reply on the date fixed.



(Mian Muhammad)
Member(E)

27.01.2022

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant at the outset of addressing preliminary hearing stated that the appellant was initially appointed as PTC (BS-07 now upgraded to BS-12) in the respondent-department on 04.02.2000. On mutual consultation between the lending and borrowing departments, her services were placed at the disposal of Federal Directorate of Education Islamabad, on deputation basis for initial period of 03 years on 18.09.2007. Her deputation period was further extended for 02 years on 27.09.2010. On completion of 05 years of deputation period (12.09.2007 to 11.09.2012), the Federal Directorate of Education Islamabad requested the provincial government for NOC for her permanent absorption, on 30.10.2013. The case of her permanent absorption was however, under consideration for want of policy decision at the level of Federal Directorate of Education and could not be materialized. The Federal government therefore requested for extension in her deputation period beyond 11.09.2012 till dated (letter/reference written on 19.07.2019) and further extension for two years till 18.07.2021. The Provincial government (parent/respondent department) however, did not agree with the proposal of Federal Directorate of Education and ordered her repatriation to parent department on 06.11.2019 which was challenged through writ petition No. 6989/2019 in Peshawar High Court. The writ petition was disposed of on 07.10.2021 by directing respondent No.3 to decide her representation within one month positively. The respondent-department vide impugned order dated 23.11.2021 regretted her application dated 21.11.2019 and informed that she had already been repatriated to parent department on 06.11.2019 and in case of failure, disciplinary action shall be initiated against her under Rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. Consequently, the Federal Directorate of Education vide office order dated 28.12.2021 relieved the appellant to join her parent department. Against both the impugned orders, a combined writ petition No. 124-P/2022 was instituted in Peshawar High Court on 10.01.2022 which was disposed of on the question of jurisdiction vide judgement dated 17.01.2022 with the direction to be treated as Service appeal by the Service Tribunal for decision in accordance with law. In the light of Peshawar High Court

Appellant Deposited
Security & Process Fee

[Handwritten signature]

[Handwritten scribbles and marks]

23.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 10.05.2022 for the same before D.B.


Reader

10.05.2022


Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Ahmad Jan Litigation Officer for respondents present.

Again a request was made for submission comments. Last chance is given. To come up for reply/comments on 20.05.2022 before S.B

Learned counsel submits that due to dysfunctional of the Tribunal, he approached the august Peshawar High Court and vide order dated 10.03.2022, his petition was disposed of by directing the respondents to maintain the status-quo till the constitution of the Service Tribunal. In this view of the matter, status-quo be maintained *till date*

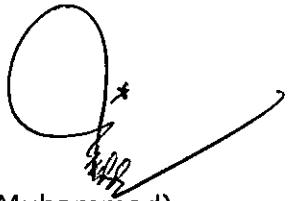
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(Rozina Rehman)
Member (J)

20.05.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Asif Khan Assistant for respondents present.

Written reply/comments on behalf of respondents not submitted. Representative of the respondents seeks time for submission of written reply/comments. Granted. To come up for written reply/comments on 10.06.2022 before S.B. Status-quo be maintained till date fixed.



(Mian Muhammad)
Member (E)

10.06.2022

Junior to counsel for the appellant present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Muhammad Asif Assistant for respondents present.

Respondents No.3 & 4 submitted comments. Learned AAG present on behalf of respondents No.5 & 6 relied upon the comments submitted on behalf of respondents No.3 & 4. Record further shows that respondents No.1 & 2 have not been properly served; therefore, they be put on notice for 27.07.2022 before S B.




(Rozina Rehman)
Member (J)

27.07.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Muhammad Asif for respondents present.

Written reply/comments on behalf of the respondents No. 3 to 6 submitted. Reply on behalf of respondents No. 1 & 2 not submitted. Last chance was given. To come up for reply/comments on 20.09.2022 before S.B.




(Fareeha Paul)
Member (E)

20.09.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents No. 3 to 6 present. None present on behalf of respondents No. 1 & 2, therefore, notice be issued to them through registered A.D with the direction to submit written reply/comments on the next date positively, failing which their right for submission of written reply/comments shall be deemed as struck of. Adjourned. To come up for submission of written reply/comments on behalf of respondents No. 1 & 2 on 04.11.2022 before the S.B.

The appellant shall submit registered A.D within 02 days.


(Salah-Ud-Din)
Member (J)


04.11.2022

Clerk to counsel for the appellant present.

Muhammad Riaz Khan Paindakhel, learned Assistant Advocate General for respondents present.

Written reply on behalf of respondents No. 3 & 4 have already been submitted. While rest of the respondents 1, 2, 5, & 6 have not submitted written reply. The addresses of all the respondents mentioned above show that these respondents are required to be served through TCS. Therefore, appellant is directed through counsel to do the needful and the above mentioned respondents be summoned through TCS for 13.12.2022 before S.B. Failing which case of appellant would be dismissed for non compliance of the court orders.

MAILED
AT
Peshawar


(Rozina Rehman)
Member (J)