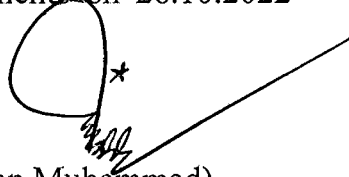


26.09.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Reply/comments on behalf of respondents not submitted. Learned Additional Advocate General seeks time to contact the respondents for submission of reply/comments. Adjourned. To come up for reply/comments on 28.10.2022 before S.B.




(Mian Muhammad)
Member (E)

28.10.2022

Counsel for the appellant present.

Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Reply/comments on behalf of the respondents have not been submitted. Learned AAG sought further time to contact the respondents. Adjourned. To come up for written reply/comments on 06.12.2022 before S.B.



(Fareeha Paul)
Member (E)

28.06.2022

Learned counsel for the appellant present. Preliminary arguments heard and record perused.

Notice issued
for 17/08/22

Rs-500/-
Appellant Deposited
Security & Process Fee

Affidavit
04/7/22


Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of reply/comments. To come up for written reply/comments on 17.08.2022 before S.B.


(Fareeha Paul)
Member (E)

17.08.2022

Junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Asif, Assistant for the respondents present.

Reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit reply/comments. Adjourned. To come up for reply/comments on 26.09.2022 before S.B.



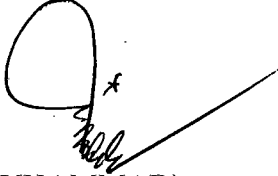

(Mian Muhammad)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 314 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/03/2022	<p>The appeal resubmitted today by Mr. Noor Muhammad Khattak 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 S. Bench at Peshawar for preliminary hearing to be put there on <u>7-4-2022</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	07.04.2022	<p>Learned counsel for the appellant present.</p> <p>Learned counsel for the appellant seeks adjournment to further prepare the brief and assist the Tribunal. Adjourned. To come up for preliminary hearing on 28.06.2022 before S.B.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER(E)</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 314 /2022

Mst, SUMAIRA

V/S

EDUCATION DEPTT:

I N D E X

S.N ①	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1-3
2	Affidavit	4
3	Appointment order dt: 25.11.2008	A	5
4	Regularization order dt: 25.01.2010	B	6
5	Charge report dt: 25.01.2010	C	7
6	Letter dt: 21.09.2021	D	8
7	Departmental appeal	E	9
8	Wakalat Nama	10

Dated: 01 / .03./2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2022

Miss: Sumaira, SST(General) (BPS-16),
Govt. Girls High School, Thanoo, Swabi.

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa Secretary (E&SE) Department, Civil Secretariat, Peshawar.
- 2- The Director (E&SE), Khyber Pakhtunkhwa, Govt. Hasnain Shaheed High School, Firdous Peshawar.
- 3- The District Education Officer (Female), District Swabi.

..... **RESPONDENTS**

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED INACTION OF THE RESPONDENTS BY NOT RELEASING THE MONTHLY SALARIES OF THE APPELLANT W.E.F. 1.11.2021 TILL DATE AND AGAINST NOT DECIDING THE DEPARTMENTAL APPEAL DATED 01-12-2021 OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed to release the monthly salaries of the appellant w.e.f. November 2021 till date. Any other remedy which this August Tribunal deems fit that may also be awarded in favour of the appellant.

R. SHEWETH:

ON FACTS:

- 1- That the appellant is the employee of respondent and was appointed as SST (General) on contract basis after fulfilling all the codal & legal formalities required for the post vide order dated 25-11-2008. Copy of Appointment Order dated 25-11-2008 is attached as **Annexure** **A.**
- 2- That appellant after taking over the charge of her post the appellant started performing her duty quite efficiently whole heartedly and upto the entire satisfaction of his high ups that in the meanwhile the Khyber Pakhtunkhwa Regularization of Service Act, 2009 was promulgated and accordingly the service of the appellant was regularized vide order dated 15-01-2010 and took over the charge of her post on 25-01-2010. Copy of Regularization Order dated

15.01.2010 & Charge Report dated 25.01.2010 is attached as annexure **B & C.**

- 3- That the appellant while performing her duty at her assigned duty station an inquiry was initiated against the appellant (the copy of which has not been provided to the appellant) the copy of which was asked by the Anti Corruption Establishment of District Swabi vide letter dated 21-09-2021. Copy of Letter dated 21.09.2021 is annexed as annexure **D.**
- 4- That finally in November 2021 the salary of the appellant was stopped without any cogent reason against which the appellant filed Departmental Appeal dated 01-12-2021 which is not responded till date. Copy of Departmental Appeal dated 01.12.2021 is attached as annexure **E.**
- 5- That feeling aggrieved from the inaction of the respondents by not releasing the salaries the appellant preferred the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned inaction of the respondents by not releasing the salaries of the appellant since regularization is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the concerned authority in accordance with law and rules and as such the authority violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the appellant is still performing her duties and the inaction of the respondents by not releasing her salaries is amounting to forced labour which is the blatant violation of the Article 11 of the Constitution of Pakistan, 1973.
- D- That the respondents discriminated the appellant by not releasing the monthly salaries of the appellant.
- E- That the inaction of the respondents by not releasing the monthly salaries of the appellant is against the norms of natural justice.
- F- That the inaction of the respondents by not releasing the monthly salaries of the appellant is arbitrary and malafide.
- G- That appellant seeks permission and advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

Dated: 1.3.2022

APPELLANT


SUMERA

THROUGH:


NOOR MOHAMMAD KHATTAK

&



**HAIDER ALI
ADVOCATES, PESHAWAR**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

Mst SUMAIRA

VS

EDUCATION DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal 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

NOTIFICATION**ANNEXURE A**

In pursuance of the powers conferred under section 25 of the NWFP Civil Servant Act, 1973 the competent authority is pleased to re-appoint the following Male/Female SST (B-16) on contract basis as a stop-gap arrangements for a period of one year w.e.f. the date of assumption of charge or till the availability of selectees of the NWFP Public Service Commission / Departmental Selection Committee whichever is earlier:-

Sr	Name	Father Name	Subject	Place of Posting
1	Sumaira	Gul.Zada	General	GGHS Zaroobal Swabi

Terms and Conditions

1. The appointment of the above candidates will be on contract basis for the period of one year from the date of assumption of charge till the arrival of the selectees of the NWFP Public Service Commission/Departmental Selection Committee, whichever is earlier.
2. They will draw Pay in BPS-16.
3. No TA/DA is allowed.
4. If they want to resign from the service before expiry of the contract, they will have to serve one month notice in advance failing which they will have to deposit prior notice to the appointing authority one month pay in lieu of such notice, in the Government Treasury.
5. Their appointments have been made for specific schools, so shall not make any request for transfer from the School where they are posted. In case in case of such occurrence, their service shall stand terminated.
6. They should join their posts within 15-days of the issue of this notification. The Executive District Officer, Elementary & Secondary Education concerned, should furnish certificate to the effect that the candidates have joined the post or otherwise within 15-days of the issue of this Notification.
7. They shall execute an agreement with the Government before taking over charge, signed by the concerned EDOs Elementary & Secondary Education NWFP, on behalf of the Government/Director (E&SE).
8. They will not be entitled for any pension or gratuity for the service rendered by them on contract basis and shall not claim regularization for their contract service.
9. Charge report in duplicate should be submitted to all concerned.
10. Their service shall be terminated if they violate any provision of the terms and conditions specified in the agreement Bond/Deed.
11. They shall not be entitled to perform any examination duty of the BISEs/University/RDE, NWFP, during the current contract period.

Director
Elementary & Secondary
Education, NWFP, Peshawar

Endst No. 5139-5197 /A-14/SST/M&F/Contract One Year/

Dated: 25/11 /2008

Copy of the above is forwarded to..

1. Accountant General, NWFP Peshawar
2. Director of Education, FATA, NWFP Peshawar
3. Distt: Accounts Officers concerned
4. Director Elementary & Secondary Education NWFP, Peshawar
5. Executive District Officers (E&SE) concerned
6. Principals/Head Masters/Head Mistress concerned
7. SST concerned
8. PS to the Minister for Education NWFP
9. PS to Secretary to Govt: of NWFP
10. All Chairman BISE/Registrars of University in NWFP, with the request to comply with the above condition as at S.No
11. PA to Director (E&SE) Local Office
12. Master File

Deer
Deputy Director (Estab:)
Elementary & Secondary
Education, NWFP, Peshawar

OFFICE OF THE DIRECTOR ELEMENTARY & SECONDRY EDUCATION NWFP PESHAWARNOTIFICATION

The competent authority has been pleased to regularize the services of the following Adhoc / contract employees against the post of SST (Female) (BPS-16) with effect from 01-01-2009. under the NWFP. Employees (Regularization of Services) Act. 2009 on the terms and conditions give at the end of this Notification.

S.No	Name of Candidate	Fathers Name	Present Station	Date of 1 st Appointment Order
1.	Sumaira	Gul Zada	GGHS Thano Swabi	5139-5197 25-11-2008

TERMS & CONDITIONS OF HER APPOINTMENT

1. Their services will be considered as regular but without pension & granite in terms of section -19 of the NWFP. Civil Servants Act.1973 as amended vide NWFP. Civil Servants (Amendment) Act.2005. They will. However be entitled to contributory Provident Fund in such manner and at such rates as prescribed by the Government.
2. Their seniority will be determined according to Section-4 of the NWFP, Employees (Regularization of Services) Act.2009.
3. They will be required to furnish copies of all there certificates / degrees along with original receipts and Photostat copies thereof, pertaining to the verification fee of the concerned Examining body (board & University) to the EDO (E&SE) concerned.
4. The EDO (E&SE) concerned are directed not to release their pay until the verification their documents.

DIRECTOR

Endost: No 1152-59 / F.No.A-17/SET (F) Contract-Appont:2008Dated Peshawar the 15/11/2010

1. PS Minister for Elementary & Secondary Education NWFP. Peshawar.
2. PS to Secretary to Govt: of NWFP, E&SE, Department Peshawar.
3. Executive District Office Elementary & Secondary Education concerned.
4. District Account Officer concerned.
5. Candidate concerned Mistress concerned.
6. Ps\ to Director of Elementary & Secondary Education NWFP. Local Office.

10
5/11/2010
Deputy Director (Establishment)
Elementary & Secondary Education NWFP, Peshawar

~~1152-59~~

CERTIFICATE OF TRANSFER OF CHARGE

25.01.2010 (F.N)

1. Certified that we have on the fore/ afternoon of this day respectively made over and receive charge of this office of the SST(G) Post Regularized from contract basis vide Endst No.1652-59/F.No. A-17/SET(F) Contract Appointment 2008, dated Peshawar the 15.01.2010.
2. Particulars of cash and important secret and confidential documents handed over are noted on the reverse:-

Signature of relieved.
Government servant

Station.....Designation.....

Signature of relieving
Government servant Mst Sumera

Station N. 60, 65 dated Tano 25.01.2010 Designation SST (G)

~~SECRET~~

CERTIFICATE OF TRANSFER OF CHARGE

25-01-2010 (F.N)

1. Certified that we have on the foregoing of this day respectively made over and receive charge of this office of the SST (G) Post Regularized from Contract basis vid; Endest No 1652-57/F.No. A-17/SET (F) Contract Appoint 2008, Dated postwar the 15/01/2010

2. Particulars of cash and important secret and confidential documents handed over are noted on the reverse:

Signature of relieved Government servant

Station

Designation

Signature of relieving Government servant

M/S Sumera

Dated No. 60,65 Dated Tano 25/01/2010

Designation SST (G)

P. 7-0

7

ANNEX C

Handwritten signature or stamp at the bottom right corner.

OFFICE OF THE CIRCLE OFFICER
ANTI CORRUPTION ESTABLISHMENT DISTRICT SWABI

No-54/CO, ACE Swabi

Dated 21.09.2021

District Education Officer (F)
District Swabi.

SUBJECT: PROVISION OF RECORD / INFORMATION AN OPEN ENQUIRY NO.118/2020 AGAINST MISS SUMERA (PERSONAL NUMBER 695632) SST GHSS TANO SWABI REGARDING ILLEGAL APPOINTMENT AND ILLEGAL TRANSFER.

Kindly refer to the subject cited above and to state that in the subject enquiry under investigate with this establishment inquiry officer along with Audit team will visit your office date 23.09.2021.

Therefore you are requested to arrange and provide relevant record on the above mentioned date also you may make sure presence of the relevant staff to provide the attested photo copies of concerned following mentioned record to this office in earliest as soon as possible for finalization of the enquiry.

Circle Officer
Anti Corruption Establishment
Swabi.

Provide the following records

S.No.	Required Record
1.	Appointment Order/
2.	Charge Report
3.	Pay Slip issue by account office
4.	Pay release/ documents verification
5.	Transfer Order (all) & charge assumption reports
6.	Last Pay certificate

~~ATTESTED~~

**OFFICE OF THE CIRCLE OFFICER
ANTI CORRUPTION ESTABLISHMENT DISTRICT SWABI**



NO-547/CO. AGE. SWABI

Dated 21-09-2021

District Education officer (F)
District Swabi.

Subject: PROVISION OF RECORD / INFORMATION AN OPEN ENQUIRY
NO.118/2020 AGAINST MISS SUMERA (personal number 695632)
SST GHSS TANO SWABI REGARDING ILLEGAL APPOINTMENT
AND ILLEGAL TRANSFER.

Kindly refer to the subject cited above and to state that in the subject Enquiry under investigate with this establishment inquiry officer along with Audit team will visit your office date 23-09-2021.

Therefore you are requested to arrange and provide relevant record on the above mentioned date also you may make sure presence of the relevant staff to provide the attested photo copies of concerned following mentioned record to this office in earliest as soon as possible for finalization of the enquiry.

Qm
Circle Officer
Anti-Corruption Establishment
Swabi

Provide the following records

S.NO	Required Record
1.	Appointment order /
2.	Charge report
3.	Pay slip issue by account office
4.	Pay release / documents verification
5.	Transfer order (all) & charge assumption reports
6.	Last pay certificate

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

Mst, Sumaira _____

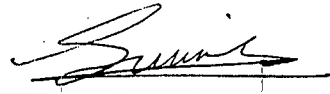
(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt: _____

(RESPONDENT)
(DEFENDANT)

I/We Mst Sumaira
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

SAID KHAN

MOHAMMAD MAAZ MADNI

&

ADVOCATES


HAIDER ALI

KHANZAD GUL

"A"

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

No.

314

APPEAL No..... of 20

22

Miss Sumaiya

Appellant/Petitioner

Versus

Secy (E&SE) Dept. Pesh:

RESPONDENT(S)

Respondent No. 1 The Govt. of KPK Secretary

Notice to Appellant/Petitioner

(E&SE)

Dept: KP Pesh:

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 17/8/22 at

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.

copy is attached

For Reply

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

[Signature]
04/8/22
SECRETARY
No. _____
Dated _____



**DISTRICT EDUCATION OFFICER (FEMALE)
HARIPUR**

No 9979 / (DEO (F):Haripur)

Dated 26 / 10 /2022

To

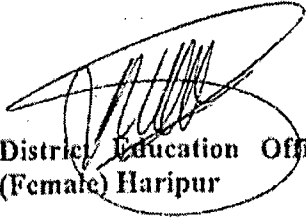
The Director
E&SE Department, Khyber Pakhtunkhwa,
Peshawar.

Subject: - **SUBMISSION OF INQUIRY REPORT**

Memo:

Reference to your directions conveyed to the undersigned/Chairman Inquiry Committee through Deputy Director (Legal) dated 24-10-2022 regarding submission of inquiry report against Mst: Sumera SST District Swabi in pursuance of the Notification dated 14-9-2022 issued by the Directorate E&SE Khyber Pakhtunkhwa Peshawar, it is submitted that meeting of the inquiry committee has already been conducted in the matter & compiling of the report is in final stages, however, some official documents/record regarding the appointment of the aforementioned teacher have been forwarded to the concerned offices for the purpose of verification which are still awaited & are expected to be received to the inquiry committee in coming few days.

In view thereof, it is intimated that the report in question would be submitted the Directorate E&SE as & when the desired document/record are received to the inquiry committee from the concerned authorities. Moreover, hopefully, the desired inquiry report would be submitted to your office in the first week of November after getting verification from your good self for further course of action please.

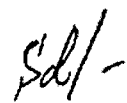

District Education Officer
(Female) Haripur

Endst No: _____ /F.No/inquiry/DEO (F)/Haripur

Dated ___ / ___ /2022

Copy forwarded for information to the:-

- 1 Deputy Director (Legal) E&SE Khyber Pakhtunkhwa.
- 2 Office Copy.


District Education Officer
(Female) Haripur

"A"

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

S.B

No.

APPEAL No.....314..... of 20 22

Miss Sumaira

Appellant/Petitioner

Versus

Secy. (E&SE) Dept. Posh.

RESPONDENT(S)

Respt. No. 2
Notice to Appellant/Petitioner The Director (E&SE) KPK
Peshawar

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 17/8/2022 at 9:00 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.

(Copy is Attached)
For Reply

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.