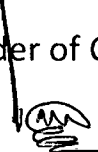


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

C.O.C application No. 679/2022

S.No.	Date of order + proceedings	Order or other proceedings with signature of judge
1	2	3
1	15/11/2022	<p>The C.O.C application of Mst. Jasarat Bibi submitted today by Mr. Zulfiqar Ahmad Advocate. Original file be requisitioned. It is fixed for hearing before touring Single Bench at A.Abad on _____. Notices be issued to appellant and her counsel.</p> <p style="text-align: right;">By the order of Chairman</p> <p style="text-align: right;"> REGISTRAR</p>

**BEFORE THE KHYBER PUKHTUN KHWA SERVICE**  
**TRIBUNAL PESHAWAR**

*C.O.C. Appli. no. 679/22*

*AA9*

Mst. Jasarat Bibi D/O Karam Ellahi R/O Village Shamdhara, Tehsil Oghi District Mansehra presently posted as CT GGHS, BANIAN, Battagram.

... PETITIONER

**VERSUS**

1. Govt. of KPK through Secretary Education Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer, Male & Female, District Battagram.

...RESPONDENT

**CONTEMPT OF COURT**


**INDEX**

S. No.	Description	Annexure	Pages
1	CONTEMPT OF COURT		1 to 2 <sup>A</sup>
2	Copy of service appeal is attached as	"A"	3 to 7
3	Copy of Judgment of the tribunal is attached as	"B"	8 to 11
	<i>Wakalatnama</i>	"C"	12

....PETITIONER *Sub*

Dated: 11/11/2022

Through

  
(ZULFIQAR AHMAD)  
Advocate High Court  
Abbottabad

①

**BEFORE THE KHYBER PUKHTUN KHWA SERVICE**  
**TRIBUNAL PESHAWAR**  
*COC Application No. 679/22*  
**Appeal No. /2019**

Mst. Jasarat Bibi D/O Karam Ellahi R/O Village Shamdhara, Tehsil Oghi District Mansehra presently posted as CT GGHS, BANIAN, Battagram.

... PETITIONER

**VERSUS**

1. Govt. of KPK through Secretary Education Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer, Male & Female, District Battagram.

...RESPONDENT

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**CONTEMPT OF COURT**

Respectfully Sheweth: -

1. That the appellant filed service appeals before this Honorable tribunal against the defendants challenging stoppage of the salary of the appellant without notice and without justification. (Copy of service appeal is attached as annexure "A").
2. That this Honorable tribunal on 27/06/2022 vide its verdict passed had remitted the matter back to the respondents with the directions to conduct proper inquiry into the matter within a period of 60 days from receipt of the copy of judgment.. It was also ordered association of the appellant in the inquiry process by providing fair opportunity of defending herself. (Copy of Judgment of the tribunal is attached as annexure is annexure "B").
3. That since the verdict of this Honorable Tribunal, sufficient long time has passed but the respondents are still avoiding to abide by the decision of the tribunal adversely affecting the rights of the appellant who is the sole family member to nourish but

discontinuation of her service and stoppage of the pay has put her in the state of miserable condition and further survival looks to be not possible without prompt relief.

- 4. That inaction and disobedience to the lawful order passed itself demands initiation of contempt proceedings against the defendants and also suggests that they have nothing to initiate inquiry against the appellant.

That further points will be submitted at the time of arguments.

**PRAYER:**

It is therefore most humbly prayed that the respondent may be proceeded against under contempt of court act and punished accordingly for disobedience of lawful order of this Honourable Tribunal in Service Appeal No. 1150/ 2019 in order to meet the ends of Justice.

...Petitioner *mb*

Through

Dated: 11/11/2022

*[Handwritten Signature]*

**(ZULFIQAR AHMED)**

**Advocate High Court  
Abbottabad**

(8)

**BEFORE THE KHYBER PUKHTUN KHWA SERVICE  
TRIBUNAL PESHAWAR**

**Appeal No**

Mst. Jasarat Bibi D/O Karam Ellahi R/O Village Shamdhara, Tehsil Oghi District Mansehra presently posted as CT GGHS, BANIAN, Battagram.

... **PETITIONER**

**VERSUS**

1. Govt. of KPK through Secretary Education Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer, Male & Female, District Battagram.

... **RESPONDENT**

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**CONTEMPT OF COURT**

**AFFIDAVIT**

*I, Jasarat Bibi D/O Karam Ellahi R/O Village Shamdhara do hereby solemnly affirm and declare on oath that the contents of foregoing application/COC are true and correct to the best of my knowledge and belief and nothing has been concealed therein. No such petition is pending in any other court.*

n  
... **DEPONENT**

*msb*

Dated: 11/11/2022

Identified by

*(ZULFIQAR AHMAD)*

Advocate High Court

①

**BEFORE THE PESHAWAR HIGH COURT,**  
**ABBOTTABAD BENCH**

W. No. 802A/2019  
Appeal No. 1150/2019

Mst. Jasarat Bibi D/O Karam Ellahi R/O Village Shamdhara, Tehsil Oghi District Mansehra presently posted as CT GGHS, BANIAN, Battagram.

... PETITIONER

VERSUS

1. Govt. of KPK through Secretary Education Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer, Male & Female, District Battagram.

...RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AS AMENDED UP TO DATE TO THE EFFECT THAT THE PETITIONER BEING THE GOVERNMENT SERVANT AS CT TEACHER WAS ELEGIBLE TO RECEIVED SALARY AMOUNT FROM THE OFFICE OF DEO (FEMALE), BATTAGRAM AND NON-RELEASING DENIAL OF THE PAYMENT OF OUT STANDING SALARY AMOUNT AND NON ADJUSTING HER AGAINST SUITABLE POST IS ILLEGAL, UNCONSTITUTIONAL, AGAINST THE LAW & MERIT, BASED ON MALA FIDE, IN VIOALATION \* TO THE GUARANTEED CONSTITUTIONAL AND RIGHTS OF THE PETITIONER, , DISCRIMINATORY, AGAINST THE RELEVANT SERVICE RULES AND REGULATIONS UNJUSTIFIABLE, VINDICTIVE, IN ABUSE AND MISUSE OF THE AUTHORITY, VOID AB-INITIO WHICH ARE LIABLE TO BE STRUCK DOWN.

PRAYER:- ON ACCEPTANCE OF INSTANT WRIT PETITION A WRIT MAY GRACIOUSLY BE ISSUED IN FAVOR OF THE PETITIONER AND RESPONDENTS DIRECTED TO RELEASE THE OUTSTANDING SALARY AMOUNT OF THE PETITIONER ALSO TO ADJUST HER AGAINST THE SUITABLE POST OF CT TEACHER IN ORDER TO MEET THE ENDS OF JUSTICE.

NO. 4042  
27-06-2019

W  
or/le

REGISTERED  
*[Signature]*

Respectfully Sheweth; -

The facts giving rise to the instant writ petition are arrayed as under.

**FACTS:-**

1. That the petitioner was appointed as CT Teacher at GGMS BATAMORI, BATTAGRAM in the year 2013. (Copy of appointment letter as annexure "A").
2. That vide order Number 4550-52 dated 28/03/2014 she was transferred and adjusted at GGHS BANIAN, BATTAGRAM. (Copy of letter No. 4550-52 is annexure "B").
3. That service book of the petitioner was also prepared with relevant entries and service verified till 30/06/2015. (Copy of the relevant page of service book is annexure "C").
4. That the petitioner regularly maintained her salary account as MCB, OGH. (Copy of salary account statement is annexure "D").
5. That thereafter NAB started some inquiry and the pay / service of the petitioner was stopped without any Notice / inquiry or investigation.

LNO, 4042  
27-06-2019

*[Handwritten signature and stamp]*

*[Handwritten signature and stamp]*

- 6. That the respondent No. 2 was also moved by way of departmental appeal with no response till now. (Copy of departmental appeal is annexure "E").
- 7. That the petitioner time and again visited the concerned offices of respondents with no positive reply and the rights of the petitioner were at stake when she was obliged to send a legal notice to respondent No. 2 which was also not replied. (Copy of legal notice is annexure "F").
- 8. That inaction of respondents on the representation made to them has forced the petitioner to invoke the jurisdiction of this Honourable court inter alia on the following grounds:-

GROUNDS:-

- a. That stoppage of the pay and service of the petitioner is illegal, without any justification and having no legal effects on the rights of the petitioner.
- b. That no disciplinary matter is or has been pending before the respondents' department, therefore, the action of stoppage of pay and service of petitioner was not only against the settled norms of justice but also is

11/12/2016  
 ADM/11/2016  
 2/16

**ATTESTED**  
 EXAMINER  
 Mysore Panchayat  
 Service Tribunal  
 Mysore



against the disciplinary rules applicable on the government servants.

c. That non-reply to the appeal submitted to the respondent No. 2 is also illegal as he was legally bound to decide the same within the stipulated period which inaction on the part of respondents smacks mala fide intention which is apparent from the conduct of the respondents.

d. That even no response has been given to the notice issued to respondents to decide the departmental appeal / representation but has not been taken in to consideration.

e. That under the E & ND rules KPK, 2011, no public servant can be deprived of his / her service without conducting any inquiry and in the present case no such inquiry has been conducted, which is against the settled norms of justice.

f. That in absence of any other equally efficacious alternative remedy, the petitioner is constrained to seek relief by way of the instant constitutional writ petition.

FILED TODAY  
ADDITIONAL REGISTRAR  
PESHAWAR HIGH COURT  
ABDUL RAHMAN  
22/1

ATTENDED  
[Signature]  
[Stamp]

- g. That some other grounds would be urged at the time of hearing with due leave from the bench.
- h. That this Honourable court has got complete jurisdiction in the matter and got ample power to accept the instant writ petition.
- i. That court fee stamp paper worth of Rs 500/- is affixed.
- j. That further points will be submitted at the time of arguments.

**PRAYER:-**

**IT IS THEREFORE, MOST HUMBLY PRAYED THAT ON ACCEPTANCE OF INSTANT WRIT PETITION A WRIT MAY GRACIOUSLY BE ISSUED IN FAVOR OF THE PETITIONER AND RESPONDENTS DIRECTED TO RELEASE THE OUTSTANDING SALARY AMOUNT OF THE PETITIONER ALSO TO ADJUST HER AGAINST THE SUITABLE POST OF CT TEACHER IN ORDER TO MEET THE ENDS OF JUSTICE.**

ADDITIONAL JUDGE  
 HIGH COURT  
 ABBOTTABAD  
 15/5/19

*[Signature]*  
 ...PETITIONER

Through

Dated: 15/05/2019  
 Abbottabad

Certified to be true copy  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Abbottabad

*[Signature]*  
 (ZULFIQAR AHMAD)  
 Advocate High Court  
 Abbottabad

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**  
**PESHAWAR.**

Service Appeal No. 1150/2019

Date of Institution ... 16.09.2019

Date of Decision ... 27.06.2022



Mst. Jasarat Bibi D/O Karam Ellahi. R/O Village Shamdhara, Tehsil Oghi District Mansehra Presently posted as CT GGHS, Banian, Battagram.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary Education Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

MR. HAMEED GUL,  
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,  
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN  
MS. ROZINA REHMAN

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

**JUDGMENT:**

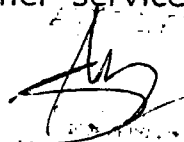
SALAH-UD-DIN, MEMBER:- As per averments in the appeal, the appellant was appointed as CT Teacher in the year 2013 and was posted in Government Girls Middle School Battamore District Battagram. The appellant was there-after transferred to Government Girls High School Banian (Battagram) vide order dated 28.03.2014. The service book of the appellant was prepared and verified till 30.06.2015 and she regularly maintained her salary account in Muslim Commercial

Bank Oghi. On initiation of some inquiry by NAB Authorities, the pay/service of the appellant was stopped without any notice or inquiry, therefore, the appellant filed departmental appeal, which was not responded.

2. It is pertinent to mention herein that the appellant initially invoked jurisdiction of worthy Peshawar High Court, Abbottabad Bench through filing of Writ Petition No. 802-A/2019, which was disposed of vide order dated 05.09.2019 with the observations reproduced as below:-

"The petitioner agitating this matter since 2016, as such instead of directing her to approach the Tribunal, it would be appropriate that let this petition alongwith its annexures be transmitted to the worthy Service Tribunal for its adjudication on merit and in accordance with law. Needlessly to observe that the respondents would be at liberty to take all legal and factual objections in Tribunal."

3. Learned counsel for the appellant has contended that the appellant was appointed as CT vide order dated 15.03.2013, after fulfilling of all legal and codal formalities; that after her appointment, the appellant assumed the charge of her post and started performing of her duty with zeal and zest; that service book of the appellant was prepared and her salary till January 2015 was credited to her salary account, however there-after she was stopped from performing of her duty and her salary was also stopped without any show-cause notice or any inquiry; that neither any departmental action has been taken against the appellant nor her services were


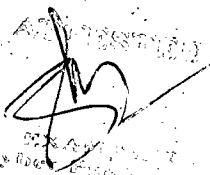


terminated, therefore, the respondents are not justified in stoppage of her salary and restraining her from performing her duty.

4. On the other hand, learned Additional Advocate General for the respondents has contended that the appellant was not at all appointed as CT and the appointment order so annexed by her with service appeal is fake and fabricated; that the appellant had not at all been appointed as CT, therefore, there could not arise any question of assumption of charge by her; that the service book of the appellant is also bogus and she has drawn her salary through fake signatures on source-1 form. Reliance was placed on 2005 SCMR 1040 and judgment dated 13.01.2021 rendered by this Tribunal in Service Appeal No. 13/2018 titled "Rahim Dad Khan Versus Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar and three others".

5. We have heard the arguments of learned counsel for the appellant as well as learned Additional Advocate General for the respondents and have perused the record.

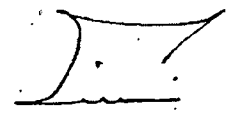
6. According to the averments of the appellant, she was duly appointed as Certified Teacher vide order dated 15.03.2013 issued by District Education Officer (M&F) Battagram, where-after her service book was prepared and her salary was being credited to her salary account. In support of her aforementioned assertions, the appellant has annexed relevant documents alongwith her appeal. On the other hand, the respondents have alleged that her appointment order and

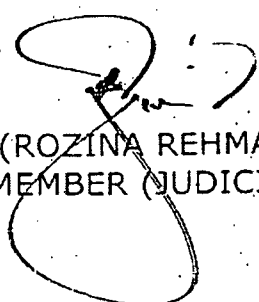
service book are fake and bogus and she had received her salary through source form bearing fake signatures. The rival contention of the parties require a full fledged inquiry in the matter for reaching a just and right conclusion.

7. In view of the forgoing discussion, the matter is remitted back to the respondents with the directions to conduct proper inquiry into the same within a period of 60 days from receipt of copy of this judgment. Needless to mention that the appellant shall be fully associated with the inquiry proceedings by providing her fair opportunity of defending herself. Keeping in view peculiar facts and circumstances of the case, the issue of salary and back benefits shall be subject to outcome of de-novo inquiry. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
27.06.2022



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)



(ROZINA REHMAN)  
MEMBER (JUDICIAL)



1600  
18/-  
15/11/22  
15/11/22  
15/11/22

کورٹ فیس

## وکالت نامہ

بعدالت خطاب لدرہ و حکام ڈیپارٹمنٹ ۱۲-۲۰۱۲ پست اور ملک کورٹ رسٹ آف امار

عنوان: جسارت جانی بنام حکومت

منجانب: سائل اپنی

نوعیت مقدمہ: C.O.C

## باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

ذوالفقار احمد رائے دیکھ کر ۱۲/۱۲/۱۲

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پر داختمہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جز و بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت نالش بصیغہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

03115131690

المرقوم:

بمقام:

Attest  
 [Signature]  
 وقاص فونٹوٹیٹ پھری (ایبٹ آباد)

العبد