


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 684/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.11.2022	<p>The execution petition of Mst. Naeema Shaheen submitted today by Mr. Taimur Ali Khan Advocate. It is fixed for implementation report before touring Single Bench at Swat 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</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution petition No. 684 /2022
In Service Appeal No.1403/2019

Naeema Shaheen

V/S

Education Department

INDEX

S.No.	Documents	Annexure	P. No.
1	Memo of execution petition	-----	01-03
2	Copy of judgment	A	04-08
3	Copy of notification dated 18.08.2022	B	09
4	Vakalat Nama	-----	10

THROUGH:

APPELLANT



TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

Cell# 0333-9390916

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Execution petition No. 684 /2022
In Service Appeal No.1403/2019

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 1979

Dated 18-11-2022

Mst. Naeema Shaheen D/O Rasool Khan,
R/O Mohallah Madina Colony, Gul Bagh, Tehsil & District Mardan.

PETITIONER

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. Director Education, Near Govt. Higher Secondary School, G.T Road Peshawar.
3. District Education Officer (Female), Mardan.
4. Sub-Divisional Education Officer (Female), Mardan.
5. Deputy Director Establishment (Female), Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 27.06.2022 OF THIS
HONORABLE TRIBUNAL IN LETTER AND
SPIRIT.**

RESPECTFULLY SHEWETH:

1. That the petitioner has filed service appeal No.1403/2019 against the impugned withdrawal order dated 29.05.2019 and recovery order dated 31.05.2019 vide which the petitioner's appointment order was withdrawn and has directed to pay back the payment she received in this respect in this Honorable Tribunal.

2. That said appeal was heard and decided by the Honorable Tribunal on 27.06.2022. The Honorable Tribunal allowed the appeal set aside the impugned. The petitioner was reinstated in service for the purpose of inquiry and the matter was remitted to the competent authority to conduct regular inquiry within the period of 60 days of the receipt of the judgment judgement. The petitioner shall be associated with the inquiry by providing her fair opportunity of defending herself. In view of peculiar nature of controversy in question of salary as well back benefits shall be subject to the outcome of the inquiry. **(Copy of judgment is attached as Annexure-A)**
3. That in the compliance of the judgment dated 27.06.2022, the respondent department reinstated the petitioner into service on vide notification dated 18.08.2022, however the petitioner was not posted anywhere in the department. **(Copy of notification dated 18.08.2022 is attached as Annexure-B)**
4. That after reinstatement, inquiry conducted was not conducted against the petitioner as the petitioner was not called in the inquiry proceeding by issuing her charge sheet along with the statement of allegations.
5. That the Honorable Tribunal in its judgment clearly mentioned in its judgment dated 27.06.2022 that the competent authority conduct regular inquiry within the period of 60 days of the receipt of the judgment judgement and petitioner shall be associated with the inquiry by providing her fair opportunity of defending herself, but neither the petitioner was associated with the inquiry proceeding nor the authority conducted the inquiry in the stipulated period of 60, which is clear violation of the judgment dated 27.06.2022 of this honorable Tribunal.
6. That the in-cation and not fulfilling the formal requirements by the respondents after passing the judgment of this honorable Service Tribunal, is totally illegal, amount to disobedience and contempt of Court.
7. That the judgment is still in filed and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 27.06.2022 of this Honorable Tribunal in letter and spirit.

8. That the petitioner having no other remedy except to file this execution petition for implementation of judgment dated 27.06.2022 of this Honorable Tribunal.

It is therefore, most humbly prayed that the respondents may kindly be directed to implement to implement the judgment dated 27.06.2022 of this honorable Service Tribunal in letter and spirit. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also be awarded in favour of the petitioner.

PETITIONER
NAEEMA SHAHEEN

THROUGH:

TAIMUR ALI KHAN
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of this execution petition are true and correct to the best of my knowledge and belief.



18-11-22

DEPONENT

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1348

Date 07/10/2019

S.A.No. 1403 /2019

Mst. Naeema Shaheen D/o Rasool Khan
R/o Mohallah Madina Colony,
Guli Bagh, Tehsil & District, Mardan

.....Appellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar
2. Director Education, Near Govt. Higher Secondary School, G.T Road, Peshawar.
3. District Education Officer (F), Mardan
4. Sub-Divisional Education Officer (F), Mardan
5. Deputy Director Establishment (F), Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

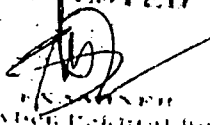
SERVICE APPEAL U/S 4 OF SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED WITHDRAWAL ORDER DATED
29.05.2019 AND RECOVERY ORDER DATED
31.05.2019, VIDE WHICH APPELLANT'S
APPOINTMENT ORDER WAS WITHDRAWN
AND HE WAS DIRECTED TO PAY BACK THE
PAYMENT HE RECEIVED IN THIS RESPECT.

Filed to Registrar
07/10/19

RESPECTFULLY SHEWETH:-

1. That appellant was appointed as PST Teacher in District Mardan by respondent No.3 vide order dated 18.01.2012. (Copy of appointment order dated 18.01.2012 is Annex "A")
2. That appellant after proper competition and recommendation was recommended by the Public Service Commission, requisite qualification and appointed

ATTESTED


Registrar

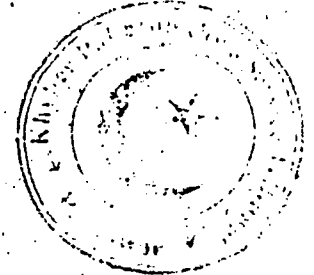
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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 1403/2019

Date of Institution . . . 07.10.2019

Date of Decision . . . 27.06.2022



Mst. Naeema Shaheen D/O Rasool Khan, R/O Mohallah Madina Colony, Guli Bagh, Tehsil & District, Mardan.

.. (Appellant)

VERSUS

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

(Respondents)

MR. AMJID ALI,
Advocate

For appellant.

MR. NASEER-UD-DIN SHAH,
Assistant Advocate General

For respondents.

MR. SALAH-UD-DIN
MS. ROZINA REHMAN

MEMBER (JUDICIAL)
MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- : Shortly stated the facts as alleged by the appellant in her appeal are that after participation in competitive examination, the appellant was appointed as ASDEO (F) (BPS-16) vide Notification dated 12.07.2016, upon recommendations of Khyber Pakhtunkhwa Public Service Commission; that the appointment order of the appellant was verified vide order dated 28.11.2016 issued by Deputy Director Establishment (F) Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar and her pay was released vide order dated 15.12.2016 passed by District Education Officer (F) Mardan; that the appellant was properly performing her duty, however her appointment order was withdrawn vide order dated

ATTESTED

29.05.2019 passed by Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar and recovery of salary was also ordered vide order dated 31.05.2019; that both the aforementioned orders being wrong and illegal are liable to be set-aside; that the appellant filed departmental appeal, which was not responded within the statutory period, hence the instant service appeal.

2. Respondents contested the appeal by way of submitting para-wise comments, wherein they controverted the stance taken by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the appellant was properly appointed as ASDEO (F) upon recommendations of Khyber Pakhtunkhwa Public Service Commission; that after performing of her duty with zeal and zest for about three years, the appointment order of the appellant was wrongly and illegally withdrawn vide impugned order dated 29.05.2019; that no regular inquiry was conducted in the matter and appointment order of the appellant was withdrawn without any legal justification; that no opportunity of self defence or personal hearing was provided to the appellant and she has been treated with discrimination; that the appointment order of the appellant was verified from the concerned quarter, therefore, the impugned order of recovery of salaries from the appellant is also wrong and illegal. Reliance was placed on 2011 PLC (C.S) 1296 and judgment of this Tribunal dated 19.01.2022 passed in Service Appeal No. 826/2019 titled "Mst. Sadia Bibi Versus Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar".

4. On the other hand, learned Assistant Advocate General for the respondents has contended that the appellant had not at all appeared in the competitive examination for the post of ASDEO (F), which fact has been affirmed through letter dated 20.02.2019, issued by Assistant Director (III) Khyber Pakhtunkhwa Public Service Commission; that a thorough inquiry was conducted in the matter and it was found that the appellant had procured her appointment through bogus

ATTESTED




means, therefore, the competent Authority has rightly withdrawn the appointment order of the appellant by declaring the same as void ab-initio being fake and bogus; that the appellant had procured her appointment through fake and bogus recommendation letter of Khyber Pakhtunkhwa Public Service Commission, therefore, the competent Authority was justified in issuing order for recovery of the salaries paid to the appellant.

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

6. A perusal of the record would show that vide Notification dated 12.07.2016, the appellant was appointed as ASDEO (F) upon recommendations of Khyber Pakhtunkhwa Public Service Commission. Vide impugned order dated 29.05.2019 passed by Director Elementary and Secondary Education, Khyber Pakhtunkhwa Peshawar, the order of appointment of the appellant was withdrawn on the ground that the same was procured by the appellant through production of fake and bogus recommendation letter of the Khyber Pakhtunkhwa Public Service Commission. On bare perusal of the impugned order dated 29.05.2019, it is evident that no regular inquiry was conducted in the matter and the appellant was thus condemned unheard. The appellant has served for about three years, therefore, competent Authority was required to have conducted a proper inquiry into the matter prior to passing of the impugned order dated 29.05.2019, whereby the appointment order of the appellant has been withdrawn. The appellant has not been provided fair opportunity to defend herself. The impugned order is, therefore, not sustainable in the eye of law and is liable to be set-aside.

7. Consequently, the appeal in hand is allowed by setting-aside the impugned order. The appellant is reinstated in service for the purpose of inquiry and the matter is remitted to the competent Authority to conduct regular inquiry within a period of 60 days of receipt of copy of this judgment. The appellant shall be associated with the inquiry by providing her fair

ATTESTED


OFFICE OF THE ATTORNEY GENERAL
KHYBER PAKHTUNKHWA

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opportunity of defending herself. In view of peculiar nature of controversy in question, the issue of salary as well as back benefits shall be subject to outcome of the inquiry. 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)

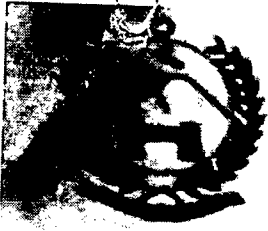
Verified to be true copy

Tribunal
Peshawar

2000
22/-
6/-
26/-

14-7-22

14-7-22
14-7-22



B (9)

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR

NOTIFICATION

Consequent upon judgment of the Hon'ble Service Tribunal rendered in Service Appeal No. 1403/2019 dated: 27-06-2022 titled Mst Naeema Shaheen versus Govt of Khyber Pakhtunkhwa and approval of the Competent Authority. The following inquiry committee is hereby constituted to conduct regular inquiry in the above service appeal (copies enclosed).

1. Mr. Abdul Saeed, Principal, Govt Shaheed Syed Afaq Ahmad High School No.03 Peshawar Cantt (Chairman).
2. Mr. Liaqat Ali Khan, District Education Officer (Male) Kurram (Member).

The inquiry officers should inquire the matter and submit detail report along with clear cut recommendations within 30 days positively.

Note: The appellant, i.e., Mst Naeema Shaheen is hereby reinstated into service for the purpose of said inquiry.

Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst. No 386-90 / F.No. Sano; 1403/19 Naeema Shaheen/Litigation-II.

Dated Peshawar the 18/12 2022

Copy of the above is forwarded to the:-

1. Registrar, Service Tribunal Peshawar Khyber Pakhtunkhwa.
2. Mr. Abdul Saeed, Principal, Govt Shaheed Syed Afaq Ahmad High School No.03 Peshawar Cantt.
3. Mr. Liaqat Ali Khan, District Education Officer (Male) Kurram.
4. District Education Officer (Female) Mardan.
5. PA to Director (E&SE) Local Office.
6. Master file.

e/c
Deputy Director Establishment (F)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar
18/12/22

VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Naeema Shaheen

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Education Department

(Respondent)
(Defendant)

I/We, Naeema Shaheen

Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2021

S.A. Khan
(CLIENT)

ACCEPTED

Taimur Ali Khan
TAIMUR ALI KHAN
Advocate High Court
BC-10-4240
CNIC: 17101-7395544-5
Cell No. 0333-9390916

OFFICE:

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Bilour Plaza, Peshawar,
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