

06.10.2022

Clerk to counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate general for respondents present.

Learned Additional AG seeks time for submission of implementation report. Last chance is given. To come up for implementation report on 18.10.2022 before S.B at Camp Court Abbottabad.



(Kalim Arshad Khan)
Chairman

14th Nov 2022

None for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Implementation report not submitted. Last chance is given to the respondents for submission of implementation report on the next date positively. To come up for implementation report on 13.12.2022 before S.B at camp court Abbottabad.



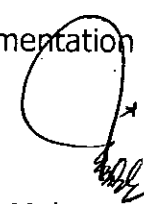


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 382/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	30.06.2022	<p>The execution petition of Mst. Shema submitted today by Uzm Syed 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-	5-7-2022	<p>This execution petition be put up before Single Bench at Peshawar on <u>01-09-2022</u>. 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 style="text-align: right;"> CHAIRMAN</p>
	01.09.2022	<p>Clerk to counsel for the petitioner present.</p> <p>Notice of the present execution petition be issued to the respondents for submission of implementation report. Adjourned. To come up for implementation report on 06.10.2022 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member (E)</p>

**SCANNED
KPST
Peshawar**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. _____/2022

In Service Appeal No. 1096/2019

Mst. Shema, Ex-PST
GGPS, Jaren Ranolia District Kohistan

SCANNED
KPST
Peshawar

Petitioner

VERSUS

1. The Director Education E&SE, Khyber Pakhtunkhwa , Peshawar.
2. The district Education Officer, Female Kohistan.

Respondents

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S. No.	Documents	Annexure	Pages
1.	Memo of Execution	1-2
2.	Copy of Judgment	A	3-7
3.	Vakalat Nama	8

Dated 30/06/2022

Petitioner

Through:


Uzma Syed
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

①

Execution Petition No. _____/2022

In Service Appeal No. 1096/2019

Mst. Shema, Ex-PST
GGPS, Jaren Ranolia District Kohistan

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 584

Dated 30/6-2022

Petitioner

VERSUS

1. The Director Education E&SE, Khyber Pakhtunkhwa , Peshawar.
2. The district Education Officer, Female Kohistan.

Respondents

.....

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE JUDGMENT
DATED: 15/09/2021 OF THIS HONOURABLE TRIBUNAL
IN LETTER AND SPIRIT.**

.....

RESPECTFULLY SHEWETH:

1. That the applicant/Petitioner filed Service Appeal No. 1096/2019 against the impugned order dated 20/04/2019 where by the appellant was dismissed from service.
2. That the said appeal was finally heard by the Honorable Tribunal on 15/09/2021. The Honorable Tribunal is kind enough to accept

the appeal and reinstate the appellant into service with all back benefits. (Copy of Judgment is attached as Annexure-A). ②

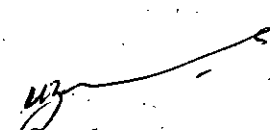
3. That in-action and not fulfilling formal requirements by the respondent after passing the judgment of this august Tribunal, is totally, illegal amount to disobedience and Contempt of Court.
4. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to pass formal appropriate order.
5. That the appellant submitted application to Competent authority time to time but the respondent Department reluctant to implement the Judgment.
6. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 15.09.2021 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

Dated 30/06/2022


PETITIONER

THROUGH:


Uzma Syed
Advocate High Court

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

3

APPEAL NO. 1096 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1209

Dated 27-8-2019

MST. Shema Ex-PST
GGPS, Jaren Ranolia District Kohistan.

(Appellant)

VERSUS

1. The Director Education E&SE, KP, Peshawar.
2. The District Education Officer Female Kohistan.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED 20.04.2019 WHEREBY
THE APPELLANT HAS BEEN REMOVED FROM THE
SERVICE WITH RETROSPECTIVE EFFECT AND
AGAINST NOT TAKING ACTION ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT
WITHIN STATUTORY PERIOD OF 90 DAYS.

Filed to-day

Registrar

27/8/19

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE
ORDER DATED 20.04.2019 MAY PLEASE BE SET
ASIDE AND THE APPELLANT MAY BE REINSTATED
IN TO SERVICE WITH ALL BACK AND
CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY,
WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND
APPROPRIATE THAT, MAY ALSO, BE AWARDED IN
FAVOUR OF APPELLANT.

(1)

4

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1096 /2019

MST. Shema Ex-PST
GGPS, Jaren Ranolia District Kohistan.

Khyber Pakhtunkhwa
Service Tribunal

Case No. 1209

Dated 27-8-2019

(Appellant)


VERSUS

1. The Director Education E&SE ,KP, Peshawar.
2. The District Education Officer Female Kohistan.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
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IN TO SERVICE WITH ALL BACK AND
CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY,
WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND
APPROPRIATE THAT, MAY ALSO, BE AWARDED IN
FAVOUR OF APPELLANT.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1096/2019

Date of Institution ... 27.08.2019

Date of Decision ... 15.09.2021

MST. Shema Ex-PST GGPS, Jaren Ranolia District Kohistan.

(Appellant)

VERSUS

The Director Education Elementary & Secondary Education Khyber Pakhtunkhwa
Peshawar and one other. ... (Respondents)

UZMA SYED

Advocate

For Appellant

KABIRULLAH KHATTAK,

Additional Advocate General

For Respondents

SALAH-UD-DIN

ATIQU-UR-REHMAN WAZIR

MEMBER (JUDICIAL)

MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are that

the appellant joined education department as Primary School Teacher in the year 2015. During the course of her service, she was proceeded against and was ultimately removed from service vide order dated 20-04-2019. Feeling aggrieved, the appellant filed departmental appeal dated 08-05-2019, which was not responded, hence the instant service appeal instituted on 28-08-2019 with prayers that the impugned order dated 20-04-2019 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned order dated 20-04-2019 and not deciding departmental appeal of the appellant within

statutory period of 90 days are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside; that the appellant has been condemned unheard and has not been treated in accordance with law; that the appellant was shown absent during winter vacation and her absence period was shown as 01-01-2019 to 20-04-2019, whereas the winter vacation started from 25-12-2018 to 25-03-2019, which is illegal and based on malafide of the respondents; that no proper inquiry was conducted and if any such proceedings were conducted, the appellant was not associated with such proceedings; that the impugned order was issued without issuance of final showcause notice, which however is a legal right of the appellant. Reliance was placed on 2009 SCMR 605; that the disciplinary proceedings were conducted in violation of Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, as notice through registered mail was not sent on her home address, nor such notice was published in two leading newspapers; that it is by now well settled that regular inquiry is must before imposition of major penalty of removal from service, so that the civil servant is afforded proper opportunity of defense. Reliance was placed on 1987 SCMR 1562.

03. Learned Additional Advocate General appearing on behalf of respondents has contended that the appellant was reported willfully absent from her duty by the concerned IMU and other visiting officers; that where the fact of absence from duty was admitted, there was no need for holding of a regular inquiry. Reliance was placed on 2021 PLC (CS) 385; that the appellant was proceeded against under Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, by sending a showcause notice at her home address through registered mail, but neither the teacher joined her duty nor submitted convincing reply within the stipulated timeframe; that final showcause notice was also published in two leading newspapers on 26-02-2019 and 27-02-2019, but the appellant never responded to such notices; that the appellant was removed from service after fulfillment of codal

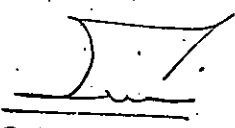
formalities and the impugned order dated 20-04-2019 was issued in accordance with law and rule.

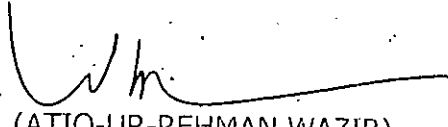
04. We have heard learned counsel for the parties and have perused the record. Record reveals that showcause notice dated 01-02-2019 was issued to the appellant on registered mail on 07-02-2019, but not at her home address, rather such notice was sent on her school address and during the said period, school was already closed due to winter vacation. The newspapers in which such notice was published also cannot be termed as leading newspapers, but these are local newspapers having short range of publication. Most importantly, representative of the respondents also confirmed from his office about the winter holidays and stated at the bar that such holidays were from 25-12-2018 to 25-03-2019, hence it was confirmed beyond any doubt that the appellant was reported absent during winter vacation and was removed from service without properly observing the legal formalities.

05. In view of the foregoing discussion, the instant appeal is accepted and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

15.09.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


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

بعدالت

۱۴ Service Tribunal, Peshawar

مورخہ
مقدمہ
دعویٰ
جرم

۲۰۲۰ء منجانب
شہما
بنام
لعلم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام Peshawar کیلئے عطیہ منجانب ۱۴۰۰۰۰۰۰۰۰

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے

اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے

سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔

کہ پیروی مذکور کریں۔ لہذا کالت نامہ لکھدیا کہ سند ہے۔

المرقوم 30 ماہ 6 20

واہ العبد

محمد

کے لئے منظور

"A"

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

No.

APPEAL No. EP No. 382 of 20 22 ^{SB}

Mst-shema

Appellant/Petitioner

Versus

Director education EUSF, KPK Peshawar
RESPONDENT(S)

Notice to Appellant/Petitioner

The Director education
EUSF, KPK Peshawar

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

on 01/09/2022 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.

For Impl-ment-
tion Report

Copy of EP
Attached

[Signature]
12/8/22

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

No.

APPEAL No. E-P. NO. 382 of 20 22

Ragd

Mst. Shema

Appellant/Petitioner

Versus

the Director ERSE KPK Peshawar

RESPONDENT(S)

Respondent No. 2

Notice to Appellant/Petitioner

the District Education Officer Female Kohistan.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 6/10/2022 at 9: 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 of E.P
is attached
for implementation
Report*

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

No.

S.B

APPEAL No..... of 20

E-P. No. 382

22

Mst: Shema

Appellant/Petitioner

Versus

The Director ERSE KPK Peshawar RESPONDENT(S)

Notice to Appellant/Petitioner

Respondent No. 1

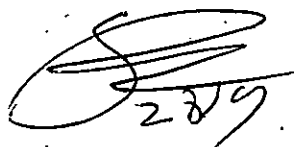
The Director (ERSE)
KPK Peshawar

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

6/10/2022

9: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.



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar

copy of E.P
is attached
for Implementation
Report