26th July, 2022 Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Yar Muhammad, ADEO for respondents present.

Representative of the respondents seeks time for submission of implementation report. Respondents are directed to submit proper implementation report on the next date positively. To come up for implementation report on 19.10.2022 before S.B at camp court Abbottabad.

(Kalim Arshad Khan)
Chairman

19th Oct, 2022 Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Miss. Rehana Yasmeen, DEO(F) Battagram for respondents present.

Implementation report not submitted. Miss. Rehana Yasmeen, DEO(F) Battagram present in the court assured that the implementation report will be submitted on the next date positively. To come up for implementation report on 15.11.2022 before S.B at camp court Abbottabad.

(Kalim Arshad Khan)
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 304/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24.05.2022	The execution petition of Mst. Amina Gul submitted today by Syed Noman Ali Bukhari Advocate may be entered in the relevant register and put up to the Court for proper order please. REGISTRAR
2-	31/05/22	This execution petition be put up before Single Bench at Peshawar on 02-06-2022. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed. CHAIRMAN
	2nd June, 2022	None for the petitioner present. Kabirullah Khattak, Addl: AG for respondents present. Notices be issued to the respondents for submission of implementation report. To come up for implementation report on 26.07.2022 before S.B. Original file be also requisitioned. (Kalim Arshad Khan) Chairman

Form- A

FORM OF ORDER SHEET

Court of_____

Execution Petition No. 304/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24.05.2022	The execution petition of Mst. Amina Gul submitted today by Syed Noman Ali Bukhari Advocate may be entered in the relevant register and put up to the Court for proper order please. REGISTRAR
2-	27-5-2022	This execution petition be put up before Single Bench at Peshawar on 17-06-2022. Original file be requisitioned. Notices to the parties be also issued for the date fixed. CHAIRMAN

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 304 /2022
In
Service Appeal No.181/2018

Amina Gul **VS** **Govt of KP**

INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Execution Petition	-----	01-02
2.	Copy of Judgment	- A -	03-07
3.	Copy of application	-B-	08
4.	Vakalat Nama	------	09

Amina Gul
PETITIONER
Amina Gul

THROUGH:

SYED NOMAN ALI BUKHARI
ADVOCATE, HIGH COURT

Date: 23/05/2022

Cell No: 0306-5109438

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 304 /2022
In
Service Appeal No.181/2018

Mst. Amina Gul D/o Noshirwan Khan, T.T (BPS-15),
GGMS Kadwal Distt: Battagram.

(Petitioner)

VERSUS

1. The Secretary Education Elementary & Secondary Civil Secretariat, Peshawar.
2. The Director Education Elementary & Secondary Peshawar.
3. The District Education Officer Elementary & Secondary (Female) Distt: Battagram.

(Respondents)

.....

EXECUTION PETITION FOR DIRECTING THE RESPONDENTS TO IMPLEMENT THE JUDGMENT DATED: 18.01.2022 OF THIS HONOURABLE TRIBUNAL IN LETTER AND SPIRIT.

.....

RESPECTFULLY SHEWETH:

1. That the applicant/Petitioner filed Service Appeal No. 181/2018 for consideration of promotion to the post of STT and SST.

2. That the said appeal was finally heard by the Honorable Tribunal on 18.01.2022. The Honorable Tribunal is kind enough to accept the appeal and the appellant held entitled for promotion as well as seniority w.e.from February, 2013, the date when her colleagues were promoted with all consequential benefits. **(Copy of judgment is attached as Annexure-A).**

3. That the appellant also filed application for implementation oif judgment but the respondents were totally failed in taking any

action regarded the Hon'able Tribunal Judgment dated 18.01.2022. **Copy of application is attached as annexure-B.**

4. 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.

5. 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.

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 18.01.2022 of this august Tribunal in letter and spirit. And further directed to promote the appellant from February 2013 to the post of STT and also promote the appellant to the post to SST from 2015 with her batch mates. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

PETITIONER
Amina Gul

THROUGH:

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT.
&
UZMA SYED
ADVOCATE HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief.

ATTESTED
Muhammad Mustafa Advocate
NOTARY PUBLIC
District Court Peshawar

DEPONENT

A (3)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 181 /2018

Mst. Amina Gul D/o Noshirwan Khan, T.T (BPS-15), GGMS Kadwal Distt: Battagram.

50
17-1-2018

(Appellant)

VERSUS

1. The Secretary Education Elementary & Secondary Civil Secretariat, Peshawar.
2. The Director Education Elementary & Secondary Peshawar.
3. The District Education Officer Elementary & Secondary (Female) Distt: Battagram.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 FOR DIRECTING THE RESPONDENTS TO CONSIDER THE APPELLANT FOR PROMOTION AS S.T.T FROM HER DUE DATE (FEBRUARY, 2013) AND THEN CONSIDER FOR PROMOTION AS SST FROM HER DUE DATED i.e 2015 WHEN DPC WAS CONDUCTED AND JUNIOR TO HER WAS PROMOTED AND AGAINST THE REJECTION ORDER DATED 22.12.2017 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS.

ATTESTED

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL THE REJECTION ORDER DATED 22.12.2017 MAY BE SET ASIDE AND INACTION /OMISSION OF THE RESPONDENTS IN PROMOTING THE APPELLANT AS S.TT (BPS-16) AND SST FROM HER DUE DATE MAY BE DELCARE AS ILLEGAL, UNLAWFUL, AGAINST THE PROMOTION RULES AND NORMS OF JUSTICE. THE RESPONDENTS MAY FURTHER PLEASE BE DIRECTED TO CONSIDER THE APPELLANT FOR PROMOTION TO THE POST OF S.TT (BPS-16) FROM HER DUE DATE (FEBRUARY, 2013) AND FURTHER CONSIDER FOR THE POST OF SST BEING ELIGIBLE 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. 181/2018

Date of Institution ... 17.01.2018

Date of Decision ... 18.01.2022

Mst. Amina Gul D/o Noshirwan Khan, T.T (BPs-15) GGMS Kadwal Distt: Battagram. ... (Appellant)

VERSUS

The Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar and others. ... (Respondents)

Syed Noman Ali Bukhari & Uzma Syed Advocate ... For Appellant

Riaz Khan Paindakheil, Assistant Advocate General ... For respondents

AHMAD SULTAN TAREEN ... **CHAIRMAN**

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

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant was initially appointed as PST on 07-04-2004, subsequently the appellant was appointed as Theology Teacher (TT) vides order dated 17-06-2006. As per seniority list, available on record, the appellant stood at serial No. 09 of the seniority list. During the course of promotions, the respondents effected certain promotions, but case of the appellant was deferred every time and other colleagues/juniors of the appellant were promoted, against which the appellant filed departmental appeal dated 04-05-2017, which was rejected vide order dated 22-12-2017, hence the instant service appeal with prayers that the impugned order dated 22-12-2017 may be set aside and her

ATTESTED

promotion may be made effective from February, 2013, the date when her other colleagues were promoted alongwith all back benefits.

02. Learned counsel for the appellant has contended that the appellant was initially recruited as Theology Teacher on the basis of Sanad acquired from Ithehad ul Madaris, which was on the approved list dated 25-09-1990 of the Directorate of Education(Schools); that the Sanad of the appellant is equivalent to MA Arabic/Islamiat as per notification dated 12-09-1981 of University Grant Commission Islamabad; that as per notification dated 13-11-2012 of the service rules, the appellant is entitled to be promoted with effect from February, 2013, the date when other colleagues of the appellant were promoted, as the appellant is already holding a degree equivalent to MA Islamiyat; that other colleagues of the appellant, who were appointed alongwith the appellant on the same date, were granted promotions, but case of the appellant was deferred for no good reason; that respondents again made certain promotions, but the appellant was again ignored; that the appellant filed departmental appeal date 04-05-2017, which was rejected vide order dated 22-12-2017; that respondents had made promotion on the basis of personal like and dislike,; that the appellant has not been treated in accordance with law and was discriminated in violation of Article-25 of the constitution; that case of the appellant for promotion was deferred every time on a frivolous ground, which are not tenable in the eye of law.

03. Learned counsel for the respondents has contended that it is correct that the appellant was appointed as TT on the basis of Sanad issued by Ithehad Ul Madaris, which was on the approved list dated 25-09-1990 issued by Directorate of Education (Schools), but she was not entitled to be promoted on the basis of such qualification, as qualification so obtained is not from recognized Madrasas as categorized in service rules, 2012; that notification dated 12-09-1981 issued by University Grant Commission Islamabad is considered valid for teaching in

Colleges and Universities, whereas the appellant is a teacher in school, hence cannot be termed as equivalent for the purpose of promotion.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was appointed as TT vides order dated 17-06-2006 based on a Sanad obtained from Ithehad Ul Madaris. As per approved list of Deeni Madrasas, the said Madrasa is available at the list of recognized list of Deeni Madrasas, as is evident from letter dated 25-09-1990, which shows that Sanad of the appellant was from a recognized Madrasa. Interestingly, the respondents admit it to the extent that the appellant acquired her appointment against the post of TT on the same very Sanad, but is not useful for her promotion is ridiculous, as at the time of her appointment, the said Sanad was considered equivalent to MA degree, but at the time of her promotion, the respondents denied their own stance, which is highly deplorable. The Sanad in question however is equivalent to MA Degree. Placed on record is a notification dated 12-09-1981 issued by University Grant Commission Islamabad, relevant portion of the said notification is reproduced as under:

> *"It is hereby notified that the Sanad/Degree of Fauqania, the highest Sanad/Degree, awarded by Tanzimul Madaris, Wafaqul Madaris and other recognized institutions has been considered equivalent to MA Arabic and Islamic Studies for the purpose of teaching Arabic and Islamiat in colleges and universities."*

Stance of the respondents to the effect that such Sanad is considered valid for teaching in colleges and universities can be termed as funny, as how an individual equipped with a Sanad, which is valid for teaching in colleges and universities can be termed as un-valid for teaching in school. Such excuse of the respondents is highly pitiable. The appellant was kept deprived of her due right of promotion due to the reason that the Sanad/qualification obtained from Madrasa

is not included in the notification dated 12-11-2012, inspite of the fact that the appellant obtained such Sanad from a Madrasa which was on the approved list of the Directorate of Education(Schools).

06. We are of the considered opinion that the appellant was holding the requisite qualification and was otherwise fit for promotion, but the respondents did not bother to properly examine her case and she suffered for longer for the reckless behavior of the respondent, which was not warranted. In view of the foregoing discussion, the instant appeal is accepted. The impugned order dated 22-12-2017 is set aside and the appellant is held entitled for promotion as well as seniority with effect from February, 2013, the date when her other colleagues were promoted with all consequential benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
18.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN

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

24/3/22

Certified to be true copy

Date of Presentation of Application 24/3/22
Number of Words 2000
Copying Fee 22/-
Urgent 5/-
Total 26/-
Name of Applicant
Date of Preparation of Copy 24/3/22
Date of Delivery of Copy 24/3/22

B (8)

DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE

VAKALATNAMA

NO._____/20

IN THE COURT OF KP Service Tribunal

Amina Gul ---------- Appellant
Petitioner
Plaintiff

VERSUS

Education Deptt ---------- Respondent (s)
Defendants (s)

I/WE Amina Gul

do hereby appoint and constitute the ***SYED NOMAN ALI BUKHARI Advocate High Court*** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and al proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE_____/20

Amina Gul
(CLIENT)

ACCEPTED

SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT

CELL NO: 0306-5109438

GS&PD.KP.SS-1776/1-RST-5,000 Forms-09.05.18/P4(Z)/F/PHC Jos/Form A&B Ser. Tribunal

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No. EP No. 304 SB

APPEAL No..... of 20 22.

Mst Amina Gul

.....

Apellant/Petitioner

Versus

Sec Education Civil Secretariat Peshawar

.....

RESPONDENT(S)

Respondent (3) DEO (Female) Battagram.

Notice to Appellant/Petitioner.....

.....

.....

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 26/07/2022 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.

For Implementation Report

EP Copy Attached

Recieved 19/07/22

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

GS&PD.KP-195[illegible] 5,000 Forms-27.1 [illegible]/F/PHC Jos/Form A&B Ser. Tribunal

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

APPEAL No. 304 of 20 22 . SB

Mst. Amina Gul

Apellant/Petitioner

Versus

Secy education E & S civil secretariat Peshawar.

RESPONDENT(S)

Notice to Appellant/Petitioner The secy eduction E & S civil secretariat Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 26/07/2022 **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 Implementation Report)

EP attached

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

GS&PD.KP-1952/3-RST-

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No. E.P

APPEAL No. 304 of 2022 SB

Mst. Amina Gul

Apellant/Petitioner

Versus

Secy education E & S civil secretariat Peshawar.

RESPONDENT(S)

Notice to Appellant/Petitioner Respondent (2) the director education E & S Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 26/07/2022 at 1:00 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 Implementation Report) 25/7

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

EP attached