

30.06.2022

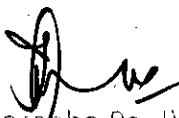
Learned counsel for the petitioner present. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Bakhmal Jan, Litigation Officer for respondents present.

Representative of the respondent department submitted letter No. 3633/A-12/Litigation/ Mubassira Qazi Vs Govt dated 28.06.2022 placed on file, through which the Directorate of Elementary & Secondary Education requested Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar ^{and} submitted working paper for the antedate promotion of petitioner to ~~the~~ BS-17 for the meeting of DPC. Representative of the department informed the bench that DPC will be held in the month of August in which the case will be considered.

In view of the above, instant petition is disposed off. File be consigned to record room.

Announced.

30.06.2022


(Fareeha Paul)
Member (E)

OFFICE OF THE DIRECTOR OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA PESHAWAR

NO. 3633/A-12/Litigation/Mubassira Qazi Swabi VS Govt:

Dated Peshawar the: 28/06 /2022

To


The Section Officer (PE)
E&SE Department, Khyber Pakhtunkhwa,
Peshawar

Subject: - **REQUEST FOR IMPLEMENTATION OF JUDGEMENT DATED: 11.03.2019 OF THE HONORABLE SERVICE TRIBUNAL IN EXECUTION PETITION NO. 378/2019 OUT OF SERVICE APPEAL NO. 1012/2017 UNDER CASE TITLE MUBASSIRA QAZI HEAD MISTRESS VS GOVT. OF KHYBER PAKHTUNKHWA**

Memo:-

I am directed to refer to the letter No. SO(PE)E&SED/5-1/Gen.Misc/2022 dated: 13.06.2022 on the subject cited above and to enclose herewith working paper in respect of Mst: Mubassira Qazi Head Mistress Ex-HM for antedating promotion to BS-17 w.ef 17.03.2016 instead of 18.04.2017 for placement before DPC meeting.

Encls: As Above


Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst: No. _____
Copy to the:-

1. P.A to Director E&SE Khyber Pakhtunkhwa Peshawar.


Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

29.03.2022

None for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Arshad, ADEO and Mr. Tariq Shah, Senior Auditor for respondent present.

On previous date the case was adjourned on ^{the strength of} reader note, therefore notice of prosecution of execution petitioner be issued to the petitioner and his counsel. Adjourned. To come up for further proceedings on 20.05.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER(E)

20.05.2022

Junior to counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned AAG requested for a short adjournment to contact the respondent-department and to come up with implementation report. Request is acceded to but as a last chance. To come up for further proceedings on 30.06.2022 before S.B.


(Mian Muhammad)
Member (E)

20.12.2021

Counsel for the petitioner present.

Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Arshad ADO and Tehseen Ullah Assistant for respondents present.

Copy of order dated 25.11.2021, of the office of Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar addressed to SO (P.E) Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar, on the subject of working paper for antedated promotion with reference to judgment /orders of this Tribunal, has been produced and placed on file, copy of the same is handed over to the learned counsel for the petitioner. Request for further necessary action is made in the matter of subject working paper. No representative of respondent No. 5 is present. Learned A.A.G shall take the administrative department on board for speedy action on the letter dated 25.11.2021 as discussed above. To come up for implementation report on 08.02.2022 before S.B.


Chairman

8-2-2022

Due to retirement of the Honorable
Chairman the case is adjourned to come
up for the same as before on 29-3-2022


Reader

30.09.2021

Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Baseer Ullah, Legal Representative for respondents present.

Learned AAG requested for adjournment on the ground that he will further consult the respondent-department for implementation report in the light of order sheet dated 04.08.2021. Adjourned. To come up for further proceedings before the S.B on 02.11.2021.


(MIAN MUHAMMAD)
MEMBER (E)

02.11.2021

Clerk of counsel for the petitioner and Mr. Kabirullah Khattak, Addl. AG alongwith Basirullah, Librarian for the respondents present.

Copy of the letter dated 05.10.2021 has been produced, whereby the Section Officer (P.E) of E&SE Department had requested the Director E&SE for necessary action as per order/directions of the Court. Copy placed on file. The representative of the Director present before the court is directed to come up with material progress in pursuit of the said letter on next date. Case to come up on 20.12.2021 before the S.B.


Chairman

the judgment of this Tribunal, but they may not work to absolve them from the liability of their failing in implementation of said judgment; when there was no ambiguity in the operative part as reproduced above. Let the department avail an opportunity to take steps for implementation of the judgment in light of its operative part, failing which all concerned officers will be proceeded against for the punitive consequences as much as possible within the scope of jurisdiction of this Tribunal. A copy of this order be sent to Secretary and Director of the concerned department not only for compliance but as a notice for appropriate punitive action, if they omit to comply with the judgment. Case to come up on 15.09.2021 before S.B.


Chairman

15.09.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned AAG requested that action in pursuance to the order dated 04.08.2021 may not be taken as far as the non-compliance of the said order is concerned; and assured that he will take up the matter with concerned quarter for proper implementation report. Case to come up for proper implementation report on 30.09.2021 before S.B.


Chairman

EP 378/2019

04.08.2021

Counsel for the petitioner and Mr. Kabirullah Khattak, Addl. AG alongwith Saleem Khan, S.O and Haseenullah, PST for the respondents present.

It is beyond comprehension that the department is failing to implement the judgment of this Tribunal which in its term is quite clear leaving no room for maneuvering of the department to avoid its implementation. If the department has any difficulty for resubmission of the case for promotion of the petitioner in pursuance to the working paper in which her name was reflected for consideration of DPC but was deferred on a hypertension ground, let Para-5 of the judgment be reproduced herein below for their convenience:-


"It is not the case of respondents that the appellant had blemished record of service nor her efficiency and compatibility was under clouds. In the circumstances, deficiency in the columns of PERs, that too, pertaining to the remarks of Reporting Officer, was obviously not the fault of appellant, therefore, she could not be made to suffer. Reliance is placed on a case reported as 2012-SCMR-123. The appellant was, for all intents and purposes, entitled for promotion as Headmistress (BPS-17) from the date her juniors were promoted through notification dated 17.03.2016."

There could be many reasons with the concerned departmental authorities to postpone the compliance of

21.01.2021

Rabia Muzaffar Advocate counsel for petitioner alongwith husband of the petitioner present.

Noor Zaman Khattak learned District Attorney alongwith Hayat Khan Assistant Director for respondents present who made a request for adjournment, ^{in order to} produce proper implementation report. As such, last chance is given. To come up for proper implementation report on 22.02.2021 before S.B



(Rozina Rehman)
Member (J)

22.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 21.04.2021.


Reader

21.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 15.06.2021 for the same as before.


Reader

15.06.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Hayat Khan, A.D for the respondents present.

Learned AAG seeks time to submit implementation report. To come up for proper implementation report on 04.08.2021 before S.B.


Chairman

02.12.2020

Miss. Rabia Muzaffar, Advocate, for petitioner is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Learned counsel for petitioner invited the attention of the bench to the judgment of this august Tribunal passed on 11.03.2019 whereby relief to the following effect was granted "*the appellant was, for all intents and purposes, entitled for promotion as Headmistress (BPS-17) from the date her juniors were promoted through notification dated 17.03.2016*". However, the judgment has not been implemented and in the meanwhile petitioner has get retired with effect from 01.09.2020 on attaining the age of superannuation. The learned counsel submitted that in the circumstances petitioner is entitled to receive the accruing benefits for which the department may be directed to make arrangement.

The learned Additional Advocate General in this regard sought time for making contact with the official at the helm of affairs for giving effect to the judgment of this august Tribunal, time is granted by directing the learned Additional Advocate General to contact the respondents for giving effect to the judgment of this Tribunal and to depute a legally well versed representative not below the rank of BPS-17 for rendering assistance to the Tribunal. File to come up for implementation report on 21.01.2021 before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

08.07.2020

Rabia Muzaffar Advocate present on behalf of petitioner.

Mr. Usman Ghani learned District Attorney present.

Nemo for the respondents.

Despite repeated directions, implementation report was not submitted, therefore, notice be issued to all the respondents with direction to make sure presence of an officer not below Grade-17 to apprise this Tribunal in respect of the implementation report, for 03.09.2020 before S.B.

Member (J)

03.09.2020

Counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks time to contact the respondents and submit implementation report. Adjourned to ~~07.10~~ 2020 on which date the implementation report shall positively be submitted.

Chairman

07.10.2020

Counsel for the petitioner and Addl. AG I for the respondents present.

Learned AAG states that the concerned representative of the respondents is in attendance before the Apex Court today. He, therefore, requests for adjournment. Adjourned to 02.12.2020, on which date the implementation report shall be submitted without fail.

Chairman

P 10.03.2020

Miss. Rabia Muzaffar Advocate present and submitted Vakalat Nama in favour of the appellant. The same is placed on record. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sajid, Superintendent on behalf of respondent No. 6 present. Implementation report not submitted. Learned Additional AG seeks further time to furnish implementation report from respondents. Adjourned to 14.04.2020 for implementation report before S.B.

MA

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

11

14.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 08.07.2020 for the same. To come up for the same as before S.B.

[Signature]
Reader

315

~~08.07.2020
Miss. Rabia Muzaffar Advocate present and submitted
Vakalat Nama in favour of the appellant. The same is
placed on record. Mr. Kabirullah Khattak, Additional AG
alongwith Mr. Sajid, Superintendent on behalf of the
respondents present.
Implementation report not submitted. Learned Additional AG
seeks further time to furnish implementation report from
respondents. Adjourned to 14.04.2020 for implementation
report before S.B.
Due to public holiday on account of COVID-19, the case
is adjourned to 08.07.2020 for the same. To come up for
the same as before S.B.~~

16.12.2019

Counsel for the appellant and Addl. AG alongwith Fazle Subhan, S.O, Irfanullah, Assistant and Sajid Superintendent for the respondents present.

The representative of respondent No. 5 states that on 06.12.2019 a memo was addressed to respondent No. 4 for implementation of the judgment under execution. The representative of respondent No. 4, on the other hand, undertakes to do the needful without any further loss of time.

In the circumstances, the respondents are allowed time till next date of hearing for submission of implementation report on 28.01.2020.


Chairman

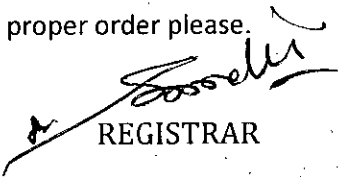
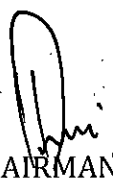
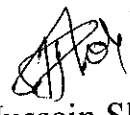
28.01.2020 No one present on behalf of petitioner. Fazal Subhan S.O representative of the respondent department present and seeks time to furnish implementation report. Granted. To come up for further proceedings/implementation report on 10.03.2020 before S.B. Petitioner be put to notice for the date fixed.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 378 /2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	10.10.2019	<p>The execution petition of Mst. Mubassira Qazi submitted today by Syed Zia Ullah Shah Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-	14/10/19	<p>This execution petition be put up before S. Bench at on <u>08/11/19</u>.</p> <p> CHAIRMAN</p>
	08.11.2019	<p>Nemo for Petitioner.</p> <p>Notice be issued to the petitioner. Notice be also issued to the respondents for submission of implementation report on 16.12.2019 before S.B</p> <p> (Hussain Shah) Member</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.

Implementation Petition No 378 /2019

IN REFERENCE

Service Appeal No 1012/2017

Mst. MUBASSIRA QAZI

.....Applicant/Appellant.

VERSUS

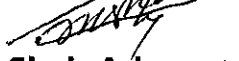
District Education Officer District Swabi and othersRespondents

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S.No	Description of Document	Annexure	Page No
1	Implementation application along with affidavit		1-3
2	Copy of Judgment of August Service Tribunal dated 11.03.2019	"A"	4-9
3	Wakalat Nama		10
4			

Dated: -/0-10-2019

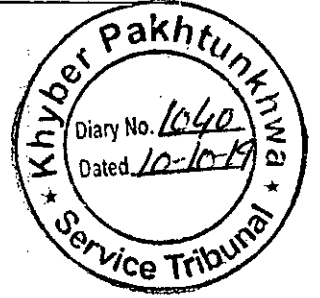
Applicant/Petitioner

Through 
Syed Zia Ullah Shah Advocate
High Court
At Judicial Complex Swabi

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.Implementation Petition No 378 /2019

IN REFERENCE

Service Appeal No 1012/2017



Mst. MUBASSIRA QAZI D/O QAZI ABDUL MALIK Headmistress Government Girls High School Mansoor Khel Zaida District Swabi

.....Applicant/Appellant.

VERSUS

1. District Education Officer District Swabi.
2. District Account Officer Swabi District Swabi.
3. Shaida Namir the then Head Mistres (Retired G.G.H.S Zaida) , Resident of village Thand Koi Tehsil & District Swabi .
4. Director, Elementary and Secondary Education Peshawar.
5. Secretary, Education Khyber Pakhtunkhwa Peshawar.
6. Secretary Khyber Pakhtunkhwa Finance Department Peshawar.
7. Secretary Khyber Pakhtunkhwa Establish Department Peshawar.
8. Accountant General Khyber Pakhtunkhwa Peshawar .
9. Chief Secretary Khyber Pakhtunkhwa Peshawar.

.....Respondents

PETITION FOR THE IMPLEMENTATION OF ORDER/JUDGMENT DATED 11.03.2019 PASSED BY THIS HONORABLE TRIBUNAL IN THE ABOVE TITLED SERVICE APPEAL.

Respectfully Submitted:-

1. That the applicant/appellant earlier filed Service Appeal No 1012/2017 against the inaction of respondents regarding the departmental appeal submitted by applicant /appellant on 16.05.2017 wherein the appellant had questioned the order of her promotion dated 18.04.2017 whereby she was promoted to the post of headmistress PBS-17 but with immediate effect. That the applicant /appellant actually was entitled for her promotion on 17.03.2016. The August Service Tribunal restored her seniority and promotion with effect from 17.03.2016 and has awarded all the back benefits attached to the post as rayed by the applicant /appellant in her service appeal vide Order and Judgment dated 11.03.2019.

(Copy of the Order and Judgment is enclosed as Annexure A).


2. That the applicant/appellant time and again approached respondents for the implementation of the Order and Judgment dated 11-03-2019 of this honorable Tribunal but of no use and the appellant has not been restored her seniority with effect from 17.03.2016 and also have not paid all the back benefit attached to the post as per the Judgment of this honorable tribunal.

3. That the respondents are not ready to implement the Order and Judgment of this honorable Tribunal dated 11-03-2019 in its true spirit for no legal and valid reasons, this act of the respondents is unlawful, unconstitutional and goes against the Orders and Judgment dated 11-03-2019 of this honorable Tribunal.

It is therefore prayed, that on acceptance of this Application/Petition, respondents may kindly be directed to implement the Order and Judgment of this honorable Tribunal dated 11-03-2019 passed in Service Appeal No 1012/2017.

Dated:- -10-2019

Applicant/Petitioner

Through

Syed Zia Ullah Shah Advocate
High Court
At Judicial Complex Swabi

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.

Implementation Petition No _____/2019

IN REFERENCE

Service Appeal No 1012/2017

Mst. MUBASSIRA QAZIApplicant/Appellant.

VERSUS

District Education Officer District Swabi and othersRespondents

AFFIDAVIT

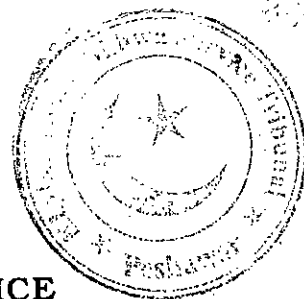
I, Mst. MUBASSIRA QAZI D/O QAZI ABDUL MALIK Headmistress Government Girls High School Mansoor Khel Zaida District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Implementation Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

DEPONENT

Mst Mubassira Qazi
Mst MUBASSIRA QAZI



004



BEFORE THE KHYBER PAKHTUN KHUWA SERCICE
TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Appeal No---10/2-----/2017

Diary No. 1068

Dated 12-9-2017

Mubassira Qazi d/o Qazi Abdul Malik,
Headmistress Government Girls High school Thand
koyi, tehsil and District Swabi.
Appellant.


VS

- ✓1. District Education officer District Swabi.
- ✓2. District account officer Swabi.
3. Shahida Namir the then Head-Mistress (Retired)
G.G.H.S Zaida, Resident of Village Thand Koyi
Tehsil and District Swabi..
- ✓4. Director, Elementary and Secondary Education
Peshawar.
- ✓5. Secretary Education Khyber Pakhtun Khuwa
Peshawar.
- ✓6. Secretary Khyber Pakhtun Khuwa Finance
Department, Peshawar.
- ✓7. Secretary Khyber Pakhtun Khuwa
Establishment Department.
- ✓8. Accountant General Khyber Pakhtun Khuwa
Peshawar.
- ✓9. Chief Secretary Khyber Pakhtun Khuwa
Peshawar.

..... Respondents

Filed to-day
Registrar
12/9/17

AFFECTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

=====

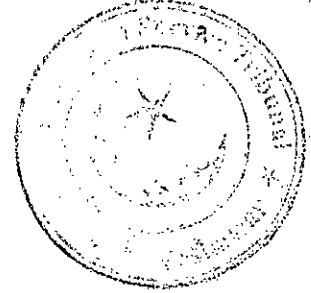
APPEAL AGAINST RESPONDENTS, WHO HAVE
NOT TAKEN ANY ACTION ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT,

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. 1012/2017

Date of Institution ... 12.09.2017

Date of Decision ... 11.03.2019



Mubassira Qazi d/o Qazi Abdul Malik, Headmistress Government Girls High School Thand Koyi, Tehsil and District Swabi. ... (Appellant)

VERSUS

District Education Officer, District Swabi and 8 others.... (Respondents)

Present:

Mr. Syed Ziaullah Shah,
Advocate.

... For appellant

Mr. Muhammad Jan,
Deputy District Attorney,

... For respondents.

MR. HAMID FAROOQ DURRANI,
MR. AHMAD HASSAN,

... CHAIRMAN
... MEMBER

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

This appeal is directed against the inaction of respondents regarding the departmental appeal submitted by appellant on 16.05.2017. In the appeal the appellant had questioned the order of her promotion dated 18.04.2017, whereby, she was promoted to the post of Headmistress (BPS-17), but with immediate effect.


ATTESTED

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

2. The record suggests that a meeting of Departmental Promotion Committee was held on 13.10.2015 to recommend the promotion of SSTs (Male/Female) to the post of Headmaster/Headmistress in Elementary & Secondary Education Department. The case of appellant was also made part of the agenda and her name appeared at S.No. 311 of the list. Her promotion was although deferred on the count that her P.E.Rs for the years 2011-14 not reported but countersigned. (Underlining is applied). On the basis of said recommendations the requisite notification was issued on 17.03.2016, wherein, as many as 31 teachers junior to the appellant were promoted as Headmistress (BPS-17). Another D.P.C meeting was held on 10.01.2017 and in view of recommendations contained therein another notification of promotion was issued on 18.4.2017. The name of appellant also found mention in the latter notification at S.No. 22. The promotion was made with immediate effect on the basis of recommendations of D.P.C meeting dated 10.01.2017. It was noted against the name of appellant in the remarks column that her case was deferred in the DPC meeting dated 13.10.2015 for want of PERs and that her PERs had been completed upto 2015 and she was eligible for promotion to BS-17 on regular basis.

3. We have heard learned counsel for the appellant, learned Deputy District Attorney on behalf of the respondents and have also gone through the available record.

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Learned counsel for the appellant vehemently contended that the promotion of appellant was deferred in the year 2015 for no fault on her part. The incomplete PERs of the appellant were not to be attributed to her as she had submitted the same well in time, which was evident from the fact that these were duly endorsed by the countersigning authority. The learned counsel relied on 2011-SCMR-389, 1973-SCMR-304 and 2014-PLC(C.S)504. It was also the argument of learned counsel that discrimination was meted out to the appellant owing to the fact that some other similarly placed persons were recommended for promotion through DPC meeting dated 13.10.2015.

Learned Deputy District Attorney, on the other hand, contended that the departmental appeal was not filed by the appellant in accordance with rules, therefore, her service appeal was also not competent. It was further contended that submission of P.E.R by the appellant, within time, was not claimed in the memorandum of instant appeal or through representation submitted to the departmental authority. Learned Deputy District Attorney maintained that the appellant had not served on the post before her promotion as Headmistress, therefore, she was barred for claiming the benefits retrospectively.

4. We have noticed from the record that in the recommendations of DPC dated 13.10.2015 the name of one Muhammad Gul, SET was recommended for promotion subject to provision of satisfactory PER for 2014. Similarly,

ATTESTED


Secretary
Peshawar

the name of Mst. Tajjala Beum was also recommended under similar condition. The latter was much junior to the appellant having been noted at S.No. 341 of the seniority list while the appellant was shown at S.No. 311. The reason for deferment as noted against the name of appellant, therefore, appears to be extraneous to the purpose. It is also beyond perception that the countersigning officer/authority would endorse a PER without /prior to its submission. It is also important to note that respondents No. 2 and 8 i.e. the District Accounts Officer, Swabi and Accountant General Khyber Pakhtunkhwa, respectively, had inter-alia noted in their joint reply to the appeal that:-

If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted, the person promoted first shall rank senior to the person promoted subsequently; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incompleteness of record or for any other reason not attributing to his fault or demerit."

It is not the case of respondents that the appellant had blemished record of service nor her efficiency and compatibility was under clouds. In the circumstances, deficiency in the columns of P.E.Rs, that too, pertaining to the remarks of Reporting Officer, was obviously not the fault of appellant, therefore, she could not be made to suffer. Reliance is placed on a case


ATTESTED


Khyber Pakhtunkhwa
Services Tribunal, S.
Peshawar



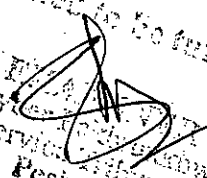
reported as 2012-SCMR-123. The appellant was, for all intents and purposes, entitled for promotion as Headmistress (BPS-17) from the date her juniors were promoted through notification dated 17.03.2016.

As a sequel to the above, the appeal in hand is allowed as prayed for. Parties are left to bear their respective costs. File be consigned to the record room.


(AHMAD HASSAN)
MEMBER


(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
11.03.2019

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 12-03-19
Number of Words 2400
Copying Fee 14-00
Urgent _____
Total 14-00
Name of Copyist [Signature]
Date of Completion of Copy 15-03-19
Date of Delivery of Copy 15-03-19



ایڈووکیٹ ارشد
 بار کونسل اہل اسیوشن نمبر 0232-09-09
 رابطہ نمبر 07149873155

ڈسٹرکٹ بار ایسوسی ایشن، صوابی

BEFORE THE SERVICE TRIBUNAL (C.P.K. PESHAWAR) بعد ازاں جناب

Applicant	مخاطب	Implementation	دفعہ
Mst. Mubassira Gazi		application	مذکورہ
VS			جرم
Distt Education Officer			تھانہ
and others			

بابت تحریر آگے

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

آن مقام Peshawar کیلئے Syed Zaveedullah Shah Advocate کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

المرقم

گواہ شد
 Peshawar

Mst. Mubassira Gazi
 Petitioner -
 M. Gazi

attested and
 accepted for
 Petitioner

Accepted
 Calma

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

MOST IMMEDIATE

LEGAL COURT MATTER.

NO.SO (Lit-II) E&SED/1-3/SA # 378/17/EP#378/19/Mst. Mubassira Qazi
Dated Peshawar, the 06-12-2019.

To

The Director,
Elementary & Secondary Education,
Peshawar.

2. The District Education Officer (F),
Elementary & Secondary Education,
Swbi.

Subject:

**IMPLEMENTATION OF JUDGMENT DATED 11.03.2019 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL IN SERVICE APPEAL NO.
1012/2017 TITLED MST. MUBASSIRA QAZI (HEAD MASTRESS) VS
SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA E&SE
DEPARTMENT AND OTHERS.**

I am directed to refer to this Department letter of even No. dated 29-11-2019 on the subject noted above and to enclose herewith a copy of letter No. SO(Lit-II) FD/2-1793/2019 dated 02-12-2019 received from Section Officer (Lit-II) Establishment Department and to state that implementation report of judgment dated 11.03.2019 may be submitted before the Honourable Service Tribunal. Next date of hearing is fixed on 16-12-2019.

Enc: as above.

Endst: of even No. & date.

Copy is forwarded to the:-

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
2. The Additional Advocate General, KP Service Tribunal, Peshawar
3. Section Officer (Lit-II) Establishment Department with reference to his letter cited above.
4. PA to Deputy Secretary (Legal) E&SE, Department.


SECTION OFFICER (LIT:II)


SECTION OFFICER (LIT:II)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-921112

MOST IMMEDIATE / COURT MATTER.

NO.SO (Lit-II) E&SED/1-3/SA # 378/17/EP#378/19/Mst. Mubassira Qazi
Dated Peshawar, the 06-12-2019.

To

1. The Director,
Elementary & Secondary Education,
Peshawar.
2. The District Education Officer (F),
Elementary & Secondary Education,
Swbi.

(4) 9/12/19

Subject:

IMPLEMENTATION OF JUDGMENT DATED 11.03.2019 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL IN SERVICE APPEAL NO.
1012/2017 TITLED MST. MUBASSIRA QAZI (HEAD MASTRESS) VS
SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA E&SE
DEPARTMENT AND OTHERS.

I am directed to refer to this Department letter of even No. dated 29-11-2019 on the subject noted above and to enclose herewith a copy of letter No. SO(Lit-II) FD/2-1793/2019 dated 02-12-2019 received from Section Officer (Lit-II) Establishment Department and to state that implementation report of judgment dated 11.03.2019 may be submitted before the Honourable Service Tribunal. Next date of hearing is fixed on 16-12-2019.

Enc: as above.

Endst: of even No. & date.

Copy is forwarded to the:-

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
2. The Additional Advocate General, KP Service Tribunal, Peshawar
3. Section Officer (Lit-II) Establishment Department with reference to his letter cited above.
4. PA to Deputy Secretary (Legal) E&SE, Department.

SECTION OFFICER (LIT:II)

SECTION OFFICER (LIT:II)

وکالت نامہ

BEFORE

THE KHYBER PAKHTUN KHWA
SERVICE TRIBUNAL PESHAWAR

بعدالت

Mubassira Qazi vs DEO and others

Petitioner

دعویٰ یا جرم نامہ

Petitioner

تھانہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام

Peshawar
Rabia Muzaffar Advocate Peshawar

کو بدیں شرط وکیل مقرر کیا ہے میں ہر پیشگی پر خود یا بذریعہ مختار خاص رو بروعدالت حاضر ہوتا رہوں گا اور بروقت
پکارے جانے مقدمہ جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کرونگا، اگر پیشگی پر من
مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس
کے کسی طرح ذمہ دار نہ ہونگے، نیز وکیل صاحب موصوف صدر مقام پکھری سے کسی اور جگہ یا پکھری کے
مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہونگے، اگر مقدمہ علاوہ صدر پکھری
کے کسی اور جگہ سماعت ہونے یا بروز تعطیل سے پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظہر کو کوئی
نقصان پہنچے تو اس کی ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نامہ واپس کرنے کے بھی
صاحب موصوف ذمہ دار ہونگے، مجھ کو کل ساختہ پرواختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا
اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی
درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کا روپیہ
وصول کرنے اور رسید دینے اور داخل اور ہر قسم کے بیان دینے اور سپرد ثالثی و راضی نامہ کو فیصلہ پر خلاف
کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت اپیل برآمدگی مقدمہ یا منسوخی ڈگری کے طرفہ
درخواست حکم امتناعی یا ترقی یا گرفتاری قبل اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختار نامہ پیروی کا
اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا، یا مقدمہ مذکورہ یا اس کے کسی جزوی
کارروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرٹر کو بجائے اپنے یا پانے ہمراہ
مقرر کریں اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہونگے جیسے کہ صاحب
موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا وہ صاحب موصوف کو پورا اختیار ہوگا
کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ بھی صاحب موصوف کے برخلاف نہیں ہوگا،
لہذا یہ مختار نامہ لکھ دیا تاکہ سند رہے۔

مورخہ 9/3/2020 مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

گواہ

Mubassira Qazi
Petitioner

Qazi

Qazi

Accepted
Rabia Muzaffar
Adv Peshawar

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. ⁶⁸1755-ST

Dated 22/7/2020

To


1. District Education Officer (M),
Government of Khyber Pakhtunkhwa,
Swabi .
2. District Accounts Officer,
Government of Khyber Pakhtunkhwa,
Swabi .
3. Shaida Namir the then Head Mistress . (Retired G.G.H.S Zaida)
Village of Thand Koi Tehsil & District Swabi.
4. Director E&SE,
Government of Khyber Pakhtunkhwa,
Peshawar.
5. Secretary Education Department,
Government of Khyber Pakhtunkhwa,
Peshawar.
6. Secretary Finance Department,
Government of Khyber Pakhtunkhwa,
Peshawar.
7. Secretary Establishment Department,
Government of Khyber Pakhtunkhwa,
Peshawar.
8. Accountant General,
Government of Khyber Pakhtunkhwa,
Peshawar.
9. Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: -

ORDER IN EXECUTION PETITION NO. 378/2019, MST. MST. MUBASSIRA QAZI.

I am directed to forward herewith a certified copy of order dated 08.07.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

Most Immediate
Court Matter

(Registered)

DIRECTORATE ELEMENTARY & SECONDARY EDUCATION

Khyber Pakhtunkhwa, Peshawar.



No 8799/AD (Lit: II)

Dated Peshawar the 19/11/2020

To

The District Education Officer,
(M) Sawbi.

Subject: - **PROVISION OF RECORD**

Memo:

I am directed & to refer to the Judgment dated 11-03-2019 of the tribunal S/A No. 1012/2017 Mubassira Qazi Head Master GGHS Thanda Kohi Swabi, whereby, the appellant has been made entitled for promotion w.e.f. 17-03-2016 instead of 18-04-2017 by the tribunal & to state that the following service record of the appellant be provided for onward submission to the competent authority for doing the needful as per the Judgment under reference:-

1. 1st appointment order dated 01-12-1983.
2. Promotion as SST order dated 25-03-1996.
3. Promotion order dated 17-03-2016 as Head Master.
4. Minutes of the DPC meeting dated 13-10-2015.
5. Promotion order dated 17-03-2016 of her batch mates.
6. ACR/PER w.e.f. 2011 till date.
7. Seniority list of SSTs to the extent of Serial No .199, 393,200 & 395.
8. DPC Minutes dated 10-01-2017.
9. Notification dated 18-04-2017.

Therefore, it is requested that the above mentioned record/information be provided to this Directorate in the instant case at earliest please.

Endst: No: 8800-3

[Signature]
Asstt: Director (Lit: II)
E&SE Khyber Pakhtunkhwa,
Peshawar.

Copy forwarded for information to the:-

- 1 Section Officer (Lit-II) E&SE Department Khyber Pakhtunkhwa Peshawar.
- 2 DD (Estab-F) local Directorate.
- 3 Headmistress GGHS Thanda Kohi Swabi.
- 4 PA to Director, local Directorate.

[Signature]
Asstt: Director (Lit: II)
E&SE Khyber Pakhtunkhwa,
Peshawar.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1671-72/ST

Dated: 25/08 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

1. The Director E&SE,
Government of Khyber Pakhtunkhwa,
Peshawar.
3. Secretary E&SE,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: ORDER IN EXECUTION PETITION NO. 378/2019, MST. MUBASSIRA QAZI.

I am directed to forward herewith a certified copy of order dated 04.08.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar

No. SO(PE)E&SED/2-6/DPC Meeting/2021
Dated Peshawar the, October 05th, 2021

To

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa.

- Subject:- 1. WORKING PAPER REGARDING AWARD OF UP-GRADATION IN R/O MUHAMMAD ISMAIL SET/SST FROM BS-16 TO BS-17 W.E.F 27.09.2008 INSTEAD OF IMMEDIATE EFFECT I.E 28.11.2011 IN COMPLIANCE OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL JUDGMENT DATED 02.06.2021.
2. IMPLEMENTATION OF JUDGMENT DATED 24.08.2015, 26.03.2015 AND 10.12.2017 PASSED BY SERVICE TRIBUNAL IN E.P NO. 44/2020, 145-146/2015 AND 378/2019 OUT OF S.A NOS.520/2013, 739-740/2011 UNDER CASE TITLE BABAR KHAN HM, SAID KAMAL & KIFAYAT UR RAHMAN SETs AND MUBASHIRA QAZI HM VS GOVT OF KHYBER PAKHTUNKHWA.

I am directed to refer to your letter No.380/F,No.318-E/Up-gradation/Court Cases dated 28.09.2021 on the subject noted above and to enclose herewith copies of the SO (Litt-II) E&SE letters Nos mentioned below alongwith enclosures.

- i. Letter No. SO (Lit-II) E&SED/1-3/SA.520/13/EP44/19/Babar Khan HM. dated 23.08.2021.
- ii. No. SO (Lit-II) E&SED/1-3/SA.739-740/11/Kamal & Kifayat dated 31.08.2021.
- iii. Letter No. SO (Lit-II) E&SED/1-3/SA.1012/2017/EP.378/19/Mubashir Qazi dated 16.09.2021.

It is requested that necessary action as per orders/directions of the courts may be ensure immediately under intimation to all concerned.

Encl: as above.

1363
7-10-2021

(Mian Hussain Din)
SECTION OFFICER (P.E)

Copy forwarded to the PS to Secretary E&SE, Khyber Pakhtunkhwa.

SECTION OFFICER (P.E)

OFFICE OF THE DIRECTOR OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA PESHAWAR

NO. _____ /A-12/Court Cases/BS-17/G.File

Dated Peshawar the: 25 / 11 /2021. ✓

To

The Section Officer (P.E)
Elementary & Secondary Education Department
Government of Khyber Pakhtunkhwa, Peshawar

Subject: -

WORKING PAPERS FOR ANTI-DATION OF PROMOTION W.E.F. 17.03.2016 INSTEAD OF 18.04.2017 OF THE APPELLANT NAMELY MUBASSIRA QAZI RETIRED HM GGHS THAND KOYI DISTRICT SWABI IN COMPLIANCE OF JUDGMENT DATED:11-03-2019 OF THE HONORABLE SERVICE TRIBUNAL KPK IN EXECUTION PETITION NO.378/2019 OUT OF SERVICE APPEAL NO.1012/2017, TITLED MUBASSIRA QAZI HEADMISTRESS BS-17 VS GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.

Memo:-

I am directed to refer to your letter No.SO(P.E)E&SED/2-16/DPC Meeting/2021 dated:05.10.2021 in the titled case and to state that:-

- i. Service Appeal No.1012/2017 under titled Mubassira Qazi vs Government of Khyber Pakhtunkhwa was filed before the Honourable Service Tribunal on dated:12.02.2017 against the notification dated:18.04.2017, whereby the appellant was promoted to HM BS-17 on regular basis which was challenged before the Tribunal by the appellant with the contentions that she is entitled for promotion as HM in BS-17 w.e.f. 17.03.2016 on which her batch mates and junior to the appellant were promoted by the Government. The respondent department has been directed vide the operative part of the judgment ibid which is hereby reproduced as under:

"It is not the case of respondents that the appellant had neither blemished record of service nor her efficiency and compatibility was under clouds. In the circumstances, deficiency in the columns of P.E.Rs, that too, pertaining to remarks of Reporting Officer, was obviously not the fault of appellant; therefore she could not be made to suffer. Reliance is placed on a reported as 2012-SCMR-123. The appellant was, for all intents and purposes, entitled for promotion as Headmistress (BPS-17) from the date her juniors were promoted through notification dated: 17.03.2016." Copies of the appeals, judgment & notification dated: 17.03.2016 are attached as Annexures A, B and C for ready reference.

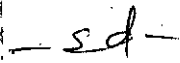
- ii. That the respondent department was put on notice for submission of reply by the Tribunal which was submitted accordingly with the main contention that her ACRs /PERs were not submitted to the respondent in time hence she was not promoted w.e.f. 17.03.2016 instead of 18.04.2017 by the competent authority and finally the case was decided on dated:11.03.2019 by the Tribunal in the favour of appellant with the direction to the Elementary & Secondary

OFFICE OF THE DIRECTOR OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA PESHAWAR

Education Department for anti-dation of her promotion w.e.f.17.03.2016 as HM in BS-17 where against no CPLA has been filed by the relevant authority hence, got finality against the department.

- iii. That in the meantime Execution petition No.378/2019 in Service Appeal 1012/2017 has been filed before the Tribunal for the implementation of judgment dated: 11.03.2019 by the respondent department and copy of the Execution petition is **Annexure-D**.
- iv. That vide notification dated: 30.08.2021 the appellant has stood retired from the Government service against the HM post from GGHS Mansoor Khel Zaida District Swabi but the judgment dated: 11.03.2019 is still in field and liable to be implemented by your honour being Competent authority on the basis of present working papers and copy of the retirement notification is **Annexure-E** for ready reference.


Therefore, in view of the above made facts and circumstances of the case, instant working papers alongwith the relevant annexures containing from A to E are hereby submitted for favour of perusal and necessary action to the extent of formal notification of proforma promotion as HM BS-17 w.e.f. 16.03.2016 instead of 18.04.2017 in compliance of the judgment dated:11.03.2019 passed by the Honourable Service Tribunal Peshawar in the favour of the appellant so that proper implementation report in the titled case could be submitted before the Honourable Service Tribunal Peshawar on the date fixed, please.


Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst: No. 3467-731

Copy of the above is forwarded to the:-

1. Learner Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar
2. Learner AAG Khyber Pakhtunkhwa Service Tribunal Peshawar
3. District Education Officer (F) Swabi
4. SO (Lit-II) Elementary and Secondary Education Department
5. Deputy Director Legal, Local Directorate
6. Assistant Director (Lit-II) Local Directorate
7. P.A to Director of Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar


Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block "A" Opposite M PA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9223587

Dated Peshawar the August 17th, 2022

CORRIGENDUM

No.SO(PE)/2-6/DPC Meeting (10/01/2017): - In light of Khyber Pakhtunkhwa Service Tribunal Judgement, dated 11.03.2019 in Execution Petition No.379/2019, this Department's Notification of even number dated 18/04/2017 is partially modified and the date of promotion may be read as 17.03.2016 instead of 18.04.2017 to the extent of Sr. No. 22 Mst. Mubassira Qazi, Headmistress (BPS-17).

SECRETARY

Copy to:

Endst: No & date even:

Copy forwarded to:

1. The Accountant General, Khyber Pakhtunkhwa Peshawar.
2. The Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
3. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
4. The District Education Officer (F), Swabi.
5. The District Accounts Officer, Swabi.
6. The PS to Secretary, Elementary & Secondary Education Department
7. The PA to Additional Secretary (Establishment)Elementary & Secondary Education Department.
8. Mst.Mubassira Qazi Ex-Headmistress Swabi.

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY)

17/8/22