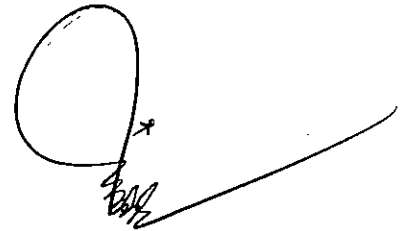


13.12.2022

Learned counsel for the appellants present. Mr. Muhamamd Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Reply/comments on behalf of respondents No. 3 & 4 have already been submitted. As per order sheet dated 10.06.2022, learned Additional Advocate General present on behalf of respondents No. 5 & 6 and relied upon the comments submitted on behalf of respondents No. 3 & 4. Today, none present on behalf of respondents No. 1 & 2 nor submitted reply/comments on their behalf, therefore, their right of defense for submission of reply/comments stands struck off. To come up for arguments on 07.03.2023 before D.B.



(Mian Muhammad)
Member (E)

20.09.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents No. 3 to 6 present. None present on behalf of respondents No. 1 & 2, therefore, notice be issued to them through registered A.D with the direction to submit written reply/comments on the next date positively, failing which their right for submission of written reply/comments shall be deemed as struck off. Adjourned. To come up for submission of written reply/comments on behalf of respondents No. 1 & 2 on 04.11.2022 before the S.B.

The appellant shall submit registered A.D within 02 days.



(Salah-Ud-Din)
Member (J)

04.11.2022

Clerk to counsel for the appellant present.

Muhammad Riaz Khan Paindakhel, learned Assistant Advocate General for respondents present.

Written reply on behalf of respondents No. 3 & 4 have already been submitted. While rest of the respondents 1, 2, 5, & 6 have not submitted written reply. The addresses of all the respondents mentioned above show that these respondents are required to be served through TCS. Therefore, appellant is directed through counsel to do the needful and the above mentioned respondents be summoned through TCS for 13.12.2022 before S.B. Failing which case of appellant would be dismissed for non compliance of the court orders.



(Rozina Rehman)
Member (J)

10.06.2022

Junior to counsel for the appellant present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Muhammad Asif Assistant for respondents present.

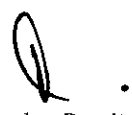
File to come up alongwith connected Service Appeal No.119/2022 titled Ambar Nosheen Vs. Government of Khyber Pakhtunkhwa on 27.07.2022 before S.B.

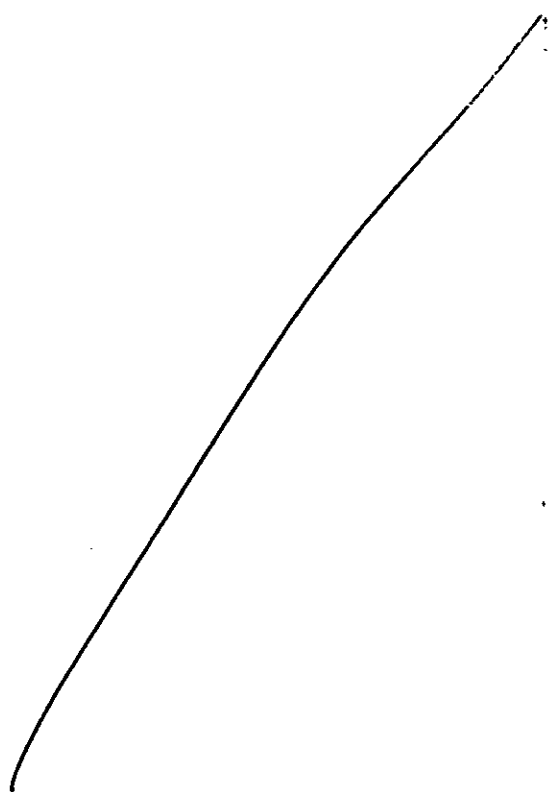

(Rozina Rehman)
Member (J)

27.07.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Muhammad Asif for respondents present.

File to come up alongwith connected Service Appeal No. 119/2022 titled "Amber Nosheen Vs Government of Khyber Pakhtunkhwa" on 20.09.2022 before S.B.


(Fareeha Paul)
Member (E)



23.02.2022

Due to retirement of the Hon'able Chairman, the case is adjourned to 10.05.2022 for the same before D.B.


Reader

10.05.2022

Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Ahmad Jan Litigation Officer for respondents present.

File to come up alongwith connected Service Appeal No.119/2022 titled Ambar Nosheen Vs. Government of Khyber Pakhtunkhwa on 20.05.2022 before S.B


(Rozina Rehman)
Member (J)

20.05.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Asif Khan Assistant for respondents present.

File to come up alongwith connected Service Appeal No, 119/2022 titled Ambar Nosheen Versus Government of Khyber Pakhtunkhwa on 10.06.2022 before S.B.


(Mian Muhammad)
Member (E)

27.01.2022 Counsel for the appellant present. Preliminary arguments heard.


23.02.2022 Learned counsel for the appellant at the outset of addressing preliminary hearing stated that the appellant was initially appointed as PTD (BS-07) on 10.05.2022 to BS-12 in the respondent-department on 25.04.1996. On mutual consultation between the lending and borrowing departments, her services were placed at the disposal of Federal Directorate of Education Islamabad, on deputation basis for initial period of 03 years on 22.03.2004. Her deputation period was further extended for 02 years on 11.04.2007. On completion of 05 years of deputation period (29.04.2004 to 28.04.2009), the Federal Directorate of Education Islamabad requested the provincial government for NOC for her permanent absorption, on 18.07.2019. The case of her permanent absorption was however, under consideration for want of policy decision at the level of Federal Directorate of Education and could not be materialized. The Federal government therefore requested for extension in her deputation period beyond 28.04.2009 till dated (letter/reference written on 18.07.2019) and further extension for two years till 17.07.2021. The Provincial government (parent/respondent department) however, did not agree with the proposal of Federal Directorate of Education and ordered her repatriation to parent department on 14.10.2019 which was challenged through writ petition No. 6084-P/2019 in Peshawar High Court. The writ petition was disposed of on 07.10.2021 by directing respondent No.3 to decide her representation within one month positively. The respondent-department vide impugned order dated 24.11.2021 regretted her application and informed that she had already been repatriated to parent department on 14.10.2019 and in case of failure, disciplinary action shall be initiated against her under Rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. Consequently, the Federal Directorate of Education vide office order dated 28.12.2021 relieved the appellant to join her parent department. Against both the impugned orders, a combined writ petition No. 124-P/2022 was instituted in Peshawar High Court on 10.01.2022 which was disposed of on the question of jurisdiction vide judgement dated 17.01.2022 with the direction to be treated as Service appeal by the Service Tribunal for decision in accordance with law. In the light of Peshawar High Court directions,

High Court. Learned counsel's attention was invited towards CRL-89 regarding absorption but he expressed ignorance about that and could not respond to the query of Bench.

It was further contended that husband of the appellant is a Federal government employee and both the Federal and Provincial Government's wedlock policies are in consonance with each other. References/ precedents have been attached with the memorandum of appeal which establishes the fact that the respondent-department has allowed regular employees absorption in Federal Government as well extension in deputation period beyond five years. Since this a selective approach adopted by the respondent-department when allowing certain similarly placed employees while regretting request of the appellant leading to discrimination and violation of Article-25 and 27 of the constitution.

The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 23.02.2022 before S.B.

Application for suspension of impugned order of the Provincial Government dated 23.11.2021 and that of Federal Directorate of Education Islamabad dated 28.12.2021 has also been submitted with memo of service appeal which is also served on the respondents for submission of their reply on the date fixed.

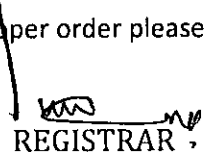


(Mian Muhammad)
Member(E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 122/2022

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 26/01/2022 | <p>The appeal of Mst. Shahana Begum presented today by Mr. Muhammad Farooq Malik Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2- | | <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>27/01/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |