

14th July, 2022

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak, Addl. AG for respondents present.

2. Learned counsel for the appellant submitted an application for withdrawal of the instant service appeal wherein he stated that grievance of the appellant has been redressed and he wants to withdraw the instant appeal. Application is placed on file. Dismissed accordingly. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 14th day of July, 2022.*



(Fareeha Paul)
Member (E)

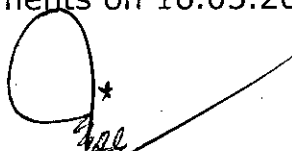


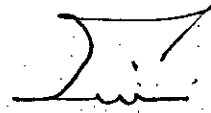
(Kalim Arshad Khan)
Chairman

12.04.2022

Learned counsel for the appellant present. Mr. Sultan Nabi, Budget & Accounts Officer alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment being not prepared for arguments today. Adjourned. To come up for arguments on 16.05.2022 before the D.B.



(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member (J)

16.05.2022

Junior of learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available due to some domestic engagements. Adjourned. To come up for arguments on 20.05.2022 before the D.B.


(Rozina Rehman)
Member (J)


(Salah-Ud-Din)
Member (J)

20.05.2022

Learned counsel for the appellant present. Mr. Tariq Shah Accounts Officer and Mr. Muhammad Sultan Budget & Accounts Officer alongwith Mr. Kabir Ullah Khattak, Additional Advocate General for respondents present and stated at the bar that the issue shall be resolved till the next date. Adjourned. To come up for arguments on 14.07.2022 before the D.B


(Rozina Rehman)
Member (J)


(Salah-Ud-Din)
Member (J)

Before The K.P. Service Tribunal, Peshawar
Cm No. — /
in
Appeal No: 90/2019.

Mst. Rehana Gul vs Education

Application For withdrawal of
the titled appeal

Respectfully Shouts.

1) That the titled appeal is pending adjudication before this Honble Tribunal which is fixed for today i.e. 14/7/2022.

2) That premises of the appellant has been resumed by the dept department, hence the case become infructuous and wants to withdraw.

It is therefore requested that by accept this application the titled appeal may be withdrawn.

Dated 14/7/2022

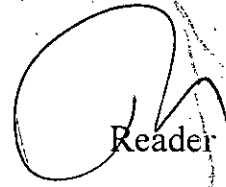
Applicant/Appellant
Mingra

Noor Muhammad Khattak
ASC



14.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 29.07.2021 for the same as before.


Reader

29.07.2021

Appellant present through counsel.

Mr. Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Former made a request for adjournment. Request is accorded. To come up for arguments on 16.12.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman

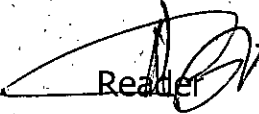
16-12-21.

DB is on Tour case to come up?
For the same on Dated. 12-4-22


Reader

24.08.2020

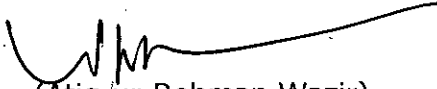
Due to summer vacation case to come up for the same on 28.10.2020 before D.B.


Reader

28.10.2020

Junior to counsel for the appellant and Addl. AG alongwith Umar Zada, B&A.O for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 04.01.2021 for further proceedings before the D.B.


(Atiq-ur-Rehman Wazir)
Member


Chairman

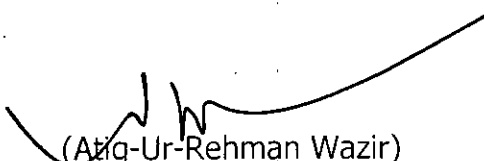
04.01.2021


Junior to counsel for the appellant present.

Riaz Khan Paindakhel Assistant Advocate General alongwith Muhammad Sultan Superintendent and Safdar Khan Assistant for respondents present.

Former requests for adjournment as senior counsel for the appellant is not available today.

Adjourned to 14.04.2021 for arguments before D.B.


(Atiq-Ur-Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

15.01.2020

Appellant absent. Learned counsel for the appellant absent. Umar Daraz Budget & Accounts Officer representative of the respondents present. Due to general strike of the Bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for arguments on 24.03.2020 before D.B. Appellant be put to notice for the date fixed.



Member



Member

24.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 10.06.2020 before D.B.



Reader

10.06.2020

Bench is incomplete as one learned Member (J) is on leave. Therefore, the case is adjourned. To come up for the same on 24.08.2020 before D.B.



Reader

05.09.2019

Junior to counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Zakiullah, Senior Auditor for respondent no. 3 and 4 , Mr. M. Shafique, Senior Clerk and Mr. Umar Daraz B&AO for respondents present. Written reply on behalf of respondents no. 3 and 4 not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on behalf of respondents no. 3 and 4 on 03.10.2019 before S.B.

(Ahmad Hassan)
Member

03.10.2019

Junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr/S Umar Daraz, Budget & Account Officer and Sajid, Superintendent for respondents No. 1, 2, 5 & 6 present.

Written reply on behalf of respondents No. 1, 2, 5 & 6 already submitted. None present on behalf of respondents No. 3 & 4, therefore, notices be issued to them for submission of written reply. Adjourned to 30.10.2019 but as a last chance.

CHAIRMAN

30.10.2019

Junior to counsel for the appellant and Addl. AG alongwith Umar Daraz, B&A.O and Zakiullah, Senior Auditor for the respondents present.

Representative of respondents No. 3 & 4 has furnished parawise comments on behalf of the said respondents. The appeal is assigned to D.B for arguments on 15.01.2020. The appellant may submit rejoinder, within a fortnight, if so advised.

Chairman

08.05.2019

Counsel for the appellant Rehana Gul present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the respondent-department has made entry in the service book of the appellant regarding recovery of over payment amount to Rs. 48804/-. It was further contended that feeling aggrieved from the said entry, the appellant filed departmental appeal on 26.09.2018 but the same was not responded hence, the present service appeal. It was further contended that since recovery of alleged over payment has been made by the Audit Para in the service book of the appellant without any reason therefore, the same is illegal and liable to be expunged.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 16.07.2019 before S.B.

Appellate Security & Process Fee


(Muhammad Amin Khan Kundi)
Member

16.07.2019

Mr. Mir Zaman Safi, Advocate on behalf of learned counsel for the appellant and Asstt. AG alongwith Sajid Suptdt for the respondents present. 1, 2, 5 and 6 present. Nemo for respondents No. 3 & 4.

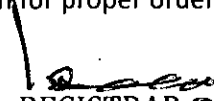

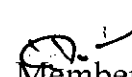

Joint Parawise/written comments on behalf of respondents No. 1, 5 and 6 submitted which are placed on file. Representative of respondents No. 2 states that the said respondent relies on the written reply submitted today by respondents No. 1, 5 and 6. Fresh notice be issued to respondents No. 3 and 4 for submission of their written reply on 05.09.2019 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 90/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/1/2019	<p>The appeal of Mst. Rehana Gul presented today by Mr. Noor Muhammad Khattak 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 21/1/19</p>
2-	04.03.2019	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>4-3-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	08.04.2019	<p>Learned counsel for the appellant present and seeks adjournment for proper assistance. Adjourn. To come up for preliminary hearing on 05.04.2019 before S.B</p> <p style="text-align: right;"> Member</p>
		<p>Counsel for the appellant present and seeks adjournment as he has not prepared the case. Adjourned to 08.05.2019 for preliminary hearing before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Appeal No. 90 /2019

REHANA GUL

VS

EDUCATION DEPTT:

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S.NO.	DOCUMENTS	ANNEXURE	PAGE
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4	Service book	C	11- 21.
5	Departmental appeal	D	22.
6	Vakalat nama	23.

APPELLANT

THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 90 /2019

Diary No: 80

Date: 21-1-2019

Mst: Rehana Gul, Senior Arabic Teacher (BPS-16),
GGHS Mitha Khel, District Karak..... **APPELLANT**

VERSUS

- ✓1- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- ✓2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- ✓3- The Accountant General Khyber Pakhtunkhwa, Peshawar.
- 4- The Pay Fixation Party, Khyber Pakhtunkhwa, Peshawar.
- ✓5- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- ✓6- The District Education Officer (F), District Karak.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT DELETING/EXPUNGING THE ENTRY OF OVER PAYMENT FROM THE SERVICE BOOK OF THE APPELLANT AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

Filed to-day
Registrar
21/1/19

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed to implement the order dated 27.10.2015 in letter and spirit by deleting/expunging the entry of over payment from the service book of the appellant. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

- 1- That on proper recommendation/approval of the Departmental Selection Committee of Elementary and Secondary Education Department, the appellant was appointed as AT in the year 1998.

- 2- That in response the appellant submitted her charge report and Medical Certificate and started performing her duty at the concern station quite efficiently and up to the entire satisfaction of her superiors.
- 3- That during service the appellant was granted BPS-14 w.e.f. 1.12.1998 on the basis of Finance Department Notification dated 7.8.1991. That later on the appellant was granted BPS-15 w.e.f. 14.12.2007 in light of the Finance Department Notification dated 23.5.2006. That the respondent Department without any reason reverted the appellant to BPS-9 w.e.f. 1.12.1998 and also ordered recovery of Rs.40512/= from the appellant.
- 4- That the appellant filed Departmental appeal followed by service appeal No.1632/2010 and finally the said appeal of the appellant was accepted/allowed by this august Tribunal vide judgment dated 31.5.2012 by set asiding the reversion order of the appellant. Copies of the judgment and relevant record are attached as annexure **A.**
- 5- That vide order dated 27.10.2015 the judgment of this august Tribunal has been implemented by the respondents and accordingly the respondents recorded necessary entry regarding restoration of BPS-14 w.e.f. 1.12.1998 in the service book of the appellant. Copy of the order is attached as annexure **B.**
- 6- That inspite of restoration order dated 27.10.,2015 regarding BPS-14 w.e.f 1.12.1998 the respondent No.2, 3 and 4 are not willing to delete/expunge the entry of over payment from the service book of the appellant. Copy of the service book is attached as annexure **C.**
- 7- That appellant feeling aggrieved filed Departmental appeal before the appellate authority but no reply has been received so for. Copy of the Departmental appeal is attached as annexure.....**D.**
- 8- That appellant having no other remedy filed the present appeal on the following grounds amongst the others.

GROUND:

- A- That the inaction of the respondent No.2, 3 and 4 by not implementing the order dated 27.10.2015 and not deleting the entry of over payment from the service book of the appellant is against the law, facts and norms of natural justice.

- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondent Department acted in arbitrary and malafide manner by not implementing the order dated 27.10.2015 and not deleting the entry of over payment from the service book of the appellant.
- D- That the inaction of the respondents by not implementing the order dated 27.10.2015 and not deleting the entry of over payment from the service book of the appellant is the clear violation of the Fundamental rights of the appellant.
- E- That the respondents discriminated the appellant by not implementing the order dated 27.10.2015 and not deleting the entry of over payment from the service book of the appellant.
- F- That the respondents are under legal obligation to implement the order dated 27.10.2015 by deleting the entry of over payment from the service book of the appellant.
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 08.01.2019

APPELLANT

Rehana Gul

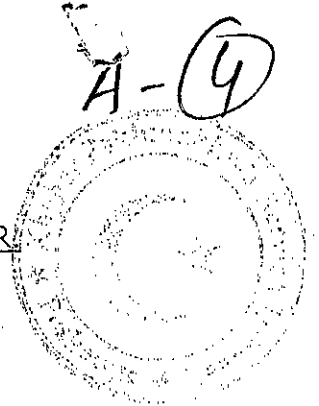
REHANA GUL

THROUGH:

Noor Mohammad Khattak

**NOOR MOHAMMAD KHATTAK
ADVOCATE
(0345-9383141)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR



Appeal No. 1632/2010

Date of Institution. ... 24.8.2010
Date of Decision ... 31.5.2012

Miss Farzana Naheed (AT) GGMS Mirza Khel,
District Karak.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Elementary & Secondary Education, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.
3. Director, Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. Executive District Officer, E&SE, District Peshawar. (Respondents)

APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST WITDRAWAL OF BPS-14 FROM THE APPELLANT THROUGH PAY FIXATION PARTY AND RECOVERY OF THE OVER PAYMENT HAS STARTED FROM THE APPELLANT.

MR. GHULAM NABI, Advocate

For appellant

MR. SHERAFGAN KHATTAK,
Addl. Advocate General

For respondents.

SYED MANZOOR ALI SHAH,
MR. NOOR ALI KHAN,

MEMBER
MEMBER

Attested
[Signature]

JUDGMENT

SYED MANZOOR ALI SHAH, MEMBER.- This appeal has been filed by Mst. Farzana Naheed, the appellant under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the order of Audit Staff of the Accountant General office whereby she has been reverted to BPS-09 w.e.f. 1.12.1998 and against the recovery amounting to Rs. 40512/-. It has been prayed that on acceptance of the appeal, entry in respect of reversion and recovery may be set aside.


2. Brief facts of the case are that the appellant appeared in Shahadatul Alamia in Arabic examination held in October 1998 in Madrasa Miftah-ul-Quran under the arrangements of Ittehad-ul-Madarris Mardan under

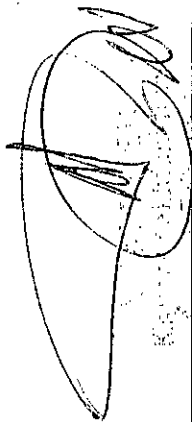
Roll No. 133 and was declared a successful candidate in the above said examination. Respondent No. 4 sent the above Sanad to the Peshawar University for determination of equivalency. The Chairman Department of Islamiyat issued equivalence certificate regarding the Shahadat-ul-Alamia. The appellant was granted BPS-14 on the basis of notification dated 7.8.1991 of the Finance Department w.e.f. 1.12.1998. Due to her service career, the appellant was granted again BPS-15 in the light of notification dated 23.5.2006 w.e.f. 14.12.2007. The Audit Staff of the Accountant General Office, Peshawar reverted the appellant to BPS-9 w.e.f. 1.12.1998 and also ordered recovery of Rs. 40512/- being over payment made to the appellant. Feeling aggrieved, she filed departmental appeal to the Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar on 3.5.2010, which elicited no response within the statutory period, hence the present appeal.

3. The appeal was admitted to regular hearing on 27.9.2010 and notices were issued to the respondents. Respondents have filed their joint written reply and contested the appeal. The appellant also filed rejoinder in rebuttal.

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that the appellant passed Shahadat-ul-Alamia in Arabic examination from Madarasa Miftah-ul-Quran Mitha Khel, District Karak under the arrangement of Ittehadul Madarris Mardan. The Madrassa Miftahul Quran was a recognized Darul Uloom and never objected by the respondent department. Sanad of the appellant was sent to Peshawar University which was declared equivalent to M.A Arabic/Islamiyat. He further argued that the appellant was granted BPS-14 on the basis of notification dated 7.8.1991 of the Government of Khyber Pakhtunkhwa Finance Department w.e.f. 1.12.1998, the date of acquiring the Sanad and valuable rights have been accrued to her under the principles of locus poenitentiae. He stated no prior notice was issued to the appellant nor proper enquiry conducted and she has been condemned unheard. The learned counsel for the appellant further stated that similar cases have been accepted by this Tribunal vide consolidated judgment dated 17.6.2006, in Service Appeal No. 490/2009. The respondents challenged the aforementioned judgment before the august Supreme Court of Pakistan. Vide judgment dated 6.2.2009 in CP Nos. 660-P to 662-P of 2006, the august Supreme Court of Pakistan upheld the judgment of this Tribunal. The appellant is also entitled to the same treatment. He requested that the appeal may be accepted as argued for.

Attested




6

6. The learned AAG argued that the appellant acquired Sanad of Shahadatul Alamia in Arabic from a Madrasa, which was not registered/recognized by the Higher Education Commission. As per notification of Higher Education Commission Sanad of the appellant is not equivalent to M.A. He further argued that Islamiyat Department, University of Peshawar is not competent to declare any Sanad of other institutions at par to M.A. He stated that BPS- 14 has been granted to the appellant due to mis-conception and the Audit Department has the power to dis-continue such benefit from the appellant and to recover the amount over paid to her. He requested that the appeal may be dismissed.

7. The Tribunal observes that the appellant acquired Sanad of Shahadatul Alamia in Alamia from Madrassa Mifta-ul-Quran district Karak under the arrangement of Ittehadul Madarris Mardan. Her Sanad was duly verified and declared equivalent to M.A by the Peshawar University Islamiyat Department. The appellant was granted BPS-14 on the basis of forementioned Sanad w.c.f. 1.12.2008 by the competent authority and valuable rights have been accrued to her on the basis of locus poenitentiae. This Tribunal, vide judgment dated 17.6.2006 had already decided similar nature cases in Service Appeal No. 490/2005, of Rozi Khan and others, and upheld by the august Supreme Court of Pakistan vide judgment dated 6.2.2009 in C.P Nos. 660-P to 662-P/2006, the appellant is also entitled to the same treatment. The Tribunal agrees with the arguments advanced by the learned counsel for the appellant.

8. In view of the above, the appeal is accepted the impugned entry is set aside from service book of the appellant and restores BPS- 14 to her with all back benefits. Parties are left to bear their own costs. File be consigned to the record.

9. This order will also dispose of similar nature appeal No. 1633/2010, Miss Rehana Gul Versus Government of Khyber Pakhtunkhwa through Elementary & Secondary Education, Peshawar etc." in the same manner.

ANNOUNCED

31.5.2012

Identified to be true copy

Stamp:
 Director General
 Government of Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

Edy Syed Mansoor Ali Shah
Edy Mansoor Ali Shah
Member
11/5/12

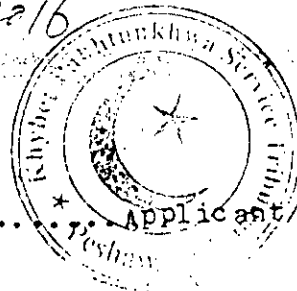
BEFORE THE K.P.K SERVICE TRIBUNAL, PESHAWAR.

Execution Petition no. 233/2016

Service Appeal No. 1633/2010

Miss. Rehana Gul (AT)

GGHS Mitha Khel District Karak Applicant/Appellant



VERSUS

1. Govt. of K.P.K. through Elementary & Secondary Education, Peshawar.
2. Secretary to Govt. of K.P.K. Finance Deptt: Civil Secretariat, Peshawar.
3. Director Education Elementary & Secondary Education, K.P.K. Peshawar.
4. Executive District officer, Elementary & Secondary Education, District Karak.

..... Respondents.

ATTESTED

[Handwritten signature]

RYAN MUIR
Khyber Pakhtunkhwa
Service Tribunal

APPLICATION FOR THE IMPLEMENTATION OF THE JUDGMENT/
ORDER DATED 31-05-2012 OF THIS HON'BLE TRIBUNAL
PASSED IN THE ABOVE MENTIONED SERVICE APPEAL.

RESPECTFULLY SHEWETH:

1. That the above noted service appeal was filed by the appellant in this Hon'ble Tribunal.
2. That the said appeal was fixed for hearing in this Hon'ble Tribunal on 31-05-2012 and was decided vide judgment/order dated 31-05-2012. (Copy attached).
3. That the judgment/order of this Hon'ble Tribunal was officially received by the respondents/department and the respondents have not implemented the worthy judgment/order mentioned above.
4. That the concern respondents are not inclined towards implementation of the order of this Hon'ble Court mentioned above.

Attested
[Handwritten signature]

It is, therefore, respectfully prayed that on acceptance of this application, the concern respondents may please be directed to implement the above mentioned judgment/ order of this Hon'ble Tribunal dated 31-05-2012 in its letter and spirit.

Applicant

through

(Ghulam Nabi Khan)
Advocate, Peshawar.

(Barrister Mian Tajammal Sh)
Advocate, Peshawar

PESHAWAR

24-11-2016

AFFIDAVIT

I, Ghulam Nabi Khan, Advocate, Peshawar as per instructions of my client do hereby declare and affirm that the contents of the above application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal

Ghulam Nabi Khan
Deponent



Certified to be true copy
E. J. [Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Attested
[Signature]

E.P. No. 233/2016
Miss Rehana Gul vs Govt. (9)

01.08.2018

Mr. Mian Tajamul Shah, Advocate counsel for the petitioner present. Mr. Sher Aslam, ADO(Sports) alongwith Mr. Muhammad Riaz Paindakhel, Asst: AG for respondents present and made a request that EDO is sick today therefore no proper implementation order would be produced.



Need not to mention here that the petitioner is trying for the reaping fruits of her struggle for years but due to one or the other pretext of the respondents, she could not succeed. As such, last chance and last warning is given to the respondents to implement the directions/judgment of this Tribunal and produce implementation order without fail. To come up for implementation report on 09.08.2018 before S.B.

09.08.2018

Mr. Rabnawaz, father of the petitioner Miss Rehana Gul alongwith her counsel Mian Tajammul Shah, Advocate present. Mr. Muhammad Sajawal, Supdt alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present and submitted implementation report which is placed on file.

The above report was confronted with the petitioner and her counsel and after going through the entry made in the service book they expressed satisfaction and did not want to wish to proceed further the instant execution petition in hand, hence disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record room.

Consent to file here only
Mian Tajammul Shah
Advocate
Peshawar

Announced:
09.08.2018

Attested
[Signature]

[Signature]
Chairman 28.8.20

Date of Presentation of Application 10-9-2018
Number of Words 1200
Copying Fee 8 - 00
Urgent 2 - 00
Total 10 - 00
Name of Samiullah
Date of 10-9-2018
Date of Delivery 10-9-2018

Education Department
Implementation order

B-10

OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE KARAK
SANCTION TO THE RESTORATION OF SANCTION TO THE AWARD OF BPS-14

Consequent upon the decision of Honourable court of Service Tribunal Khyber Pakhtunkhawa Peshawar in service appeal No 1633/2010 and 1632/2010 dated 31.5.2012 and correction of clerical mistake in para-07 dated 12.10.2015, Sanction to the restoration of BPS-14 w.e.f 1.12.1998 on passing Shahadat Ul Alamia from Ittehad-Ul-Mudaris Mardan is hereby accorded in favour of following female AT of the school noted AGAINST each.

1. Rehana Gul SAT GGHS Mitha Khel(Karak)
2. Farzana Naheed AT GGMS Mirza Khel(Karak).

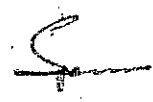
(SABIRA PARVEEN)
DISTRICT EDUCATION OFFICER
FEMALE KARAK

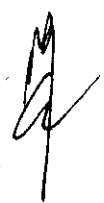
2976-77
Endst:No _____/AE-III(F)

Dated 27/10/2015

Copy to the:

1. Headmistress GGHS Mitha Khel/GGMS Mirza Khel(Karak)w/r to their No & Date Nil.
2. DAO Karak..


District Education Officer
Female Karak.



Attested


C-11

1. Name (نام) Rehana Gul
2. Nationality and Religion Pakistani
(قومیت اور مذہب)
3. Residence Mitha Khel (Karak)
(مستقل رہائش)
4. Father's name and residence Rab Nawaz
(والد کا نام اور پتہ)
5. Date of birth by Christian era as 05-7-1979
nearly as can be ascertained 5th July, Nineteen Seventy Nine
(تاریخ پیدائش مطابق سن عیسوی)
6. Exact height by measurement 5-5
(قد کا پتہ)
7. Personal mark of identification A black mole on Right side of chin
(شخصی نشانی)

8. Left hand/right hand thumb and finger-impressions of (Non-gazetted officer)

(سرکاری صورت میں بائیں اور عورت کی صورت میں دائیں ہاتھ کی انگلیوں کے نشانات)

Little Finger (بھنگلیا)



Ring Finger (بھنگلیا کے ساتھ کی انگلی)



Middle Finger (اچھت ہاتھ)



Fore Finger (اچھت شہت)



Thumb (انگوٹھا)



9. Signature of Govt. Servent (سرکاری ملازم کے دستخط)

Rehana Gul

Attested
[Signature]

10. Signature and designation of the Head of the Office or other Attesting officer

(تصدیق کنندہ افسر کے دستخط اور نام)

[Signature]

[Designation]

Note: The entries in this page should be renewed or re-attested at least every five years and the signatures in lines 9 and 10 should be dated. Finger prints need not be taken after every 5 years under this rule.

اس صفحہ کے مندرجہ کم از کم پانچ سال بعد تصدیق ہونا ضروری ہیں اور ہر 9 اور 10 میں دستخطوں کے نیچے تاریخ لکھنی چاہئے
انگلیوں کے نشانات کے لئے ہر پانچ سال کے بعد تصدیق کی ضرورت نہیں

1 Name of Post درج ملازمت	2 Whether Substantive or officiating and whether permanent or temporary عارضی مستقل یا قائم مقام	3 If officiating state- (i) substantive appointment or (ii) whether service counts for pension under rule 3-20 of C.S.R. (Pb.) Volume II اگر عارضی ہے تو رول کے مطابق پیش کیا گیا ہے؟	4 Pay in substantive position تنخواہ بطور عارضی ملازمت		5 Additional pay for officiating زائدہ تنخواہ بطور قائم مقام		6 Other emoluments falling under the term pay-اسوائے تنخواہ دیگر الاؤنس	7 Date of appointment تاریخ تقرری	8 Signature of Government servant دستخط سرکاری ملازم
			Rs.	Ps.	Rs.	Ps.			
A.T									
TRANS Dab. off/Peace									Rehman
						Rs 1605/- ✓	19 ¹ / ₉₈ (Pb)		
do	do					Rs 1702/- ✓	1 ¹² / ₉₈		Pul
AT	Do					Rs 1707/-	5 ⁷ / ₉₉ (2873/98)		
do	Do					Rs 1799/- ✓	01-12-99		Pul
do	Do					Ps 1896/- ✓	1-12-2000		Pul
<p>Revised Entries due to passing Shahaadatul Ahamiya on 21-12-98. B.Ps 14, 2065-161-4480</p>									
AT	TRANS Mitha					1702 Rs 2065/- ✓	1 ¹² / ₉₈		Pul
						1799 Rs 2220/- ✓	1 ¹² / ₉₉		Pul
						1899 Rs 2387/- ✓	1 ¹² / ₂₀₀₀		Pul

9
Signature of Government servant
دستخط سرکاری ملازم

9	10	11	12	13	13	14	15
Signature of the Head of the office or other Attesting officer	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the head of the office or other Attesting officer	Nature and duration of leave taken	Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debit to another Government	Signature of the Head of the office or other Attesting Officer	Reference to any recorded punishment or censure, or reward or praised of the Government servants
					Period Government to which debit to		
	30/11/98	Transfer	<i>M. Khatun</i> Dist. Ed. Office Karachi	رضت کی نوعیت ریٹائر	پارہ نامہ کی رخصت کے لئے اوسط تنخواہ کا تعین	<i>M. Khatun</i> Dist. Ed. Office Karachi	Appointed against A.T Post vide B.E.G. Kohat No 7830-51 Dated 17-1-1998
	27/3/99	Transfer	<i>M. Khatun</i> Dist. Ed. Office Karachi			<i>M. Khatun</i> Dist. Ed. Office Karachi	Passed S.S.C. examination under Roll No 65468 Session Annual 1995 obtained 535 marks out of 850 in Est. Div. from B-1-S-E Bannu
			<i>M. Khatun</i> Dist. Ed. Office Karachi			<i>M. Khatun</i> Dist. Ed. Office Karachi	Passed F.A examination under Roll No 161271 Session 1997 annual in Est. Division from B-1-S-E Peshawar
	30/11/99		<i>M. Khatun</i> Dist. Ed. Office Karachi			<i>M. Khatun</i> Dist. Ed. Office Karachi	Result declared on 20-9-1997.

Attested

1 Name of Post درجہ ملازمت	2 Whether Substantive or officiating and whether permanent or temporary مارض مستقل یا قائم مقام	3 If officiating state- (i) substantive appointment or (ii) whether service counts for pension under rule 3-20 of C.S.R. (Pb.) Volume II اگر عارض ہے تو رول کے مطابق پیش کیا گیا ہے؟	4 Pay in substantive position تجزا بہ طور مارض ملازمت		5 Additional pay for officiating زائدہ تجزا بہ طور قائم مقام		6 Other emoluments falling under the term pay باسوائے تجزا بہ طور دیگر الاؤنس	7 Date of appointment تاریخ تقرری	8 Signature of Government servant ملازم
			Rs.	Ps.	Rs.	Ps.			
AT		Revised Fixation of pay in RPS 09							
Atiq Mitha Khod		Reverted from RPS to 09							
		Rs 1605/-					19/98		
		Rs 1702/-					12/98		
		Rs 1799/-					12/99		
		Rs 1896/-					12/2000		
		Rs 1993/-					12/2001		
		RPS 09, 2410-145-6760					12/2001		
		Rs 2990/-					12/2001		
		Rs 3135/-					12/2002		
		Revised fixation due to five year service in RPS 09, 2410-145-6760					12/2002		
		Rs 3340/-					12/2003		
		Rs 3580/-					12/2003		

1 Name of Post درجہ ملازمت	2 Whether Substantive or officiating and whether permanent or temporary عارضی مستقل یا قائم مقام	3 If officiating state- (i) substantive appointment or (ii) whether service counts for pension under rule 3-20 of C.S.R. (Pb.) Volume II اگر عارضی ہے تو رول کے مطابق پیش کیا جاتا ہے؟	4 Pay in substantive position تنخواہ بطور عارضی ملازمت		5 Additional pay for officiating زیادہ تنخواہ بطور قائم مقام		6 Other emoluments falling under the term pay اسوائے تنخواہ دیگر الاؤنس	7 Date of appointment تاریخ تقرری	8 Signature خط	9 Government service 1 to 8
			Rs.	Ps.	Rs.	Ps.				
A-7										
AS Mitha Khal of 1/12/2004					Rs 3820			1/12/2004		
		Revised BPS- (3565-275-11815)						1/7/2005		
—//—	—//—				Rs. 4390/2			1/7/2005		
—//—	—//—				Rs. 4665/2			1/12/2005		
//	//				4940/pm			1/12/2006		
—//—	—//—				Rs. 5675/pm			1/7/2007		

Revised BPS-14/4100-315-13550

8	10	11	12	13	14	15
Name and position of the officer Government of service, to 8	Date of termination or appointment	reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the head of the office or other Attesting officer	Nature and duration of leave taken Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government Period Government to which debitable	Signature of the Head of the office or other attesting Officer	Reference to any recorded punishment or censure, or reward or praised of the Government servants
G.G. S. Mitha Karak	تاریخ انتقال ملازمت	وجوبت تقاضا ملازمت ترقی تدارک یا برطرفی	دستخط افسر مجاز	رخصت کی نوعیت و پیمانہ پارہ ماہ تک کی رخصت کے لئے اوسط تنخواہ کا تین گونہ	دستخط افسر مجاز	Reference to any recorded punishment or censure, or reward or praised of the Government servants
G.G. S. Mitha Karak	[Signature]	Minor 30/06/2005	[Signature]	[Signature] Headmistress G.G. S. Mitha Karak	[Signature]	Passed examination Shahadatul Uloomiya under roll No 134 from Haji Madrasa securing 495/600 marks in 2 nd Division
G.G. S. Mitha Karak	[Signature]	Revision of scale	[Signature]	[Signature]	[Signature]	Result declared on 1/12/98 equal to M.A. Islamiyat and Arabic
G.G. S. Mitha Karak	[Signature]	Minor 3	[Signature]	[Signature] HEAD MISTRESS Govt. Girls High School Mitha Karak	[Signature]	Karak Govt. Girls High School Mitha Karak
G.G. S. Mitha Karak	[Signature]	Drawn Rs. 22021/- on a/c of award of BPS 14 due to passing (Shahadatul Uloomiya) examination on 1-12-98 to 30-9-2001	[Signature]	[Signature]	[Signature]	Approved BPS-14 on a/c of passed Shahadatul Uloomiya (equal to M.A. (ISC) & (Arabic) w.e.f. 1-12-1998 vide D.O. P.O. Govt. Karak No 285-42/98 dated 09/11/01
G.G. S. Mitha Karak	[Signature]	Revision of pay	[Signature]	[Signature] HEAD MISTRESS G.G. S. Mitha Karak	[Signature]	[Signature]

The overpayment has been erroneously assessed from Jan 98 to 30 Nov 2004 whereas it should have been confined upto 18 Jan 2003. Because as per entry on p. 6 of Service Book she has been re-upgraded on 14 w.e.f. 19 Jan 2003 on passing BA in 2nd trial and completing 5 years service. Hence overpayment for the period 19 Jan 2003 to 2004 (22 months & 13 days) amounting to Rs. 4,88,04/- may kindly be retrenched from the total amount of Rs. 4,88,04/-

8 Signature of the Head of the office or other attesting officer of 1 to 8	10 Date of termination or appointment	11 reason of termination (such as promotion, transfer, dismissal etc.)	12 Signature of the head of the office or other Attesting officer	13 Nature and duration of leave taken	13 Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government		14 Signature of the Head of the office or other attesting Officer	15 Reference to any recorded punishment or censure, or reward or praised of the Government servants
					Period	Government to which debitable		
	تاریخ اختتام ملازمت	وجوہات منتقلی ملازمت یا برطرفی	دستخط افسر مجاز	رضعت کی نوعیت و پیمانہ			دستخط افسر مجاز	سزا یا جزا یا نیک نامی کا کارکردگی کا ریکارڈ
							Service verified	
							1-12-2000 to 30-11-2001	
							from the Reg/Roll and other office record.	
	B-19						HEAD MISTRESS	
		2005					Gov. Girls High School	
							Milba Khel (Karak)	
							Service verified	
							w.r.f 1-12-2001 to	
							30-11-2002 from	
							School record.	
							HEAD MISTRESS	
							Gov. Girls High School	
							Milba Khel (Karak)	
							Service verified w.r.f	
							1-12-2002 to 30-11-2003	
							from school record.	
							HEAD MISTRESS	
							Gov. Girls High School	
							Milba Khel (Karak)	
							Service verified w.r.f	
							1-12-2003 to 30-11-2004	
							from School record.	
							HEAD MISTRESS	
							G.G.H. Milba Khel	

Pay 12 Awarded
13-15
2007
R.O. Milba Khel
G.G.H. Milba Khel

OFFICE OF THE ACCOUNTANT GENERAL
N.W.F.P. PESHAWAR.
PAY FIXED IN THE REVISED BASIC
PAY SCALES
OF RS. 3565-275-11815 (14)
AT RS. 4397 P.M.W.E. 1-07-2005
With Next Increment on 1-12-2005

Accounts Officer
Pay Fixation Party N.W.F.P. Peshawar

Attested

HEAD MISTRESS
Gov. Girls High School
Milba Khel (Karak)
Service verified w.r.f
1-12-2003 to 30-11-2004
from School record.

1 Name of Post درجہ ملازمت	2 Whether Substantive or officiating and whether permanent or temporary عارضی مستقل یا قائم مقام	3 If officiating state- (i) substantive appointment or (ii) whether service counts for pension under rule 3-20 of C.S.R. (Pb.) Volume II اگر عارضی ہے تو رول کے مطابق پنشن کا مستحق ہے؟	4 Pay in substantive position تنخواہ بطور عارضی ملازمت		5 Additional pay for officiating. زائد تنخواہ بطور قائم مقام		6 Other emoluments falling under the term pay اسوائے تنخواہ دیگر الاؤنس	7 Date of appointment تاریخ تقرری	8 Signature or Governing Servant دستخط فرمانبردار ملازم
			Rs.	Ps.	Rs.	Ps.			
			Revision w/e 1-7-2008						
-11-	-11-				Rs. 7320/-		1-7-2008		
-11-	-11-								
-11-	-11-				Rs. 7790/-		1-12-2008		
					Rs. 8160/-		1-12-2009		
-11-	-11-				Rs. 8580/-		1-12-2009		
			Revision w/e 1-7-2011						
					Rs. 10100/-		1-7-2011		
-11-	-11-				Rs. 14800/-		1-12-2011		
-11-	-11-				Rs. 15500/-		1-12-2012		
			(Promoted to Sr: AT B-16 on 08-03-2013)						
AT GGHS Mitha Khal	-11-				Rs. 15600/-				
					Rs. 800/-				
					Rs. 16400/-		08-03-2013		
-11-	-11-				Rs. 17200/-		1-12-2013		

1 Name of Post درج ملازمت	2 Whether Substantive or officiating and whether permanent or temporary عارض مستقل یا قائم مقام	3 If officiating state- (i) substantive appointment or (ii) whether service counts for pension under rule 3-20 of C.S.R. (Pb.) Volume II اگر عارض ہے تو رول کے مطابق پینشن کا مستحق ہے؟	4 Pay in substantive position تنخواہ بطور عارض ملازمت		5 Additional pay for officiating زائد تنخواہ بطور قائم مقام		6 Other emoluments falling under the term pay اسوائے تنخواہ دیگر الاؤنس	7 Date of appointment تاریخ تقرری	8 Signature Government servant مقامی ملازم
			Rs.	Ps.	Rs.	Ps.			
✓		Revised Entry one Pre-Mature Incre							
		due on - 01-07-2007							
		Rs = 6450/-							
		14-12-2007							
		Rs = 7740/-							
		01-07-2008							
		Rs = 8160/-							
		01-12-2008							
		Rs = 8580/-							
		01-12-2009							
		Rs = 9000/-							
		01-12-2010							
		Rs = 14800/-							
		01-07-2011							
		Rs = 15500/-							
		01-12-2011							
		Rs = 16200/-							
		01-12-2012							
		Rs = 17200/-							
		08-03-2013							
		Rs = 18000/-							
		01-12-2013							

Signature
G.M.T. 11/10

1	2	3	4	5	6	7	8
Name of Post	Whether Substantive or officiating and whether permanent or temporary	If officiating state- (i) substantive appointment or (ii) whether service counts for pension under rule 3-20 of C.S.R. (Pb.) Volume II	Pay in substantive position	Additional pay for officiating	Other emoluments falling under the term pay	Date of appointment	Signature of Government servant
درج ملازمت	عارضی مستقل یا قائم مقام	اگر عارضی ہے تو رول کے مطابق پنشن کا مستحق ہے؟	تنخواہ بطور عارضی ملازمت	زائد تنخواہ بطور قائم مقام	اسوائے تنخواہ دیگر الانسی	تاریخ تقرری	دستخط اداری ملازم
			Rs. Ps.	Rs. Ps.			

SAT

G.G.H.S Mitha
Khe

Refixation of pay in the light of Khyber Pakhtunkhwa Service Tribunal Peshawar, writ petition No, 1633/2010, decision dated 31-05-2012.

B-14(2065-161-4480)	1/12/1998	2065
	1/12/1999	2226
	1/12/2000	2387
B-14(3100-240-10300)	1/12/2001	3820
	1/12/2002	4060
	1/12/2003	4300
	1/12/2004	4540
B-14(3565-275-11815)	1/7/2005	5215
	1/12/2005	5490
	1/12/2006	5765
B-14(4100-315-13550) ✓	1/7/2007	6620
	1/12/2007	6935
B-15(4350-350-14850)	14/12/2007	7150
B-15(5220-420-17820) ✓	1/7/2008	8580
	1/12/2008	9000
	1/12/2009	9420
	1/12/2010	9840
B-15(8500-700-29500) ✓	1/7/2011	16200
	1/12/2011	16900
	1/12/2012	17600
B-16(10000-800-34000)	8/3/2013	18800
	1/12/2013	19600
	1/12/2014	20400
	1/7/2015	26365
	1-12-15	27400 ✓

Approved All
Entries

G.G.H.S Mitha Khe
Karachi

1 Name of Post درج ملازمت	2 Whether Substantive or officiating and whether permanent or temporary مارض مستقل یا قائم مقام	3 If officiating state- (i) substantive appointment or (ii) whether service counts for pension under rule 3-20 of C.S.R. (Pb.) Volume II اگر ماریں ہے تو رول کے مطابق پیش کیا جاتا ہے؟	4 Pay in substantive position تنخواہ بطور ماریں ملازمت		5 Additional pay for officiating زائد تنخواہ بطور قائم مقام		6 Other emoluments falling under the term pay اسوائے تنخواہ دیگر الاؤنس	7 Date of appointment تقرری تاریخ	8 Signature of Government of the sector or other official Station No. 1 to 6
			Rs.	Ps.	Rs.	Ps.			
SAT CGHS Mith Khal									
Revised Fixation due to one premature inc: w.e.f 14.12.2007 awarded BPS 15 on Parajing MA (Arabic)									
		Pay on 1-12-07 in B-14	Rs.	6935/-				12/12/07	
		Pay fixation BPS 15 and one premature inc:	Rs.	7500/-				12/12/07	
		BPS 15, 5220-4700-1782		9000/-				12/12/07	
				9420/-				12/12/07	
				9440/-				1-12-09	
				10260/-				1-12-10	
		BPS 15, 6550-7000-2950		16900/-				1-7-2011	
				17600/-				1-12-2011	
				19300/-				1-12-2012	
		SAT B-16 (10000-8100-34000)		19600/-				8-3-2013	
				21400/-				1-12-13	
				21200/-				1-12-14	
		SAT BPS 16 (12910-10350-43960)		27400/-				1-7-2015	
				28435/-				1-12-2015	
		SAT, BPS 16, 15880-12800-54280		35080/-				1-7-2016	
All Entries attested ✓									

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

No. _____/2019

Rehana Gul

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Rehana Gul

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, 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 cost. 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.

Dated. ____/____/2019

Rehana Gul

CLIENT

Shahzullah

ACCEPTED

NOOR MOHAMMAD KHATTAK

SHAHZULLAH KHAN YOUSAFZAI

MIR ZAMAN SAFI

ADVOCATES

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391

Appeal No.90/2019

Mst.Rehana Gul.....Appellant

V/S

Secretary Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar and others.....Respondents

(Para wise Reply on Behalf of Respondent No. 3&.4)

Preliminary Objections:-

1. That the appellant has no cause of action.
2. That the appellant has no locus standi.
3. That the appellant has not come to this Court with clean hands.
4. That the appeal is time barred.
5. That the appeal in hand is not maintainable.
6. That an identical case Writ Petition No.2819/2009 titled Mst.Bakht pari v/s Accountant General Khyber Pkhtunkhwa (Pay Fixation Party) and others has already been dismissed by the Peshawar High Court Peshawar vide its Judgment dated.05.04.2012 (Annex-A).

Respectfully Sheweth-

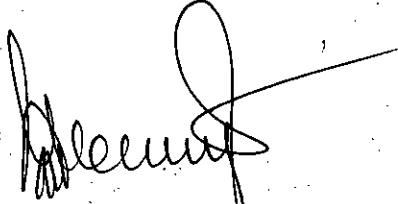
- Para :- 1 Relates to record, however liable to be proved by the appellant.
- Para :- 2 Relates to record, however liable to be proved by the appellant.
- Para :- 3 That the appellant is not entitled to BPS-14 on the Sanad obtained from Madrassa P'ar Hoti Mardan which is not recognized by Higher Education Commission (HEC) in light of Notification No.8-16/HEC/A&A/2004/572, dated:07/04/2004 (Annex-B) hence the appellant is not entitled to BPS-14 and has been reverted to BPS-9 and recovery of Rs.40512/- is under the rules.
- Para :-4 Incorrect, the referred appeal No.1632/2010 in Para No.4, is not in the name of appellant. However it is pertinent to mention here that an identical Writ Petition No.2819/2009 has already been dismissed by the Peshawar High Court (Annex-A)
- Para :- 5 As mentioned in para "4" above, the appellant is not entitled for BPS-14 under the rules.
- Para :- 6 That Respondent No.3 & 4 are bound to follow the rules and instructions issued by the Provincial Government of Khyber Pakhtunkhwa from time to time.
- Para :- 7 Relates to Respondent No.1, 5 & 6, hence no comments.
- Para :- '8 No Comments.

GROUNDS:-

- A. That Respondent No.3&4 are bound to follow the rules and instructions issued by the Provincial Government of Khyber Pakhtunkhwa from time to time.
- B. As mentioned in para "3 & 6" above Respondent No.(3 & 4), has not violated any rule or law.
- C. That in light of Higher Education Commission Notification No.8-16/HEC/A & A /2004/572 dated: 07/04/2004 (Annex-B) , the appellant is not entitled for BPS-14 and over payment in this regard is liable to be recovered under the rules.
- D. As mentioned in para "C" above. Respondent No. "3 & 4" has not violated any rule or law
- E. That in light of HEC (Islamabad) Notification No.8-16/HEC/A & A/2004/572, dated: 07/04/2004, DEO (F) Karak has no power to issue the orders dated: 27/10/2015 (Annex-D).
- F. As mentioned in Para "E" above.
- G. No comments.

Keeping in view the above mentioned facts, it is , therefore , humbly prayed that the appeal in hand having no merits may be dismissed with cost.


26/11/19
ACCOUNTS OFFICER
PAY FIXATION PARTY-II


ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA

W.P. No. 2819 of 2009

Mrs. Bakht Pari Daughter of Gul Sahzada wife of Qari Ihsan Ullah,

Arabic Teacher G.M. School Badli District Dir Upper. Petitioner



Vereus

1. Accountant General, NWFP, Peshawar (Ray Fixation Party)

2. Executive District Officer, Elementary & Secondary Education Dir Upper.

3. Executive Education Officer, Elementary & Secondary Education Dir Upper.

4. The District Account Officer Dir Upper.

5. The District Coordination Officer Dir Upper.

6. District Officer (F) Education Dir Upper.

7. District Education Officer (F) Primary and Secondary Education Dir Upper.

8. District Officer (F) S/L Dir Upper.

9. Government, of NWFP, through its secretary Finance, Civil Secretariat.

10. Secretary, Education, Elementary & Education Government of NWFP, Peshawar.

11. Director, Schools NWFP, Peshawar.

12. Chairman Higher Education Commission Islamabad.

What Petition under Article 199 of Constitution of The

Judgment Sheet

PESHAWAR HIGH COURT, MINGORA BENCH,
(DAR-UL-QAZA), SWAT
JUDICIAL DEPARTMENT



Writ Petition No. 2819 of 2009

JUDGMENT

Date of hearing: 05/04/2017
Petitioner: (Mst. Bakht Pari) by M. Sadiq Haidi Qureshi Advocate
Respondents: (Accountant General & Others) by D.A.E.

WAQAR AHMAD SEEM, J. - Petitioner, Mst. Bakht Pari

has asked for issuance of appropriate writ directing the respondent No.1 to release the monthly salary of the petitioner in BPS-14 alongwith all back benefit since 15.12.1999 and onwards on acquiring/ possessing the higher qualification/Deeni Sanad from a Deeni Madaris.

2. Precise facts of the writ petition and the arguments of learned counsel for the petitioner are that petitioner was appointed in the education department, Government of KPK and was subsequently accorded BPS-14 due to possessing higher education/qualification of Shadat-ul-Allamia Fil! Ullomul Islamia and Arabic from Etihadul Madaris Par Hoti Mardan. It is also contended that the said qualification obtained from Etihadul Madarisa, Par Hoti Mardan is recognized by Services Tribunal KPK and upheld by the apex Court of the Country and as such

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Peshawar High Court

petitioner is being discriminated by not allowing the said BPS-

14.

3. As against this, learned counsel for the respondents submitted that petitioner is not entitled to BPS-14 as the competent authority i.e. Higher Education Commission has not yet approved Deeni Madarisa i.e. Etihadul Madaris Al-Ar Arabia Pakistan Par Hoti, Mardan and as such the decree as obtained from the said Madarisa is not recognized one.

4. Arguments heard and record perused.

5. Vide order dated 20.04.2010 Higher Education Commission was impleaded as respondent No.12 and subsequently they filed their comment/objection which are on file and according to which Etihadul ul Madarasa Al-Ar Arabia, Par Hoti Mardan is not an approved Deeni Madarasa, therefore, Deeni Sanad held by petitioner from the said Madarasa is not recognized by the competent authority i.e. Higher Education Commission. In view of the above comments of the competent authority, this Court cannot direct the concerned authorities i.e. respondent No.1 to treat the said Deeni Sanad equivalent to M.A. and to grant/award BPS-14, as the same is not recognized by the competent authority.

6. As regarding the discrimination claimed on the basis of already delivered judgments of the Service Tribunal KPK, upheld by the apex Court, regarding the same Deeni Sanad, on the principle enshrined in the reported judgments 2009 SCMR-01

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Court Bench
Ord. No. 110/2010

and 1996 SCMR-1185. In this respect, we have gone through the said judgments and are of the view that firstly, in those judgments the Higher Education Commission was not a party and secondly, in those judgments the question of equivalency was dealt with but the court/tribunal has not gone to the basic fact that whether the said Sanad is recognized one or not. In view of the comments filed by respondent No.12 this Court cannot shut its eyes on the fact that the very Deeni Sanad issued by an institution is not recognized one. These are the reasons for not treating the petitioner at par with the judgment in Appeal No.490/2005 decided on 17.06.2006.

7. In view of the above, this writ petition is dismissed with no order as to costs.

Certified to be true copy

[Signature]
Sd/- JUDGE

[Signature]
Sd/- JUDGE

Announced.
Dated 05/04/2012.

S.No. 3127
Name of Applicant Muhammad Iqbal
Date of Filing 11/7/12
Date of Completion of case 11/7/12
No. of Copies 4-P
Fee Charged 8/-
Date of Disposal of Case 11/7/12

Office
16/4

Accountant local
female Office DEO (F,
Court Bench Swat
dismissed the appeal
of the petitioner
pari; so consider the
case of the petitioner
in the light of the judgment
of the High Court

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AD EO 12/7/2012

BEFORE THE N.W.F.P SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 323/2004



Date of institution ... 26.04.2004

Date of decision ... 28.11.2005

Kaleem Nawaz alias Kalceemullah S/o Rab Nawaz,
R/O Kaleem Abad, D.I. Khan, presently C/O EDO (S&L),
D.I. Khan. ... Appellant

VERSUS

1. Secretary to Govt. of NWFP,
Education Department, Peshawar.
2. Director of Education (S&L), NWFP, Peshawar.
3. Executive District Officer (S&L), D.I. Khan.
4. District Accounts Officer, D.I. Khan. ... Respondents

APPEAL AGAINST THE ORDER DATED 12.01.2004 OF
RESPONDENT NO.4 VIDE WHICH THE APPELLANT HAS
BEEN HELD TO BE NOT ENTITLED FOR PAY IN B-15
AND THE RECOVERY HAS BEEN ORDERED TO BE MADE
FROM THE APPELLANT FROM THE DATE OF HIS
APPOINTMENT.

Sayed Zafar Abbas Zaidi, &
Fermanullah Khattak
Advocates. ... For appellant

Mr. Noor Eaman Khan,
Addl. Govt. Pleader. ... For respondents

Mr. Abdul Sattar Khan,
Mr. Azmat Hanif Crakpai. ... Chairman
Member

JUDGMENT

ABDUL SATTAR KHAN, CHAIRMAN: The appellant
namely Kaleem Nawaz is serving as PET in the Education
Department ever-since his appointment on 11.01.96. He

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[Signature]

is also holder of qualifications of B.A. and SDPE + M.Sc Physical Education. It is alleged that Physical Education is taught as a subject in Matric as well as in colleges. The teachers who perform the same duties in the colleges are known as 'DPEs'. That requirement for appointment both in schools and colleges is a diploma of SDPE. The appointees in the colleges are given B-16 while the appointment in schools, in case of SDPEs was in B-15 in accordance with the instructions issued by the Government of NWFP Finance Department vide Notification dated 24th August, 1983. It is further alleged that the Education Department in consultation with the Finance Department also allowed three advance increments to all those appointees who had Master Degrees to their credit in the field of Physical Education. That the appellant was initially appointed in BS-14. He was allowed BS-15 w.e.f 13.01.96 on the basis of Notification of the Finance Department, referred to above. However, this concession was withdrawn and the PETs' appointments were specified to be in B-9 and when the matter was finally considered, all the teachers who have been granted BS-15 were later on ordered to be having BS-9, were given BS-15 as personal grades w.e.f 12.1.95. On this analogy, the appellant was also entitled to the same benefit on the principle of consistency and to avoid discriminatory treatment. However, in disregard of the above facts, respondent No.4 has re-agitated the matter and a recovery has been ordered from the appellant from his pay on the mistaken view that the appellant was not entitled to BS-15. After exhausting his departmental remedy, the appellant has come up in appeal.

APPEALED
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to the Tribunal for the redressal of his grievances.

2. Notices were sent to the respondents. They turned up and contested the appeal by filing their separate written replies. Various factual and legal pleas were raised. It was also inter alia alleged that existing entries appearing against S.No. 6 of annex-II of impugned circular letter dated 24/8/83 were deleted ab-initio and inserted with new entries vide Finance Department corrigendum No. FD(PROC)5-1/93 dated 9.6.94. Hence, due to deletion of these entries, the appellant was not entitled to be allowed E-15. However, as per Finance Department letter dated 12.1.95, only those existing PETs were eligible for E-15 (as personal to them) who were possessing prescribed academic/professional qualification and serving in High Schools. Similar nature appeal of Shafiq-ur-Rehman, PET has already been dismissed by the Hon'ble High Court vide its decision dated 23.4.02 in appeal No. 153/99. That the appellant is also not entitled to three advance increments on the basis of M.Sc; qualification. No replication, in rebuttal, was filed by the appellant.

3. Arguments heard and record perused.

4. Learned counsel for the appellant argued that on the basis of principle of locus-poenitentiae, the appellant is entitled to BS-15; that the benefit once enjoyed cannot be withdrawn after the lapse of 8 years; that the circular letter of 1994 of Finance Department has no legal value and it cannot over-ride the powers of the competent authority and more-so when it is not notified in the official gazette and that there is no

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 EXT. OFFICE
 N.W.F. DISTRICT
 JALANDHAR
 15/11/2009
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material/notification to the effect that the Administrative Department has consented to it. Lastly, it was argued that the appellant has been discriminated as some of his colleagues are receiving/enjoying the benefit of BS-15, while the appellant has been deprived of the same benefit. As such the appellant is entitled to BS-15 and no recovery be made from him.

5. In reply it was urged that similar nature of case was decided by the High Court on 23.4.02 and no relief was granted to the petitioner ; that the case of the present appellant is also at par with those who have been denied the benefit of BS-15 and that the circular letter of 1994 is a legal one, therefore, the appeal is liable to be dismissed.

6. The Tribunal holds that the claim of the appellant is groundless. He is not entitled to the award of BS-15. The award of BS-15 to the appellant was an error which was rectified through a corrigendum issued by the Finance Department vide letter No. FD(PRC)5-1/93 dated 9.6.94. However, to compensate these ^{PETs} already in receipt of BS-15, the Provincial Government allowed BS-15 to ^{F.D} them as personal vide letter dated 12.1.95, therefore, the provision of the above letter was specific to those mentioned above and not general. The relevant para of the Finance Department's letter dated 12.1.95 reads as under:

"Pay Scales of P.T.Is

BPS-15 would be admissible with effect from 1.7.1983 to the existing P.T.Is with BA/B.Sc qualifications with senior diploma in physical education and working in the Government High/Comprehensive High Schools as personal to them."

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EXCISE & REVENUE
Tribunal
G.H.M.

1/19/95

The appellant was either appointed after 12.1.95 or has qualified BA/B.Sc with senior diploma in Physical Education after 12.1.95; therefore, he cannot be placed in BS-15. He is only entitled to be placed in the scale as admissible to him in the light of F.D's letter No. FD(PRC)1-1/89 dated 7.8.91. The appellant is also not entitled to three advance increments on the basis/strength of higher qualification of M.Sc Physical-Education in view of the Finance Department's Notification. The principle of locus-poenitentiae is not applicable as the appellant was erroneously allowed BS-15 which was later on withdrawn and he has enjoyed ^{sufficiently} the benefit of the Notification of the Finance Department of 1983. The Peshawar High Court, Peshawar in W.P. No. 153 of 1999 filed by Shafiq-ur-Rehman, dis-allowed the concession of BS-15 to those P.Ts, holding qualifications of BA/B.Sc with senior diploma. It was also held that grant of BPS-15 to the teachers was an error as it was unreasonable that they be given a jump of six steps to be granted BS-15. The error was later on corrected by issuing a corrigendum by the Finance Department.

7. Further, joint departmental appeal was filed by the present appellant namely Kaleem Nawaz with co-appellants namely Kashif Rehman, Sayed Mohsin Abbas, Jamshed Khan and Mohammed Khalid. Like-wise, joint departmental appeal was filed by Muhammad Aslam appellant with co-appellants namely Muhammad Ayaz S/o Sarfaraz, Muhammad Younis, Salah-ud-Din, Muhammad Attahar, Munawar Hussain Shah, Abdul Salam Shams, Muhammad Sajjid, Muhammad Naveed Ahmad, Muhammad Behram, Habib-ur-Rehman,

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EXAMINER
JUNIAL
NWFP
SECRETARY

Muhammed Zahoer, Muhammad Ayyaz S/o Rab Nawaz, Azmatullah & Abdul Samad, respectively. Filing of joint departmental appeal is violation of the NWFP Civil Servants (Appeal) Rules, 1986. According to Rule-3, sub-rule(2) where the order of the competent authority affects more than one civil servant, every affected civil servant shall prefer the appeal separately. The present departmental appeal by the appellant has been filed by 8 persons jointly, whereas the appeal filed by Muhammad Aslam and co-appellants has been filed by 16 persons jointly. So this departmental appeal as well as the departmental appeal filed by the co-appellants are in total violation of sub-rule(2) of Rule-3 of Appeal Rules *ibid* which would mean that no departmental appeal has been filed in the present appeal as well as in the connected appeals, whereas filing of departmental appeal is sine-qua-non. Reliance is placed on the authority of the august Supreme Court of Pakistan in C.Ps No. 351-P to 357-P of 1999 titled, "Muhammad Shoaib & 6 others-Vs-Director Primary Education NWFP, Peshawar & 3 others", decided on 15.7.99. Lastly, the appellant is claiming financial benefits, whereas the Govt. of NWFP Finance Department has not been impleaded as party. Impleadment of necessary party i.e. F.D was essential. On this score the instant appeal and connected appeals No. 324, 325, 326 & 327 of 2004 are also liable to be dismissed. As such no case for indulgence of the Tribunal was made out. Accordingly, the instant appeal fails and is dismissed.

3. This order/judgment shall also dispose of 24 other connected appeals bearing No. 324 to 327 of 2004, 462 to 464/04, 466 to 470/04, 478 to 482/04, 556 and 557 of 2004 as well as appeals No. 598 to 602 of 2004 filed by Kashif Rehman, Sayed Mohsin Abbas, Jamshed Khan, &

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CHIEF CLERK
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11/1/04

Muhammad Khalid, Muhammad Aslam, Muhammad Ayaz S/o Sarfraz, Muhammad Younis, Salah-ud-Din, Muhammad Attahar, Munawar-Russain Shah, Abdul Salam Shmas, Muhammad Sajjid, Muhammad Haveed Ahmad, Muhammad Behram, Habib-ur-Rehman, M. Zehoor, Muhammad Ayaz s/o Rab Nawaz, Azmatullah & Abdul Samad and Laiq Zaman, Laiz Khan, Intikhab Gul, Ikramullah & Haider Muhammad appellants respectively in the same manner involving common questions of law & facts.

9. This judgment shall also dispose of Service Appeal No. 819 of 2004 titled, "Dost Muhammad-Vs-Govt. of NWFP through Secretary of Education (S&L) Civil Sectt: Peshawar & others". The appellant an A.T in the Education-Department was allowed BS-14 on getting qualification of Shahadat-ul-Alamia. The Pay Fixation Party re-fixed his pay in BS-9 and recovery was also ordered to be made from him. Since the appellant has obtained the Sanad of Shahadat-ul-Alamia from Madrassa of Hoti Mardan which is not recognized by Peshawar University. BS-14 is admissible to those A.Ts having qualification of Shahadat-ul-Alamia subject to the condition that the degree/sanad is obtained from the Institution declared as authorised by the University of Peshawar vide letter No. 10357/59/9-C/Vol: XXI/9-C/ACAD/V dated 19.4.94. The Sanad of the appellant is not recognized by the Peshawar University, therefore, he is not entitled to BS-14 ^{his pay} and has rightly been fixed in BS-9 by the Pay Fixation Party. However, no recovery be made from all the appellants regarding the excess salary received by them in higher grades. No order as to costs. File be consigned to the record.

ANNOUNCED
29.11.2005

(AZMAT HANIF ORAKZAI)
MEMBER

(ABDUL SATTAR KHAN)
CHAIRMAN
NWFP SERVICE TRIBUNAL
PESHAWAR

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