

BEFORE THE COURT OF WORTHY CHAIRMAN
SERVICES TRIBUNAL, PESHAWAR

COC No. _____/2023

IN

Appeal No. 7086/2021

Mst. Saira Bano.....**Appellant**

V E R S U S

Chief Secretary and others.....**Respondents**

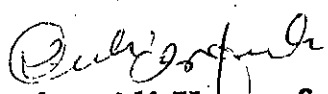
I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Contempt of Court application	*	1-4
	Application for suspension	*	5-6
2.	Affidavit	*	7
3.	Copy of order 2/03/2022	A	8-14
4.	Copy of impugned letter dated 24/12/2022	B	15
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Petitioner/Appellant

Through

Date: 02/01/2023


Irfan Ali Yousafzai
Advocate, High Court,
Peshawar
Cell# 0314-9070658

BEFORE THE COURT OF WORTHY CHAIRMAN
SERVICES TRIBUNAL, PESHAWAR

COC No. _____/2023

IN

Appeal No. 70~~86~~/2021

Mst. Saira Bano SS BPS-17, Government Girls High
Secondary School No.1, Saidu Sharif District Swat.

.....**Petitioner/Appellant**

V E R S U S

1. Shahzad Bangash, Chief Secretary, Government of
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Mohtasim Billah, Secretary Elementary and
Secondary Education Khyber Pakhtunkhwa,
Peshawar.
3. Director Elementary and Secondary Education
Khyber Pakhtunkhwa, Peshawar.
4. DEO (Female) District Swat.....**Respondents**

PETITION FOR INITIATING
CONTEMPT OF COURT PROCEEDINGS
AGAINST THE RESPONDENTS FOR
NOT HONOURING ORDER DATED
2/0⁸8/2022 PASSED BY THIS
HON'BLE TRIBUNAL AND
RESPONDENTS STOP THE SALARY OF
THE PETITIONER/APPELLANT

Respectfully Sheweth:

That the petitioner/appellant humbly submits as under;

1. That above noted service appeal was filed by the petitioner/appellant before this Hon'ble Tribunal, which is fixed for 12/01/2023.
2. That the this Hon'ble Tribunal call the comments from the respondents and restrained the respondents from taking any adverse action against the petitioner/appellant vide order ated 2/08/2022 but till date the respondents are failed to filed the comments. **(Copy of order dated 16/07/2022 is attached as Annexure-A)**
3. That the despite of clear cut directions the respondents stopped the salary of the petitioner / appellant vide impugned order dated 24/12/2022. **(Copy of impugned order dated 24/12/2022 is attached as Annexure-B)**
4. That the respondents by stopping the salary of the petitioner/appellant committed contempt of this Hon'ble Tribunal, the petitioner/appellant having no other remedy, approaches this Hon'ble Tribunal by filling instant contempt of court petition on the following grounds:

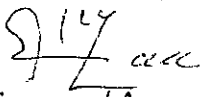
GROUND S:

- A. That non-compliance of the aforesaid order dated 2/08/2022 of this Hon'ble Tribunal by the respondents is illegal, without lawful authority, without jurisdiction, malafide and void ab-initio.
- B. That stopping the salary of the petitioner/appellant is fall within adverse action and this Hon'ble Tribunal restrained the respondents from taking any adverse action against the petitioner/appellant but the respondents issued the impugned letter dated 24/12/2022 by stopping the salary of the petitioner/appellant by mentioning the reason of filling of appeal before this Hon'ble Tribunal.
- C. That thereafter the petitioner approached the Respondents for the implementation of the order of this Hon'ble Tribunal and releaser of her salary, but in vain.
- D. That by not honoring the judgment of this Hon'ble Tribunal the Respondents have intentionally/ willfully and deliberately made contempt of this Hon'ble Tribunal.
- E. That every government functionary is under legal obligation to honour the order of the Court of competent jurisdiction, the respondents by not

complying with the order, have not performed their duty in accordance with law.

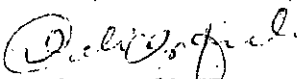
- F. That non-compliance of the order of the Honourable Tribunal, speaks malafide on the part of respondents and to lower the position of the judiciary in the eye of public at large.
- G. That from the facts and grounds taken the said service appeal, it has become crystal clear that the respondents have committed contempt of court.
- H. That any other grounds will be raised at the time of arguments with prior permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that on acceptance of this application, the contempt of court proceedings may please be initiated against the Respondents, they be summoned, proceeded against and be punished in accordance with law.


Petitioner/Appellant

Through

Date: 02/01/2023


Irfan Ali Yousafzai
Advocate, High Court,
Peshawar

BEFORE THE COURT OF WORTHY CHAIRMAN
SERVICES TRIBUNAL, PESHAWAR

CM No. _____/2023

IN

COC No. _____/2023

IN

Appeal No.7068/2021

Mst. Saira Bano.....**Appellant**

V E R S U S

Chief Secretary and others.....**Respondents**

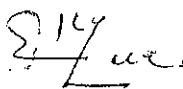
APPLICATION FOR SUSPENSION OF
IMPUGNED LETTER DATED 24/12/2022
ISSUED BY THE RESPONDENTS AND ALSO
RESTRAINED THE RESPONDENTS FROM
RELIEVING THE PETITIONER/
APPELLANT, TILL THE FINAL DECISION
OF THE SERVICE APPEAL.

Respectfully Sheweth:-


1. That the above noted service appeal is pending adjudication before this Hon'ble Tribunal which is fixed for 12/01/2023.
2. That the facts and grounds of the contempt of court petition may kindly be read as an integral part of this application.
3. That the applicant has got a good prima facie case in her favour, and is sanguine about its success.

4. That the balance of convenience also lies in favour of the applicant.
5. That this Hon'ble Tribunal has passed valuable order dated 16/07/2022 and restrained the respondents from taking any adverse action against the applicant but on 24/12/2022 the respondents issued by letter for stopping of salary of the applicant, if letter dated 24/12/2022 is not suspended, than the applicant would suffer irreparable loss.

It is, therefore, respectfully prayed that on acceptance of this application, the impugned letter dated 24/12/2022 may kindly be suspended, till the final decision of the case.


Applicant

Through


Irfan Ali Yousafzai
Advocate, High Court,
Peshawar

Date: 02/01/2023

BEFORE THE COURT OF WORTHY CHAIRMAN
SERVICES TRIBUNAL, PESHAWAR

CM No. _____/2023

IN

COC No. _____/2023

IN

Appeal No.7068/2021

Mst. Saira Bano.....**Appellant**

V E R S U S

Chief Secretary and others.....**Respondents**

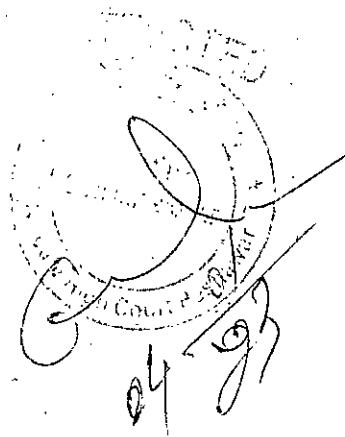
AFFIDAVIT

I, **Mst. Saira Bano SS BPS-17, Government Girls High Secondary School No.1, Saidu Sharif District Swat**, do hereby solemnly affirm and declare on oath that the contents of accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.

Identified by:

Saira Bano
DEPONENT

Irfan Ali Yousafzai
Irfan Ali Yousafzai
Advocate, High Court,
Peshawar.



(9)

Annexure - "A"



S.A No. 7086/2021
Mst. Saira Bano

02.08.2021 Counsel for the appellant present. Preliminary arguments heard.

The appellant has impugned the transfer order dated 09.07.2021 through this Service Appeal where-against the departmental representation/appeal was filed on 13.07.2021. The present appeal was filed on 16.07.2021 which was returned due to objection from this office that it was filed without completing the period of ninety days after filing of departmental appeal. However, the appeal was re-submitted that requisite period of 15 days as provided under the Policy of the Government has been completed. This Tribunal has already admitted appeals against the transfers on account of the precedent of 15 days period for decision of appeal by the competent authority by overruling the objection of the office for waiting period of ninety days. Therefore, this appeal as matter of consistency has rightly been filed after expiry of 15 days day period. When the appellate authority has failed to decide the appeal within stipulated time according to policy of the government. The appellant contends that the impugned transfer of the appellant is against the tenure as provided under the policy of the Government and no public interest is involved in the impugned order. Therefore,

ATTESTED

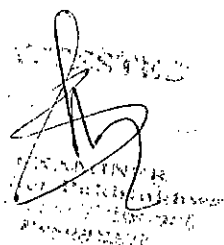
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this appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 21.09.2021 before the D.B.

Appellant Deposited
Security & Process Fee

An application has been filed alongwith the appeal for suspension of the impugned transfer order dated 09.07.2021 to the extent of appellant till final decision of the appeal. Notice of the application be also given to the respondents. The operation of the impugned order shall remain suspended till next date.


Chairman



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Stipulated period passed reply not submitted.

15.09.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

Chairman

21.09.2021

Counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Saleem Khan, S.O for the respondents present.

Reply/comments have not been submitted by the respondents. Let them file the reply/comments on or before the next date, failing which their right for submission of reply/comments shall be deemed as struck off. Case to come up for arguments on 05.11.2021 before the D.B.

(Rozina Rehman)
Member(Judicial)

Chairman

[Handwritten signature and stamp]

05.11.2021 Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General alongwith Saleem S.O for respondents present.

As per preceding order sheet, respondents were directed to file reply within 10 days but till today, reply was not submitted. Therefore, right of respondents for submission of reply is hereby struck off. To come up for arguments on 09.12.2021 before D.B.

(Rozina Rehman)
Member (J)

Chairman

09.12.2021 Learned counsel for the appellant present.

As per preceding order sheet dated 05.11.2021, the right of respondents for submission of reply stands struck off and the case was fixed to come up for arguments before D.B on 09.12.2021. However, the instant service appeal seems to have mistakenly been reflected on the cause list for hearing before S.B. The service appeal in hand is therefore submitted for appropriate orders before the D.B.

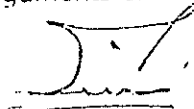
(Mian Muhammad)
Member (E)

ACCEPTED
JUDGE
Mian Muhammad
Member (E)

09.12.2021

Husband of appellant and Mr. Muhammad Adeel Butt; Addl. AG alongwith Syed Nasirud Din, Asstt. for the respondents present.

Representative of the respondents states that written reply is well prepared for submission. He is required to submit the same within 10 days in office alongwith application as right of respondents for submission of reply has already been struck off. Case to come up for arguments on 07.02.2022 before the D.B.


(Salah-ud-Din)
Member(J)


Chairman

7-2-22

Due to Retirement of the Hon.ble Chairman the case is adjourned to come up for the same as before on

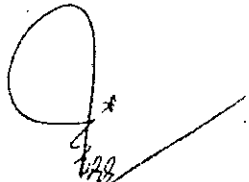
30-5-22


Reader

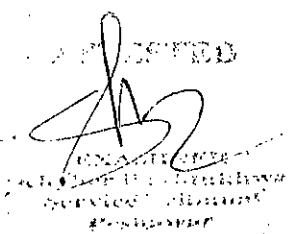
30th May, 2022

Learned counsel for the appellant present. Mr. Asif Masood, DDA for the respondents present.

Learned counsel for the appellant seeks adjournment in order to properly assist the Court. Last opportunity is granted. To come up for arguments on 05.07.2022 before the D.B.


(Mian Muhammad)
Member(E)


(Kalim Arshad Khan)
Chairman



05.07.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah. Assistant Advocate General for the respondents present.

Due to paucity of court time, arguments could not be heard. Adjourned. To come up for arguments before the D.B on 11.08.2022.

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

11.8.2022

Proper DB not available the case is adjourned to 3-11-2022

Reader

03.11.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant alongwith Mr. Muhammad Riaz Khan Painsakhel, Assistant Advocate General for the respondents present.

Representative of the respondents requested that time may be granted to him to probe as to whether Miss. Gul Farzana SDEO (Female) BS-17 whose name is mentioned at serial No. 01 of impugned order, has filed service appeal before this Tribunal or not. Adjourned. To come up for arguments on 18.11.2022 before the D.B.

(Mian Muhammad)
Member (E)

(Salah-Ud-Din)
Member (J)

REGISTERED

Registrar

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Annexure (B)



OFFICE OF THE
PRINCIPAL GOVT:GIRLS HIGHER SECONDARY SCHOOL NO.1 SAIDU SHARIF SWAT
Phone No. 924213

No. _____

dated: 24/12/2022

To
The District Education Officer
Female Swat

Subject: - STOPPAGE OF PAY I/R OF MST:SAIRA BANO SS

Memo:

As directed through telephonic message by your good office again and again the undersigned sent source for stoppage of pay i/r of Mst: Saira Bano SS of this School and requested to DCA Swat that the pay of above mentioned teacher may kindly be made in-active as she is transferred from this school vide Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department No.SO(S/F)E&SED/7-1-2021/posting/transfer dated:9/07/2021.

As at that time the teacher concerned stated that transfer order has already been challenged in the Service tribunal Khyber Pakhtunkhwa vide appeal No.7086/2021 dated:16/07/2021.

And the teacher concerned could not relived by this office, however she could not submit any court order or evidence till date and the transfer in question is still intact.

The salary has stopped on your directions and report of the same is submitted for your kind attention please.

Principal
Government Girls Higher
School No.1 Saidu Sharif Swat

Endstt: No. 1483

Copy for information to Mst: Saira Bano SS (History) B-17 working against SS (History) B-18 GGHS No-1 Saidu Sharif Swat

Principal
Government Girls Higher
School No.1 Saidu Sharif Swat

MAHA 1111 1001
P.O. # 234-907065
62-9-1786

Accepted
Receipt of

منه

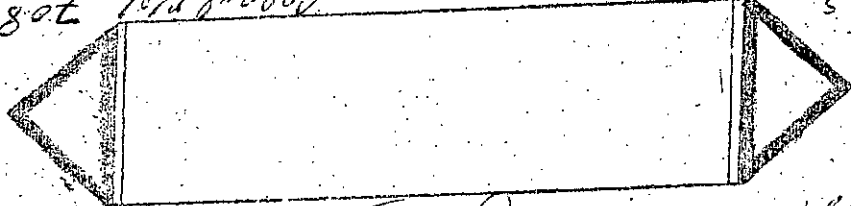
منه

2003

مقبول شد
 دریافت شد
 از
 شماره
 62-9-1786
 در تاریخ
 234-907065
 به شماره
 234-907065

منه

2086/2021



منه

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منه