

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.19/2014

Date of Institution ... 06.01.2014  
Date of Decision ... 13.09.2021

Marwaridah Bibi D/O Sahib Jan, P.S.T, G.G.P.S No.1, Ghazi Khel, Lakki  
Marwat. ... (Appellant)

**VERSUS**

District Education Officer (Male), Elementary & Secondary Education Lakki  
Marwat, Ex-EDO, Lakki Marwat and (03) Others.

... (Respondents)

Arbab Saiful Kamal,  
Advocate ... For appellant.

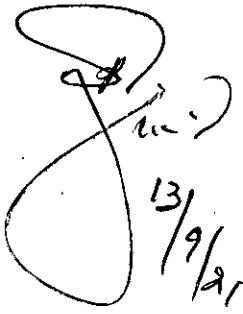
Asif Masood Ali Shah,  
Deputy District Attorney ... For respondents.

AHMAD SULTAN TAREEN ... CHAIRMAN  
ROZINA REHMAN ... MEMBER (J)

**JUDGMENT**

ROZINA REHMAN, MEMBER : Appellant has filed the instant appeal U/S 4  
of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order  
dated 28.11.2012 whereby her salaries were withheld.

2. Brief facts of the case are that appellant was appointed as Primary  
School Teacher (PST) vide order dated 25.02.2011 on the  
recommendation of Departmental Selection Committee and accordingly  
she assumed charge on 26.02.2011. She was performing her duties when  
in the meanwhile respondent No.4 was directed by respondent No.1 vide  
order dated 14.03.2011 to withhold salaries of appellant. She filed  
representation before the authority for release of her salaries but the  
same was not responded to. She then filed appeal No.131/2012 before

  
13/9/21

this Tribunal for release of salaries which appeal was remanded to the then DCO Lakki Marwat to take decision on the representation of the appellant within 60 days. After remand, the then DCO decided appeals on 28.11.2012 to make payment of salaries to some of the teachers while some were put in hanging position and lastly salaries were released to the teachers including the appellant w.e.f December, 2012. She submitted representation on 20.01.2013 for payment of salaries, which was not responded to hence the instant appeal.

3. Learned counsel for appellant argued that the appellant has been performing her duties since 26.02.2011; that PST teachers were appointed by the then EDOs over and above the sanction strength, therefore, issue arose by withholding salaries of teachers. He argued that salaries were released to those teachers who made payment to the authorities but were declined to those who did not fulfill their ill wishes and that the appellant was appointed as per prescribed procedure, therefore, entitled to salaries withheld from 25.02.2011 to 30.11.2012. Learned counsel also referred to the judgment of this Tribunal in Service Appeal No.18/2014 titled Sher Daraz Vs. Education Department, where in similar nature case, relief has been granted by this Tribunal.

4. Conversely, learned D.D.A submitted that the appointment letter in respect of appellant is skeptical and that she was never appointed as PST. He submitted that appellant was adjusted and paid for her service since adjustment.

5. From the record, it is evident that the appellant was appointed as Primary School Teacher vide appointment order dated 25.02.2011 and

*13/9/21*

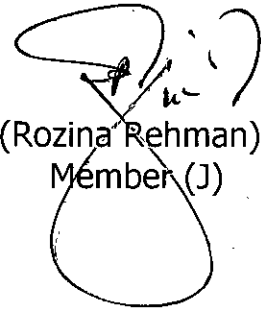
she assumed the charge on 26.02.2011. The appointment letter which was denied by the respondents in their comments is a genuine appointment order because on the strength of this appointment order the appellant is still serving in the said Department. She was not treated in accordance with law and has made out a good case for indulgence of this Tribunal. Moreover, this Tribunal has granted relief in similar case (Appeal No.18/2014 titled Sher Daraz Vs. Education Department).

6. In view of the above, we are of the opinion that the appellant served in the department but her salaries were withheld from 25.02.2011 till 30.11.2012 without any cogent reason, therefore, the instant appeal stands accepted as prayed for. No order as to costs. File be consigned to the record room.

ANNOUNCED.  
13.09.2021

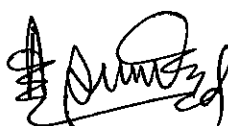
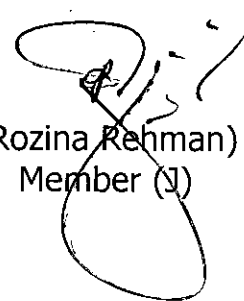


(Ahmad Sultan Tareen)  
Chairman



(Rozina Rehman)  
Member (J)

Service Appeal No. 19/2014

S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	13.09.2021	<p><u>Present:</u></p> <p>Arbab Saiful Kamal, Advocate ... For Appellant</p> <p>Asif Masood Ali Shah, Deputy District Attorney ... For respondents</p> <p>Vide our detailed judgment of today of this Tribunal placed on file, we are of the opinion that the appellant served in the department but her salaries were withheld from 25.02.2011 till 30.11.2012 without any cogent reason, therefore, the instant appeal stands accepted as prayed for. No order as to costs. File be consigned to the record room.</p> <p><u>ANNOUNCED.</u> 13.09.2021</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">               (Ahmad Sultan Tareen)              Chairman         </div> <div style="text-align: center;">               (Rozina Rehman)              Member (J)         </div> </div>

27.05.2021

Appellant present through counsel.

Muhammad Adeel Butt Additional Advocate General  
alongwith Muhammad Nazeer ADO for respondents  
present.

Relevant record in respect of adjustment of the  
appellant in the light of inquiry report is not available,  
therefore, representative of the respondents is directed  
to make sure the production of relevant record before  
date.

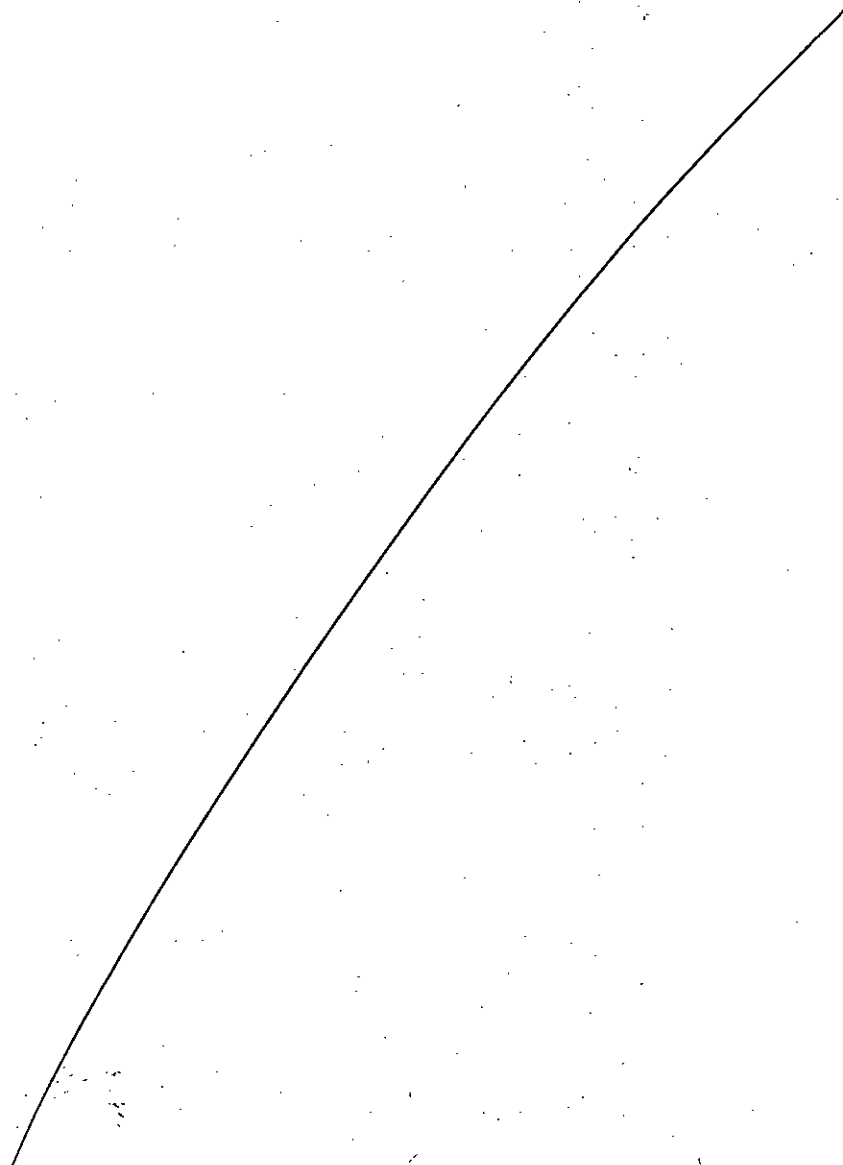
Adjourned to 13.09.2021 for arguments before D.B



(Atiq ur Rehman Wazir)  
Member (E)



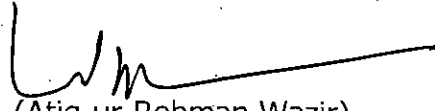
(Rozina Rehman)  
Member (J)



13.01.2021

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

Former requests for adjournment as he is engaged before the Hon'ble High Court in various cases today. Adjourned to 19.02.2021 for hearing before the D.B.



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

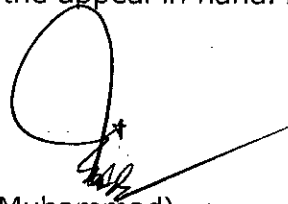


Chairman

19.02.2021

Counsel for the appellant and Addl. AG alongwith Muhammad Nazir, AD and Muhammad (Sagged) Litigation Officer for the respondents present.

Former requests for adjournment as the appellant could not turned up before the Tribunal today and submit the documents relevant to the appeal in hand. Adjourned to 23.04.2021 before the D.B.



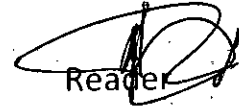
(Mian Muhammad)  
Member(E)



Chairman

28.4.2020

Due to COVID19, the case is adjourned to  
8/7/2020 for the same as before.

  
Reader

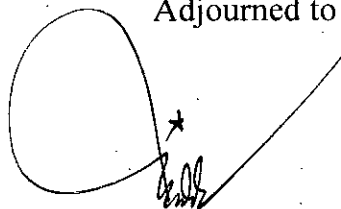
10.07.2020

Junior to counsel for the appellant present.

Addl: AG for respondents present.

Junior to counsel for the appellant seeks adjournment  
as senior counsel is not available today.

Adjourned to 27.08.2020 for arguments before D.B.



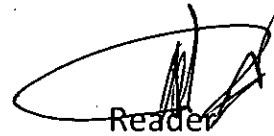
(Mian Muhammad)  
Member(E)



(Rozina Rehman)  
Member(J)

27.08.2020

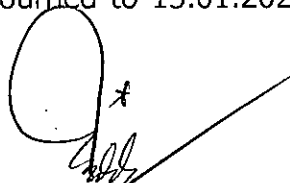
Due to summer vacation, the case is adjourned to  
03.11.2020 for the same as before.

  
Reader

03.11.2020

Junior to counsel for the appellant and Addl. AG for  
the respondents present.

The Bar is observing general strike, therefore, the  
matter is adjourned to 13.01.2021 for hearing before the  
D.B.



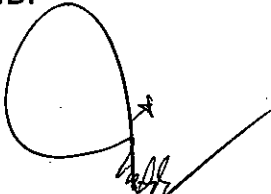
(Mian Muhammad)  
Member



Chairman

13.03.2020

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 28.04.2020 before D.B.



Member



Member



24.09.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Nazir, ADO for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 28.11.2019 for arguments before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

28.11.2019


Due to general strike of the Pakistan Bar Council, the case is adjourned. To come up on 24.01.2020 before D.B. Muhammad Nazeer ADEO representative of the respondent department present.

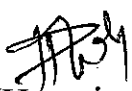
  
Member

  
Member

24.01.2020

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Adjourned to 13.03.2020 for further proceedings/arguments before D.B.

  
(M. Amin Khan Kundi)  
Member

  
(Hussain Shah)  
Member

01.03.2019

Appellant in person and Addl. AG for the respondents present.

Due to general strike on the call of Bar Association instant matter is adjourned to 26.04.2019 before the D.B.

  
Member

  
Chairman

26.04.2019

Due to general strike of the bar, the case is adjourned. To come up for arguments on 08.07.2019 before D.B.

  
Member

  
Member

08.07.2019

Counsel for the appellant and Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment as he has not prepared the case. The case pertains to the year 2014, therefore, last opportunity granted for arguments. Case to come up for arguments on 24.09.2019 before D.B.

  
Member

  
Member

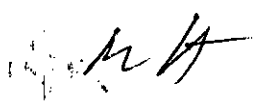
18.10.2018 Learned counsel for the appellant Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 03.12.2018 before D.B.

  
(Hussain Shah)  
Member

  
(Ahmed Hassan)  
Member

03.12.2018 Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 23.01.2019 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

23.01.2019 Uzma Said, Junior counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy before the Hon'ble Peshawar High Court, Peshawar and cannot attend the Tribunal today. Adjourned to 01.03.2019 for arguments before D.B.

  
(HUSSAIN SHAH)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

22.06.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 13.08.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

13.08.2018

Mr. Amjid Khan, Advocate counsel for the appellant present. Mr. Muhammad Riaz Paindakhel, Asst: AG for respondents present. Learned counsel for the appellant stated that other connected appeals are fixed on 04.10.2018, as such the appeal in hand is adjourned to the said date i.e 04.10.2018 for arguments before D.B.

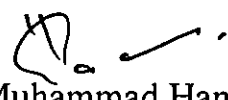
  
Member

  
Chairman

04.10.2018

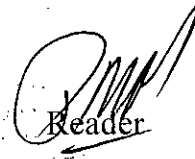
Appellant absent. Learned counsel for appellant absent. Mr. Muhammad Jan learned Deputy District Attorney present. Adjourned. To come up for arguments on 18.10.2018 before D.B.

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member


21.12.2017

Due to Judicial Officer's Conference today, case is adjourned to 07.02.2018 for the same before the D.B.

  
Reader

07.02.2018


Learned counsel for the appellant and Mr. Kabir Ullah Khattak, Learned Additional Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment on the ground that similar nature cases have adjourned today in Bench-I which are fixed on 28.02.2018, therefore the present case may clubbed with that cases. <sup>Adjourned</sup> To come up for arguments on the date fixed before D.B.

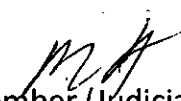
28-2-2018  
  
(Gul Zeb Khan)  
MEMBER

  
(Muhammad Hamid Mughal)  
MEMBER

28.02.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 11.04.2018 before D.B.

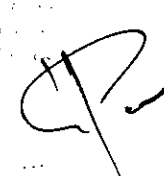
  
Member (Executive)

  
Member (Judicial)

11.04.2018

Learned counsel for the appellant and Mr. Usman Ghani, learned District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 22.06.2018 before D.B.

  
(Ahmad Hassan)  
Member

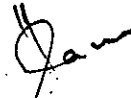
  
(Muhammad Hamid Mughal)  
Member

10.08.2017

Counsel for the appellant present. Mr. Kabirullah Khattak, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 21.09.2017 before D.B.



(Muhammad Amin Khan Kundi)  
Member (J)



(Muhammad Hamid Mughal)  
Member (J)

21.09.2017

Junior to counsel for the appellant present. Learned District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 16.10.2017 before D.B.



Member  
(Executive)



Member  
(Judicial)

16.10.2017

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on ~~21-12-17~~ before D.B.



(Ahmad Hassan)  
Member (E)

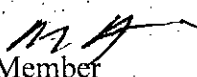


(Muhammad Hamid Mughal)  
Member (J)

19/2014

24.04.2017

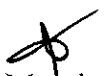
Counsel for the appellant and Assistant AG for the respondents present. Learned counsel for the appellant informed the Tribunal that identical cases are fixed before D.B on 05.05.2017. Adjourned for final hearing alongwith said cases to 05.05.2017 before D.B.

  
Member

  
Chairman

05.05.2017


Counsel for the appellant and Addl. AG for the respondents present. Counsel for the appellant seeks adjournment. To come up for final hearing for 20.06.2017 before D.B.

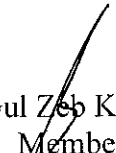
  
Member

  
Chairman

20.06.2017

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 10.08.2017 before D.B.

  
(Muhammad Amin Khan Kundi)  
Member

  
(Gul Zeb Khan)  
Member

21.04.2016

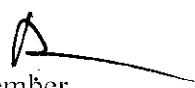
Counsel for the appellant, M/S Khurshid Khan, SO and Hameed-ur-Rehman, AD (lit.) alongwith Mr. Usman Ghani, Sr.GP for respondents present. Learned counsel for the appellant requested for adjournment. Adjourned for arguments to ~~11-8-16~~

  
MEMBER

  
MEMBER

11.08.2016

Agent to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Due to general strike of the Bar learned counsel for the appellant is not in attendance today before the Court, therefore, case is adjourned for arguments to 14-12-16 before D.B.

  
Member

  
Member

14.12.2016

Counsel for the appellant and Asst: AG for respondents present. At the very outset learned Asst: AG requested for adjournment to produce before the Tribunal certain documents. Request accepted. To come up for such documents and arguments on 24.04.2017.

  
(ASHFAQU TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER



09.03.2015

Counsel for the appellant and Mr. Amanullah, Supdt. for respondents No. 1 to 3 and Addl: A.G for all respondents present. Respondent No. 4 requested for adjournment. Last opportunity granted for written reply. To come up for written reply on 11.6.2015 before S.B.

  
Chairman

11.06.2015

Counsel for the appellant, M/S Amanullah, Supdt. for respondent No. 1, Khurshid Khan, SO for respondent No. 3 and Muhabbat Khan, AAO for respondent No. 4 alongwith Addl: A.G for respondents present. Respondent No. 4 failed to file written statement despite last opportunity. No further adjournments are allowed. Respondents No. 1 to 3 have already submitted written reply. The appeal is assigned to D.B for rejoinder and final hearing for 12.11.2015.

  
Chairman

12.11.2015

Clerk to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder submitted on behalf of the appellant which is placed on file. To come up for arguments on

21-4-2016.

  
Member

  
Member

27.06.2014

Counsel for the appellant and AAG with Khursheed Khan, SO and Sharifullah, ADEO for the respondents present and requested for time. To come up for written reply on 14.10.2014.

  
MEMBER

  
MEMBER

14.10.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Sharifullah, ADEO, Mosam Khan, AD and Khursheed Khan, SO for respondents No. 1 to 3 present and reply filed. Fresh notice be issued to respondent No.4. To come up for written reply of respondent No. 4 on 17.12.2014.

  
MEMBER

17.12.2014

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP with Mosam Khan, AD for the official respondents present. None is available on behalf of private respondent No. 4. The Tribunal is incomplete. To come up for the same on 9.3.2015.

  
READER

Appeal No. 19/2014.  
Mst. Munawar Jabeen.

15.04.2014

Appellant with counsel and Mr. Ziaullah, GP for the respondents present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. The appellant file the instant appeal on 06.01.2014 against the order dated 28.11.2012 where the name of the appellant appeared at S.No. 1. The appellant has been performing her duty w.e.f 25.02.2011 regularly and he also filed application for condonation of delay. He requested that the impugned order dated 28.11.2012 of the appellant may be set aside and appellant may be allowed monthly salary w.e.f 25.02.2011 till 30.11.2013 .

The learned Government Pleader while assisting the court was of the view that the appeal is badly time barred before the appellate authority as well as this Tribunal. The appellant was to file the instant appeal on 28.12.2012 instead of 06.01.2014. He while relying on judgment of the Hon'ble Supreme Court of Pakistan as reported on 2011 SCMR 676 (d) that if Departmental Appeal is time barred, the appeal before the Service Tribunal would not be competent; 2012 SCMR 195 that if a Departmental Appeal filed by a Civil Servant is barred by time, no relief can be granted to him even if the appeal before the Service Tribunal is on time and 2010 SCMR 1982 that question of limitation could not be taken lightly. He requested that the instant appeal may be dismissed in limine.

Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments as well as reply/argument on application for condonation of delay on 27.06.2014.

Member

This case be put before the Final Bench for further proceedings.

Chairman

15.04.2014

Appellant deposited  
Process fee & Security  
Rs. 200/- Bank Receipt  
attached with file

4.

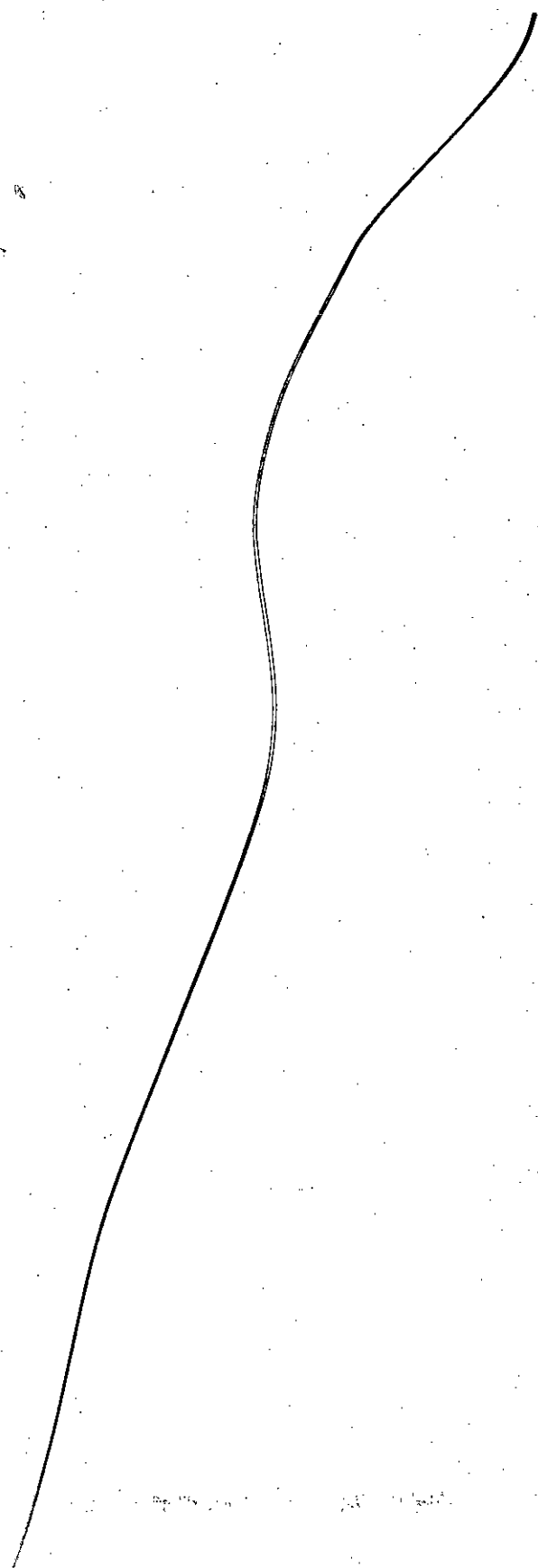
5.

3.

03.03.2014

Counsel for the appellant present. Preliminary arguments to some extent heard. Pre-admission notice be issued to the GP to assist the Tribunal for preliminary hearing on 15.04.2014.

Member



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 19/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06/01/2014	<p>The appeal of Mst. Marwaridah Bibi presented today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	16-1-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>3-3-2014</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

S.A No. 19 /2013/

Marwaridah Bibi

Versus

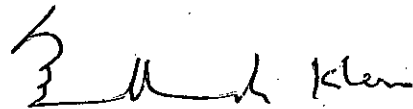
D.E.O & others

**I N D E X**

S.#	Description of Documents	Annex	Page
1.	Memo of Appeal		1-2
2.	Appointment Order, 25.02.2011	"A"	3-4
3.	Charge Report, 26.02.2011	"B"	5
4.	Order of the Letter dated, 14.03.2011	"C"	6
5.	Writ Appeal No. 131 / 2012	"D"	7-9
6.	Order of Tribunal, 16.08.2012	"E"	10-12
7.	Order of D.C.O, 28.11.2012	"F"	13-15
8.	Representation, 25.01.2013	"G"	16-17

Appellant

Through



Dated: 6.01.2014

(Saadullah Khan Marwat)  
Advocate  
21-A Nasir Mension,  
Shoba Bazar, Peshawar.  
Ph: 0300-5872676

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

S.A No. 19 /2012

Marwaridah Bibi D/o Sahib Jan,  
P.S.T, GGPS No. 1, Ghazi Khel,  
Lakki Marwat . . . . . Appellant

Versus

1. District Education Officer (Male), Elementary & Secondary Education, Lakki Marwat. Ex-EDO, Lakki Marwat.
2. Director of Education, Directorate of Elementary & Secondary Education, KPK, Peshawar.
3. Secretary, Government of KPK, Elementary & Secondary Education Department, Peshawar.
4. District Accounts Officer, Lakki Marwat. . . . . Respondents

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17  
06-01-2014

US-4 OR <FCPC> <=> <=>  
**APPEAL AGAINST OFFICE ORDER DATED 28.11.2012, OF RESPONDENT NO. 1, WHEREBY MONTHLY SALARIES OF APPELLANT WERE WITHHELD WITH EFFECT FROM 25.02.2011 TO 30.11.2012 FOR NO LEGAL REASON.**

<=> <=> <=> <=> <=>

**Respectfully Sheweth:**

1. That having the requisite educational qualifications and on advertisement of the posts of Primary School Teachers (PST), appellant was appointed as such vide order dated 25.02.2011 on the recommendations of the Departmental Selection Committee and charge of the assignment in the school was assumed on the said date, i.e, 26.02.2011. (Copies as annex "A" & "B")
2. That appellant was performing her duties in the said school with devotion but respondent No. 1 directed respondent No. 4 through order / letter dated 14.03.2011 not to pay monthly salaries to appellant and if paid, he shall be responsible for the consequences, yet similarly placed teachers were paid salaries by respondent No. 1. (Copy as annex "C")
3. That representation was submitted before the authority for release of the monthly salaries but no response was given, so appellant filed Appeal No. 131 / 2012 before the Hon'ble Tribunal for release of the withheld monthly salaries. The said appeal which came up for hearing on 16.08.2012 and the case was remanded to the then DCO, Lakki Marwat, to decide the representation of appellant within 60 days. (Copies as annex "D" & "E")
4. That after the remand of the case, the then DCO, decided the appeals on 28.11.2012 to make payment of the monthly salaries to some of the teachers while some of the teachers were put in

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6/1/14

hanging position, yet since December, 2012, monthly salaries were released to the teachers including appellant. (Copy as annex "F")

5. That on 20.01.2013, appellant submitted representation before respondent No. 2 for payment of monthly salaries since 25.02.2011 till November 2012, on the ground that salaries have been released to teachers who were appointed after the appointment of appellant but the same met dead response till date. (Copy as annex "G")

Hence this appeal, inter alia, on the following grounds:-

**G R O U N D S :**

- a. That since 25.02.2011, appellant was performing her official duties in the school to the best of her ability without any complaint.
- b. That the then EDOs appointed PST Teachers over and above than the sectioned strength, so such issue took place by withholding monthly salaries of teachers.
- c. That from this fact all the concerned staff of the then EDOs and the teachers concerned are well aware that salaries of those teachers who made payment to the authorities and the then political figures were released but monthly salaries of those teachers who did not succumb to the ill wishes of the then EDOs were withheld.
- d. That appellant was appointed as per the prescribed procedure but withholding of salaries was based on malafide as similarly and equally placed teachers even subsequently appointed were made payment but appellant was ignored for no legal reason, thus discriminated.

It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 28.11.2012 of respondent No. 1 be set aside / modified and monthly salaries withheld since 25.02.2011 till 30.11.2012 be released to appellant, with such other relief as may be deemed proper and just in circumstances of the case.

*Marwanda*  
Appellant

Through

*Saadullah Khan Marwat*

Saadullah Khan Marwat

*Arbab Saif-ul-Kamal*  
Arbab Saif-ul-Kamal

&

*Miss Robina Naz*  
Miss Robina Naz,  
Advocates,

Dated: 6 .01.2014



OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E.O.) & SEC. EDUCATION DEPTT LAKKI MARIWAT  
APPOINTMENT ORDER

Consequent upon the recommendations of District Selection Committee, the appointment of below named candidates are hereby ordered as Primary School Teacher (F) in BPS-07 (3530-190-9230) plus usual allowances as admissible under the rules on regular basis against vacant posts, under provision of Establishment & Administration Department circular bearing No. SOR-6(E&AD)13-01/2005 dated 10-08-2005 on the terms & conditions given below in the interest of public service from the date of taking over charge.

OPEN MERIT

S/No	Name	Father name & address	To be posted at	Remarks
1	Maqwarida Bibi	Sahib Jan R/o Tater Khel	GGPS Ghazi Khel	Court Case
2	Haseena Latif	Latifullah R/o Gaudi Khan Khel	GGPS Haliz Mala Khel	Against vacant post
3	Shehla Mehmood	Mehmood Hashim R/o Tajazai	GGPS Khushdil Adamzai	-do-
4	Najma Naureen	Muhammadullah R/o Pahar Khel Thall	GGPS Wanda Khan Doran	-do-
5	Shakila Qayyum	Abdul Qayyum R/o Lakki	GGPS Mash Habibullah	-do-
6	Romana Gul	Saif Ur Rehman Shah R/o Marmandi	GGPS Qimat Manjiwala	-do-
7	Hussan Pari	Nawaz Khan R/o Gaudi Khan Khel	GGPS Azal Mir Bhattani	-do-
8	Sobia Gul	Gul Badshah R/o Lakki	GGPS shamooni Khattak Maazulalh	-do-
9	Hamidat Gul	Dilawar Khan R/o Gaudi Khan Khel	GGPS Gaudi Qamar Zaman	-do-
10	Robina Shaheen	Falak Naz R/o Lakki	GGPS Langer Khel Hindal	-do-
11	Sumia Rahim Qureshi	Abdur Rahim R/o Darra Pezu	GGPS Sarga Kheru Khel	-do-
12	Shehla Shaheen	Mir zali Khan R/o Dallo Khel	GGPS Wanda Kalan	-do-
13	Kanwal Urooj	Muhammad Ramzan R/o Lakki	GGPS Wanda Khan Doran	-do-
14	Farhat Nisa	Watan Khan R/o Lakki	GGPS Wanda Laguman	-do-
15	Rukhsana Hayat	Hayat Ullah Khan R/o Nar Abu Samand Begu Khel	GGPS Taxtail Mills	-do-
16	Nighat Sltana	Muhammad Bashir R/o UC Nar Abu Samand Begu Khel	GGPS Shakh Quli Khan No 2	-do-
17	Musarat Shaheen	Muhammad Nazir Khan R/O Serai Naurang	GGPS Sher Jan Abad	-do-
18	Zaheen Begum	Naseeb Ali Shah R/O Mama Khel	GGPS Kotka Madat	-do-
19	Farida Bibi	Muhammad Ghulam R/o Abdul Khel	GGPS Jhang Khel No.2	-do-
20	Hajra Musarat	Muhammad Ibrahim R/o Masha Mar or	GGPS Biland Khel	-do-

UNION COUNCIL MERIT

S No	Name	Father name & U/C	To be posted at	Remarks
1	Nadia Parveen	Altaf Khan UC Marmandi Azim R	GGPS Nar Gul Hassan Shah	-do-
2	Romana Solrab	Sohrab Khan UC Serai Naurang	GGPS Kotka Zarwali	-do-

3	Qamar Talat	Hamidullah UC Gandhi Khan Khel	GGPS Amin Jabu Khel	-do-
4	Zubaida	Gul Nawaz Khan UC Baist Khel	GGPS Harama Tala Wakil	-do-
5	Sadia Khan	Kalu Khan UC Ghazni Khel	GGPS Bai Khan Jabu Khel	-do-
6	Musarat Shaheen	Awal Khan UC Kheru Khel Pacca	GGPS Sheri Khel Faqiran	-do-
7	Najma Irum	Amanullah Khan UC Abdul Khel	GGPS Illawal Khel	-do-
8	Sakina Gul	Shah Alam Khan UC Titter Khel	GGPS Tabi Murad	-do-
9	Jamshid Bibi	Ghulam Naei UC Lakki	GGPS Hamid Abad Lakki	-do-
10	Fehmida	Inayatullah Khan UC Isak Khel	GGPS Zer Janu	-do-
11	Fehmida Bibi	Amin Khan U/C Begu Khel	GGPS Toti Abad	-do-
12	Naureen Niazi	Abdul Ghafar U/C Dara Tang	GGPS WandaKhara	-do-
13	Gul Shan Bibi	Jan Gul U/C Bkhal Ahmad Zai	GGPS Khan Khel Mandozai	-do-
14	Shamim Begum	Ahmad Jan U/C Behram Khel	GGPS Khush Dil Adamzai	-do-

**TERMS & CONDITIONS:**

1. Their appointment will be considered without pension and gratuity in terms of section 19 of NWFP Civil Servant Act 1973, as amended vide NWFP Civil Servant (Amendment) Act, 2005 but the candidates already working as permanent Govt. Servants, will under take whether they want to continue the benefits of old service or new, they will however be entitled to contributory provident fund in such a manner and such a rate as may be prescribed by Govt.
2. In case of resignation without notice two months pay/allowance will be refunded to Govt.
3. Their services will be governed by such rules and regulations as may be issued by Govt time to time.
4. In case of misconduct they will be proceeded against the civil servant removal from service (special power) ordinance, 2000 and rules frame from time to time.
5. Charge reports should be submitted to all concerned
6. No TA/DA is allowed
7. The undersigned will check and verify the certificates/degrees of above candidates from concerned Boards/Universities before the drawl of their pay.
8. The appointment order is liable to termination, if the candidate failed to take over charge within 30 days of commencement date.
9. The undersigned reserve the rights of amendment in case of any mistake.
10. They are required to produce health and age certificate from medical superintendent DHQ hospital Lakki Marwat

(Noor Hassan Khan)  
Executive District Officer  
Ele: & Sec: Education Deptt  
Lakki Marwat

Endst No. 2074-79/PST(F)

Dated 25/2/2011

Copy to the

1. Director Ele: & Sec: Education Deptt, Khyber Pukhtunkhwa, Peshawar
2. District Co-ordination Officer Lakki Marwat
3. District Officer female local office
4. District Accounts officer Lakki Marwat
5. Deputy District Officer (F) Primary local office
6. Head Teachress school concerned

*Handwritten signature*

Executive District Officer  
Ele: & Sec: Education Deptt  
Lakki Marwat

5

5 26-2-11

چارج رپورٹ :-

Ann-B

آج مورخہ 26.02.2011 قبل از دوپہر مسماۃ سروریدہ صاحبہ  
دختر صاحبہ جان سنگھ تترخیل کے حوالہ آڈر نمبر (F) PS: 79-2074  
مورخہ 25.02.11 EDO (ایلیٹری انڈسٹری ایجوکیشن)  
ضلع لکیوٹ GPS غازی ضلع سے کیفیت PST اپنے علاقے  
کا چارج سنبھال لیا۔  
لہذا رپورٹ عرض ہے۔

مورخہ 26.02.2011

چارج گرنده  
سروریدہ  
Marwarida

چارج دیکھو

National  
READ & WRITE  
P.S No. : Ghazi Rao  
Lakki Marwat

No 368 Dated 26.02.2011

To D.D.O (F) (Eds) Lakki Marwat

Attest  
by

C

D.Os/DDOs (M/F)

6

Dated 14.03.2011

As you know that appointment orders of various categories have been issued and the appointees are trying to take over their charges in the schools.

A large Numbers of verbal and written complaints have been received in this regard.

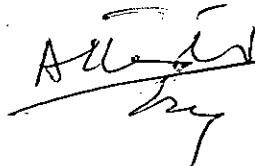
Hence, you are directed to not consider these appointment orders and not submit the source proformas to the District Accounts Officer, Lakki Marwat for starting their pay etc. prior the countersignature of the undersigned till further orders, otherwise, you will personally be responsible for the consequences please.

Noted Sir

Sd/-  
Ayub Khan  
D.O (M)  
14.03.2011

Sd/-  
Norrani Shah  
Dy D.O (M)  
14.03.2011

Sd/-  
(Haji Abdul Malik)  
EDO



Sd/-  
Ruqia Rahim  
Dy DO (F)  
14.03.2011

D

7

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

S.A No. 131 /2012

Marwarida Bibi D/o Sahib Jan, PST,  
GGPS No.1, Ghazi Khel, Lakki Marwat . . . . .Appellant

Versus

1. Executive District Officer,  
Elementary & Secondary Education,  
Lakki Marwat.
2. Director, Elementary & Secondary  
Education, Peshawar.
3. Secretary, Govt. of KPK, Elementary  
& Secondary Education, Peshawar . . . . . Respondents

↔<=>↔<=>↔<=>↔<=>↔

**APPEAL AGAINST OFFICE ORDER NO.  
D.0s/DDOs, DATED 14.03.2011 OF  
R.NO.1 WHEREBY DISTRICT  
ACCOUNTS OFFICE WAS DIRECTED  
NOT TO PAY MONTHLY SALARIES TO  
THE APPELLANT FOR NO LEGAL  
REASON.**

↔<=>↔<=>↔<=>↔<=>↔

**Respectfully Sheweth:**

1. That on 11.05.2010, R.No.1 flouted advertisement in Daily "AAJ" for appointment of PST/CT on merit. (Copy as annex "A")
2. That Test & Interview was conducted and thereafter tentative open merit list of the competing candidates was prepared and after going into the due process of appointment, order of

appointment of appellant was then issued vide order dated 25-2-11. (Copy as annex "B")

3. That after assumption of the charge of the post, appellant started function of performance of the official duties by making attendance in the Register at the school concerned. (Copy as annex "C")
4. That the then EDO was transferred and the successor started functions and then on 14.03.2011, he wrote letter to Accounts Office, Lakki Marwat, to not release monthly salaries of the newly appointed teacher, male and female and if released, he shall be responsible for the consequences. (Copy as annex "D")
5. That by keeping in view the aforesaid facts and circumstances of the case, appellant is though performing his/her official duties but the monthly salaries were stopped for no legal reason, yet some of the teachers have got salaries for some months.
6. That on 19-10-11, appellant submitted representation before the authorities mentioned therein but without any response till date. The impugned order was kept secret from the appellant and he on his own level received the same from the office on 20.09.2011. (Copy as annex "E")

Hence this appeal, inter alia, on the following grounds:-

**GROUND S:-**

- a. That after completion of the due codal formalities, advertisement, test and interview etc. appellant was appointed as such by the competent authority.
- b. That appellant assumed the charge of the said assignment and is performing his/her official duties till date. Some of the appellants got their salaries for 4/5 months.
- c. That appellant was neither served with any notice regarding complaints nor any inquiry was conducted nor he/her was associated with the same nor he/her was given

opportunity of self defence and chance of cross examination.

- d. That R.No.1 (Abdul Malik) is not vested with the power to wrote letter to Accounts Office to hold monthly salaries of appelliant.
- e. That appelliant is not responsible of any transaction, if any, between the two bigs as he/her has no concern with the same.
- f. That no law exists for stoppage of monthly salary of a servant but EDO, E & SE, mis-used his official status by writing letter dated 14.03.2011 to the Accounts Office.
- g. That at present appelliant is serving the department without monthly salaries.
- h. That R.No.1 has again advertised the said posts for recruitment and if such practice was carried out by appointing fresh candidates on the post of appelliants, the same will give rise to multiple litigations.
- i. That by stopping monthly salaries of appelliant, the action of the respondents is based on malafide.

It is, therefore, most humbly prayed that on acceptance of appeal, order dated 14.03.2011 of R.No.1 be set aside and respondents be directed to forth with release the monthly salaries from the date of its stoppage with all benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Dated. .01.2012.

Through

&

Marwaido

Appellant

*Saad Ullah Khan*

Saad Ullah Khan Marwat

*Arbab Saif Ul Kamal*

Arbab Saif Ul Kamal

Advocates.

*Arbab Saif Ul Kamal*  
by

E

10

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 130/2012

Nusrat Shaheen D/O Awal Khan, PST,  
GGPS, Sheri Khel, Faqiraan, Lakki Marwat.

(Appellant)

VERSUS

1. Executive District Officer, Elementary & Secondary Education, Lakki Marwat.
  2. Director, Elementary & Secondary Education, Peshawar.
  3. Secretary, Government of Khyber Pakhtunkhwa, Elementary & Secondary Education, Peshawar.
- (Respondents)

S.No.	Date of hearing	Order/other proceedings with signature of Judge/Magistrate
1	2	3
	16.8.2012	<p>Counsel for the appellant and Mr. Arshad Alam, AGP with Mashai Khan, Litigation Officer and Mirzali Khan, ADO for the respondents present. Arguments heard and record perused.</p> <p>2. Counsel for the appellant argued that the appellant was properly appointed as PST (BPS-7). She has taken over charge of the post. The appellant has not been paid his monthly salary for no legal reasons. He further argued that there are similar nature of cases decided by this Tribunal but he could not produced proper record in this case. However, he filed copy of the judgment by the Hon'ble Civil Judge-IV Lakki Marwat dated 9.3.2012 and 20.3.2012 whereby Mr. Najeebullah and Mr. Azhar Shah respectively were allowed interim release of pay. He did not want to file rejoinder to the written comments filed by the respondents. He requested that the appeal may be accepted as prayed for.</p> <p>3. The respondents contested the appeal and submitted their written comments. The AGP argued that the appellant has no cause of action; that the appellant has not performed her duties, hence no pay; that the appeal is not maintainable in its present form; that the</p>

ATTESTED

EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



DCO Lakki Marwat is the necessary party has not been arrayed as respondent; that the appeal is time barred; and moreover, a departmental enquiry still pending against the appellant and pay of the appellant stopped till decision of enquiry report. He requested that the appeal may be dismissed.

4. The perusal of record would reveal that the impugned order dated 14.3.2011 has been passed by the competent authority i.e. the Executive District Officer, E&SE Lakki Marwat, whereby salary of the appellant has been stopped. The DO/DDO (M/F) has been directed not to consider appointment order of the appellant and not to submit source proforma to the District Accounts Officer for starting her pay. Feeling aggrieved, the appellant filed departmental representation on 19.10.2011 inter-alia before the DCO, Lakki Marwat. Being devolved department and according to the standing instructions, in the instant case, the DCO Lakki Marwat is the appellate authority i.e. the next above the competent authority to whom departmental appeal must be preferred under the Government of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986. Since the departmental appeal has rightly been preferred before the appellate authority but with no response hence the instant appeal before the Service Tribunal on 28.1.2012. In her appeal before the Service Tribunal, the DCO Lakki Marwat, the appellant authority to whom the departmental appeal was preferred has not been made necessary party. Therefore, it would appropriate to refer the case to the DCO Lakki Marwat to first decide the departmental appeal pending before him.

5. In view of the above, the case is remanded to the DCO Lakki Marwat to decide the departmental appeal of the appellant within a reasonable time but not beyond sixty days after the receipt of this order. No order as to costs. File be consigned to the record. Copy of this order sheet be also forwarded to the Secretary E&SE, Director E&SE, Khyber Pakhtunkhwa, Peshawar and EDO, E&SE,

Lakki Marwat.

6. Our this order will also dispose of cases of similar nature in connected Service Appeals No. 131/2012 Marwarida Bibi, No. 132/2012 Gul Marjan, No. 133/2012 Najma Irum, No. 134/2012, Abid Hussain, No. 135/2012 Islam Badshah, No. 136/2012, <sup>Azharr Shah</sup> No. 137/2012 Naimat Ullah, No. 138/2012 Mujeebullah Khan, No. 139/2012 Farhat Ullah, No. 140/2012 Farid Ullah Khan, No. 141/2012 Abdul Wahab, No. 143/2012 Ismat Kosar, No. 144/2012 Gulshan Bibi, No. 145/2012 Baseer Ullah, No. 147/2012 Nasir Mahmood, No. 148/2012 Noor Aslam Khan, No. 149/2012 Sher Daraz Khan, No. 150/2012, Javed Iqbal, No. 151/2012 Rahim Shah, and No. 259/2012 Ihsan Ullah.

ANNOUNCED  
16.8.2012

(NOOR ALI KHAN)  
MEMBER

(SULTAN MAHMOOD KHATTAK)  
MEMBER

Certified to be true copy  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application \_\_\_\_\_  
Number of \_\_\_\_\_  
\_\_\_\_\_ 28.8.2012  
\_\_\_\_\_ 8 \_\_\_\_\_  
\_\_\_\_\_ 8 \_\_\_\_\_  
\_\_\_\_\_ 14.9.2012  
\_\_\_\_\_ 14.9.2012

F

13

28-11-12

**BEFORE THE APPELLATE AUTHORITY/DISTRICT  
COORDINATION OFFICER, LAKKI MARWAT.**

Marwarida Bibi, PST, GGPS, Ghazi Khel, Lakki Marwat..... Appellant.

Versus

Executive Distt. Officer, E&S Education, Lakki Marwat. .... Respondent

**Order.**

This order will dispose of an appeal preferred by Mst. Marwarida Bibi, PST, GGPS Ghazi Khel, Lakki Marwat. Her case has been remanded by the Hon'able Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No.131/2012. In her written appeal the appellant urged for payment of her salary stopped by the Department. The appellant was appointed as PST vide order No.2074-79/PST (F) dated 25.2.2011 by the Executive District Officer, E&S Education, Lakki Marwat in BPS-07 (Rs.350-190-9230).

Counsel for the appellant is present and heard. He stated that the appellant should be paid salary for her services which she rendered on regular basis as PST. He argued that the appellant should not be punished for a mistake of the Department.

Mr. Mir Azam Khan the present EDO (E&S) Education, Lakki Marwat is present and heard. He stated that at the time of advertisement 19 vacancies were available. According to him 80 PSTs were recruited and that 34 PSTs have been adjusted against the vacancies so occurred. He further stated that now sufficient posts are available with the Department to adjust / pay salaries to the left over PSTs including the appellant.

Brief history of the case is that the then Executive District Officer, E&S Education, Lakki Marwat floated advertisement in Daily Newspapers inviting applications for recruitment of PSTs. The advertisement appeared in Daily "AAJ" dated 11.5.2010. According to record at the time of advertisement 19 vacant posts of PSTs were available while the Deptt. issued orders of 80 Female Primary School Teachers (PSTs) in BPS-7.

The Provincial Govt. in E & S Education Department, Khyber Pakhtunkhwa ordered to conduct inquiry into the matter. The Inquiry Committee properly investigated into the appointments and submitted its report to the Provincial Government. The result / action taken on the recommendations of inquiry report is still pending.

On getting instructions from the Provincial Government the then EDO (E&S) Education, Lakki Marwat stopped salaries of all the PSTs vide order dated 14.3.2011. Meanwhile most of the PSTs went to different Courts of Law. They succeeded in getting orders for release of their salaries. Therefore pay was released to 32 PSTs against the posts fallen vacant in the Department.

Later on the Department carried out a thorough check of the documents of the PSTs so appointed. On finding their documents forged or altered the services of 13 PSTs were terminated including one Mst. Shamim Akhtar who also received her pay for the services she rendered. The Department found the 35 PSTs eligible for the posts and put them on waiting list for adjustment / release of pay against the vacancies being occurred.

### Findings:

After going through the record and examination of both the parties it has been construed:-

1. That the Department has made appointments over and above the available vacancies. However, the EDO (E&S) Education was competent to make such appointments.
2. That the Provincial Government of Khyber Pakhtunkhwa has made inquiry into the appointments but the action to be taken on recommendations of the Inquiry Report is still pending.
3. That the then EDO (E&S) Education, Lakki Marwat stopped salaries of the so appointed PSTs vide order dated 14.3.2011.
4. That different Courts of Law have ordered for release of salaries of the PSTs so appointed.
5. That the Khyber Pakhtunkhwa Service Tribunal, Peshawar has also issued orders on 8.6.2012 for release of pay in case of Mst. Nelofar, PST, GGPS, Biland Khel, Lakki Marwat vide Appeal No.1514/2011. Her appointment was part of the appointments made by the Education Department as narrated above.
6. That the Khyber Pakhtunkhwa Service Tribunal Peshawar has remanded 21 petitions of PSTs for decision/disposal of departmental appeals. The service appeals of Mst. Shakiba Bibi, Shazia Naureen, Alishah Bib, Abda Moccen and Farida Bibi are pending with the Tribunal in Service Appeal No.142/2012,343/2012, 684/2012, 146/2012 respectively.
7. That the Department has put the 35 PSTs on waiting list for adjustment and release of pay against the vacancies to be occurred in the Department.

After going through record and statements of both the parties, I am of the opinion that the Department may make speedy adjustments of the already recruited 35 Nos. PSTs (female) against the vacancies as under:-

S.No.	Name of PST	Father's Name	Name of GGPS
1.	Marwarida Bibi.	Sahib Jan.	Ghazi Khel.
2.	Najma Iram.	Amanullah.	Alawal Khel.
3.	Afshan Bibi.	Azim Khan.	Wanda Faqiran, Sheri Khel.
4.	Asia Bano.	Yousaf Khan.	M. Ayaz, B-Ahmadzai.
5.	Ismat Kausar.	Shah Muhammad.	Azim Kala, Mashamansoor.
6.	Abida Moeen.	Moeenullah.	Khan Khel Mastran.
7.	Hasina Latif.	Latifullah.	Hafiz Mala Khel.
8.	Shakila Qayum.	Abdul Qayum.	Mash Habibullah.
9.	Romana Gul.	Saifur Rehman.	Qeenat Manjiwala.
10.	Sobia Gul.	Gul badshah.	Shamoni Khattak Mazullah.
11.	Robina Shaheen.	Falak Naz.	Langer Khel Hindal.
12.	Samia Rahim Qureshi.	Abdur Rahim.	Sarga Kheru Khel.
13.	Shehla Shaheen.	Mir Zali Khan.	Wanda Kalan.
14.	Farhat Nisa.	Watan Khan.	Wanda Laghman.
15.	Nighat Sultana.	Muhammad Bashir	Shakh Quli Khan No.2.
16.	Musarat Shaheen.	Muhammad Nazir Khan.	Sherjan Abad.
17.	Zaheen Begum.	Nasib Ali Shah.	Kotka Madath.
18.	Farida Bibi.	Muhammad Ghulam	Jang Khel No.2
19.	Hajra Musarrat.	Muhammad Ibrahim.	Biland Khel.
20.	Nadia Parveen.	Altaf Khan.	Nar Gul Hassan Shah.
21.	Romana Sohrab.	Sohrab Khan.	Kotka Zarwali Khan.
22.	Sadia Khan.	Kalu Khan.	Bai Khan Jabu Khel.
23.	Bakht Nama.	Feroz Khan.	Kotka Muhammad Nawaz.
24.	Sakina Gul.	Shah Alam Khan.	Tabi Murad.
25.	Shazia Naurcen.	M. Afzal Khan.	Raham Dil, Q-Adamzai.
26.	Shagulta Bibi.	Yunas Khan.	Wanda Banochi.
27.	Abida Parveen.	Abdul Aziz.	Langer Khel Hindal.
28.	Rukhsana Bibi.	Syed Ahmed.	Aghza Ouzha.
29.	Nada Hassan.	Noor Hassan.	Tari Khel No.2.
30.	Amrina Bibi.	Gul Muhammad.	Sargara M. Khan.
31.	Safina Bibi.	Muhammad Shafi.	Ghulam Ali Samti.
32.	Fathma Bibi.	Babri Khan.	Mirshah Bhattani.
33.	Mehnaz Bibi.	Amanullah.	Wanda Arsala.
34.	Zaithoon Bibi.	Umer Khan.	Wanda Aurangzeb.
35.	Shahida Begum.	Muhammad Ghulam.	Kotka Gul Akhtar, Lakki.

The appellants may also wait for release of her salary till her proper adjustment is made against a vacancy. This order will also dispose of departmental appeals lodged by Mst. Najma Iram, Ismat Kausar and Gulshan Bibi, PSTs. Their cases have been remanded by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in service appeal No.133/2012, 143/2012 and 144/2012 respectively.

The pay will be released to the un-adjusted PSTs from the date of occurrence/availability of the vacancies against which they are adjusted on the base of seniority as above etc.

It is to be noted that the decision of this forum will in no way entitle the applicants to the rights of appointment in any way whatsoever in case their appointments were found illegal / in violation of merit as a result of the outcome of the enquiry already conducted by the Provincial Govt.

Announced.  
28/11/2012

(NISARLAHMED)  
District Coordination Officer  
Lakki Marwat.  
(Appellate Authority).

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خدمت جناب ڈائریکٹر صاحب ایلمینٹری اسٹیڈی سٹریٹس ایجوکیشن K.P.K. ایشیا اور  
 ایپل بر خلاف حکم مورخہ 28/11/2012 جاری کردہ DCO صاحب ضلع ملکی اروت  
 جن کی رو سے سائڈ کو ماہوار تنخواہ جات از تاریخ تقرری مورخہ  
 26/02/2011 تا 30/11/2012 (20/20/09) سے شروع کیا گیا ہے۔

جناب عالی۔

1) یہ کہ سائڈ کو مورخہ 26/02/2011 کو بحیثیت PST عملیہ بھرتی کیا گیا تھا،  
 تمام قانونی مراحل کی تکمیل کے بعد۔

2) یہ کہ سائڈ نے 26/02/2011 کو اسماعی مذکورہ کا چارج گورنمنٹ  
 گورنری سکول منبرا غازی خیل ضلع ملکی اروت میں لیا۔ اور آج تک  
 فرائض منصبی سرانجام دیتی رہی ہے۔

3) یہ کہ تنخواہ جات کی ادائیگی نہ ہونے پر اور فرائض منصبی کی  
 سرانجام دہی پر سائڈ نے سروس ٹریبیونل میں ایپل دائر کی تھی، جو  
 مورخہ 16/8/2012 کو جناب DCO صاحب ملکی اروت کو ریٹائر کیا گیا۔  
 تاکہ سائڈ کے حکمانہ ایپل پر 60 دنوں کے اندر فیصلہ  
 صادر فرمائیں۔

4) یہ کہ مورخہ 28/11/2012 کو DCO صاحب نے مختلف اقسام  
 کے فیصلے کیے، جو سائڈ کے علاوہ دیگر عملیات کی بابت بھی  
 کیے گئے، جن میں بہت سوں کی دائرگی ہوئی۔ جبکہ بہت سوں  
 کو لڑکا گیا، جس میں سائڈ بھی شامل ہے۔

تمام فیصلے کی رو سے حکم نے سائل کو دسمبر 2012ء سے  
 یاہوار تنخواہ ادا کیے، جبکہ آگے کا معلوم نہیں کہ کیا ہوگا؟ -  
 (5) سائل کے تقرری نامہ میں بعد کے سیریل نمبرز والی تعینات اور مابعد  
 کی تاریخوں میں تعینات ہونے والی بہت سی تعینات کو تاریخ تقرری  
 سے تنخواہوں کی ادائیگی کی گئی ہے، جبکہ سائل کو قریباً 20/21 مہینوں  
 کی تنخواہوں سے محروم رکھا گیا، جو کہ سراسر نا انصافی اور خلاف قانون  
 ہے اور یہ پہلے آئیے، پہلے پائیے کے مصداق کی طرحیاً خلاف دوزی  
 و امتیاز ہے۔

(6) یہ کہ جوڑہ طریقہ کار اپنانے کے بعد سائل کو قانون کے مطابق بھرتی  
 کیا گیا تھا، اور تاریخ تقرری سے میکر آج تک فراغ منصفی  
 بطریق احسن انجام دیتی رہی ہے۔

(7) یہ کہ کسی کو یاہوار تنخواہ جات سے نوازنا اور کسی کو محروم رکھنا  
 خلاف قانون و واقعات ہے، اور صوبی بر بدینتی ہے۔

استدعا ہے، کہ سائل کو مورخہ 26/02/2011 سے میکر 30/11/2012  
 تک کی یاہوار تنخواہ جات ادا کرنے کا حکم صادر فرمائیں۔  
 سائلہ تا زیست دعا گو رہے گی۔

مورخہ: 20/01/2013

العارضہ

مرویدہ بی بی 5/5 صاحب جان PST، PPS، منبرا غازی خیل ضلع ملکی دوت

مرویدہ بی بی

اللہ

بعد الت چاپ سروس ٹریبونل ضویرہ پشاور

اسیلاٹ

منجانب

ص

بنام

مردہ بی بی

دعویٰ

### باعث شکر یہ اینکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکیل کاروائی متعلقہ آن مقام پشاور کیلئے سعد اڈاس خان سرور سے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے رضی نامہ و تقریر ثالث و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت مذکورہ کرنے اجراء اور وصولی چیک و روپیہ اور بعضی دعویٰ اور درخواست ہر قسم کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری بکطرفہ یا اپیل کی برآمدگی اور مستثنیٰ نیز وارڈ کرنے اپیل نگرانی و نظارتی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی سے واسطے اور وکیل یا مشاور قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا اور صاحب مقدمہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا عدت سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم

العبد

العبد

العبد

11/11  
ارباب سٹیف اکمال  
ایڈووکیٹ

سعد اللہ خان مروت  
ایڈووکیٹ

Mawarida

Dina  
من رویتہ تاز  
ایڈووکیٹ



Before the Service Tribunal KPK, Peshawar.

Marwaridah Bibi vs DEO of others

Application for condonation of delay in filing of  
Service Appeal before this honorable tribunal.

Respectfully Sheweth,

1. That the above mentioned appeal is pending adjudication in this honorable tribunal in which today is fixed for hearing.
2. That the matter pertains to pay/salary which is a continuous/running cause and is not hit by limitation but if this honorable tribunal is of the view that the instant appeal is barred by limitation then in that case the applicant/appellants begs this honorable tribunal to condon the delay ~~the limitation~~ in filing of the appeal if any.

It is therefore most humbly prayed that that on acceptance of said application, the delay in filing of the appeal may kindly be condoned and the appeal may kindly be decided on merits.

Applicant/Appellee  
" " " " " "  
Through Asst. Sd. J. / Advocate

held on 18-6-2003 also. This objection of the respondents does not carry any weight as the above recommendation for supersession of the officers had not been approved by the competent authority i.e. the Prime Minister of Pakistan. Moreover, the appellants had agitated the matter of their illegal supersession by the C.S.B. meeting held on 6-9-2002 which issue was primarily, the subject-matter of the appeals filed by them before this Tribunal. Hence, this objection of the respondents is dismissed, being devoid of merit.

46. In view of the foregoing discussion, we accept the contention of the appellants that they had been superseded in an arbitrary manner and that they had been subsequently promoted on more or less the same service record. By examining the Minutes and the Working Paper for the Central Selection Board meeting held on 6-9-2002, we find that the appellants had possessed better comparative merit as compared to some of the officers recommended for promotion. Even the Central Selection Board meeting held on 6-9-2002, as already pointed out elsewhere in this judgment, was also aware of this fact and had stated so in black and white that the appellants had higher quantification of A.C.Rs. than those officers recommended for promotion. It was indeed an arbitrary exercise of authority on the part of the Central Selection Board who had superseded the appellants for promotion without finding anything adverse in their service record and as pointed out by us in the preceding paragraphs, by failing to examine and evaluate that the appellants definitely enjoyed and possessed better comparative merit vis-a-vis some of the officers recommended for promotion when viewed in the context of quantification of marks achieved in the Overall Quantification of A.C.Rs. (Q.A.) as well as in the columns relating to "Quality and Output of Work" and "Integrity" (Moral as well as Intellectual). The Central Selection Board failed to appreciate that the appellants had scored much better grades in the mandatory professional training at the Pakistan Administration Staff College as compared to some of the officers recommended by them for promotion. Under the circumstances we find that the appellants had been superseded illegally and in violation of the promotion policy during the course of the Central Selection Board meeting held on 6-9-2002. Ordinarily, we would have set aside the proceedings of the Central Selection Board meeting held on 6-9-2002 due to the serious acts of omission and commission discussed above and the gross lapse of respondent No.1 for their failure to ensure separate recording of minutes of the two C.S.B. meetings held on 9-8-2002 and 6-9-2002 (see details in para.18 ante). However, we are refraining from taking the said action as it would open up a Pandora's Box at this belated stage and create other serious administrative complications (discussed in detail in para.18 ante). But it does not mean that the wrong done to the appellants is not to be rectified and they are left to suffer due to no

on their part. As such, we convert the appellants' supersession into a promotion from the same date i.e. 6-9-2002. The respondents are further directed to antedate the promotion of the appellants accordingly and restore their original seniority as it existed prior to 6-9-2002. As a result of this action, the appellants would be entitled to all the back-pay benefits.

47. There shall be no order as to costs. Parties be informed.

J.B.T./28.FST

Appeals accepted.

2007 P L C (C.S.) 1267

[Punjab Service Tribunal]

Before K.B. Abid, Member-II

Mrs. NASREEN AKHTAR

versus

SECRETARY, HEALTH GOVERNMENT OF THE PUNJAB,  
LAHORE and another

Appeal No.2055 of 2006, decided on 11th April, 2007.

Punjab Civil Servants Act (VIII of 1974)---

---S. 8---Punjab Service Tribunals Act (IX of 1974), S.4---Promotion---  
Appeal to Service Tribunal---Appellant who was appointed in BS-14 as  
Charge Nurse in 1981, due to her satisfactory performance was  
promoted as Head Nurse, but despite being senior she was not  
awarded BS-17, whereas her junior was granted said grade---Appellant  
not only was appointed earlier to respondent, but was also promoted in  
BS-16 prior to the respondent for her satisfactory performance---  
Appellant being senior to respondent, was entitled to pro forma  
promotion to BS-17 on the basis of seniority-cum-fitness---Claim of  
appellant to pro forma promotion in BS-17, could not be rejected on the  
ground that her request was time-barred, because in the matter of  
promotion and pay, question of limitation was not applied---Case of  
appellant for promotion in BS-17 was from date of promotion when her  
next junior was promoted---Directions were given to the Authority to  
consider case of appellant for promotion from the date her next junior  
was promoted in BS-17---Date of promotion of appellant in BS-16,  
could be the deciding factor along with well established formula of  
seniority-cum-fitness at the relevant time. [p. 1269] A & B

2002 PLC (C.S.) 1388 ref.

MarwaridaBibi D/O Sahib Jan,PST GGPS No,I Ghazani Khel,Lakki Marwat

.....Appellant.

*Versus*

1. District Education Education Officer (Male) Elementary & Secondary Education Lakki Marwat, Ex-EDO, Lakki Marwat
2. Director Elementary & Secondary Education, KPK Peshawar.
3. Secretary Govt: of Khyber Pakhtunkhwa (E&SE) Deptt: Peshawar.
4. District Accounts officer Lakki Marwat .

..... Respondents.

**Subject:- REPLY/COMMENTS ON BEHALF OF RESPONDENT NO.1,2,&3.**  
**PRELIMINARY OBJECTION:-**

1. The appellant has no cause of action.
2. The appellant has not come to the tribunal with clean hands.
3. The appeal in hand is not maintainable in the present form.
4. The appellant has concealed the facts from the Honourable Tribunal.
5. The appeal in hand is badly time barred.
6. The appeal is liable to be dismissed due to mis-joinder and non-joinder.
7. The appellant is estopped by his own conduct to file instant appeal.

**COMMENTS OF FACTS:-**

1. Para; 1 is correct to the extent of appointment, however the legality of her appointment is dubious and skeptical as at that very time, no vacancy was available.
2. Incorrect. As stated that there was no vacant seat since no question of performance of duty enses.
3. Pertains to record.
4. Correct to the extent of decision of District Coordination Officer Lakki Marwat. As per averments of decision of DCO, the appellant was to be adjusted on vacant post and rewarded/paid from the date of adjustment not appointment. The appellant, accordingly, was adjusted and paid for his service with monthly salaries since adjustment, The said decision got finality and she did't challenge the same in proper legal forum, hence she cannot raise the matter already got finality. She is not deserved at all.

A  
14/1/19

5. Incorrect. The department appeal was barred by time and was not maintainable, hence, the same was not entertained. As per averments of decision of DCO, the appellant was to be adjusted on vacant post and rewarded/paid from the date of adjustment not appointment.

**COMMENTS OF GROUNDS:-**

- a. Incorrect, reply has been given in para 4.  
b. *Incorrect, As replied in facts.*  
c. Incorrect. The appellant has leveled baseless allegation against the authorities. The authorities/respondents have treated the appellant according to law, rules and available record.  
d. Incorrect. As replied in facts the legality of appointment of appellant is dubious due to non availability of vacancy at that time. The appellant was treated according to law and rules.

It is, therefore, requested that the instant appeal may kindly be dismissed.

Dated \_\_\_\_\_/2014

Secretary Govt; of Khyber Pakhtunkhwa  
Elementary & Secondary Education Deptt;  
Khyber Pakhtunkhwa Peshawar

(Resp; No.3)

Director Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

(Resp; No.2)

District Education Officer  
(Female) Lakki Marwat

(Res; No.1)

**COUNTER AFFIDAVIT**

I Mst; Bibi Razia District Education Officer (Female) Lakki Marwat solemnly affirm and declare oath that contents of instant reply /comments are true to the best of my knowledge and belief. Nothing has been concealed from this Honourable Tribunal.

Dated: \_\_\_\_\_/2014.

District Education Officer  
(Female) Lakki Marwat

(5)

BEFORE THE APPELLATE AUTHORITY/DISTRICT  
COORDINATION OFFICER, LAKKI MARWAT.

Marwarida Bibi, PST, GGPS, Ghazi Khel, Lakki Marwat..... Appellant.

Versus

Executive Distt. Officer, E&S Education, Lakki Marwat..... Respondent

Order.

This order will dispose of an appeal preferred by Mst. Marwarida Bibi, PST, GGPS Ghazi Khel, Lakki Marwat. Her case has been remanded by the Hon'able Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No.131/2012. In her written appeal the appellant urged for payment of her salary stopped by the Department. The appellant was appointed as PST vide order No.2074-79/PST (F) dated 25.2.2011 by the Executive District Officer, E&S Education, Lakki Marwat in BPS-07 (Rs.350-190-9230).

Counsel for the appellant is present and heard. He stated that the appellant should be paid salary for her services which she rendered on regular basis as PST. He argued that the appellant should not be punished for a mistake of the Department.

Mr. Mir Azam Khan the present EDO (E&S) Education, Lakki Marwat is present and heard. He stated that at the time of advertisement 19 vacancies were available. According to him 80 PSTs were recruited and that 34 PSTs have been adjusted against the vacancies so occurred. He further stated that now sufficient posts are available with the Department to adjust / pay salaries to the left over PSTs including the appellant.

Brief history of the case is that the then Executive District Officer, E&S Education, Lakki Marwat floated advertisement in Daily Newspapers inviting applications for recruitment of PSTs. The advertisement appeared in Daily "AAJ" dated 11.5.2010. According to record at the time of advertisement 17 vacant posts of PSTs were available while the Deptt. issued orders of 80 Female Primary School Teachers (PSTs) in BPS-7.

The Provincial Govt. in E & S Education Department, Khyber Pakhtunkhwa ordered to conduct inquiry into the matter. The Inquiry Committee properly investigated into the appointments and submitted its report to the Provincial Government. The result / action taken on the recommendations of inquiry report is still pending.

On getting instructions from the Provincial Government the then EDO (E&S) Education, Lakki Marwat stopped salaries of all the PSTs vide order dated 14.3.2011. Meanwhile most of the PSTs went to different Courts of Law. They succeeded in getting orders for release of their salaries. Therefore pay was released to 32 PSTs against the posts fallen vacant in the Department.

Later on the Department carried out a thorough check of the documents of the PSTs so appointed. On finding their documents forged or altered the services of 13 PSTs were terminated including one Mst. Shamim Akhtar who also received her pay for the services she rendered. The Department found the 35 PSTs eligible for the posts and put them on waiting list for adjustment / release of pay against the vacancies being occurred.

### Findings.

After going through the record and examination of both the parties it has been construed:-

1. That the Department has made appointments over and above the available vacancies. However, the EDO (E&S) Education was competent to make such appointments.
2. That the Provincial Government of Khyber Pakhtunkhwa has made inquiry into the appointments but the action to be taken on recommendations of the Inquiry Report is still pending.
3. That the then EDO (E&S) Education, Lakki Marwat stopped salaries of the so appointed PSTs vide order dated 14.3.2011.
4. That different Courts of Law have ordered for release of salaries of the PSTs so appointed.
5. That the Khyber Pakhtunkhwa Service Tribunal, Peshawar has also issued orders on 8.6.2012 for release of pay in case of Mst. Nelofer, PST, GGPS, Biland Khel, Lakki Marwat vide Appeal No.1514/2011. Her appointment was part of the appointments made by the Education Department as narrated above.
6. That the Khyber Pakhtunkhwa Service Tribunal Peshawar has remanded 21 petitions of PSTs for decision/disposal of departmental appeals. The service appeals of Mst. Shakiba Bibi, Shazia Nareen, Aisha Bibi, Abda Noor and Farida Bibi are pending with the Tribunal in Service Appeal No.142/2012, 343/2012, 684/2012, 146/2012 respectively.
7. That the Department has put the 35 PSTs on waiting list for adjustment and release of pay against the vacancies to be occurred in the Department.

After going through record and statements of both the parties, I am of the opinion that the Department may make speedy adjustments of the already recruited 35 Nos. PSTs (female) against the vacancies as under:-

D

S.No.	Name of PST	Father's Name	Name of GGPS
1	Marwarida Bibi	Safib Jan	Ghazi Khel.
2	Najma Iram	Amanullah	Alawal Khel.
3	Afshan Bibi	Azim Khan	Wanda Faqir, Sheri Khel.
4	Asia Bano	Yousaf Khan	M. Ayaz, B-Ahmadzai.
5	Ismat Kausar	Shah Muhammad	Azim Kabi, Mashamansoor.
6	Abida Noeen	Mogeenullah	Khan Khel Mastran.
7	Farina Latif	Latifullah	Haliz Maj. Khel.
8	Sirakha Qayum	Yusuf Qayum	Mash Habibullah.
9	Romana Gul	Sattar Rehman	Geemat Monjwala.
10	Sabia Gul	Gul badshah	Shanoom Khatak Mazulfa.
11	Robina Shaheen	Fahak Naz	Langer Khel Hindal.
12	Samia Rahim Qureshi	Abdur Rahim	Saga Khera, Khel.
13	Sachla Shaheen	Mir Zali Khan	Wanda Kalan.
14	Farhat Nisa	Watan Khan	Wanda Laghman.
15	Nighat Sultana	Muhammad Bashir	Shakh Quli Khan No.2.
16	Musarat-Shaheen	Muhammad Nazir Khan	Sherjan Abad.
17	Zaheen Begum	Nasib Ali Shah	Kotka Madath.
18	Farida Bibi	Muhammad Ghulam	Jang Khel No.2
19	Haira Musarrat	Muhammad Ibrahim	Biland Khel.
20	Nadia Parveen	Altal Khan	Nar Gul Hassan Shah.
21	Romana Sohrab	Sohrab Khan	Kotka Zarwali Khan.
22	Sadia Khan	Kalu Khan	Bai Khan Jabu Khel.
23	Bakht Numa	Feroz Khan	Kotka Muhammad Nawaz.
24	Sakina Gul	Shah Alam Khan	Tabi Merad.
25	Shazia Naureen	M. Afzal Khan	Rahan, Dil, Q-Adamzai.
26	Shagutta Bibi	Yunus Khan	Wanda Banochi.
27	Abida Parveen	Abdu Aziz	Langer Khel Hindal.
28	Rukhsana Bibi	Syed Ahmed	Aghza Qozha.
29	Isaila Hassan	Noor Hassan	Tabi Khel No.2
30	Amrina Bibi	Gul Muhammad	Sugara M. Khan.
31	Safina Bibi	Muhammad Shah	Ghulam Ali Samti.
32	Fathma Bibi	Babri Khan	Marshah Bhitani
33	Mehnaz Bibi	Amanullah	Wanda Arsala.
34	Zaithoon Bibi	Umer Khan	Wanda Aurangzeb.
35	Shahida Begum	Muhammad Ghulam	Kotka Gul Akhtar, Lakki.

The appellant may also wait for release of her salary till her proper adjustment is made against a vacancy. This order will also dispose of departmental appeals lodged by Mst. Najma Iram, Ismat Kausar and Gulshan Bibi, PSTs. Their cases have been remanded by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in service appeal No.133/2012, 143/2012 and 144/2012 respectively.

The pay will be released to the un-adjusted PSTs from the date of occurrence/availability of the vacancies against which they are adjusted on the base of seniority as above etc.

It is to be noted that the decision of this forum will in no way entitle the applicants to the rights of appointment in any way whatsoever in case their appointments were found illegal / in violation of merit as a result of the outcome of the enquiry already conducted by the Provincial Govt.

Announced  
28/11/2012

(NISAR AHMED)  
District Coordination Officer  
Lakki Marwat.  
(Appellate Authority)

BEFORE THE APPELLATE AUTHORITY/DISTRICT COORDINATION OFFICER, LAKKI MARAT.

Mr. Sher Daraz, PST, GPS Dilawar Khan, Titter Khel, Lakki Marwat.....

Appellant.

Versus

Executive District Officer, E&S Education, Lakki Marwat.....

Respondent.

Order.

This order will dispose of an appeal lodged by Mr. Sher Daraz working as PST at Govt. Primary School Dilawar Khan, Titter Khel. The appellant requested for release of his monthly pay. His case was also remanded by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in his Service Appeal No.149/2012. In his written appeal the appellant urged for payment of his salary stopped by the competent authority. He was appointed as PST vide order No. 67-70, dated 17.1.2011 issued by the Executive District Officer, E&S Education, Lakki Marwat.

The appellant is present and heard. He stated that he may be paid his salary for his services which he rendered regularly. He argued that he should not be punished for a mistake of the Department.

Brief history of the case is that the then Executive District Officer, E&S Education, Lakki Marwat floated advertisement in Daily Newspapers inviting applications for recruitment of PSTs. The advertisement appeared in Daily "AAJ" dated 11.5.2010. After advertisement 65 PSTs were recruited.

The then EDO (E&S) Education Lakki Marwat ordered for stoppage of the salaries of the PSTs so recruited vide order dated 14.3.2011. Later on the Provincial Govt. in E&S Education, Khyber Pakhtunkhwa ordered for inquiry into the recruitment process so carried out. The Inquiry Committee submitted its report. The result is still pending.

Later on the salaries of 63 PSTs were released on the decisions of Courts etc. While salaries of 6 PSTs remained stopped including the appellant. Three PSTs went to the Khyber Pakhtunkhwa Service Tribunal, Peshawar and requested for release of their salaries namely M/S. Saifud Din S/O Sirajud Din, Javed Iqbal S/O Akbar Khan and the appellant.

Three others namely M/S Mumtaz Khan S/O Akbar Ali Khan, Hikmatullah S/O Asmatullah, and Noor Majid S/O Mir Sada Khan came up stating that they have also been recruited as PSTs in 2011. The Department could not produce their appointment record. Hence rejected.

The Department floated 2<sup>nd</sup> advertisement in the Daily Newspapers. The advertisement appeared in Daily "AAJ" dated 20.10.2011. Consequently 68 PSTs were recruited.

(Continued P/2)



The EDO, E&S Education, Lakki Marwat gave written statement to the Service Tribunal that posts for the PSTs recruited in pursuance to 1<sup>st</sup> advertisement dated 11.5.2010, have been reserved.

Mr. Mir Azam Khan, EDO, E&S Education Lakki Marwat is present and examined. He stated that the 2<sup>nd</sup> advertisement was made due to the reason that sufficient posts were available and that the Department was suffering due to lack of staff. He stated that one vacant post is available. The appellant can be adjusted against the said post. While rest 5 PSTs will be adjusted soon after availability of vacant posts. When asked he could not tell the exact No. of posts laid vacant at the time of first advertisement.

#### Findings

After going through the record and examination of the parties it has been construed:-

1. That the Department made appointments more than the available vacancies.
2. That the EDO (E&S) Education, Lakki Marwat was competent to appoint PSTs.
3. That the Provincial Govt. has carried out inquiry into the recruitments made in light of 1<sup>st</sup> advertisement dated 11.5.2010. The result is pending.
4. That the then EDO (E&S) Education, Lakki Marwat stopped salaries of the so appointed PSTs vide order 14.3.2011.
5. That the EDO (E&S) Education has given written statement to the Hon'able Khyber Pakhtunkhwa Service Tribunal, Peshawar on 2.7.2012 that posts have been reserved for the appointees of 1<sup>st</sup> advertisement. But only one post is now available in the Department.
6. That different Courts of Law have ordered for release of salaries of PSTs so appointed in pursuance to 1<sup>st</sup> Advertisement dated 11.5.2010.
7. That the Khyber Pakhtunkhwa Service Tribunal, Peshawar has also issued orders on 8.6.2012 for release of pay in case of Mst. Melofar, PST, GGPS Billand Khel Lakki Marwat vide appeal No.1514/2011 appointed with others during the period.
8. That the Department has released pay to all the PSTs so recruited except 6 including the appellant. The Department has put them on the waiting list for adjustment/release of pay. Three cases are also pending in the Khyber Pakhtunkhwa Service Tribunal, Peshawar now remanded to this office for decision of Departmental Appeals.

After going through the available record and examination of both the parties, I am of the opinion that the Department may release pay of the appellant against the vacant post. Rest of the following PSTs may be released their pay as and when vacant posts occur in the Department. Their names are listed below along the appellant:-

(Continued P/3)

(Continued P/2)

S.No.	Name of PST	Father's Name	Name of GPS
1.	Sher Daraz.	Gul Nawaz	Dilawar Khan, Titter Khel.
2.	Javed Iqbal	Akbar Khan.	Allawal Khel.
3.	Saifud Din.	Siraj-ud-Din.	Dilawar Khel, Titter Khel.
4.	Hidayatullah.	Sherin Jan.	Alamsha Khel.
5.	Burhandullah.	Raza Khan.	Zaffar Abad.
6.	Matecullah Shah.	Noor Ali Khan.	Sheikh Mansoor No.2.

This order will also dispose of Departmental Appeals lodged by M/S Sher Daraz, Javed Iqbal, Saifud Din, Gul Marjan, Abid Hussain, Islam Badshah, Azhar Shah, Niamaullah, Najibullah, Farhatullah, Faridullah, Abdul Wahab, Basirullah, Nasir Mehmood, Noor Aslam, Rahim Shah, Ihsanullah and Hidayatullah, on the grounds that they are already enjoying their salaries. Their cases have been remanded by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in service appeal No.149/2012, 150/2012, 683/2012, 132/2012, 134/2012, 135/2012, 136/2012, 137/2012, 138/2012, 139/2012, 140/2012, 141/2012, 145/2012, 147/2012, 148/2012, 151/2012, 259/2012 and 258/2012.

The pay of the un-adjusted PSTs will be released from the date of Occurrence/availability of the vacancies against which they are adjusted on the basis of seniority etc.

It is to be noted that the decision of this forum will in no way entitle the applicants to the right of appointment in any way whatsoever in case their appointments were found illegal / in violation of merit as a result of the outcome of the Enquiry already conducted by the Provincial Government.

Announced  
30/11/2012

(NISAR AHMED)  
District Coordination Officer  
Lakki Marwat.  
(Appellate Authority)

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR**

S.A No. 19/2014

Marwarida Bibi

Versus

DEO & Others

**REJOINDER**

**Respectfully Sheweth,**

**PRELIMINARY OBJECTION.**

All the 05 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has not come to the Hon'ble Court with clean hands, concealment of important facts, has no cause of action, appeal is not maintainable and time barred.

**ON FACTS**

- 1-4. Not commented upon by the respondents, so the paras of the appeal are admitted correct by them..
5. Not correct. Appellant was appointed as PST in the prescribed manner and enquiry, if any, was perhaps initiated against the authority and appellant has no concern with the same. The representation was not meted out as per law, rules and policy.

**GROUND S:**

All the grounds of the appeal are correct and legal while that of the reply are incorrect and illegal. Appellant is performing her official duties in the school since 25.02.2011 without any complaint.

Similarly appointed teachers were awarded with monthly salaries by tainting objections like complaint

against appellant but those similar teachers whose succumbed in to the ill wishes of the then EDO/DEO were made payment of salaries and those who refused like appellant were compelled to litigation. Appellant has no concern with any enquiry because no adverse action was done by him. No rules exists to stop monthly salary of a servant who is performing duties and was appointed as per the prescribed manner.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.

Through

Dated: 12.11.2015

Appellant

Saadullah Khan Marwat

Arbab Saif Ul Kamal

Miss Rubina Naz  
Advocates,

### AFFIDAVIT

I, Marwarida Bibi, Appellant do hereby solemnly affirm and declare that contents of the **Appeal & replication** are true and correct to the best of my knowledge and belief while that of the reply of the respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.

//

DEPONENT

Sh. Amar Maftoon and Nasir Hussain Shah Appellant.

Ejaz Farrukh, Senior Litigation Officer on behalf of Respondent

No.1.

Date of hearing: 11th April, 2007.

### JUDGMENT

K.B. ABID (MEMBER-II).--- This appeal has been filed by Nasreen Akhtar Nursing Tutor, General Nursing School Jeharabad with the plea that she may be granted pro forma promotion w.e.f. 2-10-1997, the date on which her junior/respondent No.2 Mrs. Saeeda Bano was promoted in BS-17 and seniority may be given accordingly.

2. Briefly stating, the appellant was appointed in BS-14 as Charge Nurse on 16-6-1981. Due to satisfactory performance, she was promoted as Head Nurse in BS-16 on 29-3-1993. The appellant being senior was not awarded BS-17 and the departmental representation was filed before the Appellate Authority for pro forma promotion. In this connection service appeal was also filed in Punjab Service Tribunal. After the judgment of the Punjab Service Tribunal in Appeal No.2288 of 2000 dated 14-11-2001 the Head Department has granted the pro forma promotion to the appellant w.e.f. 28-6-2000 vide order No.SO(NC)5-2/03 dated 28-6-2004. The claim of the appellant remained unattended because she was entitled for promotion w.e.f. 2-10-1997. In this connection another representation was filed before the departmental authorities which was not decided within the mandatory period of 90 days, hence this service appeal before Punjab Service Tribunal.

3. The claim of the appellant is that she is senior to respondent No.2 because the date of appointment of the appellant is 16-6-1981 and the date of appointment of respondent No.2 is 6-6-1984. The appellant was promoted to BS-16 on 29-3-1993 whereas respondent No.2 was promoted in BS-16 on 16-10-1993. In view of these facts, the appellant is entitled for promotion in BS-17 from the date on which her next junior was promoted.

4. The appeal has strongly been opposed by the respondents and explained that in previous Appeal No.2288 of 2000, the directions were given by Punjab Service Tribunal to Secretary Health to consider the request of appellant on merit. Consequent to the decision of Punjab Service Tribunal, pro forma promotion was awarded to the appellant w.e.f. 28-6-2000. She was required to file representation against this pro forma promotion order within the period of 60 days before the Appellate Authority but she never had filed objection. The present appeal is not

maintainable. In the previous appeal, the appellant had not claimed seniority/promotion from the date Mrs. Saeeda Bano was promoted. The copy of seniority list attached by the appellant with this service appeal is unreliable.

5. In Tribunal proceedings, the counsel for the appellant has furnished the seniority list of Deputy Nursing Superintendent/Nursing Instructors (BS-17) as stood on 22-11-2006. The seniority list has been notified by the department on 18-12-2006. As per this list, the name of respondent No.2 stands at Serial No.172 whereas the name of the appellant stands at Serial No.162. In this list the date of appointment of appellant has been shown as 16-6-1981 whereas the date of appointment of respondent No.2 shown as 1-6-1984 as charge Nurse. From this seniority list it is clearly mentioned that the appellant was senior as Charge Nurse as compared with respondent No.2. Similarly the date of promotion of the appellant in BS-16 is 29-3-1993 whereas the date of promotion of respondent No.2 is 16-10-1993. Counsel for the appellant in this connection has submitted another copy of seniority list circulated vide letter No.SO(C-1)2-1/95(6), dated 23-7-1996. This notification indicates that the appellant was promoted in BS-16 on 29-3-1993. The department in Notification No.S.O.(NC)-786/05, dated 18-12-2006 has wrongly mentioned the date of promotion in BS-16 of appellant as 8-5-2001. It needs to be rectified. The direction of Punjab Service Tribunal in Appeal No.2288 of 2000 dated 14-11-2001 is very much clear. The respondent No.1 Secretary Health was directed to grant the pro forma promotion to the appellant on merit. This means that the pro forma promotion was to be given on the basis of seniority-cum-fitness. The claim of the respondents that request of appellant is time-barred, is not maintainable because in the matter of promotion and pay, the question of limitation is not applied. In this connection reference is given to Punjab Service Tribunal judgment reported in 2002 FLC (C.S.) 1388.

6. On the basis of record, the case of appellant for promotion in BS-17 from the date of promotion of next her junior is proved. Directions are given to respondent Secretary Health to consider the case of the appellant for promotion to BS-17 from the date her next junior was promoted in BS-17. The date of promotion of the appellant in BS-16 (29-3-1993) would be the deciding factor along with the well-established formula of seniority-cum-fitness at that relevant time. With these orders, the appeal is disposed of.

H.B.T./50/PST

Order accordingly.

Before the Service Tribunal KPR, Peshawar.

Marwaridah Bibi vs DEO of others

Application for condonation of delay in filing of  
Service Appeal before this honorable tribunal.

Respectfully Sheweth,

1. That the above mentioned appeal is pending adjudication  
in this honorable tribunal in which today is fixed  
for hearing.
2. That the matter pertains to pay/salary which is  
a continuous/running cause and is not hit by  
limitation but if this honorable tribunal is  
of the view that the Instance appeal is barred  
by limitation then in that case the applicant/  
appellant begs this honorable tribunal to condon the  
delay ~~the limitation~~ in filing of the appeal if any.

It is therefore most humbly prayed that  
that on acceptance of this application, the delay  
in filing of the appeal may kindly be  
condon and the appeal may kindly be decided  
on merits.

Applicant/Appellant  
through " Abdul Ghafoor / Abdul Karim /  
Advocate

Before the Service Tribunal ICPR, Peshawar.

Marwarida Bibi vs D.E.O. of others

Application for condonation of delay in filing of  
Service Appeal before this honorable tribunal.

Respectfully Sheweth,

1. That the above mentioned appeal is pending adjudication  
in this honorable tribunal in which today is fixed  
for hearing.
2. That the matter pertains to pay/delay which is  
a continuous/running cause and is not hit by  
limitation but if this honorable tribunal is  
of the view that the instant appeal is barred  
by limitation then in that case the applicant/  
appellant begs this honorable tribunal to condon the  
delay ~~the~~ limitation in filing of the appeal if any.

It is therefore most humbly prayed that  
that on acceptance of this application, the delay  
in filing of the appeal may kindly be  
condon and the appeal may kindly be decided  
on merits.

Applicant/Appellant  
through Mr. Saiful Karim  
Advocate

Before the Service Tribunal KPK, Peshawar.

Marwaridah Bibi vs DEO of others.

Application for condonation of delay in filing of  
Service Appeal before this honorable tribunal.

Respectfully Sheweth,

1. That the above mentioned appeal is pending adjudication  
in this honorable tribunal in which today is fixed  
for hearing.

2. That the matter pertains to pay/salary which is  
a continuous/running cause and is not hit by  
limitation but if this honorable tribunal is  
of the view that the instant appeal is barred  
by limitation then in that case the applicant/  
appellant begs this honorable tribunal to condon the  
delay ~~the limitation~~ in filing of the appeal if any.

It is therefore most humbly prayed that  
that on acceptance of this application, the delay  
in filing of the appeal may kindly be  
condon and the appeal may kindly be decided  
on merits.

Applicant / Appellant  
through "Asst. Secy. Govt. of Punjab"  
Advoc.



Before the Service Tribunal ICPR, Peshawar.

Marwaridah Bibi vs DEO of others

Application for condonation of delay in filing of  
Service Appeal before this honorable tribunal.

Respectfully Sheweth,

- Application - 2
1. That the above mentioned appeal is pending adjudication in this honorable tribunal in which today is fixed for hearing.
  2. That the matter pertains to pay/salary which is a continuous/running cause and is not hit by limitation but if this honorable tribunal is of the view that the instant appeal is barred by limitation then in that case the applicant/appellant begs this honorable tribunal to condon the delay ~~the~~ limitation in filing of the appeal if any.

It is therefore most humbly prayed that that on acceptance of the application, the delay in filing of the appeal may kindly be condoned and the appeal may kindly be decided on merits.

Applicant/Appellant  
through "Abdus Sufiul Karim"  
Advocate