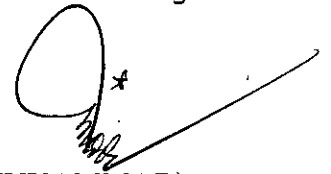


25.04.2022

None for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Faheem Khan, Litigation Assistant and Mr. M. Faizan, SO for respondents present.

As is evident from previous order sheet dated 28.03.2022 the august Supreme Court of Pakistan has suspended the judgement of Service Tribunal. A copy of which is placed on file and already provided to the learned counsel for the petitioner. The case is therefore, to be adjourned Sine-die till final outcome of the Civil Appeal in august Supreme Court of Pakistan. Consign.



(MIAN MUHAMMAD)  
MEMBER(E)

07.02.2022

The Tribunal is non-functional, therefore, the case is adjourned to 28.03.2022 before S.B for the same.

  
Reader

28.03.2022

Petitioner alongwith her counsel present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

Representative of the respondent-department produced a copy of the order of august Supreme Court of Pakistan dated 11.01.2022 whereby CPLA of the Provincial Government has been admitted and operation of the impugned judgement of Khyber Pakhtunkhwa Service Tribunal dated 12.03.2020 stands suspended. The same is placed on file. A copy of the order is also handed over to the petitioner. Adjourned. To come up for further proceedings on 25.04.2022 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER(E)

01.11.2021

Counsel for the petitioner and Mr. Kabirullah Khattak, Addl. AG alongwith Syed Nasirud Din Shah, Asstt. for the respondents present.

Representatives of the respondents state that against the judgment under execution CPLA has been filed before the august Supreme Court of Pakistan. If the respondents fail to get the judgment suspended as a matter of interim relief till next date, they will be under obligation to implement the judgment under execution subject to decision of CPLA and submit compliance report on next date, positively. Case to come up on 16.12.2021 before the S.B.

  
Chairman

16.12.2021

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Faheem Ullah, SO for respondents present.

Learned AAG requested for a adjournment to submit implementation report on the next date positively. Adjourned but as a last chance. To come up for further proceedings on 07.02.2021 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Faheem Ullah, SO for respondents present.

Learned AAG requested for a adjournment to submit implementation report on the next date positively. Adjourned but as a last chance. To come up for further proceedings on 07.02.2021 before S.B.

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Faheem Ullah, SO for respondents present.




Learned AAG requested for a adjournment to submit implementation report on the next date positively. Adjourned but as a last chance. To come up for further proceedings on 07.02.2021 before S.B.

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Faheem Ullah, SO for respondents present.

Learned AAG requested for a adjournment to submit implementation report on the next date positively. Adjourned but as a last chance. To come up for further proceedings on 07.02.2021 before S.B.

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Execution Petition No. 154 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	30.08.2021	<p>The execution petition of Mst. Nargis jamal submitted today by Naila Jan Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-	24.09.2021	<p>This execution petition be put up before S. Bench at Peshawar on <u>24/09/21</u>.</p> <p> CHAIRMAN</p> <p>Counsel for the petitioner present. Notices be issued to the respondents. To come up for implementation report on 01.11.2021 before S.B.</p> <p> Chairman</p>





imposition of minor penalty, plea of the appellant that she had to travel abroad on different intervals for medical treatment of herself and her daughter and the fact that timely action was not taken against the appellant, for the purpose of safe administration of justice, the punishment of compulsory retirement from service awarded to the appellant, is modified and converted into reduction to lower substantive post i.e. from BS-19 to BS-18 for a period of four years. Resultantly the appellant reinstated into service. And the intervening period shall be treated as leave without pay.

3. That this Honourable Tribunal issued copies of the said judgment to the respondents as well the petitioner/appellant submitted the same to the respondents within time, but the respondents did not comply with the directions of this Honourable Tribunal.
4. That the appellant/petitioner approached respondents department time and again for the implementation of judgment of this Hon'ble tribunal but fruitless, hence this application for implementation of judgment.


3


**It is, therefore, most humbly prayed that on acceptance of this Execution Petition, the order/judgment dated 12.03.2020 may kindly be implemented.**

**Any other remedy which deem fit to this Hon'ble tribunal may kindly be granted to the appellant/petitioner.**

Dated:- 30-Aug-2020

Through:-

  
Petitioner/Appellant

  
Naila Jan  
Advocate, High court  
Peshawar.



4

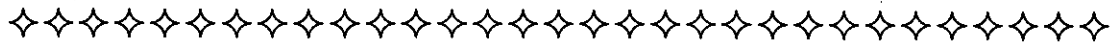
**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,**  
**PESHAWAR.**

CM No:- \_\_\_\_\_/2021  
In  
Service Appeal No:- **332/2019**

Mst. Nargis Jamal  
..... Petitioner/Appellant


**Versus**

Government of Khyber Pakhtunkhwa through Chief Secretary Khyber  
Pakhtunkhwa, & others  
..... Respondents



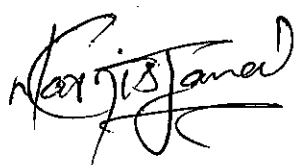
**AFFIDAVIT**

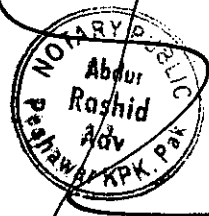
*I, Mst. Nargis Jamal (petitioner/appellant), do hereby solemnly affirm and declare on oath that the contents of this accompanying **Execution Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.*

Identified by  


Naila Jan  
Advocate, High court  
Peshawar.

DEPONENT  
CNIC No:-



**ATTESTED**  


30 AUG 2021



A  
Amex 6



Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**Service Appeal No. 332/2019**

Date of Institution ..... 29.03.2019  
Date of Decision ..... 12.03.2020

Mst. Nargis Jamal.

Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
  2. The Secretary (E&SE) Khyber Pakhtunkhwa Peshawar.
  3. The Director (E&SE) Khyber Pakhtunkhwa Peshawar.
- Respondents

12.03.2020

Mr. Muhammad Hamid Mughal ----- Member(J)  
Mr. Hussain Shah ----- Member(E)

**JUDGMENT**

**MUHAMMAD HAMID MUGHAL, MEMBER: Appellant**

with counsel present. Mr. Kabir Ullah Khattak learned Additional Advocate General present.

ATTESTED

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

2. The appellant has filed the present service appeal against the order dated 06.09.2018 whereby major penalty of compulsory retirement from service was imposed upon her and against the order dated 26.02.2019 through which it was conveyed to the appellant that her departmental appeal for her



  
**ATTESTED**

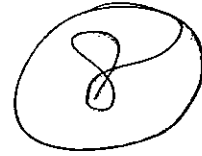
reinstatement in service and back benefits has been regretted.

3. Learned counsel for the appellant argued that the appellant joined the Education Department as Drawing Mistress in the year 1992 and then after qualifying the Provincial Public Service Commission in the year 2002, she was appointed as Headmistress (BS-17); that due to excellent performance the appellant was promoted to BS-18 in the year 2014; that the appellant was promoted to BS-19 in the year 2017. Further argued that the appellant has gone abroad for several times for participating in short term training program and acquiring higher education and in this respect proper NOC was given to her by the department and leave was also sanctioned in different intervals; that the appellant did not obey the illegal orders of the MPAs and hi-ups. therefore problems were created for her and a charge sheet was served upon her on the baseless allegation that she travelled abroad several times without proper approval of the competent authority; that the appellant submitted detailed reply to the charge sheet while denying the allegation ;that inquiry was conducted against the appellant on the above mentioned allegation; that the inquiry committee gave its recommendation that keeping in view the regrettable health condition of her daughter and herself, lenient view may be taken and minor penalty may be imposed upon the appellant; that Show Cause Notice issued to the appellant was also duly replied. Further argued that the authority without observing the recommendation of the inquiry committee of minor penalty...

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12.3.2010

**ATTESTED**

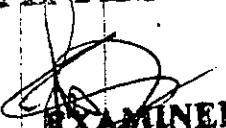
  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar


  
**ATTESTED**

punishment of compulsory retirement to the appellant vide impugned order dated 06.09.2018; that the departmental appeal filed by the appellant was regretted vide order dated 26.02.2019 hence the present service appeal. Further argued that the impugned orders are against law, facts and norms of justice; that the inquiry committee recommended minor punishment but major punishment of compulsory retirement was imposed upon the appellant; that the appellant had to go abroad for treatment of herself and her daughter and the appellant informed her hi-ups within time about her going abroad and also applied for leave but despite that the appellant was punished; that the appellant has good ACRs throughout; that the main reason for punishment is that the appellant did not obey the illegal orders of MPAs and her hi-ups; that the penalty of compulsory retirement from service is otherwise harsh and excessive; that the appellant has been condemned unheard and has not been treated in accordance with law and rules.

4. As against that learned AAG argued that the appellant has travelled abroad frequently but without prior approval of the competent authority ; that the IBMS Travelling History Report of the appellant is a sufficient proof that she travelled abroad many times; that during the inquiry proceeding, the appellant could not produce approval of Ex-Pakistan Leave and failed to produce any documentary evidence in support of her verbal claim that she obtained NOCs whenever she had gone and stayed abroad. Further argued that the appellant also failed to provide a

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2.3.2020

**ATTESTED**
  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar


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**ATTESTED**

copy of her valid passport to the inquiry committee to ascertain that how she travelled without NOC as in case of government servant proceeding abroad, NOC from the concerned department is required. otherwise, the Immigration authority disallows the passenger to travel abroad and that the IBMS report also leaves an impression that the appellant might be holding dual nationality. Further argued that during the course of inquiry, another irregularity came into notice that when the appellant was abroad, her ACRs were drawl by her reporting officers which resulted into her undeserving promotion to BS-18 and BS-19. Further argued that all the codal formalities were duly fulfilled; that the inquiry committee submitted its report to the competent authority wherein the accused/appellant was found guilty of misconduct hence Show Cause Notice was served upon the appellant and was duly replied by her in an unsatisfactory and evasive form; that the competent authority after considering the charges, evidence on record, inquiry report, explanation of the appellant in response to charge sheet/statement of allegation, Show Cause Notice and personal hearing granted to her by the Secretary Zakat Usher, Social Welfare, Special Education & Women Empowerment Department Khyber Pakhtunkhwa on behalf of Chief Minister, was of the view that charges leveled against the appellant have been proved hence the appellant was awarded penalty of compulsory retirement from service; that the appellant has developed self-made story to cover up her illegal

3.10.10

**ATTESTED**

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

(10)  
**ATTESTED**

5. Arguments heard. File perused.

6. IBMS Travel History Report of the appellant also reproduced by the inquiry committee in its inquiry report is as under:

Event/date	F/No.	Entry/Exit	Location
13 <sup>th</sup> April 2010	PK030	Arriving	PIA, Peshawar
29 <sup>th</sup> April 2010	PK001	Departing	Jinnah International Airport, Karachi
1 <sup>st</sup> Feb. 2011	QR399	Departing	Benazir Bhutto International Airport
20 <sup>th</sup> Sep 2011	EK 888	Arriving	Peshawar International Airport
11 <sup>th</sup> Oct 2011	ED 837	Departing	Peshawar International Airport
10 <sup>th</sup> Feb 2012	SY 789	Departing	Peshawar International Airport
23 <sup>rd</sup> Sep 2013	QR 349	Departing	Peshawar International Airport
30 <sup>th</sup> Sep 2013	QR 347	Departing	Peshawar International Airport
6 <sup>th</sup> March 2014	EK 036	Arriving	Peshawar International Airport
05 <sup>th</sup> May, 2014	GQ 555	Departing	Peshawar International Airport
21 <sup>st</sup> May, 2014	GQ 565	Arriving	Peshawar International Airport
27 <sup>th</sup> May 2014	FD 637	Departing	Peshawar International Airport
2 <sup>nd</sup> Aug, 2014	GF 786	Arriving	Peshawar International Airport
07 <sup>th</sup> Sep 2014	GF 787	Departing	Peshawar International Airport
11 <sup>th</sup> Nov, 2014	QR 014	Arriving	Benazir Bhutto International Airport Islamabad
30 <sup>th</sup> Dec, 2014	QR 603	Departing	Jinnah International Airport Karachi
29 Jan, 2015	QR 614	Arriving	Benazir International Airport Islamabad
03 <sup>rd</sup> March	QR 617	Departing	Benazir
06 <sup>th</sup> April, 2015	QR 608	Arriving	Peshawar International Airport
7 <sup>th</sup> May, 2015	QR 809	Departing	Peshawar International Airport
04 <sup>th</sup> June 2015	QR 608	Arriving	Peshawar International Airport
15 <sup>th</sup> June, 2015	QR 609	Arriving	Peshawar International Airport
1 <sup>st</sup> Aug 2015	SV 888	Arriving	Benazir Bhutto International Airport, Islamabad
7 <sup>th</sup> Sep 2015	SV 725	Departing	Benazir Bhutto International Airport, Islamabad
12 <sup>th</sup> Oct 2015	PK788	Arriving	Jinnah International Airport Karachi
15 <sup>th</sup> Nov, 2015	PK 787	Departing	Jinnah International Airport Karachi
12 <sup>th</sup> Dec 2015	QR 610	Arriving	Peshawar International Airport
28 <sup>th</sup> Feb, 2016	PK 895	Arriving	Peshawar International Airport

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

12.3.2020

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ATTESTED

27 Mar. 2016	GF 785	Departing	Peshawar International Airport
25 <sup>th</sup> April. 2016	PK 788	Arriving	Jinnah International Airport, Karachi

7. The travel history of the appellant is undisputed one. In the inquiry report, the inquiry committee while considering the mentioned facts and documentary proof on record, held that the appellant availed frequent leaves without prior approval of competent authorities. The inquiry committee held the appellant liable for imposition of penalty however recommended minor penalty in view of the regrettable health condition of the appellant and her daughter.

8. Before this Tribunal too, the appellant could not produce documentary evidence in the shape of approval of Ex-Pakistan leaves/NOC to justify her frequent travelling abroad as mentioned in her IBMS Travel History Report. The appellant could not therefore make out a case in her favor. This Tribunal also noted with concern that the appellant also managed to secure accelerated promotion to BS-19 despite her frequent traveling and stay abroad. It appeared that the appellant belongs to Teaching Cadre but she was also assigned the posts meant for Management Cadre.

9. In view of the recommendation of the inquiry committee for imposition of minor penalty, plea of the appellant that she had to travel abroad on different intervals for medical treatment of herself and her daughter and the fact that timely action was not taken against the appellant, for the purpose of safe

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

12.3.2020



12

administration of justice, the punishment of compulsory retirement from service awarded to the appellant, is modified and converted into reduction to lower substantive post i.e. from BS-19 to BS-18 for a period of four years. Resultantly the appellant is reinstated into service. The intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

*[Signature]*

(Hussain Shah)  
Member

*[Signature]*

(Muhammad Hamid Mughal)  
Member

ANNOUNCED  
12.03.2020

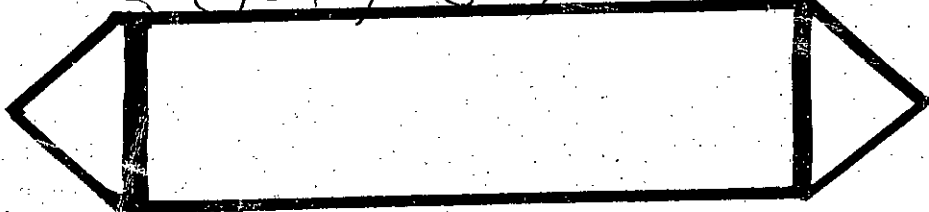
**Certified to be true copy**

*[Signature]*  
**MR. JAVED**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 01-06-2020  
Number of Words 2800  
Copying Fee 30-00  
Urgent 4-00  
Total 34-00  
Name of Copyist [Signature]  
Date of Completion of Copy 01-06-2020  
Date of Delivery of Copy 01-06-2020

*[Signature]*  
**ATTESTED**

# بعدالت لیسٹروس لٹریچر سوشل سٹاؤر



Petitioner 2021 پنجاب  
 ڈسٹریکٹ بینام تھم

موزخہ  
 مقدمہ  
 دعویٰ  
 جرم

## باعث تحریر آنکے

مقدمہ مشدرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
 آن مقام کیلیے سائنل جانے ایہ کے ہو گیا  
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
 وکیل صاحب کو راضی نامہ کرنے و تقریر ثالثہ فیصلہ بر حلف دینے جو اب وہی اور اقبال دعویٰ اور  
 بسورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا یکطرفہ یا اپیل کی برآمدگی اور منسوخ  
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بہائے تقرر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو بھی ذہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ  
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانتا تو اسے مقدمہ کے سبب سے وہوگا۔  
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

*(Handwritten signature/initials)*  
 نرسا

الرقوم 30 ماہ ۲ 2021

واہ العیہ

مقام سٹاؤر کے لئے منظور ہے۔

Attested  
 and  
 Accepted *(Signature)*  
*(Signature)*

70

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

Present:  
MR. JUSTICE GULZAR AHMED, HCJ  
MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL  
MR. JUSTICE MUHAMMAD ALI MAZHAR

Civil Petition No. 390-P/2020  
(Against the judgment dated 17.03.20  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar in S. A- 332 /2019)

Government of Khyber Pakhtunkhwa through Chief Secretary,  
Peshawar and others

...Petitioners

VERSUS

Nargis Jamal

...Respondent

For the petitioners: Mr. Shumail Aziz, Addl.A.G. KP  
Mian Shafaqat Jan, Addl.A.G. KP

For the respondent: Nemo

Date of hearing: 11.01.2022

ORDER

GULZAR AHMED, CJ. The learned Additional Advocate General, K.P. contends that the respondent has remained absent for 1268 days and she has been travelling abroad very frequently without obtaining NOC from the department. The travel history of the respondent is given in para-4 of the impugned judgment at page-10 of the record. He contends that all codal formalities were complied with in respect of the disciplinary proceedings conducted against the respondent and ultimately she was imposed penalty of compulsory retirement. Contends that such penalty was imposed after the receipt of the report of the inquiry on issuance of a show cause notice and giving her personal hearing. The learned Addl.A.G. contends that the Tribunal by the impugned judgment has modified the penalty,

**ATTESTED**

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad

imposed upon the respondent, from compulsory retirement to that of reduction to lower substantive post from BPS-19 to BPS-13 for a period of four years. He contends that such interference by the Tribunal in the penalty imposed by the Competent Authority upon the respondent is not justified, more so, when the Tribunal itself has found that the respondent excessively has travelled abroad and that too without obtaining NOC from the department and even she did not file before the inquiry proceedings passport on which she has been travelled.

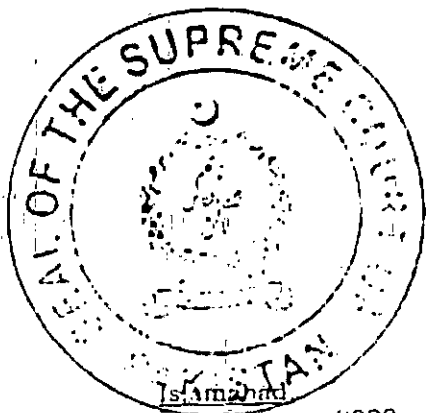
2. The contentions raised by the learned Addl. A.G. require consideration. Leave to appeal is granted to consider, *inter alia*, the same. The appeal shall be heard on the available record but the parties are allowed to file additional documents, if any, within a period of one month. As the matter relates to service, office is directed to fix the same expeditiously, preferably, after three months.

3. C.M.A. No.746-I/20: In the meantime, operation of the impugned judgment is suspended.

Sd/-HCJ  
Sd/-J  
Sd/-J

Certified to be True Copy

Senior Court Associate  
Supreme Court of Pakistan  
Islamabad



11 January, 2022

Nasir Khan /-

Not approved for reporting'

GR No: 715/22 Civil/Criminal

Date of Presentation: 12-1-22

No of Words: 600

No of Folios: 10

Regulation Fee Rs: 500

Copy Fee In: 370

Court Fee Stamp: 8/21/22

Date of Completion of Report: 13/1/22

Date of Delivery of Copy: 15-1-2022

Compared by/Prepared by: [Signature]

Received by: [Signature]