

27.10.2021

None for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Muhammad Nisar, Focal Person for respondents present.

The proceedings recorded in the previous order sheets reflect the lack of interest of the petitioner in pursuit of the present execution petition. The point of maintainability of this execution petition is yet to be determined which in view of the absence of the petitioner on various dates is pending. On last date clerk of counsel of the petitioner was present and last chance was given to the petitioner for arguments on point of maintainability. Neither the petitioner nor her counsel have marked their attendance today; therefore, this execution petition is dismissed due to non-prosecution. File be consigned to the record room.

Announced:
27.10.2021


Chairman

02.09.2021

Nemo for the petitioner present. Mr. Muhammad Adeel Butt,
Additional Advocate General for respondents present.

Learned AAG sought time for submission of implementation
report. Notices be issued to the petitioner and his counsel.
Adjourned. To come up for further proceedings before the S.B on
21.09.2021.



(MIAN MUHAMMAD)
MEMBER (E)

21.09.2021

Shah Hassan, Clerk of counsel for the appellant and
Mr. Kabirullah Khattak, Addl. AG alongwith Muhammad
Nisar, Focal Person and Muhammad Shahid Nawaz, ADO
for the respondents present.

On 09.07.2020, the matter was placed for arguments
on point of maintainability. The attendance on behalf of
the petitioner or by her counsel during proceedings on
adjourned dates was not regular. Therefore, the point of
maintainability is still pending for arguments. Last chance
is given to the petitioner for arguments on the point of
maintainability, failing which the petition shall be taken
up for disposal on the basis of available record. To come
up for arguments 27.10.2021 before S.B.




Chairman

30.03.2021

Nemo for the petitioner. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Muhammad Sharif, ADEO for the respondents present.

Notice be issued to petitioner as well as his counsel for prosecution for 03.06.2021 before SJB.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

03.06.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Sharif, ADO for the respondents present.

Representative of the respondents seeks time to submit implementation report. Respondents are required to implement the judgments in letter & spirit and in compliance report be submitted on 26.07.2021 before S.B.



Chairman

26.07.2021

Nemo for parties.

Muhammad Adeel Butt learned Additional Advocate General present.

Despite directions on the preceding date, respondents failed to submit implementation report, therefore, notice be issued to the respondents with direction to implement the judgment in letter and spirit. To come up for implementation report on 02.09.2021 before S.B. Petitioner also be put on notice for the date fixed.


(Rozina Rehman)
Member (J)

21.10.2020

Mr. Kabirullah Khattak, Additional Advocate General for the respondents is present.

Since the Members of the High Court as well as of the District Bar Association Peshawar are observing strike today, therefore, the case is adjourned to 08.12.2020 on which date to come up for arguments on the point of maintainability.



(Muhammad Jamal Khan)
Member (Judicial)

08.12.2020

Nemo for petitioner.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Notice be issued to petitioner/counsel for 28.01.2021 for arguments, before S.B.

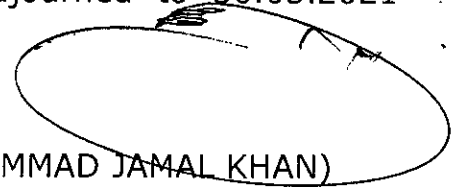


(Rozina Rehman)

28.01.2021

Counsel for petitioner is present. Mr. Kabirullah Khattak, Additional Advocate General, for the respondents is also present.

Due to paucity of time, proceeding in the instant petition could not be conducted, therefore, adjourned to 30.03.2021 before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

Notes
28/1/21

12.03.2020

Junior counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Anwer Zeb, ADO for the respondents present. Implementation report not submitted. Representative of the department seeks adjournment. Adjourned to 15.04.2020 for implementation report before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

15.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 09.07.2020 for the same. To come up for the same as before S.B.


Reader

09.07.2020

Nemo for the petitioner.

Mr. Kabir Ullah Khattak, learned Additional Advocate General for the respondents present.

Record shows that the matter was decided by this Tribunal on 30.04.2007 whereas the instant application for implementation of judgment was filed on 07.01.2020. Notice be issued to petitioner and his counsel for arguments on the point of maintainability for 08.09.2020 before S.B.


Member (J)

08.09.2020




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

Former requests for adjournment due to his engagement before the Honourable Peshawar High Court in various cases today. Adjourned to 21.10.2020 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____
Execution Petition No. 07/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	07.01.2020	<p>The execution petition of Mr. Niamatullah submitted today by Mr. Yasir Salim Advocate may be entered in the relevant register and put up to the Court for proper order please</p> <p> REGISTRAR 7/1/2020</p>
2	09/01/20	<p>This execution petition be put up before S. Bench on <u>31/01/2020</u>.</p> <p> CHAIRMAN</p>
	31.01.2020	<p>Learned counsel for the petition present. Notice of the present execution petition be issued to the respondents for implementation report on 12.03.2020 before S.B.</p> <p> (Hussain Shah) Member</p>

BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR

E.P. No. 7/2020

In the matter of
Appeal No. 232/2006
Decided on 30.04.2007.

Nimatullah PTC, FCS Gulalae, Shawal, District North Waziristan
..... (Applicant)

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary
Khyber Pakhtunkhwa Peshawar and others.

(Respondents)

INDEX

S. No.	Description of documents	Annexure	Page No
1.	Memo of Appeal & Affidavit		1-5
2.	Copy of the Judgment and order dated 13.05.2011	A	6-8
3.	Copies of the application dated 09.01.2019, letter dated 09.01.2019 and reminder dated 30.01.2019	B, C & D	9-11
4.	Copy of the newspaper cutting dated 21.12.2018	E	12
	Vakalatnama		13

Appellant

Through

[Signature]
YASIR SALEEM
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR**

In the matter of
Appeal No. 232/2006
Decided on 30.04.2007.

E.P. No 67/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 33

Dated 7-1-2020

Nimatullah PTC, FCS Gulalae, Shawal, District North Waziristan
..... (Applicant)

VERSUS

1. **The Government of Khyber Pakhtunkhwa** through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. **The Secretary Elementary and Secondary Department** Khyber Pakhtunkhwa Peshawar.
3. **The Director Elementary and Secondary Department** Khyber Pakhtunkhwa Peshawar.
4. **The District Education Officer**, District North Waziristan.
(Respondents)

Application for the implementation of the Judgment and Order dated 30.04.2007 in captioned connected service appeals of this Honourable Tribunal.

Respectfully Submitted:

1. That the above noted service appeal was pending adjudication in this Honourable Tribunal and was decided vide judgment and order dated 30.04.2007.
2. That vide judgment and order dated 30.04.2007, this Honorable Tribunal allowed the appeal and reinstated the appellant. The operating Para of the Judgment and order, is reproduced below:

“Accordingly the appeal is accepted the impugned orders are set-aside and the appellant is reinstated into service. However the intervening period be treated as leave of kind due.”

(Copy of the Judgment and order dated 30.04.2007, is attached as Annexure A)
3. That the judgment and order of this Honourable Tribunal, was duly communicated to the respondent by the applicant vide various applications for implementation.
4. That initially the applicant was told that she would be adjusted as soon the vacancy becomes available and thereby the applicant was kept on waiting and waiting for so many years despite the fact that the


vacancies were available. Her last of application dated 09.01.2019 was filed to the then Director Education FATA, which was processed vide endorsement dated 09.01.2019 and the Respondent No. 4 was directed vide letter dated 09.01.2019 for necessary action and reminder was also issued on 30.01.2019. *(Copies of the application dated 09.01.2019, letter dated 09.01.2019 and reminder dated 30.01.2019 are attached as Annexure B, C & D)*

5. That instead of implementing the Order and Judgment of this Honorable Tribunal dated 30.04.2007, the Respondent with malafide intention has re-advertised the posts in newspaper on 21.12.2018. *(Copy of the newspaper cutting dated 21.12.2018 is attached as Annexure E)*
6. That the respondents are legally bound to implement the judgment of this Honourable Tribunal dated 30.04.2007 in its true letter and spirit without any further delay which has already been delayed due to the malafide intention of the Respondents

It is, therefore, prayed that on acceptance of this application the judgment and order dated 30.04.2007 of this Honorable Tribunal be implemented in its true letter and spirit.

Applicant

Through


YASIR SALEEM
Advocate, Peshawar

AFFIDAVIT

It is solemnly affirm and declare on oath that the contents of the above implementation petition are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

Nasir
DEPONENT

BEFORE THE KHYBER PAKHTUNKWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
 Appeal No. 232/2006
 Decided on 30.04.2007

Nimatullah PTC, FCS Gulalae, Shawal, District North Waziristan
 (*Applicant*)

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary
 Khyber Pakhtunkhwa Peshawar and others.

(*Respondents*)

APPLICATION FOR RESTRAINING THE RESPONDENT NOT TO
 FILL THE POST OF ONE POST OF PST THROUGH THE
 ADVERTISEMENT IN QUESTION AND OPERATION OF THE
 ADVERTISEMENT DATED 21.12.2018 TO THE POST OF PST
 MAY KINDLY BE SUSPENDED TILL THE FINAL DISPOSAL OF
 THE INSTANT PETITION.

Respectfully sheweth,

The applicant humbly submits as under;

1. That the captioned implementation is being filed before this honorable tribunal in which date is yet to be fixed.
2. That all the three ingredients for the grant of status quo strongly lies in favor of the applicant.
3. That the contents of the implementation petition may kindly be treated as integral part of the instant application.
4. That the Respondent instead of implementing the order and judgment dated 30.04.2007 by adjusting the applicant, has re-advertised the various posts of PST for initial recruitment, which is clear violation of the order and judgment dated 30.04.2007 of this Honorable Tribunal.

It is therefore prayed that on the acceptance of this application the operation of the advertisement dated 30.04.2007 may kindly be suspended till the final disposal of the instant petition.

Applicant

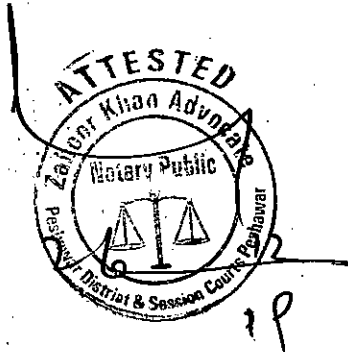
Through


YASIR SALEEM
Advocate, Peshawar

AFFIDAVIT

It is solemnly affirm and declare on oath that the contents of the above implementation petition are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honorable Tribunal.

Nasir
Deponent



Annex = A 6

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 230/2006

Date of Institution.... 18.03.2006
Date of Decision..... 30.04.2007



Mst. Narges Begum, Ex-PTC, FCS Gulalai,
Shawal, North Waziristan Agency.....

.....(Appellant)

VERSUS

1. The Secretary, Education (S&L) NWFP, Peshawar.
2. The Director of Education FATA, NWFP, Peshawar.
3. The Agency Education Officer, N.W.Agency.....(Respondents).

MR. MUHAMMAD ASIF YOUSAFZAI,

Advocate

MR. NOOR ZAMAN, A.G.P.

For appellant.

For respondents.

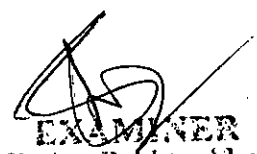
MR. ABDUL SATTAR KHAN, ..

MR. ADALAT KHAN, ..

CHAIRMAN.

MEMBER.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT


ABDUL SATTAR KHAN, CHAIRMAN:- This appeal arises against an order dated 11.2.2006, whereby the appointment order of the appellant has been cancelled retrospectively and also against the order dated 22.2.2006, whereby departmental appeal of the appellant has been rejected, with the prayer that on acceptance of this appeal, the impugned orders may be set aside and the appellant be reinstated into service with all back benefits. Any other remedy which this Tribunal deems fit may also be granted in favour of the appellant.

2. The facts of the case necessary for the disposal of this appeal briefly stated are that the appellant was appointed against P.T.C. post on contract basis vide order dated 10.12.2005. She assumed

the charge of the post and started performing her duties. Respondent No.3 on 11.2.2006 on the direction of Political Agent, North Waziristan Agency, cancelled the appointment order of the appellant from the date of her contract with immediate effect. Feeling aggrieved the appellant filed her departmental appeal/representation on 15.2.2006, which was rejected on 22.2.2006; hence this appeal.

3. Notices were sent to the respondents. They turned up and contested the appeal by filing a joint written reply. Various legal and factual pleas were raised. It was also inter-alia alleged that the appellant has got no cause of action; that the appellant is estopped by her own conduct to bring the instant appeal, that the appellant was appointed as PTC Teacher in Community School on the directions of the Director of Education FATA and that her appointment order was cancelled on the directions of Political Agent, N.W. Agency. No replication was filed in rebuttal by the appellant.

ATTESTED

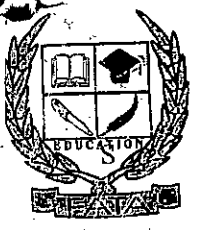


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

4. Arguments heard and record perused.

5. The prime contention of the learned counsel for the appellant is that codal formalities were not observed while cancelling the appointment order of the appellant, that neither charge was framed nor communicated to the appellant with statement of allegations; that framing of charge is not only a formality but a mandatory requirement of law. Reliance was placed on 2000-SCMR-1743. He next argued that no reason, whatsoever, was assigned while cancelling the appointment order of the appellant. Reliance was placed on 2007-SCMR 330. Lastly, it was argued that removal of the appellant from retrospective date is illegal. Reliance was placed on 1993-PLC(C.S) 1755. As such the impugned order being fanciful and bad in law is liable to be set aside.

6. In reply it was urged that the appellant was appointed on contract basis and that in the appointment order, it was clearly



DIRECTORATE OF EDUCATION
NEWLY MERGED TRIBAL DISTRICTS

WARSAK ROAD PESHAWAR - PAKISTAN
PHONE. 091-9210166 FAX 091-9210216

No. 1200 / Date Pesh: the 9/11/2019

9

*Suppl.
to verify and
report for
further process.*
J.S.
12/1/19

Annex = B

*M. Sharif
discuss and verify
the case with Suplt.
Mr. M. Sharif.*
J.S.
12/1/19

To

The District Education Officer,
North Waziristan District.

Subject;

APPEAL FOR ADJUSTMENT/RELEASE OF PAY. *Get the original covered
order from the S/Tribunal
about the cases.*

Memo:

I am directed to refer to subject cited above and to enclose herewith an application in respect of Mr. Niamatullah PST and Imrana PST and others of North Waziristan District for necessary action after proper verification under intimation to this office to resolve the issue once for all.

26/1/2019

Encl: As Above.

[Signature]
Deputy Director (F/A)

Endst: No. 1201-2 /-

Dated Pesh: the _____ /2019

9/11/19

Copy forwarded to the :-

1. District Accounts Officer, NWD
2. PA to Director Education NMTD.

←
Deputy Director (F/A).

[Signature]
ATTESTED



Supdt. to verify and report for further process.
J.S.
12/1/19

**DIRECTORATE OF EDUCATION
NEWLY MERGED TRIBAL DISTRICTS**
WARSAK ROAD PESHAWAR, PAKISTAN
PHONE: 091-9210166 FAX 091-9210216
No. **1200** / Date Pesh: the **9/1/2019** /2019

(9)

Annex = B

To

The District Education Officer,
North Waziristan District.

M. Sharif discuss and verify the case with Supdt.
Mr. M. Sharif.
J.S.
12/1/19

Subject: **APPEAL FOR ADJUSTMENT/RELEASE OF PAY.**

Get the original order from the S/Tribunal about the cases.

Memo:

I am directed to refer to subject cited above and to enclose herewith an application in respect of Mr. Niamatullah PST and Imrana PST and others of North Waziristan District for necessary action after proper verification under intimation to this office to resolve the issue once for all.

26/1/2019

Encl: As Above.

[Signature]
Deputy Director (F/A)

Endst: No. 1201-2 /-.

Dated Pesh: the _____ /2019
9/1/19

Copy forwarded to the :-

1. District Accounts Officer, NWD
2. PA to Director Education NMTD.

Deputy Director (F/A).

[Signature]
ATTESTED

To

Annex = C
The kind Director Edu DATA
Wazirabad road Peshawar

(10)

Subject: Appeal for releasing of pay.

R/W, with great respect it is stated that the ER- ARO has been issued order in the light of Court decisions but the then Director DATA has been stoped our pays with out any reasons. your good office has also been implemented and issue order for release of pays but the ARO using delay tactics.

Therefore it is humbly prayed that the ARO NWA may kindly be directed to release our pays which have already been delayed and the Court decisions has already been verified from the Service Tribunal ICPC Peshawar which is still pending in the office of ARO NWA. If you once again issue order to ARO NWA for the subject noted above for which we shall pray for your good health and long life!

Yours obediently.

Naim ulah and others
Mirana PTG Bibi Gul PTG
Muniba PTG

Sahid 29/10/18
DD (FIA)
DPO (NWD)

ATTESTED

Under the
verification
of this office to
the issue once

29/10/18
Director Education
ATA Secretariat Peshawar

put up on file
9/11/19



mentioned that her services were liable to be terminated without any notice and as such the services of the appellant being a contract employee were rightly dispensed with.

7. The Tribunal holds that the claim of the appellant is bonafide. Codal formalities were not observed while cancelling the appointment order of the appellant by the authority. Charge was neither framed nor communicated to the appellant with statement of allegations. Framing of charge and communicating the same with statement of allegations was not only a formality but was a mandatory requirement of law which was to be followed: (2000-SCMR-1743). No reason whatsoever, has been assigned while dispensing with the services of the appellant. Her services were dispensed with in slipshod manner without any enquiry. Furthermore, the cancellation of the appointment order with retrospective effect is also not tenable. In the circumstances, the appellant has made out a case for indulgence of the Tribunal. Accordingly this appeal is accepted, the impugned orders are set aside and the appellant is reinstated into service. However, the intervening period be treated as leave of the kind due.

This order shall also dispose of two other connected appeals bearing No.231 and 232/2006 filed by Mst. Shamila and Nimatullah appellants respectively in the same manner involving common question of law and facts. No order as to costs. File be consigned to the record room.

ANNOUNCED.
30.4.2007.

(ABDUL SATTAR KHAN)
CHAIRMAN
NWFP SERVICE TRIBUNAL,
PESHAWAR.

ATTESTED

(ADALAT KHAN)
MEMBER

Certified to be true copy
ESKANNIR
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of application 20-10-18
Number of Words 1200
Copying Fee 8-00
Urgent _____
Total 8-00
Name of Copyist _____
Date of Completion of Copy 20-11-18
Date of Delivery of Copy 20-11-18



**DIRECTORATE OF EDUCATION
NEWLY MERGED TRIBAL DISTRICTS**

WARSAK ROAD PESHAWAR, PAKISTAN
PHONE. 091-9210166 FAX 091-9210216

No. 1664 / Date Pesh: the / 30/11 /2019

Amex = D

To

Is Reminder.

(11)

✓ The District Education Officer,
North Waziristan District.

Subject; **APPEAL FOR ADJUSTMENT/RELEASE OF PAY.**

Memo:

I am directed to refer to this office memo: No. 1200 dated 9.1.2019 on subject noted above and to ask you that the requisite reply is still awaited from your end. It is once again to ask you that to resolve the issue of Mr. Nimatullah PST, Imrana PST and Others of North Waziristan District..

Haidig
Deputy Director (F/A)

Endst: No. _____/-

Dated Pesh: the _____/2019. *29/11/18*

Copy to the :-

1. District Accounts Officer NWD for necessary action.
2. PA to Director Education NMTD.

Deputy Director (F/A).

[Signature]
ATTESTED

POWER OF ATTORNEY

In the Court of Service Tribunal Peshawar

Nimatullah } For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Court of I.P.K } Defendant
} Respondent
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

YASIR SALEEM,
JAWAD UR REHMAN &
PIRZADA MUHAMMAD TAYAB AMIN Advocates Peshawar

my true and lawful attorney, for me in my same and on my behalf to appear at _____ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits, Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc. and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at Naimal
the _____ day to _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

Jawad ur Reh
JAWAD UR REHMAN
Advocate High Court

Yasir Saleem
YASIR SALEEM
Advocate High Court, Peshawar

&
M. Tayyab
PIRZADA MUHAMMAD TAYAB AMIN
Advocate Peshawar