

04.02.2021

Counsel for the petitioner and Addl. AG alongwith Muhammad Nazeer, ADEO for the respondents present.

Learned counsel requests for time to seek fresh instructions from the petitioner in the light of enquiry conducted on 24.12.2019. Adjourned to 08.04.2021 before S.B.

  
Chairman

08.04.2021.

Due to demise of the Worthy Chairman, The Tribunal is defunct, therefore, the case is adjourned to 15/07/2021 for the same as before

  
Reader.

15.07.2021

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

So far as implementation of judgment under execution is concerned, counsel for the petitioner has expressed satisfaction and requested for consignment of instant execution petition without further proceedings.

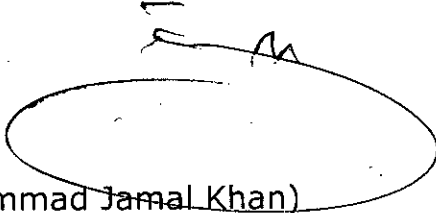
In view of the above, instant execution petition is filed and consigned to the record room.

  
Chairman

13.11.2020

Mr. Muhammad Saleem, father of the petitioner, on behalf of the petitioner is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondent is also present.

Learned Additional Advocate General requests for adjournment. Adjourned to 21.12.2020 on which date file to come up for further proceedings before S.B.

  
(Muhammad Jamal Khan)  
Member (Judicial)

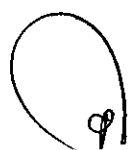
21.12.2020

Petitioner present through counsel.

Kabir Ullah Khattak learned Additional Advocate General alongwith Muhammad Nazeer ADEO for respondents present.

Enquiry report was submitted by representative of respondents and as per recommendations, appointment order of the present petitioner was stated to be fake & bogus. The representative failed to produce order of the competent authority in the light of recommendation of enquiry officer who is strictly directed to produce all the relevant record on 04.02.2021 before S.B.

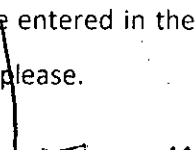



Adjourned accordingly.

  
(Rozina Rehman)  
Member (J)

FORM OF ORDER SHEET

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

Execution Petition No. 134 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15.09.2020	<p>The Execution Petition submitted by Mst. Fouzia Saleem through Mr. Taimur All Khan Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;">                       REGISTRAR                 </p> <p>2-</p> <p>This Execution Petition be put up before  S. Bench on <u>23/10/2020</u></p> <p style="text-align: right;">                       CHAIRMAN                 </p>
23.10.2020		<p>Mr. Muhammad Saleem, father of the petitioner, on behalf of the petitioner is present. Notice be issued to the respondents for 13.11.2020 before S.B. /</p> <p style="text-align: right;">                       (Muhammad Jamal Khan)                      Member (Judicial)                 </p>

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



Execution Petition No. \_\_\_\_\_/2020  
In Service Appeal No.1437/2014

Mst. Fouzia Saleem, Alleged PST, GGPS Kotka Naurang,  
Lakki Marwat.

**PETITIONER**

**VERSUS**

1. The Secretary, Elementary & secondary Education Khyber Pakhtunkhwa, Peshawar.
2. The Director, Elementary & secondary Education Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer, Elementary & secondary Education (Female) Lakki Marwat.

**RESPONDENTS**

.....  
**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED 27.09.2019 OF THIS  
HONOURABLE TRIBUNAL IN LETTER AND  
SPIRIT.**  
.....

**RESPECTFULLY SHEWETH:**

1. That the petitioner has filed service appeal No.1437/2014 against the order dated 25.08.2014, whereby the petitioner was terminated from service and against not taking action on the departmental appeal of the petitioner within the statutory period of ninety days.
2. The said appeal was finally heard by this august Service Tribunal on 27.09.2019 in which the august Service Tribunal dispose of the appeal by directing the respondents to conduct inquiry in respect of authenticity of the appointment order relied upon by the appellant/petitioner by providing her fair opportunity of defence and personal hearing. In case the appointment order is found authentic, the respondents shall also determine as to whether the appointment of the appellant/petitioner was in accordance with Rule 10 (2) Khyber

Pakhtunkhwa Civil Servant (APT) Rules 1989 or otherwise. (Copy of judgment dated 27.09.2019 is attached as Annexure-A)

3. That since the announcement of the judgment, the respondents did not pass an order about the authenticity of the appointment order of the petitioner till date.
4. That in-action and not fulfilling formal requirements by the department after passing the judgment of this august Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 27.09.2019 of this Honourable Service Tribunal in letter and spirit.
6. That the petitioner has having no other remedy except to file this execution petition.

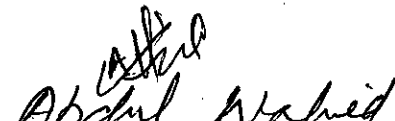
It is, therefore, most humbly prayed that the respondents may be directed to implement the judgment dated 27.09.2019 of this august Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

  
PETITIONER

THROUGH:

  
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT  
&

(ASAD MAHMOOD)  
ADVOCATE HIGH COURT

  
Abdul Wahid  
(Adv)

AFFIDAVIT:

It is affirmed and declared that the contents of the execution petition are true and correct to the best of my knowledge and belief.

  
DEPONENT



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.



APPEAL NO. 1437/2014.

1416  
05/12/2014

Mst: Fouzia Saleem,, PST,

GGPS Kotka Naurang, Lakki Marwat.....Appellant.

**VERSUS**

- 1- The Secretary Education (E&SE) KPK Peshawar.
- 2- The Director Education (E&SE) KPK Peshawar.
- 3- The DEO (female) E&SE, Lakki Marwat..

.....Respondents.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS  
ACT 1974 AGAINST THE 25.08.2014 WHEREBY APPELLANT  
HAS BEEN TERMINATED FROM SERVICE AND AGAINST NOT  
TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF  
APPELLANT.

PRAYER:

*That on acceptance of this appeal the order dated.  
25.08.2014 may be set-aside and the appellant  
may be re-instated with all back and  
consequential benefits.*

*[Signature]*  
5/12/14

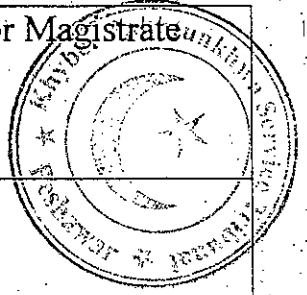
R.SHEWETH.

1. That the appellant was appointed by the competent authority as PST after proper approval of the committee vide order

re-submitted to  
[Signature]  
31/12/14

**ATTESTED**


*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: center;"><b><u>BEFORE THE YBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b> <b>Service Appeal No. 1437/2014</b></p> <p style="text-align: right;">Date of Institution ..... 05.12.2014 Date of Decision ..... 27.09.2019</p> <p>Mst. Fouzia Saleem, Alleged PST GGPS Kotka Naurang, Lakki Marwat.</p> <p style="text-align: right;"><b>Appellant</b></p> <p style="text-align: center;"><b>Versus</b></p> <p>1. The Secretary Elementary &amp; Secondary Education Khyber Pakhtunkhwa, Peshawar. 2. Director Elementary &amp; Secondary Education Khyber Pakhtunkhwa, Peshawar. 3. District Education Officer, Elementary &amp; Secondary Education (Female) Lakki Marwat.</p> <p style="text-align: right;"><b>Respondents</b></p> <p><b>Mr. Muhammad Hamid Mughal</b>-----<b>Member(J)</b> <b>Mr. Ahmad Hassan</b>-----<b>Member(E)</b></p> <p>27.09.2019</p> <p style="text-align: center;"><b><u>JUDGMENT</u></b> <b><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u></b> Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General present.</p> <p>2. Learned counsel for the appellant argued that the appellant was appointed as PST vide order dated 24.01.2011 and accordingly the appellant also took charge of her post; that the appellant was not receiving her salary therefore she filed Civil Suit and then Service Appeal bearing No.972/2014 for her salaries; that during the pendency of Service Appeal bearing No.972/2014, the District</p>		

27.9.2019

**ATTESTED**

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

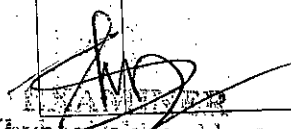
Education Officer (F) Lakki Marwat issued order dated 25.08.2014 whereby the appellant was terminated ; that the departmental appeal of the appellant against the order dated 25.08.2014 was not answered. Further argued that the impugned termination order dated 25.08.2014 is against law, facts and norms of justice; that the appellant was condemned without conducting any regular inquiry; that no Show Cause Notice was issued to the appellant nor any chance of personal hearing was provided to the appellant.

3. As against that learned AAG argued that the appointment order dated 24.01.2011 is fake, spurious & fictitious; that the appellant was terminated on account of fake appointment order; that genuine appointment order with dairy No.155-59 dated 25.02.2011 was issued in favor of Mst. Abida Parveen, Mst. Shakeela Bibi and Mst. Nelofar while two (02) fake/bogus appointment orders were claimed by Fouzia Saleem (appellant) and Hikmat Ullah etc; that the appellant neither applied against the post nor participated in the test & interview; that the appellant has not performed any duty and the copy of attendance register furnished by the appellant, is also bogus.

4. Arguments heard. File perused.

5. Main contention of learned counsel for the appellant is that the appellant has been condemned without providing her opportunity of defense and personal hearing. As per contents of the impugned order dated 25.08.2014, Show Cause Notices were served upon the appellant however nothing material is available on file to suggest that Show Cause Notice was served upon the appellant. In


ATTESTED

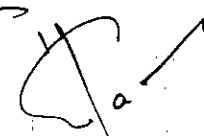
  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

27.9.2019



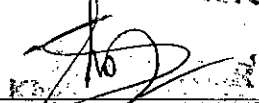
the given circumstances, the respondents are directed to conduct inquiry in respect of authenticity of the appointment order relied upon by the appellant by providing her fair opportunity of defense and personal hearing. In case the appointment order is found authentic, the respondents shall also determine as to whether the appointment of the appellant was in accordance with Rule-10 (2) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989 or otherwise. We refrain from making any order of reinstatement of the appellant as she has yet to prove her status as a civil servant. The present service appeal is disposed of in the above noted terms. Parties are left to bear their own costs. File be consigned to the record room.

  
 (Ahmad Hassan)  
 Member




  
 (Muhammad Hamid Mughal)  
 Member

**Certified to be true copy**

ANNOUNCED  
 27.09.2019

  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

**Date of Presentation of Application** 15/9/20  
**Number of Words** 1600  
**Copyies** 18/-  
**Urgent** 18/-  
**Total** 22/-  
**Name of Copy** [Signature]  
**Date of Copy** 15/9/20  
**Date of Delivery of Copy** 15/9/20

قیمت 50 روپے	58643			
ایڈویکٹ:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر:				
رابطہ نمبر:				

بعدالت جناب:

مخاطب: <u>عزیزہ سلیم</u>	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:



**باعث تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ  
 آن مقام لنڈیا حرم کیلئے ریسرچرٹل اٹارنی اور ڈسٹریکٹ جج ایف ایچ ایف کی 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 کرہے و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از جرم کی تصدیق  
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کارروائی کے واسطے اور وکیل یا مختار قانون کو اپنے ہمراہ مالا اپنے جج کے دفتر کا اختیار ہوگا اور صاحب  
 مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور ان کا ساختہ پر داخستہ منظور و قبول ہوگا  
 دوران مقدمہ میں جو خرچہ ہر جاندا اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے  
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم: \_\_\_\_\_  
 العبد \_\_\_\_\_  
 العبد \_\_\_\_\_

مقام \_\_\_\_\_ کے لیے منظور ہے۔

Attested & Accepted

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

عزیزہ سلیم

Implementation Report



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR**

No. 6539 /F.No.AD Litt: II

Dated Peshawar the 10/3/ /2020

To

The Secretary to Govt: of  
Khyber Pakhtunkhwa (E&SE) Department

Subject:-

**APPEAL NO.1437/1437/2014 TITLED MST. FOZIA SALEEM VS  
EDUCATION**

I am directed to refer to the letter no. SO (Lit-II) E&SED/1-3/SA #1437/2014/Mst. Fozia Saleem dated 25-11-2019 on the subject cited above and to enclose herewith a copy of enquiry report carried out by Muhammad Sheraz DEO/Add: Director on the Disposal of Directorate E&SE Peshawar for further necessary action.

Copy Attached.

Endst No. \_\_\_\_\_

Copy of the above is forwarded to the:

1. PA to Director E&SE KPK Peshawar.

*Hand*  
Deputy Director (Female)  
E&SE Khyber Pakhtunkhwa.

*o/c*

*9/3/20*

*Hand*  
Deputy Director (Female)  
E&SE Khyber Pakhtunkhwa.

*o/c*

*9/3/20*

54

The Director,  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.

Subject: **JUDGEMENT DATED 27-09-2019 BY THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL IN SERVICE APPEAL NO 1437-B/2014 TITLED  
AS FOZIA SALEEM VS GOVT: OF KHYBER PAKHTUNKHWA PESHAWAR**

Memo:

Reference your letter No.6484-87/P.File/Fozia Saleem PST/Lit-II/Dated Peshawar the 18-12-2019, an enquiry report along with Annexures on the subject cited above is submitted to your good office for further necessary action, please

70-50

Muhammad Sheraz 30/12/2019

**Muhammad Sheraz Enquiry Officer  
DEO/Add: Director on the Disposal of,  
Directorate E&SE Peshawar.**

1140  
15-1-2020

Lit-II

**TITLE OF ENQUIRY:**

Judgment Dated 27-09-2019 by the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No 1437-B/2014 titled as Fozia Saleem vs Govt: of Khyber Pakhtunkhwa Peshawar.

**DATE OF ENQUIRY:** 24-12-2019

**VENUE OF ENQUIRY:** DEO (F) Office District Lakki Marwat.

**AUTHORITY:** Director E&SE KPK Peshawar No. 6484-87 dated 18/12/2019.

**ENQUIRY OFFICER:** Mr. Muhammad Sheraz DEO/Add: Director BPS-19 on the Disposal of Directorate E&SE.

**TERM OF REFERENCE:** The worthy Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar appointed Mr. Muhammad Sheraz DEO/Add: Director BPS-19 on the disposal of Directorate E&SE Khyber Pakhtun Khwa Peshawar as an enquiry Officer to probe into the judgment of Khyber Pakhtunkhwa Service Tribunal in Service Appeal No 1437-B/2014 Titled as Fozia Saleem Vs Govt: Of Khyber Pakhtun Khwa and also to determine as to whether the appointment of appellant was in accordance with rule 10 (2) of the Khyber Pakhtunkhwa Civil Servants (Appointment promotion and transfer) rules 1989 or otherwise. Notification of Director of enquiry Officer is attached as Annexure "A". Request letter of DEO (F) Lakki Marwat for appointment of enquiry officer is attached as Annexure "B". Photocopy of judgment of Khyber Pakhtunkhwa Service Tribunal is attached as Annexure "c".

**PROCEEDING /FINDINGS OF ENQUIRY:-**

In compliance with Director E&SE KPK Peshawar Notification No 6484-87 dated 18-12-2019 the undersigned conveyed a telephonic message on 23-12-2019 to DEO (F) and all other concerned staff to ensure their presence on 24-12-2019 along with relevant record. Moreover DEO (F) Lakki Marwat was also instructed to inform the petitioner to ensure her presence on above mentioned dated and venue before the enquiry officer.

**FACTS:** in view of the above procedure the following facts were determined.

1. On 24-12-2019 I arrived in DEO (F) Office Lakki Marwat. All relevant record was thoroughly checked.
2. Photo copy of letter of EX-EDO ( E&SE) addressed to working DEO Lakki Marwat in which the appointment order of Fozia Saleem vide Endst No. 155-59 has been denied and declared fake and bogus (Copy Attached as Annexure "D")
3. Photocopy of appointment order declared fake by Ex.EDO Noor Hassan and claimed by Fozia Saleem as genuine is attached as Annexure "E").
4. Another appointment order of Hikmat Ullah and Saif Ullah Khan with same Endst No. i-e 155-59 declared fake and bogus by Ex EDO Mr. Noor Hassan is attached as Annexure "F".
5. Photocopy of appointment order Endst: No 155-59 dated 25-02-2011 not declared fake or bogus by Ex EDO Mr, Noor Hassan is attached as Annexure "G"
6. Questionnaire Served to Fozia Saleem and her reply with attached documents is attached as Annexure "H".
7. Statement of Chowkidar of GGPS Wanda Naurang District Lakki Marwat C/Signed by head teacher and ASDEO ( C)and photocopy of attendance register of the said school w.e.f 2011-2014 are attached as Annexure "I". Attendance register shows that the name of Fozia Saleem is missing during the period 2011-2014. Moreover it is also evident that Fozia Saleem was unable to record her attendance for a single day.
8. Certificate of DEO (F) Lakki Marwat about non availability of other record regarding recruitment of 2011 is attached as Annexure "J".

9. Additional statement of Fozia Saleem along with documents is attached as Annexure "K".

**CONCLUSION/RECOMMENDATIONS:-** In the light of afore said facts/Findings, and Annexed documents and record I Muhammad Shreraz as Enquiry Officer come to the conclusion that:

1. Appointment order of Mst. Fozia Saleem is fake and bogus.
2. The appointment order of the appellatant was not in accordance with rule 10(02) of the Khyber Pakhnkhwa Civil Servant (Appointment, promotion and transfer) rule 1989.

Attested  
M. Sheraz  
District Enquiry Officer  
Directorate E&SE Peshawar.

M. Sheraz  
Muhammad Sheraz Enquiry Officer  
DEO/Add: Director on the Disposal of,  
Directorate E&SE Peshawar.