

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Objection Petition in the matter of Execution Petition No.15/2017 in Service Appeal
No.1109/2012

Government of Khyber Pakhtunkhwa ----- (Appellant)

Khyber Pakhtunkhwa
Service Tribunal

Versus

Binary No. 3257

30-1-2023

Robina Shaheen (Late) Junior Special Education Teacher (BS-16) Government Institute
for Blind (Girls) Peshawar----- (Respondents)

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DEPONENT

CNIC No.17101-0377128-9
Cell# 0346-9148582

7/2/2023
EP

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Objection Petition in Execution Petition No.15/2017 in Service Appeal No.1109/2012

Government of Khyber Pakhtunkhwa..... (Appellant)

Versus

Robina Shaheen (Late) Junior Special Education Teacher (BS-16) Government Institute
for Blind (Girls) Peshawar----- **(Respondents)**

AFFIDAVIT

I Syed Nabi Gul, Superintendent (Lit), Directorate of Social Welfare,
Special Education & Women Empowerment Khyber Pakhtunkhwa, do hereby solemnly
affirm and declare on oath that the contents of the accompanying reply/comment are true
and correct to the best of my knowledge and belief and that nothing has been concealed
therein from this Hon'ble Tribunal.



DEPONENT

CNIC No.17101-0377128-9

Cell# 03469148582

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BEFORE THE KHYBER PAKHTUNKHWASERVICE TRIBUNAL, PESHAWAR.

Objection Petition in the matter of Execution Petition No. 15/2017 in Service Appeal No:
1109/2012

1. The Provincial Government through chief Secretary, Government of KPK, Peshawar.
2. Secretary Social Welfare, Special Education & Women Empowerment Department Government of KPK Peshawar.
3. Director Social Welfare, Special Education and Women Empowerment, Khyber Pakhtunkhwa Peshawar near Islamia College Jamrud Road Peshawar.
4. District Officer, Social Welfare, Special Education and Women Empowerment, Peshawar.
5. Secretary Finance Department, Government of KPK Peshawar.....(**Petitioners**)

VERSUS

Robina Shaheen (Late) Junior Special Education Teacher (B-16) Government Institute for Blind (Girls) Peshawar.....(**Respondents**)

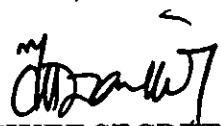
OBJECTION PETITION ON BEHALF OF JUDGMENT DEBTORS UNDER SECTION 47 CPC FOR DISMISSAL OF EXECUTION PETITION

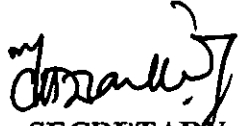
Respectfully Sheweth,


1. That the present execution petition is not maintainable in the present form due to the judgment debtors / petitioners for implementation of the judgment / decree of the Honorable Court. The judgment debtor / petitioners convened a meeting of the Assessment Committee, held on 20.11.2017 for the implementation of the judgment of the Honorable Service Tribunal in Service Appeal No. 1109/2012 along with other judgments in various service appeals. The committee called the decree holders along with other applicants / appellants for interview. The decree holder appeared before the committee and the committee in its meeting held on 20.11.2017 unanimously declared the appellant as not qualified for adequate knowledge certificate (**Annex-A**).
2. That the decree holder died on 08.02.2018 (**Copy of death certificate is at Annex-B**), therefore the legal heirs of the deceased decree holder are not entitled for grant of said relief.


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3. That prior to meeting dated 20.11.2017, the judgment debtor / petitioners through registered letter dated 22.03.2017 (Annex-C) directed the decree holder to submit her higher qualification documents duly verified from Higher Education Commission to be placed before the Assessment Committee, but the decree holder even after attending the meeting date 20.11.2017 failed to produce the desired documents.
 4. That adequate knowledge certificate issued by the Directorate of Social Welfare Khyber Pakhtunkhwa on the recommendation of Assessment Committee is pre-requisite for award of higher pay scale. The decree holders as earlier stated was not considered as qualified, the Committee decided that those teachers who are marked as not qualified will be given another chance for their certification of adequate knowledge in due course of time, but unfortunately the decree holder died before convening of another meeting. Therefore, the decree holder not entitled for her relief as prayed for.


It is therefore, humbly prayed that on the acceptance of this objection petition, the Execution Petition of the decree holder may kindly be dismissed being devoid of any merit.

For 
-CHIEF SECRETARY
Government of Khyber Pakhtunkhwa
(Petitioner No. 1)


SECRETARY
Social Welfare, Special Education and
Women Empowerment Department
Government of Khyber Pakhtunkhwa
(Petitioner No. 2)


SECRETARY
Finance Department
Government of Khyber Pakhtunkhwa
(Petitioner No. 5)


DIRECTOR
Social Welfare, Special Education and
Women Empowerment Peshawar
(Petitioner No. 3)


DISTRICT OFFICER
Social Welfare, Special Education and
Women Empowerment Peshawar
(Petitioner No. 4)

MEETING MINUTES OF ASSESSMENT COMMITTEE HELD ON 20-11-2017 FOR CERTIFICATION OF ADEQUATE KNOWLEDGE OF SPECIAL EDUCATION TEACHERS FOR AWARD OF HIGHER PAY SCALE.

In order to implement the judgment of the Khyber Pakhtunkhwa Service Tribunal in appeal No.745/2013, No.986/2013 & appeal No.1109/2012 dated 20-10-2016 and connected cases, where in Para-2 (reproduced below) it is stated. "direction to examine the case of the appellant to ascertain as to whether he was similarly placed official and if found so, to extend similar relief to the appellant as prayed for, as already to similarly placed officials." And judgment of Honorable Peshawar High Court DI Khan Bench dated 04-04-2017 where in Para-6 (reproduced below) it is stated. "In the light of above, this petition is disposed of with the directions to the respondents to comply with the judgment rendered by this court on 23-05-2013 within a period of 30 days and treat the petitioner at par with other PTIs as referred in the preceding para.", a meeting of the Assessment Committee was held on 20-11-2017 for certification of Adequate Knowledge of the following Teachers:

- 1- Mr. Muhammad Tahir PTI, Government Institute for the Blind DI Khan.
- 2- Mr. Muhammad Safdar Abbas Qureshi, (Junior Special Education Teacher) Principal, Government School for Deaf Children DI Khan.
- 3- Mr. Nawaz Gul Assistant Physiotherapist, Centre for Mentally Retarded & Physically Handicapped Children Bannu.
- 4- Mr. Fazal Ilahi Junior Special Education Teacher, Government Institute for the Blind Swat.
- 5- Mr. Zulfiqar Ali PTI, Government Institute for the Blind Swabi.
- 6- Mst: Rubina Shaheen, Supervisor, Government Institute for the Blind Girls Peshawar.
- 7- Mr. Muhammad Ayaz, Senior Special Education Teacher, Government Institute for the Blind Abbottabad.
- 8- Mr. Muhammad Shakeel Cane Supervisor, Government Institute for the Blind Abbottabad.
- 9- Mr. Niamat Ullah, Religious Teacher, Centre for Mentally Retarded & Physically Handicapped Children Bannu.
- 10- Mr. Haider Nawaz, Junior Oral Master, Centre for Mentally Retarded & Physically Handicapped Children Bannu.
- 11- Mst: Nargis Bibi & Rabia Gul, Vocational Teachers, District Office, Social Welfare Kohat.

The above mentioned Teachers of Special Education had either requested Award of Higher Pay Scale (personal) on account of acquiring Higher Education or had requested getting benefits of already awarded higher pay scale from a back date in terms of Finance Department letter No.FD(SR-I)1-95/84-III dated 24th July 1986.

The following attended the meeting:-

- | | |
|---|---------------------------|
| 1- Director Social Welfare SE & WE Peshawar | Chairman |
| 2- Director Special Education Complex Hayat Abad Peshawar | Member <i>[Signature]</i> |
| 3- District Officer, Social Welfare Peshawar | Member |
| 4- Mst:Tasleem Bibi Senior Teacher | Member |
| 5- Mr. Habib Ullah Braille Teacher | Member <i>[Signature]</i> |

In order to make above named officials at par with other similarly placed officials, provision of Adequate Knowledge Certificate is required. For the purpose the committee in its present meeting assessed the capabilities of those above mentioned teachers who appeared before it and made the below stated recommendations on the basis of following result of the said meeting:

Name & Designation of the applicant	Member (Habib Ullah) (10)	Member Director Special Education Complex (10)	Member District Officer, Social Welfare Peshawar (10)	Member Tasleem Bibi (10)	Chairman Director, Social Welfare, SE & WE (10)	Total (50)	Remarks
1. Zulfqar Ali, PTI	5	4	4	5	2	20/50	Not Qualified
2. Mr. Muhammad Safdar Abbas Qureshi J.S.E.T	A	A	A	A	A	A	A
3. Mr. Nawaz Gul Physiotherapist	3	4	4	3	3	17/50	Not Qualified
4. Mr. Fazal Ilahi J.S.E.T	5	5	4	4	3	21/50	Not Qualified
5. Mst: Rubina Shaheen J.S.E.T	5	5	3	3	2/10	18/50	Not Qualified
6. Mr. Muhammad Ayaz S.S.E.T	6	4	4	2	2/10	18/50	Not Qualified
7. Muhammad Tahir PTI	5	5	5	5	5	25/50	Qualified ✓
8. Mr. Muhammad Shakeel Cane Supervisor	5	6	5	5	5	26/50	Qualified ✓
9. Mr. Niamat Ullah Religious Teacher	6	6	6	6	5	29/50	Qualified ✓
10. Mr. Haider Nawaz Junior Oral Master	2	6	4	3	2	17/50	Not Qualified
11. Mst: Nargis Bibi Vocational Teacher	A	A	A	A	A	A	A
12. Rabia Gul Vocational Teacher	A	A	A	A	A	A	A

RECOMMENDATIONS:

- Based on the above result the committee unanimously certified the teachers at S.No.7, 8 & 9 of having the Adequate Knowledge and the judgment of the court / tribunal will be implemented in their respect.
- The absent teachers and those who are remarked, as NOT QUALIFIED will be given another chance for their certification of Adequate Knowledge in due course of time.
- The incumbent at S.No.3 above is a physiotherapist and not a teacher and as per AHPS policy it is admissible to Special Education Teachers only, therefore he may not be called for further assessment.
- The teachers at S.No.2, 11 & 12 can neither be justified for their claim regarding award of higher pay scale unless and until they appear before the committee, nor they can be treated at par with other similarly placed officials.
- The committee observed that the following teachers are enjoying Award of Higher Pay Scale from the dates mentioned against their names and they failed to qualify the assessment of the committee.

[Handwritten Signature]

[Handwritten Signature]

	Designation & Original of Teacher	AMPS	From Date	Applied for	Recommendations
	Mr. Fazal Elahi Munj Supervisor At S.No.4 above	B-16	30-4-2008	B-17 w.e.f 13-10-2012	Without proper Certificate of Adequate knowledge, they are enjoying Awarded Higher Pay Scale personally from the dates mentioned against their names; It should be recovered and made be effective from the dates they are certified by the assessment committee.
	Mst: Rubina Shaheen Cane Supervisor At S.NO.5 above	B-16	28-12-1998	B-17	
3	Mr. Muhammad Ayaz Qari At S.NO.6 above	B-16	19-07-2011	B-17	
4	Mr. Haider Nawaz JOM at S.NO.10 above	B-16 B-17	18-09-2004 to 24-11-2015	B-17 w.e.f 18-09-2004	

- The committee unanimously recommended that if these 4 Teachers are falling to be certified even after teaching the concerned disabled children for more than 10 years, they cannot be justified for holding Higher Pay Scale as Award for them.

Habibullah

(Habibullah)
Braille Teacher, SEC Hayatabad Peshawar
(Member)

Javed Yousaf Ali
(Javed Yousaf Ali)

Director Special Education Complex
Hayatabad Peshawar
(Member)

Younis Afridi
(Younis Afridi)

District Officer Social Welfare Peshawar
(Member)

Tasleem Bibi

Mst: Tasleem Bibi, Senior Teacher
SEC Hayatabad Peshawar
(Member)

M. Akbar

Director
Social Welfare, Special Education and
Women Empowerment, Khyber Pakhtunkhwa.
(Chairman)

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفات سرٹیفکیٹ

DEATH CERTIFICATE

FORM No: p007268506

CRMS No. D173013-18-0049

NATURE OF DEATH NORMAL

درخواست دہندہ کا نام: محمد قیوم خان

درخواست دہندہ کی شناختی کارڈ نمبر: 1730122433051

پتہ: مکان نمبر 33، گلبار روڈ، حسین آباد، شہر پشاور، تحصیل پشاور، ضلع پشاور

تاریخ پیدائش	جنس	مذہب	بائے وفات تاریخ	تاریخ دفن	وجہ موت	مدت عیال
1-1-1976	موت اسلام	پشاور	8-2-2018	9-2-2018	طبعی	

1730122433051 1730193100198

APPLICANT NAME: MOHAMMAD QAYUM KHAN

APPLICANT CNIC: 1730122433051 RELATION WITH DECEASED: Wife

ADDRESS HOUSE # 33, GULBAHAR ROAD, HUSSAIN ABAD,

CITY: PESHAWAR, TEHSIL: PESHAWAR, DISTRICT: PESHAWAR

DECEASED NAME/ CNIC	HUSBAND NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
ROBINA SHAHNEN 1730193100198	MOHAMMAD QAYUM KHAN 1730122433051	1-1-1976	FE- MALE	ISL**	PESHAWAR 8-2-2018	9-2-2018	NATURAL	

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

NAME: ZIA UL ISLAM

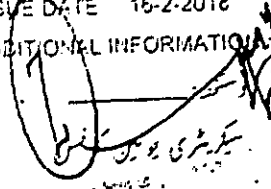
CNIC: 1730150871063


GRAVEYARD NAME: ABBOTTABAD

ENTRY DATE: 16-2-2018

ISSUE DATE: 16-2-2018

ADDITIONAL INFORMATION


 زیا علی اسلام
 16/02/2018


 SUPERINTENDENT
 Govt Institute for the
 Blind Girls Peshawar

1730150871063
 16-2-2018
 16-2-2018

(48/3/18)

Govt Institute for the Blind Girls Peshawar

Amma C

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REGISTERED



**GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF SOCIAL WELFARE, SPECIAL
EDUCATION & WOMEN EMPOWERMENT, OPPOSITE
ISLAMIA COLLEGE JAMRUD ROAD, PESHAWAR**

No. E-17/77/DSW/Vol-14/ 4671-25
Dated Peshawar the 29 / 3 / 2017

To

1. Mst. Robina Shaheen
Junior Special Education Teacher, GIB Peshawar
2. Mr. Fazal Elahi
Junior Teacher, GIB, Swat
3. Zulfiqar Ali
PET, GIB Swabi

Subject: **EXECUTION PETITION NO. 13, 14 & 15/17 VS GOVT. OF KP**

In pursuance of decision of honorable Service Tribunal, Khyber Pakhtunkhwa in Service Appeal No. 745/2013 & connected cases, and this directorate letters No. E-17/77/DSW/Vol-13/885-86, 887-88 & 889-90 dated 03-01-2017, you are advised to provide the requisite information on the attached proforma (07 Copies).

A meeting of the assessment committee constituted as per order No. E-17/77/KC/DSW/788-96 dated 24-10-2016 is scheduled to be held in the 1st week of April 2017. You are therefore directed to submit verified documents from Higher Education Commission (HEC) to be placed before the said committee.

THIS MAY BE TREATED AS MOST IMMEDIATE BEING COURT MATTER

Encl: As above

Assistant Director
Establishment

Even No. and Date

1. P.A. to Director, Social Welfare, SE & WE Peshawar.
2. District Officer, Social Welfare, Peshawar, Swat & Swabi
3. Superintendent, BIG Peshawar, Swat & Swabi.
- ✓ 4. AD, Litigation, Directorate of Social Welfare Peshawar.

Assistant Director
Establishment



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

**MINUTES OF THE MEETING HELD ON 27.12.2022 TO DISCUSS CASE TITLED:
CONTEMPT OF COURT CASES (COCs) UNDER THE CHAIRMANSHIP OF SECRETARY,
LAW DEPARTMENT**

Meeting on the above subject was held today on 27.12.2022 under the Chairmanship of Secretary, Law Department in his offices. The following attended the meeting:-

1. Mr. Tahir Iqbal, Solicitor, Law Department.
2. Mr. Azmat Ullah Khan, Law Officer, Law Department.
3. Mr. Kamran Murtaza, Assistant Advocate General.
4. Mr. Irshad Khan, Deputy Secretary (Judicial), Establishment Department.
5. Syed Usman, Director (Admn), Population Welfare Department.
6. Mr. Ahmed Yar Khan, Assistant Director (Lit), Population Welfare Department.
7. Mr. Javed Anawar, Section Officer (G), Population Welfare Department.
8. Mr. Muhammad Aslam, Section Officer (Lit), Social Welfare Department.
9. Mr. Masih Ullah, Directorate of Social Welfare.
10. Mr. Hafiz Asmat Ali, Secretary, Right to Services Commission.

Deputy Law Officer
Govt. of Khyber Pakhtunkhwa
Law Department

Hassan

Following Contempt of Court Cases were discussed:-

SNo.	COC's	Department	Discussion by the Committee.	Decision of the Committee meeting held on 27.12.2022
1.	COC No.147-P/2022 in Writ Petition No.4600-P/2020 Shahab Hussain Versus Govt. of Khyber Pakhtunkhwa & others.	Right to Services Commission.	The representative of Right to Services Commission apprised that the Commission is an autonomous body and in terms of regulation No. 3 and 4 of the Khyber Pakhtunkhwa Right to Public Services Commission (Terms and Conditions of Service) Regulation, 2018, the Chief Commissioner is appointing authority of all posts and Chief Secretary Khyber Pakhtunkhwa is not the appointing authority for the posts of BPS-17 in the Commission.	The Committee decided that as the Chief Secretary is not the implementing body in the Right to Services Commission, being a corporate body and as such the Chief Secretary is proforma respondent in the Petition. Hence it is advisable that the Establishment and Administration Department may file a Civil Miscellaneous application in the High Court through the learned Advocate General in order to exclude the name of Worthy Chief Secretary from the panel of respondents.
2.	COC No.72-B/2022 in Writ Petition No.601-B/2020 Miss Palwasha D/O Muhammad Qudsi Versus Mr. Saqlain, Director General Population Welfare Khyber Pakhtunkhwa & others.	Population Welfare Department.	The Departmental representative apprised that the Petitioner filed a writ petition with prayer to appoint the petitioner in the office of DPWO Bannu on the basis of rule 10(4) of the Khyber Pakhtunkhwa Civil Servants Appointment, Promotion & Transfer) Rule, 1989 or any other relief beings fit in the circumstances of the case. He further apprised that the High Court disposed off the writ petition on 09.09.2020 on the request of the Petitioner that he would be satisfied, if name of the petitioner is to be included in the waiting list concerned. The Petitioner was enlisted in the list and repeatedly called to appear before the Departmental Selection Committee but she did not appear before the Selection Committee for interview.	The Committee decided that a detailed reply may be submitted in the High Court, if not submitted earlier, and may pursue it vigorously, as the Department has implemented the judgment.

3.	COC No.256-P/2022 Abdul Wahab & others in W.P. No.2698-P/2021.	Social Welfare Department.	The Departmental representative apprised that the High Court has directed for re-advertisement, therefore, no CPLA was filed. He further apprised that the Directorate of Social Welfare has conducted interviews and progress has been put in file of the Hon'ble Peshawar High Court, Peshawar.	The Committee decided that the process of recruitment may be expedited and after completion of the process, a detailed compliance report may be submitted in the High Court so as to dispose off the COC petition.
4.	COC No.197-P/2020 in W.P. No.3205-P/2019 Luqman Alam & Others Versus Government.	Social Welfare Department.	The Departmental representative apprised that the High Court has directed for re-advertisement, therefore, no CPLA was filed. He further apprised that the Directorate of Social Welfare has conducted interviews and progress has been put in file of the Hon'ble Peshawar High Court, Peshawar. In the instant case the High Court has disposed off the COC No.197-P/2020.	Disposed off.
5.	COC No.76-B/2020 in W.P. No.755-B/2018 Rakhshanda Gul Versus Government.	Social Welfare Department.	The Departmental representative apprised that the High Court has directed for re-advertisement, therefore, no CPLA was filed. He further apprised that the Directorate of Social Welfare has conducted interviews and progress has been put in file of the Hon'ble Peshawar High Court, Peshawar. In the instant case the High Court has disposed off the COC No.76-B/2020.	Disposed off.
6.	COC No.16-B/2020 in W.P. No.762-B/2020 Taufeeq Ul Islam.	Social Welfare Department.	The Departmental representative apprised that the High Court has directed for re-advertisement, therefore, no CPLA was filed. He further apprised that the Directorate of Social Welfare has conducted interviews and progress has been put in file of the Hon'ble Peshawar High Court, Peshawar.	The Committee decided that the process of recruitment may be expedited and after completion of the process, a detailed compliance report may be submitted in the High Court so as to dispose off the COC petition.
7.	COC No.56-B/2021 in W.P. No.586-B/2021 Naimat Ullah Versus Government.	Social Welfare Department.	The Departmental representative apprised that the High Court directed to consider the petitioner if fulfill the required criteria for award of high pay scale in light of Finance Department notification dated 24.07.1986 and may be awarded all the benefits with retrospective effect. He further apprised as there are cases which are exists in award of higher pay scale were given with all the benefits with retrospective effect from the date of attaining eligibility and the petitioner fulfill all the criteria too. Therefore, CPLA has not been filed.	The Committee decided that the process for implementation of the directions of the High Court may be expedited and a detailed compliance report may be submitted in the High Court so as to dispose off the COC petition.

Deputy Law Officer
Govt. of Khyber Pakhtunkhwa
Law Department

Hameed

8.	E.P. No.15/2017 in S.A. No.1109/2012 Robina Shaheen Versus Government.	Social Welfare Department.	<p>The Departmental representative apprised the Tribunal directed to examine the case of the appellant to ascertain as to whether she was similarly placed official for granting of award of High Pay Scale in light of Finance Department Notification dated 24.07.1987 or not.</p> <p>He further apprised that the appellant died before fulfilling the eligibility criteria and the department also submitted death certificate of the Appellant and stated to the Court that "there is no rule/law to award higher pay scale to dead persons."</p>	The Committee decided that the Administrative Department may file an objection petition under Section-47 Code of Civil Procedure in the Service Tribunal so as to dispose off the Execution Petition.
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Hamed
Deputy Law Officer
 Law Department

Deputy Law Officer
 Govt. of Khyber Pakhtunkhwa
 Law Department