

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

Implementation Petition No. \_\_\_\_\_/2023

In

Appeal No. 875/2019

**NABEELA AFRIDI**

**VS**

**EDUCATION DEPTT**

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**PETITIONER/APPLICANT**

**THROUGH:**

  
**MIR ZAMAN SAFI**  
**ADVOCATE**

**MOBILE NO.0333-9991564**

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

Implementation Petition No. \_\_\_\_\_/2023

In

Appeal No. 875/2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No.

3385

Dated

2-2-2023

Mst: Nabeela Afridi, PST (BPS-12),  
GGPS Mari Kor, Pandiali, District Mohmand.

..... PETITIONER

**VERSUS**

- 1- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Education Officer (F), District Mohmand.
- 3- The District Education Officer (F), District Kohat.

.....PETITIONERS

**IMPLEMENTATION PETITION FOR DIRECTING**  
**THE RESPONDENTS TO OBEY THE JUDGMENT**  
**OF THIS AUGUST TRIBUNAL DATED 22.09.2021 IN**  
**LETTER AND SPIRIT**

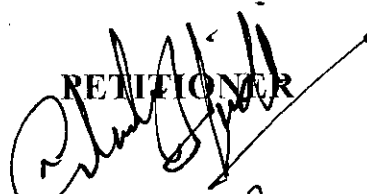
**R/SHEWETH:**

- 1- That the petitioner filed Service appeal bearing No. 875/2019 before this august Service Tribunal against the impugned order dated 18.10.2013.
- 2- That appeal of the petitioner was finally heard by this august Tribunal on 22.09.2021 and was decided in favor of the petitioner vide judgment dated 22.09.2021 with the view that *“For what has been discussed above, the appeal in hand is allowed, the impugned order dated 18.10.2013 is set aside and the appellant is re-instated into service. The respondents shall be at liberty to hold regular/proper enquiry against the appellant and pass order a fresh strictly in accordance with law. De-novo exercise shall be completed by the respondents within a period of ninety days from the receipt of copy of instant judgment, also allowing the appellant to participate therein and bring forth her defense. She shall be allowed to cross examine witnesses appearing against her, if any. The issue of back benefits in favor of the appellant shall be subject to the outcome of de-novo proceedings”*. Copy of the judgment is attached as annexure.....A.
- 3- That after obtaining attested copy of the judgment dated 22.09.2021 the petitioner submitted the same before the respondents for implementation but till date the judgment of this


august Tribunal has not been implemented by the respondent in letter and spirit.

- 4- That the petitioner has no other remedy but to file this implementation petition before this august Tribunal.

It is, therefore, most humbly prayed that on acceptance of this implementation petition the respondents may very kindly be directed to implement the judgment dated 22.09.2021 in letter and spirit. Any other relief which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

  
PETITIONER  
NABEELA AFRIDI

THROUGH:

  
MIR ZAMAN SAFI  
ADVOCATE

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

Implementation Petition No. \_\_\_\_\_/2023

In

Appeal No. 875/2019

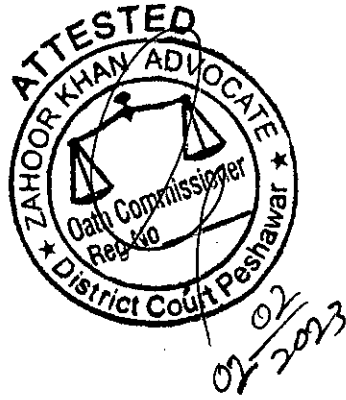
NABEELA AFRIDI

VS

EDUCATION DEPTT:

**AFFIDAVIT**

I **Mir Zaman Safi, Advocate** on behalf of the petitioner, do hereby solemnly affirm that the contents of this **implementation petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



  
MIR ZAMAN SAFI  
ADVOCATE

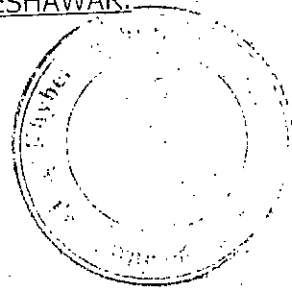
A - (4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 875/2019

Date of Institution ... 03.07.2019

Date of Decision ... 22.09.2021



Mst. Nabeela Afridi, PST, GGPS Mari Kor, Pandiali, District Mohmand  
..... (Appellant)

VERSUS

The Director (E&SE) Government of Khyber Pakhtunkhwa, Peshawar and  
two others. .... (Respondents)

Present.

Mr. Noor Muhammad Khattak,  
Advocate. ....

For appellant.

Mr. Muhammad Adeel Butt,  
Addl. Advocate General

For respondents.

MR. AHMAD SULTAN TAREEN  
MRS. ROZINA REHMAN,

CHAIRMAN  
MEMBER(J)

JUDGMENT

**AHMAD SULTAN TAREEN, CHAIRMAN:-** The appellant named above invoked the jurisdiction of this Tribunal through service appeal described above in the heading challenging thereby her removal from service dated 18.10.2013, communicated to her on 04.03.2019 during proceedings before this Tribunal in Service Appeal No. 1172/2018.

2. The factual account as given in the memorandum of appeal is summed up as hereinafter follows. The appellant was appointed as PST in the respondent department in the year, 1993. She while serving at GPS

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ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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Tarkho Bajaur Agency was transferred and posted at GFCS Spinki Tangi Mohmand Agency, vide order date 06.08.2007. The appellant assumed charge at her new assignment and started performing her duty. LPC was also issued in her favour by the concerned authority. The appellant was then transferred to GGPS Mari Kor District Mohmand Agency. The appellant being bonafide resident of FR Kohat submitted application to the Director, E&SE Department, Khyber Pakhtunkhwa Peshawar on 17.09.2013 under Section 3 of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011 for her permanent transfer to home District. In response to the said application, the District Education Officer, Kohat was directed to adjust the appellant against the post of PST at FR Kohat. Vide order dated 05.05.2014, the appellant was adjusted against the post of PST at GGMS Feroz Mela, FR Kohat. The appellant assumed the charge on 27.05.2014 and started performing her duty. After serving for some time in the said school, respondent No. 3 relieved her and directed to report back to her previous assignment. The appellant went to GGPS Mari Kor District Mohmand for submitting arrival report which was refused by the Headmistress. Since then the appellant agitated her grievance before the concerned authorities but in vain. Lastly, she filed departmental appeal on 11.06.2018 before respondent No. 1 which elicited no response. Ultimately, the appellant approached this Tribunal through Service Appeal at hands. After admission of the appeal for regular hearing, the respondents were given notices. They after attending the proceedings have filed the written reply refuting the claim of the appellant.

3. We have heard the arguments and perused the record.

ATTESTED

EXAMINER  
 District Education Officer  
 District Mohmand  
 Peshawar

ATTESTED

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4. The appointment of the appellant in the respondent department in the year, 1993 and her continuous service thereafter has not been specifically denied in parawise comments filed on behalf of the respondents No. 1 & 2. Similarly account of her transfers given by the appellant that she was transferred to GFCS Spinki Tangi Mohmand Agency from GGPS Tarkho, Bajaur Agency followed by issuing of LPC is also not denied. The fact of rendering service by the appellant at Mohmand Agency is also not disputed. The dispute relates to the version of the appellant that she being bonafide resident of Kohat, submitted application for her transfer to her home Agency/District in the light of Section 3 of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011 and the respondent No. 1 directed the respondent No. 3 to adjust the appellant against the post of PST at FR Kohat. There is note of "no objection" recorded by A.E.O Mohmand Agency on application of the appellant as available on record. The copy of office order dated 05.05.2014 issued by Agency Education Officer, FR Kohat is also available on file as annexed with the Memorandum of Appeal. According to the order dated 05.05.2014, the appellant was adjusted in GGMS Feroz Mela FR Kohat on temporary basis with immediate effect till further order, in pursuance to direction of the Director of Education FATA Warsak Road, Peshawar. However, the respondent No. 1 and 2 in their Parawise comments did not admit the correctness of facts stated in Para-4 of the Memorandum of Appeal and denied the same. It was added on behalf of the said respondents that the duration, during which the appellant claims that she submitted application for her transfer, she was already removed from service and her salary was also stopped w.e.f. 01.07.2012. The copy of

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 EXAMINER  
 BOARD OF EXAMINERS  
 PESHAWAR

**ATTESTED**  
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the order showing removal of the appellant from service has been annexed with the Parawise comments. The order dated 18.10.2013 as to removal of the appellant as referred before is in the style of Memorandum addressed to her by Agency Education Officer, Mohmand Agency at Ghalanai. It is stated in the said Memo. that consequent upon her absence from duty, she i.e. the appellant was asked to explain her absence but no reply was received in the office and again she was given show cause notice to show the reasons of absence but in vain. Therefore, she was informed that she by the said Memo. was removed from service with immediate effect. On the other hand, respondent No. 3 in his separate comments, submitted that the appellant was transferred to Mohmand Agency from Bajaur Agency and there at Mohmand Agency, she served till April, 2014. She was deputed from Mohmand Agency to F.R Kohat at the direction of Director of Education FATA on 24.04.2014 and the deputation order was issued for duty vide order dated 05.05.2014 at GGMS Feroz Mela, FR Kohat. It is also an admitted position on behalf of respondent No. 3 that she performed her duty in FR Kohat till October, 2014 and there-after she was relieved with direction to join her service in the previous station i.e. Mari Kor at Mohmand Agency. If version of the respondent No. 3 is kept in view, proceedings as to absence as reflected in the Memo. dated 18.10.2013 addressed to the appellant about her removal becomes questionable, when she was on duty till October, 2014 as per version of respondent No. 3. Obviously, the available parawise comments of respondents No. 1 and 2 with the copies of supporting record are short to provide the material for determination of the question of conflict between versions of respondents No. 1 & 2 and that of the respondent No. 3. There is yet another aspect of case in hand. The impugned order dated 18.10.2013 suggests that departmental proceedings

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EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

ATTESTED



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against the appellant were taken ex-parte due to her non-participation. The relevant Rule 9 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 provides that in case of non-availability/absence of a civil servant, he/she has to be served with notice through registered post at her residential address and, in case of failure of appearance, the notice is required to be published in two leading Newspapers. But no such notice was published before the impugned order. In the circumstances, the appellant remained at loss in defending her cause in accordance with law.

5. For what has been discussed above, the appeal in hand is allowed, the impugned order dated 18.10.2013 is set aside and the appellant is reinstated into service. The respondents shall be at liberty to hold regular/proper enquiry against the appellant and pass order afresh strictly in accordance with law. De-novo exercise shall be completed by the respondents within a period of ninety days from the receipt of copy of instant judgment, also allowing the appellant to participate therein and bring forth her defense. She shall be allowed to cross examine witnesses appearing against her, if any. The issue of back benefits in favour of the appellant shall be subject to the outcome of de-novo proceedings. Parties are, however, left to bear their respective costs. File be consigned to the record room.

ATTESTED

*[Signature]*  
 (ROZINA REHMAN)  
 Member(J)

*[Signature]*

*[Signature]*  
 (AHMAD SULTAN TAREEN)  
 Chairman

ANNOUNCED  
 22.09.2021

Certified to be true copy

*[Signature]*  
 MEMBER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

Date of Presentation of Petition 9/11/2021  
 Number 26 - 2400  
4 -  
30 -  
 Date of Delivery of Copy 9/11/2021  
9/11/2021

WAKALAT NAMA

BEFORE THE Khyber Pakhtunkhwa Service  
Tribunal, Peshawar

OF 2023

Nabeela Afridi

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

VERSUS

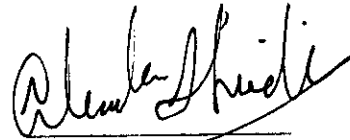
Education Deptt.

(RESPONDENT)  
(DEFENDANT)

I/We Nabeela Afridi

Do hereby appoint and constitute **MIR ZAMAN SAFI**,  
**Advocate, High Court, Peshawar** to appear, plead, act,  
compromise, withdraw or refer to arbitration for me/us as my/our  
Counsel/Advocate in the above noted matter, without any liability  
for his default and with the authority to engage/appoint any other  
Advocate Counsel on my/our cost. I/we authorize the said  
Advocate to deposit, withdraw and receive on my/our behalf all  
sums and amounts payable or deposited on my/our account in the  
above noted matter.

Dated. \_\_\_ / \_\_\_ / 2023



CLIENT



ACCEPTED

MIR ZAMAN SAFI  
ADVOCATE

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