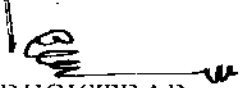


Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 70/2023

| S.No | Date of order proceedings | Order or other proceedings with signature of judge |
|------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 13.02.2023 | <p>The execution petition of Mst. Rasheeda Begum submitted today by Mr. Ahmad Farooq Khan Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on _____. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p>By the order of Chairman  REGISTRAR,</p> |

BEFORE THE SERVICE TRIBUNAL KHYBER

PAKHTUNKHWA PESHAWAR

Execution Petition no. 70/2023

Service Appeal No. 7746 of 2021

Mst. Rasheeda Begum,.....Appellant

Versus

Government of Khyber Pakhtunkhwa through Secretary,
Elementary and Secondary Education Khyber Pakhtunkhwa etc.

.....Respondents

APPLICATION OF IMPLEMENTATION OF JUDGMENT DATED:

05.10.2022 IN CASE SERVICE APPEAL NO. 7746/2021.

INDEX

| S No. | Description | Annexure | Page # |
|-------|--|----------|--------|
| 1 | Memo of Application alongwith affidavit | | 1-2 |
| 2 | Copies of order / Judgment | A | 3-7 |
| 3 | Copies of Application | B | 8 |
| 4 | <i>Wakalat Nama</i> | | 9 |

Dated: 11.02.2023

Rasheeda
RASHEEDA BEGUM

.....Applicant

Through

Ahmed Farooq Khan

AHMED FAROOQ KHAN

Advocate Supreme Court of Pakistan (Mansehra)

BEFORE THE SERVICE TRIBUNAL KHYBER

PAKHTUNKHWA PESHAWAR

Execution Petition no. 70/2023
Service Appeal No. 7746 of 2021

Mst. Rasheeda Begum, PST wife of Shereen Khan, Resident of
Khawajgan, Tehsil & District Mansehra.....Appellant

Versus

Khyber Pakhtunkhwa
Service Tribunal

Entry No. 3535

Dated 13-2-2023

1. Government of Khyber Pakhtunkhwa through Secretary,
Elementary and Secondary Education Khyber
Pakhtunkhwa, Peshawar.
2. Director Elementary and Secondary Education Peshawar.
3. District Education Officer (Female) Mansehra.
4. Sub Divisional Education Officer (Female)
Mansehra.....Respondents

APPLICATION FOR IMPLEMENTATION OF JUDGMENT
DATED: 05.10.2022 IN CASE SERVICE APPEAL NO.
7746/2021

Respectfully Sheweth!

1. That, the titled service petition of appellant was allowed
by this Honourable Service Tribunal vide order / judgment
dated: 05.10.2022. (Copies are annexed as annexure A).
2. That, the petitioner / applicant submitted the copy of
judgment alongwith an application to the office of
respondents No.3 & 4 for implementation. (Copies are
annexed as annexure B).
3. That, respondents do not want to implement the order of
this Honourable Service Tribunal illegally, therefore,
applicant has no other remedy for implementation of
judgment, hence the present petition / application.
4. That, respondents be directed to implement the judgment
to Dated: 05.10.2022 in true letter & spirit.

It is therefore, prayed that, respondents be directed to implement the judgment dated: 05.10.2022 in true letter & spirit and in case of any failure on their part they be punished under the proceedings of contempt of court.

Dated: 11.02.2023

Rasheeda
RASHEEDA BEGUM
.....Applicant

Through

Ahmed Farooq Khan

AHMED FAROOQ KHAN

Advocate Supreme Court of Pakistan (Mansehra)

Affidavit!

I, Mst. Rasheeda Begum PST wife of Shereen Khan, Resident of Khawajgan, Tehsil & District Mansehra, do hereby solemnly affirm and declare on oath that, the contents of this application are true and correct to the best of my knowledge and nothing has been concealed or suppressed herein.

Dated: 11.02.2023

Rasheeda
RASHEEDA BEGUM
Deponent

ATTESTED
EJAZ ALI SHAH
Advocate High Court
Notary Public
No. JUDICIAL-105/108/2019/Vol-1
Date 11/2/23
Dist. Mansehra

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUKHWA, PESHAWAR



Service Appeal No. 7746/2021

7873
11-11-2021

Mst. Rasheeda Begum, PST wife of Shereen Khan,
resident of Khawajgan, Tehsil and District,
Mansehra.
.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary; Elementary and Secondary Education, Khyber Pakhtukhwa, Peshawar.
 2. Director, Elementary and Secondary Education, Peshawar.
 3. District Education Officer (Female), Mansehra.
 4. Sub Divisional Education Officer (Female), Mansehra.
-Respondents

SERVICE APPEAL UNDER SECTION 4,
SERVICE ACT 1974, APPEAL TO SET ASIDE
AND CANCELLATION LETTER NO. 1538,
DATED 02/08/2021, LETTER NO. 1807 DATED
27/10/2021 ISSUED BY THE RESPONDENT
NO. 4 AND DIRECTION TO THE
RESPONDENTS TO PREPARE THE
PENSION CASE OF THE APPELLANT AND
PAY THE MONTHLY SALARY ALONGWITH
ALL BENEFITS INCLUDING INCREMENT
BY THE GOVERNMENT.

ATTESTED

Secretary
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 7746/2021

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MISS. FAREEHA PAUL ... MEMBER(E)

Mst. Rasheeda Begum, PST W/o Shereen Khan, R/o Khawajgan,
Tehsil & District Manshira.

.... (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Peshawar.
2. The Director, Elementary & Secondary Education, Peshawar.
3. District Education Officer (Female), Manshira.
4. Sub Divisional Education Officer (Female), Manshira.

.... (Respondents)

Mr. Ahmad Farooq Khan
Advocate

For appellant

Mr. Kabir Ullah Khattak
Addl. Advocate General

For respondents

Date of Institution.....11.11.2021
Date of Hearing.....23.09.2022
Date of Decision.....05.10.2022

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the impugned orders dated 02.08.2021 and 21.10.2021 with the prayer for their cancellation and directing the respondents to pay the monthly salary of the appellant from 1st August 2019 to the date of her retirement, with further prayer to direct them to prepare her pension case and pay her pension dues including GP

ATTESTED
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

Fund, Benevolent Fund, gratuity etc and any other relief of which the appellant is entitled otherwise with all back benefits.

2 Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed on the post PTC vide order dated 11.01.1982 by District Education Officer (Female), Mansehra (Respondent No.3) in the Government Primary School, Muradpur. She assumed the charge and resumed her duties. Lastly she was transferred to the Government Primary School, Khawajgan, Mansehra. On 11.03.2020, the appellant applied for retirement, the reference of which was made in her service book. After submitting of retirement application, the respondents were bound to prepare her pension case. Instead of that, they issued a letter dated 02.08.2021 and demanded Rs. 5,327,721/- to be deposited in the government exchequer on the basis of an inquiry report and in pursuance of a meeting of the Departmental Accounts Committee, held on 08.07.2021, it was decided that recovery of salary and fringe benefits paid to Mst. Rasheeda Begum, PST appointed on bogus SSC Certificate might be made in the light of inquiry report of DEO (F), Swat. The appellant preferred a departmental appeal against that order on 07.08.2021 but that was dismissed on 21.10.2021; hence, this service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General and perused the case file with connected documents in detail.

4. Learned counsel for the appellant presented the case in detail and contended that at the time of her initial appointment, the appellant was qualified and after serving for more than twenty five years, issuance of impugned letter showed the conduct and ruthless behaviour of the respondents. He further contended that

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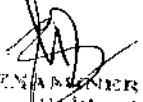
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

added that the respondents were bound to associate the appellant in the inquiry and give her a fair chance to defend her case.

5. The learned Additional Advocate General on the other hand strongly denied the stance of the appellant and argued that her certificate of PTC was found bogus by the DEO (F), Swat in an inquiry and hence recovery of salary was ordered.

6. In the light of arguments and record presented before us it is evident that the appellant was appointed on the post of PTC in 1982. Basic qualification required at the time of appointment, as per Service Rules is not available in the case file. However, it appears that she was appointed on the basis of PTC Certificate. In the year 2020, after serving 38 years, she applied for retirement but instead of preparing her retirement case, the department issued a letter on 02.08.2021 conveying her the decision of Departmental Accounts Committee meeting held on 08.07.2021 at Provincial Assembly Khyber Pakhtunkhwa, Peshawar in draft para no.5.4.1. Through that letter she was asked to deposit her salary and fringe benefits of Rs.5,370,227/- in the government exchequer on the grounds that her SSC Certificate was bogus as indicated by DEO(F), Swat in an inquiry report. We fail to understand why the department did not verify the documents of the appellant at the time of her appointment in 1982. Condition no. 6 of the appointment order dated 11.01.1982 was a clear direction to the Drawing Disbursing Officer/Sub Divisional Education Officer (Female) concerned to check the educational/professional qualification certificates of the candidates before handing over the charge to them. All the documents were to be checked and verified at that time. Raising any observation at such a belated stage is not acceptable at all as the appellant has given her precious 39 years of life in service to the government and depriving her of her due right of salary and pensionary benefits is a clear violation of her legal and fundamental rights, especially when

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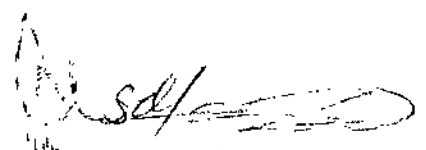

MANAGER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



there is no allegation that she did not perform duty or was inefficient, not capable or involved in any activity which could be termed as misconduct on her behalf.

7. In view of the above, this appeal is allowed as prayed for and the impugned orders dated 02.08.2021 and 21.10.2021 are set aside. Respondents are directed to pay the arrears of monthly salary of the appellant from 1st August 2019 to the date of her retirement and also process her pension case and pay all her pensionary benefits. Parties are left to bear their own costs. Consign.

8. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 5th day of October, 2022.



(KALIM ARSHAD KHAN)
Chairman



(FAREEHA PAUL)
Member (E)

Date of Presentation of Application 21-10-22

Number of Wards 2000

Copying Fee 22/-

Urgent 4/2

Total 26/-

Name of C.A. _____

Date of Copying of all copies 21-10-22

Date of Delivery of Copy 21-10-22

Certified to be true copy



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

بخدمت جناب DEO صاحب (زنانه) محکمہ ایجوکیشن مانسہرہ

جناب عالی! درخواست ذیل عرض ہے۔

یہ کہ سائلہ نے SDEO (Female) کے لیٹر/تکم نمبری 1538 مورخہ 2-8-2021 اور لیٹر نمبری 1807 مورخہ 21-10-21 کے خلاف سروس ٹریبونل خیبر پختونخواہ پشاور میں سروس ایپل نمبر 7746/2021 مورخہ 11-11-2021 کو دائر کی۔ جو منظور ہو کر متذکرہ بالا ایڈیشن ہائے کالعدم و منسوخ کیے گئے اور ٹریبونل نے من سائلہ کے حق میں فیصلہ صادر فرماتے ہوئے حکم صادر فرمایا کہ سائلہ کی سروس 1-8-2019 سے ریٹائرمنٹ کی تاریخ تک جملہ تنخواہ جاری فرمائی جائے اور سائلہ کے پنشن کے کاغذات حسب ضابطہ تیار کیے جا کر سائلہ کو تمام Pensionary benefits ادا کیے جائیں۔

(نقولات فیصلہ ایپل لف ہیں)

یہ کہ جناب سے گزارش ہے کہ متذکرہ بالا فیصلہ کی روشنی میں سائلہ کو حسب ضابطہ تنخواہ جاری کی جائے اور سائلہ کے ریٹائرمنٹ کے کاغذات حسب ضابطہ تیار کیے جا کر سائلہ کو تمام Pensionary benefits ادا کیے جائیں۔

لہذا استدعا ہے کہ! سروس ٹریبونل کے فیصلہ پر عملدرآمد کرتے ہوئے حسب ضابطہ سائلہ کو تنخواہ جاری فرمائی جائے اور سائلہ کے ریٹائرمنٹ کے کاغذات بنوانے کا حکم صادر فرمایا جا کر سائلہ کو جملہ تمام Pensionary benefits ادا کیے جانے کا حکم صادر فرمایا جائے۔

المرقوم 25 اکتوبر 2022ء

مسماة رشیدہ بیگم، PST زوجہ شہین خان ساکن خواجگان تحصیل و ضلع مانسہرہ حال تعینات گورنمنٹ سکول خواجگان

موبائل نمبر 0300-5778414



18 FEB 2023



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13980

BAM No. 48

BC No. 1 0 - 2 6 9 6

Name of Advocate المہر فاروقی حاکم

S.No _____

Fee Rs. 200/-

2022-23

وکالت نامہ

GENERAL SECRETARY
District Bar Association
Manshera

بعدالت: رہسکی ٹریڈنگز جنرل منیجمنٹ سروسز پرائیویٹ لمیٹڈ

عنوان: ساجد مسعود صاحب بنام: حکومت جنرل منیجمنٹ سروسز دہشت

منجاب: ساجد نوعیت مقدمہ:

باعث تحریر آنکہ

دریں مقدمہ عنوان بالا میں اپنی طرف سے برائے پیروی و جواب دہی بمقام المہر فاروقی حاکم کے لئے کو بدیں شرائط وکیل مقرر کیا ہے کہ میں ہر پیشگی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کسی پیشگی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو وکیل موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ پکھری کے علاوہ کسی اور جگہ سماعت ہوا یا پکھری کے اوقات کے آگے پیچھے سماعت ہونے پر مظہر کو کوئی نقصان پہنچے تو وکیل موصوف ذمہ دار نہ ہوں گے اور وکیل موصوف کو عرضی دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست بیان حلفی و تصدیق کرنے اور اسپر دستخط کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپردتلاشی و راضی نامہ و دستبرداری و اقبال دعویٰ کا اختیار بھی ہوگا بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کٹرفر درخواست حکم اتنا ہی یا فیصلہ قبل از ڈگری اجراء ڈگری بھی وکیل موصوف کر بشرط ادائیگی علیحدہ محتسنا ادا کرنے کا مجاز ہوگا اور بصورت ضرورت بدوراء مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا ایئر سٹر کو بجائے خود یا اپنے ہمراہ مقرر کریں اور مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے وکیل موصوف کو اور اگر پوری فیس تاریخ پیشگی سے پہلے ادا نہ کروں گا تو وکیل موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ وکیل موصوف کے برخلاف نہیں ہوگا مجھے کل ساختہ پرداختہ وکیل موصوف مثل ذات خود منظور و قبول ہوگا۔ لہذا وکالت نامہ لکھ دیا ہے اور دستخط / انگوٹھا ثبت کر دیا ہے تاکہ سند رہے۔ مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے۔

مورخہ 20

ACCEPTED

ساجد مسعود صاحب
Principal