

27.08.2019

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

As no representative of the respondents is in attendance today despite notice, learned AAG undertakes to procure their attendance on next date of hearing.

Adjourned to 24.09.2019 for further proceedings before S.B.

Chairman



24.09.2019

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

Learned counsel states that the requisite order/implementation has been made by the respondents, therefore, he is under instructions to request for consigning the instant proceedings to record.




Order accordingly. The petitioner may, however, apply for restoration of the proceedings in case any part of the relief granted to her remained unsatisfied.

Chairman



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Execution Petition No. 246/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.06.2019	<p>The execution petition of Mst. Tauheed Anjum submitted today by Mr. Umar Farooq 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 18/6/19.</p>
2-	24/06/19	<p>This execution petition be put up before S. Bench on <u>03/07/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
03.07.2019		<p>Petitioner in person present. Notice be issued to the respondents for implementation report for 27.08.2019 before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>

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

Implementation Petition No. 246 /2019

In Appeal No.586/2016

MISS TAUHEED ANJUM

VS

EDUCATION DEPTT:

**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Implementation	.....	1- 2.
2.	Affidavit	.....	3.
3.	Judgment	<b>A</b>	4-7.
4.	Vakalat nama	.....	8.

**PETITIONER**

**THROUGH:**

**Umar Farooq**  
**ADVOCATE**



(1)

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

Implementation Petition No. 246 /2019

In Appeal No.586/2016



Miss Tauheed Anjum PST (BPS-12),  
G.G.P.S. Shamlai, Adenzai, Dir Lower..... **PETITIONER**

**VERSUS**

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

..... **RESPONDENTS**

**IMPLEMENTATION PETITION FOR DIRECTING THE**  
**RESPONDENTS TO OBEY THE JUDGMENT DATED**  
**07.02.2019 PASSED IN APPEAL NO.586/2016 IN**  
**LETTER AND SPIRIT**

**R/SHEWETH:**

- 1- That petitioner filed appeal bearing No. 586/2016 before this august Tribunal against the impugned order dated 23.4.2014 whereby petitioner was re-instated in to services with immediate effect.
- 2- That the appeal of the petitioner was finally heard by the august Tribunal on 07.02.2019 and decided the appeal in favor of the petitioner. **The operative part of the judgment is reproduced as below:-**

**"It may however be mentioned that as a result of re-instatement of the appellant vide order dated 23.04.2014 the name of the appellant shall be placed in the seniority list of PSTs and her seniority position shall be determined keeping in view the date of her regular appointment as PST. Copy of the judgment is attached as annexure .....** **A.**

2

- 3- That after obtaining copy of the judgment the petitioner applied to the respondent Department for his claim but the respondents are not willing to implement the judgment.
- 4- That petitioner has no other efficacious remedy but to file the instant implementation petition.

It is, therefore, most humbly prayed that on acceptance of this implementation petition the respondents may be directed to implement the judgment dated 07.02.2019 passed in appeal No. 586/2016 in letter and spirit. Any other remedy which this august Tribunal deems fit may also be awarded in favor of the petitioner.

Dated: 18.06.2019

PETITIONER

*T. Anjum*

TAUHEED ANJUM

THROUGH:

UMAR FAROOQ

*Kamran Khan*

KAMRAN KHAN

&

*Shahzullah*

SHAHZULLAH

ADVOCATES

3

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

Implementation Petition No. \_\_\_\_\_/2019

In Appeal No.586/2016

**MISS TAUHEED ANJUM**

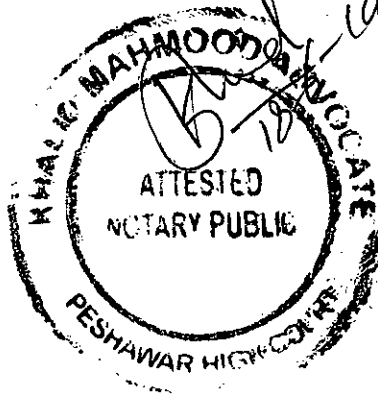
**VS**

**EDUCATION DEPTT:**

**AFFIDAVIT**

I UMAR FAROOQ Advocate on the instructions and 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.

**UMAR FAROOQ**  
**ADVOCATE**



(4)

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 KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b> <b><u>Camp Court Swat</u></b> <b>Service Appeal No. 586/2016</b></p> <p>Date of Institution ..... 01.06.2016 Date of Decision ..... 07.02.2019</p> <p>Miss Tauheed Anjum PST (BPS-12) Government Girls Primary School Shamlai, Tehsil Adenzai, Dir Lower.</p> <p style="text-align: right;"><b>Appellant</b></p> <p style="text-align: center;"><b>Versus</b></p> <p>1. Director Elementary &amp; Secondary Education Khyber Pakhtunkhwa Peshawar. 2. Secretary Education Government of Khyber Pakhtunkhwa Peshawar. 3. District Education Officer (Female) Dir Lower.</p> <p style="text-align: right;"><b>Respondents</b></p> <p><b>Mr. Muhammad Hamid Mughal</b>-----<b>Member(J)</b> <b>Mr. Hussain Shah</b>-----<b>Member(E)</b></p> <p>07.02.2019</p> <p style="text-align: center;"><b><u>JUDGMENT</u></b></p> <p style="text-align: center;"><b><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u></b> - Learned counsel for appellant and Mr. Mian Amir Qadir learned Deputy District Attorney present.</p> <p>2. The appellant (PST) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for the grant of back benefits upon her reinstatement vide order dated 23.04.2014.</p> <p>3. Learned counsel for the appellant argued that the appellant</p>		



**ATTESTED**

Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

was appointed as PST in the year 1997 however she was terminated from service on the ground of absence from duty; that vide judgment dated 10.03.2014 passed in Service Appeal No.1347/2010 filed by the appellant, her case was remanded back to the respondent department to decide afresh her departmental appeal; that after remand, the respondent department accepted the departmental appeal of the appellant and reinstated her into service vide order dated 23.04.2014. Further argued that after reinstatement, the appellant filed departmental appeal for the grant of back benefits but to no avail. Next contended that the colleagues of the appellant are now serving in BS-16 but the appellant is deprived of promotion.

4. As against that learned Deputy District Attorney argued that the appellant was removed from service on the ground of absence from duty; that this Tribunal while deciding the earlier Service Appeal bearing No. 1347/2010 did not exonerate the appellant rather observed that the appellant has no explanation with regard to her absence from duty. Further argued that the appellate authority has taken lenient view and reinstated the appellant despite the fact that she remained absent from duty, therefore, the appellant cannot be held entitled for the back benefits. Further argued that vide order dated 23.04.2014 the appellant has been reinstated in service however the intervening period of her absence from official duty w.e.f. 30.11.2007 till date was ordered to be treated as leave without pay/extraordinary leave. Further argued that this Tribunal has not granted any back benefits to the appellant vide judgment passed in

→  
D.

**ATTESTED**

*[Signature]*  
 MEMBER  
 Service Tribunal,  
 Peshawar



Service Appeal No.1347/2010.

5. Arguments heard. File perused.

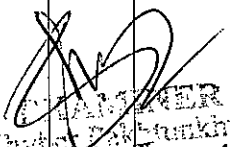
6. The appellant was removed from service on the ground of absence from duty, resultantly the appellant approached this Tribunal by filing Service Appeal No.1347/2010 decided on 10.03.2014. Through the said judgment of this Tribunal the departmental appeal of the appellant was remanded for decision afresh. Consequently the appellate authority vide order dated 23.04.2014 by accepting the departmental appeal, reinstated the appellant in service with immediate effect while the intervening period w.e.f 30.11.2007 till date was ordered to be treated as leave without pay/extraordinary leave.


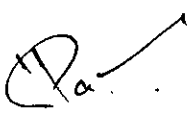
7. This Tribunal in its previous judgment dated 10.03.2014 did not exonerate the appellant from the charge of absence from duty nor granted any back benefits.

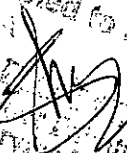
8. The appellant was removed from service on the ground of absence from duty. The appellate authority however, without exonerating the appellant from the charge of absence from duty, reinstated her into service without resorting to any major or minor punishment and intervening period was treated as leave without pay/extraordinary leave. This Tribunal is of the considered opinion that the appellate authority had already taken lenient view by reinstating the appellant into service.

9. No case was made for the grant of salaries of the intervening period and as such the appellant has not been able to seek

ATTESTED

  
CHAMBER  
Khwaibak, Tankhwa  
Service Tribunal,  
Peshawar

		<p>indulgence of this Tribunal.</p> <p>10. It may however be mentioned that as a result of reinstatement of the appellant vide order dated 23.04.2014, the name of the appellant shall be placed in the seniority list of PSTs and her Seniority position shall be determined keeping in view the date of her regular appointment as PST. The present service appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">               (Hussain Shah)              Member         </div> <div style="text-align: center;">               (Muhammad Hamid Mughal)              Member              Camp Court, Swat.         </div> </div> <p><u>ANNOUNCED</u> 07.02.2019</p>
--	--	--

**Certified to be true copy**  
  
 Muzaffar Hussain  
 Member Tribunal,  
 Peshawar

Date of Presentation of Application 13-2-19  
 Number of Words 2000  
 Copying Fee 12/-  
 Urgent —  
 Total 12/-  
 Name of Copyist [Signature]  
 Date of Completion of Copy 06-03-19  
 Date of Delivery of Copy 06-03-19

قیمت 50 روپے	17555	PESHAWAR BAR ASSOCIATION PBA		
ایڈوکیٹ: طرف روٹ:	بار کونسل/ ایسوسی ایشن نمبر: 22-48-14-6c	پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
رابطہ نمبر: 0334-9265353				

بعدالت جناب: خیبر پختونخواہ کورس ٹریننگ

Petitioner	مجاناب:	دعویٰ:
تقریباً نسخہ		علت نمبر:
بنام حکومت		مورخہ: 18/6/2019
		جرم:
		تھانہ:

**باعت تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام مصلحتاً کیلئے مصرحاً دوز، محامیان خان، سہ ذوالنہم مستند کو وکیل 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 کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ 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 قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے 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

المرقوم: 18/6/2019

العبد گواہ شد العبد  
مقام پشاور کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔  
Attested and accepted by  
UMAR FAROOQ  
A.H.C.  
Mohammad A.H.C.  
Mohammad A.H.C.

T. Arshad  
تقریباً نسخہ  
ذریعہ خدمت  
فان سلین جلد وہ دہر لوئیٹ