

28.04.2020

Due to COVID19, the case is adjourned to 20.07.2020 for the same as before.



Reader

20.07.2020

Syed Noman Ali Bukhari, learned counsel for the appellant is present. Mr. Kabirullah Khattak, Additional AG for the respondents is also present. Learned Additional AG submitted before the Tribunal that the judgment of this Tribunal dated 09.02.2018 has been fully implemented by virtue of notification bearing No. SO(S/F)E&SED/4-29/2019/Mst. Kiran Sabeen/SS Urdu dated 5th November 2019 whereby in view of notification in the S.O (G)E&SED/1-85/2012/Kiran Sabeen/SS Urdu dated 06.12.2012 the period from 24.09.2009 to 09.05.2012 of the aforesaid lady Kiran Sabeen S.S (Urdu) BS-17 GGHSS Behali Mansehra has been treated as leave with full pay instead of leave without pay. The copy of this notification has been placed on file. Grievance of petitioner has been redressed. The learned counsel for the petitioner concur and agree with learned Additional AG, therefore, the implementation of the judgment of the Service Tribunal has been made. The respective claim of the petitioner has fully been satisfied, therefore, file be consigned to the record room.


(MUHAMMAD-JAMAL KHAN)
MEMBER

ANNOUNCED
20.07.2020

EP-169/2018

20.01.2020

Junior to counsel for the petitioner and Mr. Sajid Superintendent for respondent No. 3 alongwith Addl. AG for the respondents present.

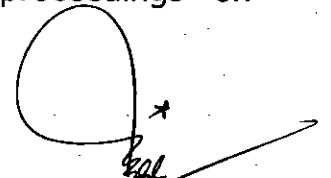
Learned AAG requests for time to furnish implementation report. He is required to contact the respondents and ensure the implementation of the judgment in letter & spirit by next date of hearing.

To come up for implementation report positively on 04.03.2020 before S.B.


Chairman

04.03.2020

None for the petitioner present. Addl: AG alongwith Mr. Fazal Subhan, SO and Mr. Irfan, Assistant for respondents present. Representative of the respondents submitted implementation report which is placed on file. Notice be issued to the petitioner and her counsel. To come up for further proceedings on 19.03.2020 before S.B.


Member

19.03.2020

Due to general strike of Khyber Pakhtunkhwa Bar Council learned counsel for the petitioner is not available today. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Irfanullah, Assistant for the respondents present. Adjourned to 28.04.2020 for further proceedings before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

05.11.2019

Counsel for the petitioner and Addl. AG alongwith Fazle Subhan, S.O and Sajid Superintendent for the respondents present.

Representative of respondent No. 4 states that necessary approval for payment of outstanding salaries in favour of petitioner has been made, however, a formal order/notification is to be issued in that regard. He, therefore, requests for a short adjournment in order to finalize the case and send the same for actualization of payment to the concerned quarter.

Adjourned to 10.12.2019 for further proceedings. The respondents shall ensure the implementation of the judgment in letter & spirit by next date of hearing.


Chairman

10.12.2019

Junior to counsel for the petitioner and Addl. AG for the respondents present.

Learned AAG requests for short adjournment to submit implementation report. Adjourned to 20.01.2020 on which date the implementation report shall positively be submitted.


Chairman

EP 169/18

11.09.2019

Counsel for the petitioner and Mr. Ziaullah, DDA alongwith Sajid Superintendent for the respondents present.

Representative of respondent No. 3 states that the concerned respondents (2&4) have not sent case of petitioner to the Finance Department for final implementation.

Today the respondents No. 2 & 4 are not represented through any representative, therefore, the said respondents shall be issued notices for submission of implementation report on next date of hearing. In case the respondents fail to perform their part towards implementation respondents No. 2 & 4 shall appear in person.

Adjourned to 08.10.2019 before S.B.


Chairman

08.10.2019

Counsel for the petitioner and Addl. AG alongwith M/S Atiqur Rahman and Sajid Superintendents for the respondents present.

The representative of respondent No. 4 states that on next date of hearing the implementation report shall positively be submitted.

In case the respondents again fail to implement the judgment under execution till next date all punitive actions under the law would be taken against the respondents.
Adjourned to 05.11.2019 before S.B.


Chairman


Mst. Kiran Sabeh

04.07.2019

Counsel for the petitioner and Addl. AG alongwith M/S Shakeel Khan, S.O and Sajid Superintendent for the respondents present.

The representative of the respondents assured that the case of the petitioner was under process in the office of respondent No. 4 and implementation report would be submitted positively on the next date of hearing.

Last opportunity is granted for submission of implementation report on the next date of hearing, failing which coercive measures would be initiated against the respondents. To come up for further proceedings on 22.07.2019 before S.B.


Member

E.P. NO. 169/2018
MST. Kiran Sabeem vs Govt


22.07.2019

Counsel for the petitioner and Mr. Ziaullah, DDA alongwith Shakeel Khan SO and Sajid Superintendent for the respondents present.

The representative of respondent No. 4 has submitted written reply/comments to the execution application. It has been noted in the comments that the respondent department has preferred a CPLA against the judgment under execution before the Apex Court although no date of hearing has been fixed in the matter.

The respondents are required to produce on the next date any order of Apex Court suspending or setting aside the judgment under execution, else an implementation report alongwith evidence of payment of outstanding dues in favour of the petitioner and also undertaking to the effect that her name would be placed in the relevant seniority list as per law.

Adjourned to 11.09.2019 before S.B.


Chairman

11.09.2019

Counsel for the petitioner and Mr. Ziaullah, DDA alongwith Sajid Superintendent for the respondents present.

Representative of respondent No. 3 states that the concerned respondents (2&4) have not sent case of petitioner to the Finance Department for final implementation.

Today the respondents No. 2 & 4 are not represented through any representative, therefore, the said respondents shall be issued notices for submission of implementation report on next date of hearing. *In case the respondents*

Adjourned to 08.10.2019 before S.B.


Chairman

set typed

*fail to perform
their post towards
Imp - Respondents no. 2 and 4 shall
appear in person.*

02.04.2019

Counsel for the petitioner present. Mr. Kabirullah, Addl. AG for respondents present. Counsel for the petitioner seeks adjournment. Adjourned. Case to come up for further proceedings on 30.04.2019 before S.B.


(Ahmad Hassan)
Member

30.04.2019

Counsel for the petitioner and Mr. Usman Ghani District Attorney for the respondents present.

It appears that the impleaded respondent No. 4/Secretary Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar has not been sent notice for implementation of judgment in the instant Execution Petition. The said respondent shall positively be served for the next date.

Adjourned to 27.05.2019 for submission of implementation report.


Chairman

27.05.2019

Nemo for the petitioner. Addl. AG alongwith Shakeel Superintendent for the respondents present.

Representative of the respondents requests for time for submission of implementation report due to late receipt of notice for hearing today. Adjourned to 04.07.2019 on which date the implementation report shall positively be submitted.


Chairman

EP 169/18

15.1.2019

Syed Numan Ali Bukhari, Advocate for petitioner and Addl. AG alongwith Hayat Khan, A.D for the respondents present.

Learned counsel for the petitioner requests for time to implead Secretary, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar in the execution proceedings as in the appeal it was a necessary party but was inadvertently missed in the Execution Petition.

May do so within a fortnight and upon impleadment the office shall issue notice to the impleaded respondent for submission of implementation report on 27.02.2019 before S.B.


Chairman

27.02.2019

None for the petitioner present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Case to come up for further proceedings on 02.04.2019 before S.B.


Member
(Ahmad Hassan)

18.10.2018

Learned counsel for the petitioner and Mr. Kabir Ullah Khattak present. Implementation report not submitted. Learned AAG seeks time to furnish implementation report. Adjourn. To come up for implementation report/reply on 30.11.2018 before S.B


Member

30.11.2018

Petitioner absent. Learned counsel for the petitioner absent. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Implementation report not submitted. Learned AAG seeks time to furnish implementation report. Adjourn. To come up for implementation report/reply on 15.01.2019 before S.B.


MEMBER

18.10.2018





~~Learned counsel for the appellant present, requested ~~for~~ of early date of hearing and submitted application to that effect placed on file of appeal No. 820/2018 filed by Dr. Shams-ur-Rahman. Case now to come up on 30.10.2018 subject to the issuance of notice to the respondents of the date fixed as 30.10.2018~~

~~Member~~

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. _____

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | 2 | 3 |
| 1 | 01.06.2018 | <p>The execution petition submitted by Mst Kiran Sabeen may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 01/06/18</p> |
| 2- | 12-7-2018 | <p>This execution petition be put before S. Bench on <u>23-7-2018</u>.</p> <p style="text-align: center;"> CHAIRMAN</p> |
| | 23.07.2018 | <p>None for the appellant present. Mr. Sardar Shoukat Hayat, Addl: AG for respondents present. Notices be issued to the respondents for submission of implementation report. To come up for implementation report on 05.09.2018 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p> |
| | 05.09.2018 | <p>Petitioner absent. Learned counsel for the petitioner absent. Mr. Kabir Ullah khattak learned Additional Advocate General present and seeks time to furnish implementation report/reply. Granted. To come up for implementation report/reply on 18.10.2018 before S.B</p> <p style="text-align: right;"> Member</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Amended Execution Petition No. 169/2018

Khyber Pakhtunkhwa
Service TribunalDiary No. 101Dated 17-1-2019

In

Service Appeal No. 818/2013

Mst. Kiran Sabeen, S.S (Urdu), GGHSS Behali, Mansehra. ... (Petitioner)

Versus

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Director Education (E&SE) KPK, Peshawar.
3. The Secretary Finance Department, KPK Peshawar.
4. The Secretary, E&SE, Khyber Pakhtunkhwa, Peshawar. (Respondents)

EXECUTION PETITION FOR IMPLEMENTATION OF JUDGMENT
DATED 09.02.2018 IN APPEAL NO. 818/2013 IN LETTER & SPIRIT.

Respectfully sheweth

1. That the petitioner while serving as Subject Specialist (Urdu) in BPS-17 on contract basis on 14.04.2017 in the Education Department.
2. That on 24.10.2009, the Government of Khyber Pakhtunkhwa promulgated Employees (Regularization of Services) Act, 2009 and in the light of the aforementioned Act many colleagues of the petitioner were regularized while the same benefits were not extended to the petitioner due to her absence for some days on medical leave.
3. That after exhausting departmental remedy, the petitioner approached this Hon'ble Tribunal in Service Appeal No. 818/2013 and vide

judgment dated 09.02.2018, the aforementioned appeal of the petitioner was accepted and the appellant/petitioner was held entitled for the pay for the relevant period. Copy of judgment is attached as annexure-A.

4. That the respondents were under legal obligation to implement the judgment in letter and spirit.
5. That a period of more than three and half months elapsed but judgment of the Tribunal has not been implemented so far.

It is, therefore, most humbly prayed that on acceptance of the Execution Petition, the respondents may be directed to implement the judgment dated 09.02.2018 in Service Appeal No. 818/2013 in letter and spirit.

K. Sabreen
PETITIONER

Through:-

M. Anam
(NUMAN AMI BUKHARI)
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.Execution Petition No. 169 /2018

In

Service Appeal No. 818/2013

Khyber Pakhtunkhwa
Service TribunalDiary No. 624Dated 01/06/2018

Mst. Kiran Sabeen, S.S (Urdu), GGHSS Behali, Mansehra. .. (Petitioner)

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Director Education(E&SE) KPK, Peshawar.
3. The Secretary Finance Department, KPK Peshawar. ... (Respondents)

**EXECUTION PETITION FOR IMPLEMENTATION OF JUDGMENT
DATED 09.02.2018 IN APPEAL NO. 818/13 IN LETTER & SPIRIT.**

RESPECTFULLY SHEWETH

1. That the petitioner while serving as Subject Special (Urdu) in BPS-17 on contract basis 14.04.2007 in the Education Department.
2. That on 24.10.2009, the Government of Khyber Pakhtunkhwa promulgated Employees (Regularization of Services) Act, 2009 and in the light of the aforementioned Act many colleagues of the petitioner were regularized while the same benefits were not extended to the petitioner due to her absence for some days on medical leave.
3. That after exhausting departmental remedy, the petitioner approached this Hon'ble Tribunal in service appeal No. 818/2013 and vide judgment dated

09.02.2018, the aforementioned appeal of the petitioner was accepted and the appellant was held entitled for the pay for the relevant period. Copy of judgment is attached as annexure-A.

4. That the respondents were under legal obligation to implement the judgment in letter and spirit.
5. That a period of more than three and half months elapsed but judgment of the Tribunal has not been implemented by the respondents so far.

It is therefore, most humbly prayed that on acceptance of the Execution Petition, the respondents may be directed to implement the judgment dated 09.02.2018 in service appeal No. 818/2013 in letter and spirit.

K. Sabeen
(Kiran sabeen)
petitioner

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 818/2013

Date of Institution ... 29.04.2013

Date of Decision ... 09.02.2018



Kiran Sabeen, S.S (Urdu), GGHSS Behali, Mansehra

... (Appellant)

VERSUS

1. The Chief Secretary KPK Peshawar and two others.

... (Respondents)

MR. M. ASIF YOUSAFZAI,
Advocate

... For appellant

MR. MUHAMMAD JAN,
Deputy District Attorney

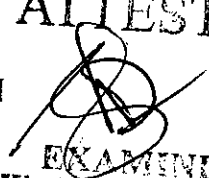
... For respondents.

MR. NIAZ MUHAMMAD KHAN, ...
MR. MUHAMMAD AMIN KHAN KUNDI, ...CHAIRMAN
MEMBERJUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN:- Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was deputed on contract basis on 14.04.2007 and her contract was extended on 11.09.2008 for one year. During continuance of her contract

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

period an Act under the name of Khyber Pakhtunkhwa Employees (Regularization of Services) Act, 2009 was promulgated. As per the provisions of this Act she was to be regularized from 24.09.2009 but her name did not appear in the order of regularization. She then filed an application on 18.6.2010 before the appellate authority for the redressal of her grievance. On this application, the matter was referred to the EDO, E&SE, Mansehra and finally on 28.4.2012 the services of the appellant were regularized w.e.f. 24.09.2009. After this order she assumed her duty. But on 06.12.2012 another order was passed by the Secretary, Elementary & Secondary Education, Peshawar treating her period from 24.09.2009 to 09.5.2012 as leave without pay. Against this order, the appellant filed a departmental appeal on 02.1.2013 which was not responded to and thereafter she filed the present service appeal on 29.4.2013.

ARGUMENTS.

3. The learned counsel for the appellant after giving background of the present appeal argued that the appellant was on leave on medical ground for 45 days from 01.11.2008 to 16.12.2008. That she tried to resume her duty after the expiry of that period but the concerned Principal did not allow her to resume her duty. That a departmental enquiry was held on the basis of the departmental appeal of the appellant dated 2.1.2013 and the enquiry officer submitted fact finding report categorically mentioning that the appellant was ill for 45 days and it was the Principal who did not allow her to mark her attendance in attendance register. The enquiry officer also recommended that 45 days medical leave might be granted to the appellant and the remaining period might be treated as leave without pay. That

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal


on the basis of the said enquiry, a summary was moved and again the then Secretary Establishment in para-24 opined that the appellant was punished for no fault of her and para-7 of the summary was then approved by the Chief Secretary. That nowhere in para-7 the period of absence was treated as leave without pay. He next argued that the appellant was willing to perform her duty but the concerned Principal did not allow her to resume duty and now the principle of no work no pay would not be attracted in case of the appellant.

4. On the other hand, the learned Deputy District Attorney argued that the very application of the appellant dated 18.6.2010 revealed that the appellant did not perform her duty. That no leave was sanctioned in her favour. That it was rightly ordered that the absence period be treated as leave without pay as it was recommended by the enquiry officer also. That under the principle of no work no pay, the same was rightly refused.

CONCLUSION.

5. Admittedly, the appellant was in service on the day when the Regularization Act was promulgated. The very regularization order of the appellant, though belatedly, is proof of her being in service. The only question for determination of this Tribunal is whether the appellant was responsible for not resuming her duty in the relevant period for which she was refused salary and that period was treated as leave without pay. The enquiry officer had opined that it was the fault of the Principal concerned and not the appellant for not resuming her duty. She was willing to resume her duty which was denied by the concerned principal. That

ATTESTED


EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

portion of the report of the enquiry officer which recommended that the relevant period be treated as leave without pay is not well founded because once the enquiry officer reached the conclusion that it was not the fault of the appellant then how could he propose that the said period be treated as leave without pay. And if the department was of the view that it was the fault of the appellant as argued by the learned Deputy District Attorney that it was the fault of the appellant that she absented herself without any sanction of leave then, of course, the department was duty bound to proceed against her under the disciplinary rules. Non-initiation of disciplinary proceedings itself is a proof that the appellant was not responsible for any misconduct or absence. In the summary in para-6 which was finally approved in para-7 nowhere the recommendation of the enquiry officer regarding withholding of salary was approved.

6. Consequently, this Tribunal reaches the conclusion that the appellant is entitled for the pay for the relevant period. The appeal is therefore, accepted. Parties are left to bear their own costs. File be consigned to the record room.

Muhammad Amin

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

(Signature)
(NIAZ MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED
09.02.2018

(Signature)
Certified to be true copy
MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 336 /ST

Dated 12 /02/2018

To.

The Secretary Elementary & Secondary Education Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject:

ORDER/JUDGEMENT IN APPEAL NO. 818/2013, MISS. KIRAN
SABEEN.

I am directed to forward herewith a certified copy of Judgment/Order dated 09/02/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

9/11

28
B. they are meted out the treatment of Master and Servant.

Having been put in a situation of uncertainty, they more often than not, fall prey to the foul hands. The policy makers should keep all aspects of the society in mind.

Learned counsel for the petitioners produced a copy of order of this court passed in W.P.No.2131/2013 dated 30.1.2014 whereby project employee's petition was allowed subject to the final decision of the august Supreme Court in C.P.No.344-P/2012 and requested that this petition be given alike treatment. The learned AAG conceded to the proposition that let fate of the petitioners be decided by the august Supreme Court.

In view of the concurrence of the learned counsel for the petitioners and the learned Additional Advocate General and following the ratio of order passed in W.P. No: 2131/2013, dated 30.1.2014 titled Mst.Fozia Aziz Vs. Government of KPK, this writ petition is allowed in the terms that the petitioners shall remain on the posts

ATTESTED
12 JUL 2014

ATTESTED

ATTESTED

ATTESTED

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 357 /ST

Dated 16 /02/2018

To

The District Officer (Elementary & Secondary Education),
Government of Khyber Pakhtunkhwa,
Mansehra.

Subject: ORDER/JUDGEMENT IN APPEAL NO. 818/2013, MISS KIRAN
SABEEN.

I am directed to forward herewith a certified copy of Judgment/Order
dated 09/02/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

AC
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

& they are meted out the treatment of master and servant. Having been put in a situation of uncertainty, they more often than not fall prey to the foul hands. The policy makers should keep all society in mind.

1. Learned counsel for the petitioners produce a copy of order of this court passed in w.p.no2131/2013 dated 30.1.2014 whereby project employee's petition was allowed subject to the final decision of the august Supreme court in c.p.344-p/2012 and requested that this petition be given alike treatment. The learned AAG conceded to the proposition that let fate of the petitioners be decided by the august Supreme Court.
2. In view of the concurrence of he learned counsel for the petitioners and the learned Additional Advocate General and following the ratio of order passed in w.p.no.2131/2013,dated 30.1.2014 titled Mst. Fozia Aziz Vs. Government of KPK, this writ petitioners shall on the posts

ATTESTED

SERVICE APPEAL NO.818/2013 TITLED AS KIRAN SABEEN VS GOVT. OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY AND OTHERS.

A meeting of the Scrutiny Committee was held on **16-05-2018 at 14:00 hours** in the office of Additional Secretary (Opinion) Law Department under his Chairmanship to determine the fitness of the subject case for filing of appeal / CPLA in the proper forum. AAG (Mr. M. Sohail) was also present during the meeting being representative of Advocate General Khyber Pakhtunkhwa.

2. The Chairman of the Committee invited the representatives of **E&SE Department Mr. Fazale Subhan Section Officer (Lit-II)** to apprise the Committee about the background of the case. The representative informed the Scrutiny Committee that the subject case was placed before the Scrutiny Committee on 29-03-2018 wherein the committee decided that the department may revisit the case of appellant as at present no solid grounds existed with the Administrative Department against which CPLA could be filed in the upper forum as the inquiry conducted against the appellant also recommended 45 days leave on medical grounds and the remaining was recommended to be treated as leave without pay. The representative further stated that the case was revisited in the department and found the following grounds on which judgment could be agitated in the Apex Court.

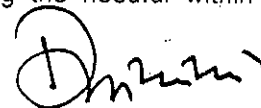
GROUND:-

3. The grounds as proffered by the representative were that the Service Tribunal held in the operative part of the judgment that the appellant was entitled for the pay of the period. But in fact the appellant did not performed official duty and she was absent from duty during the period from 29-09-2009 to 09-05-2012, which fact has been ignored by the Service Tribunal while passing the impugned judgment. He further added that the impugned judgment would become a precedent for the willful defaulters in duties in the Province if not assailed in the Supreme Court of Pakistan. The representative added that financial implication were involved in the instant case therefore the case may be declared fit for filing CPLA. The question of limitation was raised by the Scrutiny Committee. On which the representative stated the case was within time as the application for obtaining certified copy of the judgment is pending and the Administrative Department has not obtained the certified copy of judgment till now.

DECISION:-

4. After threadbare discussion it was decided with consensus by the Scrutiny Committee that as the case was devoid of merits therefore the subject case was a fit case for filing of appeal / CPLA before the Supreme Court of Pakistan.

5. The representative of **E&SE Department** was advised to approach the office of Advocate General along with complete record of the case for doing the needful within the period of limitation under intimation to this Department.



VAKALAT NAMA

NO. _____/20

IN THE COURT OF KoPolK Service Tribunal, Peshawar

Kiran Sabeen

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Sec: Education et.

(Respondent)
(Defendant)

I/We, Kiran Sabeen

Do hereby appoint and constitute **SYED NOMAN ALI BUKHARI and Uzma Syed 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

K. Sabeen
(CLIENT)

ACCEPTED

Syed Noman Ali Bukhari
SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar.

&
UZMA SYED
Advocate High Court Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

E.P # 169/2018.

IN

S.A # 818/2013.

Mst: Kiran Sabeen SS(Urdu) GGHSS Behali, Manshra.....Appellant.

VERSUS

Secretary E&SE, Govt: of Khyber Pakhtunkhwa & others..... **Respondents.**

WRITTEN REPLY/COMMENTS FOR AND ON BEHALF OF THE RESPONDENTS NO.1 TO 4

Respectfully Sheweth,


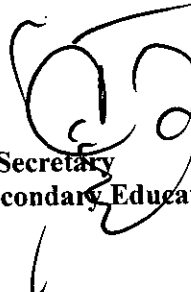
The Respondents submit as under:-

The Respondents have all respect for this Hon'able and gracious Tribunal and cannot even think to act in disregard of the same. Albeit, this Hon'able Tribunal passed an order dated 09.02.2018, but the respondents have approached to the Apex Court against the judgment (Supra) and have filed CPLA alongwith status quo application which is still pending for adjudication.

On Grounds:

- A. That the respondents have all respect for their Hon'able Tribunal and always complied with the direction / orders of the Government as per law & rules.
- B. That the arrears of pay which was vehemently agitated in main Service Appeal No.818/2013, as the appellant was appointed on 14.04.2007 but in fact the appellant did not perform official duty and remained absent from duty. The appellant did not resume her duty in the relevant period for which she was refused salary and the period was treated as without pay in light of Apex Court of Pakistan Judgment "No Duty No Pay".
- C. The Respondents have all respect for this Hon'able and gracious Tribunal and always endeavor to honor each and every directions / orders of this Hon'able Tribunal. Furthermore, the Respondents have approached to the Apex Court against the judgment of this Hon'able Tribunal rendered in Service Appeal # 818/2013 dated 09.02.2018 along with status quo application and suspension of the judgment (Supra) which is still pending for adjudication.

In view of the above made submissions, the instant Execution Petition may very graciously be pleased to dismiss in favour of the Respondents.



Secretary
Elementary & Secondary Education Department.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. 1703-4 /ST

Dated 9-10- / 2019


To

1. Secretary Finance Department,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. Secretary, E&SE, Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: - ORDER IN EXECUTION PETITION NO. 169/2018, MST. KIRAN SABEEN.

I am directed to forward herewith a certified copy of order dated 08.10.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Fax # 091-9211419

Dated Peshawar the November 5th, 2019

NOTIFICATION

No. SO(S/F)E&SED/4-29/2019/Mst. Kiran Sabeen/SS/Urdu: In pursuance of this department notification No. S.O(G)E&SED/1-85/2012/Kiran Sabeen/SS Urdu dated 06-12-2012 and in light of Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar judgment dated 09-02-2018 delivered in Service Appeal No. 818/2013; the period from 24-09-2009 to 09-05-2012 in r/o Mst. Kiran Sabeen, SS (Urdu) BS-17 GGHSS Behali Mansehra, may be treated as "leave with full pay" instead of "leave without pay".

2. The above order is conditional subject to final decision of August Supreme Court of Pakistan.

**SECRETARY
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Endst: of even No. & date:

Copy forwarded to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) Mansehra.
4. District Accounts Officer Mansehra.
5. In charge EMIS, E&SE Department for uploading at official website.
6. PS to Secretary E&SE Department.
7. SS concerned.
8. Office order file.

Akasha Kiran

(AKASHA KIRAN)
SECTION OFFICER (SCHOOLS FEMALE)