

E.P. No. 158/2018  
Nighat Shakeen vs Govt

15.10.2019

Counsel for the petitioner and Addl. AG alongwith Abdul Ghaffar Superintendent for the respondents present.

The representative of respondent No. 1 states that the District Education Officer (F) Swabi had proceeded to Swat yesterday in connection with some family engagement, therefore, could not appear before the Tribunal today. Further states that the order regarding compulsory retirement of the petitioner will positively be submitted on next date of hearing.

Adjourned to 30.10.2019 on which date the requisite order shall positively be submitted. Else, punitive action would be initiated against the concerned respondent in accordance with law.

Chairman 

30.10.2019

Counsel for the petitioner and Addl. AG alongwith Abdul Ghaffar, Superintendent for the respondents present.

The representative of respondents has produced copy of office order dated 17.10.2019 whereby the removal from service order dated 21.12.2016, pertaining to petitioner, has been converted into conditional compulsory retirement w.e.f. 21.12.2016. Learned counsel for petitioner, in view of the development, requests for consigning of proceedings to record with reservation of rights of petitioner for restoration of proceedings, if need be. He also objects to the condition noted in the office order and states that the rights of petitioner are not to be effected by withdrawal/rejection of CPLA moved by the respondents before the Apex Court.

Consigned to record.

Chairman 

E.P. 158/18

01.07.2019

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Abdul Ghaffar, Superintendent for the respondents present. Implementation report not submitted. Representative of the department requested for adjournment. Adjourned to 22.08.2019 for implementation report before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

22.08.2019

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG for the respondents present. Representatives of the respondents are absent therefore, notices be issued to the respondents with the direction to direct the representatives to attend the court and submit implementation report on the next date. Adjourned to 19.09.2019 for implementation report before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

19.09.2019

Nemo for petitioner. Addl. AG alongwith Irfanullah, Assistant for the respondents present.

The representative of respondent No. 2 states that the case of petitioner is to be dealt with by DEO(Female) Swabi.

Let notice for further proceedings <sup>and personal appearance</sup> be issued to respondent No. 1 for 15.10.2019.

Chairman 



**DISTRICT EDUCATION OFFICE (FEMALE) SWABI**

(Office phone Fax No 0938280339, [emisfswabi@yahoo.com](mailto:emisfswabi@yahoo.com))

**OFFICE ORDER.**

Pursuance compliance of the judgment order passed by Khyber Pakhtunkhwa Service Tribunal, Peshawar on dated 11-04-2019 vide Honorable in Execution Petition No.158/18 in Service Appeal No.411/2017, the major penalty of removal from service imposed upon Mst: Nighat Shaheen Ex: PST of GGPS. No.1 Shahmansoor Swabi Vide this office Notification Endst. No. 4654-57/F.No. DA-I/Removal from Service/ Dated Swabi the 21-12-2016, is hereby converted into conditionally compulsory retirement w.e.f. 21-12-2016 in case of withdrawal/ rejected in CPLA by Supreme Court the order will be cancelled in the best interest of public service.

**Note:**

1. She is entitled of pensionary benefits under the rules.
2. Entry to this effect should be made in her Original Service Book.
3. Encashment of Leave in lieu of LPR is not admissible to the official concerned under the
4. Khyber Pakhtunkhwa Civil Servant Pension rules and order, 1981.

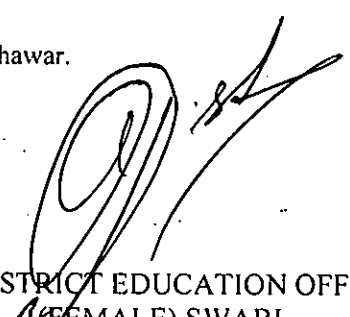
(DILSHAD BEGUM)

**DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI**

Endst: No., 508-9 / DA-I Retirement File Dated Swabi the 17-10 /2019

Copy of the above is forwarded to the:-

1. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. District Accounts Officer Swabi.
3. S.D.E.O (Female) Swabi.
4. ADEO (Female) Primary Local Office.
5. Official concerned.

  
**DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI**

*DPA*

30.10.2019

Counsel for the petitioner and Addl. AG alongwith Abdul Ghaffar, Superintendent for the respondents present.

The representative of respondents has produced copy of office order dated 17.10.2019 whereby the removal from service order dated 21.12.2016 pertaining to petitioner has been converted into conditional compulsory retirement w.e.f. 21.12.2016. Learned counsel for petitioner, in view of the development, requests for consigning of proceedings to record with reservation of rights of petitioner for restoration of proceedings, if need be, He also objects to the conditions noted in the office order and states that the rights of petitioner are not to be effected by withdrawal/rejection of CPLA moved by the respondents before the Apex Court.

*Consigned to record.*

Chairman

(2)

*the pension and other benefits to the appellant for his rendered services from 30/04/1997 to 30/06/2017.*

*Any other remedy / relief deemed appropriate may also be granted to the appellant.*

*Respectfully Sheweth:*

- 1) That the appellant was appointed as Chowkidar in Govt Girls Primary School Bakar Serai Tehsil & District Swabi in the year of 30/04/1997. (Copy of the appointment order is attached as Annexure "A").*
- 2) That the appellant performed his duties upto the utmost satisfaction of his superiors and performed his duties with a keen interest.*
- 3) That so far no compliant has been filed against the present appellant.*
- 4) That the appellant was retired on 30/06/2017 but inadvertently he was ordered to be retired on dated 30/06/2016. (Copies of Retirement orders dated 13/06/2017 and 03/07/2017 are attached as Annexures "B" and (C)). which are to be correctly read as 30/06/2017 instead of 30/06/2016 because the appellant age is about to complete 60 years according to 30/06/2017.*
- 5) That so far the pension and GP Fund etc had not been granted to the appellant.*

11.04.2019

Counsel for the petitioner and Addl. AG alongwith Abdul Ghaffar Superintendent for the respondents present.

The petitioner has submitted an application for placing affidavit on the record to the effect that she would return the benefits including monthly pension and salary for leave period in case the appeal of respondents is allowed by the Apex Court against the judgment under implementation. A copy of affidavit has been appended with the application to which the representative of the respondents states that the same has not been sworn on a stamp paper.

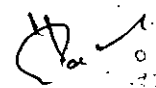
The petitioner is, therefore, directed to appear before the concerned officer on 17.04.2019 or any working day immediate to there-after alongwith a duly sworn affidavit on stamp paper. Upon the submission of the affidavit the respondents shall expedite the case of petitioner in shortest possible time.

Adjourned to 16.05.2019 for further proceedings.

Chairman 

16.05.2019

Learned counsel for the petitioner present. Mr. Usman Ghani learned District Attorney alongwith Abdul Ghafar Superintendent present. Learned counsel for the petitioner seeks adjournment in order to comply with the directions in the preceding order sheet. Adjourn. To come up for further proceedings on 01.07.2019 before S.B.

  
Member

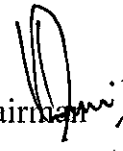
EP 158/2018

10.01.2019

Counsel for the petitioner and Addl. AG alongwith Muhammad Azeem, A.D (Litigation) for the respondents present.

Learned AAG seeks adjournment to have fresh instructions in the matter in light of letter dated 15.03.2018 addressed to the Director, E&SE Peshawar. Adjourned to 06.03.2019.

It is noted that the respondents in the Execution Petition have been arrayed through their personal names which shall be corrected by the office and the officers shall remain as respondents in their official capacity.

  
Chairman,

06.03.2019

Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Implementation report not submitted. Learned Additional AG requested for adjournment. Adjourned to 11.04.2019 for implementation report before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

05.10.2018

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG for the respondents present. Implementation report not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for implementation report on 21.11.2018 before S.B.

*MA*  
(Muhammad Amin Khan Kundi)  
Member

21-11-2018

*Since 21. November has been declared as Public holiday on account of 12<sup>th</sup> Rabi ul awwal therefore the case is adjourned to come up for the same on*





10-1-2019

*[Signature]*  
Reader



FORM OF ORDER SHEET

Execution Petition No. 158/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	28.05.2018	<p>The Execution Petition of Mst. Nighat Shaheen submitted to-day by Mr. Muzammil Khan 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 28/5/18</p>
2	29/05/18	<p>This Execution Petition be put up before S. Bench on <u>11/06/18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	11.06.2018	<p>Counsel for the petitioner present. Notice be issued to the respondents for implementation report for 13.08.2018 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member</p>
	08.08.2018	<p>Counsel for the petitioner and Mr. Kabirullah Khattak AAG for the respondent present. Learned AAG seeks adjournment. Adjourned. To come up for implementation report on 05.10.2018</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member</p>

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

*E.P. 158/18*

In Service Appeal No 411/2017

Nighat Shaheen Ex-PST r/o Village Zaida Mohallah Tawas Khani Tehsil & District Swabi.

Appellant

Versus

1. ~~Ufat Begum~~ District Education Officer (F) Swabi.
2. ~~Rafique Khattak~~ Director Secondary and Elementary Education KPK, Dabgari Garden Peshawar.

Respondents

**INDEX**

S.No	Description of Document	Annexure	Pages
1	Application		1
2	Affidavit		2
3.	Copy of judgment	A	3-11
4.	Copy of letter dated 15.03.2018	B	12

*wakalat nazam*

*Nighat Shaheen*  
Applicant

Through

*Muzamil Khan*  
Muzamil Khan,  
ASC, Peshawar.

*vide order  
sheet dated  
10-1-19  
connection  
is made*

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

EP. 158/18

In Service Appeal No 411/2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 587

Dated 28/05/2018

Nighat Shaheen Ex-PST r/o Village Zaida Mohallah Tawas Khani Tehsil & District Swabi.

Appellant

Versus

1. Ulfat Begum District Education Officer (F) Swabi.
2. Rafique Khattak Director Secondary and Elementary Education KPK, Dabgari Garden Peshawar.

Respondents

**APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED  
16.01.2018 AND ISSUE OF PENSIONARY BENEFITS.**

**Respectfully Sheweth:-**

1. That the captioned appeal was decided by this Hon'ble Court converting dismissal into compulsory retirement vide judgment and order dated 16.01.2018. (Copy of judgment is annexed as annexure "A").
2. That since then the respondent DEO (F) Swabi was approached for grant of pensionary benefits where after director Secondary & Elementary Education Khyber Pakhtunkhwa, but with no response.
3. That the worthy Secretary of Education was approached who also wrote to Director i.e respondent No.2 vide letter dated 15.03.2018 for appropriate action, but even then no step was taken to redress grievance of the applicant.
4. That thereafter a reminder has also been issued from office of the worthy Secretary, but the respondent turned a deafer to that too and as such their none action amount to bringing disrespect to the order/judgment passed by this Hon'ble Court.

It is therefore humbly prayed that on acceptance of this application respondent be directed to finalize pension matter of the applicant grant of her arrears and all pensionary benefits and they may also be proceeded in accordance with law in the interest of justice.

Appellant

Through

Muzammil Khan,  
ASC, Peshawar.

2

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

In Service Appeal No 411/2017

Nighat Shaheen Ex-PST r/o Village Zaida Mohallah Tawas Khani Tehsil & District Swabi.

Appellant

Versus

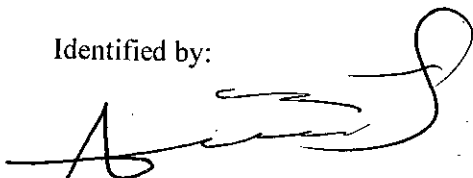
Government of KPK through Secretary S & Education and others.

Respondents

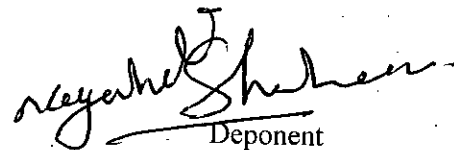
**AFFIDAVIT**

I, Nighat Shaheen Ex-PST r/o Village Zaida Mohallah Tawas Khani Tehsil & District Swabi, do hereby solemnly affirm and declare on oath that the contents of the of the application are true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Court.

Identified by:



**Muzammil Khan,**  
ASC, Peshawar.



Deponent

3

Annexure

"A"

**BEFORE THE KP SERVICES TRIBUNAL, PESHAWAR**

Service Appeal No. 411 /2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 429

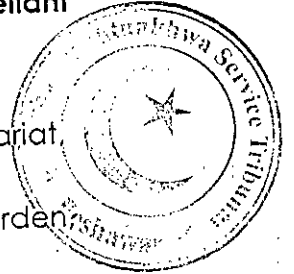
Dated 29-5-2017

Nighat Shaheen

P.S.T Govt. Girls Primary School Zaida, Tehsil and District Swabi.....Appellant

**Versus**

- ✓1. Government of KPK through Secretary S & Education Civil Secretariat, Peshawar
- ✓2. Director Secondary and Elementary Education, KPK, Dabgari Garden Peshawar
- ✓3. District Education Officer (F) Swabi
- 4. Sub Divisional Education Officer (F) Swabi
- 5. Principal Government Girls Primary School No.3 Zaida, Tehsil and District Swabi.....Respondent(s)



**APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED NOTIFICATION DATED 21-12-2016 AND NON-RESPONDING TO DEPARTMENTAL APPEAL DATED 03-01-2017 WHEREBY WHILE IMPOSING MAJOR PENALTY UPON THE APPELLANT BY REMOVING HER FROM SERVICE WITH IMMEDIATE EFFECT.**

**PRAYER**

On acceptance of this appeal the impugned notification of removal dated 21-12-2016 may graciously be set aside and the appellant having rendered services for more than 28 years be re-instated or she be granted pension along-with back benefits.

Respectfully Sheweth,

1. That, the appellant was appointed as P.S.T in the respondent department on ~~Filed to-day~~ 22.09.1986 and she put-in meritorious service to the satisfaction of her superiors at various schools within the district. (Copy of a portion of service book, profile of the employee, applications, GP Fund Statement, pay roll and selection grade showing active service of the appellant are annexed as Annexure "A" to "F").
2. That while posting at Government Girls Primary School Shahmansoor, she made a request to the competent authority for one month leave which was not only

Registrar

215/17

Accepted

ATTESTED

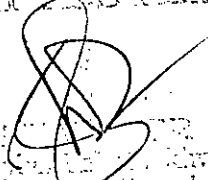
*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

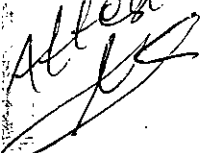
2 4

accepted rather the appellant was directed to proceed on two years leave one with pay while the other as without pay although the appellant refused but it being in her favour the appellant offered to proceed on leave and went to Kamra Airbase with her husband and kids availing leave with the permission of the competent authority as well on her own will. **(Copy of leave sanction order is annexed as Annexure "G")**.

3. That one month prior to the expiry of the said leave she approached the competent authority for joining her duties at the school wherefrom she had proceeded on leave w.e.f 15-12-2009 to 14-12-2011 but the appellant came to know that awarding her leave with pay was intentional by the than DEO female because she was interested in adjustment of daughter of one of the sub divisional education officer namely Ali Haider and as such she was ordered to wait for some time. **(Copy of the application for joining of duty dated 20.11.2011 and 14.02.2012 are annexed as Annexure "H" and "I")**.
4. That the appellant waited as was asked for regardless of the fact that it was against her choice but even than she was not adjusted against her original post rather she was kept on waiting and her resumption of charge was delayed on one pretext or the other with no payment of salary in spite of attending GGPS Shahmansoor No.1.
5. That the appellant moved a written application before the than DEO female Swabi but with no response rather she was not allowed to join her duties in order to facilitate and prolong the stay of the daughter of the than Sub Divisional Educational Officer against the said post, who was basically inducted after the appellant went on leave with the permission of her department.
6. That the appellant was asked to wait nonetheless for six months and as such no reply whatsoever was given to her regardless of the fact that she made a representation but yet she was asked to wait and was extended an opportunity of availing leave for an year, which itself speak volumes of the mala fide on the part of the respondents.

ATTESTED

  
K. S. Khan  
Secretary, Swabi  
Peshawar

Attested  


- 7. That the appellant time and again moved applications before the high-ups but to no avail as no response of given thereto, rather the whole exercise by the respondent was politically motivated as such she as kept on waiting.
- 8. That during the on-going course she was asked to join her duties, which offer was taken by the appellant as a sigh of relief but after serving for about two months and astonishingly without pay and allowances, yet no charge resumption order was issued by the than DEO female Swabi. The said period of teaching in the school was taken an opportunity by the department as a stress test, which was used to agonize the appellant against her will. **(Copy of the application dated 06.10.2012 is annexed as Annexure "J")**.
- 9. That ultimately she moved an application in the month of December 2014 before the DEO Female, which was responded thereto with a notice/letter dated 13.01.2015 for immediate joining of service otherwise disciplinary action will be taken against your person "the appellant". **(Copy of the notice/letter dated 13.01.2012 is annexed as Annexure "K")**.
- 10. That in response to the said letter by Sub Divisional Officer Female Swabi; the appellant not only rushed to join her duties but also submitted a written reply thanking the Sub Divisional Educational Officer Female as well as appeared in person and asked for resumption order. **(Copy of the reply dated 23.01.2015 is annexed as Annexure "L")**.
- 11. That instead of giving the said order; the appellant was asked and directed in black and white, verbally conveying to join at Government Girls Primary School No.3 Zaida.
- 12. That the appellant joined happily with thanks to all and sundry and started her duties with effect from 02.02.2015 at Government Girls Primary School Zaida.
- 13. That the appellant was regularly attending her duties, marking attendance in the attendance sheets/register and during the on-going process an inquiry committee was also constituted by the than DEO Female swabi in order to

ATTESTED

*[Handwritten Signature]*

*Attested*  
*[Handwritten Signature]*

6  
examine the whole matter and to redress the grievances of the appellant. **(Copy of the attendance register is annexed as Annexure "M")**.

14. That the inquiry officer Miss Fatima Batool Headmistress Government Higher Secondary School Bhamkhel visited the Government Girls Primary School Zaida and conducted inquiry in the presence of another lady, with her at GPS No.3 Zaida.

15. That a long questionnaire was given which was duly replied too and each and every answer was given as was asked for by the said enquiry officer. **(Copy of the detail given to the enquiry officer is annexed as Annexure "N")**.

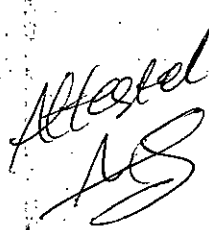
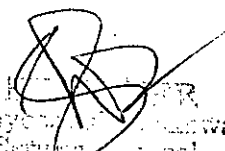
16. That she was also asked to continue with her services and in the meanwhile the inquiry officer will submit her report and the appellant will duly be informed as to the grievances sprouted to her beforehand.

17. That reportedly the inquiry office submitted her report but in spite thereof no order whatsoever was passed by the competent authority regarding the grievances of the appellant but to utter disregard she was kept on waiting and as such disappointed therefrom the appellant moved departmental appeal dated 16.03.2015 to redress her grievances once and for all and to pay salary of the appellant along with allowances, back benefits otherwise she will opt for pension. **(Copy of the departmental appeal is annexed as Annexure "O")**.

18. That during the course of inquiry; the appellant was informed time and again by the than DEO female swabi that another inquiry officer has been appointed for conducting inquiry and will submit report of the same but to no avail as such no response is given till date besides the applications submitted before the DEO proved to be a futile exercise.

19. That following the issue at hand, the appellant has put in 28 years plus service in the respondent department; during the entire course her service Appeal No. 720/2015 was also pending adjudication before the Hon'ble Services Tribunal when she received a show cause notice published in Daily Aaj dated 06-05-2016 and as such the same was also brought on record before this Hon'ble Tribunal

ATTENDED

  
  
Khyber Pakhtunkhwa  
Services Tribunal,  
Peshawar



7 5

through a C.M which was thereafter noticed but even than she was not allowed to restart her duties. Ultimately vide order dated 03-11-2016 the respondents were directed to give charge of duties to the appellant which remained unheeded to rather she was straight away refused joining of duty. While on the other hand a notification dated 21-12-2016 was issued for doing away with the services of the appellant, which was served via home address. (Copy of the order passed by this Court and impugned notification are annexed as Annexure P and P-1).

20. That departmental appeal against the impugned notification was preferred on 03-01-2017 before the Director Elementary and Secondary Education but with no response till date. Hence this service Appeal inter alia on the following grounds:-

**GROUNDS**

- A) That the impugned notification of removal from service and imposition of major penalty upon the appellant is totally uncalled for, against the natural justice and against the law governing the subject matter.
- B) That neither inquiry whatsoever has been conducted nor it has been brought as to why the appellant was made absent nor even the subsequent order passed by the Hon'ble Tribunal was complied with rather the impugned notification was issued in utter violation of the law/rules and norms of justice.
- C) That even otherwise, the appellant after rendering 28 years 5 months of service in the respondent Department is entitled for pension and pensionary benefits but that aspect was totally ignored rather prayer of the Appellant in the earlier Appeal for pension in alternative was frustrated and warded off for the reason to avoid the award of pension and just to culminate the whole matter by issuing a notification of removal from services impugned before this Hon'ble Tribunal.
- D) That the inaction on the part of respondent Department, which is also obvious from the grounds taken in the service appeal, speaks malafide and ill-will of the respondents otherwise she could have been compensated in the first round of

*Attested*  
*AS*

ATTESTED  
*[Signature]*

litigation but just to deprive her from monetary benefits, such exercise was opted for by doing away with the long-term services rendered in the Department.

E) That in the present scenario, while keeping in view her 28 and half years of service, instead of removal without any inquiry, application of mind and justification; she could have been compulsorily retired but the very contours of notification speak volumes of malice, ill-will, personal grudge and illegality of the respondent Department which requires interference of this Hon'ble Tribunal either for doing away with the notification or its modification to the extent of retirement of the appellant thereof.

It is therefore humbly prayed that on acceptance of this Service Appeal the impugned notification of removal of Appeal serving for a period of 28 and half years in the respondent Department may graciously be done away with or in alternative the respondents be directed to retire the appellant with pensionary/back benefits in the interest of justice.

Any other order deemed appropriate in the circumstances of the case may also be passed for securing the ends of justice.

*Nighat Shahreen*  
**Appellant**

Through

*Muzammit Khan*  
**Muzammit Khan**

**Advocate**

**Supreme Court**

Certified true copy  
*[Signature]*  
Khanum Gulistan  
Service and Social  
Peshawar

Date of Filing

Number

Class

Use

Tax

Notes

Date

Date of Filing

25-1-18

2100

14

14

09-02-18

09-02-18

*Attested*  
*[Signature]*



Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

Appeal No. 411/2017

Date of Institution ... 02.05.2017

Date of Decision ... 16.01.2018

Nighat Shaheen P.S.T Girls Primary School Zaidda, Tehsil and District Swabi

Versus

1. Government of Khyber Pakhtunkhwa through Secretary S & Education Civil Secretariat, Peshawar.
2. Director Secondary and Elementary Education, Khyber Pakhtunkhwa Dabgari Garden, Peshawar.
3. District Education Officer (F) Swabi.
4. Sub Divisional Education Officer (F) Swabi.
5. Principal Government Girls Primary School No.3 Zaida, Tehsil and District Swabi.

**JUDGMENT**

MUHAMMAD HAMID MUGHAL, MEMBER: Learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General for the respondents present.

The appellant has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the respondents and made impugned the order dated 21.12.2016 whereby she was awarded major punishment of removal from service on the ground of absence from duty.

2. Learned counsel for the appellant frankly stated that he would

16.01.2018

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**ATTENDED**

Signature of Member  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Handwritten signature: *Attested*

not press the present appeal on merits and sought indulgence of this Tribunal for conversion of penalty of removal from service into compulsory retirement from service on the ground that the appellant has put in more than twenty (20) years in service. Learned counsel for the appellant in support of his submission for lesser punishment of compulsory retirement relied upon the judgments of the august Supreme Court reported in 2007 PLC (C.S) 118, 2007 PLC (C.S) 678 and judgment of the Punjab Service Tribunal reported in 2007 PLC (C.S) 685.

3. As against that learned AAG while opposing the present appeal argued that the appellant was on leave w.e.f 15.12.2009 to 03.11.2010 with half pay and from 04.11.2010 to 15.12.2011 without pay. Further argued that after the expiry of the sanctioned leave the appellant remained absent from duty w.e.f 16.12.2011 and hence was rightly awarded punishment of removal from service.

4. Arguments heard. File perused.

5. It is not disputed that the appellant has rendered more than twenty years service, thus lesser punishment of compulsory retirement could have been imposed on her. While keeping in view the length of service of the appellant and the nature of her misconduct the impugned punishment of removal of appellant from service found harsh. Consequently in the given circumstances the impugned punishment of removal from service awarded to the appellant is modified and converted into compulsory retirement from service. The intervening period including all the unauthorized

St  
Dawin

ATTORNEY

Attorney  
Punjab Service Tribunal  
Ludhiana

Attested  
[Signature]

absence period after the expiry of sanctioned leave shall be treated as leave without pay. The present appeal is disposed off in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
16.01.2018

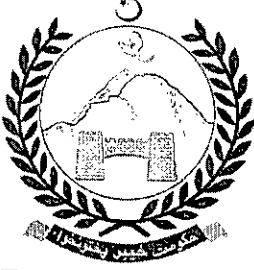
*Sd/- M. Hameed Mughal  
Member*

*Sd/- Gulzar Khan,  
Member*

Certificate  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of	25-1-18
Number of	1200
Copies	8
Urgent	
Total	8
Name	<i>[Signature]</i>
Date of	09-02-18
Date of	09-02-18

*Attested  
[Signature]*



12  
Annexure 'B'

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

No. SO(PE)E&SED/5-1/General/Misc/2018

Dated Peshawar the 15.03.2018

To,

The Director,  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.

Subject:-  
Dear Sir,

**GRANT OF PENSION AND PENSIONERY BENEFIT**

I am directed to refer to the subject noted above and to enclose herewith a copy of an application bearing No. 2356 dated 12.03.2018, along with connected documents in respect of Mrs. Nighat Shaheen, Ex-PST, resident of village Zada Moh: Taus Khan Tehsil and District Swabi, for appropriate action as per rules/policy.

Yours faithfully,

**SECTION OFFICER (PRIMARY)**

**Encl: As Above:**

**Copy forwarded to:-**

PS to Special Secretary Elementary & Secondary Education Department.

**SECTION OFFICER (PRIMARY)**

*Attstred*

عدالت ہند

صبر بختونخوا لسٹوس ٹریبونل

Appellant

2018ء منجانب

28/5/18

موزخہ

مقدمہ

دعویٰ

جرم

Execution Petition No. 158/18

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام سپتار کیلئے صدر عدالت سپتار سپتار سپتار

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث ہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 28 ماہ 2018

واہ الع

کے لئے منظور ہے۔

Attested

Accepted

Accepted

بمقام سپتار

Accepted

Accepted

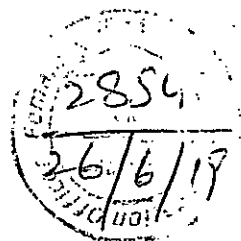
OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER  
(FEMALE) SWABI

No. 504 / Dated Swabi the 22/6 / 2019

To

The District Education Officer  
(Female) Swabi

Subject:- RESUME/DUTY  
Memo:-



~~DAI~~  
DAI  
26/6/19

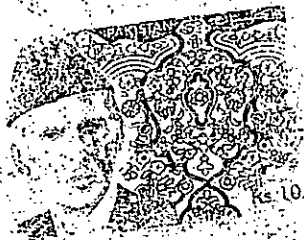
Reference your office letter No.3025 dated 13-6-2019 On the subject cited above.

It is stated that according to the record of this office the original Service Book has already been received by Mr.Mahboob Khan Father of the Mst. Nighat Shaheen Ex-PST GGPS.No.1 Shalmansoor. In this regard a letter No.472-G dated 14-5-2019 Registered Cover have been sent on home address of the concerned mistress in connection with return of her service book for onward submission to your office for further process. But the same register cover letter returned from the post office swabi with the remarks that the concerned mistress abroad from the country photo copy of the registered envelop is attached for ready reference please.

*Nancy Beg*  
Sub Divisional Education Officer  
(Female) Swabi



دولت کی خدمت میں  
ان کے لئے کیا کیا جائے



REGISTERED COVER

2768

18/6/19

OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER  
(FEMALE) SWABI

No. 479-9/ Dated Swabi the 14/6 /2019

To,

DA-I

18/6/19

Mst: Nighat Shaheen, EX PST Daughter of Mahboob Khan  
Mahala Touse Khani Village & PC Zaica Tehsil and District Swabi.

Subject: PROVISION OF SERVICE BOOK.

Memo,

Reference District Education Officer (Female) Swabi memo No. 3025 dated 13-6-2019 on the subject captioned above.

You are directed that the D.E.O (F) Swabi directed to the undersigned to submit the original Service Book along with Leave Account and other relevant documents to proceed further into the matter.

According to the record of this office the original Service Book has already been received by your father Mr. Mahboob Khan, which now needs to return for the above requisite purpose positively. The photo copy of receipt is attached herewith for ready reference.

Encl: As-above

*sd*  
SUB-DIVISIONAL EDUCATION OFFICER  
(FEMALE) SWABI

Endst: No. 472-9/

Copy to the District Education Officer (Female) Swabi with reference above No & Date. It is submitted for your kind information that as when as the Service Book received to this Office the case will be sent immediately.

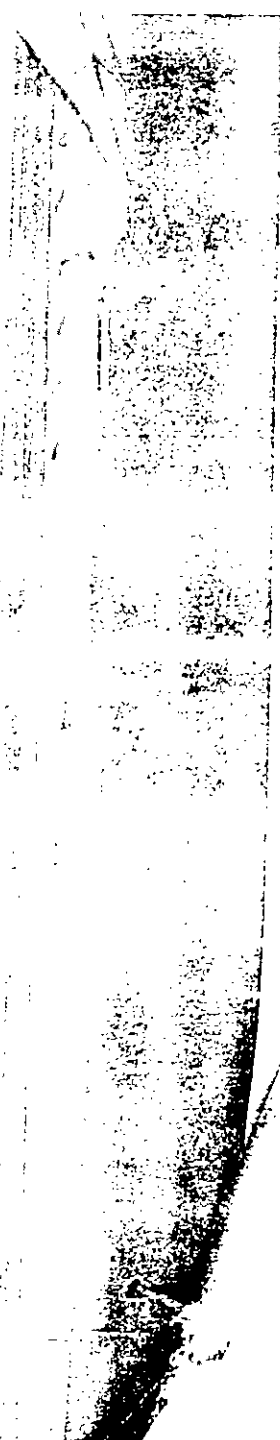
*Nancy Baj*  
SUB-DIVISIONAL EDUCATION OFFICER  
(FEMALE) SWABI

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Mr. [Name] 2. [Date]  
[Illegible handwritten text]

[Illegible handwritten text]

[Illegible handwritten text]





**DISTRICT EDUCATION OFFICE (FEMALE) SWABI**  
(Office phone Fax No 0938280339, [emisfswabi@yahoo.com](mailto:emisfswabi@yahoo.com))

No. 3025 / Dated Swabi the 13 / 16 / 2019

To

The Sub Divisional Education Officer  
(Female) Swabi

Subject: -  
Memo:

**Court Case of Mst Nighat Shaheen Ex-PST GGPS-1-Shahmansoor**

Reference your office letter No. 420 dated 22/5/2019 on the subject captioned above.

You are directed to submit the service book alongwith leave account and other relevant documents of the subject named official to proceed further into the matter.

  
DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

6

OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER  
(FEMALE) SWABI

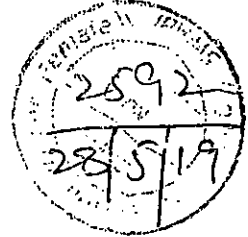
No. 420 / dated Swabi the 22/5 /2019

To,

The District Education Officer  
(Female) Swabi

Subject

COURT CASE OF Mst. NIGHAT SHAHEEN EX-PST.  
GGPS.SHAHAMANSOOR NO.1



DA-I  
DL  
28/5/19

Memo:-

Enclosed please find herewith the original application (Self Explanatory) along with original court judgment and affidavit for the grant of pensionary benefits in respects of Mst.Nihat Shaheen Ex-PST Govt.Girls Primary School No.1 Shahmansoor is submitted for perusal/order please.

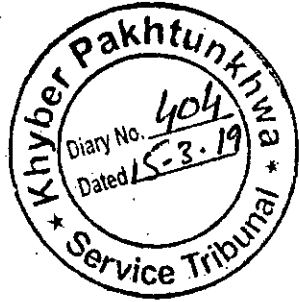
*Nang Beg*  
SUB-DIVISIONAL EDUCATION OFFICER  
(FEMALE) SWABI

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**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

CM in EP 158/2019

put up to the court with relevant petition.



Nighat Shaheen Ex-PST r/o Village Zaida Mohallah Tawas Khani Tehsil & District Swabi.

Appellant

Versus

Government of KPK & Others.

Respondent

**APPLICATION FOR PLACING AFFIDIVATE ON RECORD.**

**Respectfully Sheweth:-**

1. That the above noted case was fixed for hearing before this Hon'ble tribunal on dated 06-03-2019.
2. That this Hon'ble tribunal was pleased to direct the respondents to prepared pensionery and monthly pension of the appellant subject to submission of affidavit but i<sup>n</sup>advertently the said direction has not been mention in the order sheet dated 06-03-2019 and the case has been adjourned to 11-04-2019.

It is therefore humbly prayed that on acceptance of this application they said oral direction be mentioned in the order sheet, copy of affidavit be placed on file and application be allowed to submit original affidavit before DEO, "F" Swabi for doing the needful.

Applicant

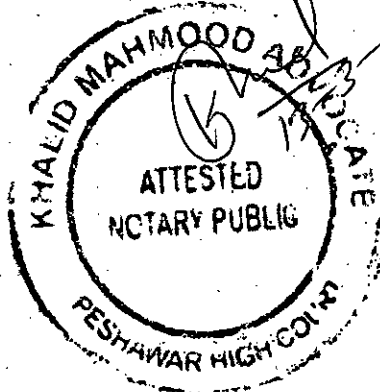
Through

*(Signature of Mehtab Sikandar)*

Mehtab Sikandar,  
ASC, Peshawar.

Affidavit:-

Solemnly affirm and declare that the content of application are true and correct to the best of my knowledge and belief.



Deponent

*(Signature of Nighat Shaheen)*

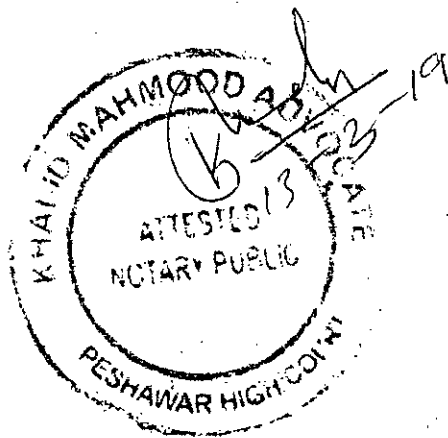
To,

The District Education Officer (F)  
District Swabi.

Subject:- **AFFIDAVIT IN CASE TITLED NIGHAT SHAHEEN  
VS GOVT**

**AFFIDAVIT**

I Mst Nighat shaheen Ex-PST daughter of Mahboob khan village zaida tehsil and district swabi do hereby solemnly affirm and declare that if the department grant me pensionary benefits, my salaries for leave period and monthly pension in light of the judgment passed by the kp services tribunal dated 16-1-2018. i will return it, if appeal of the govt is accepted against me by august supreme court of Pakistan and instant grant of pension will be subject to the decision in CPLA NO 354-P/2018. I further declare and under take that I will follow the said decision in my case. I may be granted my pensionary benefits and monthly pension along with all outstanding arrears in the interest of justice.



Deponent  
*Nighat Shaheen*  
Nighat shaheen

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

E.P. 458/18

In Service Appeal No 411/2017

Khyber Pakhtunkhwa  
Service Tribunal

587

28/05/2018



Nighat Shaleen Ex-PST r/o Village Zaida Mohallah Tawas Khani Tehsil & District Swabi.

Appellant

Versus

1. Ulfat Begum District Education Officer (F) Swabi.
2. Rafique Khattak Director Secondary and Elementary Education KPK, Dabgari Garden Peshawar.

Respondents

**APPLICATION FOR IMPLEMENTATION OF JUDGMENT DATED 16.01.2018 AND ISSUE OF PENSIONARY BENEFITS.** **FILED**

Respectfully Sheweth:-

**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal**  
**Peshawar**

1. That the captioned appeal was decided by this Hon'ble Court converting dismissal into compulsory retirement vide judgment and order dated 16.01.2018. (Copy of judgment is annexed as annexure "A").
2. That since then the respondent DEO (F) Swabi was approached for grant of pensionary benefits where after director Secondary & Elementary Education Khyber Pakhtunkhwa, but with no response.
3. That the worthy Secretary of Education was approached who also wrote to Director i.e respondent No.2 vide letter dated 15.03.2018 for appropriate action, but even then no step was taken to redress grievance of the applicant.
4. That thereafter a reminder has also been issued from office of the worthy Secretary, but the respondent turned a deafer to that too and as such their none action amount to bringing disrespect to the order/judgment passed by this Hon'ble Court.

It is therefore humbly prayed that on acceptance of this application respondent be directed to finalize pension matter of the applicant grant of her arrears and all pensionary benefits and they may also be proceeded in accordance with law in the interest of justice.

Appellant

Through

Muzammil Khan,  
ASC, Peshawar.



EP 158/2018

10.01.2019

Counsel for the petitioner and Addl. AG alongwith Muhammad Azeem, A.D (Litigation) for the respondents present.



Learned AAG seeks adjournment to have fresh instructions in the matter in light of letter dated 15.03.2018 addressed to the Director, E&SE Peshawar. Adjourned to 06.03.2019.

It is noted that the respondents in the Execution Petition have been arrayed through their personal names which shall be corrected by the office and the officers shall remain as respondents in their official capacity.

**Certified to be true copy**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

*[Signature]*  
Chairman

06.03.2019

Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Implementation report not submitted. Learned Additional AG requested for adjournment. Adjourned to 11.04.2019 for implementation report before S.B.

**ATTESTED**

*[Signature]*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application	13-3-19
Number of Words	800-00
Copying Fee	06-00
Urgent	2-00
Total	10-00
Name of Copyist	<i>[Signature]</i>
Date of Completion of Copy	13-3-19
Date of Submission of Copy	13-3-19