

E.P No. 79/2018

10.12.2018

Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the petitioner requested for adjournment for examination of the reinstatement order. Adjourned. To come up for further proceedings on 23.01.2019 before S.B.


Muhammad Amin Khan Kundi
Member

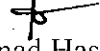
23.01.2019 Learned counsel for the ~~petitioner~~ present and requested for withdrawal of the present execution petition. Consequently the present execution petition is hereby dismissed as withdrawn. No order as to costs. File be consigned to the record room.


Member

ANNOUNCED.
23.01.2019

17.07.2018

Counsel for the petitioner present. Mr. Sardar Shoukat Hayat, Adll: AG for respondents present. Notices be issued to the respondents for submission of implementation report. Adjourned. To come up for further proceedings on 30.08.2018 before S.B.


(Ahmad Hassan)
Member

30.08.2018
(22/10/2018)

Counsel for the petitioner and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Daud Jan, Superintendent for the respondents present. Representative of the department produced order dated 16.04.2018 whereby the appellant was reinstated in service. The same is placed on record. Learned counsel for the petitioner seeks time to examine the same. Granted. To come up for further proceedings on 23.10.2018 before S.B.


(Ahmad Hassan)
Member

23.10.2018

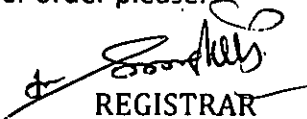



Due to retirement of Hon'ble Chairman, the tribunal is defunct. Therefore, the case is adjourned. To come up on 10.12.2018.


READER

AH RD

FORM OF ORDER SHEET

Execution Petition No. 79/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	19.03.2018	<p>The Execution Petition of Mst. Neelam Aman submitted to-day by Mr. Noor Muhammad Khattak 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</p>
2	20/03/18.	<p>This Execution Petition be put up before S. Bench on <u>02/04/18.</u></p> <p style="text-align: right;"> MEMBER</p>
	02.04.2018	<p>None for the petitioner present. Addl: AG for respondents present. Adjourned. To come up for implementation report on 20.04.2018 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>
	20.04.2018	<p>Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Representative of the department is not in attendance therefore, notice be issued to the respondents with the direction to direct the representative to attend the court. Adjourned. To come up for implementation report on 17.07.2018 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member</p>



AGENCY EDUCATION OFFICE
KHYBER AGENCY AT JAMRUD

REINSTATEMENT ORDER

Consequent upon the decision of the Govt of Khyber Pakhtunkhwa Service Tribunal Peshawar appeal No.1264/2016 dated 26/12/2017 and recommendation of the Enquiry Officer Mr:Khalil-Ur-Rahman Head Master Govt High School Loe Shalman Landi Kotal Khyber Agency dated 21/03/2018, services in respect of Mst:Neelam Aman PST D/O Malik Aman Govt Girls Primary School Bakht Ullah Killi Landi Kotal Khyber Agency is hereby re-instated with effect from 24/10/2014 with all back benefits on the following terms and conditions.

1. Back benefits of the concerned teacher is granted after scrutiny the pay history by the account clerk.
2. The period during which she had not performed her duty after her termination is converted into leave without pay w.e.f 09/04/2014 to 04/05/2014 (26 days).
3. An under- taking on stamp paper will be obtained from her to this effect that she will never be absent from duty without proper sanction other wise an action will be taken against her under E&D Rules 2011 of Govt of Khyber Pakhtunkhwa.
4. Necessary entry to this effect should be made in her Service Book.
6. Pay will be released after physical verification and joining duty.

(MUHAMMAD JADOON KHAN)
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

Endst: NO 11807-14 Re-instatement File Dated 16 /04/2018.

Copy of the forwarded for information to the:

1. Director Education FATA Peshawar w/r to their letter No. 1151 dated 16/01/2018 and No.3306 dated 02/03/2018.
2. Govt of Khyber Pakhtunkhwa Service Tribunal Peshawar w/r to appeal No.1264/2016 dated 26/12/2017.
3. Agency Accounts Officer Khyber Agency at Jamrud.
4. AAEO Concerned.
5. Superintendent Local Office
6. Female Accountant Branch for further pay process as directed.
7. Data Entry operator EMIS local office
8. Official Concerned.

AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD



**AGENCY EDUCATION OFFICE
KHYBER AGENCY AT JAMRUD**

Corrigendum

Reinstatement order in respect of Mst:Neelam Aman PST D/O Malik Aman GGPS Bakht Ullah Killi Landi Kotal Khyber Agency issued by the undersigned vide this office Endst No.11807-14 Re-instatement File dated 16/04/2018, Para No.2 may please be read as "Absence period at GGPS Bakht Ullah Killi Landi Kotal Khyber Agency w.e.f 09/04/2014 to 04/05/2014 (26 days) is converted in to leave without pay".

(MUHAMMAD JADOON KHAN)
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

Endst: NO 11906-13 Re-instatement File Dated 19 /04/2018.

Copy of the forwarded for information to the:

1. Director Education FATA Peshawar w/r to their letter No. 1151 dated 16/01/2018 and No.3306 dated 02/03/2018.
2. Govt of Khyber Pakhtunkhwa Service Tribunal Peshawar w/r to appeal No.1264/2016 dated 26/12/2017.
3. Agency Accounts Officer Khyber Agency at Jamrud.
4. AAEO Concerned.
5. Superintendent Local Office
6. Female Accountant Branch for further pay process as directed.
7. Data Entry operator EMIS local office
8. Official Concerned.

AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

(Signature)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 79 /2018

In

Appeal No.1264/2016

NEELAM AMAN

VS

EDUCATION FATA

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S.NO.	DOCUMENTS	ANNEXURE	PAGE NO.
1-	Memo of petition	1- 2.
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4-	Vakalat nama	7.

PETITIONER/APPLICANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

MOBILE NO.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. 79 /2018

In

Appeal No.1264/2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 309

Date 19/03/2018

Mst. Neelam Aman, PST (BPS-12),
GGPS Barkat Ullah Kalay, Landi Kotal, Khyber Agency.

.....PETITIONER

VERSUS

- 1- The Additional Chief Secretary (FATA), FATA Secretariat, Warsak Road, Peshawar.
- 2- The Director Education (FATA), FATA Secretariat, warsak road, Peshawar.
- 3- The Agency Education Officer, Khyber Agency at Jamrud.

..... RESPONDENTS

IMPLEMENTATION PETITION FOR DIRECTING THE
RESPONDENTS TO OBEY THE JUDGMENT IN
LETTER AND SPIRIT

R/SHEWETH:

- 1- That the petitioner filed Service appeal bearing No. 1264/2016 before this august Service Tribunal for her re-instatement on the post PST.
- 2- That the appeal of the petitioner was finally heard by this august Tribunal on 26.12.2017 and was decided in favor of the petitioner vide judgment dated 26.12.2017 with the view that "***In view of such situation, the whole proceedings are illegal. The instant appeal is therefore, accepted and the appellant is re-instated in service. However, the Department is at liberty to hold Denovo proceedings if they so wish within a period of 60 days from the date of receipt of this judgment. The issue of back benefits shall be decided in accordance with law and rules on the subject.*** Copy of the judgment is attached as annexure..... **A.**

- 3- That after obtaining copy of the judgment the petitioner applied to the Department for his claim but the respondent Department is not willing to obey the judgment and till date the respondents have not been allowed/issued back benefits to the appellant.
- 4- That the petitioner has no other remedy but to file this 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 26.12.2017 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.

PETITIONER

NEELAM AMAN

THROUGH:

NOOR MOHAMMAD KHATTAK

**MUHAMMAD MAAZ MADNI
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Implementation Petition No. _____/2018

In

Appeal No.1264/2016

NEELAM AMAN

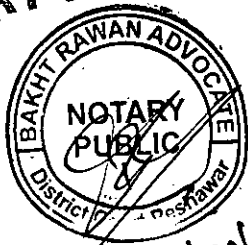
VS

EDUCATION FATA

AFFIDAVIT

I Noor Mohammad Khattak 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.

ATTESTED



16/3/2018

NOOR MOHAMMAD KHATTTAK
ADVOCATE

A-4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.

Appeal No. 1264/2016

Date of Institution... 29.12.2016

Date of decision... 26.12.2017



Mst. Neelam Aman, PST (BPS-12) GGPS Barkat Ullah Kalay Landikotal, Khyber Agency. ... (Appellant)

Versus

1. The Additional Chief Secretary (FATA) FATA Secretariat, Warsak Road, Peshawar and 2 others. ... (Respondents)

MR. Noor Muhammad Khattak, Advocate. ... For appellant.

MR. Muhammad Jan, Deputy District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN, MR. GUL ZEB KHAN, ... CHAIRMAN MEMBER

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned

counsel for the parties heard and record perused.

FACTS

2. The appellant was removed from service on 24.10.2014 against which she filed departmental appeal on 17.12.2014 which was rejected on 14.11.2016 and communicated to the appellant on 30.11.2016 and thereafter she filed the present service appeal on 29.12.2016.

ARGUMENTS

3. The learned counsel for the appellant argued that the appellant had been performing her duty in GGPS Barkatullah Kalay whereas the whole proceedings of

(5)

absence of the appellant were conducted in GGPS Aqil Shah Jamrud. In this respect he referred to the show cause notice and advertisement in the newspaper as well as removal order dated 24.10.2014. He argued that the appellant had been performing her duty in GGPS Barkatullah Kalay regularly.

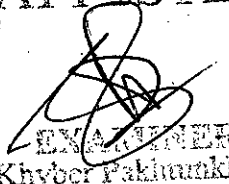
4. On the other hand, the learned Deputy District Attorney argued that mentioning of name of wrong school was a clerical mistake. That the appellant herself admitted in para-5 of the departmental appeal that she was transferred from GGPS Aqal Shah to GGPS Barkatullah Kalay. That the whole proceedings were taken in accordance with law and all the codal formalities were fulfilled.

CONCLUSION

5. The arguments of the learned counsel for the appellant are that the appellant had been performing her duty in GGPS Barkatullah Kalay at the relevant time. In this respect he relied upon the attendance register of the said school. After perusing of the record this Tribunal reaches the conclusion that mentioning of GGPS Aqal Shah is not a typographical mistake because in the advertisement of willful absence notice the name of school was mentioned as GGPS Aqal Shah, Jamrod. Similarly in the removal order, name of the school was mentioned as GGPS Aqal Shah. This led us to the conclusion that this Tribunal cannot presume the service of any notice including the advertisement to the appellant due to wrong mention of her school. The period of absence was shown in the school other than the one in which the appellant was serving at the relevant time. No limitation shall run against the appellant as all the notices and order of removal were communicated to the appellant in GGPS Aqal Shah and not GGPS Barkatullah Kalay.

6. In view of such situation, the whole proceedings are illegal. The instant appeal is therefore, accepted and the appellant is reinstated in service. However, the

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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department is at liberty to hold denovo proceedings if they so wish within a period of 60 days from the date of receipt of this judgment. The issue of back benefits shall be decided in accordance with law and rules on the subject. Parties are left to bear their own costs. File be consigned to the record room.

Announced
26.12.2017 Sd/- Niaz Muhammad Khan,
Chairman

Sd/- Gul Zeb Khan,
Member

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 11-01-2018
Number of Copies 1200
Copying Fee 8.00
Urgent 2.00
Total 10.00
Name of Applicant [Signature]
Date of Completion of Copy 11-01-18
Date of Delivery of Copy 11-01-18

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar

OF 2018

Neelam Aman

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education FATA

(RESPONDENT)
(DEFENDANT)

I/We Neelam Aman

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

Dated. 16 / 3 / 2018



CLIENT


ACCEPTED
NOOR MOHAMMAD KHATTAK


MUHAMMAD MAAZ MADNI
ADVOCATES

OFFICE:

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Phone: 091-2211391

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