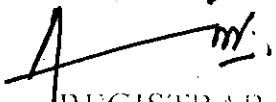


FORM OF ORDER SHEET

Court of _____

Appeal No. 1212/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/05/2023	<p>The appeal of Mst. Shamim resubmitted today by Mr. Yasir Saleem Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>30-05-2023</u>.</p> <p>By the order of Chairman  REGISTRAR</p>

This is an appeal filed by Mst. Shamim today on 22/05/2023 for release of salary against which she made/preferred departmental appeal/representation on 02.05.2023 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

- 1- Copy of observation made by DAO on the pay bill of the appellant mentioned in para-3 of the memo of appeal is not attached with the appeal, be placed on it.
- 2- Affidavit be got attested by the Oath Commissioner.
- 3- The Paper used in printing the memo of grounds of appeal is very low standard.

No. 1495/STI

DE 23/5/2023

FOR REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR

[Signature]

Mr. Yasir Saleem Adv.
High Court Peshawar.

Pls: Departmental appeal attached with the memo appear in second sheet pages which has been written by the appellant on 8/5/23 which has already been attached with the appeal with the 1st sheet pages attached was filed on 12/21/23 response with the memo of appeal accordingly. Under the present appeal is maintained.

As per sheet no. 1 copy of pay bill in stamp of a till is already been attached in sheet no. 2 p-7

(2) sheet no. 3 has been removed in sheet 2 p-8.

(3) sheet number 4 has also been removed & both pages have been suppressed.

There be submitted to day.

[Signature]
24/5/23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1212/2023

shamim

VS

EDUCATION DEPTT:

INDEX

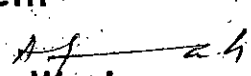
S. NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	1-2
2.	Affidavit	3
3.	Appointment order dated	A	4
4	Charge assumption & performance certificate	B	5-6
4.	letter dated 24.01.2023	C	7
5.	reply letters	D	8
6	departmental appeal	E	9-10
7.	Vakalatnama	11


APPELLANT

THROUGH:


Yasir Saleem

&


Afrasiab Khan Wazir
Advocate High Court

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1212 /2023

Mrs. shamim, PST (BPS-12), in district education Officer District North Waziristan**APPELLANT.**

Versus

- 1 Director education merged district, Khyber Pakhtunkhwa Peshawar.
- 2 District education officer, District North Waziristan.
- 3 District Account Officer, District North Waziristan.
- 4 The secretary E&SE department, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST INACTION OF THE RESPONDENT BY NOT RELEASING SALARIES W.E.F 01.07.2019 OF THE APPELLANT AND AGAINST INACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD.

Prayer:

That on acceptance of this instant service appeal of the appellant the inaction of the respondents by not releasing salaries of the appellant w.e.f 01.07.2019 till dated may very kindly be declared- illegal and without lawful authority of law, and the respondents may further please be directed to release salaries of the appellant w.e.f 01.07.2019 till dated, with all back benefits. Any other remedy which august tribunal deems fit that may also be decided in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts of the appeal are as under:

- 1 That the appellant is working as PST (BPS-12) in the respondent department. (copy of Appointment letter is attached)A.
- 2 That the appellant after that assumed his duty and started performing his duty regularly efficiently and passionately. Copy of assumption order and performance certificate is attached as annexure.....B

2

3 That on 24.01.2023 the respondent No.3 made an observation over the impugned bills which was removed by the respondent No.2 and resubmitted to respondent No.3. Copy of letter dated 24.01.2023 is attached as annexureC.

4 That on dated 24.01.2023 respondent No.2 removed the observation and resubmitted to the respondent No.3 but no action has been taken on the said bills. Copy of reply letter is attached as annexure.....D

5 That against the inaction of the respondents with regard to the outstanding salaries of the appellant, he also filed departmental appeal to the concerned authority which is still pending. Copy of the departmental appeal is attached as annexure.....E.

6 That appellant further feeling aggrieved and having no other remedy but to file this appeal on the following grounds inter alia.

ON GROUNDS:

A That the inaction of the respondents by not releasing salaries of the appellant w.e.f 01.07.2019 is against law, rules and norms of natural justice.

B That the appellant have not be treated in accordance with law and rules and as such respondents violated Article 4 and 24 of the constitution of Islamic republic of Pakistan 1973.

C That the action of the respondent No.3 amounts to sheer arbitrary and autocratic in nature hence against the norms of natural justice.

D That the conduct of respondent No.3 is not only ignoring the competent authority orders but conduct and attitude of the respondents No.3 from such inaction show something unfair means hence also violating the mandatory provision of the constitution that all Govt. departments are duty bound to strictly act in accordance with law.

E That its apex court decisions that salary is not bounty that can be stopped at the wishes of high ups.

F That the inaction of the respondents by not releasing salaries of the appellant is against Article 38(e) of the Constitution of Islamic republic of Pakistan, 1973.

- That the respondents are using colorful exercise of power regarding not releasing the salaries outstanding against the respondents hence this action of the respondents is unwarranted under the law.
- That the appellant seeking indulgence of this honorable Tribunal for intervening in the matter to release immediately the outstanding salaries and clear the bill pending before the respondent No.3 without any cogent reason and the respondent No.3 has no locus standi to stop the bills being clear cut orders of the high ups and competent authority.
- That the remaining points if any arise during the course of hearing may also be allowed.

It is therefore humbly prayed that the appeal of the appellant may very kindly be accepted as prayed for.

APELLANT

shamim

THROUGH:

Yasir Saleem

&

Afrasiab Khan Wazir
Advocates high Court

Certificate:

That no earlier appeal is preferred before this august tribunal.

Deponent

Affidavit:

I shamim, resident of district north waziristan, solemnly affirm and declare that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this August Tribunal.

shamim
Deponent



ORDER OF THE AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY

In light of Director Education FATA order dated 08/12/2013 and the recommendation of her superior officer, the undersigned hereby orders that Ms. [Name] is hereby appointed as [Position] on a contract basis in the sum of Rs. 5000/- per month. She shall be engaged on the following terms and conditions with effect from the date of taking over charge:

TERM CONDITION

- Her appointment is made on contract basis and liable to be terminated any time and without any notice.
- She shall be liable to attend all medical and dental check-ups and hospitalization if they will be required during the period of her service. Her orders will be treated as cancelled.
- Her original ONCs should be produced to the accountant local office.
- Her services will be terminated if she found absent for days continuously from the date of taking over.

AGENCY EDUCATION OFFICER
NORTH WAZIRISTAN AGENCY

Dated 21/1/2004

Encl. No. 15164-57

Copy to:

1. Director Education FATA, Peshawar
2. Agency Account Officer, NWA
3. [Name], [Position], NWA

AGENCY EDUCATION OFFICER
NORTH WAZIRISTAN AGENCY

ATTESTED

[Signature]

AM B (5)

The Agency Education Officer
North Waziristan Agency Miranshah

Subject: ARRIVAL/CHARGE REPORT

In the light of Agency Education Officer North
Waziristan Agency Miranshah Vide Order No. 38331-26
Dated: 7.4.022 I took over charge as PTC Teacher at
PCS GPS Piv. Mellan Kot NWA.

Charge report is submitted for your perusal and further
necessary action.

Your Obediently

Name Shamim

Designation PS7

ATTESTED

[Signature]

ATTESTED

[Signature]

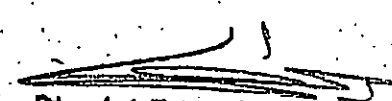
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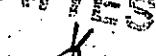
OFFICE OF THE DISTRICT EDUCATION OFFICER,
NORTH WAZIRISTAN TRIBAL DISTRICT


DUTY / PERFORMANCE CERTIFICATE.

Certified that Mr/Mrst: Shamim S/D/ Gul Nader Shah

Is serving as a P.T.C teacher BPS-12 at GPS /GGPS Pir Maffar Kot
since long in the education department. He/She has a good moral character and obedient.
He/ She always present in the school during my surprise visit.


District Education Officer,
North Waziristan tribal district.

ATTESTED


ATTESTED




Office of the
District Accounts Officer
NORTH WAZIRISTAN MIRAN SHAH
PHONE NO. 0928-300541



No. DAO/MRN/NW/2022-23/2301-04

Dated 24/11/2023

To:-

The District Education Officer (M)
NW Miran Shah.

AMZ C 7

**SUBJECT: - CONFIRMATION OF SOURCE-I FORMS & SALARIES OF THE
REGULARIZATION TEACHERS.**

Memo,

Kindly refer to the subject cited above.

The Authorised Representative namely Mr. Abdur Ur Rahim Junior clerk of your office were submitted 14 numbers Source-I Forms and other connected documents for releasing of their salaries at the pre-audit counter section of this office.

The detail of teachers are as under:-

S.N	NAME OF EMPLOYEES	PLACE OF POSTING	S.NO	NAME OF EMPLOYEES	PLACE OF POSTING
1	Amra Haider PST	GGPS Naseeb Khan Kot	14	Mukhtar Zada PST	GGPS Alif Khan Kot
2	Zainab PST	GGPS Zinda Kot	15	Nasreen Shaheen PST	GGPS Said Rasool Kot
3	Imran Ullah PST	GPS Data Khel	16	Taskeen PST	GGPS Muhd Salam Kot
4	Umar Khitab PST	GPS Muhd Aslam Kot	17	Abida PST	GGPS Gul Raat Kot
5	Ihsan Ullah TT	GPS Nadeem Kot	18	Anila Afam PST	GGPS Zair Muhd Kot
6	Noor Zubaida PST	GGPS Inzar Kas	19	Kalnoon Bibi PST	GGPS Fareed Ullah Kot
7	Atia Kiran PST	GGPS Aziz Muhd Kot	20	Sawal Haider PST	GGPS Per Mitar Kot
8	Masoom PST	GGPS Rahmat Ullah Kot	21	Sadia PST	GGPS Gul Rat Kot
9	Sameena PST	GGPS Muhd Noor Din Kot	22	Nigat PST	GGPS Akhtar Nawaz Kot
10	Sumaira PST	GGPS Lal Marjan Kot	23	Shameem PST	GGPS Pir Mitar Kot
11	Rukhia Bagam PST	GGPS Aziz Muhd Kot	24	Kalsoom PST	GGPS Rahmat Ullah Kot
12	Saira Khan PST	GGPS Yaqoob Khan Kot	25	Safia PST	GGPS Mirza Gul Kot
13	Salma Khan PST	GGPS Inzar Kas			

It is therefore, requested that the above named regularized teachers may kindly be confirmed / verified and genuine employees of the Education Department before payroll processing for the month of 01/2023 or otherwise please

District Accounts Officer
NW Miran Shah

Copy forwarded to:

1. The Accountant General Khyber Pakhtunkhwa Peshawar.
2. The Director E&SE Khyber Pakhtunkhwa Peshawar.
3. The Deputy Commissioner NW Miran Shah.
4. Mr. Muhammad Atif Sub Accountant of this office is hereby nominated and personally attend the Education Officer, to verify / confirmed the above named Source Forms from the DFO NW Miran Shah.

ATTESTED ATTESTED

District Accounts Officer

Mut D
(8)

**OFFICE OF THE DISTRICT EDUCATION OFFICER,
NORTH WAZIRISTAN TRIBAL DISTRICT**

No.
To,

/DEO/NWTD dated Miranshah the / /2023.

The District Accounts Officer,
NWTD Miranshah.

Subject:-

**CONFIRMATION OF SOURCE-I FORMS AND SALARIES OF THE
REGULARIZED TEACHERS.**


Memo :-

Kindly refer to your letter No. DAO/MRN/NW/2022-23/2301-04 dated, 24.01.2023 on the subject noted above and to state that the undersigned has already been submitted various source forms of the Community school teachers in the light of Governor directives, various court orders and DE FATA letter received to the office of undersigned time to time and submitted to your good office.

It is further stated that it is a long pending issue and they are performing their duties regularly to the entire satisfaction of the their superiors and they are genuine employees of this office.

It is therefore, requested in your kind honour that 26 Nos source-1 forms may kindly be processed in the larger interest of justice and public being low paid Govt: servants

No. 35985-88, Dated 24/1/2023



District Education Officer,
North Waziristan tribal district.

Copy forwarded to :-

01. The Accountant General KPK Peshawar.
02. The Director E&SE KPK Peshawar.
03. The Deputy Commissioner North Waziristan tribal district.
04. Mr, Muhammad Atif Sub Accountant of DAO office.

ATTESTED

ATTESTED


District Education Officer,
North Waziristan tribal district.

To

The Secy D/S&E Deptt
1st Floor

ANEX E (9)

Subject: Appeal for release of pay in r/Samina pst
and others.

Resd. with great respect it is stated that our pays were stopped by the Hon Ex DDO North without any cogent reason we lodged appeal to your good office and a letter was issued by the SO primary on 11/8/22 and again directed the DDO on 29/3/23. The DDO has been ceased our salaries but the DDO female being delay tactics.

It is worthy mentioned that stoppage of pay without any cogent reason is illegal as per G.P. rule. And binding superior court order.

The DDO ceased observation on our pay bills got copy from the female DDO. The female DDO signed the pending teacher bills and bill pending in the DDO office.

It is therefore humbly requested in your gracious favour that the DDO M/F may kindly be directed to release our outstanding pay bills for the larger interest of justice.

Dated 2/5/23

Candidates list as under:

Saminia pst

and others -
Saminia pst and others

- (1) Samina pst. (2) Anva Haider pst (3) Sami Haider pst (4) Zainab pst (5) Abida pst
- (6) Curranullah (7) Umer Chaitab (8) Ishaqullah (9) Noor Zubida pst
- (10) Atia Keren pst (11) Masoom pst (12) Salmeera pst (13) Ruchi pst
- (14) Saira ccha (15) Salma pcha (16) Muechlan zada (17) Masrion Shukla pst
- (18) Tasbeem pst (19) Anila gyan pst (20) Kalnoon bibi pst. (21) Sedia pst
- (22) Negat pst (23) Shamim pst. (24) Kalsoom pst. (25) Sayra pst.

ATTESTED

7

The Honourable Secy Edu Deptt. Amr E. (10/A)
ICP Peshawar.

Subject: Appeal for release of pay stopped
without any logical reason/legally

(9)

R/W with great respect it is brought into your
kind notice that our pays were stopped without
any logical reason/legally. We have already lodged
appeal to Director Edu merged Distt. The DE(M) Distt
was kind enough and issued order vide No 1666
dt 30/1/2019 and No 2149-51 dt 7/2/17 (Copy attached)
The District Edu officer conducted enquiry in this
regard (Copy attached). After enquiry Bills were prepared
and submitted to the Distt. Accounts officer, bill returned
due to some observation, then the same was removed
and resubmitted to the DAO office. (Copy attached)
The Ex DAO stopped the process and we filed appeal
to AG ICP. The AG ICP was kind enough and issued
direction to process the claim. (Copy attached)

When a new DEO was posted and stopped all the
lengthy correspondence without any legal reason.
Therefore it is humbly requested in your gracious
honour that a necessary order may kindly be
passed to DEO north for release of salaries
with and stopped by the Ex DEO for which we are struggl
ing - for the last year

ATTESTED

Dated 12/2/2023

Copy to the

- (1) The worthy AG ICP Peshawar
- (2) The DE(M) Distt ICP
- (3) The District Accounts Officer
- (4) Nasir-ud-din PST & others
- (5) Shamim PST

SO (P)

ATTESTED

12/2/23

Please note
from DE (M) Distt

[Signature]

[Signature]

[Signature]



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT
CIVIL SECRETARITE PESHAWAR
(PHONE NO. 091-9223587)

No. SO(P/F)/E&SED/5-1/ release Salary Nasiruddin etc/2023
Dated Peshawar the 2nd May, 2023

To

The District Education Officer (Male/Female)
District North Waziristan.

Subject: -

**APPEAL FOR RELEASE OF PAYS IN R/O NASIRUDDIN, SHOAB
MUHAMMAD & SAMINA PST AND OTHERS**

I am directed to refer to this Department letter of even No. dated 03.08.2022 & 29.03.2023 on the subject noted above and to enclose herewith a copy of self-explanatory appeal submitted by Mr. Nasiruddin PST and others along with its enclosure regarding release of their outstanding salaries.

2 I am further directed and ask you to solve the issue and release their outstanding salaries within a week time under intimation to this Department.

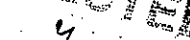
Encl.As above.


SECTION OFFICER (P/F)

Copy forwarded to:-

1. Director E&SE Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary, E&SE Department Khyber Pakhtunkhwa.


SECTION OFFICER (P/F)

ATTESTED


VAKALATNAMA

11

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

OF 2023

Shamim

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt of KP & other

(RESPONDENT)
(DEFENDANT)

I/We

Shamim

Do hereby appoint and constitute, **Yasir Saleem & Afrasiab Khan, Advocates 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 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. 19/5 /2023

[Signature]
CLIENT(S)

[Signature]
ACCEPTED
YASIR SALEEM

&
AFRASIAB KHAN
ADVOCATES HIGH COURT
PESHAWAR