


Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Implementation Petition No. 386/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15.06.2023	<p>The execution petition of Mst. Nabeela Arif received today by registered post through Mr. Hanavun Khan Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on _____ . Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

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

E.P No. 386 /2023  
IN  
Appeal No. 7414/2021

Mst. Nabeela Arif daughter of Muhammad Arif, (Ex-Arabic Teacher),  
resident of chappargram, Tehsil & District Battagram.

...PETITIONER

**VERSUS**

Government of Khyber Pakhtunkhwa through Elementary & Secondary  
Education, Peshawar & others.

...RESPONDENTS

**APPLICATION FOR IMPLEMENTATION**

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...PETITIONER

Through

Dated: 10/6 /2023

  
(HAMAYUN KHAN)

&

  
(FAZLULLAH KHAN)

Advocates High Court, Abbottabad

Respectfully Sheweth:-

1. That petitioner filed service appeal No. 7414/2021 against the impugned order dated 30.05.2018 passed by respondent No. 3. Copy of appeal is attached as Annexure "A".
2. That on 24.02.2023 after hearing of arguments this Honourable tribunal accepted appeal of the appellant and set-aside impugned order dated 30.05.2018 and appellant was reinstated in service. Copy of judgment is attached as annexure "B".
3. That thereafter, petitioner submitted judgment passed by this Honourable court in the office of respondent No. 3 for implementation.
4. That 24.02.2023 after laps of more than 03 months respondents had not implemented judgment dated 24.02.2023 of this Honourable tribunal till date and refuse implement the same.
5. That respondent No. 3 instead of complying with the direction of this Honourable Tribunal,

straightaway refused to comply with the direction of this Honourable Tribunal.

6. That other point would be raised at the time of arguments kind permission of this Honourable Tribunal.

It is therefore, humbly prayed that on acceptance of instant application respondents be kindly be directed forthwith implement the judgment dated 24.02.2023 passed by this Honourable Tribunal in its true letter and spirit



...PETITIONER

Through

Dated: 10/6 /2023



(HAMAYUN KHAN)

&

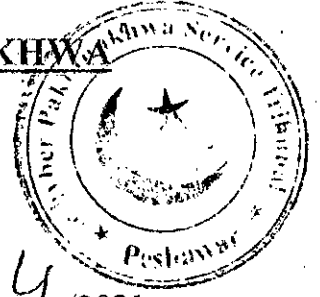


(FAZLULLAH KHAN)

Advocates High Court, Abbottabad

ANNEXURE "A" 4

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR



Appeal No. 7414 /2021

Mst. Nabeela Arif daughter of Muhammad Arif, (Ex-Arabic Teacher),  
resident of Chappargram, Tehsil & District Battagram.

...APPELLANT

Khyber Pakhtunkhwa  
Service Tribunal

VERSUS

Diary No. 7577

Dated 14/9/2021

1. Government of Khyber Pakhtunkhwa through Elementary & Secondary Education, Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female), Battagram.

...RESPONDENTS


Filed today

Registrar

14/9/2021

APPEAL UNDER ARTICLE 212 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF  
PAKISTAN 1973 READ WITH SECTION 4 OF  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
1974, AGAINST THE IMPUGNED ORDER DATED  
30.01.2018 PASSED BY RESPONDENT NO. 3,  
WHEREBY RESPONDENT NO. 3 IMPOSED MAJOR  
PENALTY OF REMOVAL FROM SERVICE OF

ATTESTED

  
Registrar  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

APPELLANT WITH EFFECT FROM 04.03.2017,  
WHICH IS ILLEGAL, AGAINST THE LAW,  
AGAINST THE FACTS, NATURAL JUSTICE AND  
LIABLE TO BE SET-ASIDE.

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**PRAYER:** ON ACCEPTANCE OF INSTANT  
SERVICE APPEAL IMPUGNED REMOVAL FROM  
SERVICE ORDER DATED 30.08.2018 MAY  
GRACIOUSLY BE DECLARED NULL AND VOID  
AND SET-ASIDE AND APPELLANT BE RE-  
INSTATED IN SERVICE WITH ALL BACK  
BENEFITS. ANY OTHER RELIEF WHICH  
HONOURABLE TRIBUNAL DEEM FIT AND  
PROPER IN THE LEI INTEREST OF JUSTICE AND FAIR  
PLAY.

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Respectfully Sheweth;-

Subj  
Distri

Appellant beg to solicit through instant appeal on the

following legal and factual back grounds:-

LEI

1. That initially appellatant was appointed as Arabic  
Pa T  
Teacher on: 07.04.2009 at District Kohistan after

&

(To

Attor  
H. D. A.

●completion of legal and codal formalities.

Thereafter appellant was posted at Government Girls Middle School Sehri Ghazikot Kohistan.

2. That thereafter, appellant assumed charged in said school and continuously performed duty and liabilities in District Kohistan.

3. That on 07.04.2011, respondent No. 2 issued transfer order and whereby appellant was transferred from District Kohistan to District Battagram.

III

III

4. Consequent upon transfer order dated 07.10.2010 appellant was posted at Government Girls Middle School High School Chohan Battagram.

IV

IV

5. That thereafter, appellant submitted her arrival report in the said school and continuously join the duty.

V

V

VI

VI

6. That thereafter, appellant was transferred from GGMS Chohan Battagram to GGMS Nelishung Battagram and thereafter on 31.08.2014 appellant was transfer to GGMS Baikhail Pagora, whereby

VII

VII

VIII

*Attorney  
H. D. A. W.*

appellant performed her duty with full devotion and liability. Copy of service book is annexed as Annexure "A".

7. That thereafter respondent No. 3 verbally issued directions to the appellant that she had transferred to GGHS Tikri Khorian Battagram and submit her arrival report in the said school.
8. That on the direction of respondent No. 3 appellant went GGHS Tikri Khorian for arrival and duty. Principal/ Headmistress of the said school refused to receive arrival report and stated that they have not received such kind of transfer order from the office of respondent No. 3 and they have not any vacant post of A.T Teacher.
9. That on 05.10.2016 appellant visited the office of respondent No. 3 and discussed issue of transfer with him. Respondent No. 3 again verbally stated she has transferred to GGHS Ajmera Battagram and directed to assumed the charge in the said school within two days.

Attached  
H. S. B.



10. That on the very next day, appellant went to GGHS Ajmera Battagram for arrival as well as duty, In-charge of the said school refused arrival report and stated they have not received transfer order in written.
11. That at on the same day appellant again went to the office of respondent No. 3 for written transfer order but respondent No. 3 refused the same, and stated that your name is in the waiting list for further posting hence wait for further posting and within week you will receive transfer order.
12. That after two months appellant visited the office of respondent No. 3 for ascertained actual situation but respondent No. 3 restrained the appellant, but respondent No. 3 and official staff of the office concealed all actual situation.
13. That thereafter, appellant filed applications before the respondents and other officers for redressal of her grievances, but till date they have not removed grievances of the appellant. Copy of application is annexed as Annexure "B".

Attested  
H. S. Deu

14. That on 05/05/2021 appellant unofficially received the impugned order from the office of respondent No. 3 after many request subject to condition that she will not disclosed name of the said official. Copy of impugned order is annexed as Annexure "C".

15. That on 20.05.2021 appellant preferred departmental appeal before the respondent No. 2. Copy of departmental appeal is annexed as Annexure "D".

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16. That till date respondent No. 3 not passed any order on the said appeal and similarly not given any response on the same. Hence this appeal filed, inter-alia on the following grounds;

**GROUND:-**

a. That, the impugned order is illegal, against the law & facts, hence is liable to be set aside.

b. That, impugned order is based on personal grudges and interests which is not sustainable in the eye of law.

Attested  
H S  
Dea

- c. That impugned order passed by the respondent No. 3 without lawful justification, authority, hence liable to be set-aside.
- d. That, impugned order is against the rules, no regular inquiry was conducted nor the opportunity of defence and hearing was given to the appellant.
- e. That till 05/05/2021 respondent No. 3 not delivered / handed over the impugned order to appellant and issued the so-called order without any reason.
- f. That it is clear malafide of the respondents that first they restrained/ abstained appellant from performing duty without any black and white and later on 05/05/2021 delivered impugned order by the official of respondent No. 3.
- g. That respondent issued impugned order for adjustment of his persons on the same post.

*Alleged*  
*U.S.*

- h. That impugned order passed without communication and association of appellant, hence, liable to be set-aside.
- i. That, all the proceeding conducted by respondent No.3 is clear violation of E&D rules and issued impugned order for obtaining his immoral goals, in this respect appellant filed complaint before learned ombudsman for protection of her honor and dignity.

7

- j. That, the act of respondent is against guaranteed constitutional rights of the appellant, which are also against the norms and dictates of Islam.

- k. That, impugned order is issued in a hasty manner, which did not fulfill the codal requirement, hence having no legal value, is liable to be struck down.

*Alleged*  
*it*  
*Shau*

- l. That other points would be argued at the time of argument with the kind permission of this Honourable Court.

appeal

court

It is, therefore humbly prayed that on acceptance of instant service appeal impugned order dated 30.08.2018 may graciously be declared null and void and set-aside and appellant re-instated in service with all back benefits. Any other relief which Honourable Tribunal deem fit and proper in the interest of justice and fair play.

*Nabeela*  
...APPELLANT

Dated: 10/9 /2021

Through

*Fazlullah Khan*  
(FAZLULLAH KHAN)  
&

*Hamayun Khan*  
(HAMAYUN KHAN)

Advocates High Court, Abbottabad

**VERIFICATION:-**

*Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.*

*Nabeela*  
...APPELLANT

*Alexander*  
*H. Khan*

**ANNEXURE "B" 13**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR  
AT CAMP COURT ABBOTTABAD.**

Service Appeal No. 7414/2021

Date of Institution ... 14.09.2021

Date of Decision ... 24.02.2023

Mst. Nabeela Arif D/O Muhammad Arif, (Ex-Arabic Teacher), R/O  
Chappargram, Tehsil & District Battagram.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Elementary & Secondary  
Education, Peshawar and 02 others.

... (Respondents)

MR. HAMAYUN KHAN,  
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,  
Deputy District Attorney

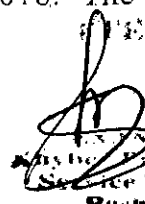
--- For respondents.

MR. KALIM ARSHAD KHAN  
MR. SALAH-UD-DIN

--- CHAIRMAN  
--- MEMBER (JUDICIAL)

**JUDGMENT:**

SALAH-UD-DIN MEMBER:- Precisely stated the facts surrounding the instant service appeal are that the appellant was appointed as Arabic Teacher on 04.07.2009 and she assumed the charge of her post in Government Girls Middle School Seer Ghaziabad District Khyber Pakhtunkhwa. During the course of service, she remained posted in various schools and performed her duty. Departmental action was taken against the appellant on the allegations of her absence from duty with effect from 04.03.2017 and on conclusion of the inquiry, she was removed from service vide order dated 30.05.2018. The appellant

  
MEMBER  
Khyber Pakhtunkhwa  
Services Tribunal  
Peshawar

challenged the order of her removal through filing of departmental appeal, however the same was not responded within the statutory period, hence the instant service appeal.


2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing of reply, wherein they refuted the assertion raised by the appellant in his appeal.

3. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Deputy District Attorney for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

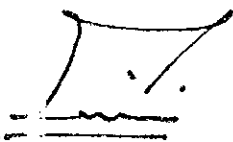
4. We have heard the arguments of learned counsel for the parties and have perused the record.

5. According to the available record, the appellant was issued charge sheet as well as statement of allegations on 25.04.2018 and Tahira Bibi ASDEO (F) Battagram was appointed as Chairman, while Aliya Bibi Head SST (G) GGHS Banian was appointed as Member of the inquiry committee for conducting inquiry against the appellant. Charge sheet as well as statement of allegations were required to be served upon the appellant for enabling her to submit reply to the same and make her defence. However, the copies of charge sheet and statement of allegations so annexed by the respondents with their

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

comments would show that the same were served on a Sweeper namely Ihsan-ul-Haq. The report of the inquiry committee as available on the record also does not show that any effort was made by the inquiry committee for intimating the appellant regarding the inquiry initiated against her. Another interesting aspect of the matter is that as per statement of allegations, the inquiry committee was constituted for inquiry in the matter on 25.04.2018, while the report so submitted by the inquiry committee bears its date of drafting as 14.04.2018. The inquiry committee has thus submitted its report prior to issuing of charge sheet as well as statement of allegations on 25.04.2018.



6. According to charge sheet as well as statement of allegations, disciplinary action was taken against the appellant on the allegations of misconduct and habitual absence from duty. However, it appears from the contents of impugned Notification dated 30.05.2018, whereby the appellant was removed from service, that the appellant was removed from service on account of willful absence. The procedure for taking disciplinary action against an employee on account of willful absence has been laid down in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. The said rule provides that in case of willful absence from duty by a government servant for seven or more days, a notice shall be issued by the competent Authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice and if the same is received back as undelivered or no response was received from the

**ATTESTED**

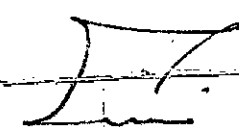
*[Signature]*  
 MEMBER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar



absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. In the instant case, the respondents have filed to show that any notice through registered acknowledgement was issued to the appellant on his home address. Similarly, notice through publication has been made only in one newspaper. The respondents have thus even failed to comply the procedure as provided in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. On going through the record, we have come to the conclusion that the respondents had proceeded against the appellant in haphazard manner without complying the legal requirements, therefore, the impugned order of removal of the appellant is not sustainable in the eye of law.

7. Consequently, the appeal in hand is accepted by setting-aside the impugned order and the appellant is reinstated in service. The absence period with effect from 04.03.2017 as well as the intervening period shall, however be treated as extra-ordinary leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
24.02.2023



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT ABBOTTABAD



(KALIM ARSHAD KHAN)  
CHAIRMAN  
CAMP COURT ABBOTTABAD

*Certified to be true copy*

FILED  
Khyber Pakhtunkhwa  
Service Tribunal  
Abbottabad

کورٹ فیس

# وکالت نامہ

BEFORE THE PESHAWAR PUKHTUN KHAWA SERIKAT TRIBUNAL

عنوان: ClouT of K.P.K نام: MST NABEELA ARIF

مجاناب: Petitioner

نوعیت مقدمہ: Implementation Petition

باعث تحریر آنکہ ATD

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آن مقام

Hamayun Khan, Fazlullah Khan.

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت نالش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

10/6-2023

المرقوم:

بمقام:

Accepted by