Form- A FORM OF ORDER SHEET

Court of		
Execution Petition No.	111/2023	

S.No.	Date of order proceedings	Order or other proceedings with signature of Judge
1	2	3
1	27.02.2023	The execution petition of Mst. Shehla Abrar
		submitted today by Syed Ghufranullah Shah Advocate. It
		is fixed for implementation report before Single Bench at
i		Peshawar on Original file be
-,		requisitioned. AAG has noted the next date. The
		respondents be issued notices to submit
		compliance/implementation report on the date fixed.
		By the order of Chairman
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BEFORE HONORABLE SERVICE TRIBUNAL PESHAWAR

Shehla Abrar

Versus

Secretary Higher Education and others

AN APPLICATION WITH EFFECT TO FIX AND HEAR THE SUBJECT IMPLEMENTATION APPLICATION BEFORE THE PRINCIPAL SEAT AT PESHAWAR

Respectfully Sheweth:

- 1. That the subject application is being filed to execute the order and judgment of this honorable tribunal.
- 2. That the order and judgment under implementation has been passed at principal seat Peshawar and record of the case also pertained to the principal seat.
- 3. That most of the respondents offices are also situated at Peshawar.
- 4. That it is also in the interest of the applicant to hear her case at Peshawar.

It is therefore most humbly prayed to allow this application and to fix the case before the Principal seat for the best interest of justice.

Applicant

Through

Syed Ghufran Ullah Shah (Advocate Supreme Court of Pakistan)

BEFORE THE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL PESHAWAR

> ShehlaAbrar D/o Ghulam Abrar R/oGahtakDenin, Tehsil & District Chitral.

VERSUS

Secretary Higher Education Government of Khyber Pakhtunkhwaand others.

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S.No	Description of Documents	Annexure	Pages
1.	Memo of petition for implementation		. 0
2.	Affidavit		1-3
3.	Addresses of parties		- 4
4.	Copy of order/judgment dated 05-10-2022	"A"	1 19
5.	Copy of the applications	"B"	112 10
6.	Wakalatnama		,Do

Appellant / Petitioner

Smla

Through

Syed Ghufganullah Shah

(Advocate Supreme Court of Pakistan)

Office; 22-A Nasir Mansion Railway Road, Peshawar Cell No.0334-9185580

BEFORE THE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No......2023
In
Service Appeal No. 338/ 2018.

ShehlaAbrar D/O Ghulam Abrar R/O GahtakDenin, Tehsil & District Chitral.

.....Petitioner/Appellant

VERSUS

- 1. Secretary Higher Education Government of Khyber Pakhtunkhwa (KPK) at Civil Secretariat Peshawar.
- 2. Director (Establishment) Higher Education Khyber Pakhtunkhwa 'Peshawar at Khyber Road near Judicial Complex, Peshawar.
- 3. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.
- 4. Principal Government Girls Degree College Chitra I(Lower).
- 5. Principal Federal Government College for woman, G-10/4, Islamabad.

 Respondents

APPLICATION FOR IMPLEMENTATION OF THE ORDER/IUDGMENT OF THIS HONOURABLE TRIBUNAL DATED 05/10/2022 PASSED IN SERVICE APPEAL NO.338/2018, WHEREBY THE APPELLANT/PETITIONER HAS BEEN RE INSTATED IN SERVICE FROM THE DATE OF HER REMOVAL 1.C. 10-10-2009 WITH ALL BACK BENEFITS.



PRAYER;

ON ACCEPTANCE OF THE INSTANT APPLICATION THE SUBJECT ORDER & JUDGEMENT OF THIS HONOURABLE TRIBUNAL DATED 05-10-2022 BE IMPLEMENTED /SATISFIED IN ITS TRUE SPIRIT. ANY OTHER RELIEF ACCORDING TO THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE PETITIONER AGAINST RESPONDENTS.

RESPECTFULLY SHEWETH:-

- 1. That the above titled Service Appeal was decided by this honorable tribunal in favour of the petitioner /appellant vide order/judgment dated 05/10/2023.
 - (Copy of order/judgment dated 05/10/2023 is annexure "A")
- 2. That this Honorable Tribunal has allowed the appeal of the petitioner/appellant by setting aside the impugned order dated 10-10-2009 and reinstated her in service with all back benefits.
- 3. That the appellant several times approached to the respondents for the implementation of the judgment and order passed by this honorable tribunal, vide order and judgment dated 05-10-2022 but in vain.

(Copy of the application is annexed as annexure "B")

(3)

4. That since date respondents have been failed to comply with the order/judgment dated 05-10-2022 passed by this honorable tribunal; and the petitioner is suffering from their deliberate delaying tactics.

5. That any other ground will be furnished at any stage of the proceeding with the prior permission of this Honorable Tribunal.

It is, therefore, most humbly prayed that on acceptance of this application, the respondents may kindly be directed to implement the order/judgment of this Honourable Tribunal dated 05-10-2022 with all consequential relief.

Petitioner /Appellant

Through

Syed Ghufrah Üllah Shah Advocate Supreme Court of Pakistan



BEFORE THE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No......2023
In
Service Appeal No. 338/ 2018.

ShehlaAbrar D/o Ghulam Abrar R/oGahtakDenin, Tehsil & District Chitral.

VERSUS

Secretary Higher Education Government of Khyber Pakhtunkhwa and others.

AFFIDAVIT;

I, ShehlaAbrarD/o Ghulam AbrarR/oGahtakDenin, Tehsil & District Chitral./Petitioner; do hereby solemnly verify and declare on oath that all the contents of the subject application; are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Deponent

C.N.I.C No. 15201-6572672-3

Verified by:

Syed Ghuffan Ullah Shah

Advocate Supreme Court of Pakistan'



BEFORE THE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL PESHAWAR

ShehlaAbrar

D/o Ghulam Abrar

R/oGahtakDenin, Tehsil & District Chitral.

VERSUS

Secretary Higher Education Government of Khyber Pakhtunkhwa and others.

ADRESSES OF PARTIES

PETITIONER;

ShehlaAbrarD/O Ghulam AbrarR/O MohallahGahtakDenin, Tehsil & District Chitral.

RESPONDENTS;

- Secretary Higher Education Government of Khyber Pakhtunkhwa (KPK) at Civil Secretariat Peshawar.
- 2. Director (Establishment) Higher Education Khyber Pakhtunkhwa Peshawar at Khyber Road near Judicial Complex, Peshawar.
- 3. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.
- 4. Principal Government Girls Degree College Chitral.

5. Principal Federal Government College for woman, G-10/4, Islamabad.

Petitioner/Appellant

Through

Syed Ghufran Ullah Shah

Advocate Supreme Court of Pakistan

Annex=t

BEFORE THE SERVICE TRIBUNAL KHYBER <u>PAKHTUNKHUWA PESHAWAR</u>

Service Appeal No. 338 /2018

Shehla Abrar

D/O Ghulam Abrar'

R/O Gahtak Denin, Tehsil & District Chitral.

.....Appellant

VERSUS

- 1. Secretary Higher Education Government of Khyber Pakhtunkhaw (KPK) at Civil Secretariat Peshawar.
- 2. Director (Establishment) Higher Education Khyber Pukhtunkhaw Peshawar at Khyber Road near Judicial Complex, Peshawar
- 3. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar
- Principal Government Girls Degree College Chitral.
- 5. Principal Federal Covernment College for woman, G-10/4, Islamabad.

...Respondents

FESTED

Service Appeal against the impugned Order bearing No. 23643-45 dated 10-10-2009 passed by Director (Establishment) Higher Education; whereby the appellant has been granted major penalty from removal of service and her departmental appeal to Respondent No.1 dated 03-11-2017 has not been responded.

On acceptance of the instant Service Appeal the Continuous impugned Order bearing No. 23643-45 dated 10-10-2009 passed by Director (Establishment) Higher Education be set aside and the appellant be re-instated in service with all back benefits.

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Any other relief deem just and proper in the circumstances of the case including payment of service benefits for qualified service and outstanding salaries etc may also granted to the appellant.

Respectfully Sheweth:

Brief facts and grounds giving rise to the instant Service Appeal are as under;

- 1. That on 01-07-1997 the appellant was appointed as Lab Assistant (BPS-07) at Government Girls Degree College, Chitral. (Copy of service book is annexure "A")
- 2. That on 11-10-2006 the appellant was transferred to Federal College Islamabad for three years on deputation basis.

 (Copy of Notification is annexure "B")
- 3. That on 15-07-2008 the service of the appellant was send back to the patent department/Higher Education KPK.

 (Copy of Office order is annexure "C")
- 4. That since date the appellant approached/ visited Government Degree College; Chitral to submit her arrival report but the same remained under advice of College Directorate for long.
- 5. That being aggrieved from delaying process the appellant also submitted Departmental Appeal on 30-11-2012.

 (Copy of departmental appeal is annexure "D")
- 6. That the appellant also approached KPK-Service Tribunal vide

 Appeal No.610/2013 which was disposed on 02-09-2013 with the

 direction to convert the same into departmental appeal and to

 decide accordingly within one month.

 (Copies of service appeal along with Order/judgment 02-09-

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2013 are annexed as Annexure "E")

- 7. That on 21-11-2013 the departmental appeal was filed as time barred.
 - (Copy of rejection order by the department is annexure "F")
- 8. That the appellant once again approached KP Service Tribunal vide Service Appeal No.1594/2013, whereby she first time came to know about the impugned order dated 10-10-2009 with effect to her removal from service through comments of the respondents.
 - (Copy of impugned order is annexure "G" while comments of the respondent is annexure "H" respectively)
- 9. That on 02-10-2017 the appellant withdraw the pending service appeal with permission to file departmental appeal against the newly disclosed impugned order dated 10-10-2009.

 (Copies of service appeal along with order/judgment are annexure "I")
- 10. That accordingly the appellant filed departmental appeal on 03-11-2017, (Annexure "J") which remained not replied hence the instant appeal upon the maturity of the same; amongst the following other grounds.

GROUNDS;

- a. The impugned order of removal from service dated 10-10-2009 is against the Law and procedure.
- b. That if it was the case why the same was not disclosed to the appellant at the time of disposal of her departmental appeal related to accept her arrival and release of salaries dated 21-11-2013 as well as before the Tribunal in the previous appeal of the appellant.
- c. That the appellant has not been heard neither given any chance to explain or show cause as per requirement of law and Rules, therefore the same is a void order.

- d. That impugned order is void, illegal and against the facts and circumstances of the case, therefore liable to be set aside.
- e. That the appellant has more than 10 years qualified and pensionable service but this factor has also not been consider before passing the impugned order.
- f. That any other ground be furnished when ever required for the assistance of this honourable Tribunal in support of the subject appeal with prior permission as required by procedure.

It is, therefore, most humbly prayed that the instant Service Appeal be allowed as prayed for.

Appellant

Through

Syed Ghufran Ullah Shah, Advocate Peshawar

ATTESTED.



<u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> PESHAWAR

Service Appeal No. 338/2018

BEFORE: MR. KALIM ARSHAD KHAN CHAIRMAN MISS. FAREEHA PAUL

MEMBER(E)

Shehla Abrar D/O Ghulam Abrar R/O Gahtak Denin, Tehsil & District Chitral.

.... (Appellant)

Versus

- 1. Secretary Higher Education, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
- .2. Director (Establishment) Higher Education, Khyber Pakhtunkhwa Peshawar at Khyber Road near Judicial Complex, Peshawar.
- 3. Secretary Finance, Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
- 4. Principal Government Girls Degree College, Chitral.
- 5. Principal Federal Government College for women, G-10/4, Islamabad. (Respondents)

'Mr. Syed Ghufran Ullah Shah Advocate

For appellant

Mr. Muhammad Adeel Butt Addl. Advocate General

For respondents

Date of Institution......27.02.2018 Date of Hearing......05.10.2022 Date of Decision......05.10.2022

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the impugned order dated 10.10.2009 passed by Director (Establishment) Higher Education, whereby the appellant has been granted major penalty of

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removal from service and her departmental appeal to respondent no. 1 dated 03.11.2017 was not responded.

- Brief facts of the case, as given in the memorandum of appeal, are that the 2. appellant was appointed as Lab Assistant (BPS-7) at Government Girls Degree College, Chitral on 01.07.1997. On 11.10.2006, she was transferred to Federal College Islamabad for three years on deputation. On 15.07.2008 she was sent back to the parent department/Higher Education Khyber Pakhtunkhwa. She approached Government Degree College, Chitral to submit her arrival report but the same remained under advice of College Directorate. Feeling aggrieved from the delaythe appellant submitted departmental appeal on 30.11.2012. She approached the Khyber Pakhtunkhwa Service Tribunal vide Appeal No.610/2013 which was disposed off on 02.09.2013 with the direction to convert the same into alepartmental appeal and to decide it within one month. On 21.11.2013 the departmental appeal was filed on the ground of being time barred. The appellant once again approached the Khyber Pakhtunkhwa Service Tribunal vide Service Appeal No. 1594/2013 whereby she for the first time came to know about impugned order dated 10.10.2009 of removal from service from the comments of the respondents. On 02.10.2017 the appellant withdrew the pending service appeal in order to file departmental appeal against the newly disclosed impugned order dated 10.10.2009. Accordingly she filed departmental appeal on 03.11:2017 which was not replied; hence the instant service appeal.
 - 3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General and perused the case file with connected documents in detail.

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- 4. Learned counsel for the appellant presented the case in detail and contended that the appellant had been proceeded against without taking into consideration the prevailing law and rules. He contended that if there was any case against her why she was not informed at the time of disposal of departmental appeal dated 21.11.2013 related to acceptance on her arrival and release of salaries as well as before the Tribunal in her previous appeal.
 - The learned Additional Advocate General on the other hand argued that disciplinary action was taken against the appellant due to her unauthorized absence from duty w.e.f 28.11.2006. He informed that after repatriation and subsequent absence, absence notice was published in daily Mashriq whereby the appellant was informed that she was deputed at Federal Directorate of Education Islamabad but she remained absent from duty and disciplinary action was taken against her which resulted in her repatriation to her parent department. The appellant was informed to report to her duty within 15 days after publication. He further informed that charge sheet and statement of allegations had also been issued to her but she did not respond to any of it, as a result of which she was removed from service.
 - From perusal of record presented before us, it transpires that the appellant was on deputation to the Government of Pakistan in the Federal Directorate of Education where a disciplinary action was taken against her on account of her unauthorized absence w.c.f 28.11.2006, as a result of which she was repatriated to her parent department, that is the Directorate of Higher Education, Government of Khyber Pakhtunkhwa (NWFP) Peshawar, vide order dated 11.07.2008. The competent authority in the Government of Pakistan treated the absence period w.e.f 28.11.2006 to the date of relieving of the appellant as extra ordinary leave without pay. A showcause notice issued by the Government of Pakistan, Federal

Directorate of Education is also available on record. A relieving report dated 15.07.2008 from the Federal Government College for Women, G-10/4 Islamabad is also available on the record. It is astonishing to note that the Higher Education Department, Khyber Pakhtunkhwa in its reply provided the charge sheet and statement of allegations of one Mst. Sabceha Gul, Lab Assistant in Government Girls Degree College, Chitral but the case/service appeal before us is that of Ms. Shehla Abrar, It is not clear from the record whether charge sheet and statement of allegation was served upon the appellant Ms. Shehla Abrar, neither any show cause notice is available on record. Inquiry report is also not available with the reply.

- 7. In view of the above discussion the appeal is allowed by setting aside the impugned order dated 10.10.2009. The appellant is reinstated in service from the date of her removal w.c.f 10.10.2009 with all back benefits. Parties are left to bear their own costs. Consign.
- 8. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 5th day of October, 2022.

(KALIM ARSHAD KHAN) Chairman

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Date of Delivery of Copy 10/1/22

(FARIEHA PAUL) Member (E)

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11/1/2023

The Director Colleges
Directorate of Colleges
Higher Education
Rano Gari, Near Chamkani Police Station
Peshawar.

Sub: Arrival of my Service (Shehla Abrar D/o Ghulam Abrar)
Services Appeal No.338/2018 Date of Decision 5/10/2022

Respected Sir,

With great respect, Please refer to my Service and Competent Court I.e. Services Tribunal (Court Order attached).

Your kind help in this regard highly appreciated to get my arrival. I am ready to obey your orders and to get start my service. Kindly let me know so I will start my services accordingly as competent court has ordered in my favour and I have been re instead with all back benefits etc (Detail Court Order Dated 5/10/2022 Services Appeal No. 338/2018 attached.

Thanks and Regards,

Shehla Abrar

Shelwi

D/O Ghulam Abrar

W/O Zuhuruddin

Gahttak Danin Tehsil and District Lower Chitral

Cell 03325000095, 03345017704

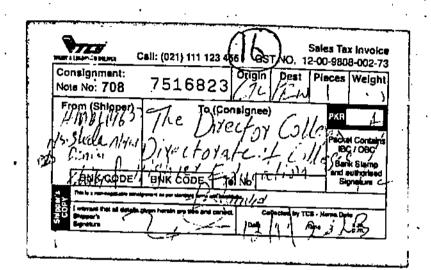
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Thanks and Regards,

Shehla Abrar

D/O Ghulam Abrar

W/O Zuhuruddin

Gahttak Danin Chitral

Cell 03325000095, 03345017704

Copy to:

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