

FORM OF ORDER SHEET

Court of _____

Appeal No. 1814/2023

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 11/09/2023 | <p>The appeal of Mst. Sapna Sweeper resubmitted today by Mr. Yasir Saleem Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p>By the order of Chairman</p> <p>REGISTRAR</p> |

The appeal submitted by Mr. Yasir Saleem Advocate i.e. on 29.08.2023 is incomplete on the following score which is returned to him for completion and resubmission within 15 days.

1. Annexure-A of the appeal is illegible which may be replaced by legible/better one.
2. Copy of charge report in respect of appellatant annexed as Annexure-B is not signed by the appellatant.
3. Copy of departmental appeal in respect of the appellatant annexed as Annexure-E is not signed by the appellatant.
4. Copy of duty/ performance certificate in respect of the appellatant have no date and dairy no.
5. Affidavit is not appended/duly attested by oath commissioner.

No. 3115 /S.T,

Dt. 31-8 /2023



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Yasir Saleem Adv.
High Court Peshawar.

Not submitted after compliance

31/8/23

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1814 /2023

Sapna Sweeper

VS

EDUCATION DEPTT:


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all
APPELLANT

THROUGH:


Yasir Saleem

&


①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1814 /2023

Sapna Sweeper (BPS-3) , 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 (BPS-3) 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
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 annexure C.

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.

G. 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

- H. 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.
- I. 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.

Y
APPELLANT

THROUGH: *Y*
Yasir Salem
& *M*
Amir Zaman
Advocates high Court

Certificate:

That no earlier appeal is preferred before this august tribunal.

Y
Deponent

Affidavit:

I Sapna 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.

Deponent *Y*

NOTICE OF THE AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY**APPOINTMENT ORDER:**

In the light of Director Education FATA order dated 08-11-2013 and the recommendation of departmental selection committee the following candidates are here by appointed against the vacant post of Class-IV on contract basis in BPS-3 on the following terms and conditions with effect from the date of taking over charge.

- (1) Zainab Sweeper
- (2) Aman Ullah Malik
- (3) Muhammad Rasool Naib Qasid
- (4) Sakhi Rahman Naib Qasid
- (5) Yasir Ul Haq Naib Qasid
- (6) Sajjida Sweeper
- (7) Haris Sweeper
- (8) Sapna Sweeper
- (9) Shabina Sweeper

Terms And Conditions

1. Their appointments on made on contract basis and liable to be terminated any time and without any notice.
2. They should bring their medical certificates from Medical Supdt AHQ Hospital Meeran Shah if they fail to submit their charge report within 15 days, their order will be treated as a cancel.
3. Their originals CNIC's should be produced in the accountant local office.
4. Their services will be terminated if they found absent 15 days continuously from the date of taking over charge.


 AGENCY EDUCATION OFFICER
 North Waziristan Agency

Ends/: 378-81

Dated 15-3-2014

Copy to the:-

1. Director Education FATA, Peshawar
2. Agency Account Officer NWA
3. The Accountant Local Office
4. Candidate Concerned


 AGENCY EDUCATION OFFICER
 North Waziristan Agency

To

The District Education Officer
North Waziristan District.

Subject: CHARGE / ARRIVAL REPORT

I Mr/MST Sapna took our charge in education department on date 02-07-2021 as

Class-IV and started my duty regularly to the entire satisfaction of my superior. Charge reported submitted for your perusal and record please.

Yours Obediently.

Name: Sapna

Designation: Severce

Accountant

keep on record

[Signature]

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OFFICE OF THE DISTRICT EDUCATION OFFICER NORTH WAZIRISTAN DISTRICT.

SUBJECT: DUTY PERFORMANCE CERTIFICATE

Certified that *M/ MST Sapna* is performing his/her duty regularly to the entire satisfaction of his superior since long in education department. He/She has good moral character.


**DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN DISTRICT.**

Aux C (7)

OFFICE OF THE DISTRICT ACCOUNTS OFFICER

NORTH WAZIRISTAN MIRAN SHAH

PHONE NO. 0928-300541

NO.DAO/MRN/NFP/2022-23/2301-04

Dated: 21/01/2023

To

The District Education Officer (M)
NW Miran Shah.

Subject: CONFIRMATION OF SOURCE FORMS & SALARIES OF THE CLASS-IV.

Memo,

Kindly refer to the subject cited above.

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


The detail of Class-IV are as under:-

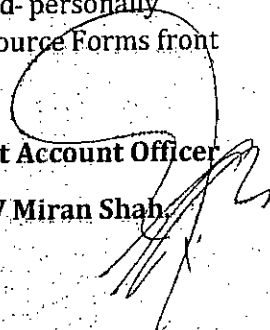
- (1) Zainab Sweeper
- (2) Aman Ullah Mali
- (3) Muhammad Rasool Naib Qasid
- (4) Sakhi Rahman Naib Qasid
- (5) Yasir Ul Haq Naib Qasid
- (6) Sajjida Sweeper
- (7) Haris Sweeper
- (8) Sapna Sweeper
- (9) Shabina Sweeper

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

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- personally attend the Education Officer, to verify/confirmed the above named Source Forms front the DEO NW Miran Shah.


District Accounts Officer
NW Miran Shah


District Account Officer
NW Miran Shah

OFFICE OF THE DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN DISTRICT

No. _____ /DEO/NWD

Dated _____ / _____ /2023

To

The District Accounts Officer,
North Waziristan District.

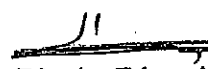
Subject: **CONFIRMATION OF SOURCE-I & II FORMS OF SALARIES OF VARIOUS**
CLASS IV

Respected Sir,

Kindly refer to your letter No.2301-04 dated 24/1/2023 on subject noted above and to state that this office has submitted Source-I & II forms of the following teachers along with related documents duly verified and countersigned by the undersigned.

It is further stated that in your gracious honour that necessary action may kindly be taken in this regard being genuine case and regular employee of this department and they are performing their duties regularly.


- (1) Zainab Sweeper
- (2) Aman Ullah Mali
- (3) Muhammad Rasool Naib Qasid
- (4) Sakhi Rahman Naib Qasid
- (5) Yasir Ul Haq Naib Qasid
- (6) Sajjida Sweeper
- (7) Haris Sweeper
- (8) Sapna Sweeper
- (9) Shabina Sweeper


District Education Officer
North Waziristan District

Endst: No. 35814 / Dated 25 / 1 / 2023.

Copy forwarded to the: -

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. Deputy Commissioner North Waziristan District.
4. Candidate Concerned.


District Education Officer
North Waziristan District

To

The Honorable Secy B9 SEP up
Peshawar

Amir E. (9)

Subject: Appeal for release of pay stopped illegally by DDO North

Sir, with great respect it is claimed that our pays were stopped without any cogent reason by the Ex. DDO North. We have already lodged appeal to the DE merged area. The DE merged area was kind enough to direct release order to DDO North. The DDO constituted enquiry committee on the order. The committee submitted report to DDO. But in the meanwhile the process was under process and the new DDO was posted. Accordingly to the new DDO and the new DDO was kind enough and bill prepared and submitted to the DDO office. The DDO office raised observation and the DDO removed the observation and re submitted the bills to the DDO office which is still pending in his office. His Highness hasly recognized in your kind favour that a necessary order may kindly be passed to DDO & DE merged area for passing the bills as soon as possible being low paid Govt servants.

Dated 30/9/23

List of teachers are as under

Yasir Akmal
Saeed
Saeed Akmal &
others.

- 1) Toshiba, sweeper, (2) Zainab sweeper, (3) Yasir ul-Haq n/Asid
- 4) Havis sweeper, (5) Amanullah Mali, (6) Mohd Rasool n/Asid
- 7) Sajida sweeper, (8) Sepna, sweeper, (9) Shabina sweeper

(10)

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VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

_____ OF 2023

Sapna

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Smt. J. up. & others

(RESPONDENT)
(DEFENDANT)

I/We Sapna

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. 28/8 /2023

ner
CLIENT(S)

Y
ACCEPTED
YASIR SALEEM

ner