



11.08.2023

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for the respondents present.

2. Learned counsel for the appellant submitted rejoinder which is placed on file. A copy of the same is handed over to learned Deputy District Attorney. Adjourned. To come up for arguments as well cost of Rs.2000/- on 06.12.2023 before D.B.

P.P given to parties.

  
(Fareeha Paul)  
Member (E)

  
(Rashida Bano)  
Member (J)

10.04.2023

Appellant father namely Mr. Ishtiaq Ahmad present.

Mr. Asad Ullah, SDEO alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present and sought time for submission of reply/comments. Adjourned. Last opportunity given. To come up for submission of reply/comments as well as cost of Rs. 2000/- on 23.05.2023 before the S.B.

SCANNED  
KUST  
Peshawar

(Salah-Ud-Din)  
Member (J)

23<sup>rd</sup> May, 2023

01. Father of the appellant present. Mr. Fazal Shah Mohmand, Addl. AG alongwith Asadullah, SDEO for the respondents present.

02. Representative of the respondents submitted reply/comments which are placed on file and a copy whereof handed over to the father of the appellant. Representative of the respondents sought time to deposit the cost of Rs. 2000/- on the next date. Granted. To come up for rejoinder, if any, and arguments on 11.08.2023 before the D.B. Representative of the respondents shall deposit cost of Rs. 2000/- on the date fixed. Parcha Peshi given to the parties.


SCANNED  
KUST  
Peshawar

(FAREEHA PAUL)  
Member (E)

11<sup>th</sup> Jan. 2023

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. Advocate General for the respondents present.


Reply/comments on behalf of the respondents not submitted. Learned AAG sought further time. Last opportunity is granted. To come up for reply/comments on 28.02.2023 before S.B.

  
(Fareeha Paul)  
Member(E)

28.02.2023

Mr. Ashfaq Ahmed, Father of the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Behramand, A.D for the respondents present.

Reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit reply/comments. Last opportunity is extended subject to cost of Rs. 2000/- Adjourned. To come up for reply/comments on 10.04.2023 before S.B. P.P given to the parties.

  
(Muhammad Akbar Khan)  
Member (E)

SCANNED  
POST  
PESHAWAR

19.10.2022

Appellant present through counsel. Kabir Ullah Khattak, learned Additional Advocate General for the respondents present.


Written reply not submitted. Learned AAG requested for time to submit reply/comments. Opportunity is granted. To come up for written reply/comments on 24.11.2022 before S.B.

  
(Rozina Rehman)  
Member (J)

24.11.2022

Junior to counsel for the appellant present. Kabir Ullah Khattak, learned Additional Advocate General for the respondents present.

Despite directions notices were not issued. Let fresh notices be issued to respondents for submission of written reply/comments. To come up for written reply/comments on 11.01.2023 before S.B.

  
(Rozina Rehman)  
Member (J)

*Respondent No. 1  
& 2 were put on  
notice while  
3rd remain  
uninformed.*

Form- A

# FORM OF ORDER SHEET

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

*(Handwritten mark)*

Case No.-

770/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/05/2022	<p>The appeal of Mr. Basmeena Akhtar resubmitted today by Mr. Zahoor Islam Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>(Signature)</i> REGISTRAR</p>
2-	18.07.2022	<p>Mr. Zahoor Islam Khattak, Advocate for the appellant present. Preliminary arguments heard.</p> <p>Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments. To come up for reply/comments before the S.B on 19.10.2022.</p> <p style="text-align: right;"><i>(Signature)</i> (Mian Muhammad) Member (E)</p>

SCANNED  
K. S. F.  
Peshawar

Rs-50/-  
Appellant Deposited  
Security & Process Fee

*(Signature)*  
18/7/22

13.05 2022

Learned counsel for the appellant present and heard. File to come up for consideration before the S.B on 18.07.2022.




(Kalim Arshad Khan)  
Chairman

The appeal of Mst. Basmeena Akhtar PST Frontier Community School Teacher Toor Smut District Orakzai received today i.e. on 13.04.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Check list is not attached with the appeal.
- 4- Certificate be given to the effect that appellant has not filed any service appeal earlier on the subject matter before this Tribunal.
- 5- Copy of reinstatement order mentioned in para-6 of the memo of appeal is not attached with the appeal which may be placed on it.
- 6- Page no. 9 of the appeal is illegible which may be replaced by legible/better one.

No. 936 /S.T,


Dt. 14-4- /2022

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Zahoor Islam Khattak Adv. Peshawar.


Sir

Please extend time, because we have not removed the deficiency within stipulated time.

  
Zahoor Islam Khattak

Sir:

All objections 1, 2, 3, 4, & 6 has been removed, while objection no. 5 is not relevant, because Appellant is not reinstated in service as per order of high court conditionally which is attached at page 19 of Appeal. Appellant have not other order ~~given~~ except at page 19.

  
Zahoor Islam Khattak

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No. 770/2022

Basmeena Akhtar.....(Appellant)

**V E R S U S**

Govt: of KP through Secretary Elementary and Secondary  
Education and others.....(Respondents)


**I N D E X**

S.No.	Description of Documents	Annex	Pages
1.	Service Appeal		1-6
2.	Affidavit		7
3.	Addresses of the parties		8
4.	Copy of appointment order	A	9
5.	Copy of Writ Petition and order	B	10-17
6.	Copy of conditional order	C	18-19
7.	Copy of departmental appeal	D	20
8.	Wakalat Nama		21

  
Appellant

Through

Dated: 13/04/2022

  
**Zahoor Islam Khattak**  
Advocate High Court,  
Peshawar.  
Cell No. 0346-9083579



1)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No. \_\_\_\_\_/2022

Basmeena Akhtar, Now PST (BPS-12) Frontier Community  
School Teacher FCS Toor Smut District  
Orakzai.....(Appellant)

**VERSUS**

1. Government of Khyber Pakhtunkhwa, through Secretary  
Elementary and Secondary Education, Civil Secretariat  
Peshawar.
2. Director Education, Khyber Pakhtunkhwa, G.T. Road,  
Hashtnagari, Peshawar.
3. District Education Officer (DEO) District  
Orakzai.....(Respondents)

**APPEAL UNDER SECTION 4 OF KHYBER**  
**PUKHTUNKHWA SERVICE TRIBUNAL ACT**  
**1974 FOR FIXATION OF PAY W.E.F. THE**  
**DATE OF FIRST APPOINTMENT I.E.**  
**20/01/2010 INSTEAD OF 20/07/2020 AND**  
**THE RESPONDENTS HAVE NOT DECIDED**  
**THE DEPARTMENTAL APPEAL OF THE**  
**APPELLANT WITHIN THE STATUTORY**  
**PERIOD OF NINETY DAYS.**

2)

Prayer:

On acceptance of this appeal, the respondents may be directed to count the previous service of the appellant towards regular service in light of the judgment of Hon'ble Peshawar High Court dated 21/02/2020 and subsequent order dated 20/07/2020, properly place in seniority list with all back benefits.

Respectfully Sheweth:

The appellant submits following facts regarding the appeal:

1. That, initially the appellant was appointed as PTC Now PST in the respondent department after fulfilling all the codal formalities for appointment to the post vide order dated 20/10/2010. (Copy of appointment order is attached as annexure "A").
2. That after receiving the appointment order the appellant submitted her arrival report and assumed

the charge at FCS Toor Smut Orakzai and start performing her duty quite efficiency and the best of her abilities.

3. That appellant performed at FCS Toor Smut Orakzai and all of the sudden the situation in Orakzai Agency (now district) become critical and all the teachers in the school were stopped to performed her duties.
4. That when the situation in the area were stable the appellant approached respondents for and continuation of her service, but the respondents refused by one pretext or the other and appellant filed departmental appeal but it was not decided within the statutory period.
5. That the appellant approached Hon'ble Peshawar High Court, Peshawar for redressal of her grievances and the Hon'ble Peshawar High Court reinstated her in service. (Copy of Writ Petition and order are attached as annexure "B").

41

6. That appellant was reinstated in service conditionally as per decision of Hon'ble Peshawar High Court, Peshawar. (Copy of conditional order is attached as annexure "C").
7. That appellant filed departmental appeal to respondent No. 3 for redressal of her grievances, but they have not decided the appeal within the statutory period. (Copy of departmental appeal is attached as annexure "D").
8. That appellant feeling aggrieved and having no other remedy filed the instant appeal on the following grounds amongst other:

**GROUND:**

- A. That by not counting/ including the project service served by the appellant in the respondent department is against the law, facts and norms of natural justice.
- B. That appellant has not been treated by the respondents department in accordance with law

and rules on the subject noted above as such respondents violated Article 4 and Article 25 of the Constitution of Islamic Republic of Pakistan.

- C. That similar nature case titled "Mian Siraj.VS..Govt: of KP" has been decided by this august Tribunal dated 02/07/2010 and as such the same was implemented by the department, therefore, under the principle of consistency reported 2009 SCMR Page-I the applicant to is also entitled for the grant of similar relief.
- D. That the respondent acted in arbitrary and malafide manner while not connected the project service of the appellatant towards regular service.
- E. That the act and action of the respondent is discriminatory therefore, not tenable and liable to be set aside.
- F. That under Article 38 of the Constitution of Islamic Republic of Pakistan 1973 states bound to reduce disparity in the income and earning of the

6)

individual including persons in the various service of Pakistan.


G. That appellant will seek permission to advance further ground with prior permission of this Hon'ble tribunal.

It is, therefore, humbly prayed that on acceptance of this Service Appeal, the previous service of the appellant may be counted towards their regular service with all back benefit.

Any other relief which is not specifically asked may also be given in view of the facts and circumstances of the case.

  
Appellant

Through



Dated: 13/04/2022

**Zahoor Islam Khattak**  
Advocate High Court,  
Peshawar.

7)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No. \_\_\_\_\_/2022

Basmeena Akhtar.....(Appellant)

**V E R S U S**

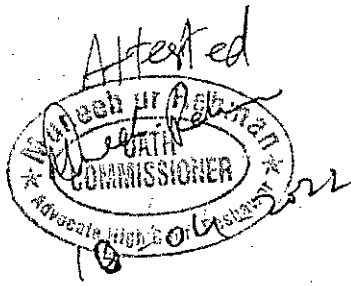
Govt: of KP through Secretary Elementary and Secondary  
Education and others.....(Respondents)

**AFFIDAVIT**

I, Basmeena Akhtar, Now PST (BPS-12) Frontier  
Community School Teacher FCS Toor Smut District Orakzai,  
do hereby solemnly affirm and declare on oath that the  
contents of the accompanying **Service Appeal** are true and  
correct to the best of my knowledge and belief and nothing has  
been concealed from this Hon'ble Tribunal.

*Ba*

**DEPONENT**  
CNIC: 14202-8400647-6



IDENTIFIED BY: *Zaheer*

Zaheer Aslam Khattak  
Advocate

8)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**

**PESHAWAR.**

Service Appeal No. \_\_\_\_\_/2022

Basmeena Akhtar.....(Appellant)

**V E R S U S**

Govt: of KP through Secretary Elementary and Secondary  
Education and others.....(Respondents)

**ADDRESSES OF THE PARTIES**

**APPELLANT:**

Basmeena Akhtar, Noew PST (BPS-12) Frontier Community  
School Teacher FCS Toor Smut District Orakzai.


**RESPONDENTS:**

1. Government of Khyber Pakhtunkhwa, through Secretary  
Elementary and Secondary Education, Civil Secretariat  
Peshawar.
2. Director Education, Khyber Pakhtunkhwa, G.T. Road,  
Hashtnagari, Peshawar.
3. District Education Officer (DEO) District Orakzai.

  
Appellant

Through

Dated: 13/04/2022

  
**Zahoor Islam Khattak**  
Advocate High Court,  
Peshawar.



**OFFICE OF THE AGENCY EDUCATION OFFICER, ORAKZAI AGENCY AT HANGU**

**Appointment Order of Community PTC (FCS)**

Consequent upon the selection of Departmental Selection Committee, the following candidates are hereby appointed as Community PTC teacher against the vacant posts in the school mentioned against their names in BPS No.07 @ RS.5550/PM fixed plus usual allowances as admissible under the rules w.e.f. the date of their taking over charge.

1. Wasim Akhtar D/O Ishtiaq Ahmed	PTC(FCS)	FCS Four small	10000
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**Terms & Conditions:**

1. Charge report in duplicate should be submitted to all concerned.
2. They should devote their whole time to their duty as community school teacher.
3. The employees shall serve the Govt. as community school teacher from the date of assumption of charge.
4. They shall carry out such administrative and teaching functions in relation to their duties.
5. They shall submit his/herself to lawful orders of the Govt. officers as well as V.E.C.
6. They should motivate the parents to send their children's to school.
7. If they failed to take over charge/join their duties within one month their appointment will be automatically cancelled.
8. These posting will not be transferred how ever local teachers preferably trained appointment will be adjusted against regular post on case basis and strictly on merit within in the parameters of rules and regulation.
9. They should produce their health and age certificate from the Agency Surgeon Orakzai Agency at Hangu.

*Agency Education Officer,  
Orakzai Agency at Hangu.*

Indst. No. 11S-22 / Dated Hangu the: 20 / 1 / 2010.

Copy for information to the:

1. Political Agent, Orakzai Agency at Hangu.
2. Director of Education (FATA) N.W.F.P. Peshawar.
3. Agency Accounts Officer, Orakzai Agency at Hangu.
- 4-5. AAOs concerned & Pay clerk of the local office.
6. Head teachers Concerned
7. Candidate concerned.

*Agency Education Officer,  
Orakzai Agency at Hangu.*

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.

W.P. No. \_\_\_\_\_/2019

Basmin Akhtar D/o Ishtiaq Ahmad R/o District Kangra  
Presently Leady Reading Colony, Peshawar.....(Petitioner)



VERSUS

1. Additional Secretary, Tribal Secretariat (merged area), Warsak Road, Peshawar.
2. Director Education, Tribal Secretariat (merged area), Warsak Road, Peshawar.
3. Deputy Director Education Tribal, Tribal Secretariat (merged area), Warsak Road, Peshawar.
4. Agency Education Officer, Orakzai (merged area), District Hangu.....(Respondents)

WRIT PETITION UNDER ARTICLE 199 OF  
THE CONSTITUTION OF ISLAMIC  
REPUBLIC OF PAKISTAN, 1973.

Prayer in Writ Petition:

ATTESTED

EXAMINER  
Peshawar High Court

*On acceptance of this Writ Petition, the services  
of the petitioner may be regularized according to the  
notification No. SO(E)/SSD/CSTR/99-108 issued by*

2

11)

Governor Khyber Pakhtunkhwa in which the non local eligible community school teacher shall be consider for re-appointment against the regular vacant post of PST (BS-07).

Respectfully Sheweth:

The petitioners submit following facts regarding the Writ Petition:

- Petitioners*
1. That was appointed as Community PTC Teacher against the vacant post on Fixed Pay in BPS-7. (Copy of appointment order is attached as annexure "A").
  2. That petitioner has performed her duty as community school with due diligence and no complaint was ever made against her to the high-up's.
  3. That Governor Khyber Pakhtunkhwa issued notification for adjustment of local and non local community school teachers and shifted to nearby schools. (Copy of notification is attached "B").

ATTESTED

EXAMINER  
PUNJAB HIGH COURT

4. That due to critical situation in District Orakzai, petitioner was prohibited from duty and petitioner was reassured that she will be regularized and adjusted when situation in District Orakzai become normal.
5. That through notification of Governor Khyber Pakhtunkhwa, local and non locals are regularized but petitioner is still waiting for her regularization.
6. That petitioner approached time and again to respondents department for regularization, but respondent turned deaf ear to the application of the petitioner and refused to accept it. (Copy of application is attached as annexure "C").
7. That petitioner having no other adequate alternate remedy for redressal of her grievances, invokes the jurisdiction of this Hon'ble Court on the following grounds, inter alia:

ATTESTED

EXAMINER  
Peshawar High Court

GROUNDS:

24) 13)

- A. That the act and omission of the respondents not to regularize the services of the petitioner is against the law and rules.
- B. That after issuing of notification petitioner is entitled for reappointment and regularization.
- C. That petitioner fundamental rights are violated which is against principal of natural justice and equity.
- D. That each and every citizen of Pakistan shall be treated under Article 25 of the Constitution of Islamic Republic of Pakistan, 1973, that there shall be no discrimination on the basis of creed and colour.
- E. That petitioner services may be treated according to judgment of superior Courts, the benefit of the same be extended to petitioner.

ATTESTED

EXAMINER  
Peshawar High Court

14)  
That any other grounds will be raised at the time of arguments with the prior permission of this Hon'ble Court.

It is, therefore, humbly prayed that On acceptance of this Writ Petition, the services of the petitioner may be regularized according to the notification No. SO(E)/SSD/CSTR/99-108 issued by Governor Khyber Pakhtunkhwa in which the non local eligible community school teacher shall be consider for re-appointment against the regular vacant post of PST (BS-07).

Any other remedy which is not specifically asked for and this Hon'ble Court deem fit may also be granted in favour of petitioner.

**INTERIM RELIEF:**

By way of interim relief on post of PST may be left vacant to the petitioner, till the final decision of the instant Writ Petition.

بسمین امر  
Petitioner

Through

Dated: 25/03/2019

Zahoor Islam Khattak  
Advocate High Court,  
Peshawar.

ATTESTED

EXAMINER  
Peshawar High Court

CERTIFIED TO BE TRUE COPY

EXAMINER  
Peshawar High Court, Peshawar  
Printed by: Ahsan ul Uloom, 27-28  
Feroz Khan Road, Peshawar Order 1994

26 FEB 2020

15)

PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'  
FORM OF ORDER SHEET

Date of Order.	Order or other proceedings with the order of the Judge
21.02.2020	<p data-bbox="539 461 932 499"><u>W.P.No.2252-P of 2019 with Interim relief.</u></p> <p data-bbox="539 512 1069 563">Present: Mr.Zahoor Islam Khattak, advocate for the petitioner.</p> <p data-bbox="649 580 1069 631">Mr.Rab Navaz Khan, AAG for the respondents.</p> <p data-bbox="586 670 1052 703"><u>LAL JAN KHATTAK, J.</u>- Petitioner's prayer in the</p> <p data-bbox="539 728 758 754">writ petition is as under:-</p> <p data-bbox="586 784 994 1123">"It is, therefore, humbly prayed that on acceptance of this writ petition, the services of the petitioner may be regularized according to the notification No.SO(E)/SSD/CSTR/99-108 issued by the Governor Khyber Pakhtunkhwa in which non-local eligible community school teacher shall be considered for re-appointment against the regular vacant post of PST (BPS-07).</p> <p data-bbox="539 1156 1052 1536">2. Brief facts of the case are that on 20.01.2020 the petitioner was appointed by the respondents as Community PTC teacher in BPS-07 against a vacant post on fixed pay and posted her at FC Toor-smat. It is the petitioner's case that due to critical law and order situation in the area her school was closed down and consequently she was prohibited from performing her</p>

ATTESTED

EXAMINER  
Peshawar High Court

duties. It has been averred in the petition that the respondents had assured the petitioner that she would be adjusted but upto now no positive steps and actions have been taken by the respondents. It is the petitioner's point of view that by now there is complete normalcy in the area but the respondents are not adjusting her against the position earlier held by her despite the Notification of Governor of the Province.

3: This court, on 02.05.2019, had directed the respondents to file their parawise comments, which have been so furnished wherein issuance of the desired writ is opposed.

*gan*

4. Though the respondents have opposed the petitioner's prayer for her adjustment/re-appointment on the ground that she is non-local but to controvert the stand of the respondents, petitioner has relied upon a judgment of this court dated 16.10.2018 delivered in W.P.No.160-B of 2017 whereby some non-local teachers were re-appointed by the respondents in their department. As relief to non-locals has already been granted to some others, who were placed similar to the petitioner, as per learned counsel for the petitioner, therefore, we deem it appropriate to send the petitioner's

ATTESTED

EXAMINER  
Rajshwar High Court



(17)

case to the respondent No.2 for its reconsideration in light of the Notification dated 11.05.2012 and judgment dated 16.10.2018 referred above and if it is found that the petitioner's case is fully at par with the petitioners of writ petition No.180-B of 2017, then in that situation, she be also given same treatment as to be treated equally in the like circumstances in the grundnorm of our Constitution violation of which cannot be countenanced. It will be appreciated if the petitioner's case is decided by the respondent No.2 within a period of one month from today.

*[Signature]*  
JUDGE

*[Signature]*  
JUDGE

CERTIFIED TO BE TRUE COPY  
26 FEB 2020

No. 22559  
Date of Presentation of Application  
No of Pages  
Copy fee  
*[Handwritten notes and signatures]*

THE  
PESHAWAR HIGH COURT  
PESHAWAR



Pr. No. 091-9210149-158  
Ext. No. 364

No. 8523 /Judl:  
Dated Peshawar the 27/2/ 2020

From

The Deputy Registrar (J),  
Peshawar High Court,  
Peshawar.

To

The Director Education, Tribal Secretariat (Merged Area),  
Warsak Road, Peshawar.

Subject

Writ Petition No. 2252-P/2019.  
Basmin Akhtar...Versus...Additional Secretary, Tribal Secretariat,  
(Merged Area)

Memo:

I am directed to send herewith copy of the titled file alongwith all  
annexures & copy of Judgment dated 21.02.2020, passed by a Hon'ble Division  
Bench of this Court, for information & compliance.

DEPUTY REGISTRAR (J)

Encl:

As above.



Directorate of Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar

PH No. 091-9210389, 9210938,

9210437, 9210957, 9210468

Fax: 091-9210936

No 522 dt 23/6/2020

To

Immediate / Court Case

The District Education officer  
Tribal District Orakzai

Subject

Conditionally implementation of Peshawar High Court  
Peshawar Judgment dated 21.02.2020 in writ petition No.  
2252/2019 filed by Basmin Akhtar.

Memo:-

I am directed to refer the subject cited above and to enclose  
herewith judgment dated 21.02.2020 in writ petition No. 2252-P/2019, with  
the remarks that the petitioner may be re-appointed conditionally subject  
to final judgment of the Honorable Supreme Court of Pakistan in CPLA.

Handwritten notes: NO 3781 / 2017-2020

Asst. Director (Lit)  
Merged Districts

Encls: No. \_\_\_\_\_

Copy forwarded to:-

1. PA to Director E&SE Khyber Pakhtunkhwa.

Asst. Director (Lit)  
Merged Districts

20

The District Education Officer  
District Orakzai

Subject: Inclusion/Counting of service in the seniority

Respected Madam,

With due regard and veneration I beg to submit the following few for your kind and favorable consideration.

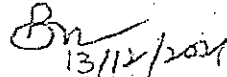
I, Miss Basmeena Akhtar was appointed as PTC on 20-01-2010 along with other candidates by education department of Orakzai agency. I performed my duty with full signs for two years. Unfortunately, I along with other teachers were dismissed from our duties after two years. But our services were resumed by honorable High court decision on 21-02-2020. More ever, we were kept deprived of our seniority by the education dept of district Orakzai. Miss Nooreen Anwar, a PST teacher appointed along with me, took the seniority assume to service tribunal. The service tribunal in its decision on 21-10-2021, resumed her seniority from date of her 1<sup>st</sup> appointment.

Her service tribunal appeal no 860/2017 in this context, your august office is approached to issue the order of my seniority from my date of 1<sup>st</sup> appointment.

I shall be much obliged for your this out of kindness.

Note: All the relevant documents are attached with the application.

Your Sincerely,

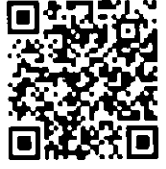
  
13/12/2021  
Basmeena Akhtar PST

Copy forwarded:

1. To Secretary education Education of E & D Kpk Peshawar.
2. To Director Education Of E & D KPk Peshawar.

قیمت  
50 روپے

9395



ایڈوکیٹ: ZAMMOR salam Khattak

بار کونسل/ایسوسی ایشن نمبر: bc-10-9170

رابطہ نمبر: 0346-9083579

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: جسٹس منیر سعید سے رجسٹریشن صاحب لٹیاؤ

دعویٰ:	مناجب: جسٹس منیر سعید
علت نمبر:	
مورخہ:	
جرم:	
تھانہ:	

باعت تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ  
آن مقام لیتے اور یہ اکیلے طور اسدراجم حد کے کو وکیل مقرر  
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری ٹیکٹرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب  
مقرر شدہ کو وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا  
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے  
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے

المرقوم: 30  
PESHAWAR BAR ASSOCIATION  
KHYBER PAKHTUNKHWA  
پشاور بار ایسوسی ایشن

مقام لٹیاؤ کے لیے منظور ہے۔

Accepted

and  
Attested

*[Signature]*

نوٹ: اس وکالت نامہ کی فونو کالی ناقابل قبول ہوگی۔

جسٹس منیر سعید سے رجسٹریشن اور لٹیاؤ

Service Appeal No. 860/2017

Date of Institution

17.08.2017

Date of Decision

21.10.2021

Mst. Noreen Anwar P.S.T (B.P.S-12), G.G.P.S Akhon Kot,  
Orakzai Agency. (Appellant)

VERSUS

The Additional Chief Secretary (FATA) FATA Secretariat,  
Peshawar and two others. (Respondents)

Noor Muhammad Khattak  
Advocate

For appellant.

Muhammad Riaz Khan Paindakhel,  
Assistant Advocate General

For respondents.

Rozina Rehman

Member (J)

Atiq Ur Rehman Wazir

Member (E)

JUDGMENT

Rozina Rehman, Member (J): The relevant facts leading to filing of instant appeal are that appellant was appointed as P.T.C (now P.S.T). She submitted her arrival report and assumed the charge at F.C.S Tambi. She performed her duties at F.C.S till 2014, where-after, her services were regularized at Government Girls Primary School Akhon Kot Orakzai Agency vide order dated 15.07.2014 w.e.f 01.07.2014. She preferred departmental appeal for fixation of her pay w.e.f the date of her initial appointment instead of 15.07.2014 but the same was not responded to, hence, the present service appeal.

2. We have heard Noor Muhammad Khattak learned counsel Advocate for appellant and Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

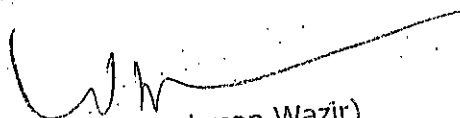
3. Learned counsel for appellant submitted that by not counting project service served by the appellant in the respondent Department, is against law, facts and norms of natural justice. He contended that the appellant was not treated in accordance with law and rules and as such, the respondents violated Article-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. He submitted that similar nature case titled Mian. Siraj Vs. Government of Khyber Pakhtunkhwa was decided by this Tribunal vide judgment dated 02.07.2010 and the same was implemented by the Department, therefore, under the principle of consistency reported in 2009 S.C.M.R-1, appellant is also entitled to the grant of similar relief.

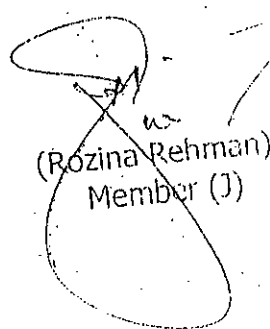
4. Conversely learned A.A.G submitted that there is no provision in the rules on the basis of which appellant can be regularized from initial appointment from the date which relates to project period. He submitted that the appellant was regularized w.e.f 01.07.2014 in the light of notification issued by the respondent No.3 which is in accordance with law and rules and that the appellant was dealt according to law. Lastly, he submitted that all Government employees are bound to perform duties according to law/instructions given by the Government from time to time in the interest of public.

5. From the record it is evident that appellant was appointed as project P.T.C at F.C.S. Tambi in B.P.S-07 vide order dated 11.01.2005. She was adjusted as regular P.T.C at G.G.P.S Akhon Kot Orakzai Agency in B.P.S-07 vide order dated 15.07.2014. No doubt, she served the Department from the year 2005 till 15.07.2014 but her services were regularized w.e.f 01.07.2014. Learned counsel for the appellant did not properly assist the tribunal, as to how the appellant is entitled for regularization of her previous service. Copy of the judgment of Peshawar High Court dated 06.08.2013 is also not available on record to ascertain as to whether services of the appellant and others were regularized with immediate effect or was given retrospective effect. The only option left with us is to consider her previous service towards pensionary benefits, as is admissible under pension Rules, 1963.

6. In view of the foregoing discussion, the instant appeal is partially accepted with direction to respondents to consider her temporary service as regular service counting towards pensionary benefits only as is admissible under Rule 2.3 of West Pakistan Civil Services Pension Rules, 1963. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
21.10.2021

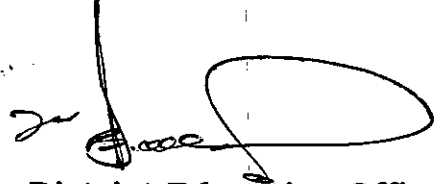
  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)



**AUTHORITY LETTER**

I District Education Officer (female) Orakzai is hereby authorized **Mr. Asad Ullah SDEO / Litigation Officer (BS-17)** of District Orakzai to attend the Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No. 770/2022 titled Basmeen Akhtar vs Govt. of Khyber Pakhtunkhwa and others.



**District Education Officer  
(Female Orakzai at Hangu**

**District Education Officer  
Orakzai at Hangu**

IN THE COURT OF KP SERVICE TRIBUNAL  
PESHAWAR

Basmeena Akhtar vs Govt of KP through Secretary  
and other

Application For placing<sup>on</sup> File Conditional  
order of Regularization in above mentioned  
Appeal

Respectfully Shewth,

The Applicant/Appellant submit as under,

- 1) That the above mentioned case is pending for adjudication in which date is fixed for today.
- 2) That now Applicant/Appellant want to place on file the conditional order of regularization, which was inadvertently not place on file.
- 3) There is no legal bar to place on file the above mentioned order.

It is therefore, humbly Prayed that on acceptance of this application the order of regularization may be placed on file

Dated 13/5/2022

Applicant/Appellant  
Through [Signature]  
Lahore Islamabad