


FORM OF ORDER SHEET

Court of _____

Appeal No. 1856/2023

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1- | 14/09/2023 | <p data-bbox="535 448 1469 697">The appeal of Mst. Nargis resubmitted today by registered post through Mr. Muhammad Riaz Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on</p> <p data-bbox="950 772 1339 822">By the order of Chairman</p> <p data-bbox="1063 809 1307 959"> REGISTRAR</p> |

The appeal submitted by Mr. Muhammad Riaz i.e. on 25.08.2023 is incomplete on the following score which is returned to him for completion and resubmission within 15 days.

1. Memo of appeal is not signed by appellant.
2. Annexures of the appeal are unattested.
3. One more set of copy /set along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 3138 /S.T.

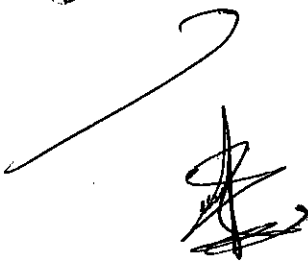
Dt. 31-8 /2023



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAVAR.

Mr. Muhammad Riaz Adv.
High Court Abbottabad.

*all objection removed
andly fixed before
tribunal.*



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

Service Appeal No. 1858 /2023

Nargis wife of Moin Shah, resident of Chuchang Dassu, P.O Komila,
District Kohistan Upper, Ex-Primary School Teacher, Govt. Girls Primary
School Bar Gaheen, Kohistan Upper

...APPELLANT

VERSUS

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

...RESPONDENTS

SERVICE APPEAL

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...APPELLANT

Through

Dated: 23.08.2023

(MUHAMMAD RIAZ)

Advocate High Court, Abbottabad

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1858 /2023

Nargis wife of Moin Shah, resident of Chuchang Dassu, P.O Komila, District Kohistan Upper, Ex-Primary School Teacher, Govt. Girls Primary School Bar Gahæen, Kohistan Upper.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary, Elementary & Secondary Education, Peshawar.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female), Kohistan Upper.

...RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974, AGAINST THE IMPUGNED OFFICE
ORDER BEARING ENDST. NO.1520-27 DATED
10.06.2021 ISSUED BY THE RESPONDENT NO.3,
WHEREBY, THE RESPONDENT NO.3 IMPOSED

MAJOR PENALTY OF REMOVAL FROM SERVICE UPON THE APPELLANT AS WELL AS AGAINST THE IMPUGNED OFFICE ORDER BEARING ENDST. NO.4755-57/ F.NO.322/VOL-II/APPEAL/KOHISTAN UPPER DATED 30.06.2022 ISSUED BY THE RESPONDENT NO.2, WHEREBY, THE RESPONDENT NO.2 DISMISSED/ REJECTED THE DEPARTMENTAL APPEAL OF THE APPELLANT, ARE ILLEGAL, UNLAWFUL, WITHOUT LAWFUL AUTHORITY, PERVERSE, ARBITRARY, FANCIFUL, AGAINST THE RELEVANT LAW, RULES AND REGULATIONS, BASED ON MALAFIDE AND CONSEQUENTLY OF NO LEGAL EFFECT UPON THE RIGHTS OF THE APPELLANT.

=====

PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, THE IMPUGNED OFFICE ORDER BEARING ENDST. NO.1520-27 DATED 10.06.2021 AND OFFICE ORDER BEARING ENDST. NO.4755-57/ F.NO.322/VOL-II/APPEAL/KOHISTAN UPPER DATED 30.06.2022 ISSUED/ PASSED BY THE RESPONDENTS NO.2 & 3 MAY GRACIOUSLY BE SET-ASIDE AND THE APPELLANT MAY KINDLY BE REINSTATED INTO SERVICE WITH ALL BACK BENEFITS. ANY OTHER RELIEF

WHICH THIS HONOURABLE TRIBUNAL DEEMS
FIT AND PROPER IN THE CIRCUMSTANCES OF
THE CASE.

=====

Respectfully Sheweth: -

1. That the appellant was appointed as Primary School Teacher in the year 2006 in BPS-04.
2. That the appellant served the department with full dedication and performed her duties with zeal and zest to the entire satisfaction of the department.
3. That the respondents' department upgraded the post of Primary School Teacher and due to non-availability of position code the salary of the appellant was withheld from May, 2016 onwards and the appellant challenged the illegal act of the respondents in writ petition No.325-A/2020 before the Peshawar High Court, Abbottabad Bench and Honourable Court was pleased to dispose of the said writ petition with direction to settled the issue in question in the light of judgment passed in identical case bearing writ petition No.527-A/2017

titled "Mst. Gulshan Bibi Vs Secretary Elementary & Secondary Education Department & others". (Copies of writ petition No.325-A/2020, comments and judgments dated 26.01.2021 and 26.09.2019 is annexed as Annexure "A", "B", "C" & "D" respectively).

4. That the respondent No.3 without adopting legal procedure and codal formalities, removed the appellant from service by imposing major penalty vide impugned office order dated 10.06.2021. (Copy of office order dated 10.06.2021 is annexed as Annexure "E").
5. That feeling aggrieved from the impugned order, the appellant filed a departmental appeal before the respondent No.2, which was dismissed/ rejected by the respondent No.2 vide order dated 30.06.2022. (Copies of departmental appeal and order dated 30.06.2022 are annexed as Annexure "F" & "G").
6. That the said order was communicated to the appellant vide diary No.891 dated 26.07.2023. (Copies of departmental appeal and order dated 26.07.2023 are annexed as Annexure "H").

7. That the appellant being aggrieved from the impugned orders dated 10.06.2021 and 30.06.2022, seeks the gracious indulgence of this Honourable Tribunal, inter-alia, on the following grounds: -

GROUND S: -

- a) That the impugned order of removal from service dated 10.06.2021 is illegal, unlawful, without lawful authority, arbitrary, perverse, fanciful, against the relevant law, rules and regulations and based on malafide, hence, liable to be set aside.
- b) That the appellant never remained absent as alleged and the entire illegal proceedings were carried out fictitiously, while sitting in office by the respondent No.3 out of the malafide.
- c) That, before imposing the impugned penalty, no show cause notice and

opportunity of personal hearing was awarded to the appellant, moreover, no publication as required under Rule 9 of E&D Rules, 2011 was ever made in the leading newspaper, commonly available in the district of the appellant. Hence, the impugned order is wholly illegal, unlawful, without lawful authority and of having no legal effect.

- d) That impugned removal order of the appellant is mainly based on the fact which was earlier decided by the Honourable Peshawar High Court, Abbottabad Bench in writ petition No.325-A/2020.
- e) That no inquiry into the alleged allegations was ever conducted and the impugned penalty was imposed without having the allegations proved.
- f) That the appellant was never confronted, appellant was not put on notice to present her view point/ explanation under the

doctrine of audi-alterem-partem, hence, the impugned order is not sustainable and maintainable under the law on this very sole ground.

- g) That no evidence worth name was attempted to collect by the respondent No.3 against the appellant for the alleged absence from the duty and she has been condemned on flimsy and perverse ground with malafide intention.
- h) That appellant had a long unblemished service record at her credit and she has been removed from service with a single stroke of pen without observing the due process of law and having the allegations proved.
- i) That no complaint was ever filed by anyone against the appellant for her being absent from duty as alleged on any working day with any authority.
- j) That the appellant has unblemished service career as the appellant was performed her duties with great zeal and zest and never

remained negligent in performing of her assigned duties. Similarly, neither any departmental nor any public complaint is available against the appellant.

- k) That the respondent No.2 has not rendered any cogent, confidence and inspiring findings while delivering her impugned order and the reasons given in the impugned order has already been decided by Honourable Peshawar High Court, Abbottabad Bench. Moreover, the appellant has enhanced her qualification back in the year 2013.
- l) That the other points will be agitated at the time of arguments.

It is, therefore, respectfully prayed that on acceptance of the instant service appeal, the impugned office order bearing Endst. No.1520-27 dated 10.06.2021 and office order bearing Endst. No.4755-57/ F.No.322/Vol-II/Appeal/Kohistan Upper dated 30.06.2022 issued/ passed by the respondents No.2 & 3

may graciously be set-aside and the appellant may kindly be reinstated into service with all back benefits. Any other relief which this Honourable Tribunal deems fit and proper in the circumstances of the case.

...APPELLANT

Through

Dated: 23.08.2023

(MUHAMMAD RIAZ)
Advocate High Court, Abbottabad

VERIFICATION: -

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

...APPELLANT

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

Service Appeal No. _____/2023

Nargis wife of Moin Shah, resident of Chuchang Dassu, P.O Komila, District Kohistan Upper, Ex-Primary School Teacher, Govt. Girls Primary School Bar Gaheen, Kohistan Upper.

...APPELLANT

VERSUS

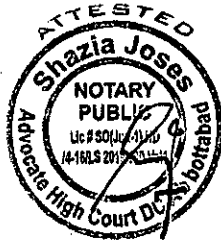
Govt. of Khyber Pakhtunkhwa, through Secretary, Elementary & Secondary Education, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Nargis wife of Moin Shah, resident of Chuchang Dassu, P.O Komila, District Kohistan Upper, do hereby solemnly affirm and declare on oath that the contents of foregoing service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.



DEPONENT

24/8/2023

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

Service Appeal No. _____/2023

Nargis wife of Moin Shah, resident of Chuchang Dassu, P.O Komila,
District Kohistan Upper, Ex-Primary School Teacher, Govt. Girls Primary
School Bar Gaheen, Kohistan Upper.

...APPELLANT

VERSUS

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

...RESPONDENTS

SERVICE APPEAL

LIST OF BOOKS

1. Constitution of Islamic Republic of Pakistan, 1973.
2. All relevant service laws.
3. Other relevant case law will be cited at Bar.

...APPELLANT

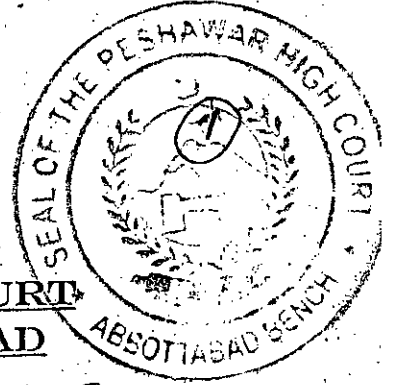
Through

Dated: 23.08.2023


(MUHAMMAD RIAZ)
Advocate High Court Abbottabad

A/12

Advocate
0348744332



BEFORE THE PESHAWAR HIGH COURT
ABBOTTABAD BENCH ABBOTTABAD

WP No-325-A/2020

Nargis W/o Moaëen Shah R/O of Chuchang Dassue, P/o Komaila District
Kohistan Lower.

.....Petitioner

Vs

1. Govt of Khyber Pukhtunkhwa through Secretary Elementary and Secondary Education Department, Civil Secretariat Peshawar
2. Secretary, Elementary and Secondary Education Department Civil Secretariat Peshawar
3. Secretary Finance, Government of Khyber Pakhtunkhwa, Finance Department Peshawar
4. Director, Elementary and Secondary Education Civil Secretariat Peshawar
5. District Education Officer (Female) Kohistan at Dassu
6. SDEO, Dassu Kohistan

.....Respondents

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

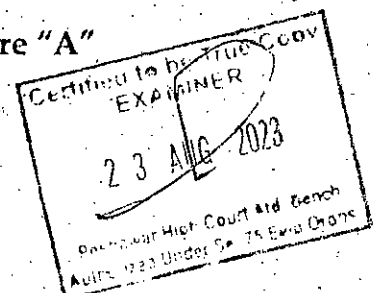
May it please the Court;

FACTS:

1. That the petitioner being pardanasheen lady is unable to appear before this Honourable hence the petitioner invokes the jurisdiction of this honorable Court through attorney.

No. 1035
07-02-2020

Copy of power attorney is annexure "A"
FILED TO DA
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
20/07/20



13

AKH

Muhammad Raza
Advocate High Court
11/11/2012

2

2. That the petitioner was appointed vide appointment order bearing no 863 /-39/APP/PTC (M) UC wise 2006 Dated 1-12-2006. As a PTC teacher in BPS-04 upon educational qualification as a middle standard.

Copy of appointment order is Annexure "B"

3. That the petitioner improved/enhanced her qualification and qualified matriculation exam.

Copies of educational testimony are Annexure "C"

4. That in due course it was decided that the PTC teachers who have not qualified matric, the basic requirement for appointment as a PTC teacher, his or her services shall be disposed with, and likewise the one who have enhanced their qualification up to the requisite requirement i.e. matric shall be upgraded.

5. That though the services of the petitioner was not terminated, however, respondent No-5 ordered stoppage of salary without any lawful reason w.e.f 01-05-2016 to date. No written order has been passed in this regard.

6. That though the petitioner has not been terminated from service but she has not been upgraded as per policy of provincial government and her salary has also been withheld without any reason which is illegal and is negation of the constitutional guarantees under the Constitution of Islamic Republic of Pakistan to this effect application was also filed before respondent No-5 but all in vain.

Copy of application is annexure "D"

7. That being aggrieved and dissatisfied of inactions of respondents whereby the petitioner has been deprived of up gradation and salary impugns herein the said inactions of the respondents on the strength of following amongst other grounds;

GROUND

a) Because the impugned inactions are bad in law and facts, hence untenable.

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EXAMINED
23 AUG 2012
- District Bench
- District Judge

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3

- b) Because the petitioner has not been dealt in accordance with law.
- c) Because its claim its own malafide.
- d) Because, prima-facie stoppage of salary of the petitioner is unlawful, without lawful authority and malafide and hit the core of right to life which is a fundamental right of the petitioner.
- e) Because the petitioner enhanced her qualification from middle to matric in year 2013, and soon after acquiring such qualification she submitted the proof with the respondent but they did not pay any heed to it and the matter remained in the court storage.
- f) Because the petitioners have been deprived of his lawful rights as the petitioner is qualified person to be upgraded to BPS 12.
- g) Because, In due course of time and inquiry was ordered to sought out the case of PTC teacher who still have holding qualification of middle class and those who have enhanced their qualification, to bring it at par with the requisite qualification of a PTC teacher in BPS 12. It was further directed that those who had enhanced their qualification should be upgraded forthwith but the petitioner has not been upgraded despite very clear policy of government and judgments of this Honourable Court.
- h) Because after enhancement of qualification the petitioner is entitled for up gradation in BPS 12, instead of stoppage of her salary and that too without fault of petitioner.
- i) Because the impugned conduct is against the principle of natural justice.
- j) Because the impugned conduct is of respondents is malafide in law and facts.
- k) Because the act of respondents by not considering the petitioners is against the vested rights of the petitioner and law on the subject.

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EXAMINER
23 AUG 2023
Peshawar High Court
Authorized Under Sec. 15, S.O. 1000

15
Ahs
[Signature]
④

- l) Because the act of respondents is discriminatory, hence cannot be sustained on the touch stone of guarantee secured by the constitution.
- m) Because under the prevailing rules policy and laws, the petitioner has a right to be upgraded.
- n) Because, there is no remedy available to the petitioner except the instant writ petition, hence the instant petition.
- o) Because similar writ has already been allowed by this Honourable Court hence the case of petitioner may also be treated at par with other similar cases.

Copies of the judgments are annexure "E"

- p) Because other grounds shall be urged at the time of arguments.

PRAYER

On acceptance of instant petition, it be directed that salary of the petitioner withheld from May 2016 to date and also to direct the respondent to upgrade the petitioner from BPS-04 to BPS-12, the grade permissible for a PTC teacher, in the wake of enhanced educational qualification of the petitioner. Any other relief as may be deemed fit for the petitioner may also be given to her.

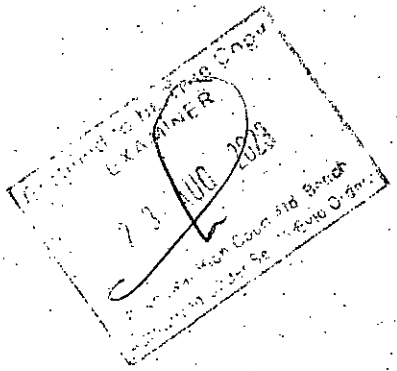
Dated: - 6/2/2020

Petitioner
Through
Counsels

Rana Muhammad Ishaq

&

Muhammad Riaz
Advocates High Court



16 (8) *[Handwritten signatures]*

BEFORE PESHAWAR HIGH COURT ABBOTTABAD BENCH ABBOTTABAD

WP No- _____/2020.

Nargas

Vs

Government of KPK & others

WRIT PETITION

AFFIDAVIT

I, Kaleem Ishaqi S/o of Mueen Shah Chuchang, Dassu, PO Komila, Distict Kohistan (Attorney for Petitioner), do hereby solemnly affirm and declare on oath that the contents of the forgoing writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Dated: 6/15/2020

CW 13401-391335 of Beland
DEPONENT

At Abbottabad

Certified to be True Copy
EXAMINER
23 AUG 2023
Peshawar High Court And Bench
Established Under Sec. 15 of the Ord.

[Signature]
Identified by
Rana Muhammad Ishaq
Advocate High Court

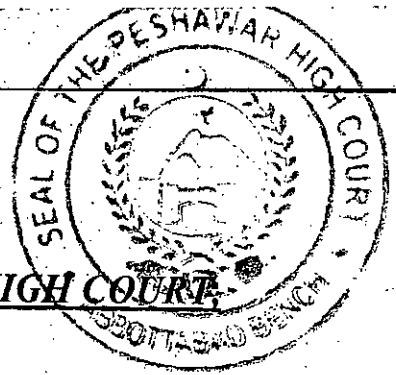
AFFIDAVIT

S.No. 818/218 Received by 818
Certified that I and have filed on Solemn
affirmation. and notified me on this
10th Aug 2020
R/o Dassu who was working with
Government who is legally to me

[Signature]
Oath Commissioner
(Additional Registrar)
Peshawar High Court Abbottabad Bench

8-1
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03/17



BEFORE THE HONORABLE PESHAWAR HIGH COURT
ABBOTTABD BENCH.

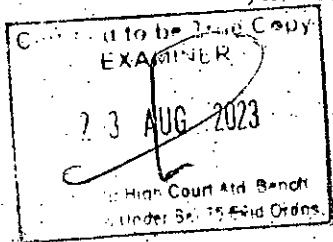
Writ Petition No. 325-A/2020

NARGISPETITIONER.

VERSUS

1. Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Civil Secretariat Peshawar.
2. Secretary Elementary & Secondary Education Department, Civil Secretariat Peshawar.
3. Secretary Finance, Government of Khyber Pakhtunkhwa Department, Finance Department Peshawar.
4. Director Elementary & Secondary Education KPK Peshawar.
5. District Education Officer (Female) Kohistan
6. Sub-Divisional Education Officer, Dassu Kohistan.

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.....RESPONDENTS.

PARAWISE COMMENTS / WRITTEN REPLY ON BEHALF OF
RESPONDENTS NO 5.

PRELIMINARY OBJECTIONS:

*No. 2455
23-04-2020*

1. That the petitioner is not an aggrieved person within the meaning of Article 199 of the constitution of Islamic Republic of Pakistan 1973.
2. That the fact in issue pertains to the terms and conditions of service, therefore, the jurisdiction of this Honorable Court is specifically ousted under the expressed provision of Article 212 of the Constitution.
3. That the petitioner has not come to this Honorable Court with clean hands.
4. That the petitioner has got no cause of action /locus standi to file the instant writ petition.
5. That the instant writ petition is badly barred by time.

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FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
23/4

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6. That the petitioner is estopped to sue through his own conduct.
7. That the petition is based on twisting of facts and law hence the instant writ petition is not maintainable.
8. That the petitioner has concealed the material facts from this Honorable Court.
9. That no vested right of the petitioner has been infringed nor any provisions of the constitution have been violated, therefore, the instant writ petition is not maintainable in the circumstances.

FACTUAL OBJECTIONS:-

1. Para No.1 relates to petitioner personal record, hence need no comments.
2. Para No.2 is correct to the extent that, As per Policy of the Government for recruitment of PST at that time the requisite qualification was SSC with Primary School Teacher Certificate. In the year 2005/2006, the Government of NWFP (Now Khyber Pakhtunkhwa) relaxes the criteria for the appointment of PST (Female) Teacher to the backward area of the Province i.e. Middle Passed Certificate. District Kohistan was also declared as backward district in the said policy. The petitioner was appointed as PTC Teacher in BPS-04 in 2006 for a period of three years as Middle passed untrained teacher on contract basis as stopgap arrangement.
3. Para No.3 relates to petitioner personal record, hence need no comments. As per Service Book of the petitioner, there is no entry about SSC as minimum qualification for the PST Teacher. As per Notification dated 26-06-2012, the Finance Department granted higher pay scale to PST teachers and the post of PST were upgraded from BPS-7 to BPS-12 and as per Notification dated 13-11-2012 the required qualification for the post of PST was also enhanced from Matric to intermediate or equivalent qualification with Primary School

TO THE CHIEF JUSTICE
EXAMINATION
23 APR 2023
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ADDITIONAL REGISTRAR
HAWAII RIGHT COURT
HONOLULU BENCH
2-23/13
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Teacher Certificate/Diploma in Education from a recognized institute or Secondary School Certificate, from a recognized Board in second division with two years associate Degree in Education from a recognized university, whereas the petitioner has not the above requisite qualification in the year 2012.

4. The teacher was appointed on contract basis for a period of three years but neither their services were extended nor remove from service. The petitioner was appointed in PBS-4 on middle passed qualification but the petitioner did not improve ~~her~~ qualification yet after long period of 10 years. The qualification of Petitioner is subject to prove.
5. The petitioner has drawn their regular pay till 2016 but due to non-availability of position code for the post of PST cadre in BPS-04, the pay of petitioner was automatically stopped. The posts of PST teacher have been upgraded from BPS-05, BPS-07, and BPS-09 to BPS-12 w.e.f 2012.
6. As per Notification dated 26/06/2012 the Finance Department granted higher pay scale to PST Teacher. All PST Teacher working in BPS- 5, BPS- 6, BPS- 7 & BPS- 9 were upgraded to BPS- 12 and no instruction were given about BPS- 4 teacher. Therefore, all the teachers were given BPS- 12 except BPS- 04, who have been working in BPS- 04 till 2016.

7. At present policy the requisite qualification for the post of PST is Graduate with 9 months professional diploma. Therefore the petitioner is not entitled for grant of BPS-12

GROUND:

- a) Para "A" of the Ground is incorrect and strongly denied.
- b) Para "B" of the ground is incorrect. The act of the respondent is in accordance with law and rules.

FILED TODAY
ADDL. REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
22/4

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JUDICIAL
MAGISTRATE
PESHAWAR

Teacher Certificate/Diploma in Education from a recognized institute or Secondary School Certificate, from a recognized Board in second division with two years associate Degree in Education from a recognized university, whereas the petitioner has not the above requisite qualification in the year 2012.

4. The teacher was appointed on contract basis for a period of three years but neither their services were extended nor remove from service. The petitioner was appointed in PBS-4 on middle passed qualification but the petitioner did not improve ~~her~~ qualification yet after long period of 10 years. The qualification of Petitioner is subject to prove.
5. The petitioner has drawn their regular pay till 2016 but due to non-availability of position code for the post of PST cadre in BPS-04, the pay of petitioner was automatically stopped. The posts of PST teacher have been upgraded from BPS-05, BPS-07, and BPS-09 to BPS-12 w.e.f 2012.
6. As per Notification dated 26/06/2012 the Finance Department granted higher pay scale to PST Teacher. All PST Teacher working in BPS- 5, BPS- 6, BPS- 7 & BPS- 9 were upgraded to BPS- 12 and no instruction were given about BPS- 4 teacher. Therefore, all the teachers were given BPS- 12 except BPS- 04, who have been working in BPS- 04 till 2016.
7. At present policy the requisite qualification for the post of PST is Graduate with 9 months professional diploma. Therefore the petitioner is not entitled for grant of BPS-12

GROUNDS:

- a) Para "A" of the Ground is incorrect and strongly denied.
- b) Para "B" of the ground is incorrect. The act of the respondent is in accordance with law and rules.

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
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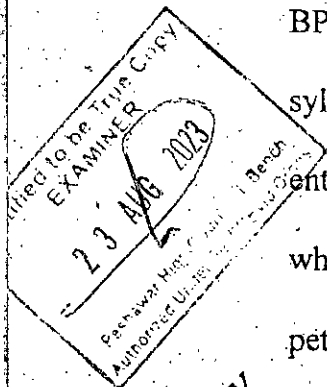
c) Para "C" of the Ground is incorrect detail reply has already been given above.

d) Para "D" of the Ground is incorrect the act of the answering respondent is accordance with rules.

e) Para "E" of the Ground is incorrect. Further stated that the Notification was passed in the year of 2012 at that time Petitioner was not enhanced her academic qualification with in time and fail to submitted any application or appeal for up gradation on the basis of her qualification. The service Book of the Petitioner does not show their improved qualification.

f) Para "F" of the Ground is incorrect. Further stated that there is no concept of BPS-4 Teachers in the Khyber Pakhtunkhwa Province, and due to change of syllabus in schools the petitioner is unable to teach the students upto the entire satisfaction and as stated above paras the petitioner is still Middle pass whereas the requisite qualification for the posts of PST is Graduate, the petitioner is not entitled for grant of BPS-12.

g) Reply of Para "G" of the Ground is that as per Service Book of the petitioner, there is no entry about SSC as minimum qualification for the said post. As per Notification dated 26-06-2012, the Finance Department granted higher pay scale to PST teachers and the post of PST were upgraded from BPS-7 to BPS-12 and as per Notification dated 13-11.2012 the required qualification for the post of PST was also enhanced from Matric to intermediate or equivalent qualification with Primary School Teacher Certificate/Diploma in Education from a recognized institute or Secondary School Certificate, from a recognized Board in second division with two years associate Degree in Education from a recognized university, whereas the petitioner has not the above requisite qualification in the year 2012.



FILED TODAY
ADDITIONAL REGISTRAR
SHAWAR HIGHT COURT
JHODDABAD BENCH
23/4

21

- h) Reply of Para "H" of the Ground is that Petitioner has not entitled for the up gradation in the light of Notification issued by Government.
- i) Para No "I" is incorrect. Detail reply has already been given in above Paras. The act of the answering respondent is in accordance with law and rules.
- j) Para No "J" of the Writ Petition is incorrect. The act of the respondent in law.
- k) Para No "K" of the Writ Petition is incorrect.
- l) Para "L" of the Ground is incorrect.
- m) Para "M" of the Ground is incorrect. Detail reply has already been in factual objections.
- n) Para "H" of the Ground is incorrect. Petitioner is not entitled for any relief.
- o) Para "O" of the ground is legal hence no comments.
- p) Reply of Para "P" of the ground is that other point will be raised at the time of arguments.

PRAYER:

It is therefore, humbly prayed that on acceptance of the above submissions, the instant petition may very graciously be dismissed in the favor of the answering Respondents in the interest of the Justice.

Certified to be a true Copy
 EXAMINER
 23 AUG 2023
 Peshawar High Court and Bench
 Authorized Under Sec 75-B and Orders

verified

19/3/2020
 ASSESSMENT & REVISIONS OFFICER
 Khyber Pakhtunkhwa
 Abbottabad

17/3/2020
17/3/2020

District Education Officer,
 (Female) Kohistan
 (Respondent No. 5)

FILED TODAY
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ABBOTTABAD BENCH
 23/4

22
[Signature]

BEFORE THE HONORABLE PESHAWAR HIGH COURT,
ABBOTTABD BENCH.

Writ Petition No. 325-A/2020

Nargis PETITIONER.

VERSUS

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

.....RESPONDENT

AFFIDAVIT

I, Mr. Raja Shiraz Ahmed District Education (Female) Kohistan Upper, do hereby solemnly affirm and declare that the Para wise comments of the writ petition No. 325-A/2020 titled Mst: Nargis versus Government is true to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

13503-0575902-1

S.No. 3214/200 Pet No. 200
Certified that the above was verified on Solemn affirmation at before me on this 23 day of June 2020 by Raja Shiraz Ahmed District Education Kohistan No. 13503-0575902-1 who is personally known to me

[Signature]
DISTRICT EDUCATION OFFICER
(FEMALE) KOHISTAN

Peshawar Bench

23/6/20

[Signature]
Assistant Advocate General
Khyber Pakhtunkhwa
Abbottabad

23 JUN 2020
[Stamp]

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
23/6

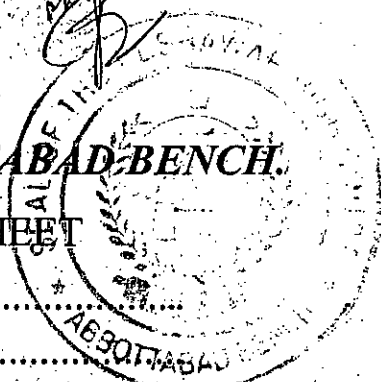
C/23

32

Asif

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.

FORM OF ORDER SHEET



Court of.....

Case No.....of.....

| Date of Order of Proceedings | Order or other Proceedings with Signature of Judge (s) |
|------------------------------|---|
| | 2 |
| 26.01.2021. | <p><u>WP No. 325-A/2020.</u></p> <p>Present: Mr. Muhammad Riaz, Advocate for petitioner. Sardar Muhammad Asif, AAG for respondents.</p> <p>***</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.</u> Through this petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has invoked the jurisdiction of this Court with the following prayer:-</p> <p><i>On acceptance of instant petition, it be directed that salary of the petitioner withheld from May 2016 to date and also to direct the respondent to upgrade the petitioner from BPS-04 to BPS-12, the grade permissible for a PTC teacher, in the wake of enhanced educational qualification of the petitioner. Any other relief as may be deemed fit for the petitioner may also be given to her.</i></p> |

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EXAMINER
23 AUG 2023
Peshawar High Court & Bench
Abbottabad Bench - 35-Evo. Ordos.

Asif

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Ahmed

Learned counsel for petitioner at the very outset stated at the bar that a similar petition on the same issue i.e. (WP No. 527-A/2017 titled: Mst. Gulshan Bibi Vs. Secretary to the Government of Khyber Pakhtunkhwa, Elementary and Secondary Education, Department, Peshawar & others) has already decided by this Court vide judgment dated: 26.09.2019 and requested that in the light of above decision, the present writ petition also be decided accordingly.

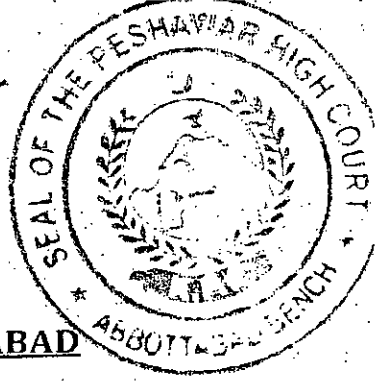
In view of the above without going deep into the merits of the case, we dispose of this writ petition with directions of the respondent No.5 to settle the issue in question within period of two months from receipt of this order in the light of referred judgment.

JUDGE

JUDGE

Certified to be True Copy
EXAMINER
23 AUG 2023
Peshawar High Court and Bench
Authorized Under Section 15(1) Ord. 1973

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Ahsan
[Signature]



IN THE PESHAWAR HIGH COURT ABBOTTABAD
BENCH, ABBOTTABAD

Writ Petition No 527A/17

Gulshan Bibi D/o Abdul Qayum (W/o Ehsan Ullah) R/o
Safia, P/o Jabba, Madakhail abad, Tehsil Palas,
District Kohistan presently serving as PTC Teacher at
GGPS Safia Darra, Tehsil Palas, District Kohistan

.... Petitioner

VERSUS

Secretary to the Government of Khyber
Pakhtunkhwa, in the Department of Elementary &
Secondary Education Department, Peshawar

2. Deputy Director, Establishment (F), Elementary &
Secondary Education Department, Peshawar

3. District Education Officer (F), Dasso, Kohistan
SDEO, Palas, Kohistan.

4. Secretary to the Government of Respondents
Khyber Pakhtunkhwa, Finance Department, Peshawar.

WRIT PETITION

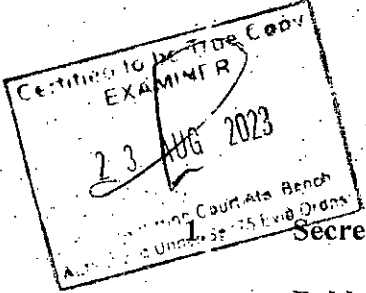
UNDER ARTICLE 199 OF THE

CONSTITUTION OF ISLAMIC

REPUBLIC OF PAKISTAN, 1973, FOR

ISSUANCE OF A DECLARATION TO

THE EFFECT THAT STOPPAGE OF



Vide order of Honorable Court DB,
dt: 14-11-2017, in CM. No. 894-A/17,
No. 4 to, 5 are Impleaded as
Respondents.

20.2393
17.5.22

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

17.5.22

26

M. H. Khan

REGISTERED
PESHAWAR HIGH COURT
[Signature]

SALARY OF THE PETITIONER IN THE
WAKE OF LETTER NO 1973/F NO
04/F/INQUIRY DATED PESHAWAR
14/12/2016, INSTEAD OF UPGRADING
HER FROM BPS-04 TO BPS-12 AS PER
HER ENHANCE QUALIFICATION
ACCORDING TO THE REQUIREMENT
FOR THE PST AND STILL NOT
UPGRADED, IS MALAFIDE AGAINST
THE OWN POLICY OF THE
RESPONDENTS, IS UNLAWFUL AND
WITHOUT LAWFUL AUTHORITY

PRAYER

ON ACCEPTANCE OF THE INSTANT WRIT
PETITION, IT BE DIRECTED THAT
SALARY OF THE PETITIONER WITHHELD
FROM MAY 2016 TO DATE AND ALSO TO
DIRECT THE RESPONDENT TO UPGRADE
THE PETITIONER FORM BPS-04 TO BPS-
12, THE GRADE PERMISSIBLE FOR A PTC

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EXAMINED
21 AUG 2023
[Signature]

FILED TODAY

ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

17/5/23

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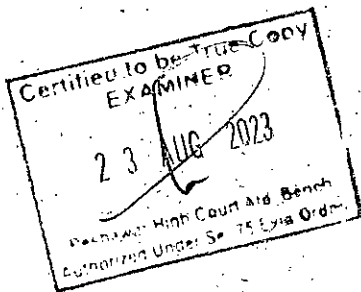
TEACHER, IN THE WAKE OF ENHANCED
EDUCATIONAL QUALIFICATION OF THE
PETITIONER. ANY OTHER RELIEF AS
MAY BE DEEMED FIT FOR THE
PETITIONER MAY ALSO BE GIVEN TO
HER.

Respectfully Sheweth:

Brief facts giving rise to the instant writ petition
are arrayed as under:-

FACTS

1. That, the petitioner was appointed as a PTC Teacher in BPS-04 upon educational qualification as Middle standard. (Copy of appointment order bearing no 856-96/Apppt/PTC(F)U/C wise merit/2006 District Kohistan Dated 25/10/2005 is attached as Annexure "A", while school leaving certificate as a Middle qualified student is attached as Annexure "B")



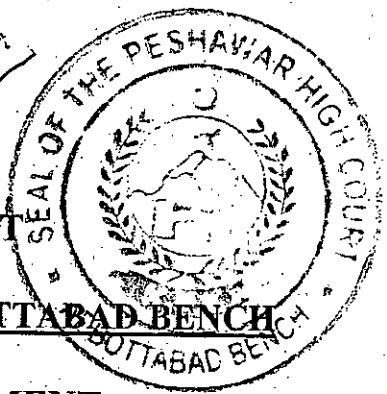
FILED TODAY

ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

07.5.11

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JUDGMENT SHEET

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

Writ Petition No.527-A of 2017

JUDGMENT

Date of hearing.....26.09.2019.....

Petitioner(s) ...*(Mst. Gulshan Bibi) by Sardar Nasir Aslam Khan, Advocate*.....

Respondent(s)...*(Secretary to the Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Peshawar and others) ...by Raja Muhammad Zubair, Additional Advocate General alongwith District Education Officer (Female) Kohistan Upper and Muhammad Siddique, ADEO Litigation*.....

IJAZ ANWAR, J.- Through this single judgment, this Court shall also dispose of **Writ Petition No.978-A/2017**, titled '*Bass Pari Bibi and others Vs. Government of Khyber Pakhtunkhwa and others*', as common questions of law and facts are involved therein.

2. Petitioners, in both the petitions, seek constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan , 1973, praying for the same relief that:

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EXAMINED
23 AUC 2023

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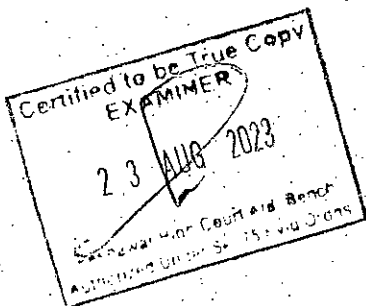
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"It is, therefore, prayed that on acceptance of the instant writ petition, it is directed that salary of the petitioners withheld from May 2016 to date and also to direct the respondents to upgrade the petitioners from BPS-04 to BPS-12, the grade permissible for a PTC Teacher, in the wake of enhanced educational qualification of the petitioners. Any other relief as may be deemed fit for the petitioners may also be given to them."

2. Arguments of learned counsel for the parties heard and available record perused.
3. Perusal of the record reveals that this Court had earlier dealt with similar controversy in Writ Petition No.1030-A/2017 titled Mst. Faiza and seven others decided on 20.06.2019, wherein, it has been observed in Para-5 that:

"Admittedly, the petitioners remained in the service of respondent department as PST, there is no objection about the performance of the petitioners and in case there was any complaint, besides they should have been terminated at the relevant time after the expiry of their initial tenure of appointment of three years. Since, it was the respondents, who allowed them to continue in the service on whatever qualification they had, the petitioner shall not suffer for inaction of the respondents. Admittedly, most of the petitioners have improved their qualification but the respondents again showed slackness in allowing upgradation or placing them in the pay scale of the post on which they are working. It is the fundamental right of the petitioners that they be paid the pay of the post, because when the respondents are



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Affix

getting the duties from the petitioners of the post of PST then they are entitled to the pay of the post. Reference can be made to the cases reported as 2006 SCMR 1938, 2010 PLC(CS) 284 and NLR 2008 Service 165. It is thus rather absurd to hear from the mouth of respondents that there is no post code in which the petitioners be allowed salaries against the post of PST BPS-4. We have thus, no other option but to direct the respondents No.3 and 4 to settle the matter and to release salaries to the petitioners (except petitioner No.4) from the date when it is withheld. The necessary exercise must be completed within a period of two months.

4. For the reasons stated above, the respondent No.3 is directed to settle the matter qua release of salaries of the petitioners, as has earlier been directed by this Court, within a period of two months. Accordingly, this and the connected writ petitions are allowed as prayed for in the terms mentioned in the case of Mst. Faiza and others, referred to above.

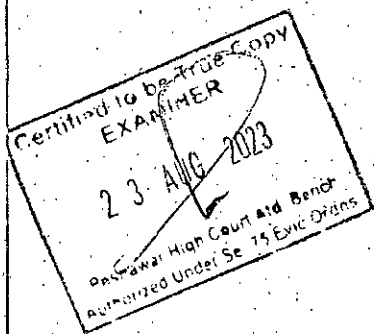
Announced.
Dt.26.09.2019.

JUDGE

JUDGE

M.Saleem/*

(DB) Mr. Justice Ijaz Anwar and Mr. Justice Shakeel Ahmad





E/31
OFFICE OF THE DISTRICT EDUCATION OFFICER (F) KOHISTAN UPPER

Email: deofemalekohistanupper@gmail.com

OFFICE ORDER/ REMOVAL FROM SERVICE

1. Whereas Mst. Nargas Middle Pass, was appointed as Grade 4 PST teacher at GGPS Bar Gaheen in 2006 as stop gap arrangement for a period of three years.
2. Whereas the prescribed qualification for PST teacher at that time was matric with PTC.
3. Whereas she was directed to improve her qualification as per the requirement of basic criteria for PTC teacher according to the merit policy of the government in vogue, but she badly failed.
4. Whereas as per EMA Report she remained habitually and wilfully absent from her duty, during the visits of the concerned DCMA, without proper permission/intimation or leave.
5. Whereas she was directed time and again to perform her duty properly and do not waste the precious time of the students, but she badly failed to comply.
6. Whereas she has drawn her salary illegally during the absent period from her duty.
7. Whereas as per report of the SDEO/ASDEO concerned she doesn't perform her duty ✓
8. Whereas a show cause notice was served upon her vide this office Endst: No. 1160-64, Dated: 28-4-2021.
9. Whereas she badly failed to submit reply to the show cause in her defense within stipulated period.
10. Whereas she badly failed to avail the chance of personal hearing. ✓
11. Whereas having low qualification, she is unable to teach the existing syllabus to the students properly.
12. Whereas while going through the material on record and personal observations of the undersigned, all the charges/allegations levelled against her have been proved to the full satisfaction of the undersigned.

Therefore the undersigned being the competent authority, do hereby impose **Major Penalty of Removal from Service**, upon Mst. Nargas, Grade 4 PST teacher at GGPS Bar Gaheen Kohistan Upper under Rule 4(b) of E&D Rules 2011, with immediate effect, in the interest of public service.

(MUHAMMAD AMIN)

District Education Officer (F)


District Kohistan Upper.

End No. 1520-27

Dated: 10 /06/2021

Copy for information and necessary action forwarded to:

1. The PA to Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner Kohistan Upper.
3. The District Accounts Officer Kohistan Upper.
4. The PA to District Education Officer (F) Kohistan Upper.
5. The Deputy District Education Officer (F) Kohistan Upper.
6. The SDEO/DDO concerned with the direction to stop the pay of the concerned teacher and make necessary entries in her service book immediately.
7. The teacher concerned.
8. Copy to Master File for record.


District Education Officer (F)
District Kohistan Upper

King of the Mountains

Assistant Director of Education
Elementary & Secondary Education

Director of Education, Elementary & Secondary Education, Department of Education

Teacher concerned

Teacher concerned

Director of Education, Elementary & Secondary Education, Department of Education

Forwarded for information to the

Director of Education, Elementary & Secondary Education, Department of Education

Director of Education, Elementary & Secondary Education, Department of Education

DIRECTOR

1715-57

Director of Education, Elementary & Secondary Education, Department of Education

Director of Education, Elementary & Secondary Education, Department of Education

Director of Education, Elementary & Secondary Education, Department of Education

Director of Education, Elementary & Secondary Education, Department of Education

Director of Education, Elementary & Secondary Education, Department of Education

Director of Education, Elementary & Secondary Education, Department of Education

Director of Education, Elementary & Secondary Education, Department of Education

Director of Education, Elementary & Secondary Education, Department of Education

Director of Education, Elementary & Secondary Education, Department of Education

891
26/07/2023

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محفلت جناب - دارالمرکز اہل سنتی اینڈ اسلامیہ ایجوکیشنل فریڈم ٹرواں

ڈیپارٹمنٹ آف ایجوکیشن برائے خواتین (2016-17)
جس کا وہ سے ڈی ای او نے سائل کو نوٹری سے خارج کر دیا

ظاہری طور پر ڈیپارٹمنٹ آف ایجوکیشن میں ہے

(1) پھر سائل نے بعد از پورا اپنا و الفی تہیت باقاعدگی مخصوص نامہ سرانجام دیا ہے کہ کسی قسم کا کوئی نامہ نہیں ہے

(2) پھر سائل کا شواہد 2016 سے فکرمند کیا گیا ہے بعد میں بالی ٹورنٹ کے نامہ کے ساتھ ساتھ ہی ضمیمہ کیا۔ مگر نہ ہی اسے شواہد پیش کر کے بددیہی سے سائل کو خبر حاضر کارڈ کے نوٹری سے تاریخ کیا ہے

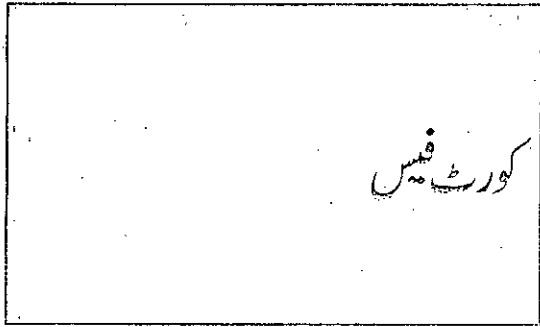
(3) پھر جن بناؤ بناؤ سائل کو خارج کیا ہے وہ یہ ہے سے بالی ٹورنٹ کا ضمیمہ کر دیا ہے

(4) پھر سائل کا دعویٰ اس میں بھی سائل کے خلاف کیا ہے جس کا حقیقت سے کراہت ہے

ڈی ای او کے ساتھ ساتھ کوئی کمیٹی کے پورے سائل کے ساتھ نہیں ہے 2016/2017

کہہ کر اسٹریٹ میں طرفین صلح مینوں فرما سائل کو نوٹری سے نکال کر اسے صلح حاصل کر دیا ہے

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کورٹ فیس

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وکالت نامہ

بعدالت سروس ٹریڈنگ پرائیویٹ لمیٹڈ سے ایمان

عنوان: ٹریڈنگ کمپنی نام گورنمنٹ کی ہے

منجانب: ایمان

نوعیت مقدمہ: سروس ایپل

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دی کل کاروائی متعلقہ اس مقام

محمد رفیق لہذا کے لئے سے ایمان

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 پر اختہ 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 ہوا

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 نالاش بصیغہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

Handwritten signature of the lawyer.

المقوم:

بمقام: