


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 979 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18.12.2023	<p>The implementation petition of Mst. Shamia Bibi resubmitted today by Roeda Khan Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____. Original file be requisitioned. AAG has noted the next date. Parcha Peshi is given to the counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

The execution petition of Mst. Sahamia Bibi received today i.e. on 11.12.2023 is incomplete on the following scores which is returned to the counsel for the petitioner for completion and resubmission within 15 days.

- 1- Annexures of the petition are unattested.
- 2- Application attached with the petition is undated.

No. 3903 /S.T.

Dt. 11/12 /2023

Amirullah
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Roeeda Khan Adv.
High Court Peshawar.

Resubmitted after compliance.

R

BEFORE THE SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 603/2016

In

Execution Petition No. 979 /2023

Mst Shamia Bibi D/o Isam Khan PST District Kurram

..... Appellant/Petitioner

VERSUS

1. Additional District Educational Officer Lower and central Kurram Sadda District Kurram
2. Director of Educational New merged area Secretariat Khyber Pakhtunkhwa, Peshawar.
3. District Account Officer District Kurram.
4. Government of Khyber Pakhtunkhwa through Secretary Education Civil Secretariat Peshawar.

..... Respondents

Index

S.No.	Description of documents	Annexure	Pages
1.	Copy of petition with affidavit		1-2
2.	Copy of Judgment dated 31.07.2018	A	3-6
3.	Copy of reinstatement order dated 20.05.202	B	7
4	Copy of application	C	8
5.	Wakalat Nama		9

Dated 08/12/2023


Appellant/Petitioner

Through



Roseena Khan
Advocates High Court,
Peshawar.

(1)

BEFORE THE SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 603/2016

Execution Petition No. 979/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9801

Dated 11-12-2023

Mst Shamia Bibi D/o Isam Khan PST District Kurram

..... Appellant/Petitioner

VERSUS

1. Additional District Educational Officer Lower and central Kurram Sadda District Kurram
2. Director of Educational New merged area Secretariat Khyber Pakhtunkhwa, Peshawar.
3. District Account Officer District Kurram.
4. Government of Khyber Pakhtunkhwa through Secretary Education Civil Secretariat Peshawar.

..... Respondents

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS FOR PROPERLY
IMPLEMENTATION THE JUDGMENT DATED 3
31/07/2018 OF THIS HONOURABLE TRIBUNAL
IN LETTER AND SPIRIT.**

.....

Respectfully Sheweth:

1. That the appellant/Petitioner filed Service Appeal No. 603/2016 before this Hon' able Tribunal which has been accepted by this Hon' able Tribunal vide Judgment dated 31/07/2018. (Copy of Judgment is annexed as Annexure-A).
2. That in response of the above judgment the appellant has been reinstated on service on 20.05.2020. (Copy of reinstatement order is attached as Annexure-B).

(2)

3. That as such the appellant has been reinstated by this Honourable Tribunal at the year 2018 that's why the petitioner has been entitled for the salary back benefits from 2018 instead of 2020.
4. That the appellant submitted an application to respondent department for properly implementation of the judgment of this Hon' able Tribunal but no response has been given. (Copy of application is attached as Annexure-C).
5. That the respondent Department is legally bound to obey the order of this Hon' able Tribunal properly in letter and spirit.
6. That the Petitioner has no other option but to file the instant execution petition for properly implementation of the Judgment of this Hon' able Tribunal.

It is therefore requested that on acceptance of this Petition the respondent Department may kindly be directed to properly implement the judgment passed by Hon' able Tribunal on 31.07.2018 in letter and spirit.

Dated 08/12/2023



Appellant/Petitioner

Through


Rooeda Khan
Advocates High Court Peshawar

AFFIDAVIT

I, Mst Shamia Bibi D/o Isam Khan PST District Kurram do here by solemnly affirm and declare on oath that all the contents of the above petition are true and correct to the best of my knowledge and belief and nothing has been misstated or concealed from this Hon' able Tribunal.


DEPONENT _____



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(A³) (3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 603/2016

Date of Institution ... 07.06.2016

Date of Decision ... 31.07.2018

Mst. Shamia Bibi D/O Isam Khan, Ex-PST Teacher,
Government Girls Middle School, Baddama, Central Kurram, Kurram Agency.
... (Appellant)

VERSUS

1. Additional Agency Education Officer, Lower & Central Kurram, Sadda,
Kurram Agency and three others.
... (Respondents)

MR. MIAN ASIF AMAN,
Advocate

For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

For respondents

MR. AHMAD HASSAN,

MR. MUHAMMAD HAMID MUGHAL

MEMBER (Executive)
MEMBER (Judicial)

ATTESTED

JUDGMENT

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

AHMAD HASSAN, MEMBER:- Our this judgment shall also dispose of instant
service appeal as well as Service Appeal No. 604/2016 titled "Mst. Abida Nawaz Versus
Additional Agency Education Officer, Lower & Central Kurram, Sadda, Kurram Agency
and three others", Service Appeal No. 605/2016 titled "Sher Muhammad Versus
Additional Agency Education Officer, Lower & Central Kurram, Sadda, Kurram Agency
and three others", Service Appeal No. 606/2016 titled "Fazal Ur Rehman Versus
Additional Agency Education Officer, Lower & Central Kurram, Sadda, Kurram Agency
and three others", Service Appeal No. 607/2016 titled "Mst. Maryaum Farooq Versus
Additional Agency Education Officer, Lower & Central Kurram, Sadda, Kurram Agency
and three others", Service Appeal No. 608/2016 titled "Muzaffar Daud Versus Additional
Agency Education Officer, Lower & Central Kurram, Sadda, Kurram Agency and three

others”, Service Appeal No. 609/2016 titled “Awal Shah Versus Additional Agency Education Officer, Lower & Central Kurram, Sadda, Kurram Agency and three others” and Service Appeal No. 604/2016 titled “Samad Hussain Versus Additional Agency Education Officer, Lower & Central Kurram, Sadda, Kurram Agency and three others” as common question of law and facts are involved in all the appeals.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The brief facts of the cases are that the appellant and others while serving in Education Department were proceeded departmentally and major penalty of removal from service was imposed on them vide impugned order dated 18.02.2016. Feeling aggrieved an undated joint departmental appeal was filed by them, which was not responded within the stipulated period, hence, the instant service appeal.

ARGUMENTS

4. Learned counsel for the appellant argued that on the allegations of absence from duty a notice was published in daily “Mashriq” on 02.02.2016 directing the appellant and others to assume the duty. Its merits to mention here that the notice was published during the winter vacations in Kurram Agency. He further clarified that all the educational institutions were closed for winter vacations from 25th December 2015 to 29th February 2016, in Kurram Agency, as it evident from the attendance register available on record. He further contended that in the aforementioned notice name of 53 employees were mentioned but in the impugned order major penalty of removal from service was imposed on only 17 employees, hence, the impugned order was discriminatory and against the spirit of Article-25 of the Constitution of Islamic Republic of Pakistan. The respondents have failed to correctly mention the exact date from which the appellant and others were

ATTESTED

CHIEF CLERK
 Kurram Agency
 Sudda, Kurram Agency

absent. Various requirements prescribed in the rules were not observed, so the impugned order was void ab-initio.

5. Learned Additional Advocate General argued that all the affected civil servants were required to file separate departmental appeal but in the instant case joint departmental appeal was filed in violation of rules. Major penalty of removal from service was imposed on the appellant and others after observance all codal formalities.

CONCLUSION.

6. On the allegations of willful absence from duty, the appellant and others were proceeded departmentally and upon conclusion, major penalty of removal from service was imposed on them vide impugned order dated 18.02.2016. It is strange that the respondents failed to mention the exact date from which the appellant was absent from duty. Learned Additional AG when confronted on this point, candidly conceded that the record was silent on this score. He was further confronted on the point that the impugned order was issued and the period of absence showed in the impugned order related to winter vacations but he was unable to give an convincing reply. Despite opportunities on the previous date of hearing the respondents failed to produce record about service of notices at the home address of the appellant and others employees. It has also not been clarified that why action were taken against only 17 employees whereas names of 53 employees were mentioned in the notice published in daily "Mashriq" on 02.02.2016. Action taken by the respondents appeared discriminatory and violative of Article-25 of the Constitution of Islamic Republic of Pakistan. It can be stated safely inferred that the procedure laid down in the rules was not followed by the respondents before issuing the impugned order and as such the appellant and others were condemned unheard.

ATTESTED

W. S. KHAN
Khasim, Panchukhwa
Service Tribunal
Peshawar

6

As a sequel to above, the appeals are accepted, the impugned order is set aside and the appellant is reinstated in service. However, the respondents are at liberty to conduct de-novo inquiry within a period of three months from the date of receipt of this judgment. The intervening period may be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

Certified to be true copy

CHIEF JUDGE
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

~~Date of Delivery of Copy
Date of Receipt of Copy
No.
The
By
Date of Presentation of Application~~

Date of Presentation of Application 27/8/21
No. 2060
C 22
E 4
T 26
P
E
Date of Delivery of Copy 27/8/21

7
Addl: District Education Officer Lower &
Central Kurram Sadda

No _____/Edu:

Dated _____/_____/2019

Ph 0926-520674 Mail: educationsadda@gmail.com

REINSTATEMENT

In Pursuance to the Directorate of Education Merged Districts Peshawar vide letter No 13051 Dated Peshawar the 16.10.2020 and No 1906 Dated 18.02.2020 in the light of Honorable court Khyber Pakhtunkhwa Service Tribunal Peshawar judgment No 1717/ST dated 24.08.2018 in service appeal No 603/2016 filed by Mst. Shamia Bibi & others Vs ACS FATA & Others and recommendation of the inquiry committee, the following appellants are hereby reinstated without back benefits as their own posts in the following institutions with immediate effect.


S#	Name	Desig:	Institution	Remarks
1.	Maryam Farooq	CT	GGMS Gogani	Against Vacant post
2.	Shamia Bibi	PST	GGPS Khormana	Against Vacant Post

1. Their Documents, service books, CNIC and domicile certificate should be checked before handing over charge of the post and attested copies thereof may be kept on record in the office.
2. Charge report should be submitted to all concerned.
3. If they failed to report their arrival within 15-days of the issuance of her appointment order, it will be considered as cancelled.

District Education Officer
Tribal District Kurram

No 439-43 /Edu: Dated 20 / 5 / 2020
Copy for information to the:-

1. Director of Elementary & Secondary Education Department KPK Peshawar
2. Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. Director of Education Merged Districts Peshawar.
4. District Account Officer Kurram Parachinar.
5. Teachers concerned.


District Education Officer
Tribal District Kurram

C.T.C





cc (8)

To

The District Education
Officer Lower & Central
District Kuvvaam.

Subject: Application for Implementation of
Judgment Dated 31-7-2018, Service
appeal No 603/2016.

Respected Sir,

with due respect It is stated
that applicant filed Service appeal No 603/2016
before the Honorable Service Tribunal KPB,
Peshawar which was accepted on 31 ⁰⁷/₂₀₁₈ may
kindly implement the judgment of court.

20-8-2018

Yours Sincerely
Sham
Shamir Bibi

C.T.C



بعدالت محاکمہ سے ڈی ایچ کے لئے



2023 منجانب اللہ

شاہد بن غلام

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام کے لئے رہ گیا اور دیکھ

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 ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور 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 بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

2023

ماہ دسمبر

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المرقوم

العبد گواہ العبد

ACB