## Form-A

## FORMOF ORDERSHEET

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	Case No.	
S.No.	Date of order	Order or other proceedings with signature of judge
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1	30.05.2024	As per direction of the Hon'ble Membe
ŗ		Judicial the present appeal is fixed for preliminar
		hearing before Single Bench at Peshawar o
		03.06.2024. Parcha Peshi given to counsel for th
		appellant.
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Respected Madam,

It is submitted that the present appeal was received on 16.05.2024, which was returned to the counsel for the appellant for removing objections (Flag-A). Today i.e. on 29.05.2024 the learned counsel for the appellant re-filed the same without removing the objections no.2.

The appeal is submitted to your Honour under rule-7(c) of Khyber Pakhtunkhwa Service Tribunal rules 1974 for appropriate order please.

REGISTRAR 20/5/24

Hon'ble Member -J.

Fix be falle S.B 768 Looving . ( )·Kr 30/5/2.4.

The appeal of Mst. Zahida Khanum received today i.e on 16.05.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Page no. 51 & 64 of the appeal are illegible.

Copy of departmental appeal against the impugned termination order is not attached with the appeal be placed on it.

No. 40 /Inst;/2024/KPST, Dt. 20/05 /2024.

REGISTRAR

Y SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr.Umar Farooq Adv. High Court Peshawar.

R.Isir,

The above mentioned objection war removed and The instant Appu

Re-submited. Umarta Atte

ag/5/2029

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

#### CHECK LIST

Case Title: Zahid Khanners The Edu Cation Dept

S#	CONTENTS	YES	NO
1.	This appeal has been presented by: MIR ZAMAN SAFI	√Yes	No
2.	Whether Counsel/Appellant Respondent/Deponent have signed the requisite documents.	√Yes	No
3.	Whether appeal is time barred?	Yes	✓ No
4.	Whether the enactment under which the appeal is filed mentioned?	√Yes	No
5.	Whether the enactment under which the appeal is filed is correct?	√Yes	No
б.	Whether affidavit is appended?	√Yes	No
7.	Whether affidavit is duly attested by competent Oath Commissioner?	√Yes	No
8.	Whether appeal/annexures are properly paged?	√Yes	No
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√Yes	No
10.	Whether annexures are legible?	√Yes	No
11.	Whether annexures are attested?	√Yes	No
12.	Whether copies of annexures are readable/clear?	√Yes	No
13.	Whether copy of appeal is delivered to AG/DAG?	√Yes	No
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondent?	√Yes	No
15.	Whether numbers of referred cases given are correct?	√Yes	No
16.	Whether appeal contains cutting/overwriting?	Yes	✓ No
17.	Whether list of books has been provided at the end of the appeal?	✓ Yes	No
18.	Whether case relate to this Court?	√Yes	No
19.	Whether requisite number of spare copies attached?	√Yes	No
20.	Whether complete spare copy is filed in separate file cover?	✓Yes	No
21.	Whether addresses of parties given are complete?	Yes	No
22.	Whether index filed?	√Yes	No
23.	Whether index is correct?	Yes	No
24.	Whether Security and Process fee deposited? On	Yes	No
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice alongwith copy of appeal and annexures has been sent to respondents? On	Yes	No
26.	Whether copies of comments/reply/rejoinder submitted? On	Yes	No
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On	Yes	No

It is certified that formalities/documentations as required in the above table have been fulfilled.

Name:- UMar Farooa Mham Advocate Signature:-\_ Dated: 16/5124

## <u>Before The Khyber Pakhtunkhwa Service Tribunal</u> <u>Peshawar</u>

# Appeal No. 739 /2024

Mst: Za hida Khanum Aftab..... Appellant

## VERSUS

The Edu: Deptt: .....Respondent INDEX

S.	DOCUMENTS	ANNEX	PAGE
NO			
1.	Memo of Appeal with Affidavit		1-4
2.	Copy of the service book	Α	5-50
3.	Copies of relevant documents	В	51-52
4.	Copies of correspondence and NOC	C&D	53-55
5.	Copy of letter and cancellation of repatriation order	E&F	56-58
6.	Copy of the NOC	G	59-60
7.	Copies of order and relieving order	H&I	61-62
8.	Copies of correspondence and impugned termination order	<b>J&amp;K</b> ,kl	63-67 874-
9.	Copy of judgment dated 15/04/2024	L	68-72
10.	Vakalat Nama	<u>.</u>	73

Dated:

Through:

UMAR FAROOQ MOHMAND

WALEED ADNANCandal

**APPELLANT** 

MUHAMMAD AYUB ADVOCATES HIGH COURT

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

<u>*Peshawar*</u> Appeal No.<u>739</u>/2024

Khyber Pakhtukhwa ice Tribunal Diary 11 12840 16-05-2024

Mst: Zahida Khanum Aftab Ex.PST GGPS Gagra District Khyber W/o Aftab Hussain R/o House No 229, Mohallah Jogan Shah Peshawar.

APPELLANT

#### VERSUS

- 1. The Director Elementary and Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2. District Education Officer District Khyber.

## APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 19/04/2023 WHEREBY THE SERVICE OF THE APPELLANT HAS BEEN TERMINATED.

#### PRAYER:

That on acceptance of this appeal, the impugned appellate order may kindly be set aside and the appellant may kindly be reinstated into service with all back benefits. Furthermore, the appellant may kindly be retired from service on qualifying service and all the pensionary benefits may kindly be allowed in favour of the appellant. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

## <u>R/SHEWETH:</u> <u>ON FACTS:-</u> <u>Brief facts giving rise to the present appeal are as under:</u>

That the brief fact rise to the instant Service Appeal are that appellant joined the Education Department on 09/01/1995 and served GGPS Noor Khan Kot and GGPS Gagra of District Khyber till 31/05/2005, respectively. Copy of the service book is attached as annexure.

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- **5-** That the respondent department issued NOCs on the permanent absorption of the appellant in the Federal Directorate of Education, Govt: of Pakistan, Islamabad. Copy of the NOC is attached as annexure......**G**

- 8- That feeling aggrieved from the impugned appellate order, the appellant filed a Writ Petition No 3843-P/2023 before the Peshawar High Court, Peshawar, but the same has been dismissed on the ground of jurisdiction vide order dated 15/04/2024. Copy of judgment dated 15/04/2024 is attached as annexure....L

9- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on following grounds inter alia:-

#### **GROUNDS:**

- A- That the impugned appellate order dated 19/04/2023 is against the law and facts of the case.
- B- That the impugned appellate order dated 19/04/2023 is erroneous and not sustainable in the eye of law.
- C- That the impugned appellate order dated 19/04/2023 is is result of illegalities and irregularities, which resulted in into grave miscarriage of justice.
- D- That the impugned appellate order dated 19/04/2023 is result of misreading and non-reading of material available on record.
- E- That the impugned appellate order dated 19/04/2023 is has been passed in a post haste and arbitrary manner.
- F- That in the presence of permanent NOC, which was issued in 2013, the Director Elementary & Secondary Education KPK, Peshawar declared the deputation under wedlock policy period of the petitioner as unauthorized absence and considered terminated, which is against the law and facts.
- G- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- H- That the action of the respondents is discriminatory and against the norms of natural justice, therefore not tenable in the eye of law.
- I- That under Article 38 (e) of the Constitution of Pakistan, 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan, therefore in light of the above mentioned Article the appellant is fully entitle for re-instatement.

J- That no show cause notice has been issued before issuing the impugned appellate order dated 19/04/2023.

- K- That no chance of personal hearing/defense has been provided to the appellant before issuing the impugried order.
  - L- That impugned appellate order dated 19/04/2023 issued by the respondents in arbitrary and mala fide manner, therefore, the same is not tenable in the eye of law and liable to be struck down.
- M- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated:

Through:

**UMAR FAROOO MOHMAND** 

APPELLANT

WALEED ADNAN

1 5 MAY 2024

**MUHAMMAD AYUB** 

**ADVOCATES HIGH COURT** 

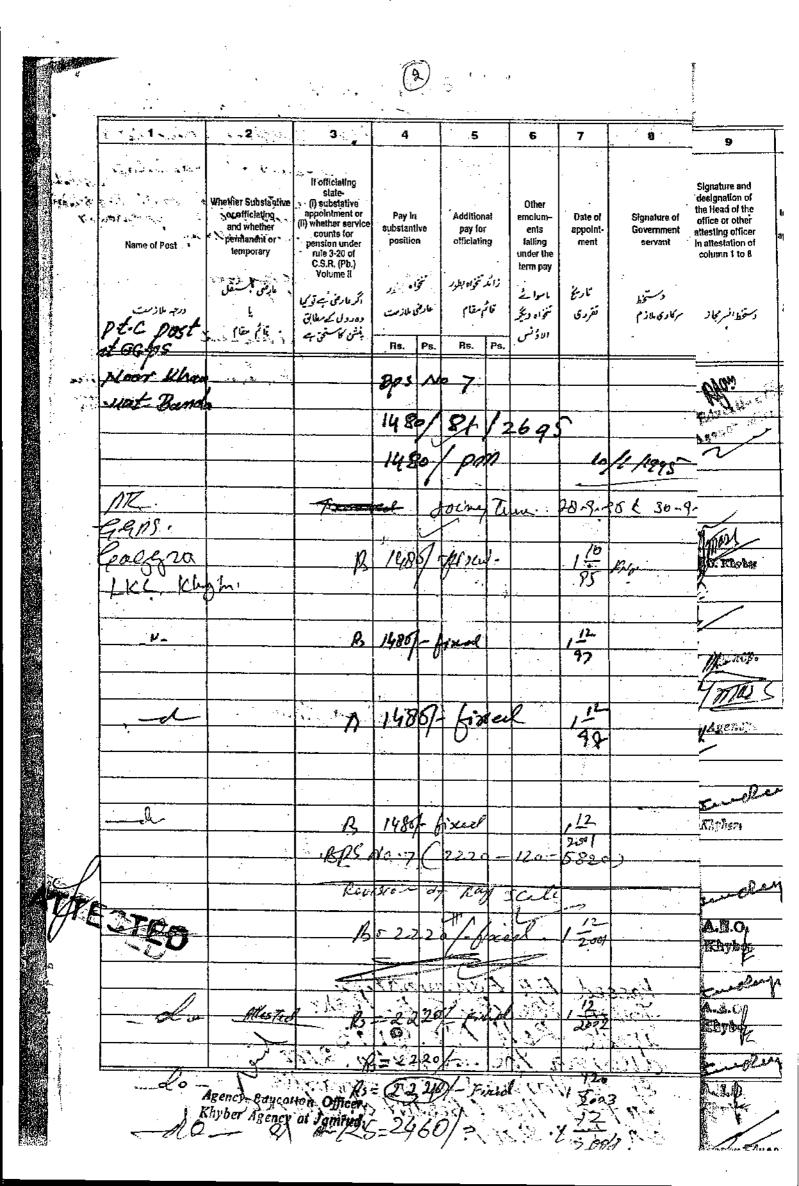
DEPONENT

## AFFIDAVIT

I, Mst: ZAjhida Khanum Aftab, W/o Aftab Hussain R/o House No 229, Mohallah Jogan Shah, Peshawar, do hereby solemnly affirm and declare on Oath that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.



منعم المراجع المحصور المحصور المراجع ا المراجع 14 m (10) Miss. Zalida Khamum 1. Name allistan munst 2. Nationality and Religion \_\_\_\_\_\_ 3. Residence ( Though Lapat dood hous No 3 4. Father's name and residence A. Abdundu Hafi Manste Poshowar 5. Date of birth by Christian era as 10/12/19/19/19 (TemD-C-14H- am nearly as can be ascertained Siarie (الرياني مان التري) nearly as can be ascertained fivensfeet 6. Exact height by measurment \_ 7. Personal-mark of identification <u>Black Male Rit Ample</u> 8. Left hand/right hand thumb and finger-impressions of (Non-gazetted officer) ار مرد کی صورت می با میں اور طورت کی صورت میں دافیں با تھ کی انگلوں سے فشا نامت ) Little Finger Ring Finger ( المعلما كما تعرك الجل Middle Finger Thumb (بۇچ). Fore Finger 9. Signature of Govt, Servent ( مرکاری بلازم کے دستخط) Zabiala Kho 10. Signature and designation of the Head of the Office or other Attesting officer وتعهديق كغذه اضربت وستخط اورتهرا Mr. · ● 建制 : > 和 和 Note : The entries in this page should be renewed or re-attested at least every five years adn the signatures in lines 9 and 10 should be dated. Finger prints need<sup>3</sup> not be Unde Roll No. 9193 during the Lethon, 2000 Ef Other ned 464 marks out of 1100 (Sesult declared on 5.1. 2001. M. Agency Education Officer,



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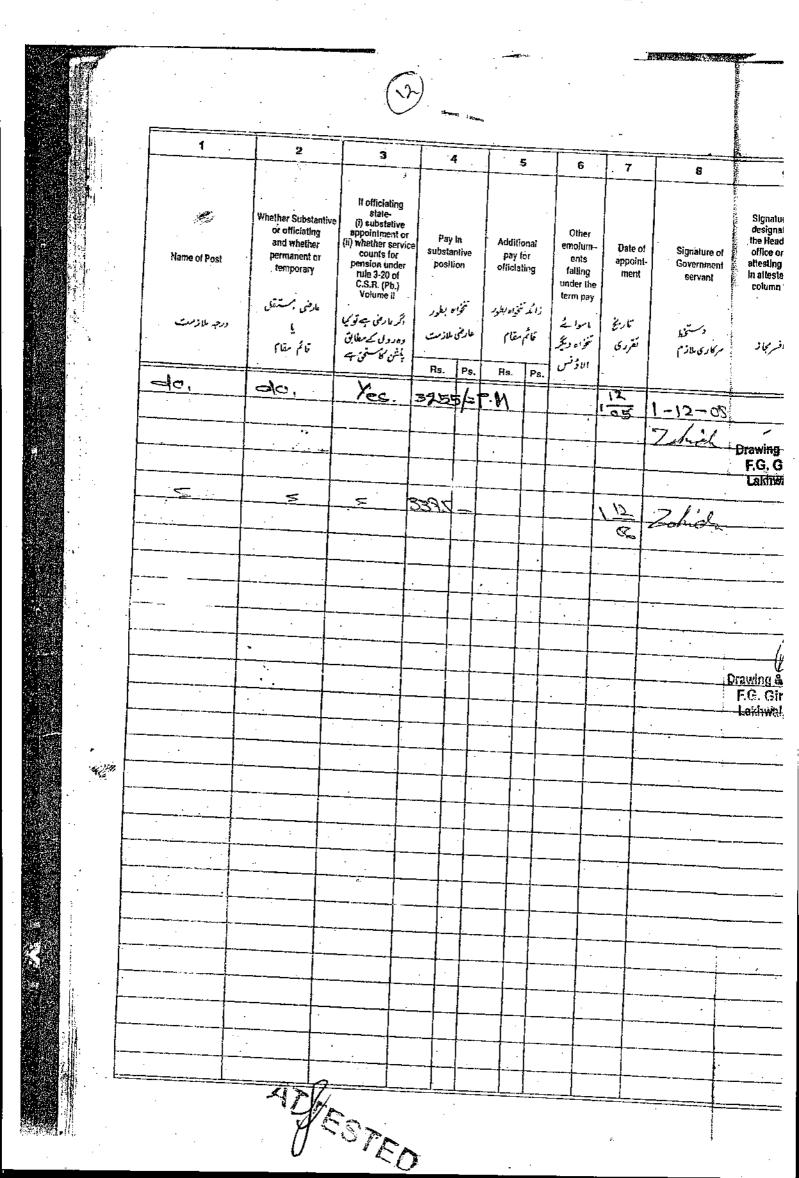
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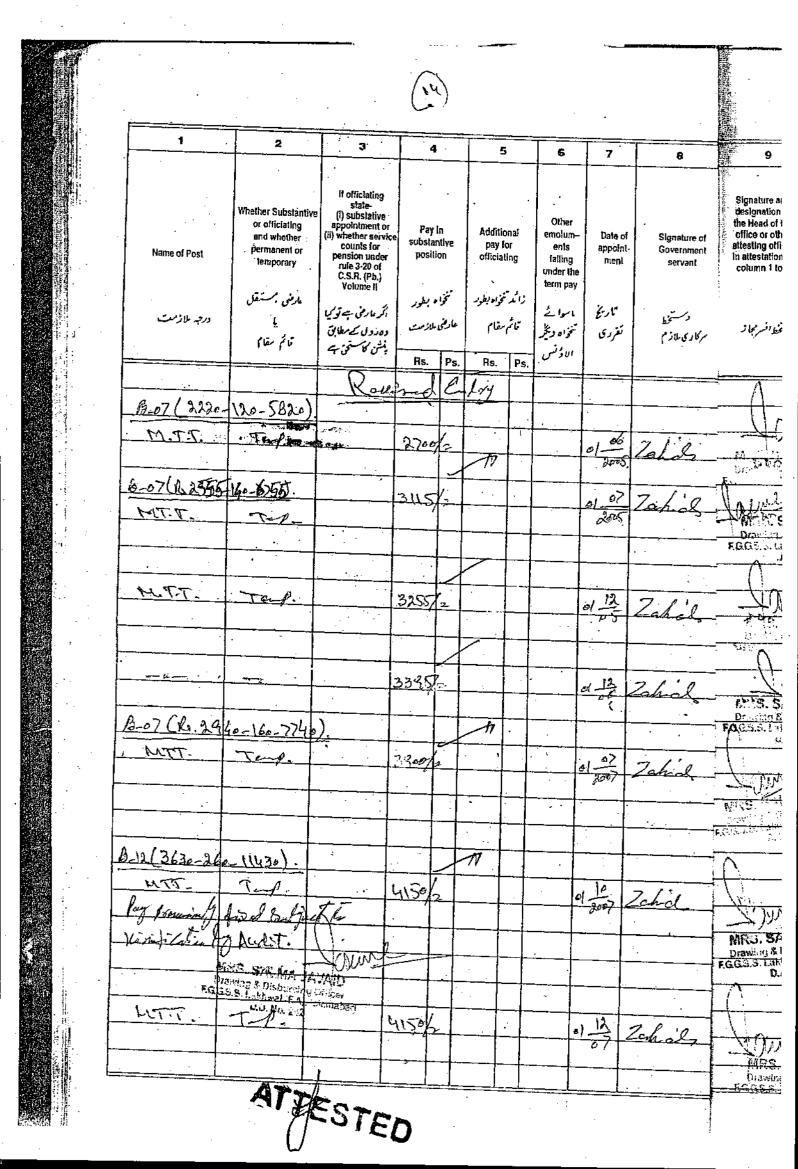
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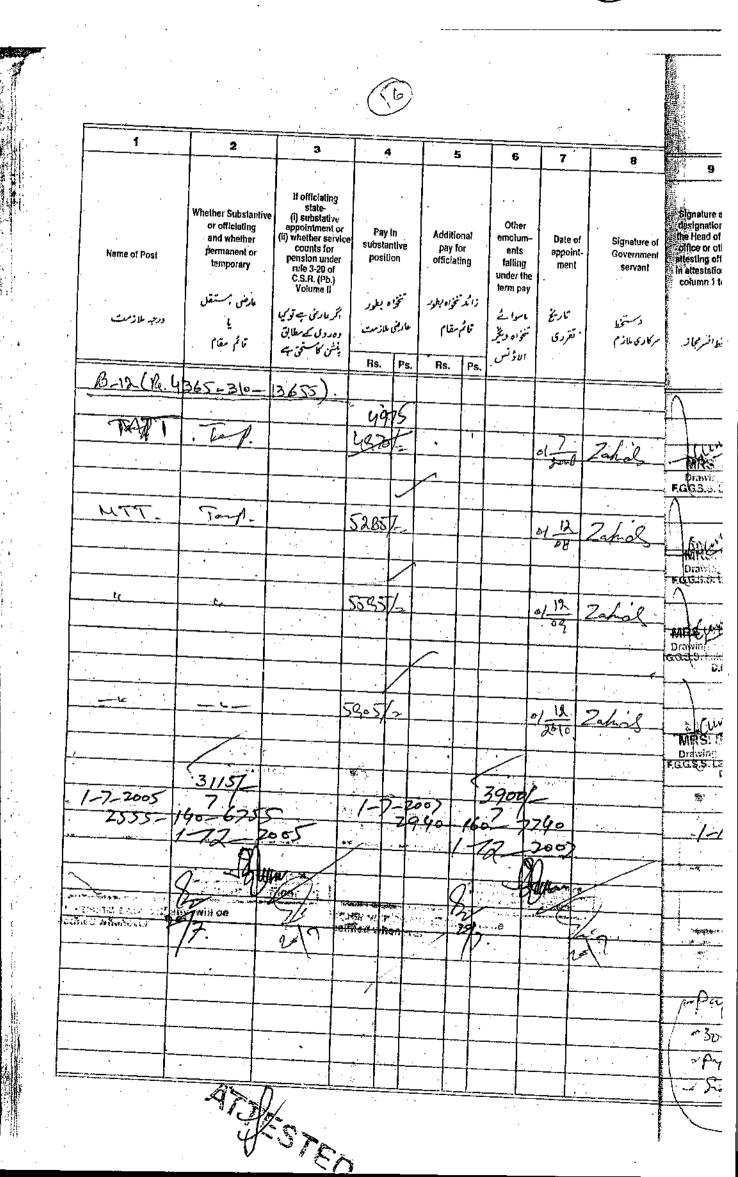
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The account is to be maintained in terms of leave on a average ray. For this purpose, a periods of leave a taken on half or quarter average pay as entered in column 13 should to di by 2 and posted in column;4 In the case of officers who were rubiest to di average by the second seco

In the case of officers who were subject to the Civil Service Regulations Leave Rules before entered the Fundamental Rules, the account should commence with an opening entry in cc 4, 5, 6, 7, 8, 11, 13, 14, 15, 16, 17 and 18. The words "Due on (date of coming undunder Rules) should be write en across columns 1,2 and 3 and against these words, furlough taken under the old leave rul is should be given in column 11 and that under Rule Note (3) (i) (a) in column 13 one-half of the latter being entered in column 11 and 14 [set 4 should be entered in column 8 and 15, respectively, the difference between the entirepeated in column 16, while the entry in column 5 or 7 minus the sum total of the entry. When a Government sum of the sum 17.

When a Government servant applies for leave, columns 1 to 8 should be filled up. Column and 3 should show the Government served under and the period of duly up to the preceding that on which the Government servant intends to go on leave, and column 4 a should each show 1/11th of this period (but see Note 2 below), the sum total of the two er representing the period of leave [i.e., 2/11 the of duty earned under Rule 77 (b) (ii) 3 [see column 16 and the resultant figure should be posted in column 6: similarly to the new entry in column 7. The total of the entires in columns 6 and 7 will be shown in column 8.

If during the period of duty period to a Government servant's going on leave has served under two or more Governments, the period of duty and the le earned under each Government should be shown in separate lines in columns 1 5 and the new entries in column 4 and the last entry in columns 47 should column 7 the total of the entires in columns 6 and 7 being shown in column 8. The sum total of the entires in column 5 inclusion of the

The sum total of the entires in column 5, inclusive of the opening entry mention No.2 should not exceed 21/2 years (Rule 81 (a) (ii) or Civil Services Rules (Pune 8.74 (a) (ii) and no entry should be made in this column when this limit of 2 years is reached.

Where column 1 and 8 have been posted, column 8 will show the maximum amount leave which may be granted in terms of leave average pay [but see Rule 81 (d) of Civil Service Rid (Punjab) 8.74 (d) to a Government servant on the date on which he intends to go on leave maxim amount of leave on average pay which may be granted on that date with medical certificate or out Pakistan will be the sum provided this sum total is overed by the period entires in column8: in the of leave in Pakistan without medical certificate; the maximum will be the last entry in column8: in the d 4 months at a time. The limits of 8 to 4 months may be exceeded as provided in the note fundamental Rule 81 (b) or Civil Services Rules (Punjab) 83 (b)].

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Note 2:

#### AGENCY EDUCATION OFFICE KHYBER AGENCY AT JAMRUD. FORMAL SANCTION.

Consequent upon possessing 10-years qualifying service is hereby allowed benefit of scale BPS No.12 with effect from 1/10/2007 in pursuance of Finance Department letter No. FD/SO(FR) 10-22/2007 dated 26/1/2008 and D.E (FATA) NWFP Peshawar Endst:No. 10207-17 dated 25/5/2008 in respect of Mst. Zahida Khanum, PTC GGPS Gagra Tehsil Landi Kotal Khyber Agency. (Recently working on deputation at F.G Giris Sec: School Lakhwal, (F.A) Islamabad.

Note: - Necessary entry to this effect should be made in her Service Book.

#### (HASHAM KHAN) AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD.

Endsta:No. 6940-43 /Estab:/G-1/F/Khyber

Copy of the above is forwarded to the: -

Khyber Dated Jamrud the 7/12\_/2009

Director of Education (FATA) NWFP Peshawar.

Agency Accounts Officer Khyber Agency at Jamrud.

3. Principal F.G Girls Sec. School Lakhwal, (F.A) Islamabad.

4. Teacher concerned. .

1.

2.

AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD.

STED



No.F.1-9 70 MTT (W) FDE Government of Pakistan Federal Directorate of Education

- Islamabad, the 06<sup>th</sup> April , 2011.

To

The Principal. FGGSS Lakhwal, (FA) Islamabad, <sub>1</sub>

#### Sub: - FIXATION OF PAY.

Lam directed to refer to yoar letter endorsement dated 22.12.2009on the above subject and to inform that Ms. Zahida Khanum (Aftab), MTT (deputationist) was taken on deputation under FDE on 01.06.2005 against the post of MTT (B-09) in her own pay & Grade i.e. BPS-07, now she has been granted scale (B-07) to (B-12) w.e.T01.10.2007 by the Govt, of KPK vide their letter No.6940-43/Stab/G-L/F. Khyber dated 07.12.2009, therefore this Directorate has allowed to fix her pay in (BPS-12) by the AGPR. Islamabad according to her Revised pay Slip.

2. This is issued with the approval of Director Schools (Female)

#### (SAD AMIR KHAN) ASSISTANT DIRECTOR (FEMALE)

Copy forwarded to:

- AGPR, Islamabady
- Person concerned:
- Personal File 1

(RIASAT ALI) ADMN, OFFICER (FEMALE)

ATTASTED

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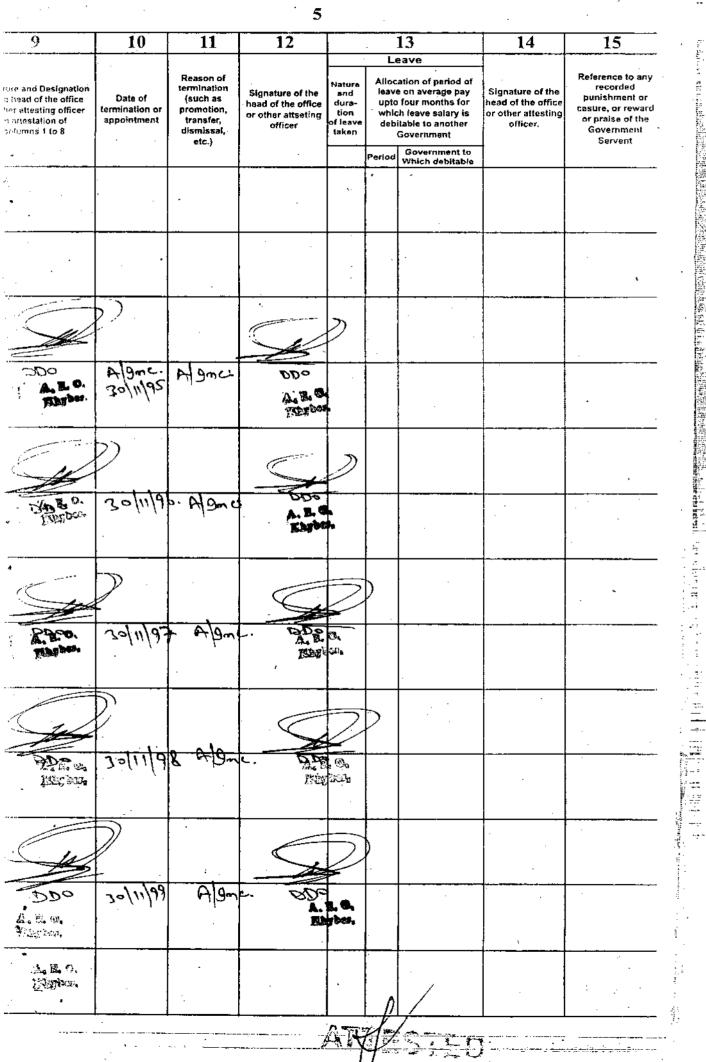
Note: The entries on this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

Miss. Zahida Khamum Name: . Awan Race: Kohat Road, Haji Manshat Residence: Honse = 03 kshama~ Muhamad Abdur Rang 4. Father's name and residence: Tenth Dec, NH Spixty Date of birth by Christian era as nearly as can be ascertained: 10-12-1960) 0\_20 Exact height by measurement: . Black mole Right Angle »D Mouth. Personal marks for identification: 8... Left hand thumb and Finger impression of (Non-Gazetted) officer: Little Finger: - Ring Finger: 2 Middle Finger: Fore Finger: Thumb: Signature of Government Servant: Signature and designation of the 10. Head of the office, or other Attesting Officer.

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rL Tri 249 PD.NWFP.402 8.11.2000(9)/UD1/ LAST PAY CERTIFICATE LAHIY)A IN AFTA Last Pay Certificate of \_ GNNof the. proceeding to KAMIH He has been paid upto わゆり as the following rates:--2460/=1 Particulars: Substantive Pay:-Officiating Payt-Exchange Compensation Allowance: in 1. 1. 1  $\sim 1$ Ch: Allow = GTUTH = 4 Deductions: G.P over charge of noon of ecoveries are to be made from the pay of the Government servant as detailed on the vrese. de has ben paid leave salary as detailed below. Deductions have been made as noted on he reverse. From at Rs a month From. at Rs a month From at Rs a month He is entitled to draw the following: e is also entitled to joining time for . days. details to the Income Tax recovered from him up to the date from the beginning of the ent year are noted on the reverse. Dated 31/5/2005. 1603 tor (4) Gut of Patristan Redoral Gov.

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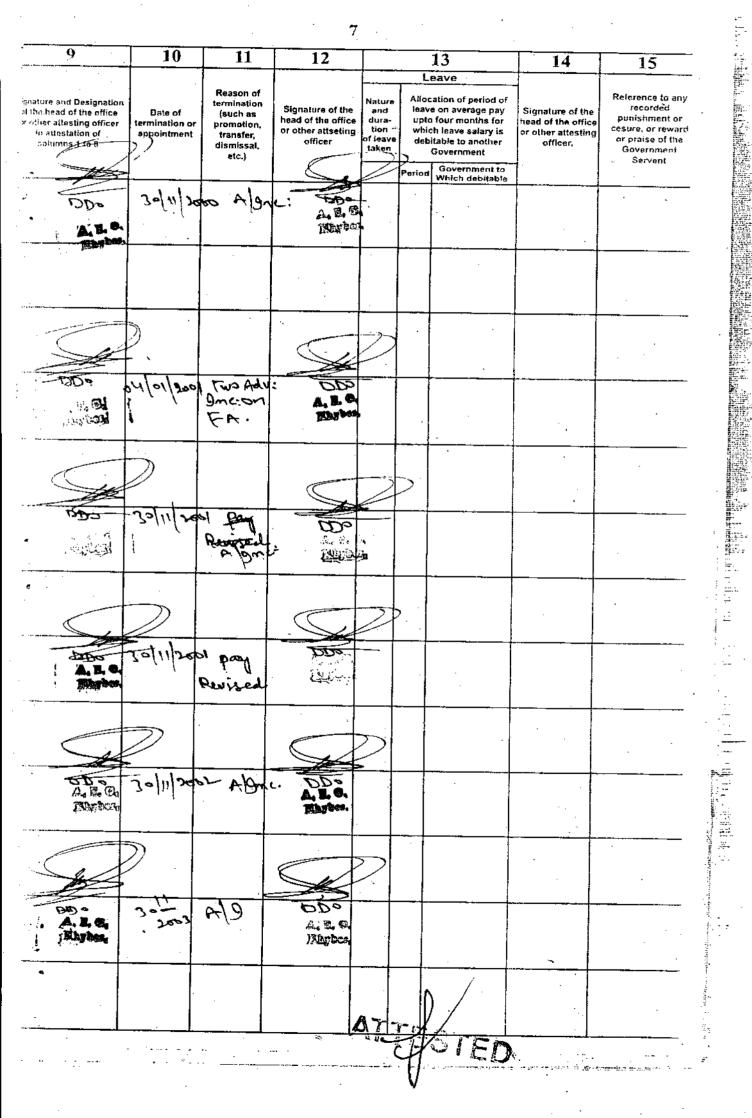
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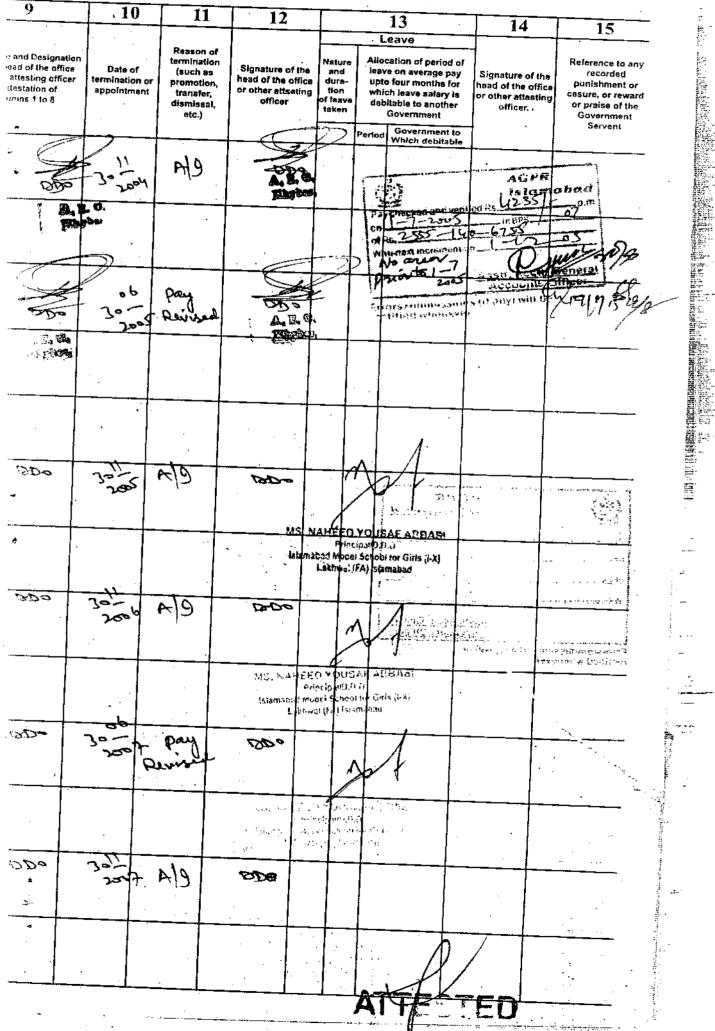
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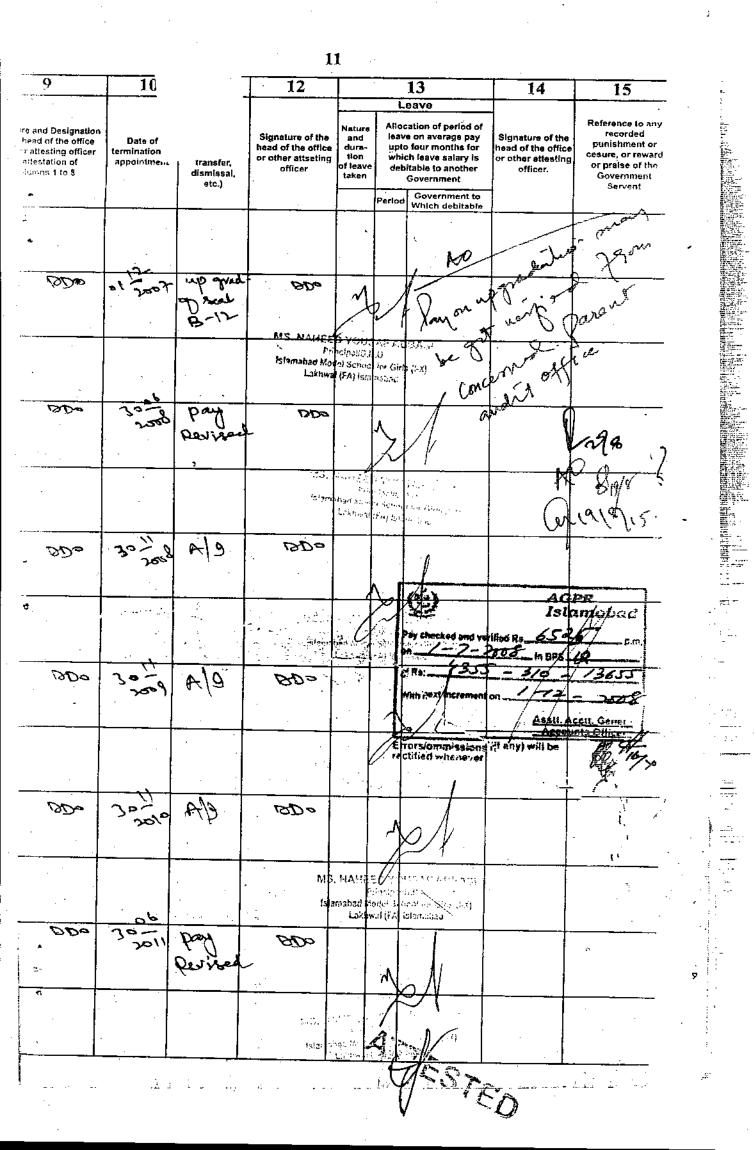
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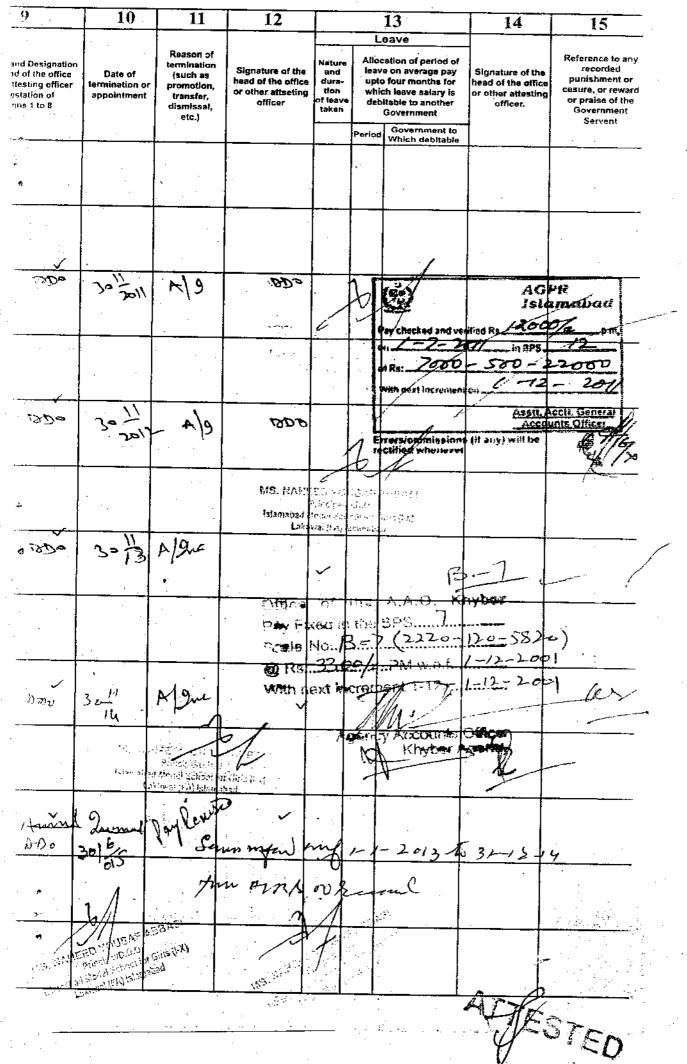
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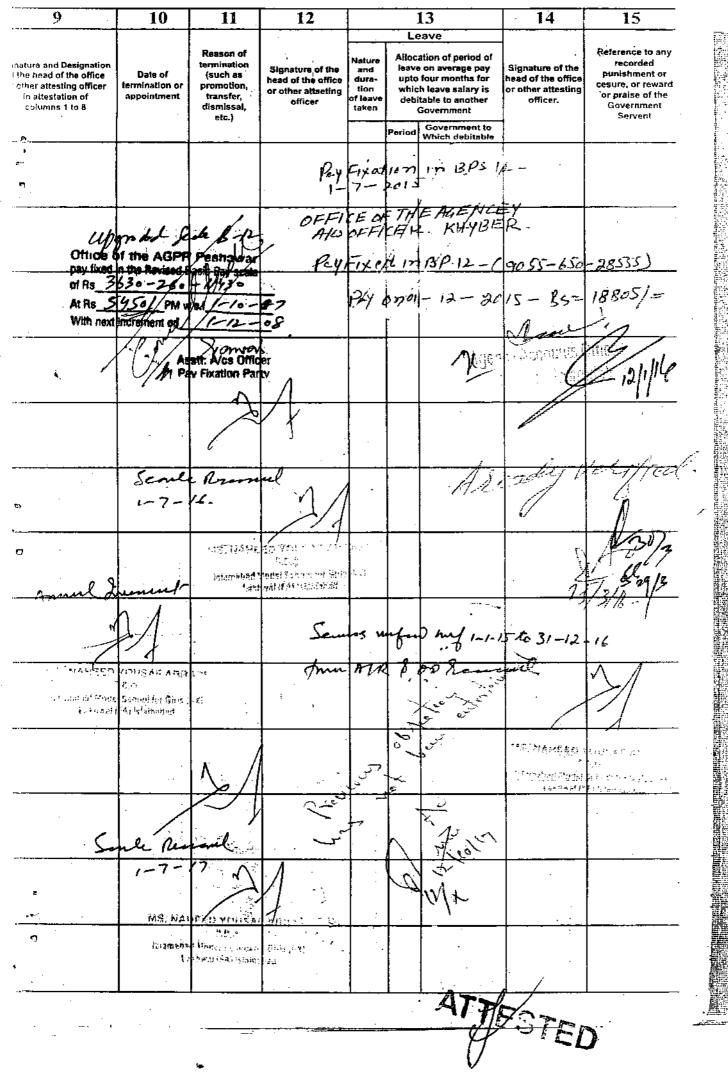
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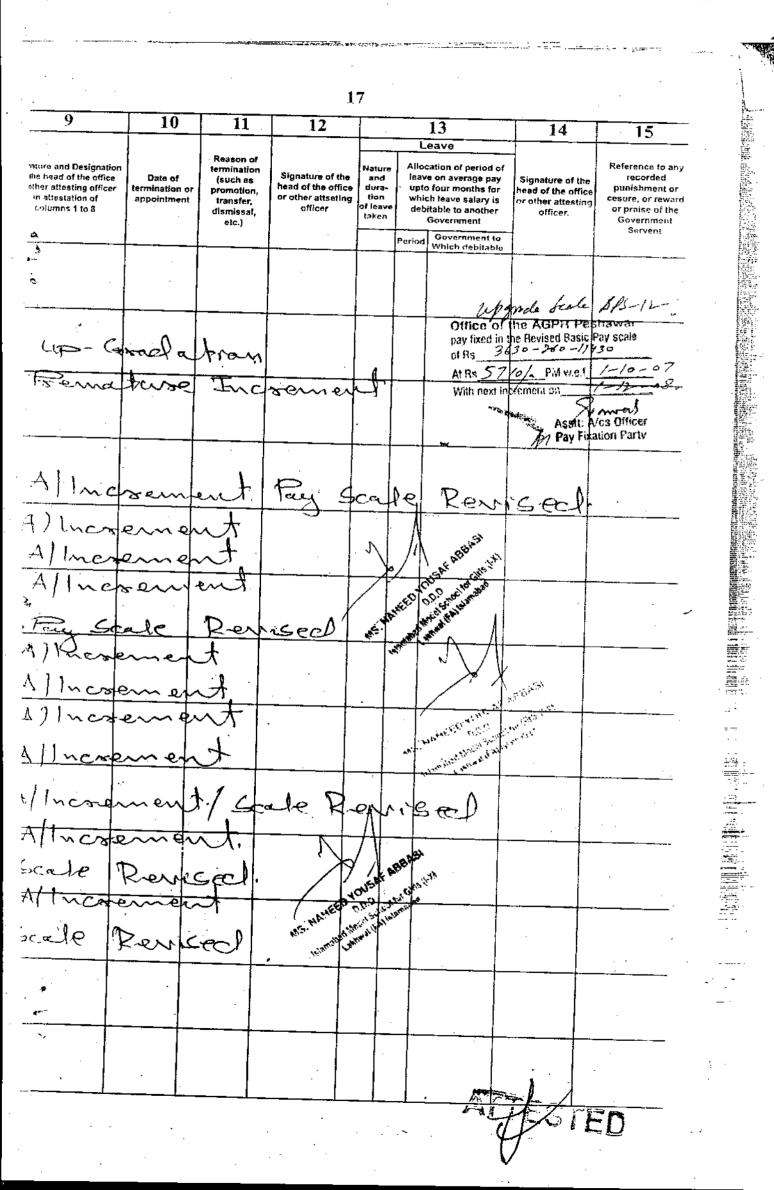


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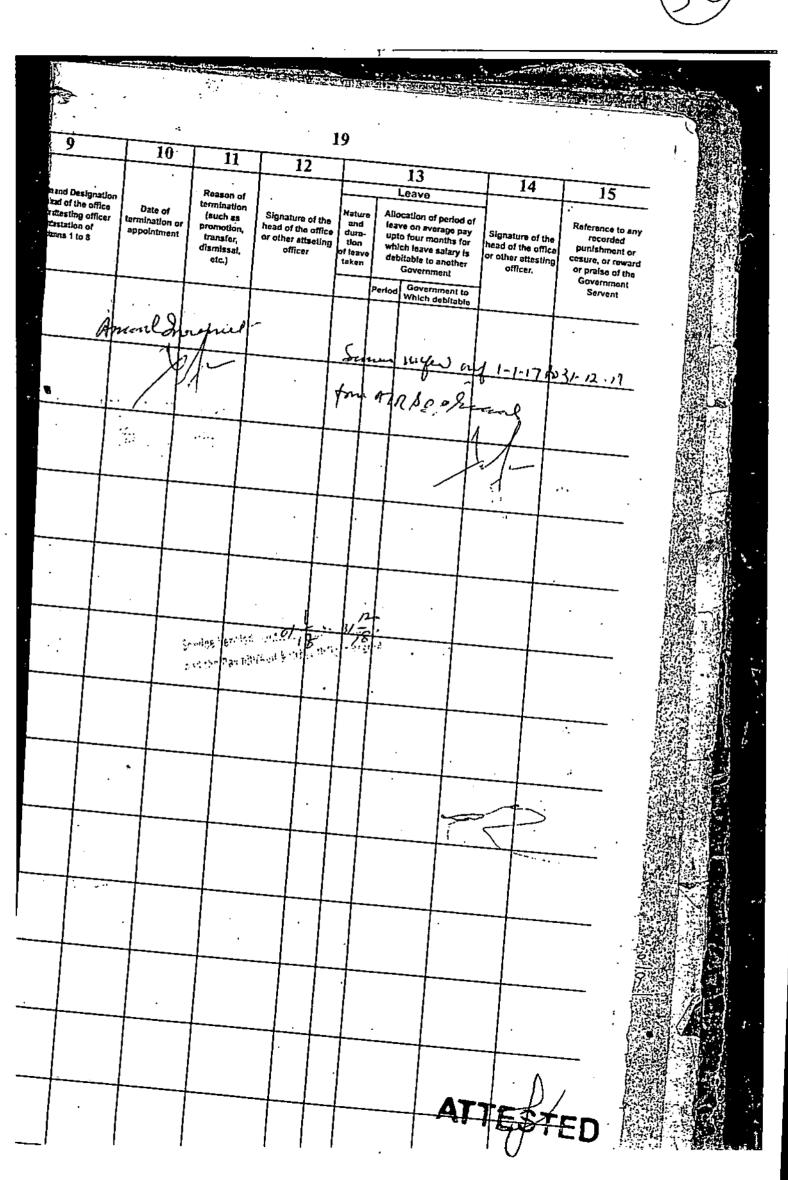


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18 1 2 3 4 5 6  $\overline{7}$ 8 lf officiating, state (i) substantive Whether substan tive or officiating Other (i) substantive appointment, or (ii) Whether service counts for pension under Art. 371 C.S.R. Pay in /bstantive Additional Name of Post nolument falling and whether Date pay for officiating Signature of permanent or temporary. of post under the term"pay" ppointmen Government serv MTT BAZ 30600/2 p.m. 12 <u>Yr</u> Top Ŷ. TINO 066190 Arred Pay 2 All we e1<u>10</u> /ſ Ъ ω 17 პა lens भुरु F D <u>)d</u> <del>, è 3 i</del> 4 δ 6639 SI99 63 2 -- $\hat{\boldsymbol{x}}$  ( s dep Alla 1 Car e) 66420 hist Uni 1.3 5. F 5 Acquin  $(e_1)$ Ы Gapy 175 30 18 06/17 ÷ /.Z\_ Q <u> 160</u> 18 50066678 Aprix EEN alpin -We J' 217 to Area N.M. 7 2019 Ourn *f*∫ ₽ <u>1(1</u> 9000, ..... 5-016 Allen 57/04/2 Ç 1 Ą TED



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The Agenuy Educetion Officer My ar servy at Jamud.

TRANSPER/DE SUTATION. Sup jest !-Manat

Longlosed planse find herewich the phote copies of the letter Hog F. 4-9/2000(7) FIE Geveragent of Enklaten Rederal Directorate of Manation, Islansbad asted 5.5.2005 and were Lund through Soferinary )/Sohools & Literary Septi Not. so(m)/3-2-I w/2005 dated 23.5,2018 with the remarks that she may be related from her duties after asuplation of all codal formilities & her service looks & ifs be hended over.

Eacl:

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To-

Dys Himster of Beusetlan (PATA) N.N.S.P Beshavar

N07435:36 Gnast:

Copy of the above is forwarded to be

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wr. Sirastop (\*aman) Gavernamit of Pakintan Peneral Directorate of Education, Islamabad with rates and to his Not cited about.

Soction Officer (Frimery) Soncels & Literacy Depti WEFP Peanswar w/r to his Nor Atted shawe.

Fronter of diagotion ATA V.

Better Cepy

Directorate of Education (FATA) NWFP No:-Dated Peshawar the 24/05/2005

То

# The Agency Education Officer, Khyber Agency at Jamrud.

# Subject:- TRANSFER/DEPUTATION <u>MEMO:</u>

Enclosed please find herewith the photocopy of the letter No F.4-9/2000(w) FDE Government of Pakistan Federal Directorate of Education, Islamabad dated 05/05/2005 and received through SO (Primary )Schools & Literacy Deptt: No: SO (FE)/5-1 of 2005 dated 23/05/2005 with the remarks that she may be relieved from her duties after completion of all codal formalities and her services book & files be handed over.

Encl:

# Dy: Director of Education (FATA) N.W.F.P Peshawar.

### Endst: No 7435-36

Copy of the above is forwarded to:-

- 1. Dy: Director (Admn) Government of Pakistan Federal Directorate of Education, Islamabad with reference to his No: cited above.
- 2. Section Officer (Primary) Schools & Literary Deptt: NWFP Peshawar w/r to his No: cited above.

Dy: Director of Education (FATA) N.W.F.P Peshawar.

ł

AGENCY EDUCATION OFFICER. KHYBER AGENCY AT JAMRUD.

2005

No Dated

The Deputy Director (W), Govt:of Pakistan Federal Directorale, of Education Islamabad.

Subject : Memo :

please.

Reference your letter No.F.4.9/2000/W FDE. Dated. 05-5-2005.

RELIVING SLIP ON ACCOUNT OF DEPUTATION TRANSFER.

Mst; Zahida Aftab PTC Government Girls Primary. School Gagra Tehsil Landi Kotal Khyber Agency has been transferred on deputation bas of to your respective Education Directorate Vide. Letter No. cited above subject to the condition that.

The Agency Education Officer Khyher Agency at Jamrud has not objection for pasting of Mst: Zahida Aftab to federal Government of Education Department Islamabad on deputation .

using la The Agency Education Officer Knyber Agency will retain her lien whit for the period that the teacher concerned remind to federal side.

3. No disciplinary action is under process pending against the teacher concerned

Consequentially, it is also added, that the above named teacher has been relieved from this Institution today on 24-5-2005; (FN). Further more, she is directed to report your Directorate as soon as possible.

NOTE: The service Book in one part alongwith LPC in respect of the above named teacher are also appended for further process at your end.

> ACENCY EDUCATION OFFICER, KHYBER AGENCY AT JAMRUD 2005.

> > GENCY EDUCATION OFFICER, HYBER AGENCY AFTAMRUD

Endst:No\_\_\_\_\_\_ Dated\_\_\_\_\_ 2005 Copy forwarded to the Director of Education FATA NWFP, Peshawar with reference-to-his-memo:No.7434/DMC/AD\_(W)-Genl dated 24-5-2005 for information

DIRECTORATE OF EDUCATION (F.T.) N.W.F.P PESH.W.R. /.D(W) NO Dated Pesh: the 1/07/2008

To

The Section Officer(FATA) Government of NWFP Education Department, FATA Secretarist, Peshawar.

Subject:-

EATENSION IN DEPUT TION PERIOD OF MST: CHIDA Khenum PTC.

Me mo 👔

I am directed to enclose herewith a photo copy of the application in respect of Mart: Zahida Khanum PTC GGPS Gagra Tehsil Landikotal(Khyber Agency) on deputation to F.G Girls Secondary school Lakhwal(F/A) Islamabed for a period of 03 years wef 01-6-2005 to 01-6-2008.

Now her rejuest for extension in deputation for: two years is submitted for further necessary action, please.

Dy:Director of Education (FAT ) N.W.F.P Peshewar.

Endst: NO\_\_\_\_/

Copy forwarded for information to the gency Education Officer Khyber gency t Jamrud with reference to his letter No: 3553 d ted 7-6-2008.

> Dy:Director of Education (F.T.) N.W.F.P Pesh. W.r.

AGENCY EDUCATION OFFICE KHYBER AGENCY AT JAMRUD. No. 30/3 /Estab:/N-I/Khyber Dated Jamrud the 161 5 12008

The Director of Education, (FATA) NWFP Peshawar

/ici

EXTENSION IN DEPUTATION PERIOD. ubject

Enclosed please find herewith an original application along with other relevant documents in respect of Mst: Zahida Khanam, PTC for extension in deputation period (2-years welf 1-6-2008 to 31-5-2010) and for further necessary action.

AGENCY HUCATION OFFICER

/2008 EXTENSION IN DEPUTATION PERIOD IN Subject:-R/O MST: ZAHIDA KHANUM PTC. No me s I madirected to enclose herewith a photo copy of the application in respect of Mst. Zahida Khanum PTC G.G. P.S. Grgra Tobsil Landi Kotal (Khyber Agency) on deputation to F.G.Girls Secondary School Lakhwal (F/A) Islamsbad for a period of 03-years with offect from 01.06.2005 to 01.06.2008. The above named teacher request for extension for a further period of two years . This Directorate has no bjection in the extension of deputation grade for the above mentioned period. Keeping in view necessary approval to the above effect may please, be granted and conveyed as per rules on an early data please, Encls As Abeve / 16 cm n on Director of Educ FATA, NWFP, Pesh

Endst.To

() cretension () objection

Bol: ъ'n Director of Education FATA, HWFP, Peshgware

GOVERNMENT OF NWPP ELEMENTARY & SECONDARY EDUCATION DEPARTMENT. NO.SO(PE)2-7/FATA Settle Trf.08/Zahida Dated Peshawar the, 19-06-2008

( w/2 -

The Director Eeducation FATA NWFP, Pesawar.

# SUBJECT:- EXTENSION OF DEPUTATION.

To

lam directed to refer to your letter No. 8207 dated 12-6-2008 on the subject noted above and to state that NOC for transfer of Mst. Zahida Aftab PTC GGPS Gagra Landi Kotal Khyber Agency on deputation to the Federal Directorate of Education was issued by the Agency Education Officer at Jamrud and she was also relieved by him to join the FDE. The case may therefore please be processed at your end as NOC for inter provincial transfer of deputation of the lady teacher was not issued by this department.

SECTION OFFICER (PRIMARY)

Most Immediate

(10)

يد آخ ال

#### No.F.1-6/2011-Secy(CA&DD) OFFICE OF THE SECRETARY CAPITAL ADMINISTRATION AND DEVELOPMENT DIVISION

Subject:

<u>D.G.(</u>FDE

REPATRIATION OF DEPUTATIONISTS.

12

A delegation of teachers (deputationists) working in the Federal-Directorate of Education under wedlock policy met the Secretary, CA&DD and conveyed their grievances against their repatriation to their parent departments.

2. The Secretary has directed that till the final decision is taken in the matter, all actions pertaining to their repatriation/relieving should be stopped. Necessary instructions may kindly be issued to all concerned immediately:

(M.B. Tahir) PS to Secretary 21.12.2011

10.st.

Co to JEA (E)

No.F.9-14-DEP/4-57-W/FDE Government of Pakistan Federal Directorate of Education

Islamabad, the 21<sup>st</sup> May, 2012.

To. The

Subject:-

#### Cancellation of Repatriation Orders of Deputationists.

I am directed to refer to the subject noted above and to say that, a photocopy (attested/verified) of attendance sheet during 24-11-2011 to 21-5-2012 in respect of  $\underline{\neg}_{\mathcal{A}}$   $\underline{\neg}$ 

ADMN OFFICER(Female)

RIASAT ALD

No.F.9-14-DEP/4-57-W/FDE Government of Pakistan Federal Directorate of Education

Islamabad, the 21st May, 201

Τo. The

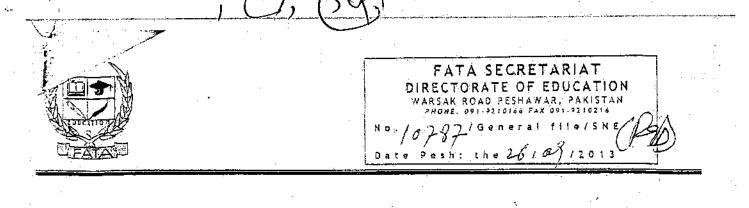
Sector P

Subject:-

## Cancellation of Repatriation Orders of Deputationists.

I am directed to refer to the subject noted above and to say that, a photocopy (attested/verified) of attendance sheet during 24-11-2011 to 21-5-2012 in respect of <u>Zaduidan</u> <u>Markovan</u> <u>Markovan</u> may be furnished to this Directorate immediately for further necessary action in the matter please.

(RIASAT ALI ADMN OFFICER (Female)



The Agency Education Officer, Khyber Ågency.

# Subject:- ISSUANCE OF NOC

. To

Memo:-

Lam directed to anclose herewith letter from Deputy Director School Federal Directorate Islamabad on the above noted subject and to ask you to issue NOC in favour of Ms. Thida Khanum PTC Govt. Girls Primary School Gagra Landi Acceltate per rules under intimation to this Directorate.

Additional

(Estab:

-Director



AGENCY EDUCATION OFFICE KHYBER AGENCY AT JAMRUD. PHONE.091-5820584 FAX 091-5820584

M-1/F/KHYBER

\_\_2013

6290

DATED 1/10/2013



NO.

The Dy. Director Schools(Female) Federal Directorate of Education, Govt:of Pakistan Islamabad.

Subject

#### NO OBJECTION CERTIFICATE

<u>Memo:</u>

Ţο

Reference Director Education FATA letter No.10787 Dated 26/9/2013, this office has no objection on the permanent absorption of her post under Federal Directorate of Education Islamabad in respect of Mrs.Zahida Khanum D/O Muhammad Rauf ,PTC Govt: Girls Primary School Gagra Landi Kotal Khyber Agency.

ENCY EDUCATION O

KHYBER AGENCY AT JAMRU

Endst: No\_\_\_\_\_dated\_\_\_ Copy of the above is forwarded to the:

1. Director Education FATA at Peshawar

2. AAEO Female concerned

5. Official concerned.

NS. VAHEED YOUSAFABBACKHYBER AGENCY AT JAMRUD. Islamabad Model School for Girls (121) Lakhwal (FA) Islamabau

No.F.1-9/39-MTT(D)FDE Government of Pakistan Federal Directorate of Education ....

Islamabad, the 30th June, 2020.

#### **OFFICE ORDER**

Consequent upon her own request, Ms. Zahida Aflab (Khanam), Primary School Teacher (PST), Govt. Girls Primary School, Gagra, Tehsil Landi Kotal, District Khyber. Agency presently serving on deputation basis in Islamabad Model School for Girls (I-X), Lakhwal (Federal Area), Islamabad under Federal Directorate of Education, Islamabad is hereby repatriated to her parent department with immediate effect.

2.

3.

She stands relieved from her duties at once.

This issues with the approval of Director General (FDE).

Copy to:-

- AGPR, Islamabad.
- > District Education Officer, Khyber Tribal, District Jamrud with reference to their letter No.11434, dated 08.11.2019.
- > Director, Elementary & Secondary Education Department, Govt. of KPK, Peshawar.
- APS to DG (FDE), Islamabad.
- > Area Education Officer, Sector Bhara Kau, FDE, Islamabad.
- Principal, IMSG (I-X), Lakhwal (F.A), Islamabad.
- Lady teacher concerned,

Personal file.

Muhammad S Admn. Officer (HR-II F)

(Ali Azhar) Asstt. Director (HR-II F):

ISLAMABAD MODEL'SCHOOL FOR GIRLS (I-X) LAKHWAL (F.A) ISLAMABAD

62

#### **Rellving Report**

**1.NAME OF GOVT SERVANT** 

2.DESGNATION

3. DOMICILE

4.QUALIFICATION

**5.DATE OF BIRTH** 

**6.SCALE OF PAY** 

7.DATE OF APPOINTMENT GOVT SERVICES

8. DATE OF APPOINTMENT F.G SERVICES

9.DATE OF Reliving

10.HOUR OF Reliving

11.REASON FOR TRANSFER

**12.INSITUTION FROM/ TO WHICH TRANSFER** 

**14.REFERENCE OF OFFICE ORDER NO.& DATE** 

0/NO 1381/IMSGL/2020

<u>COPY TO FORWORD ::</u> 1.THE DEPUTY DIRECTORIFEMAILIF, D.E. ISLAMABAD 2.THE AGPR ISLAMABAD 3.THE HEAD OF INSITUTION TO WHICH. 4.PERSONAL FILE 5.PERSONAL CONCERNED 6.AEO BARA KHU ISLAMABAD <u>10.12.1960</u> `<u>BPS -12</u> `'

ZAHIDA KHANAM

N.W.F.P (PESHAWAR)

- PST(B-12)

B.A. C.T

<u>09.01.1995</u>

01.07.2020

FORE NOON

PREVIOUS DEPARTMENT

I.M.S.G (I-X) LAKHWAL IBD TO

GOVT.G. P SCHOOL GAGRA TEHSIL LANDI KOTAL

F-1-9/39- MTT (D)FDE

DATED 30.06.2020

112.1. 1.

DATED

Lathwat (FA) Istanabal

J, 63

A Manadara I Jacobin A

District Education Office Tribal District Khyber at Jamrud Phone. 091-5820023 Fax 091-5820023

Dated 2020

عمرة ما في بين مار فرمان أبليتن

Director Education (Merged Areas) E&SED KP at Peshawar.

# ubject: DEPUTATION PERIOD

Memo:

Τo

Reference your office letter No.3972/E-6/Deputation Mrs. Zahida Aftab PST Dated:6/12/2020 on the subject cited above

Enclosed please find herewith a reply in r/o Mrs Zahida Aftab PST GGPS Gagra Landi Kotal District Khyber for further consideration and necessary action please.

> District Education Office Tribal District Kilyber at Jamrud



District Education Office Khyber Tribal District at Jamrud Phone, 091-5820265 Fix 091-5820265

Τ'n

Mst, Zahida Aftab PST GGPS Gagra Landi Kotal District Khyber

#### Sub: - DEPUTATION PERIOD.

Memo:-

You one Mst. Zahida Aftab PST GGPS Gagra Landi Kotal informed you through this memo to justify your deputation period as per letter by Director of Elementary & Secondary Education Kbyber Pakhtunkhwa Peshawar letter No. 3072/E-6/Deputation Mrs. Zahida Aftab PST dated 6/7/2020.

21301

Dated 20/10/2

No

Copy attached.

Endst:No:

Copy of the above is forwarded to:

1. Director of Elementary & Secondary Education KPK at Peshawar.

Date

KHYBER TUBA

2. ADEO Jamrud/Landi Kotal District Khyber.

DISTRICT EDUCATION OFFICER KILYBER TRIBAL DISTRICT AT JAMRUD

DISTRICT EDUCATION OFFICER

10/22

SISTRICT AT JAMRUD

10/2020.

Better Copy

Page No 64

**District Education Officer** Khyber Trial District at Jamrud Dated 20/10/2020

No 21307-

To

Mst: Zahida Aftab PST

GGPS Gagra Landi Kotal District Khyber.

#### Subject:-**DEPUTATION PERIOD.**

MEMO:

You one Mst: Zahida Aftab PST GGPS Gagra Landi Kotal informed you through this Memo to justify your deputation period as per letter by Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar letter No 3972/E-6/Deputation Mrs. Zahida Aftab PST dated 06/07/2020.

Copy attached **District Education Officer** Khyber Tribal District at Jamrud Endst: No dated /10/2020

Copy of the above is forwarded to:-

- 1. Director of Elementary & Secondary Education at Peshawar.
- 2. ADEO Jamrud/Landi Kotal District Khyber.

**District Education Officer** Khyber Tribal District at Jamrud

Directorate of Elementary and Secondary Khyber Pakhtunkhwa Peshawar 091-9210437, 9210957, 9210468 Fax ... 091-9210936 🕬 🖓 - with the state of the state of the state of 2189 /F.No.E-6/IPT/Mst Zahida Aftab PST No. Oated Τa The District Education Offi Khyber, 110 Subject-DEPUTATION PE Memo:-I am directed to refer to the subject noted above and to enclose herewith a copy of application alongwith the enclosure in respect of Mat Zahida Aftab PST GGPS Gogra Tensil Landi Kotal District Khyber for information/report please. Encls: A.A Deputy, Director, (Estt.) Merged Areas Dated Pesh: the Endst: No. \_ Copy IO:-1. PA to Director, E&SE, KPK Peshawar. Deputy Director (Est) Merged Areas

justification.



District Education Officer District Khyber at Jamrud

Subject. DEPUTATION PERIOD

R/Sir,

To

Reference your office letter No.21307 dated: 20/10/2020 on the subject cited above

It is submitted for your kind information that the undersigned is asked for justification of her deputation period beyond five years through the above reference letter. The undersigned has only a "NOC" for permanent absorption by your kind office (copy attached) in this connection.

It is therefore, requested that the required justification may kindly be asked from the quarter concerned i.e (Federal Directorate of Education Islamabad) and necessary instructions/orders may kindly be issued for retirement on superannuation and its benefits.

Zahich Khier

Mst Zahida Khanam PST GGPS Gagra Landi Kotal District Khyber

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR

AREAR

157



# NOTIFICATION

WHEREAS, Mst. Zahida Allab Khanum joined Education Department on 09-01-1995 at GGPS Noor Khan Kot District Khyber, and served over there till 30-09-1995.

AND WHEREAS, she was transferred to GGPS Gagra District Khyber on 09-10-1995, and served over there till 31-05-2005.

AND WHEREAS, she was relieved of the duty by the Agency Education Officer Khyber to join l'ederal Directorate of Education (FDE)) on deputation w.e.f. 01-06-2005 to 30-05-2008, without the approval of the Competent Authority.

AND WHEREAS, she was neither granted extension in deputation, nor permanent absorption w.c.f01-06-2008, but continued performing her duty over there till 16-06-2020.

AND WHEREAS, she requested to FDE for repartiation to her parent Department, when she was on the verge of retirement, which was honored.

AND WHEREAS, she submitted her application for adjustment at District Khyber against the post of PST with effect from the date of her repatriation vide dated 23-07-2020, which was sent to District Education Officer Khyber for report vide letter No. 2189 dated 10-08-2020.

AND WHEREAS, the District Education Officer Khyber submitted its report vide letter No. 20819 dated 19-09-2020, with the remarks that she availed deputation w.c.f. 01-06-2005 to 31-05-2008 at FDE Islamabad, and then her deputation was extended up to 31-05-2010. Subsequently she was also issued NOC for permanent absorption during 2013 on her own request. However the D.E.O. concerned added that she neither intimated the Department of the status of her permanent absorption or any further extension in deputation.

AND WHEREAS, the Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar (Appellate Authority), after having examined the evidences available on the record, is of the view that she has remained absent for more than five years from her duty in the light of " as provided in section 9 (SI. No.1 (4-c) ) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989:- "After five years of continuous absence, services of a Civil Servant shall automatically stand terminated under FR 18 and Rules 12 of Khyber Pakhtunkhwa Civil Servant Revised Leave Rules, 1981.

NOW THEREFORE, in the light of above mentioned facts, the Appellate Authority has been pleased to declare that the services of Mst. Zahida Aftab Khanum Ex PST GGPS Gagra District Khyber have been automatically stood terminated with effect from 01-06-2008. Furthermore her remaining deputation period is treated as un-authorized, absence.

#### Director

## Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar

Deputy Director (Estab) smentary & Secondary Education hyber Pakhtunkhwa Peshi

/2023

Endst: No. 19108-13 /E-06/Deputation cases of Female teachers. Dated Peshawar the 19 104

Copy forwarded to the:-

1. District Education Officer (F) Khyber.

- 2. District Accounts Officer Khyber.
- 3. Ex PST concerned.
- 4. PS to Secretary to Govt, of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Peshawar.
- 5. Additional Director (Estab) Merged District Khyber Pakhtunkhwa Peshawar.
- 6. PA to Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.

67-A, K.I Amaria Dated: 17/05/2023 То Director Elementary & secondary Education Khyber Pakhtunkhwa, Peshawar. Subject: Departmental Appeal Dear Sir, I hereby submit this departmental appeal to kindly revisit the impugned notification NO.19108-13/E-06/ Deputation cases of female teachers, Dated ... 19/04/2023. Where in my deputation period has been declared as unauthorized absence and my services cannot be terminated automatically in the presence of permanent NOC issued in 2013. Therefore, kindly review the impugned notification and restore my services with all back benefits. Your Sincerely, Zahiel Kho Mrs. Zahida Khanum Aftab PST

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OUR

# PESHAWAR HIGH COURT, PESHAWAR

# FORM OF ORDER SHEET

I

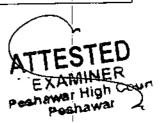
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Order or			ړ ایټاور 📲
Proceedings	2		
<u> </u>	2		J.C.
15.04.2024	<u>W.P No.3843-P/2023.</u>		~~~
		-	
	Present:		
	Mr. Sher Aman, Advocate, for the pe	titioner.	
	Mr. Adnan Ali, AAG, for the respon	dents.	
	****	1	
	SYED ARSHAD ALI, J- Mst. Zahida Khanur	: n Aftab,	
	the petitioner has approached this Court through	instant	
	constitutional petition praying that: -	-	
·	"It is, therefore, most respectfully prayed, that this		
	writ petition, may be accepted and the impugned	i I	
	NotificationNo.19108-13/E-06/Deputation cases of	i	
-	female teachers, dated 19.04.2023, may kindly be set		
	aside and the respondents No.2 & 3 may kindly be		
	directed to restore the service of the petitioner and		
	order may kindly be passed for the release of her		
م رویک منابع	service pension and other benefits as per rules, in		
	interest of the justice.		
	Any other relief which this Honourable Court may	1 :	
	deem fit and proper be also awarded to the petitioner."	: !	
	2. It is averred in petition, that the p	etitioner	
	joined the Education Department on 09.01.1995	and she	
	served in District Khyber as such till 31.05.2005	when her	r,
2	services were borrowed by the Federation on de	eputatior	1
	for a period of three years. The said deputa	tion was	5
	concurred by the Erstwhile FATA Secretariat and	l thus the	
<u> </u>			

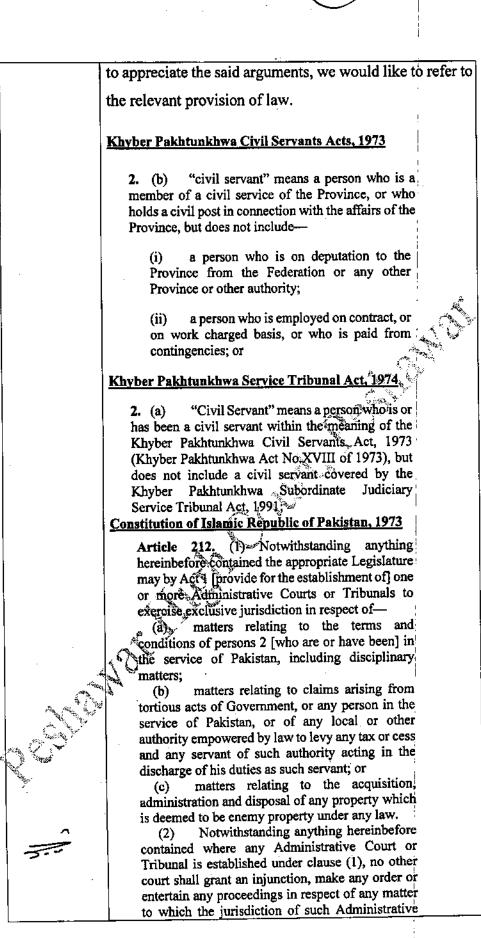


petitioner served the Federation for considerable length of period on the basis of spouse policy. After the completion of deputation period and before her retirement, her services were repatriated to the province and thus the petitioner successfully completed a total service of 25years 11-months and 21-days and thus stood retired on December, 2020. However, the services of the petitioner were then terminated through the impugned letter which is illegal and against the rules.

3. The respondents have filed their comments where besides a preliminary objection to the maintainability of this petition various objections have been raised.

The perusal of the record would clearly show 4. that the petitioner remained a civil servant and admittedly the matter relates to termination of her service which is one of the essential terms and condition of her service. The jurisdiction of this Court to entertain this petition is specifically barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973. When the learned counsel for the petitioner was asked that how this petition is maintainable when admittedly the petitioner remained a civil servant. In reply to the said query, the learned counsel for the petitioner has referred to the definition of the civil servant as provided under section 2 (b) of the Civil Servants Acts, 1973 and has argued that since the petitioner was on deputation to the Federal Government, therefore, she does not fall within a definition of a civil servant. These arguments of the learned counsel for the petitioner are fallacious and ridiculous, however, in order







Court or Tribunal extends 3 [and all proceedings in respect of any such matter which may be pending before such other court immediately before the establishment of the Administrative Court or Tribunal 4 [; other than an appeal pending before the Supreme Court,] shall abate on such establishment]:

Provided that the provisions of this clause shall not apply to an Administrative Court or Tribunal established under an Act of a Provincial Assembly unless, at the request of that Assembly made in the form of a resolution, 1 [Majlis-e-Shoora (Parliament)] by law2 extends the provisions to such a Court or Tribunal.

(3) An appeal to the Supreme Court from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme Court, being satisfied that the case involves a substantial question of law of public importance, grants leave to appeal.

The provision of section 2 (6) of the Civil 5. Servant Acts, 1973 is very clear that only those persons who are on deputation in the province would not be civil servant for the purpose of Givil Servants Acts, 1973, however, in the present case, the petitioner is the permanent member of the civil services of the province; the impugned order was passed by the departmental authority where the petitioner is working and the said order falls within the mischief of terms and condition of service as provided under section 11 of the Khyber Pakhtunkhwa Civil Servants Act, 1973. Similarly, for the purpose of filing an appeal before the Khyber Pakhtunkhwa Service Tribunal, it is evident from the section 2(a) of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 that a person who has remained a civil servant i.e. a retired civil servant may approach the Services Tribunal for enforcement of his/her terms and condition of service. Therefore, we are clear in our mind that in view of the clear bar contained in Article 212 of the



Constitution of Islamic Republic of Pakistan, 1973, this petition is not maintainable, which is accordingly dismissed. However, the petitioner would be at liberty to approach the appropriate forum for redressal of her grievances. Announced 15.04.2024 JUDGE ÚDGE CERTIFIED TO F Pesha Autho the Qa Qano 0 7 MAY 202 4 Date of Presentation of App No of Pages Copying fee inul. Date of Press រីសា ច Ц mane of Beiterry of (+ p) al R. Mr. Justice Syed Arshad All (J) & Mr. Justice Wiqar Ahmad (J) Nedir SS

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# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL Peshawar

/2024

APPEAL NO.

Mst: Zahida Khanum Aftab APPELLANT

### VERSUS

**RESPONDENT** The Edu: Deptt: .....

KNOW ALL to whom these presents shall come that I the undersigned appoint: Umar Faroog Mohmand,

Advocate High Court, Peshawar (herein after called the advocate) to be the Advocate for the Mst: Zahida Khanum Aftab Ex.PST GGPS Gagra District Khyber W/o Aftab Hussain R/o House No 229, Mohallah Jogan Shah Peshawar in the above mentioned case, to do all the following acts, deeds and things or any of them, that is to say ;

- 1) To act and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or execution or in any other stage of its progress until its final decision.
- To sign, verify and present pleadings, appeals, cross- objections , petitions for execution, review , revision, withdrawal, compromise 2) or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of said case in all its stages.
- 3) To withdraw or compromise in the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- To receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress 4) and the course of the prosecution of the said case.
- To engage any other Legal practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate 5) whenever he may think fit to do so.
  - AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the promises.

AND I hereby agree not to hold the Advocate or its substitute responsible for the result of the said case and in consequence of his absence from the court when the said case is called up for hearing

AND I hereby that in the event of the whole or any part of the fee agreed by me to be paid to the Advocate remaining unpaid. He shall be entitled to withdraw from the prosecution of the said case until the same is paid.

IN WITNESS WHEREOF I hereunto set my hand to these presents the contents of which have been explained to and understood by <sup>th</sup> day of May, 2024 me, this

Intedato

Signature/ thumb impression of party / parties.

Accepted By

Umar Faroog Mohmand,

Advocate High Court, Peshawar. Bar Council No:- 14-4822 CNIC No:- 17102-7315460-3 : *Cell No:*-0313-8901647 *Email:* <u>umf7890@gmail.com</u>

Waleed Adnam

Advocate High Court, Peshawar.

Muhammad Ayub

Advocate High Court, Peshawar.