


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 745/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19.07.2024	<p>The implementation petition of Mst. Sumaira submitted today by Mr. Noor Muhammad Khattak Advocate. It is fixed for implementation report before Single Bench at Peshawar on 23.07.2024. Original file be requisitioned. AAG has noted the next date. Parcha peshi given to counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Execution Petition No. 745 /2024
In
Appeal No. 1615/2023

MISS: SUMAIRA

VS

EDU: DEPTT:

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Petitioner
Sumaira

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

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

Execution Petition No. 745 /2024

In

Appeal No. 1615/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 14390

Dated 19-07-2024

Miss: Sumaira, SST (General) (BPS-16)
Government Girls High School, Thano, Swabi

..... **Petitioner**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
- 2- The Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer, (Female) District Swabi

..... **RESPONDENTS**

EXECUTION PETITION UNDER SECTION 7(2)(d) OF THE KP SERVICE TRIBUNAL ACT 1974, RULE 27 OF THE KP SERVICE TRIBUNAL RULES 1974 READ WITH SECTIONS 36 AND 51 OF THE CIVIL PROCEDURE CODE AND ALL ENABLING LAWS ON THE SUBJECT FOR THE IMPLEMENTATION OF THE JUDGMENT DATED 16/04/2024 IN LETTER AND SPIRIT.

R/SHEWETH:

- 1- That the petitioner filed service appeal bearing No. 1615/2023 before this august Service Tribunal against the impugned notification dated 10/04/2023 whereby appointment order dated 25/11/2008 has been disowned.
- 2- That the appeal of the petitioner was finally heard on dated 16/04/2024 and as such the ibid appeal was allowed with the following terms by this august Service Tribunal:

"8. In view of the above circumstances, facts and discussion made herein above the instant service appeal is accepted and impugned order is set aside. Appellant is reinstated into service and case is remitted back to the department for denovo inquiry regarding all the above points within 60 days of the receipt of this judgment. Needless to mention that the appellant shall be provided proper opportunity of defense during the inquiry proceedings. The issue is back benefits shall be subject to the outcome of the inquiry. Costs shall follow the event. Consign." Copy of the consolidated judgment dated 16/04/2024 is attached as annexure.....**A**

- 3- That after obtaining copy of the judgment dated 16/04/2024 the same was submitted with the respondents for implementation of his grievance coupled with an application, but the respondents/ department failed to do so, which is the violation of the judgment supra. Copy of application is attached as annexure.....**B**
- 4- That petitioner having no other remedy but to file this implementation petition.

It is therefore, most humbly prayed that on acceptance of the instant execution petition the respondents may kindly be directed to implement the Judgment dated 16/04/2024 passed in Appeal No. 1615/2023 in letter and spirit. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the petitioner.


Petitioner
Sumaira

THROUGH:
NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

AFFIDAVIT

I, Miss: Sumaira, SST (General) (BPS-16) Government Girls High School, Thano, Swabi, (appellant) do hereby solemnly affirm that the contents of this Execution Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.




DEPONENT

Service Appeal No.1615/2023 titled "Miss. Sumaira versus the Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat Peshawar Peshawar & others", decided on 16.04.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Peshawar.



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... CHAIRMAN
MUHAMMAD AKBAR KHAN ... MEMBER (Executive)

Service Appeal No.1615/2023

Date of presentation of Appeal.....07.08.2023
Date of Hearing.....16.04.2024
Date of Decision.....16.04.2024

Miss: **Sumaira**, SST (General) (BPS-16), Government Girls High School, Thano, Swabi(*Appellant*)

Versus

1. **The Government** of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat Peshawar.
2. **The Director** Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
3. **The District Education Officer (Female)**, District Swabi.

.....(*Respondents*)

Present:

Mr. Noor Muhammad Khattak, Advocate.....For the appellant
Mr. Umair Azam, Additional Advocate GeneralFor respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 10.04.2023 WHEREBY THE APPOINTMENT ORDER DATED 25.11.2008 HAS BEEN DISOWNED AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Brief facts of the case, as enumerated in the memo and grounds of appeal are that appellant was appointed as SST (General) on contract basis vide order dated 25.11.2008; that later on, her services were regularized vide order dated

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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15.01.2020; that an inquiry was initiated against her and subsequently, her salary was stopped without any reason; that feeling aggrieved, she filed departmental appeal, followed by Service Appeal No. 314/2020 during the pendency of which, the impugned Notification dated 10.04.2023, withdrawing the appointment order, was issued.

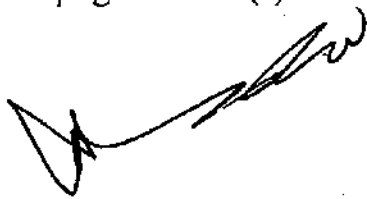
2. Feeling aggrieved of the impugned Notification dated 10.04.2023, she filed departmental appeal, which was not responded, hence, the instant service appeal.

3. Feeling aggrieved of the impugned order dated 12.06.2023, the appellant filed departmental appeal, which was not responded, therefore, the appellant filed the instant service appeal.

4. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense-setup was a total denial of the claim of the appellant.

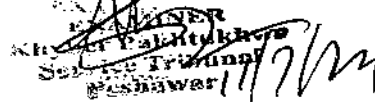
5. We have heard learned counsel for the appellant and learned Additional Advocate General for respondents.

6. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General controverted the same by supporting the impugned order(s).



ATTESTED

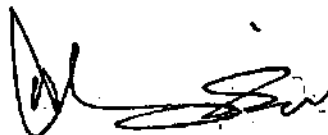
SECRETARY
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

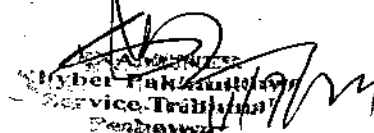


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7. From the record, it is evident that the appellant was serving the Education Department since 2008 as contract employee and allegedly, her services were regularized on 25.01.2010 through Khyber Pakhtunkhwa Regularization Act, 2009. After a deep slumber of more than 14 years, the respondent department initiated inquiry proceedings, which resulted into withdrawal of the appointment order of the appellant, declaring that to be fake and bogus. Admittedly, neither statement of any witness has been recorded nor the appellant has been cross-examined. Just an inquiry report has been submitted by the Inquiry Officer and on the basis of the said report, the appointment order of the appellant was withdrawn. Besides, there is no mention of any official/officer as who had issued the alleged bogus appointment order or who had activated her salary and submitted source form in the Accounts Office allowed her to continue her services, admitted performing of duties. Furthermore, there is also no mention of any facilitator through whom the appellant had got appointment, if at all, her appointment was found to be bogus. Upon query by the bench in this regard, no assistance was provided by the respondents' side.

8. In view of the above circumstance, facts and discussion made herein above the instant service appeal is accepted and impugned order is set aside. Appellant is reinstated into service and case is remitted back to the Department for de-novo inquiry regarding all the above points within 60 days of the receipt of this judgment. Needless to mention that the appellant shall be provided proper opportunity of defense during the

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Service Tribunal
Peshawar

inquiry proceedings. The issue of back benefits shall be subject to the outcome of the inquiry. Costs shall follow the event Consign.

9. Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 16th day of April, 2024.




KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

Muazzam Shah

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 11/7/23
Number of Words 47
Copying Fee 20/-
Urgent 5/2
Total 25/2
Name of Copy _____
Date of Completion 11/7/23
Date of Delivery of Copy 11/7/23

"B" - 7-
Q.E. A

To

The Directress
Elementary and Secondary Education
Khyber Pakhtunkhwa, Peshawar.

70
29/04/2024

Through Proper Channel

Subject: - REPRESENTATION FOR IMPLEMENTATION OF JUDGMENT DATED 16/04/2024
IN SERVICE APPEAL NO:1615/2023 OF KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Respected Madam,

1. It is stated that the applicant was appointed as SST General on contract basis vide order 25/11/2008.
2. That later on Her Services were regularized, vide order dated 15/01/2010.
3. That after a long span of time of 14 years an enquiry was initiated against her on an anonymous letter and her salary was stopped without any reason.
4. That feeling aggrieved, she filed department appeal, followed by Service Appeal No. 314/2022 during the pendency of which, the impugned Notification dated 10/04/2023, withdrawing the appointment order of the applicant was issued.
5. That aggrieved of the impugned Notification, she filed departmental appeal, which was not responded, and therefore, the applicant filed the instant above mentioned service appeal.
6. That the service appeal is accepted by service Tribunal with the direction to the department to reinstate the applicant.

It is, therefore, most humbly requested that on acceptance of this representation, the judgment dated 16/04/2024 of Services Tribunal KP, Peshawar in Service Appeal No 1615/2023 may please be implemented in letter and spirit.

Dated: - 25/04/2024

ATTESTED

Applicant

Sumaira
Sumaira

SST General

GGHS Tano, Distt Swabi

0312-6368744

VAKALATNAMA
BEFORE THE KHYBER PAKHYUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

EP No 12024

Sumaira

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt

(RESPONDENT)
(DEFENDANT)

I/We Sumaira

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. / / 202



CLIENT

ACCEPTED

**NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT**


WALEED ADNAN

UMAR FAROOQ MOHMAND


MAHMOOD JAN

&


**ABID ALI SHAH
ADVOCATES**

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(0311-9314232)