

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 938/2024

In

Service Appeal # 1441/2023

Mst. Nighat ShaheenAppellant.

VERSUS

Govt: of Khyber Pakhtunkhwa & others.....Respondents.

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Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 938/2024

In
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VERSUS

Secretary E&SE Department & Others.....Respondents.

REPLY ON BEHALF OF THE RESPONDENTS NO. 01 & 02.

Respectfully Sheweth,

Khyber Pakhtunkhwa
Service Tribunal

The Respondent humbly submit as under:-

Diary No. 17822

Respectfully Sheweth,

Dated 08-11-24

The Respondents humbly submit as under:-

1. Para-01 is incorrect and denied. The service appeal bearing No. 1441/2023 was filed by Mst. Sonia Nawaz and Mst. Nighat Shaheen was private respondent.
2. Para-02 pertains to the order dated 13-11-2023 render in service appeal No. 1441/2023 whereby the case was remitted to the official respondents for appropriate action/posting, hence needs no comments. It is pertinent to mention here that the Service Tribunal has not rendered any directions regarding retention of the appellant on the post from where he was transferred.
3. Para-03 is correct to the extent that the applicant as well as private respondents were given posting vide order dated 05-12-2023.
4. Para-04 is incorrect and denied. The petitioner was transferred vide order dated 28-08-2024 by the competent authority under the powers conferred under Section-10 of Civil Servant Act, 1973. It is pertinent to mention here that the Service Tribunal has not rendered any specific direction regarding retention of the appellant on the post from where he was transferred. It is further stated that the appellant is not decree holder/judgment holder and has no locus/standi/cause of action to file the instant execution petition.
5. Incorrect and denied. The applicant filed departmental appeal against the impugned order dated 28-08-2024 on 05-09-2024 which is still under process (copy of departmental appeal is at annexure-A). After decision of the departmental appeal or lapse of prescribed period the appellant was at liberty to file service appeal under Section-04 of Civil Servant Service Tribunal Act, 1974 instead of filing of instant Execution Petition. The appellant did not avail the remedies available to her under the relevant law, therefore, the instant Execution Petition is liable to be dismissed.

Prayer:

In view of above, it is humbly prayed that the instant Execution Petition being non-maintainable may kindly be dismissed.

(Faiz Alam)

Additional Secretary (Estab)
E&SE Department
on behalf of
SECRETARY E&SED
(Respondent No. 01&02)

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Execution Petition No. 938/2024

In

Service Appeal No. 1441/2023

Mst. Nighat Shaheen **Appellant**

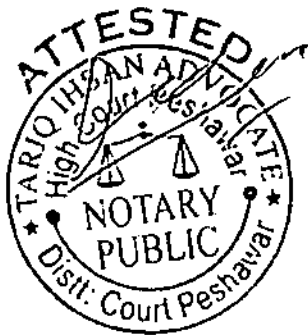
VERSUS

Secretary E&SE Govt. of Khyber Pakhtunkhwa & others..... **Respondents**

AFFIDAVIT

I, **Fiaz Alam**, Additional Secretary (Estab), Elementary & Secondary Education, Department do hereby solemnly affirm and declare that the contents of the accompanying reply of the Execution Petition, submitted by the respondents, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

It is further, stated on oath that in this appeal the answering Respondents have neither been placed ex-parte nor has their defense been struck off.



(Signature)
(Fiaz Alam)
Additional Secretary (Estab)
E&SE Department
on behalf of
SECRETARY E&SED
(Respondent No. 01&02)



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

AUTHORITY LETTER

It is certified that **Muhammad Shah Orakzai, Superintendent (Litigation-II)** Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Peshawar is hereby authorized to submit reply of Execution Petition on behalf of Respondent No. 01 & 02 in **Execution Petition. 938/2024 in Service Appeal# 1441/2023 Case Titled Mst. Nighat Shaheen vs Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar & Others.**


(Fiaz Alam)

**Additional Secretary (Estab)
E&SE Department
on behalf of
SECRETARY E&SED
(Respondent No. 01&02)**



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

Dated Peshawar, the 27-08-2024.

NOTIFICATION

NO.SO(Lit-II)/E&SED/1-5/2021. I, Mr. Masood Ahmad, Secretary Elementary & Secondary Education Department is pleased to authorize Mr. Fiaz Alam, Additional Secretary (Establishment) Elementary & Secondary Education Department to sign parawise comments, replies, implementation reports, objection petitions, civil miscellaneous applications etc on my behalf for submission before various courts of law/tribunals in the best public interest.

(MASOOD AHMAD)
SECRETARY TO THE
GOVERNMENT OF KHYBER PAKHTUNKHWA

Endst: of even No. & date.

Copy forwarded to the:-

1. Chief Secretary Khyber Pakhtunkhwa.
2. Advocate General Khyber Pakhtunkhwa.
3. Secretary Law Department.
4. Registrar Peshawar High Court Peshawar (with one each Spare copy for the Honorable Judges).
5. Registrar Service Tribunal Peshawar (with one each Spare copy for the Honorable Chairman/Members).
6. All Section Officers (Litigation) E&SE Department.
7. PS to Secretary, E&SE Department.
8. PA to Additional Secretary (General) E&SE Department.
9. PA to Deputy Secretary (Legal-I&II) E&SE Department.

Attest

SECTION OFFICER (Lit-II)

2345

(4)

3751 (w/e) f
Date 05-09-2024

To

The Chief Secretary

Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST THE NOTIFICATION
DATED 28/08/2024

Respected Sir!

- 1- That a Service Appeal bearing No. 1441/2023 was filed before the august Service Tribunal, wherein the appellant was made private respondent and the same was contested by her.
- 2- That the ibid service appeal was disposed of as follows:-

*"2. Therefore, we disposed of these appeals by sending the cases of the private parties of these two appeals to the Secretary Elementary & Secondary Education Khyber Pakhtunkhwa for appropriate action at his end, within thirty days from today. (Copy of this order be placed on file of connected appeal No. 1441/2023 titled Noreen Saba Versus Education department)"*consigned.

- 3- That in compliance of ibid judgment dated 13/11/2023, the appellant was transferred/posted as SDEO (F) Tank vide order dated 05/12/2023.
- 4- That surprisingly the appellant was once again transferred and directed to report to the Directorate E&SE Department Khyber Pakhtunkhwa, Peshawar vide impugned order dated 28/08/2024 in utter disregard and violation of the judgment supra.

5- That the appellant feeling aggrieved from the order dated 28/08/2024 is constrained to file the instant departmental appeal before your good-self.

It is therefore, most humbly prayed that on acceptance of this departmental appeal, order dated 28/08/2024 may kindly be set aside in light of the Judgment dated 13/11/2023 passed in Appeal No. 1441/2023.

ASE
GO
DS (E)
Sd (MC)

9/9/24
Deputy Secretary
PS to Chief Secretary
Government of Khyber Pakhtunkhwa Peshawar

OFFICE OF SECRETARY E&SE DEPT
Diary No. 622 Mst. Nighat Saheen
Dated 6.9.2024 (BPS-17) (MC)
SDEO (F) District Tank

29/08/2024
Mst. Nighat Saheen