


Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Implementation Petition No. 800 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	29.07.2024	<p>The implementation petition of Mst. Amina submitted today by Mr. Muhammad Asif Yousafzai Advocate. It is fixed for implementation report before Single Bench at Peshawar on 31.07.2024. 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. 800 /2024  
IN  
SERVICE APPEAL NO.2012/2022

Mst. Amina

VS

Education Deptt etc.


**INDEX**

S.No.	Documents	Annexure	Page No.
1.	Memo of Execution Petition	-----	01-03
2.	Copy of Judgment dated 13.5.2024	- A-	03-07
3.	Copy of application 19.3.2024	- B -	08
4.	Copy of notification dated 17.04.2024.	-C-	09
5.	Vakalat Nama	-----	10

  
APPLICANT

Amina

THROUGH:-

  
(M. ASIF YOUSAFZAI)  
Advocate Supreme Court  
Of Pakistan.

  
(SYED NOMAN ALI BUKHARI)  
Advocate, High Court Peshawar.

  
&  
(HILAL ZUBAIR)  
ADVOCATE PESHAWAR.

Room No.FR-08, 4<sup>th</sup> Floor,  
Bilour Plaza Peshawar Cantt:  
Cell # 0312-9103240

①

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

EXECUTION PETITION No. 800 /2024

IN

SERVICE APPEAL NO.144/2024

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 14566

Date 29-07-2024

Mst. Amina D/o Farhad Khan PST, GGPS No. 1 Pabbi Nowshera.

(APPELLANT)

**V E R S U S**

1. The Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Civil Secretariat, Peshawar.
2. Director Elementary & Secondary Education, Peshawar.
3. District Education Officer (F), Nowshera.

(RESPONDENTS)

**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED 04.04.2024 OF THIS  
HONORABLE TRIBUNAL IN LETTER AND  
SPIRIT.**

.....  
**RESPECTFULLY SHEWETH:**

1. That the applicant/appellant filed Service Appeal No. 2012/2022 in this august Tribunal whereby the appellant prayed for adjusting release of salaries as well as allowing her to perform her duty with respondent department alongwith all back benefits.
2. That the said appeal was finally heard by the Honorable Tribunal on dated 04.04.2024 and the Honorable Tribunal was kind enough ("to set aside the impugned order and the appellant is reinstated into service by treating intervening period as leave of the kind due".) (Copy of judgment is attached as Annexure-A).
3. That the appellant filed application to the competent authority on dated 19.04.2024 for implementation of the judgment of Honorable Tribunal Khyber Pakhtunkhwa, in the above mentioned appeal but the respondent department issued a notification dated 17.04.2024 wherein the appellant was freshly appointed instead of reinstated into service which is totally against the law, facts, norms of justice and material on record and direction given in the judgment . (Copy of the application dated 19.04.2024 & notification dated 17.04.2024 are attached as annexure-B.).

4. That august tribunal has directed the innerving period as "leave of the due kind" but the respondent have not determined such entitlement of leave vies & vies length of service , leave with full pay or half pay admissibility etc . Thus the judgment of the honorable tribunal has not been acted upon in its true letter and sprit .
5. That in-action and not fulfilling formal requirements by the respondent after passing the judgment of this august Tribunal, is totally illegal amount to disobedience and Contempt of Court.
6. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to pass formal appropriate order.
7. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 04.04.2024 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/petitioner.



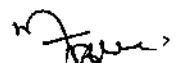
**APPLICANT**

Amina

**THROUGH:**



**(M. ASIF YOUSAFZAI)**  
Advocate Supreme Court  
Of Pakistan.



**(SYED NOMAN ALI BUKHARI)**  
Advocate, High Court  
Peshawar.



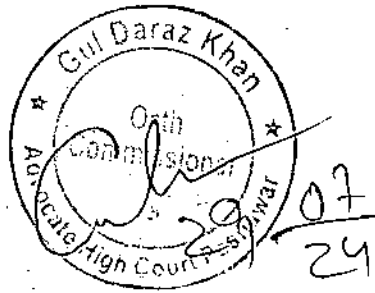
&  
**(HILAL ZUBAIR)**  
**ADVOCATE PESHAWAR.**

**AFFIDAVIT:**

It is affirmed and declared that the content of the execution petition is true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Tribunal.



**DEPONENT**



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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

Service Appeal No. 2012/2022

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN  
MRS. RASHIDA BANO ... MEMBER (J)



Mst. Amina D/O Farhad Khan PST, GGPS No.1 Pabbi, District Nowshera.  
... (Appellant)

**VERSUS**

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

Mr. Kabir Ullah Khattak  
Advocate ... For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney ... For respondents

Date of Institution.....28.12.2022  
Date of Hearing.....04.04.2024  
Date of Decision.....04.04.2024

**JUDGEMENT**

**RASHIDA BANO, MEMBER (J)**: The service appeal in hand has been instituted under Section 4of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the following prayer:

"That on acceptance of this appeal, the appellant may kindly be treated accordance to law and rules by adjusting/releasing her salary as well as allowing her to perform her duty with respondent department alongwith all back benefits."

*R*  
*A. Jai*  
**ATTESTED**

**ATTESTED**  
*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

5

2. Brief facts of the case are that appellant was appointed as Primary School Teacher (BPS-07) and was performing her duty; that allegedly she performed her duty w.e.f 13.04.2010 to 30.09.2010 but she was not paid salary of the said period; that she filed applications for release of her salaries; but no response was made and lastly, in response to her representation, an inquiry was conducted and the inquiry officer in her recommendations submitted that the appellant might be reinstated in service and the period she had not perform her duty, might be treated as leave without pay subject to verification of her educational testimonials (if not verified); that despite the recommendation of the inquiry officer, the grievance of the appellant was not redressed, hence, this appeal.

3. Respondents were put on notice who submitted their comments on the appeal. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that the appellant was a civil servant and had neither been removed nor dismissed. He submitted that no charge sheet/statement of allegations or explanation have ever been served upon her. Further submitted that the appellant was a civil servant but she had not been paid salaries. Therefore, he requested for acceptance of the instant service appeal as prayed for.

5. Conversely, learned Deputy District Attorney argued that the appellant after assumption of charge was disappeared from duty without any prior permission. He submitted that the department had followed the law and rules of the law. Further, submitted that the department had followed all the codal formalities. Lastly, he submitted that the appellant was not legally eligible for her salaries, therefore, requested for dismissal of the instant service

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**ATTESTED**

**ATTESTED**  
*[Handwritten signature]*  
EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

6

appeal.

6. Perusal of record reveals that factum of appointment of the appellant as Primary School Teacher vide order dated 09.04.2010 is not denied by the respondent. Respondent in their reply to Para No.2 of the facts have taken the plea that appellant remained absent from duty without prior permission of the competent authority. Appellant filed application to Director Elementary & Secondary Education, Khyber Pakhtunkhwa, for her reinstatement against the post of PST upon which Sadia Begum, Head Mistress, GGIS Dasi Qadeem, Nowshera, was nominated as inquiry officer, who after conducting inquiry submitted her report wherein she in the finding held that;

- Reason for removal from service is not available anywhere.
- No procedure for removal of service has been adopted nor any record available anywhere in offices.

So, it is held by the inquiry officer that reason for removal of the appellant from service is not available in written and no procedure for removal from service has been adopted nor any record was found available anywhere in office. It means that appellant was removed from service without any fault at her part, that too without adopting any proper procedure i.e. to conduct regular inquiry into the factum of verification of documents or absence as the case may be but she was removed from service upon verbal orders in an arbitrary manner which is unwarranted under the law and rules on the subject. She was condemned unheard and major penalty of removal from service awarded to her.

7. It is a well settled legal proposition, that regular inquiry is a must before imposition of major penalty, whereas in case of the appellant, no such inquiry was conducted. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 has held that in case of imposing major penalty,

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A. [unclear]

ATTESTED  
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EXAMINED BY  
[unclear]  
[unclear]



7

the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice. In absence of proper disciplinary proceedings, the appellant was condemned unheard, whereas the principle of *audi alteram partem* was always deemed to be embedded in the statute and even if there was no such express provision, it would be deemed to be one of the parts of the statute, as no adverse action can be taken against a person without providing right of hearing to him. Reliance is placed on 2010 PLD SC 483.

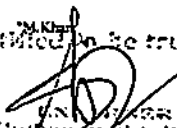
8. For what has been discussed above, the impugned order are set aside and appellant is reinstated into service by treating intervening period as leave of the kind due. Costs shall follow the event. Consign.

9. Pronounced in open court in Peshavar and given under our hands and seal of the Tribunal this 4th day of April, 2024.

  
(KALIM ARSHAD KHAN)  
Chairman

  
(RASHIDA BANO)  
Member (J)

Certified to be true copy

  
Notary Public  
Peshawar

Date of Presentation of Application 18-04-2024  
Number of Words 47  
Copying Fee 20/-  
Urgent 5/-  
Total 25/-  
Name of Case \_\_\_\_\_  
Date of Case 18-04-2024  
Date of Delivery of Copy 18-04-2024

  
**ATTESTED**

(8)

بخدمت جناب چیئرمین صاحب سروس ٹریبونل خیبر پختونخواہ پشاور

درخواست: بعنوان دادپرسی

جناب عالی!

مودبانہ گزارش ہے کہ فدویہ نے بمورخہ 28/12/2022 کو سروس اپیل نمبر 2012-2022 کو داخل کیا تھا اور بمورخہ 4/4/2024 کو عدالت نے میرے حق میں فیصلہ سنایا۔ جس کی کاپی منسلک ہے اور میں نے DEO فیمل میں عدالتی فیصلے کے ساتھ بھرتی کے لئے درخواست جمع کیا تھا اور سابقہ DEO فیمل نو شہرہ میڈم در شیہوار صاحبہ نے میری Appointment order ایشو کیا اور میں نے قانون کے مطابق میڈیکل کے بعد سکول میں اپنے عہدے کا چارج سنبھال لیا جس کی کاپی منسلک ہے۔ جب میں نے تنخواہ کے لئے کاغذات جمع کئے یعنی SDEO through فیمل پی اے آر سال کیا۔ اسی دوران میڈم در شیہوار صاحبہ کی ٹرانسفر ہوئی اور DEO میل شاہ جہان صاحب نے چارج لی اور میری پے ریلیز پر مختلف قسم کے observations لگائیں جو میں نے کٹیر کئے۔ تو DEO صاحب نے میرے کیس پر اگوازی مقرر کی۔ جس کو میل آفیسر کے حوالے کیا۔ جس کی کاپی منسلک ہے۔ مختلف حیلوں بہانوں اور سیاسی مداخلت سے Appointment order کو کینسل کرنے کی کوشش کرتا ہے۔ میں چونکہ فیمل ہوں ایک باعزت خاندان سے تعلق رکھتی ہوں ہر روز دفاتر کے چکر نہیں لگا سکتی۔ اس سے پہلے سروس ٹریبونل میں اپیل دائر کرنے سے پہلے ڈیپارٹمنٹ میں ایک فیمل آفیسر میری اگوازی کراچکی ہے جس کی کاپی منسلک ہے۔ آپ صاحبان کی خدمت میں اپیل کرتی ہوں کہ میری اس اپیل پر جلد روانہ غور فرمائیں اور DEO صاحب کو تحریری طور پر حکم دے دیں تاکہ مجھے سروس ملے اور آئندہ کوئی مسئلہ نہ بنائیں۔ یعنی آپ کی عدالتی فیصلے کو مان لیں۔

بندگی حاجیات دعا گور ہے گی۔

شکریہ!

19-4-2024

عزے

آئینہ

پی ایس ٹی گورنمنٹ گریڈ پرائمری سکول نمبر 1 پی

Attest  
ATTESTED

e  
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OFFICE OF THE  
DISTRICT EDUCATION OFFICER  
(FEMALE) NOWSHERA  
PHONE/FAX NO. 09223-9220105  
Email: [deofemalensr@gmail.com](mailto:deofemalensr@gmail.com)

NOTIFICATION :-

In Compliance with the order of Honorable Service Tribunal Peshawar Passed in Service Appeal No. 2012/2020 titled as: Amina V/S Government of Khyber Pukhtunkhwa E & SE and others the competent authority is pleased to appoint Mst:-Amina D/O Farhad PST GGPS No 1 Pabbi Nowshera Village & PO Pabbi District Nowshera as a PST in BPS-12 (1970-1430-62670) @ Rs.19770/-PM plus usual allowances as admissible under the rules against vacant post at GGPS No.1 Pabbi Nowshera on regular basis under existing Policy of the Provincial Government on the terms & conditions given below :

TERMS & CONDITIONS:

1. The appointment will be subject to the final decision of the Supreme Court of Pakistan
2. No TA/DA etc shall be allowed for joining his/her duties .
3. Charge report should be submitted to all concerned in duplicate .
4. Health and age certificate should be produced from the Medical Superintendent concerned before taking over charge
5. He will be on probation for a period of one year extendable for one another year.
6. The appointee should join their post within 15 days of the issuance of this order positively other wise the appointment shall stand cancelled .
7. He/she will be governed by such rules and regulation as may be issued from time to time by the Government
8. His service shall be terminated on one month prior notice from either side . In case of resignation without prior notice the same shall be forfeited in favor of Government
9. His service shall be terminated at any time . In case his performance is found unsatisfactory during his probation period, in case of misconduct, he shall be proceeded under the rules framed from time to time.
10. Before handing over charge once again his/her documents may be checked if he/she has not the required relevant qualification as per rules. He/ she may not be handed over charge of the post.

(DURE SHAWAR)  
District Education Officer,  
(Female) Nowshera

Endst No. 2287-31 /DEO (F) NSR /Estab/ Appt: of PST Dated 17/04/2024  
Copy of the above is forwarded for information & necessary action to the:-

1. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa.
2. Senior District Accounts Office Nowshera.
3. Superintendent Establishment Branch local office.
4. ADEO Est: Secondary Local Office.
5. Registrar, Peshawar High Court Peshawar.
6. Head Mistress concerned.
7. Mst. Amina D/O Farhad Khan Village & PO Pabbi Nowshera

SPECIAL  
PUBLISHED

District Education Officer,  
(Female) Nowshera

A TESTED

VAKALAT NAMA

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NO. \_\_\_\_\_ /2023

IN THE COURT OF KP Service Tribunal Peshawar

Amina

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Gouti KP

(Respondent)  
(Defendant)

I/We, Amina

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court of Pakistan & Syed Noman Ali Bukhari, Advocate High Court & Hilal Zubair Advocate** 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us.

Dated 29/7/2024

(CLIENT)

ACCEPTED

M. Asif Yousafzai  
(M. ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT,  
OF PAKISTAN.  
(BC No. 10-7327)

& N. Ali Bukhari

(S. NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT,

HILAL ZUBAIR  
Advocate

**OFFICE:**  
Room # FR-8, 4<sup>th</sup> Floor,  
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