Form-A FORMOF ORDERSHEET

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Court of		
Case No	550/2018	

	Case No.	. 550/2018
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
· 1	2	3
1	17/04/2018	The appeal of Mst. Zia Gul presented today by Mr. Muhib
	·	Jan Salarzai Advocate may be entered in the Institution Register
		and put up to the Learned Member for proper order please.
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		REGISTRAR IN IN IN
	19/04/18.	This case is entrusted to S. Bench for preliminary hearing
	(() 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	to be put up there on $30/04)18$.
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		MEMBER
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İ	20.04.2019	Night annual of help 16 is Changellow 2017, 2021, and is
	30.04.2018	None present on behalf of appellant. The Tribunal is h
		retional due to retirement of the Honorable Chairman. Therefore, t
	cas	se is adjourned. To come up for the same on 27.06.2018 before S.B.
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	-	Reader
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	,	

27.06.2018

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Mst.Zia Gul) has filed the present service appeal against the order dated 22.11.2017 whereby the services of the appellant and 4 other teachers were dispensed with on the ground their appointments were illegal, void abinitio and against the prescribed rules.

Appellant Deposited Security & Process Fee Points raised need consideration. The present appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 08.08.2018 before S.B

Member

08.08.2018

Clerk, of Counsel for the appellant and Mr. Kabirullah Khattak, AAG for the respondents present. Written reply by the respondents not submitted. Additional AG requested for adjournment. Adjourned. To come up for written reply/comments on 28.09.2018 before S.B.

Muhammad Amin Khan Kundi Member

28.09.2018

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present and made a request for adjournment. Granted. To come up for written reply/comments on 02.11.2018 before S.B.

Chairman

02.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 18.12.2018. Written reply not received.

READER

18.12.2018

Clerk to counsel for the appellant present. Mr. Arshid Ali ADO present and submitted written reply on behalf of respondents No.1, 2 and 4. Written reply not received on behalf of respondent No.3. Adjourn. To come up for written reply on behalf of respondent No.3 on 24.01.2019 before S.B

า Member

2**\$**.01.2019

Clerk to counsel for the appellant present. Written reply on behalf of respondent No.3 is still awaited. Notice be issued to respondent No.3 with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on behalf of respondent No.3 on 06.03.2019 before S.B.

Member

06.03.2019

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply on behalf of respondents No. 1 & 2 already submitted. None present on behalf of respondent No. 3 nor written reply submitted therefore, notice be issued to respondent No. 3 with the direction to direct the representative to attend the court and submit written reply on the next date by way of last chance. Adjourned. To come up for written reply/comments on behalf of respondent No. 3 on 22.04.2019 before S.B.

(MUHAMMAD ÁMÍN KHAN KUNDI) MEMBER 22.04.2019

Counsel for the appellant present. Addl: AG for respondents present. Written reply on behalf of respondents no. 1,2 and 4 already submitted. None present for respondent no.3 nor his reply submitted, hence, proceeded against ex-parte. Case to come up for arguments on 08.07.2019 before D.B.

Ahmad Hassan)

Member

08.07.2019

Coursel for the appellant present. Mr. Ziaullah, DDA for respondents present. Learned DDA stated that identical nature of appeals have been fixed for arguments on 27.08.2019, therefore, the same may also be clubbed with the same. Allowed. Case to come up for arguments on 27.08.2019 before D.B alongwith with connected appeal.

Member

Member

27.08.2019

Clerk to counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Clerk to counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant is not available. Adjourn. To come up for arguments on 11.11.2019 before D.B.

Member

Member

11.11.2019

Husband of the appellant on behalf of appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Husband of the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 11.12.2019 before D.B.

Member

Member

11.12.2019

Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 14.02.2020 before D.B.

Member

Member

14.02.2020

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Wahid Ullah ADO and Mudassir Litigation Officer present. Learned counsel for the appellant seeks adjournment. Adjourned To come up for arguments on 31.03,2020 before D.B.

Member

Member

31.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 03.07.2020 before D.B.

03.07.2020

Special Attorney for the appellant on behalf of the appellant and Mr. Kabirullah Khattak learned Addl. AG for the respondents present.

A request for adjournment due to indisposition of learned counsel.

Adjourned to 01.10.2020 before D.B.

Member

Chairman

01.10.2020

Counsel for the appellant Addl. AG for the respondents present.

Counsel for the appellant seeks adjournment to prepare the brief. The matter is adjourned to 22.12.2020 for hearing before the D.B.

(Mian Muhammad)

Member (Executive)

17.06.2021

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 08.10.2021 before D.B.

(ATIQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE) (SALAH-UD-DIN) MEMBER (JUDICIARY)

08.10.2021

Counsel for the appellant present. Mr. Kabirullah Khattak, Add. AG for the respondents present.

Since counsel for the appellant in connected appeals is not available, therefore, the appeal at hands is also adjourned. To come up for arguments on 11.11.2021 before the D.B.

(Mian Muhammad) Member(Executive)

hairman

22.12.2020

Mr. Muhammad Irshad Mohmand, Advocate, for appellant is present. Zara Tajwar, Deputy District Attorney, for the respondents, is also present.

Learned counsel representing appellant is willing to argue the appeal however, there are two other appeals in which the counsel are not in attendance today. Simultaneously, addressing arguments in all the three appeals has to be made, since a single order has been impugned therein, therefore, the appeal is adjourned to 10.03.2021 on which to come up for arguments before D.B.

ATIQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE) (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)

10.03.2021 Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Learned A.A.G stated that similar nature cases are pending for hearing on 17.07.2021 before this Tribunal, and requested that the instant case may be adjourned to 17.07.2021. Request is accepted. To come up for arguments on 17.07.2021 before D.B.

(Atiq ur Rehman Wazir) Member (E) (Rozina Rehman) Member (J) 31.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 03.07.2020 before D.B.

eader

03.07.2020

Special Attorney for the appellant on behalf of the appellant and Mr. Kabirullah Khattak learned Addl. AG for the respondents present.

A request for adjournment, due to indisposition of learned counsel.

Adjourned to 01.10.2020 before D.B.

Member

Chairman

01.10.2020

Counsel for the appellant Addl. AG for the respondents present.

Counsel for the appellant seeks adjournment to prepare the brief. The matter is adjourned to 22.12.2020 for hearing before the D.B.

(Mian Muhammad) Member (Executive) Chairman

11.11.2019

Husband of the appellant on behalf of appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Husband of the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 11.12.2019 before D.B.

11.12.2019

Lawyers are on strike on the call of Khyber Pakhtunkhwa Adjourn. To come up for further Bar Council. proceedings/arguments on 14.02.2020 before D.B.

Member

14.02.2020

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Wahid Ullah ADO and Mudassir Litigation Officer present. Learned counsel for the appellant seeks adjournment. Adjourna To come up for arguments on

31.03,2020 before D.B.

Member

22.04.2019

Counsel for the appellant present. Addl: AG for respondents present. Written reply on behalf of respondents no. 1,2 and 4 already submitted. None present for respondent no.3 nor his reply submitted, hence, proceeded against ex-parte. Case to come up for arguments on 08.07.2019 before D.B.

(Ahmad Hassan) Member

08.07.2019

Councel for the appellant present. Mr. Ziaullah, DDA for respondents present. Learned DDA stated that identical nature of appeals have been fixed for arguments on 27.08.2019, therefore, the same may also be clubbed with the same. Allowed. Case to come up for arguments on 27.08.2019 before D.B alongwith with connected appeal.

Member

Member

27.08.2019

Clerk to counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Clerk to counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant is not available. Adjourn. To come up for arguments on 11.11.2019 before D.B.

Member

Member

02.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 18.12.2018. Written reply not received.

READER

18.12.2018

Clerk to counsel for the appellant present. Mr. Arshid Ali ADO present and submitted written reply on behalf of respondents No.1, 2 and 4. Written reply not received on behalf of respondent No.3. Adjourn. To come up for written reply on behalf of respondent No.3 on 24.01.2019 before S.B

`Member

2\$01.2019 Clerk to counsel for the appellant present. Written reply on behalf of respondent No.3 is still awaited. Notice be issued to respondent No.3 with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on behalf of respondent No.3 on 06.03.2019 before S.B.

Member

06.03.2019

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply on behalf of respondents No. 1 & 2 already submitted. None present on behalf of respondent No. 3 nor written reply submitted therefore, notice be issued to respondent No. 3 with the direction to direct the representative to attend the court and submit written reply on the next date by way of last chance. Adjourned. To come up for written reply/comments on behalf of respondent No. 3 on 22.04.2019 before S.B.

(MUHAMMAD ÁMÍN KHAN KUNDI) MEMBER **27.06.**2018

:Learned counsel for the appellant present, Preliminary arguments heard.

The appellant (Mst.Zia Gul) has filed the present service appeal against the order dated 22.11.2017 whereby the services of the appellant and 4 other teachers were dispensed with on the ground their appointments were illegal, void abinitio and against the prescribed rules.

Appellant Deposited Security & Process Fee Points raised need consideration. The present appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 08.08.2018 before S.B

Member

08.08.2018

Clerk of Counsel for the appellant and Mr. Kabirullah Khattak, AAG for the respondents present. Written reply by the respondents not submitted. Additional AG requested for adjournment. Adjourned. To come up for written reply/comments on 28.09.2018 before S.B.

Muhammad Amin Khan Kundi Member

28.09.2018

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present and made a request for adjournment. Granted. To come up for written reply/comments on 02.11.2018 before S.B.

Chairman

Form-A FORMOF ORDERSHEET

Court of		.,
Case No.	 550/2018	

•	Case No.	550/2018
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2 .	3
1	17/04/2018	The appeal of Mst. Zia Gul presented today by Mr. Muhib Jan Salarzai Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.
		REGISTRAR 17/11/19
2-	19/04/18.	This case is entrusted to S. Bench for preliminary hearing to be put up there on 3000 .
		MEMBER.
()	200	
	30.04.2018	None present on behalf of appellant. The Tribunal is no
		e is adjourned. To come up for the same on 27.06.2018 before S.B.
		Reader .
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22.12.2020

Mr. Muhammad Irshad Mohmand, Advocate, for appellant is present. Zara Tajwar, Deputy District Attorney, for the respondents, is also present.

Learned counsel representing appellant is willing to argue the appeal however, there are two other appeals in which the counsel are not in attendance today. Simultaneously, addressing arguments in all the three appeals has to be made, since a single order has been impugned therein, therefore, the appeal is adjourned to 10.03.2021 on which to come up for arguments before D.B.

ATIQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE)

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

10.03.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Learned A.A.G stated that similar nature cases are pending for hearing on 17.07.2021 before this Tribunal, and requested that the instant case may be adjourned to 17.07.2021. Request is accepted. To come up for arguments on 17.07.2021 before D.B.

(Atiq ur Rehman Wazir) Member (E) (Rozina Rehman) Member (J) 17.06.2021

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 08.10.2021 before D.B.

(ATIQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE) (SALAH-UD-DIN) MEMBER (JUDICIARY)

08.10.2021

Counsel for the appellant present. Mr. Kabirullah Khattak, Add. AG for the respondents present.

Since counsel for the appellant in connected appeals is not available, therefore, the appeal at hands is also adjourned. To come up for arguments on 11.11.2021 before the D.B.

(Mian Muhammad) Member(Executive) mairman



11.11.2021

Mr. Mohib Jan Salarzai, Advocate, for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand as well as connected Service Appeal bearing No. 1380/2018 titled "Nighat Seema Versus The Secretary Elementary and Secondary Education Government of Khyber Pakhtunkhwa and three others" and Service Appeal bearing No. 1390/2018 titled "Mst. Shama Begum Versus Education Secondary and Elementary Director Pakhtunkhwa Peshawar and four others", are allowed by settingaside the impugned orders and the matter is remitted to the respondents to conduct regular inquiry into the matter within a period of 90 days of receipt of copy of this judgment. Needles to mention that the appellants shall be associated with the inquiry by providing them fair opportunity of defending themselves. Keeping in view the peculiar nature of controversy in question, no order regarding release of salaries of the appellants could be passed at this stage, which of course would be subject to outcome of the inquiry. Findings in this judgment shall have no bearing upon the criminal case registered vide FIR No. 02/2017 Police Station Anti-Corruption Establishment Charsadda. Parties are left to bear their own costs. File be consigned to the record room.

<u>ANNOUNCED</u> 11.11.2021

(Atiq-Ur-Rehman Wazir)

Member (E)

(Salah-Ud-Din) Member (J)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR:

Service Appeal No. 550/2018

Date of Institution ... 17.04.2018

Date of Decision ... 11.11.2021

Mst. Zia Gül (Drawing Master BPS-15) Wife of Hamayoun Abil Rahman Resident of Mohallah Painda Khel Tehsil & District Charsadda.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar and three others.

(Respondents)

MR. MOHIB JAN SALARZAI,

Advocate *

MS. NAILA JAN, Advocate

MR. KABIRULLAH KHATTAK, Additional Advocate General

Additional Advocate General

MR. SALAH-UD-DIN MR. ATIQ-UR-REHMAN WAZIR (For appellant in Service Appeal No.550/2018).

(For appellants in Service Appeals No. 1380/2018 & 1390/2018).

--- For respondents.

MEMBER (JUDICIAL)

MEMBER (EXECUTIVE)

JUDGMÉNT:

SALAH-UD-DIN, MEMBER:-



Through this single judgment we intends to dispose of instant Service Appeal as well as connected Service Appeal bearing No. 1380/2018 titled "Nighat Seema Versus the Secretary Elementary and Secondary Education Government of Khyber Pakhtunkhwa and three others" and Service Appeal bearing No. 1390/2018 titled "Mst. Shama Begum Versus Director Elementary and Secondary Education Khyber

Pakhtunkhwa Peshawar and four others", as common question of law and facts are involved therein.

- Brief facts as alleged by the appellant in the instant 2. service appeal are that certain posts of Drawing Masters were advertised through newspaper in the year 2006; that as the appellant was eligible and qualified for the said post, therefore, she applied for the same and was properly appointed vide appointment order dated 14.03.2006 issued upon recommendations of the Departmental Selection Committee after fulfilling of all legal and codal formalities; that the appellant was initially posted at Government Girls Middle School Thakot and was later on transferred to District Charsadda vide order dated 27.10.2011; that the salary of the appellant was astonishingly stopped in the month of January 2017, therefore, she filed Writ Petition in the august Peshawar High Court, Peshawar, seeking release of her salary; that vide order dated 14.09.2017, august Peshawar High Court, Peshawar directed the Director Anti-Corruption Khyber Pakhtunkhwa for probe into the matter and to submit his report in the court; that the Director Anti-Corruption instead of submitting his report in the Worthy High Court, straightaway registered FIR against the appellant as well as others, which has been challenged through filing of Writ Petition before august Peshawar High Court, Peshawar, wherein interim relief has been granted and the matter is still sub-judice; that the District Education Officer (Female) District Charsadda did not conduct any departmental inquiry and straightaway issued the impugned office order dated 22.11.2017, whereby the service of the appellant was dispensed with; that the impugned order dated 22.11.2017 was challenged through filing of departmental appeal, however the same was not responded within the statutory period, hence the instant service appeal.
- 3. Precise facts as alleged by the appellant in Service Appeal No. 1380/2018 are that she was appointed as Arabic Teacher vide order dated 01.09.2009 issued by the



competent Authority and she was posted in Government Girls Middle School Gidri Khairabad District Battagram; that the appellant performed her duty with zeal and zest and was later on transferred to Government Girls Middle School Amir Abad Daki District Charsadda; that vide order dated 04.12.2012 the appellant was posted as Arabic Teacher in Government Girls High School Dadu Kally; that upon transfer of the appellant from District Battagram to District Charsadda, District Education Officer (Female) Battagram issued letter dated 09.01.2013, whereby the service as well as Educational documents of the appellant were verified, where-after District Education Officer (Female) Charsadda issued letter dated 16.01.2013 for release of salary of the appellant; that the appellant was receiving her salary, however all of a sudden, impugned order dated 22.11.2017 was issued, whereby service of the appellant was dispensed with; that the appellant challenged the same through filing of departmental appeal, which was not responded, therefore, the appellant filed the instant service appeal for redressal of her grievance.



Briefly stated the facts as alleged by the appellant in Service Appeal bearing No. 1390/2018 are that she had successfully completed/passed the required course of PTC Program in the year 1998 and was subsequently appointed as trained PTC vide order dated 07.05.2003 issued by Agency Education Officer Khyber Agency; that the appellant was posted in Government Girls Primary school Akakhel Bara Khyber Agency and was later on transferred to Government Girls Primary School Pemall Sharif Battagram, where she performed her duty with zeal and zest; that the appellant was then transferred to District Charsadda and served in various schools; that the Educational documents as well as appointment order of the appellant were verified by the concerned officer during her transfer from one school to another; that while serving in Government Girls Primary School Pegham Koroona District Charsadda, impugned order dated 22.11.2017 was issued, whereby the service of the

appellant was dispensed with; that the same was challenged by the appellant through filing of departmental appeal, which was rejected on 29.02.2017 and communicated to the appellant on 05.10.2018, hence the instant service appeal.

- 5. Notices were issued to the respondents, who submitted their comments, wherein they denied the assertions made by the appellants in their appeals.
- Mr. Mohib Jan Salarzai, Advocate, representing the appellant in the instant service appeal has contended that the appellant was properly appointed as Drawing Master by the competent Authority upon approval of District Selection Committee; that the appellant has served in various schools and has rendered services in the Education Department for more than 11 years and was also receiving her salary till illegal stoppage of the same by the respondents in the month of January 2017; that the appellant had filed Writ Petition No. 2028-P/2017 in the august Peshawar High Court, Peshawar seeking release of her salary; that during the proceedings in the aforementioned Writ Petition, august Peshawar High Court, Peshawar referred the matter to Anti-Corruption Department with the directions to probe into the matter and submit its report, however instead of submitting its report, Circle Officer Anti-Corruption Establishment Charsadda directly registered FIR against the appellant as well as others, which has been challenged through filing of Writ Petition and interim relief has been granted to the the departmental Authority has not appellant; that conducted any inquiry against the appellant and has directly issued the impugned order, whereby services of the appellant were dispensed with by wrongly and illegally mentioning in the column of remarks that the same was done in light of judgment rendered in Writ Petition No. 2028-P/2017 because the said Writ Petition was dismissed being infructuous; that no regular inquiry was conducted in the matter and the appellant was condemned unheard; that upon transfer of the appellant to various schools, the

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concerned officers have verified the appointment order as well as service record of the appellant through written letters; that the impugned order being wrong and illegal is liable to be set-aside and the appellant is entitled to be reinstated in service with all back benefits. Reliance was placed on 2004 SCMR 303, 2009 SCMR 412, 2009 SCMR 663, 2011 SCMR 1220, 2004 SCMR 468 and 1997 SCMR 1552.

- 7. Ms. Naila Jan, Advocate, representing the appellants in connected Service Appeals No. 1380/2018 and 1390/2018 has relied upon the arguments advanced by learned counsel for the appellant in the instant service appeal.
- On the other hand, learned Additional Advocate 8. General for the respondents has contended that after a thorough inquiry into the matter, the appointments as well as all record pertaining to the service of the appellants were found fake and bogus; that the appellants were associated in the inquiry and proper opportunity of self defence as well as personal hearing were provided to them; that the inquiry officer has found the appointment orders of the appellants as fake and recommended that FIR may be registered against the appellants and the salaries received by them may be recovered and refunded in the government exchequer; that a proper legal inquiry was conducted into the matter by complying all legal and codal formalities, therefore, the impugned order may be kept intact and the appeals in hand may be dismissed. Reliance was placed on judgments dated 28.01.2019, 09.08.2017 and 13.01.2021 rendered by this Tribunal in Service Appeals No. 540/2014, 161/2014 and 13/2018 respectively.
- 9. We have heard the arguments of learned counsel for the appellants as well as learned Additional Advocate General for the respondents and have perused the record.
- 10. A perusal of the record would show that the appellants have alleged that they were properly appointed upon the



recommendations of Departmental Selection Committee and they had served for so many years in various schools, however vide impugned order dated 22.11.2017, their services were dispensed with without any regular inquiry being conducted by the competent Authority. A bare perusal of the impugned order dated 22.11.2017 would show that the same was not passed in light of any regular inquiry conducted into the matter upon order of the competent Authority. The appellants have allegedly rendered services for considerable long period, therefore, it was incumbent upon the competent Authority to have conducted a proper inquiry into the matter prior to declaring the appointment orders of the appellants as fake. The appellants have not been afforded fair opportunity to defend themselves. The competent Authority has though given reference of court judgments rendered in Writ Petitions No. 2028-P/2017 and 4738-P/2017 in the column of remarks of the impugned orders, however the respondents have failed to produce any such judgments, whereby august Peshawar High Court, Peshawar had ordered for dispensing with the services of the appellants.

In view of the above discussion, the appeal in hand as well as connected Service Appeal bearing No. 1380/2018 titled "Nighat Seema Versus The Secretary Elementary and Secondary Education Government of Khyber Pakhtunkhwa and three others" and Service Appeal bearing No. 1390/2018 titled "Mst. Shama Begum Versus Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar and four others", are allowed by setting-aside the impugned orders and the matter is remitted to the respondents to conduct regular inquiry into the matter within a period of 90 days of receipt of copy of this judgment. Needles to mention that the appellants shall be associated with the inquiry by providing them fair opportunity of defending themselves. Keeping in view the peculiar nature of controversy in question, no order regarding release of salaries of the appellants could be passed at this stage, which of course

would be subject to outcome of the inquiry. Findings in this judgment shall have no bearing upon the criminal case registered vide FIR No. 02/2017 Police Station Anti-Corruption Establishment Charsadda. Parties are left to bear their own costs. File be consigned to the record room.

<u>ANNOUNCED</u> 11.11.2021

(SALAH-UD-DIN) MEMBER (JUDICIAL)

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 55°

/2018

Mst Zia Gul	(Appellant)
	VERSUS
Government of KPK, through	n Secretary Elementary & Secondary
Education KPK & Others	•
	(Respondents)

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Appellant Mst Zia Gul

Through

Mohib Jan Salarzai

M Irshad Mohmand Advocates

High Court Peshawar Cell # 0333-2445986

Office 15-D, Haroon Mansion Khyber Bazar Peshawar

Dated:-/6/04/2018



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtiskhwa Service Tribunal

Diary No. S87

Service Appeal No: 550

/2018

Dated 17/04/2018

Mst Zia Gul (Drawing Master BPS-15) Wife of Hamayoun abil Rahman
Resident of Mohallah Painda Khel Tehsil & District Charsadda
(Appellant)

VERSUS

- Covernment of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education KPK, Peshawar
- J 2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar

Exporty

yid order

pated 22-4-4, 4.

District Education Officer (DEO) District Battagram

District Education Officer (DEO) (Female) District Charsadda

--(Respondents)

Fliedto-day
Registrar
17/4/10

SERVICE APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 22/11/2017 OF RESPONDENT NO.4 WHEEREBY SERVICE OF THE APPELLANT HAS BEEN DISPENSED AND THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED IN STIPULATED PERIOD OF 90 DAYS

PRAYER



On acceptance of this Service appeal the impugned order dated 22/11/2017 passed by the Respondent No.4 may kindly be set aside and the appellant be reinstated to her service along with back benefits.

Any other remedy which this august tribunal deems appropriate may also be granted to the appellant

Respectfully Sheweth:-

The brief facts leading up to the filing of this appeal are as under:-

- 1. That the appellant is law abiding citizen of Pakistan, belonging to respectable family, having education upto Master degree (MA) from Peshawar University. (Copy of Academic Record is attached as Annexure "A")
- That the Respondents advertised some posts of Drawing
 Master in the year 2006 and invited application for eligible
 & qualified candidates wherein the appellant also applied for the same post.
- 3. That the appellant was initially appointed in BPS-9 as Drawing Master (DM) vide appointment letter dated

(3)

14/3/2006 by the Respondent No.3 on the recommendation of departmental selection committee by adopting all the codal & legal formalities and posted as GGMS Thakot where she rendered seven years services to the best of her superior. (Copy of Appointment order dated 14/03/2006 is attached as Annexure "B")

- 4. That from the date of joining of duty the appellant performed her duty with honestly and no complaint has been made by any staff members against the Petitioner till date, it is pertinent to mention here that post of appellant along with others incumbents have been upgraded from BPS-9 to BPS-15 in here.
- 5. That during this period the appellant was posed in various schools and lastly in the year 2010 the appellant applied through Proper channel & made request for transfer from District Batagram to District Charsadda by obtaining NOC from the quarter concerned which was duly granted & approved by the Respondents and consequently the appellant was transferred to District Charsadda vide transfer Order dated 27/10/2011 and since then the appellant was performing her duty in the Supervision of Respondent No.5. (Copy of Post Availability certificate is attached as Annex "C")

- 4
- 6. That thereafter service book and service record of the appellant have been verified by the Respondent No.2 & 4 from the quarter concerned as evidence from the service books & letters. (Copy of verification letters are attached as Annexure "D")
 - 7. That astonishingly in the month of January 2017 the monthly salary of the appellant was stopped by the Respondent No.4 without any legal and lawful reason, therefore the appellant filed Writ Petition No.2028/2017 before the august Peshawar High Court, Peshawar for release of her salary, wherein the Respondents filed their comments and raised objection over appointment order of the appellant. (Copy of W.P No.2028/2017 is attached as Annexure "E")
 - 8. That the Honorable Peshawar High Court Peshawar vide Order dated 14/09/2017 directed the Director Anti Corruption Khyber Pakhtunkhwa to prove into the matter and submit their detail report before the Peshawar5 High Court Peshawar and the case was adjourn. (Copy of Order Sheet dated 14/09/2017 is attached as Annexure "F")
 - 9. That the Director Anti Corruption rather to probe into matter and submit their detail report directly lodged an

(3)

FIR No.2 dated 09/10/2017 under section 218, 409, 418, 419, 420, 468, 471, 474, 477A PPC & 5(2) PC Act of Police Station Anti Corruption District Charsadda and nominated the appellant as accused along with others. (Copy of FIR is attached as Annexure "G")

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- 10. That thereafter the Appellant filed a Writ Petition No.4471/2017 before Peshawar High Court for quashment of FIR, wherein interim relief was granted to the appellant and the case is still subjudice before the Peshawar High Court Peshawar. (Copy of W.P No.4471/2017 is attached as Annexure "H")
- 11. That the Respondent No.4 without conducting any departmental inquiry straightaway issued office order dated 22/11/2017 whereby service of the appellant was dispensed. (Copy of impugned office order dated 22/11/2017 is attached as Annexure "I")
- 12. That thereafter the appellant filed departmental appeal before the Respondent No.2 on 20/12/2017 but the same was not decided within the statutory period. (Copy of Departmental Appeal dated 20/12/2017 is attached as Annexure "J")



13. That the appellant being aggrieved from the impugned office order dated 22/11/2017 and by not responding the departmental appeal within the stipulated period preferred the instant appeal on the following grounds:-

GROUNDS

- A. That the impugned order dated 22/11/2017 of Respondent No.4 is manifestly illegal, unlawful, without lawful authority, vo8id ab-initio, without jurisdiction and ineffective upon the valuable rights of the appellant, hence not tenable and liable to be set aside.
- B. That the appellant has more than 10 years service on her credit and without issuing any show cause notice or conducting any departmental inquiry in the matter with one stroke of pen dispensed the service of appellant in disregard of law.
- C. That the service of the appellant has been dispensed without any solid or authentic evidence regarding the alleged allegation which is totally illegal and not supported by any provision of law.
- D. That the appellant was rightly appointed after due process of law & procedure and served in the department as DM for more than ten years, therefore at this belated stage on such type of fake and frivolous allegation the dispensing of appellant from service is illegal, unwarranted & unjustified.



- E. That the dispensing word from service is alien to service law and that too without conducting proper inquiry provided under the law, the dispensing of appellant from service is illegal, unconstitutional and against the norms of justice.
- F. That before issuing the impugned order no reasons & grounds have been supplied to the appellant nor the appellate authority has been provided any opportunity of hearing before dispensing her from service is amount to condemned unheard which is against natural justice & fair play.
- G. That the Respondent while issuing the impugned order has not only violated the law but also infringed the constitutional rights provided under Article 4, 10A & 25 of the Constitution of Islamic Republic of Pakistan 1973.
- H. That the Appellant is will qualified person and had obtained service through proper procedure duly constituting selection committee, therefore without adopting the proper procedure of inquiry in the matter the dispensing of appellant service is illegal, and unjustified.
- I. That as per the reported judgment of the Apex Supreme Court of Pakistan as well as delivered by this Honorable Service Tribunal and also envisaged in the Constitution of Islamic Republic of Pakistan 1973, no person / official should be condemned without solid reaons, proof of allegation, against the spirit of services law and punishment to the official could

(8)

only be extended if there is any solid proof / clue leading towards the allegation, but in the present case, no complaint whatsoever has been made against the appellant in the long tenure of 10 years service nor any kind of tainted allegation has been mentioned, and only the general allegations without any proof, is nothing but amounts to harassment of the appellant.

J. That any other ground will be raised at the time of final arguments with the permission of the court.

It is therefore prayed that On acceptance of this Service appeal the impugned order dated 22/11/2017 passed by the Respondent No.4 may kindly be set aside and the appellant be reinstated to her service along with back benefits.

Any other remedy which this august tribunal deems appropriate may also be granted to the appellant.

Through

Appellant zia Gul

Mohib Jan Salarzai

¢.

M Irshad Mohmand Advocates

High Court Peshawar

Dated:-/6/04/2018

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

	Service Appeal No:	/2018
Mst Zia Gul		(Appellant)
	VERSUS	
Government of Education KPK 8		Elementary & Secondary
Education Kr K a		(Respondents)

AFFIDAVIT

Rahman Resident of Mohallah Painda Khel Tehsil & District Charsadda do hereby solemnly affirm and declare that all the contents of the accompanied service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honorable court.

DEPONENT

Identified by

MOHIB JAN SALARZAI Advocate

High Court Peshawar

17101-0249744-4



1.7 APR 2018



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

	Service Appeal No:	/2018			
Mst Z	ia Gul	(Appellant)			
	VERSUS				
	ernment of KPK, through Secretary Ecation KPK & Others	Elementary & Secondary(Respondents)			
	ADDRESSES OF PART	TIES .			
	Mst Zia Gul (Drawing Master BPS-15) Wife of Hamayoun abil Rahman Resident of Mohallah Painda Khel Tehsil & District Charsadda(Appellant)				
	VERSUS				
1.	Government of Khyber Pakhtunk Elementary & Secondary Education	•			
2.	Director Elementary & Second Pakhtunkhwa Peshawar	lary Education Khyber			
3.	District Education Officer (DEO) Di	strict Battagram			
4.	District Education Officer (D Charsadda	EO) (Female) District			
Appellant Mst žlá Gul Through Mohib Jan Salarzai Advocate					
Date		ourt Peshawar			

PBR-0046545

Peshawar N.W.F.P. Pakistan

Secondary School Certificate Examination

1992 (ANNUAL) 2486 s. No. **PBR-** 0046545 THIS IS TO CERTIFY THAT ______ 2ia Gul Gul Pasand Son/Daughter of __ Govt Girls High School, Charsadda. and a student of . has passed the Secondary School Certificate Examination of the Board of Intermediate and Secondary Education, Peshawar held in March 1992 388 as a Regular candidate. He/She obtained _____ Marks out of 850 and has been placed in Grade Representing ___ The Candidate passed in the following subjects: 7. Isl. Studies 1. English 3. Islamiyat ~ 5. Gen: Science 4. Pakistan Studies 6. Gen: Mathematics 8. Pashto. 2. Urdu -He/She has been awarded Grade | C | on the basis of internal assessment by the Institution concerned. Seventh September Date of birth according to admission form is _ one thousand nine hundred and Seventy Five (07-9-1975) Secretary -Aśstt: Secretary This certificate is issued without alteration or erasure.

S, No. 292984



Roll No. <u>4246</u>

Peshawar N.W.F.P. Pakistan INTERMEDIATE EXAMINATION Humanities Group SESSION 1994 (SUPPLEMENTARY)



THIS IS TO (CERTIFY THAT	Zi	ia Gul		
Son/Daughter of _		Gı	ul Pasand	· · · · · · · · · · · · · · · · · · ·	
and a resident of _		- Cł	narsadda Dis	strict.	
Registered No. 1	0-в/GCH-92	has p	assed the Interi	mediate Examination	of the
Board of Intermedia	ate and Secon	dary Educ	cation, Peshaw	ar held in December	1994.
as a Private candid	ate. He/She	obtained	499	Marks out of 1100	
and has been place	ed in Grade	D	Representing	" Fair	
the Examination wa	as taken as a w	nhole/in p	parts.	•	

This certificate is issued without alteration of erasure.



GG. No.

o. Board of Intermediate & Secondary Education PESHAWAR

DETAILED MARKS CERTIFICATE

Secondary School Certificate Examination

(GENERAL GROUP)

Session 1999 (Annual/Supplementary)

Father's Name Gent Ma Sand Roll No. 2050

SUBJECT	Total Number of Marks		MARKS OBTAINED
	Allotted	In Figure	/ In Words
1. English	150		
2. Urdu	. 150	/	
3. Islamiyat Comp:	75		Her Halle
4. Pakistan Studies	75		
5. Mathematics	100		
6. General Science	100/		shi l
7. Art	100	83	, M / / / , , , , , , , , , , , , , , ,
8.	100		~
Total	. 850	83/	

This Certificate is issued errors and omission excepted.

Prepared by Checked by:

Controller of Examinations

Board of Intermediate & Secondary Education

Peshawar

Certified that, Zia Gul. Daughter of, Gulfasand.

Certified that, Zia Gul. Daughter of, Gulfasand. of District Charsadda/Swabi has been complited the PFE/84/DM training Course on 30.06.2501, from this college during the session 2000-2001.

thanks

GVOT: COLLEGE FOR ELEMENTARY TEACHERS (FEMALE) CHARSADDA AT RAJJAR.

Sarta; Khan Accountant

0568

Oparimental Examinations Education Deparimental Education Education Education Deparimental Education Edu

Detailed Marks Certificate

Fraining Classes Examination (Drawing Master)

Session 200/ Roll No. 36/

		Maximum	Marks obtained			
	Subject.	" Marks	Internal	External	Total	
1.	Scale, Technical and Geometrical Drawing: Free hand Sketching	100-			52	
2.	Model Drawing	50			4)	
3.	Nature Study	50			10	
1 .	Black Board Sketching	50			39	
5.	Craft	200			155	
6.	Islamiyat	100			4-	
' .	History of Art	100	}	:	53	
3.	Expressional Drawing	50			3	
).	Physical Education	50]	40	
10.	Design	50			38	
1.	Teaching Practice	200			186	
Γot	al A —	1000			73	

Prepared by

Registrar Departmental Examinations Education Department NWFP, Peshawar.

Checked by Date of Declaration of Result

Adm No: Cod No

This is cert	ify that Miss/Mrs:	e Gul	
Daughter of <u>Gul</u>	Passand	· · · · · · · · · · · · · · · · · · ·	was a regular student of
This College during	the Session 20 <u>00</u>	20 <u>೧</u> 1	She appeared in the
Departmental Ger	neral Examination in	D.M Te	acher Certificate under the
Roll No. 361	and Secured	734	1000 Out of 1200 Marks
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·	and the same to great the same to great	•	<u>.</u>
Result declared on_	31-03-200 2		1
1. Date of Birti	07-09-1975	_	AY
2. Domicile	Charsadda	- -	\
3. Conduct	Good.	_	
Checked by			La de la
Prepared by			PRINCIPAL Govt: College of Education For Elementary Teacher's (Women) Charsadda





OFFICE OF THE EXECUTIVE DISTRICT OFFICER (SCHOOLS & LITERACY) BATTAGRAM

APPOINTMENT

Consequent Upon the Approval of the District Selection Committee. Battagram the following DM Female trained candidates are hereby appointed against the vacant post in BPS NO-09. Plus usual allowances admissible under the rules @ 25 % in the schools noted against each in the interest of public service

S.No	Name of Candidate	Father's Name	Address		Place of Posting	Remarks
	Fazia Rashid	Abdul Rashid	Khawari	Mansehra	GGMS Gidri Kjhair Abad	Against V/Past
2	Zia Gui	Gul Pasand	Charsadd a	Charsadda	GGMS Thakot	Against V/Post
3	Bushra Anwar	Mohammad Anwar	Khawari	Mansehra	GGMS Shingli	Against V/Post

Terms & Conditions.

Charge reposts should be submitted to all concerned

- They are entitled to get all benefits as admissible under the rules in civil servant Act except pension. They should however be entitled to receive such amount contributed by them toward the contributory provident fund along with contribution Made by the provisional government to their accounts in the said fund in the prescribed manner. Provided further that in the event of death of civil servant whether before or after retirement their families should be entitled to receive the said amount if it has already not been received by the concerned.
- Their services will be liable to termination on one month notice from either side. In case of resignation wilhout notice.

Her one month pay shall be forfelted to the Govt:

- The candidate are required to produced Age and Health certificate from the Medical. Supdt: DHQ Battagram. (Only for Iresh candidate).
- The candidates should join their posts within seven days of the issue of this order. Otherwise appointment order will cancelled.

The Appointment will get salaries against the sanctioned posts in the Budget.

/EB/AE-II/APPTT

They will paid salaries after verification of their degree/certificates from the concerned universities/Boards/Institution on their own expenses by the DDO concerned. Personally/By hand verification will not be acceptable.

> (Mukhtar Ahmad Swali) **Executive District Officer** Schools & Literacy Battagram.

Dated Battagram the 14/5/06.

Copy forwarded for information & necessary action to The:-

District Coordination Officer Battagram.

I/C Head Master of Govt: High/Middle Schools concerned.
District Accounts Officer Battagram.

Endst: No.3505-04

A.D.O (8 & A) Local Office with the remarks to not draw the salaries tell the completion of their document's verification.

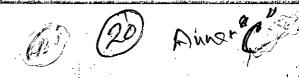
I/C Pay Section (Male) Local Office.

Candidate Concerned..

Office file.

S.E.T (SE) QHS CHO Khas

District Officer (Female)/ chools & Literacy Battagram



OFFICE OF THE DIRECTOR ELEMENTARY AND SECONDARY EDUCATION KHYBER PAKHTOON KHAWA, PESHAWAR.

OFFICE ORDER

Consequent upon the approval of the competent authority. Mst Zia Gul DM at GGMS, Shalian (Manshera) is hereby transferred to GGMS, Dheri Hamid Mian Charsadda.

against vacant post of DM on her own pay and BPS in the interest of Public Service with effect

from the date of his taking over charge.

Note;-

Charge report should be sent to all concerned.

NO TA/DA etc is allowed

The EDO (E&SE) concerned is directed to check her original service documents before making payment of salary

Her Seniority list will be determined under the rule.

DIRECTRESS
ELEMENTARY & SECONDARY
EDU KHYBER PAKHTUN KHAWA PESHAWAR

Endst No 3655-60/F.No.134/I/Dist Trsf;

Dated Peshawar the 27/0/ /2

Copy forwarded for information to the;

1. Executive District Officer (E&SE) Manshera/Charsadda.

District Accounts Officer Manshera/Charsadda.

3. Headmistress Concerned.

4. Teacher Concerned.

5. P.A to Director (E&SE) Khyber Pakhtun Khawa Peshawan

6. M/File.

Deputy Directress (Estab) (E&SE) Khyber Pakhtun

Khawa Peshawar.

ATTESTED

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(2) (EEE COS. (5)

Signature Name of Applicant N.I.C No.

Zia Gul. 17101-0249744-4.

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Certificate by the relieving EDO E&SE	Chamber of
Certified that I have no objection to the transfer of Mr/Mst:	A Contraction
From District Mansahra to District Charsedda	1.
2- The following arrangement will be made by me for filling up the post of . D.M. in case of transfer of Mr/Mst: Zia Gul	
It is certified that:-	
i) The Study/Education of the students of the school will not suffer with proposed transfer.	·
ii) The applicant is regular employee and not contract (Mention) period	
Signature	 , ,
Endst:No. / Dated / Schools & Mingracy Mai	 .
POST. AVAILABILITY CERTIFICATE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY EDUCATION WHERE POST IS PROPOSED. Thave no objection to the transfer of Mr/Mst: Zea Cul	Mr.
of against a vacant post of D. M at (Name of Schools) Coms Dhvi of District	1
I have also examined his/her relevant documents and found correct. It is also certified that no N.O.C., ha	assaciaa
been issued to any other person against this post.	S
Name of EDO E&SI: Atta Wahl Chan Signature Endst No. O. O. Dated O. 11 Sol D	Garage Jucan
Endst No. 200 / Dated /// 28 latep The fell with the street of the stree	enigary "
Note. The following documents (duly attested) should be provided: 1- Service Book Photo State 2- I" appointment order (Original OR attested photo state appointment order (O	A Security of the security of
Domicile. (4) Previous transfer order (If any) (s) asc, intermediate, FTC, CT, Bied, 18814 (1) Last Pay Roll. (7) Last Balance Sheet of GP, Fund	A COMMITTER STATE OF THE PARTY

ATTESTED

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Ohis is 27/02/2011

(Com. & Dheri Hamel)

Missi Jimarzali

Missi Hamel

Com Go MS Dheri Hamid

Missi

Incharge

ATTESTED



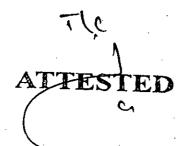


BETTER COPY

CHARGE REPORT

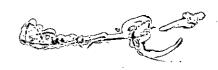
It is hereby certified that Miss Zia Gul (DM) took over charge of her duty in this school in the forenoon on 27 Feb 2011.

Head Mistress GGMS Dheri Hamid Mian Incharge





日子村: 公路台 林: 口毛は 村:



Charsadda

S#:1

Puis 4: 00477983

Buckle:

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ZEA SUL. SRAVING MASTER

CHIC Mo. 1710108697444 SFF Interest Applied 15 Vecational Temperary

PAYS AND ALLOWANCES:

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1210-Convey Allowance 2605 1200-Medical Allowance 1248-Adhoc Allowance 20100 Sox 2148-152 Adhoc Bellef All-2010

2174-Adhoc Relief Allow-2014 2179-Adhoc Relief Allow 610%

Gross Pag and Allowances

DEBUCTIONS:

GPF Balanco 85,347.00

3501-Benevolent Fund

3511-Addl Group Insurance

3504-Sroup Insurance

2470-Emp. Edu., Fund KPK

Total Deductions --

Subject

D. O. B 07.09.1975

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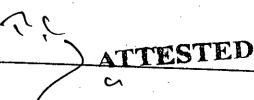
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Signature and designation of the Head of the Office, or other Attesting Officer.





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Wisdom THE PUBLISHING COMPANY

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Disdom THE PUBLISHING COMPANY

Headmistress/Headmasterd



Certificate of Participation

This is to certify that

Dia Gul

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has participated in the

Training of Presiding Officers and Assistant Presiding Officers

Organized by the Election Commission of Pakistan

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