

# **PESHAWAR HIGH COURT, PESHAWAR**

## **FORM OF ORDER SHEET**

Court of.....

Case No.....of.....

<b>Date of Order of Proceedings</b>	<b>Order of other Proceedings with Signature of Judge.</b>
<b>1</b>	<b>2</b>
16.02.2010.	<p><b><u>W.P.No. 133/2010.</u></b></p> <p>Present: Mr. Mukhtar Ahmad Khan, Advocate, for the petitioner.</p> <p>Mr. Fazal-ur-Rehman, AAG along with Khalid Mateen, EDO.</p> <p>Muhammad Israr, brother of respondent No.4.</p> <p>***</p> <p><b><u>DOST MUHAMMAD KHAN, J.-</u></b> Through this constitutional petition, the petitioner has not only questioned the order dated 24.09.2009 but has also claimed to have been regularized under the provision of NWFP Employees (Regularization of Services) Act, 2009.</p> <p>2. Arguments heard and record perused.</p> <p>3. It is an admitted fact that the petitioner was appointed by the respondents as Female Subject Specialist (BPS-17) on contract basis for six (06) months vide notification / office order dated 10.02.2008. Her contract period was extended for a period of one year, vide Notification No. SO(G)/E&amp;SE/1-85/2008 SS (Contract) dated 11.09.2008.</p> <p>4. While serving on contract basis, the NWFP</p>

Employees (Regularization of Services) Act, 2009 came into force on 24<sup>th</sup> October, 2009. It is deemed essential that prior to the promulgation of the Act by the Provincial Assembly, the Governor of NWFP has issued Ordinance of the same nature some three (03) months before the target date.

5. Under the provision of Section 3 of the Act *ibid*, all employees holding any post on contract basis on 31<sup>st</sup> December 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for regular post.

6. The respondent No.1 directed respondent No.2 to allow the petitioner and others, similarly placed employees, to continue their services in their respective schools and also to scrutinize their documents / testimonials. The office order bearing No. 7990/DA-23/dated 11.11.2009 was issued to this effect and the process was carried out purportedly for regularization of her service. This was followed by another order, ensuring that the services of the petitioner and others alike would be regularized under the Act, however, a corrigendum notification / office order was issued by respondent No.1, dispensing with services of the petitioner without realizing the effect of previous correspondence on the subject in

favour of the petitioner.

7. The respondents were put on notice and the EDO along with learned AAG appeared.

8. Both were confronted with the previous order of this Court, granting same and similar relief under the Provisions of the Act to similarly placed employees; however, they could not advance any reason much less plausible for the impugned action taken by them, rather conceded on the legal position.

9. As services of the petitioner stood regularized within the meaning of Section 3 of the Act *ibid*, therefore, the Department of the petitioner was required only to issue a notification to that effect or formal order for maintaining service book / personal file of the petitioner for determining the inter-se seniority of similarly placed / appointed employees as the law shall take its own course and no consent or confirmation of the respondents was required.

10. This Court in many petitions of the same nature have granted relief to similarly placed employees and, that too, with the consent of the concerned departments / employers and the learned State counsels, appearing on their behalf, therefore, the case of the petitioner cannot be distinguished on any legal and factual premises.

Accordingly, this writ petition is admitted and

allowed. The respondents are directed to issue an office order in line with the provisions of Act *ibid*, treating the petitioner as regular employee on the post, she was holding at the relevant time, and that she shall not be disturbed / displaced / transferred except in due course.

**JUDGE**

**JUDGE**