

HIGH COURT OF AZAD JAMMU & KASHMIR

*Writ Petition No.3798 of 2022,
Date of Institution. 10.10.2022,
Date of Decision. 26.12.2023.*

Robina Bibi Junior Handicraft Teacher Govt. Girls High School Gharri
Dupatta District Muzaffarabad AJ&K.

...Petitioner.

VERSUS

1. Secretary Elementary & Secondary Education, Azad Govt. of the State of Jammu & Kashmir, having his office at New Secretariat Muzaffarabad.
2. Director Public Instructions Elementary & Secondary Education (Female), Azad Govt. of the State of Jammu & Kashmir, office situated at District Complex Muzaffarabad.
3. Divisional Director Elementary & Secondary Education (Female), Muzaffarabad Division Muzaffarabad AJ&K.
4. District Education Officer (Female) District Muzaffarabad AJ&K.
5. Director Technical Elementary & Secondary Education (Female) Azad Govt. of the State of Jammu & Kashmir, office situated at District Complex Muzaffarabad.
6. Principal Government Girls High School Gharri Dupatta, District Muzaffarabad AJ&K.
7. Accountant General of AJ&K having his office at Sathra Hills, Muzaffarabad.

... Respondents.

Writ Petition No.3798 of 2022 accepted

Advocates who appeared in the case:-

Raja Sajjad Ahmed Khan, Advocate, for the petitioner.

*Abdul Basit Khan, Legal Advisor, for the Education Department/
respondents No.1 to 6.*

**Infringment of Constitutional guaranteed fundamental rights No.1 & 15 observed-
Order accordingly for adherence and enforcement of FR**

JUDGMENT:

(*Justice Syed Shahid Bahar, J*). The petitioner is civil servant/permanent employee of the Education department presently serving as Junior Handicraft Teacher in Government Girls High School Garhi Dupatta. Grievance projected by her in brevity is that arrears and monthly salary is not being paid to her by one pretext or other. The writ petition was admitted for regular hearing. Director Technical admitted the stance of the petitioner. It is useful to reproduce para Nos.3, 4 and 5 of the written statement as under:-

-3" یہ کہ پیشتر حکم محررہ 09.06.2021 کی تعمیل میں باقاعدہ طور پر حاضر ڈیوٹی ہے اور اپنے درس و تدریس کے فرائض سرانجام دے رہی ہے۔

-4 یہ کہ پیشتر کی تنخواہ کی ادائیگی کی نسبت باقاعدہ طور پر انتظامی منظوری جاری کی گئی۔ تنخواہ کی ادائیگی رسپانڈنٹ نمبر 06 کی جانب سے بذریعہ بل مرتب کر کے محکمہ حسابات کے ذریعے سے ادائیگی کی جانی ہے۔

-5 یہ کہ پیشتر مورخہ 09.07.2021 سے تاحال حاضر ادارہ ہے۔ رسپانڈنٹ نمبر 6 اور 7 کو تنخواہ کی ادائیگی کرنے کی ہدایات جاری کر دی گئی ہیں۔"

Arguments heard record perused. Stance of the petitioner is almost admitted. Trite that things admitted need not to be proved, a thing required to be performed in a particular fashion cannot be allowed to be performed in a different way. Gross violation of Constitutionally Fundamental guaranteed rights No. 1 and 15 is oozing from the record. FR No.1 is mother of all the Fundamental rights & law of all the laws. No one can be deprived from the rights guaranteed by the Constitution. Grievance projected calls for indulgence qua enforcement of FR No.1 & 15. High Court under the scheme of Constitution is helpmate for the aggrieved state subjects (which is rationally to be construed citizens) when a case has been made out for indulgence for the purpose of enforcement of FR. Concept of better Govt. provided in the preamble clause of the Constitution becomes redundant if fundamental rights are overlooked and brushed aside. (Underlining is mine).

Resultantly, the writ petition in hand is accepted and respondents No.6 and 7 are directed to pay salary to the petitioner from May 2021 up-till now, forthwith. Compliance report shall be submitted before Registrar of this Court accordingly. File be kept in archive.

(Order announced).

Muzaffarabad,
Dec 26, 2023. (RA)

JUDGE

Approved for reporting.

JUDGE