

*Mst. Rukhsana Bibi vs Govt*

21.12.2015


Counsel for the appellant (Mr. Hidayatullah Afridi, Advocate) and Mr. Muhammad Jan, GP for respondents present.

2. Mst. Rukhsana Bibi Sweeper (BPS-01) was appointed in Govt: of Khyber Pakhtunkhwa, Environment Department on fixed pay who was regularized vide order dated 10.05.2007. She was removed from service vide impugned order dated 15.09.2014 on the charge of absence from duty on 08.08.2014. Enquiry was conducted against her by Muhammad Fayaz, Section Officer, Environment Department who submitted his report where-after she was removed from service.

3. Arguments heard and record perused.

4. From perusal of the record it was found that no charge sheet has been issued to the appellant. She has not been provided opportunity of defense and personal hearing as provided in the rules. In the Circumstances of the case, the Tribunal is of the considered opinion that as rules have not been followed, therefore, the impugned order dated 15.09.2014 is set aside. Appellant is reinstated into service with the direction to the respondent-department to proceed afresh if deemed appropriate. The appeal is disposed of accordingly. Parties are left to bear their own cost. File be consigned to the record room.

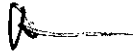
Announced  
21.12.2015

  
(ABDUL LATIF)  
MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER

09.10.2015

Appellant in person and Mr. Muhammad Jan, GP for respondents present. Appellant requested for adjournment. To come up for arguments on 21-12-15.



Member



Member

28.01.2015

Appellant Deposited  
Security & Process Fee  
Rs. 300/- Bank  
Receipt is Attached with File.

Appellant with counsel present and heard. Argued that the appellant was initially appointed as Sweepress on 23.05.2003 and since the date of appointment till the conduct of inquiry never absented herself from duty. That the appellant was removed from service for one day absence which punishment is not only excessive but also contrary to law as the prescribed procedure of inquiry was not conducted.

Points urged need further consideration. Admit. Subject to deposit of security and process fee, notices be issued to the respondents for written reply for 14.04.2015.



Chairman

14.04.2015

Appellant in person and Mr. Mir Bashir, SO (lit.) alongwith Addl. A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for final hearing for 13.5.2015.



Chairman

09.10.2015

Counsel for the appellant and Mr. Mir Bashir, SO(G) for the respondents present. Due to rush of work, case is adjourned to 09.10.2015 for arguments.



MEMBER






MEMBER

Form- A  
FORM OF ORDER SHEET

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

Case No. 1320/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10.11.2014	<p>The appeal of Mst. Rukhsana Bibi, resubmitted today by Mr. Hidayatullah Afridi Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up there on <u>16-01-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	16.01.2015	<p>None present. The case be relisted for preliminary hearing to 29/1/2015.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mst. Rukhsana Bibi W/o Jamil Masih received today i.e. on 05.11.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Memorandum of appeal is unsigned which may be got signed.
2. Law under which appeal is filed is wrong.
3. Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.

No. 1576 J.S.T,

Dt. 5-11 /2014.

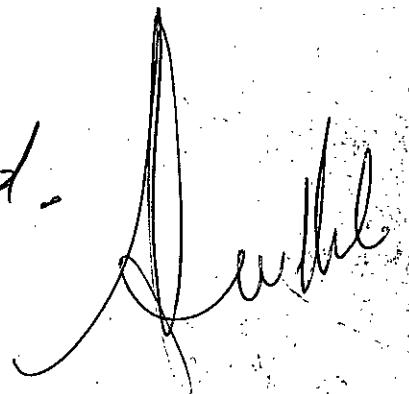
  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Hidayatullah Afridi Adv. Peshawar.

*Correction :-*

- 1, The Memorandum of Appeal is duly signed.
- 2, The law under which the Appeal is submitted is duly correctly stated.
- 3, Copies of the charge sheet, statement of allegation show cause notice, enquiry report have met been presented to the appellant by the relevant authorities.

Duly corrected as desired.



BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER

PUKHTUNKHWA, PESHAWAR

IN RE:

SERVICE APPEAL

NO. 1220 / OF 2014

MRS: RUKHSANA BIBI VERSUS

SECRETARY  
GOVT: OF KHYBER  
PUKHTUNKHWA  
(ENVIRONMENT DEPTT:)  
PESHAWAR & OTHERS

I N D E X

S/NO	DESCRIPTION OF DOCUMENTS	(ANNEXURES)	PAGE NOS
1)	MEMO: OF SERVICE APPEAL ALONGWITH AFFIDAVIT	-	1 to 6
2)	COPY OF APPOINTMENT LETTER DATED 23-05-2003	'A'	7
3)	COPY OF LETTER/ORDER OF REGUIARIZATION OF Service OF THE APPELLIANT DATED 10-05-2007	'B'	8
4)	COPY OF ORDER FOR REMOVAL OF SERVICE OF APPELLIANT DATED 15-09-2014	'C'	9
5)	COPY OF DEPARTMENTAL APPEAL	'D'	10
6)	COPY OF FILLING OF DEPARTMENTAL APPEAL	'E'	11
7)	Wakalat Nama	-	12

Through:-

APPELLIANT

DATED:- 31-10-2014

(HIDAYATULIAH AFRIDI)  
ADVOCATE PESHAWAR

Counsel's Cell No. 0321-9070766

BEFORE THE HON'BLE SERVICES TRIBUNAL, KHYBER  
PUKHTUNKHWA, PESHAWAR

SERVICE APPEAL NO. 1320 /OF 2014

1336  
05/11/2014

MRS: RUKHSANA BIBI W/O JAMIL MASIH  
R/O O/S YAKATOOT, H.NO. 41905, MOHALIAH : NAWAB ABAD  
PESHAWAR.

....APPELLANT

V E R S U S

- 1) Govt: of Khyber Pukhtunkhwa, through its Secretary, Dorestry, Environment and Wildlife Department, Peshawar.
- 2) Deputy Secretary-I, Environment Department Govt: of Khyber Pukhtunkhwa, Peshawar.
- 3) Section Officer (General) Govt: of Khyber Pukhtunkhwa, Environment Department, Peshawar

5/11/14

....RESPONDENTS

Re-submitted to-day  
and filed.

10/11/14

SERVICE APPEAL

SERVICE APPEAL UNDER SERVICES TRIBUNAL  
ACT-1974, OF THE ORDER OF THE RESDPT NO.2  
DATED 15-09-2014, VIDE WHICH THE APPELLANT  
WAS REMOVED FROM THE SERVICE WITH IMMEDIATE  
EFFECT.

**PRAYER IN SERVICE APPEAL :-**

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL THE ORDER OF THE REMOVAL OF THE APPELLANT FROM SERVICE OF RESPDT:NO.2 VIDE DATED 115-09-2014 MAY GRACIOUSLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE RE-INSTATED IN SERVICE AGAIN WITH FULL BACK BENEFITS AND SENIORITY.

RESPECTFULLY SHEWETH :-

That the appellant respectfully submits the following :-

- 1) That the appellant was appointed as Sweepress in Govt: of Khyber Pukhtunkhwa, Environment Department vide appointment letter No. SO(G)/2-18/2003/Recruitment/3838 dated 23-05-2003 with fixed pay of Rs.2500/- P.M., (Copy of the said letter is annexed as 'A').
- 2) That the appellant's services was regularized by the Department concerned vide letter No. SOG/Env/2-20/2003 dated 10-05-2007 as Sweepress in BPS-1, copy of the same is attached as Annexure 'B'.
- 3) That the appellant was removed from service with immediate effect vide Govt: of Khyber Pukhtunkhwa Environment Department, Peshawar office order



No.SOG(Envvt)/5-12/2011 Vol-II dated 15-9-2014.

(Copy of the same is annexed as 'C').

- 4) That then the appellant submitted her departmental appeal and the same was also filed by the department concerned vide No. SO(G)/ED/6-56/11/Rukhsana Bibi/2516-20 dated 15-10-2014. (Copies of departmental appeal and the department's letter there-to are annexed as 'D' & 'E' respectively).

That now the appellant approaches this Hon'ble Tribunal on the following inter-alia grounds :-

G R O U N D S

- A) That the appellant's unblemished service for about 11 years is the sole proof that no complaint/report was lodged against the appellant during her 11 years length of service, from any quarter concerned.
- B) That due to her illness for one day, i.e., on 08-08-2014, the department concerned made a base for removal of the appellant from service with their malafide intention.
- C) That the service conduct sheet of the appellant was very clear and she never absented herself from her duties during the 11 years of her tenure of service.
- D) That the absence of the appellant on 08-08-2014 was not intentional or with deliberation but beyond the human being, as she was ill and therefore she did not performed her duties for the said only single day and she also informed her

back benefits and seniority

graciously be re-instated again in service with full

may kindly be set aside and the appellant may

of appellant of Respd:No.2 vide dated 15-09-2014

appellant, the removal office order about the services

on acceptance of the instant service appeal of the

It is, therefore, most humbly prayed that

course of arguments.

additional grounds, if any, during the

Tribunal, the appellant may urge other

I) That with the prior permission of this Hon'ble

further action in the matter.

and they filed the same without taking any

departmental appeal was also not considered

position in her departmental appeal but her

H) That the appellant also explained her

well as also against the services rules.

which is against the norms of justice and as

from service just only for one day absence,

major penalty upon her for removal of her

G) That for the minor mistake they imposed her

under the services rules, and not heard personally

to hear her version in this behalf as required

F) That the Inquiry Officer did not bothered

effect as required under the rules.

but simply they conducted an inquiry to this

cause notice or any charge sheet thereof,

E) That she was not served with any show

department and regretted for the same.

APPELLANT

Through:-



(HIDAYATULLAH AFRIDI)  
Advocate Peshawar

Dated:- 31-10-2014

NOTE:- (As per information of my client) No such like appeal was preferred earlier by the appellant or on her behalf before this Hon'ble Tribunal.

Through:-

APPELLANT )  


(HIDAYATULLAH AFRIDI)  
ADVOCATE PESHAWAR



BEFORE THE HON'BLE TRIBUNAL (SERVICES) KHYBER  
PUKHTUNKHWA ( PESHAWAR )

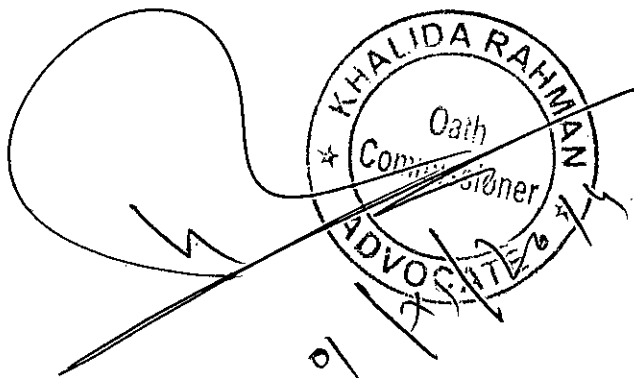
MST: RUKHSANA BIBI                      VERSUS                      GOVT: OF K.P.K  
PESHAWAR (ENVIRONMENT  
DEPARTMENT) & OTHERS

A F F I D A V I T

I, MRS: RUKHSANA BIBI WIFE OF JAMIL MASIH  
R/o PESHAWAR do hereby stated and declare on solemn  
affirmation that the contents of my attached Service  
appeal is true and correct to the best of my knowledge  
and belief and that nothing has been kept concealed  
from this Hon'ble Tribunal.

**ATTESTED**

DEPONENT  
MST: RUKHSANA BIBI



Annex A

GOVERNMENT OF NWFP  
ENVIRONMENT DEPARTMENT

7

No. SO(G)/2-18/2003/Recruit/Env  
Dated 23-5-2003

3838

To  
Mst. Ruksan Bibi,  
W/O Saleem Masih  
Moh: Nawababad Baroon-Yakatoor,  
District Peshawar City.

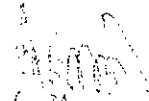
SUBJECT: OFFER OF APPOINTMENT AS SWEEPRESS ON FIXED PAY @  
Rs. 2500/- PER MONTH

Reference your application against the post of Sweepress

In pursuance of the recommendations of the Departmental Selection Committee, you are hereby offered appointment against the post of Sweepress on fixed pay @ Rs. 2500/- p.m. on the following terms and conditions:-

1. The appointment will be on contract basis initially for one year extendable for two years on annual basis subject to the approval of competent authority and availability/continuation of post.
2. Your services will be liable to termination at any time without any notice if your performance is found unsatisfactory.
3. You will not contribute to G.F. Fund and will not be entitled to pension/gratuity benefits.
4. This appointment shall not confer upon you any right hereafter including regularization against the post.
5. You will not be entitled for earned leave.
6. You will be required to ensure performance of prescribed duties of responsibility/work assigned to you.
7. You will not be allowed to undertake any other employment in any organization (Government or Private) during the working hours.

If the above terms and conditions are acceptable to you, then you may report to the office of undersigned within 7 days of the issuance of this letter so that your appointment orders could be issued.

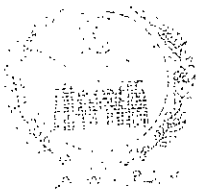
  
(Name) \_\_\_\_\_  
Section Officer

*Awaiz B*

**GOVERNMENT OF N.W.F.P.  
ENVIRONMENT DEPARTMENT.**

Dated Peshawar the 10<sup>th</sup> May 2007

8



**ORDER**

**No.SOG/Envt/ 2-20/2003**

In term of section -19 (2) of the NWFP Civil Servants Act 1973 as amended vide section -2 of the NWFP Civil Servants (Amendments) Act 2005 , the services of the following contract employees are hereby regularized w.e.f.15.07.2006 as under:-

#	Name of official	Designation
1	Mr. Zeeshan Farukh	Naib Qasid (BPS-1)
2	Mr. Zabeehullah	Naib Qasid (BPS-1)
3	Mr.Nafees Ahmad	Naib Qasid (BPS-1)
4	Mr, Waheed Shah	Driver (BPS-4)
5	Mrs. Rukhsana Saleem	Sweeper (BPS-1)

Their services will be subjected to following terms & conditions:-

1. They will get pay minimum of respective pay scale including allowances as admissible under the rules and will be entitled to annual increments as per existing policy.
2. They will not be entitled of pension /gratuity benefits.
3. They will not contribute towards GP Fund. However they will contribute in C.P Fund @ of 10% of minimum of pay scale and equal amount of 10% contribution will be made by the Government as per rules.
4. They will be allowed Conveyance, Medical, House Rent allowance, leave and TA/DA as per Government rules.
5. They will be entitled to facility of Benevolent Fund as per new recruitment policy.

**DEPUTY SECRETARY-I (ADMN)**

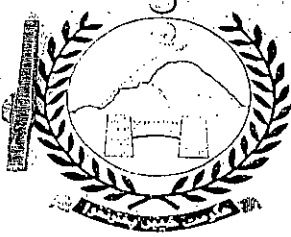
Endst : No.SOG/Envt/2-20/2003

Dated 10<sup>th</sup> May 2007

Copy forwarded to :-

1. The Accountant General, NWFP, Peshawar.
2. The PA to Deputy Secretary (Admn) Environment Deptt:
3. Accountant /Bill Clerk , Environment Deptt:
4. Officials Concerned
5. Personal Files of Officials Concerned.
6. Office order file.

( Muhammad Kabir Afidi )  
SECTION OFFICER ( GENERAL )



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ENVIRONMENT DEPARTMENT  
(GENERAL SECTION)

DATED PESHAWAR, THE 15<sup>TH</sup> SEPTEMBER, 2014

*Ana*  
*er*  
9

**OFFICE ORDER**

**No. SOG(Env)/5-12/2011 Vol-II.-** WHEREAS, you Rukhsana Bibi, Sweeperess, Environment Department was suspended from service on 13/08/2014 on account of non-attendance of your duty properly;

WHEREAS, Mr. Muhammad Fayvaz Section Officer (Environment) Environment Department was appointed inquiry officer with the direction to submit report within 15 days;

WHEREAS, the Inquiry Officer, summoned you to record your statement;

Whereas, the Inquiry Officer recorded your statement in which you have stated that you shall not repeat your mistake in future;

WHEREAS, the statement of your husband namely Jamil Masih was also recorded by the Inquiry Officer in which he has stated that his wife was ill, therefore, neither he himself nor his wife could attend the duty;

WHEREAS, the Inquiry Officer recorded findings and recommendations and suggested removal from service under section 4(b)(iii) Khyber Pakhtunkhwa (Efficiency and Discipline) Rules, 2011; and

WHEREAS, the competent authority has been pleased to direct to proceed against you under 4(b)(iii) of (Efficiency and Discipline) Rules, 2011;

Now, therefore, in exercise of powers conferred on me under section 14(5)(ii) (Efficiency and Discipline) Rules 2011, remove you Rukhsana Bibi wife of Jamil Masih Sweeperess, from service with immediate effect.

**DEPUTY SECRETARY-I  
KHYBER PAKHTUNKHWA  
ENVIRONMENT DEPARTMENT**

Copy forwarded to Accountant General, Khyber Pakhtunkhwa, Peshawar.

Section Officer (General)

Endst: No SOG (Env)/5-12/2011 Vol-II

Dated Peshawar, the 15<sup>th</sup> September, 2014

Copy is forwarded to: *2035-39*

- 1- Secretary to Govt of Khyber Pakhtunkhwa, Administration Department.
- 2- PS to Secretary Environment Department.
- 3- P.A to Deputy Secretary-I Environment Department.
- 4- Rukhsana Bibi w/o Jamil Masih Sweeperess.

*[Signature]*  
Section Officer (General)

And M.D.  
10

The Secretary to Government of,  
Khyber Pakhtunkhwa,  
Environment Department

Subject: APPEAL FOR RE-INSTATEMENT IN SERVICE

Respected Sir,

With due reverence I am to refer to the Section Officer (General), Environment Department Office order bearing No. SO(G)5-12/2011/Vol-II/2035-39 dated 15/08/2014, wherein I have been removed from service with immediate effect (copy attached).


2. Sir, during my eleven years service, not even a single explanation/warning has been given to me which could show laxity on my part in the past. No chance for counseling was given to me for improvement of my duty during my service.

3. It will be in place to mention here that my removal from service has been taken place on the absence from duty just for a single day i.e 08/08/2014. On the same day I was ill for which I have regretted in my written statement given to the Inquiry Officer and also stated that no such mistake will be made in future. It is pertinent to mention here that there is a proper procedure for willful absence in Section 9 of Efficiency and Discipline Rules 2011 which has not been followed in my case. The Section 9 is reproduced as under:-

“Notwithstanding anything to do the contrary contained in these rules, in case of willful absence from duty by a Government Servant for Seven or more days, a notice shall be issued by the Competent Authority through registered acknowledgement on his-home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspaper directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government Servant”.

4. Keeping in view of the above it is, therefore, requested that I may kindly be re-instated in service with all back benefit on humanitarian ground.

5. I shall be grateful to you of your this act of kindness and pray for your longlife and perpetual promotion.

  
Yours Obedient Servant,  
Rukhsana Bibi Ex-sweepers  
Environment Department

18-9-14





GOVERNMENT OF KHYBER PAKHTUNKHWA  
FORESTRY, ENVIRONMENT AND WILDLIFE DEPARTMENT  
(GENERAL SECTION)

No.SO(G)/ED/6-56/11/Rukhsana bibi/2516-20

Dated Peshawar, the 15<sup>th</sup> October, 2014

*Amir*

11

To

Mrs. Rukhsana Bibi W/o  
Jamil Masih,  
Biron Yaka Tot, House No. 41905  
Mohallah Nawab abad, Peshawar

Subject:- **APPEAL FOR REINSTATEMENT IN SERVICE**

With reference to your appeal dated 18/09/2014 regarding reinstatement in service, it is to inform that your appeal was examined and filed by the competent authority.

*Zarim Ullah*  
(Zarim Ullah)  
Section Officer (General)

Copy is forwarded to:-

1. PS to Secretary Forestry, Environment and Wildlife Department.
2. PA to Deputy Secretary-I, Forestry, Environment and Wildlife Department.
3. Personal file of the Official concerned.
4. Cashier.

Section Officer (General)

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 2027 ST

Dated 30 / 12 / 2015


To

The Deputy Secretary-1,  
Environment,  
Peshawar.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 21.12.2015 passed by this Tribunal on subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.