

S. No.	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	02.01.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>CAMP COURT SWAT</u></p> <p style="text-align: center;">Service appeal No. 1376/2014</p> <p style="text-align: center;">Mst. Shagufta Bibi Versus the Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 2 others.</p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Counsel for the appellant and Mr. Muhammad Zubair, Senior Government Pleader alongwith Mr. Muhammad Shoaib, ADO for respondents present.</p> <p>2. Mst. Shagufta Bibi, Ex-PST GGPS Laram Ouch Dir Lower hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against impugned order dated 05.05.2014 communicated to the appellant on 26.08.2014 whereby the appellant was dismissed from service on the allegations of wilful absence and where-against her departmental appeal dated 24.09.2014 was not answered and hence the instant service appeal on 02.12.2014.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was serving as PST in Education Department when subjected to enquiry on the allegations of wilful absence and</p>

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02.01.17

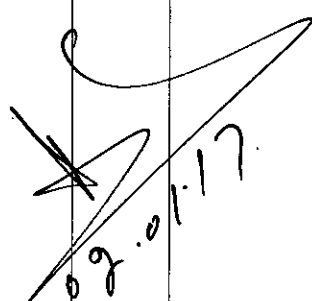
dismissed from service vide impugned order referred to above.

4. Learned counsel for the appellant has argued that the appellant was condemned unheard, as Rule 9 of Government Servants (E&D) Rules 2011 was not followed. That neither any show cause notice was ever prepared nor sent to the appellant. That no notice was published in the newspapers as required under the rules and as such the impugned order is liable to be set aside.

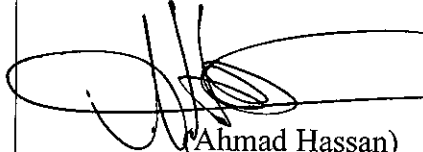
5. Learned Senior Government Pleader has argued that show cause notice was issued to the appellant but she failed to appear and as such the impugned order was passed which warrants no interference.

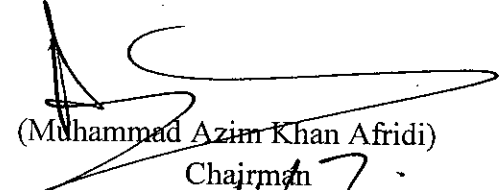
6. We have heard arguments of learned counsel for the parties and perused the record.

7. Perusal of record would suggest that though show cause notice was issued in the name of appellant however no proof of service is available on record. When show cause notice issued in the mode and manner prescribed by the rules is returned undelivered or remained un-served then the competent authority would be obliged to order publication in the newspapers which exercise has not been undertaken in the instant case. As such we are left with no option but to accept the present appeal and, as a consequence thereof, reinstate the appellant in service and place the respondents at liberty to conduct and conclude denovo enquiry against the appellant within a period of 3 months wherein opportunity for participation in the enquiry and hearing be afforded to her. The appeal is accepted in the

A handwritten signature and the date '02.01.17' are written in the left margin of the page.

above terms. Parties are left to bear their own costs. File be
consigned to the record room.


(Ahmad Hassan)
Member


(Muhammad Azim Khan Afridi)
Chairman
02 Camp Court, Swat.

ANNOUNCED
02.01.2017

(19)

22/3/12
26/3/12

ORDER.

This order will dispose off departmental enquiry conducted against Inspector Muhammad Ibrahim Khan, who while posted as SHO P.S. Kanju, failed to take legal action in connection with kidnapping of a girl vide Case FIR No. 765 dated 18-08-2011 u/s 365/B PPC P.S. Sabzi Mandi District Gujranwala, Punjab and also given chance to accused party for arranging Nikah with an un present person. It may also be mentioned here that the age of kidnapped girl was about thirteen years as proved during enquiry conducted by Inspector Regional Complaint Cell vide memo No.5070/E, dated 03-08-2011.

The above named Inspector was issued Charge sheet/ Statements of Allegations under Section-3 of the Khyber Pukhtoonkhwa (Removal from Service) Special Power Ordinance, 2000. An Enquiry Committee consisting of Mr. Naveed Iqbal Khan D.S.P/ Madyan was constituted for conducting proper departmental enquiry against him and to submit finding report. The enquiry Officer conducted enquiry, recorded statements of all concerned as well as Inspector Muhammad Ibrahim and submitted finding report, received in this office vide District Police Officer, Swat memo No.3048/E dated 10-03-2012, wherein the Enquiry Officer disclosed that he has failed to arrest the accused and recover the abducted girl in time. He has to make efforts for the arrest of accused; rather he offered time for the accused party to arrange marriage, and recommended him for awarding minor punishment. The above named Inspector was called in Orderly Room and was heard, but could not satisfy the undersigned.

I have gone through the relevant record, statements of all concerned, replies of Inspector Muhammad Ibrahim, finding report of the Enquiry Committee and came to the conclusion that:-

1. The Officer doesn't even recognize that it was his lackluster approach that resulted in the marriage of a 13 years old child.
 2. Had the officer been proactive, it might have been avoided.
 3. The Officer claims his large service for the department.
- Having heard all pros & cons I Mr. Akhtar Hayat Khan Deputy Inspector General of Police, Malakand Region-III, under Section-3 of the Khyber Pukhtoonkhwa (Removal from Service) Special Power Ordinance, 2000, constrained to award him the punishment of stoppage of two Annual Increments with accumulative effect,

Announced

OB/EC

(Signature)

AKHTAR HAYAT KHAN, DSP
Deputy Inspector General of Police
Malakand Region, Saidu Sharif, Swat

OB.N. 65
2.6.3.12

OPo/Quint
22/3/12

22/03/12

No. 3132 /SB, Dated Saidu Sharif the 22 - 03 - 2012.

Copy to District Police Officer, Swat for necessary action.

DST. 12

99SP5(b) 201
1/15/14

P-10 10 5. 5. 14. regular from 6 mile

curr 26. 8. 14 Absence

DA 24. 09. 14

SA 2. 12. 14

R. 9. is not followed.

Notice AD

Recd and bank. withdrawal.

publication.

No proof of service

21 yrs.

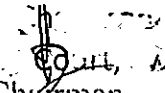
Notice not served

Rule 9. not followed.

05.04.2016

None present for the appellant. Mr. Aqil Shah, Assistant
alongwith Mr. Amir Qadir, GP for respondents present. Due to
non-availability of D.B arguments could not be heard. To come up
for final hearing before D.B on 06.09.2016 at Camp Court, Swat.


Member


Chairman
Camp court, Swat.

06.09.2016

Agent of counsel for the appellant and Mr. Muhammad Zubair,
Sr.GP for the respondents present. Counsel for the appellant has not
turned up from Peshawar. Seeks adjournment.. To come up for final
hearing on 2.01.2017 before D.B at camp court, Swat.


Member


Chairman
Camp Court, Swat

6. 3.8.2015

Counsel for the appellant and Mr. Muhammad Zubair,

Sr.G.P for respondents present. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 5.10.2015 before S.B at camp court Swat.


Chairman
Camp Court Swat

5.10.2015

None present for appellant. Mr. Nasrullah, ADEO alongwith Mr. Muhammad Zubair, Sr: GP for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 1000/- which shall be borne by respondents No. 2 and 3 from their own pockets. To come up for written reply/comments and cost on 8.12.2015 before S.B at Camp.Court Swat.


Chairman
Camp Court Swat

8.12.2015

Counsel for the appellant and Mr. Nasrullah, ADO alongwith Mr. Amir Qadir, G.P for respondents present. Written reply on behalf of respondents submitted. Cost of Rs.1000/- paid and receipt thereof obtained from the learned counsel for the appellant. The appeal is assigned to D.B for rejoinder and final hearing for 5.4.2016 at Camp Court Swat.


Chairman
Camp Court Swat

3.

24.02.2015

Clerk of counsel for the appellant present, and requested for adjournment. Request accepted. To come up for preliminary hearing on 24.03.2015.



Member

24.03.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as PST in BPS-12 when vide impugned order dated 05.05.2014 she was dismissed from service on the ground of wilful absence from duty which order was communicated to the appellant on 26.08.2014. That the appellant preferred departmental appeal on 24.09.2014 which remained unresponded and hence the present service appeal on 02.12.2014.

That no enquiry in the prescribed manner was conducted in the alleged charges of wilful absence from duty.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 01.06.2015 before S.B. The appeal pertains to territorial limits of Malakand Division and as such to be heard at camp court Swat.

Appellant Deposited
Security & Process Fee



Chairman

5. 1.6.2015

None present for appellant. Mr. Tariq, ADO alongwith Mr. Anwar-ul-Haq, G.P for respondents present. Requested for adjournment. To come up for written reply/comments on 3.8.2015 at camp court Swat.

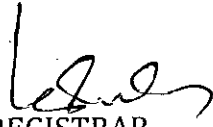



Chairman
Camp Court Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1376/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02.12.2014	<p>The appeal of Mst. Shagufta Bibi presented today by Mr. Noor Muhammad Khattak 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	19.1.2015	<p>This case is entrusted to bench for preliminary hearing to be put up there on</p> <p>Due to general strike of the Bar, counsel for the appellant is not available. Notice be issued to appellant and his counsel. Case to come up for preliminary hearing on 24.2.2015.</p> <p style="text-align: right;"> MEMBER</p>

*Noted for
24/2/15
M.S.K.*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1376 /2014

SHAGUFTA BIBI

VS

EDUCATION DEPTT:

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8.	Impugned order	F	10.
9.	Departmental appeal	G	11-12.
10.	Vakalat nama	13.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1376 /2014

S.W.F. Peshawar
Case No. 1408
Date 02/12/14

Mst: Shagufta Bibi, PST (BPS-12),
GGPS Laram Ouch Dir Lower.....**APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E&SE) Department, Peshawar.
- 3- The District Education Officer (Female) Dir at Timergara.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
READ WITH AMENDED (E&D) RULES 2011
AGAINST THE IMPUGNED ORDER DATED
05.05.2014 COMMUNICATED TO THE
APPELLANT ON 26.08.2014 WHEREBY THE
APPELLANT WAS DISMISSED FROM SERVICE
AND AGAINST NO ACTION TAKEN ON THE
DEPARTMENTAL APPEAL OF APPELLANT
WITHIN THE SATUTORY PERIOD

PRAYER:

That on acceptance of this appeal the impugned order dated 05.05.2014 communicated to the appellant on 26.08.2014 may very kindly be set aside and the respondents may please be directed to re-instate the appellant on her service with all back benefits. Any other remedy which this august Tribunal deems fit may also be awarded in favor of the appellant.

[Handwritten signature]
2/12/14

R/SHEWETH:
ON FACTS:

- 1- That appellant was appointed as PST in the Education Department vide order dated 14.05.1990. That after appointment appellant started performing her duty quite efficiently and up to the entire satisfaction of her superiors. Copy of the appointment order is attached as annexure

..... **A.**

- 2- That during the course of service the appellant applied for leave through application to the concerned authority. That in response the said leave was granted to the appellant with effect from 20.08.2008 to 25.11.2009 vide order dated 27.11.2008. Copy of the order is attached as annexure **B.**
- 3- That after expiry of the said leave the appellant submitted her arrival report on the very next day i.e. 26.11.2009 but inspite of that the concerned authority kept the appellant in hanging position by not adjusting the appellant as PST. Copy of the arrival report is attached as annexure **C.**
- 4- That time and again the appellant requested the concerned authority for her adjustment but no heed was paid to her requested by the concerned authority. That finally through order dated 10.10.2013 the appellant was adjusted at GGPS Laram Ouch Dir Lower. That in response the appellant submitted her charge report vide dated 23.10.2013. Copies of the order dated 10.10.2013 and charge report are attached as annexure **D & E.**
- 5- That after adjustment the appellant started performing her duties at the concerned station quite efficiently and up to the entire satisfaction her superiors.
- 6- That astonishingly vide impugned order dated 05.05.2014 communicated to the appellant on 26.08.2014 the appellant was awarded major punishment of dismissal from service without following the legal procedure highlighted in the efficiency & Disciplinary amended Rules, 2011. Copy of the impugned order dated 05.05.2014 is attached as annexure **F.**
- 7- That feeling aggrieved from the dismissal order dated 05.05.2014 appellant filed Departmental appeal but reply has been given so far. Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure **G.**

GROUND:

- A- That impugned order dated 05.05.2014 communicated to appellant on 26.8.2014 is against the law, facts, norms natural justice and materials on the record hence not tenable and liable to set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4

and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That no charge sheet and statement of allegation has been served against the appellant by the respondent Department before issuing the impugned order dated 05.05.2014.
- D- That no chance of personal hearing/defense has been given to the appellant by the respondent Department before issuing the impugned order dated 05.05.2014.
- E- That no show cause notice has been served by the respondent Department on the appellant before the issuing the impugned order dated 5.5.2014.
- F- That no regular inquiry has been conducted in the matter which is as per Supreme Court is necessary in punitive actions against the civil servant.
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT



SHAGUFTA BIBI

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2013

SHAGUFTA BIBI

VS

EDU: DEPARTMENT

APPLICATION FOR CONDONATION OF
DELAY IN FILING THE ABOVE NOTED
APPEAL

R.SHEWETH:

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so for.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

GROUND OF APPLICATION:

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That it has been the consistent view of the Superior Courts that causes should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT

Shagufta Bibi

SHAGUFTA BIBI

THROUGH:

[Signature]
NOOR MOHAMMAD KHATTAK
ADVOCATE

A-5

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) DIR AT TIMERGARA.
APPOINTMENT/

Miss Shagufta Begum D/O Mohd Mater Village Guch Distt; Dir is hereby appointed against the vacant post of PTC at GGPS Shalga in BPS, No. 7 @Rs, 750 /- B.M. Fixed plus usual allowances as admissible to her under the rules in the interest of public service with effect from the date of taking over charge.

TERMS AND CONDITIONS.

- 1:- No. TA/DA is allowed.
- 2:- Charge report should be submitted to all concerned.
- 3:- She is directed to produce her Health and Age Certificate from the Civil Surgeon concerned.
- 4:- She is appointed temporary and liable to termination at any time without any notice/reason.
- 5:- If she desire to resign from the service she willk have to give one months prior notice to this office or to forfeit one month's pay to the Govt;

R.B. Begum
MRS. RABIA BEGUM MALIK
DISTRICT EDUCATION OFFICER (F)
(F) DIR AT TIMERGARA.

Endsb; No. 611-612 / Dated Timergara the 14/5 /90.

- 1:- Copy of the above is firwarded for information to the:-
- 2:- Sub-divisional Education Officer (F) Dir at Timergara.
- 2:- Candidate Concerned.

R.B. Begum
District Education Officer (F)
Dir at Timergara.

XXXXXXXXXX/

ATTESTED

[Signature]

**OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&SE) DIR
(L) AT TIMERGARA**

LEAVE SANCTION:

Sanction is hereby accorded to the grant of leave in r/o Shagufta Begum PST Govt: Community Model School Ouch for the period as detail given below under the leave Rules, 1981.

- (i) With effect from 20.8.2008 to 31.10.2009 (430 days on half average pay)
- (ii) With effect from 01.11.2009 to 25.11.2009 (25 days as leave without pay)

Note: Necessary entry to this effect be made in her service book accordingly.

**(SAEED KHAN)
EXECUTIVE DISTRICT OFFICER
(E&SE) DIR LOWER AT TIMERGARA**

Endst: No. 21397-99/

Dated Timergara the:- 27/11/2008

ATTESTED



B-6

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&SE) DIR (L) AT TIMERGARA

LEAVE SANCTION

Sanction is hereby accorded to the grant of leave in r/o Shagufta Begum PST Govt Community Model School Ouch for the period as detail given below under the Leave Rules 1981

- (i) With effect from 20-8-2008 to 31-10-2009 (45 days on half average Pay)
- (ii) With effect from 01-11-2009 to 25-11-2009 (25 days as leave without Pay)

Note: Necessary entry to this effect should be made in her service book accordingly.

(SAEED KHAN)
EXECUTIVE DISTRICT OFFICER
(E&SE) DIR LOWER AT TIMERGARA

Endst No 21397-99 Dated Timergara the: 27 /11-2008
Copy of the above is forwarded to

- 1 The District Officer (F) Elementary & Secondary Education, Dir Lower
- 2 The District Accounts Officer, Dir Lower at Timergara.
- 3 Dy District Officer (F) Timergara


EXECUTIVE DISTRICT OFFICER
(E&SE) DIR LOWER AT TIMERGARA

ATTESTED



بخدمت جناب ہیڈ ماسٹر صاحبہ گورنمنٹ ٹیچنگ کالج، نزدیکی سکول اوپننگ قلعہ، دیوبند

عنوان: درخواست برائے ڈیوٹی حاضری رپورٹ

جناب عالی

تذکرہ میں ہے کہ میں 25/11/2009 تک چھٹی پر تھی۔ گندا آج

محرم 26/11/2009 کو ڈیوٹی پر حاضر ہو رہی ہوں۔ استدعا ہے کہ میری

حاضری کی رپورٹ قبول فرمادیں۔ اور مزید کارروائی کے لیے اسے

ری۔ ڈی۔ او (E-D-O Dept) آفس کو ارسال کیا جائے۔

شفقت بی بی ولد محمد بہتر خان

پرائمری سکول ٹیچنگ (P.S-آ)

گورنمنٹ ٹیچنگ کالج، نزدیکی سکول اوپننگ قلعہ

ضلع دیوبند

Sd
26/11/2009

Attested

[Signature]

کہ جس کا نام ہے۔ یہ سہ ماہی ہے۔ گورنمنٹ ہائی اسکول، سولہ، اوجھ، جیلوہ، جیلوہ

(7) - C

عنوان :- درخواست فراہم کرنے والے کے بارے میں

جائزہ

تاریخ :- 25/11/2009 تک خصوصی ہے۔ گورنمنٹ ہائی اسکول

26/11/2009 کو ڈیوٹی پر حاضر ہو رہی ہوگی۔ اس کے بارے میں

قبول کیا گیا ہے۔ اس کے بارے میں ای۔ ڈی۔ او (E.D.O. Edu) کو اطلاع دی جا رہی ہے۔

Sho. Office

26.11.2009

گورنمنٹ ہائی اسکول، سولہ، اوجھ، جیلوہ
پرائمری سکول ٹیچر (PST)
گورنمنٹ ہائی اسکول، سولہ، اوجھ، جیلوہ
جیلوہ

ATTESTED

Handwritten signature

**OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE DIR
LOWER AT TIMERGARA**

OFFICER ORDER:

Whereas Mst: Shagufta Bibi PST Govt: Girls Primary School Gudia Khwar Tehsil Adenzai Dir Lower was proceeded against under the Khyber Pakhtunkhwa Government servants (Efficiency and Disciplinary rules 2011, for the Charges as she committed the following act/omissions with the meaning of rules 3 of the said rule, 1.

"That she remained absent from duty with effect from 20/12/2012, without prior sanction of leave. Her acts is against the office discipline and amount to miss-conduct under rules 3(b)&(d) of the Khyber Pakhtunkhwa Government servants (efficiency and Disciplinary) rules 2011.

Whereas 1st Show cause notice was issued to the accused vide this office Endst: No. 5902-4 dated 28.03.2013, but no convincible reply has been received within the stipulated period.

AND WHEREAS she was given an opportunity for personal hearing vide this office No.389 dated 12/09/2013. She was heard in person on 21/9/2013 before the committee was tamed for the purpose.

AND WHEREAS the authority after having considered the charges, evidence on the record explanation of the accused teacher and recommendations of the committee of the view that the charges against her have been proved due to her illness/domestic problems, but she remained absent from duty without leave sanction.

Now therefore I Miss Sabira Parveen Distt: Education officer (Female) Dir Lower, in the capacity of competent authority, am satisfied that the charges against the accused have been proved beyond no doubt, I as a competent authority under the power conferred upon me under rule 3 of the Khyber Pakhtunkhwa Government Servant (efficiency and Disciplinary) rules, 2011, hereby impose minor penalty of "stoppage of Two annual increments falling on 1/12/2013, & 1/12/2014, upon Mst: Shagufta Bibi PST Govt: Girls Primary School Gudia Khwar Tehsil Adenzai Dir Lower. Her absence period w.e.f. 20/12/2012 to 30/9/2013 is treated as leave without pay, and she is further adjusted at GGPS Laram Ouch w.e.f. 1/10/2013.

Government treasury.

ATTESTED

(Miss Sabira Parveen)
Distt: Education Officer (F)
Dir Lower

Endst: No. 1028-34/Estab: (Female) Dated Timergar the 10.10.2013
Copy forwarded to all concerned.

D-8

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) DIR LOWER AT TIM ERGARA
OFFICE ORDER.

Whereas Mst:Shagufta Bi Bi PST Govt:Girls Primary School Gudia Khwar Tehsil Adenzai Dir Lower was proceeded against under the Khyber Pakhtunkhwa Government servants(Efficiency and Discipline rules 2011, for the Charges, as she committed the following act/omissions with the meaning of rules 3 of the said rules.

That she remained absent from duty with effect from 20/12/2012, without prior sanction of leave. Her acts is against the office discipline and amount to miss-conduct under rules 3(b)& (d) of the Khyber Pakhtunkhwa Government servants(Efficiency and Discipline) rules 2011.

Whereas 1st show cause notice was issued to the accused vide this office Endst:No.5902-A dated 28/03/2013, but no convincible reply has been received within the stipulated period.

AND WHEREAS she was given an opportunity for personal hearing vide this office No.389 dated 12/9/2013. She was heard in person on 21/9/2013 before the committee was framed for the purpose.

AND WHEREAS the authority after having considered the charges, evidence on the record explanation of the accused teacher, and recommendations of the committee of the view that the charges against her have been proved due to her illness/domestic problems, but she remained absent from duty without leave sanction.

Now therefore I Miss Sabira Parveen Distt; Education Officer(Female) Dir Lower, in the capacity of competent authority, am satisfied that the charges against the accused have been proved beyond no doubt, I as a competent authority under the power conferred upon me under rules 3 of the Khyber Pakhtunkhwa Government servants(Efficiency and Discipline rules 2011, hereby impose minor penalty of "Stoppage of Two Annual Increments falling on 1/12/2013, & 1/12/2014, upon Mst:Shagufta Bi Bi PST Govt:Girls Primary School Gudia Khwar Tehsil Adenzai Dir (L) Her absence period w.e.f 20/12/2012 to 30/9/2013 is treated as leave without pay, and she is further adjusted at GGPS Laram Ouch w.e.f 1/10/2013.

The pay of absent period if paid to her be recovered and be deposited in to Government treasury.

(Miss Sabira Parveen)
Distt; Education Officer,
(Female) Dir Lower.

Endst:No, 102834 / Estab:(Female) Dated Timergara the 10/10/2013

Copy of the above is forwarded to the:-

1. The Director(E&SE)Khyber PakhtunKhwa Peshawar.
2. The PA to Secretary Elementary & Secy;Edu;Deptt;Khyber Pakhtunkhwa Peshawar.
3. The Deputy Commissioner Dir Lower.
4. The Distt;Accounts Officer Dir Lower.
5. The Deputy Distt;Education Officer(F) Local office.
6. The Sub-Divisional Edu;Officer(F) Timergara.
7. The Accused Teacher concerned.

ATTESTED

Distt; Education Officer,
(female) Dir Lower

E - 9

Charge Resumption Report

In compliance to office Order No. 1028-34 dated 10/10/2013 of the District Education Officer (Female) Dir Lower, I, Miss Shagufa Bibi PST, resumed charge at Government Girls Primary School Laram Ouch Dir Lower today on 23/10/2013.

Shagufa Bibi

Shagufa Bibi
Primary School Teacher

Copy for Information to:

- 1- The District Education Officer (Female) Dir Lower.
- 2- The Deputy District Officer (Female) Dir Lower.
- 3- The Sub-Divisional Education Officer (F) Timergara Dir Lower.

Sawma

Head Mistress
G.G.P.S
Larham

ATTESTED

[Signature]

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)
DIR LOWER AT TIMERGARA

OFFICE ORDER:

Whereas I Mr. Muhammad Ibrahim Distt: Education Officer(M&F) Dir Lower as competent authority am of opinion that Mst: Shagufta Bibi PST Govt: Girls Primary School Laram Tehsil Adenzai Dir Lower have rendered herself liable to be proceeded against as she committed the following act/omissions with the meaning of rules 3 the Khyber Pakhtunkhwa Government servants(Efficiency and Disciplinary rules 2011).

Statement of Allegations:-

"That she was absent from duty w.e.from 20/12.2012 to 30/9/2013.on the production of affidavit and recommendation of the committee the absence period mentioned above was treated as leave without pay and adjusted the teacher w.e.f. 1/10/2013 vide office Endst: No. 1028-34 dated 10/10/2013.

"After that the ADO circle reported that the teacher did not report for duty and recovered her as absent from duty from the date of her adjustment i.e.1/10/2013 office discipline and amount to miss-conduct under rules 3 (d) of the Khyber Pakhtunkhwa Government servant (Efficiency and Disciplinary rules 2011.

Whereas show cause notices was served upon the accused mistress vide this office Endst; No. 1854-56 dated 24/12/2013, but no convincible reply has been received up till now.

Now therefore I Mr. Muhammad Ibrahim Distt: Education Officer (M&F) Dir Lower, in the capacity of competent authority am satisfied that the charges against the accused have been proved beyond no doubt, I as a competent authority under the power conferred upon me under rules, 4,b(iv) of the Khyber Pakhtunkhwa Government Servant (Efficiency and Disciplinary rules 2011) hereby impose major penalty of "Dismissal from service", upon Mst; Shagufta Bibi PST GGPS Laram Tehsil Adenzai Dir Lower.

Note:- Necessary entry to this effect should be made in her Service Book accordingly.

(Muhammad Ibrahim)

(M&F) Dir Lower.

ATTESTED

Endst: No. 1163-67/ Dated Timergara the 05/05/2014
Copy forwarded to all concerned.



F-10

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) DIR LOWER AT TIMERGARA
OFFICE ORDER.

Whereas I Mr, Muhammad Ibrahim Distt; Education Officer(M&F) Dir Lower, as competent authority, am of opinion that Mst;Shagufta Bibi PST Govt; Girls Primary School Laram Tehsil Adenzai Dir Lower, have rendered her-self liable to be proceeded against, as he committed the following act/omissions with the meaning of rules 3 the Khyber Pakhtunkhwa Government servants(Efficiency and Discipline rules 2011).

Statement of Allegations:-

"That she was absent from duty, w.e.f 20/12/2012 to 30/9/2013. On the production of affidavit and recommendation of the committee, the absence period mentioned above was treated as leave without pay, and adjusted the teacher w.e.f 1/10/2013 vide office order Endst; No, 1028-34 dated 10/10/2013.

"After that the ADO circle reported that the teacher did not report for duty, and continued her absence from duty from the date of her adjustment i.e 1/10/2013 till date in violation of office discipline and amount to miss-conduct under rules 3 (d) of the Khyber Pakhtunkhwa Government servants(Efficiency and Discipline rules 2011).

Whereas show cause notices was served upon the accused mistress vide this office Endst; No, 1854-56 dated 24/12/2013, but no convinable reply has been received up-till now

Now therefore I Mr, Muhammad Ibrahim Distt; Education Officer(M&F) Dir Lower, in the capacity of competent authority, am satisfied that the charges against the accused, have been proved beyond no doubt, I as a competent authority, under the power conferred upon me under rules, 4, b(iv) of the Khyber Pakhtunkhwa Government servants(Efficiency and Discipline rules 2011 hereby impose major penalty of "Dismissal from service", upon Mst;Shagufta Bibi PST GGPS Laram Tehsil Adenzai Dir Lower.

Note:- Necessary entry to this effect should be made in her Service Book accordingly.

(Muhammad Ibrahim)

(M&F) Dir Lower,

Endst; No, 1163-67 / Dated Timergara the 05 /05/2014

Copy of the above is forwarded to the:-

1. The Director(E&SE)Khyber Pakhtunkhwa Peshawar.
2. The FA to Secretary Elementary & Secy; Edu; Deptt; Khyber Pakhtunkhwa Peshawar.
3. The Deputy Commissioner Dir Lower.
4. The Sub-Divisional Edu; Officer(F) Timergara.
5. The Accused Teacher concerned.

ATTESTED

[Handwritten signature]

[Handwritten signature]
27/5/14

Distt; Education Officer,
(M&F) Dir Lower

[Handwritten signature]

To

G-11

**The Hon'ble Director (E&SE) Department,
Khyber Pakhtunkhwa, Peshawar.**

SUBJECT: Departmental appeal against the order dated 05.05.2014 whereby the appellant was dismissed from service under the E&D Rules, 2011.

PRAYER:

That on acceptance of this Departmental appeal the impugned order dated 05.05.2014 communicated to the appellant on 26.08.2014 may very kindly be set aside and the appellant may kindly be re-instated into the service with all back benefits.

R/SHEWETH:

ON FACTS:

- 1- That appellant was appointed as PST in the Education Department vide order dated 14.05.1990. That after appointment appellant started performing her duty quite efficiently and up to the entire satisfaction of her superiors.
- 2- That during the course of service the appellant applied for leave through application to the concerned authority. That in response the said leave was granted to the appellant with effect from 20.08.2008 to 25.11.2009 vide order dated 27.8.2008.
- 3- That after expiry of the said leave the appellant submitted her arrival report on the very next day i.e. 26.11.2009 but in spite of that the concerned authority kept the appellant in hanging position by not adjusting the appellant as PST.
- 4- That time and again the appellant requested the concerned authority for her adjustment but no heed was paid to her request by the concerned authority. That finally through order dated 10.10.2013 the appellant was adjusted at GGPS Laram Ouch Dir Lower. That in response the appellant submitted her charge report vide dated 23.10.2013.
- 5- That astonishingly vide impugned order dated 5.5.2014 communicated to the appellant on 26.8.2014 the appellant was awarded major punishment of dismissal from service without the legal procedure highlighted in the efficiency & Disciplinary amended Rules, 2011.

ATTESTED

[Handwritten signature]

(12)

6- That feeling aggrieved from the dismissal order dated 5.5.2014 appellant prefers this Departmental appeal before your good self on the following grounds amongst the others.

GROUND:

- A- That the impugned order dated 05.05.2014 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the education Department in accordance with law and rules and as such the respondent Department violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That no charge sheet and statement of allegation has been served against the appellant by the concerned authority before issuing the impugned order dated 5.5.2014.
- D- That no chance of personal hearing/defense has been given to the appellant by the concerned authority before issuing the impugned order4 dated 5.5.2014.
- E- That no Show cause notice has been served by the concerned authority on the appellant.
- F- That the impugned order dated 05.05.2014 has been issued by the concerned authority without any clear justification.

It is therefore most humbly prayed that the Departmental appeal of the appellant maybe accepted as prayed for.

Dated: 24.9.2014

ATTESTED

[Handwritten signature]

APPELLANT

Shagufta Bibi

**SHAGUFTA BIBI, PST,
GGPS Laram Ouch Dir Lower**

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar
_____ OF 2014

Shajista Bibi (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Department (RESPONDENT)
(DEFENDANT)

I/We Shajista Bibi
Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** 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 cost. 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.

Dated. ____/____/2014

Shajista Bibi
CLIENT

14
ACCEPTED
NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No.0345-9383141

Mst: Shagufta Bibi PST B-12 GGPS, Laram Ouch District Dir Lower.

.....Appellant

VERSUS

1. Govt of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. Director, Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Female) Dir lower.

.....Respondents

PARA WISE COMMENTS/REPLY FOR AND ON BEHALF OF THE RESPONDENTS NO 1, 2 & 3.

Respectfully Sheweth:-

Preliminary Objections:-

1. The appellant has got no locus standi or cause of action to file the instant appeal.
2. The instant appeal is badly time barred.
3. The instant service appeal is based on malafied intention for gaining illegal and unauthorized service benefits from the respondents.
4. The appellant has concealed the material fact from this Hon! Able Tribunal, hence liable to be dismissed.
5. The appellant has not approached this Honorable Tribunal with clean hands.
6. The present appeal is liable to be dismissed for mis-joinder of unnecessary and non-joinder of necessary parties.
7. The appellant has filed the instant appeal on malafide motives.
8. The instant appeal is against the prevailing laws & rules.
9. The appellant has rightly been treated by respondent No.3

ON FACTS.

1. Pertains to record.
2. Pertains to record.
3. Incorrect. The appellant had not submitted her arrival report for duty and application for adjustment well in time on 26-11-2009 after expiry of the said leave. But submitted an application for adjustment to respondent No.3 after a lapse of 4 months vide DDO Female Timergara letter No.2069 dated 10-03-2010.(Copy attached as Annex-A). During that period, the post vacated by the appellant was filled through the transfer of another teacher. Inquiry was also conducted in the matter and in the light of recommendation of the inquiry committee, the appellant was adjusted against the vacant post of PST at GGPS Mattor But Qilla and her absence period was converted into leave without pay vide this office order No.4319-22 dated 15-03-2011.(Copy attached as Annex-B). But the appellant did not take charge in the said school and remained willful absent. Therefore the respondent served show cause notice upon the appellant. On reply of the appellant, she was once again adjusted at GGPS Gudia Khawar w.e.f 20-12-2012 and her absent period was also converted into leave without pay vide this office order No.23141-43 dated 31-12-2012.(Copy attached as Annex-C).
After expiry of winter vacation, the appellant did not resume her duty at GGPS Gudia Khawar and thus school remained closed due to single teacher school. So once again show cause notice was served upon the appellant for her willful absence from duty vide this office order No.5902-4 dated 28-03-2013(Copy attached as Annex-D).

After the receipt of reply, the appellant was called for personal hearing before the committee constituted for the cases of absent teachers and on the recommendation of the committee, the appellant was again adjusted at GGPS Laram w.e.f from 01-10-2013 and her absence period was converted into leave without pay vide this office order No,1028-34 dated 10-10-2013(Copy attached as Annex-E&F).

But it is regretted to say that the appellant just took the charge in the said school and then ~~herself~~ remained absent. Therefore once again show cause was served upon the appellant vide No.1854-56 dated 24-12-2014 but no convincing reply was received from the appellant.(Copy attached as Annex-G). Hence the appellant was removed from service vide this office order No.1163-67 dated 05-05-2014(Copy attached as Annex-H)

4. Incorrect: As replied above in para, 3 of the facts.
5. Incorrect: As replied above in para, 3 of the facts.
6. Incorrect: the appellant was removed from service after full filing of all codal formalities.
7. No comments.

ON GROUNDS:-

- (A) Incorrect. As the appellant permanently residing in Peshawar with her husband. Therefore the said order was communicated to her sister namely Khush Nama PST on 27-05-2014 because the appellant was not available in the said school nor in her native village Ouch.
- (B) Incorrect: The appellant has been treated by the respondent department as per law and rules.
- (C) Incorrect: All codal formalities have been fulfilled by the respondent.
- (D) Incorrect: All codal formalities have been fulfilled by the respondent.
- (E) Show cause notice has been issued to the appellant vide this office letter No.1854-56 dated:24/12/2014
- (F) Incorrect: As replied in para 3 above of the facts.
- (G) The respondent will seek permission of the honorable tribunal at time of hearing if allowed.

In view of the above made submission, it is humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant appeal with cost in favor of the respondents Department.



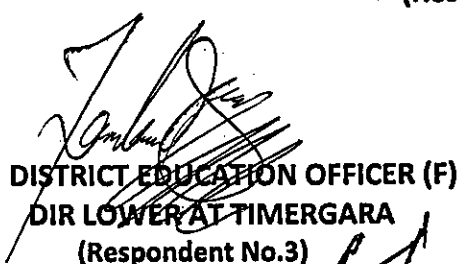
Director,

ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR
(Respondent No.2)



SECRETARY,

ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR
(Respondent No.1)



DISTRICT EDUCATION OFFICER (F)
DIR LOWER AT TIMERGARA
(Respondent No.3)