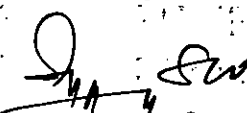


20.07.2018

Mr. Muhammad Arshad Khan Tanoli, Advocate present and heard in limine. Available record perused.

It appears from the record that the appellant was removed from service on 22.09.2012 against which she filed appeal in the shape of an application before the said authority on 28.09.2012 and thereafter she disappeared from the scene till filing of the instant appeal on 05.02.2018. Though the appellant has submitted an application for condonation of delay with the appeal but no plausible explanation has been given which may justify the condonation of delay which comes in years. No doubt, the appellant being a female and removed from service but on one hand, her conduct suggests her non-seriousness in perusing her appeal viz reinstatement in service and on the other hand, there are certain limitations viz conditions the of fulfillment of which is must before approaching this Tribunal in the shape of appeal. In short, the appeal in hand is hopelessly barred by 6 years and 3 months whereas not a single day delay has been explained by the appellant.



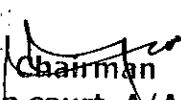
As such, in view of the above-stated legal position of the case, the appeal in hand stands dismissed in limine. In the circumstances, no order as to costs. File be consigned to the record room.


Chairman 20/7/2018
Camp Court, A/Abad

ANNOUNCED
20.07.2018

Form-A
FORM OF ORDERSHEET

Court of _____
Case No. 206/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15/02/2018	<p>The appeal of Mst. Maryam Bibi received today by post through Muhammad Arshad Khan Tanoli Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	26-2-18	<p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>20-04-18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
20.04.2018		<p>Clerk of counsel for the appellant present and requested for adjournment. Granted. To come up for preliminary hearing on 20.7.2018 before the S.B at camp court, Abbottabad.</p> <p style="text-align: right;"> Chairman Camp court, A/Abad</p>

**BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. 206 /2018

Mst. Maryam Bibi, PST, Govt. Primary School Nagri Rayain, District Abbottabad.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

INDEX

<i>S.#</i>	<i>Description</i>	<i>Page No.</i>	<i>Annexure</i>
1.	Service appeal along with affidavit	1 to 7	
2.	Copy of impugned removal from service order dated 22/09/2012	8	"A"
3.	Copy of departmental appeal	9-12	"B"
4.	Wakalatnama	13	

Maryam
...APPELLANT

Through

Dated: 09-02-2018

Muhammad Arshad Khan Tanoli
(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No 33 Adjacent to
Distt Bar Abbottabad

**BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. 206 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 208

Dated 15-2-2018

Mst. Maryam Bibi, PST, Govt. Primary School Nagri Rayain, District
Abbottabad.

...APPELLANT

VERSUS

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

...RESPONDENTS

Filed to-day

[Signature]
Registrar

15/2/18

**SERVICE APPEAL UNDER ARTICLE 4 OF
KPK SERVICE TRIBUNAL ACT, 1974, FOR
DECLARATION TO THE EFFECT THAT THE
APPELLANT HAS BEEN REMOVED FROM
SERVICE ON 22/09/2012 WITHOUT SHOW**

CAUSE NOTICE, AFFORDING
OPPORTUNITY OF PERSONAL HEARING AS
WELL AS WITHOUT PROVIDING
STATEMENT OF ALLEGATION, WHICH IS
PERVERSE, DISCRIMINATORY, AGAINST
THE LAW AND IMPUGNED REMOVAL
FROM SERVICE ORDER DATED 22/09/2012 IS
LIABLE TO BE SET ASIDE.

PRAYER: ON ACCEPTANCE OF THE
INSTANT SERVICE APPEAL, IMPUGNED
REMOVAL FROM SERVICE ORDER DATED
22/09/2012 MAY GRACIOUSLY BE
DECLARED AS ILLEGAL AND MAY BE SET
ASIDE WITH ALL SERVICE BACK
BENEFITS. ANY OTHER RELIEF WHICH
THIS HONOURABLE TRIBUNAL DEEM
APPROPRIATE MAY ALSO BE GRANTED TO
THE APPELLANT.

Respectfully Sheweth:-

That the facts forming the backgrounds of the instant service appeal are arrayed as under;-

1. That the appellant got appointment as PST in Education Department and served the department with complete devotion and dedication to the entire satisfaction of her superiors.
2. That respondent No.3 illegally showed the appellant absent from duty w.e.f 15/12/2011 to 22/09/2012 and proceeded exparte against the appellant and finally removed her from service vide impugned removal from service order dated 22/09/2012. Copy of impugned removal from service order dated 22/09/2012 is attached as Annexure "A".
3. That the appellant filed departmental appeal against the impugned removal from service order on 29/09/2012. Copy of departmental appeal is attached as Annexure "B".

Hence, the instant service appeal is being filed, inter-alia, on the following grounds;-

GROUND:-

- a) That the impugned removal from service order dated 22/09/2012 is against the law, void, exparte and the same is liable to be set aside.
- b) That respondent No.3 did not issue show cause notice, final show cause, conducted inquiry and not provided opportunity of personal hearing. Hence, the impugned removal from service order is liable to be cancelled.
- c) That removal from service of the appellant is result of audi-alteram-partem which is not maintainable at law.
- d) That this fact may not be left to fade in oblivion that the respondent No.3 has led the appellant to the place

which is utterly unknown to the principle of jurisprudence. That the valuable rights of the appellant are involved.

e) That the appeal of the appellant is barred by time w.e.f 29/01/2013 to till date. A separate application for condonation of delay is attached with the appeal.

f) That there is no efficacious and adequate remedy available to the appellant except the invocation of jurisdiction of this Honourable Tribunal.

g) That other points shall be urged at the time of arguments.

It is therefore, humbly prayed that on acceptance of the instant service appeal, impugned

removal from service order dated 22/09/2012 may graciously be declared as illegal and may be set aside with all service back benefits. Any other relief which this Honourable Tribunal deem appropriate may also be granted to the appellant.


...APPELLANT

Through

Dated: 09-02-2018


(Muhammad Arshad Khan Tanoli)
Advocate High-Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.


...APPELLANT

**BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. _____/2018

Mst. Maryam Bibi, PST, Govt. Primary School Nagri Rayain, District
Abbottabad.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary; Elementary & Secondary
Education, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Mst. Maryam Bibi, PST, Govt. Primary School Nagri Rayain, District
Abbottabad, do hereby solemnly affirm and declare that the contents of
foregoing appeal are true and correct to the best of my knowledge and belief
and nothing has been concealed therein from this Honourable Court.



Maryam
DEPONENT

13/11/18

NOTIFICATION.

Annex-A.

WHEREAS you Mst: Maryam Bibi , PST GGPS Nagri Payeen Abbottabad was proceeded for having committed the following acts which constitute inefficiency and misconduct under rule 3 subrules (a), (b) and (d) of the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) rules 2011.

P-8

WHEREAS you have been keeping yourself absent from duty w.e.from 15-12-2011 without any application/prior permission.

WHEREAS the above charges against you were communicated by the ADO circle Hajia Gali.

AND WHEREAS a show cause notice was served upon you vide this office No. 725 dated 28-05-2012.

AND WHEREAS a notice through daily "AAJ" Abbottabad regarding absence from duty was published on 26-08-2012 directing her to resume duty within 15 (fifteen) days of publication of the notice and intimate the cause of her absence failing which an ex-parte decision would be taken against you under the relevant rules.

NOW THEREFORE on exercise of power conferred by the Khyber Pakhtunkhwa Govt; Servants (Efficiency & Discipline) rules 2011, the competent authority Executive District Officer (Elementary & Secondary Education) Abbottabad is pleased to impose major penalty under rule 4 subrule (b) section III of removal from service of Mst: Maryam Bibi , PST GGPS Nagri Payeen Abbottabad from the date of absence.

COMPETENT AUTHORITY
EXECUTIVE DISTRICT OFFICER
ELEMN: & SECY: EDU: A.ABAD.

Endst: No. 1432-35/PST (F/P)

Dated 22-9-2012.

Copy to the:-

1. District Coordination Officer Abbottabad.
2. Deputy District Officer E & SE (F/P) Abbottabad.
3. District Comptroller of Accounts Abbottabad.
4. Mstr: Maryam Bibi, PST GGPS Nagri Payeen Abbottabad.

EXECUTIVE DISTRICT OFFICER
ELEMN: & SECY: EDU: A.ABAD.

Attested

[Signature]

Mohammad Arshad Khan Tanoli
Advocate High Court
Office No: 33 Adjacent to
Dist Bar Abbottabad

*M. Arshad Khan Tanoli
Adv Hc ATD*

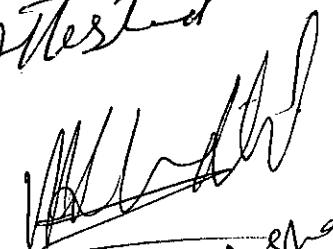
تذریعہ ضابطہ ذریعہ ہے جس میں ضلع ایبٹ آباد
Annex - B ضابطہ عالی
 آئین برائے بحالی ملازمت

12

P-9

درخواست دہنے والے ہیں

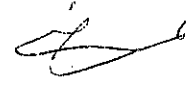
- 1۔ سالانہ نوڈنٹ سے مندرجہ ذیل نگران تعلیم ضلع ایبٹ آباد میں بحالی
- 2۔ سالانہ نوڈنٹ سے مندرجہ ذیل نگران تعلیم ضلع ایبٹ آباد میں بحالی
- 3۔ سالانہ نوڈنٹ سے مندرجہ ذیل نگران تعلیم ضلع ایبٹ آباد میں بحالی
- 4۔ سالانہ نوڈنٹ سے مندرجہ ذیل نگران تعلیم ضلع ایبٹ آباد میں بحالی

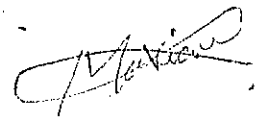
Attested

 11377 M. Arshad
 Advocate
 Muhammad Arshad Khan Tanc.
 Advocate High Court
 Office No. 33 Adjacent to
 Dist. Bar Abbottabad

Beo
 5/10/12

آپ سے درخواست ہے کہ سالانہ نوڈنٹ 2012-3-1-31-10-2012
 کی چھٹی بلڈ فٹنوار (L. W. Pay) منظور کر کے سالانہ نوڈنٹ کو ملازمت پر
 بحال کیا جائے۔ تاکہ سالانہ نوڈنٹ اپنے فائدہ ان کی کفالت کرے
 28-9-2012

03219984352



محکمہ تعلیم ضلع ایبٹ آباد
 سہ ماہی - ایس - بی - ایس - سی نوڈنٹ سے مندرجہ ذیل نگران تعلیم ضلع ایبٹ آباد


خدمت جناب ای۔ ڈی۔ او صاحبہ زنانہ ایسٹ آباد

جناب عالیہ P-10

موردیات القاس پیسٹ سائلنگ گورنمنٹ گرلز پرائمری

سکول نگر یاڈ میں اپنی خدمات سرانجام دے رہی ہیں

بشکرت P-S-1 پیسٹ کے، پیری پیسٹ پیمانہ اسکی دیکھ

کمال والا کوٹی پیرس ڈاکٹر نے بھی کویا اسپتال کرکٹ کا

کیا ہے۔ پھیلتی پھیلتی ہوئی وجہ سے ماں کے بغیر رہ سکتی

لہذا آپ سے درخواست ہے سائلنگ کو مورف 1-3-2012 تا 242-16-31

کی جیٹی بنا تھوڑا دی جائے۔

آئی میں خواہش ہوگی Attested

Muhammad Arshad Khan Tandi
Advocate High Court
Office No. 33 Adjacent to
District Office, Multan

ساتہ سریم بی بی۔ بی۔ ایسی۔ ٹی گورنمنٹ گرلز پرائمری سکول نگر یاڈ

M. Arshad Khan
Tandi Adv H.C.
ATD

Head Mistress
Govt. Girls Primary School
Nagri Pain Dist. Multan

Annual Report

P-11

میں جسکی سرپرستی میں دفتر محمد یونس نے بمطابق
آئین آرڈر نمبر 17946-17715 پی ای او ایس آر آر

نورم 21/7/12 کو سائیدہ سرپرستی میں دفتر محمد یونس

کاؤنڈیل کے ذریعہ 27/7/12 کو نوٹیفکیشن

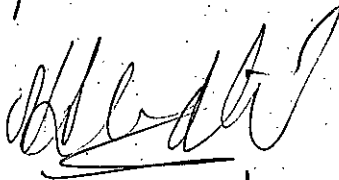
درج ذیل کے سرکار کے آئین میں Annual Report

کی ہے۔
جسکی سرپرستی میں دفتر محمد یونس
ارڈر نمبر 17946-17715 پی ای او ایس آر آر

سابقہ سرپرستی میں

سائیدہ سرپرستی میں
محمد یونس

Attest



M. Arshad Khan Tanoh
Adv. H.C. A.T.D.

Muhammad Arshad Khan Tanoh
Advocate High Court
Office No. 33 Adjacent to
Bar Abbottabad

پہلے نمبر پر

P-12

بہانہ آفینس آرڈر نمبر 1794-1775 از دست

ڈی-ای-او-س آرڈر نمبر 2712
2010

کہ بیان شدہ سرکاری دستاویزوں
میں جوڈیسیا میں جوڈیسیا
میں جوڈیسیا میں جوڈیسیا
میں جوڈیسیا میں جوڈیسیا

جوڈیسیا میں جوڈیسیا
جوڈیسیا میں جوڈیسیا

پہلے نمبر پر
پہلے نمبر پر

42508018-3

Govt. Girls Primary School
District: Abbottabad

A

1-3-2011

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No: 33 Adjacent to
Distt. Bar Abbottabad

Arshad

M. Arshad Khan Tanoli
Adv Hc ATD

**BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. _____-A/2018

Mst. Maryam Bibi, PST, Govt. Primary School Nagri Rayain, District
Abbottabad.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary, Elementary & Secondary
Education, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

APPLICATION FOR CONDONATION OF DELAY
BY YEARS AND MONTHS.

Respectfully Sheweth;-

1. That the instant application may be treated as an integral part of the main service appeal.
2. That the service appeal of the appellant is time burred by years months.
3. That the rejection of departmental appeal by the respondent department is against the law, void. Hence, as per law, no limitation runs against the void order.

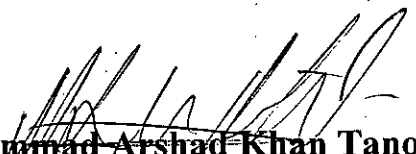
4. That valuable rights of the appellant is involved. Besides, law favour, adjudication on merit and not on technicality.

It is prayed that on acceptance of the instant application of the appellant, delay of years months may graciously be ordered to be condoned so as to decide the service appeal of the appellant on merit.

...APPELLANT

Dated: _____/2018

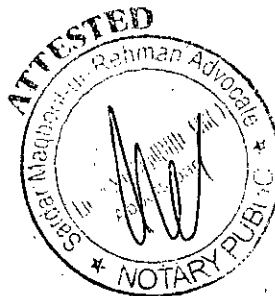
Through


(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

AFFIDAVIT

I, Mst. Maryam Bibi, PST, Govt. Primary School Nagri Rayain, District Abbottabad, do hereby solemnly affirm and declare that the contents of forgoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.


DEPONENT



کورٹ فیس قیستی

وکالت نامہ

Before the Service Tribunal of Peshawar بعد ازاں

MSA Marjani نام Court of EPK عنوان

Appellant منجانب

Service Appeal نوعیت مقدمہ

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی وجوہات کے ساتھ
Muhammad Arshad Khan Tanoli
Advocate High Court
Office No: 33 Adjacent to
Dist Bar Abbottabad

ATD Arshad Khan Tanoli Adv. H.C.

کوڈیکل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختم مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالش بصیغہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المقوم:

Abbottabad بمقام

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No: 33 Adjacent to
Dist Bar Abbottabad

Accepted

Muhammad Arshad Khan
Tanoli Adv H.C.

Abbottabad