


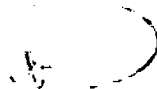
24.08.2022

Clerk of learned counsel for the appellant present.
Mr. Naseer Ud Din Shah, Assistant Advocate General for
the respondents present.

Clerk of learned counsel for the appellant requested
for adjournment on the ground that learned counsel for
the appellant is out of station. Adjourned. Last
opportunity is given. To come up for arguments on
13.10.2022 before the D.B.



(Rozina Rehman)
Member(J)



(Salah-Ud-Din)
Member(J)

06.07.2021

Nemo for appellant.

Asif Masoof Ali Muhammad Adeel Butt learned Deputy District Attorney for respondents present.

Notice be issued to appellant/counsel for 11.11.2021 for hearing before D.B.



(Rozina Rehman)
Member(J)



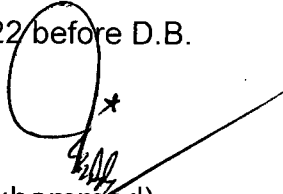
Chairman

11.11.2021

Junior to counsel for appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Former made a request for adjournment as senior counsel is busy in Islamabad; granted. To come up for arguments on 04.03.2022 before D.B.



(Mian Muhammad)
Member (E)



(Rozina Rehman)
Member (J)

04.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 07.06.2022 for the same as before.

7.6.22

Proper DB is at Tare, therefore the case is adjourned to 24.8.22 for same.



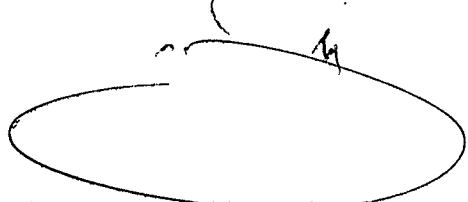
Reader



04.11.2020

Junior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Arshed Ali, ADEO (Litigation) for the respondents are also present.

Representative of the department submitted written reply on behalf of respondents which is made part of record. File to come up for rejoinder and arguments on 14.01.2021 before D.B.

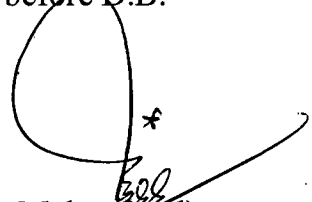

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

14.01.2021

Junior to counsel for the appellant present. Addl: AG alongwith Mr. Arshad Ali, ADEO for respondents present.

Arguments could not be heard due to learned Member(Judicial) is on leave.

Adjourned to 01.04.2021 for arguments before D.B.


(Mian Muhammad)
Member(E)

01.04.2021

Due to non availability of the concerned D.B, the case is adjourned to 06.07.2021 for the same.


Reader

20.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 14.07.2020 for the same. To come up for the same as before S.B.

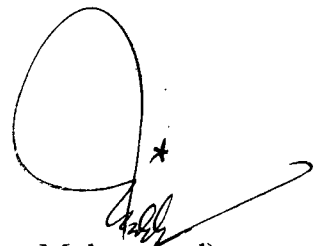

Reader

14.07.2020

None for the appellant present. Addl: AG for respondents present.

On the previous date the case was adjourned through reader note, therefore, the office shall issue notices to the respondents for written reply/comments as well as to the appellant and his counsel for attendance.

Adjourned to 15.09.2020 before S.B.


(Mian Muhammad)
Member(E)

15.09.2020


Junior to counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks adjournment in order to contact the respondents and furnish reply/comments. Adjourned to 4.11.2020 on which date the requisite reply/comments shall positively be furnished.


Chairman

04.03.2020 Counsel for the appellant Mst. Sakeena Bibi present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Education Department as Certified Teacher. She was imposed major penalty of removal from service vide order dated 30.04.2019 on the allegation of absence from duty. It was further contended that as per para-5 of departmental appeal, the impugned order was communicated to the appellant on 25.07.2019, therefore, the appellant filed departmental appeal on 30.07.2019 but the same was rejected vide order dated 20.01.2020 hence, the present service appeal on 27.01.2020. Learned counsel for the appellant further contended that the appellant was granted leave but after expiry of the said leave when she reported for duty, the respondent-department had appointed another teacher at her place, therefore, she was directed that whenever her post become vacant she will be informed but the respondent-department has not informed her. It was further contended that neither absence notice or any show-cause notice was published against the appellant in the newspaper nor proper inquiry was conducted nor she was associated in inquiry proceeding, therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 20.04.2020 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Amount Deposited
& Process Fee

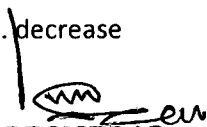

03/20

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 668 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/01/2020	<p>The appeal of Mr. Sakeena Bibi presented today by Mr. Safdar Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p> REGISTRAR 27/11/20</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>04/03/2020</u>.</p> <p> CHAIRMAN</p>
2-		

Appella
Securi

14.01.2021

Junior to counsel for the appellant present. Addl: AG
alongwith Mr. Arshad Ali, ADEO for respondents present.

Arguments could not be heard due to learned
Member(Judicial) is on leave.

Adjourned to 01.04.2021 for arguments before D.B.

(Mian Muhammad)
Member(E)

06.07.2021

Nemo for appellant.

Asif Masoof Ali Muhammad Adeel Butt learned Deputy
District Attorney for respondents present.

Notice be issued to appellant/counsel for 11.11.2021
for hearing before D.B.

(Rozina Rehman)
Member(J)

Chairman

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 668 /2020

SAKEENA BIBI VS EDUCATION DEPARTMENT Etc.

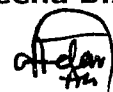
I N D E X

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1 – 8
2.	Application for condonation of delay		9-10
3.	Affidavit		11
4.	Copy of appointment Order	A	12
5.	Copy of the promotion order	B	13
6.	Copy of the application for retirement	C	14-15
7.	Copy of the enquiry report	D	16-17
8.	Copy of the NOC issued in March 2018	E	18
9.	Copy of the application/complaint seeking copy of Show Cause Notice	F	19
10.	Copy of the removal order	G	20
11.	Copy of the departmental Appeal	H	21-22
12.	Copy of the comments/report on the departmental appeal	I	23-24-A
13.	Copy of the order (impugned) on departmental appeal	J	25
14.	Power of attorney and Wakalat Nama	-----	26-27

APPELLANT


Sakeena Bibi

Through:


Barrister Safdar Ali Khan
Advocate High Court
Muhammad Ilyas Khan *IM yas*
Advocate High Court
Faheem Ullah Akhonzada *FAHEEM*
Advocate High Court

Cell No.0300-5676137

Office- TF.229 Deans Trade Center Peshawar Cantt.



①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 668 /2020

Mst. Sakeena Bibi,

CT- Govt. Girls Middle School Darmangi Tehsil and District

Peshawar, Appellant

VERSUS

1. Government of KPK through Secretary ES & Education Civil Secretariat, Peshawar.
2. Director Secondary and Elementary Education, KPK, Peshawar.
3. District Education Officer (F) Peshawar
4. Sub Divisional Education Officer (F) Peshawar.
5. Principal Government Girls Middle School Darmangi, Tehsil and District Peshawar Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 30.04.2019 WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE AND AGAINST THE APPELLATE ORDER DATED 20.01.2020 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN SEEN AND FILED.

PRAYER:

That on acceptance of this appeal the impugned order dated 30.04.2019 and subsequent appellate order dated 20.01.2020 may very kindly be set aside and the appellant may kindly be re-instated in service with all back benefits alternatively the penalty of removal from service awarded to the appellant may please be modified/converted into compulsory retirement from service keeping in view her previous more than 23 years qualifying service.

Respectfully Sheweth:**FACTS IN CHRONOLOGICAL ORDER:**

1. That appellant was appointed as PTC Teacher in the respondent Department on 11.11.1982 after fulfilling all the formalities required for appointment to the post. Copy of the Office order is attached as annexure [A].
 2. That the appellant ever since her appointment had been performing her duties quite efficiently, whole heartedly and to the entire satisfaction of her high ups. That appellant was given promotion to the post of CT (BPS -15) on 9 July 1994 Copy of the Office order is attached as annexure [B].
 3. That the appellant remained posted in Lahor District Swabi and was later on transferred to Government Girls Middle School Darmangi (GGMS Darmangi) Peshawar.
 4. That in September 2005 the appellant proceeded to UK on 1 year earned leave duly sanctioned by the respondent department. Her leave was sanctioned as Ex-Pakistan Leave from 17.09.2005 until 03.11.2005 (45 days leave with Half Pay by conversion of 24 days leave on full pay into half pay) and from 04.11.2005 until 04.09.2006 (as Extra-Ordinary Leave without pay).
 5. That the appellant returned to Pakistan in July 2006 and offered herself for services however her position at GGMS Darmangi was not vacant as the same was filled with another female staff and the education department verbally informed the appellant that she would have to wait until any post becomes vacant.
-

6. That the daughter of the appellant had become unwell and was diagnosed with asthma due to which she had to stay in London for the treatment of her daughter and at the same time she was waiting for the post becoming available in the respondent department. She submitted application for further leave and the same was sanctioned until September 2008. In September 2008 the appellant made enquiries and she was informed that there was no vacant post until then therefore she moved a further application for the extension of Extra-Ordinary Leave for 5 years so that the time that she remained off service due to the unavailability of a vacant position is sanctioned as Extra-Ordinary Leave however, neither any order was passed on the leave application until December 2016 nor any vacant post was offered to the appellant, therefore, the Appellant filed an application for retirement from service on 26 December 2016, which was under process and enquiry upon the same was conducted albeit after a long delay and ultimately in February 2018 enquiry report was submitted by the appointed enquiry officer namely Mst. Farzana Bano. Copies of the application for retirement is enclosed as Annexure [C] and enquiry report thereon as Annexure [D].
7. That no disciplinary proceedings whatsoever were ever initiated against the appellant and despite her chasing a vacant position for joining and later on lodgment of application for retirement she was never given any intimation that the period from 2008 was considered as her willful absence from service vis-à-vis No Objection Certificate (NOC) dated April 2018 was issued to facilitate her travel from Pakistan to UK. Copy of the NOC is attached as Annexure [E].
8. That surprisingly the appellant was issued with show Cause Notice and later on publication in daily newspaper dated 23 November 2018 was made to the effect that on 30 January 2019 the appellant must attend for personal hearing and submit the reply to the show cause notice which process was

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unnecessary on the face of the appellant's application dated 26 December 2016 and the favourable enquiry report of the Enquiry Officer Mst. Farzana Bano dated 19 February 2018 being present on file. Copy of the application/complaint to RTI seeking copy of Show Cause notice is attached as Annexure [F].

9. That the competent authority, without giving any weight to contention of the appellant, issued order dated 30.04.2019 (communicated to the appellant on 25 July 2019) whereby major penalty of removal from service has been imposed upon the appellant. Copy of the removal order is attached as annexure [G].
 10. That feeling aggrieved from the action of the respondent no. 3 the appellant filed Departmental Appeal on 30 July 2019 against the order dated 30.04.2019 before respondent no. 2. Copy of the Departmental Appeal is attached as annexure [H].
 11. That the respondent no. 2 while disposing off the Departmental Appeal of the appellant against the major penalty of removal from service directed the respondent No 3 to provide comments to the departmental appeal which were filed by the respondent No 3 on 14.10.2019 however no further action was taken by the respondent No 2 until 20.01.2020 when the departmental appeal of the Appellant was seen and file vide impugned order dated 20.01.2020. Copies of the comments/report on departmental appeal is annexed as Annexure [I] and the impugned order as Annexure [J].
 12. That appellant feeling highly aggrieved and having no other remedy but to file the instant appeal inter alia the following grounds:
-

GROUNDS:

- A. That the appellant has not been treated in accordance with the Law, hence her rights secured and guaranteed under the law are badly violated.
 - B. That no proper procedure has been followed before awarding the penalty of Removal from Service to the appellant, neither has she been served with any charge-sheet, statement of allegations or any absence notice nor any endeavor has been made to associate the appellant with the enquiry proceedings, the whole-proceedings were conducted ex-parte, the appellant has not been given any chance to appear in person and her written explanation has not been given appropriate weight thus proceedings so conducted are defective in the eye of law.
 - C. That the appellant has not been allowed opportunity of personal hearing before the imposition of penalty upon her, thus she has been condemned unheard.
 - D. That no charge-sheet, statement of allegation or show-cause notice was served upon the appellant before awarding her the penalty of removal from service hence she has not been provided opportunity to defend herself against the charges leveled.
 - E. That the superior courts have always held that punishment must be commensurate with the magnitude of guilt. In the instant case the appellant has been treated quite harshly. She has at her credit more than 23 years service, thus awarding punishment of removal from service is too harsh and liable to be set aside or modified. Reliance is placed on 2006 SCMR 1120, 2013 SCMR 817 and 2013 SCMR 372.
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F. That the appellant has never committed an act or omission which could be treated as misconduct, albeit she has been awarded the penalty for the failure of the respondent department as her position which was filled with another female staff was never vacated for her and she was kept in limbo for all this period. Her, alleged absence has never been willful but was due to the department's failure to provide her vacant position to provide services. The appellant's bonafide is obvious from the fact that she remained in contact with the respondents and had at all material times been making enquiries regarding the availability of vacant posts and had been making leave applications to avoid any unauthorized absence from duty.

G. That the appellant has over 23 years spotless service record at her credit, the penalty imposed upon her is very harsh and is liable to be set aside.

H. That the respondent's refusal to allow the appellant to resume her duties at the work place of the appellant i.e. Government Girls Middle School Darmangi and the long silence of the respondents tantamounts to sheer negligence shirking from their duties and depriving the appellant from her bonafide service in a totally unwarranted manner. The very act of the Respondents is illegal, unlawful, void ab-initio and without jurisdiction.

I. That the appellant being bonafide employee of the education department, has served the department with full faith and devotion for long 23/24 years. Silence of the respondents on her request for leave and its prolongation by the department itself speaks malafide of the then authorities and just to favour the blue eyed ones for ulterior motives at the relevant time.

- J. That the appellant has every right to reap the usufruct of her long service in the shape of retirement as provided under section 13 of the Khyber Pokhtoonkhwa Civil Servant Act 1973 or in alternative she has every right to be allowed to complete her 25 years service which is otherwise considered as qualifying service rather under the law qualifying service has been reduced to 20 years as is evident from the section ibid which was made through an amendment in the Civil Servant Act in the year 2001.
- K. That the respondents at the helms of affairs at Peshawar did not appreciate the consequences of their negligence and have been prolonging absence of the appellant for no cogent reason rather they would be held responsible if this Honourable Tribunal appreciate the facts of the case and law on the subject.
- L. That long silence of the respondents and other high-ups also tantamounts to negligence and shirking of their duties rather is a clear cut manifestation of mismanagement in the education department otherwise the respondents should have allowed the appellant to resume her duties on the expiry of her leave least to say that she has applied for resumption of charge in July 2006 prior to the expiry of her leave and then applied for further leave when no vacant position was available.
- M. That by not allowing the appellant to resume her duties or deciding the fate of the appellant by the respondents the appellant lodged an application for early retirement which application was unreasonably delayed and left undetermined despite favourable recommendations from the independent enquiry officer, hence is also violation of law, rules and the mandatory provisions of constitutions because she can not be deprived of her bonafide service and benefits therefrom in the manner not provided in the law rather the constitution gives protection to the appellant in any manner whatsoever.
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N. That the appellant has every right to be allowed to resume her duties or to be awarded retirement benefits as provided in the act ibid and as such this Honourable Tribunal has the jurisdiction to decide the matter once for all.

It is, therefore, humbly prayed that on acceptance of this service appeal the impugned order dated 30.04.2019 and subsequent appellate order dated 20.01.2020 may very kindly be set aside and the appellant may kindly be re-instated in service with all back benefits alternatively the penalty of removal from service awarded to the appellant may please be modified/converted into compulsory retirement from service keeping in view the appellant's previous more than 23 years qualifying service.

Any other order deems appropriate in the circumstances of the case may also be passed in the interest of justice


Appellant,

Through:



Barrister Safdar Ali Khan
Advocate High Court


Muhammad Ilyas Khan
Advocate High Court


Faheem Ullah Akhonzada
Advocate High Court

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: _____ / 2020

SAKEENA BIBI

VS EDUCATION DEPARTMENT Etc.

APPLICATION FOR CONDONATION OF DELAY
IF ANY IN FILING THE TITLED APPEAL

Respectfully Sheweth:

1. That applicant has filed the accompanied appeal before this honourable tribunal in which no date of hearing is fixed so far.
2. That the applicant prays for the condonation of delay if any in filing the instant appeal inter alia the following grounds:

GROUND OF APPLICATION:

- A. That the appellant was never informed about the departmental proceedings nor any order was communicated to the appellant and she has now submitted the appeal within 30 days from the communication date, which remained under consideration, however it was lastly rejected vide order dated 20.01.2020, thereafter the instant appeal is filed well within 30 days of the final appellate order.
 - B. That the delay if any in filing the instant appeal was not willful nor can the same be attributed to the appellant as it was due to the non-communication and or late communication of the order to the appellant by the respondents, therefore, the appellant should not suffer detriment for the faults of the others, hence the delay if any deserves to be condoned.
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C. That it has been consistently held by the superior courts that appeal filed within 30 days from the date of communication of the order on departmental representation/appeal would be in time. Reliance is placed on 2013 SCMR 1053 and 1997 SCMR 287(b).

D. That valuable rights of the appellant are involved in the instant appeal which has merits and if the same is not considered in time or time is not extended the ends of justice will be defeated and the appellant would be deprived of her rights due to technicality which on merits entitles her to be granted the remedy prayed for in the appeal.

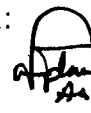
E. That it has been the consistent view of the Superior Courts that causes should be decided on merits rather than technicalities including limitation. The same is reported in 2004 PLC (CS) 1014, 2003 PLC (CS) 769.

F. That the applicant be allowed to raise and rely on further grounds at the time of arguments with the permission of this honourable tribunal.

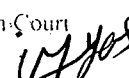

It is, therefore, humbly prayed that on acceptance of this application the delay if any in filing the instant appeal may please be condoned.


Appellant,

Through:



Barrister Safdar Ali Khan
Advocate High Court


Muhammad Ilyas Khan
Advocate High Court

Faheem Ullah Akhunzada
Advocate High Court

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

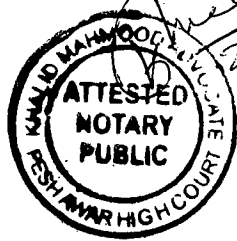
Service Appeal No: _____ / 2020

SAKEENA BIBI

VS EDUCATION DEPARTMENT Etc.

AFFIDAVIT

I, Barrister Safdar Ali Khan, Attorney of the Appellant do hereby affirm and declare on oath that the contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

A handwritten signature of Safdar Ali Khan.

Deponent

OFFICE ORDER.

DATED 11.11.1982

TRANSFER/APPOINTMENT?

(12)

Annex 721

The following transfers and appointments against PTC posts in NPS No(6) @ Rs 315/-PM fixed plus usual allowances as admissible under the rules, are hereby ordered in the interest of public service with immediate effect.

S/No;	Name of mistress	From	To	Remarks.
1)	Razia Begum	GGPS Lahor	GGPS Markai	Against vacant post.
2)	Sakeena Bibi D/O Nowsher Khan of Lahor.	Candidate	GGPS Lahor	Vice S/No (1)
3)	Liaqat Begum D/C Abdul Ghafoer	Candidate	GGMS Adina	Vice Zeenat Jehan, proceeded on maternity leave from 16.11.81 to 1.12.81

Notes:-

- * The appointments are subject to the following conditions.
- 1) No T.A./DA is allowed.
 - 2) Charge reports should be submitted in duplicate to all concerned.
 - 3) The candidates are required to produce their health and age certificate from the medical Superintendent Mardan before their taking over charge of their new assignments.
 - 4) Their original certificates should be checked, if the candidates whose ages exceed 25 years or below 18 years at the time of their taking over charge, they should not be allowed to take over charge.
 - 5) The appointments are being made purely on temporary basis and are liable to termination at any time without notice or assigning any reasons. In case they wish to resign they are required to give one month's prior notice or forfeit one month's pay in lieu thereof.

MRS. ANJINA BEGUM,
DISTRICT EDUCATION OFFICER
FEMALE, M. MARDAN.

Endt No 8060-62 /A-4, Swabi, Dated Mardan the 11/11 /82

Copy for information to the:-

- 1) P.A. to Director of Education (Schools) NWFP, Peshawar.
- 2) Sub-Divisional Education Officers (Female) Swabi w/r to her No. 986 dated 11.11.82.
- 3-4) Candidates concerned.

[Signature]
District Education Officer,
Female, Mardan.

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

Dated 11/11/1982

TRANSFER/APPOINTMENT:

The following transfers and appointments against PTC posts in NPS No. (6) @ Rs. 315/- PM fixed plus usual allowances as admissible under the rules, are hereby ordered in the interest of public service with immediate effect.

S.No.	Name of Mistress	From	To	Remarks
1.	Razia Begum	GGPS Lahor	GGPS Mankai	Against vacant post
2.	Sakeena Bibi D/o Nowsher Khan of Lahor	Candidate	GGPS Lahor	Vise S/o No. (1)
3.	Liaqat Begum D/o Abdul Ghafoor	Candidate	GGPS Adina	Vice Zeenat Jehan, proceeded on matter leave from 16/11/2001 to

Notes:

The appointments are subject to the following conditions.

1. No TA/DA is allowed.
2. Charge reports should be submitted in duplicate to all concerned.
3. The candidates are required to produce their health and age certificate from the medical superintendent Mardan. Before their taking over charge of their new assignments.
4. Their original certificates should be checked, if the candidate whose ages exceed 25 years or below 18 years at the time of their taking over charge, they should not be take over charge.
5. The appointments are being made purely on temporary basis and are liable to termination at any time without notice or assigning any reasons. In case they wish to resign they are required to give one months prior notice or forfeit one month's pay in lieu thereof.

MRS. AMINA BEUGM
DISTRICT EDUCATION OFFICER
FEMALE, MARDAN

Endst No. 8060-6/A-4, Swabi, Dated Mardan the 11/11/82
Copy for information to the:

1. P.A Director of education (Schools) NWFP Peshawar
2. Sub Divisional Education officers (Female) Swabi w/r to her No. 986 dated 11/11/82.
3. Candidates concerned.

District Education Officer
Female Mardan

OFFICE ORDER.

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Annex 13

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Consequent upon the advertizement published in the news papers and interview held on 9.7.1994. by the Departmental Selection Committee Mardan Division Mardan. The appointment of Miss: Sakeena Bibi BA/OT D/O Nowsheer Khan Resident of village & PO. Lahor Fure (Swabi). at GHS, Lahor (Swabi) is hereby made against vacant C.T. post purely on merit maintained in this office in BPS No.9 Rs.1605/-P.M. (Rs.1605-97-3060) plus usual allowances admissible under the rules with effect from the date of taking over charge.

Charge report should be submitted to the quarters concerned.

No TA/DA is allowed being 1st appointment.

TERMS AND CONDITIONS:-

1. The appointment is purely temporary and liable to termination/reversion at any time with-out assigning any reason.
2. In case of resignation one month's prior notice to the Department or forfeit one month's pay in lieu thereof to the Govt: of N.W.F.P., is a must.
3. All original Educational/Prof:/Domicile certificates should be checked thoroughly before handing over charge. These may be verified from the institution concerned.
4. Health and age/Medical fitness certificate should be obtained from the Medical Supdt: concerned before handing over charge.
5. Character roles and antecedent duly verified by the Police authorities be obtained and furnished to this office for his service record.
6. His/her age should not exceed from 40+2 years.
7. She should join her new post within 15 days on the issue of this order failing which the order will be automatically cancelled.

(MUHAMMAD ZAFAR JALIL)

DIVIL: DIRECTOR SECONDARY EDUCATION
MARDAN DIVISION MARDAN.Endst: NO. 16734-40 / Apptt: file OT/DA-II Dated Mardan the 25/10/94.

Copy forwarded to the:-

1. P/S to Minister for Education Secondary/Colleges N.W.F.P. Peshawar.
2. Director Secondary Education N.W.F.P. Peshawar.
3. District Education Officer (Male & Female) in Mardan Division.
4. Principal/Headmaster/Headmistress/GHSS/GHS/GGHSS/GGHS/GMS/GGMS of concerned schools in Mardan Division.
5. Supdt: local office.
6. Personal file.
7. Candidate concerned.

Fida /"

DIVIL: DIRECTOR SECONDARY EDUCATION
MARDAN DIVISION MARDAN.

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Annex C

Dated: 5 December 2016

The District Education Officer
Peshawar,
KPK,

Dear Sir/Madam,

Subject: Release from service/Voluntary Retirement

This application is moved by the applicant to request her release from service for the reasons given below:

1. The applicant joined the services of education department on 20 November 1982 at a very young age and at a time when there was extreme dearth of educated female staff and the education department needed personnel like her.
2. She was employed as PTC teacher in Basic Pay Scale (BPS) 7 and was posted at Government Girls Primary School No 1 Lahor District Swabi whereupon she provided services until her promotion to CT Teacher in 1994 and transfer to Government Girls Middle School, Lahor, Swabi wherein she remained until June 1999 when she was transferred to Government Girls Middle School (GGMS) Damnangi Peshawar. She worked at (GGMS) Damnangi Peshawar until she left Pakistan in September 2005 to join her husband in the UK on a duly sanctioned leave vide order No 4036-40 dated 20 September 2005. Her leave was sanctioned as Ex-Pakistan Leave from 17.09.2005 until 03.11.2005 (45 days leave with Half Pay by conversion of 24 days leave on full pay into half pay) and from 04.11.2005 until 04.09.2006 (Determined as Extra-Ordinary Leave without pay).
3. The applicant returned to Pakistan in July 2006 and offered herself for services however her position at GGMS Darmangi was not vacant as the same was filled with another female staff and the education department informed her that she would have to wait until any post becomes available.
4. Unfortunately the daughter of the applicant had become unwell and was diagnosed with asthma due to which she relocated to London and at the same time was waiting for the post becoming available. In September 2008 the applicant moved an application for the extension of Extra-Ordinary Leave for a further 5 years so that the time that she remained off service due to the



15

unavailability of a vacant position and any further time is sanctioned as Extra-Ordinary Leave however, no order has been made on the same as of yet.

5. The applicant now wishes to apply for her release from service and requests that she be given voluntary retirement from service with all back benefits for the time that she has remained in service. The time that she spent with the education department (From 20.11.1982 to September 2006) is calculated as 24 years.
6. The applicant served the education department at a time when there was lack of staff and the department needed her duties. She went off service, on a duly sanctioned leave, out of necessity firstly to join her husband in the UK and secondly she could not re-join her duties at a time when there was sufficient staff available which made her to wait for a vacant position which has yet to become available.
7. It is clear that everyone becomes eligible for retirement from service on 25 years active service. The time that the applicant spent in service forms greater proportion of 25 years and entitles her to have legitimate expectation for getting voluntary retirement from service.

It is therefore very humbly requested that the applicant is given voluntary retirement from service with all back benefits in the interest of justice.

Yours faithfully

Mrs Sakeena Bibi
Mohala Tauskhani,
VPO & Tehsil Lahor,
District Swabi



...
...
...

As per order I visited Government Girls Middle School, Peshawar on 12/02/2018 to conduct enquiry in the case. The Headmistress of the school gave a written statement along with some documents related to this case (copy annexed as A). However, the teacher concerned was not present in the school for enquiry.

Facts & Findings

From the perusal of record it transpires that the teacher concerned Sakeena Bibi (C.T) applied for extra ordinary leave from 05.09.2005 to 05.09.2006.

That the record shows that earlier to the enquiries were ordered in this case but the result of the enquiries is unknown (documents in this respect are annexed as B).

That there is an application of the teacher concerned on the record which has been written on 14.12.2016, where in she has requested for retirement (copy of the application annexed as C). The said application was registered in the diary register of the DEO's office under No. 2703 dated 26.12.2016. She has also requested for conversion of the period from 2005 into Extra Ordinary Leave without pay.

That the case shows that no action in this case was taken when the tenure of the teacher concerned expired in 2006.

That the Revised Leave Rules 1957, under the caption Extra Ordinary Leave Without Pay, say that the period of absence without leave can be converted into Extra Ordinary Leave without pay. Accordingly, the period of absence in this case can be converted into Extra Ordinary Leave without pay.

...

(16/A)

Inquiry report in case of sakeena Bibi, (C.T) Middle School Darmangi, Peshawar, as ordered by the DEO (Females) Peshawar vide order No. 1402d dated 25/01/2018.

As per order I visited Government Girls Middle School, Darmangi, Peshawar on 12/02/2018, to conduct enquiry in this case. The Headmistress of the school gave a written statement alongwith some documents related to this case (Copy annexed as A). However, the teacher concerned was not present in the school for enquiry.

Facts & Findings

From the perusal of record it transpires that the teacher concerned, Sakeena Bibi (C.T) applied for extra ordinary leave from 05/09/2005 to 05/09/2006.

That the record shows that earlier too the enquiries were ordered in this case but the result of the enquiries is unknown (documents in this respect are annexed as B).

That there is an application of the teacher concerned on the record which has been written on 14/12/2016, wherein she has requested for retirement (Copy of the application annexed as C). The said application was registered in the diary register of the DEO's office under No. 2708 dated 26/21/2016. She has also requested for conversion the period from 2006 into extra ordinary leave without pay.

That the case shows that no action in this case was taken when the leave of the teacher concerned expired in 2006.

That the revised Leave Rules 1981, under the caption Extra Ordinary Leave without pay, say that the period of absence without leave can be converted into extra ordinary leave without pay retrospectively. So the period of absence in this case can be converted into leave without pay under these rules.

That under the present rules an employee of the Government can proceed on retirement who has rendered nine & a half qualifying service. So this is also a vital point which should be kept in mind when this case is decided by the competent Authority.

/

It was the leniency of the then administration who took the decision of the Director when the leave of the teacher had expired in 2007 that after the omission of F.R. 18 in 1992 a Government Servant does not cease to be a Government Servant even after the absence of five years. The teacher concerned in the light of this scenario is still in service because no action has been taken in this case till date.

Recommendations

- A. That the prevailing Leave Rules and Pension Rules may be consulted in this case. The Rules are flexible and fully support the stand taken by the teacher concerned.
- B. The Competent Authority by giving proper attention to the Revised Leave Rules 1981 can convert the period of absence into Extra Ordinary Leave without pay from the date of expiry of leave till the date of issuance of retirement order to retire the teacher concerned. All the Rules are available in the office of the District Education Officer, Peshawar.
- C. That omission of F.R. 18, as mentioned in the findings of this case provides a benefit to the teacher concerned.
- D. In order to avoid complications and hardships in case the teacher concerned goes to a court of law, it would be in the fitness of things that Rules and Policy as mentioned above should be properly examined and the problems of the teacher concerned be solved.

Dated: 19/02/2018

This report consists of 50 pages including its annexures

[Signature]
Mst. Farzana Bano
(Enquiry Officer)

Headmistress
Government Girls High School
Old Qasab Khan, Peshawar
HEAD MISTRESS

different

[Signature]

17/A

It was the leniency of the then administration who badly failed to take appropriate action when the leave of the teacher had expired in 2006.

That after the omission of F.R 18 in 1992, a government servant does not cease to be a Government servant even after the absence of five years. The teacher concerned in the light of this scenario is still in service because no action has been taken in this case till date.

Recommendations:

- A. That the Prevailing leave rules and pension rules may be consulted in this case. The Rules are flexible and fully support the stand taken by the teacher concerned.
- B. The competent authority by giving proper attention to the revised leave rules 1981 can convert the period of absence into extra Ordinary Leave without pay from the date of expiry of leave till the date of issuance of retirement order to retire the teacher concerned. All the rules are available in the office of the District Education officer, Peshawar
- C. That omission of F.R. 18, as mentioned in the findings of this case, provides a benefit to the teacher concerned.
- D. In order to avoid complications and hardship, in case the teacher concerned goes to a court of law, it would be in the fitness of things that rules and policy as mentioned above should be properly examined and the problems of the teacher concerned be solved.

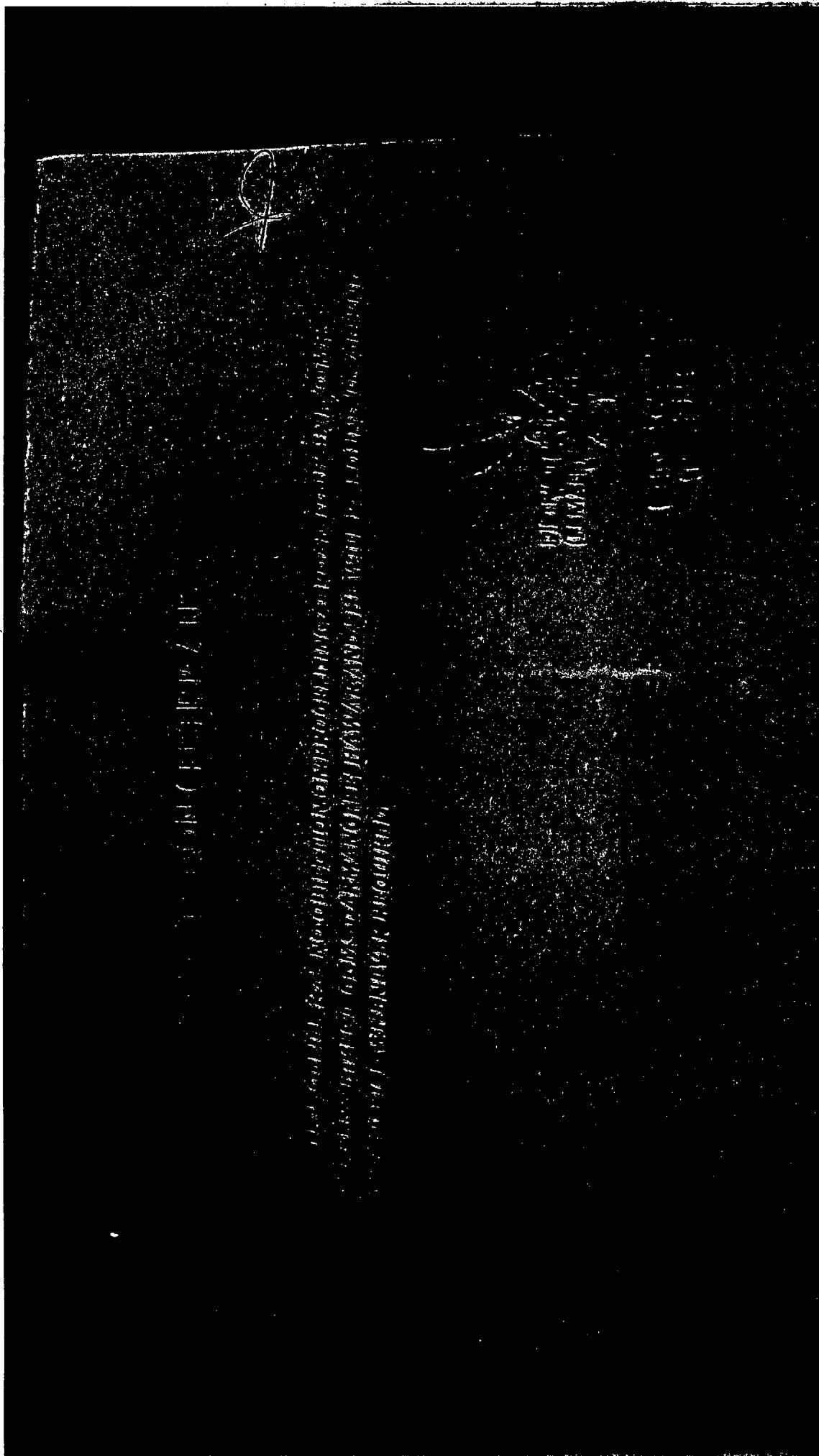
Dated 19/02/2018

Mst. Farzana Bano
(enquiry Officer)
Headmistress
Government Girls high School,
Old Qasab Khan Peshawar



(18)

Annex E



18

BETTER COPY

NO OBJECTION CERTIFICATE

THIS OFFICER HAS NO OBJECTION NO PROCEEDINGS ABROAD TO UK IN R/O MRS SEREENA BIBI CT GGMS DARMANGI PESHAWAR, AND SHE WILL BE BOUND TO ATTEND THIS OFFICE WHENEVER REQUIRED.

18/4

District Education officer
(Female) Peshawar



21 January 2020

The Chief Commissioner
Right to Information (KPK)
Peshawar,

Dear Sir/Madam,

**Subject: Complaint against PIO office of the DEO (F) Peshawar
For refusal of issuing Copies of Documents
Under Right to Information Act 2013**

The applicant had lodged an application for discharge from service/ voluntary retirement, in December 2016 however the same had never been determined and the order of removal from service dated 30 April 2019 was issued which was only communicated to the applicant when she attended the office on 25th July 2019 and against that she submitted a departmental appeal on 30 July 2019, the decision on which has never been communicated to her therefore she has authorised the undersigned vide power of attorney (copy enclosed) to pursue the case on her behalf.


The applicant, has variously applied for the copies of documents and information however the DEO office has specifically refused to release information and give copies, therefore, the applicant requests that pursuant to the Right of Information Act 2013 the following documents be issued to the undersigned immediately:

1. Copies of the proceedings initiated against the applicant including show cause notice, proceedings upon the show cause notice and the final order thereon
2. Copy and full information on the application for voluntary retirement including copy of the application, enquiry conducted thereon and the fate of the application
3. Report requested by the Directorate of education on the departmental appeal of the applicant,

It is requested that these information be issued to the applicant immediately as the time limitation to challenge the removal from service has begun and any delay would detriment the applicant very severely.

Yours faithfully

Mrs Sakeena Bibi
Mohala Tauskhani, VPO & Tehsil Lahor,
District Swabi Through,


Barrister Safdar Khan
Advocate High Court
jj Law Chambers
TF 229, 3rd Floor
Deans Trade Centre
Peshawar Cant.



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Annex F

KP-RTI COMMISSION
Diary No: 330
Date: 21-01-2020
Section:

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) PESHAWAR
REMOVAL FROM SERVICE.

1. WHEREAS Ms.Sakeena Bibi, CT GGMS Darmangi Peshawar was proceeded against under Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules 2011 for the charge of Absence from duty w.e.f 05.09.2008 till date.
2. AND WHEREAS Enquiry was conducted vide this office No.5711/dated 2.4.2018 that Ms.Sakeena Bibi was absent from duty w.e.f 5.9.2008 till date.
3. AND WHEREAS Show Cause Notice was served upon the absent Ms.Sakeena Bibi, CT GGMS Darmangi Peshawar through Head Mistress, GGMS Darmangi Peshawar vide daily news paper "Daily Mashriq" Peshawar dated 23.11.2018.
4. AND WHEREAS The accused official did not submit her reply to the show cause notice within the stipulated period.
5. NOW THEREOFRE, Ms.Sakeena Bibi, CT GGMS Darmangi Peshawar was called for personnel hearing vide No.2529/dated 24.1.2019 to attend this office and explain her absence period but she did not attend the office.
6. AND WHEREAS:- The competent authority, District Education Officer, (Female) Peshawar after having considered the charges, evidence on record and facts of the case is of the view that the charges of willful absence from duty against the official concerned have been proved.
7. NOW THEREFORE, In exercise of the Powers conferred upon under Rules-4 (b) III of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary)Rules 2011, I being competent Authority as District Education Officer (Female) Peshawar is pleased to impose the major penalty of " Removal from Service " upon Ms.Sakeena Bibi, CT GGMS Darmangi Peshawar with immediate effect. The period of her absence w.e.f 5.9.2008 till date is hereby treated as unauthorized absentee from duty without pay.

(SAMINA GHANI)
 DISTRICT EDUCATION OFFICER,
 (FEMALE) PESHAWAR.

Endst: No. 6828-32 /Estb:-I/P.F/ Dated Peshawar the 30/04 /2019.

Copy of the above is forwarded for information and n/action to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Director E & S Education Khyber Pakhtunkhwa Peshawar.
3. Head Mistress, GGMS Darmani Peshawar.
4. Ms.Sakeena Bibi, (absent) CT GGMS Darmangi Peshawar.
5. Cashier local office.

Samina Ghani 30/04/19
 DISTRICT EDUCATION OFFICER
 (FEMALE) PESHAWAR

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To The Director E and SED,
KPK Peshawar

Annex #

Subject: Departmental Appeal under section 22 (b) of Civil Service Act 1973 against the removal from service order number 6828-32 dated 30th April 2019 received on 25th July 2019, passed by the DEO (f) against appellant namely Sakeena Bibi CT at Government Girls Middle School Darmangi.

PRAYER

On the acceptance of this appeal, the impugned order dated 30th April 2019 received on 25th July 2019 of the DEO (f) Peshawar may kindly be set aside in favour of the appellant to the extent of grant of retirement from service against CT post from the respondent department.

Respected Sir,

The appellant submits as under:-

- 1.) That the appellant has joined the education department as a PTC teacher on 11-11 1982 and later on 09-07-94 was promoted as a CT teacher in BPS 15 along with her adjustment at GGMS Darmangi Peshawar (copies of the appointments attached)
- 2.) That vide order dated September 2005 I was granted 1 year earned leave and upon my return, in 2006 I reported to the said school. It was then I came to know that my position at GGMS Darmangi was filled with another female staff.
- 3.) That during the appellant absence she was proceeded under the E and D rules 2011 and has been shown absent from duty with effect from 05/09/2008 against the same post.
- 4.) That no notice, show cause statement of allegation or formal enquiry has been conducted against you, nor the appellant has been allowed to participate in the alleged proceedings by the department.
- 5.) That final order dated 20th April 2019 received to the appellant on 25th July 2019. The appellant has been removed from service against the said post while ignoring her qualifying service of 24 years in the department which is illegal and liable to be rejected in favour of the appellant.

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Therefore it is requested that on acceptance of this departmental appeal, the impugned dated 30th April 2019 received on 25th July 2019 may kindly be set aside and the appellant be retired from service against the city post in the interest of justice.

Dated 29/7/19

Sakeena

Appellant
SakeenaBibi
CT TeacherBPS 15
GGMS Darmangi
District Peshawar
CNIC:17301-9524978-6

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(23)

Annex I

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OFFICE OF THE DISTRICT EDUCATION OFFICER

(FEMALE) PESHAWAR

NO. 1408 / PF SAKINA BIBI CT

Dated 24 / 10 / 2019

To

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Subject:- DEPARTMENTAL APPEAL
Memo:-

P-126
→

Kindly refer to your letter No.2809 dated 22/8/2019 on the subject cited above and to submit brief History of the case of Mst. Sakina Bibi CT GGMS Darmangi Peshawar as desired please.

1. Mst. Sakina Bibi was appointed on 20/11/1982
2. She was granted Ex Pakistan leave w.e.from 17/9/2005 to 4/9/2006 vide E. No. 4036-40 dated 20/9/2005.
3. Later on the teacher concerned applied for extension of leave for the period of two years with effect from 5/9/2006 to 4/9/2008 which was sanctioned vide this office No. 3839-40 dated 11/10/2006.
4. After expiry of leave on 4/9/2008 she failed to submit her arrival report and remained absent from duty.
5. She has submitted application for voluntary retirement through dairy No. 2708 dated 26/12/2016.
6. Mst. Farzana Bano H/M GGHS Qasab Khana was nominated as enquiry officer to conduct enquiry in case of Sakina Bibi CT GGMS Darmangi vide this office Memo; No. 1402 dated 21/1/2018.
7. A letter was issued to the Director Information Peshawar along with copy of show cause notice of Mst. Sakina Bibi for publishing in Newspapers, which was published in daily Mashriq dated 23/11/2018.
8. After expiry of stipulated time a letter was issued to the teacher concerned vide No. 2529 dated 24/1/2019, followed by reminder No. 5356 dated 30/1/2019 for personal hearing as well as to submit reply to the show cause notice.
9. The concerned teacher have submitted an application on 28/1/2019 received from Mr,Sajid Ali Khan on 28/1/2019 received to this Office on 2/2/2019 in which she has requested that she has joined her husband in UK. Therefore, she further requested for grant of pre-mature / voluntary retirement from service. She also stated that her letter be treated as personal hearing from her side.

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15-10-19

Cont Page 2

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10. Her total service upto 4/9/2008, subtracting her leave without pay is above 22 years approximately.

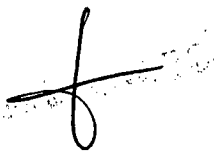
11. She remained totally absent w.e.from 5/9/2008 till date i.e. about 11 years. As the teacher concerned neither resumed her duty at her posting place nor appeared before the undersigned, Furthermore, the applicant has herself admitted in Para No.4 for voluntarily retirement and in the case of voluntarily retirement, in this regard she is not entitled for any financial benefits.

After observing all the codel formalities this office has issued her removal from service order vide No. 6828-32 dated 30/4/2019 on account of her un authorized absent from duty with effect from 5/9/2008 till date.

S. Mami 14/10/19

District Education Officer,
(Female) Peshawar.







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**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.**

No. 2909 /FNo.301/F/Appeal Peshawar

Dated Peshawar the 22/3 /2019

To

The District Education Officer,
(Female) Peshawar

Subject:- **DEPARTMENTAL APPEAL**

I am directed to refer to the subject cited above and to enclose herewith a copy an appeal in respect of Mst. Sakeena Bibi CT B-15 GGMS Darmangi District Peshawar and to ask you to submit detail report comments/views to this Directorate for further process.

Endst No. _____/

Copy of the above is forwarded to the:

1. PA to Director E&SE KPK Peshawar.

Hassan
Deputy Director (Female)
E&SE Khyber Pakhtunkhwa,
21/8/19

Hassan
Deputy Director (Female)
E&SE Khyber Pakhtunkhwa,
21/9/19



(28)

Annex J

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR**

No. 31/14 /FNo.301/F/Appeal Peshawar

Dated Peshawar the 20-1- /2020

To

Mst. Sakina Bibi CT GGMS, Darmangi
District Peshawar

Subject:- **DEPARTMENTAL APPEAL**

I am directed to refer to your letter No. Nil dated 20/01/2020 on the subject cited above and to inform you that your appeal is hereby seen and file by the competent authority.

Endst No. _____/

Copy of the above is forwarded to the:

1. PA to Director E&SE KPK Peshawar.

Hand
Deputy Director (Female)
E&SE Khyber Pakhtunkhwa

Deputy Director (Female)
E&SE Khyber Pakhtunkhwa,

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Validity of the Attestation of Power of Attorneys (POA) Documents is 120 days.

THIS 8th DAY OF January TWO THOUSAND AND TWENTY

THIS POWER OF ATTORNEY is made by MRS SAKEENA BIBI, DOB, 04.10.1964 Holding CNIC No. 17301-9524978-6 permanent resident of VPO Lahor, District Swabi, Pakistan currently residing at 2 Lowden Road, Southall, Middlesex, UB3 4DA, U.K (hereinafter called the Executant) in favour of Mr Safdar Ali Khan (Barrister) Holding Advocate ID No. bc-10-5379 CNIC No. 162010-700438-9 of Village Manki, Tehsil Lahor, District Swabi, KPK, Pakistan, (hereinafter called the Attorney).

Whereas the Executant has a pending service matter which is in process before the DEO Office Peshawar and may need to be taken to the proper legal forum/court of law. The Executant is in England and can not pursue her case, therefore, do hereby nominate, appoint, constitute, ordain and authorise the above said Mr Safdar Ali Khan, as her true and lawful Attorney to perform the following acts:



1. To pursue the above mentioned case until its end.
2. To make execute, sign, seal, deliver and perfect all such acts and deeds conveyances, transfers and assurances as may be deemed necessary or expedient for the purpose of resolution of the above mentioned case and pay all necessary expenses etc. which may lawfully be made in connection therewith.
3. GENERALLY, to do all such acts as her Attorney shall deem necessary for the purpose of this deed, and also appoint Special Attorney to anyone he wishes.

And the executant hereby agrees to ratify and confirm all that the said Mr Safdar Ali Khan, does on her behalf in connection with this case.

In witness whereof the executant has hereunto set her hands, this 8th day of January 2020.

Signed as a Deed by the above named executant

Before me: _____

Amjad Ali
Solicitor

Sakeena
SIGNATURE



Dy.No. 247 Dated 10/01/2020

ATTESTED:

1. Signature and /or Thumb Impression of Executant(s) Only.

2. Foreign & Commonwealth Office (FCO-UK) Seal and Signature Only.

3. Foreign Office (Pakistan) Seal and Signature Only.

THE HIGH COMMISSION FOR PAKISTAN ASSUMES NO RESPONSIBILITY FOR THE CONTENTS OF THE DOCUMENT

Amjad Ali Solicitor
 Lawmen Solicitors Ltd & Commissioners for Oaths
 1048 Uxbridge Road Hayes, Middlesex UB4 0RJ
 T:020 8561 6090 F: 020 8813 5090

Rao Abdul Hanan
 Rao Abdul Hanan
 Consular Attache
 High Commission for Pakistan
 London

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BEFORE THE SERVICES TRIBUNAL, PESHAWAR

MST. SAKEENA BIBI

(Appellant/ Petitioner)

VERSUS

District Education Officer/ Directorate of Education Peshawar

(Respondent)

I/ We Sakeena Bibi D/O Nowsher Khan Appellant/ Petitioner

In the above noted **Writ Petition** do hereby appoint and constitute **Barrister Safdar Ali Khan & Mr. Muhammad Ilyas Khan** Advocates as my/ our Counsel in the subject proceedings and authorize him/them to appear, plead etc. compromise, withdraw or refer the matter for arbitration for me/ us without any liability for his/their default and with the authority to engage/appoint any other Advocate/Counsel at our/my expense and receive all sums and amounts payable to us/ me and to all such acts which he/they may deem necessary for protecting my/ our interest in this matter. He/they is/are also authorized to file Appeal, Revision, Application for restoration or application for setting asiding exparte decree proceedings on my/ our behalf.

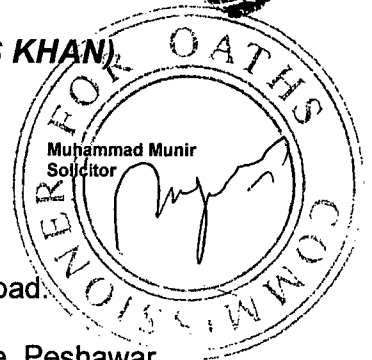
Dated: - 08 / 01 /2020

(Client)



(SAFDAR ALI KHAN)
Advocate, High Court.

(MUHAMMAD ILYAS KHAN)
Advocate, High Court.



Office Address: - **jJ Law Chambers,**
Office No. 207, 208, 2nd Floor, Afzal Center,
Opp. Islamabad High Court, G 10/1. Islamabad.

Office TF-229 3rd Floor, Deans Trade Centre, Peshawar
0315-5676137 051-2354077

*Saheem Ullah Akhund
Advocate High Court.
Cell No: -*



10A, 1st Floor,
Station Road,
Hayes, Middlesex,
UB3 4DA

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

SERVICE APPEAL NO.668/2020

Sukeena Bibi

V/S

Education Department & others

REPLY ON BEHALF OF RESPONDENTS NO.1,2,3, 4, 5

Respectively Sheweth:

The Respondent submits below:

PRELIMINARY OBJECTIONS:

1. That the Appellant has got no cause of action /locus standi.
2. That the Appellant has concealed material facts from this Hon'ble Tribunal.
3. That the Appellant has been estopped by her own conduct to file the instant appeal before this Hon'ble Tribunal.
4. That the instant Appeal is badly time barred.
5. That the instant Appeal is not maintainable in its present form.
6. That the instant Appeal is bed for mis- joinder and non- joinder of the necessary parties.
7. That the Appellant has not come with clean hands to this Hon'ble Tribunal.
8. That the instant Appeal is barred by law.

ON FACTS.

1. That Para No.1 pertains to record.
2. That Para No.2 is also pertains record.
3. That Para No.3 is also pertains record.
4. That in reply Para No.4, it is submitted that on the expiry of the leave the appellant did not resume new duty. She was absent from her duty. The teacher attendance register shows that the appellant did not join her duty from 4 November 2005.

Furthermore, the Head Mistress of GGMS Darmangi also submitted report regarding the appellant which is also submitted for perusal of the court. The Head Mistress stated that the leave of the appellant was expired on 04-11-2005 and after that she neither resume duty nor she submitted any application for extension for leave. She was continuously absent from her duty. So the department issued show cause notice on 23-11-2018 through Daily Mashriq. But the appellant did not submit the reply of the show cause notice with in stipulated time so after fulfilling all codal formalities, the department removed the appellant from her service.

(Copy of teacher attendance register, statement of the Head Mistress are attached as Annex: A & B) Show cause Annex - C)

- 23
- That Para No.5 is incorrect, misleading and against the facts. The appellant did not submit any application to the Respondent Department to resume the duty. The report of the Head Mistress is clear regarding her absence which has already been annexed as Annexure B of the reply.
6. That in reply to Para No.6, it is submitted that there is clear contradiction in Para No.6 of the appeal, on one hand the appellant said that she remained in London due to her daughter illness. On the other hand the appellant stated that she came to Pakistan resumed her duty.
 7. That Para No.7 is incorrect, misleading and against the facts. The appellant remained willful absent from her duty and the department proceeded against the appellant accordingly. Furthermore, the department issued show cause, notice for personal hearing etc and after full-filling all the codal formalities, then remove the appellant from her services.
 8. That reply to Para No.8 has already been given in the above para. Moreover, the department sent letter No.313 dated 08/10/2020 to FIA/ immigration regarding the travel history of the appellant.
(Copy of letter is attached as Annex: *01 Travelling History Annex B, detail of Leave F*)
 9. That Para No.9 is incorrect, misleading and against the facts. The appellant was willful absent from her duty and the Department removed her from her services.
 10. That Para No.10 pertains to record.
 11. That Para No. 11 reply has already been given in the above para.
 12. That the appellant has no cause of action to file the present appeal in this Hon'ble Service Tribunal.

GROUNDS

- A. That Ground-A is incorrect and misleading. The appellant order is according to law and rules.
- B. That Ground-B is also incorrect and misleading. The department adopted proper procedure and took action against the appellant according to law.
- C. That Ground-C is incorrect and misleading. The Department allowed to the appellant all the opportunities but she enjoyed London and remained abroad.
- D. That Ground-D is also incorrect and misleading. The detail reply has been given in facts Para.
- E. That Ground-E is incorrect and misleading. The said judgment did not apply in the case of appellant.
- F. That Ground-F is incorrect and misleading. The appellant was willful absent from her duty which comes within the ambit of misconduct.

Teacher's Attendance Register

For the Month of July 19 2015

43
72

Name: Sankar Prasad Designation: Teacher
Sankar Prasad Present (Days) 17
Prasanna Absent (Days) 14

Date	Ar.		Dop.		Sig.		Ar.	Dop.		Sig.		Ar.	Dop.		Sig.	
	Ar.	Bg.	Dop.	Bg.	Sig.	Ar.		Bg.	Dop.	Bg.	Sig.		Ar.	Bg.	Dop.	Bg.
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STATEMENT OF LEAVES TAKEN

This Month	Priv.	Casual	Sick	Total	This Month	Priv.	Casual	Sick	Total	Signature						
										Total	Sick	Casual	Priv.	Total		
13					13											
11					11											
1					1											
Total					Total											

KOH-1-NOON PHITTHO PHEDS 14-UNDU BAZAH LAHOHE 24000

Headmistress / Headmaster

This Month
Priv.
Month
Total
KOH-1

Prasad

42

خدمت جناب انکوائری آفیسر صاحبہ

عنوان رپورٹ بحوالہ میس سکینہ بی بی

جناب عالیہ گزارش ہے کہ آپ کی ہدایت کے مطابق میں نے میس کے چالے سے سکول کے ریکارڈ کی جانچ کی اور معلوم ہوا کہ میس سکینہ بی بی 05/09/2005 کو ایک سال Matric Leave پر UK چلی گئی ہے۔

05/09/2006 کو اس کی چھٹی expire ہوئی مگر میس سکینہ بی بی نے نہ تو ڈیوٹی Join کی اور نہ Leave Extention کے لئے کوئی درخواست بھیجی۔

جوکہ میں نے رپورٹ میس سکولس نومبر 2017 کو چارج سنبھالا ہے لہذا میرے پاس میس سکولس کے چالے سے مزید کوئی up date نہیں تھی تاہم میں نے سابقہ ہیڈ میسٹر میس سکولس میں بشری امیرین سے رابطہ کیا اور میس سکینہ بی بی کے چالے سے دریافت کیا۔

میں بشری امیرین نے کہا کہ میس سکینہ بی بی جب سے 05/09/2005 کو چھٹی پر گئی ہے اس کے بعد نہ تو اس نے کسی قسم کا رابطہ کیا ہے نہ ڈیوٹی Join کی ہے اور نہ کسی قسم کی درخواست بھیجی ہے۔

سکول میں میس سکینہ کے چالے سے جوہر تمام ریکارڈ کی فوٹو کاپی اپنے رپورٹ کے ساتھ منسلک کر رہی ہوں۔

السر حنیف

مورخہ 13/02/2018

سید سعید

حلیمہ سعید
GGM.S
دارمہ

اللہ ہی کیلئے ہیں مشرق و مغرب القرآن

DAILY MASHRIQ PESHAWAR

پشاور

عہد نو کے بانی

سید تاج میر شاہ

روزنامہ

مشرق

مسلل اشاعت کے 51 سال

پشاور اور اسلام آباد سبیک وقت شائع ہونے والا کثیر الاشاعت قومی اخبار

ABC
CERTIFIED

شمارہ
352

جمعۃ المبارک 14 ربیع الاول 1440ھ 23 نومبر 2018ء 08 مگر قیمت 20 روپے

جلد 51

کامیاب حلاوتیں مدائیم فضیلتیں حسناہ کیمیشن ختم کنٹریکٹ ملازمتیں

نوٹس غیر حاضری

ہر گاہ آپ سیکرٹری بی بی سی ٹی گورنمنٹ گرلز ہائی اسکول درمنگی پشاور سکنہ پوسٹ آفس ملاؤس خاں
ہوٹالا ہور صوابی مردان یہ کہ آپ مورخہ 5/9/2005 تا 5/9/2006 چھٹی پر نہیں لیکن چھٹی
تم ہونے کے بعد ڈیوٹی پر حاضر نہ ہوئی۔

آپ کو ایک بار پھر بذریعہ نوٹس ہذا مطلع کیا جاتا ہے کہ اس نوٹس کی اشاعت کے پندرہ دن
کے اندر اندر زبردستی کے دفتر دوران اوقات کار حاضر ہو کر درخواست نہ دینے کی وجہ بیان کریں
سورت دیگر آپ کے خلاف یکطرفہ کارروائی عمل میں لاتے ہوئے ای اینڈ ڈی رولز بحریہ
201 کے تحت حاصل کردہ اختیارات بروئے کار لاتے ہوئے آپ کو ملازمت سے برخاست
رہا جائیگا۔

INF(P) 4421

(تمینہ فنی)

ڈسٹرکٹ ایجوکیشن آفیسر (زنانہ) پشاور

ڈیرہ ڈوبلیمنٹ اتھارٹی ڈیرہ اسماعیل خان

شاندار نیلامی

ڈیرہ ڈوبلیمنٹ اتھارٹی ڈیرہ اسماعیل خان ڈیرہ ناؤن شہر سکیم میں درج ذیل رہائشی پلاٹس مالکانہ حقوق پر

Annex - (D)

134

DISTRICT EDUCATION OFFICER,
(FEMALE) PESHAWAR.

NO. 1141 / Estb:-I / P.File
DATED PESHAWAR THE 26-10 /2020.

The Director,
F.I.A
Khyber Pakhtunkhwa Peshawar.

SUBJECT:- PROVISION OF INFORMATION FOR LAST 10-YEARS
REGARDING OVERSEAS TRAVELLING IN R/O MST.SAKINA
BIBI EX-CT GGMS DARMANGI PESHAWAR.

Memo:-

Kindly refer to the subject noted above and it is stated that one Mst.Sakina Bibi, Ex-CT bearing CNIC NO.17301-9524978-6 was working against the post of CT in the Elementary and Secondary Education Department and used to proceed abroad many times without any information / Prior sanction from the competent authority. you are therefore requested to provide travelling record of the above named employee. regarding her journey (Exist) via any airport from Pakistan in the best interest of public. An early response will be highly appreciated.

[Signature]
DISTRICT EDUCATION OFFICER,
(FEMALE) PESHAWAR.

Endst.No. 1141-612

Copy of the above is forwarded for information to the:-

1. P.A to Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

[Signature]
DISTRICT EDUCATION OFFICER,
(FEMALE) PESHAWAR.

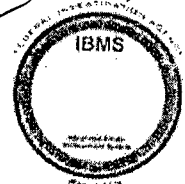
Annex — (E)

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OFFICE OF THE DIRECTOR / IBMS
FEDERAL INVESTIGATION AGENCY HEADQUARTERS)
ISLAMABAD

Tel: 051-9107219 Fax: 051-9262376



No. FIA/IBMS/Education/Query/ 3448

Dated: 15 Oct, 2020

SUBJECT: PROVISION OF INFORMATION FOR LAST 10 YEARS REGARDING OVERSEAS TRAVELLING IN R/O MST SAKINA BIB EX-CT GGMS DARMANGI PESHAWAR

426/R

Please refer to your letter No. 313/ESTB dated: 01-10-2020 and Dir/Diary No.5866 dated 13-10-2020 regarding travel information of the following particulars:

1. CNIC/Passport No.: 1730195249786
2. As per PISCES / IBMS database, travel history of the provided particulars is found in System and R11 form is attached for ready reference.
3. This is a system generated Information based upon given particular.

DISTRICT EDUCATION OFFICER
(Female) Peshawar

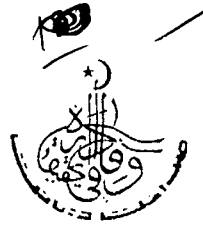
(Aamir Chaudhry)
Assistant Director/Reporting
FIA (HQ), Islamabad

1223
29/10/2020

Jilman
29/10/2020



FEDERAL INVESTIGATION AGENCY
 INTEGRATED BORDER MANAGEMENT SYSTEM
 FIAHQ G -9/4 PESHAWAR MOR, ISLAMABAD
 FaxNo:051-9262376, Tel-No:051-9107219
R-11(TRAVEL HISTORY)



TRAVEL HISTORY FOUND ON: 1730195249786
 Required By: DISTRICT EDUCATION OFFICER
 (Female) Peshawar
 Letter Number: 313/ESTB

Department: EDUCATION
 Request Date: 08-Oct-2020

Diary No: 5866 13-10-2010
 Query Date: 15-Oct-2020

TRAVELER'S CNIC/NIC
 1730195249786 1720195249786

PERSONAL INFORMATION:

NAME SAKEENA BIBI
 FATHER/HUSBAND NAME M FAROOQ

BIRTH DATE 04-OCT-1964
 NATIONALITY Pakistan

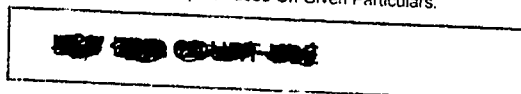


TRAVEL DETAILS:

S.NO.	TRAVEL DATE	FLIGHT NO	TRAVEL STATUS	PASSPORT NO	SITENAME	DESTINATION
1	22-Sep-05 6:33:32	QR-347	Departing	AA3099781	PESHAWAR INTERNATIONAL AIRPORT	
2	16-Sep-06 6:45:21	PK-773	Departing	AA3099781	PESHAWAR INTERNATIONAL AIRPORT	
3	28-Sep-08 3:14:55	PK-792	Arriving	AA3099781	ISLAMABAD INTERNATIONAL AIRPORT	BIRMINGHAM
4	18-Oct-08 6:12:16	PK-791	Departing	AA3099781	ISLAMABAD INTERNATIONAL AIRPORT	BIRMINGHAM
5	30-Mar-10 9:47:21	EK-636	Arriving	AA3099782	PESHAWAR INTERNATIONAL AIRPORT	DUBAI
6	27-Apr-10 9:17:19	EK-637	Departing	AA3099782	PESHAWAR INTERNATIONAL AIRPORT	DUBAI
7	18-Dec-12 9:58:55	PK786	arriving	AA3099782	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	
8	16-Jan-13 10:26:02	PK785	departing	AA3099782	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	GBR - UNITED KINGDOM
9	24-Mar-18 7:51:01	PK786	arriving	AA3099783	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	
10	5-May-18 10:12:56	G99568	departing	AA3099783	BENAZIR BHUTTO INTERNATIONAL AIRPORT ISLAMABAD	GBR - UNITED KINGDOM

Time: 12:31:57 pm

Note: Computer Generated Report Based On Given Particulars.



History of Leave Case in respect of Sakeena Bibi, CT GGMS Darmangi Peshawar

It is submitted for your kind information that the teacher concerned date of 1st appointment according to the service book part - I on page-2 is 20.11.1982.

Detail of Leave with pay and without pay

Sr.No	Leave Period	Nature of Leave	With pay	Without pay
1 ✓	06.05.1991 to 27.05.1991 (22-days) on full pay	Medical Leave	22-days	-
2. ✓	13.09.1992 to 25.12.1992 (104-days) on full pay	Earned Leave	104-days	-
✓	26.12.1992 to 12.12.1993 (352-days) without pay	E.O.L	-	352 days
✓ 3.	15.04.1999 to 31.05.1999 (47-days) on full pay	Medical Leave	47-days	-
	01.01.1999 to 31.03.1999 (88-days) on full pay	Maternity Leave	88-days	-
4.	05.09.2002 to 30.11.2002 (88-days) on full pay	Maternity Leave	88-days	-
5.	10.01.2003 to 10.02.2003 (32-days) on full pay	Earned Leave	32-days	-
6.	17.09.2005 to 03.11.2005 (48-days) Half pay	Earned Leave	48-days	-
	04.11.2005 to 04.09.2008 (1035-days) without pay	E.O.L	-	1035 days
			429 days	1387 days

It is further added that the teacher concerned is absent from duty from 05.09.2008 up till now.

Service upto 25-09-1
3-08-1
22-01-1