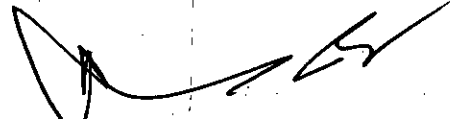


25<sup>th</sup> July, 2022

1. Nobody is present on behalf of the petitioner. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Muhammad Shahid Nawaz, ADEO (Litigation) for respondents present.

2. Representative of the respondents has again produced copy of a conditional order dated 29.07.2021, which was earlier produced on 26.01.2022, copy of which was handed over to the learned counsel for the petitioner on that date for submission of objection, if any. Since no observations/objections have so far submitted by the petitioner, therefore, it appears that the judgment of the Tribunal has been implemented. The instant execution petition is thus filed. Consign.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 25<sup>th</sup> day of July, 2022.*

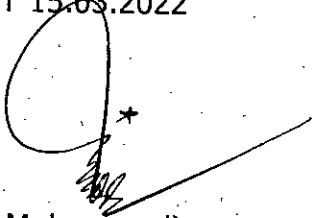


(Kalam Arshad Khan)  
Chairman

26.01.2022

Counsel for the petitioner present. Mr. Muhammad Adil Butt, Addl: AG alongwith Mr. Muhammad Nisar, Focal Person for respondents present.

Respondent-department, in pursuance of the judgement of Service Tribunal dated 29.07.2021, has conditionally reinstated the petitioner in service w.e.f 13.12.2017 with all back benefits subject to the outcome of CPLA by the august Supreme Court of Pakistan. The office order dated 10.12.2021 is placed on file and a copy thereof is also handed over to the learned counsel for the petitioner for submission of observations/objections, if any. Adjourned. To come up for further proceedings on 15.03.2022 before S.B.

  
(Mian Muhammad)  
Member(E)

15.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 14.6.2022. for the same as before.

  
Reader.

14<sup>th</sup> June, 2022

Clerk of counsel for the petitioner present. Mr. Naseerud Din Shah, Asstt. AG for the respondents present.

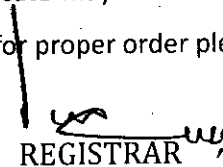

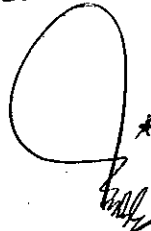
Counsel are on strike. To come up for further proceedings on 25.07.2022 before S.B.

  
(Kalim Arshad Khan)  
Chairman

Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. \_\_\_\_\_ 325 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	05.11.2021	<p>The execution petition of Mst. Parveen Begum submitted today by Mr. Zahoor Islam Khattak Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p> <p>This execution petition be put up before S. Bench on <u>26/11/21</u>.</p> <p> CHAIRMAN</p>
2-	26.11.2021	<p>Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.</p> <p>Notices be issued to the respondents for submission of implementation report. Adjourned. To come up for implementation report on 26.01.2022 before S.B.</p> <p> (MIAN MUHAMMAD) MEMBER (E)</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Implementation No. 320 of 2021  
In Appeal No.151/2019

Mst: Rasheed Bano EX-PST..... Petitioner / Appellant

**VERSUS**

Director, Education, FATA, Now Khyber  
Pakhtunkhwa Peshawar and another  
..... Respondents

**Index**

S.No.	Description of documents	Annexure	Pages
1-	Application for implementation		1-3
2-	Affidavit		4
3-	Copies of Judgment		5-11
4	Application for implementation to DEO North Waziristan Agency (Now District Waziristan)		12
5-	Wakalat Nama	In original	13

Dated 02/11/2021

Applicant *Rasheed Bano*  
Through *[Signature]*  
Zahoor Islam Khattak  
& *Muneeb ur Rehman*  
Muneeb ur Rehman  
Advocates,  
High Court Peshawar



**OFFICE OF THE DISTRICT EDUCATION OFFICER**  
**NORTH WAZIRISTAN TRIBAL DISTRICT**

No: 27051-54 /DEO/NWTD

Dated: 24/07/2021

Phone : 0928-313040

E-mail

deomulenwtl@gmail.com

To

The Registrar  
Khyber Pakhtunkhwa Services Tribunal  
Peshawar

Subject:

**IMPLIMENTATION OF JUDGMENT IN CONNECTED APPEAL NO 151/2019**  
**DATED 29-07-2021.**

Memo:

Enclosed please find herewith a copy of the conditional Re-Instatement order of 7 out of 8 PST teachers as per judgment of this Honorable Services Tribunal Peshawar in connected appeal no 151/2019 title "Rasheeda Bano and one vs Govt" dated 29-07-2021. While one teacher Mst.Zenat Gul D/O Noora Gul Apeal No 296/2019 Neither provided her service book and other documents nor she visited respondent department till date. Therefore her case is differed till provision of necessary documents.

District Education Officer  
North Waziristan Tribal district

Endstt No 27051-54 Re-instatement file/DEO/NWTD.

Dated 24/07/2021

Copy forwarded to:

1. AAG Service Tribunal, Peshawar.
2. Assistant director (litigation Service tribunal) (E&SE) KPK, Peshawar.
3. Assistant Director (litigation) NMDs, Warsak road, Peshawar.
4. Focal person for litigation DEO Office, NWTD.

District Education Officer  
North Waziristan Tribal district

**OFFICE OF THE DISTRICT EDUCATION OFFICER**  
**NORTH WAZIRISTAN TRIBAL DISTRICT**

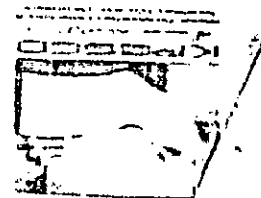
No: 2638-23

Date: 27.11.2021

Phone: 0928-313040

E-mail:

education@dnwtd.gov.pk



**CONDITIONAL RE-INSTATEMENT ORDER**

Consequent upon the judgment of the Honorable Services Tribunal Peshawar RPT, Dated: 29.07.2021, in connected appeal No. 151/2019, the following female PST teachers are hereby conditionally re-instated w.e.f. date of removal from service i.e. 13-12-2017 with all back benefits subject to the final judgment in CPLA by supreme court of Pakistan with surety bond on judicial stamp paper to the effect that in case decision from Supreme Court favour of department, the amount salaries paid to them shall be recovered and shall be deposit in government treasury through State Bank chaffan

S#	Appel #	CPLA #	Name	Personel	CNIC #	Place of Posting
1	151/2019	616-P-2021	Mst. Rasheeda Bano D/O Mst. Jawali Khan	50224880	14203-1979475-4	GAIPS Wali Mat Khan Koc, Tehsil Spingoram
2	152/2019	617-P-2021	Mst. Meemona Akhtar D/O Muhammad Zubir	50262459	14203-1979488-8	GAIPS Aka Khan Koc, Tehsil Spingoram
3	153/2019	618-P-2021	Mst. Zahsra Begum D/O Shahdai Khan	50240601	14202-3732361-4	GAIPS Sadiq Khan Koc, Tehsil Dossali
4	154/2019	619-P-2021	Mst. Dihad Begum D/O Gul Dad Khan	50250844	14203-0865450-8	GAIPS Zaid Mam Koc, Tehsil Spingoram
5	155/2019	620-P-2021	Mst. Farveen Begum W/O Muhammad Riz Khan	50233890	15401-6298594-4	GAIPS Shadad Koc, Tehsil Para
6	156/2019	621-P/2021	Mst. Salma Begum D/O Khan Badshah	50216282	15401-6091903-4	GAIPS Nasim Koc Sheva Tala, Tehsil Minah
7	157/2019	623-P-2021	Mst. Sha Bida Kalsoom D/O Mstahab-Ur-Rehman	50225270	11101-2137701-8	GAIPS Saadat Al Mamun Koc, Tehsil Ghilani Khan

**TERMS & CONDITIONS**

- This re-instatement has been made purely according to the government recruitment policy rules time to time and is subject to the terms and conditions framed by the government from time to time. Moreover this appointment can be withdrawn and is liable to termination without any notice, if any legal clerical or other kind of mistake arise therein.
- This re-instatement provision is conditionally made subject to the decision of Supreme Court in the CPLA filed by the Government against the petitioner OR any other technical issue decided by the honorable supreme court of Pakistan. Petitioners will face cancellation of their re-instatement happily and will deposit what has received as salaries or other benefits.
- If they wish to resign from service they will give one month prior notice OR one month full pay will be forfeited in lieu thereof.
- This Re-instatement is subject to the condition that certificates, Degrees must be verified from the concerned authorities by the D/O North Waziristan Tribal District. Anyone found producing bogus CNIC, Bogus Document, Documents/Testimonials will be proceeded as per prevailing rules.
- If they fail to resume charge within 15 days after issuing order, their appointment order will be considered as cancelled.
- Charge report should be submitted in duplicate to all concerned.

DISTRICT EDUCATION OFFICER  
 NORTH WAZIRISTAN TRIBAL DISTRICT

Encls: No 2638-23/Re-Instat/Female File/D/O/NWTD

1 Registrar Khyber Pakhtunkhwa Services Tribunal Peshawar

2 The Director F&SE Khyber Pakhtunkhwa Peshawar

3 The Director Education NMED, Warsak road Khyber Pakhtunkhwa Peshawar

4 The Deputy Commissioner North Waziristan at Miranshah

5 The Addl Deputy Commissioner North Waziristan at Miranshah

6 The District Account Officer (NWTD) Miranshah

7 The District Monitoring Officer (NWTD) Miranshah

8 Head Teacher concerned

9 ADEO Circle concerned

10 Candidate concerned

11 Pay Clerk concerned

For: [Signature]  
 DE: [Signature]  
 North Waziristan Tribal District

DISTRICT EDUCATION OFFICER  
 NORTH WAZIRISTAN TRIBAL DISTRICT  
 Scanned with CamScanner

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Implementation No. 320 of 2021  
In Appeal No.151/2019

Mst: Rasheed Bano EX-PST at GGPS Akram Kot  
North Waziristan Agency (Now District North  
Waziristan)

..... *Petitioner/ Appellant*

**VERSUS**

- 1) Director, Education, FATA, Now Khyber  
Pakhtunkhwa Peshawar.
- 2) District Education Officer the then Agency  
Education Officer District North Waziristan at  
Miran Shah.

..... *Respondents*

**APPLICATION FOR IMPLEMENTATION  
OF JUDGMENT DATED 29/07/2021 IN  
APPEAL NO.151/2019**

Respectfully Sheweth:

- 1- That the above noted appeal was pending  
adjudication in this Hon'ble Tribunal and was  
decided vide judgment and order dated  
29/07/2019.
- 2- That vide judgment and order dated 29/07/2019,  
while this Hon'ble Tribunal, while accepting the  
appeal of the appellant, directed respondents to

reinstated the appellant with all back benefits.  
(Copy of judgment is annexed herewith).

3- That the judgment and order of this Hon'ble Tribunal, was duly communicated to the respondent by the applicant for implementation. Since no response was given to his application for the implementation of the judgment, however, they are reluctant to implement the same. (Copy of application is annexed)

4- That instead of implementation the judgment of this Hon'ble Tribunal the respondents are bent upon to victimize the applicant one way or the other and demanded bribe for reinstatement.

5- That as per the spirit of the judgment and order dated 29/07/2021 of this Hon,ble Tribunal, the respondents are bound to consider the case of the applicant for reinstatement to his service. However, they have not implemented the judgment and order of this Hon'ble Tribunal in its true letter and spirit so far.




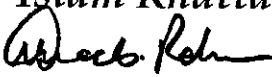
6- That the respondents are legally bound to implement the judgment of this Hon'ble Tribunal in its true letter and spirit without any further delay.

It is, therefore, prayed that on acceptance of this application the judgment and order dated 29/07/2021 of this Hon'ble Tribunal be implemented in its true and spirit.

Dated 02/11/2021

Rasheeda Bano  
Applicant

Through

  
Zahoor Islam Khattak  
&   
Muneeb ur Rehman  
Advocates,  
High Court Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Implementation No. \_\_\_\_\_ of 2021  
In Appeal No.151/2019

Mst: Rasheed Bano EX-PST ... .. Petitioner/ Appellant

**VERSUS**

Director, Education, FATA, Now Khyber  
Pakhtunkhwa Peshawar and another  
..... Respondents

**AFFIDAVIT**

I, Mst: Rasheed Bano EX-PST at GGPS Akram  
Kot North Waziristan Agency (Now District North  
Waziristan) do hereby solemnly affirm and declare on  
oath that the contents of the accompanied application  
are true and correct to the best of my knowledge and  
belief and nothing has been concealed from this Hon'ble  
Tribunal.

Rasheeda Bano

DEPONENT

Attested  
Muneeb ur Rehman  
WAZIRISTAN  
COURT PESHAWAR  
02-11-2021

(S)



**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. ....151...../2019

Mst Rasheeda Bano Ex. PST at GGPS Akram Kot North Waziristan Agency (now District North Waziristan) ..... (Appellant)

*Versus*

Khyber Pakhtunkhwa Service Tribunal  
Diary No. 136  
Dated 31-1-2019

1. Director Education, FATA, now KPK Peshawar
2. District Education Officer the then Agency Education Officer District North Waziristan at Miran Shah..... (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER DATED 13.12.2017 PASSED BY RESPONDENT NO. 2 WHEREBY THE DEPARTMENTAL APPEAL DATED 28.12.2017 TO RESPONDENT NO. 1 HAS YET NOT BEEN DISPOSED OF.

**PRAYER - IN - APPEAL**

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL THE IMPUGNED ORDER DATED 13.12.2017 PASSED BY RESPONDENT NO. 2 MAY VERY GRACIOUSLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE RE-INSTATED ON THE POST WITH ALL BACK BENEFITS.

Filed to-day  
31/1/19  
Registrar

Respectfully Sheweth,

1. That the appellant consequent upon the approval of Departmental Selection Committee was appointed as PTC (Female) in BPS-09 on . (Copy of the appointment order is attached as annexure A)
2. That the appellant thereafter took the charge of her duties and performed her duties during the service whole heartedly and to the quite satisfaction of officials concerned as well as according to the demand and nature of the job.

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

6

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No. 151/2019

Date of Institution ... 31.01.2019

Date of Decision ... 29.07.2021



Mst. Rasheeda Bano Ex-PST at GGPS Akram Kot North Waziristan  
Agency (now District North Waziristan)

... (Appellant)

**VERSUS**

Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and  
one other.

... (Respondents)

Mr. MUHAMMAD SAEED KHATTAK,  
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,  
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN  
MR. ATIQ-UR-REHMAN WAZIR

--- MEMBER (JUDICIAL)  
--- MEMBER (EXECUTIVE)

**JUDGMENT:**

**SALAH-UD-DIN, MEMBER:-**

Through this single judgment,  
we intend to dispose of the instant service appeal as well as connected  
Service Appeal bearing No. 152/2019 titled "Mst. Memoona Akhtar  
Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar  
and one other", Service Appeal bearing No. 153/2019 titled  
"Mst. Zahooria Begum Versus Director Education, FATA, now Khyber  
Pakhtunkhwa Peshawar and one other", Service Appeal bearing No.  
154/2019 titled "Mst. Dil Shad Begum Versus Director Education, FATA,  
now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal

**ATTESTED**

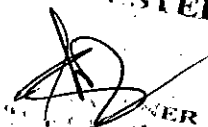
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

bearing No. 155/2019 titled "Mst. Parveen Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 156/2019 titled "Mst. Salma Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 296/2019 titled "Mst. Zeenat Gul Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 593/2019 titled "Mst. Shahida Kalsoom Versus Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and one other", as similar questions of law and facts are involved in all these appeals.

2. Precise facts of the instant appeal as well as connected appeals mentioned above are that the appellants were serving as PSTs in various schools of North Waziristan Agency (now District North Waziristan), when disciplinary action was initiated against them on the ground that they were found willfully absent during the visit of Assistant Agency Education Officer to the concerned schools on 01.09.2017. Vide order dated 13.12.2017, passed by Agency Education Officer North Waziristan Agency, major penalty of removal from service was imposed upon the appellants with retrospective effect on account of their willful absence from duty. The same was challenged by the appellants through filing of separate departmental appeal, however the same were not responded, therefore, the appellants approached this Tribunal through filing of the appeals for redressal of their grievance.

3. Mr. Saeed Khan Khattak, Advocate, representing the appellants, has contended that according to impugned Notification dated 13.12.2017, Assistant Agency Education Officer had paid monitoring visit to the concerned schools on 01.09.2017, which is quite astonishing for the reasons that according to press release issued by the Government of Pakistan Ministry of Interior, dated 1<sup>st</sup> to 4<sup>th</sup> September 2017 were declared as public holidays on account of Eid-ul-Azha; that in response to the show-cause notice issued in Daily "Mashriq" dated 03.12.2017, regarding the alleged absence of the appellants from their duty, proper replies were submitted by the appellants; that although it is mentioned in the publication issued in Daily "Mashriq" that the appellants were earlier issued show-cause notices, however no such

TESTED

  
 Director  
 Khyber Pakhtunkhwa  
 Tribunal  
 Peshawar

notice was received by any of the appellants; that the appellants were proceeded against on the charges of their willful absence from duty, however the required procedure as prescribed in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was not complied with, therefore, the entire disciplinary proceedings are nullity in the eye of law; that the appellants were assured by the office that the committee constituted for disposal of the departmental appeals has recommended their reinstatement, but later on it came to the knowledge of the appellants that the report of the said committee has been suppressed by the respondents; that it was due to the aforementioned fact that the appeals were filed with some delay and condonation applications were also filed alongwith the appeals, which merits acceptance; that otherwise too, law favours adjudication on merit by avoiding technical knock outs including limitation.

4. On the other hand, Mr. Kabirullah Khattak, Additional Advocate General for the respondents has argued that the appellants were in the habit of remaining absent from their duty, therefore, they were proceeded against on account of their willful absence from duty; that show-cause notices were issued to the appellants and publication was issued in Daily "Mashrig" also but despite that, the appellants did not bother to attend their duty, therefore, they have rightly been removed from service after observing of all codal formalities; that the appellants have not preferred departmental appeals, therefore, their appeals filed before the Service Tribunal are not maintainable; that the appeals filed by the appellants are time barred and are liable to be dismissed on this score alone.

5. We have heard the arguments of learned counsel for the appellants as well as learned Additional Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that disciplinary action was initiated against the appellants on the ground that they were found absent from duty during Monitoring visit of the concerned Assistant Agency Education Officer to the concerned schools on 01.09.2017. The appellants have specifically alleged in ground-B of their appeals that

TESTED  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar


according to press release dated 23<sup>rd</sup> August 2017, it was notified for general information that 1<sup>st</sup> to 4<sup>th</sup> September 2017 (Friday, Saturday, Sunday and Monday) shall be public holidays on occasion of religious festival of Eid-ul-Azha. They have also annexed the concerned press release as annexure-E with their respective appeals. In their comments, the respondents have not specifically denied the press release regarding the Eid-ul-Azha holidays from 1<sup>st</sup> to 4<sup>th</sup> September 2017. It is thus quite astonishing that the concerned Assistant Agency Education Officer had made Monitoring visit to the concerned schools on a public holiday and was expecting the presence of the appellants on duty in the concerned schools. The aforementioned fact has rendered the entire disciplinary proceedings a nullity in the eye of law.

7. Furthermore, the appellants were removed from service on the ground of willful absence, therefore, the authority was required to have followed the procedure as laid down in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, which is reproduced as below:-

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

8. Nothing is available on the record, which could show that notices were issued to the appellants through registered acknowledgement. Similarly, the Authority was required to have published notice in two leading newspapers, directing the appellants to resume duty but the notice was published in only one newspaper on 03.12.2017, directing the appellants to ensure their presence on duty within fifteen days of

**ATTESTED**


  
 MEMBER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

issuance of the publication. The Authority, however did not wait for lapse of fifteen days and issued the removal orders of the appellants vide respective Notifications dated 13.12.2017, therefore, the impugned orders of the appellants from service are illegal, void ab-initio, hence not sustainable in the eye of law.

9. This is not a disputed fact that similarly placed PSTs (female) namely Mst. Gulshan Ara, Mst. Salma, Mst. Akhtar Numana, Mst. Nusrat Kalsoom, Mst. Zainab Bibi, Mst. Kousar Shabana, Mst. Mehnaz, Mst. Zartaj Begum and Mst. Baswari Begum, who were removed from service by the Agency Education Officer North Waziristan Agency vide separate orders of the even date i.e. 13.12.2017 had filed Service Appeals bearing No. 519 to 527 of 2018, which were allowed by this Tribunal vide single judgment dated 30.07.2019, while service appeal of similarly placed appellant namely Mst. Shabnam was allowed by this Tribunal vide judgment dated 11.04.2019 and they were reinstated into service by setting-aside the orders of their removal from service. On this score too, the appellants need to be treated at par with the appellants, whose appeals have already been allowed by this Tribunal.

10. In view of the above discussion, the appeal in hand as well as connected Service Appeal bearing No. 152/2019 titled "Mst. Memoona Akhtar Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 153/2019 titled "Mst. Zahoor Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 154/2019 titled "Mst. Dil Shad Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 155/2019 titled "Mst. Parveen Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 156/2019 titled "Mst. Salma Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 296/2019 titled "Mst. Zeenat Gul Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 593/2019 titled "Mst. Shahida Kalsoom Versus Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and one other", are allowed by setting-

ATTESTED

  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

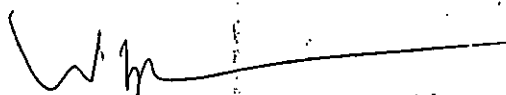


aside the impugned orders dated 13.12.2017 and the appellants are reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
29.07.2021



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)



(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

Certified to be true copy

F. A. J. J. J. J. J.  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 27-10-21  
Number of Words 2800  
Copying Fee 30/-  
Urgent \_\_\_\_\_  
Total 30/-  
Name of \_\_\_\_\_  
Date of Completion of Copy 29-10-21  
Date of Delivery of Copy 29-10-21

بھفوف و جناب و سٹریٹ ایجوکیشن آفیسر نارنگو وزیرستان میراٹھا

عدوان: بجالی سروس ایپل نمبر 151/2019 منیٹر مورفم 29<sup>07</sup>/<sub>2021</sub>

جناب عالی

مگر ایشیاہ طالبہ کہ من سالہ رشیدہ بانو سابقہ PS آ گورنمنٹ

گورنمنٹ پرائمری سکول اکرم کوٹ نارنگو وزیرستان میں ڈیپٹی ٹیچر کی حیثیت سے مورفم 13<sup>12</sup>/<sub>2021</sub> سے Remand from Service پر رکھی ہے۔

یہ اس کی ڈیپوٹیشن عدالت نے سالہ کی ایپل نمبر 151/2019 کے تحت دوبارہ سروس بجالی کے احکامات 29<sup>07</sup>/<sub>2021</sub> کو جاری کیے ہیں۔

لہذا آپ صاحبہ استغاثت کہ سروس ڈیپوٹیشن کے فیصلہ کے پیشکش میں سالہ کی بجالی کے احکامات صدارت نمبر 151/2021 میں ڈیپوٹیشن کیے گئے ہیں۔


مورفم 15<sup>09</sup>/<sub>2021</sub>

Rasheeda Bano


ایکاتالعدار رشیدہ بانو سابقہ PS آ گورنمنٹ پرائمری سکول اکرم کوٹ

قیمت 50 روپے	106125			
ایڈویکٹ: <u>20/</u>		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر: <u>66-10-9176</u>				
رابطہ نمبر: <u>0346-9083529</u>				

بعدالت جناب: عبد صمد سرور سٹریٹ لیسٹریٹ

منجانب: <u>Rashee da Banco</u>	دعویٰ: <u>Implementation</u>
	علت نمبر: _____
	موریہ: _____
	جرم: _____
	تھانہ: _____
<b>باعت تحریر آگے</b>	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ  
 آن مقام پشاور کے محکمہ رجسٹریشن کے مندرجہ بالا کے کوئی مقرر  
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز ذیل صاحب کو  
 راضی نامہ کرانے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب  
 مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ برداشتہ منظور و قبول ہوگا  
 دوران مقدمہ میں جو خرچہ ہر جانب اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا احد سے  
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم: 20/11/2021  


مقام پشاور کے لیے منظور ہے۔  
Abdul Wahab

Accepted  
 and  
 Attested

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

رشید باجوہ ایسوسی ایشن کی فورٹینڈ فیڈریشن ایڈووکیٹس  
 رشید باجوہ ایسوسی ایشن کی فورٹینڈ فیڈریشن ایڈووکیٹس

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. S.B

No.

E/P No. 3206324 21

*Refer*

Appeal No. Mst. Rasheed Bano & (4) Others of 20

Appellant/Petitioner

Director Edu FATA Pesh:

Respondent

Distt: Education Officer The Then Agency

Respondent No.

Notice to:

Education Officer Distt. North Waziristan at Miran Shah.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 26/12/21 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

E/P ✓

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Dec 21

7th

Day of (Implementation Report) 20

M. P. J.  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

No. 634

Notices see reverse. Rs. Ps.  
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Insurance fee Rs. 0 Ps. 0 (in words) Nil Weight 30 Kilo Grams

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5-019/F  
M. J. R. R. R. R. R.

Director of Public Relations

S

Director of Public Relations

Director of Public Relations

8/1/55

9/1

5/1

9/1

(Director of Public Relations)

M. J. R. R. R. R.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, 8.B  
PESHAWAR.

No.

Appeal No. E.P.No. 3206 324 of 2021.

Mst. Rasheed Bano & (4) others Appellant/Petitioner

Director Edu FATA Pesh. Respondent

Respondent No. 2

Notice to: Director Education, FATA Now KPK Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 26/1/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 7/5

Day of.....Dec 2021.

(Implementation Report)  
15-12-21

H. P. K.  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.



**OFFICE OF THE DISTRICT EDUCATION OFFICER  
NORTH WAZIRISTAN TRIBAL DISTRICT**

No: 26308-18

Dated: 12/12/2021

Phone: 0928-313040

E-mail: deonmutenwt@gmail.com

**CONDITIONAL RE-INSTATMENT ORDER.**

Consequent upon the judgment of the Honorable Services Tribunal Peshawar KPK Dated: 29/07/2021, in connected appeal No. 151/2019, the following female PSF teachers are hereby conditionally re-instated w.e.f date of removal from service i.e. 13-12-2017 with all back benefits subject to the final judgment in CPLA by supreme court of Pakistan with surety bond on judicial stamp paper to the effect that in case decision from Supreme Court Turnout in favor of department, the amount/salaries paid to them shall be recovered and shall be deposit in government treasury through State Bank challan.

S#	Appeal #	CPLA #	Name	Personal No	CNIC #	Place of Posting
1	151/2019	616-P/2021	Mst. Rasheeda Bano D/O Mir Jawali Khan	50225380	14203-1979675-4	GGPS Wali Mat khan kot, Tehsile Spinwam
2	152/2019	617-P/2021	Mst. Memoona Akhtar D/O Muhammad Zubir	50262459	14203-1979688-8	GGPS Aka Khan Kot Tehsile Shewa
3	153/2019	618-P/2021	Mst. Zahoor Begum D/O Shahdat Khan	50240661	14202-3732361-4	GGPS Sadiq Khan Kot, Tehsile Dosalli
4	154/2019	619-P/2021	Mst. Dilshad Begum D/O Gul Dad Khan	50250844	14203-0865450-8	GGPS Zard Alam Kot, Tehsile Spinwam
5	155/2019	620-P/2021	Mst. Parveen Begum W/O Muhammad Riaz	50238990	15401-6298594-4	GGPS Sherdad Kot, Tehsile Data Kheil
6	156/2019	621-P/2021	Mst. Salma Begum D/O Khan Radshah	50216282	15401-6091003-4	GGPS Nasim Kot Shera Tala, Tehsile Mirali
7	593/2019	623-P/2021	Mst. Sha hida Kalsoom D/O Muhaib-Ur-Rehman	50225770	11101-2137703-8	GGPS Sayed Lal Marjan Kot, Tehsile Ghulam Khan

**TERMS & CONDITIONS.**

1. This re-instatement has been made purely according to the government recruitment policy /rules time to time and is subject to the terms and conditions framed by the government time to time. Moreover this appointment can be withdrawn and is liable to termination without any notice, if any legal clerical or other kind of mistake arise therein.
2. This re-instatement provision is conditionally made subject to the decision of Supreme Court in the CPLA filed by the Government against the petitioner OR any other technical issue decided by the honorable supreme court of Pakistan, Petitioners will face cancellation of their re-instatement happily and will deposit what has received as salaries or other benefits.
3. If they wish to resign from service they will give one month prior notice OR one month full pay will be forfeited in lieu thereof.
4. This Re-Instatement is subject to the condition that certificates/ Degrees must be verified from the concerned authorities by the DEO North Waziristan Tribal District. Anyone found producing Bogus CNIC, Bogus Domicile, Documents /Testimonials will be proceeded as per prevailing rules.
5. If they fail to resume charge within 15 days after issuing order, their appointment order will be considered as cancelled.
6. Charge report should be submitted in duplicate to all concerned.

DISTRICT EDUCATION OFFICER  
NORTH WAZIRISTAN TRIBAL  
DISTRICT

Endst: No 26308-18 /Re-Instt:/PST/(Female File)/DEO/NWTD

1. Registrar Khyber Pakhtunkhwa Services Tribunal Peshawar
2. The Director F&SE Khyber Pakhtunkhwa Peshawar
3. The Director Education NMD, Warsak road Khyber Pakhtunkhwa Peshawar.
4. The Deputy commissioner North Waziristan at Miranshah.
5. The Addl. Deputy Commissioner North Waziristan at Miranshah.
6. The District Account officer (NWTD) Miranshah.
7. The District Monitoring officer NWTD Miranshah.
8. Head Teacher Concerned.
9. ADEO Circle concerned.
10. Candidate Concerned.
11. Pay Clerk concerned.

DISTRICT EDUCATION OFFICER  
NORTH WAZIRISTAN TRIBAL  
DISTRICT

Alleged  
Focal Person for Litigation  
1. D/O  
North Waziristan Tribal Distt

(1)

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. ....151...../2019

Mst Rasheeda Bano Ex. PST at GGPS Akram Kot North Waziristan Agency (now District North Waziristan) ..... (Appellant)

Versus

- Khyber Pakhtunkhwa  
Service Tribunal  
Diary No. 136  
Dated 31-1-2019
1. Director Education, FATA, now KPK Peshawar
  2. District Education Officer the then Agency Education Officer District North Waziristan at Miran Shah..... (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER DATED 13.12.2017 PASSED BY RESPONDENT NO. 2 WHEREBY THE DEPARTMENTAL APPEAL DATED 28.12.2017 TO RESPONDENT NO. 1 HAS YET NOT BEEN DISPOSED OF.

**PRAYER - IN - APPEAL**

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL THE IMPUGNED ORDER DATED 13.12.2017 PASSED BY RESPONDENT NO. 2 MAY VERY GRACIOUSLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE RE-INSTATED ON THE POST WITH ALL BACK BENEFITS.

**Respectfully Sheweth,**

1. That the appellant consequent upon the approval of Departmental Selection Committee was appointed as PTC (Female) in BPS 09 on . (Copy of the appointment order is attached as annexure A)
2. That the appellant thereafter took the charge of her duties and performed her duties during the service whole heartedly and to the quite satisfaction of officials concerned as well as according to the demand and nature of the job

Filed to-day  
Registrar  
31/1/19



**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,**  
**PESHAWAR.**

Service Appeal No. 151/2019

Date of Institution ... 31.01.2019

Date of Decision ... 29.07.2021

Mst. Rasheeda Bano Ex-PST at GGPS Akram Kot North Waziristan  
Agency (now District North Waziristan)

... (Appellant)

**VERSUS**

Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and  
one other.

... (Respondents)

Mr. MUHAMMAD SAEED KHATTAK,  
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,  
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN  
MR. ATIQ-UR-REHMAN WAZIR

--- MEMBER (JUDICIAL)  
--- MEMBER (EXECUTIVE)

**JUDGMENT:**

  
**SALAH-UD-DIN, MEMBER:-**


Through this single judgment,  
we intend to dispose of the instant service appeal as well as connected  
Service Appeal bearing No. 152/2019 titled "Mst. Memoona Akhtar  
Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar  
and one other", Service Appeal bearing No. 153/2019 titled  
"Mst. Zahoor Begum Versus Director Education, FATA, now Khyber  
Pakhtunkhwa Peshawar and one other", Service Appeal bearing No.  
154/2019 titled "Mst. Dil Shad Begum Versus Director Education, FATA,  
now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal

bearing No. 155/2019 titled "Mst. Parveen Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 156/2019 titled "Mst. Salma Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 296/2019 titled "Mst. Zeenat Gul Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 593/2019 titled "Mst. Shahida Kalsoom Versus Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and one other", as similar questions of law and facts are involved in all these appeals.

2. Precise facts of the instant appeal as well as connected appeals mentioned above are that the appellants were serving as PSTs in various schools of North Waziristan Agency (now District North Waziristan), when disciplinary action was initiated against them on the ground that they were found willfully absent during the visit of Assistant Agency Education Officer to the concerned schools on 01.09.2017. Vide order dated 13.12.2017, passed by Agency Education Officer North Waziristan Agency, major penalty of removal from service was imposed upon the appellants with retrospective effect on account of their willful absence from duty. The same was challenged by the appellants through filing of separate departmental appeal, however the same were not responded, therefore, the appellants approached this Tribunal through filing of the appeals for redressal of their grievance.

3. Mr. Saeed Khan Khattak, Advocate, representing the appellants, has contended that according to impugned Notification dated 13.12.2017, Assistant Agency Education Officer had paid monitoring visit to the concerned schools on 01.09.2017, which is quite astonishing for the reasons that according to press release issued by the Government of Pakistan Ministry of Interior, dated 1<sup>st</sup> to 4<sup>th</sup> September 2017 were declared as public holidays on account of Eid-ul-Azha; that in response to the show-cause notice issued in Daily "Mashriq" dated 03.12.2017, regarding the alleged absence of the appellants from their duty, proper replies were submitted by the appellants; that although it is mentioned in the publication issued in Daily "Mashriq" that the appellants were earlier issued show-cause notices, however no such

notice was received by any of the appellants; that the appellants were proceeded against on the charges of their willful absence from duty, however the required procedure as prescribed in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was not complied with, therefore, the entire disciplinary proceedings are nullity in the eye of law; that the appellants were assured by the office that the committee constituted for disposal of the departmental appeals has recommended their reinstatement, but later on it came to the knowledge of the appellants that the report of the said committee has been suppressed by the respondents; that it was due to the aforementioned fact that the appeals were filed with some delay and condonation applications were also filed alongwith the appeals, which merits acceptance; that otherwise too, law favours adjudication on merit by avoiding technical knock outs including limitation.

 4. On the other hand, Mr. Kabirullah Khattak, Additional Advocate General for the respondents has argued that the appellants were in the habit of remaining absent from their duty, therefore, they were proceeded against on account of their willful absence from duty; that show-cause notices were issued to the appellants and publication was issued in Daily "Mashriq" also but despite that, the appellants did not bother to attend their duty, therefore, they have rightly been removed from service after observing of all codal formalities; that the appellants have not preferred departmental appeals, therefore, their appeals filed before the Service Tribunal are not maintainable; that the appeals filed by the appellants are time barred and are liable to be dismissed on this score alone.

5. We have heard the arguments of learned counsel for the appellants as well as learned Additional Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that disciplinary action was initiated against the appellants on the ground that they were found absent from duty during Monitoring visit of the concerned Assistant Agency Education Officer to the concerned schools on 01.09.2017. The appellants have specifically alleged in ground-B of their appeals that

according to press release dated 23<sup>rd</sup> August 2017, it was notified for general information that 1<sup>st</sup> to 4<sup>th</sup> September 2017 (Friday, Saturday, Sunday and Monday) shall be public holidays on occasion of religious festival of Eid-ul-Azha. They have also annexed the concerned press release as annexure-E with their respective appeals. In their comments, the respondents have not specifically denied the press release regarding the Eid-ul-Azha holidays from 1<sup>st</sup> to 4<sup>th</sup> September 2017. It is thus quite astonishing that the concerned Assistant Agency Education Officer had made Monitoring visit to the concerned schools on a public holiday and was expecting the presence of the appellants on duty in the concerned schools. The aforementioned fact has rendered the entire disciplinary proceedings a nullity in the eye of law.

7. Furthermore, the appellants were removed from service on the ground of willful absence, therefore, the authority was required to have followed the procedure as laid down in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, which is reproduced as below:-

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

8. Nothing is available on the record, which could show that notices were issued to the appellants through registered acknowledgement. Similarly, the Authority was required to have published notice in two leading newspapers, directing the appellants to resume duty but the notice was published in only one newspaper on 03.12.2017, directing the appellants to ensure their presence on duty within fifteen days of

issuance of the publication. The Authority, however did not wait for lapse of fifteen days and issued the removal orders of the appellants vide respective Notifications dated 13.12.2017, therefore, the impugned orders of the appellants from service are illegal, void ab-initio, hence not sustainable in the eye of law.


9. This is not a disputed fact that similarly placed PSTs (female) namely Mst. Gulshan Ara, Mst. Salma, Mst. Akhtar Numana, Mst. Nusrat Kalsoom, Mst. Zainab Bibi, Mst. Kousar Shabana, Mst. Mehnaz, Mst. Zartaj Begum and Mst. Baswari Begum, who were removed from service by the Agency Education Officer North Waziristan Agency vide separate orders of the even date i.e. 13.12.2017 had filed Service Appeals bearing No. 519 to 527 of 2018, which were allowed by this Tribunal vide single judgment dated 30.07.2019, while service appeal of similarly placed appellant namely Mst. Shabnam was allowed by this Tribunal vide judgment dated 11.04.2019 and they were reinstated into service by setting-aside the orders of their removal from service. On this score too, the appellants need to be treated at par with the appellants, whose appeals have already been allowed by this Tribunal.

10. In view of the above discussion, the appeal in hand as well as connected Service Appeal bearing No. 152/2019 titled "Mst. Memoona Akhtar Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 153/2019 titled "Mst. Zahoor Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 154/2019 titled "Mst. Dil Shad Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 155/2019 titled "Mst. Parveen Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 156/2019 titled "Mst. Salma Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 296/2019 titled "Mst. Zeenat Gul Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 593/2019 titled "Mst. Shahida Kalsoom Versus Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and one other", are allowed by setting-

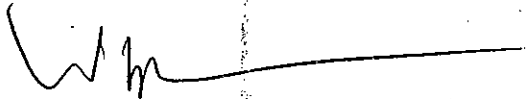
aside the impugned orders dated 13.12.2017 and the appellants are reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

29.07.2021



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)



(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,  
PESHAWAR.**

Service Appeal No. 151/2019

Date of Institution ... 31.01.2019

Date of Decision ... 29.07.2021

Mst. Rasheeda Bano Ex-PST at GGPS Akram Kot North Waziristan  
Agency (now District North Waziristan)

... (Appellant)

**VERSUS**

Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and  
one other.

... (Respondents)

-----  
Mr. MUHAMMAD SAEED KHATTAK,  
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,  
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN  
MR. ATIQ-UR-REHMAN WAZIR

--- MEMBER (JUDICIAL)  
--- MEMBER (EXECUTIVE)

**JUDGMENT:**

  
SALAH-UD-DIN, MEMBER:-

Through this single judgment,  
we intend to dispose of the instant service appeal as well as connected  
Service Appeal bearing No. 152/2019 titled "Mst. Memoona Akhtar  
Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar  
and one other", Service Appeal bearing No. 153/2019 titled  
"Mst. Zahoor Begum Versus Director Education, FATA, now Khyber  
Pakhtunkhwa Peshawar and one other", Service Appeal bearing No.  
154/2019 titled "Mst. Dil Shad Begum Versus Director Education, FATA,  
now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal


bearing No. 155/2019 titled "Mst. Parveen Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 156/2019 titled "Mst. Salma Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 296/2019 titled "Mst. Zeenat Gul Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 593/2019 titled "Mst. Shahida Kalsoom Versus Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and one other", as similar questions of law and facts are involved in all these appeals.

2. Precise facts of the instant appeal as well as connected appeals mentioned above are that the appellants were serving as PSTs in various schools of North Waziristan Agency (now District North Waziristan), when disciplinary action was initiated against them on the ground that they were found willfully absent during the visit of Assistant Agency Education Officer to the concerned schools on 01.09.2017. Vide order dated 13.12.2017, passed by Agency Education Officer North Waziristan Agency, major penalty of removal from service was imposed upon the appellants with retrospective effect on account of their willful absence from duty. The same was challenged by the appellants through filing of separate departmental appeal, however the same were not responded, therefore, the appellants approached this Tribunal through filing of the appeals for redressal of their grievance.

3. Mr. Saeed Khan Khattak, Advocate, representing the appellants, has contended that according to impugned Notification dated 13.12.2017, Assistant Agency Education Officer had paid monitoring visit to the concerned schools on 01.09.2017, which is quite astonishing for the reasons that according to press release issued by the Government of Pakistan Ministry of Interior, dated 1<sup>st</sup> to 4<sup>th</sup> September 2017 were declared as public holidays on account of Eid-ul-Azha; that in response to the show-cause notice issued in Daily "Mashriq" dated 03.12.2017, regarding the alleged absence of the appellants from their duty, proper replies were submitted by the appellants; that although it is mentioned in the publication issued in Daily "Mashriq" that the appellants were earlier issued show-cause notices, however no such



notice was received by any of the appellants; that the appellants were proceeded against on the charges of their willful absence from duty, however the required procedure as prescribed in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was not complied with, therefore, the entire disciplinary proceedings are nullity in the eye of law; that the appellants were assured by the office that the committee constituted for disposal of the departmental appeals has recommended their reinstatement, but later on it came to the knowledge of the appellants that the report of the said committee has been suppressed by the respondents; that it was due to the aforementioned fact that the appeals were filed with some delay and condonation applications were also filed alongwith the appeals, which merits acceptance; that otherwise too, law favours adjudication on merit by avoiding technical knock outs including limitation.


 4. On the other hand, Mr. Kabirullah Khattak, Additional Advocate General for the respondents has argued that the appellants were in the habit of remaining absent from their duty, therefore, they were proceeded against on account of their willful absence from duty; that show-cause notices were issued to the appellants and publication was issued in Daily "Mashriq" also but despite that, the appellants did not bother to attend their duty, therefore, they have rightly been removed from service after observing of all codal formalities; that the appellants have not preferred departmental appeals, therefore, their appeals filed before the Service Tribunal are not maintainable; that the appeals filed by the appellants are time barred and are liable to be dismissed on this score alone.

5. We have heard the arguments of learned counsel for the appellants as well as learned Additional Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that disciplinary action was initiated against the appellants on the ground that they were found absent from duty during Monitoring visit of the concerned Assistant Agency Education Officer to the concerned schools on 01.09.2017. The appellants have specifically alleged in ground-B of their appeals that

according to press release dated 23<sup>rd</sup> August 2017, it was notified for general information that 1<sup>st</sup> to 4<sup>th</sup> September 2017 (Friday, Saturday, Sunday and Monday) shall be public holidays on occasion of religious festival of Eid-ul-Azha. They have also annexed the concerned press release as annexure-E with their respective appeals. In their comments, the respondents have not specifically denied the press release regarding the Eid-ul-Azha holidays from 1<sup>st</sup> to 4<sup>th</sup> September 2017. It is thus quite astonishing that the concerned Assistant Agency Education Officer had made Monitoring visit to the concerned schools on a public holiday and was expecting the presence of the appellants on duty in the concerned schools. The aforementioned fact has rendered the entire disciplinary proceedings a nullity in the eye of law.

7. Furthermore, the appellants were removed from service on the ground of willful absence, therefore, the authority was required to have followed the procedure as laid down in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, which is reproduced as below:-

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

8. Nothing is available on the record, which could show that notices were issued to the appellants through registered acknowledgement. Similarly, the Authority was required to have published notice in two leading newspapers, directing the appellants to resume duty but the notice was published in only one newspaper on 03.12.2017, directing the appellants to ensure their presence on duty within fifteen days of


issuance of the publication. The Authority, however did not wait for lapse of fifteen days and issued the removal orders of the appellants vide respective Notifications dated 13.12.2017, therefore, the impugned orders of the appellants from service are illegal, void ab-initio, hence not sustainable in the eye of law.

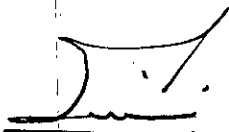
9. This is not a disputed fact that similarly placed PSTs (female) namely Mst. Gulshan Ara, Mst. Salma, Mst. Akhtar Numana, Mst. Nusrat Kalsoom, Mst. Zainab Bibi, Mst. Kousar Shabana, Mst. Mehnaz, Mst. Zartaj Begum and Mst. Baswari Begum, who were removed from service by the Agency Education Officer North Waziristan Agency vide separate orders of the even date i.e 13.12.2017 had filed Service Appeals bearing No. 519 to 527 of 2018, which were allowed by this Tribunal vide single judgment dated 30.07.2019, while service appeal of similarly placed appellant namely Mst. Shabnam was allowed by this Tribunal vide judgment dated 11.04.2019 and they were reinstated into service by setting-aside the orders of their removal from service. On this score too, the appellants need to be treated at par with the appellants, whose appeals have already been allowed by this Tribunal.

10. In view of the above discussion, the appeal in hand as well as connected Service Appeal bearing No. 152/2019 titled "Mst. Memoona Akhtar Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 153/2019 titled "Mst. Zahoor Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 154/2019 titled "Mst. Dil Shad Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 155/2019 titled "Mst. Parveen Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 156/2019 titled "Mst. Salma Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 296/2019 titled "Mst. Zeenat Gul Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 593/2019 titled "Mst. Shahida Kalsoom Versus Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and one other", are allowed by setting-

aside the impugned orders dated 13.12.2017 and the appellants are reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
29.07.2021

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

ORDER  
29.07.2021

Mr. Muhammad Saeed Khattak, Advocate, for the appellant present. Mr. Muhammad Nisar, Focal Person alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand as well as connected Service Appeal bearing No. 152/2019 titled "Mst. Memoona Akhtar Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 153/2019 titled "Mst. Zahoora Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 154/2019 titled "Mst. Dil Shad Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 155/2019 titled "Mst. Parveen Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 156/2019 titled "Mst. Salma Begum Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 296/2019 titled "Mst. Zeenat Gul Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other", Service Appeal bearing No. 593/2019 titled "Mst. Shahida Kalsoom Versus Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and one other", are allowed by setting-aside the impugned orders dated 13.12.2017 and the appellants are reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
29.07.2021



(ATIQU-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)



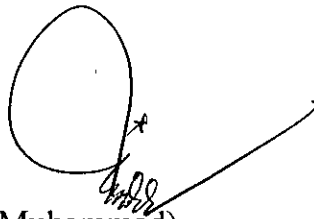
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

08.02.2021

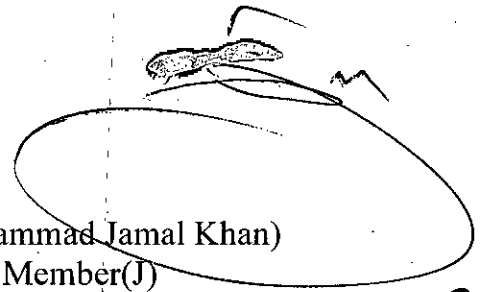
Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Muhammad Nisar, CT for respondents present.

The bear perusal of the impugned order dated 13.12.2017 would reveal that it has been made efficacious ex-post factively and since the issue of retrospectivity is pending adjudication before the Larger Bench of this Tribunal, therefore, unless a judgment is made on the issue this appeal is adjourned.

Adjourned to 12.04.2021 for further proceedings before D.B.



(Mian Muhammad)  
Member (E)



(Muhammad Jamal Khan)  
Member (J)

12.4.21

*due to COVID-19, the case is adjourned to 29.7.21 for the same.*



12/5 .2020

Due to COVID19, the case is adjourned to  
5/8/2020 for the same as before.

  
Reader

05.08.2020

Due to summer vacation case to come up for the same on  
06.10.2020 before D.B.

  
Reader

06.10.2020

Representative of appellant on behalf of appellant present.  
Mr. Muhammad Jan learned Deputy District Attorney  
alongwith Muhammad Sharif for respondents present.

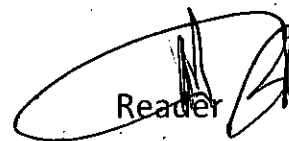
Lawyers are on general strike, therefore, case is  
adjourned to 25.11.2020 for arguments, before D.B.

(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

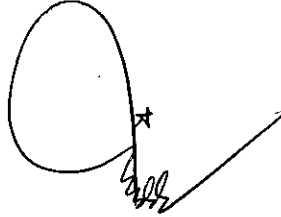
25.11.2020

Due to non-availability of D.B, the case is adjourned to  
08.02.2021 for the same as before.

  
Reader

18.03.2020

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 12.05.2020 before D.B.

A handwritten signature consisting of a large, stylized loop followed by a short horizontal line and a diagonal stroke.

(MAIN MUHAMMAD)  
MEMBER

A handwritten signature consisting of the letters 'MA' in a stylized, cursive font.

(M.AMIN KHAN KUNDI)  
MEMBER



17.12.2019

Junior to counsel for the appellant and Addl. AG alongwith Fawad Afzal, Senior Clerk for the respondents present.

Representative of respondents has furnished comments of the respondents. The same are placed on record. The appeal is assigned to D.B for arguments on 11.02.2020. The appellant may furnish rejoinder, within one month, if so advised.

  
Chairman

11.02.2020

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 18.03.2020 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

18.04.2019

Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 28.05.2019 before S.B

  
Member

28.05.2019


Counsel for the appellant present.

Learned counsel for the appellant requests for time to further prepare the brief in the light of order dated 13.03.2019. Adjourned to 20.06.2019 before the S.B.

21/1/19  
  
Chairman

20.06.2019

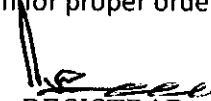


Counsel for the appellant present and requested for adjournment. Adjourned to 27.06.2019 for preliminary hearing before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

Form- A  
FORM OF ORDER SHEET

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

Case No. 151/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/1/2019	<p>The appeal of Mst. Rasheeda Bano presented today by Mr. Muhammad Saeed Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 31/1/19</p>
2-	13.03.2019	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13-3-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Learned counsel for the appellant present. Heard.</p> <p>Upon the inquiry by this tribunal on the issue of limitation, learned counsel for the appellant stated that the punishment of removal from service was awarded to the appellant with retrospective effect on the ground of absence from duty hence the limitation would not run against the punishment order. Learned counsel for the appellant when confronted with the judgment of August Supreme Court of Pakistan reported in SCMR 1998 page-1890 seeks adjournment for proper assistance. Adjourn. To come up for preliminary hearing on 18.04.2019 before S.B.</p> <p style="text-align: right;"> Member</p>

# BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. ....151...../2019

Mst Rasheeda Bano ..... (Appellant)

**Versus**

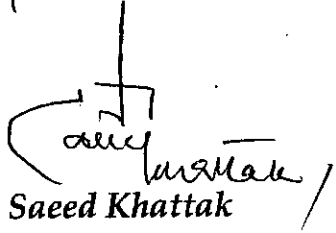
Director Education, FATA & others..... (Respondents)

## INDEX

S.No.	Description of Documents	Annexures	Pages
01	Memo of Appeal		1-3
02	Petition for condonation of delay		4
03	Copy of the appointment order	A	5
04	Copy of the publication	B	6
05	Copy of reply	C	7
06	Copy of the impugned order dated 13.12.2017	D	8
07	Copy of the departmental appeal	E	9
08	Copy of the press release	F	10
09	Wakalat Nama		11

Appellant 

Through

  
Muhammad Saeed Khattak  
Advocate, Peshawar

Office: D-6, JK Shopping Mall, University Road, Peshawar.

Cell No: 03336272753

(1)

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. ....151...../2019

Mst Rasheeda Bano Ex. PST at GGPS Akram Kot North Waziristan Agency (now District North Waziristan) ..... (Appellant)

Khyber Pakhtunkhwa  
Service Tribunal

**Versus**

Diary No. 136

Dated 31-1-2019

1. Director Education, FATA, now KPK Peshawar
2. District Education Officer the then Agency Education Officer District North Waziristan at Miran Shah..... (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974, AGAINNST THE IMPUGNED ORDER DATED 13.12.2017 PASSED BY RESPONDENT NO. 2 WHEREBY THE DEPARTMENTAL APPEAL DATED ~~0-01-2017~~ <sup>28.12.2017</sup> TO RESPONDENT NO. 1 HAS YET NOT BEEN DISPOSED OF.

**PRAYER - IN - APPEAL**

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL THE IMPUGNED ORDER DATED 13.12.2017 PASSED BY RESPONDENT NO. 2 MAY VERY GRACIOUSLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE RE-INSTATED ON THE POST WITH ALL BACK BENEFITS.

**Filed to-day**  
**Registrar**  
31/1/19

**Respectfully Sheweth,**

1. That the appellant consequent upon the approval of Departmental Selection Committee was appointed as PTC (Female) in BPS 09 on . (Copy of the appointment order is attached as annexure A)
2. That the appellant thereafter took the charge of her duties and performed her duties during the service whole heartedly and to the quite satisfaction of officials concerned as well as according to the demand and nature of the job.

3. That the appellant came to know about a publication published in daily "Mashriq" dated 03.12.2017 regarding her absence from duty along with other female teachers. Furthermore according to the said publication a show cause notice was issued to her. But the appellant has received no such notice. (Copy of the publication is attached as annexure B)
4. That in compliance the appellant submitted a reply in the office of respondent No. 2 along with relevant documents in her defense. (Copy of the reply is attached as annexure C)
5. That thereafter the respondent No. 2 vide impugned order dated 13.12.2017 removed the appellant from service against all the norms of justice. (Copy of the impugned order dated 13.12.2017 is attached as annexure D)
6. That being aggrieved of the same the appellant preferred an appeal before respondent No. 1 which has yet not been responded. (Copy of the departmental appeal is attached as annexure E)
7. That the appellant now prefers the instant Service Appeal, inter alia, on the following amongst others;

**GROUND**S

- A. That the appellant has not been treated in accordance with law nor has equal protection of law has been extended to her. The so called visit mentioned in the notification dated 13.12.2017 is illegal, against law, without lawful authority, void ab initio for the reason it has been passed on the ground of remaining absent from the duty on 01.09.2017. On the said date public holiday was notified. Therefore the mentioned notification dated 13.12. 2017 and all proceedings thereafter based on it are illegal and liable to be set aside.
- B. That according to notification dated 13.12.2017 (Impugned herein) in its first para that appellant was found absent from duty during monitoring visit of the concerned Assistant Agency Education Officer

to the School on 01.09.2017. with due respect it is stated that according to Press Release dated Islamabad 23<sup>rd</sup> August 2017 it was notified for the general information that 1<sup>st</sup> to 4<sup>th</sup> September 2017 (Friday, Saturday, Sunday and Monday) shall be public holidays on the occasion of Religious Festival of Eid-ul-Azha. (Copy of the press release is attached as annexure F)

- C. That it is quite astonishing that how Assistant Agency Education Officer managed the visits of too many schools on 01.09.20017 (which was public holiday) and only cases of non-local female teacher were reported.
- D. That according to para 3 of the notification issued by respondent no. 2 the appellant did not report to her duty within stipulated period of time and turned deaf ear is quite baseless, wrong as well as against the record. As mentioned earlier the appellant remained present on her duty beside the mentioned date because it was a public holiday.
- E. That while awarding major penalty no proper procedure was adopted. Otherwise too the impugned order has been passed with retrospective effect which is nullity in the eyes of law.
- F. That any other ground can also be taken during the arguments with permission of this Hon`ble Tribunal.

It Is Therefore Most Humbly Prayed That On Acceptance Of The Instant Service Appeal The Impugned Order Dated 13.12.2017 May Very Graciously Be Set Aside And The Appellant May Kindly Be Reinstated On The Post With All Back Benefits.

*Rasheed*  
Appellant  
Through *ally*  
Muhammad Saeed Khattak  
Advocate, Peshawar

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. .... /2019

Mst Rasheeda Bano ..... (Appellant)

**Versus**

Director Education, FATA & others ..... (Respondents)

**APPLICATION FOR CONDONATION OF DELAY, IF ANY**

**Respectfully Sheweth,**

1. That the titled Service Appeal has been filed today in which no date has yet been fixed for hearing.
2. That the grounds taken in main appeal may kindly be taken as part and parcel of the instant application.
3. That the impugned order is void one, otherwise too the apex courts have favored the cases to be decided on merits rather on technicalities including the limitation.
4. The delay, if any, was caused due to the reason that applicant was assured about reinstatement by the respondents.
5. That the applicant has otherwise a good arguable case in her favor.

It is therefore most humbly prayed that on acceptance of the instant application the delay, if any, may kindly be condoned.

*Rasheeda*  
Applicant/ Appellant

Through

*Muhammad Saeed Khattak*  
Muhammad Saeed Khattak  
Advocate, Peshawar

*Muhammad Saeed Khattak*



OFFICE OF THE AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY  
APPOINTMENT ORDER.

Annex A-  
(5)

Consequent upon the approval of Departmental Selection Committee the following Non Local Female PTC candidates are hereby appointed against P.T.C Posts in BPS - 7 (Rs. 2220-120-5820) PM, plus usual allowances as admissible under the rules, purely on contract basis for three years with effect from their taking over charge against vacant posts noted against each.

S.No	Name of Candidate/Father Name	Name of School where Posted	Remarks
1.	Rashida Bano D/O Mir Jawali Khan	GGPS Shad Amin Kot Razmak	Against Vacant Post

TERMS AND CONDITION.

1. Their appointment are being made purely on CONTRACT basis and liable to termination at any time without any notice, if wish to resign form their posts, they should give one month prior notice or forfeit one month of pay in lieu thereof.
2. They should not be handed over charge of the same post if they are below 18 years or above 33 years age.
3. They should produce their health and age certificate from the Medical Superintendent Agency Head Quarter Hospital Miranshah.
4. Their original qualifications, date of birth and domicile certificate should be checked and photo copy be placed on the record, before handed over charge of the same posts.
5. If they fail to resume their charge within 15 days, the order should be treated as cancelled.
6. Their academic / Professional certificates will be referred to all concerned Boards / Universities ( by depositing usual fee charges) for necessary verification till the receipt their certificates, the salary will not be drawn.
7. TA / DA is not allowed.
8. They should produce their NIC to the AAEO circle concerned.
9. Charge report should be submitted in duplicate to all concerned.
10. They will be terminated if they found absent two days continuously from the date of taking over charge.

2981-88

Ends No. \_\_\_\_\_ /A.E.O/ N.W.A/ Apptt: /PTC / Shawal  
COPY TO :-

Agency Education Officer,  
North Waziristan Agency.

Dated 2/6/2024

Annex-B (6)



Shaukat Khanum Memorial Cancer Hospital And Research Centre

CAREER OPPORTUNITIES

This is an exciting opportunity to join the country's premier oncology center at a time when we are expanding to establish a network of hospitals across the country. Peshawar has opened its doors to the public in December 2015. We are looking to recruit a team of highly dedicated professionals to help establish clinical services at this new unit.

The Shaukat Khanum healthcare system provides an opportunity for professional growth in an environment conducive to research and academic excellence. Our doctors not only enjoy excellent clinical work but have published in major international journals as well as presented their research in international meetings.

Shaukat Khanum Memorial Cancer Hospital and Research Centre (SKMCH&RC), Peshawar is pleased to invite applications for the following positions. Selected candidates will undergo initial training at SKMCH&RC, Lahore and, following successful completion of this, will be appointed to positions at SKMCH&RC Peshawar, upon commencement of its operations.

Consultant Positions (Peshawar)

- Consultant Medical Oncologist (Peshawar), Consultant Pathologist (Peshawar), Consultant Gastroenterologist (Peshawar), Consultant Physician in Infectious Diseases (Peshawar), Consultant Paediatrics Oncologist (Peshawar), Visiting Consultant Nuclear Medicine (Peshawar), Consultant Radiologist (Peshawar), Consultant Radiologist (Part-time - Peshawar)

Medical Positions (Peshawar)

- Senior Instructor in Clinical and Radiation Oncology (Peshawar), Senior Instructor in Radiology (Peshawar)

Other Medical / Clinical, Technical and Management Positions

- HSM Territory Assistant Manager - Retail Sales and Franchise Operations (Peshawar), Radiation Therapy Technologist (Peshawar)

For position details and eligibility criteria please visit our website www.shaukatkhanum.org.pk We Offer

- Competitive salary, professional growth, continuous education and excellent work environment, Free medical cover only for regular employees, their spouse and children up to 18 years of age, ISO certified environment.

Note: We regret only short listed candidates will be notified.

Application forms are available on our website. Please send your Application form along with attested documents by December 15, 2017 to:

Manager, Human Resources

Shaukat Khanum Memorial Cancer Hospital and Research Centre

7A Block R-3, Johar Town, Lahore

Tel: +92 42 3590 5000 Ext. 3037, 3040, 3041 | Fax: +92 42 3594 5203

Email: careers@shaukatkhanum.org.pk | Web: www.shaukatkhanum.org.pk

We are an equal opportunity employer.

عالمی ادارہ فلاحی... (Vertical text on the left margin)

عنوان: سردار خان و غیرہ... (Vertical text on the left margin)

بھولے گئے شمارہ نمبر INF(R)6638... (Vertical text on the left margin)

اظہار وجود نوٹس شیر حاضری عمدا... (Vertical text on the left margin)

اسامہ حسن علی... (Vertical text on the left margin)

Main body of text in the bottom section, containing various notices and advertisements.

اسامہ حسن علی... (Large advertisement at the bottom of the page)





Annex-2 (8)  
OFFICE OF THE AGENCY EDUCATION OFFICER  
NORTH WAZIRISTAN AGENCY AT MIRAN SHAH  
Ph.NO.0928313045

## NOTIFICATION

1. WHEREAS Mst. Rasheeda Bano GGPS Saifal Kot North Waziristan Agency was found willfully absent from duty during monitoring visit of the concerned Assistant Agency Education Officer to the School on dated 01/09/2017.
2. AND WHEREAS the accused was proceeded against under Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules 2011, for the charge of "willful absence from duty" as mentioned in the show cause notice served upon her at her home/School address vide AEO No: 9674-75 dated 09/11/2017.
3. AND WHEREAS Mst Rasheeda Bano GGPS Saifal Kot North Waziristan Agency did not report to her duty within stipulated period of time and turned her ears deaf.
4. AND WHEREAS Charge sheet notice was served upon Mst Rasheeda Bano GGPS Saifal Kot North Waziristan Agency through print media (Daily Mashriq) on dated 03.12.2017 wherein the accused was directed to submit reply in her defence through personal contact with this office.
5. AND WHEREAS the accused failed to put any defense in written and did not appear to be heard in person within fifteen days.
6. AND WHEREAS the competent authority, the Agency Education officer North Waziristan Agency, having considered the charges, evidence on record and facts of the case, is of the view that the charge of willful and unauthorized absence against the accused official has been proved.
7. NOW THEREFORE, In exercise of the Powers conferred under Rules-4 (b) iii of Khyber Pakhtunkhwa Government Servants "Efficiency and Discipline" Rules 2011, the competent Authority, Agency Education officer North Waziristan Agency, is pleased to impose major penalty "Removal from service" upon Mst: Rasheeda Bano GGPS Saifal Kot North Waziristan Agency with retrospective on account of his willful absence from duty.

(HABIBULLAH)  
Agency Education Officer,  
North Waziristan Agency

Endst: No. 8816-21 Dated 17/12/2017  
Copy forwarded to the:

1. Director Education FATA, FATA Secretariat Peshawar
2. Political Agent North Waziristan Agency at Miran Shah
3. Head Quarter 7-Division Camp Area Miran Shah.
4. Agency Accounts officer North Waziristan Agency at Miran Shah for stoppage pay of the official.
5. PS to Additional Chief Secretary FATA for perusal of the Additional Chief Secretary FATA
6. PS to Secretary SSD FATA for perusal of the Secretary SSD FATA
7. AAEO concerned for entry in his service book
8. Accountant local office for stoppage of his pay forthwith.
9. Official concerned

Agency Education Officer,  
North Waziristan Agency

بجھور جناب ڈائریکٹر صاحب ایجوکیشن فاٹا، خیبر پختونخوا ایشیا اور

Annex-4 (9)

عنوان: اپیل برائے بحالی سروس

جناب عالی!

گزارش بجھور انور ہے۔ سائلہ ذیل امور کی جانب آپ کی توجہ مبذول کروانا چاہتی ہے۔  
یہ کہ سائلہ گورنمنٹ گریڈ پرائمری سکول اکرم کوٹ میں اپنی ڈیوٹی فرائض سرانجام دے رہی تھی۔

(۱) یہ کہ سائلہ 01-09-2017 کو Show cause AEO No:9676-77 dated 09-11-2017 کی بنیاد پر اپنی ڈیوٹی سے غیر حاضر تصور کی گئی۔ چونکہ 01-09-2017 تا 04-09-2017 کو عید الاضحیٰ کی تعطیلات تھی۔ گورنمنٹ آف خیبر پختونخواہ رولز کے مطابق چھٹیوں کے دن کوئی بھی غیر حاضر نہیں ہو سکتا ہے۔ نوٹیفیکیشن لف ہے۔

(۲) نہ ہی سائلہ کو تحریری طور پر شو کاز نوٹس غیر حاضری کی ملی ہے۔

(۳) یہ کہ AEO صاحب نے مورخہ 03-12-2017 کو روزنامہ مشرق اخبار کی وساطت سے دوبارہ غیر حاضری تصور کی گئی ہے۔ یہ کہہ کر کہ غیر حاضری کا جواب پندرہ دن کے اندر اندر رپورٹ پیش کریں۔ یہ کہ سائلہ نے غیر حاضری کا جواب مورخہ 08-12-2017 کو AEO صاحب کی دفتر میں جمع کیا گیا ہے۔ اور پندرہ دن سے پہلے مورخہ 13-12-2017 کو Efficiency and Disciplinary Rules 2011 کے تحت سائلہ کی برحاشی (Removal from service) عمل میں لائی گئی ہے۔ سرکاری اعلامیہ روزنامہ مشرق اخبار کی فوٹوکاپی منسلک ہے۔

(۴) یہ کہ سائلہ سکول سے غیر حاضری کا ارتکاب نہیں کیا ہے۔ حاضری رجسٹر معلمات منسلک ہے۔

درجہ بالا حقائق کی روشنی میں سائلہ کی Removal from service کو Withdraw کا حکم صادر فرمائیں۔ اور سائلہ کی سروس بحالی کا حکم کر کے مشکور فرمائیں۔

سائلہ دعا گور ہے گا۔

مورخہ: 28-12-2017

العارض

آپکا تابعدا مس رشیدہ بانو پی ٹی سی گورنمنٹ گریڈ پرائمری سکول اکرم کوٹ شمالی وزیرستان ایجنسی میزان شاہ

CNCI: 14203-1979675-4

ccc  
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F.No.2/4/2016-Public.  
GOVERNMENT OF PAKISTAN  
MINISTRY OF INTERIOR

Islamabad the 23<sup>rd</sup> August, 2017.

PRESS RELEASE

It is notified for general information that 1<sup>st</sup> to 4<sup>th</sup> September, 2017 ( Friday, Saturday, Sunday and Monday) shall be public holidays on the occasion of Religious Festival of Eid-ul-Azha.

The above Press Release may kindly be published in all major English and Urdu Dailies both at National and Regional levels and also be given wide publicity through electronic media.

*(Signature)*  
(Atif Aziz)  
Deputy Secretary (Law-II) 23/08/17  
Tele: 9203851

The Principal Information Officer,  
Press Information Department,  
Islamabad.

Copy forwarded to:

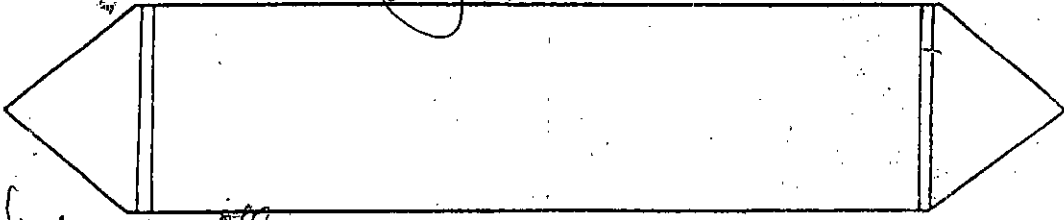
1. President's Secretariat (Personal), OSD (Admn), Aiwan-e-Sadr, Islamabad.
2. President's Secretariat (Public), DS (Admn), Aiwan-e-Sadr, Islamabad.
3. Prime Minister's Office (Internal), OSD (Admn), Islamabad.
4. Prime Minister's Office (Public), DS (Admn), Islamabad.
5. The Chief Election Commissioner of Pakistan, Islamabad.
6. The Auditor General of Pakistan, Islamabad.
7. The AGPR, Islamabad.
8. The Joint Staff HQrs, Chaklala, Rawalpindi.
9. GHQ, Rawalpindi.
10. Chairman, National Accountability Bureau, (NAB), Islamabad.
11. All Ministries / Divisions.
12. The Registrar, The Supreme Court of Pakistan, Islamabad.
13. Secretary, Senate Secretariat, Islamabad.
14. Secretary, National Assembly Secretariat, Islamabad.
15. Chief Secretaries, Government of the Punjab / Lahore, Sindh / Karachi, Khyber Pakhtoonkhwa / Peshawar, Balochistan / Quetta, Northern Areas / Gilgit-Baltistan and AJK / Muzaffarabad.
16. The Director General, ISI, Islamabad.
17. The Director General, IB, Islamabad.
18. The Chief Commissioner, ICT (Admn), Islamabad.
19. The Manager, State Bank of Pakistan, Islamabad.
20. Secretary, Wafaqi Mohtasib's Secretariat, Islamabad.
21. Secretary, Wafaqi Tax Ombudsman's Secretariat, Islamabad.
22. The Chairman CDA, Islamabad.
23. Director (Media), Minister for Interior, Islamabad with the request to ensure its publication in all dailies.
24. Staff Officer to Minister for Interior, Islamabad.
25. RS to the Secretary, Ministry of Interior, Islamabad.
26. P.S to the Additional Secretary-I, II & III, M/o Interior, Islamabad.
27. The System Administrator (IT), MOI with request to upload an official website.

*(Signature)*  
(Atif Aziz)  
Deputy Secretary (Law-II)

*(Handwritten initials)*

*(Handwritten initials)*

# بعدالت سے رجوع کی درخواست



تاریخ: 22 جنوری 2019ء  
 منجانب: محمد سعید ظہیر صاحب

موزخہ  
 مقدمہ  
 دعویٰ  
 جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
 آن مقام کے لیے محمد سعید ظہیر صاحب  
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
 بسورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی  
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
 کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو ہمیں وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔  
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حدیے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 31 ماہ جنوری 2019ء

بمقام محمد سعید ظہیر  
 کے لئے منظور ہے۔  
 واہ العی  
 محمد سعید ظہیر  
 Rashed

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.....151/2019

MST: Rashida Bano (PST) government Girls Primary School AkramKot, North Waziristan Agency-----Appellant

VERSUS

1. Director of education, FATA, FATA Secretariat Warsak Ro, FATA, Peshawar others.
2. District Education Officer North Waziristan Tribal District.

-----Respondents

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5	News paper cutting	Annexure-B	6

  
DISTRICT EDUCATION OFFICER  
NORTH WAZIRISTAN.T.D



BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.....151/2019

MST: Rashida Bano (PST) government Girls Primary School Akram Kot, North Waziristan Tribal District-----Appellant

VERSUS

1. Director of Education, FATA, Secretariat Warsak Ro, FATA, Peshawar.
2. District Education Officer, North Waziristan Tribal District, Miran Shah.

-----Respondents

Comments on behalf of Respondent No. 2

Respectfully Sheweth:

Preliminary Objections:

1. The appellant has no cause of action, locus standi, to file this instant appeal.
2. That the appellant has not come to this honorable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honorable Tribunal.
4. The appeal is not maintainable in this form.
5. That the appellant has been stopped by his own conduct to file the appeal.
6. That the appeal is badly time barred.

Facts:

1. Correct that the appellant was appointed as a PTC teacher in the Education Department in the former Tribal area of NWA.
2. The appellant was posted at GGPS Akram Kot and her duty was constantly observed by the responsible authorities of Education, and till the 1<sup>st</sup> of September 2017, her performance was not satisfactory. So her computerized salary was inactivated. As a result, she turned her ears deaf. Consequently, a departmental show cause notice was issued against her after a stipulated period on 9.11.2017 and sent on her school and home address (copy of the show cause notice is attached as Annexure – A) But surprisingly, the appellant failed to report to the Education Office. In the same way the computerized salary of the appellant was inactivated for the month of Dec: 2017. Similarly, on the local FM Radio at Miran Shah, the notice of all such habitual absent teachers was brought on air, but again the appellant failed to join her school. Beside these, the names of such teachers, including the appellant was shared on social media such as face book which was shared by the than political Agent as well. Despite that the appellant neither reported to the DEO office nor joined her duty at her school. Then after a stipulated period of time, the DEO published a warning in the Newspaper, the Daily Mashriq on 03/12/2017 regarding the appellant and some other teachers about their absence from duties. (Copy of the newspaper cutting is attached as Annexure-B), but again she failed to join her duties at her school. And similarly, she was terminated from her service on 13.12.2017.
3. No departmental appeal has so far been submitted before this office. As because the termination order of the appellant was issued according to the rule/law.
4. On the bases of the mentioned facts the appeal may kindly be dismissed on the following grounds.


Grounds:

- A. Incorrect that she was taking monthly salary regularly while she failed to perform her duty in her school.
- B. Incorrect that she was verbally asked to join her duty but she failed to do so.
- C. Incorrect that her salary was stopped but again she turned her deaf ear.
- D. Incorrect that consequently, she was issued show cause notice in which she was asked to join her duty but, unfortunately, she did not join her duties. Detail reply has been given above in Para-2 of facts.
- E. Incorrect. At last she was terminated from her service after completing all formalities.
- F. Incorrect. Proceeding were conducted by the competent authorities under the E&D rule. So the teacher in question has no right to be re-instated on the service.


- G. The appellant remained wilfully absent from her duty without any prior approval of competent authority.
- H. Incorrect .All codal formalities were fulfilled.
- I. That the respondents seek permission to advance other points at the time of arguments.

It is requested that the appeal may kindly be dismissed.

Respondent No. 1

  
✓ Director of Education  
FATA, FATA Secretariat.

Respondent No. 2

  
District Education Officer  
North Waziristan Tribal District

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

3

Appeal No.....151/2019

MST: Rashida Bano (PST) government Girls Primary School Akram Kot North Waziristan  
Agency-----Appellant

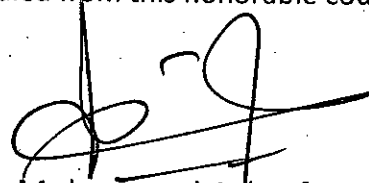
VERSUS

1. Director of education, FATA, FATA Secretariat Warsak Ro, FATA, Peshawar others.
2. District Education Officer North Waziristan Tribal District.

-----Respondents

**AFFIDAVIT**


I Muhammad Ashraf Khan Additional District Education Officer North Waziristan Tribal District on behalf of the Respondent No.2, do hereby solemnly affirm and declare that the report of Respondent No.2 in R/O of Appeal. No,151/2019 is true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.



Mubammad Ashraf  
*Additional District Education Officer*  
*North Waziristan Tribal District*

## AUTHORITY LETTER

This office has the honor to state that Mr. Muhammad Ashraf has been serving in the District Edu: Office as an Additional DEO. He has been given the authority to attend any kind of court case. So he may be considered as representative of the District Edu: officer, N.W.T.D



DISTRICT EDUCATION OFFICER  
NORTH WAZIRISTAN



## NOTIFICATION

1. WHEREAS Mst. Rashid Banna PST GGPS Akram Kot Khaisor North Waziristan Agency was found willfully absent from duty during monitoring visit of the concerned Assistant Agency Education Officer to the School on dated 01/09/2017.
2. AND WHEREAS the accused was proceeded against under Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules 2011, for the charge of "willful absence from duty" as mentioned in the show cause notice served upon her at her home/School address vide AEO No: 9676-77 dated 09/11/2017.
3. AND WHEREAS Mst Rashid Banna PST GGPS Akram Kot Khaisor North Waziristan Agency did not report to her duty within stipulated period of time and turned her ears deaf.
4. AND WHEREAS Charge sheet notice was served upon Mst Rashid Banna PST GGPS Akram Kot Khaisor North Waziristan Agency through print media (Daily Mashriq) on dated 03.12.2017 wherein the accused was directed to submit reply in her defence through personal contact with this office.
5. AND WHEREAS the accused failed to put any defense in written and did not appear to be heard in person within fifteen days.
6. AND WHEREAS the competent authority, the Agency Education officer North Waziristan Agency, having considered the charges, evidence on record and facts of the case, is of the view that the charge of willful and unauthorized absence against the accused official has been proved.
7. NOW THEREFORE, In exercise of the Powers conferred under Rules-A (b) iii of Khyber Pakhtunkhwa Government Servants "Efficiency and Discipline" Rules 2011, the competent Authority, Agency Education officer North Waziristan Agency, is pleased to impose major penalty "Removal from service" upon Mst: Rashid Banna PST GGPS Akram Kot Khaisor North Waziristan Agency with retrospective on account of his willful absence from duty.

(HABIBULLAH)  
Agency Education Officer,  
North Waziristan Agency

Encl: No. 8116-24 Dated 13/12/2017

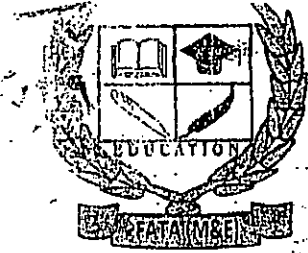
Copy forwarded to the:

1. Director Education FATA, FATA Secretariat Peshawar
2. Political Agent North Waziristan Agency at Miran Shah
3. Head Quarter 7-Division Camp Area Miran Shah.
4. Agency Accounts officer North Waziristan Agency at Miran Shah for stoppage pay of the official.
5. PS to Additional Chief Secretary FATA for perusal of the Additional Chief Secretary FATA
6. PS to Secretary SSD FATA for perusal of the Secretary SSD FATA
7. AAO concerned for entry in his service book
8. Accountant local office for stoppage of his pay forthwith.
9. Official concerned

Agency Education Officer

HABIBULLAH





**Directorate of Education Newly Merged Districts**  
Khyber Pakhtunkhwa, Warsak Road Peshawar, Pakistan  
Phone 091-9210166 Fax # 091-9210218

DoE M&E No. 15845-46 Dated 09 / 11 / 2018

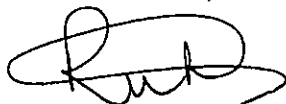
To

The Addl: Director Establishment  
Local Directorate

Subject: **Inquiry Report of Seventeen (17) female PSTs of District North**  
**Waziristan removed from their services**

Memo:

kindly refer to your office letter no.10038-42 dated: 17.08.2018 on the subjected cited above and to state that in compliance with the instruction contained therein the above coted letter, detailed inquiry report along with findings and recommendations of the inquiry committee relating to the appeal of the 17X Teachers (PSTs) removed from service by the Tribal District Education officer, North Waziristan for perusal and further necessary action of the appellat authority please.

  
Asstt: Directress (M&E)

Copy for information to the:-

1 PA to Director Education NMD, Peshawar.

  
Asstt: Directress (M&E)

Friday, November 09, 2018



NEWLY MERGED DISTRICTS  
DIRECTORATE OF EDUCATION  
KHYBER PAKHTUNKHWA, WARSAK ROAD PESHAWAR, PAKISTAN  
PHONE: 091-9210166 FAX 091-9210218  
No. /  
Date Pesh: the / / 2018

**Inquiry Report:**

**Subject:** Appeal of 17 PST (female) in the Tribal District North Waziristan.

**Background:**

The Agency Education Officer North Waziristan District had removed 21 female PST (female) from service on 9.11.2017, (F/A) due to their long will full absence from duty w.e.f 01.9.2017. The concerned Agency Education Officer served show cause Notices on the defaulter teachers on their respective schools address, (F/B) but due to nil response, the AEO concerned had no option other than floating/publishing an absences Notice of the defaulter teachers in the Daily Mashriq (F/C) so that the codal formalities for initiation of disciplinary action could be completed under the existing Revised Efficiency and Disciplinary Rules 2011, wherein all the absent PST (female) were asked to join their duties at their respective schools within 15-days of the publication of Showcause Notice but all in vain and thus all the 21 PST (Female) were removed from service on 13.12.2017 (F/D).

However, 17 PST (female) submitted an appeal to the Director Education, the appellate authority for reinstatement against their previous posts. The Director Education Newly Merge Districts responding positively to their appeal, constituted an inquiry committee, comprising the undersigned to conduct impartial and in depth inquiry into the matter on the following TORs (F/E)

1. To verify their performance of duties from the relevant record for the last two years.
2. Verify their performance of duties from the AAEO visit reports.
3. No. of students enrolled in their respective schools in the last two years etc.

**Procedure:**

In order to provide an ample opportunity of personal hearing in insolation, the Tribal District Education Officer North Waziristan was asked vide this office letter at (F/F) to inform all the defaulter PST (female) to appear before the inquiry committee at his office at 9.00 AM on 8.9.2018 along with substantial documentary proof for their defense. The inquiry committee left Peshawar for Miranshah on 04.09.2018, so that the target schools could be visited in accordance with TORs of the inquiry. After a night stay at Miranshah.

The surprise visits to the target school were started on 05.09.2018. Subsequent to surprise visit, it was observed that most of the schools were found closed for all sort of academic and administrative activities, However the defaulter teachers produced photocopies of the staff and student registers on the date of hearing. The local population in the area concerned was found migrated to the friendly weather places due to scorching heat in the area and the inquiry committee was unable to investigate the beneficiaries of the target schools.

It was observed during the surprise visit that only PST (Female) in the target schools were removed from service who were mostly non-local whereas the TT (Female) and class -IV have not been taken to task and they have been given the benefit of locality.

Due to complete closure of all target schools except Govt. Girls Primary School Akram kot Khaisor, neither students nor teachers were available for investigation. The students and staff attendance registers could not be checked

سولی ایمریس  
تونس اور سالانہ

09/09/18

بہانوں کے ساتھ

gmp



to verify students enrollment and staff attendance in the target schools. However, the school were giving a deserted look, rather some of them were fully damaged due to the milltancy in the area and no alternate arrangement has been made for the students and staff so far.

All the 17 X defaulter female teachers with the exception of two female teacher Mst:Zeenat Gul (PST)GGPSMir Kazam Kot Dossali Kohe Pari and Mst:Kalsoom Bibi GGPS Nekum Kot and fake teacher namely Mst: Naumana Kausar PST appeared before the inquiry committee on the scheduled date and time. More over 21 X teachers removed from service, also turned up for investigation on the same date and time. The inquiry committee marked their attendance in the attendance sheet but did not investigate them being not falling in the domain of TORs of the inquiry committee as they had not filed an appeal with the appellate authority for their reinstatement (F/G). They were heard in person. A questionnaire was served on them on the occasion which was returned on the spot dully replied (F/H) wherein all of them negated the receipt of Show cause Notice. As per their written and verbal statement, the Law and order situation in the area concerned led to their casual absence from duty. As per their verbal statement they have been removed from service due to their absence from duty during Eid vacation.

As per statement of the AEO concerned, the defaulter concerned remained habitually absent from their duties and he had no option other than removal from service. He was asked to produce record of the monitoring visits paid to the target school but failed to produce the same on the pretext of vacant post of AAEO (Female). However subsequent to checking of the record some monitoring reports were gone through neither which indicates that neither the target school has been visited nor the defaulter teachers caught absent from duty. The office record of the AEO shows that some of the teachers have been removed from service on the recommendation of Mr. Syed Noor, AAEO (Male) which does not appeal to the reasons (F/J).

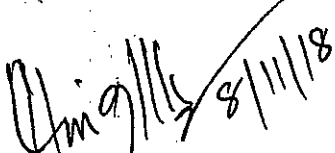
#### Findings:

- After going through the official record, investigation of the relevances, the finding derived are as under:
1. Most of the target schools were found closed due to the following reasons.
    - a) They are situated in the inaccessible areas and established in violation of the approved planning criteria.
    - b) Peace and tranquility has not been restored so far. Threats and fear of threats to life and honor still prevails in the area concerned.
    - c) Residential accommodation for teachers were not found attached with the target schools.
    - d) TDP return has not been completed in the area concerned so far.
    - e) Seasonal migration of families was observed from the area concerned during surprise visit.
  2. The non local PSTs (Female) have been removed from service whereas no action has been taken against the local T.Ts and class-IV of the same schools.
  3. Show/cause Notices have been served on the defaulters on their school addresses instead of their permanent home addresses.
  4. Disciplinary action has been taken against them after 10 days of the publication in the NEWS Paper instead of 15 days.
  5. The monitoring reports produced to inquiry committee do not reflect the absence of the defaulter teachers rather some of them have been removed from service on the recommendation of the AAEO (Male).
  6. The target schools do not contain residential quarters whereas the women teacher Hostel at Miranshah has already occupied by the teachers of GGHS Civil Colony Miranshah and GGDC Miranshah and have no further capacity to accommodate other teachers.

7. The local Management has paid no attention to the teachers of the target schools as evident from the fact that they were not re-deployed from the closed schools due to Zarb-e-Azb 18.06.2014 to 25.12.2016 and they were paid their monthly salaries at their homes without performing any duty.

### Recommendations

- ✓ 1. The inquiry committee recommends the re-instatement of 14 out of 17 appellant PST(Female) with the exception of 3X Mst:Zeenat Gul GGPS Mir Kazam Kot Dossali Kohe Pari Mst:Kalsoom Bibi GGPS Nekum Kot and fake teacher namely Mst: Naumana Kauser PST whom was not appeared before the enquiry committee with immediate effect with no monetary back benefits but service benefits. The period w.e.f the date of removal from service is proposed to be treated as leave without pay (EOL) till their date of re – instatement. However, the budget and Accounts officer in the local directorate, being expert in accounts under supervision of a senior officer is proposed to be assigned the task to check and verify from the concerned District Accounts officer as to whether these teachers have drawn their monthly salaries after their removal from service or otherwise.
2. The AEO concerned is proposed to comment on the action taken against T.T and class-IV of the target schools.
3. The appellant teachers may be asked to give an undertaking on Judicial Stamp paper that they will remain punctual and regular after their re-instatement and they will not claim monetary benefits during the EOL at the subsequent stage.
4. The local educational Managers may pay frequent surprise visit to all schools specifically to the target schools so that presence of the newly re-instated teachers could be made sure.
5. The Women Teachers hostel needs to be made functional immediately so that accommodation problem of the non-local female staff could be addressed effectively.
- ✓ 6. Due to conservative society in Distt: North Waziristan, AAEO(Male) may abstain from visiting the female/Girls schools in the Distt:

  
Inquiry officer  
Mr.Laiq khan Afridi  
Dy.Dir(Admn/Finance)

  
Inquiry officer  
Dr.Rukhsana Aziz  
Asstt:Directress(M&E)



**KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

No. 1534 /ST

Dated: 05/08 /2021

All communications should be  
addressed to the Registrar KPK Service  
Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262


To

The District Education Officer,  
Government of Khyber Pakhtunkhwa,  
North Waziristan at Miran Shah.

Subject: JUDGMENT IN APPEAL NO. 151/2019, MST. RASHEEDA BANO & OTHERS.

I am directed to forward herewith a certified copy of Judgement dated  
29.07.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

**BEFORE THE K.P.K. SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 521/2018

Akhtar Numana Ex. Primary School Teacher GGPS Dil Nawaz Kot Mirali Miran  
Shah North Waziristan Agency.

..... (Appellant)

**VERSUS**

1. Director Education, FATA, KPK, Peshawar.
2. Agency Education Officer, North Waziristan Agency at Miran Shah.

..... (Respondents)



Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 552

Date 13-4-2018

**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER DATED 13 /12 /2017, PASSED BY RESPONDENT NO.2 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT TO RESPONDENT NO. 1 AGAINST THE ORDER DATED 13.12.2017 PASSED BY RESPONDENT NO. 2 IS/WAS NOT DISPOSED WITHIN STATUTORY PERIOD.**


**PRAYER - IN - APPEAL**

**ON ACCEPTANCE OF THE INSTANT APPEAL THE IMPUGNED ORDER DATED 13.12.2017 PASSED BY RESPONDENT NO. 2 MAY VERY GRACIOUSLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE RE-INSTATED ON THE POST WITH ALL BACK BENEFITS.**

Respectfully Sheweth;

1. That the appellant consequent upon the approval of Departmental Education Committee was appointed as PTC (Female) in BPS 07 on 21.09.2005. (Copy of the appointment order is attached as annexure A)
2. That the appellant thereafter took the charge of her duties and performed her duties during the service whole heartedly and to the quite satisfaction of officials concerned as well as according to the demand and nature of her duties.
3. That the appellant came to know about a publication published in daily "Mashriq" dated 03,12,2017 regarding an appellant's absence from the duty along with other female teachers. Further in the said publication a show cause notice has been mentioned, which is/was issued to the appellant but the appellant has received no show cause notice. (Copy of the publication is attached as annexure B)

**ATTESTED**

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

filed to-day  
Registrar  
13/4/18



**BEFORE THE K.P.K. SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 519...../2018

Gulshan Ara Ex. Senior Primary School Teacher GGPS Taj Ali Kot Miran Shah  
North Waziristan Agency.

(Appellant) Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 551

Dated 13-4-2018

**VERSUS**

1. Director Education, FATA, KPK, Peshawar.
2. Agency Education Officer, North Waziristan Agency at Miran Shah.

..... (Respondents)

**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER DATED 13 /12 /2017, PASSED BY RESPONDENT NO.2 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT TO RESPONDENT NO. 1 AGAINST THE ORDER DATED 13.12.2017 PASSED BY RESPONDENT NO. 2 IS/WAS NOT DISPOSED WITHIN STATUTORY PERIOD.**

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Filed to-day  
Registrar  
13/4/18

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	30.08.2019	<p style="text-align: center;"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b> <b>Service Appeal No. 519/2018</b></p> <p style="text-align: center;">Date of Institution ..... 13.04.2018 Date of Decision ..... 30.08.2019</p> <p>Gulshan Ara Ex-Senior Primary School Teacher GGPS Taj Ali Kot Miran Shah North Waziristan Agency.</p> <p style="text-align: right;"><b>Appellant</b></p> <p style="text-align: center;"><b>Versus</b></p> <p>1. Director Education FATA, Khyber Pakhtunkhwa Peshawar. 2. Agency Education Officer, North Waziristan Agency at Miran Shah.</p> <p style="text-align: right;"><b>Respondents</b></p> <p><b>Mr. Muhammad Hamid Mughal</b>-----<b>Member(J)</b> <b>Mr. Ahmad Hassan</b>-----<b>Member(E)</b></p> <p style="text-align: center;"><b><u>JUDGMENT</u></b></p> <p style="text-align: center;"><b><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u></b> - Learned counsel for appellant and Mr. Zia Ullah learned Deputy District Attorney present.</p> <p>2. This Single/common judgment in the above captioned service appeal shall also dispose of service appeal bearing No.520/2018 filed by Mst. Salma, service appeal bearing No.521/2018 filed by Mst. Akhtar Numana, service appeal bearing No.522/2018 filed by Mst. Nusrat Kalsoom, service appeal bearing No.523/2018 filed by Mst. Zainab Bibi, service appeal bearing No.524/2018 filed by Mst. Kauser Shabana, service appeal bearing No.525/2018 filed by Mst. Mehnaz,</p>

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

30.8.2019

service appeal bearing No.526/2018 filed by Mst. Zartaj Begum and service appeal bearing No. 527/2018 filed by Mst. Baswari Begum being identical in nature having arisen from the same facts and circumstances.

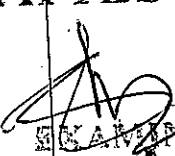
3. The appellant (Ex-Senior Primary School Teacher) has filed the present appeal against the order dated 13.12.2017 whereby she was awarded major penalty of removal from service on the charge of absence from duty.

4. Learned counsel for the appellant argued that the appellant was removed from service without observing the codal formalities. Learned counsel for the appellant also pleaded that one of similarly placed person namely Mst. Shabnam who was also removed from service vide order dated 13.12.2017 by the same authority on the ground of absence from duty, has been reinstated in service on the acceptance of her service appeal bearing No.393/2018 vide judgment dated 11.04.2019.

5. As against that learned Deputy District Attorney resisted the present service appeal and the connected service appeals on the ground that schools were checked on different dates and it was proved that all the terminated teachers remained absent from duties for long time and that the habitual absenteeism remained constant. Further argued that through local media notices were given to all the habitual absent teachers, similarly absence notice was also published in the daily newspaper in relation to the absent female teachers including the appellants, however they did not report for duty.

6. Arguments heard. File perused.

ATTESTED

30.8.2019  
  
 EXAMINER  
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 Service Tribunal,  
 Peshawar

7. After issuance of Show Cause Notice and publication of absence notice in the daily Mashriq, many female teachers were removed from service by the Agency Education Officer North Waziristan Agency vide separate orders dated 13.12.2017.

8. There is no dispute that out of those removed female teachers, one of the PST Mst. Shabnam/similarly placed person, has been reinstated in service by this Tribunal vide judgment dated 11.04.2019 in Service Appeal bearing No.393/2018.

9. In view of above, the impugned orders of removal from service dated 13.12.2017 in relation to the appellants, are set aside and the appellants namely Mst. Gulshan Ara, Mst. Salma, Mst. Akhtar Numana, Mst. Nusrat Kalsoom, Mst. Zainab Bibi, Mst. Kauser Shabana, Mst. Mehnaz, Mst. Zartaj Begum and Mst. Baswari Begum are reinstated in service and their absence period and the intervening period shall be treated as leave without pay. All the appeals are accepted in the above noted terms. Parties are left to bear their own costs. File be consigned to the record room.

(Ahmad Hassan)  
Member

(Muhammad Hamid Mughal)  
Member

**ANNOUNCED.**  
30.08.2019

Date of Presentation of Application 21-01-2020  
Number of Words 1600  
Copying Fee 20-00  
Urgent \_\_\_\_\_  
Total 20-00  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy 21-01-2020  
Date of Delivery of Copy 21-01-2020

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



**2009 S C M R 1****[Supreme Court of Pakistan]****Present: Abdul Hameed Dogar, C.J., Ijaz-ul-Hassan Khan, Muhammad Qaim Jan Khan and Ch. Ejaz Yousaf, JJ****GOVERNMENT OF PUNJAB, through Secretary Education, Civil Secretariat, Lahore and others---Petitioners****Versus****SAMEENA PARVEEN and others---Respondents**

Criminal Petitions Nos.71-L and 72-L, Civil Petitions 215-L, 216-L, 217-L, 218-L, 224-L to 236-L of 2006, decided on 29th April, 2008.

(On appeal from the judgment, dated 29-1-2008 of the Lahore High Court, Lahore passed in Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of 2008).

**Civil service--- ✓**

---Administration of justice---If a Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum--- All citizens are equal before law and entitled to equal protection of law as per Art.25 of the Constitution.

Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185 and Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and others 2005 SCMR 499 fol.

Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867 ref.

Ms. Afshan Ghazanfar, A.A.-G., Punjab and Rana Abdul Qayyum, D.S. (Education) Punjab for Petitioners.

S.M. Tayyab, Senior Advocate Supreme Court for Respondents (in Cr.Ps. Nos.71-L, 72-L and C.P.224-L of 2008).

Nemo for other Respondents.

**ORDER**

**ABDUL HAMEED DOGAR, C.J.**---Through this order we intend to dispose of above captioned petitions filed against common judgment, dated 29-1-2008 passed by learned Judge in Chambers of Lahore High Court, Lahore whereby Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of 2008 filed by respondents were allowed and the impugned orders passed by petitioner/authority were set aside.

2. Briefly, stated facts giving rise to the filing of instant petitions are that respondents were appointed as PTC Teachers during the year 1995/1996 after completion of all legal requirements and they joined their respective

place of posting. After sometime, their appointments were cancelled being bogus vide order No.277/E-1, dated 3-4-1998. This order was assailed before learned Lahore High Court, Lahore and same was declared to be without lawful authority in the case reported as Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867. The relevant paragraph is reproduced as under:--

"Consequently the petitioners are declared to be in service and the action of the Headmasters/Incharge of the Schools stopping the petitioners from performance of their duties as PTC Teachers on the basis of the above said impugned order, is declared to be without lawful authority. It is, however, clarified that the department is at liberty to proceed against petitioners, if so desired, on individual basis under the relevant law and under the Punjab Civil Servant (Efficiency and Discipline) Rules, 1975."

In view of above judgment, the respondents were absolved of the charges of bogus appointments. But later on once again the services of respondents were terminated vide order, dated 3-8-2005, which order was challenged before learned Lahore High Court, Lahore through Writ Petition No.16864 of 2005. The said writ petition was allowed vide judgment, dated 11-12-2006 and the impugned order, was declared as illegal and without lawful authority. Similarly, one of the teachers namely Mst. Naseem Akhtar assailed the order, dated 3-8-2005 before Punjab Service Tribunal, Lahore through Appeal No.903 of 2006 which was also allowed vide judgment, dated 4-9-2006. The said judgment was maintained by this Court in Civil Petition No.1960-L of 2006 vide judgment, dated 2-11-2006. On 26-9-2007 once again the services of respondents were terminated. Feeling aggrieved they filed above mentioned petitions before the learned Lahore High Court, Lahore which were allowed vide impugned judgment as stated above.

3. It is mainly contended by learned A.A.-G. Punjab appearing on behalf of petitioners that the jurisdiction of the learned High Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 in matters involving determination of terms and conditions of civil servants. She further contended that the appointments of the respondents were bogus and fake as they were never selected by the competent authority, therefore the orders of dismissal passed by departmental authority were in accordance with law, which did not call for any interference by this Court.

4. On the other hand, Mr. S. M. Tayyub, learned Senior Advocate Supreme Court appearing on behalf of some of the respondents supported the impugned judgment and contended that appointments of respondents had taken place in accordance with rules and prescribed procedure. They submitted their applications in pursuance of advertisement of the posts of PTC Teachers. They passed the required test and were appointed by the competent authority. According to him, the respondents were in service for about 9-10 years and during this period no objection was raised, and subsequently on vague allegations they were dismissed from service. He further contended that cases of respondents were at par with Mst. Naseem Akhtar which was decided by this Court in Civil Petition No. 1960-L of 2006 vide judgment, dated 2-11-2006.

5. We have considered the arguments of both the parties and have gone through the record and proceedings of the case in minute particulars. The matter has already been decided by this Court in the case of Mst. Naseem Akhtar (supra), and it has been held that the appointment orders of the respondents as PTC Teachers were genuine. It was held by this Court in the case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185 that if a Tribunal or this Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation instead of compelling them to approach the Tribunal or any other legal forum. This view was reiterated by this Court in the case of Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and others 2005 SCMR 499 and it was held that according to Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 all citizens are equal before law and entitled to equal protection of law.

6. In this view of the matter, we are of the view that no ground for interference in the impugned judgment is made out. Accordingly, the petitions being devoid of force are dismissed and leave to appeal refused.

of the case of Haji Noor Muhammad (supra), it is found to be the same on all four corners. Thus, it being the decision of larger binding on the smaller Bench. In this context, we are fortified by the case of Chaudhry Muhammad Saleem v. Fazal Ahmad and others SCMR 315 wherein it has been held that the judgment rendered by a Full Bench of this Court comprising five Judges would be binding on the Bench comprising of three Judges. In the case of H. Muhammad (supra) it has also been held that the plaintiff could not be non-suited merely on the ground that other details of time and place of the Talbs and names of witnesses etc. had not been specifically mentioned in the plaint. In the case of Allah Bakhsh and another v. Fatah Sher 2004 SCMR 1580 this Court has held that minor discrepancy of time would not come in the way of pre-emptor. This Court also held in the case of Abdul Malik v. Muhammad Latif 1999 SCMR 717 that the service of registered notice by pre-emptor containing the names of the two truthful witnesses before whom Talb-i-Ishhad was allegedly made amounted to substantial compliance of the provisions of section 13(3) of the Act and pre-emptor could not be non-suited on the ground that the notice served on the vendee containing Talb-i-Ishhad was not attested by the two truthful witnesses whose names were disclosed in the notice.

8. For what has been discussed above, we are of the considered opinion that impugned judgment is based on valid and sound reasons and is entirely in consonance with the law laid down by this Court. Neither there is misreading nor non-reading of material evidence brought on record or misconstruction of facts or law.

9. Resultantly, the petition being devoid of force is dismissed and leave to appeal refused.

M.B.A./A-151/S

Petition dismissed.

2005 S C M R 1206

[Supreme Court of Pakistan]

Present: Sardar Muhammad Raza Khan and Saiyed Saeed Ashhad, JJ

MANZOOR HUSSAIN---Petitioner

versus

SECRETARY, GOVERNMENT OF PUNJAB  
and another---Respondents

Civil Review Petition No.169 of 2004, decided on 26th April, 2005.

2005 Manzoor Hussain v. Secretary, Government of Punjab 1207  
(Sardar Muhammad Raza Khan, J)

(On review from the judgment, dated 17-6-2004 passed in C.P. No.1549-L of 2003).

(a) Civil service---

---Appeal before Service Tribunal---Limitation---Limitation for a civil servant to go in appeal before Service Tribunal could not in any case be stretched beyond one hundred and twenty days. [p. 1207] A

2003 SCMR 826 ref.

Muhammad Siddique v. Mian Amir Khisro 1985 SCMR 1848 and Ghulam Ali Memon's case 2000 SCMR 1474 rel.

(b) Constitution of Pakistan (1973)---

---Art. 212(3)---Question of limitation, though raised before Service Tribunal, but remained unattended---Effect---Supreme Court suo motu could entertain such question. [p. 1208] B

Mian Allah Nawaz, Advocate Supreme Court for Petitioner.

Dr. Mohy-ud-Din Qazi, Advocate Supreme Court for Respondents.

Date of hearing: 26th April, 2005.

JUDGMENT

SARDAR MUHAMMAD RAZA KHAN, J.--- Learned counsel for the petitioner initiated his arguments saying that the question of limitation has incorrectly been determined against the petitioner and that, in view of 2003 SCMR 826 the period of 90 days is restricted only to wait before filing an appeal and that section 4 of the Service Tribunals Act is silent on the point as to how much period thereafter the civil servant would go to the Service Tribunal.

2. We have gone through the impugned judgment but were not satisfied that it laid down a proper interpretation of section 4 of the Service Tribunals Act. Moreover, it runs contrary to the verdict of a larger Bench (of four Judges) of this Court rendered in the case of Muhammad Siddique v. Mian Amir Khisro 1985 SCMR 1848 and another ruling in Ghulam Ali Memon's case reported as 2000 SCMR 1474 where it has been settled authoritatively that limitation for a Civil Servant to go in appeal before the Service Tribunal cannot, in any case, be stretched beyond one hundred and twenty days.

3. The original order against the petitioner was passed on 16-7-1987 against which he made a representation on 27-7-1987 but the same remained unanswered. According to the learned counsel it is

*Service (S.M.)  
Time barred.  
A.M.*

unanswered even up to this day. We are afraid that this is not the correct position because the original order of termination dated 16-7-1987 was withdrawn on 3-12-1982 and the petitioner was reinstated. Thereafter the withdrawal order was also rescinded vide another order dated 5-12-1988 and thus, the department, wittingly or unwittingly, revived the cause of action for the benefit of the petitioner. The petitioner submitted no departmental representation against the second order aforesaid.

4. The interesting aspect of the case is that the petitioner instead of going to the Service Tribunal filed a writ petition against the order of termination dated 16-7-1987. The writ petition was dismissed on 25-4-1992 with observation that the petitioner should resort to the Service Tribunal. Even then the petitioner resorted to the Tribunal on 6-12-1997 i.e. 5 years after the above decision and 10 years after the original order of termination.

5. This Court though suo motu can entertain the question of limitation yet it was observed that the Tribunal did not attend to the question despite the fact that the respondents had taken the plea of limitation in their reply (P. 90).

6. Considered from any angle, the review cannot be allowed. The same is hereby dismissed.

S.A.K./M-263/S

Review dismissed.

2005 S C M R 1208

[Supreme Court of Pakistan]

Present: Hamid Ali Mirza and Muhammad Nawaz Abbasi, JJ

SHERZADA---Appellant

versus

Mian SHAMAS TABREZ and 2 others---Respondents

Civil Appeal No. 1911 of 2000, decided on 27th April, 2005.

(On appeal from the judgment dated 3-11-2000 passed by Peshawar High Court, Peshawar, in Civil Revision No.464 of 1995).

(a) North-West Frontier Province Pre-emption Act (X of 1987)---

---S. 31 [as amended by North-West Frontier Province Pre-emption (Amendment) Act (X of 1992)]---North-West Frontier Province Pre-emption Act (XIV of 1950), S.30---Constitution of Pakistan (1973), Art.185(3)---Pre-emption suit in Provincially Administered Tribal

Area---Limitation---Sale took place on 3-12-1992---Suit was filed on 8-4-1993---Trial Court dismissed suit as time-barred, which judgment was upheld by Appellate Court and in revision by High Court---Supreme Court granted leave to appeal to determine, whether limitation provided under North-West Frontier Province Pre-emption Act, 1950, North-West Frontier Province Pre-emption Act, 1987 or that provided under General Islamic Law would govern such case; and that what would be the effect of the rule laid down in Government of N.-W.F.P. v. Malik Said Kamal Shah PLD 1986 SC 360 and Muhammad Ismail Qureshi v. Government of N.-W.F.P. 1992 PSC 75 over the facts of such case. [p. 1210] A

Government of N.-W.F.P. v. Malik Said Kamal Shah PLD 1986 SC 360 and Muhammad Ismail Qureshi v. Government of N.-W.F.P. and another 1992 PSC 75 ref.

(b) North-West Frontier Province Pre-emption Act (X of 1987)---

---S. 31 [as amended by North-West Frontier Province Pre-emption (Amendment) Act (X of 1992)]---North-West Frontier Province Pre-emption Act (XIV of 1950), S.30---Pre-emption suits in Provincially Administered Tribal Area---Limitation---Concept of law of pre-emption in Islam was to exercise right of pre-emption without unnecessary delay---North-West Frontier Province Pre-emption Act, 1950 was no more operative after 31-8-1986---North-West Frontier Province Pre-emption Act, 1987 was extended to PATA w.e.f. 25-9-1994---Pre-emption suits in such area in the intervening period would be governed by General Muslim Law of Pre-emption for which period of limitation of 120 days would be reasonable---Suits filed beyond 120 days would be treated as barred by time---Principles. [p. 1211] B

Government of N.-W.F.P. v. Malik Said Kamal Shah PLD 1986 SC 360 and Muhammad Ismail Qureshi v. Government of N.-W.F.P. and another 1992 PSC 75 ref.

Abdul Samad Khan, Advocate Supreme Court for Appellant.

Respondents: Ex parte.

Date of hearing: 21st February, 2005.

#### JUDGMENT

MUHAMMAD NAWAZ ABBASI, J.--- This appeal by leave of the Court, has been preferred against the judgment, dated 3-11-2004 passed by learned Judge in Chambers of the Peshawar High Court, in a civil revision arising out of a suit for pre-emption.

2. The relevant facts in the background are that the appellant filed a suit for possession through pre-emption in the Court of Senior Civil

Judge/Aala Illaqa Qazi, Dir, at Taimergara and the respondents after filing written statement, moved an application for rejection of plaint on the ground that the suit was filed on 8-4-1993 pre-empting the sale which had taken place on 3-12-1992 with a delay of about eight months whereas the limitation for filing the suit for pre-emption was 120 days under section 31 of N.-W.F.P. Pre-emption Act, 1987, as amended by Act X of 1992, therefore, the suit was barred by time. The appellant resisted this application on the ground that N.-W.F.P. Pre-emption Act, 1987 as amended, was extended to PATA Area subsequent to the filing of the suit and the limitation for filing the suits for pre-emption in the said area prior to the enforcement of N.-W.F.P. Pre-emption Act, 1987, would be governed by N.-W.F.P. Pre-emption Act, 1950 under which limitation for filing of a suit for pre-emption was one year from the date of sale. The learned trial Judge having allowed this application, dismissed the suit vide judgment dated 20-9-1995 and the appeal preferred by the appellant was also dismissed by the District Judge, Dir/Zila Qazi Dir at Taimergara vide judgment, dated 13-11-1995. The civil revision filed by the appellant in the High Court also met the same fate. The learned Judge in the High Court in the light of law laid down by this Court in Government of N.-W.F.P. v. Said Kamal Shah PLD 1986 SC 360 held that the provisions of N.-W.F.P. Pre-emption Act, 1950 were declared un-Islamic by Shariat Appellate Bench of the Supreme Court and N.-W.F.P. Pre-emption Act, 1987 was enforced in PATA Area w.e.f. 25-9-1994, therefore, the right of pre-emption in the said area in the intervening period would be governed by general Islamic Law. The learned Judge in the light of judgment of Federal Shariat Court in Muhammad Ismail Qureshi and another v. Government of N.-W.F.P. and another 1992 PSC 75 held that at the relevant time, the period for filing of a suit for pre-emption in PATA Area would be 120 days, therefore, the suit filed on 8-4-1993 pre-empting the sale dated 3-12-1992, was barred by time.

3. Leave was granted in this appeal vide order, dated 18-12-2000 in the following manner:--

"(1) The sale in dispute was brought about on 3-12-1992, the suit was instituted on 8-4-1993 whereas the N.-W.F.P. Pre-emption Act, 1987 was enforced in PATA on 25-9-1994, therefore, it is to be determined as to whether limitation provided under N.-W.F.P. Pre-emption Act, 1950, N.-W.F.P. Pre-emption Act, 1987 or that provided under general Islamic Law would govern this case.

(2) What is the effect of the rule laid down in Government of N.-W.F.P. v. Malik Said Kamal Shah PLD 1986 SC 360 and Muhammad Ismail Qureshi v. Government of N.-W.F.P. 1992 SC 75 over the facts of this case."

4. Learned counsel for the appellant has contended that N.-W.F.P. Pre-emption Act, 1950, was declared un-Islamic by Shariat Appellate Bench of this Court in Government of N.-W.F.P. v. Malik Said Kamal Shah PLD 1986 SC 360 with the direction that a consolidated law of pre-emption should be enacted by 31-7-1986 and in pursuance thereof, N.-W.F.P. Pre-emption Act, 1987 was enacted and enforced in PATA Area w.e.f. 25-9-1994, therefore, the right of pre-emption in the intervening period in absence of statutory law, would be exercised under general Islamic Law and not under the N.-W.F.P. Pre-emption Act, 1950. The provision of section 31 of N.-W.F.P. Pre-emption Act, 1987, providing the period of limitation of one year for enforcing the right of pre-emption was examined by the Federal Shariat Court in exercise of its suo motu power in Muhammad Ismail Qureshi and another v. Government of N.-W.F.P. and another 1992 PSC 75 and having come to the conclusion that limitation of one year for filing a suit for pre-emption was in conflict to the law laid down by Shariat Appellate Bench of the Supreme Court in Said Kamal Shah's case, declared the said provision, repugnant to the Injunctions of Islam. The Court in the light of parallel provisions in the Punjab Pre-emption Act, 1991 providing limitation of four months directed for amendment on the basis of recommendations of Council for Islamic Ideology, directed for necessary amendment in law. In consequence thereto, section 31 of N.-W.F.P. Pre-emption Act, 1987, was amended by Act X of 1992 wherein a period of 120 days was provided for enforcement of right of pre-emption.

5. The learned counsel when pointed out that during the period when there was no statutory law in PATA Area, the pre-emption suits in the said area, would be governed by general Islamic Law and a period of 120 days would be treated limitation for the suits for pre-emption as was held by the Federal Shariat Court in Muhammad Ismail Qureshi v. Government of N.-W.F.P. 1992 PSC 75, he contended that under general Islamic Law no procedure of limitation for filing of a suit, was fixed and the period of 120 days proposed in the judgment referred to above, may in general terms be considered a reasonable time for filing of a suit but would not have the force of statutory provisions for the purpose of limitation for filing a suit for pre-emption. The amendment in section 31 of N.-W.F.P. Pre-emption Act, 1987, providing a period of 120 days for limitation for the pre-emption suits, in the light of the judgment of Federal Shariat Court in the case of Muhammad Ismail Qureshi (supra) was introduced in 1992 and the (ibid) Act was enforced in PATA Area in 1994 but as discussed above, under the general Islamic Law, the limitation for the purpose of a suit for pre-emption in PATA Area would be 120 days in the intervening period and a suit filed beyond this period would be barred by time. The appellant without seeking the condonation of delay filed the suit after eight months from the date of

sale and learned counsel has not been able to satisfy us that in absence of statutory law in PATA Area, the limitation of 120 days for filing of a suit for pre-emption was not in consonance with the concept of reasonable time in general Islamic Law or that the judgment of the Federal Shariat Court in which it was held that the limitation of 120 days would be considered reasonable for filing a pre-emption suit under general Islamic Law was in conflict to the law laid down by the Shariat Appellate Bench of this Court in Government of N.-W.F.P. v. Malik Said Kamal Shah PLD 1986 SC 360. The concept of law of pre-emption in Islam is to exercise the right of pre-emption without unnecessary delay and keeping in view this concept, it was considered that a period of 120 days was reasonable. The old pre-emption law (N.W.F.P. Pre-emption Act, 1950) was no more operative after 31-8-1986 and N.W.F.P. Pre-emption Act, 1987 was applied in PATA Area w.e.f. 25-9-1994, therefore, in the interregnum, the pre-emption suits in the said Area would necessarily be governed by the general Muslim Law of pre-emption for which the period of 120 days for limitation was considered reasonable and the suits filed beyond the said period, subject to all just exceptions, would be treated as barred by time.

6. In the light of foregoing reasons, we having found no substance in this appeal, dismiss the same with no order as to costs.

S.A.K./S-102/S

Appeal dismissed.

2005 S C M R 1212

[Supreme Court of Pakistan]

Present: Sardar Muhammad Raza Khan, Faqir Muhammad Khokhar  
and Tassaduq Hussain Jilani, JJ

CHIEF SECRETARY, GOVERNMENT OF N.-W.F.P.  
and others---Appellants

versus

Syed ZAFARMAND ALI---Respondent

Civil Appeal No. 1685 of 2003, decided on 28th April, 2005.

(On appeal from the judgment, dated 27-12-2002 of the N.-W.F.P. Service Tribunal, Peshawar, passed in Appeal No. 1315 of 1999).

(a) Civil service---

---Lien---Termination---Transfer of civil servant to other department on

his own pay and scale---Non-induction of civil servant in borrowing department on permanent basis---Willingness shown by civil servant to be absorbed in borrowing department, but in absence of any order of appointment by transfer and settlement of terms and conditions of such appointment---Held: Lien of civil servant in his parent department could not be terminated. [p. 1216] A

Syed Sajjad Hussain v. Secretary, Establishment Division, Cabinet Secretariat, Islamabad and 2 others 1996 SCMR 284 and Mazhar Ali v. Federation of Pakistan through the Secretary Establishment Division, Cabinet Secretariat and 2 others 1992 SCMR 435 fol.

(b) Civil service---

---Lien---Termination---Lien of a permanent civil servant could not be terminated even with his consent, unless he had been confirmed against some other permanent post. [p. 1216] B

Syed Sajjad Hussain v. Secretary, Establishment Division, Cabinet Secretariat, Islamabad and 2 others 1996 SCMR 284 and Mazhar Ali v. Federation of Pakistan through the Secretary Establishment Division, Cabinet Secretariat and 2 others 1992 SCMR 435 fol.

Hafiz Aman, Advocate Supreme Court with Noorullah, D.S.  
Home Department for Petitioners.

Abdul Samad Khan, Advocate-on-Record for Respondent.

Date of hearing: 17th March, 2005.

#### JUDGMENT

FAQIR MUHAMMAD KHOKHAR, J.--- This appeal, by leave of the Court, is directed against judgment dated 27-12-2002, passed by the N.-W.F.P. Service Tribunal, Peshawar (hereinafter referred to as the Tribunal) in Appeal No. 1315 of 1999.

2. The respondent, Syed Zafarmand Ali, was appointed as Information Officer (BPS-16) in the Information Department, on the recommendation of N.-W.F.P. Public Service Commission, vide Notification dated 26-6-1983 issued by the Government of N.-W.F.P. Information Department. He assumed the charge as Information Officer on 4-7-1983. On the request of the Home Department, the Information Department of the Government of N.-W.F.P. by Notification dated 24-3-1985 placed his services at the disposal of the Directorate of Civil Defence N.-W.F.P., for further posting as Publicity Officer (B.P.S.-16) until further orders. However, by another Notification, dated 2-6-1985, Information Department recalled the respondent from the Civil Defence Directorate. The Home Department did not relieve the respondent and

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Appeal No. 48/2017

Date of Institution ... 26.12.2016

Date of Decision ... 18.03.2019

Yasim son of Noor Muhammad Ex-Constable Belt No. 1130 R/O Bala  
Nagar, Rawalpindi Road, Kohat. ... (Appellant)

VERSUS

District Police Officer, Kohat and two others. ... (Respondents)

Present:

Mr. Kharsheed Ahmad Shahan,  
Advocate. ... For appellant

Mr. Kabirullah Khattak,  
Addl. Advocate General, ... For respondents.

MR. HAMID FAROOQ DURRANI,  
MR. AHMAD HASSAN, ... CHAIRMAN  
MEMBER

JUDGMENT


HAMID FAROOQ DURRANI, CHAIRMAN:-

The appellant joined the service of Police Department in Kohat Region on 31.08.2008 and was removed from service on 08.01.2014 on account of absence w.e.f 09.10.2013 till the date of passing of the order. His departmental appeal and further review petition were also dismissed/rejected, hence the appeal in hand.

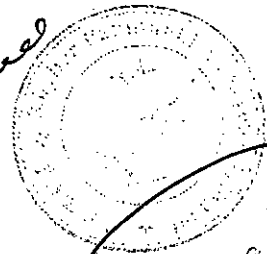
2. We have heard learned counsel for the appellant, learned Addl.

Advocate General on behalf of the respondents and have also gone through the available record.

ATTESTED

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

*dismissed/  
being time barred*



*No reason  
in continuation  
of delay.*

*AKM*

At the outset, learned AAG agitated objection regarding competency of appeal in hand on the ground that the departmental appeal of appellant was preferred on 22.09.2015 i.e. with a delay of more than 19 months. The said appeal was decided on 16.3.2016 while a review petition was preferred under Rule-11-A of the Police Rules, 1975 which was rejected on 29.09.2016, being barred by time. Learned AAG relied on judgment reported as 2015-SCMR-165, 2011-SCMR-676 and contended that in case the departmental appeal of a civil servant was barred by time his service appeal before the Tribunal was also not competent. It was further contended that the appellant was a habitual wrong doer and was earlier also dismissed from service on 21.09.2011. He was, however, reinstated subsequently on 13.12.2011 with modification of punishment to reduction in pay for a period of three years (time scale).

Learned counsel for the appellant while attempting to controvert the arguments of learned AAG referred to a judgment reported as 2008-SCMR-1666 and contended that due to the illness of appellant, the period of absence was condonable by the department.

3. On carefully examining the record, it revealed that the departmental appeal of appellant was decided in negative on 16.3.2016, also on the ground of being barred by time. It is further a matter of record that after rejection of his review petition on 29.09.2016, that too on the ground of limitation, the appeal in hand was preferred on 26.12.2016 with a delay of about two

APPEAL


*[Handwritten signature]*




months. An application for condonation of delay was though submitted alongwith the appeal in hand but without any cogent reason warranting the condonation. Similarly, in para-7 of the memorandum of appeal it was noted that the order of rejection of his review petition was received by the appellant on 10-12 days ago. This claim, however, would not justify the condonation of delay in submission of appeal owing to the fact that the appellant had not even given the date of receipt of the order. Admittedly, the appellant failed to submit any application for the purpose alongwith his departmental appeal or the revision petition although he had taken the pretext of his illness in the departmental representation dated 22.09.2015. On the contrary, it was not the case of appellant that he had applied for any leave on medical grounds during the course of his absence from duty.

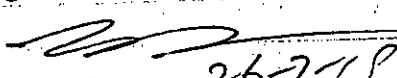
4. For what has been stated above, we find that the appellant remained indolent all along in pursuing his legal remedies in time. The appeal in hand is, therefore, dismissed hereby.

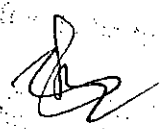
Parties are left to bear their respective costs. File be consigned to the record room.

  
 (AHMAD HASSAN)  
 MEMBER

  
 (HAMID FAROOQ DURRANI)  
 CHAIRMAN

**ANNOUNCED**  
 18.03.2019

Date of Presentation of Petition	13-6-18
Number of Pages	1200
Copying Fee	16-
Urgent	-
Total	16-
Name of Applicant	
Date of Completion	26-7-18
Date of Disposal of Case	25-8-18

Certified  
  
 copy

*DA not filed  
repealed*

S.No. of order or proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	10.02.2014	<p style="text-align: center;"><u>Petition No. 1648/2013</u> <u>(Arif Abbas-vs-Govt. of KPK through Chief Secretary and 6 others)</u></p> <p>Mr. Tehmash Khan, father of the petitioner, on behalf of the petitioner with counsel for the petitioner and Mr. Usman Ghani, Sr. GP for the respondents present. Arguments heard, and file perused.</p> <p>This 'petition under Article 212 of the Constitution of Islamic Republic of Pakistan' (hereinafter referred to as 'the Constitution') 'read with other enabling provisions of service law to the same effect', was referred to the full Bench of the Tribunal on the request and application of the petitioner. Since the petition has been lodged under Article 212 of the Constitution, it would not be out of place to reproduce the provisions of Article 212 of the Constitution:</p> <p style="text-align: center;">"212. Administrative Courts and Tribunals.--- (1)</p> <p>Notwithstanding anything hereinbefore contained the appropriate Legislature may be Act (provide for the establishment of) one or more Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of--</p> <ul style="list-style-type: none"><li>(a) matters relating to the terms and conditions of person (who are or have been) in the service of Pakistan, including disciplinary matters;</li><li>(b) matters relating to claims arising from tortuous acts of Government, or any person in the service of Pakistan, or of any local or other authority empowered by law to levy any tax or cess and any servant of such authority acting in the discharge of his duties as such servant; or</li><li>(c) matters relating to the acquisition, administration and disposal of any property which is deemed to be enemy property under any law.</li></ul> <p>(2) Notwithstanding anything hereinbefore contained, where any Administrative Court or Tribunal is established under clause (1), no other Court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such</p>

Administrative Court or Tribunal extends (and all proceedings in respect of any such matter which may be pending before such other Court immediately before the establishment of the Administrative Court or Tribunal (other than an appeal pending before the Supreme Court), shall abate on such establishment):

Provided that the provisions of this clause shall not apply to an Administrative Court or Tribunal established under an Act of a Provincial Assembly unless, at the request of that Assembly made in the form of a resolution, (Majlis-e-Shoora (Parliament)) by law extends the provisions to such a Court or Tribunal.

(3) An appeal to the Supreme Court from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme Court, being satisfied that the case involves a substantial question of law of public importance, grants leave to appeal.”

A perusal of the relevant provisions of Article 212 of the Constitution would reveal that, firstly, one or more Administrative Courts or Tribunals would be established by an Act of appropriate legislature; secondly, the Administrative Courts or Tribunals would exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of persons (who are or have been) in the service of Pakistan, including disciplinary matters; thirdly, after establishment of the Administrative Court or Tribunal, no other Court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends; and, fourthly, the provision of clause 2 of Article 212 shall not apply to an Administrative Court or Tribunal established under an Act of a Provincial Assembly unless, at the request of that Assembly made in the form of a resolution, Majlis-e-Shoora (Parliament) by law extends the provisions to such a Court or Tribunal.

It may be added here that the Majlis-e-Shoora (Parliament) enacted the Provincial Service Tribunals (Extension of provisions of the Constitution) Act, 1974, (Act XXXII of 1974) (hereinafter referred to as Act XXXII of 1974) and thereby extended the provisions of clause 2 of

Article 212 of the Constitution to the Provincial Service Tribunals of the Khyber Pakhtunkhwa, the Punjab and Sindh.

The main stress of the learned counsel for the petitioner was on clause 2 of Article 212 of the Constitution read with Act XXXII of 1974, under the mistaken belief that this Article of the Constitution confers jurisdiction on the Tribunal to grant injunction, notwithstanding prerequisite of filing service appeal under the Service Tribunal Act; whereas, in fact, the plain reading of clause 2 of Article 212 of the Constitution would show that the bar imposed on other Courts to grant injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of the Tribunal extends would come into operation only when at the request of the Provincial Assembly made in the form of a resolution, Majlis-e-Shoora (Parliament) by law extends the provisions of clause 2 of Article 212 of the Constitution to such a Tribunal. The learned counsel for the petitioner was, as such, unable to show that the provision in Article 212 of the Constitution which entitles him to straight away lodge a petition under Article 212 of the Constitution by circumventing or abridging the mandatory provision of filing appeal under the Service Tribunal Act.

On the other hand, section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 (Khyber Pakhtunkhwa Act. No.1 of 1974), (hereinafter referred to as Act No.1 of 1974), where-under the Khyber Pakhtunkhwa Service Tribunal has been established, clearly provides for filing of appeal and also prescribes period of limitation for filing of appeal and prior to that preferring departmental appeal in the following manner:

“4. Appeal to Tribunals.--- Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him (or within six months of the establishment of the appropriate Tribunal, whichever is later,) prefer an appeal of (to) the Tribunal having jurisdiction in the matter:

without-D/A  
dismissed

Provided that--

(a) where an appeal, review or a representation to a departmental authority as provided under the Khyber Pakhtunkhwa Civil Servants Act, 1973, or any rules against any such order, no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date of which appeal, application or representation was preferred; (...)."

It is an admitted fact, and even not disputed by the learned counsel for the petitioner, that the petitioner has neither preferred a departmental appeal, review or representation to a departmental authority nor has even lodged appeal against a final order, whether original or appellate, in accordance with the mandatory provisions of section 4 of Act No.1 of 1974. Likewise, the judgment in the case titled 'Munshi Muhammad Azam...Petitioner-versus-A.C etc... Respondents' reported as PLJ 1996 Lahore 16 (DB) , referred to by the learned counsel for the petitioner, would be of no help to the case of the petitioner unless he shows that no departmental appeal is provided against the impugned transfer order. Moreover, even in that case the appellant would be required to file appeal under the Service Tribunal Act and not a petition under Article 212 of the Constitution.

The learned counsel for the petitioner argued the case at length; and, during his arguments, referred to several provisions of the Constitution and law, including Articles 9 and 199 of the Constitution, posting/transfer policy of the Provincial Government, sections 22,23 and 23(b) of the Khyber Pakhtunkhwa Civil Servants Act, 1973, and also to the ailment/disability of the petitioner together with his service record and the circumstances leading to his transfer; but none of such contentions/references would lend credence to his otherwise weak case on account of maintainability and jurisdiction, when this Tribunal is, admittedly, not a constitutional forum to entertain petitions under the Constitution.

Undoubtedly, the Tribunal is a creation of the Statute, namely, the Khyber Pakhtunkhwa Service Tribunal Act, 1974, and can only entertain and proceed with appeals instituted/filed there-under.

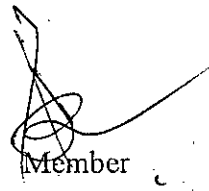
After realizing his difficulty to convince the Bench on the questions of maintainability and jurisdiction, the learned counsel prayed for treating the petition as departmental appeal and referring the same to the departmental authority, while extending the order of status-quo granted in favour of the petitioner by the learned Member Bench on 16.01.2014. However, once it is held that the petition is not maintainable and this Tribunal lacks jurisdiction to entertain the constitutional petition under Article 212 of the Constitution, any order passed thereafter would be without jurisdiction, and not sustainable in law.

As a sequel to the foregoing discussion, the petition is dismissed in limine, with costs.

ANNOUNCED  
10.02.2014

  
Member

  
Chairman

  
Member

**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Gulzar Ahmed, CJ  
Mr. Justice Ijaz ul Ahsan  
Mr. Justice Sajjad Ali Shah

9/20  
Time barred  
No sufficient  
reason for  
condonation  
of delay

**Civil Petition No.1894 of 2018**

(Against the judgment dated 28.2.2018 of the KPK Service Tribunal, Peshawar passed in Appeal No.730 of 2011)

**Syed Shabbir Hussain Shah**

...Petitioner(s)

**Versus**

**Gout. of KPK thr. Its Chief Secretary, Peshawar and others** ...Respondent(s)

For the Petitioner(s) : Mrs. Kausar Irfan Bhatti, ASC  
Chaudhry Akhtar Ali, AOR

For the Respondent(s) : N. R.

Date of Hearing : 24.01.2020

**ORDER**

**Gulzar Ahmed, CJ.-** We have heard the learned counsel for the petitioner. We noted that the Tribunal by the impugned judgment has dismissed the Service Appeal of the petitioner on the ground that the departmental appeal filed by the petitioner was time-barred and the application for condonation of delay filed by him did not carry any sufficient reason for condoning such delay. The learned counsel has not been able to show us that the judgment of the Tribunal suffers from any infirmity or illegality. More so, no substantial question of law of public importance in terms of Article 212(3) of the Constitution is raised. This petition being without merit is dismissed and the leave is refused.

Sd/-HCJ

Sd/-J

Sd/-J

Certified to be True Copy

*M. A. Khan* 12/12/2020  
Court Associate  
Supreme Court of Pakistan  
Islamabad



*Condonation  
of delay*

2009 SCMR 1435

[Supreme Court of Pakistan]

Present: Iftikhar Muhammad Chaudhry, C. J., Raja Fayyaz Ahmad and Ch. Ijaz Ahmed, JJ

ABDUL RASHID---Petitioner

Versus

DIRECTOR-GENERAL, POST OFFICES, ISLAMABAD and others---Respondents

Civil Petition No.589 of 2009, decided on 28th April, 2009

(Against the judgment, dated 31-1-2009 passed by the Federal Service Tribunal, Islamabad Appeal No.1235(R)(C.S.) of 2003)

(a) Constitution of Pakistan (1973)---

---Art. 212(3)---Supreme Court jurisdiction of Findings of fact---Scope---Supreme Court interfere in findings of fact arrived at by Service Tribunal while exercising power under Art. of the Constitution.

Ch. Muhammad Azim's case 1991 SCMR 255 and Muhammad Nawaz's case 1982 SCMR 880

(b) Service Tribunals Act (LXX of 1973)---

---S. 4---Limitation Act (IX of 1908), S.5---Constitution of Pakistan (1973), Art.212(3)---Ap  
Limitation---Repetition of departmental representation---Effect---Condonation of c  
Principle--- On 25-4-1998, authorities imposed punishment of reduction in pay equal to tw  
on civil servant, who instead of filing appeal before Service Tribunal within time prescribed  
law, repeatedly filed departmental representations and thereafter filed appeal before  
Tribunal on 19-11-2003---Appeal against order passed by authorities was dismissed by  
Tribunal being time-barred---Validity---Law favoured diligent litigant and not negligent  
servant was neither vigilant to agitate matter before competent authority nor before S  
Tribunal within prescribed period---Service Tribunal was justified to dismiss appeal of civil  
as time-barred---Mere repetitions of representation could not, by itself, enlarge prescribed pe  
limitation---Person seeking condonation of delay was to justify each day's delay but civil ser  
his application for condonation of delay did not raise any plausible reason/ground for cond  
of delay---Service Tribunal had examined all controversial questions of law and fac  
comprehensive manner after having scrutinized entire record and relevant laws---Service T  
exercised its discretion judiciously, which was not capricious, hence conclusion drawn by  
Tribunal was in accordance with law and settled norms of justice---Supreme Court did not fi  
ambiguity or illegality warranting interference in the judgment passed by Service Tribunal---  
of Service Tribunal was conclusive which could not be challenged unless the same was re  
misreading or non-reading of record---Civil servant failed to raise any question of  
importance as contemplated under Art.212(3) of the Constitution---Leave to appeal was refi



Muhammad Sharif's case 1981 SCMR 1158; Bashir Ahmed Khan's case  
Muhammad Hasham's case 1990 SCMR 1440; Ali Muhammad's case  
Muhammad Saleem's case PLD 1995 SC 396; Muhammad Feroze Khan's ca.  
Zaffar Iqbal Khan's case 2003 SCMR 1471; Haji Kadir Bux's case 1982 SCMR  
Hasan Rizvi's case 1986 SCMR 1086 ref.

(c) Limitation---

---Time-barred remedy--Effect---It is duty and obligation of aggrieved person to pu  
remedy with diligence and to satisfy conscience of Court or Quasi-Judicial /  
approaching respective forums beyond prescribed limitation---In case aggrieved per  
avail remedy within prescribed period then vested right accrues to other side which  
taken away lightly even if objections to that effect were not raised by opposite party.

Hakim Muhammad Buta's case PLD 1985 SC 453 and Muhammad Hussain's case P  
147 rel.

Haider Hussain, Advocate Supreme Court and M.S. Khattak, Advocate-on-  
Petitioner.

Nemo for Respondents.

**ORDER**

**CH. IJAZ AHMED, J.**---Abdul-Rashid, petitioner, seeks leave to appeal against th  
judgment, dated 31-1-2009 whereby the Federal Service Tribunal, Islamabad, dismis  
as time-barred.

2. Detailed facts have already been mentioned in para 2 of the impugned judgment  
necessary facts out of which the present petition arises are that petitioner while worki  
Clerk, Khanewal G.P.O. was served show cause notice containing allegations of ineff  
misconduct under the provisions of Efficiency and Disciplinary Rules, 1973. The  
authority after completing the legal formalities awarded the punishment of reduction  
equal to two steps with immediate effect vide order, dated 25-4-1998. The petiti  
aggrieved filed departmental appeal before the appellate authority on 20-9-2000 which  
decided by the appellate authority (Deputy Postmaster-General) vide order, date  
wherein the punishment awarded to him was upheld by specifying the period of puni  
year as the same was not mentioned in order, dated 25-4-1998. Subsequently, the pe  
representation to the appellate authority on 10-9-2003 which was rejected vide  
13-10-2003 by observing as follows:--

"decision dated 19-9-2002 is final and holds good."

Petitioner being aggrieved filed Appeal No. 1235(R)(C.S.) of 2003 before the Federal Ser  
Islamabad, on 19-11-2003 which was dismissed as time-barred vide order dated 31-1-2  
present petition.

3. Learned counsel for the petitioner submits that learned Service Tribunal had erred in la

of the petitioner on technical ground as time-barred. The judgment of the learned. Serv  
al is not in consonance with the law laid down by this Court as this Court had laid down princi  
various pronouncements that cases must be decided on merits and the poor litigant could not  
on-suited on technical grounds including limitation. He further urges that petitioner filed an applicat  
before the Service Tribunal for condonation of delay which was not decided by the learned Serv  
Tribunal after application of mind. He further maintains that his last representation was finally decided  
the appellate authority on 13-10-2003 whereas the petitioner had filed appeal before the Service Tribu  
on 19-11-2003, therefore, appeal of the petitioner was not time-barred before the Service Tribunal but  
Service Tribunal did not consider this aspect of the case.

4. We have given our anxious consideration to the contentions of the learned counsel for the petition  
and perused the record with his able assistance. It is better and appropriate to reproduce the basic fa  
in chronological order to resolve the controversy arising out of this petitions:---

- (i) Inquiry Officer was appointed by the Competent Authority vide order dated 19-3-1997.
- (ii) The Inquiry Officer after completing the legal formalities found him guilty. vide its repo  
dated 5-7-1997.
- (iii) Show-cause notice was served upon the petitioner on 29-8-1997.
- (iv) The competent authority awarded punishment of reduction of two steps to the petitioner vi  
order, dated 25-8-1998 without prescribing the period on account of inefficiency and misconduct<sup>de</sup>
- (v) Departmental appeal was filed, by the petitioner on 20-9-2000 which was finally decided  
the appellate authority on 19-9-2002.
- (vi) The representation was filed by the petitioner on 10-9-2003 which was rejected  
13-10-2003' by informing the petitioner that the decision, already taken on 19-9-2002, is final.
- (vii) The petitioner filed appeal before the Service Tribunal on 19-11-2003.

5. In case the aforesaid facts are put in juxtaposition then it is crystal clear that the petitioner fil<sup>ut</sup>  
departmental appeal against the order of the appellate authority dated 25-4-1998 on 26-9-2000 after<sup>ru</sup>  
delay of about 2 years and five months. It is pertinent to mention here that the Appellate Authori<sup>r</sup>  
decided his appeal on 19-9-2002. The petitioner did not, agitate the matter before any forum t<sup>o</sup>  
10-9-2003 which was rejected vide order, dated 13-10-2003 by informing the petitioner that order, date<sup>de</sup>  
19-9-2002 is final. The learned Service Tribunal after application of mind had given findings of fa<sup>ed</sup>  
against the petitioner that his appeal before the Service Tribunal was highly time-barred as is depict<sup>tu</sup>  
from para.6 of the impugned judgment. This Court cannot interfere in the findings of fact arrived at<sup>ise</sup>  
the Service Tribunal while exercising the power under Article 212(e) of the Constitution as dictum la  
down by this Court in Ch. Muhammad Azim's case 1991 SCMR 255 and Muhammad Nawaz's case 19  
SCMR 880.

6. It is settled proposition of law that law favours the diligent litigant and not the negligent. As mention<sup>smi</sup>  
above the petitioner was not vigilant to agitate the matter before the competent authority or befo<sup>is</sup>  
Service Tribunal within prescribed period. The learned Service Tribunal was justified to dismiss th<sup>res</sup>  
appeal of the petitioner as time-barred. See Muhammad Sharif's case 1981 SCMR 1158. It is settle  
proposition of law that mere repetitions of representation would not by itself enlarge the prescribe

limitation. Any relaxed view in this regard did not defeat real object and spirit of law which has previously restricts and controls period for availing of relief as law laid down by this Court in various pronouncements including the following judgments:

- (i) Bashir Ahmed Khan's case PLD 1985 S.C. 309 and (ii) Muhammad Hasham's case 1995 SCMR 1440.

7. It is the duty and obligation of the aggrieved person to pursue his legal remedy with diligence and be satisfied conscious of the Court or quasi-judicial authority for approaching respective forums beyond prescribed limitation coupled with the fact that in case the aggrieved person has not availed remedy within the prescribed period then the vested right had accrued to the other side which cannot be taken away rightly even if objections to that effect were not raised by the opposite party. This Court has already taken aforesaid view in the following judgments:

- (i) Hakim Muhammad Buta's case PLD 1985 SC 153 (ii) Muhammad Hussain's case PLD 1995 SC 147.

8. It is also settled proposition of law that it is the duty and obligation of the aggrieved person seeking condonation of delay must have to justify each day's delay. Petitioner in his application for condonation of delay did not raise any plausible reason/ground for condonation of delay which is a condition precedent for condoning the delay as law laid down by this Court in the following judgments:

- (i) Ali Muhammad's case PLD 1996 SC 292, (ii) Muhammad Saleem's case PLD 1995 SC 396, (iii) Muhammad Feroz Khan's case 1986 SCMR 930.

The aforesaid proposition of law is also supported by the law laid down by this Court in Zaffar Iqbal Khan's case 2003 SCMR 1471. It is settled law that period of 120 days for filing appeal under proviso to section 4 of Service Tribunal Act, 1973 is available and appeal must be filed within 30 days as law laid down by this Court in Hajj Kadir Bux's case 1982 SCMR 582. The learned Service Tribunal had examined all controversial questions of law and fact in a comprehensive manner after having scrutinized entire record and relevant laws. The learned Service Tribunal had exercised its discretion judiciously, which was neither arbitrary nor capricious, hence conclusion drawn by Service Tribunal was in accordance with law and settled norms of justice. We do not find any ambiguity or illegality warranting interference by us. As mentioned above, the learned Tribunal has dismissed the appeal as time-barred, therefore, finding of Tribunal is conclusive which cannot be challenged unless the same is result of misreading or non-reading of record. See Syed Ali Hasan Rizvi's case 1986 SCMR 1086. Even otherwise, the petitioner has failed to raise any question of public importance in the present case as contemplated under Article 212(3) of the Constitution.

9. In view of what has been discussed above, we do not find any merit in this petition and the same is dismissed. Leave refused.

Petition dismissed.