


15.06.2022

Nemo for appellant.


Despite directions, appellant/counsel were not put on notice. Therefore, fresh notice be issued to appellant and his counsel for 15.08.2022 for preliminary hearing before S.B at Camp Court, Abbottabad.


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

17.10.2022

Nemo for appellant.

Notices be issued to appellant and his counsel for the date fixed. To come up for preliminary hearing on 14.11.2022 before S.B at camp court Abbottabad.





(Fareeha Paul)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 277/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/03/2022	<p>The appeal of Mst. Nabeela Umar received today by post through Mr. Abdul Saboor Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put there on 21.4.22</p> <p> CHAIRMAN</p>
	21.04.2022	<p>Nemo for appellant.</p> <p>Notice be issued to appellant/counsel for 15.06.2022 for preliminary hearing before S.B at Camp Court, Abbottabad.</p> <p> (Rozina Rehman) Member (J) Camp Court, A/Abad</p>

9

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No 277 of 2022

Nabeela Umar.....Appellant

VERSUS

The Secretary Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar
etc.....Respondents

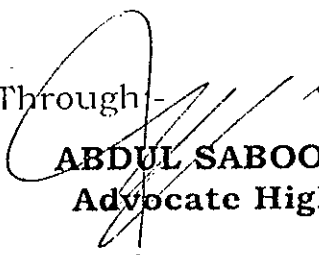
APPEAL

INDEX

S#	Description of documents	Annexure	Page#
1.	Memo of Appeal	-	1-6
2.	Affidavit	-	7
3.	Correct address of Parties	-	8
4..	Copy of impugned order dated 16.10.2015 passed by respondent No.03.	"A"	9
5.	Copy of appeal along with better copy.	"B"	10-11
6.	copy of impugned order dated 06.09.2021 along with better copy. Passed by respondent NO. 02	"C"	12-13
7	Wakalt Nama	-	14

Dated 26.02.2022


Nabeela Umar
(Appellant)

Through -

ABDUL SABOOR KHAN
Advocate High Court

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No ____ of 2022

Mst. Nabeela Umar Ex-Primary School
Teacher, Government Girls Primary School,
Dhar kelay Pattan, Tehsil Pattan, District
Kohistan Lower.....**Appellant**

VERSUS

- 1) The Secretary Elementary and
Secondary Education Khyber
Pakhtunkhwa Peshawar.
- 2) Director Elementary and secondary
Education Peshawar.
- 3) District Education officer (Female)
District Kohistan Lower at Pattan.
.....**Respondents**

APPEAL UNDER SECTION 4

OF KPK SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDERS NO
6692-99 DATED 16.10.2015 AND 5390-91
DATED 06.09.2021 PASSED BY
RESPONDENTS NO. 02 AND 03
RESPECTIVELY WHEREBY MAJOR
PENALTY OF REMOVAL FROM SERVICE
UPON THE APPELLANT WAS IMPOSED
AND UPHELD ON THE GROUND OF
ALLEGED ABSENCE FROM DUTY.

2

PRAYER:-

On acceptance of the instant service appeal, the impugned orders bearing No **6692-99** dated **16.10.2015** and **5390-91** dated **06.09.2021** passed by respondents **No. 02** and **03** respectively may kindly be set-aside declaring the same being illegal, void-abnito, against the law and facts on the subject and appellant be re-instated into service with all back benefits.

Respectfully Sheweth:-

1. That, appellant had been performing her duties regularly and with commitment as Primary School Teacher under the command of respondent **No 03**.
2. That, respondent **No. 03** vide impugned order dated **6692-99** dated **16.10.2015**, imposed Major penalty of removal from service with effect from **August, 2014**.

(Copy of impugned order dated **16.10.2015** annexed as annexure "A").
3. That, appellant filed departmental appeal against the impugned order with respondent **No. 02**, not responded. Appellant again

approached respondent **No 02** through another appeal/application requesting to decide the earlier one.

(Copy of appeal annexed as annexure "B")

4. That, respondent **No. 02** vide impugned order **dated 06.09.2021** filed the appeal of the appellant without any decision. The said order was never communicated to the appellant and she of her own collected the same from the office of respondent **NO. 02** on **24.02.2022**.

(copy of impugned order dated 06.09.2021 annexed as annexure "C").

5. That, appellant visited the office of respondent **No. 02** on **24.02.2022**, to inquire about the fate of her Departmental Appeal. She was informed that her appeal had already been filed without making any decision thereon on merits and a copy whereof had been sent to the appellant on **06.09.2021**, but as a matter of fact, the same was not received by the appellant and she collected the copy of the same from the office of respondent **NO. 02** on **24.02.2022**.

6. That, felling aggrieved, from the impugned orders appellant having no other remedy except to file the present

service appeal before this worthy tribunal for interference inter alia on the following amongst other grounds.

GROUND:-

- A) That, admittedly, neither any show-cause notice was issued and served upon the appellant. The impugned order dated **16.10.2015** has been passed at the back of the appellant without informing her, hence, it being illegal is liable to be set-aside.
- B) That, neither the period of alleged absence is mentioned anywhere, nor any enquiry into the matter was held to prove the allegations.
- C) That, before passing the impugned order, appellant was not put on notice to present her view point/explanation under the Doctrine of Audi Aulterm Partem, hence, the impugned order dated **16.10.2015** is not sustainable and maintainable under the law.
- D) That, no evidence worth name was attempted to collect by respondent **No 03** against the appellant for alleged absence from duty and she has been condemned on flimsy and perverse grounds with mala-fide intention.

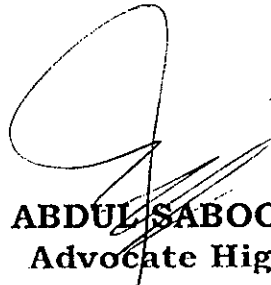
- E) That, appellant had a long unblemished service record at her credit and she has been removed from service with a single stroke of pen without observing due process of law on the subject.
- F) That, appellant never remained absent from duty rather she kept on performing with utmost commitment, hence, the impugned order is not only legally un-sustainable, but factually erroneous as well.
- G) That, no complaint was ever filed by any one against the appellant for her being absent from duty as alleged on any working day.
- H) That, the impugned order on its very face value, is illegal, unlawful, without lawful authority, without jurisdiction and of having no legal effect.
- I) That, the impugned order of the appellate authority dated **06.09.2021** is also illegal for having not mentioned any reason of filling the appeal of the appellant instead of its decision on merits.

PRAYER:-


On acceptance of the instant service appeal, the impugned orders bearing No **6692-99** dated **16.10.2015** and **5390-91** dated **06.09.2021** passed by respondents respectively may kindly be set-aside declaring the same being illegal, void-abnito, against the law and facts on the subject and appellant be re-instated into service with all back benefits.

Dated 26.02.2022

Through:-



ABDUL SABOOR KHAN
Advocate High Court


Nabeela Umar
(Appellant)

VERIFICATION :

I, Mst. Nabeela Umar Ex-Primary School Teacher, Government Girls Primary School, Dhar kelay Pattan, Tehsil Pattan, District Kohistan Lower, do hereby solemnly affirm and declare that the contents of fore-going Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed form this Honorable Tribunal.


NABEELA UMAR
(Deponent)

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No _____ of 2022

Nabeela Umar.....**Appellant**

VERSUS

The Secretary Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar
etc.....**Respondents**

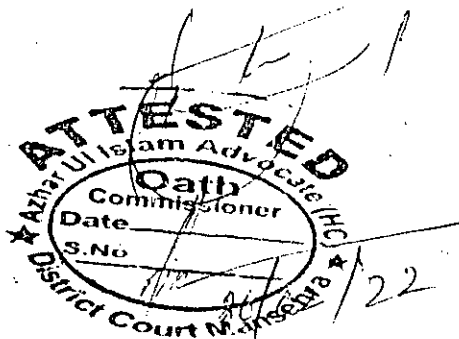
APPEAL

AFFIDAVIT

I, Mst. Nabeela Umar Ex-Primary School Teacher, Government Girls Primary School, Dhar kelay Pattan, Tehsil Pattan, District Kohistan Lower, do hereby solemnly affirm and declare on oath that the no such subject matter appeal has ever been filed before this honorable court nor pending nor decided. that the contents of fore-going affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this Honourable tribunal.

Dated: 26.02.2022

Euli
NABEELA UMAR
DEPONENT



BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No _____ of 2022

Nabeela Umar.....**Appellant**

VERSUS

The Secretary Elementary and Secondary
 Education Khyber Pakhtunkhwa Peshawar
 etc.....**Respondents**

APPEAL

CORRECT ADDRESSES OF THE PARTIES

APPELLANT:

Mst. Nabeela Umar Ex-Primary School
 Teacher, Government Girls Primary School,
 Dhar kelay Pattan, Tehsil Pattan, District
 Kohistan Lower

RESPONDENTS:

- 1) The Secretary Elementary and
 Secondary Education Khyber
 Pakhtunkhwa Peshawar.
- 2) Director Elementary and secondary
 Education Peshawar.
- 3) District Education officer (Female)
 District Kohistan Lower at Pattan.

Dated 26.02.2022


NABEELA UMAR
 (Appellant)

Through:-


ABDUL SABOOR KHAN
 Advocate High Court

Ally
26/2/22

R (9)

Arora (A)

412



OFFICE OF THE DISTRICT EDUCATION OFFICER, (F) KOHISTAN.

Ph: & Fax No.0998407225

Notification:

WHERE AS, you Mst: Nabela Umer PST GGPS Dhar Kelay reported absent by ASDEO/SDEO /DEO (F) Kohistan, with effect from 04/2015 without any application/information.

WHERE AS a show cause notice was issued on your home address available in this office through register post where as neither you joined your duty nor submitted convincing reply . where as neither you joined your duty nor submitted convincing reply .

AND WHERE AS, final show cause was issued in the DAILY NEWSPAPERS daily AAJ Peshawar/Abbott Abad dated 21/9/2015, in which you were directed to assume your duty and submit your reason for willful absent from duty but neither you attended the school nor submitted convening reply to the department .

NOW, in view of the above, the competent authority is pleased to impose the major penalty up to removal from service with effect date of absentee i.e. August, 2014 and recovery of the absent period pay. *from*

[Signature]
District Education Officer
(Female) Kohistan.

E/NO.15/Estab: 6692-99 /DEO (F) KH: dated 16/10 /2015.

- Copy of the above is forwarded to:
1. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa.
 2. The Deputy Commissioner Kohistan Upper.
 3. The Deputy Commissioner Kohistan lower.
 4. The District Monitoring Officer (IMU) District Kohistan.
 5. The District Accounts Officer, Kohistan.
 6. The Sub Divisional Education Officer (F) Kohistan with the direction to ensure the recovery of absent period pay from the Teacher concerned if already paid .
 7. The ASDEOs Circle
 8. Teacher concerned.

[Signature]
District Education Officer
(Female) Kohistan.

~~Aditya~~

26/2/22

ANNEX B

ذمہ داری - ڈیٹا کی حفاظت کے لیے
میں نے اس کے لیے اقدامات کیے ہیں

موجودہ ڈیٹا کی حفاظت کے لیے
Shashal key سے ڈیٹا کی حفاظت کی گئی ہے
اس کے لیے ڈیٹا کی حفاظت کے لیے
DEAF سے ڈیٹا کی حفاظت کی گئی ہے
اس کے لیے ڈیٹا کی حفاظت کے لیے

پہلے ڈیٹا کی حفاظت کے لیے
اس کے لیے ڈیٹا کی حفاظت کے لیے
موجودہ ڈیٹا کی حفاظت کے لیے

Aditya

Shashal key
PST

Better copy

بخدمت جناب ڈائریکٹر ابتدائی و ثانوی تعلیم خیبر پختونخواہ پشاور

جناب عالی! اپیل برخلاف برخاستی ملازمت

مودبانہ گزارش کی جاتی ہے کہ فدویہ بطور Seshal، GGPS، PST kay ضلع کوہستان میں اپنی ڈیوٹی سرانجام دے رہی تھی کہ گھریلو مشکلات کی وجہ سے فدویہ غیر حاضر رہی، جسکی بناء پر فدویہ کو DEO(F) کوہستان اپریل 2015ء میں سروس سے برخاست کر رہا اسکے بعد فدویہ سے اپیل جمع کرائی تھی مگر اس پر کچھ عمل درآمد نہ ہوئے۔

لہذا آپ صاحبان سے التماس ہے کہ براہ کرم فدویہ کی اپیل کی روشنی میں کیس کی انکوائری کرائی جائے تاکہ فدویہ کے ساتھ انصاف ہو سکے۔

عین نوازش ہوگی

العارض

آپکی تابعدا دنیا بیہ PST

GGPS Sheshal Kay ضلع کوہستان

P-12

Allesed
[Handwritten signature]

Arinac



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

No. SSBA/ File: 460/RTI/P. Naboola
Bibi/Kohistan Lower/2021.
Dated Peshawar the: 6 / 09 / 2021

To

Mat. Naboola Bibi,
PST GGPS Darakaklla Paatan Kohistan Lower.

Subject: - PROVISION OF INFORMATION UNDER RTI ACT 2013.

I am directed to refer to your application dated 01-08-2021 received to this office vide Dairy No. 186 dated 09-08-2021 on the subject cited above and to state that your appeal for re-instatement into service has been seen & filed by the Worthy Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar being competent authority.

[Signature]
AD (RTI & Ombudsman)
Directorate of E&SE KP

Endst: No. 5290-21

Copy forwarded to the: -

1. Assistant Registrar, Right to Information Commission Khyber Pakhtunkhwa Peshawar. (Near BRT Abdara Station, Arabab Colony, Opposite Jaban Flats University Road, Peshawar)
2. P/A to Director E&SE KPK Peshawar.

[Signature] 08/9/2021
AD (RTI & Ombudsman)
Directorate of E&SE KP

Admission
26/7/21
Better copy:

Better copy

13

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION

KHYBER PAKHTUNKHWA PESHAWAR.

No. 5389/File: 460/RTI/P.F
Bibi/Kohistan Lower/2021.

Nabeela

Dated Peshawar the 06/09/2021

To,

Mst Nabeela Bibi,

PST GGPS Darakakila Paatan Kohistan Lower.

Subject:- **PROVISION OF INFORMATION UNDER RTI ACT 2013**

I am directed to refer to your application dated 01.06.2021 received to this office vide Dairy No. 185 dated 09.06.2021 on the subject cited above and to state that your appeal for reinstatement into serve has been seen and filed by the worthy Director, Elementary and Secondary Education Kyber Pakhtunkhwa Peshawar being competent authority.

AD (RTI & Ombudsman)

Directorate of E&SE KP

Endst NO: 5390-91

Copy forwarded to the:-

1. Assistant Registrar, right to information commission Khyber Pakhtunkhwa Peshawar, (Near BRT Abdara Station, Arbad Colony, Opposite Jabar Flats University Road, Peshawar).
2. P.A to Director E&SE KPK Peshawar.
- 3.

AD (RTI & Ombudsman)

Directorate of E&SE KP

وکالت نامہ

14

بعدالت جناب KPK سروس ٹرایبونل پشاور کمپ کورٹ ایبٹ آباد

نیلہ عمر بنام سیکرٹری ایگزیکٹو اینڈ سیکنڈری ایجوکیشن وغیرہ

سروس اپیل

اپیلانٹ

باعث تحریر آئندہ!

منجانب:

عبدالصبور خان ایڈووکیٹ ہائی کورٹ

اندریں مقدمہ عنوان بالا اپنی طرف سے برائے ہیروئی وجواب دی، بہ تمام پشاور ہائی کورٹ

کو بدیں شرٹا وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص روبرو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہو اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل ہیروئی کرنے کے مجاز نہ ہونگے اگر مقدمہ مقام پکھری کے آگے یا پیچھے سماعت ہونے پر مظہر کو کوئی نقصان پہنچے تو صاحب موصوف ذمہ دار نہ ہوں گے اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی، اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کارروائی وصول کرنے اور رسید دینے اور داخل کرنے کا، ہر قسم کا بیان دینے اور سپرد دائی و راضی نامہ و دستبرداری و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمد کی مقدمہ یا منسوخی ڈگری یا لٹرفرڈ درخواست حکم اتنا ہی یا فیصلہ ڈگری و اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا ایگی علیحدہ فیس کرنے کا مجاز ہوگا۔ بصورت ضرورت بدوران مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا ہیرسٹر کو بجائے خود دیا اپنے ہمراہ مقرر کریں اور ایسے شیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی ہیروئی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ مجھے کل ساختہ پر داختمثل ذات خود منظور و قبول ہوگا۔ لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے۔ مضمون وکالت نامہ سن لیا اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

مورخہ 26.02.2022

نیلہ عمر سابقہ پرائمری سکول پیپر گورنمنٹ گرلز پرائمری سکول Darakakila پن ضلع کوہستان اوٹری..... اپیلانٹ

Attested & Accepted
Abdul Saboor Khan
Advocate High Court

"A"

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

No.

Resg

APPEAL No.....277..... of 20

Mst Nabeela Umar

Appellant/Petitioner

Versus

Sery (F&SE) Peshawar

RESPONDENT(S)

✓
Notice to Appellant/Petitioner

Mst Nabeela Umar

Ex Primary School Teacher GGPS

Dhar Kalay Pattan Teh Pattan Distt

Kohistan Lower

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on.....15-6-22 at 8:00 AM.....

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at camp court
A. Iqbal



Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

No.

277

22

APPEAL No..... of 20

Mst Nabeela Umar

Apellant/Petitioner

Versus

Sely (ESSE) Peshawar

RESPONDENT(S)

counsel Abdul Saboo Khan

Notice to Apellant/Petitioner

(Advocate)

High Court Mansehra

Take notice that your appeal has been fixed for Preliminary hearing, replication/affidavit/counter affidavit/record/arguments/order before this Tribunal on..... at.....

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

High Court

A/Abad:

4

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

Resd
No.

TB A/Abad

APPEAL No. *277* of 20 *22*

Mst Nabeela Umar

Appellant/Petitioner

Versus

Sey (ESSE) Peshawar

RESPONDENT(S)

Counsel
Notice to Appellant/Petitioner *Abdul Saboor Khan*

(Advocate)

High Court. Mansehra

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on *15-6-22* at *8:00 A.M*

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at camp Court
A/Abad.

[Signature]

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

Resg

No.

APPEAL No.....277..... of 20

Mst Nabeela Umar

Appellant/Petitioner

Versus

Secy (ESSE) Peshawar

RESPONDENT(S)

✓
Notice to Appellant/Petitioner

Mst Nabeela Umar

Ex Primary School Teacher G.G.P.S.

Dhar Kalay Pattan Ten Pattan Distt

Kohistan Lower

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 15-6-22 at 9:00 AM.

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at camp court

A/Abad



Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.