#### KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1290/2019

BEFORE:

MR. KALIM ARSHID KHAN ... CHAIRMAN MISS. FAREEHA PAUL ... MEMBER(E)

Mst. Nusrat Sultan W/o Muhammad Tanveer R/o Village Chuchamg, Tehsil Dassu, District Kohistan, presently at Fauji Foundation, Tehsil & District Mansehra. .... (Appellant)

#### Versus

- 1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
- 2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 3. District Education Officer (Female), District Kohistan Upper.
- 4. Head Teacher Government Girls Primary School Chuchang, District Kohistan Upper.

.... (Respondents)

Mr. Muhammad Tasleem Khan Kaloch

Advocate

For appellant

Mr. Kabir Ullah Khattak Additional Advocate General

For respondents

Date of Institution	01.10.2019
Date of Hearing	23.09.2022
Date of Decision	05.10.2022

#### **CONSOLIDATED JUDGEMENT**

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the impugned order dated 12.02.2014 of the

The Market

District Education Officer (Female), Kohistan Upper, whereby the appellant has been awarded major penalty of removal from service.

- 2. This judgment shall also disposed off connected Service Appeal No. 1291/2019 titled "Mst. Hamida Sultan Vs. Government of Khyber Pakhtunkhwa" as similar question of law and facts are involved in both the appeals.
- 3. Brief facts of the case, as per memorandum of appeal, are that the appellant was appointed as Primary School Teacher (PST) in the Government Girls Primary School, Bari Shah, who started performing her duties. She marked her attendance in the attendance register, which was used to be in the custody of Respondent No.4 (Head Teacher GGPS Chuchang, District Kohistan Upper). Respondent No. 3 (DEO (F) Kohistan Upper) issued an order dated 12.02.2014 removing the appellant from service.
- 4. Feeling aggrieved, she filed a departmental appeal on 05.03.2014, but that was not responded; hence this service appeal.
- 5. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General and perused the case file with connected documents in detail.
- 6. Learned counsel for the appellant presented the case and contended that the appellant had been condemned unheard and no opportunity of defense or personal hearing was provided to her. He further contended that no charge sheet, statement of allegations or show cause notice had

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been issued before imposing the major penalty of removal from service.

He further argued that the impugned order had been issued with retrospective effect which was against the law and hence a void order.

- 7. Learned Additional Advocate General on the other hand contended that the appellant had been removed from service after completion of all codal formalities. He contended that she made fake and bogus entries in the attendance register and in reality she absented herself from duty. She was served with show cause notice at her home address and when no response was received, she was issued a final show cause notice, but when her reply to that was found unsatisfactory, she was given an opportunity of personal hearing; but there again she could not satisfy her competent authority. The learned Additional Advocate General referred to 1998 SCMR1890, which stated that unauthorized absence of an employee from duty for a longer period was misconduct and that he/she could be removed from service from the date of unauthorized absence.
  - 8. From the record and arguments before us, it is evident that the appellant was appointed Primary School Teacher in District Kohistan Upper. Record further provides that during inspection, the inspection team found the appellant absent w.e.f 9/2013, as per Explanation dated 25.09.2013. She was required to submit her written reply within ten days of the issuance of that letter but till 30.10.2013, she did not submit any reply, as is evident from a letter of Sub-Divisional Education Officer (Female), Primary Education, District Kohistan dated 30.10.2013. A show cause notice was issued to her on 01.02.2013; another notice on 31.10.2013, followed by a third notice on 15.01.2014. During that period

a notice for personal hearing was also issued on 03.06.2013. Record shows that notices were issued through registered post on her home address. It further indicates that notices were issued in the daily Aaj dated 04.05.2013 and daily Express dated 08.12.2013 also. There is a statement dated 31.08.2013 present on the record, according to which the appellant admitted that she did not perform her duties and submitted her apology and request for a chance by stating that if in future she was not dutiful, she might be proceeded against under law and that she would not appeal against that. Despite all the notices and her statement in writing the appellant did not try to mend her ways and still absented herself from duty.

- 9. In view of the above discussion, we are satisfied that the department has acted in line with the given law and rules. The appeal is thus groundless, and therefore, dismissed. Parties are left to bear their own costs. Consign.
- 10. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 5<sup>th</sup> day of October, 2022.

(KALIM ARSHAD KHAN) Chairman

Member (E)

#### Service Appeal No. 1290/2019

Mst. Nustrat Sultan

- 1. Mr. Muhammad Tasleem Khan Kaloch, Advocate for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Shah Wali Ullah, Assistant for respondents present. Arguments heard and record perused.
- Vide our detailed judgement containing 04 pages, we have arrived at a conclusion that the appellant was appointed Primary School Teacher in District Kohistan Upper. Record further provides that during inspection, the inspection team found the appellant absent w.e.f 9/2013. She was required to submit her written reply within ten days but till 30.10.2013, she did not submit any reply. A show cause notice was issued to her on 01.02.2013; another notice on 31.10.2013, followed by a third notice on 15.01.2014. During that period a notice for personal hearing was also issued on 03.06.2013. Record shows that notices were issued through registered post on her home address. It further indicates that notices were issued in the daily Aaj dated 04.05.2013 and daily Express dated 08.12.2013 also. There is a statement dated 31.08.2013 present on the record, according to which the appellant admitted that she did not perform her duties and submitted her apology and request for a chance by stating that if in future she was not dutiful, she might be proceeded against under law and that she would not appeal against that. Despite all the notices and her statement in writing the appellant did not try to mend her ways and still absented herself from duty. In view of the above discussion, we are satisfied that the department has acted in line with the given law and rules. The appeal is thus groundless, and therefore, dismissed. Parties are left to bear their own costs. Consign.
- 9. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 5<sup>th</sup> day of October, 2022.

(KALIM ARSHAD KHAN) Chairman

Member (E)

22<sup>nd</sup> July 2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Shah Wali Ullah, Computer Operator for the respondents present. Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the case. Adjourned To come up for arguments on 23.09.2022 before D.B at camp court Abbottabad.

(Salah Ud Din) Member (Judicial)

(Kalim Arshad Khan) Chairman Camp Court Abbottabad

23<sup>rd</sup> Sept 2022 Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Arguments heard. To come up for order on 05.10.2022 before D.B at principal seat Peshawar.

(Fareeha Paul) Member (Executive) (Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

18.01.2022

Learned counsel for the appellant present. Mr. Shah Wali Ullah, ADEO (Litigation) alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and sought time for submission of written reply/comments. Adjourned. To come up for written reply/comments on 17.03.2022 before S.B at Camp Court Abbottabad.

(Salah-ud-Din) Member (J) Camp Court A/Abad

17.03.2022

Due to retirement of the Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned for the same before on 19.05.2022

19.05 2022

Counsel for the appellant present. Mr. Naseer Uddin Shah, Assistant Advocate General for respondent present.

Written reply/comments on behalf of the respondents submitted which is placed on file. A copy of the same is also handed over to the learned counsel for the appellant. To come up for rejoinder as well as arguments before D.B at camp court Abbottabad on 22.07.2022.

Fareeha Paul Member (E) Camp Court, Abbottabad 16.11.2021 -

Appellant present through counsel.

A request for adjournment was made in order to further prepare the brief. Opportunity is granted. To come up for preliminary hearing on 30.11.2021 before S.B at Camp Court, Abbottabad.

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

30.11.2021

Learned counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration, hence the appeal is admitted to regular hearing subject to all legal objections including the question of limitation. The appellant is directed to deposit security and process fee within 10 days, where-after notices be issued to the respondents for submission of written reply/comments on 18.01.2022 before the S.B at Camp Court Abbottabad.

Appellant Deposited Secure à Process Fee

> (Salah-Ud-Din) Member (J)

Camp Court Abbottabad

16.06.2021

Due to cancellation of tour, Bench is not available. Therefore, case is adjourned to 01.10.2021 for the same as before.

Reader

01.10.2021 Appellant present through counsel.

He made a request for adjournment in order to get the copy of judgment delivered by Larger Bench of this Tribunal regarding the issue of retrospectivity of punishment. Last chance is given. To come up for preliminary hearing on 16.11.2021 before S.B at Camp Court, Abbottabad.

(Rozina Rehman)

Member (J)

Camp Court, A/Abad

Due to Covid-19, case is adjourned to 15.03.2021 for the same as before.

Reader

15.03.2021

Appellant present through counsel.

A request for adjournment was made by learned counsel for appellant as issue involved in the instant case is pending before Larger Bench of this Tribunal. Adjourned. To come up for preliminary hearing on 16/06/2021 before S.B at Camp Court, Abbottabad.

(Rozina Rehman) Member (J) Camp Court, A/Abad 20.01.2020

Clerk to counsel for the appellant present and seeks adjournment as learned counsel for the appellant is not available. Adjourn. To come up for preliminary hearing on 21.02.2020 before S.B at Camp Court Abbottabad.

Member

Camp Court, Abbottabad

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Due to covid ,19 case to come up for the same on  $\frac{19}{120}$  at camp court abbottabad.

Reader

Due to summer vacation case to come up for the same on 14/9/20 at camp court abbottabad.

14.09.2020

Mr. Tasleem Khan, Advocate for the appellant is present. He is seeking adjournment. Adjourned to 18.12.2020. File to come up for preliminary hearing before S.B at Camp Court, Abbottabad.

(Muhammad Jamal Khan) Member

Camp Court Abbottabad

#### Form- A

#### FORM OF ORDER SHEET

Court of	
Case No	1290/ <b>2019</b>

Case No	1290/ <b>2019</b>
Date of order proceedings	Order or other proceedings with signature of judge
2	3
08/10/2019	The appeal of Mst. Nusrat Sultan resubmitted today by Mr. Muhammad Tasleem Khan Kaloch Advocate may be entered in the
	Institution Register and put up to the Worthy Chairman for proper order please.  REGISTRAR  This case is entrusted to touring S. Bench at A.Abad for
	preliminary hearing to be put up there on 22_1/-2019  CHAIRMAN
	Learned counsel for the appellant present.  The present service appeal appears to be hopelessly e barred.
pre	Learned counsel for the appellant seeks adjournment preliminary arguments. Adjourn. To come up for liminary arguments on 20.01.2020 before S.B at Camp art, A/Abad.
	Member Camp Court, A/Abad
	Date of order proceedings  2  08/10/2019  11.2019  time for pre

The appeal of Mst. Nusrat Sultan PST GGPS Chuchang District Kohistan received today i.e. on 01.10.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexure-A of the appeal is illegible which may be replaced by legible/better one.
- 2- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal may be attested.

No. 1677 /S.T,
Dt. 1-10- /2019.

REGISTRAR ~ SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Muhammad Tasleem Khan Kaloch Adv. High Court at Mansehra.

Sir,

(1) = objection removed

(2) - No charge sheet I show cause notice was served to the appellant therefore same is not available.

a objection removed.

#### BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

In Re: Service appeal No. 1990 of 2019

Mst. Nusrat Sultan ...... Appellant

#### **VERSUS**

#### **SERVICE APPEAL**

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S#	Particulars of documents	Annexure	Pages
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2	Application for condonation of delay.	••••	6-8
3	Correct addresses of the parties.	••••	9
4	Copy of the appointment order.	"A"	10-11
5	Copy of the pages of attendance register.	"B"	12-21
6	Copy of the impugned removal order.	"C"	22
7	Copy of the departmental appeal.	"D"	23
8	Wakalat Nama.	•••••	24

Dated 17.09.2019

Nuse at Bibj Mst. Nusrat Sultan

...Appellant

Through

MUHAMMAD TASLEEM KHAN KALOCH Advocate High Court, At Mansehra.

#### BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

In Re: Service appeal No. 1290 of 2019

PST GIGIPS CHUCHANG

VERSUS

Diary No. 1333 Dated 01 10 20/9

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar.

- 2. Director, Elementary and Secondary Education, Government of Khyber Pakhtunkhwa, Peshawar.
- 3. District Education Officer (F) Kohistan Upper.

Registrat.

Re-submitted to -day

Registrar 2 10 10 **SERVICE APPEAL UNDER SECTION 4 OF** THE **KHYBER PAKHTUNKHWA** SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED OFFICE ORDER NO.273-78 DATED 12.02.2014 OF THE OFFICE OF **DISTRICT EDUCATION OFFICER (F)** KOHISTAN UPPER, WHEREBY THE APPELLANT HAS BEEN AWARDED MAJOR PENALTY OF REMOVAL FROM **SERVICE** WITHOUT ANY **INQUIRY** 



# INTENDING OF OPPORTUNITY BEING HEARD WITHOUT AND BEYOND TO THE LAW SUCH CONDUCT OF THE RESPONDENTS IS VOID-AB-INITIO.

#### PRAYER: -

On acceptance of the instant appeal, the impugned order dated 12.02.2014 of removal of the appellant being void and illegal may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits.

#### Respectfully Sheweth!

1. That, the appellant was appointed as PST teacher in GGPS Bari Shah Kohistan on dated 31.10.1997.

(Copy of the appointment order is annexed as annexure "A").

- 2. That, the appellant performed her duty with great zeal and devotion, sincerity and to the entire satisfaction of her superiors for long time of period since 1997.
- 3. That, the appellant joined the service and resume her duties and mark her attendance in attendance register used to be in custody of respondent No.4.

## (Copy of the pages of attendance register are annexed as annexure "B").

4. That, the respondent No.3 without any legal and codal justification allegedly issued impugned order dated 12.02.2014 vide which the appellant's services were removed.

## (Copy of the impugned removal order is annexed as annexure "C").

order, the appellant filed the departmental appeal before respondent No.2 on dated 05.03.2014 however, the same is pending and not communicated to respondent No.3 nor the appellant.

## (Copy of the departmental appeal is annexed as annexure "D").

6. That, feeling aggrieved from the impugned order, the appellant filed this service appeal on the following grounds, inter alia: -

#### **GROUNDS**

a. That, the impugned order of removal from service is against the law, facts and principle of natural justice.

- That, the impugned order is against article
   10-A and 25 of the Constitution of Islamic
   Republic of Pakistan, 1973.
- c. That, the appellant was never been proceeded in accordance with the spirit of law, no inquiry whatsoever has been conducted and proceeded.
- d. That, the appellant has been condemned unheard as no opportunity of defense or personal hearing has been provide to the appellant.
- e. That, no charge sheet, statement of allegation or final show cause notice has been issued nor did any regular or fact finding inquiry has been conducted which is mandatory under the law before awarding major or minor penalties.
- f. That, the impugned order has been issued with retrospective effect which is against the law and a void order.
- g. That, the alleged allegations of absence from duty by the respondents is totally wrong and without any fact.
- h. That, the appellant is jobless since then and the whole family of the appellant face miserable condition.
- i. That, the appellant seeks permission to advance other grounds during course of arguments.

(5)

### .....PRAYER.....

#### It is, therefore, most humbly

prayed that on acceptance of the instant appeal, the impugned order dated 12.02.2014 of removal of the appellant being void and illegal may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits.

Dated 17.09.2019

Mst. Nusrat Sultan

.Appellant

Through

MUHAMMAD TASLEEM KHAN KALOCH Advocate High Court, At Mansehra.

#### **AFFIDAVIT**

I, Mst. Nusrat Sultan wife of Muhammad Tanveer resident of village Chuchang, Tehsil Dassu District Kohistan presently at Fauji Foundation, Tehsil and District Mansehra, appellant, do hereby solemnly affirm and declare on oath that the contents of the foregoing appeal are true and correct and nothing has been concealed from this Honourable Court.

Dated 17.09.2019

Mst. Nusrat Sultan (DEPONENT)



#### BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

#### **VERSUS**

#### **SERVICE APPEAL**

### APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth!

#### Applicant submits as under: -

- 1. That, the appellant is filing the accompanying appeal, the contents of which may graciously be considered as integral part of the instant petition.
- 2. That, the appellant has brought a good prima facie case and balance of convenience also lies in favour of the appellant.

- 3. That, the valuable rights of re-instatement in service of the appellant as PST Teacher are involved.
- 4. That, delay in filing the accompanying appeal is not deliberate nor was in control or reach of the appellant being laymen but was due to non-communicate by respondent No.2 and department till to date told the appellant should wait for reinstatement.
- been issued with retrospective effect which is void order and according to this Honourable Tribunal full Bench judgment titled Rahim-ud-Din Vs. IG police and others appeal No.562/2016 decided on 02.03.2018 and many other judgments Shoukat Ali Vs. SPFRP Mulakhel region and others appeal No.957/2019 decided on 07.12.2017 etc. delivered that retrospective order is void order and no limitation shall run against the void order.
- 6. That, the apex Supreme Court of Pakistan held in various judgments that the cases shall be decided on merits rather then technicalities.
- 7. That, the appellant shall suffer irreparable loss if the delay is not condoned.



.....PRAYER....

It is, therefore, most humbly prayed

that on acceptance of the instant petition, the delay in filing the appeal may graciously be condoned on humanitarian grounds as well and may very magnificiously be decided on its merits in the interest of justice.

Dated 17.09.2019

Www. Nusrat Sultan

Appellant

Through

MUHAMMAD TASLEEM KHAN KALOCH Advocate High Court, At Mansehra.

#### **AFFIDAVIT**

I, Mst. Nusrat Sultan wife of Muhammad Tanveer resident of village Chuchang, Tehsil Dassu District Kohistan presently at Fauji Foundation, Tehsil and District Mansehra, appellant, do hereby solemnly affirm and declare on oath that the contents of the foregoing appeal are true and correct and nothing has been concealed from this Honourable Court.

Dated 17.09.2019

Mussaf Bib Mst. Nusrat Sultan (DEPONENT)

Pale: Hoars et 12

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#### BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

#### **VERSUS**

#### SERVICE APPEAL

#### **CORRECT ADDRESSES OF THE PARTIES**

#### **APPELLANT**

Mst. Nusrat Sultan wife of Muhammad Tanveer resident of village Chuchang, Tehsil Dassu District Kohistan presently at Fauji Foundation, Tehsil and District Mansehra.

#### RESPONDENTS

- 1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Civil Secretartiat Peshawar.
- 2. Director, Elementary and Secondary Education, Government of Khyber Pakhtunkhwa, G.T Road Firdos Peshawar.
- 3. District Education Officer (F), D.C colony Kohistan Upper,

4. Head Teacher Government Girls Primary School Chuchang District Kohistan Upper.

Dated 17.09.2019

Through

MUHAMMAD TASLEEM KHAN KALOCH Advocate High Court,

Mst. Nusrat Sultan

**M**...Appellant

At Mansehra.

#### NOTHICATION

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MS & CONDITIONS:-

Shu will be governed by such rules and regulations as many productional by this Government trains to have ter the Her survice will be liable to telimination on due month natical [confuntor side in case of fosignation without notice one month pay will be fortified in library model.

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inan a reliable person of the conclused concolined concolined to page Departmental Exame: In case of candidate fall to the chall be on probable for a period of two yells have to page Departmental Exame: qualitying Dopurtinontal Examination and will be given one more change. If the fail again than her entered will be demonstrated and arrival availability of trained teacher.

terromature on arrival/availability of trained eacher. Her Original certificate should be checked & verified from the concerned Bould/College before handing over

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Service Book of the teacher must be prepared complicited in all respect before transling over charge. The SDEO(F)

The de Andrew of august should he attributed their that annualities and placed on inches. She is required to produce her Health find Ag. (Conficence from modern authority concerned before the agreement

Charge should not be govern to the over age candidate. Her case for upper age relaxation should not be sent to the concerned quarter.

Efforts for transfer before the completion of tenure will disqualify from the service. . . .

No. TAVDa etc. is allowed to any ond. .

An undertaking shall be obtained form Master & Degree Holder PTC that they will be served the Department for all 13. 14.

In case of parson appointed as an up rained tracher will have to pass the requisite training Examination within a

period of 4 years failing which warving will be terminated.

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	P/S to Secretary to Government of NVMFP Education Double, Postawar
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Director Printing Education NWH! District Accounts Officer Kaleston

Sun Divisional Education offices (Company Konislen at Platton,

Candidata Concerned

O O. File.

9811-1080

DISTRICT ROUGETON: MALE PRESENT REALAND

#### OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PRIMARY KOHISTAN

#### **NOTIFICATION**

Consequent upon the Section (VII Departmental Selection Committee) District Education Officer (Male) Primary Kohistan has been pleased to appoint the following un-trained (Female) out district candidates in BPS-7 (Rs. 1400/- PM fixed) plus usual allowances as admissible under the rule with effect from the case of their taking over charge against the vacant PTC posts noted against each name with the following terms and conditions: -

S.No	Name & father name	Residence	Place of posting	Remarks
1.	Hasrat Nosheen d/o Waras	Mansehra	GGPS Taria	ANC Post
	Khan			
2.	Tehmina Bibi d/o Abdul	-do-	GGPS Pashol	AV Post
	Ghani			
3.	Rizwana d/o Hakim Khan	-do-	GGPS Kuz Purwa	ANC Post
4.	Haseena Bibi d/o Omer	-do-	-do-	ANC Post
	Khan			
5.	Momina d/o Momin Khan	-do-	GGPS Pashot	ANC Post
6.	Lal Phool Bibi d/o Wali	-do-	GGPS Bush	AV Post
	Rehman			
7.	Bakht Bibi d/o Royan	-do-	GGPS Puro Bala	ANC Post
	Ahmed			*
8.	Bibi Amna d/o Samad	Shangla	-do-	ANC Post
	Khan			
9.	Basmina d/o Noor Wah	Mansehra	GGPS Sogayoon	ANC Post
10.	Gul Nazar d/o M. Qayyum	Peshawar	-do-	-do-
11.	Durght Shaheen d/o Momin		GGPS Karo Ser	-do-
12.	Azan Begum d/o M. Ashraf	Swat	-do-	-do-
<b>13</b> .	Asal Tubassam d/o M.	Bella	GGPS Moreen	AV Post
	Ashraf			
14.	lmtiaz Bibi d/o Mehmood	Mansehra	GGPS BK Ranolia	AV post
	Rehman			
15.	Nobina Naz d/o Moh'd	Swat	GGPS Samad	-do-
	Razaq	 	Abad	
16.	Nazak Bibi d/o M. Hakeem	Puran	-do-	-do-
17.	Nusrat Bibi d/o Sultan	Oghi	GGPS Bari Shaha	-do-
	Mohd			
18.	Sofia Bibi d/o M. Ilyas	Attar	GGPS Pashot	-do-
		Shisha		
19.	Ghazan Pervin d/o	Battal	GGPS Shaha	-do-
20	Muzaffar Khan	1/1- 4 4	00000	
20.	Sher Bano d/o Daridoon	Khankl	GGPS Charlo	-do-
21.	Semu Rehman d/o Saif-Ur- Rehman	Bher Kund	GGPS Moreen	ANC Post
22.	Razhat d/o Katoor Khan	S. Sharif	-do-	-do-
23.	Sajida Rehman d/o Gohar	Oghi	GGPS Bala	-do-
	Rehman	]	Gadoon	
24.	Ghazala Bibi d/o	Khanklo	GGPS Chudo	AV Post
	Muhammad Khan			
25.	Shufa Bibi d/o M. Yousaf	Zungor	GGPS Bail	ANC Post
	·		Gadoon	
26.	Nazia Bibi d/o Abdul Ghafoor	ł	The state of the s	

27.	Furlofar d/o Hazrat Bilal	Swat	GGPS Khalo Abad	-do-
28.	Cat Bano d/o Hazrat Bilal	Seo	GGPS Ban Seri	-do-
29.	Shamim Akhtar d/o Marawar Gul	Swat	GGPS S. Gull	AV Post
30.	Kosar Bibi d/o M. Abdul Qayyum	Mansehra	GGPS Joshal	AV Post
31.	Badrun Nisa d/o M. Razaq	Rawalpindi	GGPS S. Dong	AV Post
32.	Saira Bibi d/o Abdul Khaliq	Havelian	GGPS Taris	ANC Post
33.	Tazim Bibi d/o Mehboob Khan	Mansehra	GGPS Shaha	AV Post
34.	Ishrat Begum d/o Nasrullah	Kurank	GGPS S. Joshi	AV Post
35.	Shazia Sadiq d/o Abdur Rehman	Peshawar	GGPS S. Dong	AV Post
36.	Naz Bibi d/o Darvesh Khan	Abbottabad	GGPS Kanoi	-do-
37.	Anis Bibi d/o Munawar Khan	-do-	-do-	-do-
38.	Dilshad Begum d/o Taj Muhammad	Swat	GGPS Jareen	ANC Post
39.	Hayat Begum d/o Saman Khan	-do-	GGPS Kuch Ban	AV Post
40.	Sadia Nahid d/o Murtaza Khan	-do-	GGPS Yanjool	-do-
41.	Daftar Bibi d/o M. Ibraheem	-do-	-do-	-do-
42.	Shaista Zeb d/o Jahan faraz	-do-	GGPs Puri	ANC Post
43.	Saeeda Bibi d/o Adamsaz Khan	Battagram	GGPS Tarken	AV Post
44.	Nighat Sultana d/o M. Iqbal	-do-	-do-	-do-
45.	Bakht Qamar d/o Sardar	Dubair	GGPS Agro	ANC Post
46.	Rashida Bibi d/o Miandad	Sherpur	GGPS Enl	-do-
47.	Tarooq Begum d/o Ayaz Mahmood	Swat	GGPs Allai	-do-
48.	Khaista Habib d/o Motabar Rehman		GGPS Hari	-do-
49.	Nusrat Begum d/o Ghafoor Khan	Chakaiser	-do-	-do-
50.	Nosheen d/o Maheen	Bandi sadiq	GGPS Domtair	-do-
51.	Musarat d/o Wazir Khan	Alooch	GGPS K. Banda	-do-
52.	Ayesha d/o Abdur Rehman	Dogi	-do-	-do-
53.	Zainat Begum d/o Gul Ahmed	Oghi	GGPS Suri Dara	AV Post
54.	Shazia Gulzar d/o Gulzar Khan	Oghi	GGPS Bar Bak	-do-
55.	Zainab Bibi d/o Abdul Manaf	Swat	GGPS Amba Sair	ANC Post
56.	Badarsha Gul d/o Awais Khan	Battagram	GGPS Ambarsair	-do-
57.	Shazia Naz d/o Rahim Khan	-do-	-do-	-do-
58.	Bibi Mehnaz d/o Abdur Razaq	Bandi Sadiq	GGPS Seo Vill:	AV Post
59.	Farida d/o Khalil-Ur- Rehman	Dargai	GGPS Haider Abad	ANC Post
60.	Haseena Akhtar d/o Aurangzeb	-do-	GGPS Taikun	AV Post

61.	Rehman Bibi d/o Ajmeen Khan	Alpuri	GGPS Taikan	-do-
62.	Kran Bibi d/o Habib Rehman	Swat	GGPS Razeka	-do-
63.	Shahida Bibi d/o Junaid	Swat	GGPS Razeka	-do-
64.	Zainab Bibi d/o M. Yousaf	Haripur	GGPS Bush	-do-
65. ·	Shazia Sultana d/o Abdul Awais	Darband	-do-	, -do-
66.	Bibi Farhad d/o Gulzaman	Khaki	GGPS Domiser	ANC Post
67.	Nahida Parveen d/o Said Din	Oghi	GGPS Ranolia	AV Post
68.	Shamim Begum d/o Gul Khan	Swat	GGPS Bagro	-do-
69.	Tabassum Gul d/o Anab Khan	Oghi	GGPS Siglo	-do-
70.	Awais Khatoon d/o M. Usman	Rawalpindi	GGPS Bar Dahar	-do-
71.	Naheed Begum d/o M. Rehman	Shangla	-do-	-do-
72.	Shamim d/o Gul Shahzada	Pundo	GGPS Kaloo Abad	ANC Post
73.	Andleeb d/o Chaman	Swat	-do-	-do-
74.	Dilshad Bibi d/o Shams-Ur- Rehman	-do-	GGPS Majwar Abad	AV Post
75.	Ani Asma d/o Abdul Razaq	Oghi	GGPS Dookh	-do-
76.	Zubeda Parveen d/o Taj Muhammad	Swat	GGPS Maidan	-do-
77.	Wali Begum d/o Hakeem Khan	Mansehra	GGPS Maidan Kalal	-do-
· 78.	Talha Begum d/o Hayat-Ul- Haq	Swat	GGPS Dat	-do-
79.	Gulwais d/o Syed Badshah	Swat	GGPS Pataghun	-do-
80.	Chakro d/o Afsar Khan	Battagram	GGPS Shokser	-do-
81.	Taj Mahal d/o Aultan Ahmed	Swat	-do-	-do-
82.	Shazia d/o Abdullah Khan	Swat	GGPS Behram Abad	-do-

#### **Terms & conditions**

- 1) She will be governed by such rules and regulations as may be prescribed by the government from time to time for the category of government servant which they belongs.
- 2) Her services will be liable to termination on one month notice from neither side in case of resignation without notice one month pay will be forfeited in lieu thereof.
- 3) She should join the post within one month of the issue of this Notification.
- 4) Her seniority will be determined in accordance with the merit of departmental selection committee.
- 5) Charge report should be submitted to all concerned specially to DEO(M) Primary School charge should to be taken from notable person of the concerned school.
- 6) She shall be on prohibition of period of 2 years have pass departmental exam, in case of candidates fails to qualifying departmental examination will be given one more chance, if she fail again then her services will be terminated on arrival availability of trained teacher.

- 7) Her original certificate should be checked and verified from concerned board/college before handing over charge.
- 8) Service Book of the teacher must be prepared completed in all respect before handing over charge that SDEO(F) take charge of it.
- 9) The declaration of assets should be obtained from immediately and placed on record.
- 10) She is required to produce her health and age certificate from Medical authority concerned before taking over charge.
- 11) Charge should not be given to the above age candidate her case for upper age relaxation should not be sent to the concerned quarter.
- 12) Efforts for transfer before the completion of tenure will disqualify from the service.
- 13) NO TA/DA etc is allowed to any one.
- 14) An undertaking shall be obtain form Master and Degree Holder PTC that they will be served the Department for at least five years.
- 15) In case of person appointed as an un-trained teacher will have to pass the requisite training examination within a period of 4 years failing which services will be terminated.
- 16) The SDEO(F) is hereby directed to draw pay of above teachers, after clearance of observation on the newly created posts from the approval of NWFP Education Department.

Sd/-SAEED AHMED DISTRICT EDUCATION OFFICER (MALE) PRIMARY KOHISTAN

Ensdt. No. 984-1080

**Dated Kohistan 31.10.1997** 

Copy of the above is forwarded to the: -

- 1) P/S to Secretary to Government of NWFP Education Department, Peshawar.
- 2) Director Education Primary Education NWFP Peshawar
- 3) District Accounts Officer Kohistan
- 4) Sub-Divisional Education Officer (F) Primary Kohistan at Pattan3
- 5) Candidate concerned.
- 6) 0.0. File.

Sd/District Education Officer
(Male) Primary Kohistan

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رجسٹر حاضری مدرسین

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### FFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) KOHISTAN Phone & Fax# 0998-407225

#### NOTIFICATION

Whereas the disciplinary proceedings were initiated against Mst; Nusrat Sultan PST GGPS Chuchang District Kohistan, under the provisions of Khyber Pukhtunkhwa, (EED) rules 2011, on accounts of willful absence from duty.

Whereas a committee was constituted for enquiry, the enquiry committee conducted enquiry and submitted report. According to the enquiry report, the charges against the accused teacher were proved and recommended for imposition of major penalty.

Whereas final notice through press Daily Express on 08/12/2013 at erved upon you.

5.No.05, has been served upon you.

01-10-2019

Whereas a chance were given to you vide this Office letter dated 15/1/2014 to your home address for personal hearing, but no response/reply received to this Office at your end.

Now therefore, in exercise of the powers conferred upon me being competent authority under the (E&D) rules ibid, I hereby order the imposition of major penalty to the extent of Removal from service to Mst; Nusrat Sultan PST GGPS Chuchang District Kohistan, w.e.f. from 01/09/2013 i.e the date of report.

> District Education Officer (Female) Kohistan

Endst: No 273-78/Dated Kohistan the 12 Copy forwarded for information and necessary action to the:

Director E&SE Khyber Pakhtunkhwa, Peshawar. 2.

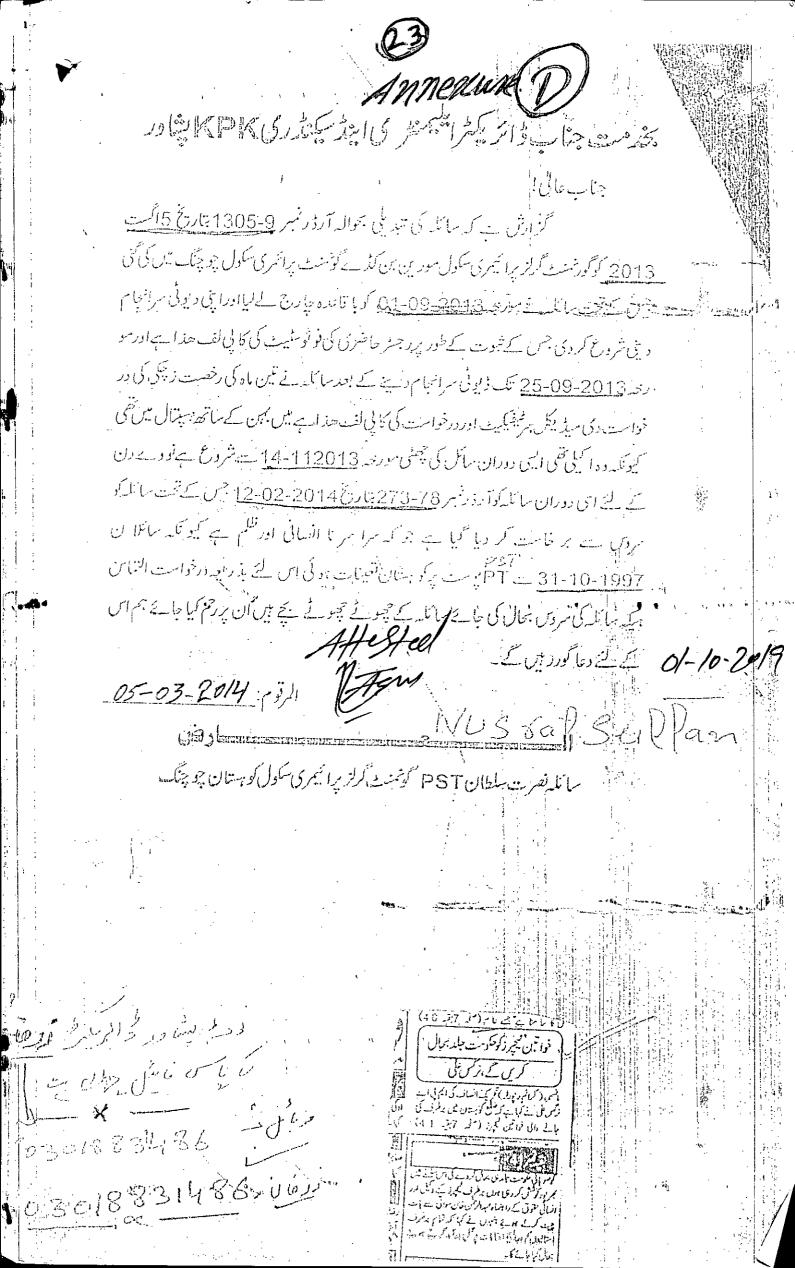
Deputy Commissioner Kohistan. 3.

District Account Officer Kohistan 4.

Deputy District Education Officer (Female) Kohistan Sub-Divisional Education Officer (Female) Kohistan 5.

Teacher Concerned. Ó.

> ducation Officer (Female) Kohistán



اید کید: گونی ایش میر بخونخواه بارانس ایسوی ایش میر بخونخواه را بارا بسوسی ایش میر بخونخواه را بارا بسوسی ایش میر بخونخواه در بارا بسوسی ایش میر بیر بخونخواه در بارا بسوسی ایش میر بیر بخونخواه در بارا بسوسی ایش میر بیر بیر بیر بیر بیراند بارا بسوسی ایش میر بیر بیر بیر بیراند بارا بسوسی ایش میر بیر بیراند بارا بسوسی ایش میر بیر بیراند بارا بسوسی ایش میر بیراند بارا بسوسی ایش میر بیراند بارا د بارا باراند بارا بیراند باراند بارا بیراند باراند باراند باراند بارا باراند 
بعداك جناب: خِرِدُنتو كُنور م مرحى مر ميدونل شاور

منجاب: ما حمير / رسير ندم	دعوىٰ:
iluje	علت ثمبر:
بنام	مورد في جرم:
حومت حرد لا تو او	تفانه المستعدد

باعث تحرير آنكه

نوك:اس دكالت نامه كي فوٹوكا في نا قابل قبول ہوگی۔

### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR. (CAMP COURT ABBOTTABAD)

#### APPEAL No.1290 OF 2019

Mst. Nusrat Sultan		Appellant
Mist. Mustat Sultan	•	Appenant

#### **VERSUS**

- 1. Govt of Khyber Pakhtunkhwa through Secretary Elementary Secondary Education KPK Peshawar
- 2. Director Elementary & Secondary Education KPK Peshawar
- 3. District Education Officer (Female) Kohistan Upper

Respondents

#### PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3.

#### **INDEX**

S#	Particulars of documents	Annexure	Pages
. 1	Comments along with affidavit		1-5
2	Copy of explanation ,show cause notices and personal hearing etc	"A"	6-17
3	Copy of Removal order	"B"	18
4	Copy of Newspaper Cutting of her absence notice	"C"	19-27

Dated 10 -03-2022

Respondent No. 3
District Education Officer,

(Female) Kohistan Upper

### SEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR. (CAMP COURT ABBOTTABAD)

#### APPEAL No 1290 OF 2019

Mst. Nusrat Sultan		Appellant
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#### **VERSUS**

- 1. Govt of Khyber Pakhtunkhwa through Secretary Elementary Secondary Education KPK Peshawar
- 2. Director Elementary & Secondary Education KPK Peshawar
- 3. District Education Officer (Female) Kohistan Upper

Respondents

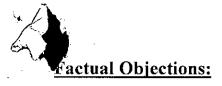
#### PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3.

#### Respectfully Sheweth:

- I. That the appellant did not come to this Honorable Tribunal with clean hands.
- II. That the appellant has got no cause of action /locus standi to file the Instant appeal
- III. That the appellant is estopped to sue through his own conduct.
- IV. That the present appeal is not maintainable due to non-joinder and mis-joinder of necessary parties.
- V. That the appellant has concealed the material facts from this Honorable Tribunal, hence appeal is liable to be dismissed without any further proceeding.
- VI. That the appellant has already been removed from Service after

  Completion of all codal formalities vide order dated 12/02/2014, hence

  Appeal is liable to be dismissed.
- VII. That the appeal is time bared hence not maintainable and liable to be Dismissed.



- 1. Correct, pertain to the appellant personal record need no comments
- 2. Incorrect strongly denied that the appellant reported absent from duty issued explanation to her after that—show cause notice was served to the appellant on their home address no reply received then the respondent issued final show cause notice to the appellant on receiving not satisfactory reply the appellant was called for personal hearing but the appellant did not satisfy the respondent the appellant did not performed her duty in school and proved unauthorized absent from her duty.

(Copy of explanation, show cause notices is annexed as annexure-A).

3. Incorrect strongly denied that the appellant make a fake and bogus attendance on register and did not performed her duty in the school. Show cause notice was served to him and no reply was found a chance of personal hearing was also provided to the appellant in which his willful absence was proved and did not satisfied the respondent hence the appellant was removed from service under the efficiency & disciplinary rules 2011 by following the codal formalities vide Endstt: No. 273-78 dated 12-02-2014.

#### (Copy of removal order annexed as annexure-B)

4. Incorrect strongly denied that the competent authority issued removal by following all codal formalities, show cause notice as well as final show cause notice was served to the appellant and also given notice in the leading newspaper but the appellant did not comply the order and did not performed her duty at their school.

#### (Copy of Newspaper Cutting is annexed as annexure-C)

- 5. Incorrect strongly denied that the appellant did not file the departmental appeal against the impugned order dated 12-02-2014 and no diary or dispatch No and date has been mentioned found fake & bogus.
- **6.** Strongly denied that the appellant is not eligible to seek extra ordinary relief from this court hence need to dismiss her and the appeal is time barred.

- a. Incorrect, strongly denied that the appellant removed from service after fulfilling of all codal formalities as stated in Para 2 & 3 of factual objections.
- b. Incorrect, strongly denied the competent authority issued removal order by fulfilling all codal formalities a detailed reply has been given in Para No. 3 & 4 of Factual objections.
- c. Incorrect strongly denied that the appellant was provided a chance for personal hearing as well as issued her absence notice in the newspapers in which the allegation have been proved upon him as stated in Para 2,3 & 4 above of factual objections.
- d. Incorrect strongly denied that the appellant has provided the opportunity for self-defense and his absence was proved.
- e. Incorrect strongly denied the show cause notice was served to him as well as issued her absence in the newspaper after following the all codal formalities the appellant has been removed from service.
- f. Incorrect strongly denied that as stated in Para 2 & 3 above of factual objections.
- g. Incorrect strongly denied that the appellant was willfully absented himself from his School duty as stated in the above factual objection and show cause notice was served to him and also issued their absent notice to the newspaper by following all the codal formalities the appellant has been removed.
- h. No comments it relates to appellant personal record.
- i. That the respondents seek leave of this Honorable Court to raise additional grounds /points/records during the course of arguments.

It is therefore, in the light of above stated facts and circumstances, Very humbly prayed that appeal in hand may please be dismissed with cost.

12.1248 Respondent No. 3

District Education Officer,

& (Female) Kohistan Upper

DIRECTOR

**Elementary and Secondary Education** 

Khyber Pakhtunkhwa Peshawar

Elementary and Secondary Education

Khyber Pakhtunkhwa Peshawar

### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR. (CAMP COURT ABBOTTABAD)

#### **APPEAL No 1290 OF 2019**

Mst. Nusrat Sultan	 Appellant

#### **VERSUS**

- 1. Govt of Khyber Pakhtunkhwa through Secretary Elementary Secondary Education KPK Peshawar
- 2. Director Elementary & Secondary Education KPK Peshawar
- 3. District Education Officer (Female) Kohistan Upper

Respondents

#### PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3.

#### **AFFIDAVIT**

I, Mr. Shah Wali Ullah, Legal Representative on behalf of DEO (F) Kohistan Upper, is hereby solemnly affirm and declare that the contents of foregoing comments of the appeal No. 1290/2019 titled Mst. Nusrat Sultan versus Govt: of KPK are true and correct to the best of my knowledge and belief and nothing is being suppressed from the Honorable Court.

DEPONENT

HEE OF THE SUB DIVISIONAL EDUCATION OFFICER FEMALE PRIMARY

No 849-67

Dated 25/9 /2013



	<u> </u>	<u> </u>	1	<del>-,</del>			
SiN	Name	of Teachers/ Chowkidar	Post		Name of School	Absente e w.e.f.	Remarks
1	552833	Gul Bibi	PST	GGPS	Siral Shah Abad	9/2013	ASDEO Report
2	581080	Shamim Begum	PST	GGPS	Charagh Abad 🏕	4/13	-do-
. 3	499180	Said Sharafatunisa	PST	GGPS	Kahegah	9/2013	-do-
ė *	499133	Tabasam Naz	PST	GGPS	-do-	-do-	-do-
5	499207	Saira Batool	PST	GGPS	-do-	-do-	-do-
6	552851	Yasmeen Bibi	PST	GGPS	Afsar Abad	-do-	-do-
7	388436	Rehana Ayoub	PST	GGPS	Chuchang	-do-	-de-
8	347174	Hamida Sultan	PST	GGPS	-do-	-do-	-do-
9	347168	Nusrat Sultan	PST	GGPS	-do-	-do-	/ -do- /
10	388898	Gul Naba	PST	GCMS	Dassu	-do-	-do-
11	515776	Alia Jamil	PST	GGPS	Fareedoon	-do-	-do-
12	333034	Masreen ::	PST	GCMS.	Dassu	-do-	-do-
13	331958	Fozia Ambreen	PST	GGPS	Seo Village	4/2013	-do-
14	333093	Zakia Bibi	PST	GGPS	Ambuwa Jag	5/2013	-do-
15	552779	lfat Jabeen	PST	GGPS	Samad Abad	5/2013	-do
16	515790	Saima Sultan	PST	GCMS	Påttan	4/2013	-do-
17	499241	Zamrood Begum	PST	GGPS	Jag Dubair	9/2013	' -do-
18		Bainazeer	PST	GGPS	Village Haydar Khel		Charge has not been taken in new School uptil now.
19		Fehmida Akbar	PST	GGPS	Ghazi Abad		-do-

Subject:-

EXPLANATION.

Mema -

You are hereby called to explain your position that according to the inspection report of Assistant Sub-Divisional Education Officers female (inspection) District Kohistan during the month Date noted against each you willfully absent from your duty.

You are hereby directed to submit your written reply within 10 days of this Office, after issuing of this letter; otherwise Disciplinary action shall be taken against you.

\_/

Endst: No.

Copy of the above is forwarded to the:-

. District Education Officer Female Kohistan.

2. Assistant District Officers (F) Carle concerned

Sub Divisional Éducation Officer Æemale Primary Kohistan 

4			<b></b>				
	CPFICE OF THE	BUB DIVISION	IAL EDUCATION	OFTICER (	(F) DIOTE	MCT KORIST	MH,
,	No. 1043	/Dated	Kohistan th	ne3 <i>o</i>	10	/201	13.
	To				,		
ì		The District (F) District	Education ( Kohistan.	)fficer ,			
	Eubject:	EXFLANATION	REPLY.				
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	PST Female Te	echers Explan	ation reply	has not re	ceived i	n this off	ice.
	Expl: Name of	Cf. icials	Name of Sc	hocl Ci	rle me	Remarks.	
	O1. Gul Bibi O2. Robina A O3. Hamida S O4. Nusrat S	youb " " ultan/" "	GPS Seral Sh Chouchai do/	ng	K	Reply not	received
C	05. Gul Naba		CMS Dassu CPS Faridcon		n <	do	
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	off)	Carrier .	4/3	2013		,	
(2)	Mst.	Alia Jas	nit at	5.00. -1526 F	Tala	ready	

Ware initiated against Msc Tovisions of Knyber pukhtun



#### THE DISTRICT EDUCATION FEMALE KOHISTAN.

SHOW CAUSE NOTICE You the following have illegally committed serous irregularity remained willfully absent from your duties, and also explanation called from by Sub Divisional Education Officer Female Kohistan vide No. 386-482 dated 30/11/2012, but you have failed to explain your position within mentioned period. Your irresponsible attitude signify and tantamount to misconduct. Your long absence is the loss public interest and the teaching learning process and also against the service rules. Why not action should be taken against you under special ordinance 2000 or disciplinary action

1973 (F	temoval from Service).	Name of School	Remarks
S.No	Name of Teacher		
1	Near Sultana PST	GGPS Dag Pattan	<u>                                     </u>
$-\frac{1}{2}$	Rashida Nazir	GGPS Banjar Yanjool	
3	Farzana Rehman	GGPS Kanoi	
4	Sharafat Wahab	GGPS Kanoi	
5	Asima Saif	GGPS Shar Seo	<u> </u>
6	Gul Famir	GGPS Soyal Dong	
<del>-7</del>	Tahira Jabeen	GGPS Khat Kareen	
8	Sadia Bibi	GGPS Bela Dubair	
9	Farzana Farha	GGPS Darkilly	
10	Asia Taj	GGPS Dharo Bela	
11	Bibi Mukhtair	GGPS Dharo Bela	
12	Irshad Bibi	GGPS Suliman Abad	
13	Yasmin Gulab	GGPS Banil Dubair	
14	Hamida Sultan	GGPS Dharo Bela	
15.	Nusrat Sultan	GGPS Dharo Bela	
16	Saiga Rehman	GGPS Ghom Bair	
17	Shahnaz Afzal	GGPS Khat Kareen	
18	Samina Nazir	GGPS Soyal Dong	
19	Bibi Mubarka	GGPS Afsar Abad	
20	Sumira Begum	GGPS Zaraf Kot	

Your reply should be reached within 10-days after the issuance of this show cause Notice. The undersigned may also be aware in written either you want to be head in person did not response.

> District Education Officer (Female) Kohistan

Endstt: No 0/-20 Dated 0/-00 Copy of the above is forwarded to the:

- PA to Director E&SE Khyber Pukhtonkhuwa Peshawar. 1.
- Deputy Commissioner Kohistan. 2.
- District Accounts Officer District Kohistan. 3.
- Deputy District Education Officer (F) Kohistan. 4.
- Sub Divisional Education Officer (F) Kohistan. 5.
- A.S.D.E.Os circle Concerned 6.
- All Teachers concerned.

District Education Officer (Female) Kohistan



#### **SHOW CAUSE NOTICE**



I, Mr Khan Mohammad District Education Officer (Female) Kohistan, as competent authority, under the Khyber Pakhtunkhwa Government servants (Efficiency and Discipline) Rules 2011, do hereby serve you, Nusrat Sultan PST GGPS Chuchang, as follow:

(i) That consequent upon the recommendation of the committee for which you were given opportunity for defence.
 (ii) On going through the findings and recommendations of the committee, the material on record and other connected papers including your defence in the light of show cause issued in the daily news paper.

I am satisfied that you have committed the following acts /omissions specified in rule 3 of the said rules.

- a. You are willfully absent from duty w.e.f 01/09/2013 to up till now without any proper permission.
- b. In this regard you have already been served explanation /show cause on your home address which is available of this Office record and also issued final show cause in daily newspaper "express" on 08/12/2013 at s.No (5)
- c. You to satisfy the competent authority regarding your willful absence
- As a result thereof, I, as competent authority, have tentatively decided to impose upon you the major penalty up to the <u>Removal from service and recovery of pay of the</u> <u>absent period</u> under rule 4 of the said rules.
- 3. You are thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
- 4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

No 99 df 15-12014 competent Authority



#### SHOW CAUSE NOTICE



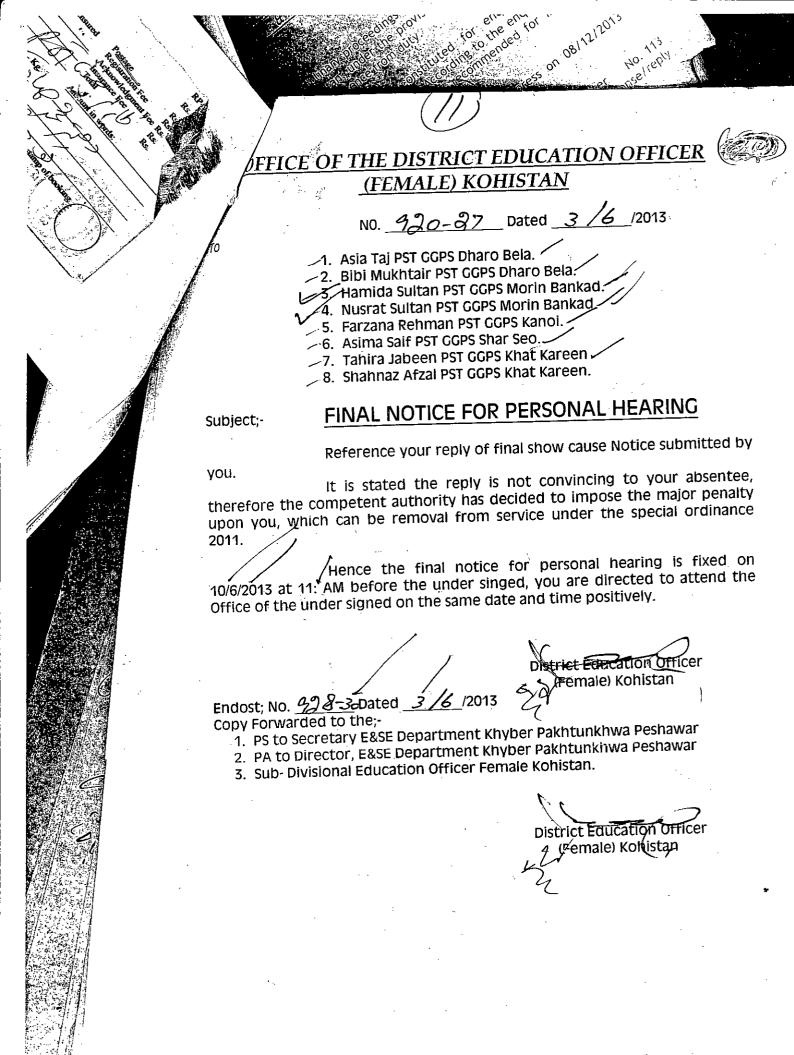


- I, Mr, Gul Rehman I/C District Education Officer (Female) Kohistan, as competent authority, under the Khyber Pakhtunkhwa Government servants (Efficiency and Discipline) Rules 2011, do hereby serve you, Mst; Nusrat Sultan PST GGPS Chuchang as follow:
  - A (1) ineitner submitted your reply of explanation in due time, nor joined your school duty up till now as per report of Sub Divisional Education Officer Female Kohistan.
    - (2) You are willfully absent from School duty from 1/9/2013 to up date, without any proper permission/ reason.
    - (3) In this regard you have already been served explanation on your address and also school address through ASDEO Female circle.
- B. As a result thereof, I as competent authority have tentatively decided to impose upon you the penalty of <u>Removal from Service</u> under rule 4 of the said rules.
- C. You are thereof, required to show cause as to why the aforesaid pound hand not be imposed upon you and also intimate whether you desire to be heard in person.
- D. If no reply to this notice is received within seven days or not more than (15) days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

No 1614 Duted 31-10-2013

District Education Officer (Female) Kehistan

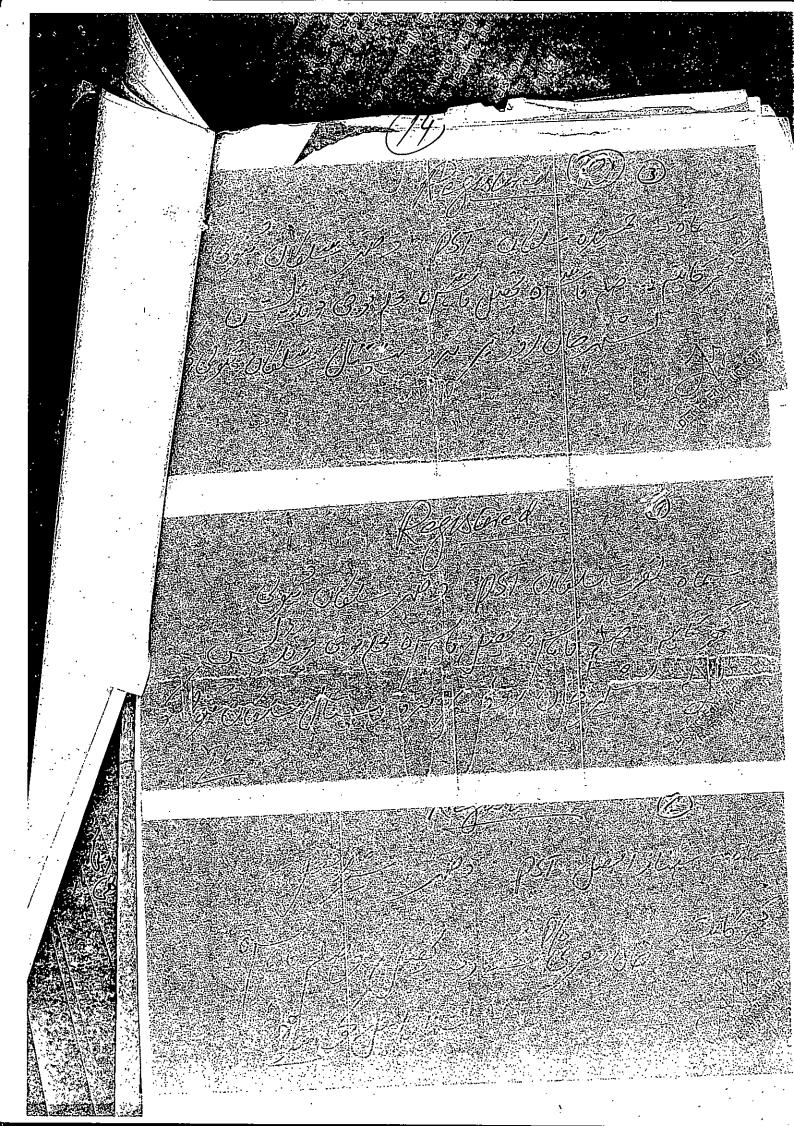
District Education Replication 26 M.



ذاتی ساعت 🖈 30bl - 11 شاختي كاردنمبر <u>2-21421 (82</u>8 نام کول گور فیند کو گرا زاد کا دستخط/انگونھا**ہ جاک** بلاگ ررنس الا دفير مين عافر ميولي المال قرم بيان دما يونم " مين ع با ما عا علاوه مر م في أن إسانا الم الم على ما الفرك الفرك ورف سه ماری موا عاص من ملا مه اور در (ندواری کمنی عطری بد کوی المدع ملا عا عماوم سوا لو مس في جوا- دوني برا مس جور وط ساكا اور المريز كيها مين ملهد كرويتي ميون كم مين كسى قسيرى كور كروي مين كوكاجي مين میں درواست کرا موں کہ جو حواف فرما کر رمید دفقہ عامن دیا عامل ناکم میں ا بن لفاری کرمکون / در لکوکم وسی بمون کم ا منده کسی فسیم ی کوئی کی بوالی فس كوي من ك نه ميه فلدف جو بعي قالن افدام ي نومين اسكافلدن ابراكا في بن اكو مرتب وار دما عاس ادر فزنوره غارش کی فاتی ہے ک ستبراع هي المول شوت بن ملايم/مين اسطاعتر عافرى كا إ وأر مبنون كا تنزل برراه والان مر رزر سنط عدى كالخا عا من عاده ارس ه وارنگ می جاری کردن کم مستقبل می کرد iv and . ولزن سون كوفال لو District Education Officer

(G)(G)

عير لمان عور المان عد لفر سلمان حفر المان روانور کا تعلق صل ماسری سے ہیں۔ بذریعے بنیر ماہ ی سجم بالم معدد حد المراء المار "دورام الح" إدر لعِنامہ مشرقے میں۔ اسٹ ہار دیا گیا تھا۔ جسے برقباحہ کے دھونے مامیہ قرانوائری المنير فقود كرديا كيا تحا او- انكوايزي آمنوك طرف سے پر الیونگ کے لعد مکر دور و اللہ مذکورہ L.O.P w 31 08 m 01 11 01 2012 اور ایک عدد انسرمین طر صاب کری O.E.O (زنام) م امن ارزر عاد - العرض المع مع المعلى المورض على المعرف ا of sie of for (1) be explamations is in eight لفتر المرس كالرسي و والم المرس و المرس و المرس و المرس و الم سے جاب نے دھنے ہروزکورہ کورٹوکازلوکی اوال 55 0 / sel 43 / 18 6 (18 2 / 18 / 18 ) (18 / 18 ) (18 / 18 ) (1/4) (1/4) (1/4) دوراره بواب م دینے بر کمیٹی جرسنے کے سے ارتا ک المردولار المار مير الغيرى لوقى حيا كما جوك - 11 1/2 mele 2/18 mely 1/2 me لقط، لوت سطان عابر العرفة المقد مسؤلفل الله عربية جوتم لف مع عبم عمره الطال نه كود



FFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) KOHISTAN

### NOTIFICATION

The Following Committee is hereby notified for the scrutiny of replies of Final Show cause notes in the daily news papers i.e. " Mashriq Peshawa on date 2/5/2013 and "Ajj" on 4/5/2013, received from the absent Female teachers mentioned in the above final show cause notice.

1. Gul Renman Deputy District Officer Female

chairman. Member

2. A.S.D.E.O Female respective circle

The committee is directed to call the said Female teachers for personal hearing and decided their cased and put-up to the undersigned for further necessary action on proper procedure.

The report may be submitted with in a week

positively.

District Education Officer (Female) Kohistan

Endost; No. 865-69 Dated 14/5 /2013 Copy Forwarded to the;

1. PS to Secretary E&SE Department Knyber Pakhtunkhwa Peshawar

2. PA to Director, E&SE Department Khyber Pakhtunkhwa Peshawar

3. Sub-Divisional Education Officer Female Kohistan.

4. ASDEO(Femala) Inspection Circles.

District Education Officer (Female) Kohistan





### Office of the District Education Office (Female) Kohistan Phone & Fax# 0998-407128

#### NOTIFICATION

The Following Committee is hereby notified for the scrutiny of replies of Show Cause Notice received from the absent (Female) teachers mentioned in the Scow Cause Notice issued vide this Office Endst: No: 01-28 dated 01/02/2013.

1. Deputy District Education Officer (F) Kohistan

Chairman Member

2. ASDEO(F) Inspection, Respective Circle.

The committee will ensure that:-

- 1. The replies are based on facts or otherwise.
- Put up recommendation for further process.

The report may be submitted with in a week positively.

District Education Office (Female) Kohistan

Endst: No 256-59 Dated Kohistan the 9 Copy forwarded for information and necessary action to the:

- 1. PA to Director E&SE Khyber Pakhtun Khwa, Peshawar.
  - District Account Officer Kohistan
  - 2. Deputy District Education Officer (Female) Kohistan
  - Sub Divisional Education Officer (Female) Kohistan.

Deputy District Education Officer (female) Kohistan

OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) KOHISTAN

## Committee Decision of Explanation against Absent Female Teachers

영화원보다					
	<u>On</u>	/	/2013		
Decision of Committee	3 1	Absent Peroid	School Name	<u>Name</u>	<u>s#</u>
من طور بر عندها و المراور اعنار من فاری بوان جوان ج موزا در کونوی فان فی کاروران	- مزبوره می مرکز ورکز میں کیا ہے میں لایا جا	79/13	جر فیل داسو	uld gra PS+	0
رلع دُور ی صور مرفی میوم مورلیا یک سے جو کہ مربئم ہے - میزا انداری	مراح مرا وگر فورد کا	9/29	ールー	jbl-jl	0
ر روسرها و روی جوار جو س ری رفت کاروای عمل میں دارا عارش	مراقع	13.	GLOWS.	Pst	3
		14/13	49PS 4005	فورندی می المجام	(g)
		19.	GCANS	گور سے موال م	E
Teacher is still absent from sco may be proceeded accordingly.	hool (	19	44PS 015 cer	PSJ - PSJ	6
Signature Chairman Commit		b. C3	and before of	The Prof.	3
oy: BEO(F)	4 2/6)	and the second	76.	My Control	

## 18

### OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) KOHISTAN Phone & Fax# 0998-407225

#### **NOTIFICATION**

Whereas the disciplinary proceedings ware initiated against Mst; Nusrat solution PST GGPS Chuchang District Kohistan, under the provisions of Khyber Pukhtunkhwa, (E&D) rules 2011, on accounts of willful absence from duty.

Whereas a committee was constituted for enquiry, the enquiry committee conducted enquiry and submitted report. According to the enquiry report, the charges against the accused teacher were proved and recommended for imposition of major penalty.

Whereas final notice through press Daily Express on 08/12/2013 at 5.No.05, has been served upon you.

Whereas a chance were given to you vide this Office letter No. 99 dated 15/1/2014 to your home address for personal hearing, but no response/reply received to this Office at your end.

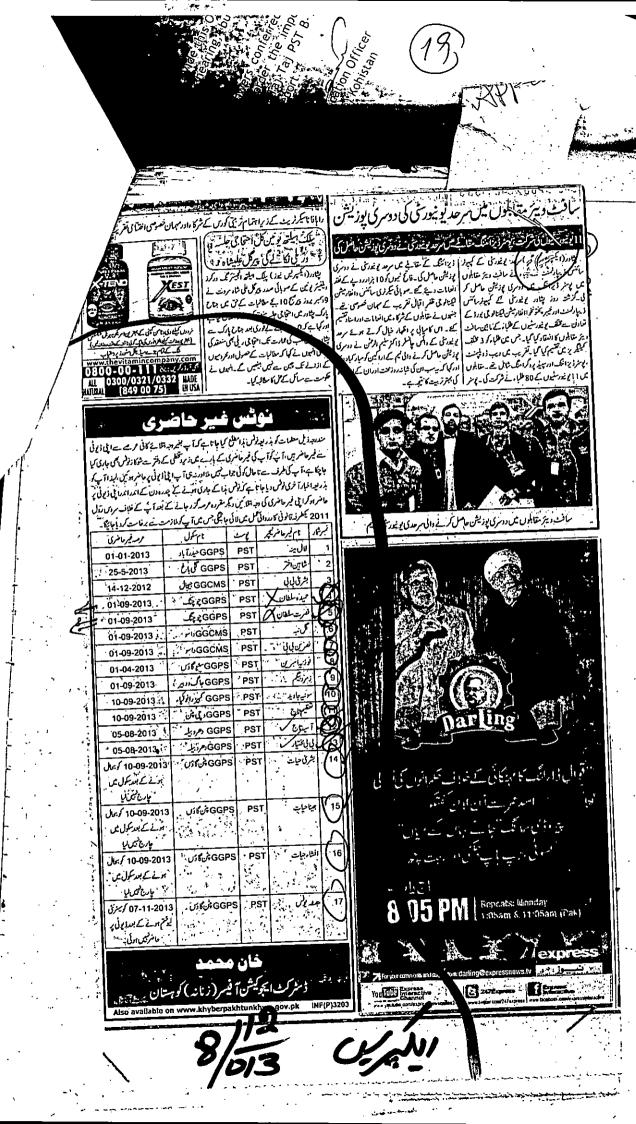
Now therefore, in exercise of the powers conferred upon me being competent authority under the (E&D) rules ibid, I hereby order the imposition of major penalty to the extent of Removal from service to Mst; Nusrat Sultan PST GGPS Chuchang District Kohistan, w.e.f. from 01/09/2013 i.e the date of report.

District Education Officer (Female) Kohistan

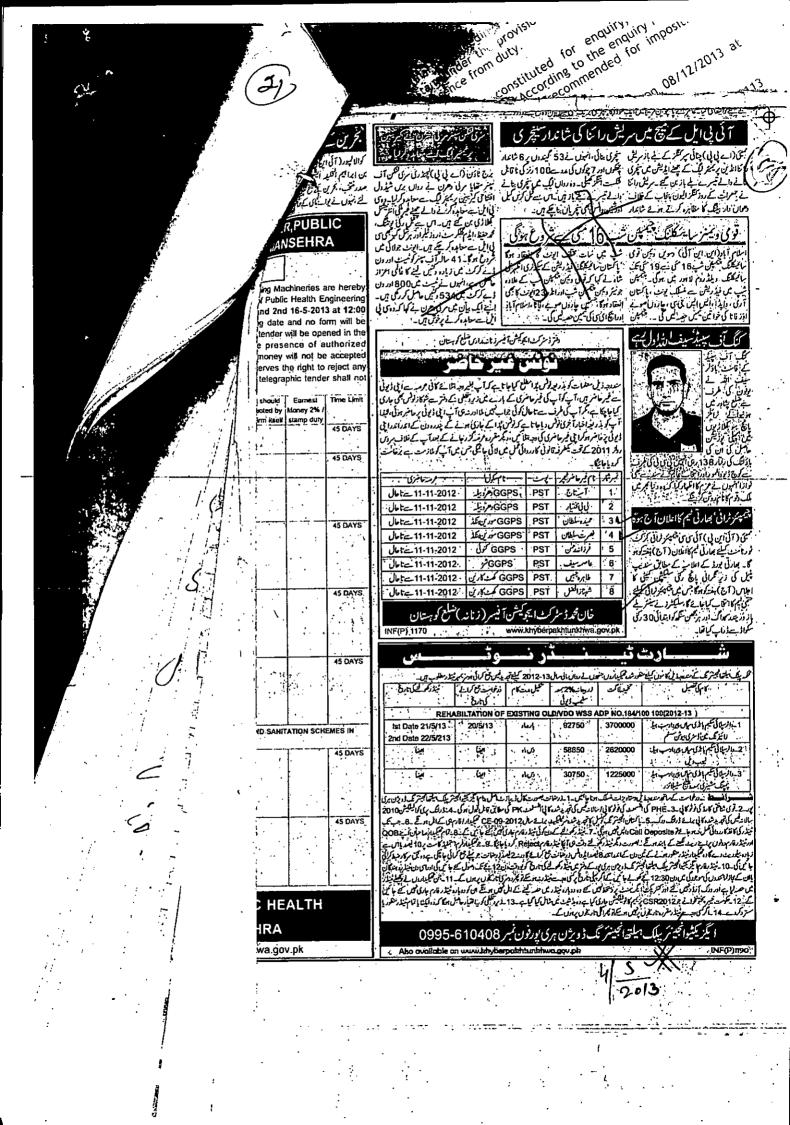
Endst: No  $\frac{273-78}{}$  /Dated Kohistan the  $\frac{2}{}$  /2014. Copy forwarded for information and necessary action to the:

- 1. Director E&SE Khyber Pakhtunkhwa, Peshawar.
- 2. Deputy Commissioner Kohistan.
- 3. District Account Officer Kohistan
- 4. Deputy District Education Officer (Female) Kohistan
- 5. Sub-Divisional Education Officer (Female) Kohistan
- 6. Teacher Concerned.

District Education Officer (Female) Kohistan











١					J . 3				
١	مندرجة في مطولت كورد رووس في الطق كياجاتات كمات بغيروجة تلات كاني عرص ساتي ولون سفر								
1	ا زوش كى جارى كما جاچكا بية پ	ازم د منطی کے دلتر سے شو	کے بارے پھر	ب كوآب ك غيرها مركا	مامرينآ				
	ني الناآب كويذربيدا خياراً خركا	پائی ڈیوٹی پر مامنر ہو	بالملا اور شدى آ	ے : مال کوئی جماب فیش	ی نرف	:			
Į	بوأرير ماضر بوكرا فيار فيرماضري ك	ره دان کے اعراع دائی ڈ	اونے کے چ	نا ہے کہ توش واکے جاری	نوش ويأجا	į			
1	ويد تلاكس وكرمتره موسكر مواف كي يعدا ب كونلاف مودى دول 2011 كيد طرف كاردوا في عمل شما لا في								
	بالحكي جي عي آپ كولما زمت سے يرخات كرديا جائيا۔								
1	ح صرغير حاضرى	نام سکول	پوست	نام فيرما خرنجر	فبرثاز	۱			
1	1-1-2013	GGPS حيدمآ باد	PST	قال يد	1	;			
	25-5-2013	CLO GGPS	PST	شابين اختر	2				
	14-12-2013	الج GCCMs	PST	بشرئ لي ل	3	L			
Ļ	. I-9-2013 .	چکے GGPs	PST	ميدهسلطان .	4	_			
	1-9-2013	¢CGPSجگ	PST	نعرست سلطان	· 5				
_	1-9-2013	GGĆMSوابر	PST	گلنب	6				
	1-9-2013	rl GGCMS	PST	. نعرين في في	7				
ď,	1-4-2013	نالاخ GGPS	PST	فوزسامبرين	8	į			
	/ 1-9-2013	GGPS بأكسير	PST	<i>ذبردع</i> م	g	1			
	, 10-9-2013	JUNE GGPS	PST	سوندجاويد	10				
١		. لياء			<u> </u>	!			
•	10-9-2013	ರ್-ೈ,GGPS	PST	تعقيمتاح	11	ŀ			
	5-8-2013	GGPSوربيلز	PST	آسيتان	12/	þ			
	5-8-2013	GGPSوربيله	PST	بي إن تقتيار	(13)	K			
	.2013-9-20 كويحال	US\$∂\$GGPS	PST	بشرى حيات	14	ľ			
	ہو <u>توا نے کے ب</u> عد سکول میں					W.			
	جارئ مين ليا	• •			<u> </u>	III			
	10-9-2013 كويمال	GGPS جُن كَادَل	PST	م جياديات	15				
:	ہو توالے کے بعد سکول ش			ļ					
	بياري تين ليا				·	Ш			
	-2013-9-20 كوبحال	Uild÷GGPS	PST	انشاءحيات	16				
	ہونوا بے کے بعد سکول عما -					Ш			
	<b>ع</b> ادئ فيس ليا	<u> </u>			14				
i b	7-11-2013 کوینزی کوم	GGPS ئۇلان	PST	ا المديل المديل	17	H			
	موق مے بعد ویول برما شرکیل	1,		i Ç	<i>\</i> { }	١.			
	اول	*. 	<u>i.                                    </u>	<u> </u>	l	ŀ			
	)کو مستان	محمد فيسر (أربانه	<b>خان</b> کنشن	الستركب ايد					
	TNF(P)43203; AG	o bydilable on vy	w khyber	pakhtunkhwa gov	繁潔				

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، مندرجہ ذیل معلمات کو بذریعیہ نوٹس طافہ کیا جاتا ہے کہ آپ بغیروجہ بتلائے کانی عرصے سے اپنی ڈیوٹی سے غیرحاضر ہیں ، آپ کو آپکی غیر جا ضری کے بارے میں زیر دختی کے دفتر سے شو کا زنوٹس بھی جاری کیا جاچکا ہے۔ آپ کی طرف سے تا حال کوئی جواب نہیں ملااور نہ ہی آپ اپنی ڈیوٹی پہ حاضر ہوئیں،الہذا آپ کوبذر بعیا خبار آخری نوٹس دیا جاتا ہے کہ نوٹس ھذا کے جاری ہونے کے پندرہ دن کے اندراندرا پنی ڈیوٹی پرحاضر ہوکرا پنی غیر ۔ حاضری کی وجہ بتلا ئیں، دیگرمقررہ عرصہ گزرجانے کے بعدآ کیے خلاف شروس رول 2011 کیے طرفہ قانونی کاروائی عمل میں لائی جائیگی ،جس میں آپ کو

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		,		- X
• ي عرتبه غير حاضري	نام سکول	پوست	نام غیرحاضر ٹیچر	نميرشار
01-01-2013	GGPS حيررآباد	PST	ر بال بيره	01
25-05-2013	دُبِيُّ GGPS ِ	PST	شابين اخر	02
14-12-2012	ರಜ್ಞGGCMS	PST	بشرىٰ بى بى	- 03
01-09-2013	GGPS چوپائب	PST	حيده سلطان	04
01-09-2013	کم GGPSچگ	PST	نفرت الطان	-05
01-09-2013	, ト) GGCMS	PST	کرنب کل نب	<b>8</b> 6
01-09-2013	アルGGCMS	PST	نفرین بی بی	07
01-04-2013	الله الكان GGPS. الله الله الله الله الله الله الله الل	PST	فوزىيامېرىن	08,
01-09-2013	GGPS باگ دوبير	PST	نارديگي	09
10-09-2013	GGPS گيرورانولياء	PST	سونيه جاويد	10
10-09-2013	GGPSر پی پین	PST	تغظيم ناج	11
05-08-2013	GGPS دخروبیله	PST	آستاج	12
05-08-2013	GGPS د شروبیله	PST	بي بي مختيار	. 13
13 كوبحال ہونے كے بعد سكول ميں جارج نبيس ليا-	GGPS پٹن گاؤں	PST:	بشری حیات	14.
13 . 10-0 كو بحال ہونے كے بعد سكول ميں جارج نہيں ليا۔	GGPS پٹن گاؤں	PST ·	جياحيات	15
2013-09-10 کو بحال ہونے کے بعد سکول میں جارج نہیں الیات	GGPS پىش گا ۇل	PST	انشاءحيات	16
07-11-2013 کومیٹرٹی لیوائم ہونے کے بعد ڈیوٹی پر حاضر مہیں ہو	GGPS پٹن گاؤں	PST	صفه بیس.	17
			<u></u>	

7 (Female) Kohistan

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### ومترة بيزات اليجوكيثن أيغسر زنانة مدارن منهج كوبهتان \_ . . . . . . . . . ولن غير طاخر .



مندرجہ ذیل معلمات کوبذر بیے نوٹس بلذا مطلع کیا جاتا ہے کہ آپ بغیر وجہ بتلائے کافی عرصہ سے بنی ڈیوٹی سے غیر حاضریں۔ آپ کوآپ کی غیر حاضری کے بارے میں ذیر دشخطی کے دفتر سے شوکا زنوٹس بھی جاری کیا جاچکا ہے۔،اگر آپ کی طرف سے تا حال کوئی جواب خبین ملا اور نہ ہی آپ اپنی ڈیوٹی پر حاضر ہوئی ،لہذا آپ کو بذر بعیا خبار آخری نوٹس دیا جاتا ہے کہ نوٹس بلذا کے جاری ہونے کے پندرہ دن کے اندرا ندرا پئی ڈیوٹی پر حاضر ہو کراپنی غیر حاضری کی وجہ بتلا کیں۔ دیگر مقررہ عرصہ گزرجانے کے بعد آپ کے خلاف سروس دولر 2011 کے بیکھرفہ قانونی کاروائی ممل میں لائی جائیگ جس میں آپ کو ملاز مت سے برخاست کر دیا جائیگ۔

•	ت سے برحاست کر دیا جائےگا۔	<u>ب وملا زممر</u>	10
عرصه حاضري	تام سکول	پوست	أنبرنثار نامغير حاضر نيچر
11-2012 عال	GGPSوحروبیله	PST	المراقة المراق
11-11-2012 عال	GGPSدهروبیله	PST	7,200
11-11-2012 تا مال	GGPSمورين مكلة	PST	المراس الله
11-2012 يناطل	GGPS مورين منكة	PST	4 کانفرت ملطان 5 فرزاندرخن
11-11-2012 يتامال	1.60000	PST	6 عاصر سيف
11-11-2012 يتامال	GGPS شروسول		7 طاہرہ جیں
11-11-2012 عنامال	GGPS کھٹ کارین	7 /	8 گهنهازافضل
11-11-2012 عامال	/ Coope	PST	0 04 0

حان محمد ڈسٹرکٹ ایجوکیشن آفیسر (زنانه ) صلع کوهستان



ضری کی وجه بنلائیس (دیگر مقرره عرصه گزر

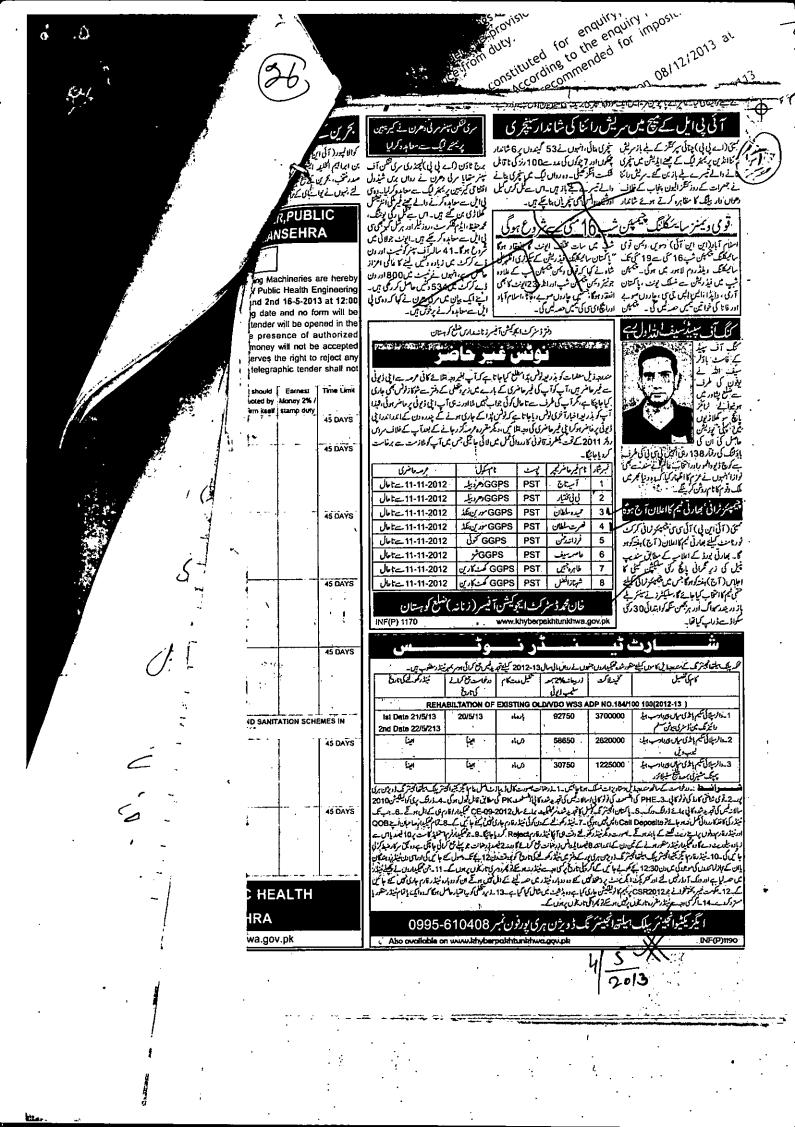
يَ طرفَ عالَ وَلَي جُوابُ بِينِ ملااور نه جي آپ اپن دُيولَي په ہے کہ نوٹس طذاکے جاری ہونے کے پندرہ دن کے اندراندرا پی ڈیوٹی پر حاضر ہوکرا پی غیر ( رقب میں بر فرنسل کی کارکار پے خلافت پر وں رول 2011 کیے طرفہ قانونی کاروائی مل میں لائی جائی ،جس میں آپ کو پے خلافت پر وں رول 2011 کیے طرفہ قانونی کاروائی میں لائی جائی ،جس میں آپ کو

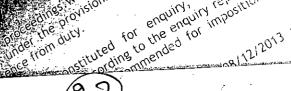
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ر کیم ارزی است کردیا جائزگا۔	المراسلا برخوا	انا در
، حت رزو د رو	ت سب د د	مل الر

	زمت ہے بر تواست سرد یا جا برہ-	للا		
عرصہ غیر حاضری	نام کول نام	بوست	نام نیرحاضر میچر	أنبرشار أ
01-01-2013	GGPS دیدرآ باد	PS.T	لال بينه	01
25-05-2013	GGPS گلباغ	PST	شابين اختر	02
14-12-2012	Jଜୁ:GGCMS	PST	بشری بی بی	03
01-09-2013	کر GGPS پوټک	PST	مرون بالمان	04
01-09-2013	پۇلگىزGGPS چ	PST	م ميده مايان	1
01-09-2013	rliGGCMS	PST	<b>ر سرت میان</b> گل نبه	05
01-09-2013	rhGGCMS	PST		06
01-04-2013	الان GGPS	PST	نصرین کی ک	07
01-09-2013	GGPS باگ دو پر	PST	فوزییامبرین	80
10-09-2013	GGPS گهير رانوليا و	<u> </u>	زمردتیگم	09
10-09-2013	نگرن GGPS نگری GGPS	PST	سونيه جاويد نونا	. 10
05-08-2013	نام GGPS وهروزيله	PST	تعظیم ناج	11
05-08-2013		PST	آسيناج	12
10-09-2013 کو بحال ہونے کے بعد سکول میں جارج میں لیانہ	GGPS دهرو بله	PST	بی بی مختیار	13
10-00 : 10-00 كو بحال مونے كر بعد كول مين جارئ مبين ليا-	GGPS پنگاؤل	PST	بشری حیات	14
10-03-013 كوبحال بونے ك بعد سكول ميں جارئ تبين اليا-	GGPS بخرار الماركة ال	PST	جياحيات	15
13-11-2013 كويمرزي ليافتم ہونے كے بعد ڈيوني پر حاضر تنيك ہوئي۔	GGPS بن گاؤل	PST	افشاء حيات	16
37	Uibio GGPS	PST	حصفه يونس	17

خان مجمه

District Education Corr (Female) Kohistan





المبسل افتر در من المحاليش الفيران ما مناه الرستان مناه المر در من المحاليش الفيران ما مناه الرستان مناه



مندرجہ ذیل معلمات کوبذر بعیر نوٹس بندامطلع کیاجا تا ہے کہ آپ بغیر وجہ بتلائے کافی عرصہ سے پٹی ڈیوٹی سے غیر حاضر ہیں۔ آپ کوآپ کی غیر حاضری کے بارے میں زیر خطی کے دفتر سے شوکازنوٹس بھی جاری کیا جا چکا ہے۔ ،اگر آپ کی طرف سے تا حال کوئی جواب نہیں ملا اور نہ ہی آپ اپنی ڈیوٹی پر حاضر ہوئی ،لہذا آپ کو بذر بعیہ اخبار آخری نوٹس دیاجا تا ہے کہ نوٹس بندا کے جاری ہونے کے پندرہ دن کے اندراندرا پی ڈیوٹی پر حاضر ہوگر اپنی غیر حاضری کی وجہ بتلا ئیں۔ دیگر مقررہ عرصہ گزرجانے کے بعد آپ کے خلاف مروس رواز 2011

	*			والدني والمكل جسر مدا	فبرقالوني كارواني كمل مر	كشفحت يتفر	
• .	Kila	ت سے برخاست کر دیا	أب لوملازم	<u>0.0.0.0.0.0</u>	رفیدقالونی کاروانی مل میر تام غیرهاضر کیچه	·	
					تام غیرحاضر بیچر	المبرثتار	
	4	ا نام سکول	ايوست		747 474	77	

عرصه حاضري	أنام مسلول	الإست	
11-11-2012 استاحال	GGPSوحروبیله	PST	ا المان الما
المال	GGPSوحروبیله	PST	المنافق المناف
11-11-2012 عامال	GGPS مورين منكذ	7	3 ميده سلطان
	GGPS مورین منکڈ		4 / نفرت سلطان
ا 11-11-2012	GGPS کوئی		5 / فرزاندرخمن
11-11-2012 الصناطال	GGPS شرمیبول	1-7-1	6 عاصرسیف
11-2012 عامال	GGPS کھٹ کارین	1 / 1	7 طاہرہ جبیں
11-11-2012 عنامال		1 /	8 / شبنازافضل
11-2012 - 11 - 2012	GGPS کھٹ کارین	) P31	

خان محمد د ایجو کیشن آفیسر (زنانه) ضلع کوهستان

# BEFÖRE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 562/2016

Date of Institution.

16.05.2016

Date of Decision.

02.03.2018



Rahim-ud-Din son of Syed Rehman, R/O Ajoo Talash, Tehsil Timergara, ... (Appellant)

#### **VERSUS**

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar anmd two others.

Mr. Sajjad Ahmad Khan, Advocate

Mr. Muhammad Asif Yousafzai, Advocate.

/ Arbab Saiful Kamal, Advocate

For appellants.

Mr. Usman Ghani, District Attorney and

Mr. Muhammad Jan, Deputy District Attorney

For respondents.

MR. NIAZ MUHAMMAD KHAN,

MR. MUHAMMAD HAMID MUGHAL,

MR. MUHAMMAD AMIN KHAN KUNDI,

MR. AHMAD HASSAN,

MR. GUL ZEB KHAN,

Chairman.

Member

... Member

ATTESTED

Member.

Member.

# **JUDGMENT**

# NIAZ MUHAMMAD KHAN, CHAIRMAN-.

The following appeals are also clubbed with this appeal for decision of

common issue explained below:-

- 1. Appeal No. 1259/2011 Fazal Malik
- 2. Appeal No. 1994/2011, Mst. Zaitoon Bibi,
- 3. Appeal No. 1183/2014, Zafeerullah Khan,
- 4. Appeal No. 1186/2014, Muhammad Bashir,
- 5. Appeal No. 103/2015, Muhammad Raza.

# 1888SCMR 1890

### FACTS.

1. In a number of appeals this tribunal (DB) delivered judgment as to void status of retrospective order of major punishment of removal/dismissal/compulsory retirement (for brevity "termination"). The mother ruling relied upon was Noor Muhammad v The member Election Commission and others (1985 SCMR 1178). One of such judgment of this tribunal is entitled "Muhammad Ismail v Deputy Inspector General and another" bearing Service Appeal # 463 OF 2012 decided on 22-11-2017. Another Judgment of this Tribunal is entitled "Arif Khan v Inspector General of Police and three others" bearing # 1213/2015 decided on 18-12-2017. In almost all these judgments of this tribunal it was decided that retrospective order being void could not be modified to give the same prospective effect under section 7 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. It was also decided that retrospective order being void order would not attract any limitation. All the present members of this Tribunal had delivered

the same judgments. But during hearing of this appeal it was brought

to the notice of the DB comprising of the Chairman and one Learned

inbunai,

Peshawar

member that another bench (DB) of this tribunal had delivered a contrary opinion qua the modification of retrospective part of void order in service appeal No. 984/2013 entitled "Muhammad Ayaz Vs. Government of Khyber Pakhtunkhwa through Secretary, E&SE, Peshawar and others" decided on 14-11-2017. Going through this judgment it appeared that both the learned members of the bench had already delivered the former opinion in first two mentioned appeals above and now they have delivered contrary opinion while sitting not in larger bench and without discussing their earlier judgments. Perhaps the Learned members were not apprised of the earlier judgments neither the same judgments were pressed into service nor discussed. The bench (DB) hearing the present appeal could not decide the issue due to two contrary views of this tribunal. It was therefore, considered necessary to constitute a larger bench to decide the issue.

#### ARGUMENTS.

2. All the lawyers for different appellants defended the first opinion while the DDA supported the second opinion. In favor of first opinion the judgments referred to in conclusion part were relied upon. In favour of second opinion the DDA relied upon judgments discussed also in conclusion part.



## CONCLUSION.

- 3. This Tribunal is now to decide three questions. The first one is whether the retrospective order of termination in any form is a void order? And if so can void order be modified to make it operative prospectively? The third and final question would be that if prospective part of the order is held to be legal one after modification then whether limitation would be attracted to the legal portion of the order?
  - order and non modification of such order the reliance was placed only on the judgment reported as 1985 SCMR 1178 entitled "Noor Muhammad v The member Election Commission and others". This judgment 'declares retrospective order as void order. The other judgments relied upon by the lawyers for appellants also are based mainly on this mother judgment therefore, there is no need to discuss those judgments. But nothing is there in Noor Muhammad judgment as to modification of such void order and whether the order could be modified to make it prospective and legal. This tribunal is first to discuss Noor Muhammad case. In this case the issue before the august Supreme Court was not of a service matter but of disqualification of a candidate for elections who was in service and

ATTEST was terminated retrospectively. This Tribunal while delivering first opinion was not assisted anymore and it was opined that void order

could not be rectified. The second opinion of this tribunal as to rectification of void order is also not based on any supportive rulings or law. The august Supreme Court in the same judgment had referred to a judgment of Lahore High Court (PLD 1953 L 295). This judgment was delivered in a service matter declaring such retrospective order as void. Another judgment delivered in service matter by august Supreme court also held the same view [2002 PLC(C.S) 1027] relying mainly on mother judgment of 1985. A judgment of FST [ 2007 PLC (C.S) 5] has declared such retrospective order as void ab initio and the whole proceedings were declared to be nullity for being retrospective. But in all these judgments the question of separation of prospective part of the order is not discussed. A judgment referred to by the august Supreme Court in mother judgment is PLD 1964 Dacca 647 entitled "Dr Muhammad Abdul Latif v The Province of East Pakistan and others" which has touched this aspect of the issue though not decided conclusively. In this judgment the worthy High Court referred to some judgments from Indian Jurisdiction and held that such retrospective order could be legal to the extent of prospectivity and needed not be bad in toto. But their lordships did not reach a definite conclusion and in para 9 of the judgment while discussing different judgments from Indian jurisdiction left the discussion unconcluded by holding that the counsel for the appellant requested that his clientif would be satisfied if declaration was given to the effect that the order

of dismissal covering the period prior to the order was bad. Their lordships wrote that they did not enter into detailed discussion of the aforesaid question and held for the purpose of the appeal that an order of dismissal of the nature might be supported to the extent it was found valid and need not be declared bad in toto. But in this judgment reliance was placed on judgments from Indian Jurisdiction. Now we are to see whether position in India qua the present law in this part of our country (Khyber Pakhtunkhwa particularly) is the same and whether after the judgment of *Dr Muhammad Abdul Latif* above any change in legal scenario emerged in Pakistan and for that matter this Province.

applicability we would have to discuss position in India on the subject.

This issue was raised and discussed in India in many cases including Sudhir Ranjan Halder v State of West Bengal" referred to in Dr Muhammad Abdul Latif case above. The Kerala High Court has now finally decided this issue in a case entitled "State of Kerala v A.P Janardhanan in WA # 2773 of 2007 decided on 29-03-2008 (https://.indian.kanoon/doc). This judgment has traced the history of rulings on the subject and has finally decided that in India such retrospective order is not a void order for the reason that no legal precedent or law was available in India where under such order could be declared void. That in some Indian service laws express authority.

was given to executive to pass such retrospective orders ( Para 12 to 14 of the judgment). It was then finally held that in those cases where no express authority was given to executive to pass retrospective order of removal then that order would be illegal and not void and that prospective part can be separated from retrospective part and can be effective prospectively. The opinion in Dr Muhammad Abdul Latif case based on Indian jurisdiction had no relevance in Pakistan because at the time when this judgment was delivered we had a judgment of worthy Lahore High Court (PLD 1953 L 295) which had declared such retrospective order as void order. It was perhaps in this context that their lordships in Dr Muhammad Abdul Latif case did not deliver binding and conclusive judgment to be followed as ratio and left the matter undecided by giving just passing remarks which would be treated merely as obiter. And now in Pakistan two judgments of august Supreme Court referred to above have declared such order as void order. The first question is decided in positive.

6. Now this tribunal is to see whether a retrospective void order in this area can be modified and prospective portion be separated as effective and legal. This would need discussion and application of mind as we have failed to lay hand on any judgment which prohibited ATTESTED

such severance. The first conclusion as drawn by this tribunal and the

ST in case reported in [2007 PLC (C.S) 5] was based only on the

status of void order. It was understood that since void order was a

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nullity hence could not be rectified. One other judgment on the same point is 1993 PLC (C.S) 308 of FST entitled Abbas Ali v The Executive Engineer and others. We have also failed to lay hand on any judgment of superior courts which allows such rectification of void orders (Indian judgments and Dr Muhammad Abdul Latif judgment allow such severance but as discussed above in India such order is only illegal and not void. In Dr Muhammad Abdul Latif case the order was held illegal and not void on Indian pattern ). We are now to come out of this imbroglio by applying juristic sense and prevalent rules of interpretation on the subject.

The assistance and help can be sought from jurisprudence of *vires* of laws. We know that Courts while declaring any law as *ultra vires* have a tool and technique to save valid portion of *ultra vires* laws. This is called rule of reading down and severance. This leads us to conclusion that if any law is declared *ultra vires* then legal portion if separable can be saved and need not be held to be ultra *vires* in toto due to its being solely in conjunction with bad law. Though this tool is available in saving statutes but on the same analogy it can be used in executive orders. Similarly if any legal portion of an executive order is separable then there seems no hurdle in not saving the same. Secondly the

ATTESTE trospective order is not held to void ab initio by august Supreme

Court but only void. Only FST [2007 PLC(C.S)5] has declared it as such

without any reference to any form of jurisprudence. The

difference is that the former is invalid right from the foundation and cannot be corrected. But the latter is not invalid from the start but has been made invalid subsequently. In retrospective order the foundation is valid and whole proceedings are valid and only in the final order the termination is made retrospective. This tribunal is therefore, of the view that question no 2 as framed is decided in positively holding that such order can be modified.

- 8. Coming to the third question this tribunal is of the view that since the retrospective order is held to be a void order no limitation would be attracted to challenge the same. If limitation is applied then how the tribunal would rectify the same as rectification would be made only after declaring the appeals to be within time. The tribunal cannot rectify any such order without assuming jurisdiction and no jurisdiction can be assumed without bringing the appeal within time.
  - 9. In the last this tribunal deems it appropriate to discuss one judgments of Punjab Service Tribunal on subject. This is in case entitled "Ihsanul Haq Chaudhery v The Deputy Commissioner". (1988 PLC (C.S) 511).

    According to this judgment the error of retrospectivity can be modified. This opinion is based not on any ruling but on wordings used in Noor Muhammad's case. In Noor Muhammad case the Court

observed that order would not operate retrospectively but prospectively. From this observation the Punjab Service Tribunal held minkhwa bunal, war that such retrospective order was not void and could be rectified. But

this tribunal with due deference is not inclined to accept the conclusion of the Punjab Service Tribunal about void status of the retrospective order as the august Supreme Court in Noor Muhammad's case has categorically held such order as void order. The Supreme Court did not discuss the rectification in this judgment. However the effect from prospective date as observed by august Supreme Court would strengthen our above conclusion that the prospective part can be severed and protected despite this nature of the order as void.

ANNOUNCED 02.03.2018

(N/AZ MUHAMMAD KHAN). Chairman

Date of Presentation of Aring

(M. HAMID MUGHAL) Member

(M. AMIN KHAN KUNDI)

Member

AHMAD HASSAN) Member

> (GUL ZEB KHAN) Member

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(Approved for reporting)

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP COURT SWAT

Service Appeal No. 957/2016

Date of Institution...

04.08.2016

Date of decision...

07.12.2017



Shoukat Ali son of Muhammad Shafiq, R/O Kokari Mingora Swat Ex-Constable No. 4741, FRP Platoon No. 83, P.S Mingora Swat.

#### Versus

Superintendent of Police, FRP Malakand Region, Malakand and two others. (Respondents)

ARBAB SAIFUL KAMAL,

Advocate

For appellant,

MR. KABIRULLAH KHATTAK, Addl Advocate General

For respondents.

MR. NIAZ MUHAMMAD KHAN, MR. MUHAMMAD HAMID MUGHAL,

CHAIRMAN

**MEMBER** 

# **JUDGMENT**

NIAZ MUHAMMAD KHAN, CHAIRMAN: - This judgment shall also disposed of other connected appeals No. 697/2016 Muhammad Said, 958/2016 Fazal Yaseen, No. 959/2016 Afzal Khan, and No. 961/2016 Umar Ali as in all the appeals common questions of law and facts are involved.

Arguments of the learned counsel for the parties heard and record perused.

#### **FACTS**

The appellant Shaukat Ali, Umar Ali and Afzal Khan were removed from service on 28.08.2016, the appellant Fazal Yaseen was removed from

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service on 02.02.2009 and the appellant Muhammad Saced was removed from service on 21.09.2009. The appellants then filed departmental appeals belatedly which were rejected then the appellant also approached this Tribunal belatedly not within the stipulated time.

#### **ARGUMENTS**

- 4. The learned counsel for the appellants argued that the very orders of removal from service are void because all these orders have been given retrospective effect. That in view of judgment reported as 1985-SCMR-1178 no limitation shall run against void order.
- 5. On the other hand the learned Addl. Advocate General argued that the departmental appeals are hopelessly time barred. That the revision within the meaning of Rule 11 -A of Khyber Pakhtunkhwa Police Rules, 1975 could not enlarge the period of limitation. That all the codal formalities were fulfilled by the department.

#### **CONCLUSION**

- 6. Regardless of other merits of the case it is an admitted position that all these orders have been given retrospective effect and in view of so many judgments delivered by this Tribunal on the basis of judgment reported in 1985-SCMR-1178 the retrospective order is a void order and no limitation shall run against void order.
- 7. Since no limitation runs against a void order, any successive appeals or revision would not curtail the rights of the appellants qua the limitation or in other

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Service Tribunal,

Peshawar

respect. Presuming that all other elements of due processes have been complied with, the void order cannot be sustained on this score alone.

8. As a sequel to the above discussion, the present appeals are accepted and the appellants are reinstated in service. The department is however, at liberty to hold denovo proceedings in accordance with law within a period of ninety days. The intervening period shall be subject to the final outcome of the denovo proceedings. Parties are left to bear their own costs. File be consigned to the record room.

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## KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1290/2019

BEFORE:

MR. KALIM ARSHID KHAN ... CHAIRMAN

MISS. FAREEHA PAUL

MEMBER(E)

...

Mst. Nusrat Sultan W/o Muhammad Tanveer R/o Village Chuchamg, Tehsil Dassu, District Kohistan, presently at Fauji Foundation, Tehsil & District Mansehra. .... (Appellant)

#### Versus

- 1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
- 2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 3. District Education Officer (Female), District Kohistan Upper.
- 4. Head Teacher Government Girls Primary School Chuchang, District Kohistan Upper.

.... (Respondents)

Mr. Muhammad Tasleem Khan Kaloch

Advocate

For appellant

Mr. Kabir Ullah Khattak

Additional Advocate General

For respondents

Date of Institution	01.10.2019
Date of Hearing	23.09.2022
Date of Decision	05 10 2022

## **CONSOLIDATE JUDGEMENT**

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the impugned order dated 12.02.2014 of the

District Education Officer (Female), Kohistan Upper, whereby the appellant has been awarded major penalty of removal from service.

- 2. This judgment shall dispose off the instant service appeal as well as connected Service Appeal No. 1291/2019 titled "Mst. Hamida Sultan Vs. Government of Khyber Pakhtunkhwa" as similar question of law and facts are involved in both the appeals.
- 3. Brief facts of the case, as per memorandum of appeal, are that the appellant was appointed Primary School Teacher (PST) in Government Girls Primary School, Bari Shah, and started performing her duties. She marked her attendance in attendance register which used to be in the custody of Respondent No.4 (Head Teacher GGPS Chuchang, District Kohistan Upper). Respondent No. 3 (DEO (F), Kohistan Upper) issued an order dated 12.02.2014 and removed the appellant from service. Feeling aggrieved, she filed a departmental appeal on 05.03.2014, but it was not have this service. responded, Feeling aggrieved she filed-the instant appeal.
- 4. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General and perused the case file with connected documents in detail.
- 5. Learned counsel for the appellant presented the case and contended that the appellant had been condemned unheard and no opportunity of defense or personal hearing was provided to her. He further contended that no charge sheet, statement of allegations or show cause notice had been issued before imposing the major penalty of removal from service.

He further argued that the impugned order had been issued with retrospective effect which was against the law and hence a void order.

- 6. Learned Additional Advocate General on the other hand contended that the appellant had been removed from service after completion of all codal formalities. He contended that she made a fake and bogus entries in the attendance register and in reality she absented herself from duty. She was served with show cause notice at her home address and when no response was received, she was issued a final show cause notice, but when her reply to that was found unsatisfactory, she was given an opportunity of personal hearing; but there again she could not satisfy her competent authority. The learned Additional Advocate General referred to 1998 SCMR1890, which stated that unauthorized absence of an employee from duty for a longer period was misconduct and that he/she could be removed from service from the date of unauthorized absence.
- 7. From the record and argument before us, it is evident that the appellant was appointed Primary School Teacher in District Kohistan Upper. Record further provides that during inspection the inspection that date as team found the appellant absent w.e.f 9/2013, as per explanation/stated 25.09.2013. She was requested to submit her written reply within ten days of the issuance of that letter but till 30.10.2013, she did not submit any reply, as is evident from a letter of Sub-Divisional Education Officer (Female), Primary Education, District Kohistan dated 30.10.2013. A show cause notice was issued to her on 01.02.2013; another notice on 31.10.2013, followed by a third notice on 15.01.2014. During this period a final notice for personal hearing was also issued on 03.06.2013. Record

shows that notices were issued through register post on her home address. It further indicates that notices were issued in daily Aaj dated 04.05.2013 and daily Express dated 08.12.2013 also. There is a statement dated 31.08.2013 present on record according to which the appellant admitted that she did not perform her duties and submitted her apology and request for a chance by stating that if in future she was found dutiful? committing the same mistake, she might be proceeded against under law and that she would not appeal against it. Despite all the notices and her statement in writing the appellant did not try to mend her ways and still absented herself from duty.

- 8. In view of the above discussion, we are satisfied that the department acted in line with the given law and rules. The appeal is, therefore, dismissed. Parties are left to bear their own costs. Consign.
- 9. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this  $5^{th}$  day of October, 2022.

(KALIM ARSHAD KHAN)
Chairman

(FAREEHA PAUL) Member (E)