

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR,
CAMP COURT ABBOTTABAD

Service Appeal No. 1400/2019

BEFORE: **MR. KALIM ARSHAD KHAN** ... **CHAIRMAN**
 MISS. FAREEHA PAUL ... **MEMBER(Executive)**

Sharafat-un-Nisa, Ex-PST, GPS Sultan Abad, Harband, Tehsil Dassu, District Kohistan

.... (*Appellant*)

Versus

1. **Director Elementary & Secondary Education Peshawar.**
2. **District Education Officer (Female) Kohistan at Dassu.**

.... (*Respondents*)

Present

Mr. Abdul Saboor Khan
Advocate

...

For appellant

Mr. Kabir Ullah Khattak
Addl. Advocate General

...

For respondents

Date of Institution.....23.10.2019
 Date of Hearing.....22.09.2022
 Date of Decision.....22.09.2022

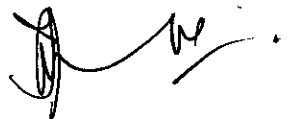
CONSOLIDATED JUDGEMENT

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 orders dated 05.07.2019 and 01.10.2019 passed by respondents whereby major punishment of removal from service on the grounds of absence from duty was imposed on the appellant and upheld respectively:



2. Through this single judgement, this appeal and connected service appeals are decided as against the same allegations and removal from service as follows:-

- (i) Service Appeal No. 1482/2019, titled **Mst. Gul Shehnaz Bibi**, Ex-PST, GPS Nimraty Sosak, Tehsil Dassu, District Kohistan Upper (removed from service vide order dated 11.06.2019). (ii). Service Appeal No. 1511/2019, titled **Gul Pari**, Ex-PST, GPS Dadir Goshali, Tehsil Dassu, District Kohistan Upper, (removed from service vide order dated 05.07.2019) (iii). Service Appeal No. 1181/2019, titled **Masooma Begum**, Ex-PST, GPS Tiyal Maidan, Tehsil Dassu, District Kohistan Upper, (iv). Service Appeal No. 1405/2019, titled **Mst. Saira Qayyum**, Ex-PST, GPS Ishpidar, Tehsil Kandia, District Kohistan Upper (v). Service Appeal No. 1471/2019, **Mst. Asma**, Ex-PST, GPS Ser Garhi Kandia, Tehsil Kandia, District Kohistan Upper, (vi) Service Appeal No. 1472/2019, titled **Mst. Rehana Bibi**, Ex-PST, GPS Seri Gabriel, Tehsil Kandia, District Kohistan Upper, (vii) Service Appeal No. 1773/2019 titled **Mst. Aisha Qureshi**, Ex-PST, GPS Habib Abad Koli, Tehsil Pallas, District Kohistan (viii) Service Appeal No. 1474/2019 titled **Mst. Bibi Rashida**, Ex-PST, GPS Serto Kandia, Tehsil Kandia, District Kohistan Upper. (ix) Service Appeal No. 1475/2019 titled **Mst. Shkira Bibi**, Ex-PST, GPS Mehran Abad, Tehsil Dassu, District Kohistan Upper, (x) Service Appeal No. 1476/2019, titled **Mst. Zarmina**, Ex-PST, GPS Kemia Abad, Tehsil Dassu, District Kohistan Upper, (xi) Service Appeal No. 1477/2019, titled **Mst. Gul Bibi**, Ex-PST, GPS Seral Shah, Tehsil Dassu, District Kohistan Upper. (xii) Service Appeal No. 1478/2019 titled **Mst. Raqiba**, Ex-PST, GPS Ser Garhi, Tehsil Kandia, District Kohistan Upper. (xiii) Service Appeal No. 1479/2019, titled **Mst. Johajra Bibi** Ex-PST, GPS Bar Bak, Tehsil Dassu, District Kohistan Upper, (xiv) Service Appeal No. 1480/2019, titled **Mst. Shagufta Kiran** Ex-



PST, GPS Baja Loohi, Tehsil Dassu, District Kohistan Upper, (xv) Service Appeal No. 1481/2019 titled **Mst. Salma Bibi**, Ex-PST, GPS Kemia Abad, Tehsil Dassu, District Kohistan Upper, (xvi). Service Appeal No. 1483/2019, titled **Mst. Sadaf Zeb**, Ex-PST, GPS Pashot, Tehsil Dassu, District Kohistan Upper, (xvii). Service Appeal No. 1485/2019 titled **Mst. Shaheen Zameer**, Ex-PST, GPS Loohi Dader Abad, Tehsil Dassu, District Kohistan Upper. (xviii) Service Appeal No. 1497/2019 titled **Mst. Nagina Otail**, Ex-PST, GPS Baja Lohi, Tehsil Dassu, District Kohistan Upper (all were removed from service vide order dated 20.04.2019).

3. Brief facts of the case, as per memorandum of appeal, are that the appellant was appointed as PST vide order dated 20.07.2009. Respondent No.2 (DEO (Female) Kohistan) transferred the appellant and posted her at GGPS Sultan Abad against a vacant post vide order dated 17.11.2018. All of a sudden Respondent No. 2 imposed penalty of removal from service w.e.f 01.01.2019 and refund of salary received on the ground of alleged absence from duty w.e.f 01.01.2019 to 30.06.2019 vide order dated 05.07.2019. The appellant filed departmental appeal dated 22.07.2019 which was rejected vide letter dated 01.10.2019. Feeling aggrieved from the impugned orders the appellants filed the instant service 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 contented that no proper procedure was adopted before imposing major penalty. He invited the attention to copies of attendance register according to which the appellant was



present in school. He further contended that no show cause notice was received by her, which indicated that impugned order was illegal, unlawful and without lawful authority and having no legal effect.

6. The learned Additional Advocate General contended that the appellant was willfully absent from her duty and that show cause notice was issued to her at her home address and that her response was not found satisfactory and hence she was removed from service.

7. Record available before us indicates that the appellant was removed from service on account of her willful and unauthorized absence from duty. It further indicates that IMU inspection team visited the GGPS Sultan Abad in March 2019, and the appellant was found absent from duty since long, but no report of IMU inspection was available with the comments of the respondents. Documents presented before us include a show cause notice dated 02.05.2019 but it is not confirmed whether it was received by the appellant or not. There is a letter dated 30.05.2019 of Respondent No. 2 addressed to the appellant indicating that her written reply was not found justified and hence she was directed to attend the office of DEO (Female), Kohistan for personal hearing on 13.06.2019; however no copy of written reply of the appellant was found with the papers annexed with the reply of respondent department.

8. In view of the above discussion the appeal in hand is allowed and the case is remitted back to the department for denovo inquiry with the direction that the appellant should be associated in the inquiry. A detailed, self contained inquiry, fulfilling all codal formalities should be completed within sixty days of the receipt of this judgment. The appellants are reinstated in the service for the purpose of denovo inquiry. The issue of back benefits shall be subject to the final outcome of the denovo inquiry. The respondents shall intimate the



date of receipt of judgement to the Registrar of this Tribunal and also the result of the inquiry. Parties are left to bear their own costs. Consign.

9. *Pronounced in open court in Abbotabad and given under our hands and seal of the Tribunal on this 22nd day of September, 2022.*



(FAREEHA PAUL)
Member (E)
(Camp Court Abbottabad).



(KALIM ARSHAD KHAN)
Chairman
(Camp Court Abbottabad)

Service Appeal No. 1400/2019

1. Mr. Abdul Saboor Khan, Advocate for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General for respondents present. Arguments heard and record perused.

2. Vide our detailed judgement containing 05 pages, we arrived at the conclusion that the appeal in hand is allowed and the case is remitted back to the department for denovo inquiry with the direction that the appellant should be associated in the inquiry. A detailed, self contained inquiry, fulfilling all codal formalities should be completed within sixty days of the receipt of this judgment. The appellants are reinstated in the service for the purpose of denovo inquiry. The issue of back benefits shall be subject to the final outcome of the denovo inquiry. The respondents shall intimate the date of receipt of judgement to the Registrar of this Tribunal and also the result of the inquiry. Parties are left to bear their own costs. Consign.

3. *Pronounced in open court in Abbotabad and given under our hands and seal of the Tribunal on this 22nd day of September, 2022.*



(FAREEHA PAUL)

Member (E)

(Camp Court Abbottabad)



(KALIM ARSHAD KHAN)

Chairman

(Camp Court Abbottabad)

29.12.2021

Counsel for the appellant present. Preliminary arguments have been heard.

Points raised need consideration. Subject to all just and legal objections, this appeal is admitted for full hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for

Amount Deposited
Security & Process Fee
24/01/22

submission of written reply/comments on 17.03.2022 before S.B at camp court, Abbottabad.

Chairman
Camp Court, A/Abad

21st July 2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG and Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Shah Wali Ullah, Computer Operator for the respondents present.

Written reply on behalf of the respondents submitted which is placed on file. To come up for arguments on 22.09.2022 before D.B at camp court Abbottabad.

(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

17.03.2021 Appellant present through counsel.

He made a request for adjournment. Adjourned. To come up for preliminary arguments on 15/6/2021 before S.B at Camp Court Abbottabad.



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

15.06.2021 Due to COVID-19, tour to Abbottabad has been cancelled, therefore, case to come for the same as before on 13.10.2021.



Reader

13.10.2021 Nemo for the appellant.

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for preliminary hearing before the S.B on ~~29~~12.2021 at Camp Court Abbottabad.

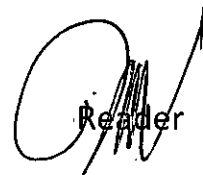


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

Due to covid ,19 case to come up for the same on 16/11/20
at camp court abbottabad.

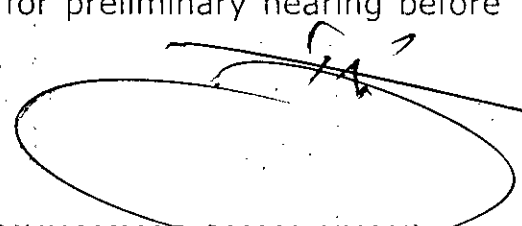
Reader

Due to summer vacation case to come up for the same on
18/9/20 at camp court abbottabad.

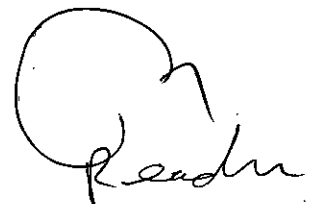

Reader

18.09.2020

Appellant has not forth come in person however, the clerk of the counsel did appear. According to him Mr. Abdul Saboor Khan learned counsel for the appellant has proceeded to District Kohistan for attending a case in the Model Court situated there, therefore, requested for adjournment. The appeal is adjourned to 14.12.2020 on which to come up for preliminary hearing before S.B at Camp Court, Abbottabad.


(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT ABBOTTABAD.

Due to covid-19 case is adjourn
to 17-03-2021





Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1400/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/10/2019	<p>The appeal of Mst. Sharafat-un-Nisa 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 style="text-align: right;"> REGISTRAR 23/10/19</p> <p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>24-1-20</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>24.01.2020</p> <p>Clerk to counsel for the appellant present and seeks adjournment on the ground that learned counsel for the appellant is not in attendance. Adjourn. To come up for preliminary hearing on 20.03.2020 before S.B at Camp Court Abbottabad.</p> <p style="text-align: right;"> Member Camp Court, A/Abad</p>

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No 1400 of 2019

Sharafat-un-Nisa.....Appellant

VERSUS

Director Elementary and Secondary
Education Peshawar etcRespondents

APPEAL

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Dated 21.10.2019

Syed Sharafat
SHARAFAT-UN-NISA
(Appellant)

Through:-

ABDUL SABOOR KHAN
Advocate High Court

Mansoor

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No 1400 of 2019

Khyber Pakhtukhwa
Service Tribunal

Sharafat-un-Nisa, Ex-Primary School
Teacher, Government Girls Primary School,
Sultan Abad, Harband, Tehsil Dassu,
District Kohistan upper.

Diary No. 1484

Dated 26/10/2019

.....Appellant

VERSUS

- 1) Director Elementary and secondary
Education Peshawar.
- 2) District Education officer (Female)
Kohistan at Dassu.

.....Respondents

APPEAL UNDER SECTION 4 OF KPK
SERVICE TRIBUNAL, ACT, 1974
AGAINST THE IMPUGNED ORDERS
NO 3080-87 DATED 05.07.2019 AND
4775 DATED 01.10.2019, PASSED
BY RESPONDENTS WHEREBY
MAJOR PENALTY OF REMOVAL
FROM SERVICE OF APPELLANT ON
THE GROUND OF ALLEGED
ABSENCE FROM DUTY WAS
IMPOSED AND UPHELD.

Filed to-day
Registrar
23/10/19

PRAYER:-

On acceptance of the instant service appeal, the impugned orders bearing No 3080-87 dated 05.07.2019 and 4775 dated 01.10.2019, passed by respondents may kindly be set-aside declaring them illegal, void-abnito and against the law on the subject and appellant be re-instated into service with all back benefits.

Respectfully Sheweth:-

1. That, appellant was appointed in a prescribed manner by competent authority against the post of Primary school Teacher vide appointment order dated 20.07.2009.

(copy of appointment order is annexed as Annexure "A").

2. That, respondent No 02, vide office order No.2260-62 dated 17.11.2018, transferred the appellant and posted/adjusted at Government Girls Primary School Sultan Abad against the vacant post.

(Copy of Transfer order dated 17.11.2018 is annexed as Annexure "B").

3. That, all of a sudden, respondent No 02 without citing any reason and intimation straightaway, with a single stroke of pen imposed Major penalty of removal from service w.e.f. 01.01.2019 and refund of the salary received on the ground of alleged absence from duty w.e.f. 01.01.2019 to 30.06.2019, vide impugned order No. 3080-87 dated 05.07.2019.

(copy of impugned order dated 05.07.2019 is annexed as Annexure "C").

4. That, appellant filed a departmental appeal on dated 22.07.2019, with respondent No 02, which was rejected vide impugned order no 4775 dated 01.10.2019.

(copies of Departmental appeal and impugned order dated. 01.10.2019 are annexed as Annexure "D&E" respectively).

5. That, being aggrieved from the impugned orders dated 05.07.2019 and 01.10.2019, appellant having no other remedy files the present service appeal before this Honourable Tribunal for interference inter alia, on the following amongst other grounds.

GROUNDS:-

A) That, appellant never remained absent as alleged and the entire illegal proceedings were carried out fictitiously, while sitting in office by respondent No 02 out of mala-fide.

B) That, before imposing the impugned penalty, no publication as required under rule 9 of E&D, Rules, 2011, was ever made, hence, the impugned order is wholly illegal, unlawful, without lawful authority and of having no legal effect.

C) That, as per attendance register/sheets from January, 2019 to May, 2019, duly verified and countersigned by concerned SDEO (Femal) would depict that appellant never remained absent. The verified extracts of attendance register totally negate the allegations as alleged in the impugned order.

(Copies of attendance register are annexed as Annexure "F").

D) That, no inquiry into the alleged allegations was ever conducted and the

impugned penalty was imposed without having the allegations proved.

E) That, appellant was never confronted with the alleged allegations at any point of time, condemning her unheard.

F) That, before passing the impugned order, appellant was not put on notice to present his view point/explanation under the Doctrine of Audi aulterm partem, hence, the impugned order is not sustainable and maintainable under the law.

G) That, no evidence worth name was attempted to collect by respondent No 02 against the appellant for alleged absence from duty and he has been condemned on flimsy and perverse grounds with mala-fide intention.

H) 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 and having the allegations proved.

I) That, no complaint was ever filed by any one against the appellant for her being absent from duty as alleged on any working day with any authority.

- J) That, the impugned order on its very face value, is illegal, unlawful, without lawful authority, without jurisdiction and of having no legal effect.

PRAYER:-

On acceptance of the instant service appeal, the impugned orders bearing No 3080-87 dated 05.07.2019 and 4775 dated 01.10.2019, passed by respondents may kindly be set-aside declaring them illegal, void-abnito and against the law on the subject and appellant be re-instated into service with all back benefits.

Dated 21.10.2019

Syeda Sharafat
SHARAFAT-UN-NISA
(Appellant)

Through:-

ABDUL SABOOR KHAN
ABDUL SABOOR KHAN
Advocate High Court

VERIFICATION:

I, SHARAFAT-UN-NISA, Ex-Primary School Teacher, Government Girls Primary School, Sultan Abad Harband, Tehsil Dassu, District Kohistan upper, 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 from this Honorable Tribunal.

Sharafat
SHARAFAT-UN-NISA
CNIC # 13503-5532684-2

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No _____ of 2019

Sharafat-un-Nisa.....**Appellant**

VERSUS

Director Elementary and Secondary
 Education Peshawar etc**Respondents**

APPEAL

AFFIDAVIT

I, Sharafat-un-Nisa, ex-primary School Teacher, Government Girls Primary School, Sultan Abad Harband, Tehsil Dasso, District Kohistan Upper, 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 foregoing 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: 21.10.2019

Syeda Sharafat
SHARAFAT-UN-NISA
DEPONENT
CNIC # 13503-5532684-2

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No _____ of 2019
Sharafat-un-Nisa, **Appellant**

VERSUS

Director Elementary and Secondary
Education Peshawar etc **Respondents**

APPEAL

CORRECT ADDRESSES OF THE PARTIES

APPELLANT:

Sharafat-un-Nisa, Ex-Primary School
Teacher, Government Girls Primary School,
Sultan Abad Harband, Tehsil Dassu, District
Kohistan upper.

RESPONDENTS:

- 1) Director Elementary and secondary
Education Peshawar.
- 2) District Education officer (Female)
Kohistan at Dassu.

Dated 21.10.2019

Sharafat
SHARAFAT-UN-NISA
(Appellant)

Through:-

ABDUL SABOOR KHAN
Advocate High Court

Attested
21/10/2019

(6)

Annex

P
A
10

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY &
SECONDARY EDUCATION KOHISTAN

APPOINTMENT

Consequent upon approval of District Departmental Selection Committee of Elementary & Secondary Education Department Kohistan the competent authority is pleased to appoint the following (Female) candidates against the post of PST in BPS-5(U/C Wise) in the schools noted against each according to the Policy issued by the Government of NWFP Elementary & Secondary Education Department in the interest of public service with immediate effect.

S.#	Name of Candidate	Father Name	R/O	Name of School where appointed	Remarks
1	Sharafar Nisa	S.Mehtab Shah	Karin	GGPS Thoodi	-do-
2	Tabbasam	S.Mehtab Shah	Karin	-do-	-do-
3	Saira Bano	Turab Shah	Karin	GGPS Khwar Karin	-do-
4	Fatima	Jamshed	Dassu	GGPS Kaiga	-do-
5	Safia	Ghulam Sarwar	Dassu	GGPS Kass Banda	-do-
6	Hassan Zahira	Syed Moh Hussain	Dassu	-do-	-do-

CONDITIONS

1. No TA/ DA is allowed to any one
2. Charge report should be submitted to all concerned
3. Their appointment is purely on temporary basis and liable to termination at any time with out assigning any reason/ notice
4. They will be governed by such rules & regulation enforced and as prescribed by the Government from time to time for the category of the Government Servants to which they belong
5. In case the above candidates failed to assume the charge of his post within fifteen days of the issuance of this Order their appointment will automatically stand cancelled.
6. They should produced Age & Health Certificate from EDO Health Kohistan
7. They should not be allowed to take over charge if their age is less than 18-years & above 35-years.
8. Their original certificates/ Degrees should be verified by Dy: District Officer (Female) E&SE Kohistan from the concerned board/ University/ Institution before drawl of their pay

Endst: No. 2649-54 Dated Kohistan the 20/7/09 /2009

Executive District Officer
E&SE Kohistan

Copy of the above is forwarded to the:-

1. PS to Secretary Elementary & Secondary Education Department NWFP Peshawar
2. PA to Director Elementary & Secondary Education NWFP Peshawar
3. District Coordination Officer Kohistan
4. District Accounts Officer Kohistan
5. Dy: DO (F) E&SE Kohistan
6. Candidates concerned

Executive District Officer
E&SE Kohistan

(7)

Attested
25/12/2019

"B"
P-11

Annex B

OF THE DISTRICT EDUCATION OFFICER (Female) KOHISTAN.


OFFICE ORDER.

As verbally directed by worthy District Education Officer (Female) Kohistan in the reference khuly kachery held on 19/9/2018 at GHS Harban Kot the following teachers are hereby posted/ adjusted to functionalize the school in the best interest of public service with imitated effect in the school noted against each.

S/NO	Name of Teacher	From	To	Remarks.
1	Sharefatunissa PST	GGPS Keigha	GGPS Sullan Abad	
2	Gul Shad PST	GGPS Faridoon Abad	GGPS Sullan Abad	

Note:


- 1- NO TAVDA is allowed.
- 2- Charge report should be submitted to all concerned.


District Education Officer,
(Female) Kohistan,

Endst:- 2260-62 / Dated 17/11/2018.

Copy forwarded to: _

- 1- The District Monitoring Officer (IMU) Kohistan.
- 2- The Sub Divisional Education Officer (Female) Dassu.
- 3- Office Record.


District Education Officer,
(Female) Kohistan

Annexure "A"

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)
DISTRICT UPPER KOHISTAN

NOTIFIATION



Annex (e)

- WHEREAS Mst. Syeda Sharafat un Nisa PST GGPS Sultana Abad District Upper Kohistan proceeded against under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 on account of her willful and unauthorized absence from duty.
2. AND WHEREAS as per report of ASDEO Circle as well as report of the DCMAs of IMU Kohistan the teacher concerned was reported remained absent from her duties w.e.f 01/01/2019 to till date without any prior permission/leave sanctioned of the competent authority.
3. AND WHEREAS Show Cause notice was served upon her vide this office letter No. 1358 dated 02/05/2019, she submitted her reply to the Show Cause notice on 29/05/2019 through SDEO Concerned his letter No 626 dated 29/05/2019.
4. AND WHEREAS reply to the Show Cause notice submitted by the teacher concerned was declared as non-convincing by the Competent authority, and directed the teacher to attend this office on 13/06/2019 before the District Education Officer Female Kohistan Upper for personal hearing vide this office letter No. 2710-14 Dated 30/05/2019, but she failed to avail opportunity of personal hearing.
5. AND WHEREAS the Competent Authority (District Education Officer ('F') after having considered the charges and evidence on record response to the Show Cause Notice, is of the view that the charges against the accused teacher have been proved.
6. NOW, THEREFORE, in exercise of the powers conferred under the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (District Education Officer ('F') is pleased to impose major penalty of "REMOVAL FROM SERVICE" w.e.f 01/01/2019 upon Mst. Syeda Sharafat un Nisa PST GGPS Sultana Abad District Upper Kohistan. Salary drawn by the teacher concerned during her absence period w.e.f 01/01/2019 to 30/06/2019 if any will be recovered.

SD-
District Education Officer (F)
Upper Kohistan

Endst: No 3080-87 dated 05/07/2019:

Copy forwarded for information and necessary action to the -

1. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
2. Deputy Commissioner District Kohistan
3. District Accounts Officer District Kohistan
4. District Monitoring Officer IMU Kohistan
5. Sub Divisional Education Officer (F) Kohistan with the directions to ensure recovery for absent period mentioned above(if any) within 15 days under intimation to this office
6. Teacher Concerned.
7. Office File.

SD-
District Education Officer (F)
Upper Kohistan

Accepted
15/7/2019

14

13

بخدمت جناب ڈائریکٹر صاحب ایلمنٹری اینڈ سیکنڈری ایجوکیشن، پشاور

ANNEX (D)

اپیل برخلاف غیر قانونی آرڈر نمبری 3058/64 مورخہ 05/07/2019

جناب عالی! موجبات اپیل ذیل ہیں۔

- 1- یہ کہ سائلہ 2006ء میں بھرتی ہو اور باقاعدگی سے اپنے فرائض منصبی بطریق احسن بحیثیت PST سرانجام دیتی رہی۔
- 2- یہ کہ سائلہ اپیلانٹ نے مورخہ 01/01/2019 تا 24/05/2019 کوئی غیر حاضری نہ کی ہے بلکہ انتہائی محنت سے بچوں کو پڑھاتی رہی ہے جبکہ بوجہ تعطیلات موسم گرما از مورخہ 25/05/2019 تا حال سکول بند ہے۔
- 3- یہ کہ دوران چیکنگ بھی سائلہ اپیلانٹ سکول مذکورہ میں حاضر تھی۔ اس ضمن میں سائلہ اپیلانٹ کاپی ہائے حاضری جو کہ حاضری رجسٹر سے لی گئی ہیں اور باضابطہ ASDEO سے تصدیق شدہ ہیں، لف ہذا ہیں۔
- 4- یہ کہ سائلہ کو بغیر انکوائری، بغیر کسی نوٹس اور بغیر چارج شیٹ کے غیر قانونی طور پر ملازمت سے برطرف کر دیا ہے جو کہ خلاف قانون و انصاف ہے۔

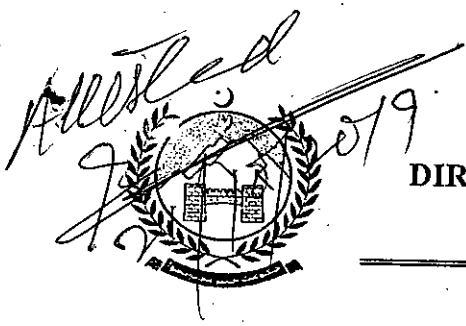
اندریں حالات استدعا ہے کہ غیر قانونی چھٹی نمبری 3058/64 مورخہ 05/07/2019 کو کالعدم اور منسوخ فرماتے ہوئے سائلہ کو بمعہ Back Benefits کے ملازمت پر بحال فرمایا جاوے۔

العارضہ ا

Syeda Sharifat
مسماة شراف النساء PST

مورخہ 22/07/2019

گورنمنٹ گرلز پرائمری سکول سلطانہ آباد ہر بن، ضلع اپر کوہستان



(15)

P

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

No. 177 / FNo.325/F/Appeal Kohistan

Dated Peshawar the 1/10 /2019

To

The District Education Officer,
(F) Kohistan

ANNEX

Subject:- APPEAL

I am directed to refer to your letter No.5157 dated 02/09/2019 on the subject cited above and to state that the competent authority has rejected the appeal of Mst. Syeda Sharafat Un Nisa PST and Mst. Gul Shad PST District Kohistan. Hence she may be informed accordingly.

Deputy Director Female
(E&SE) Khyber Pakhtunkhwa,

سال 2019 چتر حاضری برداری P.O.S-T سلطان آیا بیت ماه نومبر 2019 سال

3401-5126
0312-33

3401-51288357	P.O.S-T	P.O.S-T	قومی شناختی کارڈ نمبر: 13401-8632037-0	13401-5126
0312-33	0312-2626555	0346-0287280	فون نمبر:	0312-33

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رجسٹر حاضرین مدرسہ اسلامیہ بابت ماہ مارچ سال 2019 رجسٹر حاضرین

نام:	کلی شاد	دعوت نسواں	حجاب	نام:	کلی شاد	دعوت نسواں	حجاب
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فون نمبر:	0346-0287280	0312-2626555	0312-3323339	فون نمبر:	0346-0287280	0312-2626555	0312-3323339
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Approved

رہنہ حاضر کی مدد سے پانچ سالہ بچوں کی پرورش کے لیے ماہانہ صحتی سال 19

نام:		شہر اہلی نساء						کل شہاد					
عہدہ:		P.S.T						P.S.T					
قومی شناختی کارڈ نمبر:		13503-5532884-2						13401-8632037-0					
فون نمبر:		0312-2626555						6346-0287280					
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وکالت نامہ

بعدالت جناب سروس ٹریبونل KPK پشاور

حکومت خیبر پختونخواہ وغیرہ

بنام

شرافت النساء

سروس اپیل

اپیلانٹ

منجانب:

باعث تحریر آئندہ!

عبدالصبور خان ایڈووکیٹ ہائی کورٹ

اندریں مقدمہ عنوان بالا اپنی طرف سے برائے بیرونی وجوہ دہی بمقام پشاور ہائی کورٹ

کو بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رُوئے 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 ہوا 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 بیرونی 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 کاروبار وصول کرنے اور رسید دینے اور داخل کرنے کا، ہر قسم کا بیان دینے اور سپردگاشی و راضی نامہ و دستبرداری و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا فیصلہ ڈگری و اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ فیس کرنے کا مجاز ہوگا۔ بصورت ضرورت بدوران مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا بیرسٹر کو بجائے خود یا اپنے ہمراہ مقرر کریں اور ایسے مشیر 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 بیرونی 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 ہے۔ مضمون وکالت نامہ سن لیا اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

موسیٰ 21.10.2019

Syed Sherafat

شرافت النساء سابقہ پرائمری سکول ٹیچر گورنمنٹ گرلز پرائمری سکول سلطان آباد ہر بن تحصیل داسو ضلع کوہستان اپر

(اپیلانٹ)

Attested & Accepted
Abdul Saboor Khan
Advocate High Court

(*)

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

APPEAL No 1400 OF 2019

Mst. Sharafat-Un-Nisa & others

Appellant

VERSUS

Director, Elementary & Secondary Education KPK Peshawar & Others

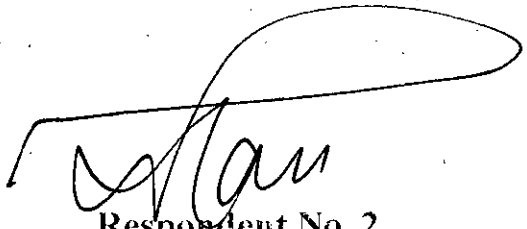
Respondents

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

INDEX

S#	Particulars of documents	Annexure	Pages
1	Comments along with affidavit		1-5
2	Copy of show cause notice and personal hearing etc	"A"	6-7
3	Copy of Removal order	"B"	8

Dated 15-06-2022


Respondent No. 2
District Education Officer,
(Female) Kohistan Upper

(1) (2)

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

APPEAL No 1400 OF 2019

Mst. Sharafat-Un-Nisa & others

Appellant

VERSUS

Director, Elementary & Secondary Education KPK Peshawar & Others

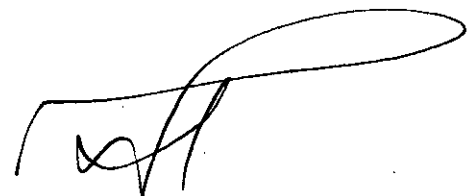
Respondents

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

Respectfully Sheweth:

PRI LIMINARY OBJECTIONS:-

- 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 05/07/2019, hence Appeal is liable to be dismissed.
- VII. That the appeal is time bared hence not maintainable and liable to be dismissed.

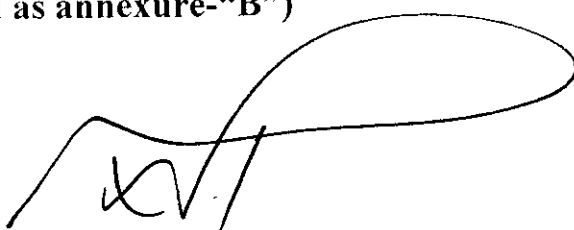


(2)

Factual Objections:

1. Para No.1 is pertaining to the appellant personal record hence, needs no comment, the appellant was appointed as school teacher but she did not perform her duty in the school.
2. Para No.2 is correct upto the extent of transfer from one school to another school it pertaining to the appellant personal record hence needs no comments.
3. Para No.3 is Incorrect and strongly denied, that the appellant was reported willful absent from her duty, in this regard a showcause notice was served to the appellant home address on 02-05-2019, but the appellant reply was not satisfactory, there after that the appellant was called for personal hearing vide letter dated 30-05-2019 but the appellant did not appeared to the office for personal hearing. It is proved that the appellant willfully absent from her duty.
(Copy of showcause notice and personal hearing is annexed as annexure-"A").
4. Para No.4 Incorrect and strongly denied that the appellant did not file the departmental appeal within the stipulated time period and after lapse of time the appellant file appeal in this Tribunal the appellant appeal is time barred and liable to be dismissed with cost.
5. Para No.5 is Incorrect and strongly denied that the appellant is not aggrieved person, she did not perform her duty at the school as reported by the ASDEO as well as showcause notice was served to her after that a chance of personal hearing was given to her, the appellant was removed from service under the efficiency & disciplinary rules 2011 by following the codal formalities vide Endstt: No. 3080-87 dated 05-07-2019.

(Copy of removal order is annexed as annexure-"B")

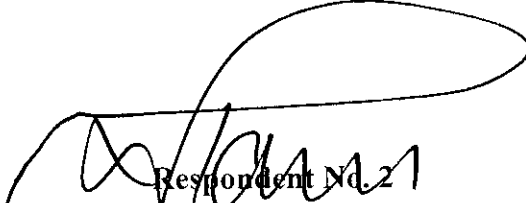


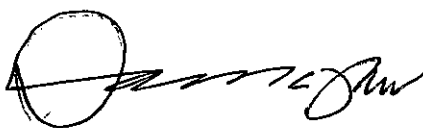
3

GROUND

- A- Incorrect, strongly denied that the appellant removed from service after fulfilling of all codal formalities as stated in Para 3 & 5 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 & 5 of Factual objections.
- C- Incorrect strongly denied that the appellant made a fake and bogus attendance she did not perform her duty in the school as stated in Para No, 3 & 5 of the above 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 showcause notice was served to him as well as a chance of personal hearing to her but he did not come for her self defense.
- F- Incorrect strongly denied that as stated in Para No. 3 & 5 above of factual objections.
- G- Incorrect strongly denied that the appellant was willfully absented himself.
- H- Incorrect strongly denied that the appellant was removed by following all the codal formalities as stated at the above Para No.3&5 of the factual objection,
- I- Incorrect strongly denied that the appellant was willful absent from her duty as stated in the above Para's of factual objections.
- J- That the respondents seek leave of this Honorable Tribunal 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.


Respondent No. 2
District Education Officer,
(Female) Kohistan Upper


DIRECTOR
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

(27)

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

APPEAL No 1400 OF 2019

Mst. Sharafat-Un-Nisa & others -----

Appellant

VERSUS

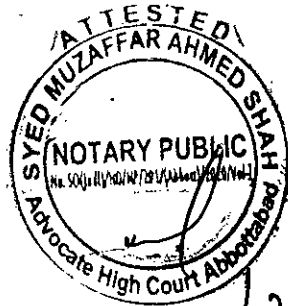
Director, Elementary & Secondary Education KPK Peshawar & Others

Respondents

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

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. 1400/2019 titled Mst. Sharafat-Un-Nisa & others versus Govt: of KPK are true and correct to the best of my knowledge and belief and nothing is being suppressed from the Honorable Tribunal.



21/07/2022

Shah Wali Ullah
DEPONENT

18/6/2022

**OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) KOHISTAN**



SHOW CAUSE NOTICE

I, Mr. Raja Sheraz Ahmad District Education Officer, (Female) Kohistan, being a competent authority under the Khyber-Pakhtunkhwa Govt. Servants (E&D) Rules, 2011, do hereby serve you **Mst. SYED SHARAFAT UN NISA PST GGPS SULTAN ABAD**

01. That as confirmed by IMU Inspection report, at the time of visit school found **Non-Functional for the month of 03/2019** and you were found absent from school duty since long, you have not performed your duty in school & resultantly your school found closed and complaints lodge by inhabitants/Chowkidar of the area without lawful authority in sheer violation of the rules. the material on record and other connected papers under Rule-5 (i) (a) read with Rule-7 of the said Rules, I am satisfied that you have committed the following acts/omissions specified in Rule-3 of the rules ibid:
 - a. Guilty of habitually absenting herself from duty without prior approval of leave.
02. Therefore, I as competent authority have tentatively decided why not to impose upon you the penalty under rule 4 (a/b) of the said rules.
03. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desired to be heard in person.
04. 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 defense to put in and in that case an ex-part action shall be taken against you.

Endstt: No 1358 /Dated Kohistan the 2/5 /2019
Copy of the above is forwarded to the:-

01. Mst: SYED SHARAFAT UN NISA PST GGPS SULTAN ABAD.

District Education Officer (F)
COMPETENT AUTHORITY

(Handwritten signatures and initials)

①

Shah wali₂

Shah wali₁

Shah wali₁

Shah wali₁

DEO (F) KH dated 19/07

Page # 7

**OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)
KOHISTAN**

No 2710 DEO (F) KH Dated 30/05/1 2019

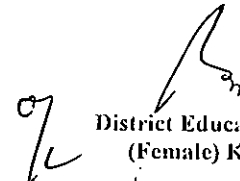
To:

1. Mst. Syed Sharafatunisa PST
GGPS Sultan Abad

Subject:- PERSONAL HEARING.

Memo:

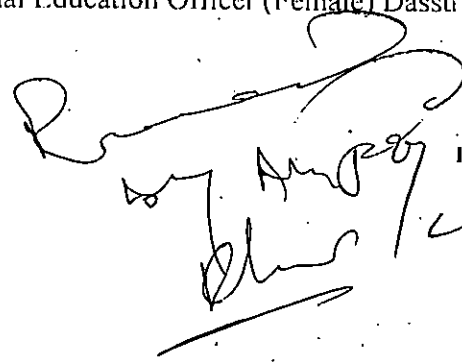
A show cause notice regarding your absenteeism has been issued vide this office letter No. 1358 Dated. 02/05/2019 your written reply is not justified, So you are directed to attend this office for personal hearing on 13/06/2019 at 10:00 AM in the office of the undersigned to justify that why not disciplinary action should be taken against you under E&D rule 2011.


District Education Officer
(Female) Kohistan

No. 2711-11 Dated 30/05 2019

Copy of the above is forwarded to the:

1. Deputy Commissioner Kohistan Upper.
2. Deputy District Education Officer (Female) Kohistan.
3. Sub.Divisional Education Officer (Female) Dasso Kohistan
4. Office File


District Education Officer
(Female) Kohistan

01

(2)

Page # 8



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)
DISTRICT UPPER KOHISTAN



NOTIFIATION

WHEREAS Mst. Syeda Sharafat un Nisa PST GGPS Sultana Abad District Upper Kohistan proceeded against under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 on account of her willful and unauthorized absence from duty.

2. AND WHEREAS as per report of ASDEO Circle as well as report of the DCMA's of IMU Kohistan the teacher concerned was reported remained absent from her duties w.e.f 01/01/2019 to till date without any prior permission/leave sanctioned of the competent authority.

3. AND WHEREAS Show Cause notice was served upon her vide this office letter No. 1358 dated 02/05/2019, she submitted her reply to the Show Cause notice on 29/05/2019 through SDEO Concerned his latter No 626 dated 29/05/2019.

4. AND WHEREAS reply to the Show Cause notice submitted by the teacher concerned was declared as non-convincing by the Competent authority, and directed the teacher to attend this office on 13/06/2019 before the District Education Officer Female Kohistan Upper for personal hearing vide this office letter No. 2710-14 Dated 30/05/2019, but she failed to avail opportunity of personal hearing.

5. AND WHEREAS the Competent Authority (District Education Officer ('F') after having considered the charges and evidence on record response to the Show Cause Notice, is of the view that the charges against the accused teacher have been proved.

6. NOW, THEREFORE, in exercise of the powers conferred under the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (District Education Officer ('F') is pleased to impose major penalty of "REMOVAL FROM SERVICE" w.e.f 01/01/2019 upon Mst. Syeda Sharafat un Nisa PST GGPS Sultana Abad District Upper Kohistan. Salary drawn by the teacher concerned during her absence period w.e.f 01/01/2019 to 30/06/2019 if any will be recovered.

[Signature]
SD-
District Education Officer (F)
Upper Kohistan

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Endst: No 3080-87 / dated 05/07/2019:

- Copy forwarded for information and necessary action to the -
1. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
 2. Deputy Commissioner District Kohistan
 3. District Accounts Officer District Kohistan
 4. District Monitoring Officer IMU Kohistan
 5. Sub Divisional Education Officer (F) Kohistan with the directions to ensure recovery of absent period mentioned above(if any) within 15 days under intimation to this office
 6. Teacher Concerned.
 7. Office File.

[Signature]
District Education Officer (F)
Upper Kohistan

3

LIST OF DB CASES FIXED BEFORE ^{Mr} *Katim Arshad Chaudhary* & MISS FAREEHA PAUL
MEMBER (E) KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT
ABBOTTABAD.

21/09/2022. (WEDNESDAY)

ARGUMENTS.

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	336/18	MUAZZAM ALI	FOOD	
2.	337/18	M SHOAB	FOOD	
3.	1493/19	SYED FARMAN ULLAH	EDU	
4.	328/19	JAVED AHMAD	POLICE	
5.	1345/19	AKHTAR MEHMOOD	EDU	
6.	1718/19	UMAR ZAMAN	EDU	
7.	13288/20	M SAFEER	EDU	
8.	9406/20	MOHIZ SHAHZAD	POLICE	
9.	15608/20	M JUNAID	POLICE	
10.	11496/20	NASIR UD DIN	POLICE	
11.	11495/20	WAQAR ALI	POLICE	
12.	6061/20	M KAFIL	SMBR	
13.	1177/20	GUL NAZ BIBI	EDU	
14.	13290/20	NASIR MEHMOOD	POLICE	
15.	6582/21	M SHOUKAT	IRRI	
16.	4759/21	FARAZ GUL	FOREST	
17.	7079/21	FAHAD SHAH	SMBR	
18.	1123/21	RUSTAM KHAN	EDU	
19.	7620/21	AHMAD WAQAS	POLICE	
20.	7782/21	MASOOD UR REHMAN	EDU	
21.	5912/21	GUL ZADA	POLICE	
22.	5911/21	SHELA NAZ	EDU	
23.	1364/18	<i>mst. Sarina Gazi</i>	<i>Edu</i>	
24.	423/19	<i>Ruston Khan</i>	<i>Edu</i>	

9596/20 Sumera Bano
2115/21 Ramzan Shah
4964/21 Phool Bibi

READER

Service Appeal No. 7392/2021 titled "Majid Ali-vs-Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others", service appeal No. 7393/2021 titled "Faisal Ali Shah-vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" and service appeal No. 7394/2021 titled "Shahzad Shah-vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" decided on 22.09.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Farzeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

discussed ~~in detail above~~ ^{have} and had not been either enquired, clarified ^{answered} or establish ^{ed} during the inquiry. In the absence of inquiry with respect to the above detail ~~facts~~ ^{ed points / facts} the punishment awarded to the appellant ^s would not be appropriate. ^{all the three} Therefore, on allowing these appeals, we set aside the impugned orders of dismissal of ^L appellants from service as well as the appellate order ³ filing their departmental representation, and directed ^{be conducted,} that a detailed de-novo inquiry covering the above facts/observations/points made by us and then proceed in accordance with the result ^{The} / outcome. The appellants are reinstated for the purpose of the above enquiry, ~~and the~~ back benefits shall be subject to the outcome of the de-novo enquiry. The enquiry shall be completed within a period of sixty days (60) from the date of receipt of this judgment and the compliance report be submitted to the Registrar of this Tribunal. ^{Date of} Receipt of this judgment be also acknowledged to the Registrar of this Tribunal. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 21st day of September, 2022.*

KALIM ARSHAD KHAN
Chairman
Camp court Abbottabad

FAREEHA PAUL
Member (Executive)
Camp court Abbottabad

LIST OF SB CASES FIXED BEFORE MR. KALIM ARSHAD KHAN CHAIRMAN KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.

23/09/2022. (FRIDAY)

PRELIMINARY HEARING .

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	11150/20	SAKHI SULTAN	FOREST	
2.	RA55/21	SAKHI SULTAN	FOREST	
3.	7849/21	FAIZA BIBI	EDU	
4.	1335/22	MST IRUM BIBI	EDU	
5.				

EXECUTION PETITION.

S.NO	E/P/NO	APPELLANT NAME	DEPTT	NEXT DATE
1	330/22	DR SHAHZAD ALI	HEALTH	
2				

REPLY.

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	7857/21	MIAN M HASSAN	EDU	
2.	1218/19	SADBAR	INDU	
3.	78/22	REHMAT KHAN	IRRI	
4.	79/22	TAHIR ASBAB	IRRI	
5.	80/22	BABR KHAN	IRRI	
6.	7746/21	RASHEEDA BEGAM	EDU	
7.	423/22	M AJMAL	JUDICIARY	
8.	7287/21	JAMIL &02	SMBR	
9.	7867/21	FARZANA BIBI	EDU	
10.				

READER

called the muharrir to keep pending the Roznamcha of 07.03.2021 as he has registered an FIR and on the order of SHO the Muharrir kept the Roznamcha of 07.03.2021, pending till 08.03.2021 (morning) while in the FIR the time of lodging the FIR was mentioned as 2040 hours (08:40 PM). Meaning thereby the FIR was registered in back date. Similarly, one constable Sheraz No. 1132 also admitted before the inquiry that his name was included in the Fard as witness, but neither he was present on the spot nor he has signed on the Fard. Since, in the departmental inquiry it is proved that the FIR was ~~the~~ fake, bogus and preplanned, therefore, ~~the~~ cancellation report was filed. The inquiry officer has, though, brought this fact in his observations that the FIR was registered on 08.03.2021 around 4/5 AM whereas there is no clarification whether ~~the~~ only FIR was registered late or Marasala for lodging the FIR was also drafted late i.e. on 08.03.2021 at 4/5 AM and not on the date in time mentioned in FIR itself, the copy of which is found placed on file and the same negates the above fact. We find copies of the daily diary No. 33, 38, 39 & 47. According to daily diary No. 33 dated 07.03.2021 the appellants had left the police station at 1855 hrs for ~~the~~ ^{work} Daily diary No. 38 shows that the marasala, drafted by the SHO Faisal Ali Shah was ~~drafted~~ and sent to Majid Ali No. 351 (both are the appellants before us) for registration of FIR No. 139 under Section 15AA. Similarly daily diary No. 39 shows that the ASI concerned had completed the FIR around 2050 hrs. ~~Therefore, Shahzad Shah, HIG, while sending the accused~~ ^{the above} ~~Hazrat Gul behind the bar. These daily diaries also negate the fact stated in~~ the inquiry report. Therefore, we find that ~~there are some points which are~~ ^{the above}

Service Appeal No. 7393/2021 filed "Majid Ali vs. Promotional Police Officer, Khyber Pakhtunkhwa, Peshawar and others", service appeal No. 7393/2021 filed "Faisal Ali Shah vs. Promotional Police Officer, Khyber Pakhtunkhwa, Peshawar and others", service appeal No. 7394/2021 filed "Shahzad Shah vs. Promotional Police Officer, Khyber Pakhtunkhwa, Peshawar and others" decided on 22.09.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Camp Abbottabad

LIST OF SB CASES FIXED BEFORE MR. KALIM ARSHAD KHAN CHAIRMAN. KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD

19/09/2022. (MONDAY)

PRELIMINARY HEARING.

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	12445/21	AKMAL HUSSAIN	EDU	
2.	5902/21	M FAROOQ (7)	INDU	
3.	927/22	SHAHFIQUE	PHE	
4.	929/22	ISHTIAQ AHAMAD	POLICE	
5.	1194/22	M JAVED & 01	POLICE	
6.	1338/22	MUZFFAR IQBAL (1)	FISHERY	
7.	1117/22	SANAM NAZ	POILCE	
8.	1118/22	SAIRA BANO	EDU	
9.	1136/22	FAISAL SHAHAZAD	COMM	
10.	1182/22	WAQSEEMA JABEEN	EDU	
11.				

EXECUTION PETITION.

S.NO	E/P/NO	APPELLANT NAME	DEPTT	NEXT DATE
1.	106/20	M SAJID <i>Sajid</i>	POP <i>S.W</i>	
2.	116/20	FARHAD SAJID	FOREST	
3.	344/22	BILAL RAZA	JUDICIARY	
4.	547/22	ABDUL JAMIL	EDU	
5.	546/22	SHAKEEL AKHTAR	EDU	
6.	522/22	M NOOR	EDU	
7.				

REPLY.

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	941/22	SAQIB ALI	POLICE	
2.	992/22	GUL AFAZAL	POLICE	
3.	2559/21	RAJA RABNAWAZ	EDU	
4.	7864/21	MSHRAF JAMAL	FOOD	
5.	7906/21	HABIB UR REHMAN	JUDICIARY	
6.	7907/21	IMTIAZ HUSSAIN	JUDICIARY	
7.	11148/21	SADAQAT KHAN	EDU	
8.	9269/20	FARHAT JABEEN	EDU	
9.	11882/20	MOHAMMAD ZAFFAR	EDU	
10.				

READER

5.115

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Adm

Service Appeal No. 7392/2021 titled "Majid Ali-vs-Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others", service appeal No. 7393/2021 titled "Faisal Ali Shah-vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" and service appeal No. 7394/2021 titled "Shahzad Shah-vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" decided on 22.09.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

not be sufficient to hold that he was actually Hazrat Gul and not a fake person planted to ~~the~~ ^{the} benefited Hazrat Gul in a murder case, registered at district Bannu. The preliminary as well as the departmental inquiry both are silent, ^{to} show and prove ⁱⁿ the fact whether Hazrat Gul was actually, Abbottabad at the relevant point of time, when FIR was registered at Abbottabad or a fake person was arranged and shown as Hazrat Gul. In case it is established that the accused Hazrat Gul was a fake person, arranged by the appellants at Abbottabad, to establish his alibi, in order to exonerate him from the murder charge at Bannu, then of course the act of the appellant, would be a gross misconduct and in case, which, of course, could be easily verified from the ^{finger prints} thumb impression, of the person arrested in FIR No. 139 at Abbottabad and his ^{finger prints} thumb impression from the jail records ^{and compared with the record of} from the NADRA, it is established that accused Hazrat Gul was actually at Abbottabad and was arrested by the appellants in case FIR No. 139 dated 07.03.2021, then the situation could be quite different as such a situation would not prove, ^{at least,} the allegation that the case was registered by the appellants to extend benefits to the accused Hazrat Gul to establish his alibi so that he could be exonerated from the murder charge, ^{at Bannu.} During the course of arguments, the learned counsel for the appellant produced certified copy of order dated 24.02.2022 passed by learned Judicial Magistrate-I Abbottabad whereby the ^{registered at Abbottabad} FIR, was cancelled. The learned Magistrate held in the order that the officials of the concerned ^{Police Station,} in their statements before inquiry, ^{officers} admitted that the FIR was registered at about 04:30 AM or 05 PM in the morning time on 08.03.2021 and in this respect one day prior i.e. on 07.03.2021, the SHO

LIST OF SB CASES FIXED BEFORE MR. KALIM ARSHAD KHAN CHAIRMAN KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.

20/09/2022. (TUESDAY)

PRELIMINARY HEARING .

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	1088/22	SAJJAD AHAMD	PRISON	
2.	1077/22	TARIQ KHAN	EDU	
3.	954/22	WAJID	POLICE	
4.	910/11	ABDUL RAZZAQ	FOREST	
5.	1333/22	MUHIB ULLAH	FOOD	
6.	1305/22	ABIDA BIBI	EDU	
7.	1304/22	BASHRAT QAYYUM	ENVIO	
8.	1237/22	AHSAN HASSAN	ENVIO	
9.	1218/22	AHMAD HANIF	EDU	
10.				

EXECUTION PETITION.

S.NO	E/P/NO	APPELLANT NAME	DEPTT	NEXT DATE
1	355/22	HAROON KHAN	IRRI	
2	395/22	NAVED IQBAL	EDU	
3	389/18	M IQBAL	AGRI	
4	303/22	WAJHAT MANZOOR	EDU	
5	532/22	ZEESHAN ZAIB	POLICE	
6	521/22	MUKHTYAR AHMAD	EDU	
7				

REPLY.

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1	918/22	SAIMA NAZ	EDU	
2	945/22	SHAHZAD SHAH	POLICE	
3	944/22	MOHAMMAD AJMAL	POLICE	
4	943/22	AQIBAT SHAH	POLICE	
5	635/22	MUBASHIR ALI	POLICE	
6	7300/21	M SHOAIB (1)	HEALTH	
7	525/20	SHAFI UR REHMAN	POLICE	
8	11953/20	MARIA NAZIR	EDU	
9	11638/20	WAZIR MOHAMMAD	POLICE	
10	16411/20	ABDUL KHALIQ	EDU	
11	16419/20	SHAHZIA JALIL(2)	EDU	
12				

30/09



Service Appeal No. 7392/2021 titled "Majid Ali vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others", service appeal No. 7393/2021 titled "Faisal Ali Shah vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" and service appeal No. 7394/2021 titled "Shahzad Shah vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" decided on 22.09.2022 by Division Bench comprising Kalm Arshad Khan, Chairman, and Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

Additional Advocate General controverted the same by supporting the impugned order.

6. The entire episode of these appeals ^{can be summarised in the manner} ~~is~~ that the appellants managed registration of ^{fake} case vide FIR No. 139 dated 07.03.2021 under Section-15-AA ^{at P} of Police Station Nawansher, Abbottabad in order to show ^{presence of} the accused Hazrat Gul son of Bahadur Gul resident of Kotkah Sokari, Bannu, ^{at the} ~~the~~

^{who was} charge in a murder case registered, on the same day, ~~which is two hours and few minutes before the occurrence~~ ^{at} Police Station ^{Cantonment} Bannu under Section 302/324/34 PPC just two hours and few minutes prior to the time of occurrence ^{showed} issued in FIR No. 139 registered at Police Station Nawansher, Abbottabad.

A preliminary inquiry was conducted by the Additional Superintendent of Police, Abbottabad and then departmental inquiry was conducted by the SP investigation Abbottabad. According to the observations in the inquiry everything was ^{allegedly} ~~was~~ inquired and tried to be thrashed except to ascertain ^{the} facts whether the accused Hazrat Gul son of Bahadur Gul, involved in the two FIRs, registered on the same date at two different districts,

falling far away from each other, was actually ^{the genuine same person and} present and arrested by the appellants in FIR No. 139 or he ^{was} actually ^{the same person and was} present at Bannu. The

observation No. 3 of the inquiry report referred to ^a CDR of all relevant persons collected in the previous preliminary inquiry, which revealed that the appellants reached Khokhar Maira interchange clearly indicates that they

received the accused (Hazrat Gul) in protocol under the direction of ^{the} SHO

^{at} Khokhar Maira interchange. ^{The enquiry report said that} This prima facie shows that the accused Hazrat Gul was actually in Abbottabad but prima facie ^{observation} ~~shown~~ the accused would

LIST OF SB CASES FIXED BEFORE MR. KALIM ARSHAD KHAN CHAIRMAN KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.

21/09/2022. (WEDNESDAY)

(WEDNESDAY)

PRELIMINARY HEARING .

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	7348/21	NAEEM SHAH	HOME	
2.	4897/21	M JAVED	EDU	
3.	880/22	AZAM SHAZAD	POLICE	
4.	887/22	GUL FARAZ AYUB	EDU	
5.	568/22	ABDUL SHAKOOR	EDU	
6.	1061/22	NAEEM UL HADI	HEALTH	
7.	1095/22	SHAHEEN MISKEEN	EDU	
8.	1153/22	M ASAD	HEALHT	
9.	1238/22	AZHAR MEHMOOD	EDU	
10.	1298/22	M SARFARAZ	EDU	
11.				

EXECUTION PETITION.

S.NO	E/P/NO	APPELLANT NAME	DEPTT	NEXT DATE
1	13/22	TAHMEENA AKHTAR	H.EDU	
2	372/22	M AFTAR	EDU	
3	478/22	AHMAD ZAMAN	EDU	
4	547/22	MST SYEDA NAFEESA &01	EDU	
5				

REPLY.

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	4750/21	M FAROOQ	POLICE	
2.	883/22	MOHSIN ABBAS	HOME	
3.	1111/22	ANWAR KHAN	EDU	
4.	4964/21	PHOOL BIBI	EDU	
5.	2415/21	RAMZAN SHAH	AGRI	
6.	7863/21	ISRAR AHAMD	EDU	
7.	1233/22	KANDEEL AYSHA WAHEED	EDU	
8.	16022/20	SAIF UR REHMAN (1)	POLICE	
9.				

READER

Service Appeal No. 7392/2021 titled "Majid Ali-vs-Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others", service appeal No. 7393/2021 titled "Faisal Ali Shah-vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" and service appeal No. 7394/2021 titled "Shahzad Shah-vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" decided on 22.09.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

enquiry ~~which~~ was conducted. It was also alleged in the statement of allegations that the appellant reached ~~at~~ Khokhar Maira Interchange to receive ~~the~~ accused in protocol under the direction of SHO while the interchange ~~is~~ ^{was} out of the jurisdiction of Police Station Nawansher. It was also alleged that preplanning and registering bogus case and obtaining illegal gratification/bribe had been proved against the appellant which shows there malafide intention, severe violation, a senior professional dishonesty and gross misconduct in terms of police E&D Rules 1975. The appellants submitted their reply to ^{the} charge sheet ^{whereafter} ~~and then~~ the final show cause notice was issued to them, which were also responded. The District Police Officer, Abbottabad relied on the departmental inquiry and after hearing the appellants, awarded them major punishment of dismissal from service on 10.06.2021. The appellants filed departmental appeals which were ^{regretably} filed by the Regional Police Officer, Hazara Region, Abbottabad vide order dated 12.08.2021 and the appellants then filed these appeals.

3. On receipt of the appeals and ~~then~~ admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeals by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.
4. We have heard learned counsel for the appellants and learned Additional Advocate General for the respondents.
5. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned

LIST OF SB CASES FIXED BEFORE MR. KALIM ARSHAD KHAN CHAIRMAN KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.

22/09/2022. (THURSDAY)

PRELIMINARY HEARING .

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	1069/22	M RASHEED	ESTB	
2.	618/22	SHER BAHADAR (1)	EDU	
3.	897/22	M WASEEM	IRRI	
4.	888/22	ZAHOOR KHAN	EDU	
5.	3185/20	M SHABBIR	SMBR	
6.	8815/20	SONIA BIBI	EDU	
7.	5680/20	SAIMA NOREEN	EDU	
8.	7823/21	KAUSAR JEHAN	EDU	
9.	1336/22	ZAHID ULLAH	PHE	
10.	1340/22	M WAQAS	EDU	1

EXECUTION PETITION.

S.NO	E/P/NO	APPELLANT NAME	DEPTT	NEXT DATE
1	518/22	ABDULLAH JAVED	EDU	
2	96/20	WAJID KHAN	EDU	
3	348/21	M SALEEM	POLICE	
4	388/22	M REHMAN	SMBR	
5				

REPLY.

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	1416/21	FAISAL HAFEEZ	POLICE	
2.	16441/20	KHATIB UN NISA	EDU	
3.	4516/21	SHUMAILA RAFIQ	EDU	
4.	114/22	ATTA ULLAH	EDU	
5.	1348/19	Haidar Ali Shah	EDU	
6.	622/22	GHULAM MUSTAFA	FOREST	
7				

READER

ORDER DATED 10.06.2021 OF THE DISTRICT POLICE OFFICER ABBOTTABAD WHEREBY THE APPELLANT HAS BEEN "DISMISSED FROM SERVICE" AND ORDER DATED 12.08.2021 OF THE REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD WHEREBY APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN FILED.

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment ^{Appeal} this appeal and connected/ No. 7393/2021 titled "Faisal Ali Shah-vs-Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" and service appeal No. 7394/2021 titled "Shahzad Shah-vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" are decided as all the three are against the dismissal of the appellants on ~~one and~~ the same allegations.

2. According to the facts gathered from the record, disciplinary action was started against all the appellants on the allegations that in preliminary enquiry conducted by the Addl: Superintendent of Police Abbottabad, vide his office memo No. 1317/PA dated 01.04.2021, a fake and bogus FIR, No. 139 dated 07.03.2021, under Section 15-AA, was registered at Police Station Nawansher, wherein the time of the occurrence was shown as 1935 hrs while on the same date, ^{at} 1715 hrs the same accused named Hazrat Gul S/O Bahadar Gul resident of Kotka Sokari, Bannu ^{was} also charged in a murder case registered vide FIR No. 178 dated 07.03.2021 under ^{Section} 302/324/34 PPC Police Station, Bannu Cantt, how was it possible that the accused was charged in 2 FIRs at the same time and date in two very faraway districts. After conducting the preliminary enquiry, ^a ~~directed to conduct~~ departmental

LIST OF SB CASES FIXED BEFORE MR. KALIM ARSHAD KHAN CHAIRMAN KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.

23/09/2022. (FRIDAY)

PRELIMINARY HEARING .

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	11150/20	SAKHI SULTAN	FOREST	
2.	RA55/21	SAKHI SULTAN	FOREST	
3.	7849/21	FAIZA BIBI	EDU	
4.	1335/22	MST IRUM BIBI	EDU	
5.				

EXECUTION PETITION.

S.NO	E/P/NO	APPELLANT NAME	DEPTT	NEXT DATE
1	330/22	DR SHAHZAD ALI	HEALTH	
2				

REPLY.

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	7857/21	MIAN M HASSAN	EDU	
2.	1218/19	SADBAR	INDU	
3.	78/22	REHMAT KHAN	IRRI	
4.	79/22	TAHIR ASBAB	IRRI	
5.	80/22	BABR KHAN	IRRI	
6.	7746/21	RASHEEDA BEGAM	EDU	
7.	423/22	M AJMAL	JUDICIARY	
8.	7287/21	JAMIL &02	SMBR	
9.	7867/21	FARZANA BIBI	EDU	
10.				

READER

Service Appeal No.7392/2021 titled "Majid Ali-vs-Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others", service appeal No. 7393/2021 titled "Faisal Ali Shah-vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" and service appeal No. 7394/2021 titled "Shahzad Shah-vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" decided on 22.09.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Fareeha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

Present:

Mr. Muhammad Aslam Tanoli,
Advocate.....For appellant.

Kabirullah Khattak,
Additional Advocate General.....For respondents.

Date of Institution.....10.09.2021

Dates of Hearing.....22.09.2022

Date of Decision.....22.09.2022

Service Appeal No.7394/2021

Shahzad Shah(Ex-IHC No. 756 Police Abbottabad) R/O Mohallah
Loharan Havailian, District Abbottabad.

.....(**Appellant**)

Versus

7. **Provincial Police Officer**, Khyber Pakhtunkhwa, Peshawar.

8. **Regional Police Officer**, Hazara Region, Abbottabad.

9. **District Police Officer**, Abbottabad.

.....(**Respondents**)

Present:

Mr. Muhammad Aslam Tanoli,
Advocate.....For appellant.

Kabirullah Khattak,
Additional Advocate General.....For respondents.

Date of Institution.....10.09.2021

Dates of Hearing.....22.09.2022

Date of Decision.....22.09.2022

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST**

LIST OF SB CASES FIXED BEFORE MR. KALIM ARSHAD KHAN CHAIRMAN, KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.

23/09/2022. (FRIDAY)

PRELIMINARY HEARING .

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	11150/20	SAKHI SULTAN	FOREST	
2.	RA55/21	SAKHI SULTAN	FOREST	
3.	7849/21	FAIZA BIBI	EDU	
4.	1335/22	MST IRUM BIBI	EDU	
5.				

EXECUTION PETITION.

S.NO	E/P/NO	APPELLANT NAME	DEPTT	NEXT DATE
1	330/22	DR SHAHZAD ALI	HEALTH	
2				

REPLY.

S.NO	APPEAL	APPELLANT NAME	DEPTT	NEXT DATE
1.	7857/21	MIAN M HASSAN	EDU	
2.	1218/19	SADBAR	INDU	
3.	78/22	REHMAT KHAN	IRRI	
4.	79/22	TAHIR ASBAB	IRRI	
5.	80/22	BABR KHAN	IRRI	
6.	7746/21	RASHEEDA BEGAM	EDU	
7.	423/22	M AJMAL	JUDICIARY	
8.	7287/21	JAMIL &02	SMBR	
9.	7867/21	FARZANA BIBI	EDU	
10.				

READER

DR

Service Appeal No.7392/2021 titled "Majid Ali-vs-Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others", service appeal No. 7393/2021 titled "Faisal Ali Shah-vs- Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and others" and service appeal No. 7394/2021 titled "Shahzad Shah-vs- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others" decided on 22.09.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Farzha Paul, Member, Executive, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR CAMP COURT ABBOTTABAD.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No.7392/2021

**Majid Ali (Ex-Constable No.351 Police Abbottabad) R/O Sector No.2
Khalabat Township, (KTS) Tehsil & District Haripur.**
.....(*Appellant*)

Versus

1. **Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.**
 2. **Regional Police Officer, Hazara Region, Abbottabad.**
 3. **District Police Officer, Abbottabad.**
-(*Respondents*)

Present:

Mr. Muhammad Aslam Tanoli,
Advocate.....For appellant.

Kabirullah Khattak,
Additional Advocate General.....For respondents.

Date of Institution.....10.09.2021
Dates of Hearing.....22.09.2022
Date of Decision.....22.09.2022

Service Appeal No.7393/2021

**Faisal Ali Shah, (Ex-Sub, Inspector Police Abbottabad) R/O Village
Changi Bandi, Tehsil & District Haripur.**
.....(*Appellant*)

Versus

4. **Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.**
 5. **Regional Police Officer, Hazara Region, Abbottabad.**
 6. **District Police Officer, Abbottabad.**
-(*Respondents*)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR,
CAMP COURT ABBOTTABAD

Service Appeal No. 2416/2021

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
 MISS. FAREEHA PAUL ... MEMBER(E)

Sharafat-un-Nisa, Ex-PST, GPS Sultan Abad, Harband, Tehsil Dassu, District Kohistan Upper.

.... (Appellant)

Versus

1. Director Elementary & Secondary Education Peshawar.
2. District Education Officer (Female) Kohistan at Dassu.

.... (Respondents)

Mr. Abdul Saboor Khan
Advocate

...

For appellant

Mr. Kabir Ullah Khattak
Addl. Advocate General

...

For respondents

Date of Institution.....23.10.2019
Date of Hearing.....22.09.2022
Date of Decision.....22.09.2022

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 orders dated 05.07.2019 and 01.10.2019 passed by respondents whereby major punishment of removal from service on the grounds of absence from duty was imposed on the appellant and upheld.

2. Brief facts of the case, as per memorandum of appeal, are that the appellant was appointed as PST vide order dated 20.07.2009. Respondent No.2 (DEO (Female) Kohistan) transferred the appellant and posted her at GGPS Sultan Abad

against a vacant post vide order dated 17.11.2018. All of a sudden Respondent No. 2 imposed penalty of removal from service w.e.f 01.01.2019 and refund of salary received on the ground of alleged absence from duty w.e.f 01.01.2019 to 30.06.2019 vide order dated 05.07.2019. The appellant filed departmental appeal dated 22.07.2019 which was rejected vide letter dated 01.10.2019. Feeling aggrieved from the impugned orders the appellant filed the instant service appeal.

3. 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.

4. Learned counsel for the appellant presented the case and contented that no proper procedure was adopted before imposing major penalty. He invited the attention to copies of attendance register according to which the appellant was present in school. He further contended that no show cause notice was received by her, which indicated that impugned order was illegal, unlawful and without lawful authority and having no legal effect.

5. The learned Additional Advocate General contented that the appellant was willfully absent from her duty and that show cause notice was issued to her at her home address and that her response was not found satisfactory and hence she was removed from service.

6. Record available before us indicates that the appellant was removed from service on account of her willful and unauthorized absence from duty. It further indicates that IMU inspection team visited the GGPS Sultan Abad in March 2019, and the appellant was found absent from duty since long, but no report of IMU inspection was available with the comments of the respondents. Documents presented before us include a show cause notice dated 02.05.2019 but it is not

confirmed whether it was received by the appellant or not. There is a letter dated 30.05.2019 of Respondent No. 2 addressed to the appellant indicating that her written reply was not justified and hence she was directed to attend the office DEO (Female), Kohistan for personal hearing on 13.06.2019; however no copy of written reply of the appellant was found with the papers annexed with the reply of respondent department.

7. In view of the above discussion the appeal in hand is allowed and the case is remitted back to the department for denovo inquiry with the direction that the appellant should be associated in the inquiry. A detailed, self contained inquiry, fulfilling all codal formalities should be submitted within sixty days of the receipt of this judgment. Parties are left to bear their own costs. Consign.

8. *Pronounced in open court in Abbotabad and given under our hands and seal of the Tribunal on this 22nd day of September, 2022.*

(KALIM ARSHAD KHAN)
Chairman
(Camp Court Abbottabad)

(FAREEHA PAUL)
Member (E)
(Camp Court Abbottabad)