

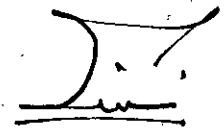
Service Appeal No. 115/2022

O R D E R
23.05.2022

Nemo for the appellant. Security and process fee have also not been deposited by the appellant.

The appeal in hand was called on for hearing after various intervals, however none appeared on behalf of the appellant till the closing time, therefore, the appeal in hand stands dismissed in default. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
23.05.2022



(Salah-Ud-Din)
Member (J)
Camp Court D.I.Khan

29th March, 2022

Counsel for the appellant present and heard.

The appeal is admitted to full hearing subject to all just and legal objections by the other side. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 23.05.2022 before S.B at camp court,

D.I.Khan.



Chairman
Camp Court, D.I.Khan.

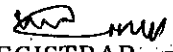


سکریٹری (ٹی. جی. پی. سی) -

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 115/2022

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 26/01/2022 | <p>The appeal of Sadaf Faiz Ullah resubmitted today by Mr. Shaukat Ullah Bettani 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</p> |
| 2- | | <p>This case is entrusted to touring S. Bench at D.I Khan for preliminary hearing to be put up there on <u>28-03-2022</u></p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 28.03.2022 | <p>Counsel are on strike. To come up for preliminary hearing tomorrow on 29.03.2022 before S.B at camp court, D.I.Khan.</p> <p style="text-align: right;"> CHAIRMAN, Camp Court, D.I.Khan</p> |

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST

Case Title: Sadaf Faizullah vs Govt. Khyber Pakhtunkhwa etc

| S.# | Contents | Yes | No |
|-----|--|-----|----|
| 1. | This appeal has been presented by: _____ | | |
| 2. | Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents? | / | |
| 3. | Whether Appeal is within time? | / | |
| 4. | Whether the enactment under which the appeal is filed mentioned? | / | |
| 5. | Whether the enactment under which the appeal is filed is correct? | / | |
| 6. | Whether affidavit is appended? | / | |
| 7. | Whether affidavit is duly attested by competent oath commissioner? | / | |
| 8. | Whether appeal/annexures are properly paged? | / | |
| 9. | Whether certificate regarding filing any earlier appeal on the subject, furnished? | / | |
| 10. | Whether annexures are legible? | / | |
| 11. | Whether annexures are attested? | / | |
| 12. | Whether copies of annexures are readable/clear? | / | |
| 13. | Whether copy of appeal is delivered to A.G/D.A.G? | / | |
| 14. | Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents? | / | |
| 15. | Whether numbers of referred cases given are correct? | / | |
| 16. | Whether appeal contains cuttings/overwriting? | / | X |
| 17. | Whether list of books has been provided at the end of the appeal? | / | |
| 18. | Whether case relate to this Court? | / | |
| 19. | Whether requisite number of spare copies attached? | / | |
| 20. | Whether complete spare copy is filed in separate file cover? | / | |
| 21. | Whether addresses of parties given are complete? | / | |
| 22. | Whether index filed? | / | |
| 23. | Whether index is correct? | / | |
| 24. | Whether security and Process Fee deposited? on _____ | | |
| 25. | Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? on _____ | | |
| 26. | Whether copies of comments/reply/rejoinder submitted? on _____ | | |
| 27. | Whether copies of comments/reply/rejoinder provided to opposite party? on _____ | | |

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

Shaukatullah Bhattar

Signature:



Dated:

25-01-2022

To

The Registrar,
Service Tribunal Khyber Pakhtunkhwa,
Peshawar.

Sadaf Faizullah Versus Govt. of Khyber Pakhtunkhwa etc

SERVICE APPEAL

Respected Sir,

Reference to objection dated 12/01/2022.

1. In respect of 1st objection, it is stated that check list is annexed.
2. In respect of objection#2, it is stated that attested affidavit is annexed
3. All the annexure are attested.
4. Appeal is fagged with annexure-marks
5. Better copy of the Annexure-B is annexed herewith
6. Copy of departmental appeal is already annexed.
7. Two extra copies are being sent to you accordingly.

Objection has been removed accordingly and service appeal mentioned above is hereby resubmitted for further necessary action please.

Dated: 25/01/2022

Yours' Sincerely



Shaukat Ullah Bettani

Advocate

stationed at Dera Ismail Khan

The appeal of Mst. Sadaf Faizullah PST, GGPS Kot Zangbar District Tank received today i.e. on 11.01.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- Annexures of the appeal may be attested.
- 4- Appeal has not been flagged/marked with annexures marks.
- 5- Annexure-B of the appeal is illegible which may be replaced by legible/better one.
- 6- Copy of first departmental appeal mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 7- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 64 /S.T,

Dt. 12/01 /2021



Mr. Shaukatullah Battani Adv.
High Court D.I.Khan.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In service Appeal No. 115 /2021

Sadaf Faizullah **VERSUS**
(Appellant)


GOVT of KPK etc
(Respondents)

INDEX

| S.No. | Description of documents | Pages |
|-------|---|-----------|
| 1. | Memorandum of Appeal along with affidavit | 1-6 |
| 2. | Copy of inquiry report | A 7-9 |
| 3. | Copy of notification dated 29/11/2019 | B 10, 10A |
| 4. | Copy of notification dated 02/10/2020 | C 11 |
| 5. | Copy of departmental appeal | D 12-14 |
| 6. | Copy of first departmental appeal | E 15-16 |
| 7. | Vakalatnama | 17-18 |

Dated 30/12/2021

Your humble appellant


Sadaf Faizullah
Through counsel


Shaukat Ullah Bettani
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**PESHAWAR**Khyber Pakhtunkhwa
Service TribunalService Appeal No. 115 /2022Diary No. 32
Dated 11/01/2022

Mst Sadaf Faizullah wife of Abdullah c/o New Mart Bakers
Multan Road, Dera Ismail Khan, presently as PST at GGPS Kot
Zangbar Tehsil & District Tank, Contact No. 0346-7878473

(Appellant)**VERSUS**

1. Government of KPK, through Secretary Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
2. Director General Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
3. Deputy Director (Female) Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
4. District Education Officer (Female) Tank.

..... **(RESPONDENTS)**

APPEAL UNDER SECTION 4 OF THE KPK SERVICES TRIBUNAL ACT, 1974, AGAINST THE PARTIALLY IMPUGNED NOTIFICATION NO. 6973-76 DATED 02/10/2020 ISSUED BY RESPONDENT NO. 3, WHEREBY THE SERVICE OF THE APPELLANT WAS REINSTATED BUT THE INTERVENING PERIOD WAS TREATED AS LEAVE WITHOUT PAY.

PRAYER

On acceptance of the instant appeal the appellant may kindly be granted all back benefits/salaries in the interest of justice.

Re-submitted to -day
and filed.

Registrar
26/01/2022

Filed to-day
Registrar
11/01/2022

Note: Addresses given above shall suffice the object of service. All necessary and proper parties have been arrayed in the panel of respondents.

Respectfully Sheweth;

Appellant humbly submits as under;

1. That the appellant was appointed in Education Department District Tank and performed her duties with great zeal, zest and to the entire satisfaction of her superiors. In this respect the service record of the appellant is very much evident.
2. That the appellant was performing her duties according to service rules. Meanwhile the mother of the appellant had been died; moreover, the brother of the appellant was kidnapped by the unknown culprits, in this respect the FIR#76 dated 25/04/2019 u/s 365 PPC was registered at Police Station Gomal Tank. The appellant submitted an application for leave and also requested for her transfer from District Tank to District Dera Ismail Khan as there were life threats to the appellant as well as her family but the then EDO (F) Tank has not considered the application of appellant. In this regard the inquiry report is also annexed for ready reference as **Annexure-A**.
3. That it is pertinent to mention here that the then Deputy Commissioner Tank also endorsed the request of transfer of the appellant.
4. That ironically the District Education Officer (F) Tank issued a notification No. 8775-82 dated 29/11/2019 vide which the appellant was awarded major penalty of removal from service. Copy of notification dated 29/11/2019 is annexed as **Annexure-B**.
5. That feeling aggrieved, the appellant preferred a departmental appeal before the appellate authority. The appellate authority. The appellant conducted inquiry through inquiry officer in subject case vide letter No. 667173 dated 10/03/2020. Thereafter the appellate authority, after examine the appeal, the detail report of DEO (F) Tank and inquiry

report of the view that the recommendation are convincing and justified. In the light of recommendations of the inquiry conducted by the appellate authority, the notification No. 8775-82 dated 29/11/2019 was set aside and the service of the appellant was reinstated but the service and the intervening period was treated as leave without pay vide notification No. 6973-76 dated 02/10/2020. Copy of the notification dated 02/10/2020 is annexed herewith for ready reference as **Annexure-C**.

6. That it is pertinent to mention here that the inquiry officer mentioned in his report that service rules and legal proceedings were not compiled in the case of appellant. In this respect the inquiry report is very much evident.
7. That feeling aggrieved by the impugned notification dated 02/10/2020 the appellant preferred a departmental appeal to the appellate authority i.e. respondent#2 in August 2021 which is not decided as yet. Copy of the departmental appeal is annexed as **Annexure-D**.
8. That jurisdiction of this worthy service tribunal is being invoked in attending circumstances against the impugned notification No. 6973-76 dated 02/10/2020 issued by respondent no. 3, inter alia on the following grounds amongst others;

GROUND S

- a. That the impugned notification No. 6973-76 dated 02/10/2020 issued by respondent no. 3 is illegal, against services Law and rules, without jurisdiction, in violation of the precedents of Honourable apex courts of the country and is not justifiable for any reason whatsoever.
- b. That as the service laws & rules were not complied in case of the appellant, hence, the appellant is entitled to receive all the back benefits from the department being innocent.

- c. That the appellant has to feed her children and family and depriving her from salaries of eleven month is against the norms of natural justice, service rules and departmental policy, hence, the appellant is entitled to receive all the back benefits i.e. salaries.
- d. That counsel for the appellant may kindly be allowed to raise additional grounds at the time of arguments.

It is thus most respectfully prayed that on acceptance of the instant appeal the appellant may kindly be granted all back benefits/salaries in the interest of justice.

Dated 30/12/2021

Your humble appellant


Sadaf Faizullah
Through counsel


Shaukat Ullah Bettani
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In service Appeal No. _____/2021

Mst. Sadaf Faizullah
(Appellant)

VERSUS

GOVT of KPK etc
(Respondents)

CERTIFICATE

Certified that appellant have not filed an appeal regarding the subject controversy, earlier in this august Tribunal.

Dated 30/12/2021


Appellant

NOTE

Appeal with enclosure along-with required sets thereof are being presented in separate file covers.

Dated 30/12/2021


Appellant's counsel

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In service Appeal No. _____/2021

Mst. Sadaf Faizullah
(Appellant)

VERSUS

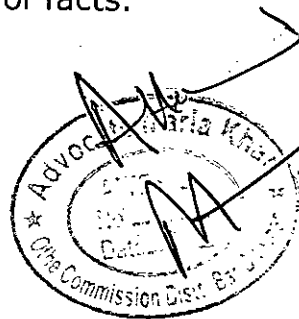
GOVT of KPK etc
(Respondents)

AFFIDAVIT

I, **Mst. Sadaf Faizullah**, appellant herein, do hereby solemnly affirm on oath:-

1. That the accompanying appeal has been drafted by counsel following our instructions;
2. That all para-wise contents of the appeal are true and correct to the best of my knowledge, belief and information;
3. That nothing has been deliberately concealed from this Honourable Court, nor anything contained therein, based on exaggeration or distortion of facts.

Dated: 30/12/2021



Sadaf
Deponent

Identified By:-

Shaukat Ullah Bettani
Advocate
D.I.Khan

To

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Annexure 'A' (7)

Subject: INQUIRY REPORT

Memo:

AUTHORITY:-

Reference the Deputy Director (Estab) E&SE Khyber Pakhtunkhwa Notification No. 6671-73/F.No.416/(F)Appeal dated Peshawar the 10/03/2020 regarding my nomination as Inquiry Officer in subject case.

BRIEF HISTORY:-

In this regards, I visited the Office of the District Education Officer (Female) Tank on 06/07/2020 to conduct inquiry on the appeal submitted to the Director E&SE Peshawar by Mst. Sadaf Faiz Ullah Ex.PST GGPS Kot Zangbar.

Mst. Sadaf Faiz Ullah has rendered her Services as Primary School Teacher BS-12 at Govt. Girls Primary School Kot Zangbar since 2014. She was removed from Service by the DEO (F) Tank vide Endstt: No. 8775-87 Dated the 29/11/2019. Later on she has submitted an appeal to the Director E&SE Peshawar (Competent authority) for re-instatement of her Service. The Director E&SE has called on comments from the DEO (F) Tank vide Deputy Director (Female) E&SE Peshawar letter No. 2036/F.No.416/F/Appeal Dated Peshawar the 13/01/2020.

FINDINGS OF INQUIRY:-

1. According to the statement of SDEO (F) Tank, the then ASDEO (Circle) has reported the absentee of Mst. Sadaf Faizullah Ex. PST to the SDEO (F) Tank.
2. The, then SDEO (F) Tank has called up explanation from Mst. Sadaf Faiz Ullah vide her No. 12018-09 Dated 05/10/2019 regarding her absentee.
3. The, then SDEO (F) Tank has reported the absentee of Mst. Sadaf Faiz ullah for the period w.e.f 06-09-2019 & 26-09-2019 to the DEO (F) Tank vide her No. 14/11/2019.
4. Meanwhile, Mst. Sadaf Faiz Ullah Ex. PST GGPS Kot Zangbar has submitted an application to the DEO (F) Tank subjected that She wants leave either with pay or without pay. Because of her mother's demise and abduction of her elder brother from her village, who was in-service Addl. DC-FBR.

(Page:01 of 03)

442
287-2000

Sadaf
Attested

requested her transfer to DIKhan because of unfavorable and ...
great. The Deputy Commissioner Tank has also vetted her application and strongly
recommended her transfer from District Tank.

Annexure 'A' (8)

Furthermore, the Section Officer (S/F) E&SE Department Khyber Pakhtunkhwa has also endorsed her application to the Director E&SE Peshawar vide No. SO (S/F) E&SED 4-16/2019/Mst Sadaf Faiz Ullah PST Dated Peshawar the August 16th 2019 for transfer from Tank to DIKhan for favorable consideration.

7. The DEO (F) Tank has then exercised the powers conferred by the Rule 4 (b)(iii) & 9 of the Govt. of Khyber Pakhtunkhwa Efficiency and Disciplinary Rules 2011, and imposed the major penalty of removal from service on Mst. Sadaf Faiz Ullah PST GGPS Kot Zangbar w.e.f 01/09/2019.

8. Forgoing in view and in the light of prevailing rules, the DEO (F) Tank has not exercised the following codal formalities before imposing major penalty under the aforesaid rules.

A. The DEO (F) Tank has not exercised the provision contained in Rule 5 (a) of the Govt. of Khyber Pakhtunkhwa Efficiency & Disciplinary Rules 2011, by issuing a Show Cause notice to the accused for the reasons to be recorded in writing. She just rely on the explanation called up by the then SDEO (F) Tank from Mst. Sadaf Faiz Ullah Ex. PST.

B. The DEO (F) Tank has not exercised the provision contained in Rule 5 (b) by offering charge sheet to accused and by dispensing inquiry officer or inquiry committee before the imposing of major penalty under Rule 4 (b)(iii).

C. The DEO (F) Tank has not given the chance of personal hearing to the accused, nor intimated her that sufficient grounds are available and there is no need of dispensing inquiry under the framed rules.

D. The DEO (F) Tank has just exercised the power conferred by Rule (9) of the Govt. of Khyber Pakhtunkhwa Efficiency & Disciplinary Rules 2011, but not bothered the norms and procedure before exercising of the said rule. Provided that "in case of willful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant".

Sadaf
Attested

RECOMMENDATIONS:-

In the light of above detail report, checking of relevant records in detail and critical analysis of written / oral statements. It is crystal cleared that the DEO (F) Tank / Competent Authority has not properly followed the rules & procedure contained in the Govt. of Khyber Pakhtunkhwa Efficiency & Disciplinary Rules 2011, before imposing the major penalty of removal from service upon Mst. Sadaf Faiz Ullah Ex. PST under Rule 4 (b)(iii).

C. In the view of above, the Inquiry Officer is of humble view that the removal from service Order issued by the DEO (F) Tank vide Endstt.No. 8775-87 Dated Tank the 29/11/2019 may be set aside and the Services of Mst. Sadaf Faiz ullah Ex. PST may be re-instated at GGPS Kot Zangbar with effect from her removal date, However the intervening period may be converted into leave without pay.



**District Education Officer
(Male) Tank**

Endstt;No. 11035 /

to the:-

Deputy Director (Estab) Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar w/r to the above.

*Sadaf
Attested*



**District Education Officer
(Male) Tank**

ORDER:

WHEREAS you Mrs. Sadaf Parullah, while serving as PST at GGPS Kot Langhar Tank was proceeded for having committed the gross irregularities as noted below, which constitute (a) (b) (c) (d) under Rule 3 sub Rules (a), (b), (c), (d) of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Disc., 1974) Rule 2011

AND WHEREAS an absent report was submitted by SDO(F Tank vide her No. 1378 dated 12/11/2019 & No. 1470 dated 27/11/2019 along with its enclosure.

AND WHEREAS it is communicated that you did join the school on the odd occasions in May, 2019 & remained absent continuously since 07/09/2019.

AND WHEREAS an explanation was served upon you vide SDO(F Tank vide her No. 1300-19 dated 01/10/2019 but you didn't respond to it.

AND WHEREAS concerned circle's ASDCO submitted reports regarding your willful absence and also endorse you to proceed under the rules for a strict action.

AND WHEREAS your school was reported closed and you were reported absent by IMU in the recent months.

AND WHEREAS your school was also declared as NON FUNCTIONAL in the month of October, 2019 for your willful absence.

Now therefore the Competent Authority in exercise of the power conferred upon me under sub rules 4-b (ii) and 9 of Govt. of Khyber Pakhtunkhwa, Establishment & Administration Department 2011 has been pleased to order the "Removal from Service" of Mrs. Sadaf Parullah PST GGPS Kot Langhar w.e. 01/09/2019.

Sadaf Parullah
Dated _____
Tank _____

[Signature]
District Education Officer (F)
o/c District Tank
the 29/11/2019

Encls: No. 837E-82
Copy to the:

1. Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
2. District Accounts Officer Tank.
3. Deputy District Education Officer Female Tank
4. DMO, IMU Tank.
5. SDO(F Tank with the remarks that the entry of removal from service should be recorded in her Service Book & recovery be made for her entire absence period & be submitted to Govt. Treasury through Challan.
6. Assistant Programmer / Focal Person OAMIS.
7. ASDCO (Circle concerned).
8. Official concerned.

[Signature]
District Education Officer (F)
o/c District Tank

Annexure (B) 10-A

Better copy

OFFICE OF THE DISTRICT EDUCATION OFFICER (F) TANK.

ORDER;

Whereas you Mrs. Sadaf Faizullah while serving as PST at GGPS Kot Zangbar Tank was proceeded for having committed the gross irregularities as noted below, which constitute inefficiency under rule 3 sub rules (a),(b),(d) of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline Rules, 2011).

And Whereas an absent report was submitted by SDEO-F Tank vide her No. 1378 dated 12/11/2019 and No. 1430 dated 27/11/2019 along with its enclosures.

And whereas it is communicated that you did join the school on the odd occasions in May 2019 and remained absent continuously since 01/09/2019

And whereas an explanation was served upon you vide SDEO (F) Tank vide her No. 1208-19 dated 05/10/2019 but you did not respond to it

An whereas your school was reported closed and you were reported absent by IMU in the recent months.

And whereas your school was also declared as NON-FUNCTIONAL in the month of October 2019 for your willful absence.

Now therefore, the competent authority in exercise of the power conferred upon me under sub rules 4-b(iii) and 9 of Govt. of Khyber Pakhtunkhwa Establishment and Administration Department 2011 has been pleased to order the "Removal From Service" of Mrs. Sadaf Faizullah PST GGPS Kot Zangbar w.e.f 01/09/2019.

District Education Officer (F)
District Tank

Endst: No. 8775-821

dated Tank the 29/11/2019

Copy to the;

1. Director, Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
And 7 others

Sadaf
Attested



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KHYBER
PAKHTUNKHWA PESHAWAR

11

Annexure 'C'

NOTIFICATION

1. WHEREAS, District Education Officer (Female) Tank imposed Major Penalty of removal from Service upon Mst. Sadaf Faiz Ullah Ex-PST GGPS Kot Zangbar District Tank vide Notification issued under endorsement No. 8775-82 dated 29-11-2019.
2. WHEREAS, Mst. Sadaf Faiz Ullah Ex-PST GGPS Kot Zangbar District Tank lodged an appeal before the appellate authority dated 01-01-2020.
3. WHEREAS, the appellate authority sent her appeal to District Education Officer (Female) Tank for detail report/comments vide No.2036 dated 13-01-2020.
4. WHEREAS, the District Education Officer (Female) Tank submitted report vide No. 342 dated 21-01-2020.
5. WHEREAS, the appellate authority examine report of the District Education Officer (F) Tank and other available documents on the record.
6. WHEREAS, the appellate authority conducted enquiry through inquiry officer in the subject case vide No.6671-73 dated 10-03-2020.
7. WHEREAS, the enquiry officer submitted enquiry report in respect of the said teacher vide No.11034 on dated 24-07-2020.
8. AND WHEREAS, the appellate authority after having examined the appeal, the detailed report of the DEO (F) Tank and the inquiry report is of the view that the recommendations are convincing and justified.
9. NOW THEREFORE, in exercise of power conferred under the Government of Khyber Pakhtunkhwa Government Civil Servants Appeal Rules, 1986, the appellate authority i.e Director (E&SE) accepts the appeal in respect of Mst. Sadaf Faiz Ullah Ex-PST GGPS, Kot Zangbar District Tank and the order of the DEO (F) Tank issued vide Edst.No. 8775-82 dated 29-11-2019 is hereby set aside as per recommendation of inquiry officer She is hereby re-instated in service and the intervening period is hereby treated as leave without pay.

Director
Elementary & Secondary
Education Khyber Pakhtunkhwa

Endst.No. 6973-76 /F.No.416/F/Appeal Tank Dated Peshawar the 2/10 2020
Copy forwarded for information to the:-

1. District Education Officer (Female) Tank.
2. District Account Officer Tank.
3. Sub Divisional Education Officer (Female) concerned.
4. Teacher concerned.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa.

Sadaf
Attested

Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa

10/10/20

Annexure 'D'

To

The Director Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

12

Subject: DEPARTMENTAL APPEAL FOR BACK BENEFITS OF APPELLANT (MST. SADAF FAIZULAH, PST, GGPS, KOT ZANGBAR DISTRICT TANK.

Respected Sir,

The appellant humbly submits as under;

1. That the appellant was appointed in Education Department District Tank and performed her duties with great zeal, zest and to the entire satisfaction of her superiors. In this respect the service record of the appellant is very much evident.
2. That the appellant was performing her duties according to service rules. Meanwhile the mother of the appellant had been died; moreover, the brother of the appellant was kidnapped by the unknown culprits, in this respect the FIR#76 dated 25/04/2019 u/s 365 PPC was registered at Police Station Gomal Tank. The appellant submitted an application for leave and also requested for her transfer from District Tank to District Dera Ismail Khan as there were life threats to the appellant as well as her family but the then EDO (F) Tank has not considered the application of appellant. In this regard the inquiry report is also annexed for ready reference.
3. That it is pertinent to mention here that the then Deputy Commissioner Tank also endorsed the request of transfer of the appellant.

Sadaf
Attested

4. That ironically the District Education Officer (F) Tank issued a notification No. 8775-82 dated 29/11/2019 vide which the appellant was awarded major penalty of removal from service.
5. That feeling aggrieved, the appellant preferred a departmental appeal before the appellate authority. The appellate authority. The appellant conducted inquiry through inquiry officer in subject case vide letter No. 667173 dated 10/03/2020. Thereafter the appellate authority, after examine the appeal, the detail report of DEO (F) Tank and inquiry report of the view that the recommendation are convincing and justified. In the light of recommendations of the inquiry conducted by the appellate authority, the notification No. 8775-82datede 29/11/2019 was set aside and the service of the appellant was reinstated but the service and the intervening period was treated as leave without pay vide notification No. 6973-76 dated 02/10/2020. Copy of the notification dated 02/10/2020 is annexed herewith for ready reference.
6. That it is pertinent to mention here that the inquiry officer mentioned in his report that service rules and legal proceedings were not compiled in the case of appellānt. In this respect the inquiry report is very much evident. Copy of the inquiry report is annexed herewith as ready reference.
7. That as the service laws & rules were not complied in case of the appellant, hence, the appellant is entitled to receive all the back benefits from the department being innocent.

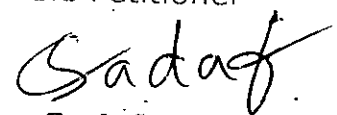
Sadaf
Asted

- 8. That the appellant has to feed her children and family and depriving her from salaries of eleven month is against the norms of natural justice, service rules and departmental policy, hence, the appellant is entitled to receive all the back benefits i.e. salaries.
- 9. That your good-self has got vast and ample powers to accept the department appeal.

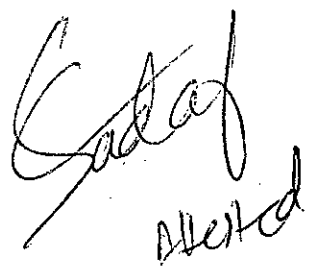
It is, therefore, humbly prayed that the instant appeal may kindly be accepted and the appellant may kindly be granted all back benefits/salaries in the interest of justice.

Dated 09/08/2021

Humble Petitioner



Miss Sadaf Faizullah
PST, GGPS Kot Zangbar
Tehsil & District Tank.
Contact No. 0346-7878473



Sadaf
Alkhalid

To.

Annexure 'E'

15

The Director
Elementary and Secondary Education,
Peshawar K.P.K

Subject: - DEPARTMENTAL APPEAL/ REPRESENTATION AGAINST THE IMPLIERS ORDER/LETTER NO.8775-82 DATED 29/11/2019 VIDE WHICH THE SERVICE OF THE APPLICANT WAS REMOVED WITHOUT ANY LAWFUL REASONS

Respected Sir,

That in pursuance of office letter dated 29/11/2019, the applicant submits as under;

1. I am domiciled resident of Tank It is stated that I Miss Sadaf Faizullah d/o Faizullah and I have served as PST-12 Teacher in GGPS Kot Zangbar UC Sarangzona District Tank since 16 May 2014 until I am intimated by an Education office letter of 'Removal from service'.
2. My without pay request of job was the inborn story of tragic story which I have tried to sum up in one paragraph. My mother was admitted in DHQ hospital Dikhan for more than 30 days on death bed of ICU while I was performing my duties as PST teacher in GGPS Kot Zangbar It shows how hard and far I went for my teaching passion but unfortunately with loss of my dear mother on dated 24 April 2019, and abduction of my elder brother ADC FBR Riaz Khan Miani from village Kot murtaza of district tank by TTP (Tehreek-e-Talaban Pakistan), when he was coming back from beloved mother funeral. That's really struck our whole family with extreme pain and anxiety because one tragedy was just happened and another struck. In those days our whole family was under threat of TTP (Tehreek-e-Talaban Pakistan) that's why I had written an application to the competent authority on 3rd September 2019 to give me without pay leave as per (1981 civil servant act) provided this and also copy to the DC Tank Office, DMO and also to Directorate office Peshawar and our family were shifted from district Tank to district Dikhan.
3. ATYK, luckily my brother was released from the TTP (Tehreek-e-Talaban Pakistan) abduction; he along with DC South Waziristan in a press conference mentioning my name that my sister who is a government servant under threat from TTP (Tehreek-e-

30/12/2019

Sadaf
Attested

Annexure 'E' (16)

Taliban Pakistan), as TTP (Tehreek-e-Taliban Pakistan) stated that if she was found in District Tank area will also face the same. After that security agencies also admonished our family not to come in that area.

4. Therefore I am afraid of said incident may be occurred with me. That's why I approached to the quarter concern for my transfer from district Tank to district DIKhan. Above all discussion was just written for the purpose that due to serious threats, I have applied for leave to the competent authority and such absence was not willful absence on my part. The competent authority did not conduct any inquiry of personal hearing and made an ex-parte decision of removal from service in my case.

5. Copies of the applications and relevant record are annexed herewith for ready reference.

It is, therefore, in the light of the facts stated above, it is a humble request that instant departmental appeal may graciously be accepted and my service may kindly be re-instated with all back benefits.

Dated: 26/12/2019

Sadaf
Yours Humble applicant,

MISS SADAF FAIZULLAH
PST, GGPS Kot Zangbar,
Tehsil & District Tank,
Cell # 03467878473

Sadaf
Attested



**KHYBER PAKHTUNKHWA
BAR COUNCIL**

ADVOCATE HIGH COURT

JAMAL ABDUL NASIR AWAN

Advocate
bc-09-0916
Date of Issue: August 2020
Valid upto: August 2023.



Secretary
KP Bar Council

In the event of joining or carrying on any other profession, service or business, the holder will not be entitled to use this card and shall forthwith surrender it to the KP Bar Council.

Father's Name: HAJI SHAH JEHAN
Address: ALI STREET ISLAMIA COLONY D.I. KHAN
Contact No: 03348505400
Enrolment Date L.C: 11-March-1993
Enrolment Date H.C: 12-October-1995
Place of Practice: D.I. KHAN
Date of Birth: 10-March-1965
Blood Group: A+VE
C.NIC.No: 12101-6469570-5

Card No
20703

KHYBER PAKHTUNKHWA BAR COUNCIL
Bar Council Building, Khyber Road, Peshawar, Ph: 091-211172, 9212415, Fax: 091-9713034
E-mail: support@kpbarcouncil.com, www.kpbarcouncil.com

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POWER OF ATTORNEY

Office# JAMAL ABDUL NASIR AWAN ADVOCATE HIGH COURT,
District Bar
Dera Ismail Khan.
Tel: +92-334-8505400

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

SADAF FAIZULLAH {Plaintiff

{Applicant/ Petitioner
{Appellant
{Accused/Complainant

Vs

Govt. of K.P.K etc {Defendant/Applicant

{Respondent
{Complainant/Accused

DERA ISMAIL KHAN

I/WE the Undersigned do hereby nominate and appoint **JAMAL ABDUL NASIR AWAN ADVOCATE HIGH COURT** to be Counsel in the above matter for me/us and on my/our behalf to appear, plead act and answer the above Court/Tribunal or any Appellate Court or any other forum to which the business is transferred in the above matter and to sign and file petitions, statement, accounts exhibits, compromise or other documents whatsoever, in connection with the said matter arising there-from, and also to apply for and issue summons and other writs, to apply for and get issued and arrest, attachment or other execution, warrant or order and to conduct any proceedings that may arise thereon and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other practitioner authorizing him in exercise the Power and Authorities hereby conferred on the Advocate whenever he may think fit to do so.

AND TO do all acts legally necessary to manages and conduct the said case in all respects whether herein specified or not as may be proper and expedient.

AND I/We hereby agreed to ratify and confirm all lawful acts done on my/our behalf under or by virtue of these presents or of the usual practice in such matter.

PROVIDED always that if the case may be dismissed in default, if it be proceeded exparte the said counsel shall not be held responsible for the same, and hereby agree that in the event of the whole fee agreed by me to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid.

Executant(s): 30-12-2021

Sadaf

Jamal Abdul Nasir Awan
Jamal Abdul Nasir Awan
Advocate High Court

PESH
AWAR

SHAUKAT ULLAH BETTANI

Advocate
bc-20-1791
Date of iss: May 2020
Valid upto: May 2023



ADVOCATE

وکالت نامہ

18

Secretary
KP Bar Council



بعدالت جناب **حیدر خان کوٹوالہ سروس ٹریبونل پشاور**

مقدمہ **صدف قبض اللہ بنام گورنمنٹ آف ختبر کٹوخواہ وغیرہ**
دعویٰ یا جرم **سروس اپیل**
تفصیلی دعویٰ یا جرم

باعث تحریر آنگہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیرونی وجود اپنی برائے پیشی یا تصفیہ مقدمہ مقام **ڈیڑہ سولہ**
سولہ اللہ قادری نسبی اپیل

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے، کہ ٹیکس ہر پیشی پر خود بذریعہ اختیار خاص رو برو عدالت حاضر ہونا ہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کر دوں گا، اگر پیشی پر مظہر حاضر نہ ہوا۔ اور مقدمہ مندرجہ بالا میں حاضر کی وجہ سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موصوف ایسے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز قہقہاں بیرونی کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز قہقہاں بیرونی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر کچہری کے علاوہ اور جگہ سماعت ہونے یا بروز قہقہاں یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا فائدہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخلہ صاحب موصوف محل کردہ ذات خود منظور و تبدیل ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ یا ججائی یا درخواست اجرائے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم درخواست پر دخل و تصرف کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرنے اور ہر قسم کا روپیہ وصول کرنے اور رسید دہن اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ججائی یا راضی نامہ فیصلہ بر حلیہ کرنے، و اجازت ڈگری کا بھی اختیار ہوگا۔ اور بصورت مظہر ہونے تاریخ پیشی مقدمہ مذکورہ ہیر و ن از کچہری صدر بیرونی مقدمہ مذکورہ نظر ثانی و اپیل و نگرانی و درآمدگی مقدمہ یا منوشی ڈگری کی طرف یا درخواست حکم اجرائی یا فرقی یا گرفتاری قس از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بطور ادا ملگی طبعہ عیان بیرونی کا اختیار ہوگا اور تمام ساختہ پر داخلہ صاحب موصوف محل کردہ ذات خود منظور و قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل یا نگرانی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا ہیر و ن کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے شریکان کو بھی ہر امر میں وہی اور ویسے اختیار حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہر جانہ الزام پڑے گا، وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری قس تاریخ پیشی سے پہلے ادا نہ کر دوں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

مورثہ 30 مارچ 2001

مضمون وکالت نامہ من لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted

Sadaf

محترم جناب ریفرنس، طلب سرحد میں بیویوں کی شناخت

مزار شاہ رسالت و اہل بیت علیہم السلام
115/22

کیس نمبر ڈی ایچ جی قان میں Dismissed ہوا ہے

صلی نقل کا ہی مسائل جو عنایت کرنا ہو

الکرنوع

25/5/22

اللہ، اللہ

Attamed as per family
25/5/22

رہنما میرا مشورہ اللہ اللہ اللہ