

15.06.2022

Appellant present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of reply/comments. To come up for reply/comments on 16.08.2022 before S.B at Camp Court, Abbottabad.

Rs-500/-
Appellant Deposited
Security & Process Fee

A. J. 21/6/22

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




D

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 312 /2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/03/2022	<p>The appeal of Mst. Saima Naz presented today by Mr. FazlUllah 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</p> <p>This case is entrusted to touring S. Bench at Abbottabad for preliminary hearing to be put there on <u>19.4.22</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>19.04.2022</p> <p>Nemo for appellant.</p> <p>Notice be issued to appellant/counsel for 15.06.2022 preliminary hearing before S.B at Camp Court, Abbottabad.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J) Camp Court, A/Abad</p>

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

Mst. Saima Naz

Versus

Crdt of K.P.K

..... Appellant

..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Advocate</u> <u>Court</u>	√	
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 AG/DAG?	√	
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 cutting/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 fulfill

Name:- Hamayun Khan

Signature:- [Signature]

Dated:- 1/3/2022

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

Appeal No. 312 /2022

Mst. Saima Naz Ex.PST, daughter of Khuda Dad wife of Abdul Jabbar,
resident of Sanda Saray cum Arghashori, Tehsil & District Battagram.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary
Education Peshawar & others.

...RESPONDENT

SERVICE APPEAL

INDEX

<i>S.#</i>	<i>Description</i>	<i>Page No.</i>	<i>Annexure</i>
1.	Memo of Appeal	1 to.8	
2.	Copy of impugned notification dated 09.0.2021	9	"A"
3.	Copy of departmental appeal	10	"B"
4.	Wakalatnama	"	

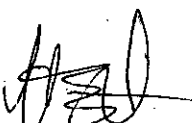
...APPELLANT

Dated: 1 / 3 /2022

Through


(HAMAYUN KHAN)

&


(FAZLULLAH KHAN)

Advocates High Court, Abbottabad

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 312 /2022

Mst. Saima Naz Ex.PST, daughter of Khuda Dad wife of Abdul Jabbar,
resident of Sanda Saray cum Arghashori, Tehsil & District Battagram.

...APPELLANT

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 380

Dated 04/03/2022

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

...RESPONDENTS

APPEAL UNDER SECTION 4 KPK SERVICE TRIBUNAL ACT 1974 READ WITH UPDATE AMENDED AGAINST THE IMPUGNED NOTIFICATION DATED 09.10.2021 ISSUED BY RESPONDENT NO. 3, WHEREBY RESPONDENT NO. 3 IMPOSED MAJOR PENALTY OF REMOVAL FROM SERVICE UPON APPELLANT WHICH IS ILLEGAL, AGAINST THE LAW AGAINST THE FACTS HENCE INEFFECTIVE UPON THE RIGHTS THE APPELLANT AND LIABLE TO BE SET-ASIDE.

Filed to-day

Registrar

04/03/2022

PRAYER:- ON ACCEPTANCE OF THE INSTANT APPEAL, IMPUGNED NOTIFICATION DATED 09.10.2021 ISSUED BY RESPONDENT NO. 3 MAY KINDLY BE DECLARED NULL AND VOID AND APPELLANT BE REINSTATED INTO SERVICE ALONGWITH ALL BACK BENEFITS. ANY OTHER RELIEF WITH THIS HONOURABLE COURT MAY DEEM FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE APPELLANT.

Respectfully Sheweth;-

The appellant beg to solicit through this service appeal on the following legal and factual grounds;-

1. That appellant hail from District Battagram in year 2011 applied for appointment against the post of PST.
2. That thereafter completion of all codal formalities respondent No. 3 issued appointment order of the appellant as PST Teacher.

3. That after joining duty, appellant performed her duty with full devotion, dedication and liabilities and no complaint was ever found against her.

4. That on 09.10.2021, respondent No. 3 issued so-called impugned notification, without any justification and lawful authority on the basis of self-made allegation. Copy of impugned notification dated 09.10.2021 is annexed as Annexure "A".

5. That on 07.11.2021, appellant filed departmental appeal before the respondent No. 2 against the impugned notification dated 09.10.2021, but till dated respondent No. 2 not passed any order and similarly not given any response on the service appeal. Copy of departmental appeal is annexed as Annexure "B". Hence present appeal on the following legal grounds:-

GROUNDS:-

- a. That, the removal from service notification dated 09.10.2021 is illegal, unlawful, without lawful authority, perverse, and

against the constitutional guaranteed rights of the appellant hence, untenable in the eye of law and his liable to be set-aside.

- b. That when law prescribed something which is to be in a particular. That must be in that manner and not otherwise. Hence the respondents were bound to follow the law which amount to misconduct on the part of respondents. Hence impugned order is liable to be set-aside and appellant be reinstated alongwith all back benefit ~~(as per law)~~ as per law.
- c. That, neither any charge sheet was served upon the appellant nor she was associated with any enquiry hence, the termination/removal notification is based on political influence, therefore liable to be set-aside.
- d. That respondent No. 3 intentionally not delivered impugned notification to the appellant for redressing of her grievance and lastly on 04.11.2021 respondents given the said impugned notification to the appellant

after many requests which shows the malafide of the respondents.

- e. That, the appellant was condemned unheard and she did not given opportunity for personal hearing to bring the real and true facts on the screen.
- f. That even otherwise the impugned notification dated 09.10.2021 is liable to be set-aside on the grounds that no rights of defence or personal right of hearing which was mandatory provision of law was given to the appellant before being proceeded against her.
- g. That, impugned order was passed against the appellant with malafide, against law as void and without jurisdiction.
- h. That the whole disciplinary proceedings initiated against the appellant have been done in contravention to the rules, regulation and law and therefore the whole proceedings

are liable to be set-aside appellant be reinstated to her original post.

- i. That respondents violated the basic principle of natural justice and rule and procedure prescribed in E&D rules, hence impugned notification is liable to be set-aside.
- j. That respondents issued impugned notification against the well known principles procedures prescribed and guidelines by the superior courts time by time for the governments departments but respondents ignored all these rules and principles.
- k. That the respondents without any reasons on the part of appellant imposed major penalty of removal from service and no opportunity of personal hearing was given to the appellant, and similarly without charge sheet and statement of allegation, hence condemned unheard.

- l. That the addresses of the parties have been correctly given in the heading of the appeal.
- m. That other points would be argue at the time of argument with the kind permission this Honourable Tribunal.

It is, therefore, humbly prayed that on acceptance of the instant appeal, impugned notification dated 09.10.2021 issued by respondent no. 3 may kindly be declared null and void and appellant be reinstated into service alongwith all back benefits. any other relief with this honourable court may deem fit and proper in the circumstances of the case may also be granted to the appellant.


...APPELLANT

Through

Dated: 1/2 /2022


(HAMAYUN KHAN)

&


(FAZLULLAH KHAN)
Advocates High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.


...APPELLANT

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. _____ 12022

Mrs. Saima Naz Ex.PST, daughter of Khuda Dad wife of Abdul Jabbar,
resident of Sanda Saray cum Aghashori, Tehsil & District Battagram.
...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary
Education Peshawar & others.
...RESPONDENT

SERVICE APPEAL

AFFIDAVIT

I, Mrs. Saima Naz Ex.PST, daughter of Khuda Dad wife of Abdul
Jabbar, resident of Sanda Saray cum Aghashori, Tehsil & District
Battagram, do hereby solemnly affirm and declare that the contents of
foregoing appeal are true and correct to the best of my knowledge and belief
and nothing has been concealed from this Honourable Court.



...DEPONENT





OFFICE OF THE DISTRICT EDUCATION OFFICER (F)
DISTRICT BATTAGRAM



ANNEXURE 'A'

9

File No: 3103-10

Dated: 9/10/2021

Notification for Major Penalty of Removal from service.

1. Whereas, (SEEMA NAZ, PST, GGPS SANDASARE QASIM KHAN(EmisCode:28576)) was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for the charges of willful absence from duty w.e.f from 17-03-2021 till date.
2. And whereas, a show cause notice was served upon her vide No. 1794-99 dated 12-04-2021, vide No.1580-83 Dated.30/06/2021 and Vide No.2294 dated.23/09/2021 for willful absence from duty within the meaning of Rule-3 (d) and Rule-4 (b) (iii).
3. And whereas, she had also been reported absent previously on 07/08/2021, 12/07/2021, 08/06/2021, 27/05/2021 and 09/04/2021 for which you had already been penalized.
4. And whereas, the Competent Authority after having considered the charges, evidence on record, her track record pertaining to her willful absence on various occasions, her reply dated. NIL for the personal hearing granted to her vide No. 2294 dated 28/09/2021 is of the view that the charges mentioned in the show cause have been proved against (SEEMA NAZ, PST, GGPS SANDASARE QASIM KHAN(EmisCode:28576)).
5. And whereas, inquiry officer ASDEO battamori mst. Tahira is also reported you willful absence from her duty
6. Now, therefore, in exercise of the powers conferred under (Efficiency and Discipline) Rules, 2011 the Competent Authority is pleased to impose the major penalty of "Removal from service" under the (E&D) Rule 2011 sub Rule-4 (b) (iii) upon (SEEMA NAZ, PST, GGPS SANDASARE QASIM KHAN(EmisCode:28576)) with immediate effect.

Note: if payment in shape of salary of the absent period released to her should be deposit in government treasury through challan form.

District Education Officer (F)
Battagram

Even No & Date.

Copy of the above is forwarded to the:

- 1 Director, Elementary & Secondary Education Department, G T Road, Peshawar
- 2 Deputy Commissioner Battagram
- 3 District Monitoring Officer Battagram
- 4 District account office Battagram.
- 5 Principal/Headmaster/Headmistress/DDEO/SDEO concerned for necessary action
- 6 SEEMA NAZ, PST, GGPS SANDASARE QASIM KHAN(EmisCode:28576), BATTAGRAM, BATTAGRAM, BATTAGRAM
- 7 Master File

District Education Officer (F)
Battagram

9/10/2021
District Education Officer (F)
Battagram

حکومت ضلع ڈیڑھ پلٹری ملک اپیلٹری اینڈ مسکنڈی
ایجوکیشن پی پی سی پٹنہ اور

اپیل ادر فائنل برائے عالی اسکول سمانہ

ضلع - عالی ڈ

مؤدبانہ گزارش عیدہ سمانہ فہرہ ٹیٹو ٹولہ کی پکارتہ عدلیہ سٹراٹم کی
ایک نمبر پگوانے سے تعلق رکھتی ہے

یہ سمانہ کی تعلیمی سال ۱۹۷۲ء میں کنکٹ پی پی سی ایس ایس
کے بعد سمانہ بنیادیت خوش رسوبی سے اپنی فرالٹن منظمی سرانجام
دیئے رہی اور سال ۱۹۷۲ء میں دفتر ۵۵ صوبہ ایس ایس ایس
نے تنگ دیرستان کرنا شروع کیا

یہ سمانہ ایس ایس ایس دفتر محکمہ تعلیم لغیر کسی وجہ کے سمانہ کو تنگ کرتے ہیں
مگر سمانہ پگوانے اپنی فرالٹن اور آرتی رہی

یہ سمانہ صوبہ ۱۹۷۱ء کو ۵۵ صوبہ تعلیم لغیر کسی وجہ کے سمانہ کو لغوری
سے برطرف کیا اور مذکورہ آرڈر میں سمانہ کو نہیں دے رہے تھے
جو کہ مسئلہ ۱۹۷۱ء کا سمانہ کو دیالپنی کل ہو رہا

یہ سمانہ آرڈر سراسر عدلیہ ہے اور سمانہ کے ساتھ فالٹن سے معنی جاری کیا ہے
اور سمانہ کو باغی تہ روزی کمانے سے محروم کر دیا ہے

حرف ۱۱/۷۱
آپ حضور سے التماس عیدہ صبری اپیل برائے مؤدبانہ
العارضی ہوتے جسے نوکر کا یہ حال کرنے کا حکم کریں

صحاہ صمانہ ناز دفتر ضلع زوجہ عبد الجبار سکنہ سمنہ سولہ دافنی اور سٹوری ضلع سٹراٹم

عالمی پرائے اعلیٰ سکول ایجوکیشن پی پی سی پٹنہ اور

تسلط علیہ

کورٹ فیس

وکالت نامہ

BEFORE THE K.P.K SERVICE TRIBUNAL بعدالت

Ms. SAIMA NAZ. نام Court of K.P.K عنوان:

Appellant منجانب:

Senior Appeal

نوعیت مقدمہ:

and

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آن مقام

Hemayun Khan & Rasidullah Khan

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

جگہ تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پر داختمہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ اتوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جز و بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست برادر

استجارت نالاش بصیغہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تا کہ سند رہے۔

بمقام:

الرقوم:

1/3/2022

Accepted by

العبید

العبید