

05.01.2022

Counsel for the appellant present. Preliminary arguments heard. Record perused.

Appellant Deposited
Security Process Fee

Points raised need consideration. The appeal is admitted for hearing. 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 14.03.2022 before the S.B.

(Rozina Rehman)
Member (J)

14.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 02.06.2022 for the same as before.

Reader.

2nd June, 2022

Mr. Raza Khan, husband of appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present. Former produced copy of notification bearing Endst. No. 5336-40 and stated that grievance of the appellant has been redressed. As a token of admission of his submission he signed the margin of the order sheet. The appeal is, therefore, dismissed as withdrawn. Consign.

2. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 2nd day of June, 2022.*



(Kalim Arshad Khan)
Chairman



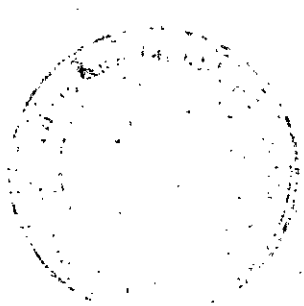
14203-3839942-5
2/16/22
Raza Khan

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 7752/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/11/2021	<p>The appeal of Mst. Razia Taj presented today by Roeeda 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 S. Bench at Peshawar for preliminary hearing to be put there on <u>05/01/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: center;"></p>


BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

CHECK LIST

1.	Case title <u>Razia Tq - vs - Education</u>		
2.	Case is duly signed.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
3.	The law under which the case is preferred has been mentioned.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
4.	Approved file cover is used.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
5.	Affidavit is duly attested and appended.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
6.	Case and annexure are property paged and numbered according to index.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
7.	Copies of annexure are legible and attested. If not, then better copies duly attested have annexed.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
8.	Certified copies of all requisite documents have been filed.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filled.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
10.	Case is within time.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
12.	Court fee in shape of stamp papers affixed. For writ Rs. 500 , for other as required}	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
13.	Power of attorney is in proper form.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
14.	Memo of addressed filed.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
15.	List of books mentioned in the petition.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
16.	The requisite number of spare copies-attached { Write petition- 3, Civil appeal(SB-2) Civil Revision (SB-1, DB-2)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
17.	Case (Revision /appeal/petition etc) is filled on a prescribed form.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
18.	Power of attorney is attested by jail authority (for jail prisoner only)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

It is certified that formalities /documentations as required in column 2 to 18. above, have been fulfilled.

Name:- **Roeeda Khan**
Advocate High Court
Peshawar

Signature: - 

Dated: - 12-11-2021

FOR OFFICE USE ONLY

Case: - _____

Case received on _____

Complete in all respect: Yes/No, (If NO, the grounds) _____

Signature _____

(Reader)

Dated: - _____

Countersigned: - _____

(Deputy Registrar)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 7752 /2021

Mst Razia Taj

VERSUS

Secretary Elementary & Secondary Education KPK


Peshawar

INDEX

S#	Description of Documents	Annexure	Pages
1.	Grounds of Petition.		1-5
2.	Affidavit.		6
3.	Addresses of parties		7
4.	Copy of medical prescription	"A"	8
5.	Copy of removal order	"B"	9
6.	Copy of Departmental appeal	"C"	10
7.	Copy of letters	"D" & "E"	11/12
8.	Wakalatnama		


APPELLANT

Through


Roeda Khan
Advocate, High Court
Peshawar.

Dated: 12/11/2021

(1)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtukhwa
Service Tribunal

In Re S.A No. 7752/2021

Diary No. 7876

Dated 12-11-2021

Mst Razia Taj W/o Raza Khan Ex-PST Teacher
District Kurram

Appellant

VERSUS

1. Secretary Elementary & Secondary Education
KPK Peshawar.
2. Director Elementary & Secondary Education KPK
Peshawar.
3. District Education Officer District Kurram
4. Deputy Director Merged Area KPK Peshawar.

Respondents

Filed to-day

Registrar

APPEAL U/S-4 OF THE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL ACT 1974 AGAINST THE
ORDER DATED 25-06-2021, WHEREBY THE
APPELLANT HAS BEEN AWARDED MAJOR
PUNISHMENT OF REMOVAL FORM SERVICE
AND AGAINST WHICH THE APPELLANT FILED
DEPARTMENTAL APPEAL ON DATED 14.07.2021
WHICH HAS NOT BEEN DECIDED WITHIN THE
STATUTORY PERIOD OF 90 DAYS.

PRAYER:-

ON ACCEPTANCE OF THIS APPEAL
THE IMPUGNED ORDER DATED

25/06/2021 MAY KINDLY BE SET ASIDE
AND THE APPELLANT MAY KINDLY BE
REINSTATED IN SERVICE ALONG WITH
ALL BACK BENEFITS. ANY OTHER
REMEDY WHICH THIS AUGUST
TRIBUNAL DEEMS FIT THAT MAY
ALSO BE ONWARD GRANTED IN
FAVOUR APPELLANT.

Respectfully Sheweth,

1. That the Appellant was appointed as PST on 2004 with respondent department.
2. That after appointment the appellant performed her duty regularly and with full devotion and no complaint whatsoever has been made against the appellant.
3. That while performing her official duty with respondent department the appellant applied for maternity leave which has been granted to the appellant.
4. That due to the reason mentioned in para 3 the condition of the appellant is usually not well and due to which the appellant was not able to perform her duty with respondent department and this fact was also bright by the appellant in the knowledge of respondent department through an application but the copy of application was not available with appellant. (Copy of medical prescriptions is attached as annexure "A").

5. That due to the reason above the respondent department removed the appellant from service on the ground of absentee. (Copy of removal order is attached is annexure "B").
6. That the appellant submitted departmental appeal on 14.07.2021 against the impugned order dated 25.06.2021. (Copy of departmental appeal is attached as annexure "C").
7. That during pendency of departmental appeal the respondent No.3 and respondent No.4 issued a letter to respondent No.2 & 3. (Copies of letters are attached as annexure "D" & "E").
8. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUND:-

- A. That the impugned order 25/06/2021 is void and ab-initio order because it has been passed without fulfilling codal formalities in this respect the appellant relied upon a judgment reported on 2007 SCMR Page 834.
- B. That no show cause notice has been issued or served to the appellant on home address of the appellant and no notice has been issued through leading newspaper which is a clear cut violation of rule 9 of E&D Rules 2011.

4

- C. That the impugned order is also void because no regular or departmental inquiry was conducted against the appellant which is mandatory before imposing the major penalty and no opportunity of personal hearing and defense has been provided to the appellant relied upon a judgment reported on 2003 PLC (CS) Page 365 on 2021 PLC (CS) page 235 as well as judgment of this Tribunal in service appeal No. 1181/2018 decided on 17.09.2021.
- D. It is a well settled principle of law no one can be condemned unheard because it is against the natural justice of law in this respect the appellant relied upon a judgment reported on 2008 SCMR page:678.
- E. That the absence of the appellant was not intentionally but due to severing illness of the appellant and so concerned the date mentioned in para-2 of the impugned order at that time all the schools work closed due to COVID-19 Pandemic.
- F. That the punishment has been awarded to the appellant comes under the definition of harsh one relied to upon a judgment reported on 2008 is SCMR page: 214 as well as judgment of this Hon'ble Tribunal in Service Appeal No. 627/2017 decided on 13.10.2020.
- G. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

It is therefore, most humbly prayed that
on acceptance of this Appeal the impugned
Order dated 25/06/2021 may kindly be set

5

aside and the Appellant may kindly be reinstated in Service along with all back benefits. Any other remedy which this august tribunal deems fit that may also be granted in favour of the appellant.

Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.



APPELLANT

Through



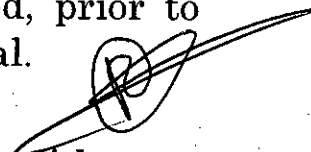
Roeeed Khan

Advocate, High Court
Peshawar.

Dated: 12/11/2021

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.



Advocate.

6

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Mst Razia Taj

VERSUS

Secretary Elementary & Secondary Education KPK
Peshawar

AFFIDAVIT

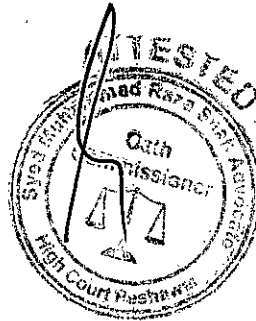
I, Mst Razia Taj W/o Raza Khan Ex-PST Teacher District Kurram. do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

R. Taj

DEPONENT

IDENTIFIED BY:

R. Khan
Roeeda Khan
Advocate High Court
Peshawar.



BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Mst Razia Taj

VERSUS

Secretary Elementary & Secondary Education KPK
Peshawar

ADDRESSES OF PARTIES

PETITIONER.


Mst Razia Taj W/o Raza Khan Ex-PST Teacher
District Kurram.

ADDRESSES OF RESPONDENTS

1. Secretary Elementary & Secondary Education
KPK Peshawar.
2. Director Elementary & Secondary Education KPK
Peshawar.
3. District Education Officer District Kurram.
4. Deputy Director Merged Area KPK Peshawar.


APPELLANT

Through


Roeeeda Khan
Advocate, High Court
Peshawar.

Dated: 12/11/2021

'A'

8

DHO HOSPITAL KARAK

DHIS-02(F)

Sent To:

OUT DOOR PATIENT TICKET

District: 25 CRP No: 8511

Facility Name: D. H. G.

Name: Z. E. ... Age: _____ Sex: _____

Father's/Husbands' Name: U. ...

Monthly OPD Serial No. _____

Provincial Diagnosis: _____

Date

Clinical Findings/Investions/Treatment/Test Findings

23/9
2

Rajia taj is allowed
(45) Days Antenatal
Leave with the effect
from 28th Sept 2020

[Signature]
DHO
Deputy Medical Superintendent
DHO HOSPITAL KARAK

[Signature]
DHO
DHO HOSPITAL KARAK

[Signature]

(B)


9



OFFICE OF THE DISTRICT EDUCATION OFFICER
DISTRICT KURRAM
No. 174-81 Edu Dated: 25/6/2022
Email: deokurram110@gmail.com

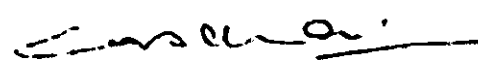
NOTIFICATION ON WILFUL ABSENCE/REMOVAL FROM SERVICE

1. WHEREAS Miss Razia Taj PST, GGPS Tarali Ada, DOB 21 July 1982, CNIC No 21302-784755-2, Personal No 675075 was reported as absent from her duty.
2. AND WHEREAS the Independent Monitoring Unit (IMU Team) visited her school on 10/05/2020 and found her absent since long
3. AND WHEREAS Miss Razia Taj PST has hired a proxy teacher who has been putting signatures in the attendance register for her which is against the law.
5. AND WHEREAS Miss. Razia Taj PST was served with the show cause notice vide no 1618-25, dated 23/10/20 to show causes of willful absence but this office did not receive any written reply.
6. AND WHEREAS Miss. Razia Taj PST was again served with the show because notice vide no 52-55 dated 12/06/2021 and again this office did not receive any written reply from her.
07. AND WHEREAS the District Education Officer, in his capacity, as the competent Authority after having examined the record and detailed scrutiny of papers from all the relevant aspects is of the view that the charges of willful and unauthorized absence of Miss. Razia Taj PST, GGPS Tarali Ada, District Kurram has been proved and is accused of misconduct under the rules for her willful absence:
8. NOW THEREFORE In exercise of the powers conferred under Rules 9 and 4 (b) (iii) of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011, the competent Authority, the District Education Officer Kurram, is pleased to impose Major penalty of "Removal from Service" upon Miss. Razia Taj PST, GGPS Tarali Ada, District Kurram with immediate effect on account of her being unauthorized absence.


District Education Officer
District Kurram

Copy for information to -

- 1) Deputy Commissioner District Kurram at Parachinar;
- 2) Director Elementary & Secondary Education KP Peshawar;
- 3) District Monitoring Officer Kurram at Parachinar.
- 4) Distt Accounts Officers, District Kurram at Parachinar;
- 5) DDIO(P) Lower and Central Kurram.
- 6) Miss. Razia Taj PST, GGPS Tarali Ada, District Kurram
- 7) Office Copy.


District Education Officer
District Kurram

ATTENDED

طوریته...
 نام...
 شماره...
 تاریخ...

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14-07-2021

15/7/21

ATTENDED

14-7-2021

ADJ (F)

...

...

0308-8438336

...

...

To

The Director of Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Subject: - **DEPARTMENTAL APPEAL**

Memo:

Please refer to your letter No 11395/E-6/Back Benefit/District Kurram Dated 27.07-2021 on the subject noted above and to state the following teachers, removed from their service due to willful long absence and repeatedly reported by the EMA District Kurram.

This office issued show cause notice to the said teachers regarding their absence but they were unable to submit the reply of showcase notice and they are completely failed to resume duty. However the following teacher submitted their application on stamp paper for reinstatement and stated therein they will be punctual and regular in their duties in future.

1. Mst. Hijran Bibi Ex-PST GGPS Shamkanri District Kurram.
2. Bibi Maryam Ex-PST GGPS Said Karam District Kurram.
3. Mst. Razia Taj Ex-PST GGPS Tarali Ada District Kurram.

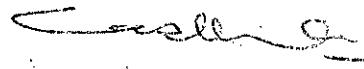
Therefore, sympathetic consideration may be made on their appeals provided they will be regular in their duties in future please.

No 7711-14 /Edu: Dated 17-09 /2021

Copy for information to the:-

1. Deputy Commissioner Tribal District Kurram.
2. Deputy District Education Officers Male & Female LK & CK.
3. Assistant Commissioner Central Kurram.

District Education Officer
Tribal District Kurram


District Education Officer
Tribal District Kurram

ATTESTED

50 روپے

103490



Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar
PH No. 091-9210389, 9210938,
091-9210437, 9210957, 9210468
Fax 091-9210936

No. 15470 /E-6/Appal /Complaint Kurram

Dated 23/9 /2021.

To

The District Education Officer
Kurram

Subject: REQUEST FOR RE-INSTATE OF SERVICE.
Memo:-

I am directed to refer to your office Endst: No.7711-14/Edu dated 17.09.2021 on the subject noted above and to ask you to submit detail report with your clear recommendation within fifteen days about the instant appeal of the following teacher positively.

1. Mst: Hijran Bibi Ex; PST-GGPS, Shamkanri District Kuram
2. Miss Razia Ex- PST, GGPS, Tareli Ada Kuram

It is further added that this office may be appraised as to whether codal formalities like Show cause, Charge Sheet, Statement of allegation and personal hearing were observed prior to imposition of major penalty of removal from Service.

Mohammad F. W.
Deputy Director (Estt.)
Merged Areas
23.9.21.





Endst: No. _____

Copy forwarded to the:-

1. P.A to Addl. Director NMD local office

Deputy Director (Estt.)
Merged Areas

ATTACHED

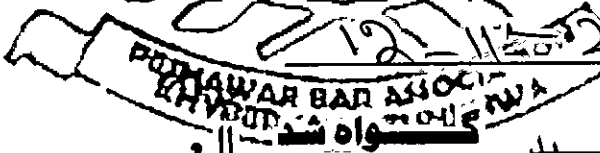
قیمت 50 روپے	103490	  
ایڈویکٹ: 	بار کونسل / ایسوسی ایشن نمبر:	
رابطہ نمبر: ۵۳۳۳۵۲۶۵۹۵۵		پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: محترم جج عدالت

منجانب: <u>ایڈووکیٹ</u>	دعوی:
	علت نمبر:
	مورثہ:
	جرم:
	تھانہ:
	باعت تحریر آنگہ


مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام دلخواہ کیلئے روایتی ایڈووکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کر مئے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے لے کر اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور ان کا ساختہ برداشتہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم: محمد علی خان

 الع بد

مقام دلخواہ کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

Accepted by




Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar
PH No. 091-9330242

NOTIFICATION

1. WHEREAS, Mst Razia Taj was serving as PSHT(BS-15) at GGPS Tarali Ada Central District Kurram Since 22.12.2004
2. AND WHEREAS, She was removed from Service under Rules 4(b) III of the Khyber Pakhtunkhwa E&D Rules 2011 vide order 174-81 dated 25.06.2021 by District Education Officer Kurram on account of un authorized absence.
3. AND WHEREAS, She submitted an application to the Appellate Authority (Director E&SE Khyber Pakhtunkhwa) for re-instatement into the service on 14.07.2021
4. AND WHEREAS, The Appellate Authority (Director E&SE Khyber Pakhtunkhwa) constituted an enquiry vide order No 286-88 dated 06.01.2022
5. AND WHEREAS, the enquiry Officer recommended conversion of major penalty removal from service to **Reduction to a lower pay scale for a Period of three years under E&D Rules 4(b) (1) 2011**
6. NOW THEREFORE, In exercise of the Powers conferred under Rules 17(2) (c) of Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011, the Appellant Director of Elementary & Secondary Education Khyber Pakhtunkhwa has been pleased to convert major penalty 4 (b) (III) removal from Service into "Reduction to a lower pay scale PST (BS-12) for the period of five years under rule 4(b) (1) "from the date of removal from Service (25.06.2021)

RAF
02/06/22

(Hafiz Dr. Muhammad Ibrahim)
Director

Elementary and Secondary Education
Khyber Pakhtunkhwa.

Endst.No. 5336-40 /E-6/Back Benefit Kurram Dated Peshawar the 31/05/2022
Copy forwarded to the:-

1. District Accounts Officer Kurram
2. District Education Officer Kurram
3. Teacher concerned.
4. PA to Director Education, (E&SE) KPK Peshawar
5. PA to Addl; Director Establishment (E&SE) KPK Peshawar

Deputy Director (Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar