

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR CAMP COURT D.I.KHAN.**

BEFORE: **KALIM ARSHAD KHAN .. CHAIRMAN**  
**ROZINA REHMAN .. MEMBER (Judicial)**

*Service Appeal No.4760/2021*

**Mst. Bilqees** daughter of Mashal Khan r/o Village Masha Mansoor  
Tehsil & District Lakki Marwat, Ex-Caller GGCMS Masha Mansoor  
Lakki Marwat.

.....(*Appellant*)

Versus

1. **Government** of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar.
2. **Director (E&SE)**, Education Department Khyber Pakhtunkhwa, Peshawar.
3. **District Education Officer(F)**, Lakki Marwat.

.....(*Respondents*)

Present:

Sheikh Iftikhar Ul Haq,  
Advocate.....For appellant.

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

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Date of Institution.....09.04.2021  
Dates of Hearing.....28.10.2022  
Date of Decision.....28.10.2022

*Service Appeal No.4761/2021*

**Farhad Ullah** son of Mashal Khan caste Marwat r/o Village Masha  
Mansoor Tehsil & District Lakki Marwat, Ex-Chowkidar GGCMS,  
Masha Mansoor Lakki Marwat.

.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar.**
  2. **Director (E&SE), Education Department Khyber Pakhtunkhwa, Peshawar.**
  3. **District Education Officer(F), Lakki Marwat.**
- .....(Respondents)

Present:

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Advocate.....For appellant.

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

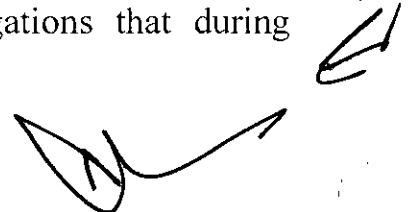
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**APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.**

**CONSOLIDATED JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Through this single judgment this appeal and the connected Service Appeal No. 4761/2021 titled "Farhad Ullah-vs-Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar and others", are decided as both are against the same allegations.

2. These appeals are against order dated 30.12.2020, whereby the appellants were removed from service on the allegations that during

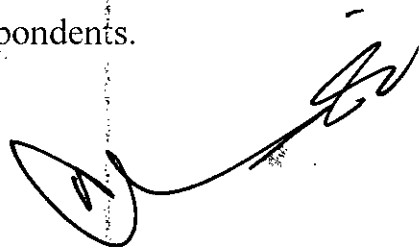


surprise visit of GGCMS Masha Mansoor by the DEO(F) accompanied by SDEO (F), Lakki Marwat, the school was found closed and the Caller was also found absent who was stated to be leaving in Peshawar as per report of SDEO (F) Lakki Marwat vide No. 857/SDEOF/LM dated 13.11.2020. Against the impugned order the appellants filed appeals but awaiting ninety waiting period when no reply was received the appellants filed this appeal.

3. It is alleged in the appeal that the appellants were performing duties and in the month of November 2020, due to crucial and critical conditions of Covid-19 the school was closed but even then the appellants performed her duties and remained punctual; that on 18.12.2020, the appellants were present but were marked absent by the respondents because of personal grudges and on political grounds.

4. On receipt of the appeals and admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeals by filing written reply and while supporting the impugned order submitted that the appellants remained absent that is why they were proceeded against.

5. We have heard learned counsel for the appellants and learned Additional Advocate General for the respondents.



6. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Additional Advocate General controverted the same by supporting the impugned order.

7. In case of absence of a civil servant from the duty, the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 provide a specific provision and procedure for proceeding against such a civil servant and that is Rule-9 of the above rules. Rule-9 is reproduced as under:-

“Notwithstanding anything to the contrary contained in these rules, 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.

8. The respondents were bound to follow the procedure prescribed and provided in Rule-9 of the rules ibid but it appears that they have not proceeded in accordance with the provisions of the above rules, therefore, the impugned action is not in accordance with the provisions of the above rules and, hence, not sustainable. While allowing these appeals we set

