

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 458/2015

Date of Institution ... 06.05.2015
Date of Decision ... 01.06.2022

Miss Bibi Safia, Ex-Theology Teacher GGPS Bushera Kurram
Agency, presently R/O Parachinar House, Bari Shaikh ul Bandi,
Near Khulafai Rashidin Masjid, Murree Road, Abbottabad.
(Appellant)

VERSUS

Secretary Elementary & Secondary Education, Government of
Khyber Pakhtunkhwa, Peshawar and three others.
(Respondents)

Ibadur Rehman,
Advocate ... For appellant.

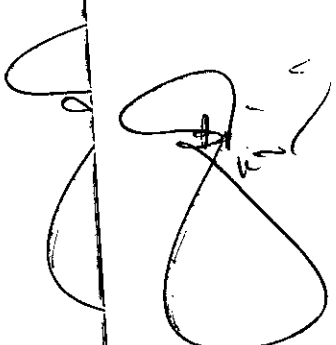
Kabir Ullah Khattak,
Additional Advocate General ... For respondents.

Rozina Rehman ... Member (J)
Fareeha Paul ... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the
prayer as copied below:

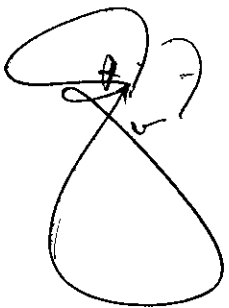
**"On acceptance of the appeal in hand, the impugned
order dated 10.12.2014 may graciously be set aside
and the appellant be reinstated in service with all back
benefits".**



2. The relevant facts leading to filing of instant appeal are that appellant was appointed as Theology Teacher (TT) by the Agency Education Officer, Kurram Agency vide order dated 03.11.1994 and was posted at GGPS Kochi and later on transferred to GGPS Bushera. She was performing her duties efficiently and to the entire satisfaction of her superiors. During service, due to worst law & order situation at Parachinar in the year 2014, all the officials working at Kurram Agency were facing great hardships. The appellant was not able to continue her duty at Parachinar as there were frequent threats to the life of appellant as well as other officials. She also informed the Education authorities, where-after the appellant migrated to Abbottabad as IDPs. In the meanwhile, she came to know about her termination order. She therefore, filed departmental appeal followed by another appeal/reminder but to no avail, hence, the present service appeal.

3. We have heard Ibad ur Rehman Advocate, learned counsel for appellant and Kabir Ullah Khattak, learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

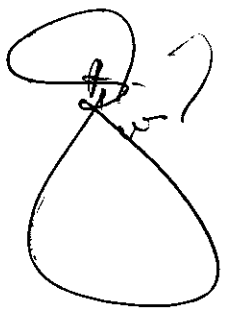
4. Ibad ur Rehman Advocate, learned counsel appearing on behalf of appellant, inter-alia, submitted that the appellant was not treated in accordance with law and canons of natural justice as she was not given fair trial as enshrined under Articles-4 & 25-A of the Constitution of Islamic Republic of Pakistan, 1973. He contended that



she has neither been issued proper charge sheet alongwith statement of allegations nor show cause notice under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. That no proper inquiry was conducted and that she was not provided any opportunity of personal hearing. He contended that appellant has an unblemished service career of about 20 years which was not taken into consideration by the competent authority, therefore, requested for acceptance of the instant service appeal.

5. Conversely learned AAG contended that appellant was not performing her duty efficiently and regularly and that she left her duty without permission of her superiors. He contended that no correspondence was made from the respondents' side to the appellant to leave her duty station and that she willfully absented herself, therefore, notices were issued but she failed to attend office, whereafter, publication was made in the newspaper and after fulfillment of all codal formalities, she was terminated.

6. Perusal of record would reveal that appellant Bibi Safia was appointed as TT on 03.11.1994. She used to perform her duty and nothing was brought on record that she was a habitual duty shirker. The allegations against the appellant are that she was willful absent from duty w.e.f 18.08.2014 and it was on 10.12.2014 when major penalty of removal from service was imposed upon appellant for willful absence from duty. Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 provides procedure in



case of willful absence which is hereby reproduced for ready reference:

"9. Procedure in case of willful absence. -

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".

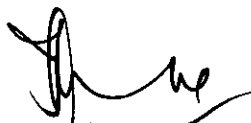
7. As per law, in case of willful absence from duty by a Government servant for seven or more days, a notice shall be issued through registered acknowledgement by the competent authority. In the instant case, a notice is available on file which was issued directing twelve teachers at one and the same time to resume duty which clearly shows that the said notice was never issued to the appellant and others on their home addresses directing them to

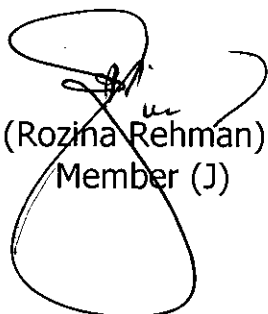


resume duty within 15 days of the issuance of the notice. Their home addresses have not been mentioned. The record is silent in respect of proper service of notice upon appellant that she had properly been informed to resume duty which means that the procedure in case of willful absence prescribed by the law was not properly followed by the competent authority. A notice published in a newspaper is also available on file, whereas, as per law a notice shall be published in at least two leading newspapers if the notice issued by the authority through registered acknowledgment is received back as undelivered.

8. For what has been discussed above, instant service appeal is accepted. Consequently, the impugned order is set aside and the appellant is reinstated in service. The intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
01.06. 2022


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

ORDER
01.06.2022


Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General for respondents present. Arguments heard and record perused.

Vide our judgment of today of this Tribunal placed on file, instant service appeal is accepted. Consequently, the impugned order is set aside and the appellant is reinstated in service. The intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
01.06.2022

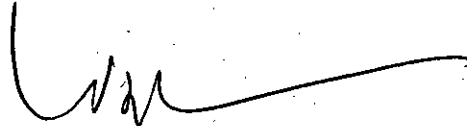

(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

31.01.2022

Junior to counsel for the appellant present. Mr. Noor Zaman, District Attorney for the respondents present.

Junior to counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 30.03.2022 before the D.B.



(Atiq-Ur-Rehman Wazir)
Member (E)



Chairman

30.03.2022

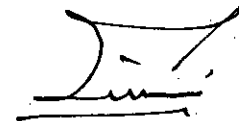
Junior of learned counsel for the appellant present.

Mr. Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant sought adjournment on the ground that learned counsel for the appellant is unable to appear for arguments due to illness. Adjourned. To come up for arguments before the D.B on 01.06.2022. The appeal in hand is pending adjudication since year 2015, therefore, appellant shall make sure the appearance of her counsel on the date fixed.



(Rozina Rehman)
Member (J)



(Salah-Ud-Din)
Member (J)

Pakhtunkhwa Civil Servants Act, 1973, from time to time.¹

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. Grounds for proceedings.—A Government servant shall be liable to be proceeded against under these rules, if he is—

- (a) inefficient or has ceased to be efficient for any reason; or
- (b) guilty of misconduct; or
- (c) guilty of corruption; or
- (d) guilty of habitually absenting himself from duty without prior approval of leave; or
- (e) engaged or is reasonably believed to be engaged in subversive activities, or is reasonably believed to be associated with others engaged in subversive activities, or is guilty of disclosure of official secrets to any un-authorized person, and his retention in service is prejudicial to national security; or
- (f) entered into ¹[voluntary return or] plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily.

4. Penalties.—(1) The following are the minor and the major penalties, namely:

- (a) Minor penalties:
 - (i) censure;
 - (ii) withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:
 - (iii) recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

- (i) "inefficiency" means failure to efficiently perform functions assigned to a Government servant in the discharge of his duties;
- (j) "committee" means a committee of two or more officers, headed by a convener, as may be appointed by the competent authority under these rules;
- (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
- (l) "misconduct" includes—
 - (i) conduct prejudicial to good order or service discipline; or
 - (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
 - (iii) conduct unbecoming of Government servant and a gentleman; or
 - (iv) involvement or participation, for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
 - (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or
 - (vi) making appointment or promotion or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
 - (vii) conviction for a moral offence by a court of law ¹[]; or
 - (viii) Avoiding submission of Annual confidential Report / Performance Evaluation Report by a Government Servant, or withholding such report by the Reporting Officer or the countersigning Officer as the case may be, within the required period as provided in the instructions issued by the Government under the Khyber

¹ For the full stop appearing at the end replaced by a semicolon and the word "or" and thereafter new clause added by Notification No. SO(REG-VI) E&AD/2-6/2010 DATED 26-05-2014

Government Servants (Efficiency and Discipline) Rules, 2011

- (c) on receipt of reply of the accused within the stipulated period or after the expiry thereof, if no reply is received, determine whether the charge or charges have been proved against the accused or not:

Provided that after receipt of reply to the show cause notice from the accused, the competent authority, except where the Chief Minister himself is the competent authority, shall decide the case within a period of ninety days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons:

Provided further that if the case is not decided by the competent authority within the prescribed period of ninety days, the accused may file an application before the appellate authority for early decision of the case, which may direct the competent authority to decide the case within a specified period;

- (d) afford an opportunity of personal hearing before passing any order of penalty under clause (f), if it is determined that the charge or charges have been proved against him;
- (e) exonerate the accused by an order in writing, if it is determined that the charge or charges have not been proved against him; and
- (f) impose any one or more penalties mentioned in rule 4, by an order in writing, if the charge or charges are proved against the accused:

Provided that where charge or charges of grave corruption are proved against an accused, the penalty of dismissal from service shall be imposed, in addition to the recovery, if any.

8. Action in case of conviction or plea bargain under any law.—Where a Government servant is convicted by a court of law on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices, or has been acquitted by a court of law as a result of compounding of an offence involving moral turpitude under any law for the time being in force, the competent authority, after examining facts of the case, shall-

- (a) dismiss the Government servant where he has been convicted on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices voluntarily:

Provided that dismissal in these cases shall be with ¹[...] effect from the date of conviction by a court of law; and

- (b) proceed against the Government servant under rule 5, where he has been convicted of charges other than corruption or moral turpitude.

9. Procedure in case of wilful absence.—Notwithstanding anything to the contrary contained in these rules, in case of wilful 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.

10. Procedure to be followed by competent authority where inquiry is necessary.—(1) If the competent authority decides that it is necessary to hold an inquiry against the accused under rule 5, it shall pass an order of inquiry in writing, which shall include-

- (a) appointment of an inquiry officer or an inquiry committee, provided that the inquiry officer or the inquiry committee, as the case may be, shall be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall be of a rank senior to the senior most accused;
- (b) the grounds for proceeding, clearly specifying the charges along with apportionment of responsibility;
- (c) appointment of the departmental representative by designation; and
- (d) direction to the accused to submit written defense to the inquiry officer or the inquiry committee, as the case may be, within reasonable time which shall not be less than seven days and more than fifteen days of the date of receipt of orders.

(2) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.

(3) In a case where preliminary or fact finding inquiry was conducted, and the competent authority decides to hold formal inquiry, the inquiry officer or the inquiry committee for the purpose of conducting formal inquiry shall be different from the inquiry officer or the inquiry committee which conducted the preliminary inquiry.

11. Procedure to be followed by inquiry officer or inquiry committee.—(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry

1. The word "immediate" deleted by Notification NO. SO(REG-VI) E&GAD/2-6/2010 dated 18-07-2012

committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex-parte.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.

(4) Statements of witnesses and departmental representative(s), if possible, will be recorded in the presence of accused and vice versa.

(5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.

(6) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendations of a Medical Board; provided that the competent authority may, in its discretion, sanction medical leave up to seven days without such recommendations.

(7) The inquiry officer or the inquiry committee, as the case may be, shall submit his or its report, to the competent authority within thirty days of the initiation of inquiry:

Provided that the inquiry shall not be vitiated merely on the grounds of non-observance of the time schedule for completion of the inquiry.

12. Powers of the inquiry officer or inquiry committee.—(1) For the purpose of an inquiry under these rules, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act No. V of 1908), in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be the judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

13. Duties of the departmental representative.—The departmental representative shall perform the following duties, namely:

- (a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- (b) cross-examine the witnesses produced by the accused, and with the permission of the inquiry officer or inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and
- (c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

14. Order to be passed on receipt of report from the inquiry officer or inquiry committee.—(1) On receipt of report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (6) of this rule.

(4) Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall-

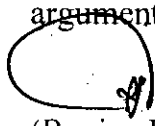
- (a) inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him;
- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than seven days and more than fifteen days from the day the charge or charges have been communicated to him: provided that the accused shall, in his reply to show cause notice, indicate as to whether he wants to be heard in person or not;
- (c) provide a copy of the inquiry report to the accused; and

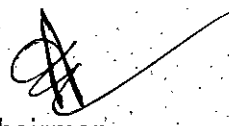
27.07.2021

Counsel for the appellant present.

Mr. Javedullah, Learned Assistant Advocate General for respondents present.

Learned counsel for the appellant seeks adjournment as he has not prepared the brief. Granted. To come up for arguments on 18.10.2021 before D.B.

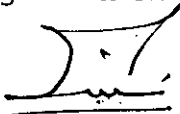

(Rozina Rehman)
Member(J)


Chairman

18.10.2021

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Due to general strike of the bar, learned counsel for the appellant is not in attendance. Case to come up for arguments on 31.01.2022 before the D.B.


(Salah-ud-Din)
Member(J)


Chairman

31.01.2022

Junior to counsel for the appellant present. Mr. Noor Zaman, District Attorney for the respondents present.

Junior to counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 30.03.2022 before the D.B.

(Atiq-Ur-Rehman Wazir)
Member (E)

Chairman

19.08.2020

Due to summer vacations, the case is adjourned to 21.10.2020 for the same.


Reader

21.10.2020

Junior to counsel for the appellant and Zara Tajwar, DDA alongwith Muhammad Razaq, Reader for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned to 11.01.2021 for hearing before the D.B.

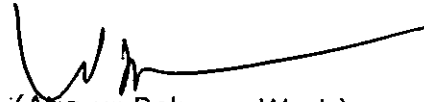

(Mian Muhammad)
Member


Chairman

11.01.2021

Junior to counsel for the appellant and Asstt. AG alongwith Muhammad Razaq, H.C for the respondents present.

Request for adjournment is made due to non-availability of learned senior counsel for the appellant. Adjourned to 12.04.2021 for hearing before the D.B.


(Atiq-ur-Rehman Wazir)
Member(E)


Chairman

12.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 27.07.2021 for the same as before.


Reader

31.01.2020

Learned counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 24.03.2020 before D.B.



Member



Member

24.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 08.06.2020 before D.B.



Reader

08.06.2020

Bench is incomplete as learned Member (J) is on leave, therefore, the case is adjourned. To come up for the same on 19.08.2020




Reader

31.05.2019

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 25.07.2019 before D.B.


Member


Member

25.07.2019


Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 10.10.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER


10.10.2019

Due to official tour of Hon'ble Members to Camp Court Swat, the instant matter is adjourned to 23.12.2019 for the same.


Reader

23.12.2019


Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Being an old case of the year 2015, adjourned by way of last chance. To come up for arguments on 31.01.2020 before D.B.



Member


Member

12.12.2018


Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned AAG present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 22.01.2019 before D.B.


Member



Member

22.01.2019

Learned counsel for the appellant and Mr. Riaz Paindakhel learned Assistant Advocate General alongwith Mr. Daud Jan Superintendent for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up arguments on 27.03.2019 before D.B


(Hussain Shah)

Member



(Muhammad Amin Khan Kundi)

Member

27.03.2019


Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 31.05.2019 before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER


03.05.2018

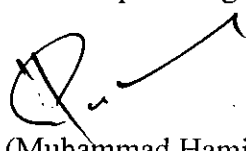
Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for same on ~~17~~ 07.2018 before D.B


Reader

17.07.2018


Junior to counsel for the appellant and Mr. Sardar Shaukat Hayat learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment on as senior counsel is not in attendance. Adjourned. To come up for arguments on 06.09.2018 before D.B



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

06.09.2018

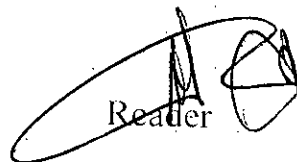
Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 29.10.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

29.10.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 12.12.2018.


Reader

9/10/2017

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, AAG for the respondents present. Clerk of counsel for the appellant seeks adjournment as his counsel is busy in Peshawar High Court. Adjourned. To come up for arguments on 10/1/2018 before DB.


Member


Chairman

27.12.2017


None present on behalf of appellant. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. To come for arguments on 28.02.2018 before the D.B.



Member


Chairman

28.02.2018

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Daud Jan, for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 03.05.2018 before the D.B.


Member(Executive)


Member (Judicial)

Appeal No. 458/2015

10.02.2017

Mr. Muhammad Imran, Junior counsel for appellant and Mr. Muhammad Adeel Butt, Additional AG for respondents present. Junior counsel for appellant stated that learned senior counsel for appellant is busy before the Hon'ble Peshawar High Court, Peshawar and requested for adjournment. Adjourned. To come up for arguments on 31.05.2017 before D.B.



(ASHFAQUE TAHIR)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

31.05.2017

Junior to counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Junior to counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 26.09.2017 before D.B.

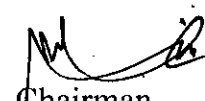

(Gul Zeh Khan)
Member


(Muhammad Amin Khan Kundi)
Member

26.09.2017

Junior to counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Mr. Daud Jan, Supdt for respondents present. Appellant seeks adjournment as senior counsel was busy before the Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 09.10.2017 before D.B.


Member


Chairman

Appeal No. 458/2015

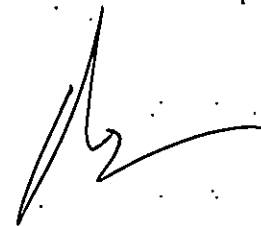
09.02.2016

Junior to counsel for the appellant, M/S Daud Jan, Supdt. and Kamal Hussain, AEO alongwith Addl: A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 18.5.2016.


Chairman

18.5.2016

~~Counsel for the appellant and AAG, for respondents present. Rejoinder submitted copy of which is placed on file. To come up for arguments on 4.10.2016.~~


Member


Member

04.10.2016

Muhammad Imran, Junior to counsel for the appellant and Mr. Daud Jan, Superintendent alongwith Mr. Kabirullah Khan Khattak, Assistant AG for respondents present. Junior to counsel for the appellant requested for adjournment due to non-availability of learned senior counsel for the appellant. Request accepted. To come up for arguments on 10.2.17 before D.B.


(MUHAMMAD AAMIR NAZIR)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

Appeal No. 458/2015

4.

09.06.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as T.T on 03.11.1994 and vide impugned order dated 10.12.2014 she was removed from service on the ground of wilful absence regarding which she preferred departmental appeal on 07.01.2015 which was not responded and hence the instant service appeal on 15.05.2015.

Appellant Deposited
Security Process Fee

That the appellant was afforded no opportunity of hearing and that the factum of IDPs was not taken into account by the respondents.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 01.09.2015 before S.B.

11-7-15

11-7-15

01.09.2015

Counsel for the appellant and Mr. Daud Jan, Supdt. alongwith Assistant A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 12.11.2015 before S.B.

Chairman

12.11.2015

Mr. Kashif on behalf of the appellant and Mr. Daud Jan, Supdt. alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 9.2.2016 before S.B.




Chairman

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 458/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15.05.2015	<p>The appeal of Miss. Bibi Safia resubmitted today by Mr. Ibad Ur-Rehman Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	25-5-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>26-5-2015</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	26.05.2015	<p>None present for appellant. Due to strike of the Bar adjourned for preliminary hearing to 9.6.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mss. Bibi Safia, Ex-Theology Teacher GGPS Bushra Kurram Agency received to-day i.e. on 06.05.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Annexures A and B of the appeal are illegible which may be replaced by legible/better one.

No. 680 /S.T.

Dt. 06/5 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ibad-ur-Rehman Adv. Pesh.

R/Sir,
After attending the observation, resubmitted
Please

Bekhu
15/5/2015

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,
PESHAWAR

Appeal no. 458/2015

Miss Bibi Safia

V E R S U S

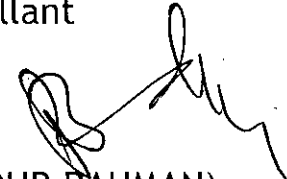
Secretary Elementary and others

I N D E X

S NO	DESCRIPTION	ANNEX	PAGE
1.	Grounds of Appeal alongwith Affidavit		1-5
2.	Appointment order	A	6
3.	Dismissal order dated 10-12-2014	B	7
4.	Copy of departmental appeal	C	8-9
5.	Copy of reminder with acknowledgment receipt	D	10-11
6.	News cutting	E - F	12-13
7.	Wakalat Nama		14

Appellant

Through:


(IBADUR RAHMAN)
Advocate,
High Court, Peshawar
Office # 127-3rd Floor
Sarhad Mansion, Hashtnagri
G.T Road, Peshawar
Cell # 0300-5932939

Dated: -05-05-2015

(1)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Appeal No. 459 /2015

**K.W.P. Province
Service Tribunal**

Diary No. 459

Dated 06-5-2015

Miss Bibi Safia, Ex-Theology Teacher, GGPS Bushera Kurram Agency,
Presently R/o Parachinar House, Bari Shaikh ul Bandi, Near Khulafai
Rashidin Masjid, Murree Road, ABBOTTABAD. **APPELLANT**

Versus

- 1- Secretary. Elementary & Secondary Education, Govt of KPK
Peshawar.
- 2- Additional Chief Secretary (FATA), Warsak Road, Peshawar.
- 3- Director Education, (FATA) Warsak Road, Peshawar.
- 4- Agency Education Officer, Kurram Agency, Parachinar.

Respondents

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT AGAINST
THE IMPUGNED ORDER DATED 10/12/2014 VIDE
WHICH THE APPELLANT WAS REMOVED FROM
SERVICE.

PRAYER IN APPEAL,

ON ACCEPTANCE OF THE APPEAL IN HAND THE
IMPUGNED ORDER DATED 10/12/2014 MAY
GRACIOUSLY BE SET A SIDE AND THE APPELLANT BE
REINSTATED IN SERVICE WITH ALL BACK BENEFITS.

Respectfully sheweth,

Appellant submits as under :-

Re-submitted to-day
and filed.

Hasan
Registrar
15/5/15

- 1- That the appellant being fully qualified, was appointed as Theology Teacher (T.T) by the Agency Education Officer, Kurram Agency vide order dated 03-11-1994 and posted at GGPS Kochi and later on transferred to GGPS Bushera.
- 2- That since then the appellant performed her duties efficiently, whole heartedly and to the entire satisfaction of her superiors. On most of the occasions, the services of the appellant were duly acknowledged by the high-ups.
- 3- That in month of July/August, 2014 there happened some tragic incidents in Kurram Agency which badly affected the Shia Sect due to which the people of Kurram Agency especially residents of Parachinar, belonging to Shia Sect started agitations & protests against the government as well as against the Sunni Sect.
- 4- That due to the worse law and order situation in Parachinar all the officials working at Kurram Agency were facing great hardships and due to these situation, the appellant could not able to continue her duties at Parachinar as there were frequent threats to the life of the appellant alongwith other officials. It is most important to mention here that the appellant belongs to Sunni Sect.
- 5- That the appellant duly informed the Education authorities regarding the said situation who informed the appellant to leave her station for some while, therefore, the appellant migrated to Abbottabad as **IDPs** alongwith all her family members.
- 6- That even from Abbottabad, the appellant time and again contacted the education department officials who informed the appellant that the situation at Parachinar is the same and advised the appellant to remain at Abbottabad.

- 7- That all of a sudden in end of December, 2014 the appellant came to know that the services of the appellant has been terminated vide letter dated 10/12/2014, while no chance what so ever was given to the appellant to explain her position.
- 8- That against the said termination order, the appellant filed a proper Department appeal to the Director Education (FATA) followed by an other appeal/reminder to the Honourable Additional Chief Secretary (FATA) but still no response has been received from their side.(Copies attached).
- 9- That even after the lapse of statutory period, no response what so ever has been received from the Respondents and the appellants has left with no option but to approach this honourable tribunal through the appeal in hand on the following grounds amongst others :-

GROUNDS :-

- i- That the appellant belong to a poor and war affected area of FATA (PARACHINAR KURRAM AGENCY) where the ladies have very limited sources of income but the only source of income was snatched from the appellant.
- ii. That the appellant has been condemned unheard as no chance of personal hearing was provided to the appellant.
- iii. That no proper inquiry in the matter is conducted which mandatory for major punishment.
- iv. That no Show Cause Notice or Final Show Cause was ever served upon the appellant, hence condemned unheard.

(4)

- v. That the appellant has unblemished service career of about 20 years but all of a sudden, the services of the appellant were terminated without any fault on her behalf.
- vi. That the impugned order dated 10/12/2014 is harsh, bad in law and without lawful authority.
- vii. That the impugned order is Void ab-initio and nullity in the eyes of law.
- viii. That although the appellant was not informed about any Inquiry Proceedings, yet the appellant was not provided the findings of the so-called Inquiry as mentioned in the impugned order.
- ix. That the appellant be allowed to add other grounds at the time of arguments.

It is, therefore, humbly prayed that on acceptance of the appeal in hand, the impugned order dated 10/12/2014 of the respondent NO.4 may graciously be set a side and the appellant be re-instated in service with all back benefits.

Any other remedy deemed proper in the matter and not specifically asked for may also please be given with costs.

Safia
Appellant

Through:

Bady
IBADUR RAHMAN
Advocate High Court
127- 3rd Floor, Sarhad Mansion
Hashtnagri, GT Road.
Peshawar.

Dated. 5/05/2015.

(5)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PUKHTUNKHWA,
PESHAWAR

Miss Bibi Safia

VERSUS

Secretary Elementary and others

AFFIDAVIT

I, Bibi ~~Safia~~ Ex-Theology Teacher, GGPS Bushera Kurram Agency, presently R/O Parachinar House, Bari Shaikh-ul-Bani, near Khufalai Rashidin Masjid Murree Road, Abbottabad, do hereby solemnly affirm and declare on Oath that the contents of the accompanying Appeal are true and correct and nothing has been concealed from this Honourable Court.

Safia
DEPONENT

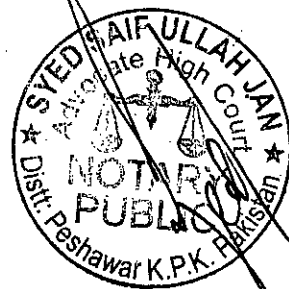
Identified by:-

Abdur Rahman

(IBADUR RAHMAN)
Advocate
High Court, Peshawar

ATTESTED

06 MAY 2015



(6)

(Annex A)

OFFICE OF THE AGENT IN CHARGE

APPOINTMENT/TRANSFER

As already approved by the Selection Committee, the unmentioned appointment/transfer of ... are hereby ordered in the interest of public service with effect from the date of taking over charge in S.F.S No.7 (1430-81-269):-

18
19
20

S.No	Name/Father's Name	From	To
1.	Bibi Safia D/ Hafiz Khan	Candidate	... post against newly created ... post.
2.	Bibi Shahida D/C Hafiz Khan		... post vice no.3.
3.	Fazma Shahzad	... post	... post against vacant ... post.
4.	Bibi Saira D/ post	... post (Muhammad Khan Sadi) against newly created ... post.
5.	Bibi Farida D/ post	... post (Muhammad Khan Sadi) against newly created ... post.
6.	Rumtaz Begum D/ post	... post (Muhammad Khan Sadi) against newly created ... post.
7.	Kalsoom Sarif D/ post	... post against vacant ... post.

- Notes-
1. They are directed to produce their health and age certificates from the Medical Super Agency or Hospital, Karachi.
 2. The age of the candidates should be between 18-28 years.
 3. Their appointments are purely made on a temporary basis and liable to termination at any time without requiring any notice. In case they wish to resign their posts, they will have to give one month prior notice or forfeit one month's salary thereof.
 4. Charge report in dup. form should be submitted to this office.

Sd/-
 Agency Education Officer
 Surran Agency Karachi

Serial No 1016-25 dated Karachi the 3/11 19...

- Copy of the above is forwarded to the:-
- 1-7. Candidates/Teacher concerned.
 8. Accountant, Local Office.
 9. ...
 10. Office records.

Sd/-
 Agency Education Officer
 Surran Agency Karachi



16/2/2015

16/2/2015

BETTER COPY.

OFFICE OF THE AGENCY EDUCATION OFFICER KURRAM
AGENCY PARACHINAR.

APPOINTMENT/POSTING.

As already approved by the selection committee, the undermentioned appointment/transfer of the following female teachers are hereby ordered in the interest of public service with effect from the date of taking over charge in B.P.S.7 (1480-81-2691).

<u>S.No.</u>	<u>Name/Father Name</u>	<u>From</u>	<u>To</u>
1-	Bibi Safia D/O Hanif Khan	Candidate	GGPS Kochi against newly created post
2-	Bibi Shahida D/o Hanif Khan	-do-	GGPS Kochi Vice No.3
3.			
4.			
5.			
6.			
7.			

NOTE:

1. They are directed to obtain their health and age certificate from the Medical Supdt: Agency HQ Hospital Parachinar.
2. The age of the candidate should be between 18-28 years.
3. Their appointment are purely on temporary basis and liable to termination at any Notice. In case they wishes to resign, they will have to give one month prior notice or forfeit one month pay in lieu thereof.
4. Charge Report in duplicate should be submitted to this office.

Sd/xxx
Agency Education Officer
Kurram Agency, Parachinar.

Endst: No. 1016-25

Dated Parachinar the 03/11/1994

Copy forwarded to:

- 1-7. Candidate/Teacher concerned
8. Accountant Local Office

IN CASE OF
GOVERNMENT
EDUCATION OFFICER KURRAM AGENCY PARACHINAR
FROM SERVICE

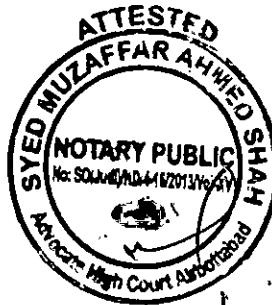
You Mst: Bibi Sofia Designation T.T GGPS Bushera was withdrawn with effect from 18-8-2014 till date from your duty. Herein absence notice was served through your home/school address through registered acknowledgement to resume duty within 15 days but you failed to give response within 15 days of the publication of this notice, failing which an ex-parte decision will be taken against you but you failed to give a response about resuming duty.

Whereas an Enquiry Committee was constituted under the chairmanship of Wazir Ali Principal GISS Shalozan and they were asked to appear before the Enquiry Committee on 1st and 2nd December 2014 but you failed to appear before the Enquiry Committee. Now Therefore, in exercise of powers conferred under the Government of Khyber Pakhtunkhwa, Government servants (E&D) Rules 2011, a Major Penalty of removal from service is hereby imposed upon Mst: ^{Bibi Sofia} ~~Sahib Nisar~~ T.T with immediate effect and her absence period is treated as unauthorized absence from duty.

Agency Education Officer
Kurram Agency Parachinar

for information of Agency. Dated 10/12/2014
Pakhtunkhwa Peshawar.

CERTIFIED TRUE COPY



10/2/2015

BETTER COPY.

OFFICE OF THE AGENCY EDUCATION OFFICER KURRAM
AGENCY PARACHINAR.

NOTIFICATION OF
REMOVAL FROM SERVICE

You Mst: Bibi Safia, Designation TT GGPS Bushera Upper Kurram was willful absent with effect from 18-8-2014 till date from your duty.

Whereas absence notice was served through your home/school address through registered Acknowledgement due, to resume within 15 days but you failed to give response within stipulated time.

Whereas an other notice was published in daily News on 09-11-2014 directed you to resume duty within 15 days of the publication of this notice, failing which an Ex-parte decision will be taken against you but you failed to give a response about resuming duty.

Whereas an Enquiry was constituted under the chairmanship of Waris Ali, Principal GHSS Shalozan and they directed to present before the Enquiry Committee on 1st & 2nd December, 2014 but you failed to appear before the Enquiry Committee.

Now therefore, in exercise of powers conferred under the Government of Khyber Pakhtunkhwa, Government Servant (E&D) Rules, 2011, a major Penalty of Removal from service is hereby imposed upon Mst: Bibi Safia TT with immediate effect and her absence period is treated as unauthorized absence from duty.

Sd/xxx

Agency Education Officer
Kurram Agency, Parachinar.

No. 4626-28/Edu

Dated 10/12/2014

Copy forwarded for information to the :-

- 3- Political Agent Kurram Agency.
- 4- Director of Education FATA, Khyber Pakhtunkhwa Peshawar.

Director Education (FATA)
FATA Secretariat,
Warsak Road Peshawar.

DEPARTMENTAL APPEAL AGAINST THE ORDER
DATED 10/12/2014 OF THE AGENCY EDUCATION
OFFICER, PARACHINAR, VIDE WHICH THE
APPELLANT WAS REMOVED FROM SERVICE.

Appellant submits as under :-

- 1- That the appellant being fully qualified, was appointed as Theology Teacher (T.T) by the Agency Education Officer, Kurram Agency vide order dated 03-11-1994 and posted at GGPS Kochi and later on transferred to GGPS Bushera.
- 2- That since then the appellant performed her duties efficiently, whole heartedly and to the entire satisfaction of her superiors. On most of the occasions, the services of the appellant were duly acknowledged by the high-ups.
- 3- That in month of July/August, 2014 there happened some tragic incidents in Kurram Agency which badly affected the Shia Sect due to which the people of Kurram Agency especially residents of Parachinar, belonging to Shia Sect started agitations & protests against the government as well as against the Sunni Sect.
- 4- That due to the worse law and order situation in Parachinar all the officials working at Kurram Agency were facing great hardships and due to these situation, the appellant could not able to continue her duties at Parachinar as there were frequent threats to the life of the appellant alongwith other officials. It is most important to mention here that the appellant belongs to Sunni Sect.
- 5- That the appellant duly informed the Education authorities regarding the said situation who informed the appellant to leave her station for some while, therefore, the appellant migrated to Abbottabad as **IDPs** alongwith all her family members.
- 6- That even from Abbottabad, the appellant time and again contacted the education department officials who informed the appellant that the situation at Parachinar is the same and advised the appellant to remain at Abbottabad.
- 7- That all of a sudden in end of December, 2014 the appellant came to know that the services of the appellant has been terminated vide

letter dated 10/12/2014, while no chance what so ever was given to the appellant to explain her position.

- 8- That against the said termination order, the appellant has left with no option but to approach your good self through the appeal in hand on the following grounds:-

GROUND S :-

- i- That the appellant belong to a poor and war affected area of FATA (PARACHINAR KURRAM AGENCY) where the ladies have very limited sources of income but the only source of income was snatched from the appellant.
- ii. That the appellant has been condemned unheard as no chance of personal hearing was provided to the appellant.
- iii. That no proper inquiry in the matter is conducted which mandatory for major punishment.
- iv. That no Show Cause Notice or Final Show Cause was ever served upon the appellant, hence condemned unheard.
- v. That the appellant has unblemished service career of about 20 years but all of a sudden, the services of the appellant were terminated without any fault on her behalf.
- vi. That although the appellant was not informed about any Inquiry Proceedings, yet the appellant was not provided the findings of the so-called Inquiry as mentioned in the impugned order.
- vii. That the appellant be given a chance of personal hearing before the disposal of the appeal in hand.

It is requested that the impugned order dated 10/12/2014 may graciously be set a side and the appellant be re-instated in service will all back benefits.

Dated . 07/1/2015

Safiq
Miss Bibi Safia, Ex-Theology
Teacher, GGPS Bushera
Kurram Agency, Presently R/o
Parachinar House, Bari Shaikh
ul Bandi, Near Khulafai
Rashidin Masjid, Murree
Road, ABBOTTABAD.

The Additional Chief Secretary
FATA Secretariat,
Warsak Road, Peshawar.

SUBJECT: REMINDER/APPEAL FOR RE-INSTATEMENT
IN SERVICE WITH ALL BACK BENEFITS.

Respected Sir,

Appellant submits as under :-

- 1- That being fully qualified, the appellant was appointed as Theology Teacher (T.T) by the Agency Education Officer, Kurram Agency vide order dated 03-11-1994 and posted at GGPS Kōchi and lateron transferred to GGPS Bushera.
- 2- That since then the appellant performed her duties efficiently, whole heartedly and to the entire satisfaction of her superiors. On most of the occasions, the services of the appellant were duly acknowledged by the high-ups.
- 3- That in month of July/August, 2014 there happened some tragic incidents in Kurram Agency which badly affected the Shia Sect due to which the people of Kurram Agency especially residents of Parachinar, belonging to Shia Sect started agitations & protests against the government as well as Sunni Sect.
- 4- That due to the worse law and order situation in Parachinar, your good self as well as all the officials at Kurram Agency are well aware and due to these situation, the appellant could not able to continue her duties at Parachinar as there were frequent threats to the life of the appellant. It is most important to mention here that the appellant belongs to Sunni Sect.
- 5- That the appellant duly informed the Education authorities regarding the said situation who informed the appellant to leave her station for some while, therefore, the appellant migrated to Abbottabad as **IDPs** alongwith all her family members.
- 6- That even from Abottabad, the appellant time and again contacted the education department officials who informed the appellant that the situation at Parachinar is the same and advised the appellant to remain at Abbottabad.
- 7- That all of a sudden in end of December, 2014 the appellant came to know that the services of the appellant has been terminated vide letter dated 10/12/2014, while no chance what so ever was given to the appellant to explain her position.

- 8- That against the said termination order, the appellant filed a proper Department appeal to the Director Education (FATA) but still no response has been received from their side.
- 9- That the appellant belong to a poor and war affected area of FATA (PARACHINAR KURRAM AGENCY) where the ladies have very limited sources of income but the only source of income was snatched from the appellant.
- 10- That the appellant has been condemned unheard as no chance of personal was given to the appellant.
- 11- That no proper inquiry in the matter is conducted which mandatory for major punishment.
- 12- That the appellant has unblemished service career of about 20 years but all of a sudden, the services of the appellant were terminated without any fault on her behalf.

It is, therefore, humbly prayed that your good-self may personally look into the matter and the Education Department of FATA may kindly be directed to re-instate the appellant with all back benefits.

Safia

Dated. 28 / 12 / 2015

Miss Bibi Safia
 TT GGPS Bushera
 Presently R/o Parachinar House
 Bari Shaikh ul Bandi
 Near Khulafai Rashidin Masjid
 Murree Road, ABBOTTABAD.

Contact # **0346-9876586**

~~FATA~~

No. 424 For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgment is desired.

Received a registered addressed to Mrs. Safia

Initials of Receiving Officer [Signature] *Write here "letter", "post card", "packet" or "parcel" with the word "insured" before it when necessary!

Insured for Rs. (in figures) 1000 (in words) one thousand

Weight 50 Grams

Insurance fee Rs. 50 Ps. (in words) fifty

Name and address of sender [Signature]

Rs. 28

DRIFT JANG

روزنامہ

جرگہ اولینڈی

بانی میر ظلیل الرحمن

شمارہ 210

جلد 56

تاریخ 17.2.2014ء

قیمت 16 روپے

تلفون 3765633

پاراچنار میں پولیٹیکل انتظامیہ کیخلاف دھڑنا چوتھے روز بھی جاری رہا

کیورٹی فورسز کی طرف سے دھڑے کا محاصرہ کمانے پینے کی اشیاء کی قلت

پاراچنار (قائمہ رینج) پاراچنار اور جھنگ میں اپنے مطالبات کے حق میں اور پنجگول میں ان کی مہم کے خلاف ہزاروں افراد کا دھڑا ہونے اور ان کی جاری رہ رہا ہے۔ کیورٹی فورسز نے کوششیں کیں اور انہوں نے دھڑے کو محاصرہ کیا۔ انہوں نے کہا کہ انہوں نے اس سے پہلے ہی کیورٹی فورسز کی طرف سے دھڑے کو محاصرہ کیا تھا۔ انہوں نے کہا کہ انہوں نے اس سے پہلے ہی کیورٹی فورسز کی طرف سے دھڑے کو محاصرہ کیا تھا۔ انہوں نے کہا کہ انہوں نے اس سے پہلے ہی کیورٹی فورسز کی طرف سے دھڑے کو محاصرہ کیا تھا۔

پاراچنار دھڑا

پاراچنار میں ان کی مہم کے خلاف ہزاروں افراد کا دھڑا ہونے اور ان کی جاری رہ رہا ہے۔ کیورٹی فورسز نے کوششیں کیں اور انہوں نے دھڑے کو محاصرہ کیا۔ انہوں نے کہا کہ انہوں نے اس سے پہلے ہی کیورٹی فورسز کی طرف سے دھڑے کو محاصرہ کیا تھا۔ انہوں نے کہا کہ انہوں نے اس سے پہلے ہی کیورٹی فورسز کی طرف سے دھڑے کو محاصرہ کیا تھا۔

شیر پور رابطہ

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پروفیسر عبدالرحمن

بند 3، شارع نیشنل سٹریٹ، لاہور۔ 1994 تا 2014۔ 2014 تا 2017۔ 2017 تا 2018۔ 2018 تا 1994

لندن سرگودھا

آج کا اخبار لاہور

کرم ایجنسی: پیش امام کی ایجنسی بدری کخلاف دھرنا جاری

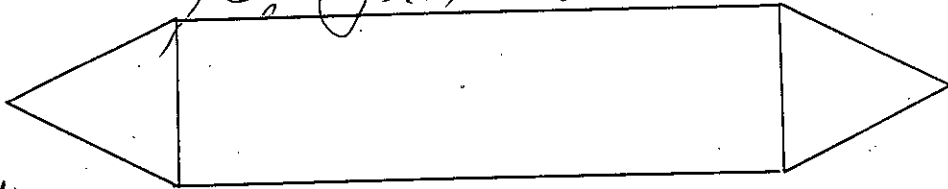
پاراچنار کی مرکزی امام بارگاہ اور مدرسہ جعفریہ کے بینک اکاؤنٹس فوری بحال کئے جائیں: عمائدین

بکن کرم ایجنسی (نامہ نگار) کرم ایجنسی میں پیش امام کی ایجنسی بدری کخلاف عید الفطر کے دن سے شروع ہونے والا کا دھرنا پانچویں دن بھی جا رہی ہے دھرنے میں خواتین اور بچے بھی شامل ہیں، ہفتے کے روز بازار مکمل بند رہے جبکہ پولیٹیکل انتظامیہ اور دھرنے کے شرکاء کے درمیان مذاکرات ایک بار پھر ناکام رہے، مختلف مقامات پر جاری دھرنوں سے علماء اور قبائلی عمائدین نے خطاب کرتے ہوئے کہا کہ خطیب مرکزی جامع مسجد وکیل مشہد اعظم علامہ محمد نواز عرفانی کے ایجنسی بدری کے احکامات واپس لئے جائیں، پولیٹیکل انتظامیہ کی جانب سے انجمن حسینیہ اور پاراچنار کے لوگوں کے مذہبی معاملات میں مداخلت بند کی جائے، 19 جنوری سے بے گناہ گرفتار قبائلی عمائدین کو فوری طور پر رہا کیا جائے اور پاراچنار مرکزی امام بارگاہ اور مدرسہ جعفریہ کے بینک اکاؤنٹ فوری طور پر بحال کیے جائیں۔



بکن کرم ایجنسی: شہید مہدی ہزارہ کی قبر پر بھیڑیں اور فوجی کیلئے چھوٹے چھوٹے گولے پھینکے گئے۔

بعدالت کروں گے بیزنس کے لئے



۱۱

بمجاوب:

مورخہ: ۱۱ صفر ۱۴۴۱ھ

مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

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

مقام حرم کیلئے عباد الرحمن ایڈووکیٹ ہائی کورٹ پشاور

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 کرنے و تقرر ثالث و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک درو پیہا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق و زرائیں 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۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داحیہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم ۲۵ / ۱۰ / ۲۰۱۵

bifas

الغوابہ والعد

مقام حرم کیلئے منظور ہے۔

عباد الرحمن ایڈووکیٹ ہائی کورٹ

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No: 458/2015

Miss Bibi Safia Ex-Theology Teacher, GGPS Bushera Kurram Agency.....Appellant.

VERSUS

1. Secretary Elementary & Secondary Education Govt: of Khyber Pakhtunkhwa Peshawar.
2. Additional Chief Secretary FATA Warsak Road Peshawar.
3. Director Education FATA Warsak Road Peshawar.
4. Agency Education Officer kurram Agency Parachinar.....Respondents.

Para-wise comments on behalf of respondent No: 3 and 4.

**Respectively Sheweth:
Preliminary Objection**

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct to bring the present appeal.
5. That the appeal is bad due to non-joinder and misjoinder of un-necessaries parties.
6. That the appeal is barred by law and no departmental appeal is made to the competent authority against the impugned order.

On Facts:

1. No comments. Pertains to record.
2. Incorrect. The appellant was not performing her duty efficiently and regularly. Therefore the Competent Authority takes action against the appellant in the interest of public as well as in the interest of the Department.
3. Incorrect. She should not leave her duty without the permission of his superiors as all Govt: employees are bound to perform their duty according to rules/regulation invogue in Education Department.
4. Incorrect. The appellant should brought all the situation into the notice of her superiors for redressal of her grievances.
5. Incorrect. No any correspondence has been made from the respondents side to the appellant to leave her duty station.
6. Incorrect. As explained in Para-5 above.
7. Incorrect. Appellant was willfully absented himself. Notices were issued but she failed to attend office then publication was made in the News on 09/11/2014. After fulfillment of all codal formalities including inquiry appellant was terminated (copy of notices are Annexure-A & B while inquiry report is attached as Annexure-C).
8. Incorrect. The departmental appeal is not available in the record of the respondents.
9. No comments. As explained in Para-8 above.


Grounds:

- i. Incorrect. On account of willful absence the appellant services have been removed by the Competent Authority.
- ii. Incorrect. All codal formalities have been fulfilled for the removal of appellant services, as no one is allowed to violate the rules/regulations.
- iii. Incorrect. In this regard Mr. Waris Ali Principal GHSS Shalozan was appointed as a chairman of the inquiry committee. The appellant was asked to appear before the inquiry committee but the appellant was failed to appear before the inquiry committee.

- iv. Incorrect. As evident from Removal Notification of the appellant a letter has been sent on the home address to resume her duty within 15 days. The appellant did not resume her duty within stipulated time. Whereas another notice was published in DAILY News on 9/11/2014 directed the appellant to resume her duty within 15 days of the publication of the notice failing which an ex-parte decision will be taken against the appellant. All codal formalities have been fulfilled for the removal of appellant services.
- v. Incorrect. As explained in Para-IV above.
- vi. Incorrect. According to law all codal formalities have been fulfilled for the removal of appellant services.
- vii. Incorrect. As per Para's including above.
- viii. Incorrect.
- ix. Respondent are also seeks permission to advance other grounds at the time of arguments.

In light of the above facts it is humbly requested to please dismiss the appeal having no legal grounds with cost.

Respondent NO.3


Director Education FATA
Peshawar.


Respondent NO.4


Agency Education Officer
Kurram Agency


AFFIDAVIT

We the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our Knowledge and belief that nothing has been concealed from this Honorable Tribunal.

Respondent NO.3


Director Education FATA
Peshawar.

Respondent NO.4


Agency Education Officer Kurram Agency

A

نوٹس اظہار وجوہ غیر حاضری عمداً

آپ ۱۔ صابر نساء PET جی جی ایم ایس بوشہرہ

۲۔ بی بی شاہدہ PST جی جی پی ایس بوشہرہ

۳۔ شاہین افضل PST جی جی پی ایس کوٹری

۶۔ انیلہ یونس CT جی جی ایم ایس غنڈہ خیل

۳۔ بی بی صوفیہ T.T جی جی پی ایس بوشہرہ

۵۔ مسلمہ PST جی جی پی ایس ابراہیم زئی

۷۔ المیہ شہزادی CT جی جی ایچ ایس اڑخیل ککے

۸۔ نسرین بیگم PST جی جی پی ایس پرت کھے پیواڑ

۱۱۔ بشیر حسین JC جی ایچ ایس تری منگل

۱۲۔ کمال حسین PST جی جی پی ایس جاڑو ککے بوشہرہ عرصہ دراز سے تاحال اپنی

ڈیوٹیوں سے غیر حاضر ہیں۔ جس کی بنا پر آپ سب کو آپ کے گھروں اسٹولوں کے ایڈریس پر علیحدہ علیحدہ نوٹسز ایجنسی ایجوکیشن آفیسر کرم

ایجنسی کے دفتر سے ارسال کئے گئے ہیں۔ جن میں آپ سب کو ہدایت کی گئی تھی۔ کہ آپ سب جلد از جلد پندرہ دنوں کے اندر اندر اپنی

ڈیوٹیوں پر حاضر ہو جائیں۔ اور اپنی اپنی غیر حاضری کی وجہ بتائیں لیکن اسکے باوجود بھی نہ آپ لوگ اپنے ڈیوٹیوں پر حاضری اور نہ ہی کوئی

معتول وجہ یا اطلاع دفتر لٹڈ اگودی۔ لہذا آخری بار بذریعہ نوٹس ہذا آپ سب کو منبہ کیا جاتا ہے۔ کہ آپ سب اس نوٹس کے شاعت کے

پندرہ دن کے اندر اندر ایجنسی ایجوکیشن آفیسر کرم ایجنسی کے روبرو پیش ہو کر اظہار وجوہ برائے تمداً غیر حاضری پیش کریں۔ کیوں نہ آپ کے

مخلاف تادیبی کارروائی کی جائے۔ عدم تعمیل کے صورت میں آپ کے خلاف خیر پختہ خواہ کے سرکاری ملازمین (E&D) روڈز بھریہ

2011ء روز 9 کے تحت یکطرفہ کارروائی عمل میں لائی جائے گی۔ جو آپ سب کی ملازمت سے برخاستگی پر منتج ہو سکتی ہے۔

۲۔ جدو علی خان و ذہیر
ایجنسی ایجوکیشن آفیسر کرم ایجنسی

ایکٹف۔ امجد علی خان
پولیسکل ایجنٹ کرم ایجنسی

(Handwritten signatures and stamps)

(C)

7	Almeena Shehzadi CT GGHS Arkhayo Kali	<ol style="list-style-type: none"> Not appeared before the enquiry committee due to her illness Absent from physical verification(both) 	She may please be treated under E&D rules 2011 i.e removal from service
8	Nasreen Begum PST GGPS Prath Kali Pehar	<ol style="list-style-type: none"> Appeared before enquiry committee Present for physical verification Absence from duty wef 01-10-2014 to 27-10-2014. Respond to notices served against her 	<p>Recovery for 27 days i.e absence period may be made</p> <p>2 Warning may be issued for regularity in future</p> <p>3. Affidavit may also be obtained</p>
9	Gule Rana PST GGPS Wacha Dara.	<ol style="list-style-type: none"> Not appeared before enquiry committee Absent from physical verification Absent from duty No response to notices served against her 	<p>Removal from under E&D rules 2011 accordingly in the best interest of public service</p>
10	Rhizran Muhammad PST GGPS Gosar	<ol style="list-style-type: none"> Appeared before enquiry committee Present in physical verification Worked on detail basis at GGHS Alizai 	1 Warning may be issued and also obtained affidavit
11	Bashir Hussain JC GHS Terimangal	<ol style="list-style-type: none"> Appeared before the enquiry committee Absent from physical verification Wilfully absent from duty wef 18-9-2014 to 23-11-2014 	<ol style="list-style-type: none"> Deduction for absence period mentioned in the finding (67) days Warning may also be issued Affidavit for the future regular performance may also be obtained
12	Kamal Hussain PST GPS Jaro Kali Bushera	<ol style="list-style-type: none"> Appeared before the enquiry committee Absent from physical verification (both) Absent from duty wef 05-9-2014 to 23-11-2014 	<ol style="list-style-type: none"> He may be treated under E&D rules 2011 for minor penalties 78 days recovery may be made Warning notice Affidavit may also be obtained Regular duty certificate from the Headmaster GHS Bushera on daily basis may also be ordered

Committee Members

- Ashraf Ali Headmaster
- Shamim Fatima AAEO
- Kamal Hussain AAEO

- Mrs. Newsheen I/C Principal
- Ashraf Ali AAEO
- Aman Ali AAEO

Waris Ali Principal (Chairman)
GHS Shalozan Kurram Agency

Attention: David Jam Asstt

To: The Agency Education Officer
Kurram Agency

Subject:- ENQUIRY REPORT
Memo:-

Please refer to your letter No. 3816 dated 24-11-2016 regarding enquiry against the female teachers of various schools in Upper Kurram as below:-

No	Name of Teacher	Finding	Remarks/Recommendation
1	Sabir Nisa PET GGMS Dander Bushera	<ol style="list-style-type: none"> Not appeared before the enquiry committee. Absent from physical verification (both) Willfully absent from duty No response to the notice served against her 	She may please be treated for major penalty under E&D rules 2011 accordingly in the best interest of public service
2	Bibi Shahida PST GGPS Bushera	<ol style="list-style-type: none"> Appeared before the enquiry committee Absent from physical verification Absent from duty wef 18-8-2014 to 30-11-2014 No response to the notice served against her 	As above
3	Bibi Safia T.T GGPS Bushera	<ol style="list-style-type: none"> Not appeared before the enquiry committee due to her illness Absent from physical verification (both) Willfully absent from duty wef 18-8-2014 to 02-12-2014 No response to the notices served against her 	As above
4	Shaheen Afzal PST GGPS Kotri	<ol style="list-style-type: none"> Not appeared before the enquiry committee Absent from physical verification (both) Absent from duty since long No response to the notices served against her 	As above
5	Muslima PST GGPS Ibrahimzai	As above	As above
6	Aneela Younas MS Ghundi Khel	<ol style="list-style-type: none"> Appeared before the enquiry committee Absent from physical verification Absent from duty wef 12-9-2014 to 13-11-2014 (61) days 	<ol style="list-style-type: none"> She may be treated through minor penalties under E&D rules 2011 61 days deduction may be made Issue warning notice served affidavit to the effect to perform regular duty in future Also certificate from Headmistress regarding her regular performance

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

APPEAL NO. 458/2015

Miss Bibi Safia Ex-Theology Teacher, Kurram Agency

....., Appellant

Versus

Secretary Elementary & Secondary Education & others

....., Respondents

REJOINDER TO THE COMMENTS

FILED BY RESPONDENTS.

Preliminary Objections.

All the preliminary objections raised by the respondents in their comments are baseless and not maintainable.

ON FACTS:

1. Need no comments.
2. Contents of Para-2 of the comments are wrong whereas that of the appeal are correct as the appellant performed her duty regularly and efficiently, and rendered valuable services in department for 20 years.
3. Contents of Para-3 of the comments are wrong and mis-leading, whereas that of the appeal are correct. Moreover, the respondents have not denied the law and order situation at that time, in Parachinar, which affirms the stance of the appellant.
4. Contents of Para-4 of the comments are incorrect and mis-leading. All the Departmental heads of all the departments in Kurram Agency as well as the FATA Secretariat were/are well aware about the situation and miseries of common people especially of **Sunni Sect:**

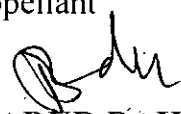
5. Contents of Para-5 of the comments are wrong whereas that of the appeal are correct.
6. Contents of Para-6 of the comments are wrong whereas that of the appeal are correct. The respondents were well aware about all the situation in Kurram Agency.
7. Contents of Para-7 of the comments are wrong whereas that of the appeal are correct. Absence of the appellant was neither willful nor codal formalities were fulfilled before issuing the impugned Termination order.
8. Contents of Para-8 of the comments are wrong whereas that of the appeal are correct. Proper Departmental appeal was duly submitted followed by a Reminder but the respondents did not bother to decide the same.
9. Contents of Para-9 of the comments are wrong whereas that of the appeal are correct.

GROUNDS:

- i. Contents of Para-i of comments are incorrect and wrong whereas that of the appeal are true and correct. The absence of the appellant was not intentional or willful but just because of the law and order situation of the Parachinar Kurram Agency and the act of the respondents shows mala-fide and ill-will towards appellant.
- ii. Contents of Para-ii of comments are incorrect and wrong whereas the contents of the appeal are true and correct, that no codal formalities have been fulfilled before passing impugned termination order of appellant.

- iii. Contents of Para-iii of comments are incorrect and wrong whereas the contents of the appeal are true and correct. Chairman of the So-called Inquiry Committee did not fulfill the codal formalities and all the so-called proceedings were carried out in the absence of the appellant. Not a single try was made to associate the appellant with the so-called inquiry proceedings.
- iv. Contents of Para-iv of the comments are incorrect and wrong whereas that of the appeal are correct. No Notice what so ever was issued or served upon the appellant.
- v. Contents of Para-v of the comments are wrong and incorrect.
- vi. Contents of Para-vi of comments are wrong and incorrect whereas that of the appeal are correct.
- vii. Contents of Para-vii of comments are wrong and incorrect whereas that of the appeal are correct.
- viii. Contents of Para-viii of comments are wrong and incorrect whereas that of the appeal are true and correct.
- ix. Need no comments.

It is, therefore prayed that appeal may kindly be allowed.

Appellant
Through: 
IBADUR RAHMAN
Advocate High Court
Peshawar

DATED. 18/05/2016.