

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

Service Appeal No.6221/2020

Mst.Tawheed Anjum,PSHT (BPS-15), GPS Shamlai, District Dir Lower.

(Appellant)

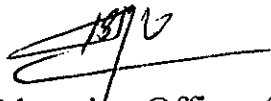
Versus

1. Secretary, Elementary &Secondary Education, Khyber Pakhtunkhwa Peshawar.
2. Secretary, Finance Department, Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary &Secondary Education, Khyber Pakhtunkhwa Peshawar.
4. District Education Officer Female, Dir Lower at Timergara.

(Respondents)

**Index:**

S.No	Description	Annexure	Page
1	Para wise comments		1-2-3
2	Affidavit		4
3	authority letter		5
4	Copy of the reinstatement order dated 23-04-2014	A	6
5	Copy of the judgment in service appeal No586/2016 along with implementation order dated 20-09-2019	B	7-11
6	Copy of the refusal duly on stamp paper is attached as	C	12-13

  
District Education Officer (F)  
District Dir Lower  
(Respondent No.4)

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

Service Appeal No.6221/2020

1. Mst.Tawheed Anjum,PSHT (BPS-15), GPS Shamlai, District Dir Lower.  
(Appellant)

Versus

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4. District Education Officer Female, Dir Lower at Timergara.

(Respondents)

**PARAWISE COMMENTS ON BEHALF OF  
RESPONDENTS No.1 TO 4.**

**Respectfully sheweth:-**

**PRELIMINARY OBJECTIONS**

1. That the Appellant is not the "aggrieved" persons within the meaning of Article 212 of the Constitution of the Islamic Republic of Pakistan 1973.
2. That the Appellant has got no cause of action /locus standi to file this application because the Appellants did not come on merit.
4. That the Appellants is estopped by his own conduct to file the instant appeal.
6. That the instant Appeal suffers from doctrine of laches, hence not maintainable in the present form.
7. That on the basis of seniority cum fitness, the appellant was promoted to the post of PSHT(BPS-15), while due to her domestic issues , she refused to took over charge , in this regard she also submitted an affidavit duly on stamp paper (Affidavit be attached).

**FACTS**

1. Para-1 of the facts is correct that the appellant was not interested in her duty, so she was terminated on the grounds of willful absenteeism.
2. Para-2 pertains to record, needs no comments.
3. Para- 3 pertains to record.

4. Para-4 of the facts is incorrect hence denied, and further stated that the appellant was removed from service on the ground of willful absence from her duty. The official respondents by showing leniency and reinstated her in compliance of the judgment in service appeal No1347/2010; vide order dated 23/04/2014, while the intervening period was treated as leave without pay/extra ordinary leave. Again the appellant filed a departmental appeal followed by the service appeal No.586/2016, for salaries/back benefits of the intervening period. The instant service appeal was disposed of with the direction to the official respondents , that the name of the appellant shall be placed in the seniority list of the PSTs , and her seniority position shall be determined, keeping in view, the date of her regular appointment, Alongwith the remarks of the Honorable Tribunal in Para-09 of the Judgment;

No case was made for the grant of salaries of the intervening period and as such the appellant has not been able to seek indulgence of this tribunal.

Thus, implementing the judgment in Service appeal No.586/2016, the appellant was placed in the seniority list from the date of her regular appointment as PST, and promoted to next higher scale of without back benefits vide order dated 20-09-2019. It is also pertinent to mention here that the appellant was promoted to the post of PSHT on seniority cum fitness, from which she had submitted refusal domestic issues/matters duly on stamp paper. (Copy of the reinstatement order dated 23-04-2014 is attached as "A", Copy of the judgment in service appeal No586/2016 along with implementation order dated 20-09-2019 is attached as "B" Copy of the refusal duly on stamp paper is attached as "C").

5. Para- 5 of the facts is correct to the extent of promotion with no financial back benefits, as in the intervening period she was not in service, thus neither eligible nor entitled for back benefits for the period in which she had not serve the department.

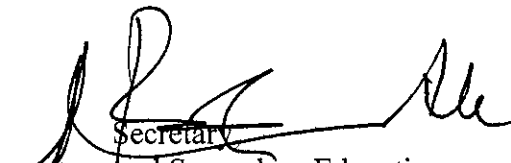
6. Para-6 of the facts pertains to record.

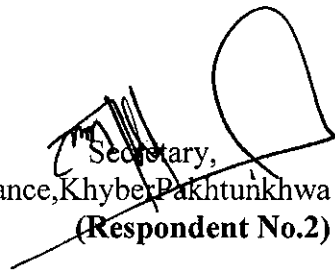
7. Para-7 of the facts is also incorrect hence denied. It is stated that the Appellant has got no cause of action /locus standi to file this appeal because the Applicants did not come on merit.

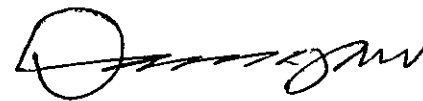
**GROUND:**

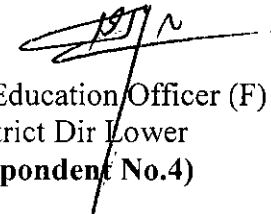
- A. Incorrect .hence denied whereas respondents departments also follow rules and policies in letter in spirit, the order dated 20-09-2019 has been issued in compliance of the judgment in service appeal No. 586/2016, while the appellant had not serve the department in the intervening period so she is not entitled for back benefits.
- B. Incorrect. Hence denied. The appellant has been treated as per law and rules.
- C. In correct. Details have been submitted in the facts above.
- D. Incorrect hence denied. Detail reply has been submitted in the facts above.
- E. Legal. However the official respondents also seek permission for additional grounds during arguments.

It is therefore, humbly prayed that on acceptance of the above submission, the instant service appeal may very graciously be dismissed in favor of the answering respondent with cost.

  
Secretary,  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar  
**(Respondent No.1)**

  
Secretary,  
Finance, Khyber Pakhtunkhwa Peshwar  
**(Respondent No.2)**

  
Director,  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar  
**(Respondent No.3)**

  
District Education Officer (F)  
District Dir Lower  
**(Respondent No.4)**

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

Service Appeal No.6221/2020

Mst.Tawheed Anjum,PSHT (BPS-15), GPS Shamlai, District Dir Lower.

(Appellant)

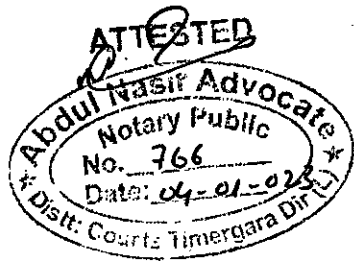
Versus

- 1: Secretary, Elementary &Secondary Education, Khyber Pakhtunkhwa Peshawar.
- 2: Secretary, Finance Department, Khyber Pakhtunkhwa Peshawar.
- 3: Director, Elementary &Secondary Education, Khyber Pakhtunkhwa Peshawar.
- 4: District Education Officer Female, Dir Lower at Timergara.

(Respondents)

**Affidavit**

I, Muhhamd Usman ADEO O/O the DEO(F) Dir Lower do hereby solemnly affirm and declare that contents of the accompanying para wise comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this August court.




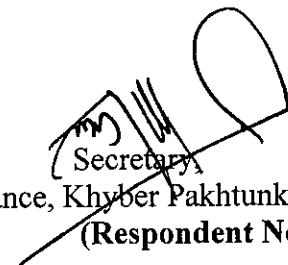
*Mu Usman*  
Deponent  
Muhammad Usman

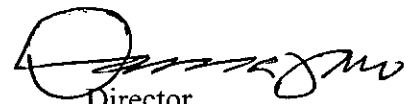
**AUTHORITY LETTER**

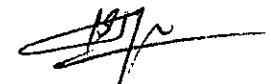
Mr.Muhamd Usman ADEO O/O the DEO (F) Dir Lower is hereby authorized to submit the comments /reply in the Service Appeal No. 6221/2020

Title: Mst.Tawheed Anjum v/s Govt of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar and others  
On behalf of the undersigned.

  
Secretary,  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar  
**(Respondent No.1)**

  
Secretary,  
Finance, Khyber Pakhtunkhwa Peshawar  
**(Respondent No.2)**

  
Director,  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar  
**(Respondent No.3)**

  
District Education Officer (F)  
District Dir Lower  
**(Respondent No.4)**

An.

"A" (6)  
"B" - (9)



DIRECTORATE ELEMENTARY & SECONDARY EDUCATION  
Khyber Pakhtunkhwa, Peshawar.

OFFICE ORDER

In compliance with the directions of the Service Tribunal in Service Appeal No: 1347/2010, titled Mst. Toheed Anjum PST Govt: Girls Primary School Warghar District Dir(Lower) dated 10-3-2014, the competent authority is hereby pleased to accept the departmental appeal of the appellant and re-instated back to her service with immediate effect while the intervening period of absence from her official duty (30/11/2007 to till date) is ordered to be treated leave without pay/extra ordinary leave.

→ The District Education Officer (Female) Dir(Lower) in further directed to conduct a de novo inquiry but subject to law, rules with intimation to this office, well in time if she deems appropriate after perusal of the related record/ go over the case of the appellant removal from service.

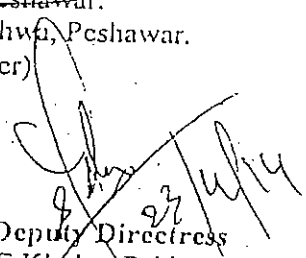
(MUHAMMAD RAFIQ KHATTAK)  
Director Elementary & Secondary  
Education Khyber Pakhtunkhwa,  
Peshawar.

Enlist. No. 549-58

Dated 23/4/2014

Copy forwarded for information & necessary action to the:-

- 1 Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
- 2 PS to Secretary E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 3 District Education Officer (Female) District Dir (Lower)
- 4 District Accounts Officer, District Dir (Lower).
- 5 PA to Director, local, Directorate.
- 6 Teacher concerned.

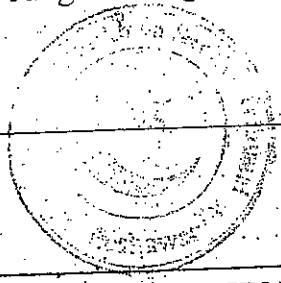
  
Deputy Directress  
E&SE Khyber Pakhtunkhwa,  
Peshawar.

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Advocate

(9) B (10)

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Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
		<p style="text-align: center;"><b>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</b>  <b>Camp Court Swat</b>  <b>Service Appeal No. 586/2016</b></p> <p>Date of Institution ..... 01.06.2016  Date of Decision ..... 07.02.2019</p> <p>Miss Tauheed Anjum PST (BPS-12) Government Girls Primary School Shamlai, Tehsil Adenzai, Dir Lower.  <span style="float: right;"><b>Appellant</b></span></p> <p style="text-align: center;"><b>Versus</b></p> <p>1. Director Elementary &amp; Secondary Education Khyber Pakhtunkhwa Peshawar.  2. Secretary Education Government of Khyber Pakhtunkhwa Peshawar.  3. District Education Officer (Female) Dir Lower.  <span style="float: right;"><b>Respondents</b></span></p> <p>Mr. Muhammad Hamid Mughal-----Member(J)  Mr. Hussain Shah-----Member(E)</p> <p>07.02.2019</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for appellant and Mr. Mian Amir Qadir learned Deputy District Attorney present.</p> <p>2. The appellant (PST) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for the grant of back benefits upon her reinstatement vide order dated 23.04.2014.</p> <p>3. Learned counsel for the appellant argued that the appellant</p>



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was appointed as PST in the year 1997 however she was terminated from service on the ground of absence from duty; that vide judgment dated 10.03.2014 passed in Service Appeal No.1347/2010 filed by the appellant, her case was remanded back to the respondent department to decide afresh her departmental appeal; that after remand, the respondent department accepted the departmental appeal of the appellant and reinstated her into service vide order dated 23.04.2014. Further argued that after reinstatement, the appellant filed departmental appeal for the grant of back benefits but to no avail. Next contended that the colleagues of the appellant are now serving in BS-16 but the appellant is deprived of promotion.

4. As against that learned Deputy District Attorney argued that the appellant was removed from service on the ground of absence from duty; that this Tribunal while deciding the earlier Service Appeal bearing No. 1347/2010 did not exonerate the appellant rather observed that the appellant has no explanation with regard to her absence from duty. Further argued that the appellate authority has taken lenient view and reinstated the appellant despite the fact that she remained absent from duty, therefore, the appellant cannot be held entitled for the back benefits. Further argued that vide order dated 23.04.2014 the appellant has been reinstated in service however the intervening period of her absence from official duty w.e.f. 30.11.2007 till date was ordered to be treated as leave without pay/extraordinary leave. Further argued that this Tribunal has not granted any back benefits to the appellant vide judgment passed in

D.

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APPROVED

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Service Appeal No.1347/2010.

5. Arguments heard. File perused.

6. The appellant was removed from service on the ground of absence from duty, resulantly the appellant approached this Tribunal by filing Service Appeal No.1347/2010 decided on 10.03.2014. Through the said judgment of this Tribunal the departmental appeal of the appellant was remanded for decision afresh. Consequently the appellate authority vide order dated 23.04.2014 by accepting the departmental appeal , reinstated the appellant in service with immediate effect while the intervening period w.e.f 30.11.2007 till date was ordered to be treated as leave without pay/extraordinary leave.

7. This Tribunal in its previous judgment dated 10.03.2014 did not exonerate the appellant from the charge of absence from duty nor granted any back benefits.

8. The appellant was removed from service on the ground of absence from duty. The appellate authority however, without exonerating the appellant from the charge of absence from duty, reinstated her into service without resorting to any major or minor punishment and intervening period was treated as leave without pay/extraordinary leave. This Tribunal is of the considered opinion that the appellate authority had already taken lenient view by reinstating the appellant into service.

9. No case was made for the grant of salaries of the intervening period and as such the appellant has not been able to seek

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Appellate Authority

ATTESTED

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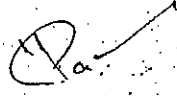
4. (13)

(10)

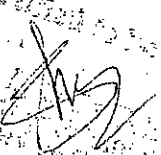
indulgence of this Tribunal.

10. It may however be mentioned that as a result of reinstatement of the appellant vide order dated 23.04.2014, the name of the appellant shall be placed in the seniority list of PSTs and her Seniority position shall be determined keeping in view the date of her regular appointment as PST. The present service appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member  
Camp Court, Swat.

ANNOUNCED  
07.02.2019

Certified to be true copy  
  
Secretary

Date of Presentation 12-2-19  
Number of Pages 2000  
Copying Fee 12-  
Urgent  
Total  
Name of Officer  
Date of Copying 06-03-19  
Date of Delivery of Copy 06-03-19

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(11)

(14)

DISTRICT EDUCATION OFFICER (SHALAI)

DIR LOWER (Phone # 0945 9250025)

Email: emisdeofdirlower@gmail.com

APPOINTMENT

In compliance with order of the honorable Service Tribunal Khyber Pakhtunkhwa Peshawar Camp Court Swat vide Service Appeal No.586/2016 dated 01-06-2016 the following petitioner is hereby promoted to the post of Primary School Head Teacher (PSHT) B-14 (15180-1170-50280) plus usual allowances as admissible under the rules on regular basis with no back benefits under the existing policy of the Provincial Government, on the terms and conditions given below in the interest of public service with immediate effect in pursuance of Government of Khyber Pakhtunkhwa E&SE Department notification No. SO (B&A)/1-18/E&SE/2012 dated 11/07/2012 and Finance Department Endst: No. SO (FR)/FD/10-22(E)/2010 dated 16/06/2012.

S.#	Name of candidate	Father's Name	Name of school	D/O Birth	Remarks
1	Tawheed Anjum	Fazalur Rehman	GGPS Shamlai	15-08-1970	A.V.P

Terms and Conditions:-

1. She would be on probation for a period of one year extendable for another one year.
2. She will be governed by such rules and regulations as may be issued from time to time by the Govt.
3. Her services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, she will be preceded under the rules framed from time to time.
4. Charge report should be submitted to all concerned.
5. Her Inter-Se-seniority on lower post will remain intact.
6. She will give an under taking to be recorded in their service book to the effect that if any over payment is made to them in light of this order will be recovered and if they are wrongly promoted they will be reversed.
7. The promote teacher is required to took over the charge within seven days from the date of its issue, in case of noncompliance entry in their service books will be made as per law & she will not be considered for three consecutive years for promotion.
7. No TA/DA is allowed for joining their duty.

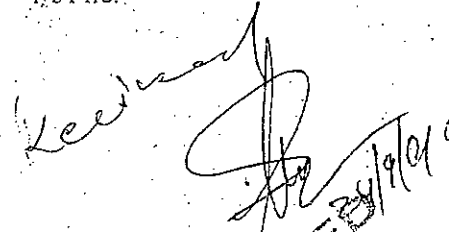
(SHAHEEN BEGUM)  
DISTRICT EDUCATION OFFICER  
(F) DISTRICT DIR LOWER.

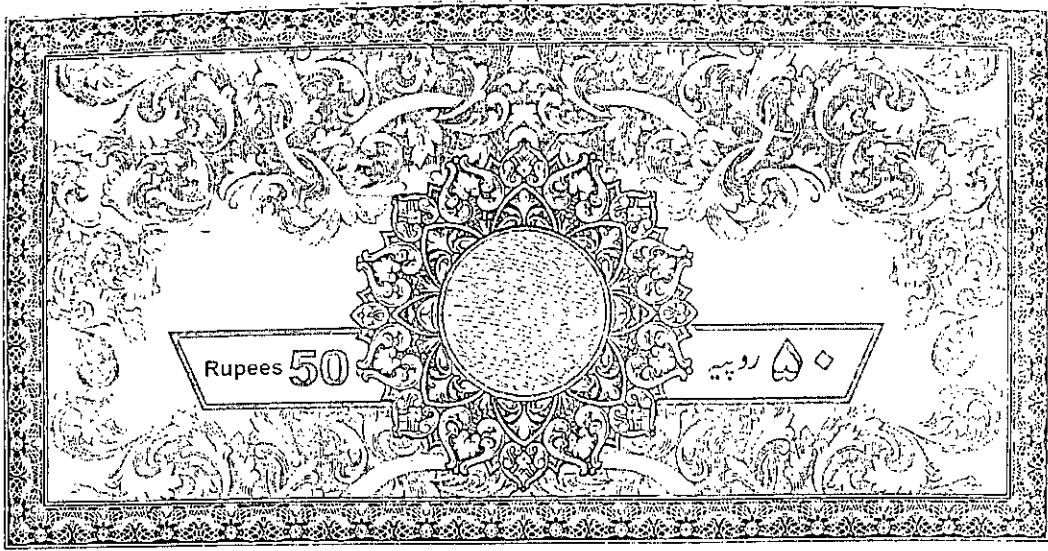
Endst: No. 2719-25Dated Timergara the 20 / 9 / 2019.

Copy forwarded for information and necessary action to the:-

1. PA to Registrar Service Tribunal Khyber Pakhtunkhwa Camp Court Swat.
2. PA to the Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. Officials Concerned.
4. District Account Officer District Dir Lower.
5. The SDEOs Concerned.
6. M/File.

  
DISTRICT EDUCATION OFFICER  
(F) DISTRICT DIR LOWER.

  
ATTESTED  
to be correct  
Advocate



بیانِ حلیٰ

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ  
 کہ میری صحت اور دیگر گھریلو مسائل کی وجہ سے  
 میں PSHT کی پوسٹ لینے سے معذرت کرتی ہوں  
 اور موجودہ شکل BPS-14 کے مطابق اپنے موجودہ  
 سکرل سٹائل میں اپنی ڈیوٹی سر انجام دینا چاہتی ہوں۔

T. Anjum  
 25/11/2021

لوئید الجیم

بی بی این - 14

جی جی بی ایسی

سٹائلنگ - جیکورہ

پراکٹر

بازو کتب و نسخہ ہندوستان کے نام سے شہرت پائی ہے اور اس کی کتبوں کی کاپیاں ہندوستان کے  
مختلف حصوں میں بھی موجود ہیں۔



M. S. K. K. K. K. K.

Director, Central Board of Secondary Education

Delhi - 110 022

India

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36/11/21

(13)