

16.06.2017

Applicant alongwith counsel and Asstt. AG alongwith Abdul Samad, Assistant for the respondents present.

Learned Asstt. AG submitted reinstatement order of the applicant alongwith back benefits. Applicant is satisfied with the above orders. The present execution petition is therefore filed being duly executed. File be consigned to the record room.


Chairman


ANNOUNCED

16.06.2017

26.05.2017

Petitioner with counsel and Asst: AG alongwith Mr. Abdul Samad, Assistant for respondents present. Representative of the respondents produced order dated 16.05.2017 in utter disregard to the directions contained in order sheet dated 31.03.2017. There is hardly any difference between the earlier order and the one referred to above. While issuing order dated 16.05.2017 earlier order was not withdrawn, hence, it can be safely construed that both the orders are in the field. It has given rise to yet another controversy. It also shows defiance and disrespect of the respondents towards the directions of this Tribunal. Attention is also invited to Section-17 of the Civil Service Act, 1973, which is quite relevant in this case.

It is directed that the competent authority shall revisit the order dated 16.05.2017 and pass orders as per judgment dated 21.12.2015 as required of him and produce the same before the court on 02.06.2017 before S.B.



(Ahmad Hassan)
Member

02.06.2017

Petitioner in person and Asst:AG alongwith Mr. Abdus Samad, Assistant for respondents present. Departmental representative informed that revised order as per directions of this Tribunal contained in order sheet dated 26.05.2017 regarding provision of back benefits was laying in the office of respondent No.1 for signature and would be produce on or before the next date of hearing. To come up for further proceedings on 16.06.2017 before S.B.



(Ahmad Hassan)
Member



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT AND WILDLIFE DEPARTMENT,**

SDU Building, Khyber Road, Peshawar Cantt, Peshawar.
(General Branch) Ph # 091-9212592, Fax # 091-9210536

Dated, the Peshawar, 12th June, 2017

ORDER

NO.SO(G)FE&WD/6-56/Rukhsana/2017/ In compliance of Service Tribunal, Khyber Pakhtunkhwa order dated 26-05-2017 read with judgment dated 21-12-2015 passed in the EP No. I/2017 titled Rukhsana Bibi versus Secretary Forestry, Environment & Wildlife Department" and in supersession of this Department orders of even number dated 01-03-2016 & 16-05-2017, the competent authority is pleased to re-instate Mst. Rukhsana Bibi, Sweeper in service w.e.f 15-09-014 alongwith all back benefits as admissible under Section-17 of the Civil Servant Act, 1973.

Dairy No: 41.39
Dated: 12/6/2017
Litigation Section
Environment Deptt

Sd--
Secretary to,
Govt of Khyber Pakhtunkhwa,
Forestry, Environment & Wildlife
Department

Endst: of even No. Dated 5565-67

Dated 12th June 2017

1. The Section Officer (Lit) FE&WD, Peshawar.
2. The PS to Secretary, FE&WD, Peshawar.
3. Official concerned.

Section Officer (General)

3-210
3740

①

10/15/01

50(67)

12/22-01

10/15/01

10/15/01

EP 01/2017

31.03.2017


Execution Petition No. 01/2017
Mst. Rukhsana Bibi vs Govt

Counsel for the appellant and Addl. AG alongwith
Abdul Samad, Asstt. for the respondents present.

Arguments heard and record perused.

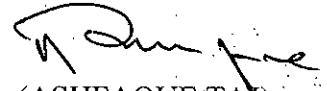
Perusal of judgment of this Tribunal dated 21.12.2015 would suggest that the impugned order of the competent authority was set aside with the directions to reinstate the petitioner in service and, additionally, the competent authority was placed at liberty to conduct denovo enquiry. Keeping in view the directions contained in the judgment of this Tribunal referred to above the competent authority has not conducted the denovo enquiry but passed order of reinstatement of the appellant in service with immediate effect giving space to yet another round of litigation by punishing the petitioner for the orders illegally passed by the competent authority.

It is directed that the competent authority ^{shall} revisit the order dated 01.3.2016 and passed orders as per judgment dated 21.12.2015 as required of him and produced the same before the court on 26.5.2017 before S.B.


Chairman

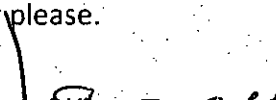


27.01.2017

Counsel for petitioner and Mr. Abdul Samad, Assistant along with Mr. Muhammad Adeel Butt, Additional AG for respondents present. Learned Additional AG requested for time for submission of proper implementation report. To come up for implementation report on 31.03.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER

FORM OF ORDER SHEET

Execution Petition No. 1/2017

S.No:	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	05.01.2017	<p>The Execution Petition of Mst. Rukhsana Bibi submitted to-day by Mr. Mehboob Ali Khan Dagai Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	10-1-2017	<p>This Execution Petition be put up before S. Bench on - <u>17-1-2017</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	17.01.2017	<p>Counsel for petitioner present. Notice to respondents be issued for 27.01.2017 before S.B.</p> <p style="text-align: right;"> (ASHFAQUE TAJ) MEMBER</p>

BEFORE THE HONOURABLE SERVICES TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR.

Execution Petition No. 1/2017

Mst. Rukhsana Bibi.....VS...Secretary Environment etc.

INDIX

Sl.No.	Title	Annexure	Page No.	Total number of pages.
1.	Implementation Petition with affidavit		1 - 3	03
2.	Judgment of re-instatement	A	4- 05	02
3.	Office Order of re-instatement	B	06	01
4.	Order of this august Tribunal in Appeal	C	7-08	02
5.	<i>wakalatnama</i>			

Petitioner

Through:

Mehboob Ali Khan Dagai

**(Mehboob Ali Khan Dagai),
Advocate High Court,
Peshawar.**

Dated:- *5/1/2017*

BEFORE THE HON'BLE SERVICES TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR.

Execution petition NO. 1/2017

Rukhsana Bibi, Sweeper Environment Department, Khyber
Pakhtunkhwa, Peshawar.

.....Petitioner.

Khyber Pakhtunkhwa
Service Tribunal

Versus

Diary No. 4

1. The Secretary to Govt. Khyber Pakhtunkhwa, Forestry, Dated 5-1-17
Environment and Wildlife, Peshawar.
2. The Deputy Secretary-I, Environment Department, Peshawar.
3. The Section Officer (General) Govt. of KP, Environment
Department, Peshawar.

...Respondents.

PETITION FOR IMPLEMENTATION OF JUDGMENT AND
ORDER OF THIS AUGUST TRIBUNAL DATED 21-12-2015
AND RE-INSTAEMENT OF PETITIONER W.E.F. 15.8.2014
INSTEAD OF IMMEDIATE EFFECT I.E. 1.3.2016 AND
ALLOWING THE PAYMENT OF ARREARS W.E.F. 15.8.2014
TO 29.2.2016 TO THE PETITIONER.

Respectfully Sheweth:

FACTS.

1. That vide judgment and order dated 21-12-2015 passed by this Hon'ble Tribunal, the order with regard to removal from services of the petitioner dated 15-9-2014 was set-aside and the services of the petitioner were re-instated with the directions to the respondents department to proceed afresh if deemed appropriate. Copy of the judgment and order of this Hon'ble Tribunal is attached herewith as Annexure-A.
2. That the respondent-department did not proceed afresh the petitioner, re-instated her services with immediate effect i.e. w.e.f. 1.3.2016 and the intervening period w.e.f 15-8-2014 to 29.2.2016 was illegally treated as Extra Ordinary Leave without

pay, depriving the appellant from the payment of her arrears/back benefits. Copy of the order is attached herewith as Annexure-B.

3. That in this regard, appeal of the petitioner/appellant is also pending disposal before this august Tribunal which is fixed for preliminary hearing on 26-1-2017, however, with the prior permission of this august Tribunal, the petitioner filed the instant petition. Copy of the order in appeal dated 28-12-2016 is attached herewith as Annexure-C.

GROUND.

- A. That the respondents department have failed to proceed afresh against the petitioner, as per directions of this Hon'ble Tribunal; meaning thereby that the petitioner is innocent.
- B. That the order of removal from service of the petitioner passed by the respondents dated 15.9.2014 was set-aside by this Hon'ble Tribunal which did not exist in field any more, so the question of treating the intervening period as extraordinary leave without pay, depriving the appellant from her emoluments/back benefits cannot arise.
- C. That the impugned act of the respondents-department is not justifiable in any manner whatsoever under the law.
- D. That inaction of the respondents department to allow the emoluments/arrears/back benefits of the intervening period to the petitioner is against the norms of justice, perverse and arbitrary, as allegedly the appellant remained absent only for one day, (coupled with fact that she has rendered about 11 years of services at her credit without any stigma), which under the law even does not come within the ambit of mis-conduct.
- E. That this Hon'ble Tribunal has got the jurisdiction to entertain the instant petition.

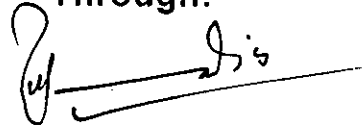
F. That the petitioner seeks permission of this honourable Tribunal to argue any other grounds at the time of final arguments.

PRAYER.

It is very humbly prayed that on acceptance of the instant petition, the respondents-department may be directed to fully implement the judgment and orders of this Hon'ble Tribunal, to modify the impugned order with regard to re-instatement of the petitioner as "w.e.f. 15.8.2014 instead of immediate effect i.e. 1.3.2016, to cancel the order of the intervening period of the petitioner w.e.f 15.8.2014 to 29.2.2016 as Extra Ordinary Leave without pay and to allow the arrear of payment of salary etc of the said period to the petitioner.

Petitioner, 

Through:



(Mehboob Ali Khan Dagai),
Advocate High Court,
Peshawar.

Dated:- 5/1/ 2017.

AFFIDAVIT

I, Rukhsana Bibi, Sweeper, Environment Department, Khyber Pakhtunkhwa, Peshawar, petitioner, do hereby solemnly affirm and declare that the contents of my petition, titled above, are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Dated:- 5/1/ 2017..


DEPONENT

ATTESTED
Oath Commissioner
Zahoor Khan Advocate
Distt: Court Peshawar
5 JAN 2017

4

BEFORE THE HON'BLE SERVICES TRIBUNAL, KHYBER
PUKHTUNKHWA, PESHAWAR



SERVICE APPEAL NO. 1320 / OF 2014

1336

MRS: RUKHSANA BIBI W/O JAMIL MASIH
R/O O/S YAKATOOT, H.NO. 41905, MOHALIAH : NAWAB ABAD
PESHAWAR.

05/11/2014

ANNEXURE-A

....APPELLANT

V E R S U S

- 1) Govt: of Khyber Pukhtunkhwa, through its Secretary, Dorestry, Environment and Wildlife Department, Peshawar.
- 2) Deputy Secretary-I, Environment Department Govt: of Khyber Pukhtunkhwa, Peshawar.
- 3) Section Officer (General) Govt: of Khyber Pukhtunkhwa, Environment Department, Peshawar

Handwritten notes and signatures on the left margin.

....RESPONDENTS

SERVICE APPEAL

Re-submitted to dep and filed.

SERVICE APPEAL UNDER SERVICES TRIBUNAL ACT-1974, OF THE ORDER OF THE RESDPT NO.2 DATED 15-09-2014, VIDE WHICH THE APPELLANT WAS REMOVED FROM THE SERVICE WITH IMMEDIATE EFFECT.

ATTESTED
EXAMINER
Khyber Pukhtunkhwa
Service Tribunal,
Peshawar



Mst. Rukhsana Bibi

21.12.2015

Counsel for the appellant (Mr. Hidayatullah, Advocate) and Mr. Muhammad Jan, GP for respondents present.

Advocate) and Mr. Muhammad Jan, GP for respondents present.

2. Mst. Rukhsana Bibi Sweeper (BPS-01) was appointed in Govt. of Khyber Pakhtunkhwa, Environment Department on fixed pay who was regularized vide order dated 10.05.2007. She was removed from service vide impugned order dated 15.09.2014 on the charge of absence from duty on 08.08.2014. Enquiry was conducted against her by Muhammad Fayaz, Section Officer, Environment Department who submitted his report where-after she was removed from service.

3. Arguments heard and record perused.

4. From perusal of the record it was found that no charge sheet has been issued to the appellant. She has not been provided opportunity of defense and personal hearing as provided in the rules. In the Circumstances of the case, the Tribunal is of the considered opinion that as rules have not been followed, therefore, the impugned order dated 15.09.2014 is set aside. Appellant is reinstated into service with the direction to the respondent-department to proceed afresh if deemed appropriate. The appeal is disposed of accordingly. Parties are left to bear their own cost. File be consigned to the record room.

Date of Presentation of Application 29-12-16
 Number of Words 682
 Copying Fee 1
 Urgent 6
 Total 6
 Name of Copyist M.D.
 Date of Completion of Copy 02-01-2017
 Date of Delivery of Copy 02-01-2017

Announced
21.12.2015

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Self Pir Bakhtish Shah,
Number

Self Abdul Latif,
Number

Number

Handwritten notes in the bottom left corner, including the word "The" and other illegible scribbles.

Handwritten notes in the middle right section, including the number "50-43-14" and a signature.

A small handwritten mark or signature at the bottom center.

Rukhsana Bibi
PF

16 (A)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT & WILDLIFE DEPARTMENT

ANNEXURE-B

DATED 01.03.2016

OFFICE ORDER

No. SOG(Env)/5-12/2011 Vol-II-1236 In pursuance of the judgment of Services Tribunal, Khyber Pakhtunkhwa dated 21.12.2015 in the Service Appeal No.1320 of 2014 titled "Mst. Rukhsana Bibi Versus Secretary Forestry, Environment & Wildlife Department", the competent authority has been pleased to re-instate Mst. Rukhsana Bibi, Sweeper in service with immediate effect.

2. Consequent upon the above, the intervening period w.e.f. 15.09.2014 up to her re-instatement shall be treated as extra ordinary leave without pay.

Secretary
Government of Khyber Pakhtunkhwa
Forestry, Environment & Wildlife Department

Copy is forwarded to:-

1. Accountant General, Khyber Pakhtunkhwa.
2. PS to Secretary, Forestry, Environment & Wildlife Department.
3. PS to Special Secretary, Forestry, Environment & Wildlife Department.
4. Accountant of FEW Department.
5. Personal file of the official.
6. Official concerned.

29/3
NAHSB →

DES
Sols
31/3

[Signature]
Section Officer (General)

[Signature]
Section Officer (General)
Forestry, Environment And Wildlife
Department Government Of Khyber Pakhtunkhwa

12
Y X
K S
D S

1
ANNEXURE - B

BEFORE THE HON'BLE SERVICES TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR.

Appeal no. 1177/2016

Rukhsana Bibi, Sweeper Environment Department, Khyber
Pakhtunkhwa, Peshawar.



Appellant.

Versus

Khyber Pakhtunkhwa
Services Tribunal

1223

29-11-2016

1. The Secretary to Govt. Khyber Pakhtunkhwa, Forestry,
Environment and Wildlife, Peshawar.
2. The Deputy Secretary-I, Environment Department, Peshawar.
3. The Section Officer (General) Govt. of KP, Environment
Department, Peshawar.

...Respondents.

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 AGAINST
THE ORDER NO.SOG(ENVT)/5-12/2011VOL-II/1236 DATED
1.3.2016, WHEREBY, THE SERVICES OF THE APPELLANT
WERE RE-INSTATED WITH IMMEDIATE EFFECT I.E. FROM
1.3.2016 AND THE INTERVENING PERIOD W.E.F. 15.8.2014
TO 29-2-2016 WAS ILLEGALLY TREATED AS EXTRA
ORDINARY LEAVE WITHOUT PAY, DEPRIVING THE
APPELLANT FROM PAYMENT OF HER
EMOLUMENTS/ARREARS/BACK BENEFITS.

Filed to-day
Rukhsana
Registrar
29/11/16

Respectfully Sheweth:

FACTS.

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

That vide order and judgment dated 21-12-2015 passed by this
august Tribunal, the order with regard to removal from services
of the appellant dated 15-9-2014 was set-aside and the services
of the appellant were re-instated with the directions to the
respondent department to proceed afresh if deemed

Appeal No. 1177/2016
Rukhsana Bibi vs Govt



8

28.12.2016

Appellant with counsel present. During the course of hearing learned counsel for the appellant requested for postponing the proceedings of instant service appeal as he intends to claim relief on the strength of the judgment of this Tribunal dated 21.12.2015 through implementation of the judgment. Learned counsel for the appellant, on query submitted that he apprehend that in case the relief is not granted through implementation process of the judgment then the appellant would not be in a position to claim her remedy due to time-limitation. Adjourned for further proceedings to 26.1.2017 before S.B with the directions that the appellant may avail his remedy available under the law.

Sd/-
Chairman

Certified to be true copy
EXAMINER
Khayber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 3-1-17
Number of Words 800
Copying Fee 6-0
Urgent 2-0
Total 8-0
Name of Copyist [Signature]
Date of Completion of Copy 3-1-17
Date of Delivery of Copy 3-1-17



73246

ایڈوکیٹ/دستخط: _____
 بار کونسل ابار ایسوسی ایشن نمبر: be-09-2623
 رابطہ نمبر: 0300-5908467.

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: جسٹس منیر سومر جی بی بی سی آر پی سی پشاور -

منجانب: رَحمانہ بی بی بنام سیکٹری لائیوسٹاک پشاور	دعویٰ: Implementation Petition.
	علت نمبر: /
	مورد: /
	جرم: /
	تھانہ: /
باعت تحریر آنکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی کارروائی متعلقہ مقام پشاور میں جو راجہ بی بی شادی پشاور
 آن مقام پشاور کیلئے محبوس علی جان ڈاکٹری ایڈووکیٹ کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر حالت و فیصلہ برصحت دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زر میں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اخیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اخیل نگرانی و نظرائی پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ برداشتہ منظور قبول ہوگا دوران مقدمہ
 میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 04/1/17

بِشَہَادَتِہٖ

مقام پشاور
 کے لئے منظور ہے۔
 Accepted
 ذی قعدہ



GOVERNMENT OF KHYBER PAKHTUNKHWA
FORESTRY, ENVIRONMENT AND WILDLIFE DEPARTMENT,

SDU Building, Khyber Road, Peshawar Cantt, Peshawar.
(General Branch) Ph # 091-9212592, Fax # 091-9210536

Dated. the Peshawar, 16th May, 2017

169

ORDER

NO.SO(G)FE&WD/6-56/Rukhsana/2017 In pursuance of the judgment of Service Tribunal, Khyber Pakhtunkhwa dated 31-03-2017 in the Execution Petition No.01/2017 titled "Mst. Rukhsana Bibi Versus Secretary Forestry, Environment & Wildlife Department", the competent authority is pleased to re-instate Mst. Rukhsana Bibi, Sweeper in service w.e.f 15-09-014 immediately.

2. Consequent upon the above, the intervening period w.e.f 15-09-2014 up to 01-03-2016 shall be treated as extra ordinary leave without pay.

--Sd--

**Secretary to,
Govt of Khyber Pakhtunkhwa,
Forestry, Environment & Wildlife
Department**

Endst: of even No. Dated = 4058

Dated 16th May, 2017

1. The Section Officer (Lit) FE&WD, Peshawar.
2. The PS to Secretary, FE&WD, Peshawar.
3. Official concerned.


Section Officer (General)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR APPEAL
NO.1320/2014

Mrs:Rukhsana Bibi W/o Jamil Masih

Petitioner

VERSUS

- 1) Secretary to Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department
- 2) Deputy Secretary-I
Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department
- 3) Section Officer (General)
Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department

D- No - 8021
08-04-15

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED FINAL ORDER NO.SOG(ENVT)5-12/2011 VOL-II dated 15TH SEPTEMBER 2014.

Respectfully Shewith:

Preliminary Objection

- i. The appeal is barred by law .
- ii. The appeal is not maintainable in the present form.
- iii. The appellant has no cause of action.
- iv. The appellant has got no locus standi.
- v. The appellant is estopped by her own conduct. *to file the Appeal*
- vi. The appeal is bad due to non joinder and misjoinder *of necessary parties*

FACTS OF THE CASE

Para-1 Correct
Para-2 Correct
Para-3 Correct
Para-4 Correct

*Pertains to record, needs no comments.
Pertains to record, needs no comments.
to the extent of her removal however
after enquiry and fulfilment of
legal codal formalities the her
removal order was passed by
the competent Authority.*

*Correct to the extent of filing the
departmental Appeal however, it was
order and shrouded case was filed.*

Para 5
Grounds

See the Link record.

- a. Incorrect. The applicant was habitual absentee during her entire service.
- b. Incorrect. There is no such application / medical certificate or information placed on the file regarding her illness or any application seeking leave for the reason. ✓
- c. Incorrect. As explained in ~~5 (a)~~ ^{above} above. ✓
- d. Incorrect. As explained in ~~5 (b)~~ above. ✓
- e. All formalities required for the removal were fulfilled and proper enquiry was conducted Annex-I. ✓
- g. As explained in ~~para 5 (a)~~ above. ✓
- h. She was removed from service. The Departmental appeal was properly processed and rejected by the Competent Authority. ✓
- i. No comments. ✓

It is, therefore, prayed that the appellant was removed from service by the Competent Authority under the prevalent rules, and her appeal is, not maintainable and may, therefore, be dismissed.

Respondent No.1

D-NO-8021
08-04-15

Secretary to
Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department

Respondent No.2

View subject to connect with
to court
9/4/15

Deputy Secretary
Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department

Respondent No.3

Section Officer (General)
Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department

submitted for setting please.

*Govt: Pleader
KPK*
GAT

Please refer to
9/5/15
9/17/3/15

... was also filed

fruit

So (S)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR APPEAL
NO.1320/2014

Mrs:Rukhsana Bibi W/o Jamil Masih

Petitioner

VERSUS

- 1) Secretary to Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department
- 2) Deputy Secretary-I
Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department
- 3) Section Officer (General)
Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department

12/15
**APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 AGAINST THE IMPUGNED FINAL ORDER NO.SOG(ENVT)5-12/2011 VOL-II
dated 15TH SEPTEMBER 2014.**

Respectfully Shewith:

Preliminary Objection

- i. The appeal is barred by law .
- ii. The appeal is not maintainable in the present form.
- iii. The appellant has no cause of action.
- iv. The appellant has got no locus standi.
- v. The appellant is estopped by her own conduct to file the appeal.
- vi. The appeal is bad due to non joinder and misjoinder of necessary parties

FACTS OF THE CASE

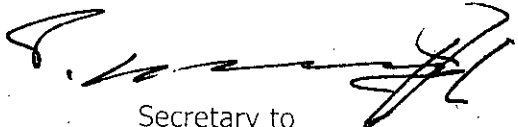
- Para-1 Pertains to record, needs no comments.
- Para-2 Pertains to record, needs no comments.
- Para-3 Correct to the extent of her removal, however, after enquiry and fulfillment of legal codal formalities her removal order was passed by the Competent Authority.
- Para-4 Correct to the extent of filing the departmental appeal however, it was baseless and groundless, hence was filed.

Grounds


- a. Incorrect. The applicant was habitual absentee during her entire service.
- b. Incorrect. There is no such application / medical certificate or information placed on the file regarding her illness or any application seeking leave for the reason.
- c. Incorrect. As explained above.
- d. Incorrect. As explained above.
- e. All formalities required for the removal were fulfilled and proper enquiry was conducted Annex-I.
- g. As explained above.
- h. She was removed from service. The Departmental appeal was properly processed and rejected by the Competent Authority.
- i. No comments.

It is, therefore, prayed that the appellant was removed from service by the Competent Authority under the prevalent rules, and her appeal is, not maintainable and may, therefore, be dismissed.


Respondent No.1


Secretary to
Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department

Respondent No.2


Deputy Secretary
Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department

Respondent No.3


Section Officer (General)
Government of Khyber Pakhtunkhwa
Forestry, Environment and Wildlife Department

(14)

**ENQUIRY ON SUSPENSION OF MRS. RUKHSANA JAMIL, SWEEPER,
ENVIRONMENT DEPARTMENT**

On 8/8/2014 the competent authority i.e Secretary, Environment Department checked the presence and performance of the sweeper of Environment Department and found the hygienic system in poor condition. The competent authority has taken serious notice and directed to suspend the concerned sweeper. Consequently, after approval of the competent authority the services of Mrs. Rukhsana Jamil, sweeper were suspended vide Office Order No: SO(G)/ED/6-56/11/Rukhsana Bibi, dated 13/8/2014 and Mr. Muhammad Fayaz, Section Officer (Environment), Environment Department was nominated as Inquiry Officer to conduct an Inquiry and submit his report within 15 days (F/A).

Proceedings:

The inquiry Officer started his proceedings and at first instant Mrs. Rukhsana Jamil, Sweeper, Environment Department was directed to attend the office of the Inquiry Officer on 19/8/2014 for recording her statement (F/B). Accordingly, Rukhsana Jamil, Sweeper attended the office of Inquiry Officer on 20/8/2014 and given her written statement, wherein she stated that she is performing her duties as a Sweeper from 10/5/2007 with full concentration. She further stated that on 8/8/2014 due to illness, she did not attend the duty for which she is regretful and stated that no such mistake will be made in future (F/C).

The Inquiry Officer directed Mr. Jamil (husband of Rukhsana) to submit his written statement to the Inquiry Officer (F/D). Mr. Jamil stated in his statement that his wife is performing her duty as sweeper but due to her illness on 8/8/2014, she did not attend the duty and I also could not attend the duty due to her illness and stated that he is regretful and no such mistake will be made in future (F/E).

The Inquiry Officer also requested the Section Officer (General), Environment Department to submit his written statement to the Inquiry Officer within two days positively (F/F). In reply the Section Officer (General), Environment Department has furnished his statement (F/G) wherein he stated that Mrs. Rukhsana Jamil wife of Saleem Masih was appointed as sweeper on a fixed pay of Rs. 25,00/- per month on 23/5/2003 (F/H) and the services of the said sweeper were regularized on 10/5/2007 (F/J). He further stated that the said Rukhsana Jamil would not attend the office and her husband namely Saleem Masih would attend her duty. He further added that the sweeper was persistently asked to not to leave from duty during office hours but he neglected the instructions of the Section Officer (General), Environment Department. He was also time and again instructed to carry out sanitation of the Department properly so much so that on various occasion the Section Officer (General), Environment Department himself accompanied him but he failed to do so.

Findings:

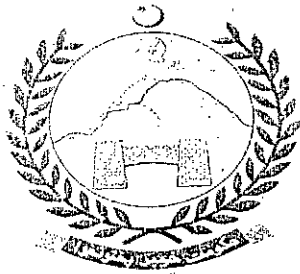
- 1). Mrs. Rukhsana Jamil, sweeper admitted the fact that on 8/8/2014 due to illness, she did not attend the duty and no proper application for leave had been submitted to this effect, which is negligence on her part.
- 2). Mr. Jamil (husband of Rukhsana) has admitted that due to the illness of his wife he also could not attend his wife's duty.

- 3). As per statement of Section Officer (General), Environment Department the said sweeper Jamil Masih (husband' of Rukhsana) was determinedly directed to not leave the office during office hours but he neglected the instructions of the SO (G). He was also time to time instructed to carry out sanitation of the department properly and on various occasions the SO (G) himself accompanied him but he failed to do so.
- 4). It was also observed that at the time of appointment her name was Rukhsana Saleem and according to the marriage certificate now her name is Rukhsana Jamil (F/K).
- 5). There is nothing on the Office Administration record as to who had authorized Mr. Jamil Masih (husband of Rukhsana) to perform the duty of his wife since her appointment till date.

Recommendations:

Rukhsana Jamil (sweeper) has never attend her official duty and her husband Jamil Masih performing the duty of her wife was also avoid the order of Section Officer (General), Environment Department Therefore, the undersigned is in view that major disciplinary action may be taken against Rukhsana Jamil sweeper under the Section-4(b)(iii) Khyber Pakhtunkhwa (Efficiency and Discipline) Rules. 2011 (F/L).

(Signature)
(Muhammad Fayaz)
Section Officer/Inquiry Officer 4/9/14.
Environment Department



A
16
GOVERNMENT OF
KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT
(GENERAL SECTION)
DATED 13-08-2014 / 1369-7

OFFICE ORDER

No. SO(G)/ED/6-56/11/RUKHSANA BIBI: The Competent Authority has been pleased to order the suspension of Mrs. Rukhsna Bibi, Sweeper on account of non attendance of her duty properly.

Mr. Muhammad Fayyaz Section Officer (Environment), Environment Department is here by nominated as Inquiry Officer to conduct Inquiry and submit report within 15 days.

**DEPUTY SECRETARY-I
ENVIRONMENT DEPARTMENT**

Endst: No. SO(G)/ED/6-56/11/RUKHSANA BIBI: DATED 13/08/2014
Copy is forwarded to:-

- ✓ 1. Mr. Muhammad Fayyaz Section Officer (Environment), Environment Department
2. PS to Secretary Environment Department.
3. PA to Deputy Secretary-I, Environment Department.
4. Mrs. Rukhsna Bibi, Sweeper Environment Department.

[Signature]
Section Officer (General)

[Signature]

19/4/14

[Signature]

[Signature]
15/8



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

No: SO (Envt)/ED/1-8/2014/Inq/Rukhsana Bibi
Dated Peshawar the, 15/08/2014

To,

Mrs. Rukhsana Bibi, Sweeper,
Environment Department,
Government of Khyber Pakhtunkhwa.

Subject:- INQUIRY AGAINST MRS. RUKHSANA BIBI, SWEEPER

I am directed to refer to Section Officer (General), Environment Department, Khyber Pakhtunkhwa Office Order-No: SO(G)/ED/6-56/11/Rukhsana Bibi, dated 13/08/2014 on the subject noted above and to inform that Mr. Muhammad Fayaz, Section Officer (Environment), Environment Department, Khyber Pakhtunkhwa is hereby nominated as Inquiry Officer.

You are, therefore, directed to attend the office of the Inquiry Officer on 19/08/2014 at 1000 hrs, for recording your statement.

(Muhammad Fayaz)
Section Officer (Envt)

Endst: No: & Date even / 1396-98

Copy is forwarded for information to:-

1. PA to Deputy Secretary-I, Environment Department, Khyber Pakhtunkhwa.
2. Section Officer (General), Environment Department, Khyber Pakhtunkhwa w/r to his Office Order No: quoted above.

Section Officer (Envt)

15/08/2014

بیان ستر خسانہ سلیم معنویہ میں حکمہ عاقلیات

ستر خسانہ سلیم حکمہ عاقلیات میں مورخہ 15/05/2007 سے

رہسویہ میں سرائفیں سرانجام دے رہی ہوں۔ دوران

زمت میں نے انسران بالا کو کوئی سفایت کا موقع نہیں دیا ہے

راہی ڈیوٹی خوش اسلوبی سے کی ہے اور کمری رہو گی۔

مورخہ 20/05/2007 کو سائلہ کو کوئی بیماری کا موقع نہیں دیا ہے

ڈیوٹی پورنہ اس کے لیے میں معذرت خواہ ہوں اور اس کے اسرار

میں غلطی نہیں کروں گی۔

اپنے آپ پر ایمان سے گزارش ہے کسی ایسا سائلہ کو اس دفعہ

معاذ کریا ہے۔ عین کو ازس نوئی

Part of on
File # 2018

الو کا بدوار ستر خسانہ سلیم معنویہ میں حکمہ عاقلیات





GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

No: SO (Envt)/ED/1-8/2014/Inq/Rukhsana Bibi
Dated Peshawar the, 21/08/2014

To,

Mr. Jamil, (Husband of Mrs. Rukhsana),
Environment Department,
Government of Khyber Pakhtunkhwa.

Subject:- **INQUIRY AGAINST MRS. RUKHSANA BIBI, SWEEPER**

I am directed to refer to Section Officer (General), Environment Department, Khyber Pakhtunkhwa Office Order No: SO(G)/ED/6-56/11/Rukhsana Bibi, dated 13/08/2014 on the subject noted above and to inform that Mr. Muhammad Fayaz, Section Officer (Environment), Environment Department, Khyber Pakhtunkhwa is hereby nominated as Inquiry Officer.

You are, therefore, directed to submit your written statement to the undersigned (Inquiry Officer) within two days positively, please.

(Muhammad Fayaz)
Section Officer (Envnt)/
Inquiry Officer

Endst: No: & Date even

Copy is forwarded for information to:-

1. PA to Deputy Secretary-I, Environment Department, Khyber Pakhtunkhwa.
2. Section Officer (General), Environment Department, Khyber Pakhtunkhwa w/r to his Office Order No: quoted above.

Section Officer (Envnt)/
Inquiry Officer

خدمت جناب سکشن آفیسر الوائٹ فیلڈ (انٹوائٹری آفیسر) حکمہ ماحولیات

E

عنوان :- وفات جواب طلبی

جوائہ ایکی فونٹ ⁸¹ So(Envt)/ED/1-8/2014/gng/Rukhsana تاریخ 21/08/2014

ایکی کی خدمت میں عرض ہے کہ میری بیوی حکمہ ماحولیات میں بطور
سویپر س اپنی ڈیوٹی سرانجام دے رہی ہیں۔

مورخہ 21/08/2014 کو بوجہ بیماری میری بیوی کا پیرہا فرزند ہو سکی
اور میں بھی اسکی بیماری کی وجہ سے اپنی بیوی کی ڈیوٹی پر نہ آسکا،
لہذا میں آپ صاحبان محذرت چاہتا اور آپ صاحبان کو دوبارہ

اس قسم کی سکایت کا موقع نہیں دینگے۔ Place on file.

عین نواز نس بیوی
Assist 21/8

الحارث

محفل سویپر رخصانہ بی بی سویپر س حکمہ ماحولیات

21/08/2014

Nic. 17301-8419485-3



GOVERNMENT OF KHYBER PAKHTUNKHWA
ENVIRONMENT DEPARTMENT

No: SO (Envt)/ED/1-8/2014/Inq/Rukhsana Bibi
Dated Peshawar the, 21/08/2014

To,

The Section Officer (General),
Environment Department,
Government of Khyber Pakhtunkhwa.

Subject:- INQUIRY AGAINST MRS. RUKHSANA BIBI, SWEEPER

I am directed to refer your Office Order No: SO(G)/ED/6-56/11/Rukhsana Bibi, dated 13/08/2014 on the subject noted above.

You are, therefore, requested to submit your written statement to the undersigned (Inquiry Officer) within two days positively, please.

(Muhammad Fayaz)
Section Officer (Envt)/
Inquiry Officer

Endst: No: & Date even

Copy forwarded for information to PA to Deputy Secretary-I, Environment Department, Khyber Pakhtunkhwa.

Section Officer (Envt)/
Inquiry Officer

21/8/2014

31-8-14

1 One Rukhsana Bibi wife of Saleem Masih of Yakatooth, Peshawar City was appointed as sweeperess on a fixed pay of Rs. 25,000/- per month on 23-05-2003. Before change of her name she was Naseem Bibi vide newspaper cutting and affidavit on 30 rupees. The services of Rukhsana Bibi were regularized in BPS-I by the Environment Department vide office order dated 10-05-2007. Since her appointment and subsequent regularization of her services, the said Rukhsana Bibi would not attend the office and her young husband namely Saleem Masih would attend to her duty.

2 On 08-08-2014 at about 9 am, the presence and performance of the sweeper in the Department was checked by the competent authority and found him absent from duty. The lack of sanitation was also noticed by the competent authority and ordered to immediately suspend the sweeper for negligence of duty. Accordingly, Rukhsana Bibi was suspended from service on 13-08-2014 and Mr. Muhammad Fayaz Khan, Section Officer was appointed as enquiry officer with the request to submit report within 15 days. Now the enquiry officer has asked SO (G) to submit written statement which is being added to the file containing one page bearing his signature and date.

3 It is noteworthy that the sweeper was persistently asked to not to leave from duty during office hours but he neglected the instructions of S.O.G. He was also time and again instructed to carry out sanitation of the department properly so much so that on various occasion the S.O.G himself accompanied him but he failed to do so..

Zarim Ullah
 (Zarim Ullah)
 Section Officer (General)
 21/08/2014

Mr. Muhammad Fiaz Khan
 Section Officer/Enquiry Officer

*Enquiry file
 Put up on file.*

*Assist. J
 22/8*

H
22
GOVERNMENT OF NWFP
ENVIRONMENT DEPARTMENT

No. SO(G)/E-18/2003/Recruitment/3838
Dated 23-5-2003.

To

Mst. Ruksana Bibi,
W/O Saleem Masih
Moh: Nawababad Baroun-Yakatoot,
District Peshawar City.

SUBJECT:

OFFER OF APPOINTMENT AS SWEEPRESS ON FIXED PAY @
Rs. 2500/- PER MONTH

Reference your application against the post of Sweepress

In pursuance of the recommendations of the Departmental Selection Committee, you are hereby offered appointment against the post of Sweepress on fixed pay @ Rs.2500/- p.m. on the following terms and conditions :-

1. The appointment will be on contract basis initially for one year, extendable for two years on annual basis subject to the approval of competent authority and availability/continuation of post.
2. Your services will be liable to termination at any time without any notice if your performance is found unsatisfactory.
3. You will not contribute to G.P. Fund and will not be entitled to pension, gratuity benefits.
4. This appointment shall not confer upon you any right inter alia including regularization against the post.
5. You will not be entitled for earned leave.
6. You will be required to ensure performance of prescribed duties or any responsibility/work assigned to you.
7. You will not be allowed to undertake any other employment in any organization (Government or Private) during the working hours.

If the above terms and conditions are acceptable to you, then you may report to the office of undersigned within 7 days of the issuance of this letter so that your appointment orders could be issued.

(Signature)
Section Officer (E)

23

GOVERNMENT OF N.W.F.P.
ENVIRONMENT DEPARTMENT.

Dated Peshawar the 10th May 2007



ORDER

No.SOG/Envvt/ 2-20/2003

In term of section -19 (2) of the NWFP Civil Servants Act 1973 as amended vide section -2 of the NWFP Civil Servants (Amendments) Act 2005 , the services of the following contract employees are hereby regularized w.e.f.15.07.2006 as under:-

#	Name of official	Designation
1	Mr. Zeeshan Farukh	Naib Qasid (BPS-1)
2	Mr. Zabeehullah	Naib Qasid (BPS-1)
3	Mr.Nafees Ahmad	Naib Qasid (BPS-1)
4	Mr, Waheed Shah	Driver (BPS-4)
5	Mrs. Rukhsana Saleem	Sweeper (BPS-1)

Their services will be subjected to following terms & conditions:-

1. They will get pay minimum of respective pay scale including allowances as admissible under the rules and will be entitled to annual increments as per existing policy.
2. They will not be entitled of pension /gratuity benefits.
3. They will not contribute towards GP Fund. However they will contribute in C.P Fund @ of 10% of minimum of pay scale and equal amount of 10% contribution will be made by the Government as per rules.
4. They will be allowed Conveyance, Medical, House Rent allowance, leave and TA/DA as per Government rules.
5. They will be entitled to facility of Benevolent Fund as per new recruitment policy.

DEPUTY SECRETARY-I (ADMN)

Endst : No.SOG/Envvt/2-20/2003

Dated 10th May 2007

Copy forwarded to :-

1. The Accountant General, NWFP, Peshawar.
2. The PA to Deputy Secretary (Admn) Environment Deptt:
3. Accountant /Bill Clerk , Environment Deptt:
4. Officials Concerned
5. Personal Files of Officials Concerned.
6. Office order file.

(Muhammad Kabir Afidi)
SECTION OFFICER (GENERAL)