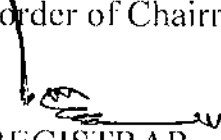


FORM OF ORDER SHEET

Court of _____

Case No.- 261/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1.	31/1/2023	<p>The appeal of Mst. Hari Jan presented today by Mr. Munfat Ali Yousafzai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWASERVICE TRIBUNAL,
PESHAWAR.

To

The Chairman Khyber Pakhtunkhwa Service Tribunal Peshawar

Hari Jan PST

VERSUS

Education Department

.....

APPLICATION FOR THE HEARING THE ABOVE
MENTION APPEAL AT THE PRINCIPAL SEAT IN
PESHAWAR.

Respectfully Sheweth.


1. That the above mention appeal is to be constituted here at the Principal seat of Khyber Pakhtunkhwa Service Tribunal in Peshawar.
2. That the appellatant want the hearing of this appeal be heard here that the Principal seat in Peshawar.

It is therefore requested that the above mention appeal be heard here at the Principal seat of Khyber Pakhtunkhwa Service Tribunal in Peshawar.

Dated 31/01/2023

Appellant/Petitioner

Through


Munfat ali Yousafzai
Advocates High Court
Peshawar

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWAPESHAWAR**

Service Appeal No.

261 /2023

Mst. Hari Jan PST Government Girls Primary School Gath
Kandia District Kohistan Upper.

..... Appellant

Versus

District Education Officer (F) District Kohistan Upper & others

..... Respondents

INDEX

S.No	Description of Documents	Annex	Pages
1.	Memo of appeal with affidavit		1-6
2	Copy of Appointment Order	A	7
3	Copy of the impugned order dated 09-09-2021	B	8
4	Copies of the departmental appeal and appellate order	C & D	9-10
5	Wakalatnama		11

Appellant

Through



Munfat Ali Yousafzai

Advocate High Court

Cell: 0344-9213367

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWAPESHAWAR**

Service Appeal No.

26 / 2023

Mst. Hari Jan PST Government Girls Primary School Gath
Kandia District Kohistan Upper.

..... Appellant

Versus

1. District Education Officer (F) District Kohistan Upper.
2. Director E & SE Department Khyber Pakhtunkhwa,
Peshawar
3. The Secretary E & SE Department, Khyber Pakhtunkhwa
Peshawar.

..... Respondents

**APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL
ACT, 1974 AGAINST THE IMPUGNED ORDER DATED
09-09-2021 WHEREBY THE MAJOR PENALTY OF
REMOVAL FROM SERVICE HAS BEEN IMPOSED
UPON THE APPELLANT AND AGAINST THE
IMPUGNED APPELLATE ORDER DATED 05-01-2023,
WHEREBY DEPARTMENTAL APPEAL OF THE
APPELLANT HAS BEEN REJECTED ON NO GOOD
GROUNDS.**

PRAYER

On accepting this service appeal, the impugned order dated 09/09/2021 and the impugned appellate order dated 05-01-2023 may very kindly be set aside and the appellant be reinstated into service with all back benefits.

Any other relief which this Hon'ble Tribunal deems appropriate that may also be awarded in favour of the appellant.

Respectfully Sheweth;

Brief facts giving rise to this appeal are as under:

1. That the appellant was the employee of the respondent department and was serving as PST Teacher at GGPS Kath Kandia District Kohistan Upper, quite efficiently and to the entire satisfaction of the her superiors since 02-12-2009, **(Copy of Appointment Order is attached as annexure _____ A)**
2. That appellant was never found absent during surprise visits of her officers and performing her duties regularly.
3. That astonishingly the respondent department issued the impugned order dated 09-09-2021, whereby major penalty of removal from service was imposed on the appellant without giving any warnings, absents notice, show cause notice and without facts finding enquiry in the matter. **(Copy of the impugned order dated 09-09-2021 is attached as annexure _____ B)**

4. That feeling aggrieved from the order dated 09-09-2021 the appellant preferred departmental appeal before the appellate authority on 21-09-2021, and the appellate authority rejected the departmental appeal or the appellant on 05-01-2023, **(Copies of the departmental appeal and appellate order are attached as annexure C & D)**

5. That the appellant feeling aggrieved from the impugned order dated 09-09-2021 and appellate order dated 05-01-2023, have no other remedy but to file this service appeal on the following grounds amongst the other grounds.

GROUND:

- A. That both the impugned orders of the respondents are illegal, unlawful, against the facts, based on mala fide intention, against the norms of natural justice, violative of the Constitution and Service Laws and material on record, hence the same are not tenable and liable to be set aside in the best interest of justice.
- B. That the appellant has not been treated by respondents in accordance with law and rules of the subject noted above and as such the respondents violated article 4, 25 of the constitution of Islamic Republic of Pakistan 1973,
- C. That no warnings, absence notice, show cause notice, has been served on the appellant before issuing the order dated 09-09-2021, hence the appellant is unheard.
- D. That, no opportunity of hearing was given by the respondents to the appellant before issuing the impugned

order, which is clearly the violation of principles and rules of services similarly against the principles enshrined by the honorable supreme court in various judgments.

- E. That no regular enquiry has been conducted before issuing the impugned orders dated 09-09-2021 and 05-01-2023.
- F. That both the respondents have not properly evaluated the facts and evidences on record before passing the impugned orders. There is nothing on record which shows that appellant is unable to perform the duty in the respondent department.
- G. That no chance of defense, personal hearing has been provided to the appellant before issuing the impugned orders.
- H. That appellant is young energetic efficient person and having un blemished service record which could be verified from the service record of the appellant, therefore the appellant is entitled for reinstatement with all back benefits.
- I. That the appellant seeks permission to advance other grounds and proofs at the time of arguments.


On accepting this service appeal, the impugned order dated 09/09/2021 and the impugned appellate order

dated 05-01-2023 may very kindly be set aside and the appellant be reinstated into service with all back benefits.

Any other relief not specifically prayed for but deems appropriate in the circumstances of the case may also be granted.


Appellant

Through


Munfat Ali Yousafzai
Advocate High Court

Dated: 30/01/2023

Certified that as per instruction of my client no such appeal has been filed before this Hon'ble Forum.

Advocate

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWAPESHAWAR**

Service Appeal No. /2023

Mst. Hari Jan PST Government Girls Primary School Gath
Kandia District Kohistan Upper.

..... Appellant

Versus

District Education Officer (F) District Kohistan Upper & others

..... Respondents

AFFIDAVIT

I, **Munfat Ali Yousafzai Advocate**, do hereby solemnly affirm and declare that as per instructions of my client the contents of the above appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Hon'ble Tribunal.



ADVOCATE

CNIC: 16202-3021334-3

Cell: 0344-9213367



**OFFICE OF THE EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDUCATION
KOHISTAN**

A-7

APPOINTMENT

Consequent upon approval of Departmental Committee Kohistan, on the acceptance of appeal the competent authority is pleased to appoint the following (Female) candidates in BPS-7 plus usual allowance as due and admissible under the rules in the schools noted against each on vacant posts with immediate effect in the interest of public service according to the merit policy issued by the Government of NWFP Elementary & Secondary Education Department, subject to the following conditions.

S.#	Name of Candidates with Father Name	R/O	Name of School	Remarks
1	Gul Naz D/O Qazi Ahmad	Manselira	GGPS Bar Komila	Agst V. Post
2	Kosur D/O Javaid Khan	-do-	GGPS Kuz Komila	-do-
3	Maria D/O Qazi Ahmad	-do-	-do-	-do-
4	Sajida D/o Jahanzeb	-do-	GGPS Kuss Banda	-do-
5	Nasreen Akhtar D/O Gul Zaman	-do-	-do-	
6	Tahira Yusuf D/O Mohd Yusuf	-do-	GGPS Kuz Komila	-do- 0
7	Hari Jan D/O Afsar Jan	Komila	-do-	-do- in BPS-5

CONDITIONS.

1. Charge report should be submitted to all concerned
2. No TA/DA is allowed to him
3. Her appointments is purely on temporary basis and liable to termination at any time with out assigning any reason/ notice
4. She will be governed by such rules & regulation enforced and as prescribed by the Government from time to time for the category of the Government servants to which she belong
5. In case the above candidate failed to assume the charge of his post with in 15-days, her appointment will automatically stand cancelled.
6. She should not be allowed to take over charge if his age is less than 18-years and above 35-years.
7. She should produced Age & Health Certificate from EDO Health Kohistan before taking over Charge.
8. Dy: District Officer (F) is directed to verify his certificates/ Documents from the concerned Board/ Institution before drawl of her pay.

Jubis
Executive District officer
(E & S) Education Kohistan

Endst: No. 411-16/

Dated Kohistan the 2.12 2009

Copy of the above is forwarded to the:

1. PA to Director Schools & Literacy NWFP Peshawar
2. District Nazim Kohistan
3. District Coordination Officer Kohistan
4. District Accounts Officer Kohistan
5. Dy: District Officer (F) E&SE Kohistan Kohistan
6. Candidate concerned.

Jubis
Executive District officer
(E & S) Education Kohistan

Afreen



**OFFICE OF DISTRICT EDUCATION OFFICER
(FEMALE) KOHISTAN**

B-8

OFFICE ORDER/REMOVAL FROM SERVICE

01. WHEREAS as per the numerous complaints received to the undersigned through various means the following female teachers remained absent from their duties without any prior permission or leave for several years.
02. WHEREAS their schools remained closed/Non-functional during the repeated visits of EMA.
03. WHEREAS they were reported absent by EMA time and again during the visits of the concerned DCMA's.
04. WHEREAS they put their fake attendance in the school registers at their home.
05. WHEREAS the concerned ASDEOs were directed to verify their absenteeism.
06. WHEREAS the concerned ASDEOs confirmed/verified their absenteeism as per their report.
07. WHEREAS show cause notices were issued to them vide the references made against their names.
08. WHEREAS they submitted their reply which were found inconvincible and thus they admitted the charges leveled against them.
09. WHEREAS they failed to avail the chance of personal hearing.

Therefore the undersigned being the competent authority, do hereby impose Major Penalty of Removal from Service, upon the following female teachers under Rule 4(b) of E&D Rules 2011, with immediate effect, in the interest of public service.

S.No	Name of Teacher with designation	Name of School	Show cause reference	Remarks
01	Maryam Anwar PST	GGPS Kuz Kamila	No.4038-43 dated:02/08/2021	
02	Arifa Bibi PST	GGPS Dhoop Lohi	No.4056-61 dated:02/08/2021	
03	Gul Fameer PST	GGPS Maidun Tayal	No.4068-73 dated:02/08/2021	
04	Hari Jan PST	GGPS Khat Kandia	No.4122-27 dated:02/08/2021	
05	Asmat Begum PST	GGPS Khat Kandia	No.4128-33 dated:02/08/2021	
06	Shabnum Afiat PST	GGPS Karang	No.4176-81 dated:02/08/2021	
07	Nasreen Bibi PST	GGPS Khat Gabral	No.4188-93 dated:02/08/2021	
08	Maryam Bibi PST	GGPS Kai Rustum Abad	No.4200-4204 dated:02/08/2021	

MUHAMMAD AMIN
District Education Officer
(Female) Kohistan

M

بکھنور جناب ڈائریکٹر ایجوکیشن خیبر پختونخواہ پشاور

درخواست برائے: برادرانصاف

جناب عالی

برملاابق برخواستگی آرڈر نمبر 4627-36 DEO (F) KH DATED:9/9/2021

سیرل نمبر 4 جواب ذیل پیش خدمت ہے کہ

(1) بحوالہ شوکار نوٹس نمبر 27-4122 تاریخ 2/8/2021 جواب ذیل پیش خدمت ہے کہ میں نمبر بالا کے تحت جاری شدہ شوکار نوٹس کا جواب بمورد 3/9/2021 صاحب DEO کے دفتر میں جمع کیا تھا۔ جس نے اچانک ساٹلہ کی مندر پر فائرنگ کی صورت گولی لگی تھی اس لیے ساٹلہ کو فوری طور پر اپنے گھر آنا پڑا تھا۔

(2) بحوالہ EMA + DCMAS دوروں کے دوران میں کبھی بھی اپنی ڈپٹی پر ہمیشہ سے حاضر اور مصروف کار پائی گئی تھی جسکی باقاعدہ رپورٹ آپ کے متعلقہ دفتری ریکارڈ سے کلیئر کی جاسکتی ہے اسلیئے یہ بتانا کہ میں ان کی ہر دورے کے دوران غیر حاضری پائی گئی۔ بتانا غلط ہے۔

(3) سرکل ASDO زنانہ کی رپورٹ میں سکول سے لمبے عرصے کیلئے غیر حاضر رہی ہوں لیکن کیا تصدیق کیلئے اور بیان شدہ نمبر 2 کی رپورٹ مہمانہ برائے تصدیق کیلئے کافی سمجھی جائے۔

(4) سکول چوکیدار کی بیانات بڑے عرصے سے سکول نہیں آئی اگر ایسا ہے تو پھر بھی ماہانہ حاضری کی تصدیق کیلئے نمبر 2 کے تحت بیان شدہ ریکارڈ کافی نہیں ہوگا۔ البتہ اس قسم کے بیان سے چوکیدار صاحب خود ہی اس بیان کے اپنے ساتھ نسبت ہونے سے انکاری ہے۔

اسلیئے اس قدر جواب برائے نوٹس Removal From Service جناب کی خدمت عرض ہے۔ اور

استدعا ہے کہ میرے خلاف لگائے جانے والے الزامات سے مجھے بری الزمہ قرار دے کر مجھے میری نوکری پر بحال کیا جائے تو آپ کی بڑی مہربانی ہوگی۔

HARI JANU

GGSP PST فقط ہری جان

گھٹ کنڈیا پر کوہستان

149
21-2-2021

Handwritten signature and initials.



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR**

NOTIFICATION

1. **WHEREAS**, the District Education Officer Female Kohistan Upper has imposed major penalty of removal from Service upon the below, Ex teachers of District Kohistan Upper under E&D Rules-2011 vide her Notifications issued under Endorsement No. 4627-36 dated 09-09-2021, and No: 4607-16 dated 09-09-2021 and No: 1782-89 dated; 23-06-2021.
2. **ANDWHEREAS**, the Appellants concerned submitted their appeals for their reinstatements to this office and sent these appeals to the DEO (F) Kohistan Upper for her comments/views vide letter No. 7251 dated: 11-08-2021, No. 5348 dated: 04-10-2021 and No. 2213 dated; 22-09-2021 and the DEO (F) Kohistan Upper submitted her report dated: 31-05-2022.
3. **ANDWHEREAS**, an opportunity of personal hearing were granted to the appellants vide this office letter No: 8398 dated; 15-11-22, No.6520-21 dated; 07-11-2022 and No. 5579 dated; 06-12-2022, and attended this Directorate on due date and time.
4. **ANDWHEREAS**, after going through the material on the record and statements of the appellants during the personal hearing, and the charges against them have been proved and found guilty.

Now therefore, in exercise of power conferred under the Government of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, the appellate authority, Director (E&SE KP) rejected the appeals of appellants under Rule 17 (2) (a) of the E&D Rules-2011 in the interest of the public service.

- 1) Gul Famir Ex PST GGPS Madian Teyal.
- 2) Hari Jan Ex PST GGPS Khat Kandia.
- 3) Maryam Bibi Ex PST GGPS Koi Rustam Abad.

Director
Elementary & Secondary
Education Khyber Pakhtunkhwa

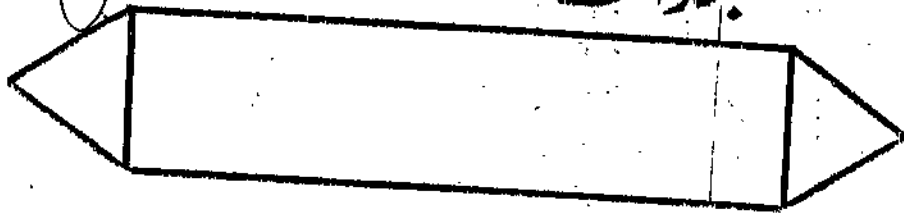
Endst:No. 5252-55 /F.No.322/Vol-II/F/Appeal Kohistan Upper Dated 05/01/2023.
Copy forwarded for information to the:-

1. District Education Officer (Female) Kohistan Upper.
2. District Account Officer Kohistan Upper.
3. Sub Division Education Officer (Female) concerned.
4. Teacher Concerned.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa.

Assistant Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

[Handwritten Signature]
[Handwritten Initials]

حیرت کنوں ۱۹۰۱ کراچی لکھنؤ میں پیشا در
بعد الت



مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
 کیلئے منصفیت حاصل کی گئی ہے۔
 آن مقام پیشا در
 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 ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
 اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج 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 مذکور با اختیارات حاصل ہوں گے
 اور اس کا ساختہ پر داخنتہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے
 سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔
 کہ پیروی نہ کر کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Harjjan

20ء

Attested & Accepted

واہ العباد

(M)

BC-14-4634

Cell-03449213367