BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1286/2019

Date of Institution ...

02.10.2019

Date of Decision

15.12.2021

Iram Naz D/O Zahir Khan GGPS Zar Faqir Kalay, Kalanga Bara, Khyber Agency R/O Village Nahagi, Peshawar District.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat Peshawar and two others.

(Respondents)

Humera Gul, Advocate

For Appellant

Asif Masood Ali Shah, Deputy District Attorney

For Respondents

SALAH-UD-DIN ATIQ-UR-REHMAN-WAZIR

...

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- This single judgment shall dispose of the instant service appeal as well as the connected Service Appeal bearing No. 1285/2019 "titled Mst. Faheema Versus Government of Khyber Pakhtunkhwa through Secretary Education Civil Secretariat Peshawar and two others", as common question of law and facts are involved therein.

O2. Brief facts of the case are that the appellants Mst. Faheema and Mst. Iram Naz were appointed as PTC Teachers on 29-11-2005 and 25-08-2006 respectively in Khyber Agency, now Tribal District Khyber. During the course of their service, both the appellants were removed from service vide separate orders dated 16-11-

- 2017. Feeling aggrieved, the appellants filed departmental appeals, which were considered in terms that a committee was constituted for disposal of departmental appeals, where appeals of the appellants were considered and the committee in its meeting held on 22-12-2017 recommended to conduct de-novo inquiry in both the cases. The committee circulated its minutes on 30-05-2018, but neither any denovo inquiry was conducted nor the appellants were re-instated in service. The appellants filed Writ Petitions No. 3858-P/2019 and 3880-P/2019, which were disposed of vide separate judgments dated 24-07-2019 with observations that since the appellants are civil servants, hence they are required to file appeal before the service Tribunal. The appellants filed the instant service appeals on 08-08-2019 with prayers that the impugned orders dated 16-11-2017 may be set aside and the appellants may be re-instated in service with all back benefits.
- Dearned counsel for the appellant has contended that the appellants have not been treated in accordance with law, as services of the appellants were terminated without observing the codal formalities, hence the whole process is void ab initio in the eye of law; that departmental appeals of the appellants were accepted and were formally considered by the committee constituted for the purpose, in a situation, the respondents were under legal obligation to have conduct a de-novo inquiry within the stipulated time, but the respondents failed to conduct any inquiry or to afford opportunity of defense to the appellants, hence the appellants were condemned unheard.
- O4. Learned Deputy District Attorney for the respondents has contended that appellants after their appointments against the post of PTC, continuously absented themselves from lawful duty and could not prove their attendance in their respective schools; that on the charges of absence, the appellants were proceeded against under the relevant law; that show cause notices were served upon the appellants as well as published in two leading newspapers, but the appellants did not turn up, hence they were proceeded against ex-parte and were terminated

from service vide order dated 16-11-2017; that a committee was constituted for disposal of departmental appeals of the appellants, wherein it was decided to conduct de-novo proceedings, but since the appellants had already admitted their absence from duty, hence there was no need to conduct any further inquiry; that the appellants have been treated in accordance with law having no ground to file the instant service appeal.

05. We have heard learned counsel for the parties and have perused the record.

- 06. Record reveals that the appellants were appointed as PTC back in 2005-06, who served until 16-11-2017 with all perks and privileges. It was in 2017, when the appellants were asked to prove their presence in their respective schools for a certain time period. Record reveals that the appellants had attempted to prove their presence in their respective schools, however as the service book and attendance registers are supposed to be in the custody of the school administration, but the same were also not available with the school administration as well due to the reason that such schools had been destroyed during war on terror, hence no record whatsoever was available either with appellants or with respondents. This Tribunal repeatedly asked the respondents to provide all such record, which pertains to their removal from service, but they failed to provide such record, even salary of respondent No. 2 was attached vide order sheet dated 03-03-2020 for non-provision of the relevant record and after considerable delay, only produced removal from service orders of the appellants and order dated 05-08-2020 purportedly a decision on departmental appeals of the appellants. In such a situation, it would be unjust to penalize the appellants for reasons beyond their control.
- 07. We have noted that pre-requisites for imposition of major penalty provided under the law have not been followed. The appellants were removed from service on a simple charge sheet without conducting a regular inquiry and

adopting proper procedure. The august Supreme Court of Pakistan in its judgment reported in 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice.

Departmental appeals of the appellants were, however partially accepted 08. vide minutes dated 30-05-2018 with recommendations to conduct de-novo inquiry, but no such inquiry was conducted within the stipulated timeframe, nor the appellants were re-instated for the purpose of de-novo proceedings, thus compelled the appellants to knock at the door of the court. At a belated stage, respondents have conducted an inquiry with a report submitted on 20-04-2019 with delay of almost one year of the recommendations of the committee, but without involving the appellants, which shows that only a formality is fulfilled. Embarrassment of the respondents can be gauged from the fact that departmental appeals of the appellants had already been decided by the committee constituted for the purpose vide minutes dated 30-05-2018, but the respondents during the course of litigation, tendered another decision rejecting their departmental appeals vide order dated 05-08-2020, which shows the reckless approach of the respondents towards the issue. We have observed that both the appellants were non-local for the post of PTC in the said jurisdiction with obvious reason that no local female opted for such recruitment due to peculiar circumstances during the period in question, hence the respondents were supposed to take a sympathetic view, instead the appellants were removed from service without adopting legal procedure, which was not warranted.

O9. In view of the fore-going discussion, the instant appeal as well as the connected Service Appeal bearing No. 1285/2019 "titiled Mst. Faheema Versus Government of Khyber Pakhtunkhwa through Secretary Education Civil Secretariat Peshawar and two others", are accepted. The impugned orders are set aside and the appellants are re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED 15.12.2021

> (SALAH-UD-DIN) MEMBER (J)

(ATIQ-UR-REHMAN WAZIR) MEMBER (E) <u>\ORDER</u> 15.12.2021

Appellant with counsel Miss Humera Gul, Advocate present. Mr. Asif

Masood Ali Shah, Deputy District Attorney for respondents present.

Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal as well as the connected Service Appeal bearing No. 1285/2019 "titiled Mst. Faheema Versus Government of Khyber Pakhtunkhwa through Secretary Education Civil Secretariat Peshawar and two others", are accepted. The impugned orders are set aside and the appellants are re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED 15.12.2021

> (SALAH-UD-DIN) MEMBER (J)

(ATIQ-UR-REHMAN WAZIR) | MEMBER (E) 09.12.2021

Appellant present in person and Mr. Kabirullah Khattak, Addl. AG alongwith Munawar Khan, ADEO (Legal) for the respondents present.

Learned senior counsel for the appellant is not in attendance to argue the appeal due to his engagement before the Hon'ble Peshawar High Court, Peshawar. Case to come up for arguments on \$5.03.2022 before the D.B.

(Salah-ud-Din) Member(J)

Chairman

Appellant with counsel present.

Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Due toerpaucity of ntime carguments could not be heard, Adjourned. Trocome upufornarguments on 08/11/2021/before DiBlore D.B.,

> (ATIQ UR REHMAN WAZIR) MEMBER (E)

(ROZINA REHMAN) MEMBER (J)

- 0.3

08.11.2021

Appellant in person present. Mr. Riaz Khan Paindakheil, Assistant Advocate General for the respondents present.

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Appellant sought adjournment on the ground that his counsel is not available today due to strike of Lawyers. Adjourned. To come up for arguments before the D.B on 12.11.2021.

(ATIQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE)

(SALAH-UD-DIN) MEMBER (JUDICIAL)

12.11.2021

Counsel for the appellant present.

Mr. Asif Masood, Deputy District Attorney for respondents present.

Partial arguments heard. To come up for remaining arguments on 09.12.2021 before D.B.

Atiq Ur Rehman Wazir)

Member (E)

(Salah-ud-Din) Member (J)

Junior to counsel for appellant.

Noor Zaman Khattak learned District Attorney alongwith Munawar Khan ADEO for respondents present.

Representative of respondents submitted written reply/comments, placed on file. To come up for rejoinder, if any, and arguments on 08.03.2021 before D.B.

(Rozina Rehman) Member (J)

08.03.2021

Junior to counsel for the appellant and Addl. AG for the respondents present.

Former requests for adjournment due to engagement of learned senior counsel before the Honourable High Court in many cases today. Adjourned to 15.06.2021 for hearing before the D.B.

(Atiq-ur-Rehman Wazir)

Member(E)

Chairinar

15.06.2021

Junior to counsel for appellant present.

Muhammad Adeel Butt learned A.A.G for respondents present.

Lawyers are on general strike therefore, case is adjourned. To come up for arguments on 20.10.2021 before D.B.

(Rozina Rehman) Member (J) Chairman

28.10.2020

Appellant present through representative.

Lawyers are on general strike, therefore, case is adjourned to 23.11.2020 for preliminary hearing, before S.B.

(Rozina Rehman) Member (J)

23.11.2020

Mr. Muhammad Adeel Butt, Advocate, for appellant is present. According to the learned counsel that they just have been provided copy of the impugned order, therefore, he want time to look into the matter in the light of relevant record for addressing his arguments and requested for adjournment. Adjournment granted. File to come up for further proceedings on 21.12.2020 before S.B.

(MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)

21.12.2020

Appellant present through counsel. Preliminary arguments heard. File perused.

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 21.01.2021 before S.B.

(Rozina Rehman) Member (J)

Appellant/Deposited
Security & Process Fee

13.08.2020

Appellant alongwith counsel and Addl. AG alongwith Waheedullah, ADEO for the respondents present.

The representative of respondents has provided copies of certain documents including notifications dated 16.11.2017 and 05.08.2020. The former pertains to imposition of major penalty of removal from service against the appellant while the later is in respect of rejection of departmental appeal of the appellant. On the other hand, the appellant has submitted copy of an undated departmental appeal purportedly preferred by her. Without prejudice to the merits of the case of either party the documents are made part of the record subject to all just exceptions.

On 03.03.2020 the salary of respondent No. 2/Director of Education Directorate of Education Khyber Pakhtunkhwa was attached due to non-provision of the aforesaid record. Today, an application for release of salary has been submitted by respondent No. 2 alongwith the provided record. The order of attachment of salary is, therefore, hereby withdrawn. Office shall make necessary communication to the concerned office in that regard.

To come up for preliminary hearing before S.B on 06.10.2020.

Chairman

06.10.2020

Junior to counsel for the appellant and Addl. AG alongwith Asmatullah, Litigation Assistant for the patiental trespondents present.

Learned senior counsel for the appellant is not in attendance today due to general strike on the call of Khyber Pakhtunkhwa Bar Council. The matter is adjourned to \$8.10.2020 for hearing before S.B.

Chairman

14.07.2020 → 14.07.2020

Counsel for the appellant and Addl: AG for respondents present.

Record mentioned in previous order sheet dated 03.03.2020 is not produced. Notice be issued to the respondents to produce record pertaining to notification dated 16.11.2017 in respect of removal of appellant from service and also her departmental appeal and decision thereon on the next date of hearing positively.

Adjourned to 13.08.2020 before S.B.

(Mian Muhammad)
Member(E)

29.07.2020

None for the appellant is present at the moment i.e 03:20 P.M. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Abdul Wahid, Litigation Officer on behalf of respondent No. 2 and Mr. Munawar Khan, SST Focal Person on behalf of respondent No. 3, are present.

Vide previous order sheets dated 07.01.2020, 18.02.2020, 03.03.2020 & 14.07.2020 respondents were directed time and again to submit the record pertaining to notification dated 16.11.2017 in respect of removal of appellant from service and also her departmental appeal and decision thereon but the said record have not been submitted so far and representative of respondent No. 2 again sought time to submit the requisite record, time is given. Representative of respondent No. 2 is strictly directed to submit the requisite record on the next date otherwise coercive measures shall be adopted against the respondents. Adjourned to 13.08.2020 on which date requisite record shall positively be submitted.

(MUHAMMAD JAMAL KHAN) MEMBER 03.03.2020

Appellant Mst. Iram Naz alongwith counsel present. Respondent No. 2 was issued notice to produce record pertaining to the notification dated 16.11.2017 in respect of removal of appellant from service and also her departmental appeal and decision therein vide order sheet dated 07.01.2020 and the case was adjournment for record for 18.02.2020 but neither the said record was furnished on 18.02.2020 nor today anyone present on behalf of respondent No. 2, therefore, salary of respondent No. 2 is attached till further orders and he is strictly directed to furnish the said record on the next date positively. To come up for record and preliminary arguments on 16.04.2020 before S.B.

(MUHAMMAD AMIN KHAN KUNDI)

MEMBER

16.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 14.07.2020 for the same. To come up for the same as before S.B.

Reader

07.01.2020

Appellant alongwith counsel present.

Notice be issued to respondent No. 2 for production of record pertaining to notification dated 16.11.2017 in respect of removal of appellant from service and also her departmental appeal and decision thereon.

Adjourned to 18.02.2020 before S.B.

Chairman

18.02.2020

Appellant in person present. Fawad Afzal Assistant representative of respondent No.2 absent. Notice be issued to the respondent No.2 as well as absent representative of respondent No.2 for production of record pertaining to notification dated 16.11.2017 in respect of removal of appellant from service and also her departmental appeal and decision thereon. Adjourned to 03.03.2020 before S.B.

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| Court or_ | | |
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| Case No. | 1286 /2019 | |

| S.No. | Date of order | Order or other proceedings with signature of judge |
|-------|---------------|--|
| | proceedings | |
| .1 | 2 | 3 |
| 1 | 08/08/2019 | As per direction of the Worthy Chairman this case is |
| 1 | | submitted to the S. Bench for preliminary hearing along with |
| | | office objection. To be put up there on 25/11/19. |
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| | - | REGISTRAR |
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| 26 1 | 1.2019 | Tunior to counced for the appellant precent |
| | 1.2019 | Junior to counsel for the appellant present. |
| ; | | Junior to counsel for the appellant requests for |
| ŀ | adjo | urnment as learned senior counsel is busy before th |
| • | Pesi | nawar High Court, Peshawar. |
| | | Adjourned to 07.01.2020 before S.B. |
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The appeal of Mst. Iram Naz d/o Zahir Khan GGPS Zar Faqir Kalay Kalanga Bara Bara District Khyber received today i.e. on 02.10.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
 - 2- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 3- Copy of departmental appeal and its rejection order are not attached with the appeal which may be placed on it.

No. <u>/688</u> /S.T, Dt. 2 - /0 - /2019.

> REGISTRAR -SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Muhammad Adeel Butt Adv. Pesh.

Délication has been done accordingly.

Delication has been promosed/gover to Appellant

A appellant

Respect on any plane be placed

Jefore S.B.

The abjection of their office and reply of counted for the appulant is sub-itted for order those. Hawbh Chair -a Be fixed le pre CA for Pot alongwith objections

Before the Service Tribunal, Khyber Pakntun khwa, Peshawar

Service Appeal No. 1286 /2019

Iram Naz D/O Zahir Khan GGPS Zar Faqir Kalay, Kalanga Bara, Khyber Agency R/O Village Nahaqi, Peshawar District.

...Appellant

Versus

- 1. Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat Peshawar
- 2. Director of Education, Directorate of Education situated at GT Road Peshawar City.
- 3. District Education Officer, DEO Office, District Khyber

.....Respondents

INDEX

| S.No | Description of documents | Annex | Page | |
|------|--|-------|-------|---|
| | | | | |
| 1 | Grounds of Appeal along with Affidavit | * | 1-4 | |
| 2 | Addresses of the Parties | * | 5 | |
| 3 | Copy of the Appointment Order is annex as Annexure "A" | A | 6-6A | |
| 4 | Copy of the impugned order is annex as Annexure "B" | В | 7-7A | : |
| 5 | Copy of the Minutes of the meeting is annex as Annexure "C" | С | 8-13 | |
| 6 | Copy of the High Court Order is annex as Annexure "D" & Waklathama | D | 14-20 | |

Before the Service Tribunal, Khyber Pakhtun khwa, Peshawar

Service Appeal No. 1286 /2019

Iram Naz D/O Zahir Khan GGPS Zar Faqir Kalay, Kalanga Bara, Khyber Agency R/O Village Nahaqi, Peshawar District.

Mhybey Pakhtukhwa Service Tribunal

..Appellant

Versus

Dated 02/10/2019

- Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat Peshawar
- Director of Education, Directorate of Education situated at GT Road Peshawar City.
- **63** District Education Officer, DEO Office, District Khyber

... Respondents

Resistratu 2/10/19 Appeal, under Section 4 of the Service Tribunal Act, 1974, Against the impugned Order dated 16/11/2017,

On acceptance of the appeal, this Honorable Tribunal may kindly set-aside the impugned order dated 16/11/2017 and reinstate the appellant with all back benefits.

Respectfully Sheweth:

The Appellant submits as under: -

- 1. That, consequent upon the approval of the then AEO Khyber Agency at Jamrud, now District Education Officer Khyber, at Jamrud, the Appellant was appointed on 25.08.2006. (Copy of the Appointment order is annex as Annexure "A")
- 2. That on 16.11.2017, The Respondent No.3 was pleased to issue a removal from service Order. (Copy of the Removal order is annex as Annexure "B")
- 3. That the Appellant being aggrieved from the Removal Order dated 16.11.2017 filed a departmental appeal before the Respondent No.2.
- 4. That the Respondent No.2, while considering the departmental appeal of the Appellant, directed Respondent No.3 to conduct de-novo enquiry against the Appellant on 30.05.2018. (Copy of the Minutes of the meeting is annexed as Annexure "C")
- 5. That since 30/05/2018, no reinstatement order for the purpose of formal enquiry /de-novo inquiry was passed by the respondents.
- 6. That Appellant being aggrieved, for not taking any action upon the minutes of the meeting, knocked the door of Peshawar High Court, wherein it was informed to the Honorable Court, by the Additional that the Departmental Appeal has already been rejected. (Copy of the High Court order is annex as Annexure "D")
- 7. That the Appellant feeling aggrieved from the Order files the Service appeal inter alia on the following ground:-

GROUNDS:

- A. That the Appellant has not been treated in accordance with law.
- B. That as per law it was pivotal upon the Respondents to have reinstated the Appellant for the purpose of enquiry but so far no reinstatement order has been issued which is against the law.
- C. That as per government Servant (Efficiency and Discipline) Rules, 2011, The enquiry Committee or Enquiry Officer, as the case may be, shall submit its/his reports to the competent authority within 30 days of initiation of enquiry but in the instant matter, since 30.05.2018 the



Appellant has not been reinstated for the purpose of enquiry.

- D. That the Appellant being an unmarried woman knocked the doors of Respondents but till now they are failed to issue a reinstatement Order in favor of the Appellant without any reason.
- E. That the Respondents are well aware about the fact that from the years 2000-2011, the whole Khyber agency was the victim of terrorism, and much of the official record of school along with School buildings was destroyed and it is quite impossible for them to find out the record related to Appellant with respect to her performance in schools, hence they purposely are delaying the matter.
- F. That no formal inquiry, as envisaged under the law was conducted despite the fact, the Appellant being a woman knocked every door.
- G. That the Appellant belongs to a very poor family and teaching is the only source of income, if the enquiry is not been initiated or concluded, than in the case the Appellant will suffer an irreparable loss.

It is, therefore, most humbly requested that this Honorable Tribunal may kindly allow this Appeal and set-aside the impugned order may graciously direct the respondents to reinstate the Appellant and to act in accordance with law and Any other remedy deems fit may also be granted under the circumstances.

Dated: 30.09.2019

Through

Appellant

Muhammad Adeel Butt

Lubna Naveed

Hungera Gul

Wocates High Court

Note: No such appeal has ever been made to Service Tribunal on the subject by the appellant or in any other court of Law.

Appellant

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(4)

Before the Service Tribunal, Khyber Pakhtun khwa, Peshawar

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|---------|------------|---------|
| Service | Appeal No. | /2019 |

Iram Naz

Versus

Govt of KPK & Others

Affidavit

of the Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

Oath Court Peshalian A

Deponent



| Before the Service Tribunal, Khyber Pal | ikhtun khwa, Peshawa | ır |
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Service Appeal No. /2019

Iram Naz

Versus

Govt of KPK & Others

- Appellant

ADDRESS OF THE PARTIES

- △- Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat
- **2-**Peshawar.
- 3-Director of Education, Directorate of Education situated at GT Road Peshawar City District Education Officer, DEO Office, District Khyber.

Dated: 30.09.2019

Through

Appellant

Muhammad Adeel Butt

Lubna Naveed

Humera Gul Advocates High Court OFFICE OF THE AGENCY EDUCA MONOFFIC APPIONTMENT ORDER Consequent upon the approval of the Departmental Selection Committee Miss. Irum Naz D/O - Zahir Khan untrained PTC non local candidate is hereby appointed against vacant PTC post at GGPS Muhammud Hussain Bara, Khyber Agency in BPS No.7/PM plus usual allowances as admissible under the rules w.e.f 01-09-2006, their taking over charge in the interest of public services. Charge repressioned be submitted to all concerned. Note: -The appointment of the candidate has been made purely on regular contract basis and is liable to terrainate without assigning any notice in case candidates whished to resign his services, she will have to give one month prior notice or forfeit one month He should produce his original academic/professional certificates/Domicile before his taking over charge and attested copies thereof to be kept on the record of the pay in lieu thereof. school/office after the verification from Board/University concerned. If he fails to report his arrival with in 15 days the order will be treated as cancelled. He should not hand over the charge if they are below 18 years or above 33 years of ABDUR RASHEED)

(MR. ABDUR RASHEED) AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD

Endst: No.

Copy forwarded to the:

Director of Education FATA (NWFP) Peshawar.

Agency Accounts Officer Khyber at Jamrud

AAEO (Concerned) local Office.

Accountant local office.

Candidate concerned

EDUCATION OFFICER KHYBER AGENCY AT JAMRUD

Annexure "A"

6-A

OFFICE OF THE AGENCY EDUCATION OFFICER KHYBER
AGENCY AT JAMRUD

APPOINTMENT ORDER

Consequent upon the approval of the Departmental Selection Committee Miss. Iram Naz D/o Zahir Khan untrained PTC non local candidate is hereby appointed against vacant PTC post at GGPS Muhammad Hussain Bara, Khyber Agency in BPS-7/PM plus usual allowances under the rules w.e.f. 01.09.2006, their taking over charge in the interest of public service.

NOTE:

- 1. Charge report should be submitted to all concerned.
- 2. The appointment of the candidate has been made purely on regularly basis and is liable to terminate without assigning any notice in case candidate wished to resign his service, she will have to give one month prior notice for forfeit one month pay in the lieu thereof.
- 3. He should produce his original academic/ professional certificate/ Domicile before her taking over charge and attested copies thereof to be kept on the record of the school/ office after the verification from Board/ University concerned.
- 4. If he fails to report his arrival within 15 days the order will be treated as cancelled.
- 5. He should not hand over the charge if they are below 18 years or above 33 years of age.

Sd/-

MR. ABDUR RASHEED AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD

Endst.No.1341-45

dated 25.08.2006

Copy forwarded to the:-

- 1. Director Education FATA (NWFP) Peshawar
- 2. Agency Accounts officer Khyber at Jamrud
- 3. AAEO (Concerned) Local office
- 4. Accountant local office
- 5. Candidate concerned

Sd/-

AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD



Agency Education Office Khyber Agency at Jamnud Phone: 091-5820584 Fax 091-5820265

NOTIFICATION

WHEREAS the Agency Education Officer Khyber Agency had come to know through the AASO (Female) Bara Khyber Agency that Mstirum Naz PTG 17% A0C 110359 GGPS Muhammad Hussain Bara Khyber Agency is absent since her appointment order AEO Khyber Enst No.1341-45 dated 25/08/2006. It was published in daily news paper Sally Aaj and Daily Awsal dated 5th April 2017 informed all (101) female ghost employees to report for duty.

- 2. WHEREAS On the recommendation of Enquiry Committee vide this office Endst No.1691-1697 dated 20/03/2017. The undersigned charge sheeted you vide this office Endst No. Bndst No. 1522-27/Charge Sheet dated 21/09/2017.
- WHEREAS Your reply to the charge sheet declared unsatisfactory by the Enquiry Committee constituted vide this Office Endst No.1575-78 dated -21/09/2017 for personal hearing vide Enquiry Officers letter No.208 dated 19/10/2017
- 4. NOW THERFORE In exercise of the powers conferred under Para 4 b (m) of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) rules 2011, the competent Authority, Agency Education Officer | Khyber, is pleased to impose argmajor penalty "removal from service" upon Mst Irum Naz PTC P/No/M10359 GGPS Muhammad Hussain Bara Khyber Agency with immediate

(MUHAMMAD JADOON KHAN) AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD

Endst No.フ、Cり方 ,Date**c**i

Copy forwarded to the:

1. Additional Chief Secretary 97

2. Secretary SSD FATA Peshewar.

By Girls for of Education FATA Peshawar.

A: Political Agent Knyber Agency at Peshawar,

- DD(M&E) Directorate of Scocation SATA Poshawar.
- AG Sun Office Predictoring
- 7. Agency Accounts Officer Khyber Agency at Jamrud.
- 8. All AAEOs Local Office.
- 9. Female Accounts Section.
- 10, 11. Superintendent./Accountant for entry in her service book.
- 11. Official concerned. L
- 12. Office Copy.

Annexure "B"

Agency Education Office Khyber Agency at Jamrud

Phone 091-5820584 Fax 091-5820265

NOTIFICATION

WHEREAS, the Agency Education Officer Khyber Agency had come to know through the AAEO (Female) Bara Khyber Agency, that Mst. Irum Naz PTC P/N-/00110359 GGPS Muhammad Hussain Bara Khyber Agency is absent since her appointment order AEO Khyber Endst No.1341-45 dated 25.08.2006. It was published in daily news paper, Daily Aaj and Daily Awsaf dated 5th April 2017 informed all (101) female ghost employees to report for duty.

- 2. WHEREAS, On the recommendation of Enquiry Committee vide this office Endst No.1691-1697 dated 20.03.2017. The undersigned charge sheeted you vide this office Endst.No.1522-27/Chare sheet dated 21.09.2017.
- 3. WHEREAS, Your reply to the charge sheet declared unsatisfactory by the Enquiry Committee constituted vide this office Endst.No.1575-78 dated 21.09.2017 for personal hearing vide Enquiry Officers letter No.208 dated 19.10.2017.
- 4. NOW THEREFORE, In exercise of the powers conferred under Para 4-b (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules 2011, the competent authority, Agency Education Officer Khyber, is pleased to impose a major penalty "removal from service" upon Mst. Iram Naz PTC P/No/00110359 GGPS Muhammad Hussain Bara Khyber Agency with immediate effect.

NAHN MOODAT-BAR MR. ABOUR PASHEED AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD

Endst.No.1346-57 dated16.11.2017

Copy forwarded to the:-

- 1. Additional Chief Secretary FATA Secretariat Peshawar
- 2. Secretary SSD FATA Peshawar
- 3. Director of Education FATA Peshawar
- 4. Political Agent Khyber Agency at Peshawar
- 5. DD(M&E) Directorate of Education FATA Peshawar
- 6. AG Suo Office Peshawar
- 7. Agency Accounts Officer Khyber Agency at Jamrud
- 8. All AAEOs Local Office
- 9. Female Accounts Section
- 10. 11. Superintendent/ Account for entry in her service book
- 11. Official concerned
- 12. Office Copy.

Candidate concerned

Minutes of the Meeting Regarding Disposal of Departmental Appeal / Representation

Meeting of Committee was held on 22/12/2017 at 11:00 AM in the office of the Chairman in order to examine/scrutinized the appeals submitted by appellants against the dismissal/removal order passed by Agéncy Education Officers on various grounds mentioned in the impugned orders, the following attended the meeting.

Additional Director (Estab)......(Chairman)

Deputy Director (Estab)......(Member)

Deputy Director (Colleges).....(Member)

Assistant Director Litigation (Member)

The appellants were provided opportunity of hearing one by one keeping in view principles of natural justice. The Committee after perusal of the record available and discussion on each issue unanimously agreed to submit the following recommendation for approval of Competent Authority.

1. Gul Afshar Ex-T.T

The appellant was initially appointed on 03/09/2007 at GGPS Zawa School Khyber Agency. The contention of the appellant that she was detailed GGPS Sheikh Wal and according to her own statement she performed her duty there but during the hearing proceeding when she was asked to produced the re-deployment order to the above mentioned school the appellant kept "Mum" and protended to have been directed by the authorities verbally to perform her duty in GGPS Sheikh wal, the appellant also conceded and admitted that she remained absent from duty and paid monthly rupees to the then Assistant Agency Education Officer Female Miss Shahnaz who were involved in instigating and encouraging the teachers to remain absent from duty and to pay her monthly portion of their salaries. The removal order dated 16/11/2017 have been issued by the Competent Authority after fulfillment of all codial formalities therefore the same may be recommended as intact and the appeal in hand is order as regretted. Moreover the allegation against Mist.Shehnaz the then Female Assistant Agency Education Officer a Khyber Agency has to be probed by the concerned Agency Education Office through an independent inquiry.

1. Irum Naz Ex-PST:

The appellant was appointed on 25/08/2006 at GGPS Muhammad Hassan Bar Khyber Agency. She was removed from service on account of willful absence from duty feeling aggrieved the appellant preferred appeal to Director Education FAT and proper opportunity of hearing was provided to the appellant, during the

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course of proceeding the appellant admitted before the committee that she remain absent from duty due to law and order situation in the area and later on she was directed verbally by the then Agency Education Officer to perform in Kalanga School upto 2009 and on closing of said school she performed duty in Sarband area. In 2016 school was shifted to Bara again. The committee when thoroughly heard the appellant inquired about her duty since January-2016 to November-2017 but the appellant was in no position to support her stance and stated that whether she was remained absent as inquiry officer directed her not to attend the duty.

Keeping in view all the codial formalities fulfilled by the Agency Education Officer and the Educational status of FATA, children which is highly at stake due to such abseentism of teachers who often pretend to take shelter under the pretext of the cost of poor children of the cost of poor children of therefore the authorities will against all those involved in un-authorized and willful absence from duty, therefore, in view the above observations, legal and fractual position of the case, Directorate of Education FATA and then may be proceeded according to the recommendation of the enquiry committee.

2. Sana Bibi Ex-T.T:

The appellant was removed from service on account of willful absence from duty yide order dated 16/11/2017. She did not appear before the committee so office representative is directed to inform the concerned appellant for the next date of hearing along with complete record of the case.

ਤੋ. iVist.Abida Waqar, Ex-PST:

The appellant was appointed on 29/06/2006 in GGPS Misal Khan Shalman Landi Kotal Khyber Agency and removed from service on account of willful absence from duty vide order dated 16/1/2007 feeling aggrieved she filed appeal before Director Education FATA and was properly rendered opportunity of hearing to defend her stance before the committee, during hearing she stated that she was initially redeployed verbally to GGPS Wahid Shah School on 03/02/2011. She openly admitted before the committee that she had not regularly performed her duty in GGPS Wahid Shah. After the appellant was thoroughly heard by the committee she was inquired about her duty since January-2016 to November-2017 and the appellant conceded her absence from duty during all this period. Keeping in view the codal formalities fulfilled by the Agency Education Officer and that negligent and indifferent attitude of the appellant towards her national sacred duty the committee recommended her appeal as regretted and also recommended to issue a circulation by the Director of Education FATA to all Agency Education Officers to conduct weekly and monthly visits of schools in their

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respective agencies and check the abseentism cases with in a parameters of law/rules.

; <u>IVIst. Faheema Ex-PST:</u>

The appellant was appointed in GGPS Aka Kheil Zawa Misa Bara Khyber Agency and removed from service on account of willful absence from duty vide order dated 16/11/2017 feeling aggrieved of the impugned order she preferred departmental appeal and was provided opportunity for hearing keeping in view principal of natural justice. The appellant frankly admitted that she remained absent from duty as she monthly paid a portion of his salary to the then female AAEO name Mst. Shehnaz in lieu of her absence from duty for consecutive three years. She also produced attendance register for the month of April, May, September, October and November 2017. In view of her express admission and codal formalities fulfilled by the Agency Education Officer. The committee recommends that in case of verification of the attendance register by the enquiry committee, only three (03) increments will be forfeited and the removal order will set-aside, otherwise, the removal order issued by the AEO concerned will be remained intact. The committee also recommended that the Agency Education Officer concerned to proceed as per rules against the said officials (Wist Shehnaz) who were alleged to be involved in such corrupt practices and doing harm to the poor and vulnerable section of society which is no more in a position to bear the difficulties of time but the authorities who have their constitutional obligations to bring back the de-railed Educational system of FATA into a line leading towards the betterment of Education in FATA, therefore the concerned AEO is also recommended to take initiative against the said Ex- AAEO Female within parameters of law/rules.

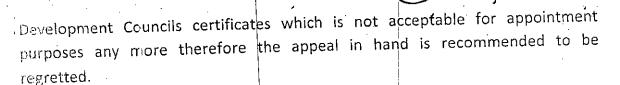
5. Wist.Bibi Janan, Ex-PST:

The appellant was appointed in GGPS Khanan Mela Orakzai Agency and was verbally informed the committee to have been compulsory retired from service due to willful absence from duty although according to the appellant she regularly performed her duty upto 2015 but in absence of record the committee therefore directed the office representative to ask the Agency Education Officer concerned to produced the relevant record pertain to the appellant case and the appellant was also directed to produce duty certificate upto 2015 and any other document upon which she relied, her appeal is deferred to a next date for provision of record.

5. <u>Mst.Bibi Hawai Noor, Ex-PST:</u>

The appellant appeal have already been disposed of by the Committee previously however she was given the opportunity again in which she requested to consider her re-adjustment on community PST post but as she lacks professional qualification of PST from recognized institution therefore her this request cannot be entertained and also there is verdict of Supreme Court of Pakistan were Skill.

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7. Mst. Wajiha Gul, Ex-PST:

The appellant was appointed as communal school teacher at GCPS Abdul Karim Killi and later on regularized on 30/05/2017 and adjusted at Sida Jan Bara Khyber Agency, during the course of hearing the appellant frankly admitted the fact of her absence from the duty and admitted that the school was far away, therefore she could not attend the duty, appeal in hand recommended to be regretted.

&. Murad Ali Sher, Chowkidar:

The appellant was appointed on the post of Chowkidar at GPS Alam Sher Mohmand Agency, he was removed from service vide order dated 29/01/2016, feeling aggrieved prefer departmental appeal he was given opportunity of hearing according to the principal of natural justice in order to support his stance. The appellant was found absent from his duty, and proper inquiry was conducted by the AEO concerned, the inquiry committee also submitted its report on 05/01/2016 finding the appellant as defaulter subsequently notices were served upon the appellant by the concerned Agency Education, Officer but the appellant failed to appear before the concerned Authority to explain for his willful absence, therefore he was proceeded as per rules. The committee unanimously agreed to recommend the case of the appellant as regretted.

.9. Gul Bahadar Ex-PST:

The appellant was appointed as PST teacher in Kurram Agency in 1994, subsequently applied for extra ordinary leave without pay w.e.f 01/11/2004 to 31/08/2008. The committee without going into details that whether his leave was properly sanctioned at that time or not inquired from the appellant that whether he had resume his duty or not when his leave was expired, the appellant admitted that he did not performed his duty as he settled now in Islamabad. The indifferent attitude of the appellant did not entitle him for any relief under the law as after lapse of 10 long years he had preferred an appeal which is a time barred issue, as during all these years he remained absent from duty and presumed to have been removed from services with retrospective effect. The question that whether he has been served any notice or not have been meet out over here before this committee as the committee provided him opportunity of hearing and the appellant was in no position to support his stance, therefore the committee recommend to declare him as removed from service and his appeal is recommended to be regretted.

10. Muhammad Arif Ex-A.T:

The appellant concerned during course of hearing admitted before the committee that he remains abroad since 2007 to 2010 without prior approval from sanctioning authority. The serious question which has to be investigated through



impartial inquiry that the salaries received by the appellant has been recovered or not should also be settled by the concerned Agency Education Officer as being custodian of National Exchequer. The department is under constitutional obligation to have a strict check over such cases and made every Endeavour to recover a single penny from those who have illegally withdrawn from the national exchequer. The appellant was provided an opportunity of hearing also a statement of allegations was shown to him therefore no question arise as to codial formalities and the appellant is presumed to have been removed from services on account of willful absence from duty and the appeal in hand is recommended to be regretted.

11, Abdu Rauf Ex-PST:

The Appellant was working as PST teacher in Khyber Agency and removed from services on account of receiving dual financial benefits from national Exchequer as he was charged sheeted on the ground previously got financial benefits as Chowkidar at GGPS Gul Abad Jamrud and PST teacher at GMS Chappiri Jamrud. Consequently inquiry committee was nominated and appellant was found defaulter.

The Agency education officer after fulfillment of necessary cordial formalities proceeded for removal from services vide order dated 24.8.2017 feeling Aggrieved Appellant preferred departmental Appeal and was provided Opportunity of hearing.

The Appellant whose name is Abdur Rauf S/O. Abdul Qadoos merely denied the Allegations leveled against him but when he was confronted to produce any evidence in support of his stance but he was found answerless.

The committee found that the person who got himself retired as chowkidar from Education Department Jamrud Khyber Agency was name as Abdul Raut s/o Abdul gadoos and the one who was working as PST was also abdul rauf s/o abdul qadoos and the Appellant did not denied the similarities of names and parentage, more over proper inquiry had also been conducted and input of Agency Account office has also endorsed the one got financial benefits as Chowkidar and the one working as PST teacher having a double role on the part of the appellant, and cannot be entitled for any relief under the law, this being the position lead the committee to conclusion that the Appeal is liable to be dismissed and recommended to be regretted.

13.Mr Zahir Hassan EX.DM

11 dosa 4 35/5/18 The Appellant was ordered as compulsory retired from services on account of his being abroad without prior approval of competent authority. The brother of the appellant appeared before the committee and informs the committee that the appellant is still abroad this being the position the appeal in hand is regretted.

14. Ibad Ali Ex.PST

The Appellant was appointed as PST in Orakzai Agency and his services was disposed of by the Agency Education officer concerned on account of submission of bogus certificate at the time of appointment in order to get illegal advantage over others deserving candidates, during proceeding it was confirmed from litigation section that the Appellant has also submitted Writ petition No.4067-P/2016 which is pending Adjudication before Peshawar high court therefore committee unanimously decided to regret his appeal.

15. Molvi Kamal-Ud-Din Ex-TT:

The Committee was informed that the appellant was appointed as TT in GMS Sando Khel Mohmand Agency in the year 1983 and due to his illness he could not performed his duty and resultantly his salary was stopped by concerned authorities w.e.f 1990. The Appellant knocked the door of the department after a lapse of long 28 years which is badly time barred and regretted, as the appellant never bother to approached proper forum for leave neither bother to apply for retirement on medical ground, so strong presumption is that he was remained absent from duty willfully, the appeal in hand is recommended to be regretted in capital letters.

Additional Director (Estab)

Deputy Director (Estab)

Deputy Director (Colleges)

Assistant Director Litigation

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

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Iram Naz D/O Zahir Khan [GGPS Zar Faqir Kalay, Kalanga Bara, Khyber Agency] R/O Village Nahaqi, Peshawar District.

Versus

- 1. Government of Khyber Pakhtunkhwa through Secretary Education Civil Secretariat Peshawar.
- 2. Director of Education, Directorate of Education situated at GT Road , Peshawar City.
- 3. District Education Officer, DEO Office, District Khyber.

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973

Respectfully Sheweth:

The Petitioner submits as under,-

- 1. That, consequent upon the approval of the then AEO Khyber Agency at Jamrud, now District Education Officer Khyber, at Jamrud, the Petitioner was appointed on 25:08.2006. (Copy of appointment order is Annex "A")
- 2. That on 16.11.2017, The Respondent No.3 was pleased to issue a removal from service Order (Copy of removal order is Amen (B))
- 3. That the Petitioner being aggrieved from the Removal Order dated 16.11.2017 filed a departmental appeal before the Respondent No.2.

ATTESTED

EXAMINER

Peshawa High Coun

- 4. That the Respondent No.2, while considering the departmental appeal of the Petitioner, directed Respondent No.3 to conduct de-novo enquiry against the Petitioner on 30.05.2018.(Copy of the Minutes of the meeting is annexed as Annexure "£")
- 5. That as required under the law, the Respondents have to reinstate the Petitioner for the purpose of enquiry, but till now the Petitioner has not been reinstated for the purpose enquiry, hence the petitioner files the instant writ petition inter alia on the following grounds,-

GROUNDS:

- A. That the Petitioner has not been treated in accordance with law.
- B. That as per law it was pivotal upon the Respondents to have reinstated the Petitioner for the purpose of enquiry but so far no reinstatement order has been issued which is against the law.
- C That as per government Servant (Efficiency and Discipline) Rules, 2011, The enquiry Committee or Enquiry Officer, as the case may be, shall submit its/his reports to the competent authority within 30 days of initiation of enquiry but in the instant matter, since 30.05.2018 the petitioner has not been reinstated for the purpose of enquiry.
- D. That the Petitioner being an unmarried woman knocked the doors of Respondents but till now they are failed to issue a reinstatement Order in favor of the Petitioner without any reason.
- E That the Respondents are well aware about the fact that from the years 2000-2011, the whole Khyber agency was the victim of terrorism, and much of the official record of school along with School buildings was destroyed and it is quite impossible for them to find out the record related to petitioner with respect to her performance in schools, hence they purposely are delaying the matter.
- F. That the Petitioner belongs to a very poor family and teaching is the only source of income, if the enquiry is not

ATTESTED

EXAMINER

Peshawar High Court

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been initiated or concluded, than in the case the Petitioner will suffer an irreparable loss.

It is, therefore, most humbly requested that on acceptance of this writ Petition, this Hon'ble Court may graciously direct the respondents to reinstate the Petitioner and to act in accordance with law.

Any other remedy deems fit, under the circumstances, may also be granted to the petitioner.

Dated: 04.07.2019

Petitioner

Through

Muhammad Adeel Butt Advocate High Court

CERTIFICATE:

Certified as per information furnished by my client that on the statutory ground no such like writ petition has earlier been filed before this Hon'ble Court.

Advocate

LIST OF BOOKS:

- 1. 1) Constitution of Islamic Republic of Pakistan, 1973.
- 2. 2) Any other law books as per need.

CENTIFIED TO BE TRUE COPY

27 JUL 2019

IN THE PESHAWAR HIGH COURT, PESHAWAR

| W.P.No | /2019 | | | |
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| Iram Naz | | | | Petitioner |
| | | Versus | | retitionjer |
| Governmen Secretary E | t of Khyber Pal ducation and o | khtunkhwa th thers | - | espondents |
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| PETITIONE | | ES OF THE F | PARTIES | |

Iram Naz D/O Zahir Khan [GGPS Zar Faqir Kalay, Kalanga Bara, Khyber Agency] R/O Village Nahaqi, Peshawar District.

RESPONDENTS:

- 1. Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat Peshawar.
- 2. Director of Education, Directorate of Education situated at GT Road , Peshawar City.
- 3. District Education Officer, DEO Office, District Khyber.

Petitioner Through

> Muhammad Adeel Butt Advocaté High Court

Authorised under Article State Order 18 Ganun-a-shangan Order 18 7 JUL 2019

PESHAWAR HIGH COURT, PESHAWAR FORM "A" FORM OF ORDER SHEET.

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| | 24.7.2019. | Present:- |
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| | | M/s Muhammad Adeel Butt & |
| | • | Humaira Gul Advocates, for the |
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| | | petition under Article 199 of the Constitution of |
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| -1 | | Islamic Republic of Pakistan, 1973, petitioner |
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| | | has prayed for the following relief:- |
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| | | "that on acceptance of this |
| | | Writ petition, this honourable |
| | | Court may graciously direct |
| | | the respondents to reinstate |
| | | the petitioner and to act in |
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| | | other remedy deems fit may |
| , | | also be granted under the |
| | | circumstances." |
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| • | | 2. As petitioner was a civil servant, who |
| | , | |
| | | had filed a departmental appeal, the copies of |
| , | | |
| | | which are also placed on file and the same has |
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| | | already been regretted, so the petitioner is |
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| | | required to file an appeal before the worthy |
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EXAMINET Court

Service Tribunal concerned subject to limitation if she so advised. As such this writ petition is dismissed accordingly.

Announced. 24.7.2019.

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Hon'ble Mr. Justice Ikramullah Khan & Hon'ble Mr. Justice Ishtiaq Ibrahim.



بعدالت بناب: <u>سر دس نثر بمبنو کے تب ہی سا دس م</u>

| منجانب: اپسپلانٹ | | ربوي: سر دس ارتبال |
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| بنام حکومت بذرید ایجون وینره | الما ناد | علت نمبر: مورخه جرم: خانه _ |

باعث تحرير آنكه

مقدمه مندرج عنوان بالا میں اپی طرف سے واسط پیروی و جواب دی کاروائی متعلق میں استان مقام استان میں مقدمہ مندرج عنوان بالا میں اپی طرف سے واسط پیروی و جواب دی کاروائی کا کامل اختیار ہوگا، نیز و کیل صاحب کو راضی نامہ کرنے و تقر ر ثالث و فیصلہ برطف دینے جواب دعوی اقبال دعوی اور درخواست از ہرتم کی تقد این زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈکری پیکھر فیہ یا اپیل کی برآ مدگی اور منسونی، نیز دائر کرنے اپیل گرانی دفظر شانی و پیروی کرنے کا عقار ہوگا اور بصورت ضرورت مقده ندکوره کی کل یا جز وی کاروائی کے واسطے اور وکیل یا محتار قانونی کو اپنے ہمراہ یا اپنے بجائے تقر رکا اختیار ہوگا اور صاحب کاروائی کے واسطے اور وکیل یا حقی ہوں گا وران کا سا ختہ پر داختہ منظور و بوگ ہوگ ہوگا ہوں کے دوران مقدمہ میں جونر چے ہمر جاندا اتو ائے مقدہ کے سبب سے ہوگا کوئی تاریخ پیشی تقام دورہ و صد سے باہر ہوتو و کیل صاحب یا بندنہ ہوں گے کہ پیروی مذکورہ کریں، البذاوکالت نامہ کھورا کا کہ سندر ہے الرقوم:

ب گواه شد العبید

نوے:اس وکالت نامہ کی فوٹو کا بی نا قابل قبول ہوگی۔

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The Director, Elementary & Secondary Education (FATA), FATA Secretariat, Warsak road, Peshawar.

Subject:

APPEAL AGAINST THE IMPUGNED ORDER OF REMOVAL FROM SERVICE.

Dear Sir,

Eindly refer to Notification issued by Agency Educatgion Officer, Khyber Agency, Jamrud vide No.3536-57, dated 6.11.2017 on the above subject of Removal from Service.

I humbly put down the following clarification in my instant appeal against the impugned order for dispensing justice in my favour:

- As per charge No.1 reflected in my Removal Notification I have never been absent from my duty. This charge is based on presumption only. Has this been so, any documentary proof would have been reflected in Removal order. Hence I deny this charge totally.
- 2) I have replied the charge sheet in detail and denied all the charges which were based chirake grounds.
- 3) I totally deny this charge. My reply to charge sheet was totally satisfactory as far my person and charge was concerned. Also I was not afforded any opportunity of personal hearing which was mandatory under E&D Rules, 2011 and which is against the E&D Rules.

Sir,

This inquiry and its subsequent proceedings are malafide, baseless and against the natural justice, hence it is, therefore prayed to kindly accept my appeal and quash the ingugact order of my Remonal from Service being the Appellate authority.

Yours Faithfully,

(Mst.lrum Naz)

John No

PTC Teacher

(under Removal from Service)

Reference Charge Sheet, served upon me by Agency Education Officer, Khyber Agency at Jamrud, bearing Endst. No.1522-27/chargesheets dated 21.09.2017.

Point-wise replies to the charges/allegations leveled against me are as

- lncorrect. I have never been found absent from duty in my whole service. I performed my service with dignity and always available in the station, where I authorized for performance of duty. However, I was not performed duty, like other teachers, only for the period, as and when school remained closed, due to untoward law and order situation in Khyber Agency.
- (b) I have selected through Departmental Selection Committee after fulfillment of all codal formalities. On my appointment as PTC, I received my appointment order 25.08.2006 and subsequently joined my duty. However, maintenance of service record including Service Book, Personal File etc falls under the domain of concerned office, as no employee have authority to keep his official documents with him/herself.
- (c) The Inquiry Committee, instead of digging out facts from the record, relied on the false statements of Ms. Hameeda Bibi PST and Ms. Khudeja PST, the teachers, who have never remained posted in GGPS Muhammad Hussain Killi; Khyber Agency
- (d) On closure of GGPS Muhammad Hussain due to worst law & order situation, my services were deployed to GGHSS Kalanga for performance of duty, where I performed my duties regularly.
- 2- The Inquiry Committee has conducted inquiry on the basis of false statements and assumptions and has never dig out the facts of the case, therefore, it is requested to kindly exonerate the undersigned from the charges/allegations leveled against me and to allow me to continue my duty.
- 3- I opt the option to be heard me in person. However, I will be out of station (Province) from 09:10.2017 to 27:10.2017 in connection with my domestic affairs, therefore, it is also requested kindly to fix any date for personal hearing after 27:10:2017.

(Irum' Naz) PST

Agency Education Officer, Khyber Agency at Jamrud.

Copy forwarded to:-

1. PS to Additional Chief Secretary, FATA

2. PS to Secretary A,I&C Department, FATA

America OFFICE OF THE AGENCY-EDUCATION OFFICER KHYBER AGENCY AT JAMRUD APPIONTMENT ORDER Consequent upon the approval of the Departmental Selection Committee Miss. Irum Naz D/O Zahir Khan untrained PTC non local candidate is hereby appointed against vacant PTC post at GGPS Muhammad Hussain Bara, Khyber Agency in BPS No:7/PM plus usual allowances as admissible under the rules w.e.f 01-09-2006, their taking over charge in the interest of public services. · Note: -1. Charge report should be submitted to all concerned. 2. The appointment of the candidate has been made purely on regular contract basis and is liable to terminate without assigning any notice in case candidates whished to resign his services, she will have to give one month prior notice or forfeit one month pay in lieu thereof. 3. He should produce his original academic/professional certificates/Domicile before his taking over charge and attested copies thereof to be kept on the record of the school/office after the verification from Board/University concerned. 4. If he fails to report his arrival with in 15 days the order will be treated as cancelled. 5. He should not hand over the charge if they are below 18 years or above 33 years of (MR. ABDUR RASHEED)
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD Endst: No Copy forwarded to the: -1. Director of Education FATA (NWFP) Peshawar. 2. Agency Accounts Officer Khyber at Jamrud AAEO (Concerned) local Office Accountant local office. Candidate concerned AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD Van fration veades

انکوائری برائے ارم ناز PST ، ی جی بی ایس فر میں ایس فر میں اور اور کا میں ایس فر میں ای (ل) کا رفنت کرلز ہے تر میں کا دبارہ (MDK) کے موبور نررسی افاق مين مندهم ذيل اسائده موجورين. Enditate: 11787-91/LKL-91(F), Doted: 3008-PST U. J. ONE (Dlin S. 10 (2 Endt. No. 3776-93 | Estab: 1A-11Flutyber PST Dated: 08 08 2009 · PST J. U. O. D. C. حب میں بے سکول میں جارہے کیا تو میر دولوں کے نفل مس مرداز لوسف افی بعر ملی آئی افع اس می از اوسف افی بعر اس می Hamida bibi ځېږه.يي IPST Just مين له جي اسكول مين چالے ليا لواس و قوت پس ليسم احر مرجورتی و و در بهل لوست برتی -(khaclisa). عر لی سال مع ارم ناز کونس جانش در همداس کریلی یک اور در ع جاندیس -اور ن بی اس نے بھارے سکول میں جاری لیا گے۔ Ishaclisa, Hamida bib; ملكم مثناه Le Vir June John Craso G. G. 7 21.8.2017

Amounte & Khalida Shah c Principal GGHSS Kalanga Bara District Khyber No. VICEC Dated: 20_

ol'

Director E&SE Khyber Pakhtunkhwa At Peshawar.

SUBMISSION OF ENOUTRY REPORT Subject:

Memo:

Reference your office notification No.3328-31 dated:27/02/2019

Enclosed please find herewith enquiry reports in r/o Irum Naz and Faheema Exteachers for further necessary action.

COUSS Kalanga Baru

__/2019

District Klyber

Dated:____/___

Endet: No. 3097 - 4000

Copy of the above is forwarded to

01)District Education Officer District Khyber.

GGHQG-Kalanga Bara

ENQUIRY REPORT

American P-6

BACKGROUND

The undersigned has been nominated as an enquiry officer to conduct an enquiry into the case of Mst: Irum Naz Ex PST GGMS Muhammad Hussain Killi, Bara District Khyber & Mst: Faheema Ex-PST GGPS Aka Khail Zawa, Bara with the following TORs vide E &SE Khyber Pakhtunkhwa at Peshawar Endst:No.3328-31 dated: 27/02/2019.

01. Date of 1st Appointment order along with related documents (DSC).

02. Salary record from Account Office.

03. Transfer orders if any.

04. Service record and service book.

05. Proceedings under E & D Rules.

06. Academic professional documents if verified during the appointment.

Both the teachers have been removed from Government: Service after passing through 2 enquiries. Both the enquiries show their fake status and long absence in detail.

Procedure Adopted

Both the Ex-teachers were called for personal hearing and physical verification. They appeared before the undersigned.

The undersigned visited DEO Khyber in this connection and gathered information about the case.

The undersigned also visited AAO Khyber for pay detail and other quarries.

01. Mst: Irum Naz Ex-PST GGMS Muhammad Hussain Killi Bara District Khyber

FACTS

1. A written statement is obtained from the Ex-teacher.

(Annexur-A1-4)

She produced her appointment order which shows that she had been appointed on 25/8/2006 vide Endst: No.1341-45 at GGPS Muhammad Hussain Bara.

(Annexure-A5)

Now it is found that she failed to prove her attendance at this station. She even did not take over charge of his post i.e PTC.

Furthermore, she told that she was deputed to GGHSS Kalanga and produced a fake certificate carries the signature of Mst: Nasreen Afridi PST GGPISS Kalanga that she had performed her duty at GGHSS Kalanga w.c.f 2012 to 2016.

Mst: Nasreen refused and disowned the certificate and submitted her written statement denying the claim. (Annexure-B)

Nothing regarding her appointment is found in District Education Office Tribal District Khyber revealing her claim that she is rightfully appointment and her appointment is genuine.

- 2. Mst: Irum Naz (P.No.410359) has taken regular salaries w.e.f date of entry till 31/01/2017 and caused a huge loss to national exchequer.
- No transfer order found. Just an office order by the then AEO Khyber Endst: No.160/HM-Khy: dated: 24/10/2006 where she was redeployed to GGHSS Kalanga Bara. She did not perform duty there for a single day.

(Annexure-C)

(ð)

There is no service record found since her induction in Education Department Khyber. Although she produced a copy of service without her finger prints and all the signatures seems to be bogus.

(Annexure-1) 1-3)

Department its and all the xure-D 1-3)

She has been served with a "Charge Sheet" vide AEO Khyber Endst:No. 1522-27/charge sheet dated 21/9/2017

She has been removed from Government Service vide AEO Khyber Endst: No.3546-57 (Annexure-F)

Before awarding the penalty she underwent 2 enquiries.

(Annexure-G1-12)

 Neither the appointment order nor the verification of her academic/professional documents found in the DEO Khyber.

Recommendations

Keeping the above facts, the undersigned recommends the following

- Mst: Irum Naz PST did not produce any reliable record of her taking over charge as PST. The appointment order however stands as cancelled when charge of the post is not taken.
 She failed to prove her duty at any station/school and carries a full package of absence.
 So, her appointment may be considered as cancelled w.e.f date of 1st appointment i.e. 25/8/2006.
- 2. The order of "removal from service" by the AEO Khyber Endst:No.3546-57 dated:16/11/2017 may be considered as final with the addition of recoveries from her w.c.f her induction in Education Department Khyber as she performed nothing and caused a huge loss to the national exchequer.

02. Mst: Faheema Ex-PST GGPS Aka Khel Zawa Bara District Khyber

FACTS

1. A written statement is obtained from the Ex-teacher.

(Annexure-H 1)

She produced her appointment order which shows that she had been appointed on 29/11/2005 vide Endst:No. 6691-96 at GGPS Aka Khel Bara. (Annexure-H2)

Now it is found from the previous enquiry reports and District Education office Khyber that there is no GGPS Aka Khel Zawa in Bara Tehsil. Another school which she mentioned in her statement, GGPS Shahbaz Aka Khel has also unknown to AEO Khyber.

She produced such unsigned attendance sheet in which only she was present at GGPS Shahbaz which means there was no one except her.

(Annexure-I1-10)

Furthermore, she provided a copy of incomplete attendance sheet for the months of Oct,2011, Dec,2011, April, 2012, May, 2012, June, 2012, , Aug, 2012 of GGPS Bar Wali Khel unsigned.

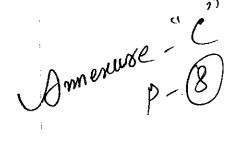
(Annexure-J)

She did not provide any thing authentic which proves her duty at any of the station she mentioned in her statement.

Nothing regarding her appointment is found in District Education Office Tribal District Khyber, revealing her claim that she is rightfully appointment and her appointment is genuine.

 Mst: Faheema (P.No.414782) has taken regular salaries w.e.f date of entry till -28/02/2017 and caused a huge loss to national exchequer.





2. No transfer order found.

- There is no service record found since her induction in Education Department Khyber. Although she produced a copy of service book in which the signatures seems to be fake.
- 4. She has been served with a "Charge Sheet" vide AEO Khyber Endst:No.1485-90/charge sheet dated 21/9/2017

She has been removed from Government Service vide AEO Khyber Endst: No.3520-32 dated: 16/11/2017.

(Annexure-G1-12) Before awarding the penalty she underwent 2 enquiries. 5. Neither the appointment order nor the verification of her academic/professional documents found in the DEO Khyber.

<u>Recommendations</u>

THE CONTRACTOR OF THE CONTRACT

Keeping the above facts, the undersigned recommends the following 01 Mst: Faheema PST did not produce any reliable record of her taking over charge as PST. The appointment order however stands as cancelled when charge of the post is not taken.

She failed to prove her duty at any station/school and carries a full package of absence.

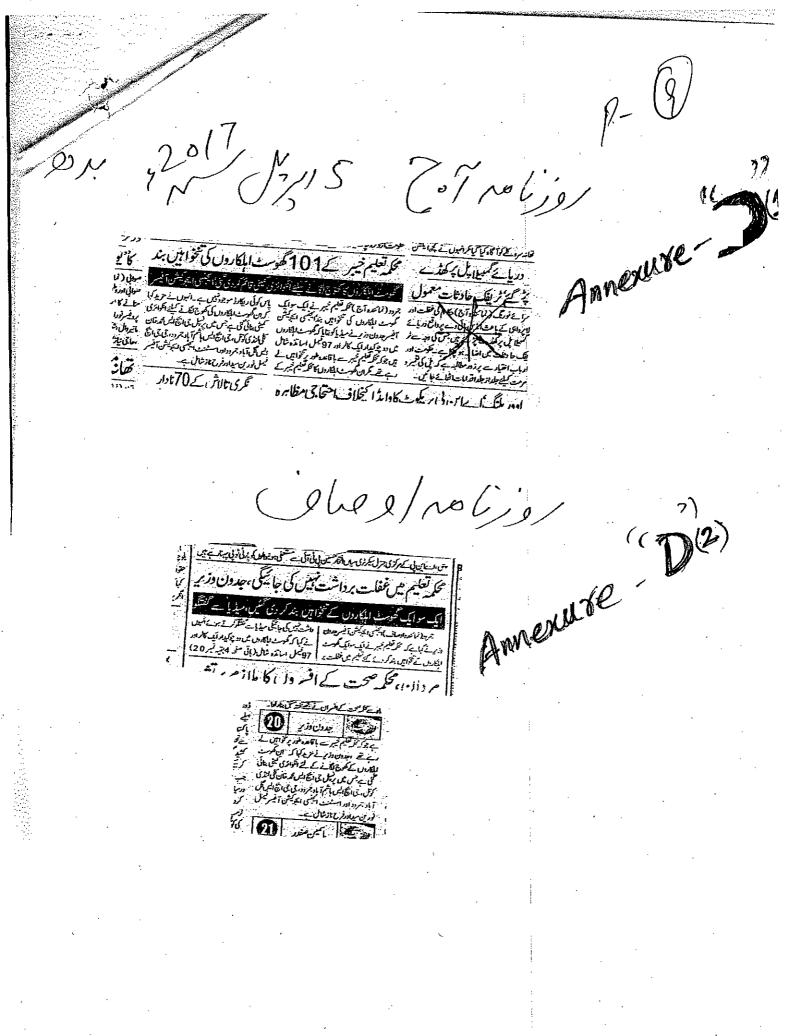
So, her appointment may be considered as cancelled w.e.f date of 1st appointment i.e. 29/11/2005.

02 The order of "removal from service" by the AEO Khyber Endst:No.3520-32 dated:16/11/2017 may be considered as final with the addition of recoveries from her w.e.f her induction in Education Department Khyber as she performed nothing and caused a huge loss to the national exchequer.

Krincipal

GHSS Kalanga Bara

District Khyber



BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 1286/2019

| | | 1 | | |
|-----------------|------|--------|-------|--------------------|
| Iram Naz Ex-PST | 1170 | 7 | **: | |
| Ham Naz Ex-FSI | V. | Govern | menta | of K PK |

Subjec: Release of salary

Respectfully Sheweth;

The state of the state of

- With profound regard it is stated that Honourable Service Tribunal Khyber Pakhtunkhwa Peshawar passed the order on 03.03.2020 to attach the salary of the Director E&SE KPK Peshawar (Respondent), as the undersigned (Director E&SE KPK Peshawar) had not decided the appeal of the appellant.
- Now the departmental appeal of the appellant fram Naz is decided and copy is attached, so it is utmost humble request to release the salary of Director E&SE Peshawar (Respondent).

Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar

DIRECTORATE OF E&SE DEPARTMENT KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION.

- Whereas, the appellant namely Mst. Irum Naz Ex-PST was appointed against the PST post vide order bearing Endst: No.1341-45 dated 25-08-2006 at GGPS Muhammad Hussain Bara Khyber issued by the then Agency Education officer Khyber and removed from service on account of her willful absence from duty vide the impugned order dated 16-11-2017 after observing all the codal formalities by the Respondent Department.
- And whereas, aggrieved from the above mentioned impugned order dated 16/11/2017, the appellant has filed a Departmental Appeal which was not decided within the statutory period of 90 days, hence, a Service Appeal No: 1286/2019, on dated 30/09/2019 under case titled Mst. Irum Naz Ex-PST Vs Govt: of KPK & others still pending adjudication before this Honorable Tribunal, Peshawar.
- And whereas, an inquiry committee was constituted by the Respondent No.2/Director E&SED KPK Peshawar, to probe into the matter & the inquiry committee has submitted inquiry report to the Respondent Department vide Endst No. 3099-4000 dated 20-04-2019, with the recommendations that the Departmental Appeal for Reinstatement in service against the PST post be rejected by maintaining the impugned order dated 16/11/2017 of the then AEO Khyber on the grounds that appellant has not performed her official duty against the PST post & has drawn salaries & allowances without any legal justification and has thus found guilty of causing huge financial losses to the Govt: Treasury.
- And whereas, the Honorable Service Tribunal Peshawar vide order dated 03/03/2020 rendered in the tilted service appeal has directed the Respondent No.2 to produce the record of the appellant including regression of the Departmental Appeal by the appellate authority in the titled case on the date fixed.

Now therefore, in compliance of the order sheet dated 03/03/2020 of the Honorable Service Tribunal, having gone through the whole case record along with consulting the relevant provision of E & D Rules 2011 & in Exercise of the Powers conferred upon the undersigned under U/S-21 of General Clauses Act 1897 as amended in 1956 & in a capacity of an Appellate Authority in the instant case, the Departmental Appeal of the appellant is hereby stand rejected by maintaining the impugned order dated 16/11/2017 with immediate effect and in the interest of public service.

Director, (E&SE) Department Khyber Pakhtunkhwa, Peshawar.

Endst: No: 2-19-24/DD (Litigation) Mst: Irum Naz Ex PST Khyber Dated Peshawar the

Copy forwarded for information & n/action to the:-

1 Registrar Khyber Pakhtunkhwa, Service Tribunal, Peshawar.

2 Addl: Advocate General Khyber Pakhtunkhwa, Service Tribunal, Peshawar

3 Deputy Director (Legal) local Directorate.

District Education Officer (M/F) Khyber

Ex-Official concerned.

PA to Director local office.

Deputy Director (Estab) Directorate of Education (NMTD) Warsak Road Peshawar.



Agency Education Office Khyber Agency at Jamrud

Phone. 091-5820584 Fax 091-5820265

Fax 091-5820265
American

NOTIFICATION

- 1. WHEREAS the Agency Education Officer Khyber Agency had come to know through the AAEO (Female) Bara Khyber Agency, that Mst:Irum Naz PTC P/No/00410359 GGPS Muhammad Hussain Bara Khyber Agency is absent since her appointment order AEO Khyber Enst No.1341-45 dated 25/08/2006. It was published in daily news paper Daily Aaj and Daily Awsaf dated 5th April 2017 informed all (101) female ghost employees to report for duty.
 - 2. WHEREAS On the recommendation of Enquiry Committee vide this office Endst No.1691-1697 dated 20/03/2017, The undersigned charge sheeted you vide this office Endst No. Endst No.1522-27/Charge Sheet dated 21/09/2017.
 - 3. WHEREAS Your reply to the charge sheet declared unsatisfactory by the Enquiry Committee constituted vide this Office Endst No.1575-78 dated -21/09/2017 for personal hearing vide Enquiry Officers letter No.208 dated 19/10/2017
 - 4. NOW THERFORE In exercise of the powers conferred under Para 4 b (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) rules 2011, the competent Authority, Agency Education Officer Khyber, is pleased to impose a major penalty <u>"removal from service"</u> upon Mst Irum Naz PTC P/No/00410359 GGPS Muhammad Hussain Bara Khyber Agency with immediate effect.

(MUHAMMAD JADOON KHAN) AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD

Endst No. 7546-57 Dated 16 /11/2017
Copy forwarded to the:-

- 1. Additional Chief Secretary FATA Secretariat Peshawar.
- 2. Secretary SSD FATA Peshawar.
- 3. Director of Education FATA Peshawar.
- 4. Political Agent Khyber Agency at Peshawar.
- 5. DD(M&E) Directorate of Education FATA Peshawar.
- 6. AG Sub Office Peshawar.
- 7. Agency Accounts Officer Khyber Agency at Jamrud.
- 8. All AAEOs Local Office.
- 9. Temale Accounts Section.
- 10. 11. Superintendent /Accountant for entry in her service book.
- 11. Official concerned.
- 12. Office Copy.

AGENCY EDUCATION OFFICER
KHYBER AGENCY ALIAMRUD

BEFORE THE SERVICE TRIBUNAL KYBER PAKHTUHKHAWA, PESHAWAR,

Service Appeal No.1286/19

Iram Naz.....Appellant

Versus

Govt. of KPK through SecretaryEducation Peshawar , civil Secretary and Secretary ------Respondent

Para wise comments on behalf of respondents No.3.

Preliminary objections:

- 1. That the appellant has got no cause of action/locos standi to file instant appeal.
- 2. That the appellant has not come to this Honorable Tribunal with clean hands.
- 3. That the appellant concealed material facts from this Honorable Tribunal
- 4. The appellant is estopped by her own conduct to bring the present appeal.
- 5. That the appellant is bad due to mis-joinder and non-joinder of necessary parties.
- 6. That the appeal is barred by law.

FACTS:

Respectfully submitted as;

- 1. Incorrect . Hence denied. The appointment order of appellant is fake /bogus. The appellant could not justify her attendance . The Statements of Mst Khudija PST and Mst Hamida at GGPS Muhammad Hussain Killi reveals that the appellant is totally fake/ bogus because they do not know any thing about the appellant (IrumNaz) . So the appointment order of the appellant is fake/ bogus, therefore she could not justify her long absence period from duty, copies of the appointment order and written statement of two teachers are attached as **Annexure A & B**.
- 2. No comments.
- 3. Incorrect . Hence denied. Three Inquires have been conducted in the case of the appellant. Last and final inquiry report submitted by Mst.Khalida Shah the principal GGHSS Kalanga Bara, District Khyber also reveals that the appellant did not prove her attendance at any school. The appellant performed nothing but caused a great loss to national exchequer, copy of the inquiry report attached as Annexure C.
- · 4. Incorrect . Hence denied. As elucidated in para-3 above.
 - 5. Incorrect. Hence denied. As elucidated in para-3 above!
 - 6. No comments.

Grounds:

A. Incorrect. Hence denied. The appellant has been treated according with law/rules. The respondent department never violates the rights of any one. The appointment order of the appellant is fake/bogus. The appellant neither took over charge at said school nor performed any duty at any school in District Khyber, Copy of the appointment order attached as Annexure A. Two Show cause notices were served upon the appellant in two leading newspapars dated, 05/04/2017, copies

p_ (2)



attached as **Annexure D(1,2)**. Then the appellant was charge sheeted vide DEO Khyber Endst No. 1522-27 dated, 21/09/2017, copy attached as **Annexure E.**Two more inquiry reports have been submitted in the case of appellant dated, 23-08-2017 and dated, 19-10-2017, copies of the inquiry reports attached as **annexure F & G**. Finally on the basis of the inquiry reports the appellant was removed from Service vide Endst No. 3546-57 dated, 16/11/2017, copy of the removal from service attached as **Annexure H.**

- B. Incorrect. Hence denied. As elucidated in para A above.
- C. Incorrect. Hence denied.
- D. Incorrect. Hence denied. As elucidated in para A above.
- E. Incorrect. Hence denied. The appellant could not justify a single day duty. She caused a great loss to the national exchequer by drawing salaries at home.
- F. Incorrect . Hence denied.
- G. Incorrect. Hence denied. Recovery may also be made from appellant as she never performed her duty and got salaries setting at home.

Pray:

Keeping in view the above legal and factual position, it is humbly requested that the instant appeal may kindly be dismissed with cost.

Respondent No. 03

District Education Officer,

Khyber Tribal District at Jamrud

<u>AFFIDAVIT</u>

I the above respondent do hereby declare and affirm the above comments

Are true and correct to the best of our knowledge and nothing has been concealed from this Honorable Tribunal.

Respondent No. 03

District Education Officer/

Khyber Tribal District at Jamrud,



Agency Education Office Khyber Agency at Jamrud PHONE: 091-5820584 FAX 091-5820023

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CHARGE SHEET

1. 1. Muhammad Jadoon Khan: the Agency Education Officer Khyber: as a competent authority under Khyber Pakhtunkhwa Govt Servants (Efficiency and Discipline i Rules. 2011. do hereby charge You Mst. Iram Naz (P.No.410359) PST GGPS Muhammad Hussain Bara Khyber Agency, as follow:

a. That you were missing from your duties for long period of time reported by AALOs concerned and later on confirmed by enquiry committee constituted for this purpose.

b. That your appointment order Endst: No.1341-45 Dated: 25/8/2006 that you presented before the enquiry committee is found fake and bogus.

c. That as per Statements recorded in r/o Mst Hameeda Bibi PST since 30/8/2006 and Khudeja PST since 08/08/2009 at GGPS Muhammad Hussain not perform any duty.

d. That as per your statement that you performed duty at GGHSS Kalanga but there is no documental proof in support of your statement.

2. By reasons of the above, you are guilty of acts of omission and commission under section (b) and (c) of rule No. 3 of the said rules and have rendered yourself to all or any of the penalty in rule No.4 of the rules ibid.

 You are therefore required to submit your written defense within 7 days of the receipt of this charge sheet to the AEO, competent authority.

4. Your written defense, if any, should reached the undersigned within 7 days not more than 15 days falling which it shall be presumed that you have no defense to put in and in that case expertly action shall be taken against you.

Intimate wither you desire to be heard in person.

Statement of allegation described in Para 1a.b.c&d

(Muhammad Jadoon Khan)

Agency Education Officer; Rhyber Agency at Jamrud.

dated:21/9//2017

Endst:1522-27/shargesheets

Copy forwarded to:

- 1. Additional Chief Secretary FATA Secretariat Peshawar.
- Secretary (A&IC) FATA Secretariat Peshawar
- 3. Director Education FATA.
- Political Agent Khyber at Khyber House Peshawar.
- 5. Iram Naz PST at her home address(Dist: Peshawar, Charsadda roadk, Nobakki Peshawar,

Supp: Local Office.

Agency Education Officer, Khaper Agency & Jamend.

WHARE WEEK VEENCA WAWKEED



| AGENCY KHYBER NO | EDUCAT AGENCY | ION | OFFI JAMR | TE YER |
|------------------------|------------------|-----|--------------|--------|
| DATE- | | | D/P | /2017 |

INQUIRY REPORT IN CONNECTION OF 101 MISSING FEMALE TEACHERS

BACK GROUND HISTORY.

Some one hundred & one (101) female teachers working in Khyber Agency were gone "missing". They were receiving their salaries regularly but their where about was unknown. AEO Office Khyber Agency worked day and night and issued a list of one hundred one teachers/staff in this connection. In order to bring these teachers to lime light, their salaries were stopped. Stopped salaries unearthed some of these teachers and they began to contact AEO Office.

AEO Khyber Agency setup a committee to opening in the the

AEO Khyber Agency setup a committee to enquire in to the matter. The committee comprises of the following members.

- 1. Mr:Muhammad Ihsan Shah Principal GHS Muhammad Khan Killi Lkl.
- 2. Mr-Abdur Rahman Principal GHS Hashim Abad Jamrud.
- 3. Mst:Safia Khatoon Principal GHS Gul Abad Jamrud.
- 4. Mst. Noreena Sayed AAEO Female Bara.
- 5. Mst:Farah Naz AAEO Female Jamrud.

Procedure Followed

First of All the committee framed a pro-forma consisting of 16 points. A list of attachments of 11 items was also given at the end of the pro-forma.

Every missing teacher was called to AEO Office for personal hearing. They were given full freedom to explain their absence. They were also called to fill the pro-forma and attach the necessary and required documents with pro-forma.

Facts Findings:

It's a bitter fact that all the teachers interviewed so far guilty of long absence and punishment / penalty is the corollary of their wrong doings. But we do think and sure that there were some people in AEO Office who were in connivance with these culprits. They provided shelter to veil their crimes.

After studying the cases of the missing teachers (08 Nos), the committee came to the conclusion that,

- a. There are certain variations and ambiguities in the $1^{\rm st}$ appointment orders of all these teachers.
- b. Unluckily, their 1st appointment order copies could not be verified from AEO Office as record of that period is not available and has been intentionally misplaced or stolen.
- We, the members of inquiry committee found "long absence" as the common denominator of all the cases dealt so far, yet specific factors are also attached with each case.

Salient features of each case are hereby given in the following lines separately.

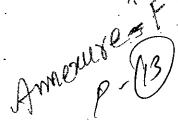
1. MST:Abida Wagar PST: - (Personal No.00410281) According to the documents she was appointed on PST Post vide AEO Khyber Endst No.71341-45 dated 29/6/2006 at GGPS Kam Shalman Lkl in BPS-07. According to her statement she is now working at GGPS Misal Khan Lkl.

The stong history of sheence. Her sheence period prevails on years. She

Amerinsé 2. MST: Fahima PST:-(Personal No.00414782) Appointed on PST Post vide AEO Khyber Endst No.6691-96 dated 29/11/2005 at GGPS Aka Khel Zawa Bara. She has also a long history of absence. Her absence period prevails on years: She has no proof to justify her absence. Her incomplete documents are attached with this report for further process.

- 3. MST: Sana TT:- (Personal No.00414825) Appointed on TT post vide AEO Khyber Endst No.1341-46 dated 03/09/2006 at GGPS Said Rahman Killi Bara. She also remained absent from her duty for years. According to her statement on a stamp paper of Rs=50/- she remained absent for a period of 15(fifteen) months only. Her incomplete documents are attached with this report for further process.
- 4. MST: Humaira Gul PST: (Personal No.00412627) Appointed temporarily at GGPS Sultan Khel Bara in BPS 07 vide AEO Khyber Agency Endst No.12638-42 dated 13/09/2006. She remained absent for years from her duty. She has nothing to prove her innocence. Her incomplete documents are attached with this report for further process.
- 5. .MST:Gul Afshan TT:- (Personal No.00511421) Appointed on TT post at GGPS Zawa Vide AEO Khyber Endst No. 74134-38 dated 03/09/2007. Her present school is GGPS Shekhwal Landi Kotal. She was found guilty of year's long absence. There is nothing to clear her account. Her incomplete documents are attached with this report for further process.
- 6. .Mst:Nosheen PST:-(Personal No. 00413771) She was appointed on PST Post at Khuga Jan Killi Bara Khyber Agency vide AEO Khyber Order No. 12043-47 dated 13/09/2006. She performed her duty in the mentioned school till 16/01/2009. She was then adjusted at GGPS Raja Khan Killi Bara vide AEO Khyber Endst No.103-107 dated 16/01/2009. She was verbally re-deployed to GGPS Wazir Dhand No.2 due to military operation in Bara. She performed duty regularly w.e.f September 2010 to 31/05/2012 as per statement of head teacher GGPS Wazir Dhand No.2 duly signed and stamped by her. After the mentioned date ile 31/05/2012 she remained absent from her duty. Her incomplete documents are attached with this report for further process.
- 7. Mst:Seema PTC:- (Personal No.0422978) She was appointed on PTC post at GGPS Misal khan LKL in BPS-7 vide AEO Khyber Endst No.11017-21 dated 13/09/2006. She remained absent from her duty for so many years. Her incomplete documents are attached with this report for further process.
- Mst: Irum Naz PST (Personal No.00410359):- According to documents she has been 08. appointed on PST post vide AEO Khyber Endst No.1341 45 dated 25/8/2006 at GGPS Muhamad Hussain Bara Khyber Agency. She remained absent from her duty for so many years (exact period of absentia unknown). Her incomplete documents are attached with this report for further processing to the pext end.

commendations.



The committee put the following recommendations for your kind perusal please.

- 1. The Authenticity of the 1st appointment orders of all the teachers must be ascertained before taking any step regarding the future and past of these teachers.
- 2. Existence/availability of the Schools as well as sanction post by name and location mentioned in the appointment orders of all the above mentioned teachers must be verified from the SNE /other Office record of AEO Khyber before any disciplinary/punitive action.
- Punishment may please be enforced in strict compliance of the E&D rules as mentioned in the amended Esta Code KP version.
- 4. Benefit of doubt wherever applicable may please be given to the employees.
- 5. The salaries of the missing employees if released conditionally, may please be Stopped immediately. This situation tilts the balance and creates doubts regarding the enquiry. If it is not possible then salaries of all those missing employees who have reported to the Inquiry Committee so far, and whose details have been mentioned above, may please be opened conditionally.

6. The above recommendations may please be applied on all the missing employees across the board.

- 1. Mr Muhammad Ihsan Shah Principal GHS Muhammad Khan Killi Lkl.
- 2. Mr: Abdur Rahman Principal GHS Hashim Abad Jamrud.
- 3. Mst:Safia Khatoon Principal GHS Gul Abad Jamrud.
- 4. Mst:Noreena Syed AAEO (F) Bara.
- 5. Mst:Farah Naz AAEO (F) Jamrud.

Muuma 23 2017

A model of



GCET (M) JAMRUD KHYBER AGENCY

No.

268

Annexure

Phone No. 091-5820311

To,

The Agency Education Officer, Khyber Agency at Jamrud

Subject:-

ENQUIRY REPORT.

Memo,

Reference your office letter No.1575-78 date 21/09/2017, the enquiry report in respect of eight No's teachers is hereby submitted for your perusal and necessary action please.

Encl: (AA)

Principal
GCET (M) Jamrud
Khuber Agency

Khyber Agency.

TO TO

ENQUIRY REPORT

America -

Background:-

Agency Education Officer Khyber Agency nominated us to enquire into the matter regarding Eight PST and TT (F) teachers. They were found absent from duty and were dig out by the AEO and AAEO. He further added to investigate all aspects and report to the undersigned for further necessary action. It is worth mentioning that charge sheets have been issued on 21/9/2017 to all eight teacher because the report submitted by them to the first enquiry committee was fake and bogus.

Procedure:-

We the undersigned enquired into the matter both orally and in written form all the above mentioned teachers. We also thoroughly checked their Service Books, documents and attendance registers of their respective schools. During enquiry both AAEO (F) of Bara and Landi Kotal were present, we took help from them when required Name and statement of Teachers.

1. Abida Waqar (PST):- She was appointed as PST teacher on 29/6/2006 in Misal Khan Landi Kotal with Enst; No 71341-45. In her statement, she contessed that her husband received her appointment order from the office and she does not know whether it is fake or otherwise. She has not even seen her school in kam shalman LKL. When we asked about her salary, she mentioned that her husband was receiving her salary from the bank. She possessed charge report of her taking over charge in April 2017 which also seems to be bogus.

Findings:-

- . 1. Keeping in view the report of earlier enquiry committee and oral and written statement taken by us, she is guilty of taking salary since long without attending the said school.
 - 2. Her appointment order also seems bogus because no record of her appointment period is available in the Agency Education Officer.
 - 3. It also seems that AAEOs (F) and Clerks of that period were involved in this crime.

commendation:-

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Her response to the show cause notice is unsatisfactory.

Recovery should be made from her due to her long absence and loss to the Govt; treasury/ Ex-enquire.

- 3. Being bogus and fake in her appointment, the case should be decided through E&D rule 2011.
- Wist Faheema (PST):- First Appointment GGPS Akha khel Zawa Bara Enst; No 2. 6691-96 dated 29/11/2005
 - According to the AAEO (F) Bara and AAEO (P&D) of AEO Office the above mentioned school does not exist. During her Personal hearing and written statements, the concerned teacher served at GGPS Shah Baz killi zawa Bara having no identity.
 - She did not provide any proof regarding her attendance at GGPS Akha Khel zawa and of GGPS Shah Baz Killi Bara w.e.f.29/11/2005 to Sep 2009
 - She provided the photo copies of her attendance of GGPS Wali Khel LKL w.e.f Oct 2011 up to 15th March 2012 and then she disappeared up to March 2017. She was getting her salary at home for which she was paying to the Ex-AAEO (F) Bara. Mst. Shahnaz.
 - Then she started service after a long period of five years at GGHS Mawaz Killi - Bara w.e.f 27th April 2017, however could not prove her attendance.

Finding:-

- 1. After thorough oral and written statements, the school mentioned in the appointment order has no existence. Similarly, AEO Office could not verified her appointment. Her case should be decided according to E&D rules (2011), keeping in view her long absence period of the concerned teacher.
- 2. Record of her appointment period is not available in the AEO Office.
- 3. Her mentioned school does not exist.
- 4. She was taking her salary at home and was monthly paying to the Ex-AAEO for it.

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Her response to the show cause notice is unsatisfactory

- (ii) As ponalty, E&D rules 2011 should be applied because sho extended great tase to the Govt; Ex-chaque
- (iii) Recovery should be made from her due to long absence w.c.* M.s.ch 2012 to March 2017.
- Mst. Sana (TT):- First Appointment at GGPS Said Rahman Killi Bara, Erdst, No 1341-46 doted 30/9/2006.
- The concerned teacher is totally unawars of her duty and did not show any proof about her previous duty and attendance.
- According to her oral statement, she was facilitating and teaching the students in evening and did not take any class in the morning
- She presented her first charge report having date of 28/3/2017 which scems take with false justification.
- In her written statement she mentioned that she was absent for fifteen months which clearly indicate her irregulativ.
- Similarly, in her oral statement, the pointed out that she has done Shehedetud Allamia while she had certificate of Shahadatul Aalia, which clearly indicates her ignorance regarding Deeni I Islamic certificates or knowledge.

Findings

- t. From her oral and written statement, it is very clear that her appointment is bor, us
- Sha was performing part time duty in the evening and later convorted to permanent
 Tr post without any proof or advertisement,
 - 3. She remained absent from duty since long.
- 4. She did not even know about her Shahadatul Aalia certificate which clostly indicates her ignorance about Islamic knowledge. Her certificates square to be bogus.

Recommendation:-

- 1. Her response to the show cause notice is unsatisfactory.
- On the bases of previous enquiry remarks and on the above oral and written statement, it has been proved that the concerned teacher did not attend the school

regularly and possess fake Deeni Sanad and appointment order. So, action should be taken according to E&D rules 2011.

3. Recovery should be made from her.

- 4. <u>Humaira Gul (PST):-</u> First Appointment at GGPS Sultan Khel Bara Endst; No 12638-42 dated 13/9/2006.
 - The concerned teacher through oral and written statement informed the undersigned that she performed her school's duty up to 2009 and then after Army Operation, she did not attend the school up to 2014. However she was getting her salary regularly at home.
- She also informed the undersigned that she approached the AEO Office in September 2014 and through bargaining in the AEO Office, she was not re-deployed in Tehsil Jamrud on Landi Kotal for duty. However she was getting her salary without any break After scrutiny through AEO Office in February & March 2017, her pay stopped w.e.f April-2017.
- In May-2017, she was again re-deployed to GGPS Noor Salam Bara and appeared before the Enquiry Committee in May 2017 for the first time.

Finding:-

- 1. She herself confessed in her oral and written statement that she was absent from 2009 up to 2017.
- 2. She bargained with the Ex-AAEO (F) and received her salary during her absent period regularly.
- 3. In Ex-AAEO (F) being the field officer is guilty of not reporting her to the AEO for legal action rather receiving a part of salary from her.
- 4. Records of her appointment is not available in the AEO Office which indicate secrete dealing during that time.

Recommendation:-

- 1. Her response to the show cause notice is unsatisfactory.
- 2. Recovery should be made from her and also penalized by applying E&D rule 2011.

Omenure - G

Mst. Gul Afshan (TT):- First Appointment at GGPS Zawa Bara Khyber Agency Enst;

No. 74134-38 dated 03/09/2007.

 According to the written statement of the concerned teacher, she did not attend the said school even a single day. She informed the undersigned that she attended the school only for 15 days but did not provide any proof of her attendance.

- 2. After army operation, she was redeployed to GGPs Sheikhwal Landi Kotal and she joined her duty in the said school for a few days. Then, by mutual bargaining with Shah Naz AAEO (F) Bara, she got her salary regularly without any break.
- 3. The concerned teacher also informed us that her husband got the appointment order from the Ex-AAEO (F) through payment. According to her oral statements, she has not attended any school nor the mentioned school exist as reported by AAEO (Dev) and AEO Jamrud.

Finding:-

6.

- She was unable to prove her attendance, even unaware of her school.
- The mentioned school does not exist in Bara Tehsil.
- Being TT she was behaving like illiterate and totally unaware of Islamic knowledge or values.
- She was receiving her salary at home through bargaining with AAEO (F) and clerks.

Recommendation:-

- 1. Her response to the show cause notice is unsatisfactory.
- 2. Keeping in view her absence from duty, bargaining with AAEO and bogus documentation the E&D rule 2011 should be applied.
- 3. Recovery should be made from her due to loss to the Govt; Treasury.
 - Mist. Nosheen (PST):- First Appointment GGPS Khuga Jan Killi Bara Enst; No 12034-47 dated 13/9/2006.
 - (i) The concerned teacher appeared before the committee on 9th Oct 2017 and provided written statement that she performed her duty in the said school up to January 2009.

After army operation, she was redeployed to GGPS Wazir Dhand Jamrud (ii) w.e.f 15/01/2010 to 01/09/2012.

Then the concerned teacher disappeared w.e. (01/09/2012 up to March (iii) 2017 and did not attend the AEO Office for the adjustment in any other school. She bargained with the AAEO (F) Bara Mst. Shahnaz.

After the stoppage of pay, she rejoined her duty again at GGPS Akka Khel (iv) on 18/04/2017, AEO khyber has released her pay and also granted Medical leave.

Finding:-

- 1. From January 2009 to September 2012, she served at GGPS Khuga Jan Bara and GGPS Wazir Dhand.
- 2. From September 2012 to April 2017, she remained at home without performing her duty. During this time, she was receiving her salary.
- 3. In April, when she was dig out, she joined her duty at GGPS Aka Khel Ban in 2017 after 5 years at home.
- 4. AEO khyber has released her pay and also granted medical leave.
- 5. Record of her appointment during 2005-06 is not available in the AEO Office.
- 6. It is also negligence on the part of Ex-AAEO (F) that being field officer, she did not pointed out her absence.

Recommendation:-

- 1. She performed her duty at different stations up till (1/9/2011,) but after that disappeared till March 2017 due to law in order situation so recovery should be made for the absent period.
- 2. It is recommended that SSC, Intermediate and PTC certificates should be verified through concerned boards.

Mst Seema (PST):- First Appointment at GGPS Misal Khan Landi Kotal Enst; No 11017-21 dated 13/09/2006.

1. The concerned teacher appeared before committee on 3/10/2017 for personal hearing and submitted her written statement about her duty. She performed her

Amenus - G

duty in the said school. Then she was transferred to GGPS Sheikhwal khel landi Kotal and latter adjusted at GGPS Major Awal Khan.

2. After 2015, she disappeared from duty up to April 2017. However she provided documentary proof of her transfer and redeployment at different stations.

3. She herself confessed that she was absent for about five years but was getting her salary regularly.

Findings:-

- 1. She has performed her duty at different stations from 2006 to 2013 but later disappeared due to law and order situation.
- 2. She remained absent from duty from 2013 to April 2017 without informing the office.
- 3. It is also negligence on the part of AEO (F) that she was not redeployed to Jamrud or Landi Kotal or she was not penalized.
- 4. She solemnly declared that she was not paying in the AEO Office.

Recommendation:-

- 1. She performed his duty at different station but remained absent for about five years due to law and order situation. Therefore recovery for the absent period should be made from her salary.
- 2. It is recommended that SSC, Intermediate and PTC certificates should be verified through concerned boards.
- 8. Irum Naz PST:- She was appointed on 25/08/2006 under Endst; No 1341-45 at GGPS Mohammad Hussain Bara on 25/09/2006. She was deputed to Kalanga Bara. Then she was detailed to Jamrud but did not join the school according to historal statement she was kidnaped and FIR is the Political Agent Office. However she did not provide copy of FIR. She promised to bring her attendance in the above mentioned school but failed to do so. When her salary stopped by the AEO Office, she reported in the AEO Office

Finding:-

1. She failed to provide any documents in support of his attendance. It means that she remained absent from her duty.

2. She also failed to provide copy of FIR.

Amenute 3. When AAEO (F) enquired from Mst. Khadija (PST) and Hameeda PST at GGPS Mohammad Hussain. They reported that they do not know Mst. Irum Naz.

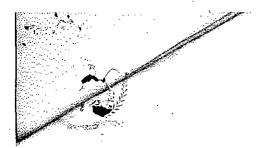
Recommendations:-

- 1. Her response the show cause notice is unsatisfactory.
- 2. She failed to provide documents in support of her statement.
- 3. Recovery should be made and should be penalized by E&D rule 2011.

19110/207

1. Enquiry Officer Mr. Muhammad Ashraf Vice Principal .GCET (M) Jamrud Khyber Agency

English Officer Mr. Saleem Khan Principal ଔHS Sur kamar Jamrud Khyber Agency



Agency Education Office Khyber Agency at Jamrud

Phone. 091-5820584 Fax 091-5820265

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NOTIFICATION

- WHEREAS the Agency Education Officer Khyber Agency had come to know through the AAEO (Female) Bara Khyber Agency, that Mst:Irum Naz PTC P/No/00410359 GGPS Muhammad Hussain Bara Khyber Agency is absent since her appointment order AEO Khyber Enst No.1341-45 dated 25/08/2006. It was published in daily news paper Daily Aaj and Daily Awsaf dated 5th April 2017 informed all (101) female ghost employees to report for duty.
 - 2. WHEREAS On the recommendation of Enquiry Committee vide this office Endst No.1691-1697 dated 20/03/2017, The undersigned charge sheeted you vide this office Endst No. Endst No.1522-27/Charge Sheet dated 21/09/2017.
- 3. WHEREAS Your reply to the charge sheet declared unsatisfactory by the Enquiry Committee constituted vide this Office Endst No.1575-78 dated -21/09/2017 for personal hearing vide Enquiry Officers letter No.208 dated 19/10/2017.
- NOW THERFORE In exercise of the powers conferred under Para 4 b (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) rules 2011, the competent Authority, Agency Education Officer Khyber, is pleased to impose a major penalty "removal from service" upon Mst Irum Naz PTC P/No/00410359 GGPS Muhammad Hussain Bara Khyber Agency with immediate

(MUHAMMAD JADOON KHAN) AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD

Endst No. 7546-57 Dated 16_/11/2017 Copy forwarded to the:-

- 1. Additional Chief Secretary FATA Secretariat Peshawar.
- 2. Secretary SSD FATA Peshawar.
- 3. Director of Education FATA Peshawar.
- 4. Political Agent Khyber Agency at Peshawar.
- 5. DD(M&E) Directorate of Education FATA Peshawar.
- 6. AG Sub Office Peshawar.
- 7. Agency Accounts Officer Khyber Agency at Jamrud.
- 8. All AAEOs Local Office.
- 9. Female Accounts Section.
- 10, 11. Superintendent /Accountant for entry in her service book.
- 11. Official concerned.
- 12. Office Copy.

AGENCY EDHO KLIYBER AGENCY

PESHAWAR HIGH COURT, PESHAWAR FORM "A" FORM OF ORDER SHEET.



| | | 63 |
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| Serial No of | Date of Order or | Order or other proceedings with Signature of judge of Magistrate and that |
| order or | Proceeding | of parties or counsel where necessary |
| proceeding | | |
| 1 | 2 | 3 |
| | | Writ Petition No.3880-P/2019. |
| • | 04.7.0040 | |
| | 24.7.2019. | Present:- |
| | | |
| · | | M/s Muhammad Adeel Butt & |
| | * | Humaira Gul Advocates, for the |
| | · | petitioner. |
| | | potation. |
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| • | | II/DABAUL I ALLI/IIABI II. Through the instant |
| | , , | IKRAMULLAH KHAN, J:- Through the instant |
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| | | petition under Article 199 of the Constitution of |
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| | | Islamic Republic of Pakistan, 1973, petitioner |
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| • | | has prayed for the following relief:- |
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| | | "that on acceptance of this |
| | | Writ petition, this honourable |
| | | Court may graciously direct |
| • | | the respondents to reinstate |
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| | | the petitioner and to act in |
| | | accordance with law. Any |
| | | other remedy deems fit may |
| • . | | also be granted under the |
| | | circumstances." |
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| | | 2. As petitioner was a civil servant, who |
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| | | had filed a departmental appeal, the copies of |
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EXAMINER Peshawar High Court

Service Tribunal concerned subject to limitation if she so advised. As such this writ petition is dismissed accordingly. Announced. 24.7.2019. JUDGE 27 JUL 230

"A.Qayum PA"

(DB)



KHYBER PAKHTUNKWA

SERVICE TRIBUNAL, PESHAWAR

No. 87 /ST

Dated: 13 /01 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281 Fax:- 091-9213262

To ·

The District Education Officer, Government of Khyber Pakhtulnkhwa, Khyber.

Subject:

JUDGMENT IN APPEAL NO. 1286/2019 MR. IRUAM NAZ & 1 OTHER.

I am directed to forward herewith a certified copy of Judgement dated 15.12.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR