

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	03.02.2020	<p style="text-align: center;"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b>  <b>Service Appeal No. 604/2019</b>  <b><u>At Camp Court, Swat.</u></b></p> <p style="text-align: center;">Date of Institution ..... 09.05.2019  Date of Decision ..... 03.02.2020</p> <p>Mst. Bibi Aisha Jamil SST GGHS Drosh, Tehsil &amp; District Chitral.  <span style="float: right;"><b>Appellant</b></span></p> <p style="text-align: center;"><b>Versus</b></p> <ol style="list-style-type: none"> <li>1. The Secretary Education (E&amp;SE) Khyber Pakhtunkhwa Peshawar.</li> <li>2. The Director Education (E&amp;SE) Khyber Pakhtunkhwa Peshawar.</li> <li>3. The District Education Officer (E&amp;SE) Chitral.</li> </ol> <p style="text-align: right;"><b>Respondents</b></p> <p><b>Mr. Muhammad Hamid Mughal-----Member(J)</b>  <b>Mr. Hussain Shah -----Member(E)</b></p> <p style="text-align: center;"><b><u>JUDGMENT</u></b></p> <p style="text-align: center;"><b><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u></b> - Learned counsel for appellant present. Mr. Muhammad Jan learned Deputy District Attorney present.</p> <p>2. The appellant (SST) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the following prayer</p> <p style="text-align: center;"><i>“It is therefore humbly prayed that on acceptance of the instant appeal the respondents may kindly be</i></p>

*Handwritten signature and date: 03.02.2020*

*directed to grant/award all back benefits w.e.f dismissal order i.e. 26.01.2012 till reinstatement on 21.08.2017, salaries and the seniority of the said period also be counted towards her length of service.”.*

The appellant is also aggrieved from the order/office letter dated 10.04.2019 of District Education Officer, (Female) Chitral whereby the application of the appellant was returned on the ground that from the record, she has completed twenty year service excluding leave without pay and as per service rule, leave without pay is not included in length of service, therefore, the appellant is not qualified for retirement from service.

3. Learned counsel for the appellant argued that the appellant joined the Education Department in the year 1986; that the appellant remained seriously ill and was unable to perform her duties and she was removed from service vide order dated 26.01.2012; that service appeal No.257/2015 of the appellant against the order of her removal from service was allowed vide judgment dated 02.01.2017, the order of removal of the appellant from service was set aside and the appellant was reinstated in service with the direction to the respondents to conduct de-novo inquiry within a period of three months and in case the respondents failed to conduct and conclude

3.2.2020

inquiry within a specified period of three months from the date of receipt of judgment, then it shall be deemed that the appellant has been reinstated in service and in such eventuality, her period of absence from service shall be considered as leave of the kind due. Further argued that the appellant was reinstated in service while treating her absence period as leave of the kind due vide order dated 21.08.2017 passed by respondent No.2; that the denial of the respondents to grant back benefits to the appellant after her reinstatement in service is arbitrary, illegal and without lawful authority; that the appellant's request for back benefits has been kept aside by the department without any valid reason.

4. As against that learned AAG argued that the appellant was found willfully absent w.e.f 01.06.2009, resultantly she was removed from service vide order dated 26.01.2012 after observing the legal requirements; that the appellant filed service appeal against the order of her removal from service; that the order dated 21.08.2017 of reinstatement of the appellant in service while treating her absence period as leave of the kind due, is in line with the judgment passed in service appeal filed by the appellant against the order of her removal from service.

5. Arguments heard. File perused.

6. As per detail of leave period, annexed by the appellant with the rejoinder, she remained on 101 days medical leave, 390 days earned leave and 1069 days EoL/leave without pay up-till 31.05.2009. The inquiry officer who conducted de-novo inquiry,

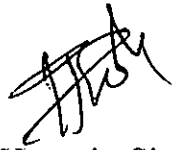

3.2.2010

mentioned in his report that the appellant was granted 1459 days leave up-till 31.05.2009. The inquiry officer has also mentioned that he made request to inform the appellant and it was pointed out to him that the appellant was not present in the country and she is abroad with her husband.

7. Vide order dated 26.01.2012 the appellant was awarded major penalty of removal from service due to her absence from duty w.e.f 01.06.2009 however finally vide order dated 21.08.2017 the appellant was reinstated in service with immediate effect while her absence period as leave of the kind due. Order dated 21.08.2017 remained unchallenged and has thus got finality.

8. In the light of above, this Tribunal reached to the conclusion that learned counsel for the appellant could not make out the case of the appellant for salary of her out of service period and when there is no denial on the part of appellant that she remained absent w.e.f 01.06.2009 without permission of the competent authority. The appellant had already availed more than one thousand (1000) leaves prior to her absence w.e.f 01.06.2009, however if any leave carrying monetary benefit/service benefit is still available in the account of appellant, then the credit of the same shall have to be given to the appellant in view of the order dated 21.08.2017 mentioned above. Similarly the original seniority position of the appellant in the seniority list of SST shall be deemed restored upon her reinstatement. The present service appeal is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the

3.2.2020

		<p>record room.</p> <p> (Hussain Shah) Member</p> <p><u>ANNOUNCED.</u> 03.02.2020</p>	<p> (Muhammad Hamid Mughal) Member Camp Court, Swat.</p>
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03.02.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present.

The present service appeal has been disposed of in terms of separate judgment of today of this Tribunal placed on file. Parties are left to bear their own costs. File be consigned to the record room.



(Hussain Shah)  
Member




(Muhammad Hamid Mughal)  
Member  
Camp Court, Swat.

ANNOUNCED.

03.02.2020

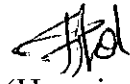
08.10.2019


Brother of the appellant on behalf of the appellant present. Mian Ameer Qadir, Deputy District Attorney alongwith Mr. Eid Muhammad, Senior Clerk for the respondents present. Representative of respondents submitted written reply on behalf of respondents No. 1 to 3 which is placed on record. Case to come up for rejoinder and arguments on 05.11.2019 before D.B at Camp Court Swat.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Swat

05.11.2019


Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Eid Muhammad, Senior Clerk for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 07.01.2020 for rejoinder and arguments before D.B at Camp Court Swat.


  
(Hussain Shah)  
Member  
Camp Court Swat

  
(M. Amin Khan Kundi)  
Member  
Camp Court Swat

07.01.2020

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Learned counsel for the appellant submitted rejoinder and requested for adjournment for arguments. Rejoinder is placed on record. Case to come up for arguments on 03.02.2020 before D.B at Camp Court Swat.

  
(Hussain Shah)  
Member  
Camp Court Swat

  
(M. Amin Khan Kundi)  
Member  
Camp Court Swat

11.06.2019

Learned counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued that the appellant was removed from service vide order dated 31.01.2011 however she was then reinstated in service vide order dated 21.08.2017 and her period of absence from service was treated as leave of the kind due; that the appellant was appointed as SET on 04.09.1986 and in the light of order dated 21.08.2017 mentioned above, she has already completed 25 years of service, as such she is entitled to ask for her retirement hence the order dated 10.04.2019 is not tenable wherein it has been conveyed that the appellant is not qualified for retirement from service having completed 20 year of service.

Points raised need consideration. The appeal is admitted for 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 the respondents for reply/comments. To come up for written reply/comments on 02.09.2019 before S.B at Camp Court, Swat.

Appellant Deposited  
Security & Process Fee

17/6/19

Member  
Camp Court, Swat.

02.09.2019

Brother of the appellant on behalf of appellant present. Written reply not submitted. Eid Muhammad S.C representative of the respondent department present and seeks adjournment to furnish written reply/comments. Granted. To come up for written reply/comments on 08.10.2019 before S.B at Camp Court, Swat.

Member  
Camp Court, Swat.





Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 604/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/05/2019	<p>The appeal of Mst. Bibi Aisha Jamil presented today by Mr. Rahimullah Chitrali Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 9/5/19</p>
2-	15-5-19	<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>11-06-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE HON'BLE CHAIRMAN SERVICE TRIBUNAL, KHYBER  
PAKHTUNKHWA PESHAWAR

Service Appeal No.....604...../2019

MstBibi Aisha Jamil SST GGHS Drosh ,Tehsil& District Chitral.... Appellant

VERSUS

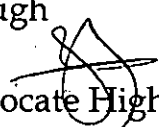
Government of KP through Secretary Education&others ..... Respondents

INDEX

S.No	Description of Documents	Annex	Pages
1.	Appeal with certificate		1-4
2.	Affidavit		5
3.	Copies of letter dated 26-1-2011,order dated 2-1-2017,inquiry report dated 15-4-2017,office order dated 2-8-2017,application dated 11-12-2017,application dated 23-4-2018 ,assumption of charge and office order no DAO Chitral 574-77 and 10-4-2019	A to I	6-22
4.	Copy of vakalatnama		23

Bibi Aisha  
Appellant

Through

  
Advocate High Court

BEFORE THE HON'BLE CHAIRMAN SERVICE TRIBUNAL, KHYBER  
PAKHTUNKHWA PESHAWAR

Service Appeal No.....604...../2019

MstBibi Aisha Jamil SST GGHS Drosh , Tehsil & District Chitral.

Appellant Khyber Pakhtunkhwa  
Service Tribunal

VERSUS

Diary No. 739

Dated 09/5/2019

1. The Secretary Education (E&SE) Khyber Pakhtunkhaw Peshawar.
2. The Director Education (E&SE) Khyber Pakhtunkhaw Peshawar.
3. The District Education officer (E&SE) Chitral.

..... Respondents

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, FOR GRANTING BACK BENEFIT W .E. F SINCE DISMISSAL ORDER I.E 26-1-2011 TILL RE-INSTATEMENT 26-8-2017, SALARIES AND THE SENIORITY OF THE SAID ALSO BE COUNTED TOWARDS HER LENGTH OF SERVICE, AGAINST THE ORDER/ACTION OF THE RESPONDENTS THE PETITIONER FILED DEPARMENTAL APPEAL BEFORE RESPODENT NO.2 AND THE SAME BUT THE SAME WAS NOT CONSIDERED ON 10-4-2019 AND COMMUNICATED TO THE APPELLANT ON 13-4-2019

, HENCE THE INSTANT APPEAL.

Prayer in Appeal:

On acceptance of the instant appeal the respondents may kindly be directed to grant /awarded back benefit w .e. f since dismissal order i.e 26-1-2011 till re-instatement 26-8-2017, salaries and the seniority of the said may also be counted towards her length of service .

Any other remedy which deems fit by his Hon'ble Tribunal in the interest of justice, may also be granted in favour of appellant.

Respectfully Sheweth,

1. That appellant joined the education department in the year 1986 and performed her duties up to the entire satisfaction of her superior and no complained has been filed against the appellant.
2. That the appellant was seriously ill and was unable to perfume her duties and she was removed from the service on 26-1-2012. That the appellant preferred an appeal before this Hon,able court

Filed to-day  
Registrar  
9/5/19

which was allowed on 2-1-2017 and set aside the impugned order 26-1-2012 as well as 19-2-2015 and reinstate the appellant in service with direction the respondents to conduct denovo enquiry within three month and her period of absence from service shall be considered as leave of the Kind due .

3. That her service was terminated without assigning any reason whatsoever ,which termination was found illegal by this Hon,able court as having been made without any reason or justification and the appellant legally entitled to back benefit for the period intervening between the date of termination i.e 26-1-2011 and up to the date of her reinstatement being 21-8-2017 .
4. That in light of said judgment Department issued notification dated 21-8-2017, wherein the appellant was reinstated against the vacant post of SST (BPS 16).
5. That the same was forwarded by District education officer Chitral to respondent no.2 on different date
6. That for the grant of back benefits ,the petitioner thoroughly visited the office of respondent and filed departmental appeal who on either pretexts lingered the matter on, in response to which, the petitioner was advised to go to the Court of law. Hence having available with no alternative, adequate and efficacious remedy, the petitioner is constrained, to approach this Honorable Court, through the present appeal, inter alia, on the following grounds.(Copies of letter dated 26-1-2011,order dated 2-1-2017,inquiry report dated 15-4-2017,office order dated 2-8-2017,application dated 11-12-2017,application dated 23-4-2018 ,assumption of charge , office order no DAO Chitral574-77 and order dated 10-4-2019 are attached as marked annexer A to I)

**GROUND:-**

- A) That the impugned action / inaction rather the denial of the respondents from the all back benefits to the petitioner after her reinstatement, is arbitrary, illegal, without lawful authority, ultra vires the law, rules and the relevant policy governing the subject matter hence, void ab initio.

- B) That the act of the respondents as not complying the judgment of this Hon,able court in its true spirit as highly discriminatory, and biased unlawful, lack backing of the law, void ab-initio.
- C) That this Hon,able court clearly directed the respondents but the respondents wrongly and intentionally interpreted the mandated of the judgment ibid just to deprived the appellant her legal and legitimate right which are not sustainable in the eye of law.
- D) That the seniority is one of the factor which is to be considered for promotion /pension etc but the respondents did not considered the said aspect which act of the respondents are not the sprit of the judgment of this Hon,able court.
- E) That since the petitioner has served the respondent department for about thirtyfive years with no break or interval and with no negative voice ever raised by any of the quarters regarding herperformance and discharging her duties, that the petitioner, is deserving for all related benefits.
- F) That the impugned action / inaction of the respondents is based on discrimination and malafide intentions for achieving their ulterior motives.
- G) Because the appellant request for back benefit has been kept aside by the department, without caring for the judgment of this Hon,able court .
- H) That the act of refusing with all back benefit is against the right and alien to doctrine of nature justice.
- I) That the impugned action / inaction of the respondents are not only suffering from law but the same is also against the fundamental rights of the petitioner guaranteed by the Constitution of the Islamic Republic of Pakistan, 1973.
- J) That, others grounds, with the leave of this Honorable Court, will be raised at the time of hearing.

**PRAYER**

It is therefore humbly prayed that on acceptance of the instant appeal the respondents may kindly be directed to grant /awarded all back benefit w .e. f since dismissal order i-e 26-1-2011 till reinstatement 26-8-2017, salaries and the seniority of the said also be counted towards her length of service.

*Bibi Aisha*

Petitioner

Through

*Rahim Ullah Chitrali*  
Advocate High Court

**Certificate:-**

It is certified that no such appeal is pending or decided by this Hon, able Court

*[Signature]*  
Advocate High Court

**List of Books:-**

- a. Service Laws
- b. Case law according to need

*[Signature]*  
Advocate High Court

5

BEFORE THE HON'BLE CHAIRMAN SERVICE TRIBUNAL, KHYBER  
PAKHTUNKHWA PESHAWAR

Service Appeal No...../2019

MstBibi Aisha Jamil SST GGHS Drosh ,Tehsil& District Chitral.... Appellant

VERSUS

Government of KP through Secretary Education&others ..... Respondents

**AFFIDAVIT**

I, MstBibi Aisha Jamil SST GGHS Drosh, Tehsil& District Chitral, do hereby solemnly affirm and declare on oath that the contents of the above titled appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honorable Court.

*Bibi Aisha*

DEPONENT

**ATTESTED**



*HA*

Annex A

(6)

DIRECTORATE OF ELEMENTARY & SECY. EDUCATION  
- KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION.

WHEREAS Mst. Bibi Aisha SST GGMS, Shah Nigar District Chitral was found absent from duty with effect from 01-06-2009 and her absent report received from EDO (E&SE) Chitral vide No. 6441 dated 24-03-2011. She was directed by the EDO (E&SE) Chitral to resume duty vide No. 6440 dated 24-03-2011.

2. AND WHEREAS the Executive District Officer (E&SE) Chitral published a notice in two different newspapers i.e. Daily Aaj & Express dated 10-05-2011 with the direction to resume duty within fifteen (15) days of the publication of the notice failing which an ex party decision will be taken against her, but no response has been received from her in due course of time.

3. AND WHEREAS on the expiry of the stipulated period given in the notice the authorized officer, i.e. EDO (E&SE) Chitral has recommended her case for imposing major penalty of Removal from service is imposed upon Mst. Bibi Aisha SST GGMS, Shah Nigar District Chitral vide No. 12255 dated 09-06-2011.

4. NOW THEREFORE, in exercise of power conferred under section 3 of the NWFP (now Khyber Pakhtunkhwa) Removal from service (Special Power) Ordinance, 2000 read with (Rules 8-A) of the NWFP (now Khyber Pakhtunkhwa) Government Servants (Efficiency & Disciplinary) Rules, 1973, the major penalty of Removal from service is imposed upon Mst. Bibi Aisha SST GGMS, Shah Nigar District Chitral with immediate effect. The period of her absence from duty w.e.f. 01-06-2009 till the issuance of this order be treated as un-authorized absence from duty without pay.

**DIRECTOR**  
ELEMENTARY & SECY EDUCATION  
KHYBER PAKHTUNKHWA.

Endst: No. 2855-59 /P. File /04/A-17/SST(F) Eng: Dated Peshawar the 26/1/2011

Copy of the above is forwarded to the:-

1. Executive District Officer (E&SE) Chitral with reference to his letter No. 25443 dated 23-12-2011 with the remarks that the Ex. SST concerned may be informed on her home address.
2. District Accounts Officer Chitral.
3. Mst. Bibi Aisha SST GGMS Shah Nigar District Chitral.
4. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
5. Master File.

Deputy Directress (Estab)  
Elementary & Secy: Education  
Khyber Pakhtunkhwa, Peshawar.

19/1/12

27/01/12

KHYBER PAKHTUNKHWA  
Khyber Pakhtunkhwa



Annu B<sup>th</sup>

7

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 257 /2015

K.P. Service Tribunal  
Diary No. 229  
Dated 17-3-2015



Mst: Bibi Aisha, Ex- SST  
GGMS, Shah Nigar, District Chitral.

(Appellant)

VERSUS

1. The Secretary Education (E&SE), Peshawar.
2. The Director Education (E&SE), Peshawar.
3. The District Education Officer (E&SE), Chitral.

(Respondents)

APPEAL UNDER SEC- 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 19.02.2015, WHERE THE DEPARTMENTAL <sup>appeal</sup> OF THE APPELLANT AGAINST THE ORDER DATED 26.01.2012 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL THE ORDER DATED 26.01.2012 AND 19.2.2015 MAY BE SET-ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACKS AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO BE GRANTED IN FAVOUR OF THE APPELLANT.

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17/3/15

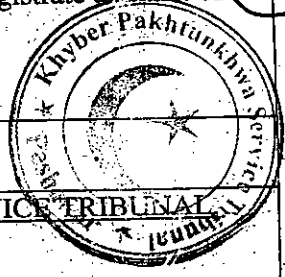
*[Handwritten signature]*  
17/4/15

ATTESTED

*[Handwritten signature]*  
Khyber Pakhtunkhwa

8

No.	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	02.01.2017	<p style="text-align: center;"><b>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP COURT SWAT</b></p> <p style="text-align: center;">Service Appeal No. 257/2015 Mst. Bibi Aisha Versus The Secretary Education (E&amp;SE), Peshawar and 2 others.</p> <p style="text-align: center;"><b><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></b></p> <p>Counsel for the appellant and Mr. Muhammad Zubair, Senior Government Pleader alongwith Mr. Muhammad Ayub, ADO for respondents present.</p> <p>2. Mst. Bibi Aisha, Ex-SST GGMS, Shah Nigar, District Chitral hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against impugned order dated 26.01.2012 vide which the appellant was removed from service and where-against her departmental appeal dated 23.02.2012 was rejected vide order dated 19.02.2015 and hence the instant service appeal.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was serving as SST when subject to enquiry on the allegations of wilful absence and as a consequence thereof removed from service vide impugned order referred to above.</p> <p>4. Learned counsel for the appellant has argued that the prescribed procedure for the conduct of enquiry within the meaning of Rule 5(4) of the Khyber Pakhtunkhwa Removal from service (Special Powers)</p>



**ATTESTED**

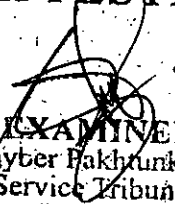
*[Signature]*  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

Ordinance, 2000 was not followed and that the publication etc. were not made under directions the orders of the competent authority as the competent authority, in the case of the appellant, was Director, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar while the said publications were issued under the directions of the Executive District Officer, Elementary & Secondary Education, Chitral. Learned counsel for the appellant also referred to report of Deputy Directress Establishment dated 14.10.2014 wherein it was reported that the enquiry was not conducted in the prescribed manners and that the appellant was entitled to reinstatement in service.

5. Learned Government Pleader has argued that the appellant has remained absent from duty without obtaining any leave. He however was not in a position to explain that the publications were made under the directions of the competent authority as the same were not made under the orders of the Director, E&SE who happens to be the competent authority.

6. Keeping in view the facts that the enquiry was not conducted in the mode and manners prescribed by rules and the publications were not ordered to be issued in the daily newspapers by the competent authority as such we deem it appropriate to direct that the enquiry in the mode and manners prescribed by rules be conducted afresh wherein opportunity of hearing be afforded to the appellant.

7. In view of the above we are constrained to accept the present appeal, set aside the impugned order dated 26.01.2012 as well as 19.02.2015 and reinstate the appellant in service with the directions to

**ATTESTED**  
  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar.

the respondents to conduct denovo enquiry in the mode and manners prescribed by rules within a period of 3 months from the date of receipt of this judgment. In case the respondents fail to conduct and conclude the enquiry within the specified period of 3 months then it shall be deemed that the appellant has been reinstated in service and, in such eventuality, her period of absence from service shall be then considered as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

Announced  
02-01-2017

Sd/- M. Azim Khan Afridi,  
Chairman  
Comp Court Sindh

Certified to be true copy  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Sd/- Ahmad Hassan,  
Member

Date of Presentation of Application 16-01-2017  
Number of Words 1663  
Copying Fee 10-0  
Urgent 2-2  
Total 12-0  
Name of Copyist [Signature]  
Date of Completion of Copy 16-01-2017  
Date of Delivery of Copy 16-01-2017

Annex C<sup>o</sup> (11) 257/20

**OFFICE OF THE PRINCIPAL GHSS MIAN BRANGOLA DISTRICT DIR (LOWER)**

**INQUIRY REPORT AGAINST BIBI AISHA SST GGMS SHAH NEGAR DISTRICT CHITRAL**

**INTRODUCTION OF THE CASE.**

District Education officer Chitral process disciplinary proceeding against Mst; Bibi Aisha SST GGMS Shah Negar District Chitral and following as a consequent she was removed from service by the Director (E&SE) Khyber Pakhtunkhwa, Peshawar vide notification issued under Endst No. 2855-59/P. File /04/A-17SST (F) Eng: Dated Peshawar the 26-1-2011 while the Notification was signed by Deputy Directress on 19-1-2012 and sent the case by Executive District Officer (E&SE) under letter No 55448 dated 23-12-2011. (Annex A) She submitted an appeal to Secretary (E&SE) Khyber Pakhtunkhwa Peshawar for reinstatement on 23-02-2012 while it was rejected by him on 19-02-2015. The appellant filed an appeal in Service Tribunal Peshawar which was decided in favor of the appellant on 2-01-2017 with the direction to reinstate the appellant on service and conduct denovo inquiry in the mode and manners prescribed by rules within a period of 3 months from the date of receipt of this judgment.

In the light of decision of Service Tribunal Khyber Pakhtunkhwa Peshawar for denovo inquiry The undersigned was appointed as inquiry officer vide notification issued under Endst No 3818-20/ Service Tribunal Peshawar SA No 257/15 dated Peshawar the 16-3-2017 to conduct an inquiry against Mst; Bibi Aisha SST GGMS Shah Negar District Chitral. I received the order copy by mail on 25-3-2016, but no relevant document/record was found attached with the appointment letter.

**PROCEDURE.**

When received the inquiry letter Informed the DEO (F) Chitral on phone about the inquiry and requested the DEO to inform Mst; Bibi Aisha. To understand the nature of the inquiry and to get relevant record for onward process of inquiry, I attended the office of Deputy Directress on 29-03-2017 she called the superintendent (Estab) and directed him to provide relevant record. He provided some copies, when checked it at home it was found insufficient for the process and got more record from Allegation branch on 5-4-2017. On receiving the record from the office I made contact with Muhammad Ayoub ADO P&D Chitral as well as with DEO (F) about my visit on 11-4-2017 and requested her to inform Mst Bibi Aisha to be present at GGMS Shah Negar on 12-4-2016. When reached GGMS Shah Negar along with Mr. Muhammad Ayub ADO P&D it was pointed out by a teacher that the teacher concerned was not present in the country and she is abroad with her husband. On checking the attendance register of teachers and other record of the school it was found out that she has not performed duty in this school nor she has taken over charge. When failed to get record at GGMS Shah Negar, I visited GGHS Drosh and came to know that she was granted leave from this School and the record of her transfer to GGMS Shah Negar is not available here.

D. No. 1424 ADDCE  
18/4/17

Then I called her brother who was already informed by ADEO P&D about my visit. He is authorized and has power of attorney to deal all her cases in the court and department. After long discussion I got written statement from him (Annex AB) His statement is as under.

1. Service Tribunal has decided the case on 2-1-2017 and he got the copy of judgment on 16-1-2017. The Department failed to conduct denovo inquiry in the specified period of 3 months which have been completed on 02-04-2017.
2. The statement given by his sister to the previous inquiry committee is sufficient and there is no need for further statement.
3. If the Director Elementary and Secondary education issue the reinstatement order of his sister she will join her duty with pleasure and will perform her duty with nicety suavity.

ANALYSIS OF THE AVAILABLE RECORD.

- (1) 1459 days Leave on 14-7-2005, 11-11-2006, and 17-11-2007 has been granted to Mst; Bibi Aisha in three separate orders up to 31-5-2009, (Annex B, C, D) and after the expiry of leave she submitted an application for more leave. But she was not granted leave nor her leave application was rejected.
- (2) She remained absent from duty after the expiry of long leave but EDO (E&SE) Issued her transfer order from GGHS Drosh vide Endst No 20210-14/T-4/EB(F)SST dated 30-7-2010 to GGCMS Mori Bala and showed her present at School and the reason / justification of transfer was unknown.
- (3) The notification of leave granted to her on 11-11-2006 and 17-11-2007 showed her on the strength of GGMS Shah Negar, while nothing about her was exist on the record of this School.
- (4) She was referred by MS DHQ Chitral to DG Health Peshawar for special medical treatment at LRH/KTH Peshawar for treatment on 13-11-2011.
- (5) Show cause notice without any dispatch No on 19-03-2011 was issued written by hand. (Annex -F)
- (6) Another show cause notice published in daily Express to her with the reference that she was given a notice on 24-3-2011.
- (7) She was informed by the department time and again for report but no response was given by her.
- (8) Her appeal for reinstatement was rejected by Secretary (E&SE) very late on 19-2-2015 after along interval of two years eleven months and twenty-six days.

13

FINDINGS.

Having gone through the available record and statement of her attorney/ authorized brother Qari Jamal Abdul Nasir, I reached the conclusion that.

- (1) No charge sheet and statement of allegation was issued to the teacher concerned.
- (2) The DEO is not competent to issue show cause notice nor he has the authority to published a notice in newspapers against B-16 officer. (Annex G)
- (3) No proper record was maintained in the office of the DEO (E&SE) Chitral.
- (4) The case was processed for CPLA and declared it unfit for filing the appeal in upper court.
- (5) The case was decided on 2-1-2017 and the judgment copy was received very late on 6-2-2017 after the interval of 34 days.
- (6) letter to Secretary from Director (E&SE) Endst No 1692-93 dated 15-10-2016 and inquiry conducted by inquiry committee comprising 3 officers of the Directorate are in the view that the appellant rendered a long period of 26 years' service may be reinstated.
- (7) The absence of appellant from the country and the statement of her brother, that they were not informed by inquiry officer or the office of DEO declare that they want to expire the given period of 3 months given by the court for *de-novo* inquiry.
- (8) No proper procedure was followed for her removal from service.

RECOMMENDATIONS

Though the appellant did not appear before the inquiry officer for personal hearing due to her non availability in the country she may be reinstated in service for the following reasons.

1. No proper procedure was followed for her removal from service.
2. To avoid more litigation.
3. To honor the recommendation of Director (E&SE) letter Endst No 1692-93 dated 15-10-2014 to secretary (E&SE) in the light of his remarks that Mst; Bibi Aisha Ex SST may be reinstated in to service and her absence period may be converted into leave without pay for regularization of her service on the grounds/report already submitted to Admin Department vide this office letter No. 660 dated 27-2-2013.
4. The Secretary E&SE Department in response to a Directorate letter already declared that "the EDO Chitral is not competent to serve show cause notice on the appellant".
5. In the light of court decision announced on 02-01-2017.
6. In the light of the recommendation of inquiry conducted by inquiry committee of three expert officer of the directorate Khyber Pakhtunkhwa.

15-4-17  
SAEED KHAN  
PRINCIPAL GHSS Mian Brangola  
District Dir (Lower)  
INQUIRY OFFICER

Amul <sup>4</sup>D

(14)

**Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar**

**NOTIFICATION.**

1. WHEREAS, Mst. Ayisha Bibi, while working as SST, (BPS-16) at GGMS Shah Nigar, District Chitral was proceeded under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance-2000 by the then EDO E&SE, Chitral on the allegations of willful absence wef 01-06-2009.
2. AND WHEREAS, the then EDO E&SE Chitral was supposed competent authority for the officials in BPS-01 to BPS-10 (being appointing authority) Likewise, the DCO concerned acted as competent authority for the officials in BPS-11 to BPS-15 (being appointing authority) when the issue took place and the Director E&SE KP, Peshawar was and is supposed competent authority for the officers in BPS-16 for all purpose and intention being appointing authority to-date.
3. AND WHEREAS, the then EDO E&SE Chitral, instead of forwarding the disciplinary case in respect of aforesaid SST (BPS-16) to the Director E&SE KP, Peshawar for initiation of disciplinary proceeding against her being appointing/competent authority for BPS-16 officers, initiated the proceedings against a BPS-16 officer/SST by issuing/serving "SHOW CAUSE NOTICE" dated 19-03-2011 upon the Ex-SST concerned for which the (EDO) was not competent under the relevant rules.
4. AND WHEREAS, in the wake of issuance/publication of aforesaid "SHOW CAUSE" and after expiry of given timeline for reply, the then EDO E&SE Chitral referred the case to the Director E&SE KP, Peshawar for final decision.
5. AND WHEREAS, based on the disciplinary proceeding initiated and "SHOW CAUSE NOTICE" issued/served upon the Ex-SST by the then EDO E&SE Chitral, major penalty of "Removal from Service" was imposed upon Mst. Ayisha Bibi, Ex- SST, (BPS-16) at GGMS Shah Nigar, District Chitral by the Director E&SE KP, Peshawar vide Notification issued under Endst:No.2855-59 dated 26-01-2011. (It was shown as dated 26-01-2012 due to type mistake in the service appeal and judgment attached with the case mentioned below)
6. AND WHEREAS, the aggrieved officer/teacher filed a departmental appeal dated 23-02-2012 against the said major penalty which was rejected vide order dated 19-02-2015.
7. AND WHEREAS, consequent upon rejection of her departmental appeal referred to above, Mst Bibi Aisha, Ex-SST filed service appeal No. 257/2015 in the Honorable Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat for reinstatement in service on the grounds that she was condemned unheard and without conducting proper inquiry/personal hearing by the competent authority i.e. Director E&SE KP, Peshawar
8. AND WHEREAS, the Honorable Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat while disposing of the said service appeal vide its Judgment dated 02-01-2017 held that *"Keeping in view the facts that the inquiry was not conducted in the mode and manners prescribed by the rules, in view of the above we are constrained to accept the present appeal, set aside the impugned order dated 26-01-2012 (actually it is dated 26-01-2011) as well as 19-02-2015 and reinstate the appellant in service with the directions to the respondents to conduct denovo inquiry in the prescribed manners and conclude the inquiry within a period of 3 months otherwise it shall be deemed that the appellant has been reinstated in service"*
9. NOW, THEREFORE, in pursuance of the above referred Judgment of the Honorable Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat and in exercise of powers conferred upon the APPELLATE AUTHORITY under Section 17 read rules (2) (b) of the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules 2011, the order of the "major penalty" of "removal from service" imposed upon Mst. Ayisha Bibi, Ex-SST/appellant (BPS-16) GGMS Shah Nigar, District Chitral vide this office Notification issued under Endst:No.2855-59 dated 26-01-2011 (not 26-01-2012) is "set aside". She is reinstated in service and adjusted against vacant post of SST (BS-16) at GGMS Drosh Chitral. Her period of absence from service is treated as leave of the kind due in line with the Judgment dated 02-01-2017 of the Honourable Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat.

(DIRECTOR)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar




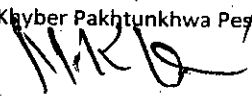
Endst.No. 4651-58 F.No. A-17/SST/F/Complaint Chitral

Dated Peshawar the 21/8/17 2017

(15)

Copy of the above is forwarded for information and n/action to the:-

- 1- Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar
- 2- Registrar Khyber Pakhtunkhwa Service Tribunal, Camp Court, Swat.
- 3- District Education Officer (Female) Chitral.
- 4- District Accounts Officer Chitral.
- 5- Assistant Director (Lit-II) Local Office w/r to his letter No. 3199 dated 26-06-2017
- 6- Principal/Headmistress concerned.
- 7- Mst. Ayisha Bibi, Ex-SST/appellant concerned.
- 8- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar

  
Deputy Director (Estab)  
Directorate Elementary & Secondary 21/8/17  
Education Khyber Pakhtunkhwa Peshawar  


Amal "E"

16

No. 13378 /F.No. A-2 (F)

Dated Chitral the 11/12/2017


From: The District Education Officer,  
(Female) Chitral.

To, The Director,  
of Elementary & Secondary Edu:  
KPK Peshawar.

Subject: APPLICATION


Memo;

Enclosed please find herewith an original application in respect of Mst: Bibi Aisha SST Govt: Girls High School Drosh for conversion of absent period to leave with pay and further necessary action, please.

  
District Education Officer,  
(Female) Chitral

Endst: No. \_\_\_\_\_ /F.No. (F) Dated Chitral the \_\_\_\_\_ /2017

Copy of the above is forwarded to Mst: Bibi Aisha SST GGHS Drosh for information.

  
District Education Officer,  
(Female) Chitral

محکم دلائل سے مزین و متنوع ومنفرد موضوعات پر مشتمل مفت آن لائن مکتبہ

بوساطت جناب ڈاکٹر آئی ایچ ایم اے، جامعہ اسلامیہ تعلیم و تربیت، لاہور

تعمیراتی کاموں کے بارے میں وضاحت

جناب عالی! ٹور بانہ گزارش سے 1-6-2005ء سے 31-5-2009ء تک

تعمیراتی کاموں کے لیے درخواستیں، 31-5-2009ء تک

میں فرم کیے۔ 1-6-2009ء سے حکم نامہ درخواست کے بارے میں

میں جمع کیے گئے۔ دیگر نوٹس کو غیر حاضری تصور کر کے ملازمت سے 26-1-2011ء

کو نکال دیا۔ فوری نوٹس کے لیے ایس ڈی اور ایس ڈی کے بارے میں

نوٹس کے لیے جمع کیے گئے۔ یہ نوٹس دینے سے یہ نوٹس دیا کہ آپ کو 1-6-2009ء

سے غیر حاضری کی بنا پر نکال دیا گیا ہے۔ اب نوٹس نہیں دے سکتے۔

حکام نامہ ایس ڈی خارج ہو کر فوری نوٹس کے بارے میں بعد میں دیا گیا

صوبہ سرحد حکومت نے اپنے آرڈر نمبر 2-1-2017ء کو ملازمت پر واپسی کے

سے بحال کیا اور تمام آرڈر منسوخ کئے اور غیر حاضری پر 1-8-2009ء سے

میں جمع کیے گئے۔ نوٹس دیا۔ نوٹس 27/1/2011ء کے بارے میں نوٹس دیا کہ تمام

نوٹس جمع نہیں ہوئے۔ یہ حکم نامہ دیا گیا ہے اور جمع دینے کے تمام احکامات

کیے۔ ملازمت سے منسلک ہوں دینے کے حکم نامہ دیا گیا ہے۔

العارضہ بی بی عائشہ علیہ السلام

اعتراف 29/1/2017ء گورنمنٹ گزٹری اسکول سندھ

Annex 'F'

No. /F.No.A-2/EB(F)

Dated Chitral the / /2018.

From: District Education Officer,  
(Female) Chitral:

18

To, The Director  
Elementary and Secondary Education  
KPK Peshawar.

Subject: APPLICATION IN RESEPECT OF BIBI AISHA JAMIL SST GGHS DROSH.

Memo:

Please enclosed find herewith an original application in respect of Mst:Bibi Aisha Jamil SST Govt Girls High School Drosh for favor of further necessary action.

District Education Officer,  
(Female) Chitral

Endst: No. 3398 /F.No A-2/EB(F) Dated Chitral the 23/4 /2018

Copy forwarded to :-

1 Mst: Bibi Aisha Jamil SST GGHS Drosh for information.

District Education Officer,  
(Female) Chitral

گذشتہ صاب ڈائری میں حکیم تعلیم صوبہ خسرہ خواہ (المکرمی) (سندھری) اور

بوساطت صاب ڈی ای او۔ فیصلہ فیصلہ قرال

(19)

فیصلہ فیصلہ / فیصلہ فیصلہ میں عدالتی فیصلے پر عمل درآمد

صاب عالی: مذکورہ اس سے قبل 29 11/17 کو ڈی ای او فیصلہ فیصلہ قرال کی وساطت سے  
تعمیراتی کرائس کی تھی۔ کہ عدالت سروس ٹرنوول کے بارے میں فیصلہ کرے  
2017 کے کمرچھ سندھ سے کمرچھ اسٹی۔ کے آرڈر جو آجھے 10.6.2009  
سے غیر طفر تصور کرتے ہوئے نکال دیا تھا۔ اس آرڈر 1-2011-26 کو فیم کر کے ہے  
سندھ سے کمرچھ اسٹی اور 10.6.2009 سے 1-2011-26 تک غیر طفری کو چھی  
تصور کیا گیا ہے۔ عدالتی فیصلے کے روشنی میں سابقہ تمام معاملات کا فیصلہ  
لیکن جھے سابقہ معاملات اور تنخواہ / سروس۔ نہیں دی جا رہی ہے۔ جو سہ اساتھ  
ظلم اور عدالتی احکامات کی خلاف ورزی ہے۔ لہذا اسل آئی ہوں  
کہ جھے سبھی سابقہ معاملات دیکھنے کے احکامات صادر فرمایا ہے  
تاکہ نذرہ کی پریشانی مفاغہ ہو اور نذرہ کی سروس سابقہ محفوظ ہو

17.8.18

العالمی بی بی عاتق علی (SSA)

گورنمنٹ ٹرنوول کی سکول میں قرال

18/4/18

Amir 11/5

21

DISTRICT ACCOUNTS OFFICER CHITRAL.

Tele: 0943-412625 Fax: 0943-412109

E-mail [daoचित्रल@yahoo.com](mailto:daoचित्रल@yahoo.com)

No. DAO. Chitral/

579-77

Dated.     /10 /2017

TO,

The Director  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar.

Subject: Notification

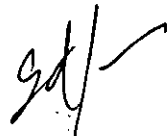
Please refer to your o.m No.4651-58/F No.A-17/SST/F/Complaint-Chitral Dated.21.09.2017 on the above cited subject.

In this connection it is stated that period of absentia i.e. 01.06.2009 to 20.06.2017 may be clarified by the competent authority. Whether the period can be treated as duty period, Extraordinary Leave or else. Clarification is required to update record and process of the case.

  
District Accounts officer  
Chitral

Copy forwarded.

1. DFO (F) Chitral for information.
2. HMGGHS Drosh for information.
3. Mrs. Bibi Ayesha Jamal SST GGHS Drosh for information.

  
District Accounts Officer

Chitral

22

6  
7

**OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) CHITRAL.**

No. \_\_\_\_\_ / EB (Female) Dated Chitral the, \_\_\_\_\_ / \_\_\_\_\_ / 2019.

To:-

The Principal,  
Govt: Girls High School Drosh

Subject:- **APPLICATION FOR RETIREMENT IN RESPECT OF MRS: BIBI AYESHA SST B-16.**

Memo:-

Reference your Office letter No. 17 Dated 11/03/2019, on the above noted subject.

As per retirement rule from service a public servant is eligible for retirement from service after completion of consecutive 25 years. However, from the official records such personal file in District Accounts Office Chitral you have completed 20 years of service excluding leave without pay. As Service rule \_\_\_\_ leave without pay is not included in the length of total service. Therefore, as per rule you are not qualifying retirement from the service.

Therefore application along with original documents are hereby returned.

*Sd -*

District Education Officer  
(Female) Chitral

Endst: No. 5273 / Dated Chitral the, 10 / 4 / 2019.

Copy forwarded for information to the Mrs: Bibi Ayesha SST (G) Govt: Girls High School Drosh.

*Neha*  
District Education Officer  
(Female) Chitral

**BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.**

**Appeal No. 604/2019**

**Bibi Ayesha .....Appellant.**

**Versus:**

**Secretary E&SE KPK and others.....(Respondents)**

**INDEX**

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2	Removal from Service	A	6
3	Order of Service Tribunal	B	7 to10
4	Denovo Enquiry Report	C	11 to 15

**District Education Officer,  
(Female) Chitral.**



①

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

*Service Appeal No: 604/2019*

**Bibi Aisha SST Govt Girls High School Droosh, District Chitral. ....Appellant.**

**VERSUS**

**Secretary E&SE Department, Khyber Pakhtunkhwa & others. ....Respondents**

Respectfully Sheweth:-

The Respondents submit as under:-

**PRELIMINARY OBJECTIONS.**

- 1 That the Appellant has got no cause of action/locus standi.
- 2 That the instant Service Appeal is badly time barred.
- 3 That the Appellant has concealed material facts from this Honorable Tribunal.
- 4 That the instant Service Appeal is based on mala-fide intentions.
- 5 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 6 That the Appellant is not entitled for the relief she has sought from this Honorable Tribunal.
- 7 That the instant Service Appeal is against the prevailing law & rules.
- 8 That the instant Appeal is based on mala-fide intentions just to put extra pressure on the Respondents.
- 9 That the Appeal is not maintainable in its present form.
- 10 That the Appeal is bad for mis-joinder & non joinder of the necessary parties.
- 11 That the instant Service Appeal is barred by law
- 12 That the Appellant is not competent to file the instant appeal against the respondents.
- 13 That the Appellant is estopped by her own conduct to file the instant Appeal.

14 That the appellant has not performed her official duty during the period for which she is seeking back service benefits from the Respondent Department from the period 26/01/2011 to 26/08/2017 under the rules.

15 That the appellant has been found guilty of willful absence from official duty.

16 That the Respondent Department has observed the required procedure in the instant case.

17 That the appellant is not entitled for the grant of back date service benefits against the SST B-16 post.

### ON FACTS

1 That Para-1 needs no comments.

2 That Para-2 is incorrect & denied on the grounds that the appellant has been found willful absent from her official duty wef 01/06/2009 to 24/03/2011 against the SST B-16 post. Hence, the EDO (S&L) Chitral has directed the appellant for the resumption of her duty vide notice dated 24/03/2011 which she did not respond on malafied intentions. Therefore, the Respondent No 3 has published an absence notice from duty dated 10/05/2011 In the Daily Newspapers Aji & Express Peshawar with the direction to resume her official duty within 15-days from the publication of the said notice which resulted in the removal from service notification dated 29/01/2012 issued by the Respondent No 2 after observing all the codal formalities. However, aggrieved from the Notification dated 26/01/2012, the appellant has filed a Service Appeal No 257/2015 under titled Bibi Aisha Ex-SST GGHS Daroosh District Chitral VS Govt & others before this Tribunal which was allowed vide judgment dated 02/01/2017 with the direction to the Respondent Department for conducting DE-NOVO

inquiry against the appellant within the period of 90-days from the receipt of judgment which was conducted accordingly alongwith her reinstatement in service against the SST BPS-16 post vide Notification dated 21/8/2017 in compliance of the said judgment. (Copies of the judgment dated 02/01/2017, notification dated 21/8/2017, enquiry report, impugned Notification dated 19/01/2012 & absence notice <sup>no</sup> annexed as annexures A, B, C, D&E).

- 3 That Para-3 is incorrect & not admitted. The act of the Respondent Department with regard to the Notification dated 2/8/2017 is within legal sphere. Hence, the appellant is not entitled for the grant of Service back benefits w.e.f 26/01/2011 to 21/8/2017 on the analogy of no duty & no pay in the Respondent Department against the SST B-16 Post.
- 4 That Para-4 is correct. Hence, needs no further comments.
- 5 That Para-5 is also correct. Hence, needs no further comments.
- 6 That Para-6 is incorrect & denied. No Departmental appeal has been filed by the appellant against the impugned order dated 21/8/2017. Hence, got final against the appellant under the relevant provision of law of limitation Act 1908. Therefore, the appeal in hand is liable to be dismissed on the following grounds inter alia:-

**GROUND.**

- A Incorrect & not admitted. The act of the Respondent Department with regard to the impugned Notification dated 21/8/2017 is within legal parameter & is liable to be maintained in favour of the Respondent Department in the interest of justice.

9

- B Incorrect & misleading. The Respondent Department has implemented the judgment dated 02/01/2017 of this Tribunal in its true letter & spirit.
- C Incorrect & misleading. Detailed reply to this ground has already been given in the foregoing paras. Hence, needs no further comments.
- D Incorrect & misleading. The appellant has been found guilty of her willful absence from official duty by the competent authority & is not entitled for the grant of back service benefits, for her absence period against the said post.
- E Incorrect & denied. Detailed reply to this ground has been given in ground-D. Hence, needs no further comments.
- F Incorrect & misleading. The statement of the appellant is baseless & liable to be rejected in favour of the Respondent Department.
- G Incorrect & not admitted. The appellant is not entitled for the grant of back service benefits for her absence period against the SST B-16 post.
- H Incorrect & denied. Hence, needs no further comments.
- I Incorrect & denied. The act of the Respondent Department is legal & liable to be maintained.
- J Legal. However, the Respondents further seek leave of this Tribunal to submit additional grounds, record & case law at the time of arguments on main appeal on the date fixed before this Honorable Tribunal.

5

Therefore, it is most humbly prayed that on the acceptance of this reply the case of the appellant may very graciously be dismissed in favour of the Respondent Department in the interest of justice please.

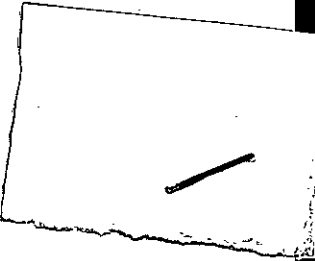
Dated \_\_\_ / \_\_\_ /2019.

*[Handwritten Signature]*  
**Secretary**

E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondent No: 1)

*[Handwritten Signature]*  
**Director**

E&SE Department Khyber  
Pakhtunkhwa, Peshawar  
(Respondents No: 2&3)



**AFFADIVIT**

I, Hayat Khan, Asstt: Director (Lit: II) Directorate of E&SE Department Khyber Pakhtunkhwa, Peshawar is herby solemnly affirm & declare on oath that the contents of the instant Joint Parawise Comments are true & correct to the best of my knowledge.

*Valled*  
**DISTRICT ATTORNEY**  
*[Handwritten Signature]*  
8.10.19

*[Handwritten Signature]*

**Deponent**

**OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) CHITRAL.**

**AUTHORITY LETTER.**


Mr. Mohammad Ayub Khan ADEO(P&D)/(Litigation)local office is hereby authorized to appear before the honorable Court of Service Tribunal Khyber Pakhtunkhwa, Peshawar in the case of Appeal No.604//2019 Bibi Ayesha versus Secretary E&SE & Others on behalf of the undersigned.

**District Education Officer,  
(Female) Chitral.**

Endst: No 8614 /File No.CC-21/P&D (F) Dated Chitral, the 14/09/2019.

Copy forwarded for information & necessary action to the:-

1. The Honorable, Judge of Service Tribunal Khyber Pakhtunkhwa, Peshawar, please.

  
**District Education Officer,  
(Female) Chitral.**

Anneane (A) (B) 17  
Anneane (A) (B)

DIRECTORATE OF ELEMENTARY & SECY. EDUCATION  
KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION.

WHEREAS Mst. Bibi Aisha SST GGMS, Shah Nigar District Chitral was absent from duty with effect from 01-06-2009 and her absent report received EDO (E&SE) Chitral vide No. 6441 dated 24-03-2011. She was directed by the EDO Chitral to resume duty vide No. 6440 dated 24-03-2011.

AND WHEREAS the Executive District Officer (E&SE) Chitral published a notice in two different newspapers i.e. Daily Aaj & Express dated 10-05-2011 with the direction to resume duty within fifteen (15) days of the publication of the notice failing which an ex parte decision will be taken against her, but no response has been received from her in due course of time.

AND WHEREAS on the expiry of the stipulated period given in the notice the authorized officer, i.e. EDO (E&SE) Chitral has recommended her case for imposing major penalty of Removal from service is imposed upon Mst. Bibi Aisha SST GGMS, Shah Nigar District Chitral vide No. 12255 dated 09-06-2011.

NOW THEREFORE, in exercise of power conferred under section 30 of the NWFP (now Khyber Pakhtunkhwa) Removal from service (Special Power) Ordinance, 2000 read with (Rules 8-A) of the NWFP (now Khyber Pakhtunkhwa) Government Servants (Efficiency & Disciplinary) Rules, 1973, the major penalty of Removal from service is imposed upon Mst. Bibi Aisha SST GGMS, Shah Nigar District Chitral with immediate effect. The period of her absence from duty w.e.f. 01-06-2009 till the issuance of this order be treated as un-authorized absence from duty without pay.

DIRECTOR  
ELEMENTARY & SECY EDUCATION  
KHYBER PAKHTUNKHWA

Encls. No. 2855-59  
P. File 104/A-17/SST(F) Enq. Dated Peshawar the 26/11/2011

Copy of the above is forwarded to the:-

1. Executive District Officer (E&SE) Chitral with reference to his letter No. 25445 dated 23-12-2011 with the remarks that the Ex. SST concerned may be informed on her home address.
2. District Accounts Officer Chitral.
3. Mst. Bibi Aisha SST GGMS Shah Nigar District Chitral.
4. P.A. to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
5. Master File.

Deputy Directress (Estab)  
Elementary & Secy. Education  
Khyber Pakhtunkhwa, Peshawar.

Amnesia B<sub>2</sub> (7) 16  
Annex B<sup>H</sup>  
BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR. (7)

APPEAL NO. 257 /2015

Mst: Bibi Aisha, Ex- SST  
GGMS, Shah Nigar, District Chitral.



W.P. Province  
Service Tribunal  
Diary No. 229  
Dated 17-3-2015

(Appellant)

VERSUS

1. The Secretary Education (E&SE), Peshawar.
2. The Director Education (E&SE), Peshawar.
3. The District Education Officer (E&SE), Chitral.

(Respondents)

-----  
APPEAL UNDER SEC- 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 19.02.2015, WHERE THE DEPARTMENTAL <sup>appeal</sup> OF THE APPELLANT AGAINST THE ORDER DATED 26.01.2012 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

*17/3/15*  
THAT ON ACCEPTANCE OF THIS APPEAL THE ORDER DATED 26.01.2012 AND 19.2.2015 MAY BE SET-ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACKS AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO BE GRANTED IN FAVOUR OF THE APPELLANT.  
*17/4/15*

ATTESTED

*[Signature]*  
Khyber Pakhtunkhwa



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No.	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
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1	2	3
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT SWAT

Service Appeal No. 257/2015  
Mst. Bibi Aisha Versus The Secretary Education (E&SE), Peshawar and 2 others.

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:

02.01.2017

Counsel for the appellant and Mr. Muhammad Zubair, Senior Government Pleader alongwith Mr. Muhammad Ayub, ADO for respondents present.

2. Mst. Bibi Aisha, Ex-SST GGMS, Shah Nigar, District Chitral hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against impugned order dated 26.01.2012 vide which the appellant was removed from service and where-against her departmental appeal dated 23.02.2012 was rejected vide order dated 19.02.2015 and hence the instant service appeal.

3. Brief facts giving rise to the present appeal are that the appellant was serving as SST when subject to enquiry on the allegations of wilful absence and as a consequence thereof removed from service vide impugned order referred to above.

4. Learned counsel for the appellant has argued that the prescribed procedure for the conduct of enquiry within the meaning of Rule 5(4) of the Khyber Pakhtunkhwa Removal from service (Special Powers)

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

(9) 14 (9)

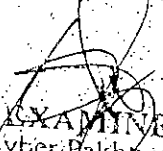
Order, 2000 was not followed and that the publication etc. were not made under directions the orders of the competent authority as the competent authority, in the case of the appellant, was Director, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar while the said publications were issued under the directions of the Executive District Officer, Elementary & Secondary Education, Chitral. Learned counsel for the appellant also referred to report of Deputy Directress Establishment dated 14.10.2014 wherein it was reported that the enquiry was not conducted in the prescribed manners and that the appellant was entitled to reinstatement in service.

5. Learned Government Pleader has argued that the appellant has remained absent from duty without obtaining any leave. He however was not in a position to explain that the publications were made under the directions of the competent authority as the same were not made under the orders of the Director, E&SE who happens to be the competent authority.

6. Keeping in view the facts that the enquiry was not conducted in the mode and manners prescribed by rules and the publications were not ordered to be issued in the daily newspapers by the competent authority as such we deem it appropriate to direct that the enquiry in the mode and manners prescribed by rules be conducted afresh wherein opportunity of hearing be afforded to the appellant.

7. In view of the above we are constrained to accept the present appeal, set aside the impugned order dated 26.01.2012 as well as 19.02.2015 and reinstate the appellant in service with the directions to

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar.

(18)  
(13)  
(10)

the respondents to conduct denovo enquiry in the mode and manners prescribed by rules within a period of 3 months from the date of receipt of this judgment. In case the respondents fail to conduct and conclude the enquiry within the specified period of 3 months then it shall be deemed that the appellant has been reinstated in service and, in such eventuality, her period of absence from service shall be then considered as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

Announced  
02-01-2017

Sd/- M. Azim Khan Afridi,

Chairman  
Comp Post Bd

Certified to be true copy

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Sd/- Ahmad Hassan  
Member

Date of Presentation of Application 16-01-2017  
Number of Words 1600  
Copying Fee 10-00  
Urgent 2-00  
Total 12-00  
Name of Copyist ABD  
Date of Completion of Copy 16-01-2017  
Date of Delivery of Copy 16-01-2017



(12)

Then I called her brother who was already informed by ADEO P&D about my visit. He is authorized and has power of attorney to deal all her cases in the court and department. After long discussion I got written statement from him (Annex AB) His statement is as under.

1. Service Tribunal has decided the case on 2-1-2017 and he got the copy of judgment on 16-1-2017. The Department failed to conduct denovo inquiry in the specified period of 3 months which have been completed on 02-04-2017.
2. The statement given by his sister to the previous inquiry committee is sufficient and there is no need for further statement.
3. If the Director Elementary and Secondary education issue the reinstatement order of his sister she will join her duty with pleasure and will perform her duty with nicety suavily.

#### ANALYSIS OF THE AVAILABLE RECORD.

- (1) 1459 days Leave on 14-7-2005, 11-11-2006, and 17-11-2007 has been granted to Mst. Bibi Aisha in three separate orders up to 31-5-2009, (Annex B, C, D) and after the expiry of leave she submitted an application for more leave. But she was not granted leave nor her leave application was rejected.
- (2) She remained absent from duty after the expiry of long leave but EDO (E&SE) issued her transfer order from GGHS Drosh vide Endst No. 20210-14/T-4/EB(F)SST dated 30-7-2010 to GGCMS Mori Bala and showed her present at School and the reason/justification of transfer was unknown.
- (3) The notification of leave granted to her on 11-11-2006 and 17-11-2007 showed her on the strength of GGMS Shah Negar, while nothing about her was exist on the record of this School.
- (4) She was referred by MS DHQ Chitral to DG Health Peshawar for special medical treatment at LRH/KTH Peshawar for treatment on 13-11-2011.
- (5) Show cause notice without any dispatch No. on 19-03-2011 was issued written by hand. (Annex -F)
- (6) Another show cause notice published in daily Express to her with the reference that she was given a notice on 24-3-2011.
- (7) She was informed by the department time and again for report but no response was given by her.
- (8) Her appeal for reinstatement was rejected by Secretary (E&SE) very late on 19-2-2015 after along interval of two years eleven months and twenty-six days.

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(13)

FINDINGS


Having gone through the available record and statement of her attorney/ authorized brother Qari Jamal Abdul Nasir, I reached the conclusion that.

- (1) No charge sheet and statement of allegation was issued to the teacher concerned.
- (2) The DEO is not competent to issue show cause notice nor he has the authority to published a notice in newspaper's against B-16 officer. (Annex G)
- (3) No proper record was maintained in the office of the DEO (E&SE) Chitral.
- (4) The case was processed for CPLA and declared it unfit for filing the appeal in upper court.
- (5) The case was decided on 2-1-2017 and the judgment copy was received very late on 6-2-2017 after the interval of 34 days.
- (6) letter to Secretary from Director (E&SE) Endst No 1692-93 dated 15-10-2016 and inquiry conducted by inquiry committee comprising 3 officers of the Directorate are in the view that the appellant rendered a long period of 26 years' service may be reinstated.
- (7) The absence of appellant from the country and the statement of her brother, that they were not informed by inquiry officer or the office of DEO declare that they want to expire the given period of 3 months given by the court for *de-novo* inquiry.
- (8) No proper procedure was followed for her removal from service.

RECOMMENDATIONS

Though the appellant did not appear before the inquiry officer for personal hearing due to her non availability in the country she may be reinstated in service for the following reasons.

1. No proper procedure was followed for her removal from service.
2. To avoid more litigation.
3. To honor the recommendation of Director (E&SE) letter Endst No 1692-93 dated 15-10-2014 to secretary (E&SE) in the light of his remarks that Mst; Bibi Aisha Ex SST may be reinstated in to service and her absence period may be converted into leave without pay for regularization of her service on the grounds/report already submitted to Admin Department vide this office letter No: 660 dated 27-2-2013.
4. The Secretary E&SE Department in response to a Directorate letter already declared that "the DEO Chitral is not competent to serve show cause notice on the appellant".
5. In the light of court decision announced on 02-01-2017.
6. In the light of the recommendation of inquiry conducted by inquiry committee of three expert officer of the directorate Khyber Pakhtunkhwa.

  
SAEED KHAN  
PRINCIPAL GHSS Mian Brangola  
District Dir (Lower)  
INQUIRY OFFICER

(14)

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(14)

Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar

NOTIFICATION

1. WHEREAS, Mst. Ayisha Bibi, while working as SST, (BPS-16) at GGMS Shah Nigar, District Chitral was proceeded under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance-2000 by the then EDO E&SE, Chitral on the allegations of willful absence wef 01-06-2009;
2. AND WHEREAS, the then EDO E&SE Chitral was supposed competent authority for the officials in BPS-01 to BPS-10 (being appointing authority) Likewise, the DCO concerned acted as competent authority for the officials in BPS-11 to BPS-15 (being appointing authority) when the issue took place and the Director E&SE KP, Peshawar was and is supposed competent authority for the officers in BPS-16 for all purpose and intention being appointing authority to-date.
3. AND WHEREAS, the then EDO E&SE Chitral, instead of forwarding the disciplinary case in respect of aforesaid SST (BPS-16) to the Director E&SE KP, Peshawar for initiation of disciplinary proceeding against her being appointing/competent authority for BPS-16 officers, Initiated the proceedings against a BPS-16 officer/SST by issuing/serving "SHOW CAUSE NOTICE" dated 19-03-2011 upon the Ex-SST concerned for which the (EDO) was not competent under the relevant rules.
4. AND WHEREAS, in the wake of issuance/publication of aforesaid "SHOW CAUSE" and after expiry of given timeline for reply, the then EDO E&SE Chitral referred the case to the Director E&SE KP, Peshawar for final decision.
5. AND WHEREAS, based on the disciplinary proceeding initiated and "SHOW CAUSE NOTICE" issued/served upon the Ex-SST by the then EDO E&SE Chitral, major penalty of "Removal from Service" was imposed upon Mst. Ayisha Bibi, Ex-SST, (BPS-16) at GGMS Shah Nigar, District Chitral by the Director E&SE KP, Peshawar vide Notification issued under Endst:No.2855-59 dated 26-01-2011. (It was shown as dated 26-01-2012 due to type mistake in the service appeal and judgment attached with the case mentioned below)
6. AND WHEREAS, the aggrieved officer/teacher filed a departmental appeal dated 23-02-2012 against the said major penalty which was rejected vide order dated 19-02-2015.
7. AND WHEREAS, consequent upon rejection of her departmental appeal referred to above, Mst. Bibi Aisha, Ex-SST filed service appeal No. 257/2015 in the Honorable Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat for reinstatement in service on the grounds that she was condemned unheard and without conducting proper inquiry/personal hearing by the competent authority i.e. Director E&SE KP, Peshawar.
8. AND WHEREAS, the Honorable Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat while disposing of the said service appeal vide its Judgment dated 02-01-2017 held that "Keeping in view the facts that the inquiry was not conducted in the mode and manners prescribed by the rules, in view of the above we are constrained to accept the present appeal, set aside the impugned order dated 26-01-2012 (actually it is dated 26-01-2011) as well as 19-02-2015 and reinstate the appellant in service with the directions to the respondents to conduct denovo inquiry in the prescribed manners and conclude the inquiry within a period of 3 months otherwise it shall be deemed that the appellant has been reinstated in service".
9. NOW, THEREFORE, in pursuance of the above referred Judgment of the Honorable Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat and in exercise of powers conferred upon the APPELLATE AUTHORITY under Section 17 read rules (2) (b) of the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline)-Rules 2011, the order of the "major penalty" of "removal from service" imposed upon Mst. Ayisha Bibi, Ex-SST/appellant (BPS-16) GGMS Shah Nigar, District Chitral vide this office Notification issued under Endst:No.2855-59 dated 26-01-2011 (not 26-01-2012) is "set aside". She is reinstated in service and adjusted against vacant post of SST (BS-16) at GGMS Drosh Chitral. Her period of absence from service is treated as leave of the kind due in line with the Judgement dated 02-01-2017 of the Honourable Khyber Pakhtunkhwa Service Tribunal, Camp Court Swat.

(DIRECTOR)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar



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Endst. No. 465-58 F.No. A-17/SST/F/Complaint Chitral

Dated Peshawar the 21/8/2017

Copy of the above is forwarded for information and n/action to the:-

- 1- Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar
- 2- Registrar Khyber Pakhtunkhwa Service Tribunal, Camp Court, Swat.
- 3- District Education Officer (Female) Chitral.
- 4- District Accounts Officer Chitral.
- 5- Assistant Director (Lit-II) Local Office w/r to his letter No. 3199 dated 26-06-2017.
- 6- Principal/Headmistress concerned.
- 7- Mst. Ayisha Bibi, Ex-SST/appellant concerned.
- 8- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar

*[Signature]*

Deputy Director (Estab)

Directorate Elementary & Secondary  
Education Khyber Pakhtunkhwa Peshawar

*[Signature]*



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR CAMP COURT SWAT

Appeal No.604 of 2019

Bibi Aisha .....Petitioner

Versus

The Secretary Education and others.....Respondents

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Bibi Aisha

Petitioner through Counsel

  
RAHIMULLAH  
Advocate, High Court

Rahim & Qazi Law Associates  
at Fort Road, Chitral.

Cell No: 0334-3251883

1

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR CAMP COURT SWAT

Appeal No.604 of 2019

Bibi Aisha .....Petitioner

Versus

The Secretary Education and others.....Respondents.

**Rejoinder on behalf of petitioner**

**Respectfully Sheweth:-**

**Preliminary Objections;**

Preliminary objections from 1 to 17 are incorrect and unsustainable in the eyes of law.

That the petitioner submitted as under.

Para no 1 of the comment needs no reply

Para no 2 to 6 of the comment is incorrect That the appellant was seriously ill and was unable to perform her duties, therefore the appellant requested for half pay leave, which was granted for 240 day w. e. from 1-6-2015 to 26-6-2006 vide order dated 14-7-2005 .That the appellant further requested for extra ordinary leave and subsequently 339 days w.e.f 27-6-2006 to 31-5-2007 was granted vide order dated 11-11-2006 . It is pertinent to mentioned here appellant was granted further leave without pay of 730 days w.e.f 1-6-2007 to 31-5-2009 vide order dated 17-11-2007 . That due to seriously ill appellant repeatedly requested to the department for extension of her leave , but instead of extension of her leave EDO Chitral issued show cause notice and lastly imposed major penalty of removal from service vide order dated 26-1-2011 which was challenged through departmental appeal and the same was dismissed on 19-2-2015 and against the rejection of the departmental appeal, the appellant filed tribunal appeal which was allowed on 2-1-2017 and reinstated the appellant in service with direction to the respondents to conduct inquiry. That after inquiry the impugned order dated 26-1-2011 was set aside , appellant was reinstated in service and adjusted against the vacant post of SST (B-S 16) at GGHS Drosh Chitral. Her period of absents from service is treated as leave of kind due in line with the judgment dated 2-1-2017 of the Hon,able Service tribunal.



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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR CAMP COURT SWAT

Appeal No.604 of 2019

Bibi Aisha .....Petitioner

Versus

The Secretary Education and others.....Respondents

**AFFIDAVIT**

I, MstBibi Aisha Jamil SST GGHS Drosh ,Tehsil& District Chitral, do hereby solemnly affirm and declare on oath that the contents of the above titled rejoinder are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honorable Court.

*Bibi Aisha*

DEPONENT

ATTESTED  
WAJID ALI SHAH ADVOCATE  
District Courts Swat  
No 102 Date 06-01-2020  
OATH COMMISSIONER

4

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 257/2015

Ann. R-I

Mst: Bibi Aisha, Ex- SST  
GGMS, Shah Nigar, District Chitral.

(Appellant)

VERSUS

1. The Secretary Education (E&SE), Peshawar.
2. The Director Education (E&SE), Peshawar.
3. The District Education Officer (E&SE), Chitral.

(Respondents)

-----

APPEAL UNDER SEC- 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 19.02.2015, WHERE THE DEPARTMENTAL OF THE APPELLANT AGAINST THE ORDER DATED 26.01.2012 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL THE ORDER DATED 26.01.2012 AND 19.2.2015 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK\$ AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO BE GRANTED IN FAVOUR OF THE APPELLANT.

5

R.SHEWETH:

FACTS:

1. That the appellant joined the education department in the year 1986 and performed her duties up to the entire satisfaction of her superiors and no complaint has been filed against the appellant.
2. That the appellant was seriously ill and was unable to perform her duties, therefore the appellant requested for half pay leave, which was granted for 240 days w.e from 1.6.2005 to 26.6.2006 vide order dated 14.7.2005. the appellant further requested for extra ordinary leave and subsequently 339 days w.e from 27.06.2006 to 31.05.2007 was granted order dated 11.11.2006 it is pertinent to mention here that the appellant was granted further leave without pay of 730 days w.e.f 1.6.2007 to 31.5.2009 vide order dated 17.11.2007. (Copy of orders are attached as Annexure-A,B&C)
3. That the appellant was unable to perform her duties being under treatment, and time again requested for extension of her leave through applications. It is worth to note that the appellant was transferred from GGHS Drosh to GGMS girls Mori Bala vide order dated 30.7.2010 and then the appellant was transferred to GGMS Shah Nigar.(Copy of order dated 30.7.2010 is attached as Annexure-D)
4. That the appellant even requested for her special treatment and after due consideration the DG Healthy Services KPK Peshawar was pleased to accord sanction for specialized treatment at Peshawar. Vide order dated 13.11. 2011. (Copy of order is attached as annexure-E)
5. That the appellant repeatedly requested to department for extension of her leave, but instead of extension of her leave. EDO (E&SE) Chitral issued show cause notice to the appellant and and Director (E&SE) KPK Peshawar imposed major penalty of removal from the service vide order dated 26.1.2012 without giving charge sheet and without conducting inquiry. (Copy of show cause notice and removal orders are attached as Annexure-F&G)
6. That the appellant filed departmental appeal on 23.2.2012 against the order dated 26.1.2012 which was rejected on 19.2.2015. (Copy of departmental appeal and rejection order are attached as Annexure-H&I)

7. That now the appellant comes to this august Tribunal on the following grounds amongst the others.

**GROUND:**

- A) That impugned orders dated 26.1.2012 and 19.2.2015 are against the law, facts, and norms of justice and material on record, therefore not tenable.
- B) That the inquiry is conducted after the removal of appellant. Which is not permissible in law. Therefore the impugned order is liable to be set aside.
- C) That even the inquiry committee recommended for the reinstatement of the appellant in the service and period of absence from the duty w.e.f 1.6.2009 onward may be treated as EOL without pay keeping in view DHQ Chitral and DG Health Peshawar letter referred for which she had applied for leave but her leave case was not processed further, but despite that recommendation the appellant was not reinstated. Which is against the principle of justice and fair play. ( Copy of inquiry report is attached as Annexure-J)
- D) That EDO (E&SE) Chitral issued show cause notice to the appellant, which is not competent authority and for the appellant the competent authority is director and not the EDO.
- E) That the appellant has not been treated according to law and rules and has been kept deprive from her legal right in arbitrary manner.
- F) That the appellant has been removed from service on 26.1.2012 while the inquiry was conducted after the removal of the appellant. Therefore, the impugned order is liable to be set aside on this ground alone.
- G) That no charge sheet, statement of allegation was served to the appellant before imposing the major punishment to the appellant, which is against the law and rules.
- H) That the removal order dated 26.1.2015 is against the law as the respondent Deptt. did not fulfill codal formalities before passing the removal order dated 26.1.2015.

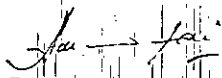
- 7
- I) That the appellant has requested time and again for further extension of leave due to her treatment, but the rejection of extension of leave was not communicated to the appellant. Therefore the appellant could not be penalized for the fault of others.
  - J) That the appellant has good service record, therefore, no complaints against the appellant what-so-ever.
  - K) That the appellant seeks permission to advance other grounds and proofs at the time hearing.

It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

Bibi Aisha

THROUGH:

  
(M. ASIF YOUSAFZAI)

&

(TAIMUR ALI KHAN)

ADVOCATES, PESHAWAR



8

Ann R-2

Detail of Leave Period in respect of Mrs: Bibi Ayesha Jamil SST (G) GGHS Drosh Chitral.

S:#	Name of Officer	Title of Leave	Period
1.	Mrs: Bibi Ayesha Jamil	Medical Leave	01/03/1991 to 23/04/1991 (54 Days)
2.	--do--	Medical Leave	24/04/1991 to 01/05/1991 (39 Days)
3.	--do--	Medical Leave	02/09/1998 to 09/09/1998 (08 Days)
4.	--do--	Earned Leave on Half Pay	01/06/2005 to 26/06/2006 (390 Days)
5.	--do--	Extra Ordinary Leave	27/06/2006 to 31/05/2007 (339 Days)
6.	--do--	Leave Without Pay	01/06/2007 to 31/05/2009 (730 Days)

Prepared By:- Muhammad Ilyas Khan

SSSA

*B. Ayesha Jamil*  
Principal,  
Govt: Girls High School Drosh

Attested  
*[Signature]*  
Dy. District Education  
Officer (Female) Chitral  
2/2/2017

(9)

Ann R-3

حجرتہ ڈسٹرکٹ ایجوکیشن آفیسر صاحبکم فتح عبدال

معلوم: درخواست برائے ریشٹرنمنٹ

حجرتہ

بہانیت جو باغ (جن کے نام فرخ خردیہ 1986 سے 4 سے  
بکثیت بی بی بی بی اور 25 1996 سے بکثیت آئی کے حکم کے تحت  
میں ڈیوٹی انجام دینی ہیں۔ اس فرخ خردیہ کو فریڈ 33 سال ملازمت  
کے لئے اور فرخ کے تاریخ پیدائش 3 اپریل 1967 ہے۔

درخواست میں فرخ کے نام فرخ خردیہ مورخ 31 جولائی 2019  
کو ملازمت سے ریشٹرنڈ ہونا چاہتے ہیں۔ اس لئے مذکورہ تاریخ سے  
فرخ کے ریشٹرنمنٹ کے لئے ضروری کارروائی مکمل کرانے کے حکم صادر فرمائیں تاکہ  
میں نوآبادی برائے

فرخ خردیہ

B. Janil  
بھائی صاحب  
SSA  
گورنمنٹ زونل سکول مدرسہ  
فتح آباد

تاریخ: 3/3/2019

(10)

Ann. R-1/33

OFFICE OF THE DISTRICT COORDINATION OFFICER, CHITRAL

(7)

Dated Chitral the 17/11/2007

OFFICE ORDER:

No. \_\_\_\_\_/DCO/E-9 Mst. BiBi Aisha SET GGMS Shahnigar Drosh is hereby granted leave for a period 730 days (seven hundred and thirty) with effect from 1-6-2007 to 31-5-2009 (without pay) as admissible under the revised Leave Rule 1981.

District Coordination Officer,  
Chitral

No. 5952-56/DCO/E-9  
Copy forwarded to the :-

- 1) The EDO (S&L) Chitral for information with reference to his letter No. 13002 /EDO(E) dated 7-11-2007
2. District Accounts Officer, Chitral for information.
3. Official Concerned for information.

*[Signature]*  
District Coordination Officer,  
Chitral

*Attested*

*[Signature]*

ATTESTED  
*[Signature]*

(11)

D 28<sup>c</sup>

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E & S) EDUCATION  
CHITRAL.

OFFICE ORDER

Consequent upon the approval of the competent authority transfer/adjustment of the following (Female) S.S.Ts is hereby ordered in their own pay and grade in the school noted against each in the best interest of public service with immediate effect.

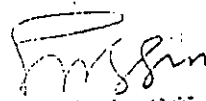
S.No	Name	From	To	Remarks
1	Tahira Sulhana. SST	GGHS Shiqotak.	GGHS Muldeh.	V.S No. 02
2	Fakhrun Nisa SST	GGHS Muldeh.	GGHS Shiqotak.	V.S No. 01
3	Aisha. SST	GGHS Drosh.	GCMS Girls Mori Bala.	A.V.P

- Note: - 1. No TA DA is allowed  
2. Charge report should be submitted to all concerned

(GULSAMBAR BEGUM)  
Executive District Officer,  
(E&S) Education Chitral.

Endst No. 202.10-14 /E-1/EB (F) SST dated Chitral the 30 / 7 / 2010.

- Copy forwarded to the:-
- 1- District Coordination Officer, Chitral.
  - 2- District Accounts Officer, Chitral.
  - 3- Hea. Inmistress Concerned.
  - 4- Middle Section (Female) Local office.
  - 5- Officers concerned.

  
Executive District Officer,  
(E&S) Education Chitral.

30/7/10

APPROVED  


**OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&D)**  
**EDUCATION, CHITRAL.**

**OFFICE ORDER**

Consequent upon the approval of the competent authority transfer/adjustment of the following (Female) SST is hereby ordered in their own pay and grade in the school noted against each in the best interest of public service with immediate effect:

S.No.	Name	From	To	Remarks
1.	Tahira Sultana SST	GGHS Shiaqotak	GGHS Muldeh.	V.S. No.02
2.	Fakhrun Nisa SST	GGHS Muldeh	GGHS Shiaqotak	V.S No.01
3.	Aisha SST	GGHS Drosh	GGMS Girls Mori Bala	A.V.P

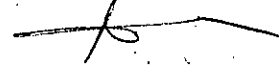
- Note:
1. No TA DA is allowed.
  2. Charge report should be submitted to all concerned.

Sd/-  
( GULSAMBAR BEGUM)  
Executive District Officer,  
(E&S) Education, Chitral.

Endst. No.20210-14/T-4/EB(F)SST Dated Chitral, the 30.07.2010.  
Copy forwarded to the :-

1. District Coordination Officer, Chitral.
2. District Accounts Officer, Chitral.
3. Headmistress Concerned.
4. Middle Section (Female) Local office.
5. Officers concerned.

**ATTESTED**





**DIRECTORATE  
GENERAL HEALTH SERVICES  
KHYBER PAKHTUNKHWA  
PESHAWAR**

13

Ann R-6	
Health Services Peshawar and Districts	
any official by name	
E-Mail Address	
Office Ph#	
Exchange#	
Fax#	

**OFFICE ORDER**

As required under Rule 5 (i) (a) of West Pakistan Government Servant Medical Attendance Rules, 1950, Sanction is hereby accorded for medical attendance and treatment of in respect of the following Officers/officials, by the concerned Specialist at govt. LRH KHEMCHAKRANOM Hospital Peshawar, on the advice of the concerned specialist of DHQ Hospital Chitral

Sd/-  
DIRECTOR GENERAL HEALTH  
SERVICES KHYBER PAKHTUNKHWA  
PESHAWAR

No 11213 /Medical,

Dated Peshawar the 13 /11.2011

Copy forwarded to the:

1. Medical Superintendent DHQ Hospital Chitral w/r to his letters referred to below.
2. Israr Ahmad Computer Operator EDO (Health) Office Chitral w/r to letter No. 1724 DHQ:H/G-5-B dated 29.04.2011.
3. Mr. Ibadur Rehman, Computer Operator DHQ Hospital Chitral w/r to letter No. 2077 DHQ:H/G-5-B dated 23.05.2011.
4. Mr. Ibadur Rehman Computer Operator DHQ Hospital Chitral w/r to letter No. 4178 DHQ:H/G-5-B dated 20.09.2011.
5. Mr. Muhay-ud-Din Junior Clerk EDO (Health) Office Chitral w/r to letter No. 1283 DHQ:H/G-5-B dated 05.04.2011.
6. Muhay-ud-Din Junior Clerk EDO (Health) Office Chitral w/r to letter No. 1309 DHQ:H/G-5-B dated 01.10.2011.
7. Rahmat Wali Khan Dry Sweeper GGMS Charan Chitral w/r to letter No. 1022 DHQ:H/G-5-B dated 08.09.2011.
8. Mubarak Shah JPHC Technician Multi Purpose (EP) Unit EDO (Health) Office Chitral w/r to letter No. 3465/DHQ:H/G-5-B dated 30.06.2011.
9. Dr. Saleema hassan Gynecologist DHQ Hospital Chitral w/r to letter No. 1457 DHQ:H/G-5-B dated 15.04.2011.
10. Dr. Saleema hassan Gynecologist DHQ Hospital Chitral w/r to letter No. 1458 DHQ:H/G-5-B dated 15.04.2011.
11. Dr. Noor Islam District TB Control Officer Chitral w/r to letter No. 1477 DHQ:H/G-5-B dated 16.04.2011.
12. Dr. Noor Islam District TB Control Officer Chitral w/r to letter No. 1471 DHQ:H/G-5-B dated 16.04.2011.
13. Khalil Ur Rehman District Leprosy Supervisor Leprosy Unit EDO (H) Office Chitral w/r to letter No. 1522/ DHQ:H/G-5-B dated 19.04.2011.
14. Abdul Mustann JCT Anesthesia DHQ Hospital Chitral w/r to letter No. 1525 DHQ:H/G-5-B dated 19.04.2011.
15. Israrud Din JCT (Pharmacy) DHQ Hospital Chitral w/r to letter No. 1433 DHQ:H/G-5-B dated 14.04.2011.
16. Amin ud Din junior clinical Technician (Pharmacy) at Civil Dispensary Baranis, Felsil & District Chitral w/r to letter No. 1218 DHQ:H/G-5-B dated 02.04.2011.
17. Tila Bibi Dai at THQ hospital Drosh w/r to letter No. 1292 DHQ:H/G-5-B dated 06.04.2011.
18. Faighoon Nisa Charge Nurse DHQ Hospital Chitral w/r to letter No. 1329 DHQ:H/G-5-B dated 08.04.2011.
19. Tasleem Akhtrar Charge Nurse DHQ Hospital Chitral w/r to letter No. 1243 DHQ:H/G-5-B dated 04.04.2011.
20. Noor Azeem Khan Ward Orderly DHQ Hospital Chitral w/r to letter No. 1633 DHQ:H/G-5-B dated 23.04.2011.
21. Mast Landan Bibi Dai civil Dispensary Rumbur Chitral w/r to letter No. 1399 DHQ:H/G-5-B dated 23.04.2011.
22. Jainalia Bibi FMT BHU Sheshi Khaw Tar District Chitral w/r to letter No. 1704 DHQ:H/G-5-B dated 28.04.2011.
23. Dr. Faizul Mulk Deputy Medical superintendent DHQ Hospital Chitral w/r to letter No. 1736 DHQ:H/G-5-B dated 30.04.2011.
24. Jann Alam Labortory Attended at THQ Hospital Drosh w/r to letter No. 1738 DHQ:H/G-5-B dated 30.04.2011.

*Handwritten signature*

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BETTER COPY

ANNEXURE-E  
PAGE-9

DIRECTORATE GENERAL, HEALTH SERVICES,  
KHYBER PAKHTUNKHWA, PESHAWAR.

OFFICE ORDER.

As required under Rule-5 (i) (a) of West Pakistan Government Servant Medical Attendance rules, 1950. Sanction is hereby accorded for medical attendance and treatment of in respect of the following officers/officials by the concerned specialist at Government LRH/KTH/HMC/IRNUM Hospital Peshawar on the advice of the concerned specialist of DHQ Hospital Chitral.

Sd/- Director General Health  
Services Khyber Pakhtunkhwa, Peshawar.

No.11213/Medical

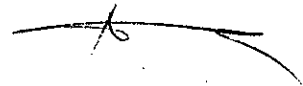
Dated Peshawar, the 13.11.20<sup>11</sup>14

Copy forwarded to the :-

1. Medical Superintendent DHQ Hospital Chitral w/r to his letter referred above.
2. Israr Ahmad, Computer Operator EDO (Health) Office Chitral w/r to letter NO.172.B/DHQ H/G-5-B dated 29.04.2011.
3. ....
301. ....
302. Bibi Aisha, GGMS Shahaigar Drosh Chitral w/r to letter No.4362/DHQ/HG-5-B; dated 05.10.2011.
303. ....
312. Atta-ur-Rehman, PET, GMS Ingloor Chitral w/r to letter No.4443/DHQ/G-B, dated 11.20.2011.

Sd/- Director General Health  
Services Khyber Pakhtunkhwa, Peshawar.

ATTACHED



20

Annu G

ASSUMPTION OF CHARGE

Following the decision of the Honorable Court Khyber Pakhtunkhawa service tribunal Camp Court Swat Dated: 02-01-2017 and the notification issued by the Director of the Education KPK SST/F/ Complaint Chitral Dated Peshawar the 21/08/2017 re-instated/ adjusted at Government Girls High School Drosh against the vacant post of SST with effect from 01/06/2009.

Miss: Bibi Ayesha have assumed charged the post of SST at Govt: Girls High School Drosh with effect from 01-06-2009 i.e that the period from 01/06/2009 to 26/01/2011 is extraordinary with out pay vide Director of Education KPK Number cited above.

*B. Ayesha*  
Bibi Ayesha  
SST GGHS Drosh Chitral

No. 1392-98 / Dated Drosh the, 24 / 8 / 2017.

Charge report forwarded to the:-

1. Register Khyber Pakhtunkhawa Service Tribunal, Peshawar.
2. Registrar Khyber Pakhtunkhawa Service Tribunal. Camp Court, Sawat.
3. Assistant Director (Lit-ii) Local Officer w/r to his letter No. 3199 dated 26/5/2017.
4. PA to the Director E&SE Khyber Pakhtunkhawa Peshawar.
5. District Education Officer (Female) Chitral.
6. The District Accounts Officer to kindly issue the revised pay slip so that she may be able to draw her pay.

*Asst CR-II*  
*examine and process accordingly*  
 Shaistamad  
 Principal,  
 Govt: Girls High School Drosh  
*MM*  
*MM*  
*MM*  
 06/11/17