

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No. 952/2015

Date of Institution... 10.07.2015

Date of decision... 04.04.2018

Mst. Muntahina Bibi D/o Dawar Khan
W/o Muhammad Saleem
PTC, now PST (Primary School Teacher) at Govt. Girls Primary School Damorai,
Tehsil Alpuri, District Shangla. (Appellant)

Versus

1. Chief Secretary to Govt. of Khyber Pakhtunkhwa at Civil Secretariat,
Peshawar and six others. (Respondents)
-

MR. MALIK MUHAMMAD AJMAL KHAN,
Advocate

... For appellant.

MR. USMAN GHANI,
District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD AMIN KHAN KUNDI,

... CHAIRMAN
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Our this judgment shall also dispose of connected service appeal No. 958/2015 entitled "Mst. Laila Khalid-Vs-Chief Secretary to Govt. of Khyber Pakhtunkhwa at Civil Secretariat, Peshawar and six others" as common questions of law and facts are involved in both the appeals.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The appellants were serving as PST since 1995. Both remained absent from duty from 01.10.2005 to 30.09.2007. However, their this period was converted into extra ordinary leave through an order dated 13.08.2008 as ex-post facto sanction. According to appellants they did report for duty after the expiry of the extra ordinary leave but the department on one pretext or the other did not accept their charge assumption report nor salary was released to them. That the appellants than approached the worthy Peshawar High Court somewhere in March 2010 for direction to the department for accepting their charge report and release of salary. During the course of pendency of that Writ the impugned order of removal from service of the appellants was passed on 13.08.2010. The worthy Peshawar High Court decided the Writ Petition on 12.03.2015 on the ground that an order of removal was passed hence, it lacked jurisdiction. The Writ Petition was remitted to the department for treating the same as representation and Writ was disposed of accordingly. The appellants than also made a reminder/ representation on 23.04.2015 in continuation of the order of the Worthy Peshawar High Court which was not responded to and thereafter they filed the present service appeals on 10.07.2015.

ARGUMENTS

4. The learned counsel for the appellants argued that the whole proceedings against the appellants were based on malafide. That the department was reluctant to accept the charge assumption report of the appellants for which the appellants filed Writ Petition. That it was only after the filling of Writ Petition when the departmental proceedings were initiated against the appellants and those

proceedings were aimed to defeat the Writ of the appellants. That in one of the notice the date of absence of the appellants was given as 01.01.2007 which belonged to the period of sanction of extra ordinary leave. That there were some contradictions between the letters of responsible officers of the department regarding absence of the appellants. That the appellants were not informed about the disciplinary proceedings. That an illegal order cannot legalize the other illegality in view of many judgments of the superior courts. The learned counsel for the appellants further contended that in the impugned order the word "removal/dismissal" was written and the department was not clear as to which penalty was imposed on the appellants. He next contended that the department passed a joint order of penalty which was not allowed under the law and rules.

5. On the other hand, the learned District Attorney argued that the department had rightly initiated the disciplinary proceedings against the appellants as they failed to report for duty, at least, after the expiry of the extra ordinary leave. That the appellants were duly informed through notices at their home addresses regarding the initiation of disciplinary proceedings. That the disciplinary proceedings were initiated much prior to the filing of the Writ Petition before the worthy Peshawar High Court. That the department rightly resorted to Rule-8-A of the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 1973 by getting the notices published in two leading newspapers and rightly removed the appellants from service. He added that in the notice the correct date of absence was mentioned as 01.10.2007 and due to clerical mistake it was written as 01.01.2007 in the written comments in the Writ before the worthy Peshawar High Court. He further argued that the present appeals are time barred on the

ground that the impugned order was passed on 13.08.2010 and the appellants were informed about this order, at least, on 03.11.2010 when the reply in the Writ Petition was filed before the Worthy Peshawar High Court but the appellants did not file any departmental appeal till 10.07.2015. That when department appeal was time barred the service appeals were also time barred.

6. In rebuttal the learned counsel for the appellants argued that he had moved an application for condonation of delay alongwith the service appeals and these appeals were fit for condonation of delay under the peculiar circumstances of the present appeals. That no limitation was attracted against void orders. The learned counsel for the appellants further argued that when the Worthy Peshawar High Court through its order dated 12.03.2015 sent the Writ Petition to be treated as department appeals than no limitation would be attracted.

CONCLUSION.

7. This Tribunal is first to decide the issue of limitation. The impugned order was passed on 13.08.2010 and the same was brought to the notice of the appellants, at least, on 03.11.2010 when the para-wise comments were filed before the Worthy Peshawar High Court. The appellants had a time of 30 days to file departmental appeals but they did not file any departmental appeal. The Worthy Peshawar High Court while finally disposing of the Writ Petition on 12.03.2015 on the ground of jurisdiction, remitted the Writ Petition to department to be treated as representation and to pass proper order in accordance with law and rules applicable therein. This Tribunal is to see whether remitting of Writ Petition would result in condonation of period of limitation provided for departmental appeal/representation. Nowhere in this order the Worthy Peshawar High Court has

held that the representation would be treated as within time rather it was added that the same representation should be decided in accordance with law and rules. The department was at liberty and so is the case this Tribunal to decide the said representation in accordance with law and rules including law of limitation.


8. Now this Tribunal is to see whether under the circumstances the condonation is to be granted or not. The application for condonation of delay when read holistically would give impression that there was no delay, at all, and if any delay was proved then the condonation be granted. The reason given for condonation of delay is that for any illegal order limitation would not run. But it is a settled law that illegal orders would never enlarge the period of limitation, however, no limitation would run against void orders. The learned counsel for the appellants has failed to convince this Tribunal that how the impugned order was void. In order to determine this issue, this Tribunal would discuss the impugned order qua its legality or otherwise. The impugned order was passed under Rule-8-A as mentioned above. In Rule-8-A of the rules mentioned above nothing has been highlighted that what procedure was not followed by the department while passing the order. The notice was given at the home addresses of the appellants followed by the advertisements in two newspapers followed by the order of dismissal/removal. The period mentioned in the notices and in the newspapers pertains to the absence of the appellants subsequent to the expiry of the extra ordinary leave. The only flaw in the impugned order was the use of the word "dismissal/removal". Under Rule-8-A the logical consequence is removal and not dismissal. The department used both the words and this is not an illegality which vitiated the whole proceedings. Under Section-7 of the Khyber Pakhtunkhwa

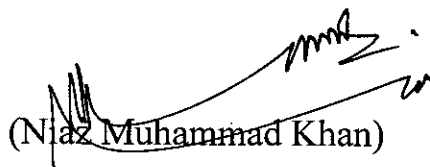
Service Tribunal Act, 1974 any mistake can be modified by this Tribunal. This Tribunal is, therefore, of the view that the impugned order is not an illegal order much less the void one. Another legal issue which has not been raised by the learned counsel for the appellants and noted by this Tribunal is that at the time when the impugned order was passed the law in force was the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. In some cases this point came up before this Tribunal that in presence of RSO, 2000 whether the proceedings under Rule-8-A of the rules of 1973 could be initiated. This Tribunal in many judgments including appeal No. 548/2014 entitled "*Ali Ahmad Vs. Government of Khyber Pakhtunkhwa and 4 others*" decided on 18.10.2017 held that on the promulgation of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 1973 were not repealed. The Ordinance was given an overriding effect only vis-à-vis the rules of 1973 and since RSO 2000 was silent about any mechanism as to the willful absence, therefore, Rule-8-A could have been resorted to by the department for willful absence. On this score too the impugned order is legal.

9. Now this Tribunal shall discuss the malafide of the department as pointed out by the learned counsel for the appellants on the ground that the department in order to defeat the Writ Petition initiated the whole proceedings against the appellants. But if we see that when the disciplinary proceedings were initiated against the appellants the very notice No. 262-63 was issued on 15.01.2009 much prior to the filing of the Writ Petition before the worthy Peshawar High Court and if we go through the Writ Petition it appears that the appellants were aware about

this disciplinary proceedings. As the words used in the Writ were that if any act/omission was found on the part of the respondents that be declared as void ab-initio, illegal etc. This Tribunal is therefore, of the view that the department did not initiate the proceedings in order to defeat the Writ Petitions of the appellants. The objection of joint order of appellants also does not vitiate the proceedings as nothing has been produced by the learned counsel for the appellant in support this objection.

10. As a sequel to the above discussion this Tribunal is of the view that neither the order is void nor illegal nor it was based on any malafide. Hence, limitation would run against the appellants. And no plausible explanation has been given for the condonation of delay therefore, no condonation is granted. The appeals being time barred are dismissed. The words "dismissed" in the impugned order are deleted. Parties are left to bear their own costs. File be consigned to the record room.



(Muhammad Amin Khan Kundi)
Member


(Niaz Muhammad Khan)
Chairman
Camp Court, A/Abad

ANNOUNCED
04.04.2018

31.01.2018

Counsel for the appellant present and Addl: AG for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 04.04.2018 before D.B at Camp Court, Swat.

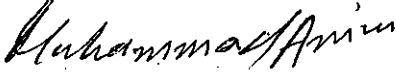

Member


Chairman
Camp Court, Swat

04.04.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, this appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.


Member


Chairman
Camp Court, Swat.

ANNOUNCED


04:04.2018

10.

03.07.2017

Counsel for the appellant and Mr. Muhammad Zubair, District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for final hearing on 06.11.2017 before the D.B at camp court, Swat.


Member


Chairman
Camp court, Swat


06.11.2017

Counsel for the appellant and Mian Amir Qadar, District Attorney alongwith Waheed Murad, ADO (Litigation) for the respondents present.

After hearing the arguments at some length, this Tribunal reaches the conclusion that in the show cause notice the department has declared the order of Extraordinary leave as bogus but in the parwawise comments they have accepted that the extraordinary leave was granted. Alongwith parawise comments some enquiries have been annexed according to which the EOL was bogus.

This Tribunal in order to reach the real facts, deem it appropriate that the original record pertaining to the leave alongwith service book of the appellant be produced on the next date. To come up for such record and further arguments on 05.12.2017 before this D.B at camp court, Swat.



Member


Chairman
Camp court, Swat

05.12.2017

Junior to counsel for the appellant present. Mr. Kabir Ullah Khattak, Learned Additional AG for the respondents present. Junior to counsel for the appellant requested for adjournment as his counsel is not available. Adjourned. To come up for arguments on 31.01.2018 before D.B at Camp Court, Swat.



MEMBER


CHAIRMAN
Camp Court, Swat

Appeal No. 958/2015

01.08.2016


Counsel for the appellant and Mr. Barkat Ali, Supdt. alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Due to non-submission of rejoinder and non-availability of D.B arguments could not be heard. To come up for rejoinder and arguments on 09.11.2016 before D.B at camp court, Swat.


Chairman
Camp court, Swat.

09.11.2016

Agent to counsel for the appellant and Mr. Muhammad Zubair, Sr.GP for respondents present. Seeks adjournment as counsel for the appellant is not in attendance. Adjourned for rejoinder and final hearing to 08.03.2017 before D.B at Camp Court Swat.



Member


Chairman
Camp court, Swat

08.03.2017

Clerk of counsel for the appellant and Mr. Waheed Murad, ADO alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Rejoinder submitted. Counsel for the appellant is not in attendance. Requested for adjournment. Adjourned for final hearing to 03.07.2017 before the D.B at camp court, Swat.


Member



Chairman
Camp court, Swat

952/2015

09.11.2016

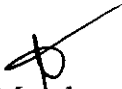
Agent to counsel for the appellant and Mr. Muhammad Zubair, Sr.GP for respondents present. Seeks adjournment as counsel for the appellant is not in attendance. Adjourned for rejoinder and final hearing to 08.03.2017 before D.B at Camp Court Swat.



Member


Chairman
Camp court, Swat

08.03.2017


Clerk of counsel for the appellant and Mr. Waheed Murad, ADO alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Rejoinder submitted. Counsel for the appellant is not in attendance. Requested for adjournment. Adjourned for final hearing to 03.07.2017 before the D.B at camp court, Swat.

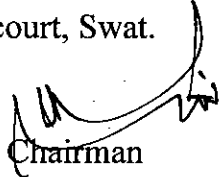

Member


Chairman
Camp court, Swat

10. 03.07.2017

Counsel for the appellant and Mr. Muhammad Zubair, District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for final hearing on 06.11.2017 before the D.B at camp court, Swat.


Member


Chairman
Camp court, Swat

01.12.2015

None present for appellant. M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (lit.) and Barkat Ali, Supdt. alongwith Addl: A.G for respondents present. Para-wise comments on behalf of respondents No. 3 to 7 submitted. The learned Addl: AG relies on the same on behalf of respondents No. 1 and 2. The appeal is assigned to D.B for rejoinder and final hearing for 4.4.2016 at Camp Court Swat as the matter pertains to the territorial limits of Malakand Division.


Chairman


04.04.2016

Counsel for the appellant and Mr. Barkat Ali, Supdt. alongwith Mr. Anwarul Haq, GP for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for final hearing before D.B on 01.08.2016 at Camp Court, Swat.


Chairman
Camp court, Swat.

01.08.2016

Clerk of counsel for the appellant and Mr. Barkat Ali, Supdt. alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for arguments on 09.11.2016 before D.B at camp court, Swat.


Chairman
Camp court, Swat.

27.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as PST when subjected to inquiry on the allegations of wilful absence from duty and removed from service vide order dated 13.8.2010 passed during the pendency of writ petition filed by the appellant which was disposed of by the Hon'ble High Court vide judgment dated 12.3.2015 directing the respondents to treat the same as departmental representation and dispose of the same in accordance with law. That the appellant also submitted application dated 23.4.2015 alongwith certified copies of the judgments which was not responded where-after service appeal was preferred on 10.7.2015 which was returned and then resubmitted on 21.8.2015.

That after availing two years extraordinary leave appellant applied for adjustment but no response whatsoever given compelling the appellant to prefer writ petition. That no inquiry whatsoever was conducted in the allegations and as such the impugned order is a nullity in eye of law.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 26.11.2010 before S.B.


Chairman

Appellant Deposited
Security & Process Fee



26.11.2015

None present for appellant. M/S Khurshid Khan, SO and Barkat Ali, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 1.12.2015 before S.B.



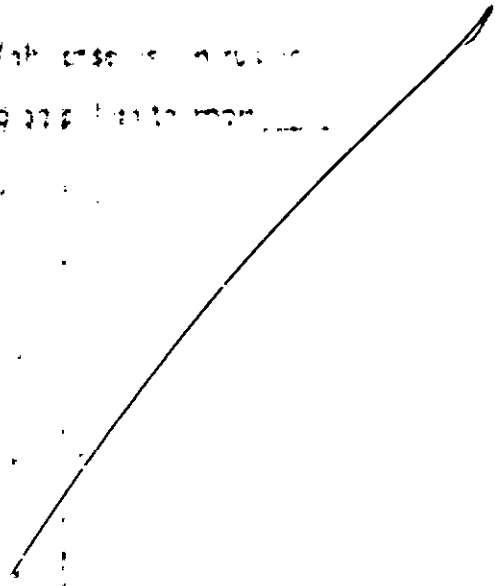

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 952/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21.08.2015	<p>The appeal of Mst. Muntahina Bibi resubmitted today by Mr. Malik Muhammad Ajmal Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>27-8-15</u></p> <p style="text-align: right;"> CHAIRMAN</p> 


This is a joint appeal filed by Mst. Muntahina Bibi & Laila Khaled today on 10/07/2015 against the impugned order dated 13.08.2010 against which they preferred/made a departmental appeal on 24.04.2015 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellants/counsel. The appellants would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

- ✓1- Memorandum of appeal may be got signed by the appellants.
- ✓2- Affidavit may be got attested by the Oath Commissioner.
- 3- Copy of first appointment order mentioned in para-7 of the memo of appeal is not attached with the appeal which may be placed on it.
- 4- Copy of reinstatement order of appellant No.2 mentioned in para-2 of the memo of appeal is not attached with the appeal which may be placed on it.
- ✓5- Appeal rules 1986 requires that every affected civil servant shall prefer the appeal separately/individually, therefore the appeal of the above named appellant may also be filed separately.

No. 1059 /ST,

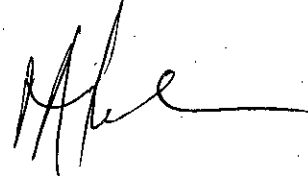
Dt. 10/7 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Malik M. Ajmal Khan Adv. Pesh.

Respected Sir

the appeal has been returned as per objection of the office dt 10-7-015 on 24-07-015, and the last date for submission is 23-08-2015. All other objection have already been removed. May kindly be placed before the honorable chairman



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 952 /2015

Mst. Muntahina Bibi ~~.....~~ Appellant

Versus

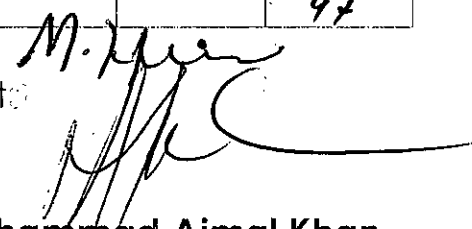
Chief Secretary & others. Respondents

I N D E X

S.No	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal with Affidavit		1-8
2.	Petition for Condonation of Delay and Affidavit		9-11
3.	Addresses of the parties		12-13
4.	Copies of appointment order/ charge reports	"A"	14-15
5.	Copy of the order	"B"	16
6.	Copy of order dated 13.08.2008	"C"	17
7.	Copy of the Writ Petition	"D"	18-21
8.	Copies of the order sheets	"E"	22-24
9.	Copies of parawise comments alongwith	"F"	25-42
10.	Copies of the application/ departmental representation	"G"	43-46
11.	Wakalatnama		47

Appellant:


Through


Malik Muhammad Ajmal Khan

&


Arbab Yasir A. Khan
Advocates, Peshawar

Dated: 09.07.2015



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 952 /2015

Mst. Muntahina Bibi D/o Dawar Khan

W/o Muhammad Saleem

PTC, now PST (Primary School Teacher)

At Govt. Girls Primary School Damorai,

Tehsil Alpuri, District Shangla. Appellant

Versus

1. Chief Secretary to Govt. of Khyber Pakhtunkhwa at Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa (Elementary & Secondary Education) Department at Civil Secretariat, Peshawar.
3. Director (Elementary & Secondary Education), Khyber Pakhtunkhwa at its Directorate Dabgari Gardens, Peshawar.
4. Executive District Officer (Elementary & Secondary Education), District Shangla.
5. Executive District Officer (E&SE), District Shangla.
6. DDO (Female) Primary Education, Swat.
7. DDO (Female) Primary Education Shangla at Alpuri.

.....Respondents

M. Hai

SERVICE APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED ORDER
DATED 13.08.2010 BY VIRTUE OF WHICH THE
APPELLANTS WERE DISMISSED FROM THEIR
SERVICES WITHOUT ANY SHOW CAUSE
NOTICE, STATEMENT OF ALLEGATIONS,
INQUIRY ETC IN RESPONSE TO A WRIT
PETITION BEARING NO.1369/2010
FOLLOWED BY ORDER SHEETS dated
10.06.2010, 22.09.2010.

Respectfully Sheweth:

The appellants humbly submit as under:

1. That the appellants were appointed as PTCs now PSTs through an order EDO(F) Endst.No.1101-6/F-No.1/Vol-13/Estt/DEO(F) Primary Swat dated 29.05.1995 and both took their charge on the following day i.e. 30.05.1995 at Govt. Girls Primary School Damorai, District Shangla, but by that time District Swat. (Copies of appointment order/ charge reports are attached as annexure "A").

M. Haq

2. That the appellant was removed from their service, but ^{she} was re-instated/ adjusted at the same school with immediate effect vide Endst.No.1101-6/F.No.1/Vol-3/Estt/EDO(F)Swat. (Copy of the order is attached as annexure "B").
3. That the appellant then applied for the grant of extraordinary leave without pay, which was sanctioned under the Leave Rules, 1981 from 01.10.2005 to 30.09.2007, vide Endst.No.251, dated 13.08.2008. (Copy of the order is attached as annexure "C").
4. That on the completion of their leave they took over their charge at the school, but submitted their arrival report in the office of respondents, because it was not accepted by the Head Teacher of the school concerned, since then there is no salary and no post, that's why she approached the respondents time and again to redress their legal demand/ grievance, but without any fruit, therefore, Writ Petition No.1369/2010 was filed before the Peshawar High Court, Peshawar, which was sent to Mingora Bench for disposal. (Copy of the Writ Petition is attached as annexure "D").

M. Hai

5. That the Hon'ble Peshawar High Court, Peshawar was pleased to ask for the comments of respondents No.4 to 7 within a fortnight, vide order dated 10.06.2010, but this order was not complied with which was followed by order dated 22.09.2010, wherein the official respondents No.4 to 7 therein were directed in the following terms "Respondents No.4 to 7 have failed to file their comments, despite of expiry of more than four (4) months period and because she was duly served and directed to do so.

'Mr. Akhtar Naveed, AAG, present in Court in some other case, was apprised of the situation, who promised that if he is provided a copy of the petition he will contact the respondents and direct them to file the comments. Office shall repeat a notice to respondents No.4 to 7 for comments with a warning note that this time their monthly salaries would be attached and proceedings for contempt of Court would be initiated against them, if they failed to submit the comments while the office is also directed to supply a copy of this Writ Petition at the cost of the petitioners to the AAG for doing the needful. Adjourned for a short date.'

Followed by order sheet dated 03.11.2010;

M. Yari

*"Latter wants time to file comments. Allowed.
May do so within three days. Adjourn to a date in
office."*

(Copies of the order sheets are attached
as annexure "E").

6. That the respondents accelerated the matter one sided and completed it before filing of their parawise comments to the said Writ Petition, therefore, annexure the purported documents with it on 02.11.2011. (Copies of the parawise comments alongwith its annexure are attached as annexure "F").
7. That the respondents in response to the said Writ Petition issued an impugned order dated 13.08.2010 by virtue of which the appellants ~~was~~ shown as removed from their services based upon the so-called publications and inquiry against them, therefore, the worthy Division Bench of the Peshawar High Court, Mingora Bench in light of the above, sent it to the respondent No.3 to treat it as their departmental representations and, thereafter, pass a proper order in accordance with law and rules applicable therein, but even then no reply has been

M. Khan

furnished nor any order has been passed although the appellants themselves moved an application to the said respondent alongwith the attested copies of the Writ Petition, parawise comments, order/ judgment dated 12.03.2015. (Copies of the application/ departmental representation are attached as annexure "G").

8. That the statutory period of 90 days has been lapsed without any reply/ order, hence the instant service appeal on the following amongst other;

GROUNDS:

- A. That the whole one sided so-called proceedings on the basis of which the appellant was removed from their services are against the law, facts as well as material available on file, hence untenable and are liable to be set aside.
- B. That the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 1975 should have to be followed in letter and spirit, which provide the procedure, but the said rules have been violated and the respondents adopted probably their own procedure, which is alien to the law, rules governing



M. J. Khan

the subject matter, hence void-ab-initio, illegal, unlawful and without lawful authority, hence not tenable.

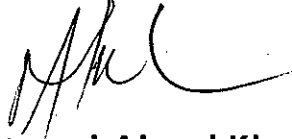

- C. That the purported documents produced by the respondents are vague, therefore, self-explanatory in nature, which contradict each other on material law points, dates and procedure.
- D. That the malafide is floating on the surface of the whole record, all the so-called proceedings were initiated after the filing of the Writ Petition, which further clarify the situation in hand, therefore, the whole proceedings are coram-non-judice, having no legal footing and are the result of malafide.

It is, therefore, most humbly prayed that on acceptance of the instant Service Appeal, the impugned one sided proceeding on the basis of which the appellants³ ~~was~~ removed from their services may very graciously be set aside being illegal, unlawful, without lawful authority and based on malafide, favoritism, nepotism and they may very graciously be reinstated in service with all back benefits.



M. Jhu

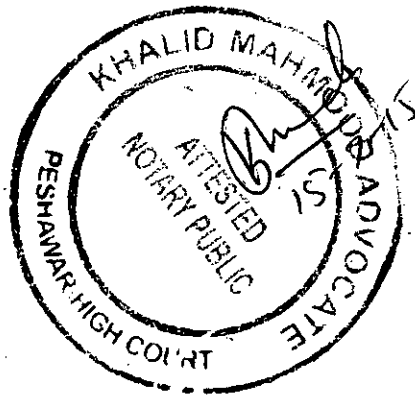
Any other relief, which has not specifically been asked for, but is fit in the circumstances of the case, may also be allowed in favour of the appellants, against the respondents.

Appellant
Through

Malik Muhammad Ajmal Khan
&

Arbab Yasir A. Khan
Advocates, Peshawar

Dated: 09.07.2015

AFFIDAVIT

I, Mst. Muntahina D/o Dawar Khan W/o Muhammad Saleem (Appellant No.1), do hereby solemnly affirm and declare on oath that the contents of the instant **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.





DEPONENT



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

C.M.No._____/2015

In

S.A.No._____/2015

Mst. Muntahina Bibi. Petitioner/Appellant

Versus

Chief Secretary & others. Respondents

**PETITION U/S 5 & 14 ALONGWITH ALL
 THOSE PROVISIONS OF LAW GOVERNING
 THE SUBJECT MATTER FOR CONDONATION
 OF DELAY, IF ANY.**

Respectfully Sheweth:

The petitioner/appellant very humbly submit as under:

1. That the petitioner has filed the enclosed service appeal before this Honourable Tribunal, wherein no date has yet been fixed.
2. That although there is no delay on the part of the petitioner, because the approached the august Peshawar High Court, Peshawar for their grievance on time, which was not covered by terms and conditions of service.

M. Hair

3. That the petitioner ~~was~~ proceeded against in response to the order dated 10.06.2010 and 22.09.2010.
4. That although the case of the petitioner is covered by section 5 r/w section 14 of the Limitation Act, 1908 even there is no delay on their part, otherwise too, for any illegal order time is not a sacrosanct/prerequisite and as per judgment of the superior courts the cases shall be decided on merits, rather on mere technicalities.
5. That the grounds taken in the main appeal may also be considered as an integral part of the instant petition.

It is, therefore, most humbly prayed that on acceptance of the instant petition for condonation of delay, if any, the enclosed service appeal may very graciously be considered within time and be decided on merits.

Through Petitioner/Appellant


Malik Muhammad Ajmal Khan

&


Arbab Yasir A. Khan
 Advocates, Peshawar

Dated: 09.07.2015





BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**PESHAWAR**

C.M.No. _____/2015

In

S.A.No. _____/2015

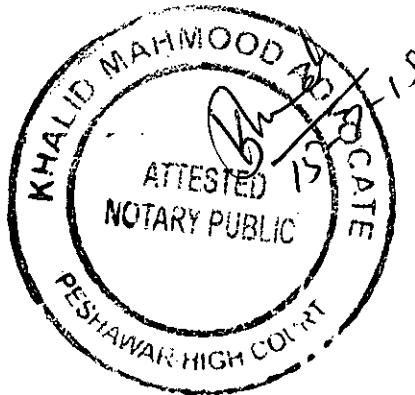
Mst. Muntahina Bibi ~~XXXXXXXXXX~~ ... Petitioner/Appellant

Versus

Chief Secretary & others. Respondents

AFFIDAVIT

I, Mst. Muntahina D/o Dawar Khan W/o Muhammad Saleem (Petitioner/Appellant No.1), do hereby solemnly affirm and declare on oath that the contents of the instant **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.



M. Zahir
DEPONENT



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. _____/2015

Mst. Muntahina Bibi & another. Appellant,

Versus

Chief Secretary & others. Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

1. Mst. Muntahina Bibi D/o Dawar Khan
W/o Muhammad Saleem
PTC, now PST (Primary School Teacher)
At Govt. Girls Primary School Damorai,
Tehsil Alpuri, District Shangla.

RESPONDENTS:

1. Chief Secretary to Govt. of Khyber Pakhtunkhwa at
Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa
(Elementary & Secondary Education) Department at
Civil Secretariat, Peshawar.

M. Hui

3. Director (Elementary & Secondary Education), Khyber Pakhtunkhwa at its Directorate Dabgari Gardens, Peshawar.
4. Executive District Officer (Elementary & Secondary Education), District Shangla.
5. Executive District Officer (E&SE), District Shangla.
6. DDO (Female) Primary Education, Swat.
7. DDO (Female) Primary Education Shangla at Alpuri.

Appellant

Through


Malik Muhammad Ajmal Khan

&


Arbab Yasir A. Khan
Advocates, Peshawar

Dated: 09.07.2015



M. Hira

Charge Report
 Offr: Muthanna S/o Bawar Khan has
 been appointed as P.T.C. vide DECF Primary
 Smt no 1101-6/F-No/12 (13/12/1995)
 DECF
 P.T.C. at this school to-day on the forenoon
 of May 30, 1995
 This is for your information and
 m/a please.

Following Govt Servant
 Relieved Govt Servant

Sh. Manoj
 Govt Girls Primary School
 Darnohli, Dist. Smt

- Copy to
- 1) The D.E.O. (F) Jy: Smt
 - 2) The D.A.O. Smt
 - 3) The S.O. (F) Jy: Smt
 - 4) e/c

Attested

by Counsel
 JHM

15

ARRIVAL/CHARGE REPORTS.

After Completion of Long leave w.e.f. 1-10-05 to 30-9-07
(2Years) Sanctioned Vide EDO (E&SE) Shangla E.NO.251 dt 13/8/08
We are both the Femal teachers of GGPS-Damerai have Attend the
School. Therefore we are Submitted our ~~xxx~~ Arrival/Charge Report
for information and necessary action please.

Laila
1. Lilekhalid PST.

M. Hina
2. Muntshina PST
of GGPS-Damerai.

Copy forwarded.

1. The EDO (E&SE) Shangla.
2. The DDO (F) pry; Edu; Shangla.
3. Office Read;

Attested
M. Hina
Counsel

OFFICE ORDER:-

Mst. Mumtahina, P.T.C. GGPS. Damerai who was removed from service is hereby re-instated/adjusted at GGPS. Damerai with immediate effect in the interest of public service.

Charge report should be submitted to all concerned.

Ok
(HAMIDA BEGUM)
DISTRICT EDUCATION OFFICER,
(F) PRIMARY EDUCATION, SWAT.

Endt: No. 1101-6 / F.No. 1/Vol: 3/Estt/DEO. (F) Pry: Swat. Dt: 29/5/95.

Copy of the above is forwarded for information to:-

- 1) The Minister, Primary Education, N.W.F.P., Peshawar with reference to his recommendation on the original application of Mr. Mohammad Latif Yousafzai brother of Mst. Mumtahina D/o Dawar Khan r/o Damerai, Tehsil Alpurai, Swat.
- 2) The Director, Primary Education, N.W.F.P., Peshawar with reference to his recommendation dated 25.5.95.
- 3) The S.D.E.O. (F) Swat.
- 4) The D.A.O. Swat.
- 5) The Head Mistress, GGPS. Damerai, Swat.
- 6) Mst. Mumtahina, P.T.C. GGPS. Damerai, Swat.

Ok
DISTRICT EDUCATION OFFICER,
(F) PRIMARY EDUCATION, SWAT.

Attested
Administrator
N.W.F.P. Agricultural University
Peshawar.

Attested
Counsel

Amexure
(17)

EXTRA ORDINARY LEAVE WITH OUT PAY.

Sanction is hereby accorded to the grant of Extra ordinary leave without pay under the leave rules 1081 to the following PSTs teachers for the period noted against each.

Necessary entries to this effect should be made in their Service Books.


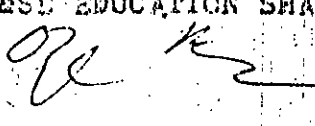
<u>Name of Basis/School</u>	<u>Period</u>
Miss; Li da Kholid PST, GGPS: Demoral	1.10.05 to 30.09.07 (2 Year)
Miss; Muntahina Bibi PST: GGPS: Demoral	--- do ---

EXECUTIVE DISTRICT OFFICER,
ELEMENTARY & SECONDARY EDU
SHANGLA.

Order; NO 251 /Dated 13/08 /08.

Copy of the above is forwarded to the,
1. The Deputy District Officer Female Primary with reference to her office memo NO.2x4 2 56 dated 12.04.2007.

Enclosure; Service Books.
Leave Accounts.


 DISTRICT OFFICER, (M&P)
 BASE EDUCATION SHANGLA.


ATTACHED
by Counsel
M/ul

ANNEXURE "C"

OFFICE OF DISTRICT OFFICER(M&F) E&SE EDUCATION
SHANGLA.

OFFICE ORDER

Sanction is hereby accorded to the grant of extra ordinary leave without pay under the leave rules 1981 to the following PSTs teachers for the period noted against each.

Necessary entries to this effect should be made in their service Books.

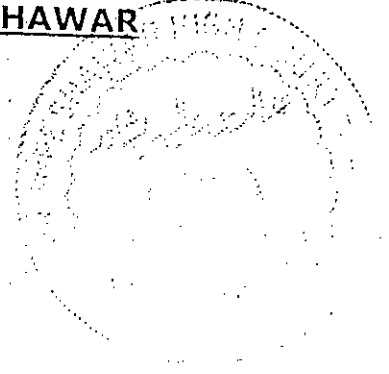
<u>S.No.</u>	<u>Name of posts/School</u>	<u>Period</u>
1.	Miss. Liala Khalid PST, GGPS Damorai	1-10-05 to 30-09-07 (2 years)
2.	Miss. Muntahina Bibi PST GGPS, Damorai	-do-

Sd/-

Executive District Officer,
Elementary & Secondary Edu:
Shangla.

Attested
by Counsel

IN THE PESHAWAR HIGH COURT, PESHAWAR



Writ Petition No. 1369/2010

1. Mst. Muntahina Bibi W/O Muhammad Saleem.
2. Laila Khalid W/O Muhammad Iqbal both PTC, now PST Teachers at Government Girls Primary School Damorai, Tehsil Alpuri, District Shangla.Petitioners

Versus

1. Chief Secretary to the Govt. of N.W.F.P, at Civil Secretariat Peshawar.
2. Secretary to Govt. of N.W.F.P, (E&SE) at Civil Secretariat Peshawar.
3. Director (E&SE) at its Directorate, Dabgari Garden Peshawar.
4. Executive District Officer (E&SE) District Swat.
5. Executive District Officer (E&SE), District Shangla.
6. DDO (Female) Primary Education, Swat.
7. DDO (Female) Primary Education Shangla at Alpuri.
8. Head Teacher GGPS, Damargai, Tehsil Haripur, District Shangla.
9. Mst. Bilqees PTC/ PST Govt. GPS Damorai.
10. Mst. Zaiboon PTC/ PST Govt. GPS Damorai. . . Respondents

<=>⇄<=>=>⇄<=>=>⇄<=>

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

<=>⇄<=>=>⇄<=>=>⇄<=>

ATTESTED
[Signature]

Respectfully Sheweth:

1. That the petitioners are the permanent residents of Damorai, Tehsil Alpuri District Shangla. (Copies of CNIC, Domicile etc are attached as annexure "A").
2. That both the petitioners were appointed vide DEO(F) Endst.No.1101-6/F-NO/Vol(13/Estt/DEO(F) Primary Swat dated 29.05.1995, as PTC Teachers now PST's, whereafter both took charges of their posts at GGPS Damorai District Shangla by that time District Swat on 30.05.1995. (Copies of the appointment order/ charge report are attached as annexure "B").
3. That both the petitioners applied for the grant of extraordinary leave without pay, which was sanctioned under the Leave Rules 1981 from 01.10.2005 to 30.09.2007, vide Endst No.251 dated 13.08.2008. (Copy of the office order is attached as annexure "C").
4. That prior to the above both the petitioners were removed from their services who were reinstated/ adjusted at GGPS Damorai with immediate effect vide Endst No.1101-6/F.No.1/Vol-3/Estt/^EDO(F) Swat. (Copy of the office order is attached as annexure "D").
5. That both the petitioners took over their charge at GGPS Damorai after the completion of long leave through arrival/ charge report. (Copy of the same is attached as annexure "E").

[Handwritten signature]

- (20)
6. That since then there is no post in the said School nor there is any salary, received by the petitioners although both have submitted their charge reports in the office due to non-acceptance of the said reports by the Head Teacher of the said School.
 7. That the petitioners approached the respondents time and again for their genuine grievance/ demand, but their genuine and legal request has not been complied with by positive answer/ reply on behalf of the respondents.
 8. That having no other adequate, efficacious and speedy remedy the petitioners approaches this Honourable Court on the following amongst other;

G R O U N D S:

- A. That petitioners have been dealt with in accordance with law as well as the equal protection of law has not been extended to them.
- B. That there is no order in the field in respect of the petitioners for which they have time and again requested the respondents and if any that will be illegal and void-ab-initio.
- C. That the rule of ponetentia has been violated and there are so many judgments of the superior courts in this regard.
- D. That at this stage the petitioners are not able to apply afresh on the basis of their qualifications as well as age limit which will be hurdle in their way.

ATTESTED
[Signature]

E. That the forced labour is prohibited by the constitution and is not allowed in any shape.

It is, therefore, most humbly prayed that on acceptance of the instant Writ Petition, the act/ omission on the part of the respondents be declared as void-ab-initio, illegal, unlawful, without lawful authority and legal justification, hence ineffective upon the valuable/ legal fundamental rights of the petitioners.

&

The respondents be directed to allow the petitioners to continue their duties as PSTs at GGPS Damorai and to be paid their outstanding salaries by the respondents.

Any other relief, which has not specifically been asked for and is fit in the circumstances of the case may also be awarded in favour of the petitioners against the respondents.

Petitioners
Through

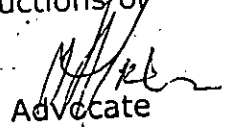


Malik Muhammad Ajmal Khan
Advocate, Peshawar

Dated: /03/2010

CERTIFICATE:

Certified that no such like Writ Petition has earlier been filed by the petitioner before this Honourable Court as per instructions of my client.

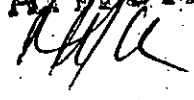

Advocate

LIST OF BOOKS:

1. Constitution of Islamic Republic of Pakistan 1973.
2. Case Law according to need.


Advocate

ATTESTED



PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
22.09.2010.	2
	<p><u>W.P.No. 1369/2010.</u></p> <p>Present: Malik Muhammad Ajmal Khan, Advocate, for the petitioners. ***</p> <p>Respondents No.4 to 7 have failed to file their comments despite of expiry of more than four (04) months period and because they were duly served and directed to do so.</p> <p>Mr. Akhtar Naveed, AAG, present in Court in some other case, was apprised of the situation, who promised that if he is provided a copy of the petition he will contact the respondents and direct them to file the comments. Office shall repeat a notice to respondents No. 4 to 7 for comments with a warning note that this time <u>their monthly salaries would be attached and proceedings for contempt of Court would be initiated against them, if they failed to submit the comments while the office is also</u></p>

ATTESTED

[Signature]

directed to supply a copy of this writ petition at the cost of the petitioners to the AAG for doing the needful.

Adjourned for a short date. //

*Office Rms
28/9/13*

[Signature]
JUDGE

[Signature]
JUDGE

ATTESTED
[Signature]



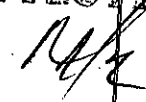
24

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Serial No. of Order of Proceedings	Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2	3
	03.11.2010	<p><u>Writ Petition No.1369/2010</u></p> <p>Present: Malik Muhammad Ajmal Khan, Adv., for the petitioners.</p> <p>Mr. Fazalur Rehman Khan, Addl. AG, for the official respondents.</p> <p>*****</p> <p>Latter wants time to file comments. Allowed. May do so within three days. Adjourn to a date in office.</p> <p style="text-align: right;">  CHIEF JUSTICE </p> <p style="text-align: right;">  JUDGE </p> <p style="text-align: right; margin-top: 20px;"> ATTESTED  </p>

Handwritten notes:
07/11/10
11/5/11

(Fayaz)

Annexure F
(25)

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P.No. 1359/2010

Mst. Mumtahina Bibi

(Petitioner)

VERSUS

GOVT: of Khyber Pakhtunkhwa & Others

(Respondents)

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURES	PAGES
1	Parawise comments	---	1-2
2	Affidavit	---	03
3	Annexure	"A"	04
4	Annexure	"B"	05
5	Annexure	"C"	06
6	Annexure	"D"	07
7	Annexure	"E"	08
8	Annexure	"F"	09
9	Annexure	"G"	10
10	Annexure	"H"	11

ATTACHED
[Signature]

BEFORE THE HON'ABLE PESHAWAR HIGH COURT, PESHAWAR

F

(13)
(26)

W.P.No. 1369/2010

Mst: Muntahina Bibi-----

(Petitioner)

VERSUS

Government of Khyber Pakhtunkhwa & others-----

(Respondent)

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 4 TO 7 ARE AS UNDER:-

Respectfully Sheweth:-

1. No need to reply.
2. No need to reply.
3. It is correct. The Petitioners were granted the said leave with out pay but they failed to resume their duties on expiry of the leave period and violated the concerned rules. Therefore after complying with all the codal formalities, the petitioners were dismissed from their services vide order dated 13/08/2010 (copy attached as Annex: A).
4. Reply of this Para is concerning with respondent No. i.e E.D.C (E&SE), Swat.
5. Incorrect, Reply has been given in Para No. 3.
6. Incorrect, the Teacher did not attend their duties, therefore they were not entitled for receiving any salary etc, for the absence period.
7. Baseless, the petitioners never found attending their duties, therefore they were not illegible for any salary etc on their illegal demands made by them in this respect. (Copy of the report of ADO (F) of the concerned circle attached as Annex: B).
8. Incorrect, the petitioners have time and again been directed to attend their duties and further attend office of the DDO(F) to justify their illegal prolong absence from duties, but they every time failed to do so (Copy of the final Show Cause notice is attached as Annex: C for ready reference), therefore the petitioner have no legal right to approach this Hon'able Court on the following grounds, amongst others:-

GROUNDS:


ATTESTED
[Signature]

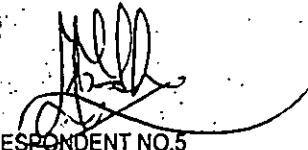
27

- A Incorrect: The petitioners have been dealt with accordance with law and the concern rules.
- B Incorrect the petitioners failed to attend their duties after 01/01/2007 in spite of time and again direction of the competent authority ,therefore they have now been terminated from their services ,after fulfilling the legal formalities ,vide this office order Endost No11111-16 Dated 13/08/2010 (Attached as Ann:D)
- C Baseless.
- D Baseless and illegal.
- E Baseless .the petitioners ever remained out of their duty station either they remained abroad or in Islam Abad with their Family ,Therefore they were not illegible for salary etc under the rules .

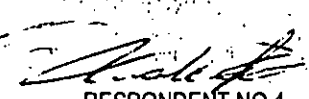
Terminated

it, is therefore most humbly prayed that the petition being baseless and unlawful, be dismissed /rejected with cost.


 RESPONDENT NO. 7
 DEPUTY DISTRICT OFFICER (F)
 PRIMARY EDUCATION SHANGLA.


 RESPONDENT NO.5
 EXECUTIVE DISTRICT OFFICER
 ELEMENTARY & SECONDARY EDUCATION SHANGLA


 RESPONDENT NO.6
 DEPUTY DISTRICT OFFICER (F)
 PRIMARY EDUCATION SWAT.


 RESPONDENT NO.4
 EXECUTIVE DISTRICT OFFICER
 ELEMENTARY & SECONDARY EDUCATION SWAT.


 RESPONDENT NO.3
 EXECUTIVE DISTRICT OFFICER
 ELEMENTARY & SECONDARY EDUCATION SWAT.

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

WP No 1369/2010

Mst. Mumtahina & others

(Petitioner)

VERSUS

Govt. of Khyber Pakhtunkhwa & others

(Respondents)

AFFIDAVIT

I Mr. Abdullah EDO (E&SE) Shangla office of the Executive District Office Shangla, do hereby solemnly affirm and declare on oath that the contents of the accompanying parawise Comments submitted by respondent No 4 to 7 are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able Court.

[Signature]
DEPONENT

15402-5388825-3

Identified by

[Signature]
ADVOCATE GENERAL,
KHYBER PAKHTUNKHWA,
PESHAWAR *ms*

4506
I certify that the above information before me is true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able Court.
I, *Abdullah EDO*,
Executive District Officer,
Shangla,
who was identified by *Mr. Advocate General*
who is personally known to me.

[Signature]
3/11/2010
Commissioner

ATTESTED
[Signature]

2/11/010

3/11/010

OFFICE OF THE EXECUTIVE DISTRICT
OFFICER ELEMENTARY & SECONDARY EDU
DISTRICT SHANGLA.

OFFICER ORD. ER.
REMOVAL FROM SERVICE.

Keeping in view on prolong absence from duty in
respect of Miss: Lila Khalid and Miss: Muntahina PST GGPS-Damorai
w.s.f. 1-7-2007 as reported by the ADO, Circle enquiry officer Conducted
enquiry on 28-10-08.

They are failed to attend their duties on their
respective schools or to respond of this office show cause notice
issued on 28-6-09 and Legal Notice bearing NO. 2726-27
dated 5-5-2010 on home address and subsequently Noticed dated 27/6/2010
published in News Paper on daily Ma shria and themal 11&12
June 2010.

The above named teachers are further failed to attend
their duties and no response received to this office so far.

Therefore, Miss: Lila Khalid and Miss: Muntahina PST Kernal
teachers of GGPS-Damorai are hereby removed/Dismissed from their
services under Rules 8-4 of the Khyber Pakhtoonkhow Govt: Servants
(E&S) Rules 1973 conveyed to this office vide Govt: K.P.K.
Department letter No. SOR/H(E&AD)2(4)2000 dated 01/8/2001
in the interest of Public service with immediate effect.

Attested
[Signature]

EXECUTIVE DISTRICT
ELEMENTARY & SECONDARY
DISTRICT SHANGLA

Dated 13/8/2010.

Under No. 1111-16

Copy of the above is forwarded:

- 1) The PA to Secretary to Govt: of K.P.K. Peshawar.
- 2) The Director of (Ele: & Secy: Edu:) K.P.K. Peshawar.
- 3) The District Magistrate/DCO, Shangla.
- 4) The Deputy District Officer (P) Pzy: Shangla.
- 5) The Headteacher GGPS - Damorai.
- 6) The District Accounts Officer, Shangla.
- 7) P. File.

[Signature]
Deputy District Officer (P)
Shangla.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU
DISTRICT SHANGLA.

[Signature]

BETTER COPY

39

OF THE EXECUTIVE DISTRICT
OFFICER ELEMENTARY &
SECONDARY EDU; DISTRICT
SHANGLA.

OFFICER ORDER;
REMOVAL FROM SERVICE;

Keeping in view on prolong absence from duty in respect of Miss. Lila Khalid and Miss Mumtahina PST GGPS-Damorai w.e.f. 1.7.2007 as reported by the ADO, Circle enquiry officer Conducted enquiry on 28.10.2008.

They are failed to attend their duties on their respective schools or to respond of this a office show cause notice issued vide No. 262-63 dated 15.1.2009 and legal notice bearing No. 2726-27 dated 6.5.2010 on Home Addressed and subsequently noticed dated 2.6.2010 and further published in News Paper on daily Mashriq and Shamal 11 & 12 June, 2010.

The above named teachers are further failed to attend their duties and no response received to this office so for.

Therefore, Miss Lila Khalid and Miss Mumtahina PST Female teachers of the GGPS-Damorai are hereby removed/ dismissed from their services under Rules 8-A of the Khyber Pukhtunkhwa Govt; Servants (E & d) Rules 1973 conveyed to this office vide Govt; KPK (Estab) Admn Department letter No. SOR/H (E&AD)2(4)2000 dated 1.8.2001 w.e.f. 1.10.2010 in the interest of public service with immediate effect.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU;
DISTRICT SHANGLA

Endst No. 11111-16

Dated: 13.8.2010

Copy of the above is forwarded:-

1. The PA to Secretary to Govt; of KPK Peshawar
2. The Director of (Ele: & Sacy; Edu;) KPK, Peshawar
3. The District Magistrate/ DCO, Shangla.
4. The Deputy District Officer (F) Pry; Shangla.
5. The Head Teacher GGPS-Damorai.
6. The District Accounts Officer, Shangla
7. P. File.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU;
DISTRICT SHANGLA

ATTESTED

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDRY EDU DISTRICT SHANGLA.

NO. 2726-27 / Dated 4/5/2010.

1. Miss. Lila Khalid FST GGPS-Damorai, D/O Haji Baduzaman, Village & PO Damorai, Distt: Shangla.
2. Miss. Mumtaz FST D/O Haji Bawar Khan, Village & PO Damorai Distt: Shangla.

Subject: FINAL NOTICE FOR ATTENDANCE.

Reference this office large NO of previous Show Cause notices NO 1753 dt: 16/11/05 NO. 9849-50 dt: 7-9-06 NO. 1437 dt: 28-11-06 and NO, 263 dt: 15-1-09 but you have not attended your duties and as well as your replies are still awaited.

The office of the undersign and the DDO(F) pry: Edu: Shangla has also directed you time to time to attend the School and resume your duties regularly but you have not Complied the orders Sofor. In this Connection the DDO(F) has again reported that you have Continued absent w.e.f. 1-10-2007. It is also pointed out that all the necessary process regarding absence from duty i.e. directedions Conduction of enquiries have been Completed against you.

However, you are once again directed to attend your School and resume your duties with in 14 days positively. If you failed to attend the School with in the stipulated period, legal act will be taken against you.

Attested
[Signature]
3/11/2010

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDRY EDU
DISTRICT SHANGLA.

270
100
2010

Indost: NO. 2728-27 / Dated 6-5/2010.

Copy of the above is forwarded to the.

1. The Director (E&SE) Edu: Peshawar.
2. The Deputy District Officer (F) pry: Edu: Shangla.

Attested

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDRY EDU
DISTRICT SHANGLA.

MOJIB KHAN
Assistant District Officer (F)
Edu (E.S.) Distt: Shangla

[Signature]

OF THE EXECUTIVE DISTRICT
OFFICER ELEMENTARY &
SECONDARY EDU; DISTRICT
SHANGLA.

No. 2726-27

Dated: 6.5.2010

To.

1. Miss Lila Khalid PST GGPS-Damorai.
D/o Haji Baduzaman,
R/o Village & P.O Damorai, Distt; Shangla
2. Miss Mumtahina PST
D/o Haji Bawar Khan,
R/o Village & P.O Damorai Distt; Shangla.

Subject:

FINAL NOTICE FOR ATTENDANCE.

Memo:

reference this office large No of previous show cause notices No. 1753 dated 16.1.2005 No. 9849-50 dated 7.9.2006 No. 1437 dated 28.11.2006 well as your replies are still awaited.

The office of the undersigned and the DDO (ET) Pry; Edu; Shangla has also directed you time to time to attend the school and resume your duties regularly but have not complied the orders So for. In this connection the DDO (F) has again reported that you have continued absent w.e.f 1.10.2007 it is also pointed out that all the necessary process regarding absence from duty i.e. directions conduction of enquiries have been completed against you.

However, you are once again directed to attend your school and resume your duties with in 14 days positively. If you failed to attend the school with in the stipulated period, legal action will be taken against you.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU;
DISTRICT SHANGLA

Endost; No. 2728-29

Dated: 6.5.2010

Copy of the above is forwarded to the.

1. The Director (E& SE) Edu; Peshawar
2. The Deputy District Officer (F) Pry; Edu; Shangla

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU;
DISTRICT SHANGLA

ATTESTED
[Signature]

SHOW CAUSE NOTICE

Ms. Mazli Wadood BDO (E&SE) Shangla. as competent authority, under the North West Frontier Province Removal from service (Special Power) ordinance, 2000, do hereby serve you, Miss; Mumtazina PST-Damoraí Shangla. as follows: No 262 dt 15/11/09

32

- (i) That consequent upon the completion of inquiry conducted against you by the Inquiry Committee for which you were given opportunity of hearing vide office communicator No. A-98 dated 28/10/08 and
- (ii) On going through the findings and recommendation of the Inquiry Committee, the material on record and other connected papers including your defence before the said Committee.

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said Ordinance.

- (a) As per enquiry report of Miss; Jamila Begum ADO (F) memo NO.A-98 dt; 28-10-08 and detail statement of H/T GGPS-Damoraí, you were will fully absent from your duty w.a.f. 01-5-05.
- (b) Your previous application EOL for two year from 04/10/06 to 30/9/07 have been received from DDO(F) vide her memo NO.2486 dt; 17/4/07 which were also found bogus in the light of the above enquiry report.
- (c) Your charge/arrival report and duty confirmation report from H/T GGPS-Damoraí dt; 28/2/08 have become declare bogus enquiry report.
- (d) All the previous enquiry and final show co been issued from DCO shangla memo, NO.17252 dt; 16/11/05 sti against on your part up till now.

- 2. As a result thereof, I am competent authority, have tentatively decided to impose upon you the penalty of Removal from Service under section 3 of the said Ordinance.
- 3. You are, therefore, required to attend the office of th DDO (E) within 7days & show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
- 4. If no reply to this notice is received within fifteen days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex parte action shall be taken against you.

The copy of the findings of the Inquiry Committee is enclosed.

Attested
3/11/2009

Attested
Executive District Officer (F)
District Shangla

(COMPETENT AUTHORITY)
Executive District Officer
Elementary & Secondary Edu.
District Shangla.

RECEIVED

(*)
(32)

SHOW CAUSE NOTICE

Mr. Fazli Wadood EdO (E&SE) Shangla as competent authority, under the NWFP, Removal from service (Special Power) Ordinance 2000, do hereby serve you Miss Mumtahina PST-Damerai Shangla as follow; No.262 dated 15.1.2009.

- i. That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide office communicator No. A-98 dated 28.10.2008 and
- ii. On going through the finding and recommendation of the inquiry committee. the material on record and other committed papers including your defence before the said committee.

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said ordinance.

- a) As per enquiry report of Miss Jamila Begum Ado (F) memo NO. A-98 dated 28.10.2008 and detail statement of H/T GGPS-Damorai, you were will fully absent from your duty w.e.f 1.5.2005.
- b) Your previous application EOL for two year from 4.10.2005 to 30.9.2007 have been received from DDO (F) vide her memo No. 2486 dated 12.4.2007, which were also found bogus in the light of the above enquiry report.
- c) Your charge/ arrival report and duty confirmation report from H/T GGPS-Damorai dated 28.8.2008 have become declare bogus in the light of enquiry report.
- d) All the previous enquiry and final show cause notice has been issued from DCO, Shangla memo. No. 17252 dated 15.11.2005 still out standi against on your part up till now.

2. As a result thereof, I, am competent authority have tentatively decided to impose upon you the penalty of Removal from Service under section 3 of said Ordinance.
3. you are, therefore, required to attend the office of the DDO (F) with in 7 days & show cause at to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. if no reply to this notice is received within Fifteen days of its delivery in the normal cause of circumstances, it shall be p[re]sumed that you have no defence to put in and in that case as exparte action shall be taken against you.
5. Thy copy of the findings of the inquiry committee is enclosed.

COMPETENT AUTHORITY

EXECUTIVE DISTRICT OFFICER

ATTESTED

[Handwritten signature]

Removal from service

LAST SHOW CAUSE NOTICE

33
2

Mr. Faizi Wadood EDO (E&SE) Shengla. as competent authority under

the North West Frontier Province Removal from service (Special Power) ordinance, 2000, do

hereby serve you, Miss, Laila Khalid, PST, GGPS-Damari, Shengla. No 263 11/5/10

(i) That consequent upon the completion of inquiry conducted against you by the Inquiry Committee for which you were given opportunity of hearing vide office communicator No. A-98, dated 28/10/08 and

(ii) On going through the findings and recommendation of the Inquiry Committee, the material on record and other connected papers including your defence before the said Committee.

I am satisfied that you have committed the following transgressions specified in section 3 of the said Ordinance.

(a) As per enquiry report of Miss; Jamila Begum ADO (F) memo no A-98 at; 28-10-08 and detail statement of H/T GGPS-Damari, you were willfully absent from your duty w.e.f. 01-5-05

(b) Your previous application have been EOI for two year from 01-10-05 to 30-9-07 have been ~~received~~ received from DDO(F) vide her memo NO 2466 at; 12-4-07 which were also found bogus in the light of the above enquiry report.

(c) Your charge/arrivel report and duty confirmation report from H/T GGPS-Damari at; 28-8-08 have become declare bogus in the light of enquiry report.

(d) All the previous enquiry and final show cause notice have been issued from DCO Shengla memo NO, 17253 at; 16-11-05 still outstanding against you on your part up till now.

2. As a result thereof, I, as a competent authority, have tentatively decided to impose upon you the penalty of Removal from service under section 3 of the said Ordinance.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within fifteen days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex parte action shall be taken against you.

5. The copy of the findings of the Inquiry Committee is enclosed.

Attend the office of the DDO with in 7 days & to

Attested

Attested
IQBAL KHEEMOOD
Executive District Officer (F)
District Shengla

(COMPETENT AUTHORITY)
W
Executive District Officer
Elementary & Secondary Edu.
District Shengla.

3/11/2010

17253

16/11/05

ATTESTED
kk

SHOW CAUSE NOTICE

Mr. Fazli Wadood EdO (E&SE) Shangla as competent authority, under the NWFP, Removal from service (Special Power) Ordinance 2000, do hereby serve you Miss Mumtazina PST-Damerai Shangla as follow; No.262 dated 15.1.2009.

- i. That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide office communicator No. A-98 dated 28.10.2008 and
- ii. On going through the finding and recommendation of the inquiry committee, the material on record and other committed papers including your defence before the said committee.

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said ordinance.

- a) As per enquiry report of Miss Jamila Begum Ado (F) memo NO. A-98 dated 28.10.2008 and detail statement of H/T GGPS-Damorai, you were will fully absent from your duty w.e.f 1.5.2005.
 - b) Your previous application EOL for two year from 4.10.2005 to 30.9.2007 have been received from DDO (F) vide her memo No. 2486 dated 12.4.2007, which were also found bogus in the light of the above enquiry report.
 - c) Your charge/ arrival report and duty confirmation report from H/T GGPS-Damorai dated 28.8.2008 have become declare bogus in the light of enquiry report.
 - d) All the previous enquiry and final show cause notice has been issued from DCO, Shangla memo. No. 17252 dated 15.11.2005 still out standi against on your part up till now.
2. As a result thereof, I, am competent authority have tentatively decided to impose upon you, the penalty of Removal from Service under section 3 of said Ordinance.
 3. you are, therefore, required to attend the office of the DDO (F) with in 7 days & show cause at to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
 4. if no reply to this notice is received within Fifteen days of its delivery in the normal cause of circumstances, it shall be p[re]sumed that you have no defence to put in and in that case as exparte action shall be taken against you.
 5. Thy copy of the findings of the inquiry committee is enclosed.

COMPETENT AUTHORITY

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU,
DISTRICT SHANGLA

~~ATTESTED~~

دستور (F) ADDO شہر شاہ پور ضلع شنگلا

عمر: A-98 مورخہ: 28/X/2008

بجانبے (F) صاحبہ ایڈیشنری اینڈ سکریٹری ایجوکیشن ضلع شنگلا

عنوان: ایکوآری سلسلہ میں نمٹنے کے لیے اور میں بیلی خالہ PST ماڈرنائزیشن کے لیے

جیسا عالی! 80

آپ کی چھی نمبر 1526 موصولہ 26/X/08 کی تعمیل میں زیر دستگی کے مورخہ 08/08 کو GPS دماورگی کا معائنہ کیا۔ مذکورہ اثباتاں بدستور غیر حاضر تھیں جبکہ کافی ثبوت حاضر اور معروف کار تھیں۔

میں بیلی خالہ PST اور میں نمٹنے PST کے بارے میں عرض ہے۔

کہ جس سے میں نمٹنے (F) ADDO چارج سنبھالا ہے تو اس کو کبھی سے سکول میں حاضر نہیں پائے گئے ہیں۔ میں پر پینے دو بار سکول کا معائنہ کرتی ہوں۔ یہاں مذکورہ اثباتاں کبھی سکول میں نہیں پائی اور نہ ہی رجسٹر حاضر کی مدد میں میں ان کے نام درج ہیں

اور نہ دو اثباتیوں کے سکول ہذا کے ریکارڈز پر پائے گئے تھے کوئی دستاویز موجود نہیں۔ H/M صاحبہ کو مذکورہ اثباتیوں کے بارے میں کوئی علم نہیں کہ وہ کہاں ہے۔

کاڈن کے لوگوں کے پینے کے مطابق دونوں اثباتیاں عمر صہ دراز ہیں

اسلام آباد میں اپنے فیملی سماعہ دیا لٹن پذیر ہیں

اس سلسلے میں بار بار انوآریاں دستور (F) DDO کو ارسال کر چکی ہیں جن کی تدریق ایسے (F) DDO کی دفتر سے کرتے ہیں

اس سلسلے میں H/M صاحبہ سے ایسے بیان کی گئی ہے جو چھی ہذا سماعہ

انوآری رپورٹ لٹن خدمت ہے۔

Handwritten signature and date 31/11/08

JAMILA BEGUM Assistant District Officer (F) Circle Shahpur Shangle

Put up in Relevant file

Handwritten signature and date 04-11-2008

ATTESTED BY Assistant Estt: (E.S.)

دفتر (F) ADO سرکل شاہ پور ضلع شانگلہ

نمبر A-98 مورخہ 28-x-2008

جناب: DO(F) صاحب ایڈمنسٹری ایٹو سکندری ایجوکیشن ضلع شانگلہ
عنوان: انکوائری سلسلہ مس محنتہ صاحبہ اور سس لیٹی خالد PST صاحبہ GGPS، داموڑے
جناب عالی!

آپ کی چھٹی نمبر 1526 موصولہ 26-x-2008 کی تمیل میں زیر تخطی نے مورخہ 8-10-2008 کو GGPS داموڑی کا معائنہ کیا۔ مذکورہ استائیاں بدستور غیر حاضر تھیں جبکہ باقی سٹاف حاضر اور مصروف کار تھیں۔

سی لیٹی خالد PST اور سس محنتہ PST کے بارے میں عرض ہے۔

کہ جب سے میں بحیثیت ADO(F) چارج سنبھالا ہے تو اس کو کبھی بھی سکول میں حاضر نہیں پائے گئے ہیں میں ہر مہینے دو بار سکول کا معائنہ کرتی ہوں لیکن مذکورہ استائیاں کبھی سکول میں نہیں پائی۔ اور نہ ہی رجسٹر حاضر مدرسین میں ان کے نام درج ہیں اور نہ دونوں استائیوں کا سکول ہڈا کے ریکارڈ پر برائے چھٹی کوئی دستاویز موجود ہیں، H/M صاحبہ کو مذکورہ استائیوں کے بارے میں کوئی علم نہیں کہ وہ کہاں ہے۔

گاؤں کے لوگوں کے کہنے کے مطابق دونوں استائیاں عرض دراز سے اسلام آباد میں اپنے فیملی کے ساتھ رہائش پذیر ہیں۔ اس سلسلے میں بارہا انکوائریں دفتر DDO(F) کو ارسال کر چکی ہوں جن کی تصدیق آپ DDO(F) کی دفتر سے کر سکتے ہیں۔ اس سلسلے میں H/M صاحبہ سے ایک بیان لی گئی ہے جو چھٹی ہڈا کے ساتھ لف ہے۔ انکوائری رپورٹ پیش خدمت ہے۔

Jamila Begum

Assistant District Officer(F)

Circle Shampur Shangla

ATTACHED

جناب ڈی ایچ ڈی سسرکٹ انیس صاحب
مدارس و ناز سکول اور خواندگی خانہ شنگھائی

ORDINARY LEAVE WITHOUT PAY MISS LAILAKHALD
AND MUMTAHINA BIST

جناب عالی:

مذکورہ عنوان کے تحت رپورٹ درج ذیل ہے:

آپ صاحبان نے انکی (سہ ماہیات کے لیے) اور مختصہ (PST) کے بارے میں leave without pay کے عنوان لکھا ہے لیکن یہ بلکہ یہ نہیں انکی صحتی ہفتہ روزہ کے منظور ہونے کے بعد انکی نے مذکورہ صحتی کے نام سے کرایا اور فراہم کر دی ہے یہ نہیں کہہ سکتے کہ انکی صحتی اس وقت کے بل کے خلاف ہے۔ انکی صحتی کے نام سے کرایا اور فراہم کر دی ہے یہ نہیں کہہ سکتے کہ انکی صحتی اس وقت کے بل کے خلاف ہے۔ انکی صحتی کے نام سے کرایا اور فراہم کر دی ہے یہ نہیں کہہ سکتے کہ انکی صحتی اس وقت کے بل کے خلاف ہے۔

انکی صحتی کے نام سے کرایا اور فراہم کر دی ہے یہ نہیں کہہ سکتے کہ انکی صحتی اس وقت کے بل کے خلاف ہے۔ انکی صحتی کے نام سے کرایا اور فراہم کر دی ہے یہ نہیں کہہ سکتے کہ انکی صحتی اس وقت کے بل کے خلاف ہے۔ انکی صحتی کے نام سے کرایا اور فراہم کر دی ہے یہ نہیں کہہ سکتے کہ انکی صحتی اس وقت کے بل کے خلاف ہے۔ انکی صحتی کے نام سے کرایا اور فراہم کر دی ہے یہ نہیں کہہ سکتے کہ انکی صحتی اس وقت کے بل کے خلاف ہے۔ انکی صحتی کے نام سے کرایا اور فراہم کر دی ہے یہ نہیں کہہ سکتے کہ انکی صحتی اس وقت کے بل کے خلاف ہے۔

Attested
Head mistress,
Govt. Girls Primary School
District, Shangha.
7/8/10/08
3/11/2008

Attested
IQBAL MEHMOOD
Assistant District Officer (F)
Distt: Shangha.
ATTESTED

ہیڈ ٹیچر گورنمنٹ گرلز پرائمری سکول، داموڑی، شانگلہ

جناب ڈپٹی ڈسٹرکٹ آفیسر صاحب
مدارس زنانہ سکول اور خواندگی ضلع شانگلہ
موضوع۔

Extra Ordinary Leave Without Pay Miss Laila Khalid and Mumtahina PST.

جناب عالی!

مذکورہ عنوان کے تحت رپورٹ درج ذیل ہیں۔

آپ صاحبان نے انکی (مسیات علیٰ خالد اور محمد PST) کے بارے میں Leave without Pay کا عنوان لکھا ہے لیکن ہمیں یہ بھی پتہ نہیں ان کی چھٹی بغیر تنخواہ کی منظور ہوئی ہے یا نہیںوں نے مذکورہ چھٹی کے نام سے کوئی درخواست دی ہیں یا نہیں کیونکہ جب سے ان کے خلاف اس وقت سے EDO جناب بخت آفر صاحب نے انکو ازری کے لیے انکو ازری آفیسر بھیجے اس وقت کے بعد سے لکرا بٹ ہم سے کسی نے بھی کوئی رابطہ نہیں رکھا ہے نہ مذکورہ استانیوں نے اور دفتر آفر سے۔

لہذا ہمیں کوئی پتہ نہیں کہ مذکورہ استانیوں کی سروس بحال ہیں یا نہیں۔

مذکورہ استانیاں اپنے خلاف کی انکو ازری کی دعائی پیش کر چکی ہیں انہیں یہ بھی معلوم نہیں اگر ان کے خلاف ہونے والی انکو ازری اور ان کی تیسری چھٹی میں تبدیل رہنے کا بھی ہمیں پتہ نہیں اس لیے ہم سے کسی نے بھی رابطہ نہیں اور نہ دفتر سے اس کے بعد ہمیں کوئی چھٹی پر ہے اور نہ ہمیں کوئی پتہ ہے کہ وہ استانیوں کو دیکھا ہے درخواست رپورٹ پیش کر سکتے ہیں اس لیے آپ صاحبان کی اطلاع کے لیے رپورٹ ہذا پیش خدمت ہے۔

Head Mistress

Govt. Girls Primary School

Damora, Distt, Shangla

ANESHA

36

OF THE DEPUTY DISTRICT OFFICER(F) PRIMARY EDUCATION SHANGLA.

351 / DDO(F) Pry-Edu:Shangla. Dated: 08/10/07, 2008.

The Executive District Officers
(Schools & Literacy) Shangla.

Subject: LEAVE WITH OUT PAY IN R/O MST:LAILA KHATID AND
MST:MUNTAHINA, PST GGPS DAMORAI.

With reference to your Office No:9157 dated:04/10/2007.
As per record of this Office and the report of Assistant District Officer
(Female) Circle:Shanpur as well Head teacher Government Girls Primary
School Damorai. The concerned P.S.Ts were applied for without pay for
Two years upto 31/07/2007. The case was submitted to your Office
for sanction of leave. But sanction not accorded uptill now.

Now as per report of Assistant District Officer/Head teacher
concerned, the teachers have not given arrival report for duty
after expiry of their leave i.e 31/07/2007 and also absent w.e.f 31/07/07
uptill now.

Hence it is requested that a special enquiry may please
be conducted against the above named teachers for further necessary ac-
tion please.

Shahid
DEPUTY DISTRICT OFFICER(F)
PRIMARY EDUCATION SHANGLA.

Joel Mehmood
JOEL MEHMOOD
Assistant District Officer (F)
Primary Education Shangla

DA
for father
m/pe
3/11/07

BETTER COPY

(36)
A
2/10/07

OFFICER OF THE DEPUTY DISTRICT
OFFICER (F) PRIMARY EDUCATION; DISTRICT
SHANGLA.

No. 351 DDO (F) Pry; Edu, Shangla Dated: 8.4.2010⁰⁸

To,

The Executive District Officer
(Schools & Literacy) Shangla.

Subject: LEAVE WITH OUT PAY IN R/O MST. LAILA
KHALID AND MST. MUMTAHINA, POST GGPS-
DAMORAI.

Memo;

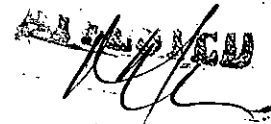
With reference to your office No. 9157 dated 4.10.2007.

As per record of this office and the report of Assistant District Officer (F) Circle Shahpur as well as Head teacher Govt. Girls Primary School Domorai. The concerned P.S.Ts were applied for leave without pay for Two years upto 31.7.2007. the case was submitted to your office for sanction of leave. But sanction not accorded uptill now.

Now as per report of Assistant District Officer/ Head teacher concerned, teachers have not given arrival report for duty after expiry of their leave i.e. 31.7.2007/30.9.2007 and also absent w.e.f 31.7.2007 uptill now.

Hence it is requested that a special enquiry may please be conducted against the above named teachers for further necessary action. Please.

DEPUTY DISTRICT OFFICER (F)
PRIMARY EDUCATION, SHANGLA.



IN THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No.1359/2010

Mst. Mumtahina Bibi & another. Petitioners

Versus

Govt. of Khyber Pakhtunkhwa & others. Respondents

<=>⇄<=>⇄=>⇄<=>⇄=>⇄<=>

**REJOINDER TO THE PARAWISE COMMENTS
ON BEHALF OF RESPONDENTS NO.4 TO 7.**

<=>⇄<=>⇄=>⇄<=>⇄=>⇄<=>

Respectfully Sheweth:

1. Needs no rejoinder.
2. Needs no rejoinder.
3. Admitted upto the extent that the petitioners were granted leave without pay which was sanctioned under the Leave Rules 1981 from 01.10.2005 to 30.09.2009 vide Endst.No.251 dated 13.08.2008, copy of which is already annexed as annexure "C" available at page No.11 of the main Writ Petition it is interesting that their leaves were upto ³⁰⁻⁰⁹⁻⁰⁹ 13.08.2008 but were terminated vide order with Endst.No.11111-16 dated 13.08.2008.

ATTESTED

[Handwritten Signature]

[Handwritten Signature]

4. That both the petitioners were removed from their services who were reinstated/ adjusted at GGPS Damorai vide order having Endst.No.1101-8/F.No.2/Vol-3/Entt/DEO(F) Pny: Swat dated 29.05.1995. Copy of which is already available at page No.12 as annexure "D" of the Writ Petition.
5. Incorrect, the petitioners took over their charges at GGPS Damorai after the completion of long leave through arrival/ charge report, copy of which is available at page No.14 as annexure "E" of the Writ Petition.
6. Incorrect, the petitioners after the expiry of their leaves, approaches ~~and~~ to respondents for submission of their charge reports, but were not accepted as there was no post in the said school and have received no salaries so far.
7. Incorrect, how it was possible for the petitioners to attend their duties, when their arrival/ charge reports were not accepted in the said school. They are eligible for their salaries as they after the expiry of their without pay leaves immediately appeared before the respondents but their charge reports were not accepted.

ATTESTED
[Signature]

8. Incorrect, the whole proceedings conducted by the respondents are illegal and without justifications, any notice/ order/ summon has neither been served upon the petitioners, rather when they are seeking remedy through the instant constitutional petition, then how it was possible for them to loss the opportunity provided by the respondents.

GROUND S:


- A. Incorrect, the petitioners have not been dealt in accordance with law and the concern rules, nor equal protection of law has been extended to them.
- B. Incorrect, the petitioners were on extraordinary leave without pay under the leave rules 1981, for the period of two years i.e. from 01.10.2005 to 30.09.2007, after that their arrival/ charge report was denied, the proceedings, if any, taken against them is totally the violation of legal rights especially newly added Article 10-A in shape of 18th Amendment in the Constitution of the Islamic Republic of Pakistan, 1973.
- C. Incorrect, the rule of ponetentia has been violated and also numerous judgments of the superior courts about the subject matter have totally been ignored.

ATTENDED

- D. Incorrect, the petitioners if denied at this stage will not be able to apply afresh due to the basis of qualifications and their age limits.
- E. Incorrect, the petitioners are/were ready to join their duties, denial is on the part of the respondents they are eligible for their outstanding salaries.

It is, therefore, most humbly prayed that on acceptance of the instant rejoinder to parawise comments on behalf of respondents No.4 to 7 the Writ Petition bearing No.1359/2010 may kindly be allowed as per prayer.

Petitioners
Through


Malik Muhammad Ajmal Khan
Advocate, Peshawar

Dated: 25.04.2011


RECEIVED



IN THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No.1359/2010

Mst. Mumtahina Bibi & another. Petitioners

Versus

Govt. of Khyber Pakhtunkhwa & others. Respondents

AFFIDAVIT

I, Malik Muhammad Ajmal Khan Advocate, Peshawar, as per instructions of my client, do hereby solemnly affirm and declare that contents of the accompanying **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.


DEPONENT

ATTESTED



1/

(42)

PESHAWAR HIGH COURT, MINGORA BENCH
(DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of

Case No. of

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
1	2	3
<p>1092</p> <p>13.3.15</p> <p>19.3.15</p> <p>18.3.15</p>	<p>12-3-2015.</p>	<p><u>W.P. No. 1369-P/2010.</u></p> <p>Present: Malik Muhammad Ajmal Khan, Advocate, for the petitioner.</p> <p>Mr. Sabir Shah, AAG, for the official respondents.</p> <p>Mst. Bilqees & Mst. Zaiboon, respondents No. 9 & 10, in person.</p> <p>***</p> <p><u>MALIK MANZOOR HUSSAIN, J:-</u> At the very outset, learned AAG raised a preliminary objection to the effect that termination order of the petitioners has been passed during pendency of instant writ petition, therefore, this petition is no more maintainable Under Article 212 of the Constitution. Since the comments has already been received, therefore, at this stage, without touching merits and demerits of the case, we deem it appropriate to send this petition to the concerned quarter to treat it as representation and thereafter pass a proper order in accordance with law and rules applicable therein.</p> <p>With the above observation, the instant petition is disposed of accordingly.</p> <p><u>Announced</u></p> <p><u>Di. 12-3-2015.</u> Certified to be true JUDGE</p> <p>TESTED</p>

Nawab

776

18/3/15

Amexuro
G
(43)

To

The Worthy Director (E&SE)
Khyber Pakhtunkhwa at its Directorate,
Dabgari Garden, Peshawar.

Respected Sir,

The petitioners very humbly submit as under:

1. That the petitioners are the permanent residents of Damorai, Tehsil Alpuri District Shangla.
2. That both the petitioners were appointed vide DEO(F) Endst.No.1101-6/F-NO/Vol(13/Estt/DEO (F) Primary Swat dated 29.05.1995, as PTC Teachers now PST's, whereafter both took charges of their posts at GGPS Damorai District Shangla by that time District Swat on 30.05.1995.
3. That both the petitioners applied for the grant of extraordinary leave without pay, which was sanctioned under the Leave Rules 1981 from 01.10.2005 to 30.09.2007, vide Endst No.251 dated 13.08.2008.
4. That prior to the above both the petitioners were removed from their services who were reinstated/ adjusted at GGPS Damorai with immediate effect vide Endst No.1101-6/F.No.1/ Vol-3/Estt/EDO(F) Swat.

ATTACHED
K/R

5. That both the petitioners took over their charge at GGPS Damorai after the completion of long leave through arrival/ charge report.
6. That since then there is no post in the said School nor there is any salary, received by the petitioners although both have submitted their charge reports in the office due to non-acceptance of the said reports by the Head Teacher of the said School.
7. That the petitioners approached the respondents time and again for their genuine grievance/ demand, but their genuine and legal request has not been complied with by positive answer/ reply on behalf of the respondents.
8. That having no other adequate, alternate, efficacious and speedy remedy the petitioners approached the Honourable Peshawar High Court, Peshawar through Writ Petition No.1369/2010, wherein the comments were asked for from respondents No.4 to 7 within a fortnight, vide order dated 10.06.2010. (Copy of the Writ Petition and order sheet is attached as annexure "A").
9. That when the said order was not complied with the Hon'ble D.B of the Peshawar High Court, on 22.09.2010 directed the respondents No.4 to 7 in the following words;

ATTESTED

"Respondents No.4 to 7 have failed to file their comments despite of expiry of more than four (04) months period and because they were duly served and directed to do so.

Mr. Akhtar Naveed, AAG, present in Court in some other case, was apprised of the situation, who promised that if he is provided a copy of the petition he will contact the respondents and direct them to file the comments. Office shall repeat a notice to respondents No.4 to 7 for comments with a warning note that this time their monthly salaries would be attached and proceedings for contempt of Court would be initiated against them, if they failed to submit the comments while the office is also directed to supply a copy of this Writ Petition at the cost of the petitioners to the AAG for doing the needful. Adjourned for a short date."

Followed by order sheet dated 03.11.2010;

"Latter wants time to file comments. Allowed. May do so within three days. Adjourn to a date in office.

(Copies of the order sheets are attached as annexure "B").

10.

That the comments were filed on 2nd November, 2011 by the said respondents jointly, but after the dismissal of the petitioners on 13.08.2010, as alleged by them without proper/ regular inquiry against them, which order is also ambiguous and prepared in a back date. (Copy of the order dated 13.08.2010 alongwith comments is attached as annexure "C" & "C/1" respectively).

ATTESTED

Rsh

11. That the petitioners filed their rejoinder in the light of order sheet dated 18.01.2011, wherein they clarify their position and this was the reason that the Hon'ble D.B of the Peshawar High Court, Mingora Bench through an order dated 12.03.2015, sent the Writ Petition to your good-self to treat it as representation and, thereafter, pass a proper order in accordance with law and rules applicable therein. (Copy of the rejoinder and order dated 12.03.2015 are attached as annexure "D").
12. That the petitioners want to submit the instant petition before your good-self for proper order please.

Dated: 23.04.2015

Petitioners

M. Min

1. Mst. Muntahina Bibi
W/o Muhammad Saleem

Laila

2. Laila Khalid
W/o Muhammad Iqbal
PTC, now PST Teachers
G.G.P.S Damorai, Tehsil
Alpuri, District Shangla

ATTESTED

NK



5581

ایڈووکیٹ/دستخط:

بار کونسل ابار ایسوسی ایشن نمبر: 2014S-11-11-11

رابطہ نمبر: 302 324 8-0315

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سروس مینوفیل ضمیمہ نمبر 10

منجانب: درہمہ ایڈووکیٹ	دعوی: سروس مینوفیل
 <p>بنام صاحب کورٹ</p>	علت نمبر:
	مورد:
	جرم:
	تھانہ:

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ ان مقام کے لئے ذرا غور فرمائی گئی ہے اور درہمہ ایڈووکیٹ کی طرف سے اس کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر حالت و فیصلہ برصفت دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا تاخیر یا بکثرت یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل عکرائی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف و قبول کرنے کا اختیار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 15/7/15

بد الع واہ شد الع بد

مقام پشاور کے لئے منظور ہے۔

نوٹ: اس کاٹ نامہ کی فونکونی کا قابل قبول ہوگی۔

Attested

Accepted

Accepted
M. J. Khan

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No. 952/2015

Miss.Muntahina Bibi D/O Dawar Khan.....Appellant

Versus

Chief Secretary and others..... Respondent

S.No	Description of Documents	Annexure	Pages
1-	Para-wise Comments	-----	1-2
2-	Affidavit	-----	03
3-	Annexure	(A)	04
4-	"	(B)	05
5-	"	(C)	06
6-	"	(D)	07
7-	"	(E)	08
8-	"	(F)	09

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No. 952/2015

Miss. Muntahina Bibi D/o Dawar Khan.....Appellant

Versus

Chief Secretary and others.....Respondent

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO 03 TO 07

Respectfully Sheweth.

Preliminary Objections:

1. That the Appellant has no cause of Action and locus standai.
2. That the Appellant has been stopped by her own conduct to file the Appeal.
3. That the Appeal is bad for non-joinder and mis-joinder of unnecessary Parties.
4. That this Hon'ble Tribunal has got no jurisdiction to Adjudicate the matter.
5. That the Appeal is not maintainable in its present forum.
6. That the Appeal is time barred.

Facts:-

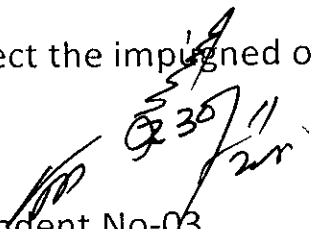
The reply is as under:-

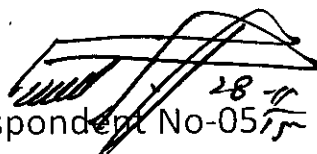
1. Pertain to record.
2. Correct as per record.
3. It is correct that the appellant was granted the said leave without pay for the period of 02 years w.e.f 01-10-2005 to 30-09-2007 vide Endst: No-251 dated 13-08-2008. (Copy attached as Annex: "A") However on the Expiry of the said leave Appellant did not join her duties and remained willfully absent till her removal.
4. Incorrect and baseless because the appellant failed to resume her duty after expiry of her leave period and violated the concerned leave rules. Therefore, after complying all the codal formalities the appellant was removed from her service vide order No-11111-16 dated 13-08-2010 (Copy attached as Annex: "B")

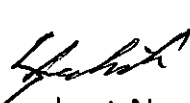
5. Pertains to Court Record.
6. Incorrect and baseless legal parameters are observed.
7. Incorrect and baseless and the appellant has been removed from her service in accordance with law, while following the proper procedure.
Such as:-
 - a. Enquiry report dated, 28/10/2008 (Copy attached as annexure "C").
 - b. Show Cause dated, 15/09/2009 (Copy attached as annexure "D").
 - c. Final notice for attendance dated, 06/05/2010 (Copy attached as annexure "E").
 - d. Notice for attendance ~~through~~ Daily Mashriq Peshawar dated, 11/06/2010 and Daily Shimal Swat dated, 12/06/2010 (Copy attached as annexure "F").
8. Incorrect No Departmental Appeal filed by appellant hence the Appeal is not maintainable. Reply to grounds are as under.


GROUND:-

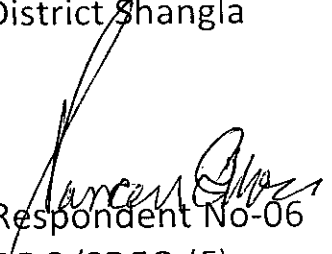
- A. Incorrect because the department has fulfilled all the codal formalities against the appellant and finally removed her from service according to Law and Rules.
- B. Incorrect and baseless due to the fact that the appellant was removed ~~from~~ service after fulfilling all the codal formalities as per law.
- C. Incorrect there is no contradiction in the proceedings and impugned order.
- D. Incorrect the impugned order is in accordance with law and rules.


Respondent No-03
Director of (E&SE),
Khyber Pakhtunkhwa
Peshawar


Respondent No-05
EDO/DEO (M) E & SE
District Shangla


Respondent No-07
DDO/SDEO (F)
Primary Education
District Shangla


Respondent No-04
DDO/DEO (F) E&SE
District Shangla


Respondent No-06
DDO/SDEO (F)
Primary Education
District Swat

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No. 952/2015

Miss.Muntahina Bibi D/O Dawar Khan.....Appellant

Versus

Chief Secretary and others..... Respondents

AFFIDIVATE

I Mr.Barkat Ali, Superintendent BPS-17 Office of the SDEO(F) Primary Education Shangla do hereby solemnly and declare on oath that the comments of the accompanying para-wise comments submitted by the respondents No-04 to 07 are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon.Court.

DEPONENT

15501-2272907-1

Identified by

EXTRA ORDINARY LEAVE WITH OUT PAY.

Provision is hereby accorded to the grant of Extra ordinary leave without pay under the leave rules 1981 to the following PSTs teachers for the period noted against each.

Necessary entries to this effect should be made in their Service Books.

<u>Name of Basic/School</u>	<u>Period</u>
Miss; Li do Khalid PST, GUPS: Demoral	1.10.05 to 30.09.07 (2 Year)
Miss; Muntahina Bibi PST: GUPS: Demoral	--- do ---

EXECUTIVE DISTRICT OFFICER,
ELEMENTARY & SECONDARY EDU
SHANGLA.

Encl: NO 251 / Dated 13/08 /08.

Copy of the above is forwarded to the,

1. The Deputy District Officer Female Primary with reference to her office memo NO.242 2 98 dated 12.04.2007.

Enclosure; Service Books.
Leave Accounts.

DISTRICT OFFICER, (M&P)
BASE EDUCATION SHANGLA.

[Handwritten signature]

OFFICE OF DISTRICT OFFICER(M&F) E&SE EDUCATION
SHANGLA.

OFFICE ORDER

Sanction is hereby accorded to the grant of extra ordinary leave without pay under the leave rules 1981 to the following PSTs teachers for the period noted against each.

Necessary entries to this effect should be made in their service Books.

<u>S.No.</u>	<u>Name of posts/School</u>	<u>Period</u>
1.	Miss. Liala Khalid PST, GGPS Damorai	1-10-05 to 30-09-07 (2 years)
2.	Miss. Mumtahina Bibi PST GGPS, Damorai	-do-

Sd/-

Executive District Officer,
Elementary & Secondary Edu:
~~Rashwar~~ Shangla.

★ Ann B (5)

OFFICE OF THE EXECUTIVE DISTRICT
OFFICER ELEMENTARY & SECONDARY EDU
DISTRICT SHANGLA.

OFFICER CAD ER,
REMOVAL FROM SERVICE.

Keeping in view on prolong absence from duty in respect of Miss; Lila Khalid and Miss; Muntahina PST GGPS-Damora v.e.f. 1-7-2007 as reported by the AEO, Circle enquiry officer Conducted enquiry on 28-10-08.

They are failed to attend their duties on their respective schools or to respond of this office show cause notice issued vide NO, 262-53 dt: 15-1-09 and Legal Notice bearing NO. 2726-27 dt: 6-5-2010 on Home addressed and subsequently noticed dated 27/6/2010 and further Published in News Paper on daily Ma shriq and Shanai 11/12 June 2010.

The above named teachers are further failed to attend their duties and no response received to this office so far.

Therefore, Miss; Lila Khalid and Miss; Muntahina PST Female teachers of GGPS-Damora are hereby removed/Dismissed from their services under Rules 2-A of the Khyber Pakhtunkhwa Govt: Servants (EAD) Rules 1973 conveyed to this office vide Govt: K.P.K (Estab:) Admin Department letter No. 80R/H(EAD)2(4)2000 dated 01/6/2001 v.e.f 1.10.07 in the interest of Public service with immediate effect.



EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU
DISTRICT SHANGLA.

Dated 13 / 8 / 2010.

Encl: No. 1111-16

Copy of the above is forwarded:-

- 1) The PA to Secretary to Govt: of K.P.K Peshawar.
- 2) The Director of (Els; & Secy: Edu:) K.P.K. Peshawar.
- 3) The District Magistrate/DCO, Shangla.
- 4) The Deputy District Officer (P) P. Shangla.
- 5) The Headteacher GGPS - Damora.
- 6) The District Accounts Officer, Shangla.
- 8) P. File.


EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU
DISTRICT SHANGLA.

BETTER COPY

OF THE EXECUTIVE DISTRICT
OFFICER ELEMENTARY &
SECONDARY EDU; DISTRICT
SHANGLA.

OFFICER ORDER;
REMOVAL FROM SERVICE;

Keeping in view on prolong absence from duty in respect of Miss. Lila Khalid and Miss Muintahina PST GGPS-Damorai w.e.f. 1.7.2007 as reported by the ADO, Circle enquiry officer Conducted enquiry on 28.10.2008.

They are failed to attend their duties on their respective schools or to respond of this a office show cause notice issued vide No. 262-63 dated 15.1.2009 and legal notice bearing No. 2726-27 dated 6.5.2010 on Home Addressed and subsequently noticed dated 2.6.2010 and further published in News Paper on daily Mashriq and Shamal 11 & 12 June, 2010.

The above named teachers are further failed to attend their duties and no response received to this office so far.

Therefore, Miss Lila Khalid and Miss Mumtahina PST Female teachers of the GGPS-Damorai are hereby removed/ dismissed from their services under Rules 8-A of the Khyber Pukhtunkhwa Govt; Servants (E & d) Rules 1973 conveyed to this office vide Govt; KPK (Estab) Admn Department letter No. SOR/H (E&AD)2(4)2000 dated 1.8.2001 w.e.f. 1.10.2010 in the interest of public service with immediate effect.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU;
DISTRICT SHANGLA

Endst No. 11111-16

Dated: 13.8.2010

Copy of the above is forwarded:

1. The PA to Secretary to Govt; of KPK Peshawar
2. The Director of (Ele: & Sacy; Edu;) KPK , Peshawar
3. The District Magistrate/ DCO, Shangla.
4. The Deputy District Officer (F) Pry; Shangla.
5. The Head Teacher GGPS-Damorai.
6. The District Accounts Officer, Shangla
7. P. File.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU;
DISTRICT SHANGLA

(34)

دستور (F) DDO سیکرٹل شاہ پور ضلع شانتگ

عمر A-98 مورخہ 28/X/2008

بجانب (F) DDO صاحب ایلیٹری اینڈ سکندری ایجوکیشن ضلع شانتگ

عنوان: انٹواری سلسلہ میں نمٹنے والا اور میں بیلنگی خالد PST ماٹریکس G.P.S. صاحب عالی

آپ کی چھٹی عمر 26 | 526 موصوعہ 26/X/08 کی تعمیل میں ریورسٹھلے مورخہ 28/11/08 کو G.P.S. ڈائوٹی کا معائنہ کیا۔ مذکورہ استانیان بدستور غیر حاضر تھیں جبکہ باقی ٹافے حاضر اور معروفے کار تھیں۔

میں بیلنگی خالد PST اور میں نمٹنے PST کے بارے میں عرض ہے۔ کہ جس سے میں نمٹنے (F) DDO چارج سنبالا ہے تو اس کو کبھی بھی سکول میں نہیں پائے تھے ہیں۔ میں ہر مہینے دو بار سکول کا معائنہ کرتی ہوں۔ یہیں مذکورہ استانیان کبھی سکول میں نہیں بائی۔ اور نہ ہی رجسٹر حاضر کی میرین میں ان کے نام درج ہیں اور نہ دو استانیوں کا سکول ہڈا کے ریکارڈ میں برائے چھٹی کوئی دستاویز موجود ہے۔ H/M صاحبہ کو مذکورہ استانیوں کے بارے میں کوئی علم نہیں کہ وہ کیا ہیں۔

گادوں کے لوگوں کے لینے کے مطابق دونوں استانیان عمر نہ دراز ہیں۔

اسلام آباد میں اپنے فعلی مساعفہ ریٹائرڈ پرنسپل

اس سلسلے میں بار بار انٹواریاں دستور (F) DDO کو ارسال کر چکی ہیں جن کی سدرتوں ایسے (F) DDO کی دفتر سے کمرکتے ہیں۔

اس سلسلے میں H/M صاحبہ سے ایک بیان لی گئی ہے جو چھٹی ہڈا نمٹنے

انٹواری رپورٹ پیش خدمت ہے۔

Attested
31/11/08

JAMILA BEGUM
Assistant District Officer (F)
Circle Shahpur Shantg.

Put up in relevant file

04-11-2008

ATTESTED
Assistant
Estt: (E.S.)

دفتر (F) ADO سرکل شاہ پور ضلع شانگلہ

نمبر 98-A مورخہ 28-x-2008

تجاوب: DO(F) صاحب ایڈمنسٹری اینڈ سکندری ایجوکیشن ضلع شانگلہ

عنوان: اگوائزی سلسلہ مس متحدہ صاحب اور سس لٹی خالد PST صاحبہ GGPS، داموڑے

جناب عالی!

آپ کی چھٹی نمبر 1526 موصولہ 26-x-2008 کی تعمیل میں زیر دستخطی نے مورخہ 8-10-2008 کو GGPS داموڑی کا معائنہ کیا۔ مذکورہ استائیاں

بدستور غیر حاضر تھیں جبکہ باقی سٹاف حاضر اور مصروف کار تھیں۔

مسکی لٹی خالد PST اور سس متحدہ PST کے بارے میں عرض ہے۔

کہ جب سے میں بحیثیت ADO(F) چارج سنبھالا ہے تو اس کو کبھی بھی سکول میں حاضر نہیں پائے گئے ہیں میں ہر مہینے دو بار سکول کا معائنہ کرتی ہوں لیکن مذکورہ استائیاں کبھی سکول میں نہیں پائی۔ اور نہ ہی رجسٹر حاضر مدرسین میں ان کے نام درج ہیں اور نہ دونوں استائیوں کا سکول ہذا کے ریکارڈ پر برائے چھٹی کوئی دستاویز موجود ہیں، H/M صاحبہ کو مذکورہ استائیوں کے بارے میں کوئی علم نہیں کہ وہ کہاں ہے۔

گاؤں کے لوگوں کے کہنے کے مطابق دونوں استائیاں عرض دراز سے اسلام آباد میں اپنے فیملی کے ساتھ رہائش پذیر ہیں۔

اس سلسلے میں بارہا اگوائزی دفتر DDO(F) کو ارسال کر چکی ہوں جن کی تصدیق آپ DDO(F) کی دفتر سے کر سکتے ہیں۔

اس سلسلے میں H/M صاحبہ سے ایک بیان لی گئی ہے جو چھٹی ہذا کے ساتھ لف ہے۔ اگوائزی رپورٹ پیش خدمت ہے۔

Jamila Begum

Assistant District Officer(F)

Circle Shahpur Shangla

ہیڈ ٹیچر گورنمنٹ گرلز پرائمری سکول، داموڑی، شانگلہ

جناب ڈپٹی ڈسٹرکٹ آفیسر صاحب
مدارس زنانہ سکول اور خواندگی ضلع شانگلہ
موضوع۔

Extra Ordinary Leave Without Pay Miss Laila Khalid and Mumtahina PST.

جناب عالی!

مذکورہ عنوان کے تحت رپورٹ درج ذیل ہیں۔

آپ صاحبان نے انکی (مسیات لیلیٰ خالد اور محمدہ PST) کے بارے میں Leave without Pay کا عنوان لگایا ہے لیکن ہمیں یہ بھی پتہ نہیں ان کی چھٹی بغیر تنخواہ کی منظور ہوئی ہے یا انہوں نے مذکورہ چھٹی کے نام سے کوئی درخواست دی ہے یا نہیں کیونکہ جب سے ان کے خلاف اس وقت کے EDO جناب بخت آفر صاحب نے انکو ازری کے لیے انکو ازری آفیسر بھیجے اس وقت کے بعد سے لے کر اب تک ہم سے کسی نے بھی کوئی رابطہ نہیں رکھا ہے نہ مذکورہ استانیوں نے اور دفتر آفسر سے۔

لہذا ہمیں کوئی پتہ نہیں کہ مذکورہ استانیوں کی سروس بحال ہیں یا نہیں۔

مذکورہ استانیوں اپنے خلاف کی انکو ازری کی صفائی پیش کر چکی ہیں انہیں یہ بھی معلوم نہیں اگر ان کے خلاف ہونے والی انکو ازری اور ان کی غیر حاضری کے چھٹی میں تبدیل رہنے کا بھی ہمیں پتہ نہیں اس لیے ہم سے کسی نے بھی رابطہ نہیں اور نہ دفتر سے اس کے بعد ہمیں کوئی چھٹی پر سے اور نہ ابھی تک ہم نے مذکورہ استانیوں کو دیکھا ہے درخواست رپورٹ پیش کر سکتے ہیں اس لیے آپ صاحبان کی اطلاع کے لیے رپورٹ ملہذا پیش خدمت ہے۔

Head Mistress

Govt. Girls Primary School

Damorai, Distt, Shangla

Annex D
7

SHOW CAUSE NOTICE

Mr. Fazli Wadood EDO (E&SE) Shangla. as competent authority, under the North West Frontier Province Removal from service (Special Power) ordinance, 2000, do hereby serve you, Mr. Miss; Mumtazina PST-Damora Shangle. as follows: No 262 dt 15/01/09

1. (i) That consequent upon the completion of inquiry conducted against you by the Inquiry Committee for which you were given opportunity of hearing vide office communicator No. A-98 dated 28/10/08 and
- (ii) On going through the findings and recommendation of the Inquiry Committee, the material on record and other connected papers including your defence before the said Committee.

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said Ordinance.

- (a) As per enquiry report of Miss; Jamila Begum ADO (F) memo NO. A-98 dt; 28-10-08 and detail statement of H/T GGPS-Damora, you were will fully absent from your duty w.a.f. 01-5-08.
- (b) Your previous application EOL for two year from 04/10/06 to 30/9/07 have been received from DDO(F) vide her memo NO. 2486 dt; 12/4/07 which were also found bogus in the light of the above enquiry report.
- (c) Your charge/arrival report and duty confirmation report from H/T GGPS-Damora dt; 28/8/08 have become declare bogus enquiry report.
- (d) All the previous enquiry and final show cos been issued from DCO shangle memo, NO. 17252 dt; 16/11/05 sti against on your part up till now.

2. As a result thereof, I, as a competent authority, have tentatively decided to impose upon you the penalty of Removal from Service under section 3 of the said Ordinance.
3. You are, therefore, required to attend the office of the DDO (E) with in 7 days & show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within fifteen days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex parte action shall be taken against you.

The copy of the findings of the Inquiry Committee is enclosed.

Attested
[Signature]
3/11/2008

Attested
[Signature]
District Officer (E)
Elementary & Secondary Edu.
District Shangla.

(COMPETENT AUTHORITY)
[Signature]
Executive District Officer
Elementary & Secondary Edu.
District Shangla.

RECORDED
[Signature]

SHOW CAUSE NOTICE

Mr. Fazli Wadood EdO (E&SE) Shangla as competent authority, under the NWFP, Removal from service (Special Power) Ordinance 2000, do hereby serve you Miss Mumtahina PST-Damerai Shangla as follow; No.262 dated 15.1.2009.

- i. That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing vide office communicator No. A-98 dated 28.10.2008 . and
- ii. On going through the finding and recommendation of the inquiry committee, the material on record and other committed papers including your defence before the said committee.

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said ordinance.

- a) As per enquiry report of Miss Jamila Begum Ado (F) memo NO. A-98 dated 28.10.2008 and detail statement of H/T GGPS-Damorai, you were will fully absent from your duty w.e.f 1.5.2005.
 - b) Your previous application EOL for two year from 4.10.2005 to 30.9.2007 have been received from DDO (F) vide her memo No. 2486 dated 12.4.2007, which were also found bogus in the light of the above enquiry report.
 - c) Your charge/ arrival report and duty confirmation report from H/T GGPS-Damorai dated 28.8.2008 have become declare bogus in the light of enquiry report.
 - d) All the previous enquiry and final show cause notice has been issued from DCO, Shangla memo. No. 17252 dated 15.11.2005 still out standi against on your part up till now.
2. As a result thereof, I, am competent authority have tentatively decided to impose upon you the penalty of Removal from Service under section 3 of said Ordinance.
 3. you are, therefore, required to attend the office of the DDO (F) with in 7 days & show cause at to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
 4. if no reply to this notice is received within Fifteen days of its delivery in the normal cause of circumstances, it shall be p[re]sumed that you have no defence to put in and in that case as exparte action shall be taken against you.
 5. Thy copy of the findings of the inquiry committee is enclosed.

COMPETENT AUTHORITY

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU;
DISTRICT SHANGLA

Amir E

Recd by Tmt

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY EDU DISTRICT SHANGLA.

NO 2726-27 / Dated 6/5 / 200.

TO.

- 1. Miss: Lila Khalid PST GGPS-Damorai, D/O Haji Baduzaman, Village & PO Damorai, Distt: Shangla.
- 2. Miss, Muntahina PST D/O Haji Bawar Khan, Village & PO, Damorai Distt: Shangla.

Subject: FINAL NOTICE FOR ATTENDANCE.

Memo,

Reference this office large NO of previous Show Cause notices NO, 1753 dt: 16/1 /05 NO. 98+9-50 dt: 7-9-06 NO, 1437 dt: 28-11-06 and NO, 263 dt: 15-1-09 but you have not attended your duties and as well as your replies are still awaited.

The office of the undersign (and the DDO (EF) pry: Edu; Shangla has also directed you time to time to attend the School and resume your duties regularly but you have not Complied the orders Sofer. In this Connection the DDO (F) has again reported that you have Continued absent w.e.f. 1-10-2007. It is also pointed out that all the necessary process regarding absence from duty i.e. directions Conduction of enquiries have been Completed against you.

However, you are once again directed to attend your School and resume your duties with in 14 days pasitively. If you failed to attend the School with in the Stipulated period, legal action will be taken against you.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU
DISTRICT SHANGLA.

2726-27
Exdost: NO 2726-27 / Dated 6-5 / 200.

Copy of the above is forwarded to the.

- 1. The Director (FSE) Edu: Peshawar.
- 2. The Deputy District Officer (F) pry: Edu; Shangla.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDU
DISTRICT SHANGLA.

Anx "F"
 DA
 Put up on file
 19/7/10

روزنامہ مشرق

11 جون 2010ء

ایس جی سی

آپ سہ ماہی خالد اور گورنمنٹ گروپ پرائمری سکول ماسوڑی ضلع شاکہ 1/18/2007 سے
 حال سکول ایجنسی سے غیر حاضر ہیں آپ دونوں کو بذریعہ نوٹس نمبر 262-63 سوری
 15/1/2009 اور آخری نوٹس ماسوڑی نمبر 2726 سوری 16/5/2010 پر پیش کرنے کے
 کے بعد بذریعہ رجسٹری اطلاع دی ہے کہ آپ دونوں ایجنسی پر حاضر ہو کر اپنا طرہ نامہ
 ماسوڑی کا قانونی جواز پیش کریں لیکن اب تک آپ دونوں اس میں کام نہیں کیا۔ اب آپ دونوں کو
 ایک بار پھر نوٹس دینا کے لئے اطلاع دی جاتی ہے کہ آپ دونوں فوری طور پر اپنا ایجنسی پر حاضر ہو
 جائیں۔ ورنہ رجسٹرڈ نوٹس کے مطابق آپ دونوں کے خلاف یکم روزہ قانونی کارروائی
 عمل میں لائی جائے گی۔ جس میں آپ دونوں کو کارروائی سے برخواستگی ہوگی۔

ایس جی سی تنظیم اعلیٰ

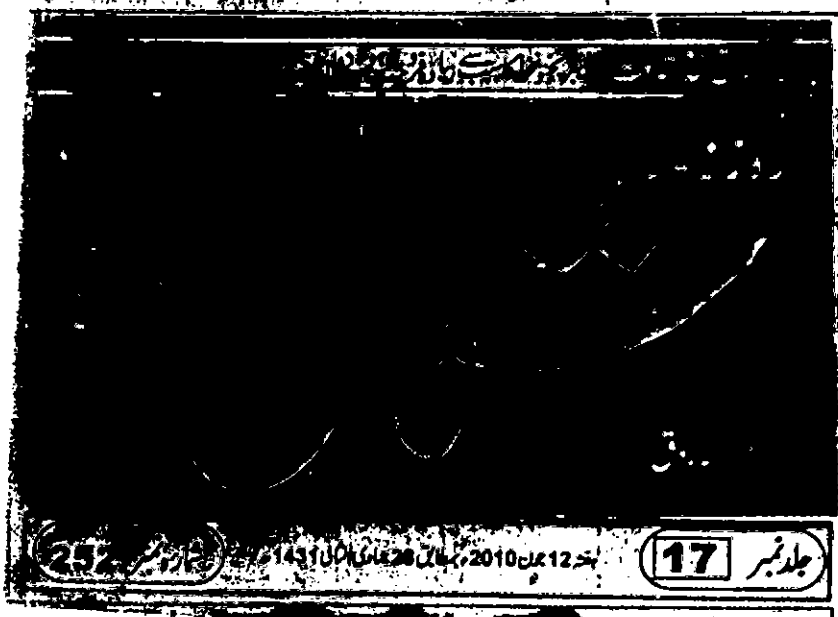
INF(SW) 133

نی 80 روپے کم 11 کم 3 سطر 0 ، تہہ ہے
 340 روپے

نمبر مقدمہ ایم 301
 17/5/2010
 دائرہ جس مقدمہ میں سکھ
 ایجنسی پر مامل 2-5
 مقدمہ نمبر 14 میں
 فرج سے ہوئی ہوگی
 بذریعہ رجسٹرڈ نوٹس
 16/5/2010
 کہ وہی مقدمہ
 سپریم کورٹ میں

مکمل شدہ کارروائی
 لاگت 100/-

D.A
Put up on file
D m Los
A/17/10



آپ سہ ماہی نامہ اور دیگر اخبارات کے لیے
01.10.2007 سے 26.10.2007 تک
نمبر 262.63 سے 2726 تک
رجسٹری اطلاع دی ہے کہ آپ کے
قانونی جواز پیش کریں گے کہ آپ
ایک بار پھر لائسنس بنا سکے
اور اس پر مبنی
کارروائی مکمل ہونے تک
معلق

پتہ: سہ ماہی نامہ اور دیگر اخبارات کے لیے
رجسٹریشن اور لائسنس کے لیے

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 952/2015

Mst. Muntahina Bibi

VERSUS

Chief Secretary to Government of KPK & others

REJOINDER TO THE REPLY FILED ON BEHALF OF RESPONDENTS NO 03 TO 07.

Respectfully Sheweth,

REJOINDER TO PRELIMINARY OBJECTIONS

1. *Incorrect, the appellant has a good cause of action and locus standii.*
2. *Incorrect, the appellant has not been stopped by her own conduct to file the appeal.*
3. *Incorrect, the appeal is not bad for mis joinder and non joinder of necessary parties; otherwise too, no case can be dismissed on account of mis joinder and non joinder of parties.*
4. *Incorrect, the appellant being a civil servant, therefore this Hon`ble Tribunal is quite competent to entertain and adjudicate the same.*
5. *Incorrect, the appeal is quite maintainable in its present form.*
6. *Incorrect, the instant appeal is well within time, the delay if any has already been explained; otherwise too, the apex courts have favoured the cases to be decided on merits rather than technicalities including the limitations.*

REJOINDER ON FACTS

The rejoinder is as under

1. *As mentioned in memo of appeal.*
2. *As mentioned in memo of appeal.*
3. *Para 3 of the appeal has been admitted as correct, therefore needs no rejoinder.*
4. *Para 4 of the reply is incorrect, the appellant was not allowed to resume her duty after expiry of her leave period and has not violated any rules etc and was removed from service without complying with any of the codal formalities, but actually the appellant after completion of her leave took over charge at the school, as well as submitted her arrival report in the office of respondent concerned, because it was not accepted by the Head Teacher of the school concerned, since*

- then there is no salary and no post. Thereafter she visited the offices of the official's concerned but without any fruitful results. That's why she filed a writ petition No. 1369/2010 before the Hon`ble Peshawar High Court, Peshawar, which was then sent to the Hon`ble Peshawar High Court, Mingore Bench for disposal. Copy of the writ petition is already available on the file.
5. As mentioned in memo of appeal.
 6. In rejoinder to para 6 it is submitted that no legal parameters were observed while passing the impugned order, but in fact, the respondents accelerated the matter one sided and issued the impugned order before filling the para wise comments in the writ petition mentioned in earlier paras.
 7. In rejoinder to para 7 it is submitted that Whole of the proceedings were initiated when the respondents concerned were directed by the Hon`ble High Court to file their written comments in writ petition whereby direction was sought to be issued to the respondents concerned to allow her to continue her duties and to direct them to pay her all outstanding salaries. Malafide of the respondents is evident from the fact that the mentioned writ petition was filed jointly by the appellant and one another namely Mst. Laila Khalid and the so called departmental proceedings were initiated against both of them jointly.
 8. Para 8 of the written comments is incorrect, copies of the representation are already available on the case file. The respondents concerned failed in disposing the same within statutory period , then the instant service appeal was filed before this Hon`ble Tribunal.

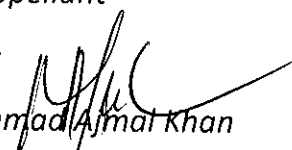
REJOINDER ON GROUNDS

- A. Incorrect, the whole process regarding removal of the appellant from the service was one sided, which is against law, facts and material available on case file, hence untenable in the eyes of law and liable to be set aside.
- B. Incorrect, no legal and codal formalities were fulfilled while passing the impugned order. Whole of the proceedings were initiated when the respondents concerned were directed by the Hon`ble High Court to file their written comments in writ petition whereby direction was sought to be issued to the respondents concerned to allow her to continue her duties and to direct them to pay her all outstanding salaries. Malafide of the respondents is evident

from the fact that the mentioned writ petition was filed jointly by the appellant and one another namely Mst. Laila Khalid and the so called departmental proceedings were initiated against both of them jointly.

- C. Incorrect, as stated in the memo of appeal the documents produced by the respondents are vague, self explanatory in nature and contradict each other on material law points, dates and procedure.
- D. Incorrect, as stated in earlier in rejoinder to ground B that Whole of the proceedings were initiated when the respondents concerned were directed by the Hon'ble High Court to file their written comments in writ petition whereby direction was sought to be issued to the respondents concerned to allow her to continue her duties and to direct them to pay her all outstanding salaries. Malafide of the respondents is evident from the fact that the mentioned writ petition was filed jointly by the appellant and one another namely Mst. Laila Khalid and the so called departmental proceedings were initiated against both of them jointly.

It is therefore most humbly on acceptance of the instant rejoinder to the written comments on behalf of Respondents No. 3 to 7, their written comments may kindly be rejected and appeal of the appellant may kindly be allowed as per prayer.

Appellant
Through 
Malik Muhammad Ajmal Khan
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 952 /2015

Mst. Muntahina Bibi D/o Dawar Khan

W/o Muhammad Saleem

PTC, now PST (Primary School Teacher)

At Govt. Girls Primary School Damorai,

Tehsil Alpuri, District Shangla. Appellant

Versus

1. Chief Secretary to Govt. of Khyber Pakhtunkhwa at Civil Secretariat, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa (Elementary & Secondary Education) Department at Civil Secretariat, Peshawar.
3. Director (Elementary & Secondary Education), Khyber Pakhtunkhwa at its Directorate Dabgari Gardens, Peshawar.
4. Executive District Officer (Elementary & Secondary Education), District Shangla.
5. Executive District Officer (E&SE), District Shangla.
6. DDO (Female) Primary Education, Swat.
7. DDO (Female) Primary Education Shangla at Alpuri.

.....Respondents

M. Hani

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No. 952/2015

Date of Institution... 10.07.2015

Date of decision... 04.04.2018

Mst. Muntahina Bibi D/o Dawar Khan
W/o Muhammad Saleem
PTC, now PST (Primary School Teacher) at Govt. Girls Primary School Damorai,
Tehsil Alpuri, District Shangla. ... (Appellant)

Versus

1. Chief Secretary to Govt. of Khyber Pakhtunkhwa at Civil Secretariat,
Peshawar and six others. (Respondents)

MR. MALIK MUHAMMD AJMAL KHAN,
Advocate ... For appellant.
MR. USMAN GHANI,
District Attorney ... For respondents.
MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. MUHAMMAD AMIN KHAN KUNDI, ... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Our this judgment shall also dispose of connected service appeal No. 958/2015 entitled "Mst. Laila Khalid-Vs- Chief Secretary to Govt. of Khyber Pakhtunkhwa at Civil Secretariat, Peshawar and six others" as common questions of law and facts are involved in both the appeals.

2. Arguments of the learned counsel for the parties heard and record perused.

proceedings were aimed to defeat the Writ of the appellants. That in one of the notice the date of absence of the appellants was given as 01.01.2007 which belonged to the period of sanction of extra ordinary leave. That there were some contradictions between the letters of responsible officers of the department regarding absence of the appellants. That the appellants were not informed about the disciplinary proceedings. That an illegal order cannot legalize the other illegality in view of many judgments of the superior courts. The learned counsel for the appellants further contended that in the impugned order the word "removal/dismissal" was written and the department was not clear as to which penalty was imposed on the appellants. He next contended that the department passed a joint order of penalty which was not allowed under the law and rules.

5. On the other hand, the learned District Attorney argued that the department had rightly initiated the disciplinary proceedings against the appellants as they failed to report for duty, at least, after the expiry of the extra ordinary leave. That the appellants were duly informed through notices at their home addresses regarding the initiation of disciplinary proceedings. That the disciplinary proceedings were initiated much prior to the filing of the Writ Petition before the worthy Peshawar High Court. That the department rightly resorted to Rule-8-A of the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 1973 by getting the notices published in two leading newspapers and rightly removed the appellants from service. He added that in the notice the correct date of absence was mentioned as 01.10.2007 and due to clerical mistake it was written as 01.01.2007 in the written comments in the Writ before the worthy Peshawar High Court. He further argued that the present appeals are time barred on the

ground that the impugned order was passed on 13.08.2010 and the appellants were informed about this order, at least, on 03.11.2010 when the reply in the Writ Petition was filed before the Worthy Peshawar High Court but the appellants did not file any departmental appeal till 10.07.2015. That when department appeal was time barred the service appeals were also time barred.

6. In rebuttal the learned counsel for the appellants argued that he had moved an application for condonation of delay alongwith the service appeals and these appeals were fit for condonation of delay under the peculiar circumstances of the present appeals. That no limitation was attracted against void orders. The learned counsel for the appellants further argued that when the Worthy Peshawar High Court through its order dated 12.03.2015 sent the Writ Petition to be treated as department appeals than no limitation would be attracted.

CONCLUSION.

7. This Tribunal is first to decide the issue of limitation. The impugned order was passed on 13.08.2010 and the same was brought to the notice of the appellants, at least, on 03.11.2010 when the para-wise comments were filed before the Worthy Peshawar High Court. The appellants had a time of 30 days to file departmental appeals but they did not file any departmental appeal. The Worthy Peshawar High Court while finally disposing of the Writ Petition on 12.03.2015 on the ground of jurisdiction, remitted the Writ Petition to department to be treated as representation and to pass proper order in accordance with law and rules applicable therein. This Tribunal is to see whether remitting of Writ Petition would result in condonation of period of limitation provided for departmental appeal/representation. Nowhere in this order the Worthy Peshawar High Court has

held that the representation would be treated as within time rather it was added that the same representation should be decided in accordance with law and rules. The department was at liberty and so is the case this Tribunal to decide the said representation in accordance with law and rules including law of limitation.

8. Now this Tribunal is to see whether under the circumstances the condonation is to be granted or not. The application for condonation of delay when read holistically would give impression that there was no delay, at all, and if any delay was proved then the condonation be granted. The reason given for condonation of delay is that for any illegal order limitation would not run. But it is a settled law that illegal orders would never enlarge the period of limitation, however, no limitation would run against void orders. The learned counsel for the appellants has failed to convince this Tribunal that how the impugned order was void. In order to determine this issue, this Tribunal would discuss the impugned order qua its legality or otherwise. The impugned order was passed under Rule-8-A as mentioned above. In Rule-8-A of the rules mentioned above nothing has been highlighted that what procedure was not followed by the department while passing the order. The notice was given at the home addresses of the appellants followed by the advertisements in two newspapers followed by the order of dismissal/removal. The period mentioned in the notices and in the newspapers pertains to the absence of the appellants subsequent to the expiry of the extraordinary leave. The only flaw in the impugned order was the use of the word "dismissal/removal". Under Rule-8-A the logical consequence is removal and not dismissal. The department used both the words and this is not an illegality which vitiated the whole proceedings. Under Section-7 of the Khyber Pakhtunkhwa

Service Tribunal Act, 1974 any mistake can be modified by this Tribunal. This Tribunal is, therefore, of the view that the impugned order is not an illegal order much less the void one. Another legal issue which has not been raised by the learned counsel for the appellants and noted by this Tribunal is that at the time when the impugned order was passed the law in force was the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. In some cases this point came up before this Tribunal that in presence of RSO, 2000 whether the proceedings under Rule-8-A of the rules of 1973 could be initiated. This Tribunal in many judgments including appeal No. 548/2014 entitled "*Ali Ahmad Vs. Government of Khyber Pakhtunkhwa and 4 others*" decided on 18.10.2017 held that on the promulgation of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 1973 were not repealed. The Ordinance was given an overriding effect only vis-à-vis the rules of 1973 and since RSO 2000 was silent about any mechanism as to the willful absence, therefore, Rule-8-A could have been resorted to by the department for willful absence. On this score too the impugned order is legal.

9. Now this Tribunal shall discuss the malafide of the department as pointed out by the learned counsel for the appellants on the ground that the department in order to defeat the Writ Petition initiated the whole proceedings against the appellants. But if we see that when the disciplinary proceedings were initiated against the appellants the very notice No. 262-63 was issued on 15.01.2009 much prior to the filing of the Writ Petition before the worthy Peshawar High Court and if we go through the Writ Petition it appears that the appellants were aware about

this disciplinary proceedings. As the words used in the Writ were that if any act/omission was found on the part of the respondents that be declared as void ab-initio, illegal etc. This Tribunal is therefore, of the view that the department did not initiate the proceedings in order to defeat the Writ Petitions of the appellants. The objection of joint order of appellants also does not vitiate the proceedings as nothing has been produced by the learned counsel for the appellant in support this objection.

10. As a sequel to the above discussion this Tribunal is of the view that neither the order is void nor illegal nor it was based on any malafide. Hence, limitation would run against the appellants. And no plausible explanation has been given for the condonation of delay therefore, no condonation is granted. The appeals being time barred are dismissed. The words "dismissed" in the impugned order are deleted. Parties are left to bear their own costs. File be consigned to the record room.

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