

O R D E R
29.07.2021

Mr. Muhammad Saeed Khattak, Advocate, for the appellant present. Mr. Muhammad Nisar, Focal Person alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file in Service Appeal bearing No. 151/2019 titled "Mst. Rasheeda Bano Versus Director Education, FATA, now Khyber Pakhtunkhwa Peshawar and one other," the appeal in hand is allowed by setting-aside the impugned order dated 13.12.2017 and the appellant is reinstated into service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
29.07.2021



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



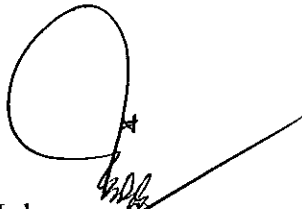
(SALAH-UD-DIN)
MEMBER (JUDICIAL)

08.02.2021

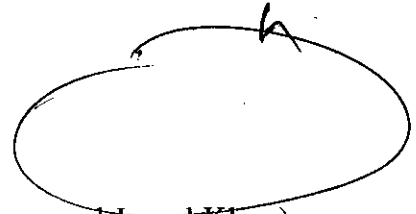
Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Muhammad Nisar, CT for respondents present.

The bear perusal of the impugned order dated 13.12.2017 would reveal that it has been made efficacious ex-post factively and since the issue of retrospectivity is pending adjudication before the Larger Bench of this Tribunal, therefore, unless a judgment is made on the issue, this appeal is adjourned.

Adjourned to 12.04.2021 for further proceedings before D.B.



(Mian Muhammad)
Member (E)



(Muhammad Jamal Khan)
Member(J)

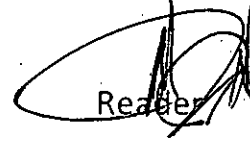
12-4-21

due to COVID-19, the case is adjourned to 29.7.21 for the same.



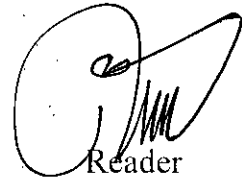
13.5.2020

Due to COVID19, the case is adjourned to
5/8/2020 for the same as before.


Reader

05.08.2020


Due to summer vacation case to come up for the same on
06.10.2020 before D.B.



Reader

06.10.2020

Representative of appellant on behalf of appellant present.
Mr. Muhammad Jan learned Deputy District Attorney
alongwith Muhammad Sharif for respondents present.

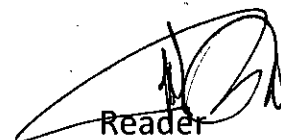
Lawyers are on general strike, therefore, case is
adjourned to 25.11.2020 for arguments, before D.B.


(Atiq ur Rehman Wazir)
Member (E).


(Rozina Rehman)
Member (J)

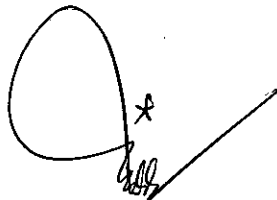
25.11.2020

Due to non-availability of D.B, the case is adjourned to
08.02.2021 for the same as before.


Reader

18.03.2020

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 12.05.2020 before D.B.

A handwritten signature in black ink, consisting of a large, stylized loop followed by a diagonal stroke and a small asterisk-like mark.

(MAIN MUHAMMAD)
MEMBER

A handwritten signature in black ink, appearing as a series of connected, somewhat abstract strokes.

(M.AMIN KHAN KUNDI)
MEMBER

17.12.2019

Junior to counsel for the appellant and Addl. AG alongwith Fawad Afzal, Senior Clerk for the respondents present.

Representative of respondents has furnished comments of the respondents. The same are placed on record. The appeal is assigned to D.B for arguments on 11.02.2020. The appellant may furnish rejoinder, within one month, if so advised.


Chairman

11.02.2020

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 18.03.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

13.09.2019

Counsel for the appellant and Addl. AG for the respondents present. No representative of the respondents is available.

Learned AAG is required to ensure attendance of the representatives and submission of written reply/comments of the respondents on the next date of hearing.

Adjourned to 11.10.2019 before S.B.


Chairman

11.10.2019

Counsel for the appellant and Addl. AG along with Fawad Afzal, Senior for the respondents.

Representative of the respondents states that written reply prepared but is yet to be signed by the respondents. Adjourned to 15.11.2019 for submission of written reply/comments as a last chance.


Chairman

15.11.2019

Counsel for the appellant and Addl. AG along with Fawad Afzal, Senior Clerk for the respondents present.

The Worthy Chairman is on leave, therefore, the matter is adjourned to 17.12.2019 for the same.


Reader

27.06.2019

Learned counsel for the appellant present and stated at the bar that identical nature service appeal bearing No.296/2019 filed by Mst. Zeenat Gul (Ex-PST) has already been admitted for regular hearing vide order dated 12.06.2019.

In view of submission of learned counsel for the appellant, the present service appeal is also admitted for regular hearing subject to all the legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 26.07.2019 before S.B.

Appellant Deposited
Security & Process Fee



Member

26.07.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present.

Learned District Attorney requests for adjournment in order to procure reply/comments from the respondents.

Adjourned to 13.09.2019 before S.B.



Chairman



18.04.2019

Due to general strike of the bar, the case is adjourned.

To come up for preliminary hearing on 28.05.2019 before S.B


Member

28.05.2019

Counsel for the appellant present.

Learned counsel for the appellant requests for time
to further prepare the brief in the light of order dated
13.03.2019. Adjourned to 20.06.2019 before the S.B.


Chairman

20.06.2019

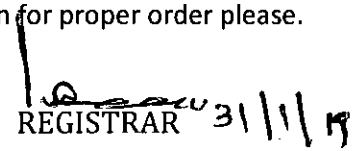


Counsel for the appellant present and requested for
adjournment. Adjourned to 27.06.2019 for preliminary hearing
before S.B.


(Muhammad Amin Khan Kundi)
Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 154/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/1/2019	<p>The appeal of Mst. Dilshad Begum presented today by Mr. Muhammad Saeed Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 31/1/19</p>
2-	13.03.2019	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13-3-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Learned counsel for the appellant present. Heard.</p> <p>Upon the inquiry by this tribunal on the issue of limitation, learned counsel for the appellant stated that the punishment of removal from service was awarded to the appellant with retrospective effect on the ground of absence from duty hence the limitation would not run against the punishment order. Learned counsel for the appellant when confronted with the judgment of August Supreme Court of Pakistan reported in SCMR 1998 page-1890 seeks adjournment for proper assistance. Adjourn. To come up for preliminary hearing on 18.04.2019 before S.B.</p> <p style="text-align: right;"> Member</p>

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.154...../2019

Mst Dil Shad Begum (Appellant)

Versus

Director Education, FATA & others..... (Respondents)

INDEX

S.No.	Description of Documents	Annexures	Pages
01	Memo of Appeal		1-3
02	Petition for condonation of delay		4
03	Copy of the appointment order	A	5-10
04	Copy of the publication	B	7 6
05	Copy of reply	C	8 7
06	Copy of the impugned order dated 13.12.2017	D	9 8
07	Copy of the departmental appeal	E	10 9
08	Copy of the press release	F	11 10
09	Wakalat Nama		12 11

Appellant

Through

Muhammad Saeed Khattak
Advocate, Peshawar

Office: D-6, JK Shopping Mall, University Road, Peshawar.

Cell No: 03336272753

(1)

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.154...../2019

Mst Dil Shad Begum Ex. PST at GGPS Gul Dad Kot North Waziristan Agency
(now District North Waziristan) (Appellant)

Khyber Pakhtukhwa
Service Tribunal

Versus

Diary No. 138

Dated 31-1-2019

1. Director Education, FATA, now KPK Peshawar
2. District Education Officer the then Agency Education Officer District North Waziristan at Miran Shah..... (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KPK SERVICE
TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER
DATED 13.12.2017 PASSED BY RESPONDENT NO. 2
WHEREBY THE DEPARTMENTAL APPEAL DATED ~~01-12-2017~~ 28-12-2017
TO RESPONDENT NO. 1 HAS YET NOT BEEN DISPOSED OF.

PRAYER - IN - APPEAL

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL THE
IMPUGNED ORDER DATED 13.12.2017 PASSED BY
RESPONDENT NO. 2 MAY VERY GRACIOUSLY BE SET
ASIDE AND THE APPELLANT MAY KINDLY BE RE-
INSTATED ON THE POST WITH ALL BACK BENEFITS.

Filed to-day

Registrar

31/1/19

Respectfully Sheweth,

1. That the appellant consequent upon the approval of Departmental Selection Committee was appointed as PTC (Female) in BPS 09 on . (Copy of the appointment order is attached as annexure A)
2. That the appellant thereafter took the charge of her duties and performed her duties during the service whole heartedly and to the quite satisfaction of officials concerned as well as according to the demand and nature of the job.

- (2)
3. That the appellant came to know about a publication published in daily "Mashriq" dated 03.12.2017 regarding her absence from duty along with other female teachers. Furthermore according to the said publication a show cause notice was issued to her. But the appellant has received no such notice. (Copy of the publication is attached as annexure B)
 4. That in compliance the appellant submitted a reply in the office of respondent No. 2 along with relevant documents in her defense. (Copy of the reply is attached as annexure C)
 5. That thereafter the respondent No. 2 vide impugned order dated 13.12.2017 removed the appellant from service against all the norms of justice. (Copy of the impugned order dated 13.12.2017 is attached as annexure D)
 6. That being aggrieved of the same the appellant preferred an appeal before respondent No. 1 which has yet not been responded. (Copy of the departmental appeal is attached as annexure E)
 7. That the appellant now prefers the instant Service Appeal, inter alia, on the following amongst others;


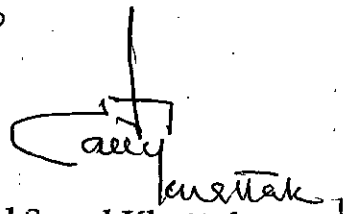
GROUNDS

- A. That the appellant has not been treated in accordance with law nor has equal protection of law has been extended to her. The so called visit mentioned in the notification dated 13.12.2017 is illegal, against law, without lawful authority, void ab initio for the reason it has been passed on the ground of remaining absent from the duty on 01.09.2017. On the said date public holiday was notified. Therefore the mentioned notification dated 13.12. 2017 and all proceedings thereafter based on it are illegal and liable to be set aside.
- B. That according to notification dated 13.12.2017 (Impugned herein) in its first para that appellant was found absent from duty during monitoring visit of the concerned Assistant Agency Education Officer

to the School on 01.09.2017. with due respect it is stated that according to Press Release dated Islamabad 23rd August 2017 it was notified for the general information that 1st to 4th September 2017 (Friday, Saturday, Sunday and Monday) shall be public holidays on the occasion of Religious Festival of Eid-ul-Azha. (Copy of the press release is attached as annexure F)

- C. That it is quite astonishing that how Assistant Agency Education Officer managed the visits of too many schools on 01.09.2017 (which was public holiday) and only cases of non-local female teacher were reported.
- D. That according to para 3 of the notification issued by respondent no. 2 the appellant did not report to her duty within stipulated period of time and turned deaf ear is quite baseless, wrong as well as against the record. As mentioned earlier the appellant remained present on her duty beside the mentioned date because it was a public holiday.
- E. That while awarding major penalty no proper procedure was adopted. Otherwise too the impugned order has been passed with retrospective effect which is nullity in the eyes of law.
- F. That any other ground can also be taken during the arguments with permission of this Hon`ble Tribunal.

It Is Therefore Most Humbly Prayed That On Acceptance Of The Instant Service Appeal The Impugned Order Dated 13.12.2017 May Very Graciously Be Set Aside And The Appellant May Kindly Be Reinstated On The Post With All Back Benefits.


 Appellant
 Through

 Muhammad Saeed Khattak
 Advocate, Peshawar

(4)

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. /2019

Mst Dil Shad Begum (Appellant)

Versus

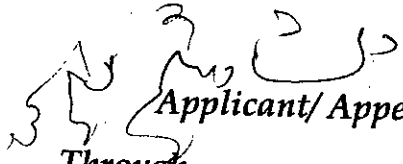
Director Education, FATA & others..... (Respondents)

APPLICATION FOR CONDONATION OF DELAY, IF ANY

Resppectfully Sheweth,

1. That the titled Service Appeal has been filed today in which no date has yet been fixed for hearing.
2. That the grounds taken in main appeal may kindly be taken as part and parcel of the instant application.
3. That the impugned order is void one, otherwise too the apex courts have favored the cases to be decided on merits rather on technicalities including the limitation.
4. The delay, if any, was caused due to the reason that applicant was assured about reinstatement by the respondents.
5. That the applicant has otherwise a good arguable case in her favor.

It is therefore most humbly prayed that on acceptance of the instant application the delay, if any, may kindly be condoned.


Applicant/ Appellant
Through


Muhammad Saeed Khattak
Advocate, Peshawar

APPOINTMENT ORDER.

Consequent upon the approval of Departmental Selection Committee the following Non Local Female PTC candidates are hereby appointed against P.T.C Posts in BPS - 7 (Rs. 2220-120-5820) PM, plus usual allowances as admissible under the rules, purely on contract basis for three years with effect from their taking over charge against vacant posts noted against each.

Annex-A
15

S.No	Name of Candidate/Father Name	Name of School where Posted	Remarks
1.	Dilshad Begum D/O Gul Dad Khan	Gul Dad Kot Datta Khel	Against Vacant Post

TERMS AND CONDITION.

1. Their appointment are being made purely on CONTRACT basis and liable to termination at any time without any notice, if wish to resign form their posts, they should give one month prior notice or forfeit one month of pay in lieu thereof.
2. They should not be handed over charge of the same post if they are below 18 years or above 33 years age.
3. They should produce their health and age certificate from the Medical Superintendent Agency Head Quarter Hospital Miranshah.
4. Their original qualifications, date of birth and domicile certificate should be checked and photo copy be placed on the record, before handed over charge of the same posts.
5. If they fail to resume their charge within 15 days, the order should be treated as cancelled.
6. Their academic / Professional certificates will be referred to all concerned Boards / Universities (by depositing usual fee charges) for necessary verification till the receipt their certificates, the salary will not be drawn.
7. TA / DA is not allowed.
8. They should produce their NIC to the AAEO circle concerned.
9. Charge report should be submitted in duplicate to all concerned.
10. They will be terminated if they found absent two days continuously from the date of taking over charge.

CC
A
C

Agency Education Officer,
North Waziristan Agency.

Dated 21/9/2005

Ends No. 4589-4656 /A.E.O/ N.W.A/ Apptt: /PTC / Shawal

COPY TO : -

Annex - B 6

عیاں... کوشش... سب سے زیادہ... شہر... پشاور... شہر... پشاور... شہر... پشاور...



Shaukat Khanum Memorial Cancer Hospital And Research Centre

CAREER OPPORTUNITIES

This is an exciting opportunity to join the country's premier oncology center at a time when we are expanding to establish a network of hospitals across the country. Peshawar has opened its doors to the public in December 2015. We are looking to recruit a team of highly dedicated professionals to help establish clinical services at this new unit.

The Shaukat Khanum healthcare system provides an opportunity for professional growth in an environment conducive to research and academic excellence. Our doctors not only enjoy excellent clinical work but have published in major international journals as well as presented their research in international meetings.

Shaukat Khanum Memorial Cancer Hospital and Research Centre (SKMCH&RC), Peshawar is pleased to invite applications for the following positions. Selected candidates will undergo initial training at SKMCH&RC, Lahore and, following successful completion of this, will be appointed to positions at SKMCH&RC Peshawar, upon commencement of its operations.

Consultant Positions (Peshawar)

- Consultant Medical Oncologist (Peshawar)
Consultant Pathologist (Peshawar)
Consultant Gastroenterologist (Peshawar)
Consultant Physician in Infectious Diseases (Peshawar)
Consultant Paediatrics Oncologist (Peshawar)
Visiting Consultant Nuclear Medicine (Peshawar)
Consultant Radiologist (Peshawar)
Consultant Radiologist (Part-time - Peshawar)

Medical Positions (Peshawar)

- Senior Instructor in Clinical and Radiation Oncology (Peshawar)
Senior Instructor in Radiology (Peshawar)

Other Medical / Clinical, Technical and Management Positions

- HSM Territory Assistant Manager - Retail Sales and Franchise Operations (Peshawar)
Radiation Therapy Technologist (Peshawar)

For position details and eligibility criteria please visit our website www.shaukatkhanum.org.pk We Offer

- Competitive salary, professional growth, continuous education and excellent work environment.
Free medical cover only for regular employees, their spouse and children up to 18 years of age.
ISO certified environment.

Note: We regret only short listed candidates will be notified. Application forms are available on our website. Please send your Application form along with attested documents by December 15, 2017 to:

Manager, Human Resources
Shaukat Khanum Memorial Cancer Hospital and Research Centre
7A Block R-3, Johar Town, Lahore
Tel: +92 42 3590 5000 Ext. 13037, 3040, 3041 | Fax: +92 42 3594 5203
Email: careers@shaukatkhanum.org.pk | Web: www.shaukatkhanum.org.pk
We are an equal opportunity employer

انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان...

انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان...

انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان...

انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان...

انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان...

انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان...

انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان...

انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان... انسان...

Handwritten notes and signatures on the right side of the page.

(7) (8)

محرم و جناب ایجنسی، ایجوکیشن آفیسر شمالی وزیرستان ایجنسی، مہران شاہ
جناب عالی

حوار غیر صافری

گزارش یہاں ہے کہ سائل دلدادہ بیلیج پی ٹی سی گورنمنٹ گہراڑہ ایمری
سکول گل دارکوٹ شمالی وزیرستان ایجنسی مہران شاہ میں بحیثیت PTC ممبر
خدمات سرانجام دے رہی ہے۔

یہ ہے AEO صدر روزنامہ مشرق مہرخ 17/12/03 کی
وساطت سے غیر صافری کا نوٹس جاری کیا ہے کہ میں نوٹس کی اشاعت کے کا
دن کے اندر اندر اپنی ڈیوٹی پر حاضر ہو کر اپنی وہم غیر صافری بتاؤں۔

یہ کہ میں سائل نے کسی قسم کی غیر صافری نہیں کی ہے جو کہ سائل کو ایک
نہ ایک دن اللہ کے فضل سے پیش ہو گیا ہے۔
درخواست کے ساتھ نقل ایسٹ مدرسن لٹ ہے۔

عینی نوازش ہوئی

8/12/2017 مہرخ

الغرض

دلدادہ بیلیج پی ٹی سی گورنمنٹ گہراڑہ ایمری سکول گل دارکوٹ
شمالی وزیرستان مہران شاہ

۴۴
الحمد

بجسور جناب ڈائریکٹر صاحب ایجوکیشن فاٹا، خیبر پختونخوا

Annex-9

عنوان: اپیل برائے بحالی سروس

جناب عالی!

گزارش بجسور انور ہے۔ سائلہ ذیل امور کی جانب آپ کی توجہ مبذول کروانا چاہتی ہے۔
یہ کہ سائلہ گورنمنٹ گریڈ پرائمری سکول گل دادکوٹ میں اپنی ڈیوٹی فرائض سرانجام دے رہی تھی۔

(۱) یہ کہ سائلہ 01-09-2017 کو Showcause AEO No:9641-42 dated 09-11-2017
notice کی بنیاد پر اپنی ڈیوٹی سے غیر حاضر تصور کی گئی۔ چونکہ 01-09-2017 تا 04-09-2017 کو عید الاضحیٰ کی تعطیلات
تھی۔ گورنمنٹ آف خیبر پختونخواہ روز کے مطابق چھٹیوں کے دن کوئی بھی غیر حاضر نہیں ہو سکتا ہے۔ نوٹیفیکیشن انہی ہے۔

(۲) نہ ہی سائلہ کو تحریری طور پر شوکانوٹس غیر حاضری کی ملی ہے۔

(۳) یہ کہ AEO صاحب نے مورخہ 03-12-2017 کو روزنامہ مشرق اخبار کی وساطت سے دوبارہ غیر حاضری تہہ در کی گئی
ہے۔ یہ کہہ کر کہ غیر حاضری کا جواب پندرہ دن کے اندر اندر رپورٹ پیش کریں۔ یہ کہ سائلہ نے غیر حاضری کا جواب مورخہ
08-12-2017 کو AEO صاحب کی دفتر میں جمع کیا گیا ہے۔ اور پندرہ دن سے پہلے مورخہ 13-12-2017 کو
Efficiency and Discipline Rules 2011 کے تحت سائلہ کی برحالتگی (Removal from service)
عمل میں لائی گئی ہے۔ سرکاری اعلامیہ روزنامہ مشرق اخبار کی فوٹو کاپی منسلک ہے۔

(۴) یہ کہ سائلہ سکول سے غیر حاضری کا ارتکاب نہیں کیا ہے۔ حاضری رجسٹر معلمات منسلک ہے۔
درجہ بالا حقائق کی روشنی میں سائلہ کی Removal from service کو Withdraw کا حکم صادر فرمائیں۔ ورنہ سائلہ کی
سروس بحالی کا حکم کر کے مشکور فرمائیں۔

سائلہ دعا گو ہے گا۔

مورخہ: 28-12-2017

العارض > لکھنؤ سیکم لکھنؤ

آپ کا تابع مدرس دلشاد بیگم پٹی سی گورنمنٹ گریڈ پرائمری سکول گل دادکوٹ شمالی وزیرستان ایجنسی میران شاہ

CNCI: 14203-0865450-5

Handwritten signature

Annex B. (10)



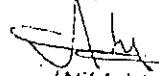
F.No.2/4/2016-Public.
GOVERNMENT OF PAKISTAN
MINISTRY OF INTERIOR

Islamabad the 23rd August, 2017.

PRESS RELEASE

It is notified for general information that 1st to 4th September, 2017 (Friday, Saturday, Sunday and Monday) shall be public holidays on the occasion of Religious Festival of Eid-ul-Azha.

The above Press Release may kindly be published in all major English and Urdu Dailies both at National and Regional levels and also be given wide publicity through electronic media.


(Atif Aziz)
Deputy Secretary (Law-II) 23/08/17
Tele: 9203851

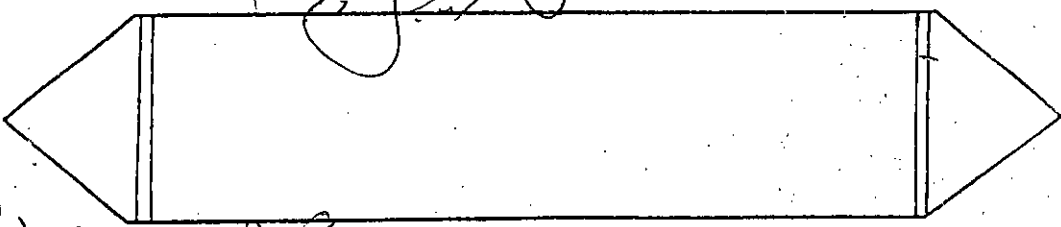
The Principal Information Officer,
Press Information Department,
Islamabad.

Copy forwarded to: -

1. President's Secretariat (Personal), OSD (Admn), Aiwan-e-Sadr, Islamabad.
2. President's Secretariat (Public), DS (Admn), Aiwan-e-Sadr, Islamabad.
3. Prime Minister's Office (Internal), OSD (Admn), Islamabad.
4. Prime Minister's Office (Public), DS (Admn), Islamabad.
5. The Chief Election Commissioner of Pakistan, Islamabad.
6. The Auditor General of Pakistan, Islamabad.
7. The AGPR, Islamabad.
8. The Joint Staff HQrs, Chaklala, Rawalpindi.
9. GHQ, Rawalpindi.
10. Chairman, National Accountability Bureau, (NAB), Islamabad.
11. All Ministries / Divisions.
12. The Registrar, The Supreme Court of Pakistan, Islamabad.
13. Secretary, Senate Secretariat, Islamabad.
14. Secretary, National Assembly Secretariat, Islamabad.
15. Chief Secretaries, Government of the Punjab / Lahore, Sindh / Karachi, Khyber Pakhtoonkhwa / Peshawar, Balochistan / Quetta, Northern Areas / Gilgit-Baltistan and AJK / Muzaffarabad.
16. The Director General, ISI, Islamabad.
17. The Director General, IB, Islamabad.
18. The Chief Commissioner, ICT (Admn), Islamabad.
19. The Manager, State Bank of Pakistan, Islamabad.
20. Secretary, Wafaqi Mohtasib's Secretariat, Islamabad.
21. Secretary, Wafaqi Tax Ombudsman's Secretariat, Islamabad.
22. The Chairman CDA, Islamabad.
23. Director (Media), Minister for Interior, Islamabad with the request to ensure its publication in all dailies.
24. Staff Officer to Minister for Interior, Islamabad.
25. PS to the Secretary, Ministry of Interior, Islamabad.
26. P.S to the Additional Secretary-I, II & III, M/o Interior, Islamabad.
27. The System Administrator (IT), MOI with request to upload an official website.


(Atif Aziz)
Deputy Secretary (Law-II)

بعدالت سند



2019ء منجانب اسٹیبلشمنٹ
ساتھ دلچسپی بنام ڈائریکٹر

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ
آن مقام ساحر کیلئے محمد سعید گل سے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 31 ماہ جنوری 2019

بمقام
ساحر
کے لئے منظور ہے۔
محمد سعید گل
دائریکٹر

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.....154/2019

MST: Dil Shad Begum (PST) government Girls Primary School Gul Dad Kot, North Waziristan Agency-----Appellant

VERSUS

1. Director of education, FATA, FATA Secretariat Warsak Ro, FATA, Peshawar others.
2. District Education Officer North Waziristan Tribal District.

-----Respondents

INDEX

S.NO	DISCRIPTION OF DOCUMENTS	ANNEXTURE	PAGES
1	Comments		1-3
2	Affidavit		4
3	Authority letter		5
4	Show cause notice	Annexure -A	5
5	News paper cutting	Annexure-B	6



DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN.T.D

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.....154/2019

MST: Dil Shad Begum (PST) government Girls Primary School Gul Dad Kot, North Waziristan Tribal District-----**Appellant**

VERSUS

1. Director of Education, FATA, Secretariat Warsak Ro, FATA, Peshawar.
2. District Education Officer, North Waziristan Tribal District, Miran Shah.

-----**Respondents**

Comments on behalf of Respondent No. 2

Respectfully Sheweth:

Preliminary Objections:

1. The appellant has no cause of action, locus standi, to file this instant appeal.
2. That the appellant has not come to this honorable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honorable Tribunal.
4. The appeal is not maintainable in this form.
5. That the appellant has been stopped by his own conduct to file the appeal.
6. That the appeal is badly time barred.

Facts:

1. Correct that the appellant was appointed as a PTC teacher in the Education Department in the farmer Tribble area of NWA.
2. The appellant was posted at GGPS Gul Dad Kot and her duty was constantly observed by the responsible authorities of Education, and till the 1st of September 2017, her performance was not satisfactory. So her computerized salary was inactivated. As a result, she turned her ears deaf. Consequently, a departmental show cause notice was issued against her after a stipulated period on 9.11.2017 and sent on her school and home address (**copy of the show cause notice is attached as Annexure - A**) But surprisingly, the appellant failed to report to the Education Office. In the same way the computerized salary of the appellant was inactivated for the month of Dec: 2017. Similarly, on the local FM Radio at Miran shah, the notice of all such habitual absent teachers was brought on air, but again the appellant failed to join her school. Beside these, the names of such teachers, including the appellant was shared on social media such as face book which was shared by the than political Agent as well. Despite that the appellant neither reported to the DEO office nor joined her duty at her school. Then after a stipulated period of time, the DEO published a warning in the Newspaper, the Daily Mashriq on 03/12/2017 regarding the appellant and some other teachers about their absence from duties. (**Copy of the newspaper cutting is attached as Annexure-B**), but again she failed to join her duties at her school. And similarly, she was terminated from her service on 13.12.2017.
3. No departmental appeal has so far been submitted before this office. As because the termination order of the appellant was issued according to the rule/law.
4. On the bases of the mentioned facts the appeal may kindly be dismissed on the following grounds.

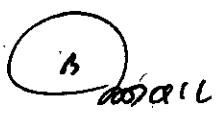
Grounds:

- A. Incorrect that she was taking monthly salary regularly while she failed to perform her duty in her school.
- B. Incorrect that she was verbally asked to join her duty but she failed to do so.
- C. Incorrect that her salary was stopped but again she turned her deaf ear.
- D. Incorrect that consequently, she was issued show cause notice in which she was asked to join her duty but, unfortunately, she did not join her duties. Detail reply has been given above in Para-2 of facts.
- E. Incorrect. At last she was terminated from her service after completing all formalities.
- F. Incorrect. Proceeding were conducted by the competent authorities under the E&D rule. So the teacher in question has no right to be re-instated on the service.

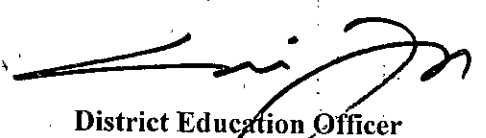
- G. The appellant remained wilfully absent from her duty without any prior approval of competent authority.
- H. Incorrect .All codal formalities were fulfilled.
- I. That the respondents seek permission to advance other points at the time of arguments.

It is requested that the appeal may kindly be dismissed.

Respondent No. 1


✓ Director of Education
FATA, FATA Secretariat.

Respondent No. 2


District Education Officer
North Waziristan Tribal District

PESHAWAR.

Appeal No.....154/2019

MST: Dilshad Begum (PST) government Girls Primary School Gul Dad Kot North Waziristan Agency-----**Appellant**

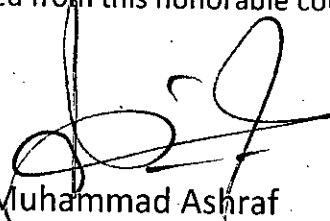
VERSUS

1. Director of education, FATA, FATA Secretariat Warsak Ro, FATA, Peshawar others.
2. District Education Officer North Waziristan Tribal District.

-----**Respondents**

AFFIDAVIT

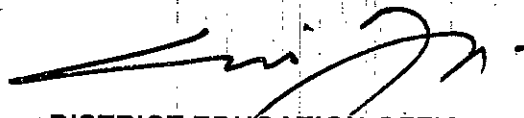
I Muhammad Ashraf Khan Additional District Education Officer North Waziristan Tribal District on behalf of the Respondent No.2, do hereby solemnly affirm and declare that the report of Respondent No.2 in R/O of Appeal. No,154/2019 is true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.



Muhammad Ashraf
Additional District Education Officer
North Waziristan Tribal District

AUTHORITY LETTER

This office has the honor to state that Mr. Muhammad Ashraf has been serving in the District Edu: Office as an Additional DEO. He has been given the authority to attend any kind of court case. So he may be considered as representative of the District Edu: officer, N.W.T.D


DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN



NOTIFICATION

1. WHEREAS Mst. Dil Shad Begum PST GGPS Gul Dad Kot Datta Khel North Waziristan Agency was found willfully absent from duty during monitoring visit of the concerned Assistant Agency Education Officer to the School on dated 01/09/2017.
2. AND WHEREAS the accused was proceeded against under Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules 2011, for the charge of "willful absence from duty" as mentioned in the show cause notice served upon her at her home/School address vide AEO No: 9641-42 dated 09/11/2017.
3. AND WHEREAS Mst Dil Shad Begum PST GGPS Gul Dad Kot Datta Khel North Waziristan Agency did not report to her duty within stipulated period of time and turned her ears deaf.
4. AND WHEREAS Charge sheet notice was served upon Mst Dil Shad Begum PST GGPS Gul Dad Kot Datta Khel North Waziristan Agency through print media (Daily Mashriq) on dated 03.12.2017 wherein the accused was directed to submit reply in her defence through personal contact with this office.
5. AND WHEREAS the accused failed to put any defense in written and did not appear to be heard in person within fifteen days.
6. AND WHEREAS the competent authority, the Agency Education officer North Waziristan Agency, having considered the charges, evidence on record and facts of the case, is of the view that the charge of willful and unauthorized absence against the accused official has been proved.
7. NOW THEREFORE, In exercise of the Powers conferred under Rules-4 (b) iii of Khyber Pakhtunkhwa Government Servants "Efficiency and Discipline" Rules 2011, the competent Authority, Agency Education officer North Waziristan Agency, is pleased to impose major penalty "Removal from service" upon Mst: Dil Shad Begum PST GGPS Gul Dad Kot Datta Khel North Waziristan Agency with retrospective on account of his willful absence from duty.

(HABIBULLAH)
Agency Education Officer,
North Waziristan Agency

Endst: No. 8161-69 Dated 13/12/2017

Copy forwarded to the:

1. Director Education FATA, FATA Secretariat Peshawar
2. Political Agent North Waziristan Agency at Miran Shah
3. Head Quarter 7-Division Camp Area Miran Shah.
4. Agency Accounts officer North Waziristan Agency at Miran Shah for stoppage pay of the official.
5. PS to Additional Chief Secretary FATA for perusal of the Additional Chief Secretary FATA
6. PS to Secretary SSD FATA for perusal of the Secretary SSD FATA
7. AAEO concerned for entry in his service book
8. Accountant local office for stoppage of his pay forthwith.
9. Official concerned

Agency Education Officer
Habibullah

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.....154/2019

MST: Dil Shad Begum (PST) government Girls Primary School Gul Dad Kot, North Waziristan Agency-----Appellant

VERSUS

1. Director of education, FATA, FATA Secretariat Warsak Ro, FATA, Peshawar others.
2. District Education Officer North Waziristan Tribal District.

-----Respondents

INDEX

S.NO	DISCRIPTION OF DOCUMENTS	ANNEXTURE	PAGES
1	Comments		1-3
2	Affidavit		4
3	Authority letter		5
4	Show cause notice	Annexure -A	5
5	News paper cutting	Annexure-B	6


DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN.T.D

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.....154/2019

MST: Dil Shad Begum (PST) government Girls Primary School Gul Dad Kot, North Waziristan Tribal District-----Appellant

VERSUS

1. Director of Education, FATA, Secretariat Warsak Ro, FATA, Peshawar.
2. District Education Officer, North Waziristan Tribal District, Miran Shah.

-----Respondents

Comments on behalf of Respondent No. 2

Respectfully Sheweth:

Preliminary Objections:

1. The appellant has no cause of action, locus standi, to file this instant appeal.
2. That the appellant has not come to this honorable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honorable Tribunal.
4. The appeal is not maintainable in this form.
5. That the appellant has been stopped by his own conduct to file the appeal.
6. That the appeal is badly time barred.

Facts:

1. Correct that the appellant was appointed as a PTC teacher in the Education Department in the former Tribal area of NWA.
2. The appellant was posted at GGPS Gul Dad Kot and her duty was constantly observed by the responsible authorities of Education, and till the 1st of September 2017, her performance was not satisfactory. So her computerized salary was inactivated. As a result, she turned her ears deaf. Consequently, a departmental show cause notice was issued against her after a stipulated period on 9.11.2017 and sent on her school and home address (copy of the show cause notice is attached as Annexure - A) But surprisingly, the appellant failed to report to the Education Office. In the same way the computerized salary of the appellant was inactivated for the month of Dec: 2017. Similarly, on the local FM Radio at Miran Shah, the notice of all such habitual absent teachers was brought on air, but again the appellant failed to join her school. Beside these, the names of such teachers, including the appellant was shared on social media such as face book which was shared by the than political Agent as well. Despite that the appellant neither reported to the DEO office nor joined her duty at her school. Then after a stipulated period of time, the DEO published a warning in the Newspaper, the Daily Mashriq on 03/12/2017 regarding the appellant and some other teachers about their absence from duties. (Copy of the newspaper cutting is attached as Annexure-B), but again she failed to join her duties at her school. And similarly, she was terminated from her service on 13.12.2017.
3. No departmental appeal has so far been submitted before this office. As because the termination order of the appellant was issued according to the rule/law.
4. On the bases of the mentioned facts the appeal may kindly be dismissed on the following grounds.


Grounds:

- A. Incorrect that she was taking monthly salary regularly while she failed to perform her duty in her school.
- B. Incorrect that she was verbally asked to join her duty but she failed to do so.
- C. Incorrect that her salary was stopped but again she turned her deaf ear.
- D. Incorrect that consequently, she was issued show cause notice in which she was asked to join her duty but, unfortunately, she did not join her duties. Detail reply has been given above in Para-2 of facts.
- E. Incorrect. At last she was terminated from her service after completing all formalities.
- F. Incorrect. Proceeding were conducted by the competent authorities under the E&D rule. So the teacher in question has no right to be re-instated on the service.

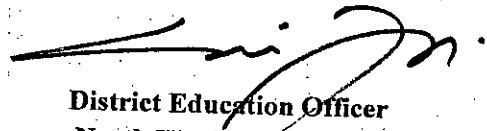
- G. The appellant remained wilfully absent from her duty without any prior approval of competent authority.
- H. Incorrect. All codal formalities were fulfilled.
- I. That the respondents seek permission to advance other points at the time of arguments.

It is requested that the appeal may kindly be dismissed.

Respondent No. 1


✓ **Director of Education**
FATA, FATA Secretariat.

Respondent No. 2


District Education Officer
North Waziristan Tribal District

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

3

Appeal No.....154/2019

MST: Dilshad Begum (PST) government Girls Primary School Gul Dad Kot North Waziristan
Agency-----Appellant

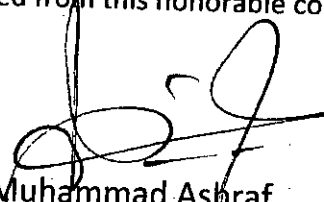
VERSUS

1. Director of education, FATA, FATA Secretariat Warsak Ro, FATA, Peshawar others.
2. District Education Officer North Waziristan Tribal District.

-----Respondents

AFFIDAVIT

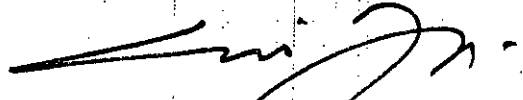
I Muhammad Ashraf Khan Additional District Education Officer North Waziristan Tribal District on behalf of the Respondent No.2, do hereby solemnly affirm and declare that the report of Respondent No.2 in R/O of Appeal. No,154/2019 is true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.



Muhammad Ashraf
Additional District Education Officer
North Waziristan Tribal District

AUTHORITY LETTER

This office has the honor to state that Mr. Muhammad Ashraf has been serving in the District Edu: Office as an Additional DEO. He has been given the authority to attend any kind of court case. So he may be considered as representative of the District Edu: officer, N.W.T.D



**DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN**



OFFICE OF THE AGENCY EDUCATION OFFICER
NORTH WAZIRISTAN AGENCY AT MIRAN SHAH
Ph.NO.0928313045

NOTIFICATION

1. WHEREAS Mst. Dil Shad Begum PST GGPS Gul Dad Kot Datta Khel North Waziristan Agency was found willfully absent from duty during monitoring visit of the concerned Assistant Agency Education Officer to the School on dated 01/09/2017.
2. AND WHEREAS the accused was proceeded against under Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules 2011, for the charge of "willful absence from duty" as mentioned in the show cause notice served upon her at her home/School address vide AEO No: 9641-42 dated 09/11/2017.
3. AND WHEREAS Mst Dil Shad Begum PST GGPS Gul Dad Kot Datta Khel North Waziristan Agency did not report to her duty within stipulated period of time and turned her ears deaf.
4. AND WHEREAS Charge sheet notice was served upon Mst Dil Shad Begum PST GGPS Gul Dad Kot Datta Khel North Waziristan Agency through print media (Daily Mashriq) on dated 03.12.2017 wherein the accused was directed to submit reply in her defence through personal contact with this office.
5. AND WHEREAS the accused failed to put any defense in written and did not appear to be heard in person within fifteen days.
6. AND WHEREAS the competent authority, the Agency Education officer North Waziristan Agency, having considered the charges, evidence on record and facts of the case, is of the view that the charge of willful and unauthorized absence against the accused official has been proved.
7. NOW THEREFORE, In exercise of the Powers conferred under Rules-4 (b) iii of Khyber Pakhtunkhwa Government Servants "Efficiency and Discipline" Rules 2011, the competent Authority, Agency Education officer North Waziristan Agency, is pleased to impose major penalty "Removal from service" upon Mst: Dil Shad Begum PST GGPS Gul Dad Kot Datta Khel North Waziristan Agency with retrospective on account of his willful absence from duty.

(HABIBULLAH)
Agency Education Officer,
North Waziristan Agency

Encls: No. 6161-69 Dated 13/12/2017
Copy forwarded to the:

1. Director Education FATA, FATA Secretariat Peshawar
2. Political Agent North Waziristan Agency at Miran Shah
3. Head Quarter 7-Division Camp Area Miran Shah.
4. Agency Accounts officer North Waziristan Agency at Miran Shah for stoppage pay of the official.
5. PS to Additional Chief Secretary FATA for perusal of the Additional Chief Secretary FATA
6. PS to Secretary SSD FATA for perusal of the Secretary SSD FATA
7. AAEO concerned for entry in his service book
8. Accountant local office for stoppage of his pay forthwith.
9. Official concerned

Agency Education Officer
[Signature]

