

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4404

Dated 16/3/2023

S.A No. 12457/2020

Mst. Nargis (PTC) D/O Nazar Hussain W/O Zalib Gul R/O Mohalla Sra Mela

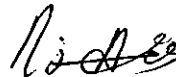
Village Bosti khel Darra Adam Khel FR Kohat **Appellant**

VERSUS

1. The District Education Officer, Sub Division Darra Adam Khel, Kohat.
2. The Director, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Elementary & N Secondary Education Khyber Pakhtunkhwa, Civil secretariat Peshawar
4. Government of Khyber Pakhtunkhwa through chief secretary Education Civil Secretariat Peshawar **Respondent**

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District Education Officer (F)
TSD Darra Kohat

BEFORE THE HON'ABLE KHYBER
PAKHTUNKHWSERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO; No. 12457/2020

Mst. Nargis ,PTC D/O Nazar Hussain W/O Zalib Gul R/O Mohalla Sra Mela,
Village Bosti Khel Darra Adam Khel FR Kohat.....**Appellant**

VERSUS

1. The District Education Officer (male), Sub Division Darra Adam Khel, Kohat
2. The Director, (Elementary & Secondary Education) KPK, Merged District, Education Directorate, Peshawar.
3. Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat, Peshawar.
4. Government of Khyber Pakhtunkhwa through Chief Secretary Education, Civil Secretariat, Peshawar.....**Respondents**

JOINT PARA WISE COMMENTS ON THE BEHALF OF THE RESPONDENTS NO. 1 to 3.

PRELIMINARY OBJECTIONS

- i. That the Appellant has got no cause of action, locus standi to file the instant appeal.
- ii. That the Appellant has concealed material facts from Honorable Tribunal.
- iii. That the Appellant has not come to this Honorable Tribunal with clean hands.
- iv. That the Appeal of the appellant is not maintainable.
- v. That the Appeal in hand is based upon malicious/vexatious and frivolous grounds.
- vi. That the Appellant is estopped by her own conduct.
- vii. That the appeal of the appellant is badly time barred.
- viii. That the appeal is bad for mis-joinder and non-joinder of necessary parties.

ON FACTS:

1. That Para -1 pertains to record, however, it is further submitted that the appellant has not been an employee of the respondent department in a regular capacity nor any such record is available prior to her regularization in service against the noted post vide order dated 26.09.2017 attached as **annexure A)**
2. That Para 2 pertains to record and is subject to the proof.
3. That Para 3 is incorrect as the appellant has not performed her duty.
4. That Para 4 is correct, as the appellant was a project employee and after closure/winding-up of the project the services of the appellant were terminated by the competent authority.
5. That Para 5 is legal and correct to the extent of re-appointment of the project employees wherein the appellant was not recommended for re-appointment of being unqualified candidate.

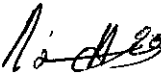
6. That Para 6 of the fact is incorrect that as per Notification there is no specification mentioned regarding the publication of the appointments rather re-appointment subject to fulfillment of criteria.
7. That Para 7 is legal , hence, no comments.
8. That Para 8 pertains to the record.
9. That Para 9 pertains to record.
10. That Para 10 is incorrect as in the light of the judgment of the august Peshawar High Court Peshawar in obiter-dicta, there is no specification mentioned as claimed by the appellant in her appeal.
11. That Para 11 is incorrect as such there is no representation available on record which shows that the appellant had ever been preferred.
12. That Para 12 is incorrect as no representation has been preferred so how the respondent Department issued any order in the absence of any representation however, it is worth to mention here that every Departmental Representation, if so filed must duly be entered in diary register by issuing number and date as well as their copy of representation so annexed with appeal must be preferred through proper channel by the appellant, hence the appeal in hand is liable to be dismissed on the following grounds inter alia

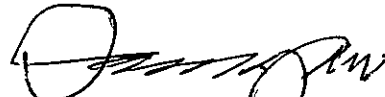
ON GROUNDS


- A. That Para A of the ground is incorrect as in the light of the Judgment of august Peshawar High Court implemented with true spirit in which no specially mentioned the substances so taken by the appellant, hence denied.
- B. That Para B of the ground is pertain to record however the service of the appellant previously terminated.
- C. That Para C of the ground is incorrect, irrelevant, hence no comments.
- D. That Para D of the ground is irrelevant however the appellant rendered her services in the project, for which appellant received salary and after vacation of project the services of appellant were terminated.
- E. That Para E of the ground is incorrect, already discussed above, however in the light of the judgment of august Peshawar High Court implemented in its true & spirit and so far as the question of back benefits including seniority is concerned the appellant is not entitled for the same under the rules.
- F. That Para F of the ground is incorrect as stated in above Para E.
- G. That Para E of the ground is incorrect if the Honorable Tribunal demand appropriate to peruse the Judgment of august Peshawar High Court in which there is no considerable contents mentioned about the plea of the appellant.
- H. That the Respondent Department seeks gracious permission of this Honorable Service Tribunal to adduce some other grounds, case law and record at the time of arguments.

PRAYER.

In the light of above legal and factual position it is humbly prayed/requested that the amended appeal of the appellants may graciously be dismissed with cost please.


District Education Officer
TSD Darra Kohat
Respondent No. 1

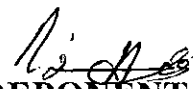

Director Elem: & Secondary Education
Khyber Pakhtunkhwa Peshawar
Respondent No.2


Secretary Elem: & Secondary Education
Khyber Pakhtunkhwa Peshawar
Respondents No. 3 & 4

AFFIDAVIT

I Mrs. Rizwana Liaqat DEO (F) TSD Dara Kohat, do here by affirm and declared that the contents of para wise comments regarding the service appeal No. 12457/2020 are true, correct and nothing has been concealed from this Honorable Service Tribunal Khyber Pakhtunkhwa, Peshawar.




DEPONENT
Mrs. Rizwana Liaqat
District Education Officer (F)
TSD Darra Kohat