


15.08.2016

Counsel for the appellant and Mr. Muhammad Usman, Senior Clerk alongwith Mr. Muhammad Siddique Sr.GP for the respondents present. Learned counsel for the appellant requested for adjournment to submitted rejoinder. To come up for rejoinder and final hearing on 17.01.2017 before D.B at camp court, Abbottabad .

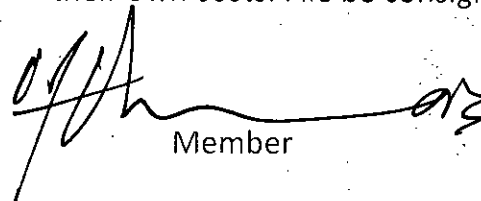
  
Member

  
Chairman  
Camp court, A/Abad


17.01.2017

Counsel for the appellant and Mr. Muhammad Siddique, Senior Government Pleader alongwith Mr. Muhammad Usman Senior Clerk for the respondents present. Arguments heard. Record perused.

Vide our detailed judgment of to-day placed in connected service appeal No. 744/2015 titled "Shahida Bibi Versus Government of Khyber Pakhtunkhwa through Secretary, E&SE Peshawar and others", we accept the instant appeal also as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

  
Member

ANNOUNCED  
17.01.2017

  
Chairman  
Camp court, A/Abad  
17.01.17.


18.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that identical service appeals No.758 to 789/2015 have already been admitted to regular hearing and fixed for further proceeding on 20.10.2015.

In view of the above, this appeal is also admitted to regular hearing. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 20.10.2015 before S.B at camp court A/Abad.

Appellant Deposited  
Security & Process Fee



  
Chairman  
Camp Court Abbottabad

20.10.2015

Counsel for the appellant and Mr.Sakeenullah, ADO alongwith Mr.Muhammad Tahir Aurangzeb, G.P for respondents present. Requested for adjournment. To come up for written reply/comments on 21.01.2016 before S.B at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad.

21.1.2016

Agent of counsel for the appellant and Mr. Muhammad Fayaz, Supdt. alongwith Mr. Muhammad Saddique, Sr.GP for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 15.8.2016 at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

Form- A  
FORM OF ORDER SHEET

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

Case No. 825/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15.07.2015	<p>The appeal of Mst. Sanila Tul Kubra presented today by Mr. Muhammad Arshad Khan Tanoli Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p><i>[Signature]</i> REGISTRAR</p>
2	29-7-15	<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up thereon <u>18-8-15</u>.</p> <p><i>[Signature]</i> CHAIRMAN</p>

**BEFORE THE KHYBER PUKHTUNKHAW SERVICE**  
**TRIBUNAL, PESHAWAR.**

*Appeal no. 825/2015*

Sanila Tul Kubra D/O Muhammad Haider Khan (AT GGMS  
Aglagaran) R/O Tehsil & District Mansehra

.....Appellant

**VERSUS**

1. Govt. of KPK through Secretary Education (E & SE), KPK Peshawar.
2. Director (E & SE), KPK Peshawar.
3. District Education Officer (Female), Mansehra.

.....Respondents

**INEX**

S.No	Prescription of Document	Annexure	page
1	APPEAL		1-10
2	Copy of Advertisement	"A"	11
3	Copy of appointment order and corrigendum	"B"	12
4	Copy of impugned dismissal order of appellant	"C"	13
5	Copy of departmental appeal /representation	"D"	14-
8	Wakalatnama		
9			

Dated: *12/7/2015*

*Sanila Tul Kubra*  
Appellant

Through

*Muhammad Arshad Khan Tanoli*  
**Muhammad Arshad Khan Tanoli**

Advocate, High Court

Abbottabad

①

**BEFORE THE KHYBER PUKHTUNKHAW SERVICE**  
**TRIBUNAL, PESHAWAR.**

Appeal No. 825/2015

A.W.F. Province  
Service Tribunal

Diary No. 857

Dated 15-7-2015

Sanila Tul Kubra D/O Muhammad Haider Khan (AT GGMS  
Aglagaran) R/O Tehsil & District Mansehra

.....Appellant

**VERSUS**

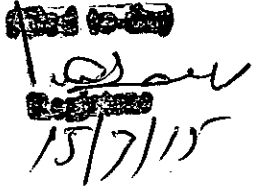
1. Govt. of KPK through Secretary Education (E & SE), KPK Peshawar.
2. Director (E & SE), KPK Peshawar.
3. District Education Officer (Female), Mansehra.

.....Respondents

**SERVICE APPEAL.**

**Service Appeal u/s 4 of KPK Service**  
**Tribunal, 1974**

Respectfully Sheweth,

  
15/7/15

Facts forming the back ground of the instant Service Appeal is as under:-

1. That, respondent No 3 announced the posts of AT in Dailly "The Aaj" dated 20/5/2011 for appointment of AT. The Appellant fulfills the entire criteria which sine qou non for appointment for the post of AT. Copy of Advertisement is annexed as Annexure "A"

2

2. That, the appellant qualified test as well as interview conducted by respondent No 3. The appellant is qualified Matric, Hifz, tajweed, teaching of tajweed, Shahadat ul Almia from registered Institution/ Maddaris.
  
3. That, following this, the appellant was appointed as AT in respondents' Department on the basis of merits and was posted in GGHS Afzal abad vide appointment order endrst No 1467-76/ ESTT APPTT: AT 2011/2012 Dated 26/6/2012.  
**Copy of appointment order and corrigendum is annexed as Annexure "B".**
  
4. That, the appellant served the Department with complete devotion and dedication to the entire satisfaction of her superiors from the date of her appointment i.e. 26.6.2012 onwards.
  
5. That, the appellant was though dismissed from service by the respondent's department endrs. No 1472-81/AE-J/ESTB on 3.3.2015.
  
6. That, Respondent No 3 issued Show Cause notice to the appellant without annexing the statement of allegations however, a page of inquiry which was conducted against the then EDO Umar Khan Kundi DEO, Shamim Akhtar was found attached with the show cause notice, wherein it was mentioned against the name of appellant that "No

3

relevant, sannad for appointment and the appointment is not valid and is against the recruitment policy". AS the inquiry committee did recommend any remarks against the Appellant

7. That, show cause notice issued to the appellant was properly replied by her mentioning that the appellant applied for the post of AT and appeared in ETTA Test Beside, District Education Officer solicited candid views from respondent No 2 regarding as to whether the candidate who possess their sannads of Hifz and tajweed from registered institutions are to be appointed "as per service structure in prescribe rules the sannad of Qirat from a recognized Institution meant a certificate obtained from Maddaris/Intuition Registered by the Govt. of KPK.
8. That, the respondent No 3, as stated above, served show cause notice to the appellant, which was properly replied by her. As per law, the appellant was entitled to be heard in person by respondent No 3. But Respondent NO 3 without resorting the rules, without providing opportunity of personal hearing and adopting proper modus operandi required for dismissal of employees from service, dismissed the appellant vide impugned dismissal order endst. No 1472-81/AE-J/ESTB dated 3.3.2015. **Copy of impugned dismissal order of appellant is attached as annexure "C".**

9

9. That on receipt of dismissal order, appellant filed departmental appeal against the order of respondent No 3 to respondent No 2 on 24.3.2015. **Copy of departmental appeal /representation is attached as annexure "D"** but respondent No 2 did not bother to reply the representation of the appellant so far. Hence feeling aggrieved, the instant appeal is filed by appellant inter-alia on the following grounds:-

### **GROUND**

- a. That, the appellant fulfilled the criteria of appointment as AT being qualified. The appellant was appointment on merit on the recommendation of Departmental Selection Committee and was placed at S.No 10 of the merit list. Hence impugned dismissal order is illegal perverse, discriminatory without lawful justification and null and void on the rights of the appellant.
  
- b. That, as per educational record annexed with the appeal, the appellant has been appointed as AT according to the laid down procedure and criteria mentioned in the advertisement published by respondent 3. It is further submitted that no



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institution/madaris of female is not recognized in KPK since 1969 onwards. Therefore ATs were appointed in Education Department prior to 2012 on the basis of sannads similar to that of appellant. Therefore if hundreds of female ATs are serving in Educational Department on the basis of similar sannads then the appellant is also entitled to serve the department as per law. Hence impugned dismissal order is liable to be set aside.

- c. That, when law prescribe something which is to be done in a particular manner that must be done in that manner and not otherwise. As per law the appellant was eligible for appointment as AT. But the conduct of respondents department towards the appellant is mala fide, discriminatory and not maintainable at law.
- d. That, this fact may not be left to fade in oblivion that the Govt. of KPK removed the then EDO, Mansehra, Umar Kundi from service but the appellant has been dismissed from service due to no fault of her. Once an employee is dismissed he is de-barred to get appointment in Govt. Departments. Therefore, respondents' Department not only illegally dismissed the appellant but snatched her bread and butter in future as well. Hence impugned dismissal order is liable to be set aside.

6

- e. That, respondent No 3 did not issued final show cause notice to the appellant and dismissed her in hasty manner and wants to induct some blue eyed chaps at the alter of appellant which is discriminatory against the principle of natural justice and fair play.
- f. That, respondents' Department has led the appellant to the place which is utterly unknown to the principle of jurisprudence and natural justice.
- g. That, right from the appointment of the appellant as AT in 2012, there was no rival candidate who contested the appointment of the appellant in any Court of law anywhere in KPK.
- h. That, Govt. of KPK conducted inquiry against the then EDO, Umar Khan Kundi for committing illegalities/irregularities in appointments/promotions etc and finally removed from service. Therefore, the appellant cannot make a scapegoat for illegal acts of the then EDO Umar Kundi. Therefore on the basis of removal of Umar Kundi from service, the appellant cannot be dismissed for the acts committed by the ex-EDO.
- i. That, the Honourable Service Tribunal has jurisdiction to entertain the grievance of the appellant and the

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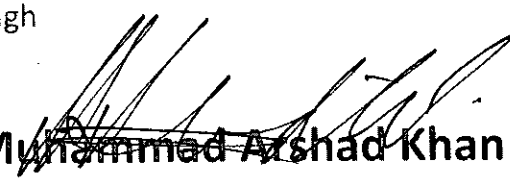
appeal of the appellant is within the prescribe period of limitation

It is, therefore, prayed that on acceptance of the instant Service Appeal of the appellant, impugned dismissal order endrst. No 1472-81/AE-J/ESTB dated 3.3.2015 may graciously be set aside and respondent No 3 may be directed to reinstate the appellant in service in the School with effect from the date of her dismissal with all service back benefits in terms of pay etc. Any other relief which this Honourable Court deems appropriate in the circumstance may also be done.

Dated: 11/7/2015

Appellant *Qumail Akbar*

Through

  
**Muhammad Arshad Khan Tanoli**  
Advocate, High Court  
Abbottabad

8

**BEFORE THE KHYBER PUKHTUNKHAW SERVICE**  
**TRIBUNAL, PESHAWAR.**

Sanila Tul Kubra D/O Muhammad Haider Khan (AT GGMS  
Aglagaran) R/O Tehsil & District Mansehra

.....Appellant

**VERSUS**

1. Govt. of KPK through Secretary Education (E & SE), KPK Peshawar.
2. Director (E & SE), KPK Peshawar.
3. District Education Officer (Female), Mansehra.

.....Respondents

**APPLICATION FOR SUSPENSION**  
**OF IMPUGNED ORDER NO 1472-**  
**81/AE-J/ESTB AND GRANT OF**  
**STATUS QUO TILL FINAL DISPOSAL**  
**OF THE MAIN APPEAL .**

Respectfully Sheweth,

1. That the instant service appeal is being filed today and this application may be treated as part and partial of the service appeal.
2. That, competent authority i.e District Education Officer (Male) Masehra prior to dismissal of the applicant did not followed the procedure laid down in service laws. Hence the applicant has not been provided opportunity of personal hearing and no final show cause notice has been issued
3. That, valuable rights have been accrued to the applicant for serving teacher and Education Department since 2012 to till date.
4. That, the applicant served the Department with complete devotion and dedications. Besides, the applicant had required qualification/criteria for the said post and the

9

applicant has not been contested by any one as there was no contesting rival candidate.

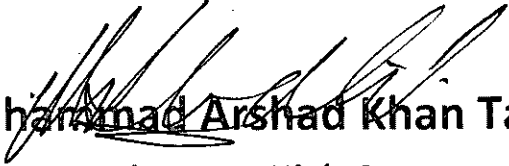
5. That, the applicant got appointment purely on the basis of merit. The applicant has been dismissed by the competent authority due to no fault of her.
6. That, the balance of convenience is infavour of the applicant and in case, status quo is not granted, the applicant shall suffer irreparable.

It is, therefore, very humbly prayed that on acceptance of the instant application, impugned termination order dated 03.03.2015 may graciously be suspended and status quo may also be granted till final decision of the main appeal.

Dated: 11/11/2015

*Quniter Kuber*  
Appellant

Through

  
**Muhammad Arshad Khan Tanoli**  
Advocate, High Court  
Abbottabad

(10)

**BEFORE THE KHYBER PUKHTUNKHAW SERVICE**  
**TRIBUNAL, PESHAWAR.**

Sanila Tul Kubra D/O Muhammad Haider Khan (AT GGMS  
Aglagaran) R/O Tehsil & District Mansehra

.....Appellant

**VERSUS**

1. Govt. of KPK through Secretary Education (E & SE), KPK Peshawar.
2. Director (E & SE), KPK Peshawar.
3. District Education Officer (Female), Mansehra.

.....Respondents

**AFFIDAVIT**

I, Sanila Tul Kubra D/O Muhammad Haider Khan (AT GGMS Aglagaran) R/O Tehsil & District Mansehra do hereby solemnly affirm and declare that the contents of foregoing service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Dated: 11/7/2015

  
Deponent

### محکمہ مواعیلات و سیرات حکومت سندھ

... (Government of Sindh Department of Public Works and Supplies)

... (Advertisement details in Urdu)

لٹریچر نمبر	لٹریچر کی تفصیل	پیشکش کی مدت	پیشکش کرنے والے شخص/فرد
1	...	...	...
2	...	...	...
3	...	...	...
4	...	...	...
5	...	...	...
6	...	...	...
7	...	...	...
8	...	...	...
9	...	...	...
10	...	...	...

... (Additional details and terms)

**Pre Bid Meeting**

... (Meeting details in Urdu)

... (Additional information regarding the bid process)

... (Contact information and dates)

### ... (Government of Sindh Department of Public Works and Supplies)

... (Advertisement details in Urdu)

لٹریچر نمبر	لٹریچر کی تفصیل	پیشکش کی مدت	پیشکش کرنے والے شخص/فرد
18	...	...	...
18	...	...	...
18	...	...	...
18	...	...	...
18	...	...	...
18	...	...	...
18	...	...	...

... (Additional details and terms)

Attested

*[Signature]*

Muhammad Arshad Munir Anoli  
Advocate  
Distt: Karachi North East  
Tenzli Advocate  
Abbottabad



Annex B

P12

OFFICE OF THE EXECUTIVE DISTRICT OFFICER E&S EDUCATION MANSEHRA

ORDER

In continuation to this office Endst: No. 710-52 Dated 14<sup>th</sup> June, 2012 on the acceptance of the appeal by the competent authority Mst: Sanila-tul-Kubra D/o Muhammad Hilal Khan R/o Bherkund District Mansehra is hereby appointed as a **AT(Female)** against vacant post at GGMS Agla Gran in **BPS-15 @ Rs.8500-700-29500** plus usual allowances as admissible under the rule on regular basis under the existing policy of provincial Government on the terms and conditions given below with immediate effect

TERMS & CONDITIONS:

1. His/her appointment are purely on temporary basis and liable to termination at any stage without assigning any reason/notice.
2. He/she will be governed by such rules and regulations enforce and as may be prescribed by the Government from time to time for the category of the Government servants to which he/she belong.
3. In case He/she failed to assume the charge of his/her post within 15 days of his/her appointment, candidature-ship will be stand automatically cancelled.
4. His/her services are regular but will not be entitled for pension/gratuity & he/she will not contribute any amount towards GP Fund however he/she will contribute CP fund on the prescribed rate & half contribution will be made by the Government.
5. He/she will submit to this office, his/her all testimonial and domicile/ UC Certificate from the secretary concerned union councils along-with bank drafts in the name of controller / treasurer of the concerned BISE / University within 7 days after the taking over charge for verification.
6. The release of the pay by the concerned DDOs will be subject to the receipt of verified documents by the appointing authority / (EDO E&SE Mansehra)
7. In case a document or documents is / are found fake or forged or Bogus on such scrutiny or all the verification, the service of the teachers concerned shall be terminated. The whole amount paid to him/her as salary will be recovered and a case against him/her shall be registered under relevant section of Law.

Attested  
M. H. Rehman  
Advocate  
Mansoura Abotabad



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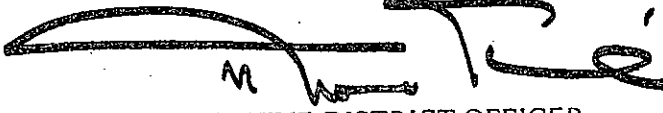
8. His/her services are liable to termination on one month prior notice from either side in case of resignation without prior notice, his/her one month pay/allowances if any shall be forfeited to Government Treasury.
9. His/her services can be terminated at any time in case his/her performance is found unsatisfactory; he/she will be proceeded against under the removal from service under E&D Rules 2011.
10. He/she should produce Age & Health Certificate from the MS DHQ Hospital Mansehra.
11. He/she may not be handed over the charge if his/her age is above 35 years and below 18 years.
12. The Candidates who are working as regular before 1<sup>st</sup> July 2001 in pervious post, his/her entitled for pension / gratuity etc.
13. No. TA/DA etc is allowed.
14. Charge report should be submitted to all concerned in duplicate.

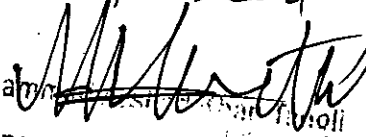
(Umar Khan Kundi)  
EXECUTIVE DISTRICT OFFICER  
E&S EDU: MANSEHRA

Endst: No. 1467-76/Estt: Apptt:AT//2011-12 Dated Mansehra the 26/06/2012

Copy to the:-

1. Secretary to Govt: of KPK E&SE Department Peshawar.
2. Director E&SE Department KPK Peshawar.
3. District Accounts Officer, Mansehra.
- 4-5. District Officer (M&F) Local Office.
- 6-7. Deputy District Officer (Female&Male) E&SE Mansehra.
8. PA to District Coordination Officer, Mansehra.
9. Budget & Accounts Officer, local office, Mansehra.
- 10-11. Candidates concerned.

  
EXECUTIVE DISTRICT OFFICER  
E&S EDU: MANSEHRA

Attested  
  
Muhammad Aslam  
District Courts Abbottabad



P-13  
Annex - C,

**OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MANSEHRA**

**NOTIFICATION**

- 1:- Where as Mst: Saniya Tul. Qubra D/O Muhammad Hiral Khan working as AT GGHS/GGMS/GGP Aglon Javan was served with show cause notice and was proceeded under the Khyber Pukhtunkhwa Govt: Servants (Efficiency and Disciplinary) Revised Rules 2011 for the charges mentioned in her Show-Cause Notice..
- 2:- And where as the inquiry committee comprising the following officers conducted an inquiry regarding the illegal appointments in the office of Ex- Executive District Officer Elementary and Secondary Education Mansehra.
- i) Syed hidayat Jan, (PCS SG B-20) Agricultural Department Khyber Pukhtunkhwa, Peshawar (Now Secretary Zakat, Usher and Social Welfare Department)
- ii) Mr. Akhalhaq Baig, Principal BS-20 RITE Male Haripur.
- 3:- And where as the inquiry Committee after having examined the record pointed out that you were appointed illegally and against the recruitment rules and policy.
- 4:- And where as District Education Officer (Female) in the capacity of competent Authority, after having considered the charges, evidence on record, recommendation of report of the inquiry committee and replies in response to Show Cause Notices, is of the view that the charges against you have been proved.
- 5:- Now, therefore, in exercise of the powers conferred under Khyber Pakhtunkhwa Govt: Servants (Efficiency and Discipline) Revised Rules 2011 the District Education Officer (Female) Mansehra, in the capacity of competent Authority is pleased to impose major penalty of "DISMISSAL" from Govt: Services upon Mst. Saniya Tul. Qubra D/O Muhammad Hiral Khan CT/PET/TT AT GGHS/GGM GGPS Aglon Javan

*(Signature)*

DISTRICT EDUCATION OFFICER  
FEMALE MANSEHRA.

Endst: No. 1472-81 /AE- 2 /Estab: dated 03/03 /2015.  
Copy to the:-

1. Secretary Elementary and Secondary Education Department Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Accounts Officer Mansehra.
4. District Monitoring Officer Mansehra.
5. Deputy Commissioner Mansehra.
6. Principal/Headmistress Aglon Javan
7. SDEO(F) Mansehra.
8. Budget and Accounts Officer Local Office.
9. Mst: Saniya Tul. Qubra
10. Office File.

*Attested*  
*(Signature)*  
Muhammad Waseem Khan Tanoli  
Advocate  
Distt: Courts Abbottabad

*(Signature)*

DISTRICT EDUCATION OFFICER  
FEMALE MANSEHRA.

P-14

Annex - D

To,

The Director (E&SE)  
Peshawar.

Subject: DEPARTMENTAL APPEAL/ REPRESENTATION.

1. Reference is made to dismissal order Endst. No. 1472-81-/AE-I/Estab dated 03/03/2015. Copy attached.
2. That the applicant writes to submit as under:-
  - i. That as per advertisement appeared in the daily "The Aaj" dated 20/05/2011, the applicant submitted her documents to ETEA authorities for ETEA test.
  - ii. That the applicant passed ETEA test and there after qualified interview for the post of AT.
  - iii. That then EDO (E&SE) Mansehra issued appointment order of the applicant purely on the basis of merit vide order Endst. No. 1467-76/Esst dated 26/06/2012 and the applicant was posted to Govt. Girls Middle School Agla Garan against the vacant post of AT.
  - iv. That the applicant is eligible for the post of AT according to the recruitment policy and

*Attested*  
*[Signature]*  
Muzaffargarh  
Distt: Coues Abottabad

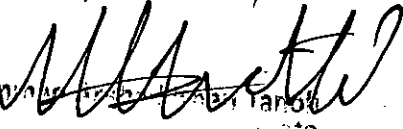
qualification prescribed for appointment for the said post.

- v. That the applicant served in the Education Department from the date of appointment till the date of impugned dismissal order dated 03/03/2015 with complete devotion/ dedication and to the entire satisfaction of her superiors.
- vi. That DEO(F) Mansehra issued impugned dismissal order referred in Para No. 1 above which is malafide, against the law, perverse, and void and liable to be set aside on the following grounds:-

**GROUND:-**

- a. That the applicant was recruited according to the prescribed rules as well as on merit on the basis of requisite qualification. Therefore, applicant is entitled to remain in Govt. service as AT.
- b. That District Education Officer (Female) Mansehra dismissed the applicant but some similar employees have not been dismissed by her. Hence dismissal order of the

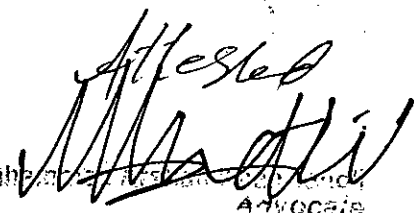
Attested



Muhammad Aslam Khan  
District Education Officer (Female)  
Mansehra

applicant is discriminatory and same is not maintainable at law.

- c. That the DEO(F) (E&SE) Mansehra has made room to accommodate some blue eyed chaps who are in her good books.
- d. That impugned dismissal order is against the law and without lawful justification.
- e. That as per law, DEO(F) was supposed to issue statement of allegations, show case notice, and conduct proper inquiry but the requisite formalities have not been observed. It is further added that the applicant was not afforded opportunities of personal hearing as well as Cross Examining the person who leveled allegations against her. Hence dismissal order is based on hypothesis, surmises and conjectures.
- f. That valuable rights to continuing service in Education Department have been accrued to the applicant and DEO(F) Mansehra did not mention appointment order of the applicant in impugned dismissal order. Hence

Attested  
  
Advocate  
Distt. Court Abbottabad

impugned dismissal order is illegal and liable to be cancelled.

- g. That District Education Officer (F) being Inquiry Officer is not competent to issue dismissal order of the applicant as per law.

It is, therefore, prayed that on acceptance of instant departmental appeal, impugned dismissal order dated 03/03/2015 of the applicant may graciously be set aside.

Your's sincerely

Dated: 24/3/2015

*Sanila Tul Kubra*  
(SANILA TUL KUBRA)  
GGMS Agla Garan,  
District Mansehra

*Attested*  
*[Signature]*  
District Courts Attributed

قیمتی

کورٹ فیس

# وکالت نامہ

بعدالت سروس ٹریڈ مارک ۱۱۱۱

عنوان: منیجر ٹریڈ مارک بنام گورنمنٹ آف پاکستان

منجانب: Appellants

نوعیت مقدمہ: (Service Appeal)

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب وہی کل کارروائی متعلقہ آل مقام

محمد ارشد خان تندہ ایڈووکیٹ (محکمہ کورٹ)

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال و دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراء استجارت نالش بصیغہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المترقوم: ۱۱/۷/۲۰۱۱

بمقام: ایبٹ آباد

Accepted  
Muhammad Arshad Khan Tanali

منیجر انفورمیشن  
۱۱/۷/۲۰۱۱

Muhammad Arshad Khan Tanali  
Advocate  
Distt: Courts Abbottabad

Arshad Khan

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL**  
**CAMP COURT ABBOTTABAD**

**Appeal No. 825/2015**

Mst: Sanila Tul Kubra , D/O, Muhammad Haider Khan AT, GGMS AglaGran , R/O Tehsil & District  
Mansehra.....APPELLANT

**Versus**

1. Govt of Khyber Pakhtun Khawa, through Secretary Elementary and Secondary Education, Peshawar and others.
2. Director Elementary and Secondary Education, Govt. of Khyber Pakhtun Khawa, Peshawar.
3. District Education Officer (Female) District Mansehra.

.....RESPONDENTS.

Written reply on behalf of Respondent 1 to 3.

**PRELIMINARY OBJECTIONS:**

1. That the appellant has got no cause of action to file the present appeal.
2. That the appeal is not maintainable in its present form.
3. That the appeal is time-barred and not entertain able.
4. That the appellant has not come to the tribunal with cleans hands.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appeal is based on false and mala fide hence deserves dismissal.
7. That the appellant has suppressed the original facts from this Honorable Service Tribunal, hence not entitled for any relief & the appeal is liable to be dismissed.
8. That the competent authority has dismissed the appellant in accordance with law / rules. Thereafter the appellant preferred an appeal against the said order before the appellate authority i-e Director E & SE KPK, who has converted the penalty of "Dismissal to removal"
9. The appointment of the appellant was illegal ab initio And against the law and rules, hence the authority has conducted the inquiry against the then appointing officer i-e EDO, E & SE,



appointed to present appellant in which it was found that the appointed to present appellant along with the number of other teachers were made against the rules / law and the then EDO, E & SE Mansehra namely Ommer Khan Kundi was removed from Service, by the competent authority i-e chief Minister KPK under E & D rules 2011. (Copy is attached)

**FACTUAL OBJECTIONS:**

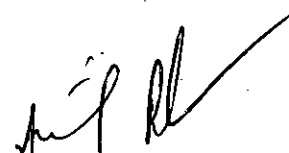
- 1) Para No.1 is correct to the extent that respondent No. 3 announced the post of AT in the daily "The AAJ" dated 20-5-2011, while the rest of the para is incorrect.
  - 2) Para No.2 is incorrect. The appellant neither appeared in the test, nor her name exists in the merit list.
  - 3) Para No.3 is incorrect. The appellant was appointed as AT out of merit, as mentioned in the finding of the inquiry report. (Appointed order was issued by the EDO E & SE Mansehra on acceptance of appeal. Copy of the appeal has not been produced to the inquiry committee. The candidate neither appeared in test nor her name was exists in the merit list. No meeting of DSC was held to decide the appeal. The appointment is illegal and against the recruitment rules/ procedure)
- ( Annexure-A )**
- 4) Para No.4 is incorrect, hence denied.
  - 5) Para No.5 correct.
  - 6) Para No.6 is incorrect. Respondent No.3 issued show cause notice to the appellant after the finding of inquiry committee and the office of the Worthy Secretary E & SE Department Peshawar has directed the respondent No.3 to take action in the light of finding of the inquiry committee.
- ( Annexure-B )**
- 7) Para No.7 is incorrect. The reply of the appellant was not satisfactory for which the dismissal order was issued.
  - 8) Para No.8 is incorrect. The appellant was removed from service after fulfilling the codal formalities.
  - 9) Para No.9 is incorrect. The appellant did not file departmental appeal to the higher authority.

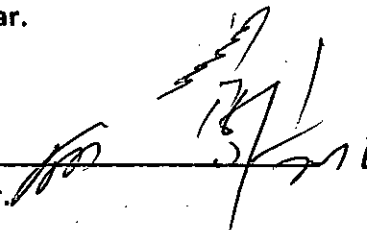
**GROUNDS:-**

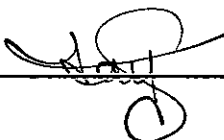
- a. Para No. a is incorrect. The appellant was appointed out of the merit No meeting of DSC was held to decide the appeal as mentioned in Para No.3.
- b. Para No. b is incorrect. The appellant was appointed out of laid down procedure and criteria.
- c. Para No. c is incorrect, hence denied.
- d. Para No. d is incorrect, hence denied.
- e. Para No. e is incorrect. The appellant was dismissed from service after fulfilling the codal formalities.
- f. Para No. f is incorrect, hence denied.
- g. Para No. g is incorrect. The appellant's name does not exist in the merit list.
- h. Para No. h is incorrect. The appellant was removed from service after the finding of high level inquiry committee, for stated that every case has its own circumstances.
- i. Para No. i is incorrect, the appellant did not file appeal to the appellate authority against the order of her dismissal, hence not maintainable in the Service Tribunal.

**Prayers:**

It is therefore humbly prayed that the instant appeal may kindly be dismissed.

Respondent No. 1   
 Secretary E&SE, KPK, Peshawar.

Respondent No.2   
 Director E&SE, KPK, Peshawar.

Respondent No. 3   
 District Education Officer  
 (Female) Mansehra.

**AFFIDAVIT**

I, Mr. Sakinullah, ADEO(Litigation), District Education Officer (F) Mansehra, do, hereby solemnly affirm and declared that the contents of reply in the instant Appeal No.825-A/2015 titled case Mst: Sanila Tul Kubra, AT Versus Education are correct and true to the best of my knowledge and belief and I have concealed nothing as material facts before this Honorable Court.



DEPONENT

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWR**

Mst: Sanila Tul Kubra , .....APPELLANT

**VERSUS**

Govt. of Khyber Pakhtun Khawa, through Secretary Education,  
Peshawar etc..... Respondents

**SERVICE APPEAL**

**REAPPLICATION IN RESPECT OF SUSPENSION OF OPORATION OF IMPUGNED  
ORDER DATED 03-03-2015.**


**RESPECTFULLY SHEWETH:**

1. The replication may please be considered as integral part of written reply.
2. Para no. 2 is incorrect.
3. Para-no. 3 in incorrect.
4. Para No. 4 is incorrect.

The ingredients of suspension are not fulfilled. The dismissal of the appellant was made in accordance with the law by the competent authority.

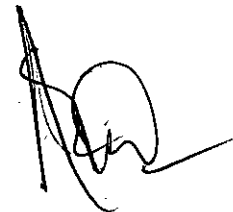
It is therefore most humbly prayed that the application may graciously be dismissed with cost.

Respondent No. 1 to 3 through  
District Education Officer  
(Female) Mansehra.



**AFFIDAVIT**

I, Mr. Sakinullah, ADEO (Litigation), District Education Officer (F) Mansehra, do, hereby solemnly affirm and declared that the contents of replication in the instant Appeal No.825-A/2015 titled case Mst: Sanila Tul Kubra, AT Versus Education are correct and true to the best of my knowledge and belief and I have concealed nothing as material facts before this Honorable Court.



**DEPONENT**



7

**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT**

Dated Peshawar the February 27, 2014

**NOTIFICATION**

**NO.SO(S/M)E&SED/4-17/2013/Umar Khan DEO:**

**WHEREAS** Mr. Umar Khan Ex-Executive District Officer (BS-19), E&SE/ District Education Officer Male Mansehra (now District Education Officer Male Karak) was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. **AND WHEREAS** inquiry committee was constituted comprising the following officers to conduct formal inquiry against the accused officer, for the charges leveled against him in accordance with the rules.

- i. Syed Hidayat Jan, (PCS SG BS-20), Special Secretary, Agricultural Department, Khyber Pakhtunkhwa Peshawar (now Secretary Zakat, Usher, and Social Welfare Department.
- ii. Mr. Khallaq Baig Principal BS-20, RITE Male Haripur

3. **AND WHEREAS** the Inquiry committee after having examined the charges, evidence on record and explanation of the accused officer has submitted the report.

4. **AND WHEREAS** a show cause notice was served upon Mr. Umar Khan Ex-Executive District Officer (BS-19), E&SE/ District Education Officer Male Mansehra (now District Education Officer Male Karak) dated 25-12-2013 circulated to him on 01-01-2014.

5. **AND WHEREAS** the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, explanation of the accused officer in response to the Show Cause Notice and personal hearing granted to him by Secretary Establishment Khyber Pakhtunkhwa on behalf of Chief Minister Khyber Pakhtunkhwa on 14-02-2014 at 1100 hours, is of the view that the charges against the accused officer have been proved.

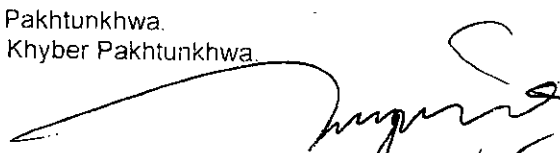
6. **NOW, THEREFORE**, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to impose major penalty of **Removal from service** upon Mr. Umar Khan Ex-Executive District Officer (BS-19), E&SE/ District Education Officer Male Mansehra (now District Education Officer Male Karak) with immediate effect.

**SECRETARY**

**Endst: of Even No. & Date:**

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- PSO to Chief Minister Khyber Pakhtunkhwa Peshawar.
- 3- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 4- District Education Officer (Male), Mansehra/ Karak.
- 5- Mr. Umar Khan District Education Officer Male (BS-19) District Karak.
- 6- District Accounts Officer Mansehra/ Karak.
- 7- PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 8- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 9- PS to Special Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 10- Office order file.

  
(MUJEEES-UR-REHMAN)  
SECTION OFFICER (SCHOOLS/MALE)

**INTRODUCTION:**

(A)

8

DURING THE YEAR 2012 AND 13 IN OFFICE OF THE EDO, ELEMENTARY AND SECONDARY EDUCATION, DISTRICT MANSEHRA APPOINTMENTS OF FEMALE TEACHERS IN VARIOUS CADRES WERE CARRIED OUT PURSUANT TO AN ADVERTISEMENT PUBLISHED IN DAILY AAJ DATED: 20-05-2011, WHEREIN CERTAIN IRREGULARITIES/ILLEGALITIES IN VIOLATION OF RULES AND PRESCRIBED PROCEDURE WERE NOTED, THEREBY RESULTING IN BREACH OF MERIT/ILLEGAL PRACTICE AND IGNORING THE RIGHTFUL CANDIDATES.

1. The Competent Authority has constituted the enquiry committee, comprising the following officers vide Notification No: SO(S/M)S&SED/4-17/2013 to conduct formal enquiry against Mr. Umar Khan Ex-EDO (E & SE) (BS-19) Mansehra now DEO(M) Haripur and Miss. Shamim Akhtar Deputy DO (E & SE) Mansehra (BS-18) and others for the charges mentioned in the charge sheet and statement of allegations(Annex-A)

i. SAYED HIDAYAT JAN (PCS SG BS-20), Special Secretary, Agriculture Department, Khyber Pakhtunkhwa, Peshawar.

ii. MUHAMMAD KHALAQ BAIG, Principal (BS-20) R.I.T.E (M), Haripur.

2. Both the accused officers i.e. Mr. Umar Khan, Ex-DEO (E & SE) , Mansehra and Miss. Shamim Akhtar, Deputy District Officer(E & SE) , Mansehra have been charge sheeted as under:

a. The accused Mr. Umar Khan Ex-DEO (M) (E & SE) Mansehra presently posted as DEO(M) Haripur

That while posted as DEO (M) Mansehra (BS-19) committed the following irregularity (Annex-I)

**MADE ILLEGAL APPOINTMENTS OF CT, DM, PET, AT, QARIAS AND PSTS (FEMALE) DURING THE YEAR 2012 AND 2013 IN VIOLATION OF RULES AND PRESCRIBED PROCEDURE IN DISTRICT MANSEHRA.**

b. Mst. Shamim Akhtar Deputy District Officer (BS-18) Female (E & SE), Mansehra

That while posted as Deputy District Officer (BS-18) (Female) (E & SE), Mansehra, committed the following irregularity (Annex-II)

**MADE ILLEGAL APPOINTMENTS OF CT, DM, PET, AT, QARIAS AND PSTS (FEMALE) DURING THE YEAR 2012 AND 2013 IN VIOLATION OF RULES AND PRESCRIBED PROCEDURE IN DISTRICT MANSEHRA.**

3. **Venue of Enquiry:**

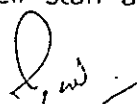
The enquiry was conducted in the office of Dy. DEO (Female) Mansehra.


4. **PROCEEDINGS:**

The committee informed both the accused officers vide No. PS/SSA/Enquiry /2013 Dated 6/7/2013. The District Accounts Officer Mansehra was also asked to provide copies of appointment orders of the teachers quoted in subject enquiry (Annex-III)

Copies of Charge sheets and Statements of allegations which were already sent to the other officers by the Department were re-submitted to them with the directions to submit their replies in the stipulated time.

The committee visited the office of DEO (Female) Mansehra on 01/8/2013 to conduct enquiry. Mr Umar Khan Ex EDO (E & SE ) Mansehra and Miss Shamim Akhtar Dy. DEO (Female) Manshera were present alongwith their staff and attended the enquiry proceedings (Annex-IV)





8. The Present DEO (M) and Dy. DEO (F) Mansehra were asked to provide all the record /files and other related record mentioned in the letter to the committee on the day of enquiry vide. No: SS (AD) Enquiry/2013 Dated 01/08/2013 **(Annex-V)**.

9. The enquiry proceedings continued on daily basis w.e.f 01-08-2013 and on the very second day, one of the accused Mr. Umar Khan, insisted on his designation as recorded in his reply to the Charge sheet/statement of allegations submitted to the committee, claiming that he had not served as DEO (Male) Mansehra during the year 2012 rather he had served as EDO(E & SE)Mansehra. Despite persuasion by the committee regarding factual position of the designation as contained in the Education Department Notification No: SO(S/M E&SED/3-2/2012/Management Cadre dated: 28-12-2012, he was still adamant not to change his stance. **(Annex-V (A))**.

On account of this, the committee immediately informed and requested the Administrative Department for rectification of the designation of the accused as contained in the charge sheet/statement of allegation vide letter No: SS (AD) Enquiry/2013 dated: 02-08-2013 and subsequent reminder of even number dated: 17-08-2013 **(Annex-V(B-C))** viz a viz reminder to the department from the Chief Minster Secretariat, vide No: SO-1/CMS/KPK/3-1/2013/3514 dated: 27-08-2013 **(Annex-V (D))**.

The proceedings remained continued until the same were adjourned due to falling of Eid-ul-Fitr Holidays, Independence day, coupled with appearance in the PHC by Chairman of the enquiry committee in an official case and proceedings on leave by most of the concerned staff of the office of DEO(F), Mansehra as well. The same were, however, resumed w.e.f 16-08-2013 and since action on rectification of designation of the accused couldn't be communicated to the committee, therefore, the Administrative Department was again reminded for early needful as well as granting an extension of two weeks vide letter No: SS (AD) Enquiry/2013 dated: 27-08-2013 **(Annex-V (E))**.

The Education Department vide their letter No: SO(S/M)E&SED/4-17/2013/Umer Khan dated: 02-Sept. 2013 intimated that a summary for rectification of the designation of the accused in the charge sheet /statement of allegation was moved to the Chief Minister, Khyber Pakhtunkhwa/Competent Authority. Similarly an extension for further two weeks w.e.f 27-08-2013 was also allowed vide letter quoted ibid **(Annex-V (F))**.

**FACTS**

**REPLIES TO THE CHARGE SHEET:**

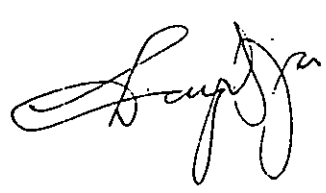

**REPLY OF MR UMER KHAN TO THE CHARGE SHEET:**

10. Mr. Umar Khan EX- EDO E&SE Mansehra in his reply of charge sheet sent to the committee through registered cover vide NO:7475-76 Dated 27/07/2013 *has taken the stand that he had not served as DEO (M) BS-19 Mansehra during the period 2012 but worked as EDO E&S BS-19 Mansehra w.e.f.01/03/2011/to 31/12/2012*. He added that in the charge sheet it has been recorded that he while posted as DEO(M) BS-19 Mansehra committed the irregularities of making illegal appointments of female teachers during the year 2012& 2013 in violations of rules and prescribed procedure in District Mansehra whereas he had not worked as DEO Male Mansehra during the said period. He further added that he was neither an authority for appointments for female side nor made even a single appointment of female teacher in capacity of posting as District Education Officer BS-19 (M) Mansehra and hence question of making illegal appointments of CT,DM,PET,AT,QARI, PST(Female) during the year 2012 and 2013 in violation of rules and prescribed procedure does not arise. He requested for the exemption from the charges and with-drawl of charge sheet from him **(Annex-VI)**.

*[Handwritten signature]*



2. Nil	Robina Naz Jillani D/O Ghulam Jillani	Endst No. 6508-13/Estt: Dated 11.8.2012  Appointed as AT at GGHS Kaghan in PBPS-15.	Robina Naz Jillani was not a candidate as per entries of merit lists. She also did not appear in EATA Test. Her appointment order was issued on the acceptance of <b>appeal</b> by EDO E &SE Mansehra and she is drawing her salary too. The EDO E &SE Mansehra appointed the candidate unlawfully without the approval of DSC and prescribed procedure( <b>Annex-XXX</b> ).	The appointment is illegal and cause of loss to Government treasury.
3. 27	Madeeha Yaqoob D/O Sheik Mohammad Yaqoob	Endst No. 4385-94/Estt:(F) apptt:AT/2012 Dated 23.7.2012  Appointed at GGMS Sokal in BPS-15  Reported at GMS Kamal ban on 14/09/12	Her order was issued by the EDO E &SE Mansehra on the acceptance of her <b>appeal</b> . The entry of dispatch register shows that appointment order was made in compliance of the judgment of Honorable High Court, however, no record/ copy of judgment was produced to the inquiry committee. Appointment of 18 candidates was made and she was at S.No 27 of the merit list. No DSC working paper and prescribed procedure was followed ( <b>Annex-XXXI</b> ).	The appointment is illegal and against the recruitment rules/procedure.
4. Nil	Sanila Tul-Kubra D/O Mohammad Hilal Khan	Endst No. 1466-76/Estt: apptt:AT/2011-12 Dated 26.6.2012  Appointed as AT at GGMS Agla Grain in BPS-15	Appointment order was issued by the EDO E &SE Mansehra on acceptance of <b>appeal</b> . Copy of the appeal has not been produced to the inquiry committee. The candidate neither appeared in test nor her name exists in the merit list. NO meeting of DSC was held to decide the appeal ( <b>Annex-XXXII</b> ).	The appointment is illegal and against the recruitment rules/procedure.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

(B)

No.SO(S/M) E&SED/4-17/2013/Umar Khan EDO BS-19  
Dated Peshawar the August 25, 2014

To

- i. The Director,  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar.
- ii. District Education Officer (Female)  
Mansehra.

*Mr. ...*  
*file ...*  
*put ...*  
*BE O*

11

Subject: - ENQUIRY REGARDING APPOINTMENT/ GUIDANCE.

I am directed to refer to your letter No:3076 dated 16-07/2014 on the subject noted above and to forward herewith a copy of inquiry report conducted by inquiry committee comprising the following officers.

- i. Syed Hidayat Jan, (PCS SG BS-20) Ex-Special Secretary Agriculture Department  
Khyber Pakhtunkhwa Peshawar.
- ii. Mr. Khalaq Baig, Principal (BS-20) RITE Male Haripur.

2. It is requested that further action may be taken in the light of findings of the inquiry committee after issuance of show cause notices to the female teachers who were illegally appointed.

Encl: As Above:

*Mujeeb-ur-Rehman*  
(MUJEEB-UR-REHMAN)  
SECTION OFFICER (SCHOOLS/MALE)