

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**CAMP COURT, SWAT.**

Service Appeal No. 7431/2021

BEFORE: MRS. ROZINA REHMAN ... MEMBER(J)  
 MISS FAREEHA PAUL ... MEMBER(E)

Mst. Alahida W/O Bahadar Munir R/O Qashqaray Payeen, Tehsil  
 and District Dir Upper. .... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education, government of Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) District Dir Upper.
4. Sub-Divisional Education Officer (Female) Primary Dir Upper.  
 .... (Respondents)


Mr. Sabir Shah,  
 Advocate ... For appellant

Mr. Umair Azam Khan,  
 Addl. Advocate General ... For respondents

Date of Institution.....20.09.2021  
 Date of Hearing.....09.03.2023  
 Date of Decision..... 09.03.2023

**JUDGMENT**

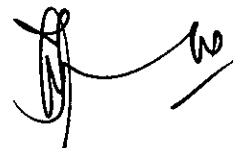
**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 25.09.2019 of respondent No. 3. whereby services of the appellant were dispensed with and order dated



01.07.2021 of respondent No. 2, whereby her departmental appeal was dismissed without assigning any lawful and cogent reason. It has been prayed that on acceptance of the appeal, the impugned orders might be set aside and the appellant might be reinstated in service with all back benefits.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was a bonafide resident of village Qashqaray Paycen, Teshil and District Dir Upper and was appointed as PST vide order dated 05.03.2016. After completion of all codal formalities, she took charge at Government Girls Primary School Jarjori, Dir Upper and continued her services to the satisfaction of her high ups. On a surprise visit of respondent No. 4 to GGPS, Jarjori on 19.03.2018, the school was found closed and both the teachers, including the appellant and the other teacher Shariqa Shabina, alongwith the Chowkidar were found absent from 01.03.2018 till the visit date. The pay of the whole staff was stopped and an explanation was called on 03.04.2018 from the whole staff of the school which was duly replied by the appellant alongwith documentary proof of her medical reports proving her severe illness on the day of the visit. The appellant was issued show cause notice on 07.12.2018 for reply within three days, which was properly replied by her within due time. Being severely sick the appellant was again admitted in hospital w.e.f. 15.02.2019 to 17.02.2019 for treatment and underwent a surgery which led to her absence from duty. Final show cause notice was issued to her

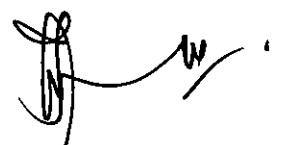
on 26.02.2019 through press and published in daily Mashriq for assuring her attendance on duty and to appear before respondent No. 3 for explanation regarding her absentia, which was replied by the appellant with plausible and genuine reasons on 27.02.2019. Finally, vide order dated 29.05.2019, the appellant was awarded major penalty of removal from service w.e.f. 01.05.2019. The appellant filed a departmental appeal before respondent No. 2 on 24.06.2019 for redressal of her grievance. On acceptance of the appeal, Mr. Muhammad Inayatullah Rehman, Vice Principal B-18 GISS, Havelian, District Abbottabad was appointed as enquiry officer, who conducted the inquiry and submitted his report alongwith all supporting documents, recommending therein to exonerate the appellant of the major penalty of removal and impose the minor penalty of upholding two increments upon her. Vide letter dated 02.10.2019, respondent No. 3 was asked by respondent No. 2 to submit detailed report in the light of inquiry recommendations and to proceed further into the matter. Vide letter dated 10.12.2019, respondent No. 3 informed that the inquiry was one sided and biased as the Inquiry Officer belonged to the same locality to which the accused belonged and he ignored many facts, and recommended that the matter be re-inquired through third party, but no action was taken. The appellant challenged the impugned order through Writ Petition No. 703-M/2021, which was withdrawn on 07.09.2021, with the permission to approach the proper forum; hence the present appeal.



3. Respondents were put on notice. They submitted their joint written reply/comments on the appeal and denied the claim of the appellant. We have heard the learned counsel for the appellant and learned Additional Advocate General for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant presented the details of the case and argued that the appellant had not been dealt with in accordance with law, which was the worst example of discrimination. He further argued that respondent No. 2 was supposed to approve the recommendations of enquiry committee or to order the denovo enquiry but he did not do so. He further argued that tenure of the appellant in the subject school was complete and still her applications for transfer were not responded. According to him, respondent No. 3 initiated an enquiry herself against the appellant and on the other hand she denied the recommendations of the inquiry officer. He requested that the appeal might be accepted as prayed for.

5. The learned Additional Advocate General while rebutting the arguments of learned counsel for the appellant argued that after appointment, the appellant remained willfully and continuously absent from her duty for a long period. Many complaints were made against her and she was warned from time to time but she did not mend her ways. The appellant was served with show cause notice, which was not replied by her. Proper enquiry was conducted but the appellant did not bother to



appear before the enquiry officer and explain her position and was rightly removed from service. He requested that the appeal might be dismissed with cost.


6. From the arguments and record presented before us it transpires that the appellant was appointed as PST in 2016 and posted in GGPS, Jarjori, Dir Upper. As a result of complaints from the locals of the area on the absence of teachers of that school, various surprise visits were conducted. When it was found at many occasions that the appellant, alongwith other staff of the school, was absent, she was served with explanation, show cause and warning from time to time. Record provided with the appeal indicates that the appellant responded to some of them but there is no evidence that they were received by her competent authorities/high-ups. Her applications for transfer from Jarjori also do not contain any evidence that they were received in the office to which they were addressed. The respondents' denial that they did not receive any transfer request and response to the explanation letter and show cause is, hence, acceptable. The appellant has stated herself that she was ill and admitted that no application for leave was submitted by her. Findings and recommendations of Inquiry report also indicate that the appellant absented herself from her lawful duty. It is felt that being a civil servant, she was bound to inform her competent authority about her illness and seek leave for absence which she failed to do and which tantamounts to misconduct on her part and is liable to be proceeded against. She had been




given opportunities by her administrative department/office to resume her lawful duty but she failed to respond and hence was removed from service.

8. In view of the above discussion, the instant appeal is dismissed. Parties are left to bear their own costs. Consign.

9. *Pronounced in open court at camp court, Swat and given under our hands and seal of the Tribunal this 09<sup>th</sup> day of March, 2023.*

  
(FARLEHA PAUL)  
Member (E)  
(Camp Court, Swat)

  
(ROZINA REHMAN)  
Member (J)  
(Camp Court, Swat)

SA 7431/2021


09<sup>th</sup> Mar. 2023


Mr. Sabir Shah, Advocate for the appellant present.

Mr. Umar Azam Khan, Additional Advocate General for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgment consisting of 06 pages, the instant appeal is dismissed. Parties are left to bear their own costs. Consign.

3. *Pronounced in open court at camp court, Swat and given under our hands and seal of the Tribunal this 09<sup>th</sup> day of March, 2023.*

  
(FAREHIA PAUL)  
Member (E)  
(Camp Court, Swat)

  
(ROZINA REHMAN)  
Member (J)  
(Camp Court, Swat)