

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	12.04.2017	<p align="center"><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p align="center">Appeal No. 828/2015</p> <p align="center">Mst. Tahira Sagheer Dar Versus Director Higher Education Khyber Pakhtunkhwa Peshawar and three others.</p> <p align="center"><u>JUDGMENT</u></p> <p><u>AHMAD HASSAN, MEMBER:-</u> Counsel for the appellant and Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.</p> <p>2. Mst. Tahira Sagheer Dar, hereinafter referred to as the appellant has preferred the instant service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order for the expunging adverse remarks recorded in the performance evaluation report for the period 11.05.2012 to 31.12.2012 conveyed through letter dated 24.06.2013 received on 01.08.2013 by the appellant against which her departmental appeal was regretted vide order dated 12.04.2015.</p> <p>3. Brief facts of the case giving rise to the instant appeal are that the appellant was serving as Associate Professor of Urdu in Govt. Girls Degree College Daggar Buner. That the appellant was transferred to Buner against the policy and rules of the government. That adverse remarks were recorded in her PER, against which she preferred departmental appeal, which was rejected by the respondents, hence the instant appeal.</p>

4. Learned counsel for the appellant argued that adverse remarks were recorded in the PER of the appellant without prior counseling, which was a basic requirement of the rules pertaining to writing of PER. He further stated that it merits to mention here that the reporting officer mentioned above had recorded similar remarks in the PERs of all her subordinates during 2012-13 against which appeals were filed and subsequently these remarks were expunged by the competent authority. Reliance was placed on 1990 PLC (C.S)111, 2000 PLC (C.S)442, 1988 PLC (C.S)394 and 1995PLC (C.S) 1204.

5. We have heard arguments of learned counsel for the appellant and learned Government Pleader for the respondents and have gone through the record available on file.

6. Learned Additional Advocate General while opposing the appeal contended that the appellant was very negligent in performance of her duties. She remained absent from duty without prior permission of the Principal as such the Principal was justified in recording adverse remarks in her PER. When confronted on the point of counseling before recording adverse remarks he failed to give a plausible reply.


7. Perusal of case file revealed that it is established beyond doubt that no counseling or warning was ever conveyed to the appellant by the reporting officer or by the countersigning Officer during the period under report. This fact is further corroborated in the para-wise comments submitted by the respondents. These are silent on this important aspect of the appeal, rather an effort was made to beat around the bush. It is quite strange and amazing that why disciplinary action was initiated by the respondents on account of willful absence from duty?. In addition to this

it is beyond comprehension that the Reporting Officer recorded adverse remarks in PER of all of her subordinates during 2012-13. Vide order dated 12.04.2015 departmental appeal of the appellant was rejected without passing a speaking order. Reasons should have been recorded for rejection of departmental appeal, as such Sec-24-A of General Clauses Act, 1897 was also violated in this case.

8. In view of the fore-going, we are constrained to accept the instant appeal of the appellant and adverse remarks recorded in her PERs for the period from 11.05.2012 to 31.12.201 are hereby expunged. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

ANNOUNCED
10.04.2017

07.12.2016

Counsel for appellant and Assistant AG for the respondents present.
Learned counsel for the appellant submitted rejoinder which is placed on
file. To come up for arguments on 12.4.17 before D.B.


(ASHFAQUE TAJ)
MEMBER

01.03.2016

None present for appellant. Mr. Irfan, AD alongwith Addl: A.G. for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 9.5.2016 before S.B.


Chairman

09.05.2016


Agent of counsel for the appellant and Mr. Irfan, AD alongwith Asstt. AG for the respondents present. Written reply by respondents No. 2 & 3 submitted. Learned Asstt. AG relies on the same on behalf of respondent No. 1. The appeal is assigned to D.B for rejoinder and final hearing for 22.08.2016.


Chairman

22.08.2016

Agent to counsel for the appellant and Asif Khan, AD (Litigation) alongwith Mr. Muhammad Jan, GP for respondents present. Agent to counsel for the appellant requested for adjournment. Request accepted. To come up for rejoinder and arguments on 7-12-16.


Member


Member

25.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Associate Professor at Government Degree College Daggur Buner when adverse remarks for the period commencing from 11.5.2012 to 31.12.2012 were recorded and conveyed to the appellant on 24.6.2013 regarding which she preferred departmental appeal on 5.8.2013 which was rejected on 27.5.2015 but received by the appellant on 23.6.2015 where-after the service appeal was preferred on 16.7.2015.

That the adverse remarks in the ACR of the appellant were recorded on the allegations of absence from duty and lack of interest but no such allegations were ever conveyed to the appellant nor any action taken on the basis of the same and as such the remarks recorded by the reporting officer are devoid of merits and that the reporting officer has given adverse remarks to almost all of her subordinates which were expunged by the competent authority.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 23.11.2015 before S.b.


Chairman

Appellant Deposited
Security & Process Fee



23.11.2015





None present for appellant. Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 1.3.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 828/2015 _____

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	16.07.2015	<p>The appeal of Mst. Tahira Sagheer Dar presented today by Mian Mohibullah Kakakhel Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	28-7-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>29-7-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	29.7.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 12.8.2015 before S.B.</p> <p style="text-align: right;"> CHAIRMAN</p>
4	11.08.2015	<p>None present for appellant. Notice to counsel for the appellant be issued for 25.8.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:

Service Appeal No. 828 / of 2015

Mst. Tahira Sagheer Dar... .. Appellant

VERSUS

Principal (Retd) Asifa Sarwar and others... .. Respondents

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Through:


Appellant

Mian Muhibullah Kakakhel
Senior Advocate,
Supreme Court of Pakistan

Dated: 15.07.2015

Kakakhel Law Associates
(Advocates & Legal Consultants)
36-C, 2nd Floor Cantonment Plaza,
Saddar Road, Peshawar Cantt
Cell # 0333-9167424

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 828 / of 2015

K.W.F. Province
Service Tribunal
Diary No. 866
Dated 16-7-2015

Mst. Tahira Sagheer Dar daughter of
Sagheer Ahmad Dar, Associate Professor
Government Degree College for Women,
Daggar Buner...

... Appellant

VERSUS

1. Principal (Retd) Asifa Sarwar
wife of Muhammad Sarwar
C/O Director Higher Education
Khyber Pakhtunkhwa, Peshawar.
2. Director Higher Education Khyber Pakhtunkhwa
Peshawar.
3. Secretary Higher Education Khyber Pakhtunkhwa
Peshawar.
4. Government of Khyber Pakhtunkhwa,
Higher Education Archives and Libraries
Department through its Secretary
Khyber Pakhtunkhwa, Peshawar... Respondents

**APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE ORDER FOR THE
EXPULSION OF ADVERSE REMARKS
RECORDED IN THE PERFORMANCE
EVALUATION REPORT FOR THE PERIOD
11.5.2012 TO 31.12.2012 CONVEYED THROUGH
LETTER DATED 24.6.2013, RECEIVED ON
1.8.2013 BY THE APPELLANT AND ITS
APPELLATE ORDER DATED 12.4.2015.**

Filed to
16/7/15

Respectfully Sheweth:

1. That the appellant is serving as Associate Professor of Urdu in
Government Girls Degree College Daggar Buner.

2. That the appellant has 27 years service to her credit and holds brilliant career, she has always worked to the best satisfaction of her superiors and was even posted in the Khyber Pakhtunkhwa Text Book Board as a Text Book Expert where she did willingly job of upgrading and re-writing the Text Books, her name appears on the Text Books all over the Khyber Pakhtunkhwa.
3. That the appellant was transferred to Buner against the policy of the Government on the subject and rules relating thereto but she willingly occupied the post at Buner as she did not want to create any problem with her service career and also that she was able to study and prepare lectures for her students to be delivered in the College at Daggar Buner.
4. That all of a sudden the appellant faced adverse remarks in the reporting officer evaluation in Part-III of the Personal Evaluation Report for the period from 11.5.2012 to 31.12.2012. (Copy of the letter dated 24.6.2013 is attached as annexure 'A'). The appellant submitted appeal against the adverse remarks on 5th August 2013 which is annexure 'B'. The appeal was dismissed on 27.5.2015 which was conveyed to the appellant through Mail on 23.6.2015, copy of which is attached as annexure 'C', hence this Service Appeal.
5. That the impugned remarks in the Personal Evaluation Report for the period from 11.5.2012 to 31.12.2012 are based on malafide and for ulterior motives of the Reporting Officer and also of her lack of knowledge about the appellant. The remarks are also based on her lack

of English Language by clever, probably she meant the extremeability of the appellant to raise novel literary points in the subject of her teaching but these are being taken as adverse remarks according to rules as the high-ups also do not understand the proper import of English words.

6. That the appellant never absented herself from her duty, she, however, availed leave of the kind allowed under the Leave Rules. There has been no absentee report or even a complaint of her absence in the Department or any elsewhere. The absence of leave of the appellant may even taken as absence by the Old Retiring sick and infirm Reporting Officer as she was continuously on medication both for her physical diseases and depression and schizophrenia which was noted by the students of that time. The appellant as per record has worked to the best satisfaction of even the reporting officer. There is no report of absence from duty regarding the appellant and there is no letter of displeasure, admonition or of any other kind issued the appellant from the reporting officer or from the high-ups showing their annoyance of any kind with the appellant.
7. That the adverse remarks have been recorded against the rules of recording of evaluation reports by the reporting officer and concurring officers. There has been no counselling to the appellant in the entire period under report and no letter of advise issued, thus as per the judgments of the superior Courts the reporting officer and the concurring officers have both been negligent in their duties of

counselling and advise to the subordinate officer before recording any evaluation report under appeal.

8. That the remarks rendered in the impugned Performance Evaluation Report are manifest of illwill or sickness of the reporting officer and lack of knowledge of the concurring authority.
9. That the order of the Appellate Authority is also against the rules, mechanical, whimsical and arbitrary. No explanation of any kind has been given in the appellate dismissing order. No personal hearing has been allowed. The Appellate Authority did not take pain to summon the appellant who is a Senior Grade-19 Officer for explanation, advice or personal or personal interview so vital to the career planning and grooming of the subordinate officer.
10. That the Personal Evaluation Report and Appellate order both being patently illegal, without jurisdiction, without lawful authority and against the judgments of the superior Courts are liable to be set side.
11. That it may be mentioned here that the reporting officer mentioned above had spoiled the Personal Evaluation Reports of almost all of her subordinates for the year 2012-2013 and appeals were filed by almost all of them which resulted into the summoning of the reporting officer by the Director and she faced the music of her superiors. The Director expunged the adverse remarks of all the employees reported against.
12. That even otherwise the reporting officer was not competent to initiate the Personal Evaluation Report of the appellant as she had not

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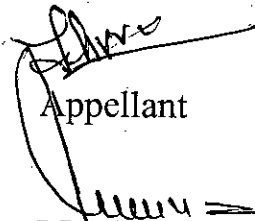
completed 6 months under the reporting officer as the reporting officer was posted as of her superior in the Mid of July 2012.

13. That the appellant visited the concerned respondent time and again in his office but ever time he used to say that come after a month or two and she will get the fruitful result even at that time 3/4 appeals were asked for and were submitted, thus a cruel attitude on the part of the respondent. The appellant was also given to understand that all the adverse remarks of all the employees submitted by the reporting officer in the year 2012-2013 are being set aside and were actually set aside except the appellant, thus the appellant was condemned unheard, discriminated against and was not treated in accordance with law.

It is, therefore, respectfully prayed that on acceptance of this Service Appeal the impugned adverse remarks/report may be set aside and the adverse remarks may be expunged. It may be directed that the Personal Evaluation Report in question shall for all purposes be considered normal.

Any other order deemed appropriate in the circumstances of the case may also be passed. The appellant may be allowed to put forward any other arguments/documents at the time of hearing of this Service Appeal.

Through:


Appellant

Mian Muhibullah Kakakhel
Senior Advocate,
Supreme Court of Pakistan

Dated: .07.2015

Kakakhel Law Associates
(Advocates & Legal Consultants)
36-C, 2nd Floor Cantonment Plaza,
Saddar Road, Peshawar Cantt
Cell # 0333-9167424

(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:

Service Appeal No. _____ / of 2015

Mst. Tahira Sagheer Dar... .. Appellant

VERSUS

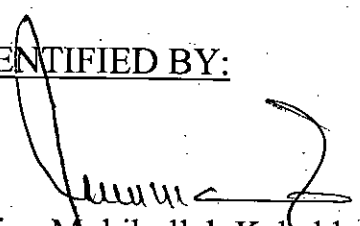
Principal (Retd) Asifa Sarwar and others... .. Respondents

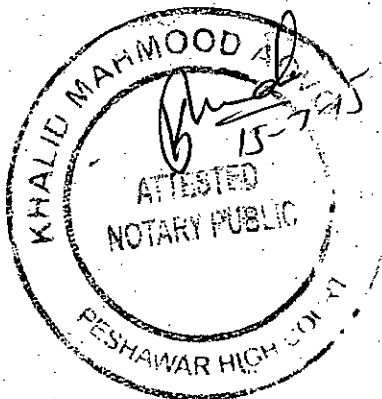
AFFIDAVIT

I, Mst. Tahira Sagheer Dar daughter of Sagheer Ahmad Dar, Associate Professor, Government Degree College for Women Daggar Buner, do hereby solemnly affirm and declare that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Service Tribunal.


Deponent

IDENTIFIED BY:


(Mian Muhibullah Kakakhel)
Advocate, Peshawar.



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:

Service Appeal No. _____ / of 2015

Mst. Tahira Sagheer Dar... .. Appellant

VERSUS

Principal (Retd) Asifa Sarwar and others... .. Respondents

MEMO OF ADDRESSES

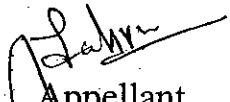
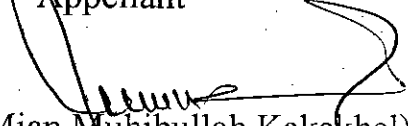
Mst. Tahira Sagheer Dar daughter of
Sagheer Ahmad Dar, Associate Professor
Government Degree College for Women,
Daggar Buner...

... Appellant

VERSUS

1. Principal (Retd) Asifa Sarwar
wife of Muhammad Sarwar
C/O Director Higher Education
Khyber Pakhtunkhwa, Peshawar.
2. Director Higher Education Khyber Pakhtunkhwa
Peshawar.
3. Secretary Higher Education Khyber Pakhtunkhwa
Peshawar.
4. Government of Khyber Pakhtunkhwa,
Higher Education Archives and Libraries
Department through its Secretary
Khyber Pakhtunkhwa, Peshawar... .. Respondents

Through:


Appellant

(Mian Muhibullah Kakakhel)
Advocate, Peshawar.

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Annex A

CONFIDENTIAL/REGISTERED:
DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUN KHWA PESHAWAR
Tel.9210215-9210217-9210242-9211025

D.O.No. 13 569

Fax. # 9210217

Dated 24/6 /2013

MST.TAHIRA SAGHEER DAR

I am directed to convey to you the following adverse remarks recorded in your Performance Evaluation Report for the period from 11.05.2012 to 31.12.2012.

PART-III. (REPORTING OFFICER'S EVALUATION).

1. Not agreed with statement in Para-II Sec & 2. For BA Classes the time of completion of Course is not 1st Dec. If the classes are taken regularly throughout the year than there is no need of taking classes as an extra. Extra classes are usually taken for revision & difficulties but as she is mostly absent from duty. The attendance of her is attached with this PER. Similarly being a Senior Staff member she is Ch.Proctor but she never performed her duty.
2. Integrity. Having no interest with her job description & College duties. Too much clever. Most of the time absent from duty.
3. Pen picture. Due to home sickness usually absent. Apparently soft spoken but clever. Her attendance is attached with this PER.

I hope you will try your best to remove these defects. One spare copy of this D.O. letter is enclosed. This may be signed and returned to this office for placement in your Character Roll. Please note that nothing is to be written on it except merely putting your signature and dates in token of having received this letter. In case the acknowledgement is not received in this office within a week, it will be presumed that you have accepted the remarks and no appeal will be entertained after the specified time.

Yours Sincerely,

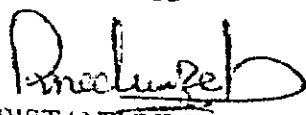
(MST. RASHIDA NEELAM ZEB)
ASSISTANT DIRECTOR(F)

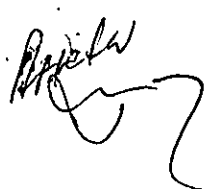
Mst. Tahira Sagheer Dar Asso. Prof. of Urdu
Govt. Girls Degree College, Daggar Buner.

Endst. #. 13 569

- Copy of the above is forwarded for information & necessary action to:-
1. Prof. Asfa Sarwar Principal, Govt. Girls Degree College Daggar Buner
 2. A.O. Local Directorate.

T.Shakeel/*


ASSISTANT DIRECTOR(F)



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Annex "B"

Dated: August 5, 2013

The Director,
HE Department Khyber Pakhtunkhwa,
Peshawar.

Appeal against adverse remarks recorded in my performance Evaluation Report (PER) for the period 11.05.2013 to 31.12.2013 conveyed to me on 01.08.2013 through DO letter No.13549 dated 24.06.2013

Through: Principal, GGDC Daggar (Buner)

1-Part- III (Reporting Officer evaluation)

My statement in Para-II sec. & 2 has been wrongly interpreted by the Principal/Reporting Officer.

I accept that for BA classes the time of completion of course is not 1st December. In that context the extra classes taken by me till December 2012, to finish the course earlier had following reason;

There was uncertainty whether I will stay in the college till the end of session. The uncertainty prevailed because of my Writ petition No.1186/2012 in The Peshawar High Court for up-gradation of the post of subject Specialist in KPK textbook Board Peshawar against which I was working on deputation basis. If the court decision had come in my favour, I would have gone back immediately to join Textbook Board Peshawar. It was my apprehension that if I had left the college in the mid of the session after the court decision, the students would have suffered an irreparable loss due to non availability of Urdu teacher and that would certainly have been reflected in their examination result. So with the consent of the Principal/Reporting Officer Mrs. Asfa Sarwar I planned to finish course as early as possible in the best interest of my students.

The remarks of the Principal/reporting officer, ***"If the classes are taken regularly throughout the year than there is no need of taking classes as an extra"*** are misleading.

I stopped taking extra classes after December 2012, because I had achieved my target of covering the course and continued my regular classes till the end of session.

The Principal/Reporting Officer should have appreciated me for taking extra classes in the early session along with my regular classes in the best interest of students rather than putting her adverse remarks.

The Principal/Reporting officer remarks; **"being a senior staff member she is chief proctor but she never performed her duty"** are unfounded. Had that been true, then the principal should have issued a note of reprimand to me for not performing my duty. Since I performed my duty assigned to me as a chief proctor satisfactorily therefore the principal office was silent for issuing any warning either verbally or in writing to me.

2-Integrity

Adverse remarks given in the Para entitled "Integrity", **"having no interest with her job description and duties"**

I was shocked to see these remarks. The students are the best judge of their teachers and all of my students were fully satisfied with my teaching which is the focus of my job description. None of my students or their parents have lodged any complaint against me in the principal's office about my not taking interest in teaching.

The adverse remarks of my reporting officer should have carried weight had she put on record any complaint of my students or their parents against me.

"too much clever" had been added to my adverse remarks;

Chamber 20th Century Dictionary gives meaning of clever as;

- Able or dexterous
- Ingenious
- Skilful
- Good Natured

The Oxford Dictionary gives this meaning as

- skilled at doing or achieving something; talented:
- showing skill and originality; ingenious:
- sensible; well advised:

The reporting officer had not consulted dictionary before writing "too much clever" as negative point in my annual PER.

About the remarks; **"Most of the time absent from duty"** every Government employee is entitle for leave and there is a standard procedure how to obtain leave. I adopted the same procedure whenever I went on leave.

The reporting officer has mixed up "absent from duty" and "leave with application" together.

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Absent from duty is an offence that is punishable under the government rules and I have never committed that offence. Leave that was officially taken by me was quoted as "absent from duty" in my PER and that is not fair on part of the reporting officer.

3-Pen picture

The remarks of the Principal/Reporting Officer "**due to home sickness usually absent**"

Home is the concern of every married working woman and it is not a bad thing to show that concern as long as that does not affect the official duties of a working woman.

My duties as teacher were of my prime concern and I never compromised on that.

Again, my Principal/Reporting Officer is confusing my leave with application with absence from duty which is not appropriate.

I understand that it was a deliberate attempt on the part of my reporting officer to add adverse remarks in my PER which are unfounded as explained in my appeal.

I request the competent authority to kindly set aside these adverse remarks recorded in my PER and relief may please be provided to me.

Thank you.

Yours Obediently



Tahira Sagheer dar
Associate Professor
Govt. Girls Degree
College Daggar (Buner)

Advance Copy to the Director HE Department, KPK Peshawar.



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Amx ce

GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT.



NO.SO (C-I)/HE/1-5/ 15/Tahira Sagheer/1275-76
Dated Peshawar, the 12th April, 2015

To
The Director,
Higher Education Khyber Pakhtunkhuwa,
Peshawar.

Subject: APPEAL AGAINST ADVERSE REMARKS RECORDED IN MY PERFORMANCE
EVALUATION REPORT (PER) FOR THE PERIOD 11.05.2013 TO 31.12.2013.
CONVEYED TO ME ON 01.08.2013 THROUGH DO LETTER NO. 13549 DATED
24.06.2013.

I am directed to refer to your office letter No. 10267/CA-1/Estt: Branch/A-12/ Ms
Tahira Sagheer Dar/ Urdu dated 20-04-2015 on the subject noted above and to state that the
appeal submitted to this Department regarding expunction of adverse remarks in respect of
Tahira Sagheer Dar, Associate Professor of Urdu, Government Girls Degree College, Daggar
Buner was considered in this Department and the Competent Authority has regretted the same.

S.d

SECTION OFFICER (C-I)

OFFICE OF THE DIRECTOR HIGHER EDUCATION KHYBER PAKHTUNKHUWA
PESHAWAR.

Endst: No. 12957-58

Date. 27/5 2015

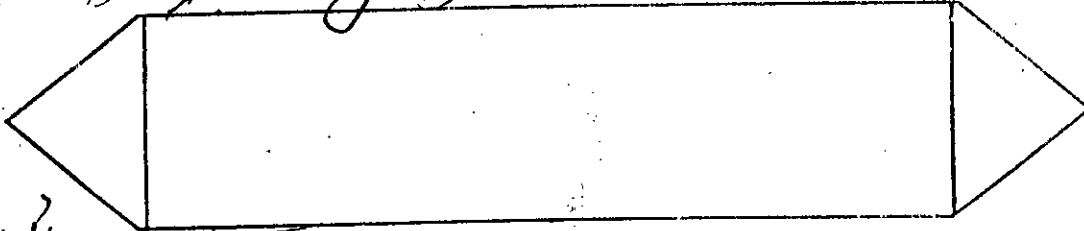
Copy of the above is forwarded to the :-

1. AD (Female) Local Directorate.
2. Principal Govt:Girls Degree College Daggar Buner with the remarks to inform the lady concerned accordingly.

Specimen
Get it -
noted
offered
concerned
Rahat Begum

Rubi
DY.DIRECTOR (FEMALE)

بعدالت سرور ریسولیشن کا مفاد



2015ء پنجاب سیشن

سمت کارہ مندرجہ ذیل بنام آصف اور

- موزعہ
- مقدمہ
- دعویٰ
- جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ ریسولیشن کے تحت میل محمد اللہ کا حاصل اور میل محمد اللہ کے نام پر

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی 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 کاروائی 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 یا اختیارات حاصل ہوں گے اور اس کا ساختہ پروا خستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔ 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 لکھد یا کہ سند ہے۔

انرقوم 15 ماہ جولائی 2015ء

بمقام ریسولیشن کے لئے منظور ہے۔

Mian Muhib Ullah Kakakhel
Advocate

VAKALATNAMA

IN THE Khyber Pakhtunkhwa Services Tribunal, Peshawar

Criminal/ Bail Application/ Civil /Appeal/Writ Petition / No. /20 15

Mst. Tahira Sagheer Dar Appellant(s)

Petitioner(s)

VERSUS

Principal (R) Arifa Sarwar & others Respondent(s)

I/We Mst. Tahira Sagheer Dar

the Appellant(s) Petitioner(s) Respondent(s) in the above Suit/Appeal/Petition/ Reference do hereby appoint and retain Saifullah Muhib Advocate, Peshawar to act and appear for me/us in the above Suit/Appeal/ Writ Petition/Reference and on my/our behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein and Applications for REVIEW to file and obtain return of documents, and to deposit and receive money on my/our behalf in the said Suit/Appeal/Writ Petition/Reference and in Application for Revenue, and to represent me/us and to take all necessary steps on my/our behalf in the above matter. I/we agree to ratify all acts done by the aforesaid Advocate in pursuance of this Authority.

Dated this the _____ day of _____ 20 _____



Plaintiff(s) Appellant (s)/petitioner(s)/Respondent(s)


Accepted

Saifullah Muhib

Advocate

Kakakhel Law Associates (Advocates & Legal Consultants) 36-C, 2nd Floor, Cantonment Plaza, Saddar Road, Peshawar Cantt, Khyber Pakhtunkhwa, Peshawar.

Ph: 091-5250412, Cell: 0334-4440744 Email: info@kakakhellaw.com

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 828/2015

Ms. Tahira Sagheer Dar..... Appellant

VERSUS

Secretary Higher Education & others..... Respondents

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Respondents 09/5/2016

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 828/2015

Ms. Tahira Sagheer Dar..... Appellant

VERSUS

Secretary Higher Education & others..... Respondents.

PRELIMINARY OBJECTIONS:-

Respectfully Sheweth:-

1. That the appellant has got no locus standi/ cause of action to file the instant appeal.
2. That the appeal in hand is badly time barred.
3. That the Hon'able Tribunal lacks jurisdiction to entertain the instant appeal.
4. That the appellant has not come to the court with clean hands.
5. That the appellant has concealed material facts from the Hon'able Tribunal.

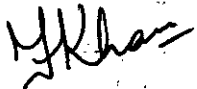
REPLY ON FACTS:-


1. Pertains to record. Need no comments.
2. Pertains to record. However it is pertinent to mention here that the appellant failed to perform her responsibilities properly and was held responsible for textual discrepancies when she was deputed as subject specialist. An inquiry was conducted against her. As a result error/ omissions, minor penalty of censure was recommended by the enquiry committee (Annexure-A).
3. Pertains to record. However transfer of a civil servant is part of terms and conditions of service.
4. Incorrect. As far as adverse remarks in PER are concerned the appellant was very negligent in performing her duties. She mostly remained absent without application (annexure-B). Furthermore, her students made complaints regarding her absence as their course was incomplete (Annexure-C). Therefore, the Principal concerned was justified to write adverse remarks in her Annual Evaluation Report.
5. Incorrect. The said adverse remarks were rightly recorded in her Evaluation Report as she was negligent in performing her duties and the students were not satisfied from her performance. Furthermore, there was no question of malafide or ulterior motive on the part of reporting officer. The objection of appellant about the lack of English language is irrelevant, as the word clever was used properly according to its meaning.
6. Incorrect and exaggerated. The appellant usually remained absent from duty. As it is evident from her attendance (Annexure-B supra). She remained absent from duty without any sanction leave during the month of September-2012 and further in 2013. A letter issued by the Principal, GGDC, Daggar, to Director Higher Education wherein detail of absent staff was showing (Annexure-D).

- 2
7. Incorrect. The appellant is responsible for failure in performing her duties. Being Chief Proctor, she never performed her duties. Therefore, the reporting officer has rightly recorded adverse remarks according to rules and procedure. The appellant failed to reply within time and her reply was very unsatisfactory as well.
 8. Incorrect and denied. Complete reply has given in the preceding paras, however the appellant never made any complaint against the reporting officer about any ill will or sickness. All allegations are without any documentary proof, against the facts and records.
 9. Incorrect and denied. Proper rules are followed by the respondents.
 10. Incorrect. Both the report and order of appellant authority are made within four corners of law.
 11. Incorrect and denied. It is pertinent to mention here that there is no record of such kind of allegation by other teaching staff made against the reporting officer.
 12. Incorrect. The appellant is trying to mislead the Hon'able Tribunal as the Personal Evaluation Report is concerned, it is on record that appellant was serving from last 08 months in the College and she worked under the Principal for 5 months so Principal was competent to write the PER.
 13. Incorrect. The appellant never submitted any appeal nor improved her performance as it is evident from a letter dated 23/04/2013 regarding to explain her position i.e. absent from FEFA training (Annexure-E).

PRAYERS:-

It is therefore, humbly prayed that the appeal is not maintainable as it is based on misconception hence the appeal may graciously be dismissed.


Secretary Higher Education Department
Khyber Pakhtunkhwa Respondent No.3


Director Higher Education
Khyber Pakhtunkhwa, Peshawar Respondent No.2

BEFORE THE HONOURABLE SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.828/2015

Mst. Tahira Sagheer Dar..... Petitioner


VS

Secretary and Director, Higher Education Khyber Pakhtunkhwa

.....Respondents

AFFIDAVIT

I Shahnaz Law Assistant (Litigation) Higher Education Department do hereby declare and affirm on oath that the contents of Para Wise Comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able Tribunal.


Deponent 09/15/2016

CNIC No.17301 -3346785-2

Identify by



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

SUMMARY FOR THE CHIEF MINISTER
KHYBER PAKHTUNKHWA

Subject: **DISCIPLINARY PROCEEDINGS AGAINST MR. MOHAMMAD IQBAL AND MS. TAHIRA SAGHEER DAR, ASSOCIATE PROFESSORS (BPS-19) OF COLLEGE CADRE OF HIGHER EDUCATION DEPARTMENT.**

Mr. Muhammad Iqbal, Associate Professor of Political Science, (BPS-19) and Ms. Tahira Sagheer Dar, Associate Professor of Urdu, (BPS-19) of college cadre of Higher Education Department, while working on deputation as Subject Specialists in Khyber Pakhtunkhwa Textbook Board, Peshawar, were held responsible for the textual discrepancies, errors and omissions/commissions/irregularities found in the development and printing of textbooks under the Curriculum 2006-07 (Flag-A).

2. This Department initiated disciplinary proceedings against the above mentioned ^{Associate Professors} officers on the recommendation of Elementary & Secondary Education Department. The inquiry officer submitted the inquiry report and recommended major penalty of reduction of scale by one stage against Mr. Muhammad Iqbal, Associate Professor and minor penalty of Censure, against Ms. Tahira Sagheer Dar, Associate Professor.

3. Since the Department had reservations regarding the recommendation of the inquiry officer, a fresh summary was moved to the competent authority, (Chief Minister) suggesting the options to impose the above mentioned penalties and serve show cause notices to the accused officers OR to allow a de novo inquiry against the accused officers. The competent authority has approved conducting of a de novo inquiry by a separate inquiry committee (Flag-B).

4. In order to initiate a de novo inquiry against the accused officers, this Department proposes the following panel of officers as inquiry officer(s)/committee :-

i. Syed Fayaz Ali Shah,
Principal, Government Postgraduate College, Mardan.

ii. Dr. Fazle Subhani,
Principal, Government College, Peshawar.

iii. An officer in BS-20 to be nominated by the Establishment Department.

Subject:

DISCIPLINARY PROCEEDINGS AGAINST MR. MOHAMMAD IQBAL AND MS. TAHIRA SAGHEER DAR, ASSOCIATE PROFESSORS (BPS-19) OF COLLEGE CADRE OF HIGHER EDUCATION DEPARTMENT.

5. The Chief Minister, Khyber Pakhtunkhwa (Competent Authority) is requested to kindly appoint / constitute enquiry officer / committee, comprising any one or two officers from the officers at para-4 above, put their name(s) in para-2 of the Statement of Allegations, sign Charge Sheet and Statement of Allegations (dully flagged), please.

F. Khan
17/11/2014

(FARAH HAMID KHAN)
SECRETARY HIGHER EDUCATION

Minister for Higher Education,
Khyber Pakhtunkhwa.

6.

Proposal is endorsed.

Chief Secretary,
Khyber Pakhtunkhwa.

M. A. Chani
MUSHTAQ AHMAD CHANI 19/11/2014
Minister For Higher Education & Information
Khyber Pakhtunkhwa

PTU

7- Summary has been examined. In terms of Rule-6 of E&D, Rules, 2011, a Govt. Servant against whom disciplinary action is proposed to be initiated under Rule-5, may be placed under suspension for a period of ninety days, if in the opinion of the competent authority, suspension is necessary or expedient. The following panel of officers is proposed for appointing an inquiry officer/committee:-

OFFICERS PSC/EG/SG/PAS/PMS

- i. Mr. Hazrat Masood Mian (PAS BS-20),
OSD.
- ii. Mr. Muhammad Akbar Khan (PCS SG BS-20),
Special Secretary, Health Department.
- iii. Mr. Kifayatullah Khan (PCS EG BS-20),
I.G Prisons.

DEPARTMENTAL OFFICERS

- i. Syed Fayaz Ali Shah,
Principal Govt. Postgraduate College.
- ii. Dr. Fazle Subhani,
Principal, Government College, Peshawar.

8- The Chief Minister, Khyber Pakhtunkhwa being competent authority may sign charge sheet/statement of allegations (duly flagged) and appoint an Inquiry officer/Inquiry committee from the above panel by indicating the name (s) in the space left blank in the statement of allegations.

(Signature)
(Dr. Akhtar Nazir)
Secretary Establishment
December 05, 2014

Chief Secretary, Khyber Pakhtunkhwa.

(Signature)
Chief Minister

(Signature)
9/12/2014
Chief Secretary
Govt. of Khyber Pakhtunkhwa

needfull done.

(Signature)
Chief Secretary
SECRETARY HIGHER EDU: Govt. of Khyber Pakhtunkhwa

(Signature)
26
CHIEF MINISTER
KHYBER PAKHTUNKHWA

Teacher's Attendance Register 7

For the Month of August 2012

Name: <u>Mrs. Tahira Dar</u>					<u>Humaira Rani</u>				<u>Nighat Ayub</u>				<u>Raheela Naz</u>			
Designation: _____					<u>lec. in Law</u>				<u>lec. in C. Science</u>				<u>lec. in Islamiya</u>			
Dates	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.
1		Ab		Ab	8:30	HR	12:00	HR		Ab		Ab	8:30	Ray	12:00	Ray
2		Ab			8:30	HR	12:00	HR		Ab			8:30	Ray	12:00	Ray
3		Ab			8:30	HR	12:00	HR		Ab			8:30	Ray	12:00	Ray
4																
5																
6		Ab			8:30	HR	12:00	HR	8:30	Ab		Ab				
7		Ab			8:30	HR	12:00	HR	8:30	Ab		Ab				
8		Ab			8:30	HR	12:00	HR	8:30	Ab		Ab	8:30	Ray	12:00	Ray
9		Ab			8:30	HR	12:00	HR	8:30	Ab		Ab	8:30	Ray	12:00	Ray
10		Ab			8:30	HR	12:00	HR	8:30	Ab		Ab	8:30	Ray	12:00	Ray
11																
12																
13					8:30	HR	12:00	HR	8:30	Ab		Ab	8:30	Ray	12:00	Ray
14					8:30	HR	12:00	HR					8:30	Ray	12:00	Ray
15					8:30	HR	12:00	HR	8:30	Ab		Ab	8:30	Ray	12:00	Ray
16					8:30	HR	12:00	HR	8:30	Ab		Ab	8:30	Ray	12:00	Ray
17					8:30	HR	12:00	HR	8:30	Ab		Ab	8:30	Ray	12:00	Ray
18																
19																
20																
21																
22																
23					8:30	HR	12:00	HR	8:30	Ab		Ab	8:30	Ray	12:00	Ray
24					8:30	HR	12:00	HR	8:30	Ab		Ab	8:30	Ray	12:00	Ray
25																
26																
27	2:00	Ab	1:30	Ab	8:40	HR	1:30	HR	8:30	Ab	1:30	Ab	8:30	Ray	1:30	Ray
28	8:30	Ab	1:30	Ab	8:30	HR	1:30	HR	8:30	Ab	1:30	Ab	8:30	Ray	1:30	Ray
29	8:25	Ab	1:30	Ab	8:30	HR	1:30	HR	8:30	Ab	1:30	Ab	8:30	Ray	1:30	Ray
30	8:40	Ab	1:30	Ab	8:30	HR	1:30	HR	8:30	Ab	1:30	Ab	8:30	Ray	1:30	Ray
31	8:15	Ab	1:30	Ab	8:30	HR	1:30	HR	8:30	Ab	1:30	Ab	8:30	Ray	1:30	Ray

STATEMENT OF LEAVES TAKEN

	Sick	Casual	Prv.	Total	Sick	Casual	Prv.	Total	Sick	Casual	Prv.	Total	Sick	Casual	Prv.	Total
This Month																
Prv. Month																
Total																

Teacher's Attendance Register

For the Month of September 2012

Name: Mrs. Tahira Dasi				Humaira Rani				Nighat Ayeub				Raheela Naz				
Designation: Lec. in Law				Lec. in Law				Lec. in C. Science				Lec. in Islamiyat				
Dates	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.
1		Ab											8:30			
2																
3	9:15	Jel	11:30	Jel	8:30	HR	1:30	HR	8:30	Y	1:30	Y	8:30	Pa	11:30	Pa
4	8:30	Jel	11:30	Jel	8:30	HR	1:30	HR	8:30	Y	1:30	Y	8:30	Pa	11:30	Pa
5	8:30	Jel	11:30	Jel	8:30	HR	1:30	HR	8:30	Y	1:30	Y	8:30	Pa	11:30	Pa
6		Ab		Ab	8:30	HR	1:30	HR	8:30	Y	1:30	Y	8:30	Pa	11:30	Pa
7		Ab		Ab	8:30	HR	1:30	HR	8:30	Y	1:30	Y	8:30	Pa	12:00	Pa
8		Ab		Ab	8:30	HR	1:30	HR	8:30	Y	1:30	Y	8:00	Pa	2:00	Pa
9																
10		Ab		Ab	C/L	C/L	C/L	C/L	8:30	Y	1:30	Y	8:30	Pa	11:30	Pa
11	8:30	Jel	1:30	Jel	8:30	HR	1:30	HR	8:30	Y	1:30	Y	8:30	Pa	11:30	Pa
12	8:30	Jel	1:30	Jel	8:30	HR	1:30	HR	8:30	Y	1:30	Y	8:30	Pa	11:30	Pa
13	8:30	Jel	1:30	Jel	8:30	HR	1:30	HR		Ab		Ab	8:30	Pa	11:30	Pa
14	8:30	Jel	10:30	Jel	8:30	HR	1:30	HR		Ab		Ab	8:30	Pa	12:30	Pa
15	C/L	C/L	C/L	C/L	8:30	HR	1:30	HR	8:30	Y	1:30	Y				
16																
17	10:00	Jel	1:30	Jel	8:30	HR	1:30	HR	8:30	Y	1:30	Y	8:30	Pa	11:30	Pa
18	8:30	Jel	1:30	Jel	8:50	HR	1:30	HR	8:30	Y	1:30	Y	8:30	Pa	11:30	Pa
19	8:30	Jel	11:30	Jel	8:30	HR	1:30	HR	8:30	Y	11:30	Y	8:30	Pa	11:30	Pa
20	8:30	Jel	11:30	Jel	8:30	HR	1:30	HR	8:30	Y	1:30	Y				
21	P/H		P/Holiday													
22	8:30	Jel	11:30	Jel					8:30	Y	1:30	Y	C/L		C/L	
23	8:30	Jel	11:30	Jel												
24	C/L			C/L	8:30	HR	1:30	HR	9:30	Y	1:30	Y	C/L		C/L	
25	C/L			C/L	8:30	HR	1:30	HR	8:30	Y	11:30	Y				
26	8:30	Jel	11:30	Jel	8:30	HR	1:30	HR	8:30	Y	1:30	Y	8:30	Pa	11:30	Pa
27	8:30	Jel	11:30	Jel	8:30	HR	1:30	HR		Ab		Ab	8:30	Pa	11:30	Pa
28	8:30	Jel	1:30	Jel	8:30	HR	1:30	HR	11:00	Y		Y	8:30	Pa	11:30	Pa
29	8:30	Jel	1:30	Jel					8:30	Y	1:30	Y		C		C
30																
31																

STATEMENT OF LEAVES TAKEN

	Sick	Casual	Prv.	Total	Sick	Casual	Prv.	Total	Sick	Casual	Prv.	Total	Sick	Casual	Prv.	Total
This Month																
Prv. Month																
Total																

Teacher's Attendance Register

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For the Month of October 2012

Name: Mrs. Tahira Dar					Seema Gul				Humaira Rami				Nighat Ayub			
Designation: Lec. in Urdu					Lec. in Botany				Lec. in Law				Lec. in C. Science			
Dates	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.
1					8:30	✓	✓	11:30	8:30	HR	1:30	HR	8:30	✓	1:30	✓
2	8:30	✓	11:30	✓	8:30	✓	✓	11:30	8:30	HR	1:30	HR	8:30	✓	11:30	✓
3	8:30	✓	1:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR				
4	8:30	✓	1:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR				
5	8:30	✓	1:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	11:30	✓	12:30	✓
6	8:30	✓	1:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
7	SUNDAY															
8	8:30	✓	1:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
9	8:30	✓	1:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
10	8:30	✓	1:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
11	8:30	✓	1:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
12									8:30	HR	1:30	HR	8:30	✓	12:30	✓
13									8:30	HR	1:30	HR	8:30	✓	1:30	✓
14	SUNDAY															
15					8:30	✓	11:30	✓					8:30	✓	1:30	✓
16					8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
17	8:30	✓	11:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
18	8:30	✓	11:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	12:30	✓
19	8:30	✓	11:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
20	8:30	✓	1:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
21	SUNDAY															
22	8:30	✓	1:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
23	8:30	✓	11:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
24	8:30	✓	11:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
25	8:30	✓	11:30	✓	8:30	✓	11:30	✓	8:30	HR	1:30	HR	8:30	✓	1:30	✓
26																
27																
28	SUNDAY															
29									8:30	HR	1:30	HR	8:30	✓	1:30	✓
30									8:30	HR	1:30	HR	8:30	✓	1:30	✓
31									8:30	HR	1:30	HR	8:30	✓	1:30	✓

STATEMENT OF LEAVES TAKEN

Total	Sick				Casual				Priv.							
	Sick	Casual	Priv.	Total	Sick	Casual	Priv.	Total	Sick	Casual	Priv.	Total				
This Month																
Prv. Month																
Total																

Signature
Headmistress / Headmas

Teacher's Attendance Register

10

For the Month of Nov/2012

Name: Mrs. Tahira Dar				Saeema Gul				Humaira Rami				Nighat Ayub				
Designation: Lectin Urdu				Lectin Botany				Lectin Law				Lectin Comp. Sc				
Dates	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.
1		Ab		Ab	8:30	SL	11:30	SL		Ab		Ab		Ab		Ab
2		Ab		Ab	8:30	SL	11:30	SL	8:30	HR	1:30	HR		Ab		Ab
3		Ab		Ab	8:30	SL	11:30	SL	8:30	HR	1:30	HR	8:30	SL	11:30	SL
4																
5	8:30	JL	1:30	JL	8:30	SL	11:30	SL		C/L		C/L				
6	8:30	JL	1:30	JL	8:30	SL	11:30	SL	8:30	HR	1:30	HR	8:30	SL	11:30	SL
7	8:30	JL	1:30	JL	8:30	SL	11:30	SL	8:30	HR	1:30	HR	8:30	SL	11:30	SL
8	8:30	JL		JL	8:30	SL	11:30	SL	8:30	HR	1:30	HR		C/L		C/L
9																
10		C/L		C/L	8:30	SL	11:30	SL	8:30	HR	1:30	HR		C/L		C/L
11																
12	8:30	JL	11:30	C/L	8:30	SL	11:30	SL	8:30	HR	1:30	HR		C/L		C/L
13	8:30	JL	1:30	JL	8:30	SL	11:30	SL	8:30	HR	1:30	HR		C/L		C/L
14	8:30	JL	1:30	JL	8:30	SL	11:30	SL	8:30	HR	1:30	HR		C/L		C/L
15	8:30	JL	1:30	JL	8:30	SL	11:30	SL	8:30	HR	1:30	HR		C/L		C/L
F 16	8:30	JL	11:30	JL	8:30	SL	11:30	SL	8:30	HR	1:30	HR		C/L		C/L
17	8:30	JL	1:30	JL	8:30	SL	11:30	SL	8:30	HR	1:30	HR	11:00	SL	11:30	SL
18	8:30	JL	1:30	JL	8:30	SL	11:30	SL	8:30	HR	1:30	HR	8:30	SL	11:30	SL
19	8:30	JL	1:30	JL	8:30	SL	11:30	SL	8:30	HR	1:30	HR	8:30	SL	11:30	SL
20	8:30	JL	1:30	JL	8:30	SL	11:30	SL	8:30	HR	1:30	HR	8:30	SL	11:30	SL
21	8:30	JL	1:30	JL	8:30	SL	11:30	SL	8:30	HR	1:30	HR	8:30	SL	11:30	SL
22	8:30	JL	1:30	JL	-	C/L	-	C/L	8:30	HR	1:30	HR	8:30	SL	11:30	SL
23	8:30	JL	1:30	JL	-	C/L	-	C/L	8:30	HR	1:30	HR	8:30	SL	11:30	SL
24	8:30	JL	1:30	JL	8:30	SL	11:30	SL								
25	8:30	JL	1:30	JL												
26									8:30	HR	1:30	HR	8:30	SL	11:30	SL
27	-	C/L	-	C/L	8:30	SL	11:30	SL	8:30	HR	1:30	HR	8:30	SL	11:30	SL
28	-	C/L	-	C/L	8:30	SL	11:30	SL	8:30	HR	1:30	HR	8:30	SL	11:30	SL
29	-	Ab	-	Ab	8:30	SL	11:30	SL	8:30	HR	1:30	HR	8:30	SL	11:30	SL
30	-	Ab	-	Ab	8:30	SL	11:30	SL	8:30	HR	1:30	HR	8:30	SL	11:30	SL
31									8:30	HR	1:30	HR	8:30	SL	12:30	SL

STATEMENT OF LEAVES TAKEN

	Sick	Casual	Prv.	Total	Sick	Casual	Prv.	Total	Sick	Casual	Prv.	Total	Sick	Casual	Prv.	Total
This Month																
Prv. Month																
Total																

Name: Mrs. Tahira Dar

Seema Gul

Humaira Rani

Nighat Ayub

Designation :

Dates	Mrs. Tahira Dar				Seema Gul				Humaira Rani				Nighat Ayub			
	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.
1																
2					8:15	SL	1:15	SL								
3																
4					9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
5					9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
6					9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
7					9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
8					9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
9					9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
10	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
11	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
12	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
13	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
14	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
15	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
16									9:00	HR	2:00	HR	9:00	SL	2:00	SL
17	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
18	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
19	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
20	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
21	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
22	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
23									9:00	HR	2:00	HR	9:00	SL	2:00	SL
24	8:30	SL	1:30	SL	9:00	SL	2:00	SL	9:00	HR	2:00	HR	9:00	SL	2:00	SL
25									9:00	HR	2:00	HR	9:00	SL	2:00	SL
26									9:00	HR	2:00	HR				
27																
28																
29																
30																
31																

STATEMENT OF LEAVES TAKEN

	Mrs. Tahira Dar				Seema Gul				Humaira Rani				Nighat Ayub			
	Sick	Casual	Prv.	Total	Sick	Casual	Prv.	Total	Sick	Casual	Prv.	Total	Sick	Casual	Prv.	Total
This Month																
Prv. Month																
Total																

Signature
Headmistress / Headmaster

12

Dated: 16th March, 2013

To,

The Director
Higher Education
Khyber Pakhtoonkhwa

SUBJECT: Staff member absent from the duty

Respected Sir,

It is brought into your kind knowledge that, one of my staff member Mrs. Tahira Sageer Dar Associate Professor Urdu is attending the FEFA Training. Although she is not in the seniority list of those who are going to be promoted in year 2013 and she has not provided any letter from the department. She is usually absent from the duty, due to this, the student are suffering badly.

It is therefore requested to send her back to the college in the best interest of the students.

Regards,



Asifa Sarwar
Principal
GGDC, Bunner

Copy:
PS to Secretary Higher Education

*Check her name in
nomination list?*

21/3/13

خدمتِ خصال پر نسلِ ہماورد و وطن گزین ڈگری کا راج

خصال عالیہ ا

فوراً گناراش سے کہ بیمار ہے
 اردو ایڈوانس کے علاوہ سارے سبجکٹ ٹورس
 قلیل ہو چکے ہیں۔ بیماری اردو کے مس 3rd ٹی ہے
 ہے۔ اور ہمیں ان مضمون کے لیے آنا جانا قطعاً
 ہے۔ تو آتے خصال میں باقی کتابت ہمیں اجازت
 دیکھئے تاکہ ہم گیس میں دشمنی کر سکیں
 تو بڑی مہربانی ہوگی

13

القاریں

آئی ٹی تالبعہ ارہ مشاعرہ

- Najia Halima
- Modira Asmat B.A part 1
- Tasharib
- Shahkiran
- Sabina sheraf
- Nabila Alimat
- Mariya Nafis
- Sajida Asma Hurmat
- Robi Kalsoom
- Kainat Musarat
- Amman
- Kansar Dida
- Shaista Sangam
- Muhsena Saimon
- Tusiyat
- Robi
- Raaida
- Wajhat
- Karmenya
- neelam Rafia

Has the principal taken any action on this application?

D — 14
100

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT.**

**NO.SO (C-I) HE/1-6/12/Tahira Dar
Dated Peshawar the 28.03.2013.**

To

The Director,
Higher Education,
Khyber Pakhtunkhwa, Peshawar.

Subject: - **STAFF MEMBER ABSENT FROM THE DUTY.**

I am directed to refer to the Principal Govt.Girls Degree College, Buner letter-cum-application No. nil dated 16.03.2013 addressed to you with a copy to this Department on the subject noted above wherein reported the absence of staff member Ms.Tahira Sagheer Dar Associate Professor of Urdu of the said college.

It is requested that it may be clarified that Ms.Tahira Sagheer Dar, Associate Professor (Urdu) Govt.Girls Degree College, Buner is in promotion zone and that she has been nominated by the Directorate of Higher Education for the FEFA training or otherwise.

Encls: As above.

SD/-
(MOHAMMAD FAROOQ SHAH)
SECTION OFFICER (COLLEGES-I)

OFFICE OF THE DIRECTOR HIGHER EDU; KHYBER PAKHTUNKHWA PESHAWAR.

Endst.No. 1340 /

Dated Pesh: the 28 /2013.

Copy of the above is forwarded to the Deputy Director (P& D) for clarification, please.

Zuber
DPUTY DIRECTOR (FEMALE)

Annex D₁

15

DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR
Phone #091-9211025,091-9210242, Fax # 091-9210242

No. 1715 /CA-I/Estt.Branch/A-12

Dated Peshawar the 23/11 /2013.

To

✓
Ms. Tejwa S. Khan
of GUC Dargay

Subject: - EXPLANATION/ABSENT FROM 87TH FEFA TRAINING COURSE "EDUCATIONAL MANAGEMENT & LEADERSHIP COURSE" MARCH 18-APRIL 26, 2013.

Memo.

It is regretted to state that on 12.04.2013 you were found absent from the Training session at FEF Academy. It is evident that this Department gives great importance to the training programme which is not only mandatory for promotion, but is also expected to build the capacity of teachers for quality enhancement. Your absence from the sessions shows lack of interest in the Training process on your part which tantamounts to misconduct, indiscipline and inefficiency, leading to the wastage of precious official time and Government resources.

You are therefore directed to explain the reason of your absence from such important and essential course. Your explanation should reach this office within a week failing which disciplinary action will be initiated against you under E & D Rules 2011.

Rubin
DEPUTY DIRECTOR (FEMALE)

Endst.No. _____/

Copy of the above is forwarded to the:-

- 1) Managing Director FEF Academy Peshawar Campus Hayatabad Peshawar.
- 2) Statistical Officer, local Directorate.

DEPUTY DIRECTOR (FEMALE)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR**

IN RE:

SERVICE APPEAL No.828/2015

Mst. Tahira Sagheer Dar. **APPELLANT**

...VERSUS...

Secretary Higher Education & others. **RESPONDENTS**

**REJOINDER TO THE COMMENTS OF
RESPONDENTS NO.2 & 3**

Respectfully Sheweth:

Preliminary Objections:

All the preliminary objections are misconceived. The appellant has a cause of action to be redressed by this Hon'ble Tribunal. The appeal in hand is competent and it is a settled law by now that the cases are to be decided on merits and not on technicalities.

ON FACTS:

1. Correct.
2. Incorrect. However, the subject inquiry was challenged through W.P.No.3193/2012 in Peshawar High Court, Peshawar by one Muhammad Iqbal. The Hon'ble Peshawar High Court, allowed the same and declared that this inquiry is only related to Social Studies Class-5th. It is pertinent to mention that this inquiry was started in 2012 and still not concluded. The inquiry does not fall in the year of assessment i.e. 2012. Moreover, it is point of grievance concerned that Government officials do not give importance to the superior courts. (Copy of Order dated 02.05.2013 is attached as annexure "A").

3. Transfer is part of term and condition of service but to facilitate female civil servants, Government introduced spouse policy and Working Women Rights and Protection Act, 2013. As per Government policy, tenure in hard areas is 18 months whereas the appellant spent more than 4½ years in Buner, a hard area.
4. Incorrect, the appellant never went on leave without permission of the Principal, when appellant was on leave and away from College, how she could sign in attendance register. Moreover, appellant did not receive a single letter from higher authorities regarding these "absence".
5. Incorrect, appellant showing 100% result in her subject and there is no evidence that students were not satisfied. The annexures are not related to the period of evaluation i.e. 2012 but it is mentioned that the appellant was sent for FEFA training from 18 March to 26 April, 2013 by the respondent No.2, the respondents provided half-truth. The letter dated 23.04.2013 is regarding and another meeting when appellant was attending 10 days meetings in curriculum wing Government of Khyber Pakhtunkhwa. Being Ex-Subject Specialist Urdu in Textbook Board she was nominated as member of curriculum for Hindko language in DCT Abbottabad. The respondents intentionally did not provide the record. Moreover, this incident took place in 2013 and not related to the said PER.
6. Incorrect. Record of September 2012 shows that appellant was performing her duties in college. It is once again mentioned that the appellant did not avail leave without written application therefore not a single explanation letter regarding "absentees" was issued to her.
7. Incorrect. The appellant performed her duties efficiently, if she failed to perform, why a single letter of explanation was not issued.

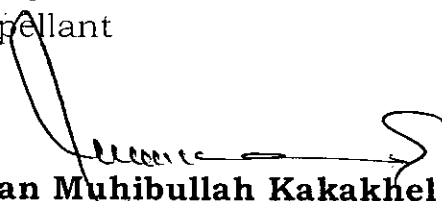
8. Respondent No.1 is in better position to reply.
9. Against the facts, wrong statement, respondents trying are to deceive the learned Tribunal. No personal hearing, counseling, censure or explanation letter was issued to the appellant.
10. Incorrect.
11. Incorrect. Respondent No.1 spoiled the PER of 2013 of most of the teaching staff, these remarks were expunged by the Director Higher Education.
12. Incorrect. Appellant worked under respondent No.1 for 5 months whereas PER of 7 months was not considered.
13. Incorrect. Appellant was never given advice, reprimanded or issued with explanation letter for improvement of her performance. Her past record shows that she always performed her duties with zeal, this can be witnessed by her previous PERs.

It is, therefore, respectfully prayed that the appeal may kindly be allowed as prayed for in the best interest of justice.

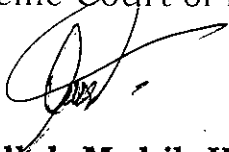
Any other order deemed appropriate in the circumstances may also be passed. The appellant may be allowed to put forward any other arguments/ documents at the time of hearing of the case.

Through


Appellant


Mian Muhibullah Kakakhel
Senior Advocate
Supreme Court of Pakistan

&


Saifullah Muhib Kakakhel
Advocate High Court

Dated: 07.12.2016

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR**

IN RE:

SERVICE APPEAL No.828/2015

Mst. Tahira Sagheer Dar. **APPELLANT**


...VERSUS...

Secretary Higher Education & others. **RESPONDENTS**

AFFIDAVIT

I, Mst. Tahira Sagheer Dar D/o Sagheer Ahmad Dar, Associate Professor, Government Degree College for Women Daggar Buner, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.


DEPONENT


Oath Commissioner
Md. Mahammad Khattak (ASO)
License No.961/14-4-2014
Peshawar High Court Peshawar
GNIC: 17301-7401834-5

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. 3193 P / 2012

Bashir Muhammad S/o Dost Muhammad R/o Sardar Khalid Jan Colony
Peshawar City Petitioner

Versus

1. Chief Secretary Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar
2. Dr. Fazal ur Rahim, Chairman Text Book Board, Phase-V Hayatabad Peshawar
3. Secretary Text Book Board, Phase-V Hayatabad Peshawar.
4. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department, Civil Secretariat Peshawar.
5. Mr. Rashid Paindakhel, Chairman Fact Finding Committee, Phase-V Hayatabad Peshawar..... Respondents

WRIT PETITIONER UNDER ARTICLE
199 OF THE CONSTITUTION OF THE
ISLAMIC REPUBLIC OF PAKISTAN.

Respectfully Sheweth,

1. That the petitioner is a retired Associate Professor in Mathematics who was subsequently appointed as Consultant Mathematics on contract basis w.e.f 10/10/2011 to 14/06/2013 in Text Book Board on deputation for the period of 3 years. (Copies of Appointment order and CV are attached as Ann: A & B)
2. That after taking charge, petitioner was performing his duty regularly.
3. That on the intervention of Syed Janan MPA, a Fact Finding Committee was constituted who conducted an inquiry and pointed out some errors in various text books.
(Copy of Inquiry Report is attached as Ann: C).
4. That after inquiry report submitted, respondent No. 2 served a legal notice upon petitioner and informed him about termination of contract period.
(Copy of Legal Notice is attached as Ann: D).

ATTESTED

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT
JUDGMENT

WP NO.3193 OF 2012.
Date of hearing 2.5.2013.

Mian Muhibullah, Advocate for the
petitioner.
Mr.Naveed Akhtar, AAG for the respondents.

ABDUL LATIF KHAN, J. -

The petitioner, Bashir Muhammad, retired Associate Professor in Mathematics was appointed as Consultant Mathematics on Contract with effect from 10.10.2011 to 14.6.2013, seeks the indulgence in exercise of its extra ordinary jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of this Court against the Notification No.E&A/SS(M)57/2000/2518 issued by the respondents on 9.7.2012, vide which his services stood terminated/cancelled with effect from 5.8.2012 and prayed to declare the same as illegal, without jurisdiction and without lawful authority and re-instate him in

J.M.

J

service with effect from the date of his termination will all back benefits.

The main thrust of the arguments of the learned counsel for the petitioner was that the allegations leveled against him were regarding discrepancies in the Text Books developed in the National Curriculum 2006. He added that the petitioner was appointed as Consultant (Mathematics) on payment of fixed pay of Rs.80,000/- per month (all inclusive) on contract basis in the KPK textbook Board, Peshawar. He referred to the Commendation Certificate dated 4.5.2010 issued by the Chairman KPK Textbook Board, Peshawar. He added that Summary for Chief Minister in the subject Textual Discrepancies and Errors in Textbooks Developed under the National Curriculum-2006 under para 4 the petitione3r has been exonerated from the charges and persons mentioned against serial No.1 and 2 of serial No.4 were held responsible for the Discrepancies. He further added that none else has been proceeded against, except the petitioner, which amounts to clear cut discrimination.

JMN

ATTORNEY

As against this Mr.Naveed Akhtar AAG vehemently opposed the submissions of the learned counsel for the petitioner contended that the other responsible persons, being Civil Servants, have been proceeded against. He referred to sub-para 2 of para 3, wherein the petitioner has been shown to supervise the development and printing of Mathematics and Computer Science Books. He also referred to sub-para V of para 5 with regard to Curriculum of Textbooks of Computer Science.

DM

The learned counsel appearing on behalf of respondent No.5 contended that the appointment order of the petitioner reveals that his services are liable for termination on one month's notice, if performance found not satisfactory. He added that endorsement of said letter forwarded to the petitioner reveals that he has accepted the offer with free consent and as such is binding upon him.

We have heard the learned counsel for the parties at some length, perused the whole available record with their able assistance.

[Signature]

The petitioner was appointed on 10.10.2011 vide Notification No.SO (B/T)E&SE/11-13/2008/SS/MATHS as Consultant (Mathematics) on payment of fixed pay of Rs.80,000/- per month (all inclusive) on contract basis in the KPK Textbook Board, Peshawar for a period of 3 years to be ended on 14.6.2013. Disciplinary action initiated regarding Textual Discrepancies and Error in Textbooks Developed under the National Curriculum-2006. Vide letter dated 21.6.2012 Government of KPK informed the Chairman KPK Textbooks Board, Peshawar with regard Fact Finding Inquiry in order to ascertain the factual position on the point of order raised by Mufti Janan MPA in the Provincial Assembly regarding inclusion of some important lessons and inclusion of new ones of less importance from Textbooks of Social Study for Class 5th. It is pertinent to mention that the petitioner, Associate Professor retired, Consultant (Mathematics) HAS BEEN SHOWN AT SERIAL No.1 in this letter with the remarks that his case for termination as

Handwritten mark

ATTESTED

(10) 28

Consultant be submitted for approval of Competent Authority. A Summary approved by the Chief Minister, Competent Authority alongwith inquiry report was also sent for further process at his end, despite the fact that he has no nexus with the Social Study for Class 5th, because he has been appointed as Consultant Mathematics. So this letter being misconceived was not related to the petitioner and has been unnecessarily burdened and punished with the order of termination, as mentioned in the letter referred above.

Brw

The Summary for Chief Minister dated 6.6.2012 reveals in para 3 that the Committee, so appointed, fixed the responsibility on six Subject Specialists posted in Textbook Board for the Textual Error in the Textbooks, including the petitioner, shown at serial No.II of para No.3, which reads as under:-

- ii. Mr. Muhammad Amin, Principal (BS-18), employee of E&SE, Department Subject Specialist (General Science and Chemistry) in the Textbook Board Peshawar (Disciplinary Action under the KPK Govt. Servants (Efficiency & Discipline) E&D Rules 2011 be initiated against him.
- 12*

iii. Mr. Nasir Kamal, Assistant Subject Specialist (BS-16). He supervised the development and printing of books for General Science and Physics."

So far as Computer Science Books are concerned, it is none of the responsibility of the petitioner as he has been appointed as Consultant Mathematics only.

Para 4 of the Summary reveals that the report of the Committee observed about the supply of Books of Mathematics for 9th Class without recommendation by the Subject Specialist, which too exonerate the petitioner from any liability to the extent of the Mathematics. Annexure H, report regarding inquiry of the Subjects method-I method-II, method-III, method IV and method-IX were referred to by the learned counsel for respondent No.5, which was not available on file, the same was produced. The perusal of the said report, annexure-H shows that no Textual Discrepancies and Errors in Textbooks were found. However, the Errors at the most, amounting to clerical mistake and that too in a few grades are shown and have been

replaced by the correct figures, which does not fall within the ambit of the charge leveled against the petitioner and this report based for Summary to the Chief Minister and thereafter culminating into major penalty for termination of service was harsh in nature, against the norms of justice, law besides.

For the foregoing reasons we allow this writ petition, declare the impugned orders dated 27.8.2012 and 30.8.2012 as illegal, without jurisdiction and of no legal effect. Consequently, the petitioner is exonerated from the charges leveled against him with regard to irregularities, inconsistencies and Errors found in the Textbooks Developed under the National Curriculum-2006-07 and direct the respondents to reinstate to his appointment till the expiry of his Contract period i.e. 14.6.2013. However, he is not entitled to get back benefits for the period he remained out of job as he has not rendered service for the said period.

Announced:
Dated 2.5.2013.

s/ Mazhar Alam Khan
s/ Abdul-Latif Khan

JUDGE

CERTIFIED TO BE TRUE COPY

SP
2-5-13

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 977 /ST

Dated 25 / 4 / 2017


To

The Director Higher Education,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 10.4.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.