

BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

SERVICE APPEAL NO.1398/2022

Khyber Pakhtunkhwa
Services Tribunal


Diary No. 4805

Dated 11/4/2023

AFSHA SAMINA (EX-AT) VS E&SE EDUCATION

Index Sheet

S. No	Description Of Documents	Annexures	Pages
1	Para Wise Comments		1-3
2	Affidavit		4
3	Transfer Order	A	5
4	Copy of Inquiry Report	B	6-8
5	Copy of Charge Sheet	C	9
6	Copy of Charge Sheet to HM	D	10
7	Statement of Allegation	E	11
8	Authority letter		12


District Education Officer
(Female) Peshawar

SERVICE APEAL NO.1398/2022

Afshan Samin

VS

Education Department

PARA WISE COMMENTS OB BEHALF OF RESPONDENTS NO.1, 2, 3

Respectively Sheweth:

The Respondent submit below:

PRELIMINARY OBJECTS

- 1. That the appellatant has got no cause of action/locus standi.**
- 2. That the appellatant has concealed material facts from this Hon'ble Tribunal.**
- 3. That the appellatant has been estopped by her own conduct to file the instant appeal before this Hon'ble Tribunal.**
- 4. That the instant appeal is barred by law/limitation.**
- 5. That the instant appeal is not maintainable in its present form.**
- 6. That the instant appeal is bad for mis-joinder and non-joinder of necessary parties.**
- 7. That the appellatant has not come with clean hands to this Hon'ble Tribunal.**

ON FACTS.

- 1. That Para-No.1 Pertains to Appellant's personal record.**
- 2. That Para -No. 2 also pertains to record.**
- 3. Para-No.3 is incorrect and misleading, the appellatant remained willful absent for a long time and received all her salaries regularly by illegal mean.**
- 4. That Para No-4 pertains to records.**
- 5. Para -No.5 & 6 are incorrect misleading and against the facts, it is submitted that MST Afshan Samin (EX.AT) was transferred from GGMS Talam khan to GGMS Bar Bar Opazai vide order No. 2770-73 Dated 24/02/2015 but she did not take the charge of her duty in the concern school and remained willful absent from 01/03/2015 to 01/11/2021.**

Furthermore, the appellatant received all her salaries continuously of the above mention period fraudulently and illegally from the respondent department. The inquiry has been conducted by the department and the appellatant was found guilty. The inquiry officer recommended to recover all the salaries (amounting RS 3023550/) from the appellatant (MST Afshan Samin EX.AT) and recommended appropriate disciplinary action against her.

P-2

The respondent department completed all the codal formalities and imposed major penalty of removal from service upon the appellant vide order No 5361-68 dated 04/04/2022.

(Transfer order is attached as Annexure-A, Copy of Inquiry is attached as Annexure-B)

7. Para no 7 & 8, are incorrect and misleading, that after transfer the appellant did not assume the charge of her duty in GGMS Bar Bar Opazai School and remained willful absent from 1/3/2015 to 1/11/2021 and illegally received all her salaries regularly along with allowances amounting RS 3023550/-which is liable to be recovered from her, the Respondent department followed legal procedure (under E&D Rules 2011) by issuing charge sheet and statement of allegation but the reply of the appellant was not found satisfactory therefore the department imposed major penalty of removal from service upon her. Moreover Respondent.3 sent guidance letter Vide No.413-14 dated 11/2/2023 to the Director E&SC Education regarding recovery (RS.3023550) from the appellant.

(Copy of Charge Sheet as Annexure C & Charge sheet to headmistress as Annexure D, Statement of allegation as Annexure E)

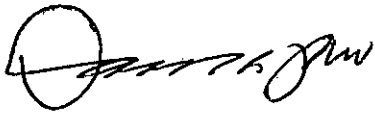
8. Para No: 9 that the appellant has no cause of action to knock at the door of this Hon'ble Tribunal.

GROUND

- A. That Ground-A is incorrect, the order of removal from service is according to law and policy and her department appeal was rejected on the grounds of misconduct, fraudulent and canceling of facts from the respondent department.
- B. Ground-B is incorrect and against the facts, the respondent department never violated any Articles of the constitution 1973 but always acted upon E&D rules 2011.
- C. Ground-C is incorrect and misleading, the respondent department adopted all codal formalities by issuing charge sheet and statement of allegation on 06/01/2022.
- D. Ground D&E is incorrect, misleading and against the facts, the respondent department completed all codal formalities and provided full opportunity of personal hearing and personal defense but the appellant didn't explain her position well.
- F. GROUND F is incorrect and misleading proper procedure has been adopted during the course of inquiry and the inquiry report has already been annexed
- G. Ground G is incorrect and against the facts the respondent office adopted legal procedure of removal from service under E&D Rules 2011.

- H. Ground-H is incorrect, proper procedure has been followed by the respondent department.
- I. The respondent department also seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that on acceptance of this Para wise comments, the instant service appeal may very kindly be dismissed with cost.



DIRECTOR
E&SE, Khyber Pakhtunkhwa
Peshawar



SECRETARY
E&SE, Khyber Pakhtunkhwa
Peshawar



District Education Officer
(Female) Peshawar

BEFORE THE HONBLE KHYBER PAKHTUNKHWA

SERVICES TRIBUNAL PESHAWAR

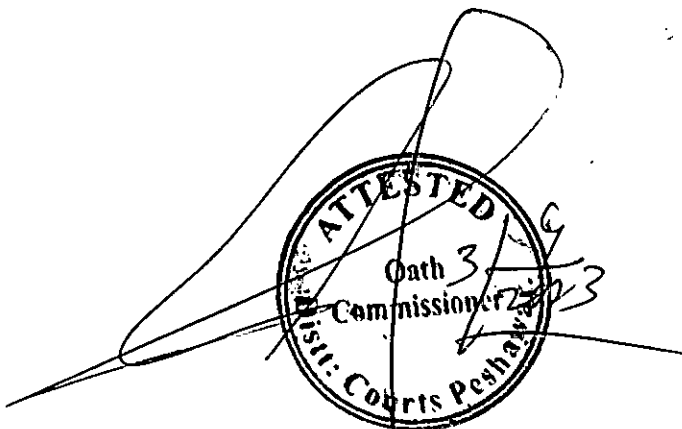
SERVICE APPEAL NO.1398/2022


AFSHA SAMINA VS E&SC EDUCATION

REPLY ON BEHALF OF RESPONDENT NO.1,2 &3

AFFIDAVIT

It is solemnly affirmed and declare on oath that the contents of this para wise comments on behalf of DEO (Female) Peshawar are correct to the best of my knowledge and that nothing has been concealed from this Hon'ble tribunal.




District Education Officer
(Female) Peshawar

Annex - "A"

P-5
4

OFFICE OF THE DISTRICT EDUCATION OFFICER, (FEMALE) PESHAWAR

Office Order:

The competent authority is pleased to order the transfer of the Mst: / 'shan Samin AT, GGMS Talam Khan Killi against newly upgraded vacant post at GGMS Bar Bar Qazi Peshawar on her own pay and scale in the interest of public service with effect from his taking over charge.

Note: - Charge Report should be submitted to all concerned.
No TA/DA etc is allowed.


(Samina Ghani)
District Education Officer,
(Female) Peshawar

Endst: No. 2770-73

Dated Peshawar the 24 /02/2015

Copy of the above is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. Headmistress Concerned.
3. Official Concerned.


District Education Officer,
(Female) Peshawar

Amree — "B"

12-6

INQUIRY REPORT REGARDING Mst AFSHAN SAMIN, ARABIC
TEACHER GOVERNMENT GIRLS MIDDLE SCHOOL BARBAR OPAZAI,
PESHAWAR

ADD: (S)

Mandate of Inquiry

1. To conduct an inquiry in the light of DEO Peshawar's office letter no 7977 dated 24/2/22 stating that "

19/01/22

Venue of Inquiry

2. GGMS Barbar Opazai and GGHS School Town Peshawar

Mode of Proceedings

3. Keeping in view the TORs the following modus operandi was adopted:-
 - a. Personal visit to GGMS Barbar Opazai to check arrival/charge report, service book, attendance register and record statement of Mst Afshan Samin as well as school Head Mistress.
 - b. Owing to nonexistence of any charge report/record and total absence of Mst Afshan Samin, relevant record was obtained/collected from DEO Peshawar's Office.
 - c. Relevant record including posting order, charge report, attendance, service book and withdrawal of salaries was examined to verify the facts.
 - d. Mst Afshan Samin was called for personal hearing at GGHSS Town, Peshawar where she was given a patient hearing followed by question/ answers.
 - e. Written statement of Mst Afshan Samin was obtained and analyzed before filing the inquiry report.

Details of Inquiry

4. Details are as listed below:-

Inquiry Report

P-7

With reference letter no. 36233, dated 13-12/2021.

I have been appointed as inquiry officer as mentioned in the above letter.

Upon inquiry, record of Afshan Samin was checked and was found that, she joined duty on 25th October 2011 at GGMS, Talam Khan Village Vide appointment, letter no. 208-284/D. Dated: 21-10-2011 and was on duty at the aforementioned school from 25th October 2011, till 07th April 2013. She has been marked absent at the same school from 08th April, 2013 till 15th June, 2013. After this period, there is no record in the attendance register, at GGMS, Talam Khan Village.

She was then transferred to Bar Bar Opazai GGMS, Peshawar Vide letter no 2770-73 Dated: 24-02-2015.

I personally visited the school at Bar Bar Opazai. The inquiry revealed that since her transfer, there was no transfer letter, no payroll, no entry in attendance register, summing up to the fact, that she has not at all taken charge, in the first place at the afore mentioned school.

After getting the service book of Afshan Samin (AT) from the AG Office it was thoroughly checked and found that she has been drawing her salary (with service verification), with increments till 2016. There is no entry or record of her service after this period even in the service book.

In addition, the phone number of Afshan Samin (AT) (03123399553) provided to me through the service book was running off, continuously and she was inaccessible through any media service.

On 24 December, 2021, I sent a letter for personal hearing, to Afshan Samin (AT), at her home address, obtained from DEO Office. There was no compliance what so ever, in this regard from the defendant's side.

I also sent Abdul Jabbar (Naib Qasid) to her home personally. After she personally received the message, she came to GGHSS University Town, on 30th December, 2021, and she filled the questionnaire and her written statement, which are duly attached.

• All attendance record, appointment and transfer letters and statement of defendant are attached.

A charge sheet was sent to her on 06 January, 2022 and she sent a written reply to it in her defense, on 13-01-2022. The written reply is duly attached.

Findings of Inquiry Committee

1. As per thorough inquiry, it has been affirmed that Mst Afshan Samin remained absent from duty, since the date she was transferred to Bar Bar Opazai On 24-02-2015, Endst No. 2770-73.
2. She has been drawing her salary from 24-02-2015 till November, 2021 without attending any school or teaching any class.
3. The written reply submitted by Miss Afshan Sameen against the charge sheet as well as her initial statement is neither supported by documentary evidence nor any other solid proof and hence found to be unsatisfactory, illogical and devoid of facts. Her long absence asserts her extreme negligence.
4. As per inquiry she never went to GGMS Bar Bar Opazai after her initial visit. There after she didn't bother to report her school Head Mistress or the DEO office for almost six years and nine months.

Suggestions:

1. It is suggested that recovery be made against MS. Afshan Samin, w.e.f 1st March 2015 till November 2021 (6 years nine months).
2. Keeping in view the collected evidence, the concerned authority is requested to take appropriate disciplinary action against the defendant, as per rules.
3. The concerned office staff responsible for payment of salaries for such a long period without verification may also be warned for negligence and precautions in future.
4. Detailed verification of teachers and school staff may be carried out to ensure presence and appointment of entire school staff who are paid the salaries and removal of absent /unlisted employees.
5. An appropriate procedure may be adopted or an effective mechanism must be devised to ensure presence of teachers and school staff before finalizing list of salaries at accounts' office for payment.

Submitted by:

Inquiry officer 17/1/2022

Mrs. Sajida Begum
Principal
GGHSS University Town Peshawar.
Dated: 14th January, 2022

Assisted by
Ms Sabina Yousaf
S.S.S Hist/caries

Amul... "e"

P-9 56

CHARGE SHEET

1. I, **Samina Ghani, District Education Officer (Female) Peshawar** as competent authority here by charge you, **Mst. Afshan Sameem AT Govt. Girls Middle School Barbar Opazai Peshawar** as follow:

That you have committed the following irregularities:

You had been transferred from GGMS Talam Khan Kaly to GGMS Barbar Opazai vide this office order Endst no: 2770-73 Dated 24.02.2015, but you failed to take over charge and marked yourself absent from duty. You got salaries silently/regularly without performing duty.

2. By reason of above, you appeared to be fraudulent/ guilty of inefficiency and misconduct under rule 3 of the Khyber Pakhtunkhwa Government servant (Efficiency and Discipline) rule 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.
3. You are therefore required to submit your defense in within seven days of the receipt of this charge sheet and the salaries received during the absent period must be deposited in the Govt. Treasury and submit receipt to the inquiry officer/ inquiry committee, as the case may be.
4. Your written defense, if any should reach in inquiry officer/ inquiry committee within specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you decide to be heard in person.
6. A statement of allegation is enclosed...

Samina Ghani
06/01/2022
District Education Officer
(Female) Peshawar.

Annexure - "D"

P-10 37



**OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) PESHAWAR. Email I.D. emisfpeshawar@gmail.com**

No. 552 /P/F Mst. Afshan Saleem AT Dated. 6/1/2022


To

**The Headmistress
G.G.M.S Barbar Opazai
Peshawar.**

Subject: **CHARGE SHEET**

Memo:


I am to refer to the subject noted above and to ask you to serve enclosed charge sheet upon Mst. Afshan Sameen AT G.G.M.S Barbar Opazai Peshawar and submit a copy of receipt thereof as a token to this office for record.


**District Education Officer
(Female) Peshawar**

Endst No. 553-56

Copy of the above is forwarded to the:-

1. P.S to Sectary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Inquiry Officers.
4. Mst. Afshan Sameen AT, GGMS Barbar Opazai, Peshawar.
5. Master file.


**District Education Officer
(Female) Peshawar**

06/01/2022

Annexure - 'E'

P-11

55



**OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) PESHAWAR. Email I.D. emisfpeshawar@gmail.com**

DISCIPLINARY ACTION.

1. **Samina Ghani DEO (F) Peshawar** as competent authority, am of the opinion that **Mst. Afshan Sameem AT Govt. Girls Middle School Barbar Opazai Peshawar**, has rendered himself liable to be proceeded against, as he committed the following act/omission. within the meaning of rule-3 of the Khyber Pakhtunkhwa Government servant (Efficiency & Discipline) Rules.2011.

STATEMENT OF ALLEGATION.

You had been transferred from GGMS Talam Khan Kaly to GGMS Barbar Opazai vide this office order Endst no: 2770-73 Dated 24.02.2015, but you failed to take over charge and marked yourself absent from duty. You got salaries silently/regularly without performing duty.

2. For the purpose of inquiry against the said with reference to the above allegations, an inquiry officer / inquiry committee, consisting of the following, is constituted under rule 10(1)(a) of the ibid rules.

i. **Mst. Sajida Begum, Principal, GGHSS University Town Peshawar.**

ii. **Mr. Sabina Yusrat, SSS, GGHSS University Town Peshawar.**

3. The Inquiry Officer / inquiry committee shall, in accordance with the provision of the ibid rules. provide reasonable opportunity of hearing to the accused, record its finding and make, within thirty days of the receipt of this order, recommendations as to punishment or order appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer / inquiry committee.

*Mst. Afshan Sameem AT
Office of the Headmistress,
GGMS Barbar Opazai, Peshawar*

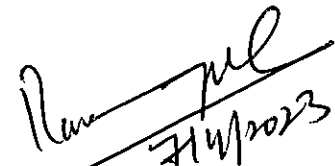
*Aziz Mami
06/01/2022*
District Education Officer
(Female) Peshawar



12
**OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) PESHAWAR. Email I.D.emisfpeshawar@gmail.com**

AUTHORITY LETTER

It is certify that Miss Shandan Ghani ADO Litigation (F)
Peshawar is hereby authorized to attend the Hon'ble Service
Tribunal Peshawar Khyber Pakhtunkhawa on behalf of
District Education Officer (F) Peshawar.


DY; DISTRICT EDUCATION OFFICER
(FEMALE) PESHAWAR
Dy. District Education Officer
(Female) Peshawar.