

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No_312/2022

Mst Seema NazAppellant

VERSUS

Govt of Khyber Pakhtunkhwa through Secretary Education and
others..... Respondents

S.NO	Description/Documents	Annexure	Pages
1	Comments	1,2,3
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6	Inquiry Report	B	10,11,12,13
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Respondent

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR**Appeal NO., 312/2022****Mstt: Seema Naz D/O Khudad Khan, Ex- PSTAPPELLANT****Versus****Government of Khyber Pakhtunkhwa through Secretary (E&SE) Peshawar and othersRespondents.****Para-wise comments /reply on behalf of respondents 1 to 3.****Respectfully Sheweth****Preliminary objections.**

1. That the appellant has got no cause of action/ locus standi to file the present appeal.
2. That the appellant has concealed the material facts from the Hon'ble Service Tribunal.
3. The present appeal has been filed to entangle the Department in unnecessary litigation and to waste the precious time of the respondents as well as of this Hon'ble Tribunal.
4. That the present appeal is against the relevant provision of law and rules.
5. That Appellant is estopped by his own conduct to approach this Hon'ble Tribunal.
6. That the instant appeal is not maintainable in its present circumstances of the issue.
7. That the appellant has been removed from service due to her long willful absence from her duty of concerned school vide this office Notification No. 3103-10 Dated 09-10-2021. Hence, the instant appeal may be dismissed without any further proceedings.
8. That the appeal is barred by law and limitation.
9. That this honorable court has got no jurisdiction to entertained the present appeal.

ON FACTS

- 1 Para No 1 pertains to record.
- 2 Para No 2 pertains to record.
- 3 Para No 3 is Incorrect. That during surprise visits of the DEO Battagram, the appellant was found absent many times. According to the IMU and the inquiry officer report (ASDEO Battagram) the appellant was not performing her duties regularly and remained willfully absent from school duties. Notice was served to appellant vide No 1794-99 dated 24-04-2021, vide No1580-83 Dated 30-06-2021 and No-2294 Dated 23-09-2021 for willful absent from duties. The appellant was previously penalized due to willful absent on 07-08-2021, 12-07-2021, 08-06-2021, 27-05-2021 and 09-04-2021. Show cause notices were served to appellant but the appellant failed to submit reply a letter for personal hearing was issued,

but the appellant did not bother to defend herself, which is followed by major penalty "**Removal from Services**" under (E&D 2011) Rules. (**Annexure A**).

4 Para No 4 is incorrect: The District Education Officer visited school several time and found remained absent. Several notices issued to appellant on the following dates a notice served upon vide No 1794-99 dated 12-04-2021, No 1580-83 Dated 30-06-2021 and No 2294 dated 23-09-2021 served to appellant from willful absent from duty. Followed by conducting inquiry officer reported that she did not perform her duty in school and remained willful absent from school duty without any departmental permission. The inquiry report is annexed as (**Annexure-B**).


5 Para No 5 is Incorrect:

GROUNDS

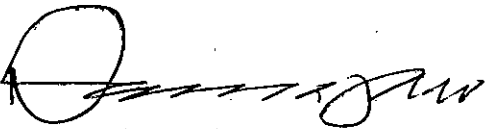
- A. Ground "a" is incorrect and notices were issued to appellant vide No 1794-99 dated 12-04-2021, vide No 1580-83 Dated 30-06-2021 and vide No 2294 dated 23-09-2021 remained absent from school duty and also reported by the inquiry officer. Appellant has also reported absent from duty previously on 07-08-2021, 12-07-2021, 08-06-2021, 27-05-2021 and 09-04-2021 for which appellant has already penalized.
- B. Ground "b" is Incorrect: Whereas appellant was proceeded against under the Khyber Pakhtunkhwa Govt: servants (Efficiency and Disciplinary rules 2011) for the charges of willful absence from duty w.e.f 17-03-2021 till the date of removal.
- C. Ground "c" is incorrect, reply has given in ground A
- D. Ground "d" is incorrect. Show cause notice has already been issued to the appellant on her home address through post office. The post office receipt is attached as (**Annexure-C**)
- E. Ground "e" is incorrect, reply has already given para 3 of the facts.
- F. Ground "f" is incorrect, reply has been given in para-d on the ground.
- G. Ground "g" is incorrect, reply has been given in ground b.
- H. Ground "h" is incorrect, reply has been given in para 3 and 4 of the facts.
- I. Ground "i" is incorrect, reply has been given in para 3 and 4 of the facts.
- J. Ground "J" is incorrect, reply has been given in the para 3 of the facts.
- K. Ground "k" is incorrect, reply has been given in para 3 of the facts.
- L. Pertains to record.
- M. In ground "m" respondent also seek permission of this Hon'ble Tribunal to agitate further points at the time of arguments.

It is therefore, humbly prayed that on acceptance of above para wise comments, the service appeal of appellant may graciously be dismissed.

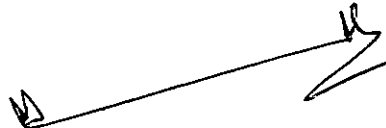
Respondent No. 01


Secretary to Government of Khyber
Pakhtunkhwa (E&SE) Department.

Respondent No. 02.


Director (E&SE) Khyber Pakhtunkhwa
Peshawar.

Respondent No. 03.


District Education Officer (F) Battagram

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Appeal NO., 312/2022


Mstt: Seema Naz D/O Khudad Khan, Ex- PST

Versus

**Government of Khyber Pakhtunkhwa through Secretary E&SE
Peshawar and other _____ Respondents**


AFFIDAVIT

1, REHANA YASMIN ABBASI District Education Officer (Female) Battagram, do here by affirm and declared on the oath that contents of accompanying para wise comments on behalf of responding No 3 are true and correct to the best of my knowledge and belief that nothing has been concealed from this honorable service tribunal Peshawar.

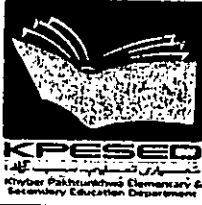


DEFENDANT:

CNIC 1330203836012



[Handwritten Signature]
28-3-2023



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

(Phone # 0997-310460) E-mail: demisfbattagram@yahoo.com

No _____ Dated _____ /2021

SHOW CAUSE NOTICE

Annexure (A)

I, Zohra Begum District Education officer Female Battagram as competent authority under the Khyber Pukhtoun Khowa Government Servants (Efficiency & Discipline) Rule 2011 do hereby serve you Mstt: Seema Nas PST B-12 GGPS Sanda Saray Qasim Khan follows:

1. During the two time surprise visits on dated 17-03-2021 and 10-04-2021 of the under sign you have been found absent from duties without any information
2. The same has also been reported by the DCMA and ASDEO female that you usually found willful absent from duties.
3. During the visit of under sign it has been observed that fake attendance/tempering is marked in your attendance register.

I am satisfied that you have committed the following act/omission specified in rule 9 of the said rules.

- a. guilty of willful absent from duty:
- b. guilty of misconduct
1. As a result therefore, I as a competent authority have tentatively decide to impose upon you the major penalty of removal from service under the rule 9 of the said rule.
2. You are therefore required the showcase as to why the aforesaid penalty should not imposed upon you in this connection you are directed to attend the office of the under signed on dated 13-04-2021 at 2.00pm positively.
3. If you failed to do so it shall be punished that you have no defense to put in and in that case and ex-part action shall be taken against you.


10/4/2021
DISTRICT EDUCATION OFFICER (F)
BATTAGRAM

Endst No. 1794-99 /2021

Dated: 12 /04/2021

Copy forwarded to the:-

1. Director Elementary and Secondary Education KP Peshawar.
2. Deputy Commissioner Battagram.
3. EMA Battagram
4. Head teacher with the direction to stop her attendance register immediately


10/4/2021
DISTRICT EDUCATION OFFICER (F)
BATTAGRAM



(7) (6) (3)

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

(Phone # 0997-310460) E-mail: demisfbattagram@yahoo.com

Annexure-(A)

ABSENT NOTICE

You **Mstt: Seema Naz PST B-12** GGPS Sanda Saray Qasim Khan found absent w.c.f. 17-03-2021 till date without any prior information and the same been reported by DCMA/EMA Battagram and during DEO, SDEO and ASDEO visit,

Now the competent authority is hereby served you the absent notice regarding your willful absence from duty and also you are directed to submit your reply within 07 days and also intimate whether you desired to be heard in person.

In case of failure to join your duty within stipulated period you will be preceded under Section 9 of Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) rules 2011.

Till date your service hereby placed at disposal of SDEO Female Battagram

//
DISTRICT EDUCATION OFFICER (F)
BATTAGRAM

Endst No. 1580-83 // 2021

Dated: 30 /06/2021

Copy forwarded to the:-

1. Director Elementary and Secondary Education KP Peshawar.
2. Deputy Commissioner Battagram.
3. EMA Battagram
4. Head teacher with the direction to stop her attendance register immediately during her absent period and till further Order

DISTRICT EDUCATION OFFICER (F)
BATTAGRAM



(8) 7

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

(Phone # 0997-310460) E-mail: demisfbattagram@yahoo.com

(1)

ABSENT NOTICE

On the surprised visit of undersigned on dated 17-03-2021 and 10-04-2021 Mstt: Seema Naz PST GGPS Sanda Saray Khan found absent w.e.f. 09-03-2021 till date without any prior information.

Now the competent authority is hereby served you the absent notice regarding your willful absence from duty and also you are directed to submit your reply within 07 days and also intimate whether you desired to be heard in person.

In case of failure to join your duty within stipulated period you will be preceded under Section 3 sub rules (a), (b), (c), (d) of Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) rules 2011.

Furthermore, your services as on the disposal of DEO Female Battagram

Ammeume (A)

(Signature)
10/4/2021
DISTRICT EDUCATION OFFICER (F)
BATTAGRAM

Endst No. 1800-0571/2021

Dated: 12 /04/2021

Copy forwarded to the:-

1. Director Elementary and Secondary Education KP Peshawar.
2. Deputy Commissioner Battagram.
3. EMA Battagram
4. Head teacher with the direction to stop her attendance/register immediately

In attendance
(Signature)
10/4/2021
DISTRICT EDUCATION OFFICER (F)
BATTAGRAM

Annexure A

Name	SEEMA NAZ	Father Name	khudadad khan	Designation	PST	First Appointed	PST	Gender	Female
Date Of Appointment	22,Jun,2011	Highest Qualification Level	HSSC/FA/FSc	Subject	Arts and Humanities	BPS	12	Disability	No
School Code	School	Date(dd/mm/YYYY)	personalNo	CNIC	Status	StatusDetails			
28576	GGPS SANDASARE QASIM KHAN	16/11/2021 11:16:19	656342	1.32029E+12	Transfer Out	Removal from service			
28576	GGPS SANDASARE QASIM KHAN	10-08-21 10:00	656342	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	10-05-21 10:09	656342	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	14/09/2021 08:54:19	656342	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	08-06-21 8:47	656342	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	28/07/2021 11:35:23	656342	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	13/07/2021 11:56:51	656342	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	07-12-21 10:35	656342	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	06-05-21 9:18	656342	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	27/05/2021 09:00:04	656342	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	04-09-21 9:46	656342	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	16/03/2021 11:00:59	656342	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	25/02/2021 10:05:10	656342	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	20/02/2021 10:06:20	656342	1.32029E+12	Absent	Late Comer			
28576	GGPS SANDASARE QASIM KHAN	11-12-20 13:50	656342	1.32029E+12	Absent	Leave			
28576	GGPS SANDASARE QASIM KHAN	10-08-20 10:05	656342	1.32029E+12	Absent	Leave			
28576	GGPS SANDASARE QASIM KHAN	29/11/2019 10:30:19		1.32029E+12	Present				
28576	GGPS SANDASARE QASIM KHAN	14/11/2019 11:31:00	656342	1.32029E+12	Absent	Leave			
28576	GGPS SANDASARE QASIM KHAN	14/10/2019 11:32:22		1.32029E+12	Present				
28576	GGPS SANDASARE QASIM KHAN	09-06-19 10:25		1.32029E+12	Present				
28576	GGPS SANDASARE QASIM KHAN	09-04-19 10:04		1.32029E+12	Present				
28576	GGPS SANDASARE QASIM KHAN	08-05-19 11:43		1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	29/06/2019 10:22:33	0	1.32029E+12	Present				
28576	GGPS SANDASARE QASIM KHAN	05-08-19 10:04		1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	25/04/2019 09:50:12		1.32029E+12	Absent	Leave			
28576	GGPS SANDASARE QASIM KHAN	26/03/2019 10:04:02		1.32029E+12	Absent	Late Comer			
28576	GGPS SANDASARE QASIM KHAN	03-12-19 11:31		1.32029E+12	Present				
28576	GGPS SANDASARE QASIM KHAN	03-11-19 11:22		1.32029E+12	Present				
28576	GGPS SANDASARE QASIM KHAN	29/11/2018 10:09:09		1.32029E+12	Present				
28576	GGPS SANDASARE QASIM KHAN	10-06-18 9:49		1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	22/09/2018 10:47:00		1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	09-07-18 11:20		1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	28/08/2018 10:11:04		1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	22/06/2018 09:23:56		1.32029E+12	Present				
28576	GGPS SANDASARE QASIM KHAN	21/05/2018 09:26:41		1.32029E+12	Absent	Un-Authorized			

28576	GGPS SANDASARE QASIM KHAN	16/04/2018	1.32029E+12	Absent	Leave			
28576	GGPS SANDASARE QASIM KHAN	03-12-18	1.32029E+12	Absent	Un-Authorized			
28576	GGPS SANDASARE QASIM KHAN	22/11/2017	1.32029E+12	Present				

9

رپورٹ برائے سیماناز "سلسل غیر طاہری/ڈیوٹی نہ کرنا"

جنا - عالیہ!

گزارش کی طائی صیدہ سائلہ کو سیماناز کی غیر طاہری کے متعلق اور ڈیوٹی نہ کرے والے معاملے پر چھان بین کے متعلق انکو انٹری دی گئی ہے۔ زیر دستخط ہے۔ اس معاملے میں انکو انٹری کی جس کی رپورٹ طاہر خدمت ہے۔

سیماناز عرصہ دراز سے اپنی ڈیوٹی سے

غیر طاہر رہی ہے اور اس بات کا اور اس کی غیر طاہری کا انکشاف بار بار 13/11/17

ASDEO اور DEO کے وزٹ کے دوران وقتاً فوقتاً ہوتا رہا۔ سائلہ سلسل اپنی ڈیوٹی سے غیر طاہر رہی گئی۔

زیر دستخط ہے جب سرکل ASDEO

کی موجودگی میں سکول کا وزٹ کیا

یہ اس دن بھی سیماناز اپنے سکول سے غیر طاہر رہی گئی۔

سرکل ASDEO کی رپورٹ کے مطابق

اسیوں نے آج تک اس مشیر کو کہی

میں ڈیوٹی پر موجود نہیں پایا ہے اور اس
 کی غیر حاضری کی وجہ سے اس کو بار بار
 آفس بلا یا گیا مگر یہ نہیں آئی۔ اس کی
 log book میں وقتاً فوقتاً ASD&EO کے ریٹائرمنٹس
 سے اس بارے کا بخوبی اندازہ لگایا
 جا سکتا ہے کہ سیمینار اپنی ڈیوٹی سے غیر حاضر
 رہتی ہے۔

کمپنٹی کے لوگوں سے پوچھنے پر
 معلوم ہوا کہ سیمینار نامی شیئر تو اس سکول
 میں سٹاڈی کے لیے آئی ہیں اور کبھی کبھار
 ایک دن کیلئے آجایا کرتی تھی مگر اب تو بالکل نہیں
 آتی۔

آفس سے مذکورہ شیئر کو personal
 کیلئے بھی جتنی دفعہ بلا یا گیا شیئر نے کوئی response
 نہیں دیا اور ASD&EO کے بیان کے مطابق یہ بھی اس
 شیئر سے فون پر رابطہ کرنے کی کوشش کی
 تو اس نے غیر نہیں اٹھایا یا کھر
 آفس کے غیر کو black list پر کیا ہوا تھا۔

یڈر شیئر سے جب زیر دستخط

(8) پوچھا تو اس نے واقعہ جو اب نہیں دیا البتہ یہ
 کیا کہ ہے سیماناز سیری رشتہ دار ہے میں اس کے
 خلاف آپ کو تحریری بیان میں دے سکتی
 کیوں کہ اس وجہ سے میرے گھر میں میرے لئے
 مسئلے بن جائیں گے۔

IMU کے ریگارڈ کو جب دیکھا
 گیا تو اس سے یہ بات فزید واقعہ ہو گئی کہ
 سیماناز سکول میں ڈیوٹی نہیں کرتی کیونکہ
 ہر ماہ کے وزٹ اور revisit میں سیماناز
 کی مسلسل غیر حاضری اس کی ڈیوٹی نہ
 کرنے کا عندیہ لولتا ثبوت ہے۔

سکول کے بچوں سے پوچھنے پر

معلوم ہوا کہ وہاں صرف ایک ہی ٹیچر سکول
 میں آتی ہے جس کا نام سیف النساء ہے اور
 جو اس سکول کی ہیڈ ٹیچر ہے۔

اس تمام تر

انکوائری اور تحقیقات سے اس بات کا

اندازہ لگایا گیا کہ چونکہ یہ ڈیپٹی ڈیوٹی

میں کرنی تو لہذا اس ڈیپٹی کے خلاف

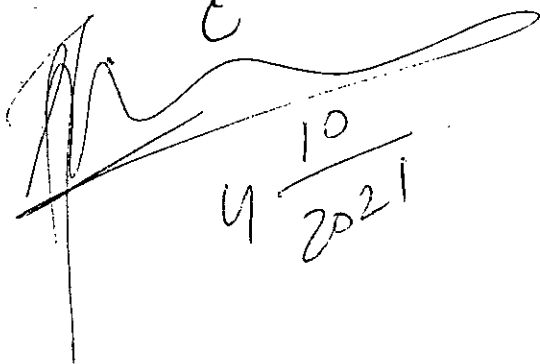
مست ایکشن لیا جائے گا کہ اس کے

لہذا ایسی ڈیوٹی نہ کرنے والی ڈیپٹی

کی حوصلہ شکنی کی جا سکے گی۔

پور پرفارمنس کی وجہ سے Ballagram

Ranking میں ڈاؤن ہو رہی ہے۔


4/10/2021



**OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)
BATTAGRAM 0997310460**



No: 2294/EB-Pary-Show Cause Notices
Dated: 23/9/2021

To,

Seema Naz D/O Khuda Dad Khan
Village Sandasary, Post Office, Tehsil & District
Battagram.

Subject:- **SHOW CAUSE NOTICE**

I, District Education Officer Female Battagram as competent authority under the Khyber Pahtunkhwa Government servants (Efficiency & Discipline) rule 2011 do hereby serve you Mst: Seema Naz PST B-12 GGPS Sandasary Qasim Khan as follows.

1. During the two time surprise visits on 17/3/2021 & 10/4/2021 of the undersigned you have been found absent from duties without any information.
2. The same has also been reported by DCMA and ASDEO Female that you usually fount absent from duties.
3. That you are absent from duty w.e.f 17/03/2021 to till date and absent notice vide this office letter No.1800-05 date: 12/04/2021 was already sent to you and a chance of personal hearing was also provided to you but, you neither attend this office nor your written reply received to this office
4. During the visit of undersigned it has been observed that fake attendance/tempering is marked in your attendance register.

I am satisfied that you have committed the following act/omission specified in rule 3 of the said rules.

- b. Misconduct.
- d. Habitual absence.

5. As a result therefore, I as a competent authority have tentatively decided to impose upon you the major penalty of removal from service under the rule ~~30(1)(b)~~.
6. You are therefore required to attend this office in person and written reply of the show cause on dated: 28/09/2021 at: 12:00pm positively, as to why the aforesaid penalty should not imposed upon you.
7. If you failed to do so it will be consider that you have no defense to put in and in that case and ex-parte action shall be taken against you.

[Handwritten Signature]
23/9/2021

DISTRICT EDUCATION OFFICER (F)
BATTAGRAM

Cause Notices Dated: 23/9/2021

Education Khyber Pakhtunkhwa Peshawar.

stop her attendance in register immediately.

DISTRICT EDUCATION OFFICER (F)
BATTAGRAM

5

Rs. 100 Ps. 00

700405

Post Office

Seema Naz

Weight 100 Kilo 00 Grams

Ps. 00 (in words)

Address of sender



OFFICE OF THE DISTRICT EDUCATION OFFICER (F)
DISTRICT BATTAGRAM



Annexure (C)

File No: _____

Dated: ___/10/2021

Notification for Major Penalty of Removal from service.

1. Whereas, (SEEMA NAZ, PST, GGPS SANDASARE QASIM KHAN(EmisCode:28576)) was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for the charges of willful absence from duty w.e.f from 17-03-2021 till date.
2. And whereas, a show cause notice was served upon her vide No. 1794-99 dated 12-04-2021, vide No.1580-83 Dated.30/06/2021 and Vide No.2294 dated.23/09/2021 for willful absence from duty within the meaning of Rule-3 (d) and Rule-4 (b) (iii).
3. And whereas, she had also been reported absent previously on 07/08/2021, 12/07/2021, 08/06/2021, 27/05/2021 and 09/04/2021 for which you had already been penalized.
4. And whereas, the Competent Authority after having considered the charges, evidence on record, her track record pertaining to her willful absence on various occasions, her reply dated .NILL for the personal hearing granted to her vide No. 2294 dated 28/09/2021 is of the view that the charges mentioned in the show cause have been proved against (SEEMA NAZ, PST, GGPS SANDASARE QASIM KHAN(EmisCode:28576)).
5. And whereas, inquiry officer ASDEO battamori mst.Tahira is also reported you willful absence from her duty
6. Now, therefore, in exercise of the powers conferred under (Efficiency and Discipline) Rules, 2011 the Competent Authority is pleased to impose the major penalty of "**Removal from service**" under the (E&D) Rule 2011 sub Rule-4 (b) (iii) upon (SEEMA NAZ, PST, GGPS SANDASARE QASIM KHAN(EmisCode:28576)) with immediate effect.

Note: if payment in shape of salary of the absent period released to her should be deposit in government treasury through challan form.

No. 1512 For Insurance RGL58186212

Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered* addressed to _____ Date-Stamp _____

Initials of Receiving Officer _____ *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

If insured. Insurance fee Rs. _____ Weight _____ Kilo _____ Grams _____

Name and address of sender _____

[Signature]
District Education Officer (F)
Battagram

S T Road, Peshawar

ed for necessary action
hisCode:28576), BATTAGRAM,

8. SDZU (S) / ...
Service Books.

[Signature]
District Education Officer (F)
Battagram

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 312 /2022

Mst. Saima Naz Ex.PST, daughter of Khuda Dad wife of Abdul Jabbar,
resident of Sanda Saray cum Arghashori, Tehsil & District Battagram.
...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary
Education Peshawar & others.
...RESPONDENT

SERVICE APPEAL

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**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 312 /2022

Mst. Saima Naz Ex.PST, daughter of Khuda Dad wife of Abdul Jabbar,
resident of Sanda Saray cum Arghashori, Tehsil & District Battagram.

...APPELLANT

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 380

Dated 04/03/2022

1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Female) District Battagram.

...RESPONDENTS

APPEAL UNDER SECTION 4 KPK SERVICE
TRIBUNAL ACT 1974 READ WITH UPDATE
AMENDED AGAINST THE IMPUGNED
NOTIFICATION DATED 09.10.2021 ISSUED BY
RESPONDENT NO. 3, WHEREBY RESPONDENT
NO. 3 IMPOSED MAJOR PENALTY OF REMOVAL
FROM SERVICE UPON APPELLANT WHICH IS
ILLEGAL, AGAINST THE LAW AGAINST THE
FACTS HENCE INEFFECTIVE UPON THE RIGHTS
THE APPELLANT AND LIABLE TO BE SET-ASIDE.

Filed to-day

Registrar

04/03/2022

PRAYER:- ON ACCEPTANCE OF THE INSTANT APPEAL, IMPUGNED NOTIFICATION DATED 09.10.2021 ISSUED BY RESPONDENT NO. 3 MAY KINDLY BE DECLARED NULL AND VOID AND APPELLANT BE REINSTATED INTO SERVICE ALONGWITH ALL BACK BENEFITS. ANY OTHER RELIEF WITH THIS HONOURABLE COURT MAY DEEM FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE APPELLANT.

Respectfully Sheweth;-

The appellant beg to solicit through this service appeal on the following legal and factual grounds:-

1. That appellant hail from District Battagram in year 2011 applied for appointment against the post of PST.
2. That thereafter completion of all codal formalities respondent No. 3 issued appointment order of the appellant as PST Teacher.

3. That after joining duty, appellant performed her duty with full devotion, dedication and liabilities and no complaint was ever found against her.
4. That on 09.10.2021, respondent No. 3 issued so-called impugned notification, without any justification and lawful authority on the basis of self-made allegation. Copy of impugned notification dated 09.10.2021 is annexed as Annexure "A".
5. That on 07.11.2021, appellant filed departmental appeal before the respondent No. 2 against the impugned notification dated 09.10.2021, but till dated respondent No. 2 not passed any order and similarly not given any response on the service appeal. Copy of departmental appeal is annexed as Annexure "B". Hence present appeal on the following legal grounds:-

GROUND:-

- a. That, the removal from service notification dated 09.10.2021 is illegal, unlawful, without lawful authority, perverse, and

against the constitutional guaranteed rights of the appellant hence, untenable in the eye of law and his liable to be set-aside.

- b. That when law prescribed something which is to be in a particular. That must be in that manner and not otherwise. Hence the respondents were bound to follow the law which amount to misconduct on the part of respondents. Hence impugned order is liable to be set-aside and appellant be reinstated alongwith all back benefit ~~as per~~ as per law.
- c. That, neither any charge sheet was served upon the appellant nor she was associated with any enquiry hence, the termination/ removal notification is based on political influence, therefore liable to be set-aside.
- d. That respondent No. 3 intentionally not delivered impugned notification to the appellant for redressing of her grievance and lastly on 04.11.2021 respondents given the said impugned notification to the appellant

after many requests which shows the malafide of the respondents.

- e. That, the appellant was condemned unheard and she did not given opportunity for personal hearing to bring the real and true facts on the screen.
- f. That even otherwise the impugned notification dated 09.10.2021 is liable to be set-aside on the grounds that no rights of defence or personal right of hearing which was mandatory provision of law was given to the appellant before being proceeded against her.
- g. That, impugned order was passed against the appellant with malafide, against law as void and without jurisdiction.
- h. That the whole disciplinary proceedings initiated against the appellant have been done in contravention to the rules, regulation and law and therefore the whole proceedings

are liable to be set-aside appellant be reinstated to her original post.

- i. That respondents violated the basic principle of natural justice and rule and procedure prescribed in E&D rules, hence impugned notification is liable to be set-aside.
- j. That respondents issued impugned notification against the well known principles procedures prescribed and guidelines by the superior courts time by time for the governments departments but respondents ignored all these rules and principles.
- k. That the respondents without any reasons on the part of appellant imposed major penalty of removal from service and no opportunity

- l. That the addresses of the parties have been correctly given in the heading of the appeal.
- m. That other points would be argue at the time of argument with the kind permission this Honourable Tribunal.

It is, therefore, humbly prayed that on acceptance of the instant appeal, impugned notification dated 09.10.2021 issued by respondent no. 3 may kindly be declared null and void and appellant be reinstated into service alongwith all back benefits. any other relief with this honourable court may deem fit and proper in the circumstances of the case may also be granted to the appellant.

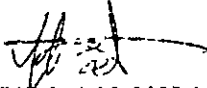

...APPELLANT

Through

Dated: 1/2 /2022


(HAMAYUN KHAN)

&


(FAZLULLAH KHAN)
Advocates High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.


...APPELLANT