

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 145/2018

Date of Institution... 29.01.2018

Date of Decision... 11.05.2023

Mst. Shagufta Naz Widow/O Muhammad Yousaf. R/O Wazir Bagh Road
Peshawar.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary Secretariat
Peshawar and 03 others.

... (Respondents)

MR. MUHAMMAD IMRAN KHAN
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH
Deputy District Attorney

--- For respondents.

MR. KALIM ARSHAD KHAN
MR. SALAH-UD-DIN

--- CHAIRMAN
--- MEMBER (JUDICIAL)

JUDGMENT:


SALAH-UD-DIN, MEMBER:- Briefly stated the relevant facts are that the appellant was appointed as CT vide appointment order bearing endorsement No. 3565-3642 dated 09.12.1999 and was posted in Government Girls Middle School Shah Alam Peshawar. During the course of her service, the appellant was granted earned leave with effect from 01.10.2002 till 30.11.2002, however on expiry of the said leave, the appellant did not return to resume her duty. Departmental action was taken against the appellant and she was removed from service vide the impugned order dated 20.11.2017, which was challenged by the



appellant through filing of departmental appeal, however the same was also rejected, hence the instant service appeal.

2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing of reply, wherein they refuted the assertion raised by the appellant in his appeal.

3. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Deputy District Attorney for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.



4. Arguments have already been heard and record perused.

5. A perusal of the record would show that the appellant was appointed as C.T in the year 1999 and was granted earned leave with effect from 01.10.2002 till 30.11.2002, however she did not resume her duty after availing the earned leave. Available on the record is copy of letter No. 3796/P/File dated 07.01.2003 addressed by District Education Officer School & Literacy Peshawar to the Headmistress of Government Girls Middle School Shah Alam Peshawar, whereby she was asked to inform the appellant to resume her duty. In response to the said letter, Headmistress Government Girls Middle School Shah Alam Peshawar issued letter No. 91 dated 04.03.2003 to the

appellant asking her to resume her duty. The said notice was allegedly sent to the appellant on her home address through registered A.D and receipt of the post office has been annexed by the respondents alongwith their comments.

6. The main ground agitated by learned counsel for the appellant is that no proper departmental inquiry was conducted before issuing of the impugned order of removal of the appellant. Available on the record is copy of an application submitted by the appellant to the District Education Officer (F) Peshawar bearing Diary No. 914 dated 27.10.2014 wherein she had herself categorically admitted that she had remained absent from duty with effect from the year 2002. Keeping in view the contents of the aforementioned application, the appellant had herself admitted that after availing earned leave with effect from 01.10.2002 to 30.11.2002, she did not resume her duty. The salary of the appellant was also stopped in the month of October 2002, however she did not bother to avail any legal remedy for releasing of the same. When the appellant had herself admitted her long standing absence of about twelve years without giving any plausible reasons for the same, then there could not arise any question of conducting of regular inquiry in the matter. The appellant was appointed in the year 1999 and after a span of service of about three years, she remained absent for considerable long period without any plausible reasons. The appellant did not

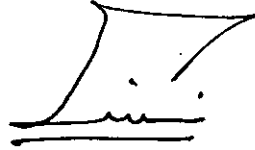
even bother to seek any leave from the competent Authority and deliberately remained absent, which amounts to misconduct.

7. In view of the above discussion, the appeal in hand stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
11.05.2023



(KALIM ARSHAD KHAN)
CHAIRMAN



(SALAH-UD-DIN)
MEMBER (JUDICIAL)