

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL No 261 OF 2023

Mst. Hari Jan -----

Appellant

Education Peshawar
Service Tribunal

Entry No. **5553**

Date of filing **24/5/2023**

VERSUS

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

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.1, 2, 3.

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Dated 19-05-2023

13/6/2023



**Respondent No. 1
District Education Officer,
(Female) Kohistan Upper**

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

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Mst. Hari Jan -----

Appellant

VERSUS

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4. Director Elementary & Secondary Education KPK Peshawar
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Respondents

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

- I. That the appellant did not come to this Honorable Tribunal with clean hands.
- II. That the appellant has got no cause of action /locus standi to file the
Instant appeal
- III. That the appellant is estopped to sue through his own conduct.
- IV. That the present appeal is not maintainable due to non-joinder and
Mis-joinder of necessary parties.
- V. That the appellant has concealed the material facts from this Honorable
Tribunal, hence appeal is liable to be dismissed without any further
proceeding.

(2)

VI. That the appellant has already been removed from Service after Completion of all codal formalities vide order dated 09/09/2021, hence Appeal is liable to be dismissed.

VII. That the appeal is time bared hence not maintainable and liable to be Dismissed.

Factual Objections:

1. Correct, pertain to the appellant personal record.
2. Incorrect strongly denied that the appellant reported absent from duty by her officer, showcause notice was served to the appellant no reply received. On the receiving no reply of showcause notice then the appellant was called for personal hearing but the appellant did not come for this, the appellant did not performed her duty in school and proved unauthorized absent from her duty.
(Copy of showcause notices is annexed as annexure-A).
3. Incorrect strongly denied that the appellant make a fake and bogus attendance on register and did not performed her duty in the school. Show cause notice was served to him and no reply was found a chance of personal hearing was also provided to the appellant but did not come to the office for personal hearing, her willful absence was proved, hence the appellant was removed from service under the efficiency & disciplinary rules 2011 by following al codal formalities dated 09-09-2021.
(Copy of removal order annexed as annexure B)
4. Incorrect strongly denied that the appellant departmental appeal is badly time barred hence the competent authority reject her appeal by following all codal formalities.
(Copy of rejection of appeal is annexed as annexure-C)
5. Strongly denied that the appellant is not aggrieved person her appeal is badly time barred hence need to dismissed on the above facts.

(3)

GROUNDS:

- A. Incorrect, strongly denied that the impugned order is issued by following all the codal formalities as stated in Para 2, 3 & 4 of factual objections.
- B. Incorrect, strongly denied the competent authority issued removal order by fulfilling all codal formalities a detailed reply has been given in Para No.2,3 & 4 of factual objections.
- C. Incorrect strongly denied that showcause notice was issued to the appellant a chance for personal hearing was also provide as stated in Para 2 above of factual objections.
- D. Incorrect strongly denied that the appellant has provided the opportunity for self-defense and his absence was proved.
- E. Incorrect strongly denied as stated in Para 2 & 3 above of factual objections.
- F. Incorrect strongly denied that as stated that by passing these order all codal formalities in above as stated in Para 2 & 3 above of factual objections.
- G. Incorrect strongly denied that the appellant has provided the opportunity for self-defense and his absence was proved.
- H. It relates to appellant personal record.
- I. That the respondents seek leave of this Honorable Tribunal to raise additional grounds /points/records during the course of arguments.

It is therefore, in the light of above stated facts and circumstances,
Very humbly prayed that appeal in hand may please be dismissed with cost.

(4)



SECRETARY
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar



DIRECTOR
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar



Respondent No. 3
District Education Officer,
(Female) Kohistan Upper

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL No 261 OF 2023

Mst. Hari Jan -----

Appellant

VERSUS

5. District Education Officer (Female) Kohistan Upper
6. Director Elementary & Secondary Education KPK Peshawar
3. Govt of Khyber Pakhtunkhwa through Secretary
Elementary Secondary Education KPK Peshawar

Respondents

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3.

AFFIDAVIT

I, Mr. Shah Wali Ullah representative on behalf of DEO (F) Kohistan Upper, is hereby solemnly affirm and declare that the contents of foregoing comments of the appeal No. 261/2023 titled Mst. Hari Jan versus Govt: of KPK are true and correct to the best of my knowledge and belief and nothing is being suppressed from the Honorable Court.



23/05/23


DEPONENT

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(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL No 261 OF 2023

Mst. Hari Jan -----

Appellant

VERSUS

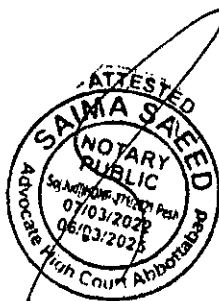
5. District Education Officer (Female) Kohistan Upper
6. Director Elementary & Secondary Education KPK Peshawar
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Respondents

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23/05/23


DEPONENT



OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE KOHISTAN UPPER

Email: Dofemalekohistanupper@gmail.com - 0998407225

Show Cause Notice:

I, Muhammad Amin District Education Officer (F) Kohistan Upper, the Competent Authority under the Khyber-Pakhtunkhwa Government Servant Efficiency & Disciplinary, Rules 2011, do hereby serve upon you, MST: Hari Jan PST GGPS Kaht Kandli for the following charges;

1. As per report of SDEO/ASDEO Circle Seo Kandia on 09-05-2021 you willfully remained absent from your duty and school was found closed without proper permission/intimation or leave.
2. Therefore, you are directed to resume your duty immediately and show cause of your absent period with solid reasons.
3. Thus you proved negligent and subvert government official and you have committed the gross act/omissions of misconduct, inefficiency, subversion, specified in Rule 3 of the mentioned rules.

As a result, thereof, I as the Competent Authority, have tentatively decided to impose upon you, the major penalty of removal from service and recovery of illegal pay of your absent period, mentioned in Rule 4(a), (b), and (c), of the Ibid Rules.

You are, therefore, required to show cause as to why one or more penalties in sub rule No.4(a) and 4(b) provided in the aforesaid Rules should not be imposed upon you and also intimate whether you desire to be heard in person.

If no reply on your behalf to this effect is received, to this office, within 07 days of delivery of this show cause, it shall be presumed that you have no defense to put in and, in that case, Ex-parte action will be taken against you.

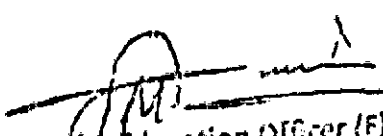
(Muhammad Amin)
District Education Officer (F)
Kohistan Upper.

Endorsement No. 4/22-27

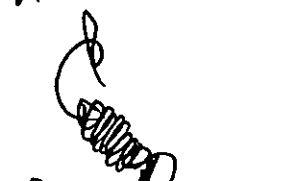
Dated: 02/08/2021.

Copies for information and necessary action forwarded to the:

1. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner Kohistan Upper.
3. The PA to District Education Officer (F) Kohistan Upper.
4. The Deputy District Education Officer (F) Dassu, Kohistan Upper.
5. MST: Hari Jan PST GGPS Kaht Kandlia.
6. Copy to Master File for record.


District Education Officer (F)
Kohistan Upper.




Budget & Account Officer,
DEO (F) Kohistan Lower

Acknowledgment: I _____ received my copy.



**OFFICE OF DISTRICT EDUCATION OFFICER
(FEMALE) KOHISTAN**

OFFICE ORDER/ REMOVAL FROM SERVICE

01. WHEREAS as per the numerous complaints received to the undersigned through various means the following female teachers remained absent from their duties without any prior permission or leave for several years.
02. WHEREAS their schools remained closed/Non-functional during the regular visits of EMA.
03. WHEREAS they were reported absent by EMA time and again during the visits of the concerned DCMA's.
04. WHEREAS they put their fake attendance in the school registers at their home.
05. WHEREAS the concerned ASDEOs were directed to verify their absenteeism.
06. WHEREAS the concerned ASDEOs confirmed/verified their absenteeism as per their report.
07. WHEREAS show cause notices were issued to them vide the references made against their names.
08. WHEREAS they submitted their reply which were found inconvincible and thus they admitted the charges leveled against them.
09. WHEREAS they failed to avail the chance of personal hearing.

Therefore the undersigned being the competent authority, do hereby impose Major Penalty of Removal from Service, upon the following female teachers under Rule 4(b) of E&D Rules 2011, with immediate effect, in the interest of public service.

S.No	Name of Teacher with designation	Name of School	Show cause reference	Remarks
01	Maryam Anwar PST	GGPS Kuz Kamila	No.4038-43 dated:02/08/2021	
02	Arifa Bibi PST	GGPS Dhoop Lohi	No.4056-61 dated:02/08/2021	
03	Gul Fawcer PST	GGPS Maidun Tayal	No.4068-73 dated:02/08/2021	
04	Hari Jan PST	GGPS Khat Kandia	No.4122-27 dated:02/08/2021	
05	Asmat Begum PST	GGPS Khat Kandia	No.4128-33 dated:02/08/2021	
06	Shabnum Afzal PST	GGPS Karang	No.4176-81 dated:02/08/2021	
07	Nasreen Bibi PST	GGPS Khat Gabral	No.4186-93 dated:02/08/2021	
08	Maryam Bibi PST	GGPS Kai Rustum Abad	No.4200-4204 dated:02/08/2021	

MUHAMMAD AMIN
District Education Officer
(Female) Kohistan

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Budget & Account Officer
DEO (M) Kohistan Lower



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR**

NOTIFICATION

1. **WHEREAS**, the District Education Officer Female Kohistan Upper has imposed major penalty of removal from Service upon the below, Ex teachers of District Kohistan Upper under E&D Rules-2011 vide her Notifications issued under Endorsement No. 4627-36 dated 09-09-2021, and No: 4607-16 dated 09-09-2021 and No: 1782-89 dated; 23-06-2021.
2. **ANDWHEREAS**, the Appellants concerned submitted their appeals for their reinstatements to this office and sent these appeals to the DEO (F) Kohistan Upper for her comments/views vide letter No. 7251 dated: 11-08-2021, No. 5348 dated: 04-10-2021 and No. 2213 dated; 22-09-2021 and the DEO (F) Kohistan Upper submitted her report dated: 31-05-2022.
3. **ANDWHEREAS**, an opportunity of personal hearing were granted to the appellants vide this office letter No: 8398 dated; 15-11-22, No.6520-21 dated; 07-11-2022 and No. 5579 dated; 06-12-2022, and attended this Directorate on due date and time.
4. **ANDWHEREAS**, after going through the material on the record and statements of the appellants during the personal hearing, and the charges against them have been proved and found guilty.

Now therefore, in exercise of power conferred under the Government of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, the appellate authority, Director (E&SE KP) rejected the appeals of appellants under Rule 17 (2) (a) of the E&D Rules-2011 in the interest of the public service.

- 1) Gul Fahir Ex PST GGPS Madian Teyal.
- 2) Hari Jan Ex PST GGPS Khat Kandia.
- 3) Maryam Bibi Ex PST GGPS Koi Rustam Abad.

Director
Elementary & Secondary
Education Khyber Pakhtunkhwa


Endst:No. 5252-55 /F.No.322/Vol-II/F/Appeal Kohistan Upper Dated 05/01/2023.

Copy forwarded for information to the:-

1. District Education Officer (Female) Kohistan Upper.
2. District Account Officer Kohistan Upper.
3. Sub Division Education Officer (Female) concerned.
4. Teacher Concerned.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa.

Assistant Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Budget & Account Officer,
DEO (M) Kohistan Lower.

 9
**OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) KOHISTAN UPPER**

No 778 DEO (F)/UK Dated 22/05/2023.

AUTHORITY LETTER:

Mr. Shah Wali Ullah Computer Operator (BPS-16)/representative for Court cases is hereby authorized to attend all the Court cases of Honorable Peshawar High Court and its benches in KPK as well as Honorable Service Tribunal KPK Peshawar and its Camp Courts and submission of Parawise comments on behalf of the District Education Officer (Female) Kohistan Upper.

It is further directed to attend all the Court Cases on behalf of the undersigned and maintained the record of all Court cases and will be eligible to claim TA/DA as per rule.

District Education Officer
(Female) Kohistan Upper

Endst. No 77982 DEO (F)/UK Dated 22/05/2023.

Copy of the above is forwarded for information to the:-

- 1- PS to Deputy Secretary (Legal) Elementary & Secondary Education Department, KPK, Peshawar.
- 2- PA to Director, Elementary & Secondary Education, KPK, Peshawar.
- 3- PA to AAG High Court Peshawar & Service Tribunal KPK, Peshawar.
- 4- PA to DEO (F) local office.
- 5- Office file

District Education Officer
(Female) Kohistan Upper

22/05/23