

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No: 1613/2022

Discy No. 5642

Date: 29/5/2023

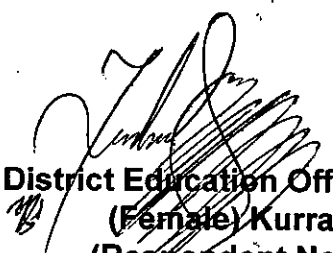
Bibi Sakina..... (Appellant)

Versus

Government of Khyber Pakhtunkhwa & others.....(Respondents)

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District Education Officer
(Female) Kurram
(Respondent No.5)

19/6/2023

Peshawar.

BEFORE THE HONOURABLE SERVICE TRIBUNAL KP PESHAWAR

Service Appeal No: 1613/2022

Title: Bibi Sakina..... (Appellant)

Versus

Government of Khyber Pakhtunkhwa & others (Respondents)

Joint Para-wise Comments on behalf of Respondent No. 1- 4.

Respectfully shewith.

- That the appellant has got no cause of action/Locus standi to file an instant Appeal.
- That the appellant has concealed all the material facts from this honorable tribunal.
- That the appellant has not come to this tribunal with clean hands.
- That the appellant is estopped by his conduct to bring the instant Appeal.
- That the appeal is bad for misjoinder and non-joinder of necessary parties.
- The appeal is being time-barred.
- That the appeal is barred by law and limitation.

ON FACTS

1. That para-1 pertains to the record of the appellant.
2. Pertain to record.
3. Pertain to record.
4. That para-4 is correct.
5. That para-5 pertains to record.
6. That para-6 pertains to record of the appellant.
7. That para-7 subject to service book record.
8. Pertains to record.
9. Pertains to record.
10. Pertains to record.
11. That the appellant was retired from service by the then DEO Kurram on her request.
12. That the then DEO Kurram cancelled her retirement order, vide office order No.4050-53/Edu Dated 31-5-2022 on her request, dated 17-5-2022, as she remained out from service for the period of (05) five months and (08) eight days.
13. Incorrect and denied, that the appellant was retired on 23/12/2021, as per her tendered application for retirement, while after five months and eight days, she filed an application on 17.5.2022 for cancellation of her retirement order No.12978-82 dated 23/12/2021, which was accepted, and her retirement order cancelled without consultation / prior permission of high-up's by the then DEO Kurram vide order No.4050-53 dated 31/5/2022, hence to avoid legal complications and further financial matters, the under signed / moved a letter for guidance/opinion of competent authority to the Director of Education E&SE vide letter No.4347-49 dated 29/9/2023 and reply is awaited to final decision of director E&SE. Moreover the appellant will be treated according to rule/policy.
(Application of the appellant for reinstatement.....Annexure-A)
(Letter for opinion/guidance to Director E&SE..... Annexure-B)
14. The respondent department is also submitting under the following ground inter alia.

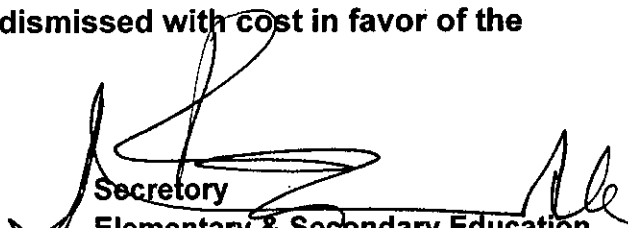
ON GROUNDS:

- A. Incorrect and denied, that appellant was retired as she desired, and reinstated by the then DEO Kurram on the base of her application in her best interest, hence she has been treated by the Education Department as per rules and policy.
- B. Incorrect and denied the appellant has been treated as per law. The respondent department did not violate Article 4 & 25 of the constitution of Islamic Republic of Pakistan 1973, and has been acted according to the rules and policy.
- C. Incorrect and denied. The appellant is exerting illegal the pressure on the respondent department through instant appeal and the responded department has acted according to the Rules / Policy.
- D. Incorrect and denied, that the retirement notification was issued upon her request, but later cancelled upon her application.
- E. Incorrect and denied as she was granted permission to take pension and leave encashment from the Respondent Department according to rules/policy in vague.
- F. Incorrect and denied detail reply is given above in ground-E.
- G. Incorrect and denied as her resignation was accepted but later on cancelled on her request.
- H. That the respondent department also seeks permission of the honorable service tribunal to submit additional grounds at the time of arguments.


Prayer

It is humbly prayed that because of the legal and factual position the instant appeal may be ordered as dismissed with cost in favor of the respondent department.

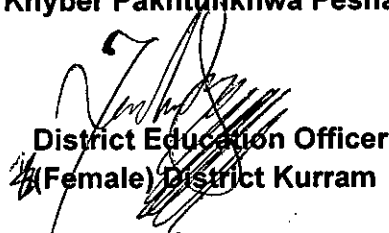
(Respondents No.1&2)


Secretary
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

(Respondents No.3)


Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

(Respondents No.4)


District Education Officer
(Female) District Kurram

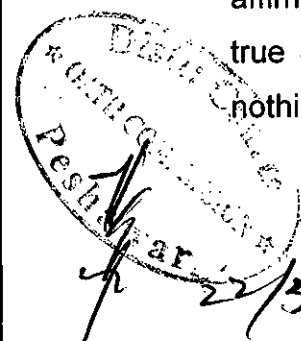
AFFIDAVIT

Zaibu Un Nisa, District Education Officer (Female) Kurram do hereby solemnly affirm and declare, that the contents of the instant para wise comments/ reply are true & correct to the best of my knowledge & available record of this office and nothing have been concealed from this Honorable Service Tribunal.


Deponent

Cell # 03479604770
CNIC # 17301-2292931-6

ATTESTED


District Education Officer
Khyber Pakhtunkhwa Peshawar
22/5/023



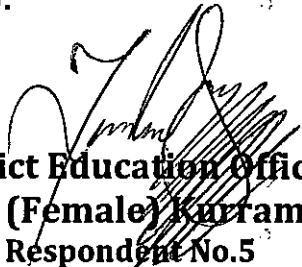
OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) KURRAM



Email: deofkurram110@gmail.com Ph No: 0926-311399

Authority Letter

Mr. Mohammad Shah SCT focal person for Litigation of this office is hereby authorized to submit reply and represent this office in Service appeal No.1613/2022 on behalf of the respondent No.5.


District Education Officer
(Female) Kurram
Respondent No.5

محترم ریاضی و لاشان D.E.D. صاحب "اسٹڈی لبریری" اقبال آباد

درخواست دربارہ: والیم ریاضی

کو بیٹھانے سے از $\frac{2}{2022}$ 28

قبائلی! وودبانہ الیاسی سے سائل نے ریاضی

کے ذریعہ آپ کے خدمت میں پیش کیا گیا۔

اور ریاضی اسٹڈی لبریری کو دیا گیا۔ اسٹڈی لبریری

میں پیش پیپر وغیرہ مکمل کر کے اسٹڈی لبریری

آفس کے لئے گیا۔ جس میں آپ کے دفتر سے 26 سال تک

سروس کی History دی گئی۔ لیکن اسٹڈی

اکاڈمی آف سائنسز والوں نے ریڈکشن کر کے

25 سال کو الیٹنگ سروس میں ریڈکشن کیا گیا۔

جس میں سائل کو کافی نقصان ہوا۔ اور آپ کو

اپنی آرکیٹچر بھی نہیں ملی۔

لہذا اسٹڈی لبریری سے سائل نے ریاضی

آرڈر کر منسوخ کر کے دیا گیا۔

17/05/22 مورخ

Bibi Sakina الكادریہ

d. d. سکین کی گورنمنٹ گزٹری میں اسٹڈی لبریری

Accountant

18/05/22

Attest

5

Annexure - "B"



OFFICE OF THE DISTRICT EDUCATION OFFICER (F)
KURRAM AT PARACHINAR
No. 1347-49 IF-Vol-I Corres: Dated, 29/09/2022



To

The Director
Elementary and Secondary Education,
Peshawar, Khyber Pakhtunkhwa.

Subject: Guidance/Opinion Implementation of the Order/Cancellation of Retirement dated 31.5.2022.

Reference to the subject cited above to state that, one, Sakina Bibi Ex Senior Theology Teacher submitted an application dated 28.12.2021 to the then DEO Kurram for retirement on her own request, which was allowed vide notification Endst, bearing No.12978-82 dated 23.12.2021, where by the said teacher was retired from service. Moreover she was allowed LPR with effect from 20.4.2021 to 28.02.2022 (315days) as per leave at her credit. Her pension paper were prepared and sent to account office for further necessary action, where account office excluded her availed total period of 06 Years 09 Months & 29 Days without pay Extra Ordinary Leave (EOL), and prepared her pension papers as per 25 years qualifying service. (Retirement Order Copy attached)

The teacher concerned submitted another application dated 17.05.2022 for cancellation/recalling order dated 23.12.2021, (to avoid financial loss in her pension) and astonishingly her request was accepted by the then DEO Kurram and her retirement order dated 23.12.2021 was cancelled and she was allowed to join her post after a period of six months vide order dated 31.5.2022. (Cancellation of Retirement order & Application of Sakina Bibi, copy attached)

Therefore, in view of the above narrated facts and circumstances of the case, The undersigned may please be guided that whether the action of the then DEO Kurram regarding cancellation of retirement order dated 23.12.2021 is legal or otherwise, and whether the teacher is entitled to be allowed to join her post, please.

District Education Officer
(Female) Kurram

Endst: No. and Date Even Above:-

Copy to the:-

1. Secretary E & S E KPK Peshawar.
2. District Accounts Officer, District Kurram.
3. Office File.

District Education Officer
(Female) Kurram

District Education Officer
(Female) Kurram