

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
(CAMP COURT ABBOTTABAD)

APPEAL No 227 OF 2022

Mst. Gul Nargas

Appellant

VERSUS

1. Director Elementary & Secondary Education Peshawar.
2. District Education Officer (Female) Kohistan Upper.

Respondents

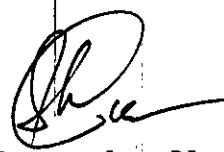
PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.1, 2.

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Dated 19-05-2023

Note:- Two copies of this appeal parawise comments reply has already been submitted in Camp Court Abbottabad on 21⁶/₂₃.


Respondent No. 2
District Education Officer,
(Female) Kohistan Upper

a. back -

Next date - 25-10-23

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
(CAMP COURT ABBOTTABAD)

APPEAL No 227 OF 2022

Mst. Gul Nargas

Appellant

W. No. 1000/2023
Service Tribunal

Registry No. 6425

Dated 13/07/23

VERSUS

1. Director Elementary & Secondary Education KPK Peshawar
2. District Education Officer (Female) Kohistan Upper

Respondents

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

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.
- VI. That the appellant has already been removed from Service after Completion of all codal formalities vide order dated 10-06-2021, hence Appeal is liable to be dismissed.
- VII. That the appeal is time bared hence not maintainable and liable to be dismissed.

VIII. That the appeal is barred by law and limitation.

Factual Objections:

1. Correct, pertain to the appellant personal record.
2. Incorrect strongly denied that the appellant reported absent from duty by EMA staff, showcause notice was served to the appellant no reply received, then the appellant was called for personal hearing but the appellant did not come to office, the appellant did not performed her duty and proved unauthorized absent from her duty.
(Copy of showcause notice & EMA report is annexed as annexure-A).
3. Incorrect strongly denied that the appellant was removed from service under the efficiency & disciplinary rules 2011 by following all codal formalities.
(Copy of removal order annexed as annexure-B).
4. Incorrect strongly denied that the no diary No is on the departmental application it seems fake and bogus.
5. Strongly denied that the appellant is not aggrieved person her appeal is badly time barred hence need to dismissed on the above facts.

GROUND

- A. Incorrect, strongly denied that the impugned order is issued by following all the codal formalities as stated in Para 2, 3 of factual objections.
- B. Incorrect, strongly denied the appellant did not perform her duty, as stated Para No.2 of factual objections.
- C. Incorrect strongly denied that the appellant is a middle pass teacher he is not be able to teach the students and he did not perform her duty as stated in Para 2 above of factual objections.
- D. Incorrect strongly denied no such teachers are serving in the department.

(3)

- 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. Incorrect strongly denied that the High court directed the department to pass an appropriate order as stated above that the appellant is a middle pass teachers and did not perform her duty.
(Copy of High Court order is annexed as annexure-C).
- I. Incorrect strongly denied that the High Court directed the department to pass an appropriate order and the respondent pass order by following all codal formalities as stated above factual objections.
- J. Incorrect strongly denied that the court directed the department to pass an appropriate order and the respondent pass order by following all codal formalities as stated above factual objections.
- K. Incorrect strongly denied that the respondent issued order by following all codal formalities as stated above factual objections.
- L. Incorrect strongly denied that the appellant did not perform her duty the respondent issued her removal order by following all codal formalities as stated above factual objections.

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.

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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.
(CAMP COURT ABBOTTABAD)

APPEAL No 227 OF 2022

Mst. Gul Nargas

Appellant

VERSUS

1. Director Elementary & Secondary Education KPK Peshawar
2. District Education Officer (Female) Kohistan Upper

Respondents

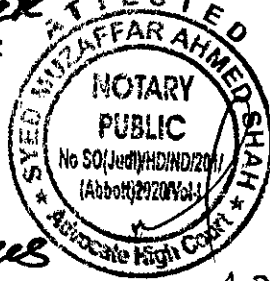
PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2.

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. 227/2022 titled Mst. Gul Nargas 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.

It is further stated on oath that in this appeal the answering respondent have neither been placed on-parti nor their defence has been struck off

[Signature]
DEPONENT



Note:- Two copies of Parawise comments of this appeal has already ^{been} handed over to the Honorable Court at Abbottabad on previous date on 21-6-2023.



OFFICE OF THE DISTRICT EDUCATION OFFICER (F) KOHISTAN (UPPER)

Email: deofemalekohistanupper@gmail.com

Statement of Allegations/ 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: Gul Nargas PST Grade 4 GGPS Rafiq Shah Abad, this show cause notice as follows:-

- 1 You were appointed as PTC teacher in BPS 4 in 2006 for a period of three years as stop gap arrangement.
- 2 You were directed to improve your qualification as per the requirement of basic criteria for PTC teacher according to the merit policy of the government in vogue, but you badly failed.
- 3 As per EMA Report you remained habitually and wilfully absent from your duty, during the visits of the concerned DCMA, without proper permission/intimation or leave.
- 4 You were directed time and again to perform your duty properly and do not waste the precious time of the students, but you badly failed to comply.
- 5 You have drawn your salary illegally during the absent period from your duty.
- 6 As per report of the SDEO/ASDEO concerned you don't perform your duty

Thus you proved a non-punctual, inefficient, dishonest, and negligent government servant and you have committed the gross act/omissions of misconduct, inefficiency and subversion, specified in Rule 3 of the mentioned rules.

While going through the material on record and in reference to the meeting held on 31/03/2021 of all concerned, the allegations, mentioned above, have been proved and you proved guilty of the charges under the provisions of E&D Rules 2011. Thus need of inquiry is hereby dispensed with under Rule 7 of the aforesaid rules.

As a result, thereof, I as the Competent Authority, have tentatively decided to impose upon you, the major penalty of dismissal from service and recovery of illegal drawn pay of your absent period, mentioned in Rule 4(1), (a) and (b), of the ibid Rules.

You are, therefore, required to show cause as to why **major penalty of dismissal from service and recovery of illegal drawn pay of your absent period**, 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 issue 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.

Endstt:No. 1150-54

Dated: 28 / 04/2021.

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 Sub Divisional Education Officer (F) Dassu, Kohistan Upper.
- 4 Mst: Gul Nargas PST Grade 4 GGPS Rafiq Shah Abad
- 5 Copy to Master File for record.


District Education Officer (F)
Kohistan Upper.

Acknowledgment: I _____ received my copy.

Signature: _____ Date: _____

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PAY ROLL SYSTEM
 AMENDMENT FORM
 MULTIPLE EMPLOYEE ENTRY
OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) KOHISTAN UPPER
 FOR THE MONTH OF 11-2020 11/2021

S 1126
 18/01/2021

Sar...
 detected by
 Official

DDO Code (Cost Center) **K 60 1 6** Description: DDO

11/11
 District Education Officer
 Kohistan Upper
 18/11/2021

Employee Detail			General Data Change			
Employee NO	Employee Name	Desg:	G.Pay	ROP	Head	Remarks
00374893	Shahen	PST	25000	1666	C9814	11/11/2021
00331961	Safina Naz	PST	25000	833	do	Salary 25
00374864	Naz Guss	PST	G-IV	-	do	11/11/2021
00332266	Asmat Begum	PST	30000	2000	do	11/11/2021
00499172	Shabnam Afid	PST	25000	1666	do	11/11/2021
00195633	Khush Naz	PST	28000	933	do	11/11/2021
00388887	Sema Bibi	PST	Perce.	-	do	11/11/2021
00388880	Gull Naz	PST	25000	833	do	11/11/2021
00388886	Gull Naz Guss	PST	G-IV	-	do	11/11/2021

[Signature]
 Amnail Hagre J/c
 1870-11

9731
 C/S
 District Education Officer
 (Female) Kohistan Upper

District Education Officer
 (Female) Kohistan Upper
 Jessu

Date: _____



DUTY PERFORMANCE CERTIFICATE

It is certified the the Mst. Gul .Nargas PST GGPS Rafeeq Shah Abad has not perform her duty during my throughout the said visited the said School

I personally visit the said school on 10-12-2020 and 08-03-2021.

The report submitted for further necessary action please.

Adar

Budget & Account Officer
Office of DEO (F) Kohistan

Nargis
ASDEO Circle Dassu
Kohistan

8

M. J. Khan
20/10/21

DISTRICT EDUCATION OFFICER (F) KHISTAN (UPPER)

muhammadkhanupper@gmail.com

P-12

Arif B

TERMINATION/REMOVAL FROM SERVICE

- 1. Whereas Ms. Gul Margas Middle Pass, was appointed as Grade 4 PST teacher at GGPS Rafiq Shah Abad in 2006 as stop gap arrangement for a period of three years.
- 2. Whereas the prescribed qualification for PST teacher at that time was matric with F.T.C.
- 3. Whereas she was directed to improve her qualification as per the requirement of basic criteria for P.T.C teacher according to the merit policy of the government in vogue, but she badly failed.
- 4. Whereas as per EMA Report she remained habitually and willfully absent from her duty, during the visits of the concerned DC/DA, without proper permission/intimation or leave.
- 5. Whereas she was directed time and again to perform her duty properly and do not waste the precious time of the students, but she badly failed to comply.
- 6. Whereas she has absconded her duty illegally during the absent period from her duty.
- 7. Whereas as per report of the SDEO/ASDEO concerned she doesn't perform her duty.
- 8. Whereas a show cause notice was served upon her vide this office Lufat No. 1150/21, dated 28.11.2021.
- 9. Whereas she badly failed to submit reply to the show cause in her defense within stipulated period.
- 10. Whereas she badly failed to avail the chance of personal hearing.
- 11. Whereas having low qualification, she is unable to teach the existing syllabus to the students properly.
- 12. Whereas while going through the material on record and personal observations of the undersigned, all the charges/allegations levelled against her have been proved to the full satisfaction of the undersigned.

Therefore the undersigned being the competent authority, do hereby impose Major Penalty of Removal from Service, upon Ms. Gul Margas, Grade 4 PST teacher at GGPS Rafiq Shah Abad Kohistan Upper under Rule 4(b) of E&D Rules 2011, with immediate effect, in the interest of public service.

(MUHAMMAD ABID)
District Education Officer (F)
District Kohistan Upper.
Date: 10/10/2021

Arif B
Arif B
Budget & Accounts Officer
Office of DDO (F) Kohistan

- 1. For information and necessary action forwarded to:
 - 1. The PA to Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
 - 2. The Deputy Commissioner Kohistan Upper.
 - 3. The District Accounts Officer Kohistan Upper.
 - 4. The PA to District Education Officer (F) Kohistan Upper.
 - 5. The Deputy District Education Officer (F) Kohistan Upper.
 - 6. The DDEO/DDO concerned with the direction to stop the pay of the concerned teacher and make necessary entries in her service book immediately.
 - 7. The teacher concerned.
 - 8. Copy of letter file for record.

M. J. Khan
District Education Officer (F)
District Kohistan Upper

(8) P-13 (B)
BETTER COPY

OFFICE OF THE DISTRICT EDUCATION OFFICER (F) KOHISTAN UPPER

OFFICE ORDER/REMOVAL FROM SERVICE

1. Whereas Mst Gul Nargas Middle pass, was appointed as Grade 4 PST Teacher at GGPS Rafiq Shah Abad in 2006 as stop gap arrangement for a period of three years.
2. Whereas the prescribed qualification for PST Teacher at that time was metric with PTC.
3. Whereas she was directed to improve her qualification as per the requirement of basis criteria for PTC teacher according to the merit policy of the government in vogue, but she badly failed.
4. Whereas as per EMA report she remained habitually and willfully absent from her duty, during the visits of the concerned DCMA, without proper permission/intimation or leave.
5. Whereas she has directed time and again to perform her duty properly and do not waste the precious time of the students, but she badly failed to comply.
6. Whereas she has drawn her salary illegally during the absent period from the duty.
7. Whereas as per report of the SDEO/ASDEO concerned she doesn't perform her duty.
8. Whereas show cause notice was served upon her vide this office Endst: No. 1150-54, dated 28.04.2021.
9. Whereas she badly failed to submit reply to the show cause in her defense within stipulated period.
10. Whereas she badly failed to avail the chance of personal hearing.
11. Whereas having low qualification, she is unable to teach the existing syllabus to the students properly.
12. Whereas while going through the material on record and personal observations of the undersigned, all the charges/allegations leveled against her have been proved to the full satisfaction of the undersigned.

Therefore the undersigned being the competent authority, do hereby impose Major penalty of Removal from service upon Mst. Gul Nargas, Grade 4 PST teacher at GGPS Rafiq Shah Abad Kohistan upper under Rule 4(b) of F&D Rules 2011, with immediate effect, in the interest of public service.

(MUHAMMAD AMIN)
DISTRICT EDUCATION OFFICER (F)
DISTRICT KOHISTAN UPPER.

End No. 1028-35

Dated: 10.06.2021

Copy for information and necessary action forwarded to:

1. The PA to 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 PA to District Education Officer (F) Kohistan upper.
5. The Deputy District Education Officer (F) Kohistan Upper.
6. The SDEO/DDO Concerned with the direction to stop the pay of the concerned teacher and make the necessary entries in the her service book immediately.
7. The Teacher concerned.
8. Copy of Master File for record.

(MUHAMMAD AMIN)
DISTRICT EDUCATION OFFICER (F)
DISTRICT KOHISTAN UPPER.

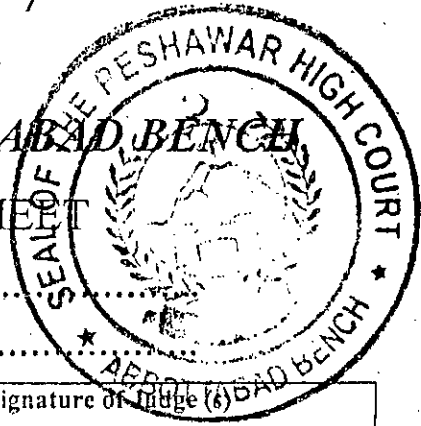
(9) (23)

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

FORM OF ORDER SHEET

Court of.....

Case No.....of.....



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
08.06.2021.	<p><u>WP No. 1258-A/2020.</u></p> <p>Present: Mr. Abdul Saboor Khan, Advocate for petitioner.</p> <p style="text-align: center;">***</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.</u> <i>Mst. Gul Nargas</i>, the petitioner, through this petition under Article 199 of the <i>Constitution of Islamic Republic of Pakistan, 1973</i>, has invoked the jurisdiction of this Court with the following prayer:-</p> <p style="text-align: center;">It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-</p> <p style="text-align: center;">A. <i>Direct the respondents to release the withheld monthly salaries of the petitioner from May, 2016.</i></p> <p style="text-align: center;">B. <i>Further direct the respondents to upgrade the petitioner from BPS-4 to BPS-12.</i></p> <p style="text-align: center;">C. <i>Direct the respondents to extent the benefits of judgments dated: 20.06.2019 and 26.09.2019 passed by this Hon'ble Court in writ petitions No. 978 of 2017, 1030-A/2017 and 90-A/2020 as well as judgment handed down in WP No. ___ of 2020 dated: 22.09.2020, to the petitioner being similarly placed.</i></p> <p>2. Perusal of the record reveals that this Court had earlier decided the similar issue as agitated through WP No.</p>

Certified to be True Copy
 EXAMINER
 9 FEB 2022
 Peshawar High Court Atd. Bench
 Authorized Under Sec: 75 Evid Ordns.

1030-A/2017 titled: *Mst. Faiza & Seven others Vs. Government of Khyber Pakhtunkhwa & others*, wherein, it has been held as under:-

Admittedly, the petitioners remained in the service of respondent department as PST, there is no objection about the performance of the petitioners and in case there was any complaint, besides they should have been terminated at the relevant time after the expiry of their initial tenure of appointment of three years. Since, it was the respondents, who allowed them to continue in the service on whatever qualification they had, the petitioner shall not suffer for inaction of the respondents. Admittedly, most of the petitioners have improved their qualification but the respondents again showed slackness in allowing upgradation or placing them in the pay scale of the post on which they are working. It is the fundamental right of the petitioners that they be paid the pay of the post, because when the respondents are getting the duties from the petitioners of the post of PST then they are entitled to the pay of the post. Reference can be made to the cases reported as 2006 SCMR 1938, 2010 PLC(CS) 284 and NLR 2008 Service 165. It is thus rather absurd to hear from the mouth of respondents that there is no post code in which the petitioners be allowed salaries against the post of PST BPS-4. We have thus, no other option but to direct the respondents No.3 and 4 to settle the matter and to release salaries to the petitioners (except petitioner No.4) from the date when it is withheld. The necessary

to be True Copy
EXAMINER
FEB 2022
High Court Attd. Bench
Under Se: 75 Evid Ordns.

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exercise must be completed within a period of two months.

3. Thus, in view of the above, the instant writ petition is disposed of with directions to the respondents to look into the grievance of petitioner in the light of judgment of this Court rendered in Writ Petition No. 1030-A/2017 and settle the dispute of release of salary of the petitioner, within period of two months. However, the petitioner is at liberty to approach this Court again, if her grievance is not redressed in accordance with law.

JUDGE

JUDGE

Certified to be True Copy
EXAMINER
1 FEB 2022
Lashkar High Court Attd. Bench
Authorized Under Sec. 75 Evid. Ord.

Tahir PS



(12) Annex 6 D 19

**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 779-89 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

Account Officer
(F) Kohistan