

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR**

**Appeal No.307/2023**

1. **Mst:Tajmina** , W/O Majid Ur Rehman , R/O Haider Khel, P.O & Tehsile Mirali, District North Waziristan.

-----**Appellant**

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar.
2. Director Education (E&SE), Govt: of Khyber Pakhtunkhwa; Peshawar.
3. District Education officer (F), District North Waziristan, Miranshah
4. District Account Officer, North Waziristan.

-----**Respondents.**

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Assistant District Education Officer

North Waziristan Tribal District

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**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 6340

Dated 10/7/2023

----- Respondents.

**Comments on behalf of respondent No.1 to 3**

**Respectfully Sheweth:**

**Preliminary Objection:**

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant has not come to this honorable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honorable Tribunal.
4. The appellant has been removed from service in light of rule 3(d) of civil servants E&D Rules 2011 and Rule 9 of the ibid rules.
5. That the appellant has stopped by his own conduct to bring the present appeal.
6. That the appeal is bad due to miss joiners of necessary parties.
7. That the appeal is barred by law and no departmental appeal is made to the competent authority against the impugned order. Hence not maintainable under Section-4 of Service Tribunal Act.

**On facts:**

- 1) That Para-1 pertains to record, hence no further comments.
- 2) That Para-2 is Incorrect. The appellant regularly draw her salaries under DDO Code (MW6015-Inspiction) as ASDEO in the office of DEO North Waziristan since 2018, while she was transferred in the year 2018 from DEO Office to School. It is pertinent to mention here that she had never performed her duty either at school or DEO Office Since 2018.
- 3) That Para-2 is Incorrect. The appellant was regularly drawing her salary from DEO Office NWTD(DDO Code MW6015) since 2018 while she had never perform duty at DEO Office since 2018. She was also served an Explanation Notice Endstt: No 15705 dated 03/04/2021 (**Copy is annexed as A**), but she failed to respond and remain absent from her duty. The office of the respondent No 3 than signed Source-II/ Inactive pay but District account office has not honored the source. Than the appellant change her cost center with the help of clerical staff and draw her salaries from GGHS Zawab kot NWTD. Than the office of the respondent No3 wrote a letter No 20353-59 dated 29/06/2021(**Copy is annexed as B**) to respondent No 2 to initiate disciplinary action against the willful absentee and drawl of salary as ASDEO. Again she was served a show cause notice No 28458-63 dated 10/05/2022. (**Copy is annexed as C**). She also fail to

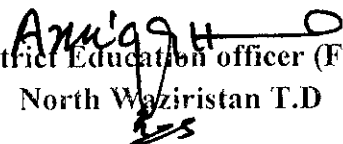
respond and remained absent from her duty. Finally she was imposed major penalty of removal from service by the competent authority with Endstt: No 5823-27 dated 08/06/2022. (Copy is annexed as D)

- 4) That Para-2 is Incorrect. The appellant has been removed from service as per report of the respondent No 2 in light of rule 3(d) of civil servants E&D Rules 2011 and Rule 9 of the ibid rules.
- 5) That Para-3 is incorrect. Detail reply is submitted in the above paras on facts.
- 6) That keeping in view the above facts, the instant appeal may kindly be dismissed on the following grounds

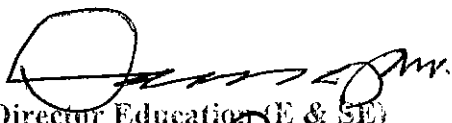
**Grounds:**

- A. **Incorrect and Denied**, the Respondent Department is bound to abide by the law /Rules and Policy and has acted accordingly.
- B. **Incorrect and Denied**, Detail Reply has already been submitted above under Para-2 and 3 above on facts.
- C. **Incorrect and Denied**, The appellant had been withdrawing her salary since 2008 from the DDO Code MW6015 (office of the DEO (F)) while she had neither perform her duty at DEO office Nor at School during the mention period.
- D. **Incorrect and Denied**, The appellant was served with explanation and show cause notice but she fail to reply the same. She was absent since 2018 and was drawing her salary regularly.
- E. **Incorrect and Denied**, The appellant is just trying to mislead this honorable tribunal by manipulating the facts. she was absent for almost 4 years and there is no issue of maternity leave which might be for 90 days by rules after fulfilling other formalities.
- F. **Incorrect and denied**, the Respondent Department is bound to abided by the law /Rules and Policy and has acted accordingly.
- G. **Incorrect and denied**, the Respondent Department is bound to abided by the law /Rules and Policy and has acted accordingly.
- H. Respondents are also seeking permission of the Honorable Tribunal to produce additional grounds and proofs at the time of Hearing.

Respondent No.4

  
District Education officer (F)  
North Waziristan T.D.

Respondent No. 2

  
Director Education (E & SE)  
KPK Peshawar

Respondent No. 2

  
Secretary E&SE KPK  
Peshawar

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- 4. District Account Officer, North Waziristan.

----- Respondents.

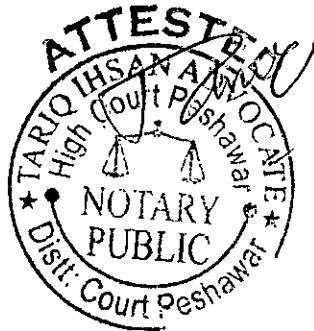
**AFFIDAVIT**

I, Sahib Nawaz, Focal Person Litigation DEO (F) North Waziristan do solemnly affirm and declare that the Comments of Respondent No.1, 2, 3 in the **Appeal No.307/2023** is true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court. *It is further stated that, in this appeal, the answering respondent have neither been placed en-parite nor their defence have been struck off/cost.*

*Attest*

*Sahib Nawaz*

Sahib Nawaz  
Focal Person litigation DEO (F)  
North Waziristan Tribal District



(4)

**AUTHORITY LETTER**

This office has the honor to state that Mr. Sahib Nawaz has been serving in the District Edu: Office (Female) as focal person litigation. He has been given the authority to attend all kinds of court case and Submit reply/comments on behalf of the undersigned. So he may be considered as representative of the District Edu: officer, N.W.T.D

*Amir*  
DISTRICT EDUCATION OFFICER  
NORTH WAZIRISTAN Tribal District  
*es*

(5)

OFFICE OF THE DISTRICT EDUCATION OFFICER (F)  
NORTH WAZIRISTAN TRIBAL DISTRICT


K P E S E D

Phone: 0928-213040 Email: deomalenottd@gmail.com

EXPLANATION:

You Mst: Taj Meena SST (G) Ex ADEO (F) Tribal District North Waziristan draw your salary from MW6015..Inspection which is DDO Code of District Education Office Miranshan NWTB but neither you performed your duties at District education Office Miranshan and nor at any GGMS/GGHS North Waziristan.

You are hereby directed to attend the office of the Under signed and clear your position otherwise you will be reported to high ups for further proceedings under E&D rules 2011.


  
DY: DISTRICT EDUCATION OFFICER (F)  
TRIBAL DISTT: NORTH WAZIRISTAN


Insdist: No: 15705 /

Dated Miran Shah the 03 /04/2021

Copy forwarded to the:

- 1- Director Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar
- 2- Deputy Commissioner Tribal District North Waziristan at Miran Shah
- 3- FMA North Waziristan Tribal District.
- 4- Office record.

  
DY: DISTRICT EDUCATION OFFICER (F)  
TRIBAL DISTT: NORTH WAZIRISTAN

*Attested*  
  
Asstt: District Education Officer  
District North Waziristan

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OFFICE OF THE DISTRICT EDUCATION OFFICER  
TRIBAL DISTRICT NORTH WAZIRISTAN AT MIRANSHAH  
Ph: 0928-313015 Email: deomglennytd@tribal.gov.pk

REF: 20355-55

No. 20355-55

Dated 29.1.2021.

To

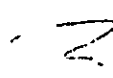
The Additional Director Education  
Merged Area Khyber Pakhtunkhwa.

Subject DISCIPLINARY ACTION AGAINST WILLFULL ABSENTEE AND  
DRAWL OF SALARY AS ASDEO IN RESPECT OF MST. TAJMINA SST.

Reference is invited to the subject quoted above and to submit that *Mst Tajmina SST was willful absent since long and she regularly drawl her salary under DDO Code MW6015-Inspection) as ASDEO in the office of the District Education Officer North Waziristan whereas she was transferred in the year 2018 from DEO Office MWTD to school.*

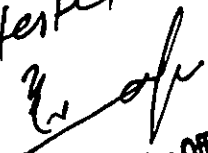
Keeping the above in view, your good self is requested to start proceeding against her under E&D rules 2011


The report is submitted for further necessary action please.

  
District Education Officer  
North Waziristan Tribal District

He is given an order  
Copy to me

- 1 Director of Education Khyber Pakhtunkhwa Peshawar
- 2 District Monitoring Officer North Waziristan Tribal District.
- 3 Establishment Section Local Office.
- 4 HOS Local Office

*Affected*  
  
Asstt: District Education Officer  
District North Waziristan

  
District Education Officer  
North Waziristan Tribal District

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OFFICE OF THE DISTRICT EDUCATION OFFICER

NORTH WAZIRISTAN TRIBAL DISTRICT

No. 25733.6.1 / Show Cause/DEO dated 11/13/2022

Phone: 0928-353010 Email: deomalemwtd@gmail.com

RECEIVED

The Director  
Elementary & Secondary Education  
KP Peshawar

Subject: SHOW CAUSE NOTICE

01-Whereas You, Ms: Taj Meena SST (G) Ex ADEO (Female) North Waziristan Tribal District, are willful absent from your duties since 2018 and draw your salaries regularly from DEO Office NWTD (DDEO CODE MW6015) and

02-Whereas you were reported absent repeatedly by EMA NWTD

03-And Whereas this office issued explanation notice, But you failed to respond and remained absent from your duty

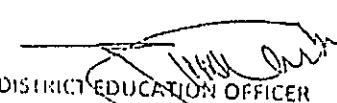
04-Whereas this office signed source -II /In active pay but District Account Office NWTD has not honored the source. and

05-Whereas when you felt pressure, You Changed your cost centre with the help of the clerical Staff of this office and draw your salaries from Govt: Girls High School Zawab Kot NWTD and

06-Whereas the undersigned found you absent and submitted report vide this office No 20355-57, Dated:-29/06/2021 to quarter concerned, and

07-Whereas DDO of GGHS Zawab NWTD securitized the pay roll of the said school and stopped your salary and submitted report to this office that without assuming charge/arrival report, transfer order you are drawing salary from GGHS Zawab Kot NWTD without performing duties.

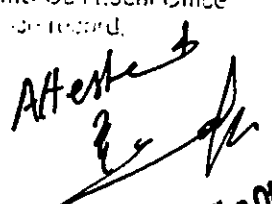
Now therefore, fulfilling all the codal formalities, You are requested to serve show cause notice for imposing major penalty as the under signed is not competent authority in this regard

  
DISTRICT EDUCATION OFFICER  
TRIBAL DIST: NORTH WAZIRISTAN

Even No. & date

Copy to:

1. Deputy Commissioner North Waziristan Tribal District
2. Additional Director (Establish Directorate of Education Merged Areas.
3. DDEO(F) for information & other process please
4. ADO(O) concerned for follow the case.
5. EMIS Cell Local Office
6. To be record.

  
Asstt. District Education Officer  
District North Waziristan

DISTRICT EDUCATION OFFICER



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Directorate of Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar  
PH No. 001-9310947

NOTIFICATION

1. WHEREAS, Mst; Tajmina was serving as SGT (I) P. S. at Peshawar, NWTD Ex- ADEO North Waziristan
2. AND WHEREAS, she remained wilful absent from duty since 2018 and the MA / District Education Officer NWTD have reported repeatedly directed her to report to her duty station, but in vain
3. AND WHEREAS, the DEO NWTD has issued notice of explanation but she failed to respond to any explanation / Notice of DEO NWTD and remained constantly absent from duty
4. AND WHEREAS, She drawn her salaries on regular basis without performing her duties and changed cost Centre to GGHS Zawab Kot for drawl of salaries which caused huge loss to the government's exchequer
5. AND WHEREAS, the District Education Officer NWTD has recommended her for major penalty 4 (b) (III) i.e removal from service vide Show cause notice No. 23459-62 dated 10.05.2022, that was approved by Competent Authority on 24.05.2022
6. NOW THEREFORE, In exercise of the Powers conferred under Rules 4 (b)(iii) of Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011, the Competent Authority Director of Elementary & Secondary Education Khyber Pakhtunkhwa has been pleased to impose major penalty 4 (b) (III) of Removal from Service from the date of her absence

(Hafiz Dr. Muhammad Ibrahim)  
Director  
Elementary and Secondary Education  
Khyber Pakhtunkhwa

Endsl.No. 5893-97 / E-6/Back Benefit Kurram Dated Peshawar the 08/06/2022  
Copy forwarded to the:-

- 1 District Accounts Officer NWTD
- 2 District Education Officer NWTD
- 3 Teacher concerned
- 4 PA to Director Education, (E&SE) KPK Peshawar
- 5 PA to Addl. Director Establishment (E&SE) KPK Peshawar

Attested  
  
Asstt. District Education Officer  
District North Waziristan

Deputy Director (Estab)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

Attested