

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. 1218/2016

Date of Institution ... 07.12.2016

Date of Decision ... 17.11.2017

Mst. Noreen D/O Purdil Khan Ex-PST, GGPS Tous Banda, Mardan.
... (Appellant)

VERSUS

1. The Director Elementary & Secondary Education, Khyber Pakhtunkhwa,
Peshawar and another. (Respondents)

MR. KHALID RAHMAN, ... For appellant
Advocate

MR. MUHAMMAD RIAZ PAINDA KHEL, ... For respondents.
Asstt. Advocate General

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. MUHAMMAD AMIN KHAN KUNDI, ... MEMBER

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the
learned counsel for the parties heard and record perused.

FACTS

2. The appellant was removed from service on 27.04.2010 under F.R 18. She
then entered into litigation before this Tribunal and this Tribunal finally

reinstated her vide judgment dated 11.4.2013 in appeal No. 1662/2010 with the direction to the respondents-department to deal with the issue of absence from duty of the appellant in accordance with law, and, if so advised, conduct departmental proceedings, but strictly in accordance with law, by also providing opportunity of showing cause and defence to the appellant. The department remained inactive for considerable period of time and appellant filed execution petition before this Tribunal and then the department again initiated some proceedings by issuing charge sheet and statement of allegations (undated). One Miss Nasira Principal Government Girls High School Baghdada was appointed as enquiry officer who submitted her report on 20.7.2016 and thereafter the appellant was dismissed from service on 01.08.2016.

ARGUMENTS.

3. The learned counsel for the appellant argued that after the reinstatement on the basis of judgment of this Tribunal dated 11.4.2013, the department neither passed any order regarding the intervening period of absence nor started any denovo proceedings. That the appellant then filed an execution petition and when some coercive order was passed by this Tribunal the department started proceedings in cursory manner without adhering to the elements of due process and finally dismissing the appellant through the impugned order. Then the said order was challenged by preferring departmental appeal on 22.08.2016 which was not responded to and thereafter she filed the present service appeal on 07.12.2016. The learned counsel for the appellant further argued that the enquiry officer has not given any report against the appellant. That there was no show cause notice (after the enquiry report) given to the appellant nor any copy of the

enquiry report was supplied to the appellant. That it is unknown that how the authority came to the conclusion regarding proof of the guilt of the appellant. That the impugned order is not sustainable in the eyes of law.

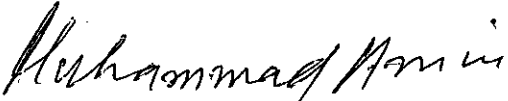
4. On the other hand, the learned Assistant Advocate General argued that the department initiated departmental proceedings against the appellant by issuing charge sheet and statement of allegations. That the enquiry officer was appointed who submitted her report.

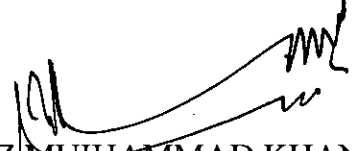
CONCLUSION.

5. The report of the enquiry officer itself is the proof of innocence not only of the appellant but also the enquiry officer. The enquiry officer has written in her enquiry report that she was not conversant with the rules and law nor had she discussed the charge levelled against the appellant. She had also not entered into nor had she discussed reply, if any, submitted by the appellant or the record or other evidence produced or was required to be produced before her. The Authority has passed the order whimsically by referring to the enquiry report but nothing about the guilt of the appellant is mentioned in the enquiry report as is recorded by the authority in the impugned order. There is also no show cause notice alongwith the copy of the enquiry report supplied to the appellant before passing of the final order. This Tribunal is therefore, of the view that the whole proceedings are illegal and the dismissal order cannot be sustained in the eyes of law.

6. Resultantly, this appeal is accepted, and the appellant is reinstated in service. The intervening period should be treated as leave of the kind due and if

leave on full pay or half pay is not due then extraordinary leave without pay may be granted ex-post facto. Parties are left to bear their own costs. File be consigned to the record room.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


(NIAZ MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED
17.11.2017

15.11.2017

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Arguments partly heard. The learned District Attorney seeks adjournment, For producing original file of the enquiry proceedings in proof of charge sheet and statement of allegations etc. To come up for further arguments before this D.B on 17.11.2017.

Member

Chairman

17.11.2017

Counsel for the appellant and Mr. Riaz aindia Khel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.

Muhammad Amin
MEMBER

M. Riaz Aindia Khel
CHAIRMAN

ANNOUNCED

17.11.2017

14.03.2017

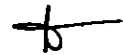
Clerk to counsel for the appellant and Mr. Abdul Jameel, AT alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 03.05.2017 before S.B.



(AHMAD HASSAN)
MEMER

03.05.2017

Clerk to counsel for the appellant and Mr. Abdul Jamil AT alongwith Addl. AG for the respondents present. Written reply submitted. To come up for rejoinder and arguments on 13.07.2017 before D.B.



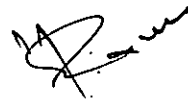
(Ahmad Hassan)
Member

13.07.2017

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Abdul Jalil, Legal Advisor for respondents present. Rejoinder submitted which is placed on file. Adjourned. To come up for arguments on 15.11.2017 before D.B.



(Ahmad Hassan)
Member



(Muhammad Hamid Mughal)
Member

21.12.2016

Counsel for the appellant present Preliminary arguments heard and case file perused. Through the instant appeal, the appellant has impugned order dated 01.08.2016 vide which appellant was dismissed from service with immediate effect. Against the impugned order appellant filed departmental appeal on 22.08.2016 which was not responded within the statutory period, hence the instant service appeal.

Since the instant appeal is within time and matter required further consideration of this Tribunal therefore, the same is admitted for regular hearing, subject to deposit of security and process fee within 10 days. Notices be issued to the respondents for written reply/comments for 31.01.2017 before S.B.

Appellant Deposited
Security & Process Fee


(MUHAMMAD AAMIR NAZIR)
MEMBER

31.01.2017



Counsel for the appellant and Addl. AG for respondents present. Written reply not submitted. Requested for further time adjournment. To come up for written reply/comments on 14.03.2017 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1218/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07/12/2016	<p>The appeal of Mst. Noreen presented today by Mr. Khaled Rehman Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21-12-16</u></p> <p style="text-align: right;"> MEMBER</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1218 /2016

Mst. Noreen..... Appellant

Versus

The Director, E&SE and others..... Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-5
2.	F.I.R. No.162	29.04.2000	A	06
3.	Application for leave	30.04.2000	B	07
4.	Application for leave	21.03.2000	C	08
5.	Application for transfer	20.03.2001	D	09
6.	Applications for adjustment and release of salaries		E	10-24
7.	Application to Chief Minister	27.04.2009	F	25
8.	Judgment of the Hon'ble Tribunal	11.04.2013	G	26-29
9.	Reinstatement order	12.12.2013	H	30
10.	Order Sheet in Execution Petition	01.04.2016	I	31
11.	Notification appointing Enquiry Officer	01.06.2016	J	32
12.	Enquiry Report		K	33-34
13.	Impugned Notification	01.07.2016	L	35
14.	Departmental appeal		M	36-41
15.	Wakalat Nama			

Through

Appellant


Khaleed Rahman
Advocate,

Supreme Court of Pakistan
3-D, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

Dated: 7 /12/2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1218 /2016

Mst. Noreen

D/o Purdil Khan,

Ex-PST, GGPS Tous Banda, MardanAppellant

Versus

**Khyber Pakhtukhwa
Service Tribunal**

Diary No. 1271

Dated 07-12-2016

1. **The Director**
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

2. **The District Education Officer (Female)**
District Mardan.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 01.08.2016 PASSED BY RESPONDENT NO.2 WHEREBY THE APPELLANT WAS IMPOSED UPON THE MAJOR PENALTY OF DISMISSAL FROM SERVICE AGAINST WHICH APPELLANT PREFERRED DEPARTMENTAL APPEAL ON 22.08.2016 TO RESPONDENT NO.1 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned Notification dated 01.08.2016 may graciously be set aside by reinstating the appellant into service with all back benefits including readjusting/regularizing her service w.e.f. 08.09.2000 to 27.04.2010.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the appellant was appointed as Primary School Teacher (PST) way back on 03.06.1997 and posted at GGPS Loharano Kaley, Mardan. She rendered satisfactory service to the entire satisfaction of

Filed to-day

Registrar

7/12/16

the high-ups.

2. That one Akhtar Sharif: a notorious and hardened criminal of the village, started harassing and teasing the appellant and her family for the purpose of marrying the appellant. Since the said person had earned many enmities in the village, therefore, he was subsequently murdered by someone for which the appellant's old-age father and her only brother were charged vide F.I.R No.162 dated 29.04.2000 (*Annex:-A*). The brother and father of the appellant then went into hiding due to fear of arrest and the enmity as a result of the murder.
3. That the School where the appellant was posted, was at a distance of 5/6 kilometers away from the home of the appellant in the middle of the fields and due to the severe enmity there was high danger to the life and honour of the appellant, therefore, she could not attend to her duties owing to the compelling circumstances, however, she made an application for leave on 30.04.2000 (*Annex:-B*) followed by another application dated 21.09.2000 (*Annex:-C*) and also submitted another application dated 20.03.2001 (*Annex:-D*) for her transfer to GGPS Bakhshali, the nearest School. However, the applications were neither considered nor properly responded.
4. That later on, appellant made series of applications dated 03.02.2001, 04.09.2001, 04.02.2002, 30.05.2002, 04.11.2002, 05.05.2003, 03.11.2003, 22.12.2004, 16.08.2005, 30.03.2006, 13.11.2007, 02.01.2007, 12.09.2008, 01.04.2009 and 11.04.2009 (*Annex:-E*) for adjustment at the nearest School and release of her salaries but invain. Finally, appellant filed an application (*Annex:-F*) to the then Chief Minister on 27.04.2009 which was referred to the competent authority for enquiry and report.
5. That subsequently, the appellant was removed from service on 27.04.2010 against which appellant preferred Service Appeal No.1662/2010 before this Hon'ble Tribunal which was then allowed

vide Judgment dated 11.04.2013 (*Annex:-G*). The operative part of the Judgment is reproduced as below:

In view of the above, the impugned Notification/order dated 27.04.2010 is not sustainable in law. Consequently, on partial acceptance of the appeal, the impugned Notification/order is set aside and the appellant is reinstated, without any order with regard to back benefits. The case is remanded to the respondent Department/authority for dealing with the issue of absence from duty of the appellant in accordance with law, and, if so advised, conduct departmental proceedings but strictly in accordance with law, by also providing opportunity of showing cause in defence to the appellant. There shall, however, be no order as to cost.

6. That pursuant to the Judgment *ibid*, the appellant was reinstated into service vide order dated 12.12.2013 (*Annex:-H*). After the reinstatement, appellant started performing her duties regularly, however, due to the non-regularization of previous service, the seniority of the appellant badly suffered, therefore, appellant filed an Execution Petition No.57/2013 before the Hon'ble Tribunal which remained pending for long without any positive response on the part of Respondents and at last the Tribunal was left with no other option but to adopt coercive measures and accordingly vide order dated 01.04.2016 (*Annex:-I*) the salary of Respondent No.2 was attached and she was issued notice as to why she be not committed to civil imprisonment.
7. That due to the stringent orders passed by the Hon'ble Tribunal, Respondent No.2 turned revengeful towards the appellant and vide Notification dated 01.06.2016 (*Annex:-J*) appointed Ms. Nasira, Principal, GGHS Baghdada as an Enquiry Officer to conduct the enquiry into the absence period of the appellant. The Enquiry Officer conducted the enquiry vide her Report (*Annex:-K*) and made favorable recommendations. However, the competent authority vide impugned Notification dated 01.08.2016 (*Annex:-L*) imposed the major penalty of dismissal from service upon the appellant after long

02 years & 08 months of her reinstatement into service.

8. That appellant being aggrieved of the impugned Notification *ibid*, preferred a departmental appeal (*Annex:-M*) to Respondent No.1 on 22.08.2016 but the same was not disposed of within the statutory period of 90 days, hence this appeal *inter-alia* on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned Notification, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That the absence of the appellant was neither willful nor deliberate but it was due to the circumstances beyond the control of the appellant. There was great risk to the life and dignity of the appellant to attend to her duties. The father and brother: the two male members of the family, were first hiding from the enemies and later on behind the bar. Appellant being helpless woman having no approach to the high-ups, however, moved a large number of applications for her transfer to the nearest school but nobody gave a sympathetic ear to her grievances. Since the absence was not willful and coupled with the fact that the Department also did not take any action, therefore, the imposition of major penalty of dismissal from service is highly unjustified, arbitrary, therefore, not sustainable.
- C. That there is an apparent malafide on the part of Respondent No.2 who remained silent for years but when once the Hon'ble Tribunal resorted to harsh measures and attached her salary, she became annoyed and turned to revengeful actions and consequently issued the impugned Notification to satisfy her ego. In this view of the matter,

the impugned Notification is the result of highhandedness, abusive exercise of official power and thus is not maintainable under any canon of law, justice and fair-play.

- D. That the long service of the appellant, after her reinstatement, was also ignored to the prejudice of the appellant while passing the impugned Notification. After long silence, Respondent No.2 could not issue the impugned Notification dismissing the services of the appellant by a single stroke of pen in highly arbitrary manner.
- E. That no codal formalities have been fulfilled and the entire proceedings were conducted in utter violation of mandatory provisions of law. The appellant was condemned unheard. She was denied a proper opportunity of defence in violation of the principle of the natural justice. In this background of the matter, the impugned Notification is void ab-initio and hence not maintainable.
- F. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

No.
Appellant

Khaled Rahman,
Advocate,
Supreme Court of Pakistan

Dated: 05/12/2016

کمزور - OED ماہ (زناتہ) مردان
درواں میراہ جامع از ۹۹۹۳ اور ۹۹۹۴ کی

۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی

۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی

۲۰۰۳.۰۳.۲۰

۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی
۳۱ - علی

۳۱ - علی

Attested to be True Copy

"E" Annex

(10)

کہ جس وقت DEO صاحب زینت علیہ الرحمہ نے

دفعہ 106 کے تحت ایف ڈی آر نمبر 9998 کے تحت

مقرر کیا۔

تعمیراتی کاموں کے لئے

بیمارستان کے لئے ایف ڈی آر نمبر 9998 کے تحت

مقرر کیا گیا ہے۔ اس کے تحت ایف ڈی آر نمبر 9998 کے تحت

مقرر کیا گیا ہے۔ اس کے تحت ایف ڈی آر نمبر 9998 کے تحت

مقرر کیا گیا ہے۔ اس کے تحت ایف ڈی آر نمبر 9998 کے تحت

FIR نمبر 9998 کے تحت ایف ڈی آر نمبر 9998 کے تحت

مقرر کیا گیا ہے۔

3.2.2001

مقرر کیا گیا ہے۔

مقرر کیا گیا ہے۔

9998 کے تحت ایف ڈی آر نمبر 9998 کے تحت

مقرر کیا گیا ہے۔

Attested to be True Copy

E

کے ذریعے DEO صاحبہ (زبان) مردان
درخواست برادر ایڈجسٹمنٹ و لیٹیٹو کی کالی

کے ذریعے درخواست کے ساتھ نے دستخط کیوں سے چار ماہ پہلے کی گئی
گئی ختم ہونے کی صورت میں ساتھ نے تبادلہ کیلئے
درخواست بھی دیدی۔ مگر ایڈجسٹمنٹ اور تبادلہ
تو درکار بلکہ ساتھ کی تنخواہ بھی بند کر دی گئی
ہے۔ جو زیادتی کے قرائف ہے۔ ذمہ داروں کی چکروں

کی چکی میں پھنس رہی ہوں۔
لہذا استدعا ہے کہ ساتھ کی ایڈجسٹمنٹ PPS
حیثیت میں کرانے کے احکامات صادر فرمائیں

قول و آداب

مدرسہ 01-9-9

نورینہ (PT) PPS
وہاؤنٹلے -

Attested to be True Copy

گھوڑا صاحب D.E.O صاحب خردان

۱۰

(12) صاحب عالی

گزشتہ یکم سائیکل سے دشمنی کی وجہ سے جھٹی لی تھی، جس کا ایک ماہانہ
 درخواست دی چلی تھی۔ اس کے بعد سائیکل نے مہینہ 9/4 کو اپنی صحت اور بحالی
 منجوان کے لیے درخواست دفتر کو بھیجوائی، لیکن پورے مہینے سے کوئی اقدام
 نہیں ہوا لہذا آپ صاحبان کی خدمت عالم سے استدعا کی جاتی ہے
 کہ سائیکل کو محتالی یا قریب ترین گزشتہ پندرہ مہینوں میں اپنی صحت کی حالت
 اور تندرستی کے سائیکل کی بحالی کو مد نظر رکھ کر سائیکل کی توجہ سے اس کے
 کا حکم ہمارے درخواستوں سے

4/2
2002

الفاروق
 نو ایف پی. سی. سی. بی ایس لوہار ٹوٹکے

Attested to me
 The ...

حکومت صوبہ ای ڈی او صاحب علی مردان

درخواست نمبر او نمبر اولہ و بحالی تنخواہ

13

صاحب علی!

گزارش ہے آسانڈ نے اپنی ذاتی دستخطی کی بنا پر کئی بار دفتر
ہذا کو نماد (ایڈریسمنٹ) و بحالی تنخواہ کی درخواستیں ارسال کی۔

لیکن دفتر کے طرف سے کوئی احکامات صادر نہ ہوئے۔

اسے احصاں سے انجمن کے آسانڈ کو منگنی دستخطی کا سامنا ہے

سینا کو تریبہ قرین سکول نجیبی میں نماد نمبر او کر احصاں بند
گردائیں سرمایہ مشغلات کے صلے میں تنخواہ بحال کی جائے۔

توازی میں ہوگی

المفروضہ 2002-11-14

سید

الحازم

نورین PTC
99PS لوہارنوک

Attested to be
True Copy

گورنمنٹ فنانس ڈیپارٹمنٹ (S&L) ع.د.و (SE L) محلہ کیمپ، تروان

(14)

درخواست نمبر او ایٹر حسب طلب

فنانس ڈیپارٹمنٹ

گورنمنٹ فنانس ڈیپارٹمنٹ کے کلب دروازے میں دینے پر تھک
گئی ہمارے دروازے میں دے رہی ہوں مگر اس پر کسی قسم کی کارروائی
میں ہوئی۔ آخر یہ ظلم کب تک؟
اس بار پھر استدعا ہے کہ سائبر فوراً او ایٹر حسب طلب کی حالت
اور ساتھ ساتھ درخواست گزار کے لیے کیا اقدامات صادر فرمادیں۔
مشکوریہ

3
30/2/2006

الغافل

پ.ت.ع. پ.س
گورنمنٹ فنانس ڈیپارٹمنٹ، تروان

No.

Attested to be True Copy

فہم علیہ

گزارش کی جاتی ہے کہ سائنس اینڈ ٹیکنالوجی اور بحال سکولہ کیلئے
کئی درخواستیں وصول ہیں۔ جن پر محکمہ کی طرف سے بحال سکولہ
کا رولہ نہیں پہنچا ہے۔

لہذا استرعاذ کے ساتھ سائنس اینڈ ٹیکنالوجی اور بحال سکولہ کیلئے
بائربینڈ ٹریننگ سکول میں اینڈ ٹیکنالوجی کے سہارے کر کے بحال سکولہ
کے احکامات صادر فرما کر سائنس کے سہارے حل کریں۔

انرجی 2
30/5/2002

الحال

مستند

ٹورنٹ PCC
PPS کوہاڑو

Attested to be
True Copy

خدمت خرابے ای ڈی او ضلع مردان

16

فدائی ا

گزارش ہے کہ فدیہ لینے دینی کی قوم سے ایڈمنسٹریٹو کئی اور محالی تیار
کئے گئے درخواست ارسال کی۔ فدیہ کے جان کو خطرہ ہے۔ اور دفتر
کی طرف سے جس کے درخواست دہر کوئی آئین نہیں لیا گیا ہے۔
لہذا استدعا ہے کہ فدیہ کو اپنے گاؤں نختانی کے گزرا تیار تیار محالی میں
ایڈمنسٹریٹو کرنا جائے۔ اور چونکہ طویل عرصے سے فدیہ کی تیار تیار
لہذا تیار محالی کر کے مہالی مشہور اصل کروا کر اصدان فدیہ گزرا تیار۔

تلازمین ہوگی۔

انگریزی ۱۰-۵-۲۰۰۳

۱۰

الغلام

نورث PTC

۹۹۲۵ کوہاڑا نوکل

Attested to be
True Copy

محفوظات ای۔ ای۔ وی اور صاحب صلح مردان

17

خان عالی

روزنامہ سردار سیکر اور بحالی خواہ

گزشتہ دنوں کے کہ سائنس نے کئی نئے روزناموں سے کئی نئے ماہانے

کوئی حکم صادر نہ ہو سکا۔ عاقرانہ ایس کے کہ سائنس کی دینی

اور عالی مشکلات کو مد نظر رکھ کر اپنے گاؤں محنتی یا غیرتیں

گنیز بیلڈی کوئی کوئی بار کے احکامات کی فرمائیں اور نیا

حال کی ہے۔ بڑی مہربانی ہوگی۔

المعروف 11/3/2003

الکافی

نورینہ P.T. اور سائنس گنیز بیلڈی کوئی کوئی بار کے

صبر

Attested to be True Copy

2003 03 07 09 08 28

گھوڑا - E.D.O. صلح دوران

درخواست نامہ Adjustment

خدا عالی

لذا میں نے کہ سائل P.P.S. کے دوران وہی میں جنٹس P.T. صلح فرما کر
سراجام دے اس بھی سائل نے حضور کو کر بالقریب دو مار چھٹی کی درخواست
کی تھی۔ چھٹی قسم ہو کر بعد ہی مار اڈر صنف اور تیار کیے گئے درخواستیں اس
مگر صدفیسوں کے احوال نہ صدفیسوں کی اور نہ صدفیسوں کے جو علم زیادتی
اور صدفیسوں پر تھی ہے۔

ماتھے کے گھر میں کوئی مار سہ فرد نہیں ہے یعنی العمر والو صاحب اور نوجوان عالی دونوں
دہلی میں مقیم ہیں۔ حکم آڈر ترقی در خواستوں میں کی گئی ہے۔ اور جو
دختروں کے چکر لگائی ہوں۔ وہ بھی ہے سو۔ کوئی پرسان صلح ہے۔ اور
نہ کوئی درخواست اور بات پر کان دھرتے ہیں۔

لذا حضور کی فرقت انیس میں التجائی ہوئی ہے۔ کہ سائل کی حالت زار پر
رحم فرمائے سائل کو محتالی باقریب نہیں نہیں پر تیار کر کے اور نچوہ اراد
کرنے کے اطمینان حاصل فرمائے شکر احسان کروائیں۔

۱۲ - ۲۲
2004

المرحوم
الکافی

نورینت P.T. - جی جی بی ایس لوہارا کوٹے، تحصیل صلح دوران
No

Attested to be
True Copy

گھوڑا خانہ - ۱۵۵۰ - کولیم علی محمد خان

درخواست نمبر کے اٹریسٹمنٹ

صفحہ ۱

گھوڑا خانہ کے نام سے منسلک ٹرانزیکشن حالات کی بنا پر گھوڑا خانہ کو کولیم علی محمد خان کی گھوڑا خانہ کو منظر رکھ کر انہی جان اور عزت بچانے کی خاطر تیار اور اٹریسٹمنٹ کے لئے منی درخواستیں دیں۔ مگر جسے سود - جوہ ایک بے بس اور گھوڑا خانہ کے ساتھ ظلم اور زیادتی ہے۔ بے بسی کے حالات میں دو گھوڑوں کی محتاج رہائی ہو۔

لہذا اس ستر کے نام سے منسلک گھوڑا خانہ کو منظر رکھ کر اٹریسٹمنٹ اور درخواستوں کے تیار کئے احکامات صادر فرمائیں۔

۱۶ - ۸ / ۲۰۰۵

المترجم

گھوڑا خانہ - ۱۵۵۰ - کولیم علی محمد خان
 درخواست نمبر کے اٹریسٹمنٹ - ۱۵۵۰ - کولیم علی محمد خان
 P.T. دفتر پورہ خان
 C.P.S.

No one

Attested to be True Copy

81 باب - P.O. (سولز اینڈ لیکچر) صلح مردان

درخواست دربارہ اٹوٹ حسنت

فاضل

لذا میں نے کہ سامنے اس سے لیے لیت سے درخواستیں
میرے اٹوٹ حسنت اور سخوان و الترار کرنے سے میرے وہی کہیں کوئی کاروان
مکمل میں ہیں لایا گیا کوئی فریاد سننے والہ دفتر میں موجود ہیں
میں ایک سے ہیں اور جمہور علم کے صحت سے زہری لزار علی ہوں
لیت ہی محقق لیں ہوں۔

میرے حضور ہے یہی کو مد نظر رخصتالی ما قریب ہیں
میرے سکول میں اٹوٹ حسنت کے اوقات ہمارے فرماویں
ساتھ ہا محوں وقت دعا دینی رہتی۔

القارم
2007

فردینا P.T دفتر بوردل خان ساکن کشتالی
P.S. قلم رائے محسن و صلح مردان

سید

Attested to be
copy

مخدوم صاحب ایگزیکٹو ڈسٹرکٹ آفس (ایگزیکٹو اینڈ سکولرز) مردان

حصہ عالی

22

گذشتہ دنوں سے کہ سائلہ سماہ نورینہ دفتر پور دل خان ساکن بخشالی ضلع مردان کا مستقل باشندہ ہے
میں سائلہ کی تقرری بطور پی۔ ٹی سی پورٹ گورنمنٹ گریڈ پرائمری سکول لوہاراں ضلع تحصیل
وضلع مردان میں ہو چکی تھی۔ سائلہ اپنی ڈپٹی نیا بت ہی الباتراری سے سرانجام دیتی رہی

پر جسکی سے اسی علاقہ کے ایک بھروسے نے سائلہ کا رشتہ مانگا، لیکن رشتہ دینے
سے سائلہ نے انکار کیا۔ انکار کی وجہ سے سائلہ کی عزت کو خطرہ لاحق ہوئی
جسکی وجہ سے سائلہ کا بھائی روزانہ سائلہ کے ساتھ آتا جاتا تھا، ایسی اثناء صبح 29/4/2008 کو
وہ بھروسے نے سائلہ کی بیاہ جسکی دعوت پر سائلہ کے والد اور بھائی پر ہوئی۔ بھائی
اور والد حضور ہوئے، ابتدائی رپورٹ کی تصدیق نقل درخواست میں لکھی ہے۔

سائلہ نے پلاور و مردگار رہ لی، سائلہ نے جمعگی کے لیے درخواست دی۔ اور ساگو کے منظور درجہ سائلہ
سائلہ صرف 30/4/2008 سے لیکر 30/8/2008 تک دشمنی کی بناء پر جمعگی پر تھی۔ لیکن بدعہمی سے

سائلہ کی یہ جمعگی منظور ہوئی اور نہ مزید کسی قسم کی کارروائی ہوئی ہے۔
لہذا سائلہ کی جمعگی اور ساگو Adjudgement کی آرڈر کرنے کا حکم صادر فرمائے
مشکوٰۃ فرما دیں۔ تمام سائلہ 1/10/2008 سے باقاعدہ کسی نزدیک ترین مقامی سکول میں دلوری
سرانجام دینا شروع کریں۔

الغیر

مخدوم صاحب ایگزیکٹو ڈسٹرکٹ آفس (ایگزیکٹو اینڈ سکولرز) مردان
(پی۔ ٹی سی پورٹ گورنمنٹ گریڈ پرائمری سکول لوہاراں ضلع تحصیل مردان)

6081
12/9/08

Attested to be True Copy

POUNCE STATION
0400000

99

صاحب
 گدارش ہے۔ یہ سمانہ نورینہ دختہ پورول خان سائن کمال منہ و کھیل میں
 عرفینہ سمانہ کی لکڑیوں البورہ پوائی۔ کسی پوسٹ گورنمنٹ پرائمری سکول انکارا
 صلح مدرس میں ہو چکی تھی۔ سمانہ اپنی ڈیڑھ بیٹی پنا درویش سے لیا
 دینی رہی۔ برفشہی ہے اس علاقے سے آیت بدعاش نے۔ سمانہ کا رشتہ
 - ایک سمانہ نے رشتہ دینے سے انکار کیا۔ انکار کیوں ہے سمانہ کے عزت
 لاصق ہوئی۔ جس وجہ سے سمانہ کی کہاں رندانہ سمانہ سے ساٹھ آتا جاتا تھا
 اسی رشتہ صرف لکڑیوں کے درویش بدعاش کیسے (مخل) کیا۔ جس کے بعد اس سمانہ کے
 دلا اور جہاں دعوں پر ہوئی۔ والہ اور جہاں دعوں ہوئے۔ انڈیا اور
 جس قدر لکل درویش کے سمانہ بذا لک ہے۔ سمانہ کے پارو پور کا رشتہ
 جو کہ دشمن پریم سے سمانہ کی عزت اور جان دونوں خطرے میں پڑے
 سمانہ کے 1/2 حصے کو جس کی درویش کی چند اونٹوں کے لہو سمانہ کے
 بنیاد کے درویش دی۔ اس کے ساتھ بنیاد کے درویش میں
 دینی وہی اسے لہو اور سمانہ کیسے ماہی ماہی گئی تھی درویش میں دی
 لیکن برفشہی سے سمانہ کے درویشوں پر اس قسم بنا کے پارو پور
 کی کاروں میں ہوئی۔ انڈیا آپ لکھنؤ سمانہ کی لہو سمانہ کی
 لکڑیوں اور کا حکم ہمارے ساتھ رہے۔ انڈیا میں
 تاکہ سمانہ کے باقاعدہ اس نزدیک ترین مقامی سکول میں
 ڈیڑھ سمانہ دینا شروع کریں

2362
 DATE 11/4/59

عین گدارش ہوں

انکارا کمال منہ و کھیل پورول خان سائن کمال منہ و کھیل میں
 صلح و کھیل فرسٹ۔ پوائی۔ کسی پوسٹ گورنمنٹ پرائمری سکول
 لکڑیوں کے منہ و کھیل مدرس

گذشتہ روز، یہ مسماہ نورینہ دختر پورول خان ساکن بمبئی کے محلہ درگاہ میں مقیم تھے۔
 عرصہ قبل یہ مسماہ کی لٹریچر بل بورڈ پر لگی ہوئی تھی۔ اس پر پوسٹ گزرتے ہوئے اس کے کچھ لکڑی کے ٹکڑے
 چھوڑ دیے تھے۔ مسماہ نے اپنی دیوٹی ہائیڈرو میٹری سے اس پر اجماع دیا تھا۔ بد قسمتی سے اس کے
 گھر پر ایسا ہیساں نے مسماہ کے ہاتھ مارا۔ کین مسماہ نے رشتہ دینی سے انکار کیا۔ انکار کی وجہ
 سے مسماہ کی عزت و خطرہ لاحق ہوئی۔ جس سے مسماہ کی کھانسی بڑھنے لگی۔ مسماہ نے انعامی
 ایسی ایسا مسماہ کو وہ بدعاشی کیس میں منسل کیا۔ جس کے نتیجے میں مسماہ کے دل پر اور
 دونوں پر ہوئے۔ کھانسی اور دل پر ہونے والے ابتدائی ایسے ہی مسماہ کے نقل و حرکت پر اثر پڑے۔
 مسماہ کے دل پر ہونے والے خطرے کو دیکھ کر مسماہ کے گھر والے نے مسماہ کو دو ٹوکوں میں
 لے گئے۔ مسماہ نے 4/2 کو چھوڑ دیا۔ چند دنوں بعد مسماہ نے جان بچانے کے لیے اپنے
 دروازے سے ایسے ہی اور مسماہ کے ساتھ ایسے ہی باہر نکلے۔ اس کے بعد دروازے سے
 کین بد قسمتی سے مسماہ کے دروازے پر کین کے ٹکڑے پڑے۔ کین کے ٹکڑے پڑنے سے
 لیتا مسماہ کی ایسے ہی اور کین کے ٹکڑے پڑنے سے مسماہ کے دل پر اور
 کین مسماہ کے 4/2 سے باقی ماندہ کین کے ٹکڑے پڑنے سے مسماہ کے دل پر اور
 کین کے ٹکڑے پڑنے سے مسماہ کے دل پر اور

Attested to be True Copy

کچھ دنوں بعد مسماہ نورینہ دختر پورول خان ساکن بمبئی کے محلہ درگاہ میں مقیم تھے۔
 اس کے کچھ لکڑی کے ٹکڑے چھوڑ دیے تھے۔ مسماہ نے اپنی دیوٹی ہائیڈرو میٹری سے اس پر اجماع دیا تھا۔
 بد قسمتی سے اس کے گھر پر ایسا ہیساں نے مسماہ کے ہاتھ مارا۔ کین مسماہ نے رشتہ دینی سے انکار کیا۔
 انکار کی وجہ سے مسماہ کی عزت و خطرہ لاحق ہوئی۔ جس سے مسماہ کی کھانسی بڑھنے لگی۔ مسماہ نے انعامی
 ایسی ایسا مسماہ کو وہ بدعاشی کیس میں منسل کیا۔ جس کے نتیجے میں مسماہ کے دل پر اور
 دونوں پر ہوئے۔ کھانسی اور دل پر ہونے والے ابتدائی ایسے ہی مسماہ کے نقل و حرکت پر اثر پڑے۔
 مسماہ کے دل پر ہونے والے خطرے کو دیکھ کر مسماہ کے گھر والے نے مسماہ کو دو ٹوکوں میں
 لے گئے۔ مسماہ نے 4/2 کو چھوڑ دیا۔ چند دنوں بعد مسماہ نے جان بچانے کے لیے اپنے
 دروازے سے ایسے ہی اور مسماہ کے ساتھ ایسے ہی باہر نکلے۔ اس کے بعد دروازے سے
 کین بد قسمتی سے مسماہ کے دروازے پر کین کے ٹکڑے پڑے۔ کین کے ٹکڑے پڑنے سے
 لیتا مسماہ کی ایسے ہی اور کین کے ٹکڑے پڑنے سے مسماہ کے دل پر اور
 کین مسماہ کے 4/2 سے باقی ماندہ کین کے ٹکڑے پڑنے سے مسماہ کے دل پر اور
 کین کے ٹکڑے پڑنے سے مسماہ کے دل پر اور

Handwritten signature

4/2

کھنوجا - والدین انیسویں صدی میں تھے۔ وزیر اعلیٰ صاحب نے یہ کہہ کر کہہ دیا کہ وہ
دفعہ 137 کے تحت Post میں

حساب عالی

گورنمنٹ کھنوجا اور صوبہ ذیل ہے

- 1۔ ایک سالہ طبیعت Post میں 1995ء میں داخلہ کے بعد مردان میں داخلہ لیا گیا ہے۔
- 2۔ ایک سالہ دیوانہ پڑا اور ایجنڈا کی نسبت والدین کی طرف سے دقت کی باہمی کھنوجا
تھی۔ اور بعد نافع فیکرہ ہاؤس کو لے گئی تھی۔
- 3۔ دوسرا سال اس وقت کی ایک ہی ہمدردی بہ عیاش اور بہ اعلیٰ سندہ گورنمنٹ میں
تنگ کر گئی تھی۔ اور پھر عزت کو نقصان پہنچا گئی تھی۔
- 4۔ ایک سالہ فیکرہ ہاؤس میں داخلہ اور بہ اعلیٰ سندہ گورنمنٹ میں داخلہ لیا گیا۔ کسی وقت
فیکرہ ہاؤس سے منتقل کر دیا۔ جسکی دعویٰ اور سندہ کی صنفی اعلیٰ سندہ گورنمنٹ اور اعلیٰ سندہ گورنمنٹ
میں لگائی تھی۔ بہر حال وہ پھر دہشتہ کا واقعہ تھا اور پھر بہ اعلیٰ سندہ گورنمنٹ میں لگائی اور
کیا کہ وہ عیاشی روایات کے خلاف لگائی تھی۔ انتقامی کارروائی کے طور پر اس شکوکہ قتل
کی دعویٰ اور پھر اعلیٰ سندہ گورنمنٹ اور صنفی اعلیٰ سندہ گورنمنٹ میں لگائی۔ دوسرے مستقبل کو ہاؤس
اور دوسرے گورنمنٹ عیاشی میں۔ اس سلسلے کے پیش نظر میں اول گئی تھی دفعہ 137 میں۔
پھر کارروائی نہ ہو سکی۔ پھر دوسرے دفعہ 137 میں تبادلے کیلئے دی۔ (جسکی فوٹو ہاؤس میں) مگر
وہ بھرتے ہوئے۔ عیاشی کوئی ناپسندیدہ نہیں ہے۔ تاہم دفعہ 137 کے چکر لگائے۔
- 5۔ ایک سالہ اعلیٰ سندہ گورنمنٹ میں داخلہ لیا گیا اور خود بخود درکار بلکہ پھر گورنمنٹ میں داخلہ لیا گیا اور
اور پھر فوٹو ہاؤس میں لگائی تھی۔ گورنمنٹ میں لگائی۔ اور نہ کسی سکول میں پھر اعلیٰ سندہ گورنمنٹ
کی گئی ہے۔ جو ظلم و ستم اور عیاشی کے خلاف ہے۔
- 6۔ ایک سالہ گورنمنٹ میں داخلہ لیا گیا۔ والدین کی پھر گورنمنٹ میں لگائی ہے۔ جو مرضی ہو۔
عام جان کرنا خود بخود بلکہ عیاشی میں لگائی تھی۔
- 7۔ ایک سالہ اعلیٰ سندہ گورنمنٹ میں داخلہ لیا گیا۔ ایک سالہ اعلیٰ سندہ گورنمنٹ میں داخلہ لیا گیا اور
تبادلے کو نہیں چھوڑا۔ ایسا کہ عیاشی کی بنا پر ایک سالہ اعلیٰ سندہ گورنمنٹ میں داخلہ لیا گیا اور
کرتے تھے اور عیاشی میں لگائی تھی۔ عیاشی میں لگائی تھی۔

فیکرہ گورنمنٹ

27.4.09

ایضاً
سائید نوینہ دفتر گورنمنٹ قاضی صاحبان کھنوجا

Attested to be True Copy

Annex "A"

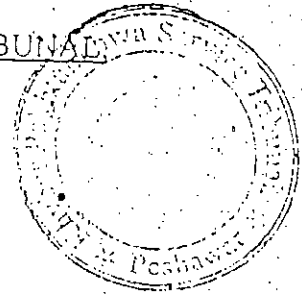
Annex "G"

26

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL NO.1662/2010

Date of institution ... 25.08.2010
Date of Judgment ... 11.04.2013



Ms. Norcena D/o Purdal Khan,
R/o Bakhshali Mardan.....(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Education, Peshawar.
2. Director of Education, Peshawar.
3. District Coordination Officer, Mardan. ✓
4. Executive District Officer (S&L) Mardan.....(Respondents)

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNALS ACT 1974.

Mr. Amjad Ali,
Advocate.

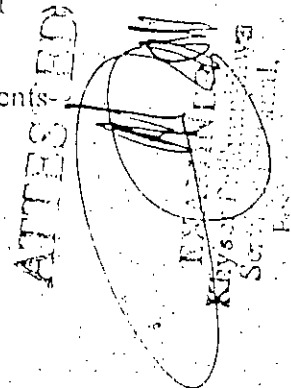
For appellant

Mr. Noorullah,
Senior Govt. Pleader.

For respondents

Mr. Qalandar Ali Khan
Syed Manzoor Ali Shah

Chairman
Member



JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:- This appeal by Ms. Norcena, appellant, is directed against the notification/order dated 27.4.2010 of Executive District Officer (S&L) Mardan (Respondent No.4), whereby she was removed from service under F.R-1S from the date of absence i.e. w.e.f 09.2000.

2. In her appeal, the appellant contended that she was appointed as PST in GGPS Looharano Kalley vide order dated 23.6.1997; but after involvement of her father and brother in the murder of Akhtar Sharif vide FIR No. 162 dated 29.4.2000, she was facing serious threat to her life, therefore, she submitted a number of applications right from year 2000 upto year 2009 for leave and adjustment/transfer to nearest station but to no avail. She finally moved the Chief Minister vide her application dated 27.4.2009 which was sent to the EDO(E&SE) Mardan for detailed report. The appellant alleged

Attested to be
True Copy

G

that a so-called inquiry was conducted at her back, without any notice to her, and the Inquiry Officer found her absent from duty; and she was removed from service on the ground of wilful absence vide impugned order dated 27.4.2010. She preferred departmental appeal, and when received no response within the statutory period, she lodged this appeal, inter-alia, on the grounds that she was not served with any notice, neither notice for attendance was published in the newspapers and that the respondent-department failed to discharge its duty of passing orders on her numerous applications. The appellant further alleged that major penalty could not be imposed on her without regular inquiry, as F.R-18 was not applicable in her case, thus she was not dealt with in accordance with law.

3. The respondents resisted the appeal by filing their written reply/written statement wherein they denied to have received any application, mentioned in the appeal; and only acknowledged the receipt of letter dated 19.6.2009, where-upon the EDO, E&SE, Mardan directed the Deputy District Officer (F) Mardan to enquire into the matter and submit her report. The DDO submitted report wherein the appellant was found absent from duty w.e.f 8.9.2000. The respondents claimed that no record with regard to performance of duty or sanction of leave of any kind was available in the school or in the office. The respondents asserted that the competent authority imposed major penalty of removal from service on 27.4.2010 with effect from the date of absence of the appellant i.e. 8.9.2000 under F.R-18 under Special Powers Ordinance, 2000 amended in 2001. The respondents maintained that since the appellant remained absent from duty for more than 8 years, she ceased to be a civil servant under F.R-18.

4. The appellant also filed rejoinder/replication to the written reply/comments of the respondents wherein she reiterated her case and refuted the allegations of the respondents; where-after arguments of the learned counsel for the appellant and learned Senior Govt. Pleader heard. Record also perused.

5. Though the appellant placed on file copies of applications right from 30.4.2000, one day after FIR was registered against her father and brother, upto the last application, moved to the Chief Minister on 27.4.2009; but with the exception of her last two

Attested to be
True Copy

applications in the year 2008 and 2009, she could not bring evidence on record to prove receipt of these applications by the respondent-department, especially after denial of receipt of these applications by the respondent-department in the written reply/comments; neither she could provide proof with regard to performance of duty during this period of 8/9 years; rather this fact is impliedly admitted by the appellant that she did not turn up for duty due to threat to her life after involvement of her father and brother in a murder case, wherein she figured as the alleged motive for the offence.

6. Anyhow, if there is omission on the part of the appellant, there is also glaring inaction on the part of the respondent-department, which was sleeping over the case, and took no action for 8/9 years, unless the EDO (E&SE) Mardan (Respondent No.4) received a letter from the department for necessary action on the application/complaint of the appellant; where-after a so-called inquiry was conducted by Assistant Deputy District Officer Education (I) Mardan, who found the appellant absent from 8.9.2000 upto 11.12.2009. The report dated 22.12.2009 of ADDO was made basis for the impugned notification/order dated 27.4.2010.

7. It may be pointed out here that the so-called Inquiry Officer visited the school and without serving the appellant with notice for appearance, or associating her with the 'inquiry', she submitted her report dated 22.12.2009, wherein she found the appellant absent from duty. It may also be added here that the authority i.e. respondent No.4 also did not serve the appellant either with charge sheet/statement of allegations or show cause notice; and also without conducting regular departmental/inquiry proceedings passed the impugned order whereby he imposed the major penalty of removal from service from the date of absence i.e. 8.9.2000 under F.R-18. Needless to say that there is no provision of imposition of major penalty of removal from service under F.R-18.

8. The respondents claimed in their written reply/comments that the competent authority imposed the major penalty of removal from service under Special Powers Ordinance 2000; but then he did not comply with the mandatory provisions of the Ordinance providing for service of charge sheet/statement of allegations or show cause notice and conducting departmental proceedings. Moreover, when specific legal

Attested to be
True Copy

Ⓟ

29

provision was there, which was purportedly applied in the case of the appellant, the authority could not have resort to F.R-18. Furthermore, removal from service of the appellant from back date i.e. date of her absence (8.9.2000) is also not in accordance with law.

9. In view of the above, the impugned notification/order dated 27.4.2010 is not sustainable in law. Consequently, on the partial acceptance of the appeal, the impugned notification/order is set aside and the appellant is reinstated, without any order with regard to back benefits. The case is remanded to the respondent-department/authority for dealing with the issue of absence from duty of the appellant in accordance with law, and, if so advised, conduct departmental proceedings, but strictly in accordance with law, by also providing opportunity of showing cause and defence to the appellant. There shall, however, be no order as to costs.

ANNOUNCED
11.04.2013

Ed. Qalandar Ali Khan,
Chairman
sd/- Syed Manzoor Ali Bhatt,
Member

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Filing of Copy	18.4.2013
Number of Copies	1600
Number of Pages	10
Number of Volumes	2
Number of Bundles	12
Date of Issuance of Copy	18.4.2013
Date of Delivery of Copy	18.4.2013

Pray = re-instatement + back benefits

Attested to be True Copy

Amnest. "B" "Amnest. H"

30

OFFICE OF THE DISTRICT EDUCATION OFFICER (F) MARDAN

RE-INSTATEMENT.

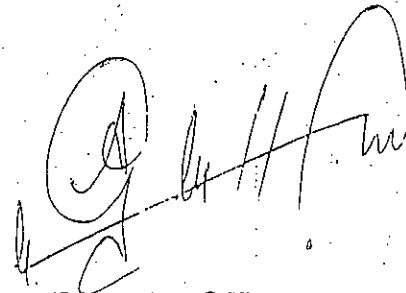
Consequent upon the decision of Hon,able Court Service Tribunal Khyber PakhtoonKhwa Peshawar dated 11/04/2013 / Service appeal No.1662/2010, Mst, Noureena PST GGPS Loharano Kalli Mardan is hereby Re-Instated in Service with immediate effect and adjusted at GGPS Amir Kot against vacant PST Post in the interest of public Service.

(Zuhra Begum)
District Education Officer
(Female) Mardan

Endst No 1920-24 dated 12/12 2013

Copy to the:-

1. Director (E&S) Education Khyber Pakhtun Khwa Peshawar.
2. Registrar Service Tribunal Khyber Pakhtun Khwa Peshawar.
3. District Account Officer Mardan.
4. SDEO (F) Mardan.
5. Mistress concerned.



District Education Officer
(Female) Mardan.

Attested to be
True Copy

H

Annex "C"

Annex "1"

(31)

12.02.2016

Counsel for the petitioner and Mr. Hameed-ur-Rehman, AD (lit.) alongwith Addl: A.G for respondents present. Seeks adjournment. Last opportunity granted. Implementation report be submitted on or before 1.4.2016 before S.B.

01.04.2016

Petitioner with counsel, Khurshid Khan, SO and Khaista Rehman, AD (litigation) alongwith Addl: A.G for respondents present. Implementation report not submitted despite last opportunity granted and in accordance with observation of this Court dated 16.10.2015. This court is no other option but to adopt coercive measures for implementation of its judgment. Salary of respondents No. 4 DEO (F) is attached at the first instance with a notice as to why she is not to be committed to civil imprisonment in connection of execution of the judgment. To come up for reply and further proceedings on 03.06.2016 before S.B.

Attested to be
True Copy

1

Annex D

32



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

PHONE/FAX NO. 0937-9230150

Email Address:-emismardan_deofemale@Yahoo.com

Annex J

NOTIFICATION


Miss, Nasira Principal Govt. Girls High School Baghdada is hereby appointed as inquiry officer to conduct an inquiry in the absence case of Miss, Noreena PST Govt. Girls Primary School Loharano Killi w.e.f 08/09/2000 to 27/04/2010. She is directed to submit the complete report within a month positively, to proceed further into the matter, as the case is under trail in the Honorable Service Tribunal Khyber Pakhtunkhwa.

(SAMINA GHANI)
DISTRICT EDUCATION OFFICER,
(FEMALE) MARDAN.

Endst. 5066-67 / dated Mardan the 1/6 /2016

Copies forwarded for information to the:-

1. Mst. Nasira Principal GGHS Baghdada
2. Teacher concerned.


DISTRICT EDUCATION OFFICER,
(FEMALE) MARDAN.

Attested to be
True Copy

J 1

Annex "K"

INQUIRY REPORT

33

Scope Of Enquiry: To inquire into the Absence case of Ms. Noreena, P.S.T.

GGPS Loharano Killi w.e.f. 08.09.2000 to 27.04.2010.

Authority: D.E.O. (Female) Mardan.

INQUIRY REPORT: In Response to the D.E.O. (F) Mardan Notification issued under Endst. No: 8086-87 Dated: Mardan the 28.10.2015, the undersigned with prior information to all concerned including Ms. Noreen, P.S.T. visited GGPS Tawas Banda on 03.11.2015. Questionnaires were served upon Mst. Sitara Farhat, HeadTeacher and Mst. Noreena, P.S.T. of GGPS Tawas Banda. Along with replies of Questionnaires, written statements were also obtained from both of them ("**Annexure 1, 2, 3, 4**"). Similarly, written statement from Mst. Umme Salma HeadTeacher Loharano Killi was obtained ("**Annexure-5**").

Mst. Umme Salma in her written statement has clarified that Mst. Noreena P.S.T. was not posted in GGPS Loharano Killi during her Tenure. She has recorded in her statement that no record of Teacher's attendance is available in the School w.e.f. 2000 to 2010. She has stated that the teacher concerned has received her pay w.e.f. December 1997 to August 2000. Copies of Acquaintance Roll Register pages for the noted period attached at ("**Annexure-6**"). She has also recorded that no other record is available in the school regarding Attendance or Leave of Mst. Noreena.

Mst. Sitara Farhat, HeadTeacher GGPS Tawas Banda has contended that Mst. Noreena is working at this school since 24.12.2013 (Copy of Chare Report "**Annexure at S.No:07**" attached).

Mst. Noreena was reinstated the D.E.O. (F) Mardan by the order of Khyber Pakhtunkhwa Service Tribunal Peshawar (Copy of "**Annexed at S.No: 08-11**") vide

Endst. No: 1920-24 dated: 12.12.2013 ("**Annexed at S.No: 09**") at GGPS Amir Kot.

A corrigendum was issued by D.E.O (F) Mardan re-posting her at GGPS Tawas Banda Mardan instead of GGPS Amir Kot ("**Annexed at S.No: 10**").

The HeadTeacher GGPS Tawas Banda has also submitted copies of teacher's attendance register showing presence/attendance of Mst. Noreena, P.S.T. w.e.f. 24.12.2013 till date ("**Annexed at S.No:11**").

Attested to be
True Copy

K

(34)

[Handwritten mark]

Mst. Noreena P.S.T. has submitted that due to threat to her honour from a notorious person in the locality, a family feud emerged resulting in the death of her father and imprisonment of only brother. Her mother also suffered a stroke. In such a situation, being a single unmarried girl she had no option but to abstain from duty and apply leave and request for readjustment to the E.D.O. (S&L) Mardan. She has submitted a large number of appeals/requests

("annexed at S.No: 12 to 30"). But no action what so ever has been taken by the department.

Similarly, she submitted an appeal to the C.M. K.P.K. Although she has been reinstated by the Honourable Service Tribunal Peshawar ("Judgment Copy annexed at S.No: 08-B").

The D.E.O. (F) Mardan was requested by the undersigned for furnishing documentary proofs of the leave case/termination of the teacher vide this office memo No: 247 dated: 05.11.2015 and reminder-I bearing no 248 dated: 10.11.2015 "Annexed at S.No: 31 & 32"

but no reply these of received.

CONCLUSION: As per available record of the Schools and other relevant documents submitted by the teacher concerned, it is concluded that no timely action has been taken by the Department/Office in the instant case. The aggrieved teacher was not re-adjusted during August 2000 to 2010.

In such a situation when she felt insecure and surrounded by so many threats, it was but natural that she would apply for leave and re-adjustment to which the department not acceded to.

RECOMMENDATION: The teacher has served w.e.f. 1997 to 2000. On regular basis as P.S.T. and no record of Leave sanction is available either at office or school from 2000 to 2010.

It is therefore recommended that either

- (i) Her service period w.e.f. 1997 to 2000 may be considered for Seniority purposes or,
- (ii) Ex-Post facto sanction for leave without pay may be accorded to her for the maximum possible period under the leave rules, so as to consider that period for her Seniority purpose only.

[Handwritten signature]
Ms. NASIRA UMAR SHAH
INQUIRY OFFICER

Attested to be
True Copy



Annex "E"

35

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

PHONE/FAX | 0937-9230150

Email Address: -cmismar_deofemale@yahoo.com

Annex "L"

NOTIFICATION

1. Whereas Mst. Noreena remained absent for 8/9 years right from 2000 to 2009 and after inquiry in 2010, she was removed from service on dated 24/04/2010. Later on she challenged the said removal order before the Khyber Pakhtunkhwa service tribunal in service appeal 1662/2 which was decided on 11/04/2013 with the direction to re-instate the appellant without any regard to back benefits and conduct the inquiry strictly according to law regarding her absence period i.e 08/09/2000 to 11/12/2009.
2. And whereas Mst. Noreena PST/BPS-12 posted at GGPS Tawos Banda was proceeded against under the Khyber Pakhtunkhwa Government Servants (E and D Rules 2011) show cause notice, charge sheet and statement of allegation was served upon her accordingly.
3. And whereas, the inquiry officer duly inquired the subject matter and found her guilty of willful absence for 8/9 years and recommended to deal with the absence according to relevant rules.
4. And whereas being the competent authority considered the charges and evidence on record and affording her an opportunity of personal hearing is of the view that charges of willful absence, for 8/9 years are proved against her.
5. Now, therefore, in exercise of the Powers Conferred under Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules 2011, the competent authority is pleased to impose major penalty of "Dismissed from Service" on Mst. Noreena PST, BPS-12 GGPS Tawos Banda Mardan with immediate effect.


(SAMINA GHANI)

DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN

Endst No. 6471-74 /PST/Enquiry File Dated Mardan the 07/8/2016

Copy forwarded to the:-

1. Director (E & SE) Khyber Pakhtunkhwa Peshawar.
2. Sub-Divisional Education Officer (i) P. Mardan
3. ADO (concerned)
4. Mst. Noreena PST GGPS Tawos Banda.


DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN

Attested to be
True Copy

O/C

Annex 'M' (36)

To,

The Director Elementary & Secondary
Khyber Pakhtunkhwa

Peshawar,

Subject: Representation Against the Order of the
District Education Officer (A) Mardan No=6471-74
dated 01.08.2016 vide which the Appellant was
dismissed from service is incorrect, illegal, against
law, natural justice, based on mala fide intention
and the said impugned order is ineffective
upon the rights of the Appellant and liable
to be set-aside with entire back-benefits.

Respectfully Sheweth,

1. That the Appellant namely Mst Noreena D/o Pundil Khan was initially appointed as a P.S.T. in GIGPS Loharano Killy Mardan vide order dated 03.06.1997.
2. That after service of at least three years, over there, (ie 8-9-2000), my family members were involved in murder case, due to which created nuisance in my smooth performance of duties with devotion.
3. That due to the above said reason, I moved a lot of / number of Applications for transfer

Attested to be
True Copy

M
B

from that place alongwith Applications for leave which was not proceeded by the then concerned dealing hands and I did not turn-up for duties due to threat to my life.

4. That without considering my Applications, the then competent authority conducted the so-called inquiry, in the recommendation of which, I was made absent and removal^{order} under F.R-18 was issued on dated 27-4-2010.
5. That on the impugned removal order dated, 27-04-2010 and by feeling aggrieved from the same, the Appellant invoked the constitutional jurisdiction of The Khyber Pakhtunkhwa Service Tribunal under section-4 by filing Appeal No 1662/2010.
6. That by accepting the above mentioned service appeal, the Chairman Service Tribunal set aside the impugned order dated 27-04-2010 with the directions "the impugned notification/order is set-aside and the Appellant is re-instated without any order with regard to back-benefits, The case is remanded to the responded department/authority for dealing with the issue of absence from duty of The Appellant accordance with law."

(Judgment dated 11-4-2013 is attached as Annex "A")

Attested to be
True Copy

7. That in-compliance of the Judgment of the Honourable Service Tribunal, the Competent authority issued Re-instatement Order vide Endst No-1920-24 dated 12-12-2013 in respect of Appellant.
- (Copy of order dated 12-12-2013 is attached as Annex "B.")
8. That after re-instatement, the Appellant performed her duties to the entire satisfaction of her superiors and the service-record of the Appellant was spotless and blameless.
9. That later-on the Appellant filed an execution Petition No-57/2013 before the Service Tribunal for seniority purpose because the impugned order was set-aside and the Appellant was re-instated not re-appointed by the Competent authority which greatly effected the valuable service rights of the Appellant.
10. That during the execution proceedings, the Honourable Service Tribunal issued directions time and again for the implementation of Judgment but the responded / D.E.O (A) Mardan was reluctant regarding the subject-matter and

Attested to be
True Copy

the Honourable court personally summoned The D.E.O (f) Mardan and attached her salary vide order dated 01-04-2016.

(39)

(Copy of order-sheet dated 01-04-2016 is attached as Annex "C".)

11. That resultantly, the District Education Officer female namely Mst Samina Ghani asked me to withdraw the Execution petition but on the non-compliance of the order of the D.E.O (f), she initiated departmental proceedings through inquiry notification dated 01-06-2016.
(Copy of notification is attached as Annex "D".)

12. That at this belated stage, the departmental Proceedings against the Appellant was based on malafide intentions, against law, facts, record, natural justice and was not maintainable in the eye of law and the intention of the competent authority was to deprive the nation from a devoted teacher.

13. That after initiating of malafide based inquiry, the recommendation of which was ambiguous, the competent authority issued the

Attested to be
True Copy

dismissal order in respect of Appellant in
rush without observing entire codal formalities
vide order No = 6471-74 dated 01-08-2016 and

The said order is ineffective upon the rights
of the Appellant and liable to be set-aside.
(Copy of impugned order dated 1-8-2016 is attached Annex F

4. That the basic intention of the competent
authority was not to fulfill the natural
justice or to meet the End of Justice
except to detach the salary from the
Honourable Service Tribunal.

15. That the mis-interpretation of The Honourable
Service Tribunal judgment and malafide based
initiated departmental proceedings against the
Appellant was merely to harass the Appellant
& to withdraw the execution petition, which
disobedience, she faced the dismissal from
The service as extreme penalty.

16. That apart from the above said proceedings,
it was to the uttermost shock and
dismay when the appellant received her
dismissal order in the hearing date of
execution petition ie 12-08-2016 without
receiving it officially and the competent

Attested to
True Copy

authority got released her salary without considering the service career/ span of the Appellant.

1. That the Appellant belongs to very poor family and was the only earning hand for her family and a large family to support.

Therefore it is humbly prayed that by accepting the instant Appeal, the impugned order dated 01-08-2016 may kindly be set aside and the Appellant may kindly be re-instated into service with entire back-benefits and any other remedy which seems fit may kindly be awarded with thanks & oblige.

(Signature)

Mst Noreena
D/o Rudil Khan
Ex-P.S.T at GGPS
Tanos Banda
Mardan.
Cell.No=03449160477

Dated:- 22/8/2016.

No. 246 For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Postal Office Guide or on which no acknowledgement is due.

Rs. 8 Ps.

Received a registered letter addressed to _____

Date Stamp: 22 AUG 16

Name of Receiving Officer: _____

Insured for Rs. (in figures) _____ (in words) _____

*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insurance fee Rs. _____ Ps. _____ (in words) _____

Name and address of sender: _____

Weight: _____ Kilo _____ Grams

22/8/16

WAKALAT NAMA

IN THE COURT OF KPK Service Tribunal Peshawar

Mst. Noreen

Appellant(s)/Petitioner(s)

VERSUS

the Director EQSE and
others

Respondent(s)

I/We Appellant do hereby appoint
Mr. Khaled Rehman, Advocate Supreme Court of Pakistan in the above
mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-


- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

~~Attested & Accepted by~~

Khaled Rehman,
Advocate,
Supreme Court of Pakistan

3-D, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458



Signature of Executants



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

PHONE/FAX NO. 0937-9230150

Email Address:-emismardan_deofemale@Yahoo.com

DISCIPLINARY ACTION


1. I Miss Samina Ghani DEO (F) Mardan as a competent authority, am of the opinion that Miss Noreena PST (B-12) at GGPS Tawos Banda Mardan has rendered herself liable to be proceeded against, as she committed the following acts/omissions, within the meaning of rule (3) of the Khyber Pakhtunkhwa Govt: Servants (Efficiency and Discipline) Rules 2011.

STATEMENT OF ALLEGATIONS

- i. That you Miss Noreena absented yourself from duty w.e.f 08/09/2000 to 11/12/2009 without any sanction from the competent authority.
 - ii. That your this conduct has caused severe/irreparable loss to the department and specially to the students.
 - iii. That your this act amounts to misconduct under the E&D Rules and demand a punitive action.
2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/inquiry committee consisting of the following is constituted under rule 10 (1)(a) of the act ibid.

- i. Miss Nazia Principle
@ GGHS Baghdad.

3. The inquiry officer/committee, in accordance with the provisions of the rules ibid, provide reasonable opportunity of hearing to the accused, record its findings and make within 30 days of the receipt of this order, recommendations as to punishment or other appropriate actions against the accused.
4. The accused shall join the proceedings on the date, time and place fixed by the inquiry officer/committee.


(SAMINA GHANI)
DISTRICT EDUCATION OFFICER,
(FEMALE) MARDAN.

187 order



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

PHONE/FAX NO. 0937-9230150

Email Address:-emismardan_deofemale@Yahoo.com

OFFICE ORDER.


In-compliance of the Judgment of Khyber Pakhtunkhwa Service Tribunal Peshawar, in Service Appeal No. 1662/2010 decided on 11/04/2013, departmental proceedings are initiated against delinquent official Mst. Noreena D/O Purdil Khan PST currently posted at GGPS Tawas Banda in connection with her absence w.e.f 08/09/2000 till 11/12/2009. !

(SAMINA GHANI)
DISTRICT EDUCATION OFFICER,
(FEMALE) MARDAN.

Endst. No. 4950-57 / Dated Mardan the 30/5 /2016

Copy forwarded to the:-

1. Director E & SE Khyber Pakhtunkhwa Peshawar.
2. Sub-Divisional Education Officer Pry. Mardan.
3. Official concerned


DISTRICT EDUCATION OFFICER,
(FEMALE) MARDAN.

Charge sheet



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

PHONE/FAX NO. 0937-9230150

Email Address:-emismardan_deofemale@Yahoo.com

CHARGE SHEET

1. I Miss Samina Ghani DEO (F) Mardan as competent authority under Khyber Pakhtunkhwa Govt: Servant (Efficiency and Disciplinary Rules 2011) hereby charge you "Mst. Noreena D/O Purdil Khan" currently posted at GGPS, Tawos Banda Mardan under:-
 - i. That you Miss Noreena absented yourself from duty w.e.f 08/09/2000 to 11/12/2009 without any sanction from the competent authority.
 - ii. That your this conduct has caused severe/irreparable loss to the department and specially to the students.
 - iii. That your this act amounts to misconduct under the E&D Rules and demand a punitive action.
2. By reason of the above, you appear to be guilty of misconduct under Rule (3) of the Khyber Pakhtunkhwa Govt: Servants (efficiency and discipline) rules 2011 and have rendered your self liable to all or any of the penalties specified in rule 4 of the rules ibid.
3. That your reply should reach to the (inquiry officer) within a period of 07 days of the receipt of this charge sheet to the inquiry officer as the case may be.
4. Your written defence if any, should reach to the inquiry officer within a specified period, failing which it shall be presumed that you have no defence to put in and in that case, ex-parte action will be taken against you under the rules.
5. You should also initiate whether you desire to be heard in person
6. The statement of allegation is enclosed herewith.

S. Ghani

(SAMINA GHANI)
DISTRICT EDUCATION OFFICER,
(FEMALE) MARDAN.

inquiry

New inquiry

10

INQUIRY REPORT

INQUIRY REPORT: Mst. Noreena's appeal was decided in her favour by the Service Tribunal K.P.K. and in compliance with that she was reinstated on 12.12.2013.

Response to my Queries about the discrepancy in the Periods of her absence, i.e. 08.09.2000 To 27.04.2010 and 08.09.2000 to 11.12.2009, and the non availability of her service record for the period in question and the reasons therefore do not appear totally convincing. Should it not be the duty for the officials concerned to maintain and duly preserve the same? Besides, the undersigned is not fully conversant with the relevant rules regarding such as to the gap between the two periods, i.e. her service prior to her absence and the service after her reinstatement as to whether it is to be regularized or not, and if regularized whether it should be treated as E.O.L. (Extra Ordinary Leave) or leave without pay or other wise.

Further although, the applications submitted must have the acknowledgement on the self-copy of the applicant, but is it practically followed by the clerical staff in our offices or such applicants aware of this official requirements?

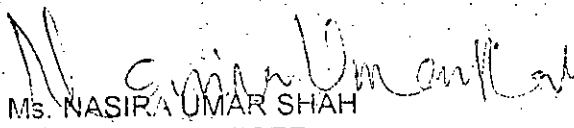
Moreover the Service Tribunal has passed no favourable remarks about the department but rather its role in the case has been termed as glaring in action and sleeping over for 08 To 09 Years.

CONCLUSION: Mst. Noreena's, P.S.T. has been reinstated the case has been remanded to the Department to be treated. According to the law so far as the issue consequent upon her reinstatement are concerned.

RECOMMENDATION: Not being personally conversant with the relevant rules regarding the gap in Mst. Noreena's two periods of service, it is recommended that Service decision about the period of absence be taken in the light of relevant rules.

Enclosures Page 01 To 98.

Note: No overwriting/cutting in the Inquiry report.


MS. NASIRA UMAR SHAH
INQUIRY OFFICER

No: 233/

Dated: 20.07.2016

Submitted for further necessary action to:

District Education Officer (Female) Mardan w/r to her office No. 5000 Dated: 02.08.2016

Personal hearing

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

PHONE/FAX NO. 0937-9230150

Email Address: emismardand deofemale @Yahoo.com

No. 6163 /General File Dated Mardan the 23/7 /2016

To:


The Sub-Divisional Education officer,
Female (Pry: Mardan.

Subject: Personal Hearing

Memo:

You are hereby directed to inform Mst. Noreena PST GGPS Tawos Band appear before the undersigned for personal hearing, in connection with her case 26/07/2016 at 11:00 AM in the office of District Education officer (Female) Mardan.


Otherwise an exparte action will be taken against the said teacher u Efficiency & Disciplinary Rules.


DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN

Endst. No. _____ / dated Mardan the _____ /2016

Copy forwarded to the:-

1. Director E & SE Khyber Pakhtunkhwa Peshawar.


DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

PHONE/FAX NO. 0937-9230150

Email Address: emismardand_deofemale@yahoo.com

No. 6163 /General File, Dated Mardan the 23-7 /2016

To:


The Sub-Divisional Education officer,
Female (Pry: Mardan.

Subject: Personal Hearing

Memo:

You are hereby directed to inform Mst. Noreena PST GGPS Tawog Banda appear before the undersigned for personal hearing, in connection with her case 26/07/2016 at 11:00 AM in the office of District Education officer (Female) Mardan.

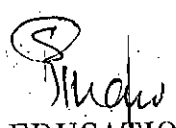
Otherwise an exparte action will be taken against the said teacher un Efficiency & Disciplinary Rules.


DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN

Endst. No _____ / dated Mardan the _____ /2016

Copy forwarded to the:-

1. Director E & SE Khyber Pakhtunkhwa Peshawar.


DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN



Dismissal order

DISTRICT EDUCATION OFFICER (FEMALE) MARDAN
PHONE NO. 0937-9230150

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN
PHONE/FAX NO. 0937-9230150
Email Address: emismardan_deofemale@Yahoo.com

NOTIFICATION

1. Whereas Mst. Noreena remained absent for 8/9 years right from 2000 to 2010 after inquiry in 2010, she was removed from service on dated 24/04/2010 on she challenged the said removed order before the Khyber Pakhtunkhwa Tribunal in service appeal 1662/210 which was decided on 11/04/2013 in direction to re-instate the appellant without any regard to back bene conduct the inquiry strictly according to law regarding her absence p 08/09/2000 to 11/12/2009.
2. And whereas Mst. Noreena PST BPS-12 posted at GGPS Tawos Banda proceeded against under the Khyber Pakhtunkhwa Government Servants Rules 2011) show cause notice, charge sheet and statement of allegation served upon her accordingly.
3. And whereas, the inquiry officer fully inquired the subject matter and found her guilty of willful absence for 8/9 years and recommended to deal with her according to relevant rules.
4. And whereas being the competent authority considered the charges and evidence on record and affording her an opportunity of personal hearing is of the charges of willful absence, for 8/9 years are proved against her.
5. Now, therefore, in exercise of the Powers Conferred under Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules 2011, the competent authority is pleased to impose major penalty of "Dismissed from Service" on Mst. Noreena PST GGPS Tawos Banda Mardan with immediate effect.

(SAMINA GHANI)
DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN

Endst No. 6471-74 /PST/Enquiry File Dated Mardan the 01/8

Copy forwarded to the:-

1. Director (E & SE) Khyber Pakhtunkhwa Peshawar
2. Sub-Divisional Education Officer (F) Pry. Mardan
3. ADO (concerned)
4. Mst. Noreena PST GGPS Tawos Banda.

16/07/11
6471-74
11/8/2016

Thaw
DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1218-P/2016

Mst.Noreena -----(Appellant)

VERSUS

The Director Elementary & Secondary Education & Others -----

----- (Respondents)

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES	
1.	Para wise Comments		1	3
2.	Copy of Inquiry report	"A"	4	4

Respondents

Through


District Education Officer (F)
Mardan

Dated: 11/12/2017

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
Appeal No. 1218-P/2016

Mst.Noreena -----(Appellant)

VERSUS

The Director Elementary & Secondary Education &Others -----
----- (Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth,

Preliminary Objections:-

1. That the appellant has got no cause of action and locus standi to file the instant writ appeal.
2. That the instant appeal is bad in its present form, hence, incompetent and liable to be dismissed.
3. That the instant appeal is not maintainable in the eye of law.
4. That the instant appeal is liable to be dismissed on account of non-joinder and mis-joinder of unnecessary parties.
5. That the Honourable Court lack jurisdiction in the instant matter.
6. That the appellant has not come to this Honourable Tribunal with clean hands.
7. That the appellant concealed the material facts and kept this Honourable Tribunal in dark.
8. That the instant appeal is badly time barred.
9. That the appellant is estopped by her own conduct to file the instant appeal.

ON FACTS

1. Para 1 pertains to record, hence no comment.
2. Para 2 pertains to record, hence no comments.
3. Para 3 pertains to record, hence no comments.
4. Para 4 pertains to record, hence no comments.
5. Para 5 is correct, (Copy of judgment dated 11-04-2013 is already attached with instant appeal as Annex G)

6. Reply of Para 6 is that the appellant was re-instated by the respondent dated 12-12-2013 copy of which is already attached with the instant appeal as Annex H without any back benefit as per directions of the Honourable Tribunal, and an inquiry was conducted by the respondent/department to deal the issue of absence from duty of the appellant in accordance with law in the light of execution petition No.57/2013 filed by the appellant. However the appellant claimed seniority before Tribunal which was beyond/against the judgment dated 11-04-2013 in which the Honourable Chairman of the Tribunal directed the respondent/department to implement the judgment in letter and spirit by conducting departmental inquiry to deal issue of absence, in this regard, the salary of DEO(F) was also attached to finalize the matter, hence denied.
7. Reply of Para 7 is that an inquiry was conducted by department, the recommendation of which was set-aside by the competent authority as inquiry was being devoid of codal formalities, copy of which is already attached with the instant appeal as Annex K and another inquiry was conducted according to codal formalities, in the light of which recommendation, "that the leave period be treated according to law". So long absence for about 8/9 years from duty of appellant cannot be converted into E.O.L extraordinary leave, as the service of appellant was too short, hence the appellant was dismissed on dated 01-08-2016. (Copy of inquiry report is attached as Annex A"
8. Para 8 pertains to record, hence no comments.

GROUNDS

- A. Para A is incorrect, baseless, against law and facts, hence denied.
- B. Para B is incorrect, baseless and after fulfilling all the codal formalities, the answering respondents being a responsible government officer issued the order dated 01-08-2016, hence denied.
- C. Para C is incorrect, baseless, against law and facts and thoroughly explained supra in preliminary objections No. 6 & 7, hence denied.
- D. Para D is incorrect, baseless, against law and facts, and the re-instatement of the appellant was made to probe into the matter, hence denied.
- E. Para E is incorrect, baseless, against law and facts, hence denied. All codal formalities have been fulfilled.

F. Para F is incorrect and the instant appeal being devoid of merit liable to be dismissed. The respondents seek leave of this Honourable Tribunal to raise additional grounds at the time arguments.

Therefore it is humbly prayed that keeping in view the above mentioned facts, the instant appeal may kindly be dismissed with cost.

Respondents

Through



**District Education Officer (F)
Mardan**

Annex. "A"

INQUIRY REPORT

INQUIRY REPORT: Mst. Noreena's appeal was decided in her favour by the Service Tribunal K.P.K. and in compliance with that she was reinstated on 12.12.2013.

Response to my Queries about the discrepancy in the Periods of her absence, i.e. 08.09.2000 To 27.04.2010 and 08.09.2000 to 11.12.2009, and the non availability of her service record for the period in question and the reasons therefore do not appear totally convincing. Should it not be the duty for the officials concerned to maintain and duly preserve the same? Besides, the undersigned is not fully conversant with the relevant rules regarding such as to the gap between the two periods, i.e. her service prior to her absence and the service after her reinstatement as to whether it is to be regularized or not, and if regularized whether it should be treated as E.O.L. (Extra Ordinary Leave) or leave without pay or other wise.

Further although, the applications submitted must have the acknowledgement on the self-copy of the applicant, but is it practically followed by the clerical staff in our offices or such applicants aware of this official requirements?

Moreover the Service Tribunal has passed no favourable remarks about the department but rather its role in the case has been termed as glaring in action and sleeping over for 08 To 09 Years.

CONCLUSION: Mst. Noreena's, P.S.T. has been reinstated the case has been remanded to the Department to be treated. According to the law so far as the issue consequent upon her reinstatement are concerned.

RECOMMENDATION: Not being personally conversant with the relevant rules regarding the gap in Mst. Noreena's two periods of her service, it is recommended that Service decision about the period of absence be taken in the light of relevant rules.

Enclosures Page 01 To 98.

Note: No overwriting/cutting in the Inquiry report.


MS. NASIRA UMAR SHAH
INQUIRY OFFICER

No: 233/

Dated: 20.07.2016

Submitted for further necessary action to:

District Education Officer (Female) Mardan w/r to her office No. 5068-70 Dated: 02.06.2016

ATTESTED


DISTRICT EDUCATION
OFFICER (FEMALE)
(E&SE) MARDAN

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**Service Appeal No. 1218-P /2016**

Mst. NoreenaAppellant

Versus

The Govt. through Director E&SE and others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE
TO REPLY FILED BY RESPONDENT No.2.**

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondent are erroneous and frivolous. Appellant has got a strong cause of action and for that matter locus standi to file the instant appeal. The estoppels cannot run against the law. All the proper and necessary parties have been arrayed as Respondents in the instant appeal being filed within time in its correct form and shape. No thing has been concealed from the Hon'ble Tribunal.

Facts:

1. Being not replied hence admitted.
2. Being not replied hence admitted.
3. Being not replied hence admitted.
4. Being not replied hence admitted.
5. Para-5 of the appeal is admitted as correct by the answering Respondent.

6. Reply to Para-6 of the appeal is incorrect. The salary of Respondent No.2 was attached by the Hon'ble Service Tribunal with a warning to confine her to Civil Prison, during the Execution Petition No.57/2013 in Service Appeal No.1662/2010. The salary of the Respondent No.2 was attached for not implementing the orders of the Hon'ble Tribunal whereas the claim of the appellant for seniority was just and according to law.
7. Reply to Para-7 of the appeal is incorrect. The enquiry was conducted/ordered vide Notification dated 01.06.2016 by Respondent No.2 as a revenge due to the strict orders passed by the Hon'ble Tribunal. Even then the recommendations of the Enquiry Officer were favourable but inspite of it, the impugned Notification dated 01.08.2016 was passed and the major penalty of dismissal from service was imposed upon the appellant after long 02 years and 08 months of her reinstatement into service which is unjust and illegal.
8. Being not replied hence admitted.

Grounds:


- A. Reply to Ground-A of the appeal is incorrect. The appellant was not treated according to law.
- B. Reply to Ground-B of the appeal is incorrect. The appellant did not absent herself deliberately. The appellant's life was at risk. After all, the appellant also forwarded many applications to the concerned authorities but no action was taken on them and so the penalty of dismissal from services is unjustified and not sustainable.
- C. Reply to Ground-C of the appeal is incorrect. The Respondent No.2 issued the impugned order dated 01.08.2016 due to revenge and annoyance.
- D. Reply to Ground-D of the appeal is incorrect. The appellant was dismissed from service for no good reason and the impugned Notification is totally against the law.

- E. Reply to Ground-E of the appeal is incorrect. No codal formalities have been fulfilled and the impugned Notification is void ab initio and hence not maintainable.
- F. That the appellant would raise further grounds at the time of hearing.

It is, therefore, humbly prayed that the reply of answering Respondent may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Appellant


Khaled Rahman
Advocate,
Supreme Court of Pakistan

Dated: ¹³~~10~~ /07/2017

Verification

Verified that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Appellant

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2612 /ST

Dated 05 /12/2017

To

The Director Education Officer (Female),
Government of Khyber Pakhtunkhwa,
Mardan.

Subject: **JUDGEMENT/ ORDER IN APPEAL NO. 1218/16, MST. NOREEN.**

I am directed to forward herewith a certified copy of Judgment/order dated 17/11/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above



REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

de