

S. No.	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	02.01.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>CAMP COURT SWAT</u></p> <p style="text-align: center;">Service Appeal No. 257/2015 Mst. Bibi Aisha Versus The Secretary Education (E&SE), Peshawar and 2 others.</p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Counsel for the appellant and Mr. Muhammad Zubair, Senior Government Pleader alongwith Mr. Muhammad Ayub, ADO for respondents present.</p> <p>2. Mst. Bibi Aisha, Ex-SST GGMS, Shah Nigar, District Chitral hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against impugned order dated 26.01.2012 vide which the appellant was removed from service and where-against her departmental appeal dated 23.02.2012 was rejected vide order dated 19.02.2015 and hence the instant service appeal.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was serving as SST when subject to enquiry on the allegations of wilful absence and as a consequence thereof removed from service vide impugned order referred to above.</p> <p>4. Learned counsel for the appellant has argued that the prescribed procedure for the conduct of enquiry within the meaning of Rule 5(4) of the Khyber Pakhtunkhwa Removal from service (Special Powers)</p>

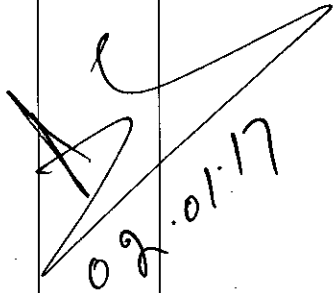
~~C~~
09.01.17

Ordinance, 2000 was not followed and that the publication etc. were not made under directions the orders of the competent authority as the competent authority, in the case of the appellant, was Director, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar while the said publications were issued under the directions of the Executive District Officer, Elementary & Secondary Education, Chitral. Learned counsel for the appellant also referred to report of Deputy Directress Establishment dated 14.10.2014 wherein it was reported that the enquiry was not conducted in the prescribed manners and that the appellant was entitled to reinstatement in service.

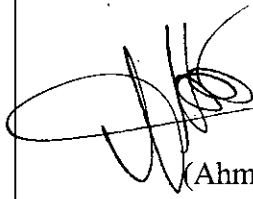
5. Learned Government Pleader has argued that the appellant has remained absent from duty without obtaining any leave. He however was not in a position to explain that the publications were made under the directions of the competent authority as the same were not made under the orders of the Director, E&SE who happens to be the competent authority.

6. Keeping in view the facts that the enquiry was not conducted in the mode and manners prescribed by rules and the publications were not ordered to be issued in the daily newspapers by the competent authority as such we deem it appropriate to direct that the enquiry in the mode and manners prescribed by rules be conducted afresh wherein opportunity of hearing be afforded to the appellant.

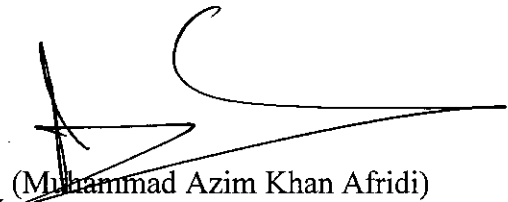
7. In view of the above we are constrained to accept the present appeal, set aside the impugned order dated 26.01.2012 as well as 19.02.2015 and reinstate the appellant in service with the directions to

A handwritten signature is present in the left margin, with the date '02.01.17' written below it.

the respondents to conduct denovo enquiry in the mode and manners prescribed by rules within a period of 3 months from the date of receipt of this judgment. In case the respondents fail to conduct and conclude the enquiry within the specified period of 3 months then it shall be deemed that the appellant has been reinstated in service and, in such eventuality, her period of absence from service shall be then considered as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.



(Ahmad Hassan)
Member



(Muhammad Azim Khan Afridi)
Chairman
Camp Court, Swat.

02.01.17

ANNOUNCED

02.01.2017


07.04.2016

Qazi Jamal Nasir, brother of the appellant and Mr. Muhammad Ayub, ADO alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Cost of Rs. 1000/- paid and receipt thereof obtained from brother of the appellant. Last opportunity is further extended at the cost of Rs. 1000/- which shall be borne by the respondents from their own pockets... To come up for written reply/comments and cost on 04.05.2016 before S.B at Camp Court, Swat.


Chairman
Camp court, Swat.

04.05.2016

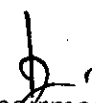
Mr. Abdul Basit, relative of the appellant and Mr. Muhammad Ayub, ADO alongwith Mr. Amir Qadar, GP for the respondents present. Written reply by respondents submitted. Cost of Rs. 1000/- paid and receipt whereof obtained from the relative of the appellant. The appeal is assigned to D.B for rejoinder and final hearing for. 03.10.2016 at camp court, Swat.


Chairman
Camp Court, Swat

03.10.2016

None present for the parties due to notification of public holiday on the eve of first Moharram. The appeal is therefore, adjourned for final hearing before the D.B to 02.01.2017 at camp court, Swat.


Member


Chairman
Camp court, Swat


7.9.2015

Mr.Naeem Khan on behalf of the appellant and Mr.Muhammad Zubair, Sr.G.P for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 2.11.2015 before S.B at Camp Court Swat. The restraint order shall continue.


Chairman
Camp Court Swat


2.11.2015

Mr.Abdul Haseeb brother of the appellant and Mr. Muhammad Zubair, Sr.G.P for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 14.01.2016 before S.B at Camp Court Swat.


Chairman
Camp Court Swat

14.01.2016

None present for appellant. Mr. Muhammad Zubair, Sr. GP for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply and cost on 7.4.2016 before S.B at Camp Court Swat.


Chairman
Camp Court Swat

3
15.04.2015

Agent of counsel for the appellant present. Counsel for the appellant is not in attendance due to strike of the Bar. Adjourned for preliminary hearing to 29.04.2015 before S.B.


Chairman

4 29.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as SST when removed from service vide impugned order dated 26.1.2012 regarding which she preferred departmental appeal on 23.2.2012 which was rejected on 19.2.2015 and hence the instant service appeal on 17.3.2015.


That the inquiry was conducted after passing the impugned order and that the appellant was not associated with the same.

Points urged need consideration. Admit, subject to limitation. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply. The appeal pertains to territorial limits of Malakand Division and as such to be posted at Camp Court Swat on 6.7.2015.


Chairman.

5 6.7.2015

Counsel for the appellant and Mr. Muhammad Zubair, Sr. G.P for respondents present. Requested for adjournment. To come up for written reply/comments on 7.9.2015 at camp court Swat. The restraint order shall continue.


Chairman
Camp Court Swat



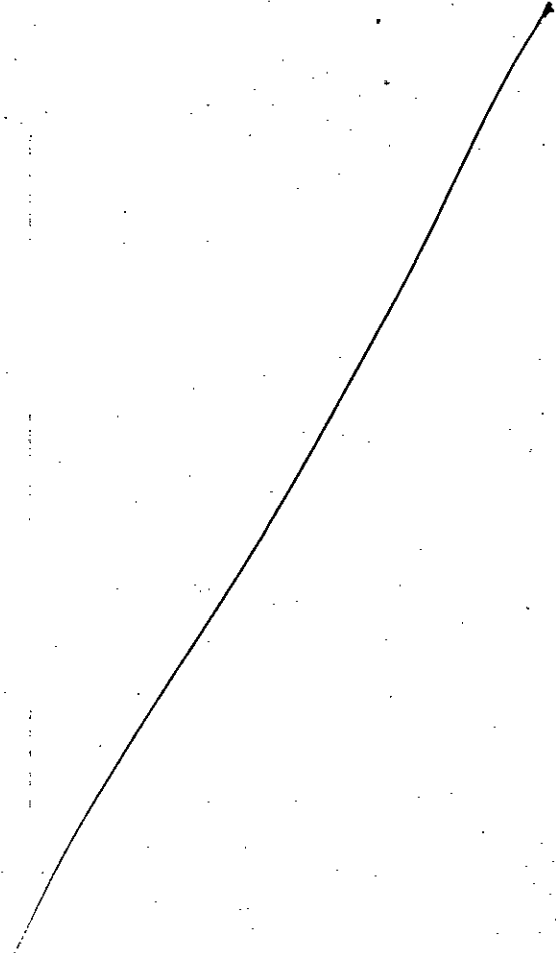
Appellate Connected
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 257/2015

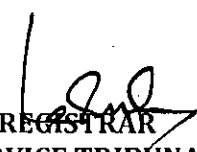
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01.04.2015	<p>The appeal of Mr. Mst. Bibi Aisha resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	3-4-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>15-4-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

The appeal of Mst. Bibi Aisha Ex-SST, GGMS Shah Nigar Distt. Chitral received to-day i.e. on 17.03.2015 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copies of transfer orders dated 30.7.2007 and 30.7.2005 mentioned in para-3 of the memo of appeal are not attached with the appeal which may be placed on it.
- 2- Copy of Show cause notice mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Copies of departmental appeal and its rejection order mentioned in para-6 of the memo of appeal are not attached with the appeal which may be placed on it.
- 4- Annexures of the appeal may be attested.
- 5- Annexures-D and E of the appeal are illegible which may be replaced by legible/better one.

No. 353 /S.T,

Dt. 19/3 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. M. Asif Yousafzai Adv. Pesh.

*Sir, Re-submitted after
compliance
Mu Sai'*

1. The order dt is actually 30.7.2010 but inadvertently typed as 30.7.07 & 30.7.05, which is correct accordingly.
2. Removed.
3. Removed.
4. Removed.
5. Removed.

1. The order of is as follows: 30.1.02, 30.1.03, 30.1.04, 30.1.05, 30.1.06, 30.1.07, 30.1.08, 30.1.09, 30.1.10, 30.1.11, 30.1.12, 30.1.13, 30.1.14, 30.1.15, 30.1.16, 30.1.17, 30.1.18, 30.1.19, 30.1.20, 30.1.21, 30.1.22, 30.1.23, 30.1.24, 30.1.25, 30.1.26, 30.1.27, 30.1.28, 30.1.29, 30.1.30, 30.1.31, 30.1.32, 30.1.33, 30.1.34, 30.1.35, 30.1.36, 30.1.37, 30.1.38, 30.1.39, 30.1.40, 30.1.41, 30.1.42, 30.1.43, 30.1.44, 30.1.45, 30.1.46, 30.1.47, 30.1.48, 30.1.49, 30.1.50, 30.1.51, 30.1.52, 30.1.53, 30.1.54, 30.1.55, 30.1.56, 30.1.57, 30.1.58, 30.1.59, 30.1.60, 30.1.61, 30.1.62, 30.1.63, 30.1.64, 30.1.65, 30.1.66, 30.1.67, 30.1.68, 30.1.69, 30.1.70, 30.1.71, 30.1.72, 30.1.73, 30.1.74, 30.1.75, 30.1.76, 30.1.77, 30.1.78, 30.1.79, 30.1.80, 30.1.81, 30.1.82, 30.1.83, 30.1.84, 30.1.85, 30.1.86, 30.1.87, 30.1.88, 30.1.89, 30.1.90, 30.1.91, 30.1.92, 30.1.93, 30.1.94, 30.1.95, 30.1.96, 30.1.97, 30.1.98, 30.1.99, 30.1.100.

- 2. removed.
- 3. removed.
- 4. removed.
- 5. removed.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 257 /2015

Bibi Aisha

V/S

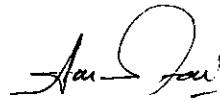
Education Deptt:

INDEX

S.NO.	Documents	Annexure	Page No.
1.	Memo of appeal	-----	1- 4
2.	Copy of order dated(14.7.2005)	A	5
3.	Copy of order dated (11.11.2006)	B	6
4.	Copy of order dated (17.11.2007)	C	7
5.	Copy of order dated (30.7.2005)	D	8
6.	Copy of order dated(13.11.2011)	E	9-11
7.	Copy of show cause notice	F	12
8.	Copy of removal order dated(26.1.20011)	G	13
9.	Copy of departmental appeal	H	14-18
10.	Copy of Rejection order	I	19
11.	Copy of inquiry report	J	20-24
12.	Vakalat nama	-----	25

APPELLANT

THROUGH:



(M. ASIF YOUSAFZAI)



(TAIMUR ALI KHAN)

&

(GOHER SAJJAD KHAN)

ADVOCATES, PESHAWAR

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 257 /2015

A.W.P. Previous
Service Tribunal
Diary No. 229
Dated 17-3-2015

Mst: Bibi Aisha, Ex- SST

GGMS, Shah Nigar, District Chitral.

(Appellant)

VERSUS

1. The Secretary Education (E&SE), Peshawar.
2. The Director Education (E&SE), Peshawar.
3. The District Education Officer (E&SE), Chitral.

(Respondents)

APPEAL UNDER SEC- 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 19.02.2015, WHERE THE DEPARTMENTAL ^{appeal} OF THE APPELLANT AGAINST THE ORDER DATED 26.01.2012 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL THE ORDER DATED 26.01.2012 AND 19.2.2015 MAY BE SET-ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACKS AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO BE GRANTED IN FAVOUR OF THE APPELLANT.

17/3/15

17/4/15

R.SHEWETH:

FACTS:

1. That the appellant joined the education department in the year 1986 and performed her duties up to the entire satisfaction of her superiors and no complaint has been filed against the appellant.
2. That the appellant was seriously ill and was unable to perform her duties, therefore the appellant requested for half pay leave, which was granted for 240 days w,e from 1.6.2005 to 26.6.2006 vide order dated 14.7.2005. the appellant further requested for extra ordinary leave and subsequently 339 days w.e from 27.06.2006 to 31.05.2007 was granted order dated 11.11.2006 it is pertinent to mention here that the appellant was granted further leave without pay of 730 days w.e.f 1.6.2007 to 31.5.2009 vide order dated 17.11.2007. (Copy of orders are attached as Annexure-A,B&C)
3. That the appellant was unable to perform her duties being under treatment, and time again requested for extension of her leave through applications. It is worth to note that the appellant was transferred from GGHS Drosh to GGMS girls Mori Bala vide order dated 30.7.2010 and then the appellant was transferred to GGMS Shah Nigar.(Copy of order dated 30.7.2010 is attached as Annexure-D)
4. That the appellant even requested for her special treatment and after due consideration the DG Healthy Services KPK Peshawar was pleased to accord sanction for specialized treatment at Peshawar. Vide order dated 13.11. 2011. (Copy of order is attached as annexure-E)
5. That the appellant repeatedly requested to department for extension of her leave, but instead of extension of her leave, EDO (E&SE) Chitral issued show cause notice to the appellant and and Director (E&SE) KPK Peshawar imposed major penalty of removal from the service vide order dated 26.1.2012 without giving charge sheet and without conducting inquiry. (Copy of show cause notice and removal orders are attached as Annexure-F&G)
6. That the appellant filed departmental appeal on 23.2.2012 against the order dated 26.1.2012. which was rejected on 19.2.2015. (Copy of departmental appeal and rejection order are attached as Annexure-H&I)

7. That now the appellant comes to this august Tribunal on the following grounds amongst the others.

GROUNDS:

- A) That impugned orders dated 26.1.2012 and 19.2.2015 are against the law, facts, and norms of justice and material on record, therefore not tenable.
- B) That the inquiry is conducted after the removal of appellant. Which is not permissible in law. Therefore the impugned order is liable to be set aside.
- C) That even the inquiry committee recommended for the reinstatement of the appellant in the service and period of absence from the duty w.e.f 1.6.2009 onward may be treated as EOL without pay keeping in view DHQ Chitral and DG Health Peshawar letter referred for which she had applied for leave but her leave case was not processed further, but despite that recommendation the appellant was not reinstated. Which is against the principle of justice and fair play.(Copy of inquiry report is attached as Annexure-J)
- D) That EDO (E&SE) Chitral issued show cause notice to the appellant, which is not competent authority and for the appellant the competent authority is director and not the EDO.
- E) That the appellant has not been treated according to law and rules and has been kept deprive from her legal right in arbitrary manner.
- F) That the appellant has been removed from service on 26.1.2012, while the inquiry was conducted after the removal of the appellant. Therefore the impugned order is liable to be set aside on this ground alone.
- G) That no charge sheet, statement of allegation was served to the appellant before imposing the major punishment to the appellant, which is against the law and rules.
- H) That the removal order dated 26.1.2015 is against the law as the respondent Deptt; did not fulfill codal formalities before passing the removal order dated 26.1.2015.

- I) That the appellant has requested time and again for further extension of leave due to her treatment, but the rejection of extension of leave was not communicated to the appellant. Therefore the appellant could not be penalized for the fault of others.
- J) That the appellant has good service record, therefore, no complaints against the appellant what-so-ever.
- K) That the appellant seeks permission to advance other grounds and proofs at the time hearing.

It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

A-15a
APPELLANT
Bibi Aisha

THROUGH:

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
& *Taimur Alt Khan*
(TAIMUR ALTKHAN)

ADVOCATES, PESHAWAR

"A" 5

OFFICE OF THE DISTT: COORDINATION OFFICER CHITRAL.

Dated 14/07/2005.

OFFICE ORDER.

No. _____ /DCO/E-9-VOL:II. Bibi Aisha SET GGHS Drosh is hereby granted earned leave on half pay for 240 days with effect from 1.06.2005 to 15.06.2006 (both days inclusive) & admissible under the revised leave rule, 1981.

Sd/-

(ABDUL GHAFOR B AIG)
DISTT: COORDINATION OFFICER
CHITRAL.

No. 339-41 /DCO/E-9-Vol:II.

Copy of the above is forwarded to:-

1. E.D.O. School & Literacy Chitral for information with reference to his letter No. 5846/EB/L-3/Secy: dtd: 29.6.
 2. The Distt: Accounts Officer, Chitral.
 3. The Officer concerned.
- FOR INFORMATION PLEASE.

W. Khan
DISTRICT COORDINATION
CHITRAL.

MAO
16/7
2005
Sl: ABV
M. M. A. U.

ATTESTED

B
6

OFFICE OF THE DISTRICT COORDINATION OFFICER CHITRAL.

Dated Chitral the 17/11/2006.

OFFICE ORDER.

No. /DCO/E-9/Vol:II. Bibi Aisha SET GGMS Shahnigar
Drosh Chitral is hereby granted Extra Ordinary leave without pay for 339
days with effect from 27-06-2006 to 31-05-2007 (both days inclusive) as
admissible under Revised Leave Rules 1981.

/

(Abdul Ghafoor Baig)
District Coordination Officer,
Chitral.

No. S 254 - 05 /DCO/E-9 Vol:IV

Copy forwarded to the:-

- 1) EDO S&L Chitral w/r to his letter No.8952/EB(F) dated
5/10/2006.
 - 2) District Accounts Officer Chitral.
- For information please.

/

District Coordination Officer,
Chitral.

AAO
/

A. Hussain
/

ATTESTED
/

OFFICE OF THE DISTRICT COORDINATION OFFICER, CHITRAL

Dated Chitral the 17/11/2007

133C
7

OFFICE ORDER:

No. _____/DCO/E-9 Mst. BiBi Aisha SET GGMS Shahnigar Drosh is hereby granted leave for a period 730 days (seven hundred and thirty) with effect from 1-6-2007 to 31-5-2009 (without pay) as admissible under the revised Leave Rule 1981.

District Coordination Officer,
Chitral

No. 5952-56/DCO/E-9
Copy forwarded to the :-

- ① The EDO (S&L) Chitral for information with reference to his letter No. 13002 /EDO(E) dated 7-11-2007
2. District Accounts Officer, Chitral for information
3. Official Concerned for information.

Willem
District Coordination Officer,
Chitral

Attested

[Signature]

ATTESTED
[Signature]

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E & S) EDUCATION
CHITRAL.

D 28^c
8

OFFICE ORDER

Consequent upon the approval of the competent authority transfer/adjustment of the following (Female) S.S 1 is hereby ordered in their own pay and grade in the school noted against each in the best interest of public service with immediate effect.

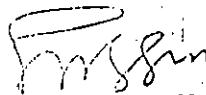
SNo	Name	From	To	Remarks
1	Tahira Sultana. SST	GGHS Shiaqotak.	GGHS Muldeh.	V.S No. 02
2	Fakhrun Nisa SST	GGHS Muldeh.	GGHS Shiaqotak.	V.S No. 01
3	Aisha. SST	GGHS Drosh.	GCMS Girls Mori Bala.	A.V.P

- Note: - 1. No TA DA is allowed
2. Charge report should be submitted to all concerned

(GULSAMBAR BEGUM)
Executive District Officer,
(E&S) Education Chitral.

Endst No. 20210-14 /T-4/E/S (F) SST dated Chitral the 30/7/2010.

- Copy forwarded to the:-
- 1- District Coordination Officer, Chitral.
 - 2- District Accounts Officer, Chitral.
 - 3- Headmistress Concerned.
 - 4- Middle Section (Female) Local office.
 - 5- Officers concerned.


Executive District Officer,
(E&S) Education Chitral.

30/7/10

APPROVED


BETTER COPY

ANNEXURE-D

PAGE-8

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&D)
EDUCATION, CHITRAL.

OFFICE ORDER

Consequent upon the approval of the competent authority transfer/adjustment of the following (Female) SST is hereby ordered in their own pay and grade in the school noted against each in the best interest of public service with immediate effect:

S.No.	Name	From	To	Remarks
1.	Tahira Sultana SST	GGHS Shiaqotak	GGHS Muldeh.	V.S. No.02
2.	Fakhrun Nisa SST	GGHS Muldeh	GGHS Shiaqotak	V.S No.01
3.	Aisha SST	GGHS Drosh	GGMS Girls Mori Bala	A.V.P

- Note:
1. No TA DA is allowed.
 2. Charge report should be submitted to all concerned.

Sd/-
(GULSAMBAR BEGUM)
Executive District Officer,
(E&S) Education, Chitral.

Endst. No.20210-14/T-4/EB(F)SST Dated Chitral, the 30.07.2010.
Copy forwarded to the :-

1. District Coordination Officer, Chitral.
2. District Accounts Officer, Chitral.
3. Headmistress Concerned.
4. Middle Section (Female) Local office.
5. Officers concerned.

ATTESTED




**DIRECTORATE
GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA
PESHAWAR**

All communication should be addressed to the Director General Health Services Peshawar and not to any official by name.	
E-Mail Address	gphs@peshawar.gov.pk
Office Ph#	921-9219269
Exchanger	001-9219187-9219199
Fax #	991-9219130

OFFICE ORDER

As required under Rule 5 (i) (ii) of West Pakistan Government Servant Medical Attendance Rules, 1950. Sanction is hereby accorded for medical attendance and treatment of in respect of the following Officers/officials, by the concerned Specialist at govt. LRH KHTHMC/RUM Hospital Peshawar, on the advice of the concerned specialist of DHQ Hospital Chitral.

Sd/xxx
DIRECTOR GENERAL HEALTH
SERVICES KHYBER PAKHTUNKHWA
PESHAWAR

No. 11213 /Medical,

Dated Peshawar the 13 /11.2011

Copy forwarded to the:

1. Medical Superintendent DHQ Hospital Chitral w/r to his letters referred to below.
2. Israr Ahmad Computer Operator EDO (Health) Office Chitral w/r to letter No. 1721/ DHQ:H/G-5-B dated 29.04.2011.
3. Mr. Ibadur Rehman, Computer Operator DHQ Hospital Chitral w/r to letter No. 2077/ DHQ:H/G-5-B dated 23.05.2011.
4. Mr. Ibadur Rehman Computer Operator DHQ Hospital Chitral w/r to letter No. 4178/ DHQ:H/G-5-B dated 20.09.2011.
5. Mr. Muhay-ud-Din Junior Clerk EDO (Health) Office Chitral w/r to letter No. 1283/ DHQ:H/G-5-B dated 05.04.2011.
6. Muhay-ud-Din Junior Clerk EDO (Health) office Chitral w/r to letter No. 1309/ DHQ:H/G-5-B dated 01.10.2011.
7. Rahmat Wali, Khan Dry Sweeper GGMS Charan Chitral w/r to letter No. 1022/ DHQ:H/G-5-B dated 08.09.2011.
8. Mubarak Shah JPHC Technician Multi Purpose (EPI) Unit EDO (Health) Office Chitral w/r to letter No. 3465/ DHQ:H/G-5-B dated 30.06.2011.
9. Dr. Saleema hassan Gynecologist DHQ Hospital Chitral w/r to letter No. 1457/ DHQ:H/G-5-B dated 15.04.2011.
10. Dr. Sa. Jeema hassan Gynecologist DHQ Hospital Chitral w/r to letter No. 1455/ DHQ:H/G-5-B dated 15.04.2011.
11. Dr. Noor Islam District TB Control Officer Chitral w/r to letter No. 1477/ DHQ:H/G-5-B dated 16.04.2011.
12. Dr. Noor Islam District TB Control Officer Chitral w/r to letter No. 1471/ DHQ:H/G-5-B dated 16.04.2011.
13. Khalil Ur Rehman District Leprosy Supervisor Leprosy Unit EDO (H) Office Chitral w/r to letter No. 1522/ DHQ:H/G-5-B dated 19.04.2011.
14. Abdul Mustaan JCT Anesthesia DHQ Hospital Chitral w/r to letter No. 1525/ DHQ:H/G-5-B dated 19.04.2011.
15. Israrud Din JCT (Pharmacy) DHQ Hospital Chitral w/r to letter No. 1433/ DHQ:H/G-5-B dated 14.04.2011.
16. Amin ud Din junior clinical Technician (Pharmacy) at Civil Dispensary Baranis, Fehsil & District Chitral w/r to letter No. 1218/ DHQ:H/G-5-B dated 02.04.2011.
17. Fila Bibi Dai at THQ hospital Drosh w/r to letter No. 1292/ DHQ:H/G-5-B dated 06.04.2011.
18. Taighoon Nisa Charge Nurse DHQ Hospital Chitral w/r to letter No. 1329/ DHQ:H/G-5-B dated 08.04.2011.
19. Tasleem Akhirar Charge Nurse DHQ Hospital Chitral w/r to letter No. 1245/ DHQ:H/G-5-B dated 04.04.2011.
20. Noor Azeem Khan Ward Orderly DHQ Hospital Chitral w/r to letter No. 1633/ DHQ:H/G-5-B dated 23.04.2011.
21. Mst. Landan Bibi Dai civil Dispensary Rumbur Chitral w/r to letter No. 1599/ DHQ:H/G-5-B dated 23.04.2011.
22. Jarnafia Bibi FMT BHU Sheshi Khow Tar District Chitral w/r to letter No. 1704/ DHQ:H/G-5-B dated 28.04.2011.
23. Dr. Faizul Mulk Deputy Medical superintendent DHQ Hospital Chitral w/r to letter No. 1736/ DHQ:H/G-5-B dated 30.04.2011.
24. Jan Alam Laboratory Attended at THQ Hospital Drosh w/r to letter No. 1736/ DHQ:H/G-5-B dated 30.04.2011.

(Signature)

BETTER COPY

ANNEXURE-E
PAGE-9

DIRECTORATE GENERAL, HEALTH SERVICES,
KHYBER PAKHTUNKHWA, PESHAWAR.

OFFICE ORDER.

As required under Rule-5 (i) (a) of West Pakistan Government Servant Medical Attendance rules, 1950. Sanction is hereby accorded for medical attendance and treatment of in respect of the following officers/officials by the concerned specialist at Government LRH/KTH/HMC/IRNUM Hospital Peshawar on the advice of the concerned specialist of DHQ Hospital Chitral.

Sd/- Director General Health
Services Khyber Pakhtunkhwa, Peshawar.

No.11213/Medical

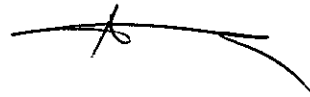
Dated Peshawar, the 13.11.2014.

Copy forwarded to the :-

1. Medical Superintendent DHQ Hospital Chitral w/r to his letter referred above.
2. Israr Ahmad, Computer Operator EDO (Health) Office Chitral w/r to letter NO.172.B/DHQ H/G-5-B dated 29.04.2011.
3.
301.
302. Bibi Aisha, GGMS Shahaigar Drosh Chitral w/r to letter No.4362/DHQ/HG-5-B; dated 05.10.2011.
303.
312. Atta-ur-Rehman, PET, GMS Ingloor Chiral w/r to letter No.4443/DHQ/G-B, dated 11.20.2011.

Sd/- Director General Health
Services Khyber Pakhtunkhwa, Peshawar.

ATTESTED



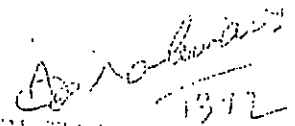

274. Abdul Wahid Deputy Superintendent of Police (D/S) Chitral w/r to letter No. 4075/ DHQ:H/G-5-B dated 13.09.2011.
275. Anwar Bano DM GGM School Moghlandeh Chitral w/r to letter No. 4073/ DHQ:H/G-5-B dated 12.09.2011.
277. Gulambar Khan Inspector Attached to District Officer Agriculture Deptt: Chitral w/r to letter No. 4105/ DHQ:H/G-5-B dated 14.09.2011.
278. Habibullah EPI Technician RHC Shagram Chitral w/r to letter No. 4102/ DHQ:H/G-5-B dated 14.09.2011.
279. Muhammad Ayaz Civil Judge Chitral w/r to letter No. 4039/ DHQ:H/G-5-B dated 13.09.2011.
280. Mohammad Ishaq Spoy Border Police DCU/Comm: Border police Chitral w/r to letter No. 4097/ DHQ:H/G-5-B dated 13.09.2011.
281. Habibi TT GGMS Moghlandeh Chitral w/r to letter No. 4133/ DHQ:H/G-5-B dated 16.09.2011.
282. Bibi Abida DM GGMS Chumurkhon Chitral w/r to letter No. 4064/ DHQ:H/G-5-B dated 12.09.2011.
283. Zaheer ud Din Ex. EDO Finance & Planning Chitral w/r to letter No. 4132/ DHQ:H/G-5-B dated 17.09.2011.
284. Abdul Mujeeb Zilladar Div: Officer Irrigation Division Chitral w/r to letter No. 4126/ DHQ:H/G-5-B dated 17.09.2011.
285. Safina Bibi WWF District Population Welfare Office Chitral w/r to letter No. 4145/ DHQ:H/G-5-B dated 17.09.2011.
286. Bushra Tabasum GGHS Broz Chitral w/r to letter No. 4148/ DHQ:H/G-5-B dated 17.09.2011.
287. Bibi Hashima Charge Nurse, DHQ Hospital Chitral w/r to letter No. 3991/ DHQ:H/G-5-B dated 06.09.2011.
288. Naheeda Bibi Qaria CGHS Shahgram w/r to letter No. 4275/ DHQ:H/G-5-B dated 29.09.2011.
289. Nusrat jabeen DM GGH School Sheaquotak Chitral w/r to letter No. 4278/ DHQ:H/G-5-B dated 29.09.2011.
290. Noor Bibi Lady Constable No. 900 Police Line Chitral w/r to letter No. 4253/ DHQ:H/G-5-B dated 30.09.2011.
291. Zar Mohammad Upper Division Clerk Post Master Kosht GPO Office Chitral w/r to letter No. 4286/ DHQ:H/G-5-B dated 30.09.2011.
292. Sartaj Mohammad N/Q GGMS Mori Lasht Chitral w/r to letter No. 4311/ DHQ:H/G-5-B dated 01.10.2011.
293. Bulbul Nawaz PST GPS Gambak bumburate Education Deptt: Chitral w/r to letter No. 4323/ DHQ:H/G-5-B dated 01.10.2011.
294. Nargus Nazir Lecturer of Arbie Deptt: Islamic International University Islamabad w/r to letter No. 4304/ DHQ:H/G-5-B dated 01.10.2011.
295. Fida Ahmad CT Govt. High School Khot Chitral w/r to letter No. 4329/ DHQ:H/G-5-B dated 03.10.2011.
296. Abdul Wasi Junior Clerk GGHS Koghuzi Chitral w/r to letter No. 4332/ DHQ:H/G-5-B dated 03.10.2011.
297. Abdul Aziz Khan PST GPS Ban Tehsil Mastuj w/r to letter No. 4338/ DHQ:H/G-5-B dated 03.10.2011.
298. Razia Begum NCI Social Welfare Deptt: Chitral w/r to letter No. 4335/ DHQ:H/G-5-B dated 03.10.2011.
299. Hazrat Hussain PST GPS Cochan Goel Ashurate Chitral w/r to letter No. 4348/ DHQ:H/G-5-B dated 04.10.2011.
300. Nasrin Akhtar TT GGM School Shoghore Chitral w/r to letter No. 4351/ DHQ:H/G-5-B dated 04.10.2011.
301. Sharif Khan PST GPS Ishkoon Lasht Ayun Chitral w/r to letter No. 4365/ DHQ:H/G-5-B dated 05.10.2011.
302. Bibi Aisha SET GGMS Shahinagar Drosh Chitral w/r to letter No. 4362/ DHQ:H/G-5-B dated 05.10.2011.

dated 30.09.2011.

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- 310. M. Muhammad Iqbal agriculture Inspector Agriculture Extension Wm Chitral w/r to letter No. 4122/DHO/11/0-5-B dated 26.10.2011.
- 311. Sadiqullah Police Constable No. 503 DPO office Chitral w/r to letter No. 4129/DHO/11/0-5-B dated 11.10.2011.
- 312. Amir-ur-Rahman PET GMS Jughoor Chitral w/r to letter No. 4136/DHO/11/0-5-B dated 11.10.2011.


 1372
 DIRECTOR GENERAL HEALTH
 FOR SERVICES KHYBER PAKHTUNKHWA
 PESHAWAR


Muhammad Zafar Khan Chitrali DG Health Office Peshawar # 0302-5805366/0334-9066912

شوکار کوس

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12

آر بی بی عائشہ ایس۔ ایس۔ جی گورنمنٹ گریجویٹ سکول شاہکار
ملوہ ڈال جوئے ۱۵۴۰/۵۶۱۵۴۰-۵۹۵۲۲-۵۹۵۲۲
مروہ دیگم جوئے ۲۰۰۶ تا ۳۱ مئی ۲۰۰۶ کل اہلکار ۱۷۳
کامے غیر تنخواہ کی حالت پر عمل - چھٹی کے خاتمے پر آپ کی طرف سے
ریٹ سادہ کاغذ پر چھٹی پر لکھی گئی ہے۔ درج ذیل دی گئی ہے۔
بدل کے مطابق یہیں سے - دستبردار لے کر ۱۵۴۰/۵۶۱۵۴۰-۵۹۵۲۲-۵۹۵۲۲

خواہ وہ ستمبر ۲۰۰۶ کے تحت باقاعدہ مارجن پر درخواست کی گئی
جو کہ اب تک نہیں ہوئی۔ لہذا اسکو بدانتظامی ہے۔ اگر اس
کوس کے احوال کے سلسلہ میں کوئی تبدیلی آئے تو اس سلسلہ کے
ساتھ اپنی گزارش کی وضاحت کریں۔ لکھنؤ سٹی کے
صرف سیشن یاد آرہے ہیں ۲۰۰۰ کے تحت ہاں کاغذی عمل میں
لائی جائے گی۔

۱۹/۱۵/۱۱
۲۱/۱۱/۱۱

۶۲۵۱۱
۱۹ مارچ

ڈپٹی سیکریٹری
سیکرٹری
ڈپٹی سیکریٹری
سیکرٹری

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DIRECTORATE OF ELEMENTARY & SECY; EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION.

WHEREAS Mst. Bibi Aisha SST GGMS; Shah Nigar District Chitral was found absent from duty with effect from 01-06-2009 and her absent report received from EDO (E&SE) Chitral vide No.6441 dated 24-03-2011. She was directed by the EDO (E&SE) Chitral to resume duty vide No.6440 dated 24-03-2011.

2. AND WHEREAS the Executive District Officer (E&SE) Chitral published a notice in two different newspapers i.e. Daily Aaj & Express dated 10-05-2011 with the direction to resume duty within fifteen (15) days of the publication of the notice failing which an ex party decision will be taken against her, but no response has been received from her in due course of time.

3. AND WHEREAS on the expiry of the stipulated period given in the notice the authorized officer, i.e. EDO (E&SE) Chitral has recommended her case for imposing major penalty of Removal from service is imposed upon Mst. Bibi Aisha SST GGMS; Shah Nigar District Chitral vide No.12255 dated 09-06-2011.

4. NOW THEREFORE, in exercise of power conferred under section 3 of the NWFP (now Khyber Pakhtunkhwa) Removal from service (Special Power) Ordinance, 2000 read with (Rules 8-A) of the NWFP (now Khyber Pakhtunkhwa) Government Servants (Efficiency & Disciplinary) Rules, 1973, the major penalty of Removal from service is imposed upon Mst. Bibi Aisha SST GGMS; Shah Nigar District Chitral with immediate effect. The period of her absence from duty w.e.f. 01-06-2009 till the issuance of this order be treated as un-authorized absence from duty without pay.

DIRECTOR

ELEMENTARY & SECY EDUCATION
KHYBER PAKHTUNKHWA.

2855-59
Endst: No. _____ /P. File /04/A-17/SST(F) Enq: Dated Peshawar the 26/11/2011
Copy of the above is forwarded to the:-

1. Executive District Officer (E&SE) Chitral with reference to his letter No.25448 dated 23-12-2011 with the remarks that the Ex: SST concerned may be informed on her home address..
2. District Accounts Officer Chitral.
3. Mst. Bibi Aisha SST GGMS Shah Nigar District Chitral.
4. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
5. Master File.

19/11/2012
Deputy Directress (Estab)
Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar.

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9-4/55T (E) 38
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-14-

BEFORE THE SECRETARY ELEMENTARY & SECONDARY
EDUCATION, K.P.K, PESHAWAR

DESE

DEPARTMENTAL APPEAL AGAINST THE
ORDER DATED 26/01/2012 PASSED BY THE
DIRECTOR ELEMENTARY & SECONDARY
EDUCATION, K.P.K, PESHAWAR WHEREBY
THE APPELLANT HAS BEEN REMOVED FROM
SERVICE WITH IMMEDIATE EFFECT AND
THE PERIOD OF ABSENCE HAS BEEN
TREATED AS UNAUTHORIZED ABSENCE
FROM DUTY WITHOUT PAY.

Respectfully Sheweth:

SO (PE)
28/12
27/12

1. That the appellant joined Education Department on 04/09/1986 and since then performed her duties with honesty and full devotion and to the entire satisfaction of her superior officers.
2. That the appellant was seriously ill and was unable to had performed her duties, therefore the appellant requested for extra ordinary leave and subsequently 339

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2012

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26/12/12

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days leave without pay w.e.f 27/06/2006 to 31/05/2007 was granted vide order dated 11/11/2006. It is pertinent to mention here that appellant was granted further leave without pay of 730 days w.e.f 01/06/2007 to 31/05/2009 vide order dated 17/11/2007. (Copies of the orders are enclosed as annexure "A" & "B" respectively).

3. That the appellant was unable to had performed her duties being under treatment, the appellant time and again requested for extension of her leave through applications which applications are on record. It is worth while to note that the appellant was transferred from G.G.H.S ~~Drosh~~ to G.G.M.S Girls Mori Bala vide order dated 30/07/2007. The appellant was also transferred to GGMS Shah Nigar, Chitral. (Copy of the order is enclosed as annexure "C").
4. That the appellant even requested for her special treatment and after due consideration the Director General Health Services K.P.K, Peshawar was pleased to accord sanction for the specialized treatment at Peshawar vide order dated 13/11/2011. (Copy of the order is enclosed as annexure "D").

34 (E)

BA
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5. That the appellant repeatedly requested the department for the extension of her leave, but she was not adhered to and instead the appellant was awarded the punishment of removal from service by the Director Elementary & Secondary Education, K.P.K, Peshawar vide order dated 26/01/2012, and the period of absence was treated as unauthorized absence from duty without pay, which was issued by the Executive District Officer, (E&S) Education Chitral vide letter dated 28/01/2012. (Copy of the order and letter dated 28/01/2012 are enclosed as annexure "E" & "F" respectively).

6. That the impugned order dated 26/01/2012 of the Director Elementary & Secondary Education K.P.K, Peshawar is against the law, facts and principles of justice on grounds inter-alia as follows:

GROUNDS:

- A. That the impugned order is illegal and void a b initio.
- B. That the appellant has not been treated in accordance with law and mandatory provisions of law on the subject has been violated.

33 (E)
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- 32
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- C. That ex-parte action has been taken against the appellant and she has been condemned unheard.
 - D. That the absence from duty was neither willful nor deliberate rather the same was because of serious illness and even the Director General Health Services, K.P.K, Peshawar after due consideration accorded sanction for the medical attendance and treatment by the concerned medical specialist at Peshawar but inspite of this the appellant was awarded the major penalty of a removal from service. Even the appellant proceeded abroad for her treatment.
 - E. That even the appellant was entitled for further leave according to the revised leave rules but she has been denied her due rights in violation of the law and rules.
 - F. That even the period of absence if any has been regularize by the authority by treating the same as without pay, the appellant could not be punished again on this ground after the regularization of her absence if any.
 - G. That no charge sheet and show cause notice were communicated to the appellant and no inquiry was conducted in order to had found out the true facts and circumstances and the impugned order is liable to be set aside even on this score alone.

- 32 (E)
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- H. That the appellant was not afforded the opportunity of personal hearing and the punishment is not covered by the law under which the same has been awarded.
- I. That mandatory provisions of law have been violated by the respondents. The punishment awarded is harsh too.
- J. That appellant has about 26 years of service with unblemished service record and with no previous such allegations.

It is therefore, requested that on acceptance of this appeal, the impugned order dated 26/01/2012 of the Director Elementary & Secondary Education, K.P.K, Peshawar may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Dated: 23/02/2012

Aisha
Bibi Aisha
D/o Molvi Abdul Hamid
Ex-SST, Government
Girls School, Shah Nigar,
District Chitral.



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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
No. SO(PE)/9-4/SET/2012/vol/V
Dated Peshawar the 19-02-2015

To,

The Director,
E&SE, Khyber Pakhtunkhwa,
Peshawar.

Subject: - **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 20-01-2012
PASSED BY THE DIRECTOR E&SE KHYBER PAKHTUNKHWA.**

I am directed to refer to your letter No.04/enquiry/A-17/SET(F)/enquiry/DD(ESH)/1669, dated:15/10/2014 on the subject noted above and to inform you that the departmental appeal for re-instatement in service of Mst. Bibi Aisha, Ex-SST has been examined and not acceded to.

Encl above:-

Copy for information:

1. PS to Secretary Elementary & Secondary Education.
2. DEO(F) Chitral
3. Mst. Bibi Aisha ex-SST c/o DEO(F) Chitral.


(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)


SECTION OFFICER (PRIMARY)

5, 20/11

INQUIRY REPORT.

IN THE REMOVAL FROM SERVICE/APPEAL CASE OF MST. BIBI AISHA EX-SST (F) GGMS SHAH NIGAR

CHITRAL

Introduction/Brief.

Consequent upon the report of EDO E&SE District Chitral duly supported by copies of show cause notice and press cutting received in the Directorate E&SE vide EDO Chitral letter No. 25448 dated 23-12-2011 as per (Annexure A, B & C), one, Mst. Bibi Aisha (B-16) SST (F) GGMS Shah Nigar District Chitral was removed from service by the Director E&SE Khyber Pakhtunkhwa, Peshawar vide Notification issued under Endst: No. 2855-59 dated 20-01-2011 (Annexure-D) on charge of absence from duty with effect from 01-06-2009 as reported by the EDO concerned.

The aggrieved SST lodged a departmental appeal dated 23-02-2012 to the Secretary E&SE Department Khyber Pakhtunkhwa, Peshawar dated 23-02-2012 as per (Annexure E) requesting for reinstatement in service with all back benefits on the grounds that:-

- A. That the impugned order is illegal and void ab initio.
- B. That the appellant has not been treated in accordance with law and mandatory provisions of law on the subject has been violated.
- C. That ex-parte action has been taken against the appellant and she has been condemned unheard.
- D. That the absence from duty was neither willful nor deliberate rather the same was because of serious illness and even the Director General Health Services, KPK, Peshawar after due consideration accorded sanction for the medical attendance and treatment by the concerned medical specialist at Peshawar but in spite of this the appellant was awarded the major penalty of removal from service. Even the appellant proceeded abroad for her treatment.
- E. That even the appellant was entitled for further leave according to the revised leave rules but she has been denied her due rights in violation of the law and rules.
- F. That even the period of absence if any has been regularize by the authority by treating the same as without pay, the appellant could not be punished again on this ground after the regularization of her absence if any.
- G. That no charge sheet and show cause notice were communicated to the appellant and no inquiry was conducted in order to had found out the true facts and circumstances and the impugned order is liable to be set aside even on this score alone.
- H. That the appellant was not afforded the opportunity of personal hearing and the punishment is not covered by the under which the same has been awarded.
- I. That mandatory provisions of law have been violated by the respondents. The punishment awarded is harsh too.
- J. That appellant has about 26 years of service with unblemished service record and with no previous such allegations.

It is therefore, requested that on acceptance of this appeal, the impugned order dated 26/01/2012 of the Director Elementary & Secondary Education, KPK, Peshawar may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

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The above narrated words were the grounds and prays from the appellant. The Secretary E&SE Department Khyber Pakhtunkhwa, Peshawar forwarded the said appeal to the Director E&SE Khyber Pakhtunkhwa, Peshawar vide letter No. SO(PE)9-4/SET/2012/Vol/X dated 04-07-2012 (Annexure-F) with the following remarks:-

"The EDO Chitral was not competent to serve show cause notice on the appellant. Moreover enquiry report has also not been provided. Conduct proper enquiry and take further action as per rules."

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Consequently, Director E&SE Khyber Pakhtunkhwa, Peshawar ordered for an enquiry in the said appeal vide letter No. 2703-4 dated 27-07-2012 (Annexure G)

II. Proceedings.

The enquiry committee constituted by the Director E&SE Khyber Pakhtunkhwa, Peshawar in the matter referred to above visited the office of the EDO E&SE Chitral on 28-09-2012 to probe into the matter.

III Investigations.

Starting the investigation the committee discussed/shared the absentee case of the SST/appellant concerned with the EDO E&SE Chitral. A copy of appeal in respect of the above SST was also handed over to the EDO concerned requesting him to provide information about the absentee case of the said teacher and also offer his comments on the appeal so as to facilitate the committee as per (Annexure-H&I). The EDO extended his full cooperation to the committee and provided the available information pertaining to the case in hand vide his letter No. 15572 dated 05-10-2012 (Annexure-I)

Thereafter, the committee served a Questionnaire (Annexure-K) upon the Teacher/Appellant concerned through the EDO concerned asking her to explain reasons/justification with documentary proof for her absence from duty for the period as mentioned in the Show Cause Notices published in Daily "AAJ" and "Express" dated 10-05-2011 (Annexure-L&M)

The information and record provided by the EDO Chitral in the absentee case of the teacher concerned and reasons/justification submitted by the appellant in her defense were scrutinized/analyzed by the committee as under:- (Annex-L)

1. Mst. Bibi Aisha SST was initially appointed as PTC teacher on 04-09-1986.
2. She was appointed as SST (B-16) on 25-03-1996.
3. Place of posting at the time of absentee/removal from service GGMS Shah Nigar Chitral
4. As per her Removal From Service Notification dated 20-01-2011 she was absent from duty wef 01-06-2009
5. According to the information provided by the EDO her last place of posting as SST was "GGMS Mori Bala (Chitral)" but in the Show Cause Notice issued by the EDO her place of posting was shown as "GGMS Shah Nigar Chitral"
6. It was also ridiculous to note that in one Show Cause Notice published in the Daily "AAJ" her date of absence from duty was shown wef "01-06-2005" but in the other Show Cause Notice published in the Daily "Express" she was shown absent wef 01-06-2009.
7. She was granted long leave from time to time by the DCO Chitral. She was last granted leave wef 01-06-2007 to 31-05-2009 (730 days) by the DCO Chitral (Annexure-N)
8. She was paid her pay up to 06/2006
9. As per Show Cause Notice dated 20-01-2011 she was absent from duty wef 01-06-2009.
10. According to the appellant she had applied for further leave applied for long leave wef 01-06-2009 but her leave application/case was intentionally vanished/not processed by the dealing hands during the stay/tenure of former EDO Chitral Ms. Gul Sambar Begum.

11. She was not informed about the acceptance OR rejection of her leave application by the EDO office. She presumed that her leave application would have been accepted stated by the appellant.
12. While replying to the Questionnaire, the appellant disclosed that in spite of her absence she was transferred from GGMS Shah Nigar to GGMS Mori Bala which was not understood.
13. The appellant apprised the committee that in view of her ailment, the MS of DHQ Chitral referred the appellant for special treatment at Peshawar vide MS DHQ Chitral letter dated 05-10-2011 (Annexure-O)
14. The record showed that the Director General Health Services Khyber Pakhtunkhwa, Peshawar also accorded sanction for her medical treatment at Peshawar vide sanction issued under Endst: No. 11213 dated 13-11-2011 (Annexure-P)
15. According to the EDO E&SE Chitral report contained in (Annexure-Q)
16. referred to above the teacher/appellant concerned remained out of country without sanction of leave/NOC.
17. She was of the view that she was not properly/formally informed about the fate of her further leave case.
18. She did not receive any absence from duty letter/notice from EDO office Chitral.

(iv) Analytical View of absence from duty period in r/o Mst. Bibi Aisha Ex-SST (F)

The absentee period in r/o above named teacher as mentioned in the Show Cause Notice has been analyzed by the committee in terms of supporting documents provided by the EDO and teacher concerned. The contradiction and loopholes in the initiation/finalization of disciplinary proceedings and documents observed by the committee are as under:-

1. Two kinds of dates of absence from duty in r/o above teacher were mentioned in the two different Show Cause Notices i.e. 01-06-2005 and 01-06-2009 referred above.
2. As per Show Cause Notices referred to above her place of posting was shown as GGMS Shah Nigar whereas as per EDO report dated 05-10-2012 (Annexure-R) her last place of posting was GGCMS Mori Bala .
3. No Show Cause Notice or absence from duty letter/notice was issued to the teacher concerned at her last duty station i.e. GGCMS Mori Bala.
4. What was the reasons/justification for her transfer to GGCMS Mori Bala when disciplinary proceedings were under way against the teacher concerned?
5. There was no mention of non-acceptance of her further leave application in the above Show Cause Notices.
6. As stated above her last duty place was GGCMS Mori Bala whereas a hand written show cause notice dated 19-03-2011 (Annexure-S) was issued to her at her previous school address i.e. GGMS Shah Nigar vide EDO Chitral letter No. 6440 dated 24-03-2011 (Annexure-T)
7. In none of the Show Cause Notice there was no mention that the teacher concerned had left for aboard without leave/NOC.

ATTESTED
/

VI Findings/Conclusion.

Having gone through the above mentioned record and statements/replies of all concerned the committee reached to the conclusion that:-

1. The Ex-EDO E&SE Chitral namely Miss. Gul Sambar Begum now retired had not informed properly/formally Mst. Bibi Aisha Ex-SST about the non-acceptance of her further leave application beyond 31-05-2009.
2. She was formally referred by MS DHQ Chitral to the DG Health Peshawar for special medical treatment at LRH/KTH Peshawar vide office order No. 11213 dated 13-11-2011 (Annexure-P) as mentioned above for which she had applied for further leave wef 01-06-2009. The same was not granted to her.
3. Under the rules there is no bar to leave the station before acceptance of leave only on medical grounds.
4. No Show Cause OR Absence Notice was issued to her at her home address.
5. She was not heard in person.
6. The appellant concerned had more than 26 years qualifying service at her credit. The punishment awarded to her (removal from service) seems very harsh in view of sufficient service at her credit.
7. In the instant case Show Cause Notices dated 10-05-2011 mentioned above were issued by the EDO E&SE Chitral who was not competent for the same as observed by the Secretary E&SE Department while considering the appeal in respect of Mst. Bibi Aisha Ex-SST GGMS Shah Nigar Chitral stated in the preceding para.
8. The Ex-EDO Chitral now retired has failed to decide the disciplinary case against the teacher/appellant concerned in time and during her stay. She remained as EDO Chitral wef 2008 to 03/2011. The teacher concerned was stated to be absent from duty wef 01-6-2009 whereas she was removed from service on 20-01-2011.


V. Recommendations.


Keeping in view the above facts & figures it is recommended that: -

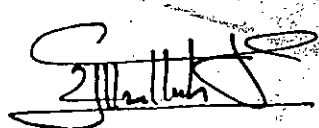
1. In view of more than 26 years service at her credit, and the loopholes in the finalization of disciplinary proceedings as pointed out above, the removal from service order dated 20-01-2011 in respect of Mst. Bibi Aisha (B-16) Ex-SST may be held in abeyance and,
2. She may be given a chance of personal hearing to defend her self and explain reasons before the competent OR appellant authority (as deem appropriate) for her absence from duty wef 01-06-2009.
3. The fate of her appeal dated 23-02-2012 (Annexure E) and absence period wef 01-06-2009 on ward may be decided by the competent OR appellant authority after giving her an opportunity of personal hearing so that she may not awarded major penalty "unheard".
4. In case the competent or appellant is satisfied with her justification for the absence period she may be reinstated in service and the period of absence from duty wef 01-06-2009 onward may be treated as EOL without pay keeping in view DHQ Chitral and DG Health Peshawar letter referred above for which she had applied for leave but her leave case was not processed further.

(Concluded dated 26-12-2012)

Enquiry Committee


1. Assistant Director (Phy)
Directorate of E&SE
Khyber Pakhtunkhwa
Peshawar



2. Assistant Director (F&A)
Directorate of E&SE
Khyber Pakhtunkhwa
Peshawar


3. Superintendent (F&A)
Directorate of E&SE
Khyber Pakhtunkhwa
Peshawar





Submitted to the Director (E&SE) Khyber Pakhtunkhwa Peshawar w/r to Notification No 495-500 dated 02-03-2012 alongwith original file in respect of Mst Bibi Aisha Ex-SST (F) for further n/action, please.


Assistant Director (Phy)
Directorate of E&SE
Khyber Pakhtunkhwa
Peshawar.

ARRESTED


VAKALAT NAMA

NO. _____/20

IN THE COURT OF Securce Tribunal, Peshawar

Bibi Aisha

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Education Deptt:

(Respondent)
(Defendant)

I/We Bibi Aisha

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar,** ^{& Taimur Ali Khan} _{Adv} to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

Aisha
(CLIENT)

ACCEPTED

M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar:

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

Taimur Ali Khan
Advocate

Gohar Sajjad Khan
Adv

لجده الت جناب سيشل ج هلد سروس ٹر بنونل آجیڈا کورٹ بچکم سوسائٹ

سی.ی. عایینہ بناک سیکرٹری فیلیم و خیرہ

مقدمہ نمبر ۱۵/۲۵۶

آج بحور نمبر ۲۰۱۶-۴-۷ کو میں نے ہ صفحہ لغزات بالا میں

سیارہ ٹنٹس سے رضح یرکانہ مبلغ ۱۰۰۰۰ روپے

و عدول روپے لکھ دیا نامہ سند ہے. المکرّم ۲۰۱۶ ۷

جمال اللہ

جمال عبدانہ صہ صحتا، فامیں

سایلم صفاة سی بی عایینہ

بعد از ضامن - محمد علی - مهر و مندرجین قول فاعل هو ان

بی بی عاشقہ بیگم سسر شری تعلیم

دستیور بابت وصولی رقم هر ماه

من علی!

د. ل. جو، ۱۶/۵/۱۶/۴ صورت رقم هر ماه
مبلغ ۱۰۰۰ روپے علی و مندرجین

وصولی

صورت ۱۶/۵/۱۶/۴

بی بی عاشقہ بیگم شری تعلیم

بی بی عاشقہ بیگم شری تعلیم

7-442016-15201

Attested
04.05.16

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.257 / 2015.

MST: Bibi Ayesha.....Applicant.

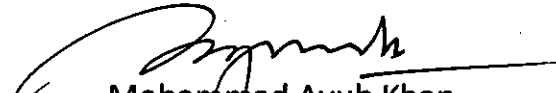
Versus

Secretary Education Khyber Pakhtunkhwa & Others.....Respondent.

INDEX.

S.No.	Description of documents.	Annexure	Pages.
1	Comments / Written Statement on behalf of Respondents No. 3.		1-3
2	Affidavit.		4
3	Show cause, enquiry report & notification	A,B,C	5,6,7
4	Departmental appeal	D	8
5	Advertisement, Enquiry	E, F	9, 10, 11

Applicant / Respondent.


Mohammad Ayub Khan.
ADEO (F) Education Chitral.
NIC No. 1520105589465.
Cell No. 0345-8413450.

① 39

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No: 257/2015

Bibi Aisha SST GGMS Shah Nigar District Chitral

-----Appellant

VERSUS

Secretary E&SE Department, Khyber Pakhtunkhwa, Peshawar & others ----Respondents

PARAWISE COMMENTS ON AND FOR BEHALF OF THE RESPONDENTS NO: 1 to 3

Respectfully Sheweth:-

Preliminary objections

- 1 The appellant has no cause of action/locus standi.
- 2 The instant appeal is badly time barred.
- 3 The appellant has concealed the material fact from this Honorable Tribunal hence liable to be dismissed.
- 4 The appellant has not come to Honorable Court with clean hands.
- 5 The present appeal is liable to be dismissed for non-joinder / mis-joinder for necessary parties.
6. The appellant has filed the instant appeal on malafide motives.
7. The instant appeal is against the prevailing laws & rules.
- 8 The appellant is estopped by her own conduct to file in present appeal.
- 9 The instant appeal is not maintainable in the present form & also in the present circumstances of the issue.
- 10 This Honorable Court has no jurisdiction to adjudicate the present appeal.
- 11 That the Notifications dated 12-2-2015 & 26-01-2012 are legally competent & are liable to be maintained in favour of the Respondents.

FACTS.

- 1 That Para-I, needs no comments being pertains to the service record of the appellant.
- 2 That Para-2 is correct to the extent that the appellant has been granted leave of various descriptions for the periods as mentioned in the main service appeal. & on the expiry of her leave the appellant was legally bound to resume her official duty wef 24-3-2011 against the SST (F) post in the Respondent Department. But she failed to resume her duty as required under the law and upon this, the then Executive District Officer (E&SE) Department now District Education Officer (F)

Chitral has published a Notice dated 10-5-2011 in two newspapers with the directions to resume her official duty within 15-days from the date of the said publication.

The appellant did not report for duty, hence her case was recommended for taking departmental action against the accused official vide office memo: No: 12255 dated 09-6-2011 to the Respondent No: 2 under the E&D rules 2011, in the capacity of being a competent authority. The Respondent No: 3 has served a Show Cause Notice dated 19-3-2011 upon the appellant, which she did not replied Hence an enquiry was conducted vide office memo: No: 2703-04 dated 27-7-2012 by the Respondent No:2 through Asstt:Directors Physical, F&A & Superintendent F&A of the Respondent Department with the recommendations that the appellant has been found guilty of willful absence from her official duty against SST(F) post wef 01-6-2009, hence she has been removed from service vide Notification No: 2855-59 dated 26-01-2011 issued by the Respondent No: 2 in the light of above mentioned facts & circumstances of the case. (copies of the Show Cause Notice, Enquiry Report & Notification dated 26-01-2011 are attached as Annexure "A", B & C for ready reference).

- 3 That Para-3 is incorrect & denied. The stand of the appellant regarding her ill ness & treatment is baseless & malafide. No authentic documents have been annexed by the appellant. It is further submitted that the competent authority has got jurisdiction to transfer & post a civil servant where ever her services are required by the Respondent Department against the mentioned post & the appellant wants to stick to one station which is an illegality under the relevant provision of law
- 4 That Para-4 is incorrect & denied, the actual-facts remains that the Specialized Medical treatment has also available in her own District, and taking shelter of the medicine treatment without mentioning the real illness & diseases based on malafide intentions.
- 5 That Para-5 is also incorrect & denied. The appellant has already availed her earned leave for the period she has mentioned in her appeal. There was no leave on the credit of the appellant. Hence her application for the grant of extension for leave was rejected under the discretionary powers conferred upon the Respondents under the relevant provision of law. And the appellant has been proceeded against the appellant under the E&D rules, 2011 by imposing upon her the Major Penalty of Removal from service against SST post vide Notification No: 2855-59 dated 26-6-2011 issued by the Respondent No: 2 copy of the said Notification is already attached.
- 6 That Para-6 is correct to the extent that the departmental appeal of the appellant has been rejected by the competent authority vide order dated 19-2-2015 with the remarks that the departmental appeal for reinstatement in service of Bibi Aisha Ex-SST(F) has been examined and not acceded to.(copy of the said Notification is annexure "D").
- 7 That Para-7 needs no comments, however, the Respondents further submit on the following grounds inter alia:-

GROUNDS

- A That ground-A, incorrect & denied, the impugned orders dated 26-1-2012 & 19-2-2015 are legally competent of being as per law & rules, hence are liable to be dismissed.

- B That ground-B , incorrect & denied, detail report has already been given in the foregoing paras, hence no further comments.
- C That ground-C, incorrect & denied, the appellant has been found guilty of her willful absence from her official duty wef 01-6-2009, without the approval & leave sanction order of the competent authority. Hence she has been removed from service vide Notification dated 26-1-2012 issued by the by the Respondent No: 2 in the light of the facts & circumstances of the case after observing all the required codal formalities.
- D That ground-D, is incorrect & denied. The Respondent No: 3 is legally competent to issue the said Show Cause Notice dated 19-3-2011 under the relevant provisions of law & jurisdiction.
- E That ground-E, incorrect & denied. The appellant has been treated as per law, rules of procedure period to the issuance of the impugned Notification dated 26-1-2012 by the Respondent No: 2, against the appellant.
- F That ground-F, incorrect & denied. The Respondent have acted as per law & rules in the instant case, hence the plea of the appellant is baseless & without any force.
- G That ground-G, incorrect & denied. The appellant has been treated as per law , rules & procedure alongwith serving the statement of allegation in he Show Cause Notice dated 24-3-2011 served by the DEO(F) Chitral. Further more the final Show Cause Notices have also published in the daily Aaj & Express Peshawar dated 10-5-2011.
- H That the ground-H is also incorrect & denied. The Notification dated 26-01-2011 is legally competent & is liable to be maintained in favour of the Respondents in the interest of justice.
- I That ground-I, is incorrect & denied. Detailed reply has been given in the foregoing paras, hence no further comments.
- J That ground-J, incorrect & denied. The appellant has been found willful absent from her official duty. Hence she has been removed her service vide Notification dated 26/1/2011, issued by the Respondent No: 2 against the appellant.
- K That ground-K, needs no comments. However, the appellant seek leave of the Honorable Tribunal to advance additional grounds & case law at the arguments, an main service appeal.

In view of the above submission, it is requested that this Honorable Tribunal may very graciously be pleased to dismiss the appeal with cost in favour of the respondent Department.

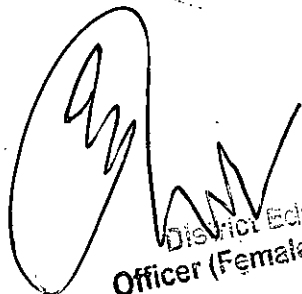


Secretary
(E&SE) Department Khyber
Pakhtunkhwa Peshawar.



Director

(E&SE) Department Khyber
Pakhtunkhwa Peshawar.



**District Education
Officer (Female) Chitral**

3

799 1016 1+34 4
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**BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR.**

Appeal No.257/2016

Bibi Aisha

VS

Education Deptt:

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1068

Dated 28/10/2016

**APPLICATION FOR FIXING 5.12.2016 DATE FOR
ARGUMENTS AT CAMP COURT SWAT ALONG WITH
OTHER APPEALS.**

RESPECTFULLY SHEWETH:

1. That the above noted appeal and three other appeals of the counsel for appellant were fixed for argument on 03.10.2016 at Camp Court Swat.
2. That AS holiday of 1st Muharram was declared on that day due to which none of the case was heard.
3. That three cases of the same counsel were fixed on 5.12.2016 whereas 2.01.2017 date was given in the instant case.
4. That as the counsel for appellant has to attend the camp court Swat from Peshawar, therefore, it will be convenient for the both the Court and Counsel if the above noted appeal is clubbed with the appeal titled Muhammad Asif vs Education Deptt: and Muhammad Anwar vs Health Deptt: which were already fixed on 5.12.2016 before Camp Court Swat Bench.

It is therefore, most humbly prayed, that the above titled appeal may be clubbed before the same Camp Court Swat Bench for 5.12.2016 along with other cases of the counsel for appellant. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favor of the appellant

Appellant

THROUGH

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)

Syed Noman Ali Bukahri
&
**(Syed Noman Ali Bukahri)
ADVOCATES, PESHAWAR**

*Put up the
Court with
Barett & Co
Readers
28/10/16*

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 257/2015

Mst. Bibi Aisha

VS

Education Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-11) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 No comments endorsed by the respondents department which means that they have admitted Para-1 of the appeal as correct.
- 2 Partially admitted correct by the respondents, while the rest of the reply is misconceived and baseless. The Director General (Health Services) KPK ordered dated 13.11.2011 accorded sanction for specialized treatment for the appellant which affirm the contention of the appellant. Moreover, the department well-aware of the illness of the appellant but despite she has been treated in an arbitrary manner.
- 3 Incorrect, while Para-3 of the appeal is correct. Moreover, as stated above regarding the sanction of specialized treatment accorded by the Director General (Health Services) Peshawar affirmed the contention of the appellant and repelled the contention of the respondents.
- 4 Incorrect, while Para-4 of the appeal is correct. Moreover, the respondents have never objected the sanction of the Director General (Health & Services) before the higher authorities.

- 5 Incorrect while Para-5 of the appeal is correct. It is also worth to mention here that leave on medical ground can not be refused and if the authority not agrees with advice of the Medical Practitioner then he should have referred the case to the Medical Board for second opinion. Moreover, at the time of show cause notice the RSO was in field whereas the penalty order has been passed under E&D Rules, 1973.
- 6 Admitted correct by the respondents, however there no reasons given in the rejection order.
- 7 Admitted correct by the respondents so no comments.

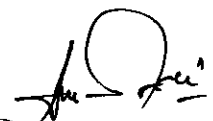
GROUNDS:

(A to K) All Para's of grounds are in favor of the appellant and against the respondents. The appellant has not been treated according to fair principle of justice. Even enquiry committee recommended the re-instatement for the appellant which proves and further strengthening the contention of the appellant.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT

Through:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.


DEPONENT

ATTESTED
Oath Commissioner
Zafloor Khan Advocate
District Court Peshawar

1/2/16

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 77 /ST

Dated 11 / 1 / 2017

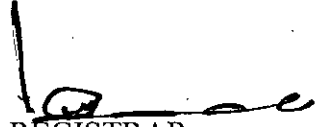
To

The Director E&SE,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 2.01.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.