

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Service Appeal No. 230/2015

Date of Institution... 11.03.2015

Date of decision... 09.01.2018

Mst. Saira Bibi, Certified Teacher (BPS-15) GGMS Musa Khan, Loyo Shalman,
Tehsil Landi Kotal, Khyber Agency. ... (Appellant)

Versus

1. The Additional Chief Secretary FATA, FATA Secretariat Warsak Road,
Khyber Pakhtunkhwa, Peshawar and two others. ... (Respondents)

Mr. Muhammad Mahaz Madni, ... For appellant.
Advocate.

Mr. Muhammad Jan, ... For respondents.
Deputy District Attorney

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. GUL ZEB KHAN, ... MEMBER

JUDGMENT

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

FACTS

2. The appellant was appointed as C.T Teacher on 07.05.2013. Her pay was stopped vide order dated 12.08.2014 against which allegedly the appellant filed departmental appeal on 10.09.2014 which was not responded to and thereafter she filed the present service appeal on 11.3.2015.

ARGUMENTS

3. The learned counsel for the appellant argued that the pay of the appellant was stopped illegally. That the department had alleged that the appellant produced a fake domicile certificate of Khyber Agency but no enquiry was conducted. That the appellant had not been terminated so far by the department. That the appellant was the bona-fide resident of Landi Kotal and not District Charsadda.

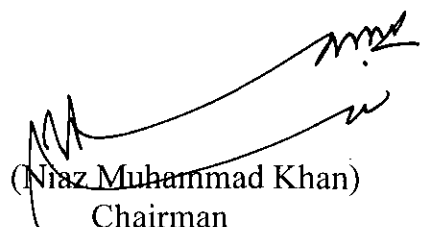
4. On the other hand, the learned Deputy District Attorney argued that the present appeal was not maintainable as there was no departmental appeal and the department disowned the alleged departmental appeal. That the appellant was given notice for appearance in order to prove her domicile certificate but she did not appear. That the pay of the appellant was rightly stopped. That the appellant according to certificate annexed by her belonged to District Charsadda and not Khyber Agency.

CONCLUSION

5. Regardless of the factual controversy of the domicile of the appellant it was incumbent upon the department to have had terminated the services of the appellant in case her appointment was illegal but nothing of the sort has been done by the department and only pay of the appellant was stopped. According to appellant she filed departmental appeal which was not decided by the department.

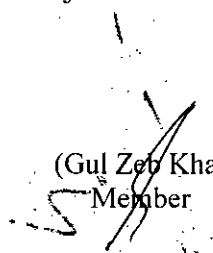
6. In view of the above, this Tribunal decides that the present appeal be remitted to the departmental appellate authority and the departmental appellate authority is directed to decide the departmental appeal of the appellant within a period of ninety days from the date of receipt of this judgment, through passing a speaking order. Thereafter, the appellant shall have her legal right to seek the redressal in accordance with the law. Parties are left to bear their own costs. File be consigned to the record room.

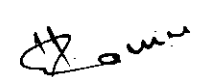

(Gul Zeb Khan)
Member


(Niaz Muhammad Khan)
Chairman

ANNOUNCED
09.1.2018


19. 07.07.2017 Counsel for the appellant and Mr. Kabir Ullah Khattak, Assistant AG alongwith Mr. Daud Jan, Superintendent for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 01.11.2017 before D.B.



(Gul Zeb Khan)
Member


(Muhammad Hamid Mughal)
Member

01.11.2017

Clerk to counsel for the appellant and Addl:AG alongwith Mr. Daud Jan, Supdt for respondents present. Arguments could not be heard due to general strike of the Bar. To come up for arguments on 09.01.2018 before D.B.


Member
Executive

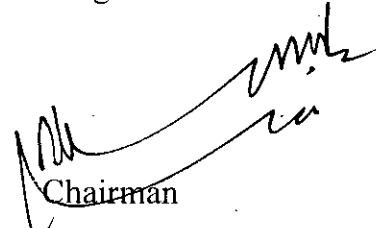

Member
Judicial

09.1.2018

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Daud Jan, Superintendent for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, this appeal is remitted to the departmental appellate authority. Parties are left to bear their own costs. File be consigned to the record room.


Member


Chairman

ANNOUNCED
09.01.2018

31.01.2017

Husband of the appellant and Mr. Ziaullah, GP alongwith Mr. Daud Jan, Supdt for respondents present. Representative of the respondents requested for adjournment to produce enquiry report on the next date. Request accepted. To come up for such record and arguments on 10.04.2017 before D.B.



(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AMIR NAZIR)
MEMBER

10.04.2017

Junior counsel for the appellant present. Mr. Daud Jan, Superintendent alongwith Mr. Kabirullah Khatta, Assistant AG for respondents also present. Junior counsel for the appellant requested for adjournment on the ground that his senior counsel has gone abroad for performing of Umra. Adjourned. To come up for arguments on 07.07.2017 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

01.08.2016


Agent to counsel for the appellant and Mr. Daud Jan, Superintendent alongwith Assistant AG for respondents present. Requested for adjournment. Moreover respondents are directed to produce all relevant record pertaining to case of the appellant. To come up for record and arguments on 6-12-16 before D.B.


MEMBER


MEMBER


08.08.2016

Appellant in person present and submitted an application for early hearing of the case. Application accepted. To come up for record and arguments on 19.10.2016 instead of 06.12.2016. Respondents be informed accordingly.


Member

19.10.2016

Agent to counsel for the appellant and Addl. AG for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 31-1-17.


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

25.11.2015

Counsel for the appellant and Mr. Daud Jan, Supdt:
alongwith Addl: AG for respondents present. Arguments could
not be heard due to learned Member (Judicial) is on official tour
to D.I. Khan. Therefore, the case is adjourned to 25/4/16
for arguments.


Member

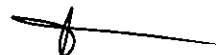
25.04.2016.

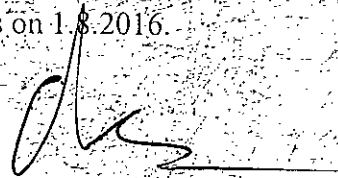
Counsel for the appellant and Mr. Adeel But, GP
for official respondents present. The learned Judicial
Members is on official tour to D.I. Khan, therefore, case
is adjourned to 15.6.2016 before D.B.


Chairman

15.6.2016

Counsel for the appellant and Mr. Daud Jan, Supdt.
alongwith Assistant AG for respondents present. Rejoinder submitted
which is placed on file. To come up for arguments on 1.8.2016.


Member


Member

4. 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 28.04.2015 before S.B.


Chairman

5 28.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is C.T (BPS-15) and while serving as such her salary was stopped vide notification dated 12.8.2014 regarding which she preferred departmental appeal on 10.9.2014 where-after service appeal was preferred on 11.3.2015,

That no inquiry whatsoever was conducted and that the salary of the appellant could not be legally withheld and, furthermore, the financial matter is not hit by time limitation.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 3.7.2015 before S.B.


Chairman

6 03.07.2015

Agent of counsel for the appellant and Mr. Daud Jan, Supdt. alongwith Addl: A.G for respondents present. Comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 25.11.2015.


Chairman




Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 230/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	17.03.2015	<p>The appeal of Mst. Saira bibi presented today by Mr. Noor Muhammad Khattak 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	26-3-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>30-3-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	30.03.2015	<p>Counsel for the appellant present. Seeks adjournment. Adjourned to 15.4.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of ~~Mr~~ Mst. Saira Bibi Certified Teacher GGMS Musa Khan Loyal Shalman Landikotal received to-day i.e. on 11.03.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures- E, F and G of the appeal are illegible which may be replaced by legible/better one.
- 2- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.

No. 324 /S.T,

Dt. 12/3 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Note:

Sir,

*All objections have been removed,
hence re-submitted today dated 18.3.2015.*

18/3/15

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 230 /2015

SAIRA BIBI

VS

A.C.S FATA

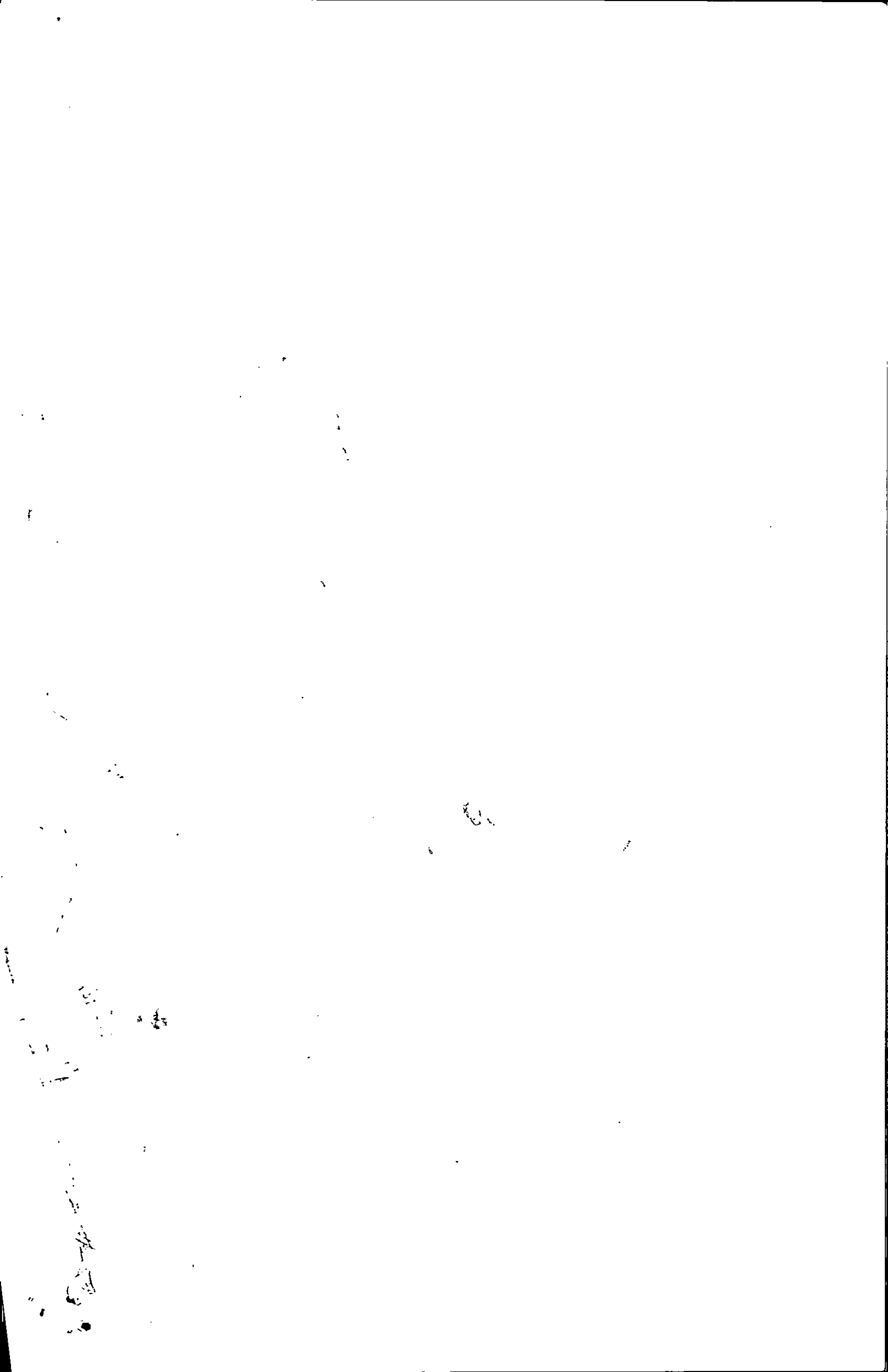
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APPELLANT

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 230 /2015

A.W.F. Province
Service Tribunal
Diary No. 215
Dated 11-03-2015

Mst: Saira Bibi, Certified Teacher (BPS-15),
GGMS Musa Khan Loya Shalman,
Tehsil Landikotal Khyber Agency

APPELLANT

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Education FATA, FATA Secretariat, Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 3- The Agency Education Officer, Khyber Agency at Jamrud.
- 4- The Political Agent, Khyber Agency at Khyber House, Peshawar.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 12-08-2014 WHEREBY THE SALARY OF THE APPELLANT WAS STOPPED/ WITH HELD WITH EFFECT FROM 12-08-2014 TILL DATE WITHOUT ANY JUSTIFICATION AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 28-08-2014 may very kindly be set aside and the respondents may be directed to release the monthly salary of the appellant w.e.f. 12.8.2014 till date. Any remedy which this august Court deems fit may also be awarded in favor of appellant.

Filed to-day

Registrar

11/3/2015

R/SHEWETH:

ON FACTS:

- 1- That appellant is the bonafide resident of Village Pero Khel Post Office Landikotal Khyber Agency and belongs to a respectable family. Copy of the Domicile certificate is attached as annexure **A.**
- 2- That appellant having the requisite qualification for the post of Primary Teaching Certificate PTC (BPS-07) was appointed by the respondent No.3 on the post of Primary teacher (BPS-

07) on the recommendations of proper Departmental Selection Committee vide order dated 23-04-2007. That in response to the appointment order dated 23-04-2007 the appellant submitted her arrival report vide dated 24-04-2007. Copies of the educational testimonials, Primary Teaching Certificate and appointment order, are attached as annexure **B, C & D.**

3- That after arrival the appellant started performing her duties quite efficiently and up to the entire satisfaction of her superiors. That then after the appellant applied for the post of Certified Teacher (C.T) BPS-09 vide order dated 07-05-2013. That in response the appellant submitted her charge report vide dated 18-05-2013. Copies of the appointment order and charge report are attached as annexure **E & F.**

4- That appellant while working as Certified Teacher (BPS-09) in the respondent Department her pay was stopped vide order dated 12-08-2014 on the pretext that the domicile certificate of the appellant is fake. That appellant visited the concerned quarter and showed her domicile to the respondent No.3 but the said respondent did not agreed to the appellant. Copy of the impugned order is attached as annexure **G.**

5- That appellant feeling aggrieved from the impugned order dated 12-08-2014 filed Departmental appeal for the release of her salaries but no reply has been received so far. Copy of the Departmental appeal is attached as annexure **H.**

6- That having no other remedy the appellant filed this instant appeal on the following grounds amongst the others.

GROUND:

A- That the impugned Notification dated 12-08-2014 issued by the respondent Department is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.

B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.

- C- That no show cause notice has been issued by the respondent Department on the appellant before passing/issuing the impugned Notification dated 12-08-2014.
- D- That no chance of personal hearing/defense has been given to the appellant before issuing the impugned Notification dated 12-08-2014 against the appellant by the respondent Department.
- E- That the respondent Department acted in arbitrary and malafide manner by issuing the impugned Notification dated 12-08-2014.
- F- That the appellant has been discriminated by the respondent Department on the subject noted above and as such the respondent violated the principle of natural justice.
- G- That the domicile of the appellant has properly been verified by the Political Tehsildar of the Khyber Agency but inspite of that the respondents issued the impugned Notification dated 12.8.2014 against the appellant.
- H- That the respondent Department also violated the principle of "WORK DONE MUST PAID" by not releasing the monthly salaries of the appellant.
- I- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT



SAIRA BIBI

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2015

SAIRA BIBI

VS

A.C.S FATA

APPLICATION FOR CONDONATION OF
DELAY IN FILING THE ABOVE NOTED
APPEAL

R.SHEWETH:

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so for.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

GROUND OF APPLICATION:

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT


SAIRA BIBI

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

A-5

DOMICILE CERTIFICATE

Khyber Agency

Certified that Mr. / Miss. SAIRA B.B

Son/ daughter of FATHE MOHAMMAD

belongs to a recognized tribe of SHINWARI

Section MANZ. SOKAI Sub Section PERO. KHFL

residence / village LANDI-KOTAL

and his / her father is a permanent resident of the tribal area of Khyber Agency. He/ She is an eligible candidate to avail himself/ herself of the seat reserved for the special area of the Peshawar Division.

background area of Khyber Agency.

Verified
Political Agent

Attested
Asstt: Political Agent
Assistant Political Agent
Landi Kotal

Countersigned
Political Agent Khyber
POLITICAL AGENT
KHYBER

ATTESTED

No. 1516/EC

14-05-05

بیان سفید ریشان

ہم مندرجہ ذیل سفید ریشان اس امر کی تصدیق کرتے ہیں کہ
 مسکلی مسالہ سائمن بی بی ولد فتح محمد
 قوم سنواری پتہ محلہ ٹھہر سوئی ساکن ۶ سیرو حیل
 تحصیل وڈاگانہ لڈا پکٹل خیبر ایجنسی کا اصل پیدائشی اور
 سکونت یافتہ ہے۔ علاقہ خیبر ایجنسی میں جا تیا در کھتے ہیں اور حکومت پاکستان
 کے وفادار ہیں قوم کے ساتھ نفع اور نقصان دونوں میں برابر کے شریک ہیں۔
 اور مواجب خورد ہیں اور اس ضمن میں ہر قسم کی ذمہ داری قبول کرتے ہیں نیز
 اگر مندرجہ بالا تصدیق میں کسی قسم کی غلطی یا جھوٹ پایا گیا تو ہم مبلغ پچاس ہزار
 (۵۰۰۰۰) روپیہ کفار ضرب پاکستان بطور فی نفس جرمانہ حکومت کو ادا کریں گے۔

سفید ریش / مسالہ سائمن بی بی / سفید ریش / مسالہ سائمن بی بی



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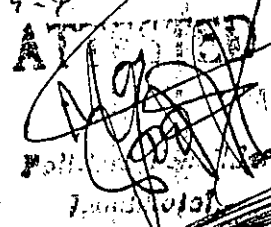
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21203-0140504-9

حسن جان

21203-1947299-5



10/5/05

S. No. 430359

Roll No. 190173

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ



B-6

REVISED

Board of Intermediate and Secondary Education Peshawar

N.W.F.P. Pakistan

Secondary School Certificate Examination

SESSION 2005- ANNUAL

(Arts Group)

This is to Certify that Saira Daughter of Fateh Muhammad
resident of Charsadda District

has passed the Secondary School Certificate
Examination of the Board of Intermediate and Secondary Education, Peshawar held in March, 2005 as a Private
Candidate. She obtained 522 Marks out of 1050 and has been placed in Grade D Representing Fair
Candidate passed in the following subjects:

- | | | | |
|--------------------|----------|---------------------|---------------------|
| 1. English | 2. Urdu | 3. Islamiyat (Comp) | 4. Pakistan Studies |
| 5. General Science | 6. Maths | 7. Islamic Studies | 8. Pashto |

Date of birth according to admission form August 10, 1986

ATTESTED

Asstt. Secretary

Assistant Director (Arts)

Secretary

Issued in Lieu of OC#: 434069 (A-05) Peshawar
This certificate is issued without alteration or

216104

No. 7067

Humanities



Handwritten marks: a circle with a dot and a circle with the number 7.

Board of Intermediate and Secondary Education
Peshawar N.W.F.P. Pakistan
INTERMEDIATE EXAMINATION
SESSION 2007- SUPPLEMENTARY

I do hereby certify that Saira Daughter of Fateh Muhammad
 is resident of Charsadda District Registered No. 638-B/P-06
 passed the Intermediate Examination of the Board of Intermediate & Secondary Education, Peshawar
 on Nov, 2007 as a Private candidate. She obtained 526 Marks out of 1100 and
 was placed in grade D Representing Fair. The examination was taken in parts.

Asslt Secretary

[Signature]
 Assistant Director (Engr)
 (PNBP) Package

[Signature]
 Secretary

NHA Peshawar
 This certificate is issued without alteration or erasure.



8

Detailed Marks Certificate
Bachelor of Arts
Part-II
Annual Examination 2010
District Charsadda



Private

Name: SAIRA
Father's Name: FATEH MUHAMMAD

Gender: female Roll No: 73022
Registration No: 2008-PE-11622

Division: 3rd

Papers	Max Marks	Marks Obtained	
		In Figures	In Words
English (Comp)	75	24	Twenty Four
Pashto	75	29	Twenty Nine
Islamic Studies	75	28	Twenty Eight
Pakistan Studies	40	16	Sixteen
Part-I 20247: Supply-2010	285	133	One Hundred and Thirty Three
Part-II	550	230	Two Hundred and Thirty

(Signature)
Assistant Director (F.MET)
(PNB) Peshawar
NH, Peshawar

Errors & omissions are subject to subsequent rectification

Chances Availed: 2

The Examination was taken In Parts

ATTESTED

Examination held From 20-May-2010 to 28-Jun-2010
Result Declared on 19-August-2011
Issue Date: 19-Aug-2011
11:51 am

(Signature)

(Signature)
(Iftekhar Hussain Khan)
CONTROLLER OF EXAMINATIONS
UNIVERSITY OF PESHAWAR

Computerized by RTC

Chasadda City Area

903

1635

MARDAN, PAKISTAN

DETAILED MARKS CERTIFICATE

MA PASHTO (FINAL) 2012

Roll No: 11022

Registration No:- 11-AU-P-553

Student's Name: SAIRA

Father's Name: FATA MUHAMMAD

Institution / District:- Mardan

Course Name	Maximum Marks	Marks Obtained	Marks In Words	Remarks
Previous Marks	500	232	Two Hundred & Thirty-Two	Pass
Modern Poetry	100	41	Forty-One	Pass
Modern Prose	100	48	Forty-Eight	Pass
Detailed Study of Khushal	100	46	Forty-Six	Pass
Critical Literature Rhetoric	100	40	Forty	Pass
Essay	100	52	Fifty-Two	Pass
Viva Voce	100	80	Eighty	Pass

Total 1100 539
 Percentage 49.00 %
 Division Second

[Signature]
 Assistant Director (Engr)
 (PNBP) Package
 NHA Peshawar

Prepared and checked by Computer Cell AWKUM
 Errors and omissions are subject to subsequent rectification.
 Any mistake in Name, Father Name etc must be intimated
 within 30 days of the issuance date of this certificate.

[Signature]
 Controller of Examinations
 AWKUM
 Nov 19, 2012

Islamabad

C-10

Certified that *Ms/Ms* SAIRA

Son / Daughter of FATEH MUHAMMAD

Registration No. 06-NCA-0257

Roll No. T-638250

Semester SPRING 2007

having met all the requirements

under the semester system is this day awarded the

Primary Teaching Certificate

He/She has secured 57 % marks

and has been placed in C grade



Result declared on: February 01, 2008

Date of issue: September 16, 2008

Attested
[Signature]
Assistant Director (Fngt)
(PNBP) Package - NHA
NHA Peshawar
Controller of Examinations

Note: This certificate is issued without alteration/erasure.
The detail of courses is overleaf.

D - (11)

APPOINTMENT ORDER.

Consequent upon the approval of the Departmental Selection Committee the following Male Local Candidates of Landi Kotal Tehsil Khyber Agency are here by appointed purely on temporary & Contract basis against Vacant PTC Posts in BPS No. 07 @ Rs. 2555-140-6755 P/M plus usual allowances as admissible under the rules w.e.f the date of their taking over charge in the interest of public service.

S.No	Name with Father,s Name	Appointed at	Remarks
01	Saira D/O Fateh Muhammad (Un trained)	GGPS Lous Khan Killi Landi Kotal	Against Vacant PTC Post
02	Kiran D/O Balam Masih (Trained)	GGPS Gulab Noor Killi Landi Kotal	Against Vacant PTC Post

Note: -

1. Charge report should be submitted to all concerned.
2. The appointment of the candidates being purely on temporary/ Contract basis & is liable to terminate at any time without any notice
3. If the candidate wishes to resign their post they shall give one-month prior notice or their pay for one month will be forfeited in lieu thereof.
4. They should produce their original qualification certificates/ Domicile certificate before taking over charge and attested copies there of be kept on record of the school/ Office after proper verification from the quarters concerned.
5. They should produce their Health and Age certificate from the Agency surgeon concerned.
6. They may not be handed over charge if they is below 18 years or above 33 years
7. If they fails to report their arrival within 15 days of the issue of this appointment order then it will be treated as cancelled.
8. No Salary may be draw before the verifications of all the testimonials from the quarters concerned.

(MR, MOHAMMAD YOUSAF)
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

Endst: No 2604-10/PTC (Female) Apptt:

Dated 23/4 /2007

Copy forwarded to the:-

1. Director of Education FATA (NWFP) Peshawar
2. Agency Accounts Officer Khyber at Jamrud
3. Agency Surgeon Khyber Agency at Landi Kotal.
- 4-5 AAEO /Pay clerk concerned
- 6-7 Officials concerned

ATTESTED

AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

23/4/2007

APPOINTMENT ORDER

Consequent upon the approval of the Departmental Selection Committee the following Female local trained candidates of Khyber Agency are hereby appointed purely on contract basis against vacant/ newly created CT posts in BPS No. 09 @ Rs.(6200-380-17600) P/M plus usual emoluments as per Govt. policy under the provision of the day. The candidates are being appointed on contract basis against their names in the interest of public services.

S.#	Name	Father's Name	Place of posting	Remarks	
				25%	75%
1	Rahila Bibi	Fazel Karim	GGHS Jamrud	Jam	
2	Farida Hussain	Shah Hussain	GGHSS Kalanga	Bara	
3	Nazia	Jehan Zeb	GGMS Azam Din killi	Do	
4	Arjumand Shaheen	Shireen Zada	do		Bara
5	Musarat Shaheen	Naimatullah	GGHS Mawaz killi		Do
6	Saeeda Hussain	Shah Hussain	GGHS Haji Ghazi Gul		Do
7	Robina Azam	Sadr-e-Azam	GGMS Susvaki Navai Qamar		Do
8	Gul Naz	Mujahid Shah	GGHS Jamrud		Jam
9	Amna Khan	Jamil Khan	GGMS Waris Khan		Do
10	Rubab Shah	Talib Jan	GGMS Yar Afzal		Do
11	Saira	Fateh Muhammad	GGMS Musa Khan		Lkl
12	Shagufta Bibi	Khumar Shah	GGMS Shah Wali killi		Do

Note

1. Charge report should be submitted to all concerned.
2. The Appointment of the candidates is made purely on contract basis and is liable to terminate at any time without any notice.
3. If a candidate wishes to resign his post he will give one month prior notice or his pay for one month will be forfeited in lieu thereof.
4. They should produce their original certificates, Domicile before taking over charge and attested copies thereof be kept on record of the school/ office after proper verification from the Board/ University concerned.
5. They should produce their Health and Age certificate from the Agency Surgeon concerned.
6. They may not be handed over charge if they are below 18 years or above 35 years.
7. If they fail to report their arrival within 15 days of the issue of this appointment order the appointment will be treated as cancelled.
8. If any legal technical flaw is pointed out the appointment will stand as cancelled.
9. The appointment will not be entitled for pension/commutation and G.P.Fund emoluments as per Govt. contract policy.
10. No salary may be drawn before the verifications of all the testimonials from the quarter concerned.

(JADOON KHAN WAZIR)
 AGENCY EDUCATION OFFICER
 KHYBER AGENCY AT JAMRUD

Endst.No. 2912-36 /Recruitment File. Dated Jamrud the 7/15 /2013

Copy of the above is forwarded to the:-

1. Director Education (FATA) at Peshawar.
2. Political Agent Khyber Agency at Peshawar.
3. Agency Accounts Officer Khyber Agency at Jamrud
4. Agency Surgeon Khyber Agency at Landi Kotal.
5. Principal GHS _____
6. Headmaster, GHS _____
7. AAEO concerned local office:
8. Officials concerned.

ATTESTED

AGENCY EDUCATION OFFICER
 KHYBER AGENCY AT JAMRUD

F- (13)

Agency Education Officer (Under Training) (A.E.O.) No. 18/05/2013
Jamrud the 07/05/2013.

Mrs. Saira (C.F) is hereby assume the charge of post of the post CT in
GGMS, Musa Khan Loya Shalman, Tehsil Landikotal, Khyber Agency today on
18/05/2013 (Fore None).

SAIRA (CT)
GGMS Musa Khan Killi,
Loya Shalman, Landikotal.

Copy forwarded to;

1. The Director Education FATA Secretrate, Peshawar.
2. The Agency Education Officer at Jamrud Khyber Agency.
3. Agency Account Officer at Jamrud.
4. Provincial GGMS Mussa Khan Killi Landikotal.
5. The AAEO concerned Local Officer.
6. Official Concerned.

ATTESTED



G-14



KHYBER AGENCY
AGENCY EDUCATION OFFICE
PHONE. 091-5820584. FAX 091-5820584
NO. 6488
DATE 12 / 08 / 2014

To

The political Agent Khyber Agency
Khyber House Peshawar

Subject:- **BOGUS DOMICILE FOR APPOINTMENT AGAINST TEHSIL WISE CT POST**

Memo:-

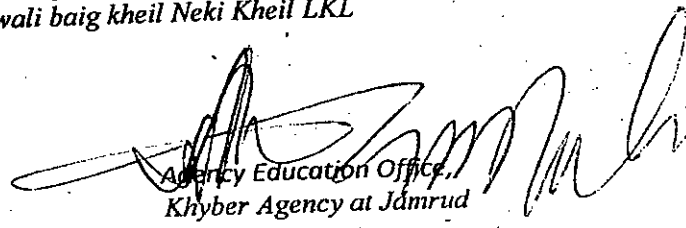
Reference this office letter No. 6471 duly endorsed to your office vide No 6472-78 dt 12/08/2014

Notices had been served upon two teachers, Mst Shagufta Bibi D/O khumar Shah GGMS Shahwali killi LKL and Mst Saira D/O Fateh Muhammad GGMS Musa Khan Killi LKL, reportedly appointed in this department through fake domicile. The former teachers turn up and submitted her original CNIC and domicile. While the latter did not turn up, so her pay had been stopped. The photo copies of the former teacher's CNIC and Domicile is sent for verification.

Agency Education Office,
Khyber Agency at Jamrud

Eedstt No6409-91. dated 12/08/2014
Copy for information and necessary action to:-

1. Director Education FATA.
2. Assistant Political Agent with the request to take personal interest in verification as the locals are annoyed with their exploitation by Education Department, Khyber.
3. Sayyeda Abida D/O Sayyed Bahadur Shah wali baig kheil Neki Kheil LKL


Agency Education Office,
Khyber Agency at Jamrud

ATTESTED



محترم جناب ڈائریکٹر ایجوکیشن ٹاٹا، حیدرآباد تھو خواہ

H-15

عنوانہ ایپل پور کے تقسیم مائرنہ تنخواہ

جناب عالی! یہ کہ سالانہ حسب ذیل عرض ارسال ہے :-

1- کہ سالانہ قطع ایجوکیشن ٹاٹا میں بطور سی بی (BPS-09) فرائض سرانجام دے رہی ہے۔

2- یہ کہ علی بنی نے سالانہ ڈاؤن سٹیج میں سرٹیفکیٹ غلط (جعلی) قرار دیتے ہوئے سالانہ کی تنخواہ حرام 12-08-2014 سے بند کر دی ہے۔ جبکہ سالانہ نے علی بنی کو ایف ڈی ویسٹ میں سرٹیفکیٹ دکھانے درست ثابت کیا۔

3- یہ کہ سالانہ تنخواہ بند ہونے کے باوجود بھی وہ سال ڈیوٹی رکھنے کی صورت سے سہ ماہیام دے رہی ہے۔

لہذا استدعا کی جاتی ہے کہ سالانہ کی حاملہ تنخواہ تقسیم کر کے اس کا اصرار صادر فرمائے۔

ATTESTED

15/9/14 (التعم)

سائبرہ بی بی دفتر تفریحی

Handwritten signature

VAKALATNAMA

IN THE COURT OF Khyber Pakhtunkhwa Service
Tribunal Peshawar OF 2015

Saira Bibi

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Department

(RESPONDENT)
(DEFENDANT)

I/We Saira Bibi,

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** 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 cost. 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.

Dated. ___/___/2015

سائرہ بی بی
- CLIENT

NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No.0345-9383141

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Sevice appeal No. 352/2015

Mohammad ShahidAppellant

Versus

Director Education FATA & others.....Respondents

Reply on behalf of respondent No.1 & 2.

Respectfully Sheweth.

Preliminary Objections.

1. That the appeal is not maintainable in its present form.
2. That the appellant has not come to this Tribunal with clean hands.
3. That the appellant has got no cause of action.
4. That the appellant has got no locus standi to file the instant appeal.
5. That the appellant has been estopped by his own conduct to file the appeal
6. That the appeal is badly time barred
7. That the impugned order is according to Law

Objections on Facts:

1. Incorrect the preliminary qualification for recruitment against the post of PET is Junior diploma in Physical Education (JDPE) and not senior diplomat in Physical Education(SDPE).
2. In correct. Respondent No.1 has not recommended Mr Shahid PET's posting against vacant post of Agency Physical Supervisor (APS) but Political Agent Khyber, the competent Authority, in the instant case, allowed Mr Shahid's posting against the vacant post of APS Khyber. As a matter of fact Mr Mohammad Gul APS Bajaur developed understanding with Mr-Mohammad Naeem-APS-Khyber, the former was to be retired, both mutually transferred themselves through the then Director Education FATA, soon after the mutual transfer Mr Mohammad Gul got retired,consequently the post of APS Khyber was vacated and the KPO post was already vacant. Mr Mohd Shahid PET, a computer expert, was the best option for the vacant positions, the physical activities and EMIS of Khyber.
3. The transfer order was issued by AEO-Khyber, as a stop gap arrangement, on the permission of Political Agent Khyber, as the later was competent enough for the same vide Notification (annexure G to Appeal) being agency cadre post, whereas the Post of APS though falls in B-15 but the same is the prerogative of Director Education FATA, being provincial cadre post.
4. Incorrect, though the post of Agency Physical Supervisor lies in B-15 but the same is the prerogative of Director Education FATA, being provincial cadre post. Mr Shahid PET was transferred from GHS Paindi Lalma Mulagori Jamrud as the post of Agency Physical supervisor Khyber was vacant due to the retirement of Mr Mohd Gul Agency Physical Supervisor.
5. Correct.
6. Incorrect, the Director Education FATA is competent enough for posting of Mr Mohd Naeem Agency Physical Supervisor, being provincial cadre post. The impugned order is accordance with law. Detail reply of grounds has been given below.

Objections On Grounds:

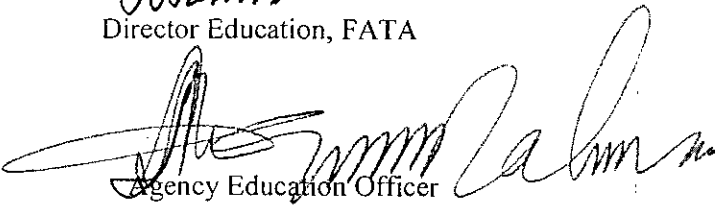
- a) Incorrect. The impugned order is legal valid and according to law and rules being issued by competent authority.
- b) Incorrect, the competent authority for the post of Agency Physical Supervisor (APS) B-15 is respondent No.1 whereas for the Post of PET B-15, the competent authority is Political Agent.
- c) Incorrect. The impugned order is in public interest and according to section 10 of civil servant Act 1973.
- d) Incorrect, he was posted by his competent authority in public interest and its cancellation was also made by the respective competent authority according to section 10 of civil servant Act 1973
- e) Incorrect, Agency Physical Supervisor (APS) B-15 is provincial cadre post and not agency cadre one, whereas the Physical Education Teacher (PET) B-15 is agency cadre post.
- f) As per paras mentioned above.
- g) Transfer is no punishment; it is the prerogative of the competent authority to post an agency cadre civil servant anywhere in agency and the appellant has not been posted out of agency.
- h) In correct , as explained in paras mentioned above
- i) In correct, Not relinquishing charge is misconduct to which the appellant is resorting
- j) No comment. However the respondents also seek permission to advance further grounds during arguments

It is, therefore humbly prayed that on acceptance of the above real grounds .the appeal of the appellant may be dismissed with cost.

Respondent No.1


Director Education, FATA

Respondent No.2


Agency Education Officer
Khyber Agency

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Service appeal No. 352/2015

Mohammad ShahidAppellant

Versus

Director Education FATA & others.....Respondents

Reply on behalf of respondent No.1 and 2 on status quo

Respectfully Sheweth ;

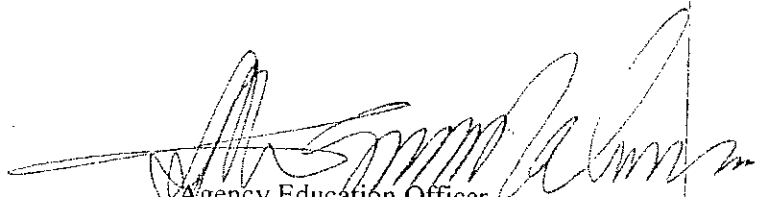
1. No comments
2. Incorrect
3. Incorrect all the three ingredients are in favor of respondents
4. Incorrect
5. That the facts in grounds of the written reply may kindly be read as integral part of this reply

It is therefore requested on acceptance of this reply the appeal of the appellant may kindly be dismissed with cost

Respondent No.1


Director Education, FATA

Respondent No.2


Agency Education Officer
Khyber Agency

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Service appeal No. 352/2015

Mohammad ShahidAppellant

Versus

Director Education FATA & others.....Respondents


AFFIDAVIT

We, the respondents No.1 &2 do hereby solemnly affirm and declare that the content of the reply are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honorable Tribunal

Respondent No.1


Director Education, FATA

Respondent No.2


Agency Education Officer
Khyber Agency

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL No.230/2015

SAIRA BIBI

VS

EDUCATION DEPTT:

REJOINDER ON BEHALF OF APPELLANT IN
RESPONSE TO THE REPLY SUBMITTED BY THE
RESPONDENTS

R/SHEWETH:

All the objections raised by the respondent are incorrect and baseless and not in accordance with law and rules rather the respondents is estopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

- 1- Incorrect and not replied accordingly. That appellant is the bonafide resident of Village Pero Khel Post Office Landi Kotal Khyber Agency and due to the permanent residence of Khyber Agency the appellant has legally got her Domicile Certificate from the concerned authorities.
- 2- Admitted correct to the extent of appointment order of the appellant while the other regarding domicile certificate of the appellant is incorrect. That the domicile certificate of the appellant is original and issued by the concerned authorities lawfully.
- 3- Admitted correct hence need no comments.
- 4- Incorrect and not replied accordingly. That appellant visited to the office of the Agency Education Officer, Khyber Agency along with original Domicile certificate but the Agency Education Officer did not agreed with the appellant on account of her Domicile certificate.
- 5- Incorrect and not replied accordingly. That appellant filed departmental appeal before the respondent No.2 vide dated 10.9.2014 but no response has been given till date by the respondents.
- 6- Incorrect and not replied accordingly hence denied.

GROUND:

All the grounds of main writ petition are correct and in accordance with law and prevailing rules and that of the respondent are incorrect and baseless hence denied. That the impugned order dated 12.8.2014 issued by the respondent Department is against the law, facts and norms of natural justice. Moreover the respondent Department acted in an arbitrary and mala fide manner by not releasing the salaries of the appellant w.e.f 12.8.2014 till date. That the respondents violated the principle of "WORK DONE MUST PAID". That the impugned order is also issued by the respondents in violation of Article 11 of the Constitution of Pakistan 1973.

It is therefore most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may be accepted in favor of the appellant.

APPELLANT



SAIRA BIBI

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**