

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 117/2016

Date of Institution ... 01.02.2016

Date of Decision ... 22.03.2019

Mst. Musarrat Begum, Ex-PTC, GGPS Muhib Banda, District Swabi D/o Hazrat Wali, R/o Village Badraga, P.O Dagai, Tehsil Razar, District Swabi.

... (Appellant)

VERSUS

The Govt. of Khyber Pakhtunkhwa through Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and two others. ... (Respondents)

MR. KHALED RAHMAN,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK
Additional Advocate General

--- For respondents.

MR. AHMAD HASSAN,
MR. HAMID FAROOQ DURRANI

--- MEMBER(Executive)
--- CHAIRMAN

JUDGMENTAHMAD HASSAN, MEMBER:-

This judgment shall dispose of the instant service appeal as well as connected service appeals no. 177/2016 entitled Musarrat Begum as similar question of law and facts are involved therein.

2. Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS

3. Learned counsel for the appellant argued that she was appointed as PTC Teacher vide order dated 01.02.1996 by the then DEO, Kohistan and posted at GGPS, Bahdur Sahib. That in 2008 the Provincial Government notified policy of

appointment of PTC Teachers near their home districts. It was further stated that those teachers posted outside be repatriated to their home districts. Subsequently, she was transferred to District Swabi, vide order dated 27.09.2008 by respondent no.1. Pursuant to the said order, she was relieved by EDO, Kohistan through order dated 30.09.2008. Before transfer even her service documents were verified vide letter 09.06.2008. Astonishingly, her transfer order referred to above was withdrawn vide order dated 22.10.2015 without any justification and after lapse of seven years. Through impugned order dated 22.10.2015, she was removed from service with immediate effect. For redressal of her grievances, a departmental appeal was filed on 19.11.2015, which was turned down on 20.01.2016.

4. Appellant was appointed after observance of codal formalities and rendered more than twenty years service. The mode and manner of withdrawal of transfer order followed by removal from service was contrary to the laid down procedure. It was void ab-initio and not sustainable under the law. Before passing any adverse order regular inquiry under E&D Rules was required to be conducted. Reliance was placed on case law reported as 2015 SCMR 1418, 2003 SCMR 410, 2007 SCMR 1643 and 2006 SCMR 678.

5. On the other hand learned Additional Advocate General while controverting the stance of the learned counsel appellant informed that initial appointment order of the appellant dated 01.02.1996 was found fake/bogus. A fact finding inquiry into the matter was also conducted by the competent authority. Resultantly, her transfer order to District Swabi was also withdrawn being fake/bogus. After introduction of Promotion and upgradation policy 13.11.2012,

The post of PTC was upgraded from BPS-7 to BPS-9 to BPS-12 and qualification was also enhanced. Recruitment was made through NTS. As such case of the appellant was not covered under the said Policy.

CONCLUSION

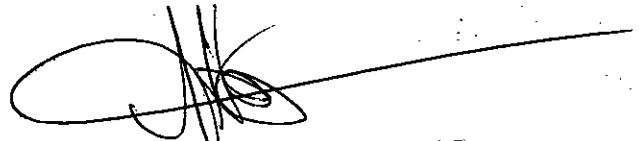
6. The controversy involved in the appeals in hand relates to withdrawal of the transfer order of the appellant to District Swabi through order dated 22.10.2015 and impugned removal order dated 22.02.2015. In this case, it is also not disputed that she was appointed way back in 1997 but later on removed from service vide impugned order referred to above. Having rendered about twenty years service, she was required to be proceeded in the mode and manner prescribed in the E&D Rules-2011. It is very strange that a teacher who was transferred to District Swabi on 27.09.2008 was proceeded by DEO, Kohistan. Was he competent to initiate this process against an employee, who was not working under his administrative control? On the other hand respondents passed the impugned order on the basis of a fact finding enquiry, which is patently illegal, unlawful, void and arbitrary. Preliminary inquiry could not be equated to that of a regular inquiry. There are numerous judgments of the superior courts that in case major penalty is to be awarded then regular enquiry should invariably be conducted. Moreover, this point has been eloquently dealt with in the judgments relied upon by the learned counsel for the appellant (2007 SCMR 1643).

7. As a sequel to above, the appeal is accepted, impugned order dated 22.10.2015 and the appellant is reinstated in service. The respondents are directed to conduct de-novo enquiry within a period of ninety days after the date of receipt of this judgment. After holding regular enquiry, if it is proved that appointment of

the appellant was not fake/bogus, it would automatically restore the transfer order dated 27.09.2008. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room.



(HAMID FAROOQ DURRANI)
CHAIRMAN



(AHMAD HASSAN)
MEMBER

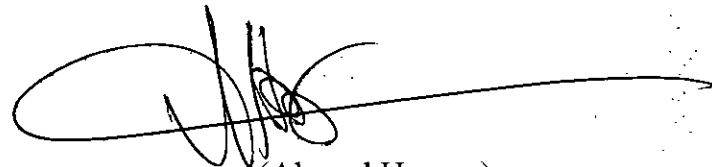
ANNOUNCED
22.03.2019

Order

22.03.2019 Counsel for the appellant present. Mr. Kabirullah, Addl: AG alongwith Mr. Abdur Rehman, ADEO for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today of this Tribunal placed on file, the appeal is accepted, impugned order dated 22.10.2015 and the appellant is reinstated in service. The respondents are directed to conduct de-novo enquiry within a period of ninety days after the date of receipt of this judgment. After holding regular enquiry, if it is proved that appointment of the appellant was not fake/bogus it would automatically restore the transfer order dated 27.09.2008. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. Parties are left to bear their own cost. File be consigned to the record room.

Announced:
22.03.2019



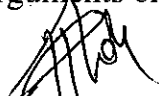
(Ahmad Hassan)
Member



(Hamid Farooq Durrani)
Chairman

01.02.2019

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 13.02.2019 before D.B.



Member



Member

13.02.2019

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant requested for adjournment Adjourned. To come up for arguments on 22.03.2019 before D.B.



(Hussain Shah)
Member



(Muhammad Amin Khan Kund)
Member

17.09.2018

Clerk to counsel for the appellant and Mr. Kabirullah Khattak Learned Additional AG for the respondent present. Due to General Strike of the Bar, arguments could not be heard. To come up for arguments on 01.11.2018 before D.B.

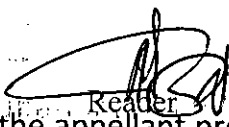

(Hussain Shah)
Member



(Muhammad Amin Kundi)
Member


01.11.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 20.12.2018 before D.B.

20.12.2018



Reader
Mr. Ayub Amin, Junior counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy in the Hon'ble Peshawar High Court. Adjourned. To come up for arguments on 30.01.2019 before D.B.


(Hussain Shah)
Member


(Muhammad Amin Khan Kundi)
Member

30.01.2019

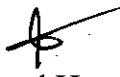
Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Junior to counsel for the appellant seeks adjournment on the ground that senior counsel is not available today. Adjourned. Case to come up for arguments on 01.02.2019 before D.B.



Member


Member

10.01.2018


Brother of the appellant in behalf of the appellant and Mr. Usman Ghani, District Attorney for respondents present. Brother of the appellant seeks adjournment as counsel for the appellant has gone to Swat. Adjourned. To come up for arguments on 06.03.2018 before D.B.


(Ahmad Hassan)
Member(E)


(M. Hamid Mughal)
Member (J)

06.03.2018

Clerk to counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney alongwith Fazal Raheem ADO for the respondents present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is ill. Adjourned. To come up for arguments on 09.05.2018 before D.B


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

09.05.2018

Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for same on 24.07.2018.


Reader

24.07.2018

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 17.09.2018 before D.B


Member


Member

04.01.2017

Counsel for the appellant and Mr. Shamsul Haq, ADO alongwith Assistant AG for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on

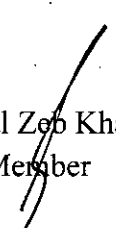
18.5.17



(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

18.05.2017

Appellant in person present. Mr. Muhammad Jan Deputy District Attorney for the respondents present. Appellant requested for adjournment. Adjourned. To come up for arguments on 28.07.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

28.07.2017


Learned counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Learned District Attorney for the respondents requested for adjournment. Adjournment granted. To come up arguments on 08.12.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Hamid Mughal)
Member

13.10.2017

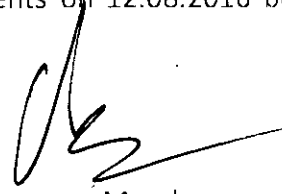
Clerk of counsel for the appellant and Addl. AG for the respondents present. Seeks adjournment as counsel for the appellant is not in attendance. Granted. To come up for arguments on 10-01-2018 before the D.B.


Member


Chairman

19.05.2016

Clerk of counsel for the appellant and Mr. Jamshid Khan, Superintendent alongwith Addl. AG for respondents present. Written reply by respondents not submitted and requested for further time. Last opportunity granted to respondents for submission of written reply. To come up for written reply/comments on 12.08.2016 before S.B.



Member

12.08.2016

Clerk of counsel for the appellant and Mr. Hameedur Rahman, AD alongwith Addl. AG for the respondents present. Learned Addl. AG requested for adjournment. Final last opportunity granted. To come up for written reply on 24.10.2016 before S.B.



Member

24.10.2016

Counsel for the appellant, M/S Shamsul Haq, ADO, Jamshed Khan, Supdt. and Hameed ur Rehman, AD (Litigation) alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 04.01.2017.





Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 117/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	01.02.2016	<p>The appeal of Mst. Musarrat Begum presented today by Mr. Khaled Rehman 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> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>15-2-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 117 /2016

Mst. Musarrat Begum Appellant

Versus

The Govt. of KPK and others.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-4
2.	Credentials		A	5-7
3.	Appointment order of appellant as PST	01.02.1996	B	0-8
4.	Extracts from Service Book		C	9-16
5.	Transfer order of appellant to District Swabi	27.09.2008	D	0-17
6.	Relieving Order	30.09.2008	E	0-18
7.	Letter of Respondent No.2 to Respondent No.3	09.06.2008	F	0-19
8.	Letter	28.11.2008	G	0-20
9.	Course Completion Certificate		H	0-21
10.	Notification thereby transfer order of appellant dated 27.09.2008 was withdrawn	22.10.2015	I	0-22
11.	Impugned order	22.10.2015	J	0-23
12.	Departmental appeal	19.11.2015	K	24-25
13.	Impugned appellate order	20.01.2016	L	0-26
14.	Wakalat Nama			

Musarrat
Appellant

Through

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

Dated: ___/01/2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 117 /2016

Mst. Musarrat Begum

Ex-PTC,
GGPS Muhib Banda,
District Swabi
D/o Hazrat Wali,
R/o Village Badraga, PO Dagai,
Tehsil Razar, District Swabi

A.W.P Province
Service Tribunal

Diary No. 75

Date 01-2-2016

Appellant

Versus

1. **The Govt. of Khyber Pakhtunkhwa**
through Director, Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.
 2. **The District Education Officer (Female)**
District Kohistan.
 3. **The District Education Officer (Female)**
District Swabi.....
- Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE IMPUGNED ORDER DATED 22.10.2015
ISSUED BY RESPONDENT NO.2 WHEREBY APPELLANT
WAS REMOVED FROM SERVICE AGAINST WHICH SHE
PREFERRED A DEPARTMENTAL APPEAL TO
RESPONDENT NO.1 ON 19.11.2015 WHICH WAS
REJECTED VIDE IMPUGNED APPELLATE ORDER
DATED 20.01.2016.

PRAAYER:

On acceptance of the instant appeal, the impugned original order dated 22.10.2015 issued by Respondent No.2 and the impugned appellate order dated 20.01.2016 passed by Respondent No.1 may graciously be set aside by reinstating the appellant into service with all back benefits.

Respectfully Sheweth,

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

*File to dir
1/2/16*

1. That the appellant is the resident of District Swabi, she being qualified for the post of Primary School Teacher vide Credentials (*Annex:-A*) was appointed as PTC Teacher vide order 01.02.1996 (*Annex:-B*) by the then District Education Officer, Kohistan and posted at GGPS Bahadar Shahaib, District Kohistan. After her appointment, she took over the charge and started performing her duties to the entire satisfaction of the high-ups. Moreover, the Department also prepared her Service Book (*Annex:-C*) wherein all the necessary entries have been made from time to time. At the time of the impugned order she had at her credit more than 20 years service.
2. That in the year 2008 when the Provincial Government introduced the Policy for appointment of PTC teachers in their home districts, it also directed that all such teachers posted outside their districts be repatriated and adjusted in their home districts or in case of non-availability of posts in the adjoining district and thus after serving for long outside, she was transferred to District Swabi vide order dated 27.09.2008 (*Annex:-D*) by Respondent No.1.
3. That pursuant to the transfer order *ibid*, the appellant was relieved by the then Executive District Officer (E&SE), Kohistan vide Relieving order Endst: No.4500-4506 dated 30.09.2008 (*Annex:-E*). Before the transfer *ibid*, Respondent No.2 vide recommendation letter Endst: No.3049 dated 09.06.2008 (*Annex:-F*) forwarded the particulars of the appellant to Respondent No.3 for post availability which was accordingly provided and her service documents were also verified as is evident from the letter dated 28.11.2008 (*Annex:-G*). Moreover, appellant has received a PTC short term course in 1999 and issued Course Completion Certificate (*Annex:-H*).
4. That to the utter bewilderment of the appellant, vide Notification dated 22.10.2015 (*Annex:-I*) issued by Respondent No.1, the transfer order dated 27.09.2008 *ibid* was withdrawn all of sudden, after almost 7 years and immediately thereafter vide impugned order dated

22.10.2015 (*Annex:-J*) issued by Respondent No.2, the appellant was removed from service with immediate effect alongwith others without any reason and codal formalities.

5. That being aggrieved of the impugned order *ibid*, appellant challenged the same before Respondent No.1 through Departmental appeal on 19.11.2015 (*Annex:-K*) but the same was rejected vide impugned appellate order dated 20.01.2016 (*Annex:-L*), hence this appeal *inter-alia* on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned order, which is unjust, unfair and hence not sustainable in the eye of law.
- B. That appellant was appointed in the prescribed manner in the year 1996 and has regularly performed her duties to the entire satisfaction of the high-ups for more than 20 years as is evident from the record and facts explained hereinabove. During the long service she has never been found inefficient towards her duties, therefore, the impugned termination order is without any justification muchless legal and therefore not sustainable.
- C. That the mode and manner adopted by the Respondents through which appellant's transfer order was cancelled after almost 07 years and then was instantly removed from service are alien to law and rules on the subject matter, hence the same are void *ab initio*, arbitrary and not sustainable under any canons of law, justice and fair-play.
- D. That being a civil servant proper procedure as per the mandate of Section-16 of the Khyber Pakhtunkhwa Civil Servants Act-1973 has not been adopted and contrary to the same, the impugned order was

issued without conforming to the legal procedure provided by the law rendering the impugned orders without lawful authority and jurisdiction.

- E. That neither Charge Sheet and Statement of Allegations were issued to the appellant nor any procedural inquiry was conducted nor appellant was provided opportunity of defence as well as personal hearing including Show Cause Notice, therefore, in absence of the mandatory requirements of law, the impugned orders are nullity and hence not tenable.
- F. That the appellant has put in more than 20 years extraordinary and unblemished service and was thrown out of her service with a single stroke of pen which amounts to victimization.
- G. That appellant would like to offer some other grounds during the course of arguments.

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

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

Musarrat
Appellant

Through

Khaled Rahman,
Advocate,
Supreme Court of Pakistan

Dated: ____/01/2016

S. No. PBD / 11609

Roll No. 8434



(5)

DUPLICATE

Annex "A"

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Peshawar N.W.F.P. Pakistan
Secondary School Certificate Examination

SESSION 1992 (Annual)

THIS IS TO CERTIFY THAT _____ Mosarat
Son / Daughter of _____ Hazrat Walli
and a Student / Resident of _____ Swabi District

has passed the Secondary School Certificate Examination
of the Board of Intermediate & Secondary Education, Peshawar held in April, 1992
as a Regular / Private Candidate. He / She obtained 342 Marks out of 850
and has been placed in Grade Representing Fair

The Candidate passed in the following subjects:

- | | | | |
|------------|---------------------|-----------------|--------------------|
| 1. English | 3. Islamiyat | 5. Gen: Maths | 7. Isl: Studies |
| 2. Urdu | 4. Pakistan Studies | 6. Gen: Science | 8. Home Management |

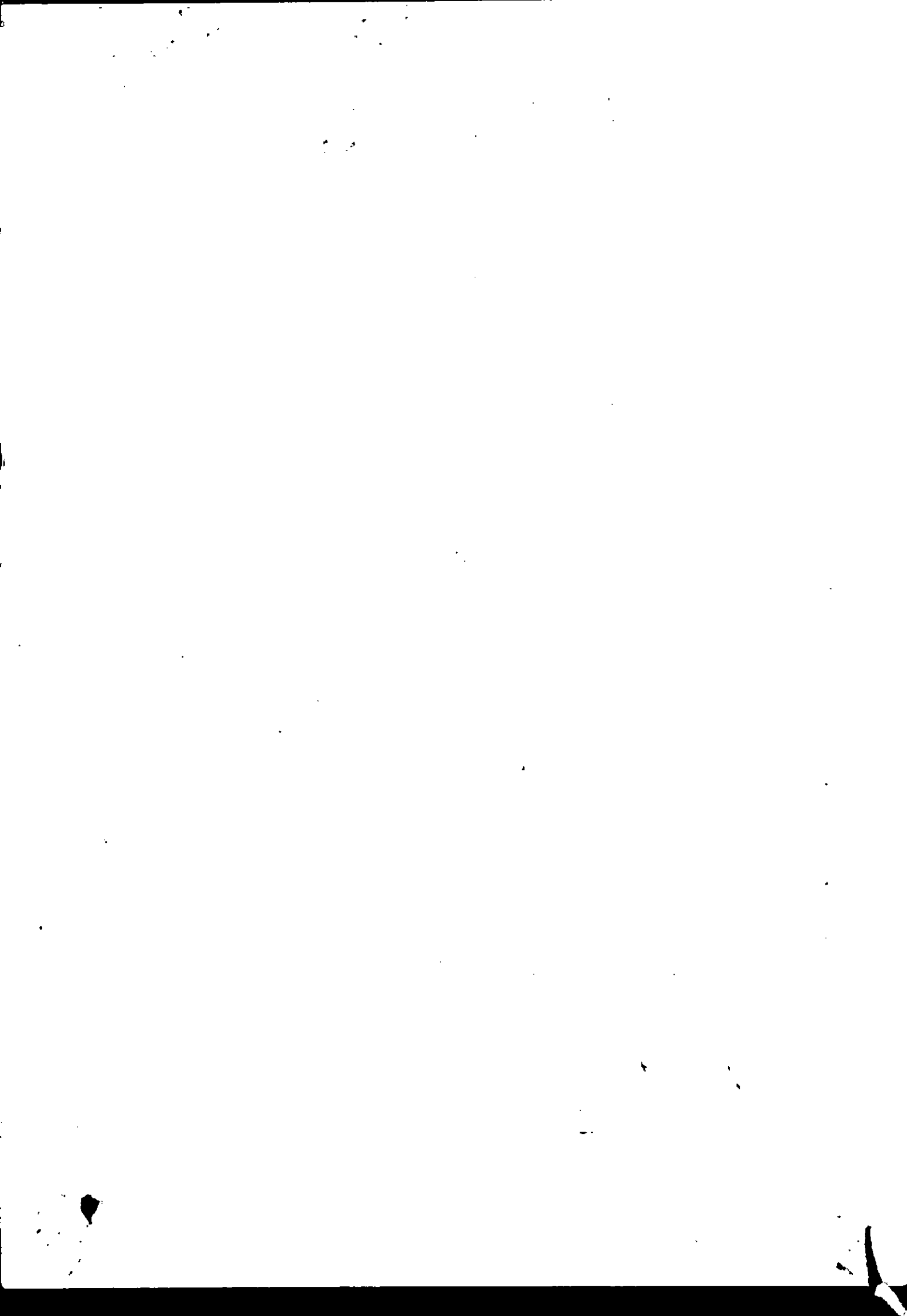
Date of birth according to admission form is Twenty First April,
one thousand nine hundred and Seventy Six (21-4-1976)

Asstt. Secretary

Secretary

This Certificate is valid without alteration or erasure

Attested to be
True Copy



6

DETAIL MARKS CERTIFICATE

TRAINING CLASSES EXAMINATION P.T.C. 1999

Roll No 3877 Name Musarat Begum Son/Daughter of Mirza Ali Khan

Serial No.	SUBJECT	St. Marks	Marks Obtained		TOTAL
			Internal	External	
1.	Principles of Edu, and Method of Teaching	100			53 ✓
2.	Child Decept: and Counselling	100			47 /
3.	School Org: and Class Room Management	100			59 /
4.	Lang: and Method of Teaching	100			38 ✓
5.	Mathematics and Method of Teaching	100			60
6.	Science and Method of Teaching	100			55 /
7.	Social Studies and Method of Teaching	100			61 /
8.	Islamiat and Method of Teaching	100			52 ✓
9.	Art and Craft, Art and Method of Teaching	100			50
10.	Health and Principle of Education	100			56
11.	Teaching Practice	200			145
Grand Total		1200			671 ✓

Passed/Failed _____ Division II
 To Re-appear in _____

Prepared by _____
 Checked _____ Date of declaration 25-11-2001

District Officer
 Schools & Lit: Kohistan

Attested by _____
 SWER APBAA Khan
 S.B.T (Gazetted)
 High School Dargi (Swain)

Dy: Registrar
 Departmental Examinations
 Education Department

Attested to be
 True Copy

SCHOOLS & LITERACY DEPARTMENT, NWFP, PESHAWAR

Serial No. 223 Session 1999
Roll No. 3977 Marks Obtained 57.1 / 120
Division Second

Certified that Musarat Begum
Son/Daughter of Hazrat Wali and a student of
GEC (P) Swaza Khel

having passed the P.T.C. Examination held in 1999
is qualified to teach in Primary School & Literacy Department

Prepared by [Signature]

Checked by [Signature]

Result declared on 25/4/2000

Date of Issue 16.11.02

[Signature]
Deputy Director (Examination) 15/11/02
Schools & Literacy Department,
N.W.F.P., Peshawar.

[Signature]
LECTURER
Govt. College Swabi

**P
T
C**

CONFIRMED

Attested to be
True Copy

[Signature]
District Officer (A)
Schools & Lit. Registration
Peshawar

7

DISTRICT EDUCATION OFFICER (MALE) PRIMARY EDUCATION
KOHISTAN AT DASSU

Annex "B" (8)

APPOINTMENT

Consequent upon the interview held on 4/3/1996 in the office of the District Education Officer (Male) Primary Kohistan at Dasso, Mst. Mushrat Begum D/o Hazrat Wali and Mst. Nusrat D/o Bakhat Sherwan are hereby appointed as P.T.C Teachers (Untrained) at GGPS Bhadar Shahaib against vacant post in BPS.7 (Rs 1480-2695) @ Rs 1480/- PM (Fixed) plus usual allowance as admissible under the rules in the interest of public service with effect from 1-5-1996, on the following terms and conditions:-

Conditions:

1. No. TA/DA is allowed.
2. Charge reports should be submitted to all concerned.
3. They should provide Age & Health certificate from DHO Kohistan.
4. They should not be allowed to take over charge if her Age is less than 18 years & above 40 years.
5. Their Original Certificates should be checked and verified from Concerned Board before handing over the charge by SDEO (F) Pattan.
6. Their services are purely temporary and can be terminated without assigning any reason.
7. Their orders will be considered as canceled if she failed to take over the charge within 15 days.

Sd/-
(MALIK ABDUR RASHID)
DISTRICT EDUCATION OFFICER(M)
PRIMARY EDUCATION KOHISTAN

Encl No: 1135-40 Dated Kohistan the 01/03/1996

Copies of the above is forwarded to the:

1. Director of primary Education NWFP Dabgari Garden Peshawar
2. District Account Officer Kohistan.
3. Sub Divisional Education Officer (Female) Kohistan at Pattan.
4. Candidate concerned.
5. Officer Order File.

Attested
Executive District Officer
Education & Literacy
District Kohistan

[Signature]
DISTRICT EDUCATION OFFICER(M)
PRIMARY EDUCATION KOHISTAN AT
DASSU

Attested to be
True Copy

Attested to be
True Copy

District Office
School & Lit. Koshliak

STRICTLY CONFIDENTIAL
NOT TO BE REPRODUCED
OR DISSEMINATED

HLW

S-3
21-4-76

Signature and Designation of the Head of the Office, or other Authorizing Officer

Signature of Government Servant

Thumb

Middle Finger

Fore Finger

Little Finger

Ring Finger

Left hand thumb and Finger Impression of (Non-Gazetted) Officer

Personal marks for identification

Exact height by measurement

Date of birth by Christian era as nearly as can be ascertained

Father's name and residence

Residence

Place

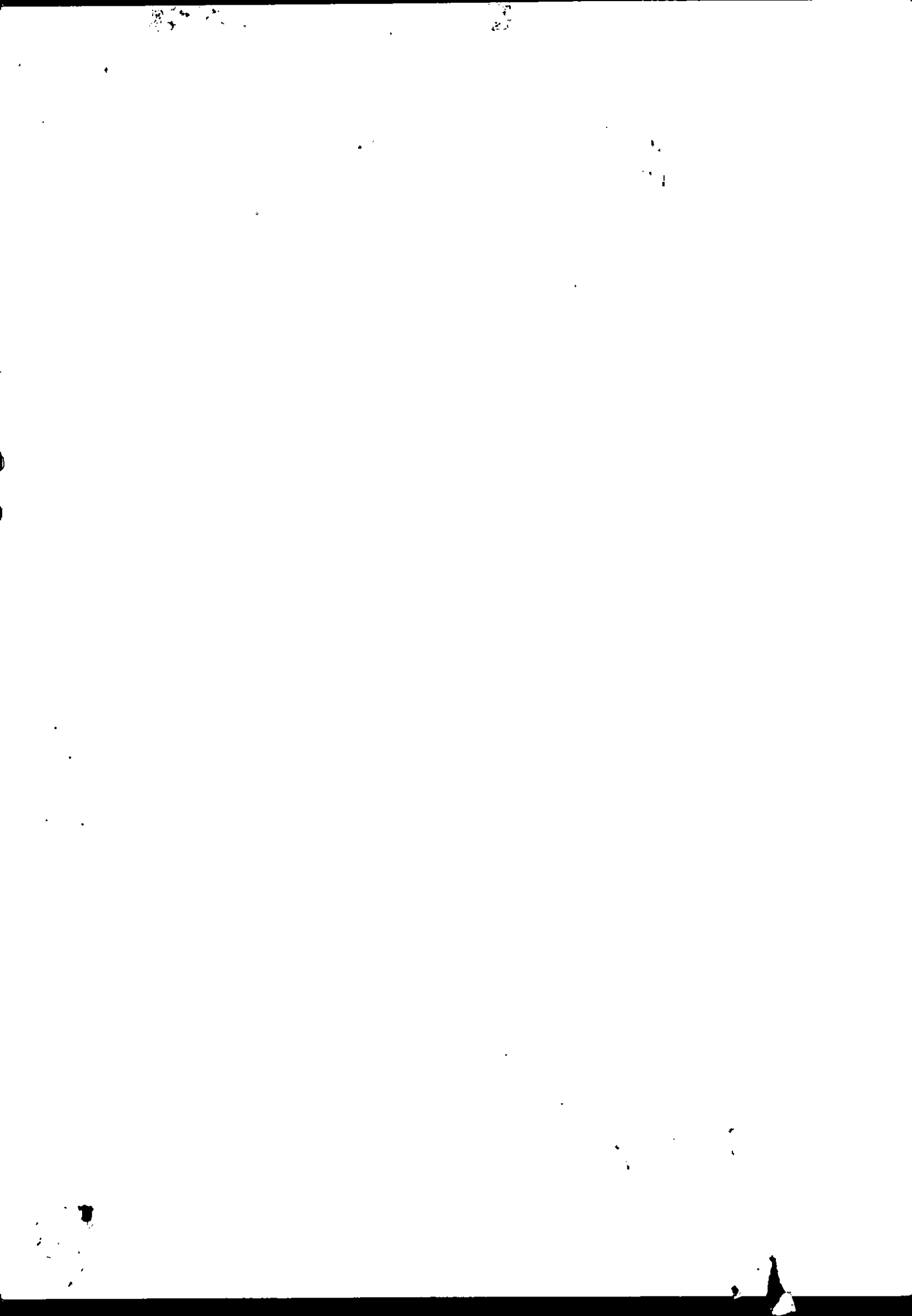
Name

MUSAARAT

Flavored "Q"

Note: The entries in this page should be renewed or re-attested at least every five years and the Signature to have a seal

9



True Copy
Attested to be

District Office (22)
Schools & L.T. Koblisam

1 Name of Post	2 Whether substantive or officiating and (i) Substantive or (ii) Officiating	3 If Officiating, state whether permanent or temporary	4 If Orphan, or under Apr. 371 for pension or service counts	5 Pay in Post	6 Additional Pay for Officiating	7 Gross emolument under the term 'Pay'	8 Date of Appointment	9 Stationing of Post (Government)
P.T. Clerk	Substantive			Rs. 1575/-		1575/-	1/2	Government
U.S. Clerk	Substantive			Rs. 1480/-		1480/-	1/2	Government
Khyat Awaraz	Substantive			Rs. 1480/-		1480/-	1/2	Government
Khyat Awaraz	Substantive			Rs. 1480/-		1480/-	1/2	Government
Khyat Awaraz	Substantive			Rs. 1480/-		1480/-	1/2	Government
Khyat Awaraz	Substantive			Rs. 1480/-		1480/-	1/2	Government
Khyat Awaraz	Substantive			Rs. 1480/-		1480/-	1/2	Government
Khyat Awaraz	Substantive			Rs. 1480/-		1480/-	1/2	Government

(Signatures and Stamps)

Attested to True Cop

Director of Schools & Lit. Kohistan
 District Office (Punjab)

10 Date of termination or other appointment
 11 Reason of termination (such as promotion, transfer, dismissal, etc.)
 12 Signature of the head of the office or other officing Officer
 13 Nature and duration of leave taken
 14 Allocation of period of leave
 15 Signature of head of the office or other officing officer (Government servant)
 16 Signature of the head of the office or other officing officer (Government servant) or person of the Government servant

<p>Signature of the head of the office or other officing officer</p> <p>Signature of the head of the office or other officing officer</p> <p>Signature of the head of the office or other officing officer</p>	<p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p>	<p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p> <p>Fixed</p>	<p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p> <p>S.D.O. (Female) Kohistan</p>	<p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p>	<p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p>	<p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p>	<p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p>	<p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p>	<p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p> <p>30/11</p>
--	---	--	---	---	--	---	---	---	---

Handwritten notes and signatures in the right side of the table.

Services Verified from Acc. Roll
 Other Office Records
 Floor 1-12-2010 to 30-11-11

Service Verified from Acc. Roll
 to 30-11-11 from the Acc. Roll
 in this office

Service Verified from Acc. Roll
 to 30-11-11 from the Acc. Roll
 in this office

11

Attested to be True Copy

15	14	13	12	11	10	9	8	
<p>Reference to any record or award or punishment to the Head of the Office or the Censor, or the Government Servant</p>		<p>Allocation of periods of leave on average pay upto four months (or earned leave not exceeding 120 days for which leave salary is debitable to an other Government.</p>		<p>Nature and duration of leave taken</p>	<p>Signature of the Head of the Office</p>	<p>Reason of promotion (such as promotion, transfer, demotion, etc.)</p>	<p>Date of termination of appointment</p>	<p>Signature and designation of the Head of the Office or the Head of the Office in attestation to column 8</p>
<p>Signature of the Head of the Office or the Attesting Officer</p>		<p>Period to which Government gratuity is payable</p>	<p>Signature of the Head of the Office</p>	<p>Signature of the Attesting Officer</p>	<p>Signature of the Head of the Office</p>	<p>Signature of the Head of the Office</p>	<p>Signature of the Head of the Office</p>	
<p>to 30/11/2001 from the office of pay bills and...</p>		<p>Assistant District Officer Development Pw. Edu. District Kohistan</p>		<p>Director of Education & Literacy Kohistan</p>		<p>Director of Education & Literacy Kohistan</p>		

18

1. Name (۴۰) Musarrat

2. Nationality and Religion Islam / Pakistan

3. Residence (مستقرات) Wali, Daji Zanki, Swabi
(قومیت اور مذہب)

4. Father's name and residence Hajrat Wali
(دادا کا نام اور پتہ)

5. Date of birth by Christian era as nearly as can be ascertained 21-4-1976
(تاریخ پیدائش مطابق سن ہجری)

6. Exact height by measurement 5-3
(قد و قامت)

7. Personal mark of identification _____
(نشان شناخت)

8. Left hand/right hand thumb and finger-Impressions of (Non-gazetted officer)
(بندگی صورت میں بائیں اور صورت کی صورت میں دائیں ہاتھ کی انگلیوں کے نشانات)

Little Finger (چھٹکیا) Ring Finger (چھٹکیا کے ساتھ کی انگلی) Middle Finger (انگشت میاں)

Fore Finger (انگشت شہادت) Thumb (انگڑھا)

Musarrat

9. Signature of Govt. Servent (سرکاری عہدہ کے کسٹیا)

10. Signature and designation of the Head of the Office or other Attesting officer
(تصدیق کنندہ افسر کے دستخط اور نمبر)

Musarrat

[Signature]

District Officer
Schools & Lit. Kolita, Swabi

Note: The entries in this page should be renewed or re-attested at least every five years and the signatures in lines 9 and 10 should be dated. Finger prints need not be taken after every 5 years under this rule.

اس نوٹ کے مندرجات کم از کم ہر پانچ سال بعد تصدیق ہونا ضروری ہیں اور نمبر ۹ و ۱۰ میں دستخطوں کے نیچے تاریخ ہونی چاہیے انگلیوں کے نشانات کے لئے ہر پانچ سال کے بعد تصدیق کی ضرورت نہیں۔

Attested to be True Copy

Attested to be
True Copy

Attested to be
True Copy

1	2	3	4	5	6	7	8
	Name of Post	Whether Substantive or officiating and whether permanent or temporary	If officiating state- (i) substantive appointment or (ii) whether service counts for pension under C.S.R. (pt. Volume I)	Pay in substantive position	Additional pay for officiating	Other emoluments falling under the pay band	Date of appointment Signature of Government servant
	P.T. Panchayat			Rs. 15,500/-		15/96 Mussoorahat	
	P.T. Panchayat			Rs. 14,800/-		12/96 Mussoorahat	
	P.T. Panchayat			Rs. 14,800/-		12/97 Mussoorahat	
	P.T. Panchayat			Rs. 14,800/-		12/98 Mussoorahat	
	P.T. Panchayat			Rs. 14,500/-		12/99 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/00 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/01 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/02 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/03 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/04 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/05 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/06 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/07 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/08 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/09 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/10 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/11 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/12 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/13 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/14 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/15 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/16 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/17 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/18 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/19 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/20 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/21 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/22 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/23 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/24 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/25 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/26 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/27 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/28 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/29 Mussoorahat	
	P.T. Panchayat			Rs. 15,500/-		12/30 Mussoorahat	

15

True Copy

Director Officer (MS) Schools & Lin. Kop. Las

and of the head of officer in of officer or other ment officer in ment officers 1 to 8	10 Date of appointment	11 Reason of termination (such as promotion, office or other transfer, dismissal, etc.)	12 Signature of the head of the office or other acting officer	13 Nature and leave taken into four months for leave on average pay	Allocation of period of leave Period Government to Government to which payable	Reference to a head of the office or other acting officer Government Sec
--	---------------------------	--	---	---	---	--

16

Reference to a
 head of the
 office or other
 acting officer
 Government Sec

1/1/2011
 M. A. J. [Signature]

[Handwritten signature]

[Redacted box]

[Handwritten signature]

Annex "D"

17

OFFICE OF THE DIRECTOR ELEMENTARY & SECONDARY EDUCATION NWFP.

OFFICE ORDER.

Consequent upon the order 1 by the competent authority, Mst. Mubarrat BSE GGPS; Sogad Abad New District Kohistan is hereby transferred/adjusted against the vacant post of PST at GGPS; Palosai District, Swabi in her own pay & BPS in the interest of public service with immediate effect.

- Note:-
1. Change report should be sent to all concerned.
 2. No TA/DA etc. to be allowed.
 3. The EDO (ESSE) concerned are directed to check her original B/D documents before making payment of salary.
 4. Her seniority will be determined under the rules.

DIRECTOR ELEMENTARY & SECONDARY
EDU. & REG. DEPT., PESHAWAR.

Enclt: No. 7490-95 / P.No. 60/PST(S) Swabi. dated 27/9 2008.

Copy of the above is to be:-

1. Executive Distt: Officer (ESSE) concerned.
2. Distt: Accounts Officers concerned.
3. PS to Minister for Edu: NWFP, Peshawar.
4. Teachers concerned.
5. PA to Director ESSE NWFP, Peshawar.
6. N/File.

26/9
Deputy Director (ESSE)
Directorate of Elementary & Secondary
Education NWFP, Peshawar.

Attested to be
True Copy

Annex "E"

Relieving Order

Consequent upon the transfer of Mst. Musarrat, PST, GGPS Samad Abad, Sec District Kohistan to GGPS Palosai District Swabi vide Director Elementary and Secondary Education, NWFP, Peshawar order No. 7490-95 dated 27.9.2008, she is hereby relieved of her duties in Kohistan District w.e.f. 30.9.2008 after noon to enable her to join her new assignment.

EXECUTIVE DISTRICT OFFICER
S & L KOHISTAN

Endst No/ 4500 - 4506 - Dt 30/9/08

Copy forwarded for information and necessary action to :-

1. The Director, Elementary & Secondary Education, NWFP, Peshawar.
2. The Executive District Officer, S & L, Swabi.
3. The District Accounts Officer, Kohistan.
4. ✓ The District Accounts Officer, Swabi.
5. PS to Minister for Education, NWFP, Peshawar.
6. The District Officer, Female Primary Education, Kohistan.
7. The Teacher Concerned.

EXECUTIVE DISTRICT OFFICER
S & L KOHISTAN

Attested to be
True Copy

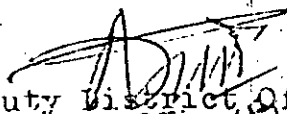
RECOMMENDATION:

Anex "F" 19

I hereby recommended and certify that Mr./Mst;
MUSARRAT is working as a trained PST teacher at name of School) GGPS Samadabad Sec District Kohistan. His/Her service book and other documents verified and found complete upto _____ He/ She on the active roll of this District and his/ her performance is satisfactory. He/ Her service record has been verified by his/ her service documents upto _____

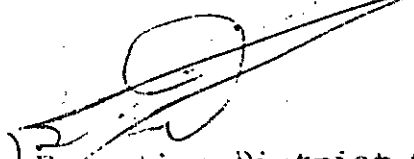
The following documents duly attested by me are attached herewith (please tick:-

1. Academic: SSC, HSSCp BA/BSc/ MA, BSc.
2. Professional: PTC, CT, BEd, MEd.
3. Service w.e.f. _____ to _____ is verified.
4. Domicile certificate of District Swabi
5. NID Card 16202-0879952-8


Deputy District Officer,
(Female) Primary, Middle & High Schools & Lit. Kohistan.

E/No. 3049 / EDO (S&L) KH Dated Dasso the 9-16/2008.

Forwarded to the Executive District Officer, (Schools and Literacy) of District Swabi for post availability on the enclosed proforma and onward submission to Director, Schools & Literacy, NWFP, Peshawar.


Executive District Officer,
Schools & Literacy Kohistan.

Attested to be
True Copy

F

OFFICE OF THE
DEPUTY DISTRICT OFFICER, (F) FRY:
EDUCATION, DEPTT: KCHISLA.
No. 400 / dated 28/11/2008.

The Deputy District Officer,
(Female) Fry; Education Kashi,

Annex "G"


20

Subject: VERIFICATION OF SERVICE DOCUMENTS:

Memo:-

Please refer to your office letter No.867, dated
24/11/2008, on the subject cited above.

The desired documents duly verified by this office
and found correct, after verification/ attestation the same are
returned herewith for further n/action please.


Deputy District Officer,
(Female) Fry; edu; Kohistan.

Encl: (1):

*Attested to be
True Copy*

**OFFICE OF THE DIRECTOR OF ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR**

72
Annex I
22

NOTIFICATION

The transfer orders of the following teachers from District Kohistan to District Swabi issued vide this office Endst.No. detail given below are hereby withdrawn due to their illegal and irregular appointments as per report of the inquiry officer vide letter No.02 dated 2-12-2014.

S.N	Name of Teacher	From District Kohistan	To District Swabi	Endst.No.
1.	Alia Ghafoor PST	GGPS Banjar Yanjool	GGPS Battai No.2	Endst.No.2511-15 dated 19-10-2011
2.	Ruqia PST	GGPS Mada Khel	GGPS Haryan Banda	Et.No.2511-15 dated 19-10-2011
3.	Nuzhat PST	GGPS Banjar Yanjool	GGPS Haryan Banda	Endst.No.2527-31 dated 24-11-2010
4	Khushnama PST	GGCMS Jijal Kohistan	GGPS Hayatabad	Endst.No.985-90 dated 08-01-2011
5	Nazia Qazi PST	GGPS Bar Komila	GGPS Razi Bahadar Koti	Endst.No.4980-85 dated 20-09-2011
6	Sara PST	GGPS Saglo	GGPS Aala Dher	E.No.1599-1605 dated 15-02-2011
7	Mussarat PST	GGPS Samad Abad Sao	GGPS Palosai	Endst.No.7490-95 dated 27-09-2008
8	Aneela PST	GGPS Koz	GGPS No.1 Dheri Gandaf	Endst.No.505-10 dated 08-10-2010

Director
Elementary & Secondary Education
Khyber Pakhtunkhwa;

Endst: No. 3827 /F.No.20/(F)Enquiry dated Peshawar the 22/10/2015

Copy to the:-

- 1 District Account Officer Swabi & Kohistan.
- 2 District Officer (Female) Swabi & Kohistan.
- 3 Teacher Concerned.
- 4 P.A to Director Local Office

Deputy Director (Female)
(E&SE) Khyber Pakhtunkhwa,

19/11/15

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) SWABI.

Endst: No. 30904 /DA-I (Estab) Dated Swabi the 17/11/2015

Copy of the above is forwarded for information and strict compliance to the:-

1. Sub-Divisional Education Officer (Female) Lahor, Swabi and Topi.
2. District Accounts Officer Swabi.

DISTRICT EDUCATION OFFICER
(FEMALE) SWABI.

**Attested to be
True Copy**

Office of the Sub-Divisional Education Officer (Female) Swabi

No. 926 / dated 13/11/2015

Forwarded in original to the Headmistress

GGCMS, Malis Banda for ~~the necessary action~~ information

and strict compliance.

12/12/15
Sub-Divisional Education Officer (Female) Swabi

15/11



Annex "J"

OFFICE OF THE DISTRICT EDUCATION OFFICER, (F) KOHISTAN.

Ph: & Fax No.0998407225

OFFICE ORDER..

23

In compliance with the Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar letter No.3081/F.No.20 (F) enquiry dated 16/03/2015, Reminder No. 2200/F No.20/(F) enquiry dated 20/04/2015/, No. 3530/ F No.20/(F) enquiry dated 22/05/2015, and No.3696/F No.20/(F) enquiry Dated 24/08/2015. and In light of recommendation of enquiry officer, the following PST teachers are hereby removed from service with immediate effect.

S/NO	Name	School
1	Nuzhat PST	GGPS Kas banda
2	Nazia Qazi PST	GGPS Bar komila
3	Alia Ghafoor	GGPS Kas banda
4	Ruqia PST	GGPS Kas banda
5	Sara PST	GGPS Kundal
6	Khushnuma PST	GGPS Dubair
7	Mussarat bibi PST	GGPS Badar shaha

District Education Officer
(Female) Kohistan

E/No, /Estab: 7/05-10 /DEO (F) KH: dated 22-10/2015.

Copy of the above is forwarded to:

1. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
2. The District Education Officer (F) District Swabi, for necessary action at her end as the above teachers are now posted in District Swabi.
3. The District Accounts Officer, Swabi.
4. The District Accounts Officer, Kohistan.
5. The Sub Divisional Education Officer (F) Kohistan.
6. Office record .

District Education Officer
(Female) Kohistan

Attested to be
True Copy

To

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

24

Subject: Departmental appeal against the order vide Endst: No.7105-10/DEO(F), Kohistan dated 22.10.2015 issued by the DEO(F), Kohistan whereby the appellant was removed from service.

Respected Sir,

1. That the appellant was appointed as PTC Teacher on 01.02.1996 by the then DEO Primary Education, Kohistan and posted at GGPS Bahadar Shahaib, District Kohistan. After serving for long, she was transferred to District Swabi by your good-self vide office order Endst: No.7490-95 dated 27.09.2008.
2. That pursuant to the transfer order, the appellant was relieved by the EDO S&L, Kohistan vide Relieving order Endst: No.4500-4506 dated 30.09.2008. Before the transfer ibid, the DEO(F) Kohistan vide recommendation letter Endst: No.3049 dated 09.06.2008 forwarded the particulars of the appellant to the EDO (S&L) Swabi for post availability which was provided.
3. That after her appointment, the Department prepared Service Book of the appellant wherein all the necessary entries have been incorporated from time to time.
4. That the credentials of the appellant were also verified vide letter No.400 dated 28.11.2008 by the Department after the transfer order of the appellant and moreover, appellant has received a PTC short term course in 1999 and issued Course Completion Certificate.
5. That to the utter bewilderment of the appellant, your good-self vide Notification dated 22.10.2015 withdrew the transfer order of the appellant issued in the year 2008, after almost 7 years while the DEO(F) Kohistan vide impugned order Endst: No.7105-10/DEO(F) Kohistan dated 22.10.2015 terminated the services of the appellant. (Copy of the order is attached)
6. That the appellant now being aggrieved of the termination order ibid, assails the same before your good-self inter-alia on the following grounds:

Grounds:

- A. That the impugned order issued by the DEO (F), Kohistan is against the law and therefore is not sustainable.

Attested to be
True Copy

- B. That the appointment order and for that matter the transfer order of the appellant have been acted upon, carried into effect and hence valuable rights have accrued to the appellant which cannot be taken away under the principle of locus poenitentiae and for that matter under the principle of promissory estoppels.
- C. That being a civil servant proper procedure should have been adopted but to the contrary, the impugned order was issued without conforming to the legal procedure provided by the law rendering the order void ab initio.
- D. That neither Charge Sheet and Statement of Allegations were issued to the appellant nor any procedural inquiry was conducted nor appellant was provided opportunity of defence. The appellant was also not issued Show Cause Notice which are the mandatory requirements of law.
- E. That the appellant has put in 19 years extraordinary and unblemished service and was thrown out of her service with a single stroke of pen which amounts to victimization.

It is, therefore, humbly requested that on acceptance of this departmental appeal, the impugned termination order issued by the DEO (F) Kohistan vide Endst: No.7105-10/DEO(F) Kohistan dated 22.10.2015 may graciously be set aside by reinstating the appellant into service with all back benefits.

Yours faithfully

Musarrat
Mst. Musarrat Begum
Ex-PTC,
GGPS Muhib Banda,
District Swabi
D/o Hazrat Wali,
R/o Village Badraga, PO Dagai,
Tehsil Razar, District Swabi

Dated: 19/11/2015

Attested to be
True COPY

Annex "L"

25

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA, PESHAWAR

26

NOTIFICATION.

1. WHEREAS, Mst. Musarrat Begum Ex-PST GGPS Muhib Banda Swabi has been removed from service vide DEO (F) Kohistan office order No.7105-10 dated 22/10/2015 in the light of the recommendations of the inquiry officer that her appointment order has been found fake.
2. WHEREAS, the appellant filed departmental appeal on 19/11/2015 against the impugned termination order issued by DEO (F) Kohistan vide Endst: No.7105-10 dated 22/10/2015 before the Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. AND WHEREAS, after examining the whole case/ record it has come to the conclusion that the appointment order of Mst. Musarrat Begum Ex-PST GGPS Muhib Banda Swabi has been found illegal.
4. NOW THEREFORE, the appellate authority has decided to reject the appeal of Mst. Musarrat Begum Ex-PST GGPS Muhib Banda Swabi on the above grounds.

DIRECTOR
ELEMENTARY & SECY; EDUCATION
KHYBER PAKHTUNKHWA

Endst: No. 4111-13 /F.No.51/F/Appeal Kohistan. Dated Pesh: the 20/11 /2015.

Copy of the above is to the:-

1. District Education Officer (F) Swabi.
2. District Education Officer (F) Kohistan.
3. SDEO (F) Swabi & Kohistan.
4. Teacher concerned.
5. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
6. M/File.

Attested to be
True Copy

for Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar
18/11/16

WAKALAT NAMA

IN THE COURT OF KPK Service Tribunal Peshawar

Mst Musarrat Begum

Appellant(s)/Petitioner(s)

VERSUS

The Court of KPK and others

Respondent(s)

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

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

AND hereby agree:-

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

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

Attested & Accepted by

Musarrat
Signature of Executants

Khaled Rehman,
Advocate
Supreme Court of Pakistan

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

**BEFORE THE KHYER PAKTUNKHAWA SERVICE
TRIBUNAL, PESHAWAR**

Service appeal No.117/2016

Musarrat Begum..... ..APPELLANT

VERISUS

Govt: of KPK and others.....RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF 5THE KHYBER
PAKTUNKHAWA SERVICE TRIBUNAL ACT, 1974,**

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

No.1 AND 2 AS UNDER:-

**Writ Petition
INDEX**

S.No	Description documents	of Annexure	Pages
1.	COMMENTS		1-4
2.	Affidavit		
3.	LETTER OF INQUIRY	A	
4.	Inquiry Report	B	
5.	Letter of Respondent No. 1 to Respt.2	C	
6.	Removal order and Inter District order	D & E	

**DISTRICT EDUCATION OFFICER
(FEMALE) KOHISTAN**

**BEFORE THE KHYER PAKTUNKHAWA SERVICE
TRIBUNAL, PESHAWAR**

Service appeal No.117/2016

Musarrat Begum.....APPELLANT

VERISUS

Govt. of KPK and others.....RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF 5THE KHYBER
PAKTUNKHAWA SERVICE TRIBUNAL ACT, 1974,**

Respectfully Submitted,

**PARA WISE COMMENTS ON BEHALF OF RESPONDENTS
No.1 to 2 AS UNDER:-**

PRELIMINARY OBJECTIONS.

1. That the appellant is not an aggrieved persons.
2. That the appellant has got no cause of action/locus standi to file the instant Appeal.
3. That the Appeal is not maintainable in the present circumstances of the issue.
4. That the appellant has concealed the material facts from Hon'ble Tribunal.
5. That the appeal is time barred and not maintainable in eye of Law.
6. That the appeal is groundless and based on malafide, hence the same is liable to be dismissed.
7. That the appellant has estopped by her own conduct.
8. That the serviceappealis against the facts, prevailing rules and policy.

FACTUAL OBJECTIONS.

1. Para No.1 is incorrect, the appointment order of appellant is *Illegal*, fictitious, she had indulged into the Government Service fraudulently. In such illegal appointments, the DirectorElementary & Secondary Education, Khyber Paktunkhwa Peshawar was

Education Khyber Paktunkhwa Peshawar was initiated an enquiry whereby *"the Mr. Riyast BS-19 District Education Officer was appointed an Inquiry Officer to conduct an Inquiry Of Eight (8) PST Teachers appointed in District Kohistan and then transfers to District Swabi to verify as to whether they have been appointed legally or Illegally"* vide Notification Endst No. 826-29 dated 09-10-2014 **(Annexure A)**. that an Inquiry Office conducted an Inquiry and submitted reports regarding the appointment of eight PST including the appellant, wherein the committee recommended to the extent of the appellant that; *(a). Mst. Mussarat PST DO Hazarat Wali was appointed as PST at GGPS Badar Shaha vide appointment order issued Endst: No. 1135-40 dated 01-05-1996 the order was issued in advance and as per entry in service book she took over charge on 01-05-1996. (b). She was appointed being only SSC with 342/850 marks less the 40% in 3rd Division. She was appointed on simple hand written application without merit list and without codel formalities. (C). She was appointed with very low academic qualification. (d) She was appointed by pick and chooses method (e). No other record is available for further verification.* That after perusal of available record, facts and finding, the an inquiry office has made the following recommendation as

- 1. The appointment orders are illegal and irregular and against the recruitment policy/ rules. The appointing authority could not absolve himself from the responsibilities, hence Department proceeding/legal action may be initiated against the appointing*

2. The appointments of above mention teachers (including appellant) are illegal and irregular hence liable to be withdrawn / cancelled / terminated.

(Inquiry Report as Annexure B)

That an Inquiry Report mention ibid was sent to Respondent No. 2 by the Respondent No. 1 for implementation and further process in according to report of Inquiry Office vide latter No. 3081 dated 16-03-2015, **(Annexure C)** On the bases on inquiry ibid Removal from Service Orders of all Eight PST including appellant were issued by the Respondent No. 2, vide Office Order No. 7105-10 dated 22-10-2015, **(Annexure D)**

2. Para No. 2 is incorrect, as the factual position has already been explained, that appointment order was faked the appellant did not stand in the merit anywhere, as per report of the inquiry Officer the transfers orders of the all the teachers from District Kohistan to District Swabi issued by the Director, Elementary & Secondary Education Khyber Paktunkhwa Peshawar Respondent No. 1 was withdrawn due to their illegal and irregular appointments vide Notification Endst. No. 3887-84 dated 22-10-2015. **(Annexure E)**
3. Para No. 3 is incorrect, reply is already given in above Paras.
4. Para is correct to the extent that removal from service orders and withdrawn of Inter District transfer orders were issued as per report of the inquiry office.
5. Para is in correct, the departmental appeal of appellant was rightly, has rejected by Respondent No. 1. As per rule Whereas the appellant has no right to invoke the jurisdiction of this Hon'ble Tribunal.

GROUND

- A. Para is incorrect, the appointment order of appellant is faked, illegal, out of merit, contrary to the rules and policy of the Government.
- B. Para is incorrect detail reply has given in para No. 1.
- C. Para is incorrect, all the proceeding was adopted as per rules and report of the inquiry officer.
- D. Para is incorrect, Respondents are bound to obey the rules, policy and law.

E. Para is incorrect, the order of Removal from service was issued after observing all codal formalities.

F. Para is incorrect, appellant has no right of standing on the bases of fake and illegal appointment order.

PRAYER.

It is therefore humbly prayed that this on acceptance of above Para wise comments the appeal may graciously be dismissed with cost.

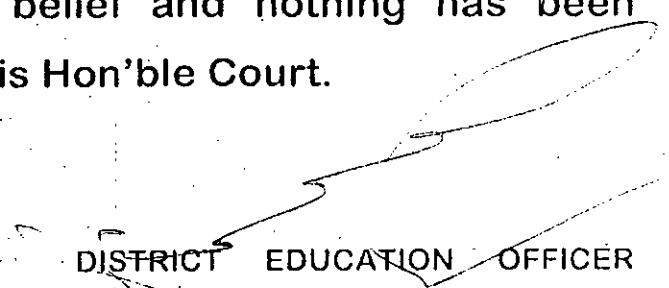
Respondents.....

1) — Director,
E&SE Khyber Pakhtunkhwa
Peshawar
Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

DISTRICT EDUCATION OFFICER,
(FEMALE) KOHISTAN.

AFFIDAVIT

I, *Khan Muhammad* on behalf of Khan Muhammad District Education Officer (Female) Kohistan do hereby solemnly affirm and declare that the Para Wise comments of the appeal No. 117/2016 titled Mst. Musarrat Begum and others Versus Govt. of KP is true to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DISTRICT EDUCATION OFFICER
(FEMALE) KOHISTAN

Identified by

Annexure (A)

NOTIFICATION

Supdt I
To To
Meas

Mr. Riyasat Khan (B-19) District Education Officer (Male) Kohistan is hereby appointed as enquiry officer to conduct an enquiry against Eight (8) PST Teachers appointed in District Kohistan and then transfer to District Swabi to verify as to whether they have been appointed legally or illegally. The letter of the District Education Officer (Female) Swabi vide No. 1031 dated 5-6-2012 is attached herewith.

The enquiry reports along with clear findings and recommendations should reach this office within 15 days positively.

Director

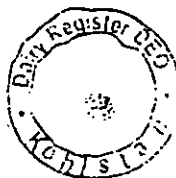
Director, Education
Chiyow, Peshawar, P. 1.

826-29

Encls. No. 20 (F) Teacher Enquiry Division Dated 9/10/2014

Copy forwarded to:-

1. Mr. Riyasat Khan (B-19) District Education Officer (Male) Kohistan.
2. District Education Officer (Female) Kohistan with the remarks to assist and provide the relevant record to the Inquiry Officer concerned.
3. District Education Officer (Female) Swabi with her letter No. 1031 dated 5-6-13
4. P.A. to Director, E&SE Peshawar
5. M. File



Director (E&SE) Peshawar
Chiyow, Peshawar, P. 1.

9/10/14
9/10/14



16/10/14
14/10/014

File
Keep the
records ready
P.S.
10/14



Annexure (B)

**OFFICE OF THE DISTRICT EDUCATION OFFICER,
(MALE) KOHISTAN.**

No. 02-103107 Dated: 22/12/2014

To

Director,
Elementary & Secondary Education
Khyber-Pakhtunkhwa Peshawar.

ADDE
3/12/2014

**Subject: INQUIRY REPORT REGARDING PROMPT ACTION AGAINST THE TEACHERS APPOINTED IN
DISTRICT KOHISTAN**

Memo: Reference your letter issued under Endst No826-29 F.No.20/f teachers enquiry division dated 09/10/2014, the enquiry report on the subject matter is as under.

Background/ TOR

To probe into the matter on the subject cited above in R/O the following PST teachers who were appointed in District Kohistan and later on they were transferred to District Swabi.

1. Mst Nuzhat PST ✓
2. Mst Nazia Qazi PST ✓
3. Mst Alia Ghafoor ✓
4. Mst Ruzia PST ✓
5. Mst Sara PST ✓
6. Mst Khus Numa PST ✓
7. Mst Musserat Bibi PST ✓
8. Mst Anila Iqbal PST ✓

Procedure:

1. Consultation with DEO (F) and SDEO (F) in Chair.
2. Collection of relevant record/ information from DEO (F) and SDEO (F) in Chair.
3. Validation of record/ information from District Accounts Officer Kohistan.

Facts:

i. Mst Nuzhat Begum PST :

- a. She was appointed as PST at GGPS Yazai Vide appointment order issued Endstt No.3189-94 dated 31-07-2009 and she took over the charge on the same day at GGPS Kass Banda instead of GGPS Yazai. After taking over charge she was again adjusted at GGPS Banjar Yanjool w.e.f 01-03-2011 vide EDO E&SE Kohistan No.741-49 dated 22-04-2011.
- b. The source I for the release of pay was verified from District Accounts Office Kohistan in the M/O 5/2011 along with the adjustment of arrear of pay for the M/O 3-4/2011, it mean that she could not get salary from date of appointment to 02/2011 (19 months).
- c. That indicates that she was appointed without the availability of post and she was adjusted in at GGPS Banjar Yanjool.
- d. She was appointed only on picit and chooses method.
- e. She was appointed on single hand written application.

ii. Mst: Nazia Qazi PST:

- a. Mst Nazia Qazi D/O Qazi At dul Haq was appointed as PST GGPS Bar Koraila vides appointment order issued under Endst No.836-12 dated 07/12/2006 and She took over the

Annexure
2
(B) 2

iii. **Mst Alia Ghafoor PST:**

- a. Mst Alia Ghafoor D/O Ghafoor Gul R/O of District Swabi was appointed as pst at GGPS Kass Banda vide appointment order issued Endstl No.3189-94 dated 31.07.2009 and took over the charge on the same day.
- b. She was again adjusted at GGPS Yanjool w.e.f 01-03-2011 vide FDO E&SE Kohistan No.741-49 dated 22-01-2011.
- c. The source I for the release of pay was verified from District Accounts Office Kohistan in the M/O 5/2011 along with the adjustment of arrear of pay for the M/O 3-4/2011.
- d. It mean that she could not get salary from date of appointment to 02/2011 (19 months) that indicate that she was appointed without the availability of post and on the availability of post she was adjusted in at GGPS Yanjool.
- e. She was appointed only on pick and chooses method.
- f. She was appointed on single hand written application.

iv. **Mst Ruqia PST:**

- a. Mst Ruqia Begum D/O Mustafa Gul R/O of District Swabi was appointed as pst at GGPS Kass Banda vide appointment order issued Endstl No.3189-94 dated 31.07.2009 and took over the charge on the same day.
- b. After taking over charge she was again adjusted at GGPS Dassu w.e.f 01-03-2011 vide EDO E&SE Kohistan No.741-49 dated 22-04-2011.
- c. The source I for the release of pay was verified from District Accounts Office Kohistan in the M/O 5/2011 along with the adjustment of arrear of pay for the M/O 3-4/2011 it mean that she could not get salary from date of appointment to 02/2011 (19 months) that indicate that she was appointed without the availability of post she was adjusted at GGPS Dassu.
- d. She was appointed only on pick and chooses method.
- e. She was appointed on single hand written application.

v. **Mst Sara PST:**

- a. Mst Sara Begum D/O Fazal Yazdan R/O Mardan (Swabi) was appointed as PST GGPS Kundal vide DEO (F) Kohistan appointment order issued under Endst No.827-33 dated 2/2/1996 being SSC and RTC and as per entry in the service book she took over the charge on 3/2/1996.
- b. As per entry in the service book the pay of the said teacher was released vide DEO (F) Letter No. 6071-73 dated 12/10/2010 in the period w.e.f. 01/12/2006 to 3/4/2012 (41 Months) as treated as EOL without pay and the period w.e.f date of appointment 30/11/2006 is not trace able for the month of October 2010.
- c. As per entry in the service book, the source I for the release of salary was verified from District Accounts Office for the month of 11/2010, the pay of the teacher for the period 1/5/2010 to 31/10/2010 has already been drawn.
- d. She was appointed on 2/2/1996 and got the salary w.e.f 1/5/2010, that indicates that she remained without salary from 2/2/1996 to 30/4/2010 (14 years & 3 Months)
- e. It is astonishing that how the appointment is valid.
- f. She was appointed only on pick and chooses method.
- g. She was appointed on single hand written application.

vi. **Mst Khush Numa PST:**

- a. Mst Khush Numa D/O Khurshid Ahmad R/O Swabi was appointed as PST at GGPS Dobair village being only SSC vide appointment order issued under Endst No. 539-44 dated Kohistan

Annexure
(B) 4

- d. She was appointed being low academic qualification.
- e. She was transferred from Kohistan on 8/1/2011 and she got the salary for only 2 month from Kohistan.
- h. She was appointed only on pick and chooses method.
- i. She was appointed on single hand written application.
- vii. **Mst Mussarat Bibi PST:**
- a. Mst Mussarat Bibi D/O Hazrat Wali was appointed as PST at GGPS Badar Shaha vide appointment order issued Enrd: No.1135-40 dated 1/2/1996 w.e.f 1/5/1996. the order was issued in advance and as per entry in the service book she took over the charge on 1/5/1996.
- b. She was appointed being only SSC with 342/850 marks less than 40% in 3rd division. She was appointed on simple hand written application without merit list and without other coddles formalities.
- c. She was appointed with a very low academic qualification.
- e. She was appointed on simple hand writing application
- f. She was appointed by pick and chooses method
- g. No other record is available for further verifications
- viii. **Mst. Nadia Qazi**
- a. Mst. Nadia Qazi D/O Qazi Fazal Haq was appointed as PST GGPS bar Komila vide appointment order issued under Enrd: No.8836-42 dated 07-12-2006
- b. According to the merit list of Female candidates for the year 2006, she falls at S.No.28/06 being SSC.
- c. She was appointed on simple hand writing application
- d. She was appointed by pick and chooses method
- e. No other record is available for further verifications.
- The score of all these candidates has been changed/ inserted in pen writing and has been changed and the appointments were made randomly and disorderly.

Findings

1. The appointments were made without the availability of vacant post and the submission of charge reports is merely the paper work that is why the source I for the release of salary was verified after the issuance and adjustment in 2nd orders.
 2. The appointments were made with poor/ relaxed criteria with the intension to induct the candidates and leave out them from District Kohistan as soon as possible and the similar has been done.
 3. The appointments were made to use District Kohistan as a launching bad/ back door for accommodating academically poor candidate.
 4. The appointments were made on pick and choose policy.
 5. The appointments were made in piecemeal by violating the rules.
- Photocopy of appointment orders, charge report, pages of service books and merit lists for the year 2006 and 2008 are attached here with as Annexure "A" & "B".

Recommendations.

After perusal of available record, facts and findings, the following recommendations are made.

1. The appointments are illegal and irregular and against the recruitment rules / policy, the appointing authority could not absolve himself from the responsibilities hence departmental proceeding/ legal action may be initiated against the appointing authority.
2. The appointments of above mention teachers are illegal and irregular hence liable to be withdrawn / cancelled / terminated.

2803
2015
359
A

Deputy Director (Enquiry)
Khyber Pakhtunkhwa

1. P. 1 to Director (E&SE) Khyber Pakhtunkhwa Local Director
Copy to the:-
Encls No. _____
Deputy Director (Enquiry)
Khyber Pakhtunkhwa

I am directed to refer to the subject cited above and to enclose herewith a copy of the enquiry report and to ask you to decide the case in the light of the recommendation of the enquiry report carried out by Mr. Riazul Khan District Education Officer (Male) Kohistan under intimation to this office.

INQUIRY REPORT

Deputy Director (Enquiry)
Kohistan

Annexure
(5)

Handwritten signatures and notes, including "mjh" and "18/5/15".

Annexure
(E)

OFFICE OF THE DISTRICT EDUCATION OFFICER, (F) KOHISTAN.

Ph & Fax No. 0998407225

OFFICE ORDER

In compliance with the Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar letter No. 3081/F.No.20 (F) enquiry dated 16/03/2015, Reminder No. 2200/F No.20/(F) enquiry dated 20/04/2015, No. 3530/ F No.20/(F) enquiry dated 23/05/2015, and No. 5696/F No.20/(F) enquiry Dated 24/08/2015, and In light of recommendation of enquiry officer, the following PST teachers are hereby removed from service with immediate effect.

S/NO	Name	School
1	Nuzhat PST	GGPS Kas banda
2	Nazia Qazi PST	GGPS Bar komila
3	Alia Ghafoor	GGPS Kas banda
4	Ruqia PST	GGPS Kas banda
5	Sara PST	GGPS Kundal
6	Khushnuma PST	GGPS Dubair
7	Mussarat/bibi PST	GGPS Badar shaha

District Education Officer
(Female) Kohistan

F.No. /Etabh: / - / DEO (F) Kohistan

Copy of the above is forwarded to:

1. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
2. The District Education Officer (F) District Swabi, for necessary action at her end as the above teachers are now posted in District Swabi.
3. The District Accounts Officer, Swabi.
4. The District Accounts Officer, Kohistan.
5. The Sub-Divisional Education Officer (F) Kohistan.
6. Office record.

District Education Officer
(Female) Kohistan

BEFORE THE SERVICE TRIBUNAL K.P.K. PESHAWAR

Service Appeal No.117 /2016

Mst. Musarrat Begum Ex-PST.....Appellant.

VERSUS

Secretary to the Govt. of Khyber Pakhtunkhwa Education Department,
Peshawar and others.....Respondents.

REPLY ON BEHALF OF THE RESPONDENTS NO. 1-3

Respectfully Sheweth,

PRELIMINARY OBECTIONS:

- 1) That, the appellant has no cause of action to file the instant appeal.
- 2) That, the instant appeal is badly time barred.
- 3) That, the appellant has filed the instant appeal just to pressurize the respondents.
- 4) That the appellant has not come to the Tribunal with clean hands.
- 5) That the appellant has concealed material facts from Honourable Tribunal.
- 6) That appellant is estopped to file the appeal by her own conduct.
- 7) That upon concealment of facts, no one can claim any relief hence the instant appeal is liable to be dismissed.

ON FACTS:

1. That the para relates to the personal record of the appellant.
2. That the PST appointment was made at district level as per policy. But the appellant being domiciled holder of District Swabi illegally appointed by fake order in district Kohistan.
3. That this para relates transfer procedure. However the transfer order was withdrawn vide order dated 22/10/2015.
4. That the Director Elementary and Secondary Education Khyber-Pakhtunkhwa appointed Miss Riyasat Khan (B-19) DEO (M) Kohistan as inquiry officer vide Endst No.826-29/dated 09-10-2014 and copy endorsed to this office. The officer conducted the inquiry and submitted report to the Director (E&SE) KPK. On the recommendation of inquiry officer the transfer order was withdrawn and she was proceeded accordingly vide Endst No 7105-10 dated 22/10/2013.
5. That the removal order was issued on 20-1-2015, while the departmental appeal

was made on 19-11-2015 which is badly time barred.

GROUNDS OF APPEAL

- A. In correct and denied, the respondents have treated the appellant according law, rules and present prevailing policy.
- B. That the appellant did not appoint as per law, rules and Government prevailing policy. Hence illegal act cannot create a single right.
- C. That the transfer order was rightly with draw by the competent authority as per inquiry officer report.
- D. incorrect and denied That the order has already been issued as per rules, law and Government prevailing policy. The appellant is treated as per procedure in laid down policy.
- E. In correct and denied, proper procedure for removal from service has been adopted / observed under E&D Rules 2011.
- F. That as the appointment made was fake and illegal, hence the appellant has been estopped by his own conduct.
- G. In correct and denied as the appellant is has no cause of action to file the instant appeal and the appeal in hand is liable to be dismissed.

It is therefor, humbly prayed that the appeal may kindly be dismissed with cost.

1/1/2016
27/04/16

District Education Officer
(Female) District Swabi

1/1/2016

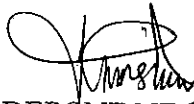
DIRECTOR
(ELE. & SEC) EDUCATION
GOVT. K.P.K PESHAWAR

1/1/2016

SECRETARY
(ELE. & SEC) EDUCATION
GOVT. K.P.K PESHAWAR

AFFIDAVIT

I Jamshid Khan (Litigation officer) office of the District Education officer (F) Swabi do hereby solemnly affirm and declare that the contents of the accompanying Para-wise comments submitted by respondents are true and correct to the best of my knowledge and belief that nothing has been concealed from this Honourable Tribunal.


DEPONE NT 27.04.2016
CNIC NO:16201-8766444-7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 117 /2016

Mst. Musarrat BegumAppellant

Versus

The Secretary E&SE and others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE
TO REPLY FILED BY RESPONDENTS NO.1&3.**

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous. The appellant has got cause of action and for that matter locus standi to file the instant appeal before this Hon'ble Tribunal which has got exclusive jurisdiction. All the parties are properly arrayed. The appeal is within time with all the relevant facts concisely incorporated therein. Estoppel has no application to the instant appeal which is in its correct form and shape.

Facts:

1. Being not replied hence admitted.
2. Incorrect hence denied. The appellant was appointed in accordance with law. Being far-flung area with no qualified teacher, the appellant was appointed against the post of PST like many other teachers. The objection that the appointment order is fake, is without any substance.

3. Misconceived. The transfer order dated 22.10.2015 was issued after long 07 years without any lawful justification.
4. Incorrect as stated. The appointment order dated 01.02.1996 is correct. No fact finding enquiry has been conducted into the matter. The transfer order of the appellant was issued by the competent authority under the policy then in vogue. The impugned order was illegally issued in violation of the law. The impugned order was issued on 22.10.2015 while the departmental appeal was preferred on 19.11.2015 which was rejected on 20.01.2016 and hence the instant appeal is within time.
5. Incorrect.

Grounds:

- A. Incorrect. The impugned Notification is against the law, without jurisdiction and therefore is not legally sustainable.
- B. Incorrect hence denied. The appellant was appointed as per the law and rules in accordance with the policy then in vogue.
- C. Misconceived. The order was issued according to law and was properly intimated and therefore could not be withdrawn under the doctrine of locus poenitentiae having created a vested right in the appellant.
- D. Incorrect. The impugned orders are violative of the law and policy.
- E. Incorrect. The appellant was regular employee of the Department and could not be terminated without adopting the mandatory legal requirements as per the K.P. Civil Servants

(Efficiency & Discipline) Rules-2011.

- F. Incorrect. Even the Enquiry Officer has not stated in his Enquiry Report that the appointment order was fake one rather he has stated that the order was issued irregularly by the competent authority. Being a past and closed transaction, the issue could not be reopened after long 20 years.
- G. Needs no reply.

It is, therefore, humbly prayed that the reply of answering Respondents No.1&3 may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Nisar Raza
Appellant

Khaled Rahman
Advocate, Peshawar

Dated: 04/01/2017

Verification

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

Advocate
adobe

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 665 /ST

Dated 3-4- /2019


To,

1. The District Education Officer (F),
Kohistan.

SUBJECT: - ORDER IN APPEAL NO. 117/2016, MUSARRAT BEGUM VS GOVT.

I am directed to forward herewith a certified copy of order dated 22.03.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR