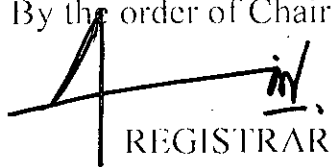


FORM OF ORDER SHEET

Court of _____

Appeal No. 2454 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/11/2023	<p>The appeal of Mst. Simran resubmitted today by Mr. Murad Ali Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____</p> <p>Parcha Peshai is given to the counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mst. Simran received today i.e on 20.11.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal are unattested.
- 2- Annexure-D of the appeal is illegible which may be replaced by legible/better one.

No. 3647 /S.T.

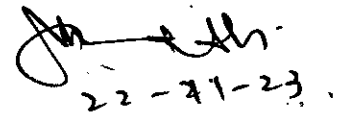
Dt. 21-11 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Murad Ali Safi Adv.
High Court Peshawar.

Dear Sir
Resubmitted after clear all objections
Annexure A & B The appeal is clear, & Appeal is attested


22-11-23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 2484 /2023

Mst. Simran.....Appellant

V E R S U S

District & Sessions Judge & another.....Respondents

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service Appeal with affidavit		1-3
2.	Application for condonation of delay with Affidavit		4-5
3.	Copy of Order dated 14.04.2022	A	6-7
4.	Copies of Medical Chit & replies	B-C	8-10
5.	Copy of Order dated 31.03.2023.	D	11
6.	Copy of departmental appeal dated 11.04.2023, Comments & Order dated 29.04.2023.	E,F,G	12-20
7.	Vakalat Nama		21

Dated: 18.11.2023

Appellant

Through

Qaiser Hussain

&

Murad Ali Safi

Advocates

BC No.15-5408

Cell: 0344-9229321

Email: muradsafi23@gmail.com

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 2454/2023

Mst. Simran Ex Sweeper (BPS-03), District Courts, Peshawar.

.....Appellant

V E R S U S

1. District and Sessions Judge, Peshawar.
2. Senior Civil Judge (Admn), Peshawar.....Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER/DECISION DATED 29-04-2023 (RECEIVED BY THE APPELLANT ON 04-05-2023) WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT FILED AGAINST THE ORDER DATED 31-03-2023 HAS BEEN DISMISSED.

PRAYER:-

On acceptance of this appeal the impugned Order/decision dated 29-04-2023 and order dated 30-03-2023, may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Respectfully Submitted:-

1. That the appellant was appointed as Sweeper (BPS-03) vide Office Order dated 14-04-2022 and since enlistment, the appellant performed her duties with honesty and full devotion and to the entire satisfaction of the high ups. (Copy of Order dated 14-04-2022 is enclosed as Annexure A).
2. That in the end of December 2022, the appellant fell seriously ill and visited the Medical Officer who advised her medicines with bed rest, upon which Explanation of the appellant was called on the allegations of absence from duty w.e.f 24-12-2022 to 03-01-2023 i.e, eleven days, which the appellant replied. (Copies of Medical Chit & replies are enclosed as Annexure B & C).
3. That strangely the appellant was removed from service vide Office Order dated 31-03-2023. (Copy of Order dated 31-03-2023 is enclosed as Annexure D).

- 4. That the appellant preferred departmental appeal before respondent No 1 on 11-04-2023, upon which comments were called from respondent No 2 and finally departmental appeal of the appellant was dismissed vide Order/decision dated 29-04-2023, copy of which was received by the appellant on 04-05-2023. (Copy of departmental appeal dated 11-04-2023, Comments & Order dated 29-04-2023 is enclosed as Annexure E, F & G).
- 5. That the impugned Order/decision dated 29-04-2023 and order dated 31-03-2023 are against the law, facts and principles of justice on grounds inter-alia as follows:-

G R O U N D S :-

- A.** That the impugned Orders are illegal, unlawful, without lawful authority and void ab-initio.
- B.** That mandatory provisions of law and rules have been badly violated by the respondents and the appellant has not been treated according to law and rules in violation of Article 4 and 25 of the Constitution.
- C.** That the impugned orders are in total disregard of the law on the subject and as such void ab-initio.
- D.** That the appellant has been removed from service on the basis of absence from duty, in which case regular inquiry under the rules on the subject was mandatory, hence the impugned orders are liable to be set aside.
- E.** That no Charge Sheet and Statement of allegations was comminuted to the appellant hence too the appellant is entitled to be reinstated in service.
- F.** That the absence from duty was not willful and deliberate rather the same was due to mentioned circumstances which were beyond the control of the appellant.
- G.** That even otherwise the punishment is very harsh and does not commiserate to the guilt even if any.
- H.** That ex-parte action has been taken against the appellant and has been condemned unheard.
- I.** That since illegal Removal from service, the appellant is jobless.

J. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Any other relief deemed appropriate and not specifically asked for, may also be granted in favor of the appellant.

Dated:-05-10-2023

Through

Appellant

Qaiser Hussain

&

Murad Ali Safi
Advocates

LIST OF BOOKS

- 1. Constitution 1973.
- 2. other books as per need

CERTIFICATE:

Certified that as per instructions of my client, no other Service Appeal on the same subject and between the same parties has been filed previously or concurrently before this honorable Tribunal.

ADVOCATE

AFFIDAVIT

I, Mst. Simran Ex Sweeper (BPS-03), District Courts, Peshawar, do hereby solemnly affirm and declare on oath that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

DEPONENT



4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No _____/2023

Mst. Simran.....Appellant

V E R S U S

District & Sessions Judge & another.....Respondents

APPLICATION FOR CONDONATION OF DELAY IF ANY

Respectfully Submitted:-

1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral Part of this application besides the applicant pursued his grievances before the Courts/tribunal constituted for the purpose consistently.
3. That since the impugned order is void ab-initio being passed in utter violation of law and rules on the subject hence void ab-initio and as such the instant appeal is as such well within time furthermore lis are to be decided on merit instead of technicalities.
4. That no evidence of any sort has been collected in support of the allegations which were never substantiated.
5. That law as well as the dictums of the superior Courts also favors decisions of cases on merit.

It is therefore prayed that on acceptance of this application, the delay if any in filing of appeal may kindly be condoned.

Dated:-18.11.2023

Through

Qaiser Hussain
Appellant

Qaiser Hussain
Qaiser Hussain

&

Murad Ali Safi
Murad Ali Safi
Advocates

AFFIDAVIT

I, Mst. Simran Ex Sweeper (BPS-03), District Courts, Peshawar do hereby solemnly affirm and declare on oath that the contents of this Application, are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Qaiser Hussain
DEPONENT





DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR

Phone: 091-9213534
eMail: scjpeskwar@gmail.com
Web: www.SessionsCourtPeshawar.gov.pk

No. 411

Dated Peshawar 14/04/2022

OFFICE ORDER

On the recommendations of the Departmental Selection Committee, the appointment of the following candidates on temporary basis as Sweeper (BPS-03) under Female Quota, is hereby ordered with effect from the date of assumption of charge of the post, subject to medical fitness, antecedents verification and verification of testimonials through quarter(s) concerned.

Sr#	Name	Father's Name	Appointed As
1	Simran	Sandash Kumar	Sweeper (BPS-03)

Their appointment to the service shall be subject to the following terms and conditions:

1. They shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and Khyber Pakhtunkhwa Government Servants (Appointment, Promotion & Transfer) Rules, 1989 read with Peshawar High Court (Subordinate Courts Staff-Recruitment Rules), 2003.
2. They shall be allowed the minimum pay of BPS-03 plus other allowances as admissible under the rules.
3. They shall be governed by such rules and instructions relating to leave, T.A and Medical Attendance as may be prescribed from time to time.
4. They shall remain on probation for a specific period as provided for under the rules.
5. They shall be eligible for continuance and eventual confirmation in the post on satisfactory completion of their probationary period, subject to availability of permanent posts and the completion of prescribed training, if any.
6. Their services shall be liable to be dispensed with at any time without notice and assigning any reason before the expiry of the period of their

ATTESTED

04 MAY 2023
(Examiner)
District Court Peshawar

UR REHMAN
Civil Judge (Admin)
Peshawar

probation/extended period of probation, if their work or conduct during this period is not found satisfactory. In the event of termination from service, fourteen days' notice or in lieu thereof fourteen days' pay shall be paid by the Government. In case of resignation, they shall give one month notice to the Competent Authority or in lieu thereof one month pay shall be forfeited to the Government. The resignation shall, however, be subject to the acceptance by the Competent Authority.

- 7. They shall be governed by the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and the Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987 and any other instructions which may be issued by the Competent Authority from time to time.

If the above terms and conditions of appointment are acceptable to them, they should report for duty to the undersigned immediately. The offer of appointment shall be deemed to have been cancelled if they fail to report for duty within one month from the date of issuance of this order.

They shall join duty at their own expenses.

[Signature]
 [MOHIB UR REHMAN]
 Senior Civil Judge (Admn),
 Peshawar/Appointing Authority
 MOHIB UR REHMAN
 Senior Civil Judge (Admn)
 Peshawar.

Endorsement No. 411 Dated Peshawar the 14/04/2022
 Copy forwarded to:-

- 1. The worthy Registrar, Peshawar High Court, Peshawar.
- 2. The learned District & Sessions Judge, Peshawar.
- 3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 4. Members of the Departmental Selection Committee.

for information, please

- 5. The Clerk of Court (CoC)
- 6. The appointees by name:

for information and necessary action

ATTESTED

[Signature]
 Senior Civil Judge (Admn),
 Peshawar/Appointing Authority

MOHIB UR REHMAN
 Senior Civil Judge (Admn)
 Peshawar.

14/04/2022
 (Examined)
 District Court Peshawar

DR. NASREEN BAHADAR

MBBS MCPS
Gynaecologist and Sonologist
(PMDS 3998-N)
Room No 309 3rd Floor Pak Medical
Center Khyber Bazar Near Karachi Market.

ڈاکٹر نسreen بھادر

ایم بی بی ایس ایم سی بی ایس
کاکی کارڈس ایڈ سونالوجسٹ
(پی ایم ڈی سی این 3998)

کمر نمبر: 309 - تیسری منزل پاک میڈیکل سنٹر کھبر بازار نزد کراچی مارکیٹ

Pt's Name: Simpson

Age: 36 Sex: _____

Date: 26/12/2029

Clinical Record

Rec

- C/o
- Blue
- Sore Throat
- Fever
- Chest Infection

- Tab Augmentin 625x
USS 1 + 1 + 1
- Tab Paracetamol
17.1 + 1
- sap Brevibloc
USS 2 + 2 + 2 (13)

Advised Bed Rest
for 3 days.

Ph:
Call No:

چھٹی بروڈ ویسٹ اتوار

اوقات کار: 4 بجے شام 8 بجے تک

03 02
2023

بیان سہولتوں کے لیے تفصیلات لیکھ ریجنل سوشل سروسز
ڈائریکٹوریٹ جوڈیشیئر (سٹیڈی سوشل سروسز)

حکماً بیان کرتی ہوں کہ میں سائلہ کے جواب دہ نہیں
لیکھ ریجنل سوشل سروسز کے لیے جوڈیشیئر ڈائریکٹوریٹ کے ساتھ
صورتوں پر ہوں۔ جوڈیشیئر میں سائلہ کو سائنس کی بیماریوں کے
بہ نسبت مزید فائدہ پہنچانے کے لیے جوڈیشیئر کے اہل علم سے
اس نسبت جملہ کاغذات بیماریوں کے ساتھ پیش کرنا
آ - 105000 کے ساتھ جمع کرنا ہے۔

صرف مذکورہ بالا بیان حقیقت پر مبنی ہے کہ کوئی عین
بیانی نہیں کہتی ہے۔

سنگردت لکھنؤ

سہولتوں کے لیے
سوشل سروسز
ڈائریکٹوریٹ جوڈیشیئر
03-02-2023

خدمت صاحب سید سید (پہلے نمبر) کے لئے

عنوان :-

Reply to Notice.

جو اہم (ب) صاحبان کی طرف سے منبر 12 جون 12 09ء کو لکھواریا
کے ذریعے ایڈورٹائزڈ ہے۔

1- یہ کہ من ساٹھ ایک کے زیر سابقہ جھٹکا میں سوئی
اپنی ڈیوٹی خوش رسوئی کے ساتھ انجام دے رہی ہوں۔

2- یہ کہ من ساٹھ کو اب صاحبان نے ایک نوٹ دیا ہے کہ من ساٹھ
جون 12 09ء کو اپنی ڈیوٹی سے غیر ذمہ داری دینے کے لئے رہی ہوں۔

یہ کہ من ساٹھ نے اپنے جواب میں فرمایا تھا کہ دستبردار ہونے کے لئے
من ساٹھ کی سائنس ہوائی میں ہونا چاہئے۔ چونکہ من ساٹھ سائنس میں
تعمیراتی کام سے تعلق رکھتے ہیں۔ من ساٹھ کی سائنس ہوائی میں
فقدان اور اس کے لئے جو سہولتیں ملتی ہیں۔

3- یہ کہ من ساٹھ کی تعلقاً اقلیت ہے ہے اور من ساٹھ ایک
بہت قریب اور بالکل ہی دارمعدت ہیں، سائنس کو دو وقت کی روٹی
میں ہے۔

لکھواریا اور عائدہ ذمہ داری کے لئے من ساٹھ کی سائنس
بہت قریب اور بالکل ہی دارمعدت ہیں، سائنس کو دو وقت کی روٹی
میں ہے۔

03 02 23

سید سید (پہلے نمبر) کے لئے
ایڈورٹائزڈ ہے۔



DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR

Phone: 091-9213534
Email: scjpeshtawai@gmail.com
Web: www.SessionsCourtPeshawar.gov.pk

No. 24
Dated Peshawar 31/03/2023

OFFICE OF THE SENIOR CIVIL JUDGE (ADMN) PESHAWAR

OFFICE ORDER

WHEREAS, Ms. Simran Sweeper (BPS-03) of this establishment was reportedly absent from her duties w.e.f. 24-12-2022 to 03-01-2023 i.e. 11 (Eleven) days without any intimation or application. A notice was served upon her for her wilful absence from official duties. Meanwhile, she resumed the duties and submitted reply coupled with a tampered private medical prescription of 03 days bed rest on 24-02-2023. Her previous track record shows her to be an unwilling worker who habitually remains absent from duties. She has been found absent on 08-11-2022, 05-12-2022, 08-12-2022, 24-12-2022 to 03-01-2023 and 11-01-2023. Even the minor penalty of Censure has already been awarded to her on 13-02-2023 and the Hon'ble District and Sessions Judge Peshawar has found her to be unwilling and inefficient worker. As sufficient material was available against Ms. Simran Sweeper regarding her wilful absence of more than 07 days, being in probation period, therefore, inquiry was dispensed with under Rule 5(1)(b)(II) as well as Rule 7 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rule 2011 and she was served with Final Show Cause Notice vide No. 17-A dated 04-03-2023 for awarding major penalty of Removal from Service under Rule 4(1)(b)(iii) of the rules ibid. The delinquent official submitted reply on 18-03-2023. She was also heard in person but she failed to provide any reasonable justification of her wilful absence.

NOW, THEREFORE, in exercise of powers conferred upon the undersigned under rule 4 (b)(iii) of the Govt of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, the delinquent official i.e. Simran Sweeper of this Office is hereby removed from service, in the interest of public, with immediate effect.

[MOHIB UR REHMAN]
Senior Civil Judge (Admn),
Peshawar.

Endst: No. 24 Dated Peshawar, the 31 / 03 / 2023.

Copy forwarded to:

1. The worthy Registrar, Peshawar High Court, Peshawar.
2. The Hon'ble District & Sessions Judge, Peshawar.
3. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Clerk of Court, Senior Civil Judge, Peshawar.
5. Civil Nazir, Senior Civil Judge, Peshawar.
6. Official concerned by name.
7. Office File.

Senior Civil Judge (Admn),
Peshawar.

ATTESTED

31 MAY 2023

(Examined)

District Court Peshawar

12

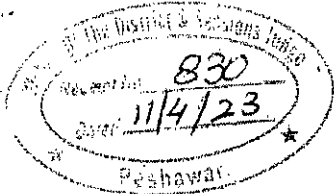
F

11

To

The Hon'ble District & Sessions Judge
Peshawar

Subject: Departmental Appeal against the impugned office order No.24 dated 31.03.2023 of the office of worthy Senior Civil Judge (Admin) Peshawar, whereby major Penalty of removal from service has been imposed upon the appellant.



Respected Sir:

In reference to the impugned removal service order No. 24 dated 31.03.2023 of the worthy Senior Civil Judge (Admin) Peshawar, Whereby the appellant has been removed from service, the appellant very humbly submits the instant departmental appeal to the following effects.

1. That after going through the prescribed mode of selection, the appellant got inducted into services as Sweeper (BPS-3) on female reserve quota in the District Judiciary Peshawar vide office order No. 411 dated 14.04.2022 (Copy of appointment order No. 411 dated 14.04.2022 is attached as annexure "A").
2. That after getting on to services, the appellant left no stone un-turned in the performance of her duties & responsibilities.
3. That while performing her duties, it was vide impugned office order No. 24 dated 31.03.2023 of the worthy Senior Civil Judge (Admin) Peshawar, that the appellant has been removed from service in a classically cursory and whimsical manner (Copy of the impugned office order No.24 dated 31.03.2023 is attached as annexure "B").
4. That feeling aggrieved, the appellant prefers the instant departmental appeal for setting aside the impugned office order No. 24 dated 31.03.2023 and for reinstatement into service with all back benefits upon the following grounds, inter,alia:-

ATTESTED

04 MAY 2023
(Examined) *MU*

District Court Peshawar

GROUND:

- A. That the impugned order is wrong, unwarranted and illegal and does not hold any water, in the eyes of law.

B. That the impugned removal from service order is not sustainable and liable to be set aside.

C. That the appellant has been removed from service allegedly for absence for a period of 11 days from 24.11.2022 to 03.01.2023, which although was later on reduced to 7 days vide the same impugned order, which from all prospective is not only extremely harsh, but as well as unwarranted as well.

D. That first of all the appellant is a Christian by religion and there was Christmas in between 24.12.2022 till 03.01.2023 and for Christians there was thorough public holidays on the eve of Christmas, same is the case of appellant. So the absence was never deliberate, but rather the act of penalizing and punishing the appellant for making leaves in that period would rather be an act of extreme bureaucrat hammer.

E. That besides Christmas there was otherwise public holidays being winter vacations even in courts as well, from 24.12.2022 till 03.01.2022. So punishing the appellant for the same periods is not only extremely harsh, but as well as not appealable to any prudent mind.

F. That besides the above the appellant had been victim to COVID-19 in the last year, before joining the service and because of that COVID-19 the appellant had developed chest infection and because of that she often hit with surprise severe fever, which cause the appellant to remain confined to bed for a day or two, which caused absence randomly even prior to the instant alleged absence of 11 days, but this time not only the appellant, but her children were fallen illness as well. So all the absence period were due to illness of her and her minor children. (Copy of medical prescription are attached as annexure "C").

ATTESTED

24 MAY 2023

District Court Peshawar

G. That even the impugned order is also illegal for the reason that for any action under rule-9 of E&D rules 2011, the mandatory procedure as postulated in rule-9 is to be followed in the letter and spirit which in the instant removal from service order is missing at all and

19

Ⓟ

even not a single word is mentioned about observing the requirement of rule-9 is there in the impugned order.

- H. That either the appellant had to be proceeded against under rule-9 or under other provision from 5 to 7 of E&D rules 2011, but here the appellant had been proceeded against under both procedure and interestingly none of the procedure or proceeding were adhered to properly and thus the very procedure is unwarranted and is liable to be discarded.
- I. That the appellant is a poor lady and hails from a poor family and the service of the appellant was the only means of subsistence of her family.
- J. That no proper inquiry was ever carried out, nor any show cause, charge sheet or statement of allegation was ever served upon the appellant and was thus condemned unheard.
- K. That it's the establish law that any major penalty can only be imposed when there is a proper inquiry conducted prior to imposition of the major penalty.
- L. That from every angle the impugned order is illegal and wrong and is liable to be set aside.

9

It is, therefore, most humbly requested that on acceptance of the instant departmental appeal, the impugned office order No.24 dated 31.03.2023 of the worthy Senior Civil Judge (Admin) Peshawar be set aside and by doing so the appellant may very graciously be reinstated into service with all back benefits. The appellant also implore for personal hearing as well.

Dated: 11/04/2023

من

Appellant
Mst. Simran
Ex-Sweeper (BPS-3)
District Courts Peshawar.

ATTESTED
04 MAY 2023
(Examiner)
District Court Peshawar

OFFICE OF THE SENIOR CIVIL JUDGE (ADMN), PESHAWAR.

No. 27 SCJ/Admin, Dated Peshawar 10/04/2023.

Forwarded in original to the Hon'ble District & Sessions Judge,
Peshawar for further necessary action.



Senior Civil Judge (Admin),
Peshawar

ATTESTED

04 MAY 2023
(Examiner)
District Court Peshawar

16

F

17-4-2023

BEFORE HON'BLE DISTRICT & SESSIONS JUDGE, PESHAWAR

**Comments in the Departmental Appeal filed by
Simran, Sweeper.**

Office of The District & Sessions Judge
Receipt No. 890
Dated 17/4/23
Peshawar.

Respected Sir,

Para-wise comments in departmental appeal of Simran, Sweeper,
in the establishment of the undersigned are as under:

Para No. 1. Needs no comments.

Para No. 2. Needs no comments.

Para No. 3 & 4 are incorrect. It is submitted that Naib Nazir submitted complaint dated 01-01-2023 before the Hon'ble District and Sessions Judge Peshawar that Ms. Simran Sweeper (BPS-03) of this establishment was absent from her duties w.e.f. 24-12-2022 to 03-01-2023 i.e. 11 (Eleven) days without any intimation or application. The same was sent to this Office with the direction to proceed against the delinquent official in accordance with law, therefore, notice was served upon her for her wilful absence from official duties. Meanwhile, she resumed the duties and submitted reply coupled with a tampered private medical prescription dated 26-12-2022 of 03 days bed rest on 24-02-2023 i.e. after two months. If she was actually on bed rest, she could have sent a copy of medical report on the date she was absent.

Her previous track record shows her to be an unwilling worker who habitually remains absent from duties. She has been found absent on 08-11-2022, 05-12-2022, 08-12-2022, 24-12-2022 to 03-01-2023 and 11-01-2023. Even the minor penalty of Censure has already been awarded to her on 13-02-2023.

As sufficient material was available against Ms. Simran Sweeper regarding her wilful absence for more than 07 days, being in probation period, therefore, inquiry was dispensed with under Rule 5(1)b(II) as well as Rule 7 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rule 2011 and she was served with Final Show Cause Notice vide No. 17-A dated 04-03-2023 for awarding major penalty of Removal from Service under Rule 4(1)b(iii) of the

Senior Civil Judge (Admn)
Peshawar.

rules ibid. The delinquent official submitted reply on 18-03-2023. She was also heard in person but she failed to provide any reasonable justification of her wilful absence.

It is apt to mention here that the delinquent official during inquiry and served Final show cause notice also absent from her duties without any intimation or application which facts bring into notice of Hon'ble District and Sessions Judge Peshawar by Naib Nazir, Sultan-ul-Arifeen, submitted complaints dated 07-03-2023 and 15-03-2023 which were marked to the undersigned to take action because she was not willing worker as per constant reports and with the remarks of the Hon'ble District and Sessions Judge Peshawar that she has found to be unwilling and inefficient worker.

In reply to Final show cause notice and personal hearing, the accused/official, Simran, Sweeper, could not show sufficient cause and give satisfactory explanation against imposing upon him one or more of the penalties as mentioned in rule 4 of the E&D Rules 2011, therefore, major penalty of **removal from service** under rule 4 (b)(iii) of the Govt. of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, was awarded to her with immediate effect vide order No. 24 dated 31-03-2023.

5

ATTESTED
05 MAY 2023
EXAMINEE
District Court Peshawar

GROUND

- A. The impugned order is right, just and has been passed in accordance with law.
- B. The impugned order is correct & sustainable.
- C. The appellant has been removed from service regarding her wilful absence of more than 07 days being in probation period.
- D. 26-12-2022 was declared a public holiday for Christmas.
- E. If the appellant had been victim of Covid-19 in the last year why she not produced any medical prescription and it is astonishing to note here that the appellant gets a plea for his absence of 11 days, in one pretext that on those days a public holidays and another pretext that she was ill and produce tampered private medical prescription dated 26-12-2022.

Senior Civil Judge (Admn)
Peshawar

G. Rule-9 of E&D rules 2011 is not applied here because she in a probation period.

H. Inquiry dispensed with under Rule 5(1)b(II) as well as Rule 7 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rule 2011 and she was served with Final Show Cause Notice vide No. 17-A dated 04-03-2023 for awarding major penalty of Removal from Service under Rule 4(1)b(iii) of the rules ibid.

I. Needs no comments.

J. Proper Inquiry was carried out against appellant for her absence on duty on 13-01-2023 and on the recommendation/opinion of the Inquiry Officer, the undersigned vide order No. 3 dated 13-02-2023 impose minor penalty of Censure as laid down under rule-4(b)(i) of the E&D Rules 2011 upon appellant.

K. As earlier minor penalty of Censure was imposed on 13-01-2023 and thereafter she was found to be unwilling and inefficient worker, therefore, major penalty of removal from service under rule 4 (b)(iii) of the Govt. of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, was awarded to her with immediate effect vide order No. 24 dated 31-03-2023.

L. Impugned order is according to law.

Comments are submitted for your kind consideration and further appropriate orders, please.

MOHIB UR REHMAN,
Senior Civil Judge (Admn),
Peshawar.

ATTESTED


31 MAY 2023
(Examined)
District Court Peshawar

19 9

ORDER - 01
11/04/2023

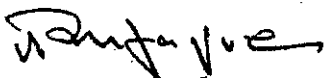
Departmental Appeal received. Be registered.

Appellant Simran d/o Sandash Kumar, Ex-Sweeper of the establishment of Senior Civil Judge (Admn), Peshawar present. Comments of the learned Senior Civil Judge (Admn), Peshawar, being competent authority, be requisitioned for 15/04/2023.


[ASHFAQUE TAJI]
District & Sessions Judge,
Peshawar.

ORDER - 02
15/04/2023

Appellant/official present. Comments received and placed on file. To come up for personal hearing and Order on 29/04/2023.


[ASHFAQUE TAJI]
District & Sessions Judge,
Peshawar.

ORDER - 03
29/04/2023

Appellant/official present in person & heard. Record perused.

This Departmental Appeal is directed against the order dated 31/03/2023, through which the Senior Civil Judge (Admn), Peshawar, in the capacity of the competent authority, has awarded major penalty of Removal from Service to the appellant official under Rule 4(b)(iii) of the Government of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011.

A perusal of the record reveals that the appellant official was working as a sweeper (BPS-03), who remained absent from duty from 24/12/2022 to 03/01/2023 without any information or application for leave. She had also been found absent on various

ATTESTED

04 MAY 2023

(Examiner)
District Court Peshawar

Contd...
ORDER - 03
29/04/2023

dates, i.e. 08/11/2022, 05/12/2022 & 08/12/2022. The previous record of the appellant official shows her to be an unwilling, lazy, and inefficient worker, who also absents herself occasionally without submitting an application for leave. The record also suggests that she had been given several oral & written warnings to mend her ways and perform her duties with zeal & spirit but in vain. Therefore, the learned Senior Civil Judge (Admn), Peshawar, after fulfilling the codal formalities, awarded a major penalty of removal from service to the appellant official under Rule 4(b)(iii) of the Government of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011; hence, this appeal.

(3)

I've gone through the available record and found nothing to suggest that the competent authority committed any wrongdoing, nor could any illegality or irregularity have been found. The appellant official has a reputation of being a slack, inept, and unwilling worker who has been given numerous opportunities to change her ways but has been unable to do so. Such inefficiency and incompetence on part of the appellant official being a government servant is unacceptable, that too, when she was still in probation period.

The appellant official was given every opportunity to produce something in her defense, and even though all procedural measures were followed, she was unable to defend the accusations brought against her. She was unable to claim her innocence throughout her personal hearing and appeal.

For what has gone above, the departmental appeal in hand being devoid of merit is hereby dismissed.

No.	25777
Dated of Application	04/05/23
Name of Appellant	C.M.
Word / Page	13/-
Fee	-
Signatures of Applicant & Date	M.A.
Dated of Preparation	04/05/2023
Dated of Delivery	04/05/2023

Ashfaq
[ASHFAQUETAJ]
District & Sessions Judge,
Peshawar.

ATTESTED

04 MAY 2023
(Examined)
District Court Peshawar

