



DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR

Ph#091-9210099 Fax#091-9212419
eMail: scPeshawar@yahoo.com
web: SessionsCourtPeshawar.gov.pk

No. 7932
Dated Peshawar 05/12/23

19/12/23
2023

To


The Learned Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Subject: **REPLY TO SERVICE APPEAL NO. 1773/2023**
Saba Bibivs.... PHC & others

Dear Sir,

I am directed to submit para-wise reply to the subject appeal,
duly signed by the respondents No. 1 & 2, along with necessary/relevant
documents, please.

Encl: AS ABOVE


Rahmad Khan, Superintendent,
Sessions Court, Peshawar.

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

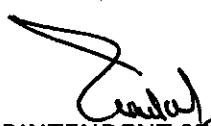
INDEX

APPEAL NO 1773 OF 2023

SABA BIBI ... VS ... REGISTRAR, PESHAWR HIGH COURT, PESHAWAR AND ANOTHER

SUBJECT: WRITTEN STATEMENT/REPLY ON BEHALF OF RESPONDENTS NO 1, 2

S/N O	DETAIL OF DOCUMENTS	TOTAL PAGES	NUMBER
1	INDEX	01	01/01
2	WRITTEN STATEMENT/REPLY	02	02/03
3	COPY OF FINAL SHOWCAUSE NOTICE AS (Annex-A)	01	04/04
4	COPY OF FINAL/IMPUGNED ORDER AS (Annex-B)	01	05/05
5	WRITTEN REPLY TO FINAL SHOW CAUSE NOTICE (Annex-C)	01	06/06
6	AFFIDAVIT	01	07/07


SUPERINTENDENT SESSIONS COURT
PESHAWAR

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No. 1773 of 2023

Saba Bibi, Ex-Sweeper

--VS--

Registrar, Peshawar High Court, Peshawar & another

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 9972

Dated 19-12-2023

Written Statement/Reply on Behalf of Respondents No. 1 & 2

FACTS:

1. Correct to the extent that the appellant official was appointed as Sweeper in this Sessions Division, however, her performance as well as attendance was never satisfactory.
2. Needs no comments.
3. Correct as per available record.
4. Correct as per available record.
5. Incorrect. The appellant official had never performed her duties with zeal & spirit. Her attendance was also not up to the mark. Sufficient material was available on record against her, including complaints, explanation calls, notices and other departmental proceedings conducted against her from time to time, the formal inquiry was dispensed with by the competent authority under Rule 5(1)(a) read with Rule-7 of the Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules 2011, and Final Show Cause Notice was issued to the appellant official, who could not provide any solid ground to prove her goodness regarding the allegations levelled against her. Hence, she was proceeded against in accordance with law after fulfillment of all codal formalities.
6. Pertains to record.
7. Needs no comments.

GROUND:

- A. Incorrect. The impugned order is legal, lawful and has been passed in accordance with relevant laws & rules on the subject.
- B. Incorrect. The competent authority has acted as per law, in accordance with the facts & circumstances of the case, and no violation of law/rules has been committed.
- C. Incorrect. All the codal formalities was fulfilled, and the impugned order has been passed purely on merits and in line with prescribed rules.
- D. Incorrect. The appellant official has been found absent from duty without application of leave. If she had any medical/maternity problem, she could

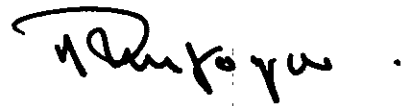
have applied for medical leave, and the same might have been granted as per prescribed rules on the subject.

- E. Incorrect. The appellant/official was given every opportunity to defend herself, including personal hearing, as evident from clause-6 of the Final Show Notice.
- F. Incorrect. Since sufficient material was available on record against the appellant official, i.e. complaints, explanation calls, notices and other departmental proceedings, the formal inquiry was dispensed with by the competent authority under Rule 5(1)(a) read with Rule-7 of the Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules 2011, and Final Show Cause Notice (**Annex-A**) was issued to the appellant official, who could not provide any solid ground to defend her inefficiency & misconduct, as evident from final/impugned order (**Annex-B**). Hence, she was proceeded against in accordance with law/relevant rules on the subject.
- G. Incorrect, as explained in Para-F above. Moreover, the appellant/official was given every opportunity to defend herself, including personal hearing, but she failed to defend her position. Rather, she blatantly refused to perform her duties as Sweeper, both in her written reply (**Annex-C**) and verbal assertion before the competent authority during her personal hearing.
- H. Incorrect. As explained in Para-F above.
- I. Incorrect. The impugned order has been passed in accordance with relevant law and rules on the subject.
- J. Any other ground will be replied as & when raised by the appellant.

In view of the above, it is submitted that the appeal in hand being devoid of merits has no weightage in the eyes of law, therefore, the same may be dismissed, please.



[INAM ULLAH WAZIR]
Registrar, Peshawar High Court,
Peshawar/Respondent# 1.



[ASHFAQUE TAJ]
District & Sessions Judge,
Peshawar/Respondent# 2

Annex-A


OFFICE OF THE DISTRICT AND SESSIONS JUDGE PESHAWAR

No.83 (DAS) 1918 Dated Peshawar, the 07/03/2023

Final Show Cause Notice

I, **Ashfaq Taj, District & Sessions Judge Peshawar**, as competent authority, under the Khyber Pakhtunkhwa Government servants (Efficiency & Discipline) Rules-2011, do hereby serve you, **Saba Bibi, Sweeper, Sessions Court Peshawar** as follow:

1. That you are not performing your official duties. You do not follow orders in letter & spirit, and tasks assigned to you are ignored. A long trail of complaints, explanation calls, notices and other departmental proceedings prove you to be an unwilling, idle and disobedient worker. During personal hearing in response to an earlier notice before the undersigned, you clearly refused to perform duties as Sweeper. Even in the previous order dated 22/02/2023, where you were assigned duty of cleaning the chambers and courts of the female judicial officers, you refused to perform the said duty and did not report for said duty till date.
2. In view of the above, I am satisfied that you have committed the following acts/omissions specified in rule 3(a) & (b) of the said rules:
 - a. Inefficiency
 - b. misconduct
3. As a result thereof, I, as competent authority, have tentatively decided to dispense with the Inquiry under Rule 5(b)(ii) of the said rules and impose upon you the major penalty of **Removal from Service** under rule 4 of the rules ibid.
4. You are, therefore, required to furnish reply to this notice within **seven** days.
5. If no reply to this notice is received within **seven** days of its delivery, it shall be presumed that you have no defense to put in, and in that case, an ex-parte action shall be taken against you.
6. Intimate whether you desire to be heard in person.


[ASHFAQUE TAJ]
District & Sessions Judge,
Peshawar.

5

4



DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR

Ph#091-9210099 Fax#091-9212419
eMail: scPeshawar@yahoo.com
web: SessionsCourtPeshawar.gov.pk

No. 2571-75
Dated Peshawar 07-04-23

Annex-B

ORDER

WHEREAS, Ms. Saba Bibi Sweeper of this Sessions Division was reportedly absent from duty on 27/02/2023 and did not let anyone know why. Her absence continued till 07/03/2023. Previous record of the official concerned also shows her to be unwilling worker who habitually and willfully absents herself from duty, and has been reported against many times for the same. Hence, inquiry was dispensed with under Rule 5(1)(b)(ii) as well as Rule 7 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and she was served with Final Show Cause Notice vide No. 1918 dated 07/03/2023, directing her to resume her duties, failing which, she will be awarded major penalty of **Removal from Service** under Rule 4(1)(b)(iii) of the rules ibid. The delinquent official attended the office and submitted her reply on 16/03/2023. She was also heard in person. In both her written reply and verbal assertions, the delinquent official refused to perform her duties in accordance with her post/cadre, i.e. Sweeper, and insisted upon giving her office work. The request of the official concerned is baseless and out of place, because on one hand it would be against her post's description, and on the other, it would raise a sense of discrimination among other official of the same cadre. (2)

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. **Saba Bibi, Sweeper** of this Office is hereby **removed from service**, in the interest of public, with immediate effect.

Ashfaque TAJ

[ASHFAQUE TAJ]
District & Sessions Judge,
Peshawar.

No. 83(DAS) 2571-75 Dated Peshawar, the 07/04/2023

Copy forwarded for information/necessary action to:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The learned Senior Civil Judge (Admn), Peshawar.
3. The Assistant/ACC, Sessions Court, Peshawar.
4. The Assistant/Accountant, Sessions Court, Peshawar.
5. Official concerned by name.

Ashfaque TAJ
District & Sessions Judge,
Peshawar.

BEFORE THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1773 of 2023

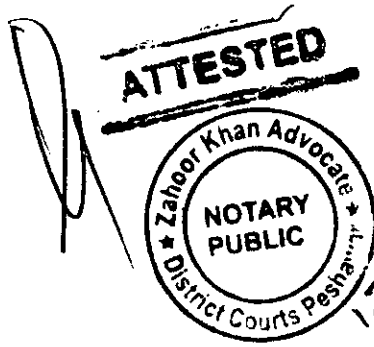
Saba Bibi

--VS--

Registrar, Peshawar High Court, Peshawar & other

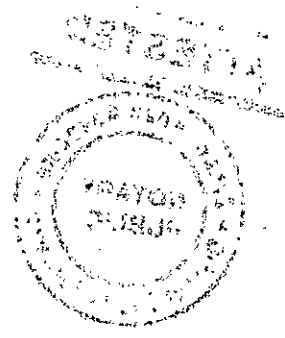
COUNTER AFFIDAVIT

I, Rahmdad Khan, Superintendent, Sessions Courtm Peshawar do hereby affirm and declare on oath that the contents of this reply are true and correct to the best of my knowledge and nothing has been concealed from this Hon'ble Court.




Deponent

- 5/10/16
- Authority letter sign by respondent.
 - Affidavit should be Attest by the oath Commissioner. & it should ~~also~~ be from side of respondent
 - By name with signature.
 - Attest all annex.



BEFORE THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1773 of 2023

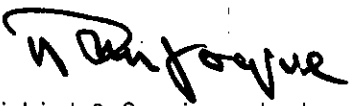
Saba Bibi

--VS--

Registrar, Peshawar High Court, Peshawar & other

AFFIDAVIT

I, **Ashfaqe Taj, District & Sessions Judge, Peshawar** do hereby authorized Mr. Rahmdad Khan, Superintendent, Sessions Court, Peshawar to submit and sign affidavit on behalf of undersigned.


District & Sessions Judge,
District & Sessions Judge,
Peshawar



DISTRICT JUDICIARY, KHYBER PAKHTUNKHWA, PESHAWAR

Ph#091-9210099 Fax#091-9212419
eMail: scPeshawar@yahoo.com
web: SessionsCourtPeshawar.gov.pk

No. 6593
Dated Peshawar 11/10/23

To

The worthy Registrar,
Peshawar High Court,
Peshawar.

Subject:

SERVICE APPEAL NO. 1773 OF 2023

Saba Bibi, Ex-Sweeper

...vs...

The Registrar, Peshawar High Court, Peshawar & another

Dear Sir,

Consequent upon the direction of august Peshawar High Court Peshawar conveyed via letter No. 18707-51/Admn dated 07/09/2019, Para-wise comments/reply to the subject appeal is forwarded herewith for vetting purpose. Copy of appeal is also enclosed.

It is further submitted that Mr. Rāhmdād Khan, Superintendent, Sessions Court, Peshawar is nominated/authorized to represent this Office and pursue the case before the Khyber Pakhtunkhwa Service Tribunal Peshawar, with the assistance of Mr. Sajjad Ahmad Jan, Assistant/ACC of this Office, please.


[ASHFAQUE TAJ]

District & Sessions Judge,
Peshawar.