

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL # 821/2023

Mst. Sumera Mehdi, (BPS-17).....Appellant.

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....Respondents.

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Dependent

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service Appeal # 821/2023

Mst. Sumera Mehdi (BPS-17).....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa & others..... Respondents

AFFIDAVIT

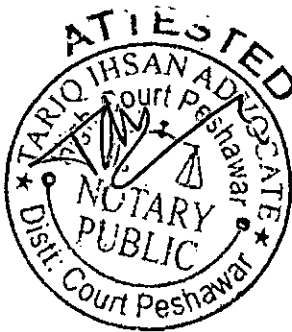
I, **Motasim Billah Shah**, Secretary, Elementary & Secondary Education, Department do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments, submitted by the respondents, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

It is further, stated on oath that in this appeal the answering Respondents have neither been placed ex-parte nor has their defense been struck off.

DEPONENT


Motasim Billah Shah

Secretary
E&SE Department Peshawar





**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

AUTHORITY LETTER

It is certified that **Mr. Amjid Ali, Section Officer (Litigation-II)** Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Peshawar is hereby authorized to submit parawise comments on behalf of Secretary Elementary & Secondary Education Department Peshawar **SA#821/2023 Case Titled Mst. Sumera Mehdi, (BPS-17) vs Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar.**

DEPONENT


Motasim Billah Shah

**Secretary
E&SE Department Peshawar**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

IN SERVICE APPEAL NO. 821/2023

MST. SUMERA MEHDI.....APPELLANT Khyber Pakhtunkhwa Service Tribunal

VERSUS

Diary No. 10163

Date 2-1-24

CHIEF SECRETARY TO GOVT OF KPK PESHAWAR..... RESPONDENTS.

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NO. 01 & 02.

Respectfully Sheweth,

Preliminary Objections:

1. That the present appeal is badly time barred, hence not maintainable and is liable to be dismissed summarily.
2. That all the documents/application annexed with the appeal are self-prepared, forged and concocted, hence no evidentiary value & ineffective upon the rights of the respondents.
3. The appellant is estopped to sue by his own conduct, because the law facilitates the vigilant and not the indolent.
4. The appellant has not come to this Honorable Tribunal with clean hands, he never bothered to serve the department nor has tried to communicate her absence with logical/permissible excused to her high-ups within the statutory period provided by law.
5. That the appellant is just wasting the precious time of this Honorable Tribunal for which she is liable for compensatory costs.
6. The appellant has got no cause of action against the respondents and even the appellant has no locus standi to file the present appeal.
7. The appeal in its present form is bad in the eye of law, hence liable to be dismissed.
8. That the appellant has concealed the real facts from this Tribunal while narrated false and concocted story for deceiving this Honorable Tribunal.
9. That the delay of the appellant cannot be condoned under the relevant law, therefore without going into the merits of the case (ground) of the appeal is liable to be dismissed on this score alone.
10. That the rule of "Allegan's contrarian non-est Audiendus" applies on the appellant.
11. That the appeal of the appellant is also hit by Ignorantia Facti excusat/Ignorantia Juris Non-Excusat, therefore is liable to be dismissed summarily.
12. The appellant prepared forged documents for the attempt of creating a cause of action in a Ipse-Dixit, according to a famous legal maxim "Nemo Debt Esse Judex in propria sua causa" made himself alleged an aggrieved person & judged nothing a wrong to her.
13. The appellant is not an aggrieved person within the meaning of Civil Servants Act, 1973 nor she has any right to sue/appeal.
14. The rule in Maxam "Nullus commodum capare potest de injuria sua propria" also applies to the appellant.
15. That the "Vigilantibus et non dormientibus jura sub veniunt" also put estopped on the appellant.

On FACTS


1. That Para-01 Pertains to record. However, it is pertinent to mention here that Mst. Sumaria Mehdi was appointed as SS-Physics and posted at GGHSS Kalu Khan Swabi on 19-12-2009, but the said post was filled on thereafter, she was posted at GGHSS Koti Sadat Bannu vide this departments corrigendum order dated 05-01-2010 However, she failed to comply with the above mentioned order and neither submitted charge report/arrival to the concern school nor to the department within stipulated period of time.
2. That Para-02 is correct to the extent of corrigendum already explained in Para-01 of the Reply on Facts.
3. That Para-03 is incorrect, misleading and strongly denied. It is pertinent to mention here that the appellant neither annexed charge report with her Service Appeal nor she intimated the charge report to the concern authorities. As per Recruitment Policy regarding maintenance of waiting list of the eligible candidate – judgment of the Supreme Court of Pakistan the relevant portion is reproduced, **“the Public Service Commission or Departmental Selection Committee as the case may be; may maintain waiting list of eligible candidates in the respective zones up-to the commencement of the pre-service training of the candidates of the same selection or till expiry of 03 months, where no such pre-service training is prescribed. The PSC or the Departmental Selection Committee may in case of no-joiners recommend the next eligible candidate on top of the merit list from the respective zone up-to the commencement of the training of the appointees of the same selection or for three months where no such training is prescribed provided that the process does not in any way affect the rights of any other selectee or appointee.**
4. That Para-04 is incorrect, misleading and strongly denied. The appellant applications are forged and concocted, hence no evidentiary value due to the fact that there is proper method of dairy / dispatch along with proper dairy number and date. Hence, the same is deliberate attempt to misconceiving /misleading this Hon’ble Tribunal for ill-gotten and unlawful benefits and render the appellant to be proceeded under Section 419 & 420 of Pakistan Panel Code.
5. That Para-05 pertains to record. The appellant have no any remedy left to file this Service Appeal due to the fact that she neither assume charge as explained in Para-01 of the Reply on Facts. Hence, the appellant does not fall under the umbrella of Civil Servant and this Service Appeal should be dismissed on this score only.
6. Incorrect, hence denied. It is submitted that the appellant should filed COC against the Respondents but she failed to do so. It is now established principal that the appellant is not an aggrieved person nor he has presented any departmental appeal as per rules and policy before filing this instant Appeal.

On Grounds

- I. Incorrect, misleading and strongly denied. The appellant is not an aggrieved person and she had never joined the department legally not had performed any duties as explained in Para-I of the reply of facts.
- II. Incorrect, false statement the detailed reply has been given above.
- III. Incorrect, the appeal in hand is hopelessly time barred hence liable to be dismissed.
- IV. Incorrect, the appellant is estopped by her own conduct to file the present appeal. As stated above the petitioners after her appointment dated 09-12-2009 had never took a charge and remained silent being absent till the present time barred appeal.
- V. Incorrect, the detailed reply has been given above.
- VI. The counsel for the respondent seeks permission to raise additional grounds at the time of arguments.

It is therefore, requested that the appeal being devoid of any merits and badly time barred and devoid of merit may kindly be dismissed with cost, please .


Motasim Billah Shah
SECRETARY

 Elementary & Secondary Education
Department (Respondent Nos. 01 & 02)


Samina Altaf
DIRECTOR

Elementary & Secondary Education
(Respondent No. 03)



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GOVERNMENT OF NWFP
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated December 9, 2009

NOTIFICATION

NO.SOS(E) E&SE/3-2/2009/ Recruitment SS(Female). Consequent upon the recommendations of the NWFP Public Service Commission, the Competent Authority has been pleased to appoint the following Subject Specialists (Female) in various subjects in BPS-17 (Rs.9850-740-24650) plus usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government:-

S/1	Name and Address
1	Ms Badeya Danish D/O Lal Khan, House No. E-4 H.igation Colony Warak Road, Peshawar
2	Ms Bushra D/O Ali Gohar, Moh: Abbas Khan Town Village & P.O Toru, Mardan
3	Ms Fouzia Zahid W/O Zahid Amin, House No. 150/3 Upper Kehal, Abbottabad
4	Ms Momna Umer Khitab D/O Umer Khitab, Village & P.O Kot Beli Kohat Road, Bannu
5	Ms Nuzhat Jehan D/O Misri Khan, Village & P.O Badat or Mohallah Buhhan Khel, Peshawar
6	Ms Rana Gul D/O Muhammad Ayub, Village & P.O Gurat, Mardan
7	Ms Rashida Gul D/O Abdur Rehman, Khalabat Town ship Sector No.1 House No. 1623, 1628 Haripur Hazara
8	Ms Rukhsana Bibi D/O Prof. Mamood Ali (Late), C/O Zulfiqar Ali Mohallah Somara Pansori Wala Gali Kapas Wali, D.I. Khan
9	Ms Amerina Andalib D/O Waris Khan, C/O Hassan Munir welcome Electronics Pakhtunistan Market Lachi District Kohat
10	Ms Asma Khan D/O Kala Khan (Late), House No. 1721 Road No. 2 T.T.P Housing Society Haripur
11	Ms Bushahwar D/O Muhammad Ismail, Mohallah Israr Khel Dala Village & P.O Saalu Sharif District Swat
12	Ms Lubna Shahzadi D/O Muhammad Rafiq, District & Tehsil Manshera Ganda Road Chiekriahi Street No.3 House No. 3
13	Ms Mumazza Rafiq D/O Muhammad Rafiq, District & Tehsil Manshera Ganda Road Chiekriahi Street No.3 House No. 4
14	Ms Hafesa Ashraf D/O Muhammad Ashraf, Village Samaisi P.O Qabulabad Tehsil & Dist: Abbottabad
15	Ms Shahida Hameed D/O Hameed Khan, House No. 105/152 (single), POF Sanjawal Cantt District Attock.
16	Ms Shaista Gul D/O Akbar Ali, House No. 12 B.ohalla Qazi Baba Janazagah Road Mingora, Swat
17	Ms Samina Naz D/O Abdul Rashid, Muhammad Jamal C/O Dr Shabir Ahmed Miri Colony Street No.1 Kohat
18	Ms Ghuzala Akram D/O Muhammad Akram, Mohallah Syed Aamed Shah (Mihalla) House No. 23/18c D. I. Khan
19	Ms Afa Aziz D/O Aziz-Ur- Rehman, Niya Coalage Gilani Town D.I. Khan
20	Ms Azra Nabeed D/O Parvaz Khan, Village Malikyar Mohallah Kheo District & Tehsil Haripur.
21	Ms Alishan D/O Pehawary Khan, Village & P/O Kain Khan Mohalla Khoro Kotty (Parra) Tehsil & District Swabi
22	Ms Akhtar Bibi D/O Suliman Shah, Village Dag Behsud, P.O Pabbi Railway Station Tehsil & District Nowshera Cherat Road
23	Ms Amna Bibi D/O Syed Ghulam Hussain Shah, Inside Asia Gate, Mohalla Barizgan House No. 1205 Elaqa Daagri, Peshawar City
24	Ms Fatjis Zareen D/O Muhammad Zareen, Near Swat Plastic & Rubber Works Jurray Sakhat, Malakand
25	Ms Baswar Sultana D/O Wilayat Shah, Village & P.O Khuram Tehsil Banda Dawood Shah, Karak
26	Ms Bibi Asia Naz D/O Fazli Hadi, Village & P.O Gurat, Tehsil & District Mardan
27	Ms Bibi Saima D/O Syed Habib Shah, Mohallah Mao-na Colony near Yasir Masque behind Shell Petrol Pump DUB No.2 Manshera
28	Ms Farida Bano D/O Fehseen Ullah, Mohallah Ibrahim Khel village & P.O Unnuzai Tehsil & Dist: Ghazadde
29	Ms Farzana Yasmeen D/O Malik Allah Ditta, Nad Ali Shah Town N/O N.C Ground Sipel House, D.I. Khan
30	Ms Fatima Bibi D/O Muhammad Younis, Village & P.O Mang Tehsil & District Haripur Hazara
31	Ms Gul Rukh D/O Muhammad Raziq, C/O Muhammad Raziq Advocate Dargai Barroon Tehsil Dargai District Malakand
32	Ms Husna Bibi D/O Ghulam Muhammad, Mohallah Syed Shah Mohallah Khel A.E. District Lakkai Murosh

Attested

Section Officer (S/P)
Elementary & Secondary Education
Govt. of Khyber Pakhtunkhwa

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104	Ms Sadia Bushra D/O Muhammad Asif Niazi	Subject Specialist Economics (B-17) GGHS Major Dir Lower	A.V.P.
105	Ms Hameera Yasmin D/O Muhammad Amin	Subject Specialist Economics (B-17) GGHS Barawal Bandi Dir Upper	A.V.P.
106	Ms Abida Amin D/O Muhammad Amin	Subject Specialist Economics (B-17) GGHS Kot Najezeb Ullah Haripur	A.V.P.
107	Ms Bibi Saeeda D/O Fatch ud Din	Subject Specialist Economics (B-17) GGHS Laeli Kohat	A.V.P.
108	Ms Sheeba Nisar D/O Nisar Muhammad	Subject Specialist Economics (B-17) posted as Instructor (B-17) RITE (F) Charsadda	A.V.P.
109	Ms Bakht Biland Saida D/O Faqir Said	Subject Specialist Economics (B-17) GGHS Kalayni Bunir	Already occupied of her on contract basis
110	Ms Tahira Naz D/O Ghufuran Khan	Subject Specialist Economics (B-17) GGHS Khanpur Haripur	A.V.P.
111	Ms Sajida Khan D/O Khan Badshah	Subject Specialist Economics (B-17) GGHS Zairat Talash Dir Lower	Already occupied of her on contract basis
112	Ms Benish Nasreen D/O Ashiq Solemani	Subject Specialist Economics (B-17) GGHS Teri Karak	A.V.P.
113	Ms Samina Bibi D/O Sher Muhammad	Subject Specialist Economics posted as Senior Instructor (B-17) Agro Tech College Peshawar for time being	A.V.P.
114	Ms Shaheema Rehman D/O Fazal Rehman	Subject Specialist Economics (B-17) GGHS Sakha Kot Malakand	A.V.P.
115	Ms Ghazala Tabassum D/O Karim Khan	Subject Specialist Economics (B-17) GGHS Kallag Mardan	A.V.P.
116	Ms Javaria Ashraf D/O Muhammad Ashraf	Subject Specialist Economics (B-17) GGHS Dir Upper	A.V.P.
117	Ms Farah Naz D/O Abdul Jalil Khan	Instructor (B-17) RITE (F) Bari Kot Swat	A.V.P.
118	Ms Maria D/O Habib Khan	Instructor (B-17) RITE (F) Dir Lower	A.V.P.
119	Ms Sabreen Ahmad D/O Ahmad Ali Shah	Instructor (B-17) RITE (F) Bari Kot Swat	A.V.P.
120	Ms Saima Nawaz D/O Ahmed Nawaz	Subject Specialist Economics (B-17) GGHS Shaidt Nowshera	Already occupied by her on contract basis
121	Ms Irum Saba D/O Buksh Ellahi	Subject Specialist Economics (B-17) GGHS Chari H. bibi Ullah Manghra	A.V.P.
122	Ms Rehana Azem D/O Muhammad Azim	Subject Specialist Economics (B-17) GGHS Rashahi Nowshera	A.V.P.
123	Ms Rabina Taj D/O Taj Muhammad	Subject Specialist Economics (B-17) GGHS Haji G. li A. Abad	A.V.P.
124	Ms Asma Khilji D/O Ikram ud Din Khilji	Subject Specialist Economics (B-17) GGHS Teri Karak	A.V.P.
125	Ms Irum Bibi D/O Aurangzeb,	Subject Specialist Physics (B-17) GGHS Rabot Dir Lower	A.V.P.
126	Ms Sumaira Mehdi D/O Aksay Mehdi	Subject Specialist Physics (B-17) GGHS Kulu Khan Swabi	A.V.P.
127	Ms Basharat Jehan D/O Fazl-e-Mubarek	Subject Specialist Physics (B-17) GGHS Shabqan Fort Charsadda	A.V.P.
128	Ms Raheema D/O Abdul Maroof	Subject Specialist Physics (B-17) GGHS Sherpao Charsadda	A.V.P.
129	Ms Ghazala Anjum D/O Fasih - ud-Din	Subject Specialist Physics (B-17) GGHS Nowshera Kelan	A.V.P.
130	Ms Noorun Alia D/O Mukhtar - ul-Islam	Subject Specialist Physics (B-17) GGHS Havailia A. Abad	A.V.P.
131	Ms Rabia D/O Shah Nasir Khusro	Subject Specialist Physics (B-17) GGHS Takht Bhai Mardan	A.V.P.
132	Ms Aisha Javed D/O Javed Akhtar	Subject Specialist Physics (B-17) GGHS Chair Alud Nowshera	A.V.P.
133	Ms Memoona Manzoor D/O Arif Manzoor	Subject Specialist Physics (B-17) GGHS Ghobar, Wala Bannu	A.V.P.

Abid

Section Officer (S/O) Elementary & Secondary Education Regd. Govt. of Key District PAKISTAN

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162	Ms Asma Begum D/O Muhammad Kamal	Subject Specialist English (B-17) GGHSS Topr Swabi	A.V.P
163	Ms Nadia Kamal D/O Abdul Kamal	Subject Specialist English (B-17) GGHSS Kathang Mardan	A.V.P
164	Ms Abida Murtaza Khan D/O Murtaza Khan	Subject Specialist English (B-17) GGHSS Kumber Dir Lower	A.V.P
165	Ms Khizran D/O Mohib Ullah (Late)	Subject Specialist English (B-17) GGHSS Umanzai Charsadda	A.V.P
166	Ms Nasreen Sadiq D/O Muhammad Sadiq Khan	Subject Specialist English (B-17) Services will be placed at the disposal Director of Education (BATA) for further adjustment	
167	Ms Mariam Mahsood D/O Mohammad Alam Khan	Subject Specialist English (B-17) Services will be placed at the disposal Director of Education (BATA) for further adjustment	
168	Ms Tahira Batool D/O Mukhtar Hussain	Subject Specialist English (B-17) GGHSS Khairabad Nowshera	A.V.P
169	Ms Nasreen Wazir D/O Din Sarwar Wazir	Subject Specialist English (B-17) Services will be placed at the disposal Director of Education (BATA) for further adjustment	
170	Ms Zanib Begum D/O Muhammad Yasin Khan	Subject Specialist English (B-17) GGHSS Shahbaz Azmat Khel Bannu	A.V.P
171	Ms Noreen Gul D/O Dadan Khan	Subject Specialist English (B-17) GGHSS Hajia Gali Abbottabad	A.V.P
172	Ms Rasheeda Parveen D/O Gulab Sher	Subject Specialist English (B-17) GGHSS Akora Khattak Nowshera	A.V.P
173	Ms Rakhshanda Yousaf D/O Muhammad Yousaf	Subject Specialist English (B-17) GGHSS Phulra Manshra	A.V.P
174	Ms Bibi Sadiya Khuliqa D/O Hafiz Mahmood ul Hassan	Subject Specialist English (B-17) GGHSS Kalpani Buner	A.V.P
175	Ms Tahira Sadiq D/O Muhammad Sadiq	Subject Specialist English (B-17) GGHSS Com Abbottabad	A.V.P
176	Ms Saima Ghaffar D/O Abdul Ghaffar	Subject Specialist English (B-17) GGHSS Pacha Kili Buner	A.V.P
177	Ms Tahira D/O Sultan Amir	Subject Specialist State (BS-17) GGHSS Rashakai Nowshera	A.V.P
178	Ms Mishah Khakwani D/O Muhammad Hanif Khan	Subject Specialist Maths (BS-17) GGHSS Proa D I Khan	Already occupied by his contract lease
179	Ms Asma Sundas D/O Fazal Karim	Subject Specialist English (BS-17) GGHSS Khanpur Haripur	A.V.P
180	Ms Bibi Saheeda D/O Muhammad Yousaf	Subject Specialist English (BS-17) GGHSS Parhen Manshra	A.V.P
181	Ms Sobia Bibi D/O Muhammad Nazir	Subject Specialist Maths (B-17) GGHSS Chikdara Dir Lower	A.V.P
Consequential Posting/Transfer			
182	Ms Saecida Khatoon, Headmistress posted as Subject Specialist Pak Study (BS-17) GGHSS Comprehensive Peshawar	Services will be placed at the disposal of Director, E&S&E for submission of proposal against proper post.	

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TERMS & CONDITIONS

1. Their services will be considered regular but without Pension & Gratuity in term of Section-19 of the NWFP Civil Servant Act, 1973 as amended vide NWFP Civil Servants (Amendment) Act, 2005. They will however be entitled to Contributory Provident Fund in such a manner and at such rates as prescribed by the Government.
2. The Subject Specialists who are already in Government service and working against pensionable posts on regular basis before 1st day of July, 2001 without any service break, on application to NWFP Public Service Commission through proper channel and selection by the Commission are appointed on choice of option either to retain benefit of pension & gratuity as allowed to them under their previous terms of appointment or to avail the benefit of Contributory Provident Fund allowed to them under new appointment.

11: A Unique Proposal for Appointment of SS English 2000.doc

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(11)
- 3 Their services will be liable to termination on one month's notice from either side. In case of resignation without notice their one month pay/allowances, shall be forfeited to Government.
 - 4 The appointees should join their posts within 30-days of the issuance of this notification. The Director, Elementary & Secondary Education, NWFP, Peshawar would furnish a certificate to the effect that the candidates have joined the posts or otherwise, after one month of the issuance of this Notification, failing which their candidature will expire automatically and no subsequent appeal etc shall be entertained.
 - 5 They would be on probation for a period of two years extendable for another one year.
 - 6 They will be governed by such rules and regulations as may be issued from time to time by the Government.
 - 7 Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they will be proceeded against under the NWFP Removal from Service (Special Power) Ordinance, 2000 and the Rules framed from time to time.
 - 8 Charge report should be submitted to all concerned.
 - 9 No TA/DA will be allowed to the appointees for joining their duty.

SECRETARY

Encls: of even No. & Date

Copy forwarded for information & necessary action to the:-

- 1 Accountant General, NWFP, Peshawar.
- 2 Director, Elementary & Secondary Education NWFP, Peshawar.
- 3 Director of Education (FAIAT), NWFP, Peshawar.
- 4 Director, Curriculum & Teachers Education, NWFP Abbottabad.
- 5 District / Agency Accounts Officers Concerned.
- 6 Executive District Officer, Elementary & Secondary Education in NWFP.
- 7 Director Recruitment, NWFP Public Service Commission, Peshawar.
- 8 PS to Minister for Education, NWFP, Peshawar.
- 9 PS to Chief Secretary, NWFP, Peshawar.
- 10 PS to Secretary, E&SE Department.
- 11 All Subject Specialists concerned.
- 12 All Principals concerned.
- 13 Programmer Schools Section E&SE Department.
- 14 PA to Additional Secretary, E&SE Department.
- 15 PA to Deputy Secretary (Admn) E&SE Department.
- 16 Office orders file.

(SYED AHMAD KHAN)
SECTION OFFICER (SCHOOLS)

Taj Muhammad
Attique

Section Officer (S/E)
Elementary & Secondary Education
Deptt. Govt. of Khyber Pakhtunkhwa