BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1457/2022

Shamim Bibi, Ex-PST,
GGPS Yazai Chawa Dara Pattan, Lower Kohistan.

(APPELLANT)

VERSUS

1. The Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

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

3. The District Education Officer (Female), Kohistan Lower.

(RESPONDENTS)

....

REJOINDER ON BEHALF OF APPELLANT

....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-6)   All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1   Incorrect and misleading. While para-1 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, the show cause 05/03/2021 issued to the appellant which was properly replied .by the appellant and which is evident from the notification dated 31/03/2021. It is pertinent to mention here that just letter of personal hearing was communicated to the appellant. The appellant several time requested DEO

and also file application for leave and mentioning that there is threat to her life but the DEO not considered her request remained mum and inquiry officer also remained mum on the same. Further it is added that the no notice has been issued to the appellant to home address before termination order which is necessary under rule-9 of the E&D Rules 2011. Further it is added that when reply of the appellant received then respondent duty bound to conduct regular inquiry but directly issued impugned order. The regular inquiry is must before the adverse order. In absence of proper disciplinary proceedings, the appellant was condemned unheard, whereas the principle of audi alteram partem was always deemed to be imbedded in the statute and even if there was no such express provision, it would be deemed to be one of the parts of the statute, as no adverse action can be taken against a person without providing right of hearing to him. Reliance is placed on **2010 PLD SC 483**. The Supreme Court of Pakistan in its judgment reported as **2008 SCMR 1369** have held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice. Further it is added that the incomplete letter attached with the comments which showing show cause/ personal hearing but the same was not communicated to the appellant which violation of supreme court judgment cited as **2000 SCMR 1743**.

The show cause notice attached with the reply wherein the date shown of absentia is 05/08/2021 to 09/10/2021. But in the impugned order absentia shown as 16/02/2021 which is illegal.

| 2 | Admitted correct by the respondent as record is already in the custody of the respondents. |

| 3 | Admitted correct by the respondent as record is already in the custody of the respondents. |

| 4 | Incorrect and misleading. While para-5 of the appeal is correct as mentioned in the main appeal of the appellant. But despite that the appellant attend the personal hearing on 17/03/2021. |

5	Incorrect and misleading. While para-6 of the appeal is correct as mentioned in the main appeal of the appellant.
6	Incorrect and misleading. While para-6 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover as explain in above paras.
7	Incorrect. While para-7 of the appeal is correct as mentioned in the main appeal of the appellant. the rejection order passed on the departmental appeal is not speaking order which is against the judgment of Supreme Court of Pakistan reported in **1991-SCMR, page 2330**.
8	Incorrect. While para-8 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, the appellant filed service appeal after appellate/final order within 30 days according *Section-4 of the Service Tribunal Act, 1974,* the civil servant has option to file service appeal after waiting 90 days from submission of departmental appeal or wait till decision of the Departmental appeal and then after communication of departmental appeal's decision, file service appeal within 30 days. This law was further elaborate in Supreme Court judgment Cited as *2013 SCMR 1053.*

GROUNDS:

A)	Incorrect. Impugned order are unjust, illegal and were not passed in accordance with law and rules on the subject. Therefore liable to be set aside.
B)	Incorrect. While para B of the appeal is correct.
C)	Incorrect. While para-C of the appeal is correct. Moreover the respondent deptt not properly replied which means that they admitted the said para of the appeal.
D)	Incorrect. While para-D of the appeal is correct. Moreover the respondent deptt not properly replied which means that they admitted the said para- of the appeal.
E)	Incorrect. While para-E of the appeal is correct. Moreover the respondent deptt not properly replied

which means that they admitted the said para of the appeal.

F) Incorrect. While para-F of the appeal is correct. Moreover, so called show cause notice never communicated to the appellant, effective service upon the appellant is necessary but the same was not communicated. Further it is added that the show cause notice contained absentia from august to October which means that the appellant was present on other days, further it is clarified that the appellant was present in month of September also. The inquiry committee not inquired properly and just visited the school and submitted report. **Copy of records is attached as annexure- R.**

G) Incorrect. While para G of the appeal is correct.

H) Incorrect. While para-H of the appeal is correct.

I) Incorrect. While para-I of the appeal is correct.

J) Incorrect. While para-J of the appeal is correct.

K) Incorrect. While para-K of the appeal is correct. Charge sheet was never issued to the appellant.

L) Incorrect. While para-L of the appeal is correct. Moreover, the deptt never inquired properly for the absence, further it is added that the appellant remain absent for some but the same was not willful but due to compelling reason.

M) Incorrect. While para-M of the appeal is correct.

N) Incorrect. While para-N of the appeal is correct. The Supreme Court of Pakistan in its judgment reported as **2008 SCMR 1369** have held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice.

O)   Legal.

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

APPELLANT
Shamim BIbi

Through:

(SYED NOMAN ALI BUKHARI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.
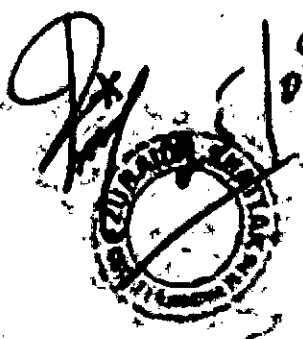
DEPONENT

PROVINCIAL INSTITUTE FOR TEACHER EDUCATION KHYBER PAKHTUNKHWA
ATTENDANCE SHEET FOR PROFESSIONAL DEVELOPMENT PROGRAMME UNDER CPD PROGRAMME

Location: GGPS Pattan village   NMC Code: 30657   District: Kohistan, Pattan

S.No	Name	Title		School	CNIC No.	Contact Number	PD Day	PD Day	PD Day	PD Day
				MASTER TRAINER PLANNING FACILITATORS						
1	Sobia Ashraf	SPST	30574	GGPS Zang Patha	13101-0889 133-1	0341 895 6213				
2	Jamila khatoon	SPST					Sobia	gmia	gmia	gmia
				PARTICIPANTS						
1	Mah Jabin	PST	30682	GGPS Koh Shand	13403-7601 028-0	0306080 844				
2	Peghlo	PST	30629	GGPS Bui Bahram	13403-0158 768-6	03491 96992				
3	Nasrin Akhtar	PST		GGPS Cool Pattan	13101-226 825					
4	Hira begum	PST		kamarband						
5	Gul Bano	PST		GGPS Sadak	13403-369 599-4	0345 5835832				
6	Rabia haq	PST	30677	Z. K. Khaul	1363-Aqa192-8	034000 92900				
7	Razina	PST	32555	GGPS Sarjay	13403-4668 150-4					
8	Salma Khalid		3uch	Ramli kas	14101-437:41-7	0346815406				
9	Faiza nabi	PST		GGPS Bar yar Bal						
10	Iqbal bibi	PST		GGPS Bhasim						
11	Nahida Akhtar	PST		GGPS Jalhaman	79 A-1574 993-4	0353386 044				
12	Kosar Fatima	PST		GGPS Lalomadi	13403-69 40589-3	03469595 892				
13	Safia	PST	305 6n	GGPS 2050	150-0166 457-4	03900 09 3900				
14	Sadaf Ali	PST		GGPS Gujal Kas						
15	Zainab	PST		GGPS Reg ul Jdun	13403-343 9579-6	034695 22780	Zainab	Zainab	Zainab	Zainab
16	Anjuman	PST		GGPS Reg Ipastcol						
17	Nazia	PST			13403 3961379-4 13601	0145 1105192				
18	Noshin Afzal	PST		GGPS shang yal	4363125-2					
19	Shaila bibi	PST		GGPS Rustom	13403-8396 728-4	0346811 503				
20	Shamin bibi	PST	30671	GGPS sharmmub	13403-470	03KTP6696				
21	Nasim begum	PST		GGPS GGPS safoom						
22	Samina bibi	PST		GGPS Boaladital						

ATTESTED

Jamila 03/10/21

08/90

26/26

Soli 21/1/21

رجسٹر حاضری مدرسین

بابت ماہ ـــــ فروری ــــــ 2024ء

گورنمنٹ گرلز پرائمری سکول یازئی

G.G.P.S. Yazai

دستخط								دستخط	روانگی	دستخط	آمد	تاریخ	نام
دستخط	روانگی	دستخط	آمد	دستخط	روانگی	دستخط	آمد						تنسیم ب ب
										P.S.T Pr. 374808			عہدہ
Mahd Akbar Mekidan													
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		۶						سستم	سستم گیارہ	سستم	سستم گیارہ	23	۶
		۶						سستم	1:35	سستم	8:05	24	۶
		۶						سستم	1:35	سستم	8:35	25	
		۶						سستم	1:35	سستم	8:35	26	
		۶						سستم	1:35	سستم	8:35	27	
		////						اتوار	اتوار		اتوار	28	
		۶						سستم	1:35	سستم	8:35	29	
		۶						سستم	1:35	سستم	8:35	30	
		۶						سستم	135	سستم	8:35	31	

میزان	سابقہ	حال	حال	میزان	سابقہ	حال	میزان	سابقہ	حال		قسم رخصت
											اتفاقیہ
											استحقاقیہ
											بیماری
											میزان

ATTESTED

ـــــــ رئیس مدرسہ

G.G.P.S. Yazai — بابت ماہ ___ مارچ ___ ۲۰۲۱ء

نام	Mahel Akbar — Chokidar				prsnl no. 374808				S. Hamian Bibi — P.S.T				تاریخ
عہدہ تاریخ	دستخط	روانگی	دستخط	آمد	دستخط	روانگی	دستخط	آمد	دستخط	روانگی	دستخط	آمد	
1	P		P						دستخط	1:30	دستخط	8:35	1
2	P		P						دستخط	1:30	دستخط	8:35	2
3	P		P						دستخط	1:30	دستخط	8:35	3
4	P		P						دستخط	1:30	دستخط	8:35	4
5	P		P						دستخط	11:30	دستخط	8:35	5
6	P		P		C	P		D		CBd	تیشتری	✱	6
7	✱	✱	✱	✱	✱	✱	✱	✱	✱	✱	✱	✱	7
8	P		P						دستخط	1:30	دستخط	8:35	8
9	P		P						دستخط	1:30	دستخط	8:35	9
10	P		P						دستخط	1:30	دستخط	8:35	10
11	P		P						دستخط	11:30	دستخط	8:30	11
12	P		P						دستخط	11:00	دستخط	8:30	12
13	P		P						دستخط	1:30	دستخط	8:30	13
14	✱	✱	✱	✱	SU	✱	✱	SU	✱	SU	✱	✱	14
15	P		P						دستخط	1:30	دستخط	8:30	15
16	P		P						دستخط	1:30	دستخط	8:30	16
17			P				DEO	prsnl H...					17
18			P										18
19			P										19
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21	✱	SU	✱	✱	✱	✱	✱	✱	SU	SU	SU	SU	21
22													22
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28	✱	✱	✱	✱	✱	✱	✱	✱	SU		SU	✱	28
29													29
30													30
31													31

قسم رخصت	حال	سابقہ	میزان		حال	سابقہ	میزان		حال	سابقہ	میزان	حال	قسم رخصت
اتفاقیہ	**ATTESTED**											۱	اتفاقیہ
استحقاقیہ													استحقاقیہ
بیماری													بیماری
میزان													میزان

___ رئیس مدرسہ ___

اپریل – 2021-4-8 حاضر سکول اوین
جولائی – 16-07-2021 حاضر سکول اوین
ستمبر – 13-09.2021 حاضر سکول اوین

Name							

School Code	School	Date(dd/mm/YYYY)	personalNo	CNIC	Status	StatusDetails
30671	GGPS YAZAI	13/09/2021 08:40:33	374808	1340347046922.00	Present	NIL
30671	GGPS YAZAI	16/7/2021 7:35:13 AM	374808	1340347046922.00	Present	NIL
30671	GGPS YAZAI	8/4/2021 7:16	374808	1340347046922.00	Present	NIL

School Code	School	Date(dd/mm/ YYYY)	personalNo	CNIC	Status	StatusDetails
30671	GGPS YAZAI	13/09/2021 08 40:33	374808	1340347046922.00	Present	NIL
30671	GGPS YAZAI	16/7/2021 7:35: 13 AM	374808	1340347046922.00	Present	NIL
30671	GGPS YAZAI	8/4/2021 7:16	374808	1340347046922.00	Present	NIL

خدمت جناب ایڈیشنل ڈسٹرکٹ جج پشاور

مودبانہ عرض یہ ہے کہ

میں نسرین محمد اکبر چوکیدار 26305 میری چھوٹی کلاس میں
ہوں پیشہ میں نے اپنے سکول کا باضابطہ طور پر ادارہ خہیم کا موقع
کو درخواست بلکل نہیں دیا ہے اور نہ شیخ السلام اور
قدیر ابراہیم نامی شخص نے جو میں بیٹر نہ بلکل پہ شیخ السلام PST
کو بلایا ہے اپنے کو کمیشن بیٹھ اور ۰۰ بیت میں دیانے تاکید
سکول نہ محلے سے کوئی تعلق ہے اور نہ میرا نے بچا میں بٹھا رہا ہوں
ایڈیشنل تعلیم کا پاکستان درخواست دہی سے

بلا نے آرم جھوڑا ہے اور نہیم خان دن میں پہ بار ۰۰۰ بار سکول
کی بھیجم اسی نہیم ۰۰۰ کو جلد از جلد نی لیا جائے۔ میرا
بچہ نہ 6 مستقبل داؤ پر ہے۔

العارض

عبدالاکبر چوکیدار بزرگ چھوارہ بنڈ
Nic No
Mob- 03449692243   نام رسم

Date
28/2/2022

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