

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No.1100/2019

Date of Institution ... 28.08.2019

Date of Decision ... 28.09.2021

Sajida Bibi w/o Shamsur Rehman, R/O Bajna Bala Tehsil Oghi, District Mansehra presently posted as Assistant Professor (Chemistry) Government Degree College, Battagram. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Higher Education, Peshawar and one other.

...(Respondents)

Present.

Mr.Shad Muhammad Khan, Advocate

... For appellant.

Mr. Muhammad Riaz Khan Paindakhel,  
Asstt. Advocate General,

... For respondents.

MR AHMAD SULTAN TAREEN  
MRS. ROZINA REHMAN,

... CHAIRMAN  
... MEMBER(J)

JUDGMENT

**AHMAD SULTAN TAREEN, CHAIRMAN:-**The appellant named above invoked the jurisdiction of this Tribunal through service appeal described above in the heading challenging thereby the penalty imposed upon her in pursuance to the disciplinary proceedings under E&D Rules, purporting the same being against the facts and law on the subject.

2. Brief facts of the case as gatherable from the Memorandum of appeal are that the appellant was appointed as Lecturer in Chemistry in



BPS-17 in the year, 2003. In the year, 2015, the appellant was transferred/posted in Government Degree College Perhina District Mansehra. She applied for one year medical leave but three months leave was sanctioned in her favour. After expiry of the said leave, the appellant approached the Principal of the said College for extension of her leave for further period of one year but she was got transferred to Government Girls Degree College Battagram. On 26.11.2015, the appellant went to the said college for assumption of charge, where she was not permitted to do so. The appellant regularly kept attending the college till 31.11.2015, but she was not marked present in the college. Then the appellant approached the Directorate of Higher Education Khyber Pakhtunkhwa for redressal of her grievance, but in vain. The appellant was issued a charge sheet alongwith statement of allegations alleging her absent from duty for about 15 months. An enquiry committee was also constituted to hold the enquiry. The enquiry committee conducted the enquiry and submitted findings report. On receipt of the findings, Respondent No. 1 vide impugned notification dated SO(C-III)HE/1-2/1273-76-Sajida Bibi, dated 26.03.2019, imposed upon the appellant major penalty of "Reduction to lower post for a period of three years". Feeling aggrieved, the appellant preferred appeal/review petition on 24.04.2019 to the respondent No. 2 which remained unanswered till expiry of the stipulated period of 90 days. In pursuit of the next remedy, the present appeal was preferred on 28.08.2019. After admission of the appeal for regular hearing on 20.12.2019, the respondents were given notices for appearance and submission of written reply/comments. They after attending the proceedings have filed their written reply/comments on



19.10.2020, wherein they have raised several factual and legal objections and asserted for dismissal of appeal with cost.

3. We have heard the arguments of the learned counsel for the parties and have also perused the record.

4. It is not a disputed fact between the contesting parties that the appellant applied for earned leave and presence of leave application form with entries showing the period of leave as ninety days and the nature as medical leave. As far as question of sanctioning of leave is concerned, parties are at variance. According to statement of allegations served upon the appellant, she had applied for earned leave for the period of three months w.e.f. 29.08.2015 to 16.11.2015 and left the college without approval of the competent authority. On the other hand, it has been specifically urged vide Para-4 of the memorandum of appeal that after the expiry of three months leave, the appellant appeared before the Principal, Government Girls Degree College (GGDC) Parhina and requested for further one year leave, but instead of granting further leave to her, she was transferred to GGDC, Battagram. Regarding the onward period beyond ninety days, the same according to charge sheet and statement of allegations was treated as wilful absence purporting that the appellant was transferred to GGDC, Battagram vide notification No. SO(C-III)HE/2-5/15, dated. 20.11.2015 and relieved in absentia on 24.11.2015 to take over charge immediately at her new assignment but she remained absent from duty with effect from the said date without any information/application. The version of the appellant for the said period is that she visited the GGDC, Battagram for making arrival but nobody was willing to permit her for

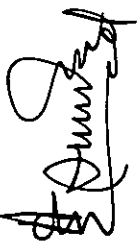


arrival on 26.11.2016. She thereafter had been regularly attending the said College till 31.11.2015 but in vain. She having no other alternative, approached the Directorate of Higher Education for redressal of her grievance, but all of her efforts ended in fiasco. Among the other allegations, it is there that she was informed through letter dated 23.11.2015 by the Principal concerned as well as by letter dated 01.09.2016 to report for duty but she failed to do so; and she remained absent from duty and took over charge at her new station on 20.11.2016 i.e. after lapse of fifteen months approximately. In the impugned order, it is mentioned that the appellant remained absent till publication of absence notice in the newspapers and joined duty after fifteen months absence on 20.11.2016. The version of the respondents against the appellant is full of gaps which in turn make it dubious as to willfulness of her absence. If the appellant after applying for earned leave had left the duty without waiting for approval of her leave by the competent authority why her absence was not reported by the Principal to the high-ups. On query, the respondents represented by learned AAG and the departmental representative were unable to answer the said query in light of their comments and the record annexed therewith. Again it is not understandable that if the appellant was absent from duty willfully and the department was in knowledge of her absence, why she was transferred during absence and relieved in absentia, omitting to initiate action against her under Rule 9 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, which was a due process. The version of the respondents, identifiable from the impugned order that she reported for duty immediately after publication of notices of her absence in the newspapers, gives rise to a rebuttable presumption that had she been



served with any notice earlier, she would have joined the duty. There is nothing with the respondents to rebut the said presumption that why they omitted to have resort to the due process of disciplinary action under the aforementioned rule. In absence of such rebuttal, the version of the appellant becomes plausible that she was under impression of the sanctioning of her leave for ninety days and after her transfer on expiry of said leave, she when transferred to GGDC, Battagram had reported for duty; but she was not permitted to take over the charge. Moreover, the proceedings of enquiry was also not conducted in line with the letter and spirit of Rule 11 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 because the enquiry committee only relied upon comments of the Principal, GGDC Parhina and GGDC Battagram and the letters produced by them, but none of the witnesses against the appellant was examined in her presence so as to afford her the right of cross-examination as per requirement of Rule 11 *ibid*. The charge of wilful absence against the appellant was not proved with any substantial material excluding the version of the appellant discussed before. Therefore, we are not inclined to maintain the impugned penalty against the appellant. However, we are mindful of the fact that she did not perform her duty albeit under impression of her sanctioned leave or thereafter due to non-permission for taking over charge in GGDC Battagram. Therefore, the period of initial ninety days and the next period till her arrival in GGDC Battagram on 20.11.2016 is fit for treatment as a kind of leave due.

5. For what has gone above, the appeal at hand is accepted. Consequently, the impugned order imposing penalty upon the appellant i.e. reduction to lower post for a period of three years is set aside. The period



from 19.08.2015 to 19.11.2016 shall be treated as kind of leave due in favour of the appellant, in accordance with law. Parties are left to bear their own costs. File be consigned to the record room.

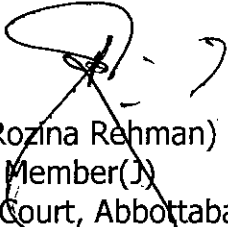
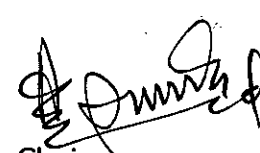


(ROZINA REHMAN)  
Member  
(Camp Court, Abbottabad)



(AHMAD SULTAN TAREEN)  
Chairman  
(Camp Court, Abbottabad)

ANNOUNCED  
28.09.2021

| S.No. of proceedings | Date of Order or proceedings. | Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.  |
|----------------------|-------------------------------|--|
| 1                    | 2                             | 3  |
|                      | 28.09.2021                    | <p style="text-align: center;"><u>Present</u></p> <p>Mr. Shad Muhammad Khan,<br/>Advocate ... For appellant</p> <p>Mr. Muhammad Riaz Khan Paindakhel,<br/>Asth. Advocate General, ... For respondents</p> <p>Vide our detailed judgment of today and placed on file, the appeal at hand is accepted. Consequently, the impugned order imposing penalty upon the appellant i.e. reduction to lower post for a period of three years is set aside. The period from 19.08.2015 to 19.11.2016 shall be treated as kind of leave due in favour of the appellant, in accordance with law. Parties are left to bear their own costs. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> <br/> (Rozina Rehman)<br/> Member(J)<br/> Camp Court, Abbottabad </div> <div style="text-align: center;"> <br/> Chairman<br/> Camp Court, Abbottabad </div> </div> <p><b>ANNOUNCED</b><br/>28.09.2021</p> |

16.03.2021

Appellant present through counsel.

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Former made a request for adjournment in order to submit rejoinder; granted. To come up for rejoinder/arguments on 14/06/2021 before D.B at Camp Court Abbottabad.



(Atiq ur Rehman Wazir)  
Member (E)  
Camp Court, A/Abad



(Rozina Rehman)  
Member (J)  
Camp Court, A/Abad



18.02.2020

Due to Covid-19, case is adjourned to 15.09.2020 for the same as before.

  
Reader

15.09.2020

Due to summer vacation, case is adjourned to 19.10.2020 for the same as before.


  
Reader

19.10.2020

Appellant present in person.

Usman Ghani learned District Attorney alongwith Zaheer Ashraf Focal Person and Kazi Ayaz S.O (Litigation) for respondents present.

Representatives of the respondents submitted written reply/comments. To come up for rejoinder, if any and arguments on 15.12.2021 before D.B at Camp Court, Abbottabad.

  
(Rozina Rehman)  
Member (J)  
Camp Court, A/Abad

15.12.2020


Due to Covid-19, case is adjourned to 16.03.2021 for the same as before.


  
Reader

20.12.2019

Counsel for the appellant Sajida Bibi present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Higher Education Department as Assistant Professor (Chemistry) in Government Degree College Battagram. She was imposed major penalty of reduction to lower post for a period of three years vide order dated 26.03.2019 on the allegation of her absence from duty. It was further contended that the appellant filed departmental appeal on 14.04.2019 which was rejected vide order dated 05.07.2019 and received to the appellant on 29.07.2019 as revealed from the department order hence, the present service appeal on 28.08.2019. It was further contended that neither proper inquiry was conducted nor the appellant was associated in inquiry proceeding nor the appellant was issued any show-cause notice nor any absence notice was issued to the appellant at her home address nor any advertisement regarding her absence was published in newspaper, therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 18.02.2020 before S.B at Camp Court Abbottabad.

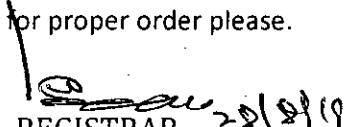


  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad

  
Appellant Deposited  
Security & Process Fee

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- \_\_\_\_\_ 1100/2019 \_\_\_\_\_

| S.No.      | Date of order proceedings | Order or other proceedings with signature of judge   |
|------------|---------------------------|--|
| 1          | 2                         | 3  |
| 1-         | 28/08/2019                | <p>The appeal of Mst. Sajida Bibi received today by post through Mr. Shad Muhammad Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><br/>REGISTRAR 28/8/19</p>   |
| 2-         | 30/8/19                   | <p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>25-10-19</u></p> <p style="text-align: right;"><br/>CHAIRMAN</p>  |
| 25.10.2019 |                           | <p>Junior to counsel for the appellant present. Learned counsel is not present due to the demise of Haji Faridoon Khan, Advocate. Junior to counsel for the appellant seeks adjournment. Adjourn. To come up for preliminary hearing on 20.12.2019 before S.B at camp court, Abbottabad.</p> <p style="text-align: right;"><br/>Member<br/>Camp court, A/Abad</p> |

**BEFORE THE SERVICE TRIBUNAL K.P.K.**  
**PESHAWAR**

*Appeal no. 1100/2019*

Sajida Bibi.....Appellant

**Versus**

Government of KPK Peshawar through  
Secretary Higher Education department,  
KPK Peshawar etc.....Respondents

**APPEAL UNDER SECTION 4 OF**  
**SERVICE TRIBUNAL ACT**

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| 3. | Correct addresses of the parties.                                   | -         | 9        |
| 4. | Copies of applications for one (1) year and three (3) months leave. | "A" & "B" | 10, 11   |
| 5. | Copies of charge sheet and statement of allegations.                | "C" & "D" | 12, 13   |
| 6. | Copy of findings of Inquiry Officer.                                | "E"       | 14 to 17 |
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**Dated 26.08.2019**

  
Sajida Bibi  
(Appellant)

Through:

  
**SHAD MUHAMMAD KHAN**

Advocate Supreme Court of  
Pakistan (Mansehra)

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**BEFORE THE SERVICE TRIBUNAL K.P.K.**

**PESHAWAR**

Appeal no-1100/2019

Sajida Bibi wife of Shams-Ur-Rehman, Caste Tanoli, resident of Bajna Bala Tehsil Oghi District Mansehra presently posted as Assistant Professor (Chemistry) Govt. Degree College Battagram.....**Appellant**

Khyber Pakhtukhwa  
Service Tribunal

Diary No. 12/13

Dated 28/8/2019

**Versus**

- 1) Government of KPK Peshawar through Secretary Higher Education department, KPK Peshawar
- 2) The Chief Minister, KPK Peshawar.....**Respondents**

**APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT AGAINST THE ORDER OF RESPONDENT NO. 1 VIDE WHICH THE APELLANT WAS IMPOSED MAJOR PENALTY OF REDUCTION TO LOWER POST FOR A PERIOD OF THREE YEARS.**

**PRAYER: -**

On acceptance of appeal the impugned order may kindly be set aside.

**Respected Sir,**

The brief facts leading to the instant appeal are arrayed as follows: -

- 1) That, the appellant had qualified M.c Chemistry from Women University DI Khan and also qualified B.Ed examination.

Filed to-day

Registrar

28/8/19

- 2) That, the appellant was appointed as Lecturer in Chemistry in Grade-17 in year 2003 where-after the appellant has been serving the department devotedly.
  
- 3) That, the appellant was posted in Govt. Degree College Perhinna in year 2015. The appellant submitted an application for leave for one (1) year, but instead of granting leave for one (1) year, the appellant was granted three (3) months leave.  

**(The copies of applications for one (1) year and three (3) months are attached as Annexure "A" & "B").**
  
- 4) That, after the expiry of three (3) months leave the appellant appeared before the Principal Govt. Degree College Perhinna and requested for further leave for one (1) year, but instead of granting further leave, the appellant was got transferred to Govt. Degree College Battagram.
  
- 5) That, to the misfortune of the appellant who visited the college at Battagram for making arrival, but nobody was willing to permit the appellant for the arrival on 26.11.2015. The appellant thereafter had been regularly attending the college till 31.11.2015, but

nobody permitted the appellant to report her arrival nor the appellant was marked as present in the college.

- 6) That, the appellant finding no alternative, approached Directorate of Education for redressing her grievances, but all her efforts ended in fiasco.
- 7) That, the appellant was issued a charge sheet alongwith statement of allegations stating therein that the appellant remained absent for about 15 months and took charge on 20.11.2016.

**(The copy of charge sheet and statement of allegations are attached as Annexure "C" & "D" respectively).**

- 8) That, while issuing statement of allegation an inquiry committee was also constituted to hold an inquiry and to give a findings with regard to the allegations. The inquiry officers conducted an inquiry and submitted the report.

**(The copy of finding is attached as Annexure "E").**

- 9) That, respondent No. 1 on receipt of finding of the inquiry passed an order vide which the appellant was imposed major penalty of reduction

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to lower post for a period of three (3) years.

**(The copy of order is attached as Annexure "F").**

**10)** That, the appellant aggrieved by the order of respondent No. 1 preferred an appeal/review petition before respondent No. 2, but the request of appellant was also turned down.

**(The copy of appeal and order are attached as Annexure "G" & "H").**

That, the appellant assails the orders of respondents Nos. 1 & 2 on the following amongst other grounds: -

**GROUND:** -

- A)** That, the orders of respondents Nos. 1 & 2 are against the facts and law and thus the orders are not maintainable in the eye of law.
- B)** That, the appellant had applied for leave and in case if leave was not granted nor approval was accorded it was bounden duty of Principal or concerned officials to have informed the appellant, but instead of doing so they remained mum and did not apprise the appellant about the above facts.
- C)** That, the service law and the constitution has laid down procedure which is mandatory in nature and



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the said procedure has been violated brazenly by inquiry officer. The entire inquiry was conducted at the back of appellant as appellant was never associated with the said inquiry.

- D)** That, the inquiry officer had made a finding on the touch stone of evidence/documents, but the appellant was never afforded any chance to cross examine the PWs nor was afforded any chance to produce defence evidence, thus, the finding so arrived does not carry any credence nor the same can lead to any detrimental order.
- E)** That, the appellant has been imposed the punishment of reduction to lower post for a period of three (3) years and besides, the promotion of the appellant had also been blocked and the appellant also suffered immense loss in terms of grade and salary as well.
- F)** That, there was no fault on the part of appellant who had approached all the concerned quarters to redress her grievances, but her efforts did not bring any fruit.
- G)** That, the appellant has served the department for more than 15/16

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years and was also entitled to earned/leave without pay and if there was any fault on the part of appellant the same could be redressed in terms of earned leave/leave without pay.

**H)** That, the punishment awarded to the appellant is very harsh which does not commensurate with the gravity of allegations leveled against the appellant. Before passing the impugned order it was incumbent on the respondents to have established the fault of appellant beyond shadow of doubt. Inquiry officer had not thrashed the facts rather had formed his opinion in a summary manner which procedure is quite alien to law.

It is, therefore, most humbly prayed and requested that on acceptance of appeal the impugned order of reduction to lower post for a period of three (3) years may kindly be set aside.

**Dated 26.08.2019**

  
Sajida Bibi  
(Appellant)

Through:

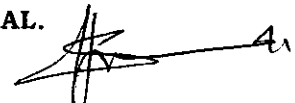
**SHAD MUHAMMAD KHAN**

Advocate Supreme Court of  
Pakistan (Mansehra)

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VERIFICATION

I, SAJIDA BIBI WIFE OF SHAMS-UR-REHMAN, CASTE TANOLI, RESIDENT OF BAJNA BALA TEHSIL OGHI DISTRICT MANSEHRA PRESENTLY POSTED AS ASSISTANT PROFESSOR (CHEMISTRY) GOVT. DEGREE COLLEGE BATTAGRAM DO HEREBY VERIFY THAT THE CONTENTS OF FORE-GOING REVISION PETITION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONOURABLE TRIBUNAL.



SAJIDA BIBI  
(DEPONENT)

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**BEFORE THE SERVICE TRIBUNAL K.P.K.**  
**PESHAWAR**

Sajida Bibi.....Appellant

**Versus**

Government of KPK Peshawar through  
Secretary Higher Education department,  
KPK Peshawar etc.....Respondents

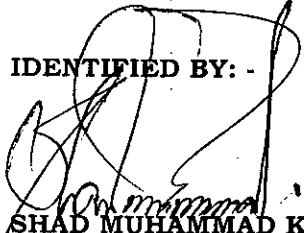
**APPEAL UNDER SECTION 4 OF**  
**SERVICE TRIBUNAL ACT**

**AFFIDAVIT**

I, SAJIDA BIBI WIFE OF SHAMS-UR-REHMAN, CASTE TANOLI, RESIDENT OF BAJNA BALA TEHSIL Oghi DISTRICT MANSEHRA PRESENTLY POSTED AS ASSISTANT PROFESSOR (CHEMISTRY) GOVT. DEGREE COLLEGE BATTAGRAM DO HEREBY SOLEMNLY AFFIRM AND DECLARE ON OATH THAT NO SUCH SUBJECT MATTER APPEAL HAS EVER BEEN FILED BEFORE THIS HONOURABLE TRIBUNAL NOR PENDING NOR DECIDED. THAT THE CONTENTS OF FORE-GOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONOURABLE COURT.

  
SAJIDA BIBI  
(DEPONENT)

IDENTIFIED BY: -

  
SHAD MUHAMMAD KHAN  
ADVOCATE SUPREME COURT  
OF PAKISTAN (MANSEHRA)



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**BEFORE THE SERVICE TRIBUNAL K.P.K.**  
**PESHAWAR**

Sajida Bibi.....Appellant

**Versus**

Government of KPK Peshawar through  
Secretary Higher Education department,  
KPK Peshawar etc.....Respondents

**APPEAL UNDER SECTION 4 OF**  
**SERVICE TRIBUNAL ACT**

**CORRECT ADDRESSES OF THE**  
**PARTIES**

**Respected Sir,**

Correct addresses of the parties are as  
under: -

**APPELLANT**

Sajida Bibi wife of Shams-Ur-Rehman, Caste  
Tanoli, resident of Bajna Bala Tehsil Oghi  
District Mansehra presently posted as  
Assistant Professor (Chemistry) Govt. Degree  
College Battagram

**RESPONDENTS**

- 1) Government of KPK Peshawar through  
Secretary Higher Education department,  
KPK Peshawar
- 2) The Chief Minister, KPK Peshawar

**Dated 26.08.2019**

Sajida Bibi  
(Appellant)

Through: -

**SHAD MUHAMMAD KHAN**

Advocate Supreme Court of  
Pakistan (Mansehra)

(A)

APPLICATION FOR LEAVE

Notes:- Item 1 to 9 must be filled in by all applicants. Item 12 applies only in the case of Government servants of B.P.S. 16 and above.

- 1. Name of applicant. *Sajida Bibi Annex "A"*
  - 2. Leave Rules applicable. *1981*
  - 3. Post held. *ASST. Professor*
  - 4. Department or office. *Education Govt Girls College Parkina*
  - 5. Pay. *RS 33500/-*  
*RS 3873* *5000/-* *RS 24690*
  - 6. House Rent Allowance/Conveyance Allowance or other compensatory allowances drawn in the present post.
  - 7. (a) Nature on leave applied for. *Earned Lev (with out Pay)*  
(b) Period of leave in days. *096 Days*  
(c) Date of commencement. *03-08-2015*
  - 8. Particular Rule/Rules under which leave is admissible.
  - 9. (a) Date of return from last leave. *29/11/2014*  
(b) Nature of leave. *Medical Leave*  
(c) Period of leave in days. *25 days*
- Date *02/08/2015*..... Signature of applicant: *[Signature]*

10. Remarks and recommendation of the Controlling Officer.

11. Certified that leave applied for is admissible under Rule *Recommendation* and necessary conditions are fulfilled.  
*forwarded to the DAO Parkina*

Date ..... Signature  
Designation **PRINCIPAL**  
**Govt Girls Degree College**  
**Parkina Manshra**

12. Report of Audit Officer.

Date ..... Signature  
Designation

13. Orders of the sanctioning authority certifying that on the expiry of leave the applicant is likely to the same post carrying the compensatory allowance being drawn by him.

Date ..... Signature  
Designation

*[Handwritten mark]*

**SHAD MUHAMMAD KHAN**  
**ADVOCATE**  
**SUPREME COURT OF PAKISTAN**

APPLICATION FOR LEAVE

P-206 "B" Annex B P-11

Note:- Item No. 1 to 9 must be filled in by all the applicants. Item No. 12 applies in the case of Government servants of grade 1 and above.

(B)

- 1. Name of applicant SAJIDA BIBI
- 2. Leave rules applicable Leave Rule 1981
- 3. Post held Asst. Prof. Chemistry
- 4. Department or Office Education Govt. Girls College Peshawar
- 5. Pay Rs. 43490/-
- 6. House Rent Allowance, Conveyance Allowance or other Compensation Allowance drawn in the present post 2873 5070 25564/-
- 7. (a) Nature of leave applied for EARNED leave  
 (b) Period of leave in days 20 days Ninety days  
 (c) Date of commencement 19/8/2015
- 8. Particulars of Rules/Rules under which leave is admissible 1981
- 9. (a) Date of return from last leave 29/11/2014  
 (b) Nature of leave Medical Leave  
 (c) Period of leave in days 25 days

Dated \_\_\_\_\_ Signature of applicant \_\_\_\_\_

10. Remarks and recommendation of the controlling officer No: 737, Dated: 7/8/2015  
Recommended to Mr. DUSK Account Officer  
Mansehra for joining & reporting.

11. Certified that leave applied for is admissible under rule \_\_\_\_\_ necessary conditions are fulfilled.

22-10/ Dated: 10/10/2015 16/ H.C.

Dated \_\_\_\_\_ Signature \_\_\_\_\_ Designation PRINCIPAL  
Govt Girls Degree College  
Mansehra

12. Report of Audit Officer Certified that leave applied for  
is admissible to the applicant subject to the sanction  
of Competent Authority.

Dated \_\_\_\_\_ Signature \_\_\_\_\_ Designation \_\_\_\_\_

13. Orders of the sanctioning authority certifying that \_\_\_\_\_ of the applicant is likely to return to the same post or another post carry the compensatory all-wages being drawn by him.

Dated \_\_\_\_\_ Signature \_\_\_\_\_ Designation \_\_\_\_\_

B

ADV. GEN. SUPREME COURT OF PAKIST.

CHARGE SHEET

Amexi "C"  
CP-12

I, Parvez Khattak Chief Minister Khyber Pakhtunkhwa, as Competent Authority, hereby charge you Ms.Sajida Bibi Assistant Professor of Chemistry (BS-18) Govt. Girls Degree College, Parhina Mansehra now working as Assistant Professor of Chemistry Govt. Girls Degree College, Battagram as follows:

That you, while posted as Assistant Professor of Chemistry, Govt. Girls Degree College, Parhina Mansehra now working as Assistant Professor of Chemistry Govt. Girls Degree College, Battagram committed the following irregularities:-

- a) That you have applied for earned leave for the period of 03 months w.e.f.19.08.2015 to 16.11.2015 and left the college without approval of the competent authority.
  - b) That you remained wilful absent from duty even after 03 months till 19.11.2016.
  - c) That you were transferred to GGDC, Battagram vide Notification No.SO(C-III)HE/2-5/15 dated 20.11.2015 and relieved in absentia on 24.11.2015 (AN) from GGDC, Parhina Mansehra to take over charge immediately at your new assignment but you remained absent from duty w.e.f. the said date without any information/application.
  - d) You were informed through letter No.929 & 927 dated 23.11.2015 by the Principal concerned as well as this office letter on your home address vide No.23273 dated 01.09.2016 to report for duty but you failed to do so.
  - e) That you remained absent from duty & took over charge on your new station on 20.11.2016 i.e. after lapse of fifteen months approximately.
2. By reason of the above, you appear to be guilty of misconduct under the rule 03 of the Khyber Pakhtunkhwa, Peshawar Govt: Servants (Efficiency & Discipline), Rules 2011 and have rendered yourself liable to all or any of the penalties specified in rule 04 of the Rules ibid.
3. You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry officer/committee, as the case may be.
4. Your written defence, if any, should reach the Enquiry officer/committee within the specific period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.

Ms.Sajida Bibi, Assistant Professor of Chemistry (BS-18)  
Govt. Girls Degree College, Battagram

*Parvez Khattak*  
(Parvez Khattak)  
Chief Minister  
Khyber Pakhtunkhwa

*Shad Muhammad Khan*  
SHAD MUHAMMAD KHAN  
ADVOCATE  
SUPREME COURT OF PAKISTAN



Annex "D"  
D P - 13

**DISCIPLINARY ACTION.**

I, Parvez Khattak Chief Minister Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Ms.Sajida Bibi Assistant Professor of Chemistry (BS-18) Govt. Girls Degree College, Parhina Mansehra now working as Assistant Professor of Chemistry at Govt. Girls Degree College, Battagram has rendered herself liable to be proceeded against, as she committed the following acts/omissions, within the meaning of rule 03 of the Khyber Pakhtunkhwa Govt: Servants (Efficiency and Discipline) Rules, 2011.

**STATEMENT OF ALLEGATIONS**

- i. That she has applied for earned leave for the period of 03 months w.e.f.19.08.2015 to 16.11.2015 and left the college without approval of the competent authority.
  - ii. That she remained wilful absent from duty even after 03 months till 19.11.2016.
  - iii. That she was transferred to GGDC, Battagram vide Notification No.SO(C-III) HE/2-5/15 dated 20.11.2015 and relieved in absentia on 24.11.2015 (AN) from GGDC, Parhina Mansehra to take over charge immediately at your new assignment but you remained absent from duty w.e.f. the said date without any information/application.
  - iv. That she was informed through letter No.929 & 927 dated 23.11.2015 by the Principal concerned as well as this office letter on her home address vide No.23273 dated 01.09.2016 to report for duty but she failed to do so.
  - v. That she remained absent from duty & took over charge on her new station on 20.11.2016 i.e. after lapse of fifteen months approximately.
2. For the purpose of inquiry against the said accused with reference to the above allegations, an Inquiry Officer/Inquiry Committee, consisting of the following, is constituted under rule 10 (1) (a) of the ibid rules.

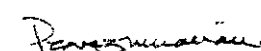
i. Mr. Inayatullah Wasim (PMS BS-19), D.G. GDA, Abbottabad

ii. Zubia Qamar, Deputy Director (Female)  
Directorate of Higher Education Deptt: K.P.

3. The Inquiry Officer/Inquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Inquiry Officer/Inquiry Committee.

  
**SHAD MUHAMMAD KHAN**  
ADVOCATE  
SUPREME COURT OF PAKISTAN

  
**(Parvez Khattak)**  
Chief Minister  
Khyber Pakhtunkhwa

Ms.Sajida Bibi, Assistant Professor of Chemistry (BS-18)  
Govt. Girls Degree College, Battagram

Annex "E" P-14

INQUIRY REPORT AGAINST MS. SAJIDA BIBI, ASSISTANT  
PROFESSOR OF CHEMISTRY (BS-18) GOVT. GIRLS DEGREE  
COLLEGE, BATTAGRAM, DISTRICT MANSEHRA.

The undersigned was appointed as Inquiry Officer to conduct inquiry under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 against Ms. Sajida Bibi Assistant Professor of Chemistry (BS-18) Govt. Girls Degree College, Parhina District Mansehra, presently posted as Asstt: Professor of Chemistry (BS-18), Govt: Degree Girls College, Battagram (Annex-I).

Copies of the Charge Sheet and Statement of Allegations are at Annex-II & III, respectively.

2. BACKGROUND OF THE CASE:

Ms. Sajida Bibi while posted as Asstt: Professor of Chemistry (BS-18) at Govt. Girls Degree College, Parhina, Mansehra applied for 03-months earned leave with effect from 19.08.2015 and left the College without waiting of approval of the earned leave by the competent authority. The accused officer remained absent from her duty till her transfer to Govt. Girls Degree College Battagram i.e. 24.11.2015. The officer was relieved in absentia on 24.11.2015 for taking her charge of new assignment at Govt: Girls Degree College, Battagram. The officer then took charge at her new station of duty on 20.11.2016 after a lapse of twelve months. A fact finding inquiry was conducted against the officer for her continued wilful absence from duty by Prof: Abdul Wajid, Principal, Govt: Postgraduate College, Mansehra.

According to the findings of the preliminary inquiry report, the officer was found guilty of remaining absent from duty without sanctioned leave (Annex-IV). Consequently, formal disciplinary proceedings have been initiated against the accused officer Ms. Sajida Bibi presently posted at Govt: Girls Degree College, Battagram under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 by appointing the undersigned as inquiry officer.

3. PROCEEDINGS:

- i. The accused officer was asked to submit her defense/ written statement within seven days (Annex-V);

Secretary, Higher Education Department was requested to nominate a focal person to assist the undersigned in the inquiry (Annex-VI);

- iii. The Department nominated Ms. Zubia Qamar, Addl: Directress (Female) as Departmental Representative on 01.02.2018 (Annex-VII);

CHAD  
CHAD  
CHAD

iv. The Departmental representative attended office of undersigned on 27.02.2018 provided a copy of the Inquiry Report alongwith other relevant record which formed basis for initiation of instant disciplinary proceedings against the accused officer (Annex-VIII);

v. The accused officer submitted her reply on 08.02.2018 (Annex-IX);

P-15

4. STATEMENT OF THE ACCUSED OFFICER.

The accused officer in her reply refuted the charges levelled against her and stated that she availed the leave on the presumption of being approved by the competent authority as her salary was also stopped during this period. She further stated that she did not receive any intimation/letter of absence from duty during this period (Annex-X).

5. RESPONSE OF THE DEPARTMENTAL REPRESENTATIVE.

The Departmental representative Ms. Zubia Qamar, Addl. Directress, Directorate of Higher Education provided all the relevant record. She informed that the accused officer left the Govt. Girls Degree College, Parhina without waiting for approval of her leave by the competent authority. She further clarified that the officer on her transfer to Govt. Girls Degree College, Battagram did not submit her arrival report till 19.11.2016. The officer was time & again informed but she did not join her duty till publication of absence notice in the newspaper by the Department.

6. FACTS OF THE CASE.

Following are the facts related to the instant matter based upon the documentary evidence provided by the Higher Education Department:-

- a) Ms. Sajida Bibi left the Govt. Girls Degree College, Parhina on 19.08.2015 without prior approval of her leave by the competent authority.
- b) The accused officer was then subsequently transferred to Govt. Girls Degree College, Battagram on 20.11.2015 (Annex-XI). However, even after issuance of her transfer order she did not report for duty and was relieved in absentia from Govt. Girls Degree College, Parhina on 24.11.2015 (Annex-XII).
- c) In the meanwhile, the case of the accused officer was processed at the Secretariat level and the Section Officer (Colleges-III) asked the Director, Higher Education Department to clarify the following observations regarding the case:-

1. Give reason for leave.
2. Held enquiry of the postponement for late submission.
3. She has already availed leave.
4. She is absent from duty at the moment.

SHAO MUHAMMAD KHAN

SUPREME COURT OF PAKISTAN

In response, the Deputy Director (Female) Higher Education Department informed that the officer concerned has already availed the said leave before it sanctioning due to some domestic problems (Annex-XIII).

d) The Director, Higher Education was then asked to call explanation of the officer for availing leave without prior sanction of the competent authority (Annex-XIV). Accordingly her explanation was called by the Deputy Director (Female), Higher Education Department (Annex-XV).

e) The accused officer in her reply did not give any satisfactory reasons for availing 03-months leave without its sanction rather requested for one year's leave upto November, 2016 (Annex-XVI).

f) The Department also sought comments from Principal, GGDC, Parhina and Principal GGDC Battagram regarding the reply submitted by the officer (Annex-XVII).

g) The Principal, GGDC, Parhina submitted the following comments regarding the matter (Annex-XVIII).

i). She never applied for one year leave.

ii) She has contradiction in her statements underlined highlighted in her response to explanation and her application for leave to her office (both attached).

iii) After expiry of 90 days leave she has not resumed her duty, for that explanation was called but no response received (explanation attached).

iv). Due to absence from duty she was relieved from my office on 23.11.2015 on her transfer to GGDC Battagram. The letter was delivered to her home address.

h) The Principal, GGDC, Battagram in her reply stated that no transfer notification in respect of Ms. Sajida Bibi, Asstt. Professor of Chemistry was received in the College nor she submitted any arrival report in this regard (Annex-XIX).

Deputy Director (Female) Higher Education Department then on 01.9.2016 again issued a letter to the officer to immediately report for duty (Annex-XX).

Even after issuance of the letter of the Directorate of Higher Education, the officer did not report for duty.

k) Due to continued absence of the officer, the Secretary Higher Education Department approved the issuance of the final notice to be publicized through print media (Annex-XXI). The notice was accordingly published in the newspapers on 04.11.2016 (Annex-XXII).

l) After publication of the notice in the newspaper, the officer submitted arrival report to Director Higher Education Department on 05.11.2016 (Annex-XXIII).

m) The Deputy Director (Female) Higher Education Deptt: then a Principal GGDC Battagram to allow the officer to take over of the College (Annex-XXIV). The officer after remaining absent for 15 months without sanctioned of the leave took charge on 19.12.2016.

P-17

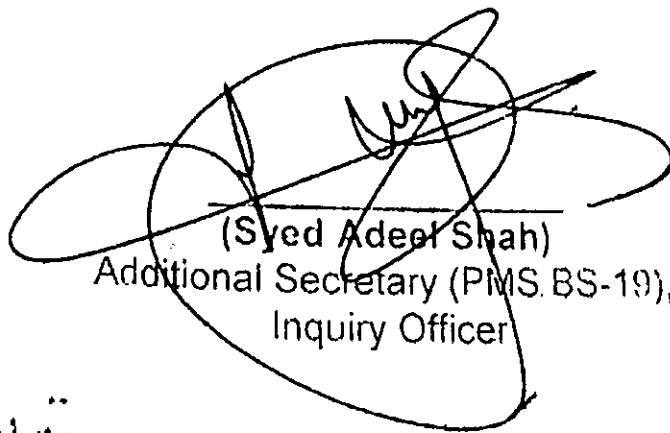
7. FINDINGS.


Keeping in view the allegations against the accused officer, reply submitted by her, clarifications of the Departmental-Representative, perusal of record and examination of evidence following are the findings in the instant case:-

- 1) The accused officer, Ms. Sajida Bibi, Assistant Professor of Chemistry left the Govt: Girls Degree College, Parhina without approval of her leave and remained absent from duty till 19.11.2016.
- 2) The accused officer did not report for duty even after 03- months and got transferred to Govt. Girls Degree College, Battagram on 20.11.2015.
- 3) The accused officer was relieved in absentia from Govt. Degree College, Parhina on 24 11.2015. However, she did not report for duty to Govt. Girls Degree College, Battagram and continued to remain absent from duty without any sanctioned leave.
- 4) The accused officer reported for duty after publication of final notice in the newspapers and took charge at Govt. Girls Degree College, Battagram on 20.11.2016.
- 5) The accused officer in her reply failed to provide any cogent reasons of her absence from duty without any sanctioned leave.

CONCLUSION:

From the above findings, the undersigned came to the conclusion that the officer Ms. Sajida Bibi Assistant Professor of Chemistry could not justify her absence from duty for 15 months without sanctioned leave and report for duty after publication final notice in the newspaper.

  
(Syed Adeel Shah)  
Additional Secretary (PMS.BS-19),  
Inquiry Officer

  
SHAD MUHAMMAD  
ADVOCATE  
SUPPLEMENTARY GOVT. OFFICER



RESTRICTED

GOVERNMENT OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION, ARCHIVES &  
LIBRARIES DEPARTMENT

Dated Peshawar, 26<sup>th</sup> March, 2019

**NOTIFICATION**

No. SO(C-III)HE/1-2/Sajida Bibi I. WHEREAS Ms. Sajida Bibi, Assistant Professor of Chemistry (BS-18) Govt. Girls Degree College, Battagram while posted as Assistant Professor, GGDC, Parhina (Mansehra) applied for earned leave w.e.f. 19-08-2015 to 16-11-2015 and left the college without prior sanction of leave and remained absent from duty.

2. AND WHEREAS the accused officer applied for three months earned leave while posted at Govt. Girls Degree College, Parhina (Mansehra) and left the college without waiting for approval of her earned leave on 19/08/2015. She was transferred during absence to GGDC, Battagram and was relieved of her duty in 'absentia' on 24/11/2015. She remained absent till publication of absence notice in the newspapers and joined duty after fifteen months absence on 20/11/2016.

3. AND WHEREAS Mr. Adeel Shah (PMS BS-19), Additional Secretary, Finance Department was appointed as Inquiry Officer to conduct inquiry against the accused officer. The Inquiry Officer after having examined the charges, evidence on record and explanation of the accused officer, submitted report. Show Cause Notice tentatively proposing imposition of major penalty of "Removal from Service" was served on the accused officer.

4. AND WHEREAS Opportunity of personal hearing was afforded to the accused officer through Mr. Asghar Ali, Secretary Population Welfare Department.

5. NOW THEREFORE, the Competent Authority, in exercise of Powers Conferred under Rule 14 (5)(ii) of the Khyber Pakhtunkhwa (Efficiency & Discipline) Rules 2011, is pleased to impose the major penalty of "Reduction to lower post for a period of three years" upon Ms. Sajida Bibi, Assistant Professor of Chemistry (BS-18), Govt. Girls Degree College, Battagram with immediate effect.

SECRETARY TO  
GOVT. OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION DEPARTMENT

**Endst: No. & Date Even**

Copy forwarded to the:-

1. Director, Higher Education, Khyber Pakhtunkhwa Peshawar.
2. Principal, Govt. Girls Degree College, Parhina (Mansehra).
3. District Accounts Officer, Mansehra.
4. Lady Concerned,

Postal Address: Sajida Bibi Assistant Professor of Chemistry, Village Bajna Bala P/O Shergarh Tehsil Oghi, District Mansehra.

Section Officer (Colleges-III)

To,

Honorable Chief Minister  
Khyber Pakhtunkhwa

Annex "E"  
P.A. (19)

Subject: Departmental Appeal/Review Petition Against Impugned Notification Vide Dated 26 March 2019 On The Basis Of So-Called Inquiry Report, Whereby Major Penalty Of Reduction To Lower Post For A Period Of Three Years

Respectfully sheweth

- 1) That appellant / petitioner was inducted into Govt Service in Higher Education Department as a Lecturer on 04 January 2003, thereafter appellant/petitioner was promoted from Lecturer to Assistant Professor of Chemistry BPS – 18 and since then the appellant/petitioner is working with great zeal and zest to the entire satisfaction of her superior.
- 2) That appellant/petitioner during the service as an assistant professor BPS 18 at GGDC Parhena Mansehra applied for E/leave on medical grounds for the period of 3 months which was duly granted, sanctioned and forwarded to District Account office for further necessary action. Where after observing E/leave, appellant/petitioner assumed her charged at GGDC Parhena Mansehra on 17 November 2015.

(Copy of E/leave sanctioned is annexed as Annexure A)

- 3) After availing 3 months leave, I did not remain absent but resume my duty on 17 November 2016. I was on casual leave on 24<sup>th</sup> November that principal relieved me in absentia from her office.

(Relieving Chit is attached as annexure B)

- 4) That one relieving in absentia petitioner obeys the order of superior and approached to GGDC Batagram from 25 November 2015 to 30<sup>th</sup> Nov 2015 but the principal of college was continuously absent in college and contacted

9-28

reply of the petitioner has not been considered in true letter and spirit.

16) That petitioner assured the show cause notice and questions giving by the inquiry officer in the personal hearing an all facts narrated above were brought into notice of officers but neither any finding were rendered on the base of the facts nor any speaking order/notification was issued.

(Copy of notification is attached A 1)

17) Now the appellant is facing 2 penalties at a time.

- a. Loss of pay of leave period
  - b. Loss of increment of leave period
  - c. Deprived promotion by one year from BP2 18 to BP2 19.
  - d. Loss of increment of year 2018 due to loss of promotion.
  - e. Reduction to very low grade.
- These are very great loss for petitioner as to very lower grade after 16 years of service.


It is therefore most humbly request that notification vide dated 26-04-2019 may be set aside.

Thanks

  
Sajida Firdaus

0340-8049804  
Mop: 0343-8333208  
NIC No: 13204-2170451-0

Dated: 24/04/2019

  
SHAUKAT HUSSAIN  
AD  
SUPREME COURT OF PAKISTAN



reply of the petitioner has not been considered in true letter and spirit.

- 16) That petitioner assured the show cause notice and questions giving by the inquiry officer in the personal hearing an all facts narrated above were brought into notice of officers but neither any finding were rendered on the base of the facts, nor any speaking order/notification was issued.

(Copy of notification is attached As J)

- 17) Now the appellant is facing 5 penalties at a time.
- Loss of pay of leave period
  - Loss of increment of leave period
  - Deprived promotion by one year from BPS 18 to BPS 19.
  - Loss of increment of year 2018 due to loss of promotion.
  - Reduction to very low grade.

These are very great loss for petitioner as to very lower grade after 16 years of service.

It is therefore most humbly request that notification vide dated 26-04-2019 may be set aside.

Thanks

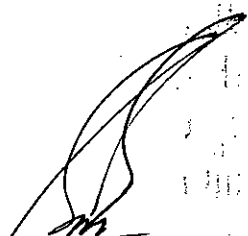
Dated: 24/04/2019

  
Sajida Bibi

NIC No: 13504-2170421-0

Mob: 0343-9333209

0340-9049904

  
SHAD MUHAMMAD RAZA  
AD  
SUPREME COURT OF PAKISTAN



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HIGHER EDUCATION, ARCHIVES &  
LIBRARIES DEPARTMENT**

*Amex "H"*  
*(H)* **(23)**

No.SO(C-III)HE/1-2/Sajida Bibi  
Dated Peshawar, the 05<sup>th</sup> July, 2019

✓ To

Ms. Sajida Bibi,  
Assistant Professor in Chemistry,  
Govt. Girls Degree College, Battagram. *(Signature)*

Subject: **DEPARTMENTAL APPEAL/REVIEW PETITION AGAINST IMPUGNED NOTIFICATION DATED 26<sup>TH</sup> MARCH 2019 ON THE BASIS OF SO-CALLED INQUIRY REPORT, WHEREBY MAJOR PENALTY OF REDUCTION TO LOWER POST FOR A PERIOD OF THREE YEARS.**

I am directed to refer to your review petition dated 24/04/2019 on the subject noted above and to state that the competent authority has rejected your review petition regarding major penalty of reduction to lower post for a period of three years.

*(Signature)*  
Section Officer (Colleges-III)

Copy forwarded to:-

1. The Director, Directorate of Higher Education Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Higher Education Department.

*(Signature)*  
Section Officer (Colleges-III)

Received on 29<sup>th</sup> July 2019.

Received on 16.8.2019.

*(Signature)*  
Principal  
GGDC Battagram

*(Signature)*  
**SHAD MUHAMMAD KHAN**  
SUPREME COURT OF PAKISTAN



CCPC &  
bljwbsj



DESPATCHER  
Govt. of Khyber Pakhtunkhwa  
Higher Education Archives &  
Libraries Department

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DBAM No. 35

S.No 16635

BC No. 10 - 2707

Fee Rs. 100/-

Name of Advocate شہزاد عثمان

2019-20

General Secretary  
District Bar-Association  
Mansehra

وکالت نامہ

رہمن منیر منیر

بعدالت:

سید حسن احمد

بنام:

سید عیسیٰ

عنوان:

سید حسن احمد

نوعیت مقدمہ:

ایسٹریٹ

منجانب:

باعث تحریر آنکہ

لشمار

دریں مقدمہ عنوان بالا میں اپنی طرف سے برائے پیروی و جواب دہی بہ تمام

مٹا دینا اور اس پر

کو بدیں شرائط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو وکیل موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل موصوف صدر مقام کچہری کے علاوہ کسی اور جگہ کچہری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ کچہری کے علاوہ کسی اور جگہ سماعت ہوا یا کچہری کے اوقات کے آگے پیچھے سماعت ہونے پر مظہر کو کوئی نقصان پہنچے تو وکیل موصوف ذمہ دار نہ ہوں گے اور وکیل موصوف کو عرضی دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست بیان حلفی و تصدیق کرنے اور اسپر دستخط کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپر دائر نامہ و دستبرداری و اقبال دعویٰ کا اختیار بھی ہوگا بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا فیصلہ قبل از ڈگری اجراء ڈگری بھی وکیل موصوف کر بشرط ادائیگی علیحدہ محتاتنا ادا کرنے کا مجاز ہوگا اور بصورت ضرورت بدوراء مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا ایئر سٹر کو بجائے خود یا اپنے ہمراہ مقرر کریں اور مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے وکیل موصوف کو اور اگر پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو وکیل موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ وکیل موصوف کے برخلاف نہیں ہوگا مجھے کل ساختہ پرداخت وکیل موصوف مثل ذات خود منظور و قبول ہوگا۔ لہذا وکالت نامہ لکھ دیا ہے اور دستخط/انگوٹھا ثبت کر دیا ہے تاکہ سند رہے۔ مضمون وکالت نامہ مندرجہ بالا اور اچھی طرح سمجھ لیا ہے۔

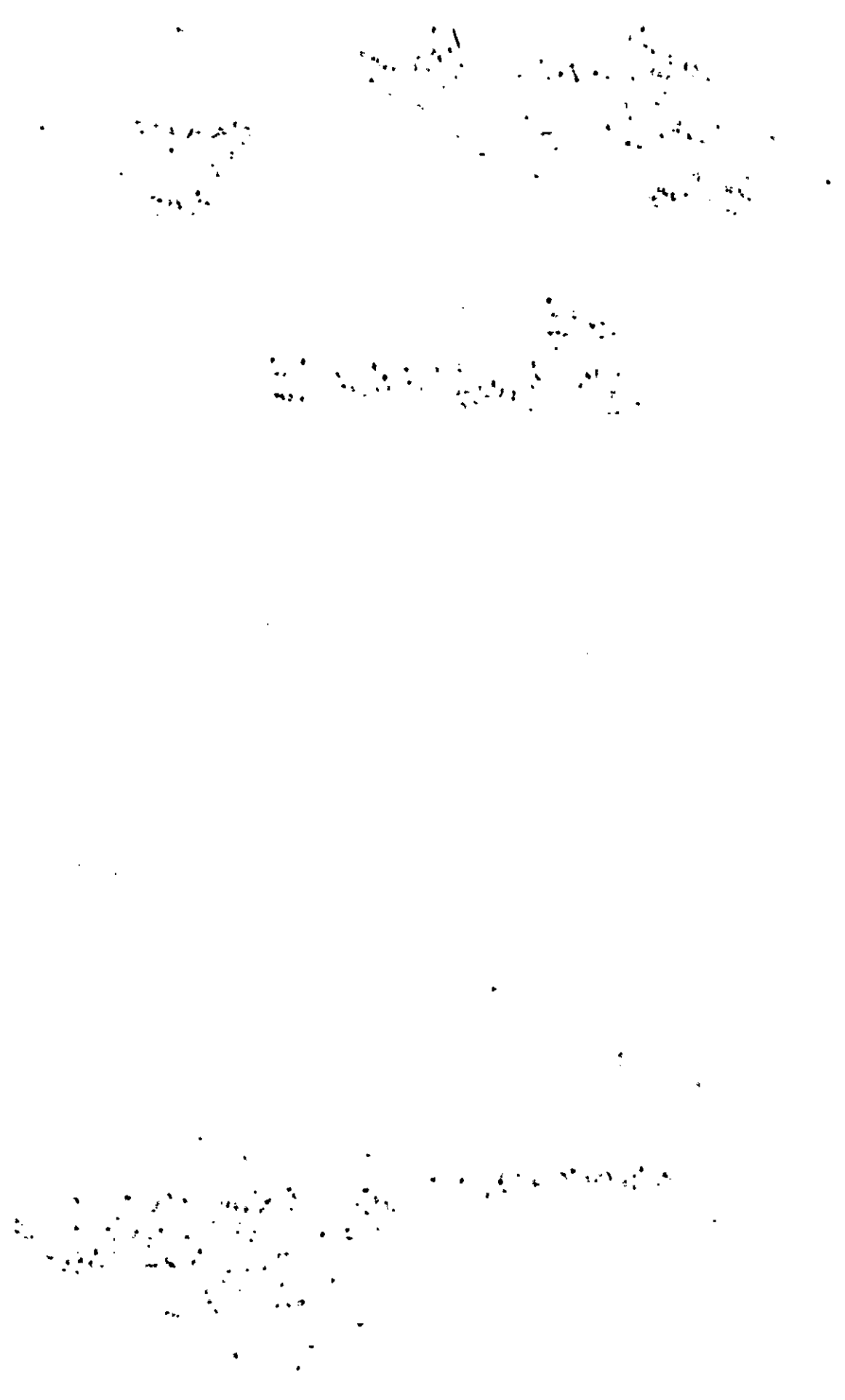
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مورخہ

ACCEPTED

سید عیسیٰ  
سید حسن احمد  
سید حسن احمد

1871  
1872



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP  
COURT, ABBOTTABAD**

Service Appeal No. 1100/2019

Sajida Bibi.....(Appellant)

**VERSUS**

Govt. of KPK through Secretary Higher Education & others.....Respondents)

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SECTION OFFICER (LIT)  
HIGHER EDUCATION DEPARTMENT

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP COURT,  
ABBOTTABAD**

SA#1100/2019

Sajida Bibi ..... Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa,

Through Secretary, Higher Education Department

and another..... Respondents

**SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.1**

**Respectfully Sheweth: -**

**Preliminary Objections: -**

1. That the Appellant has got neither cause of action nor locus standi to file the instant service appeal.
2. That the Appellant has not come to this Honourable Tribunal with clean hands and is trying to conceal material facts.
3. That the instant service appeal is hit by doctrine of laches.
4. That the Appellant is estopped by her own conduct to file the instant service appeal.
5. That the service appeal in hands is devoid of merits, hence liable to be dismissed.

**Facts: -**

- 1 & 2: -** Pertains to the qualification/service record of the appellant, therefore, needs no comments to be offered.
- 3.** Incorrect, misleading, the appellant applied for 90 days Earned Leave vide her leave application (**Annex-A**) but she did not wait for formal sanction of the Competent Authority and just on her own sweet will left the College. The narration can also be testified from her statement to the Inquiry Officer (**Annex-B**).
- 4.** Incorrect, misleading, the appellant was transferred but she did not comply with lawful order and remained absent w.e.f. 20.11.2015 to 19.11.2016. She submitted her arrival on 20.11.2016 after publication of final "Absence Notice" in the News Paper.
- 5.** Denied being void of facts & without supporting documents/ proofs.
- 6.** Incorrect, misleading, on publication of final "Absence Notice" she submitted her arrival.
- 7.** Correct.


8. Correct.
9. Incorrect, misleading, on the basis of findings/recommendations in the Inquiry Report, major penalty was imposed upon her i.e. **"reduction to lower post for a period of 03 years"**.
10. Correct with further elaboration that all charges were stand established, thus, her departmental presentation was processed and accordingly rejected.

**Grounds: -**

- A. Incorrect, as elaborated in preceding paras.
- B. Incorrect, misleading, it is the lame excuse of the appellant. Being BPS-18 Gazetted Officer she has to stay and wait for the outcome of her leave request and on approval she has to submit her departure formally to avail the leave, therefore, her plea did not carry any weightage in the eyes of law.
- C. Denied void of facts.
- D. Denied, void of facts. Statement of the accused officer is sufficient proof (**Annex-C**) that the plea of the appellant is not based on facts.
- E. Incorrect, a lenient view has been taken and instead of imposing major penalty of removal/ dismissal in wake of wilful absence for long period, yet the penalty of **"reduction to lower post for 03 years"** awarded to the appellant.
- F. Incorrect, misleading. The charges duly established in the Inquiry Report, therefore, the plea is void of facts.
- G. As the appellant did not wait for the outcome of the requested leave of the Competent Authority, in case of rejection of her leave, she has to avail the available remedy thereof within the four walls of law.
- H. As elaborated in Para-E above with further explanation that the major penalty of **"reduction to lower post for 03 years"** was awarded to the appellant after establishment of all charges through the formal inquiry and with the completion of all codal formalities, therefore, the plea of the appellant is not based on facts.

**Prayers: -**

In view of the above submissions, it is, therefore, humbly prayed that the instant Service Appeal is void of merits, therefore, may graciously be dismissed with appropriate costs.

  
**Secretary,**  
Higher Education, Archives &  
Library Department  
**(Respondent No. 1)**

11/6/2020



A

APPLICATION FOR LEAVE

Notes:- Item 1 to 9 must be filled in by all applicants. Item 12 applies only in the case of Government servants of B.P.S. 16 and above.

- 1. Name of applicant. *Sajida Bibi Annex "A"*
- 2. Leave Rules applicable. *1981*
- 3. Post held. *Asst Prof*
- 4. Department or office. *Education Govt Girls College Parhina*
- 5. Pay. *RS 33500/-*  
*RS 3873* *5000/-* *RS 24690*
- 6. House Rent Allowance/Conveyance Allowance or other compensatory allowances drawn in the present post.
- 7. (a) Nature on leave applied for. *Earned Leave (with out Pay)*  
(b) Period of leave in days. *One Week*  
(c) Date of commencement. *03-08-2015*
- 8. Particular Rule/Rules under which leave is admissible.
- 9. (a) Date of return from last leave. *29/11/2014*  
(b) Nature of leave. *Medical Leave*  
(c) Period of leave in days. *25 days*  
Date *02/08/2015*..... Signature of applicant: *[Signature]*

10. Remarks and recommendation of the Controlling Officer.

11. Certified that leave applied for is admissible under Rule *Recommendation* and necessary conditions are fulfilled.  
*forwarded to the DAO Manshra*

Date ..... Signature  
Designation **PRINCIPAL**  
**Govt Girls Degree College**  
**Parhina Manshra**

12. Report of Audit Officer.

Date ..... Signature  
Designation

13. Orders of the sanctioning authority certifying that on the expiry of leave the applicant is likely to the same post carrying the compensatory allowance being drawn by him.

Date ..... Signature  
Designation

*[Handwritten mark]*

**SHAD MUHAMMAD KHAN**  
**ADVOCATE**  
**SUPREME COURT OF PAKISTAN**

**SHAD MUHAMMAD KHAN**  
**ADVOCATE**

APPLICATION FOR LEAVE

P-206  
Annex B  
P-11  
(3)  
(H)

Note:- Item No. 1 to 9 must be filled in by all the applicants.  
Item No. 12 applies in the case of Government servants of grade 7 and above.

1. Name of applicant SAJIDA BIBI
2. Leave rules applicable Leave Rule 1981
3. Post held Asst. Prof. Chemistry
4. Department or Office Education Govt. Girls College Parkan
5. Pay Rs. 43490/-
6. House Rent Allowance, Conveyance Allowance or other Compensation: 2875 Allowance drawn in the present post 5070 25366/-
7. (a) Nature of leave applied for Medical Leave  
(b) Period of leave in days 90 days Monthly days  
(c) Date of commencement 19/8/2015
8. Particulars of Rules/Rules under which leave is admissible 1981
9. (a) Date of return from last leave 28/11/2014  
(b) Nature of leave Medical Leave  
(c) Period of leave in days 25 days

Dated \_\_\_\_\_ Signature of applicant \_\_\_\_\_

10. Remarks and recommendation of the controlling officer  
No: 737. Dated: 7/8/2015  
Recommended to the Director against award of leave for absence & report.
11. Certified that leave applied for is admissible under rule \_\_\_\_\_ necessary conditions are fulfilled.

10/10/2015 Date 10/10/2015 10/10/15

Dated \_\_\_\_\_ Signature \_\_\_\_\_  
Designation Principal Govt Girls Degree College Parkan

12. Report of Audit Officer Certified that leave applied for is admissible to the applicant subject to the sanction of competent authority.

Dated \_\_\_\_\_ Signature \_\_\_\_\_  
Designation \_\_\_\_\_

13. Orders of the sanctioning authority certifying that \_\_\_\_\_ of the applicant is likely to return to the same post or another post carry the complementary allowance being drawn by him.

Dated \_\_\_\_\_ Signature \_\_\_\_\_  
Designation \_\_\_\_\_

B

SHAD MUHAMMAD KHAN  
ADV. SEC.  
SUPREME COURT OF PAKISTAN

10/10  
SHAD MUHAMMAD KHAN  
ADV. SEC.  
SUPREME COURT OF PAKISTAN

The Departmental representative undersigned on 27.02.2018 provided a copy of the Inquiry Report along with other relevant record which formed basis for initiation of instant disciplinary proceedings against the accused officer (Annex-VIII);

The accused officer submitted her reply on 08.02.2018 (Annex-IX);

4. **STATEMENT OF THE ACCUSED OFFICER.**

The accused officer in her reply refuted the charges leveled against her and stated that she availed the leave on the presumption of being approved by the competent authority as her salary was also stopped during this period. She further stated that she did not receive any intimation/letter of absence from duty during this period (Annex-X).

5. **RESPONSE OF THE DEPARTMENTAL REPRESENTATIVE.**

The Departmental representative Ms. Zubia Qamar, Addl. Dy. Director, Directorate of Higher Education provided all the relevant record. She informed that the accused officer left the Govt. Girls Degree College, Parnina without waiting for approval of her leave by the competent authority. She further informed that the officer on her transfer to Govt. Girls Degree College, Battagram did not submit her arrival report till 19.11.2016. The officer was time & again informed but she did not join her duty till publication of absence notice in the newspaper by the Department.

6. **FACTS OF THE CASE.**

Following are the facts related to the instant matter based upon the documentary evidence provided by the Higher Education Department:-

- a) Ms. Sajida Bibi left the Govt. Girls Degree College, Parnina on 19.08.2015 without prior approval of her leave by the competent authority.
- b) The accused officer was then subsequently transferred to Govt. Girls Degree College, Battagram on 20.11.2015 (Annex-XI). However, even after issuance of her transfer order she did not report for duty and was relieved in absentia from Govt. Girls Degree College, Parnina on 20.11.2015 (Annex-XII).
- c) In the meanwhile, the case of the accused officer was processed at the Secretarial level and the Section Officer (Colleges-III) asked the Director Higher Education Department to clarify the following observations regarding the case:-
  1. Give reason for leave.
  2. Held enquiry of the postponement for late submission.
  3. She has already availed leave.
  4. She is absent from duty at the moment.

SHAD-TUL-KHAN  
SUPERVISOR

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP  
COURT, ABBOTTABAD**

Service Appeal No. 1100/2019

Sajida Bibi.....(Appellant)

VERSUS

Govt. of KPK through Secretary Higher Education & others.....Respondents)

**AFFIDAVIT**

I, Basim M. Azeem, (Litigation Officer), Higher Education, Archives & Libraries Department, Government of Khyber Pakhtunkhwa, on the instructions of respondents do hereby solemnly declare and affirm on oath, that the contents of Parawise Comments are correct to the best of my knowledge and belief and that nothing has been concealed therein from this Hon'ble Court.

Sworn by

Advocate General  
Khyber Pakhtunkhwa



Deponent

CNIC No. 17301-7027498-5