

24.08.2017

Clerk to Counsel for the appellant and Mr. Ziaullah, DDA for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for rejoinder and arguments on 01.11.2017 before D.B.

(Gul Zeb Khan)  
Member

(Ahmad Hassan)  
Member

01.11.2017

None present of the appellant. Mr. Usman Ghani, District Attorney for the respondents present. Due to general strike of the bar, counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 14.12.2017 before D.B.

Member

Member

14.12.2017

None present on behalf of the appellant. Mr. Riaz Paindakheil Learned Assistant AG for the respondents present. Case called for several times but no one appeared on behalf of the appellant. Consequently present appeal is dismissed in default. File be consigned to the record room.

(Gul Zeb Khan)  
MEMBER

(Muhammad Hamid Mughal)  
MEMBER

19.12.2016

Muhammad Shafi, clerk counsel for the appellant and Additional AG for the respondents present. Rejoinder not submitted. Clerk counsel for the appellant seeks adjournment due to non-availability of counsel for the appellant. Member copy of the instant appeal is also not available before the Tribunal. Clerk counsel for the appellant is directed to submit the Member copy of the instant appeal on or before the next date. To come up for rejoinder and arguments on 02.05.2017 before D.B.

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

02.05.2017

No one present on behalf of the appellant. Mr. Usman Ghani, Sr. GP for the respondents present. Notice be issued to the appellant and his counsel. To come up for rejoinder and final hearing on 24.08.2017 before D.B.

  
Member

  
Chairman

25.1.2016

Brother of the appellant, on behalf of the appellant and Mr. Hameed-ur-Rehman, AD (lit.) alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 4.5.2016.

Chairman

04.05.2016

Appellant in person and Addl: AG for respondents present. Appellant requested for time to submit rejoinder. To come up for rejoinder on 09.08.2016.

Member

09.08.2016

None present for the appellant. Mr. Ziaullah, GP for respondents present. Notices be issued to the appellant and his counsel. To come up for arguments on 19-12-16.

Member

Member

21-1-20

12

13.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as Sweeper vide notification dated 3.4.2012 but till date she has not been paid the salary. That she preferred departmental appeal on 28.6.2013 which was not responded and hence the instant service appeal on 18.12.2013. That time limitation would not run in the instant appeal containing fiscal matter.

Appellant Deposited  
Security & Process Fee



Points urged need consideration. Admit, subject to limitation. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 3.7.2015 before S.B.

  
Chairman

13

03.07.2015

Mr. Muhammad Riaz, brother of appellant and Mr. Javed Ahmed, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 15.10.2015 before S.B.

  
Chairman



15.10.2015

Since 15.10.2015 has been declared as public holiday on account of 1<sup>st</sup> Muharram-ul-Haram, therefore, case is adjourned to 25-1-15 for the same.

  
Reader

9.  
Reader Note:

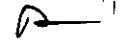
04.12.2014

Appellant in person and Mr. Kabirullah Khattak, Asst. Advocate General for the respondents present. Since the Tribunal is incomplete, therefore, case is adjourned to 21.01.2015 for the same.

  
Reader

10.  
21.01.2015

Counsel for the appellant and Mr. Kabirullah Khattak, Asst. Advocate General for the respondents present. The learned AAG requested for time to contact the respondents for submission of complete record of the appellant. To come up for preliminary hearing/complete record on 23.02.2015.

  
Member

11.  
23.2.2014

Counsel for the appellant and Mr. Kabeerullah Khattak, AAG with Irshad Khan, AD (P&D) for the respondents present. Representative of the respondents submitted that the relevant person is hospitalized and he may be given time to produce all the relevant record. Therefore, case is adjourned to 13.4.2015 for preliminary hearing.

  
Member

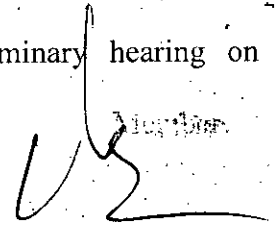
6.  
08.07.2014

Assistant to counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 04.09.2014.

  
Member

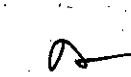
7.  
04.09.2014

Assistant to counsel for the appellant and Mr. Kabirullah Khattak, Assistant Advocate General for the respondents present. Assistant to counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 14.10.2014.

  
Member

8.  
14.10.2014

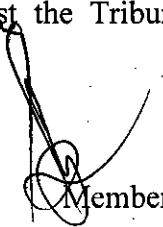
Counsel for the appellant and Mr. Khaista Rehman, ADO with Mr. Ziaullah, GP for the respondents present. Representative of the respondents requested for time to submit complete record of the appellant. Request accepted. To come up for preliminary hearing on 04.12.2014.

  
Member

3,

18.02.2014

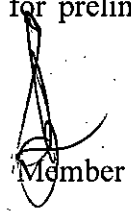
No one is present on behalf of the appellant. Pre-admission notice be issued to the learned GP to assist the Tribunal for preliminary hearing on 02.04.2014.

  
Member

4,

02.04.2014

No one is present on behalf of the appellant. Mr. Ziaullah, GP for the respondents present. Notices be issued to the appellant/counsel for the appellant. To come up for preliminary hearing on 22.05.2014.

  
Member

11/02/2014

02/04/2014



5,



22.05.2014

Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. The learned counsel for the appellant requested for adjournment. To come up for preliminary hearing on 08.07.2014.

  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Case No. 1625/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18/12/2013	<p>The appeal of Mst. Munawara Bibi presented today by Mr. Inayat-ur-Rehman Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>18-2-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2	<u>19/12/2013</u>	



**BEFORE SERVICE TRIBUNAL KHYBER**

**PAKHTUNKHWA, PESHAWAR**

In Ref: Service appeal No. 1625 of 2013

Mst. Munawara Bibi

**VERSUS**

Director Elementary & Secondary Education & another


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Dated: 18/12/2013

**APPELLANT**

Through

  
Inayat-ur-Rehman

Advocate, High Court,

Peshawar.

**BEFORE SERVICE TRIBUNAL KHYBER**

**PAKHTUNKHWA, PESHAWAR**

In Ref: Service appeal No. 1625 of 2013

*[Stamp]*  
*1656*  
*18-12-13*

Mst. Munawara Bibi D/O Muhammad Ayaz Khan R/O  
Village Khappa, Post office Charpariza, Tehsil & District  
Peshawar.....**Appellant**

**VERSUS**

- 1. Director Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.
- 2. District Education Officer (Female) G.T Road  
Peshawar.....**Respondents**

**SERVICE APPEAL UNDER SECTION 4 OF THE  
 KHYBER PAKHTUNKHWA *Service Tribunal* ACT  
 1974, AGAINST THE UNJUST AND ILLEGAL  
 STOPPAGE OF SALARY OF APPELLANT HAS BEEN  
 DENIED TILL DATE DESPITE HER REGULAR DUTIES  
 AND DECLARING SUCH ACTS OF THE  
 RESPONDENTS AS ILLEGAL, AGAINST THE LAW OF  
 LAND, NORMS OF JUSTICE AND VOID ABINITIO.**

*[Signature]*  
*18/12/13*

**PRAYER IN APPEAL:**

***On acceptance of this appeal the respondents may kindly be directed to immediately release the salary of the appellant.***

**Respectfully Sheweth:-**

1. That the appellant was appointed as a sweeper GGMS Haryan Ghar Khappa Peshawar against newly created post vide order bearing endorsement No. 8893, 8910/file C. IV appointment dated 03/04/2012. After that the appellant took charge of her duties immediately and has been performing her duties regularly at the places of his posting till date. **(Copy of the Appointment Letter is annexed as annexure "A")**

2. That the appellant has never been paid her salaries since her appointment. The concerned officials were requested time and again but to no avail.

3. That the appellant filed the Departmental appeal to the respondents and despite the fact that period of five (5) months have been elapsed but the respondents have not been releasing pay/salaries hence this appeal on the following grounds:- **(Copy of Departmental appeal is annexed as annexure "B")**

**GROUND:**

**A.** That the denial for release of the salary of the appellant is unlawful, illegal and against the norms and justice.


- B.** That the denial for payment of salary is against the article 11 of the Constitution of Islamic Republic of Pakistan 1973.
- C.** That the acts of denial of the respondents are against the spirit of natural justice.
- D.** That the appellant is performing her duties regularly and with full zeal and spirit and the remunerations denied to her is unfair and based on inequality.
- E.** That any other ground not specifically raised herein may kindly be allowed at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of this appeal the respondents may kindly be directed to immediately release the salary of the appellant

Dated: 18/12/2013

  
**APPELLANT**

Through

  
Inayat-ur-Rehman

Advocate, High Court,  
Peshawar.

(4)

**BEFORE SERVICE TRIBUNAL KHYBER**

**PAKHTUNKHWA, PESHAWAR**

In Ref: Service appeal No. \_\_\_\_\_ of 2013

Mst. Munawara Bibi D/O Muhammad Ayaz Khan R/O  
Village Khappa, Post office Charpariza, Tehsil & District  
Peshawar.....**Appellant**

**VERSUS**

1. Director Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.
2. District Education Officer (Female) G.T Road  
Peshawar.....**Respondents**

**AFFIDAVIT**

I, Mst. Munawara Bibi D/O Muhammad Ayaz Khan R/O  
Village Khappa, Post office Charpariza, Tehsil & District  
Peshawar do hereby solemnly affirm and declare on oath  
that that contents of this Service Appeal are true and  
correct to the best of my knowledge and nothing has  
been concealed from this Honorable Court.

**DEPONENT**



18/12/2013

**BEFORE SERVICE TRIBUNAL KHYBER**

5

**PAKHTUNKHWA, PESHAWAR**

In Ref: Service appeal No. \_\_\_\_\_ of 2013

Mst. Munawara Bibi

**VERSUS**

Director Elementary & Secondary Education & another

**ADDRESSES OF PARTIES**

**PETITIONER:**

Mst. Munawara Bibi D/O Muhammad Ayaz Khan R/O  
Village Khappa, Post office Charpariza, Tehsil & District  
Peshawar.


**RESPONDENTS:**

1. Director Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.
2. District Education Officer (Female) G.T Road  
Peshawar.

Dated: 18/12/2013

**APPELLANT**

Through

  
Inayat-ur-Rehman

Advocate, High Court,

Peshawar.



**EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY  
EDUCATION PESHAWAR**

**NOTIFICATION:-**

Consequent upon the approval of the District Selection Committee the Competent Authority is pleased to appoint the following candidates against the vacant / newly created posts of Class-IV on regular basis (Non Pensionable) in BPS-01 of the Basic Pay Scale (Rs.1800-150-9300) plus usual allowances as admissible under the rules at the school noted against their names on the below terms & conditions w.e.f 01/04/2012.

S#	Name of candidates / Father Name & Address	Designation	Appointed at	Reason of Vacancy
1	Irshad Khan S/O Tawas Khan	Chowkidar	GGPS Feroze Pur Peshawar	Against Newly Created Post
2	Abdullah S/O Haji Raham Dad Khan	Chowkidar	GPS Ghari Sherdad Peshawar	Against Newly Created Post
3	Ifikhar Ul Ghani S/o Abdus Sattar Khalil	Chowkidar	GGPS Shagai Thana Sattar Koroonia Peshawar	Against Newly Created Post
4	Muhammad Fayaz S/O Muhammad Ayaz	Naib Qasid	GGMS Haryan Ghar Khappa Peshawar	Against Newly Created Post ✓
5	Munawara Bibi D/O Muhammad Ayaz Khan	Sweeper	GGMS Haryan Ghar Khappa Peshawar	Against Newly Created Post ✓

**TERMS & CONDITIONS:-**

- 1 They will be governed by such rules and regulation as may be prescribed by the Govt. from time to time for category of Government servants to which they belong.
- 2 In case of resignation prior notice of one month should be given by the officials concerned otherwise one month pay and allowances will be forfeited in lieu thereof.
- 3 Their appointment is purely temporary and they will be on probation for a period of two years.
- 4 Their service will be liable to termination / reversion at any stage if their NIC / Domicile etc testimonial found fake. FIR will be lodged against the accused.
- 5 They should take over charge of their posts within one month after the issue of this notification / order.
- 6 Charge report should be submitted to all concerned.

7 No TA / DA are allowed.

8 They will produce health and age certificate from the concerned civil surgeon.

**Note:-** THEIR APPOINTMENT ORDERS SHALL BE VERIFIED BY THE CONCERNED DRAWING AND DISBURSING OFFICERS PERSONALLY FROM THE OFFICE OF THE EDO (E & SE) PESHAWAR BEFORE HANDING OVER CHARGE TO THE OFFICIALS.

**EXECUTIVE DISTRICT OFFICER  
(E & S) EDUCATION PESHAWAR**

**Endst: No. 88 93-8910 / File C-IV Appointments Dated 3/4 /2012.**

Copy forwarded for information and necessary action to the

1. District Accounts Officer Peshawar.
2. District Coordination Officer City District Govt. Peshawar.
3. District Officer (Female) Peshawar.
4. Deputy District Officer (Male & Female) Primary Peshawar.
- 5-9. Headmasters / Headmistress Concerned.
10. Supdt: Estab: Local office Peshawar.
11. PA to E D O (E & S) Edu: Peshawar.
12. Honourable Speaker Provincial Assembly Khyber Pakhtunkhwa.
13. Assistant Computer Programmer Local Officer.
- 14-18. Officials concerned.

*[Signature]*  
**DISTRICT OFFICER (MALE)  
(E&S) EDUCATION PESHAWAR**



Annexure B-7

- To
1. The Director Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar.
  2. District Education officer (female)  
Peshawar.

Subject: Departmental Appeal against stoppage of salary.

Respected sir,

Appellant humbly submits;

1. That the appellant was appointed as a sweeper GGMS haryan ghar khappa peshawar against newly created post vide order bearing endorsement No 8893, 8910/file C. iv appointments Dated 3/4/2012. After that the appellant took charge of her duties immediately and has been performing her duty regularly at the places of his posting till date.
2. That the appellant has never been paid her salary. The concerned officials were requested time and again but to no avail.

It is therefore humbly prayed that on acceptance of this departmental appeal the appellant may kindly be ordered to be paid all the arrears of her salary and other allowances from the date of her appointment and that she should be paid her Salary in future regularly.

Appellant

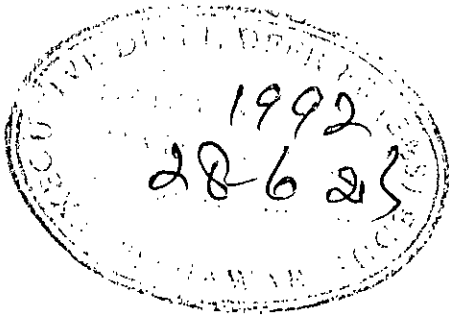


Munawara bibi

D/O

Muhammad Ayaz khan

Sweeper GGMS haryan  
ghar Khappa Peshawar.



Dated 27/06/2013

1839

1840

1-7-13

بعدالت ہمارے پیروی کے

بنام <sup>2</sup> منجانب  
 محترم ڈاکٹر عزیز گل  
 کوئی

مندرجہ ذیل

مورخہ  
 مقدمہ  
 دعویٰ  
 جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
 آن مقام کیلئے <sup>کیلئے</sup> <sup>مقام</sup> مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور  
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
 اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
 مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
 تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
 اور اس کا ساختہ پر داختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
 سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
 گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 18 ماہ دسمبر 2013

العبد گواہ العبد

کے لئے منظور ہے۔

مقام

11

**BEFORE THE SERVICE TRIBUNAL, KPK, PESHAWAR.**

SEVICE APPEAL NO1825/2013

Munawara Bibi

VS

Director (E&ES) etc.

**Reply on behalf of Respondents.**

Respectfully Sheweth:-

The Respondents submit as under:-

**Preliminary Objections.**

1. That the Appellant has no cause of action/ locus standi to file the instant Appeal.
2. That the Appellant has not come with clean hands to this Hon, able Tribunal.
3. That the Appellant conceals the material facts from this Hon, able Tribunal.
4. That the instant Service Appeal is bad by law.
5. That the instant is barred by law.

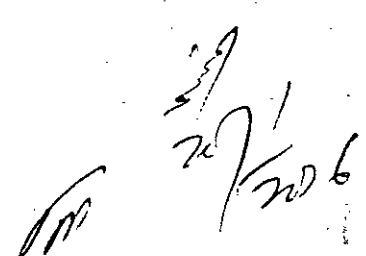
**On Facts.**

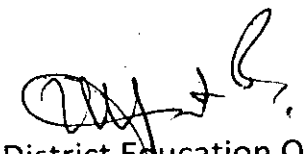
1. That Para-1 is incorrect and denied. The said appointment order in respect of the Appellant was not approved by the District Selection Committee. Moreover, on dated 03-12-2015, the District Selection Committee has given approval and the Respondents have appointed the Appellant as Sweeper in GGHS, Khapa, Peshawar vide Appointment Order No. 3183-86 dated 18-12-2015 and the pay of the Appellant shall be released after taking over charge under the Appointment Order dated 18-12-2015. ( Appointment Order dated 18-12-2015 is attached )
2. That in reply to Para-2, it is submitted that after taking over charge on the Appointment Order No. 3183-86 /F.No./Apptt C-iv/2015 dated 18-12-2015, the Appellant is entitled for the pay while rest of the Para is incorrect and denied.
3. That as the Appellant has no cause of action, therefore, his Departmental Appeal was not maintainable.

Grounds.

- A. That Ground-A is incorrect and denied. The Appellant is entitled for the pay after taking over charge of his post on Appointment Order No. 3183-86 /F.No./Apptt C-iv/2015 dated 18-12-2015.
- B. That Ground-B is incorrect and denied, however, detailed reply to this Ground has been given in Ground-A.
- C. Incorrect. Since after taking over charge of his post on Appointment Order No. 3183-86 /F.No./Apptt C-iv/2015 dated 18-12-2015, the Appellant is entitled for the pay.
- D. That Ground-D is incorrect and denied, as before the Appointment Order No. 3183-86 /F.No./Apptt C-iv/2015 dated 18-12-2015, the Appellant the was not a Government Servant, therefore, he was not authorized to perform the duty.
- E. That the Respondents also seek leave of this Hon, able Tribunal to present case law and raise additional grounds at the time of arguments.

It is therefore, very humbly prayed that on the acceptance of this reply, the instant Appeal may very kindly be dismissed.

  
 Director,  
 (E&SE) KPK, Peshawar.

  
 District Education Officer,  
 Male, Peshawar.



**OFFICE OF THE DISTRICT EDUCATION OFFICER(FEMALE)PESHAWAR.**

**APPOINTMENT**

Consequent upon the approval of the Departmental Selection Committee in its meeting held on 03.12.2015, the competent authority is pleased to appoint Munawara Bibi D/O Mohammad Ayaz as Sweepress GGHS Khapa Peshawar in BPS-03(Rs 6535-260-14335) plus usual allowances as admissible under the rules against vacant post with effect from the date of his/her taking over charge on the following terms and condition

**TERMS AND CONDITION**

- 1 He/She will be governed by such rules and regulations as may be prescribed by the Govt from time to time for the category of the Govt Servant to which he/she belongs.
- 2 His/Her service will be liable to termination at any time/state without any notice.
- 3 In case of resignation one month's prior notice should be given by the official concerned, otherwise one month pay will be forfeited in lieu thereof in the Govt Treasury.
- 4 His/Her service is on purely temporary basis and liable to termination/reversion at any stage without assigning any notice/reason.
- 5 He/She will produce Health and age certificate from the Civil Surgeon concerned before taking over charge.
- 6 Charge report should be submitted to all concerned.
- 7 No TA/DA etc is allowed being 1st appointment
- 8 The post has been consider be appoint able when the post is clearly lying vacant in the school without any deficiency from the Govt policy.
- 9 The above mentioned candidate may not be considering for appointment to another post in this DSC.
- 10 **NOTE: Their appointment order shall be verified by the concerned DDO personally from the office of the District Education Officer(F)Peshawar before handing over charge to the official**

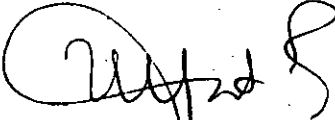
(ULFAT BEGUM)  
DISTRICT EDUCATION OFFICER  
(FEMALE)PESHAWAR

Endst No. 3183-86 /F..No/Apptt C-IV/2015

Dated Peshawar the 18/12 2015

Copy forwarded to the

- 1 Accountant General Khyber Pakhtunkhwa Peshawar.
- 2 Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
- 3 Principal/Headmistress concerned.
- 4 Supdt Establishment Local Office
- 5 Cashier Local Office
- 6 Official concerned

  
DISTRICT EDUCATION OFFICER  
(FEMALE)PESHAWAR