

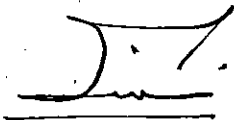
Appeal No. 1285/2019
Faheema vs Edu: Deptt:

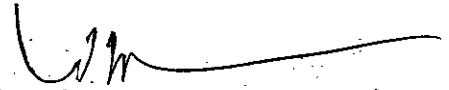
ORDER
15.12.2021

Miss Humera Gul, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, passed in Service Appeal bearing No. 1286/2019 "titled Mst. Iram Naz Versus Government of Khyber Pakhtunkhwa through Secretary Education Civil Secretariat Peshawar and two others", the instant appeal is accepted. The impugned order is set aside and the appellant is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
15.12.2021

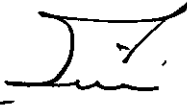

(SALAH-UD-DIN)
MEMBER (J)

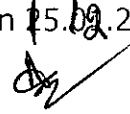

(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

09.12.2021

Appellant present in person and Mr. Kabirullah Khattak, Addl. AG alongwith Munawar Khan, ADEO (Legal) for the respondents present.

Learned senior counsel for the appellant is not in attendance to argue the appeal due to his engagement before the Hon'ble Peshawar High Court, Peshawar. Case to come up for arguments on 15.09.2022 before the D.B.


(Salah-ud-Din)
Member(J)





Chairman

20.10.2021

Appellant with counsel present.

Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Due to paucity of time arguments could not be heard.
Adjourned To come up for arguments 08.11.2021 before D.B. before D.B.


(ATIQ UR REHMAN WAZIR)
MEMBER (E)

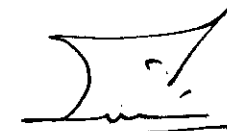

(ROZINA REHMAN)
MEMBER (J)

08.11.2021

Clerk of counsel for the appellant present. Mr. Riaz Khan Paindakheil, Assistant Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 12.11.2021.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

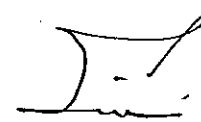
12.11.2021

Counsel for the appellant present.

Mr. Asif Masood, Deputy District Attorney for respondents present.

Partial arguments heard. To come up for remaining arguments on 09.12.2021 before D.B.


(Atiq Ur Rehman Wazir)
Member (E)


(Salah-ud-Din)
Member (J)

21.01.2021

Junior to counsel for appellant.

Noor Zaman Khattak learned District Attorney alongwith Munawar Khan ADEO for respondents present.

Representative of respondents submitted written reply/comments, placed on file. To come up for rejoinder, if any, and arguments on 08.03.2021 before D.B.

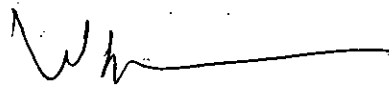


(Rozina Rehman)
Member (J)

08.03.2021

Junior to counsel for the appellant and Addl. AG for the respondents present.

Former requests for adjournment due to engagement of learned senior counsel before the Honourable High Court in many cases today. Adjourned to 15.06.2021 for hearing before the D.B.



(Atiq-ur-Rehman Wazir)
Member(E)



Chairman

15.06.2021

Junior to counsel for appellant present.

Muhammad Adeel Butt learned A.A.G for respondents present.

Lawyers are on general strike therefore, case is adjourned. To come up for arguments on 20.10.2021 before D.B.



(Rozina Rehman)
Member (J)



Chairman

28.10.2020

Appellant present through representative.

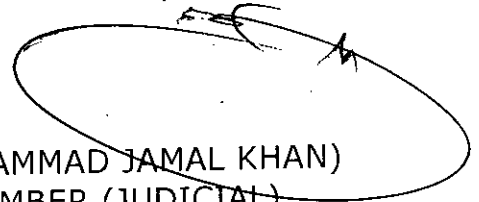
Lawyers are on general strike, therefore, case is adjourned to 23.11.2020 for preliminary hearing, before S.B.



(Rozina Rehman)
Member (J)

23.11.2020

Mr. Muhammad Adeel Butt, Advocate, for appellant is present. According to the learned counsel that they just have been provided copy of the impugned order, therefore, he want time to look into the matter in the light of relevant record for addressing his arguments and requested for adjournment. Adjournment granted. File to come up for further proceedings on 21.12.2020 before S.B.



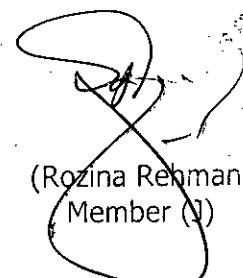
(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

21.12.2020

Appellant present through counsel. Preliminary arguments heard. File perused.

Points raised need consideration. Admitted to 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 respondents for written reply/comments. To come up for written reply/comments on 21.01.2021 before S.B.

Appellant Deposited
Security & Process Fee



(Rozina Rehman)
Member (J)

1285/19

13.08.2020

Appellant alongwith counsel and Addl. AG alongwith Waheedullah, ADEO for the respondents present.

The representative of respondents has provided copies of certain documents including notifications dated 16.11.2017 and 05.08.2020. The former pertains to imposition of major penalty of removal from service against the appellant while the later is in respect of rejection of departmental appeal of the appellant. On the other hand, the appellant has submitted copy of an undated departmental appeal purportedly preferred by her. Without prejudice to the merits of the case of either party the documents are made part of the record subject to all just exceptions.

On 03.03.2020 the salary of respondent No. 2/Director of Education Directorate of Education Khyber Pakhtunkhwa was attached due to non-provision of the aforesaid record. Today, an application for release of salary has been submitted by respondent No. 2 alongwith the provided record. The order of attachment of salary is, therefore, hereby withdrawn. Office shall make necessary communication to the concerned office in that regard.


To come up for preliminary hearing before S.B on 06.10.2020.


Chairman

06.10.2020

Junior to counsel for the appellant and Addl. AG alongwith Asmatullah, Litigation Assistant for the respondents present.

Learned senior counsel for the appellant is not in attendance today due to general strike on the call of Khyber Pakhtunkhwa Bar Council. The matter is adjourned to 28.10.2020 for hearing before S.B.

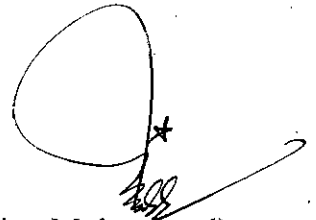

Chairman

14.07.2020

Counsel for the appellant and Addl: AG for respondents present.

Record mentioned in previous order sheet dated 03.03.2020 is not produced. Notice be issued to the respondents to produce record pertaining to notification dated 16.11.2017 in respect of removal of appellant from service and also her departmental appeal and decision thereon on the next date of hearing positively.

Adjourned to 13.08.2020 before S.B.



(Mian Muhammad)
Member(E)

29.07.2020

None for the appellant is present at the moment i.e 03:20 P.M. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Abdul Wahid, Litigation Officer on behalf of respondent No. 2 and Mr. Munawar Khan, SST Focal Person on behalf of respondent No. 3, are present.

Vide previous order sheets dated 07.01.2020, 18.02.2020, 03.03.2020 & 14.07.2020 respondents were directed time and again to submit the record pertaining to notification dated 16.11.2017 in respect of removal of appellant from service and also her departmental appeal and decision thereon but the said record have not been submitted so far and representative of respondent No. 2 again sought time to submit the requisite record, time is given. Representative of respondent No. 2 is strictly directed to submit the requisite record on the next date otherwise coercive measures shall be adopted against the respondents. Adjourned to 13.08.2020 on which date requisite record shall positively be submitted.



(MUHAMMAD JAMAL KHAN)
MEMBER

03.03.2020

Appellant Mst. Faheema alongwith counsel present. Respondent No. 2 was issued notice to produce record pertaining to the notification dated 16.11.2017 in respect of removal of appellant from service and also her departmental appeal and decision therein vide order sheet dated 07.01.2020 and the case was adjournment for record for 18.02.2020 but neither the said record was furnished on 18.02.2020 nor today anyone present on behalf of respondent No. 2, therefore, salary of respondent No. 2 is attached till further orders and he is strictly directed to furnish the said record on the next date positively. To come up for record and preliminary arguments on 16.04.2020 before S.B.

MA

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

16.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 14.07.2020 for the same. To come up for the same as before S.B.


Reader

07.01.2020

Appellant alongwith counsel present.

Notice be issued to respondent No. 2 for production of record pertaining to notification dated 16.11.2017 in respect of removal of appellant from service and also her departmental appeal and decision thereon.

Adjourned to 18.02.2020 before S.B.


Chairman

18.02.2020

Irum Naz appellant in connected service appeal present. Fawad Afzal Assistant representative of respondent No.2 absent. Notice be issued to the respondent No.2 as well as absent representative of respondent No.2 for production of record pertaining to notification dated 16.11.2017 in respect of removal of appellant from service and also her departmental appeal and decision thereon. Adjourned to 03.03.2020 before S.B.



Member

The appeal of Mst. Faheema GGHS Mawaz Kalay Akā Khel Bara District Khyber received today i.e. on 02.10.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested. ✓
- 2- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 3- Copy of departmental appeal and its rejection order are not attached with the appeal which may be placed on it.

No. 1689 /S.T,

Dt. 2-10- /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Adeel Butt Adv. Pesh.

- ① Allotment has been made accordingly
 - ② As the Appeal reveals that no document as mentioned in objection has not been given to the Appellant, hence appealable
 - ③ The whole contents of the Appeal reveals that the Respondents with mala fide intention does not give the rejection Order.
- The Appeal may be placed before S.B. [Signature]

[Faint, mostly illegible handwritten text, possibly bleed-through from the reverse side of the page.]

Be tried before SA for PH along with
objections.

~~Handwritten~~
~~check on~~

~~7/10/10~~

The objections of this office
and reply of counsel for the applicant
is submitted for order please.

P

Before the Service Tribunal, Khyber Pakhtun khwa, Peshawar

Service Appeal No. 1285 /2019

MST. Faheema GGHS Mawazkalay, Aka khel Bara, Khyber Agency W/O Falak Naz R/O Village Mohalla Tanha Zai, Umar Zai, Charsadda District .

...Appellant

Versus

1. Government of Khyber Pakhtun Khuwa through Secretary Education, Civil Secretariat Peshawar.
2. Director of Education, Directorate of Education situated at GT Road Peshawar City.
3. District Education Officer, DEO Office, District Khyber.

...Respondents

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2	Addresses of the Parties	*	6
3	Copy of the Appointment Order is annex as Annexure "A"	A	7
4	Copy of the impugned order is annex as Annexure "B"	B	8
5	Copy of the Minutes of the meeting is annex as Annexure "C"	C	9-14
6	Copy of the High Court Order is annexed as Annexure "D" <i>in the</i>	D	15-21

Faheema
Appellant

①

Before the Service Tribunal, Khyber Pakhtun khwa, Peshawar

Service Appeal No. 1285 /2019

MST. Faheema GGHSMawaz kalay , Aka khel Bara, Khyber Agency W/O
Falak Naz R/O Village MohallaTanhaZai ,Umar Zai, Charsadda District .

Versus

...Appellant
Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1337

1. Government of Khyber Pakhtun Khwa through Secretary Education, 02/10/19
Civil Secretariat Peshawar.
2. Director of Education, Directorate of Education situated at GT Road
Peshawar City.
3. District Education Officer, DEO Office, District Khyber.

...Respondents

Appeal, under Section 4 of the Service
Tribunal Act, 1974, against the impugned
Order dated 16/11/2017

On acceptance of the appeal, this
Honorable Tribunal may kindly set-aside
the impugned order dated 16/11/2017

Filed to-day
Registrar.
2/10/19

Respectfully Sheweth,

The Appellant submits as under: -

1. That the Appellant was appointed on 29/11/2005, consequent upon the approval of the then AEO Khyber Agency at Jamrud. (Copy of the Appointment Order is annexed as Annexure "A").

2

2. That on 16/11/2017, The AEO Khyber Agency (now District Education Officer, At Jamrud was pleased to issue a removal from service. (Copy of Removal Order is annexed as Annexure "B").
3. That the Appellant being aggrieved from the Removal Order dated 16/11/2017 filed a departmental appeal before the Director Elementary/Secondary within 15 days of issuance of removal Order.
4. That the Departmental Authority on 30/05/2018, while considering the departmental appeal of the Appellant recommended "that in case of verification of the attendance register by the enquiry committee, only 3 increments will be forfeited and the removal order will set-aside, otherwise, the Removal order issued by the AEO concerned will be remained in tact. (Copy of the Minutes of Meeting is annexed as Annexure "C").
5. That since 30/05/2018, the respondents has neither issued the reinstatement Order nor verified the attendance register as required under the law, despite, several requests were made to Respondents.
6. The Appellant then filed the writ petition before Honourable Peshawar High Court whereby it was verbally by the Additional Advocate General, that her appeal has been regretted. (Copy of the High Court Order is annexed as Annexure "D").
7. That Appellant feeling aggrieved from the unlawful act of the Respondents files the instant Appeal before Honourable Service Tribunal KPK inter-alia on the following grounds: -

GROUND:

- A. That the Appellant has not been treated in accordance with law.
- B. That the services of the Appellant were terminated without following the codal formalities, hence the whole process is void ab initio and any order, if been made without formal enquiry is void.

3

- C. That as required under the law , if the Departmental appeal is partially accepted than in that case the Respondents were under an obligation to have conducted the verification process with in the stipulated time.
- D. That when no action was taken against the directions as mentioned in the minutes of the meeting regarding departmental inquiry, the Appellant knocked the door of Honorable Court and the Respondents in haste manner apprised the honorable Court that their Appeal has been regretted.
- E. That the Respondents with no good ground have lingered on the matter and are still failed to verify the record as envisaged in the minutes of meeting.
- F. That not only the Appellant but also the pupils are suffering for the said unusual delay in verification of Attendance Register.
- G. That as per government Servant (Efficiency and Discipline) Rules, 2011, The enquiry Committee or Enquiry Officer, as the case may be, shall submit its/his reports to the competent authority within 30 days of initiation of enquiry but in the instant matter, since 30.05.2018 the Appellant has not been reinstated for the purpose of enquiry.
- H. The Appellant is a poor woman having no other source of income time and again knocking the door of Respondents but all in vein.
- I. That the Respondents are well aware about the fact that from the years 2000-2011, the whole Khyber agency was the victim of terrorism, and much of the official record of school along with School buildings was destroyed and it is quite impossible for them to find out the record related to

(14)

petitioner with respect to her performance in schools, hence they purposely are delaying the matter.

J. That the Appellant may please be allowed to adduce other grounds at the time of arguments.

It is, therefore, most humbly requested that this Honorable Tribunal may kindly allow this Appeal and set-aside the impugned order may graciously be set aside with all back benefits. Any other remedy deems fit may also be extended in favor of the Appellant.

E. Neema

Appellant

Through

Dated: 30.09.2019

Muhammad Adeel Butt

Muhammad Adeel Butt

Lubna Naveed

Humera Gul

Humera Gul
Advocates High Court

Lubna Naveed

Note: No such appeal has ever been made to Service Tribunal on the subject by the appellant or in any other court of Law.

E. Neema
Appellant

5

Before the Service Tribunal, Khyber Pakhtun khwa, Peshawar
Service Appeal No. _____/2019

Faheema

Versus

Govt of KPK & Others

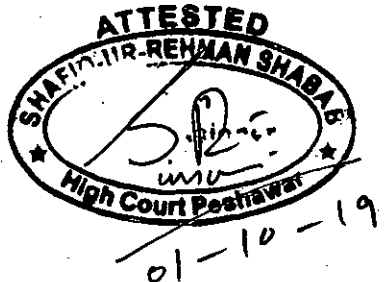
Affidavit

I, Mst. Faheema GGHS Mawaz kalay, Aka khel Bara, Khyber Agency W/O FalakNaz R/O Village Mohalla TanhaZai ,Umar Zai, Charsadda District do hereby affirm and declare on oath that the contents of the Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Faheema

Deponent

Dated.30.09.2019



Before the Service Tribunal, Khyber Pakhtun khwa, Peshawar

Service Appeal No. _____/2019

Faheema**Versus****Govt of KPK & Others****ADDRESS OF THE PARTIES****APPELLANT:**

MST. Faheema GGHS Mawazkalay, Aka khel Bara, Khyber Agency W/O Falak Naz R/O Village Mohalla Tanha Zai , Umar Zai, Charsadda District .

REPOONDENTS:

1. Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat Peshawar.
2. Director of Education, Directorate of Education situated at GT Road Peshawar City.
3. District Education Officer, DEO Office , District Khyber.

Dated:30.09.2019

Through

Appellant


Muhammad Adeel Butt

Lubna Naveed


Humera Gul
Advocates High Court

OFFICE OF
APPOINTMENT

7 *Amir A*
THE AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD
T ORDER *(B)*

Consequent upon the approval of the Departmental Selection Committee Mrs. Faheema D/O Farman Ali Non-Local candidate is hereby appointed against vacant P.T.C. post at CGPS Akha Khel Zawa Bara Khyber Agency in EPS No:7/PM plus usual allowances as admissible under the rules w.e.f. taking over charge in the interest of public services.

Note:-

1. Charge report should be submitted to all concerned.
2. The appointment of the candidate has been made purely on regular contract basis and is liable to terminate without assigning any notice in case candidates wished to resign her services, she will have to give one month prior notice or forfeit one month pay in lieu thereof.
3. She should produce her original academic/professional certificates/Domicile before her taking over charge and attested copies thereof to be kept on the record of the school/office after the verification from Board/University concerned.
4. If she fails to report his arrival with in 15 days the order will be treated as cancelled.
5. She should not hand over the charge if they are below 18 years or above 33 years of age.

(MR. ABDUR RASHID QURAIISH)
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

Endst. No. *6691-96*

Dated: *29/11/2005*

Copy forwarded to the:-

1. Director of Education FATA (NWFP) Peshawar.
2. Agency Accounts Officer Khyber at Jamrud
3. AAEO (Concerned) local Office
4. Accountant local office.
5. Candidate concerned

Abdur Rashid
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD
Mr

Ali
Mr



Agency Education Office
Khyber Agency at Jamrud
Phone. 091-5820584 Fax 091-5820265

(2)

(3)

"B"
Aves

NOTIFICATION

1. WHEREAS the Agency Education Officer Khyber Agency had come to know through the AAEO (Female) Bara Khyber Agency, that Mst:Faheema PTC P/No/00414782 GGPS Akha Khel Zawa Bara Khyber Agency is absent since her appointment order AEO Khyber Enst No.6691-96 dated 29/11/2005. It was published in daily news paper Daily Aaj and Daily Awsaf dated 5th April 2017 informed all (101) female ghost employees to report for duty.
2. WHEREAS On the recommendation of Enquiry Committee vide this office Endst No.1691-1697 dated 20/03/2017, The undersigned charge sheeted you vide this office Endst No. Endst No.1485-90/Charge Sheet dated 21/09/2017.
3. WHEREAS Your reply to the charge sheet declared unsatisfactory by the Enquiry Committee constituted vide this Office Endst No.1575-78 dated -21/09/2017 for personal hearing vide Enquiry Officers letter No.208 dated 19/10/2017.
4. NOW THEREFORE In exercise of the powers conferred under Para 4 b (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) rules 2011, the competent Authority, Agency Education Officer Khyber, is pleased to impose a major penalty "removal from service" upon Mst:Faheema PTC P/No/00414782 GGPS Akha Khel Zawa Bara Khyber Agency with immediate effect.

(MUHAMMAD JADOON ILIAN)
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

Endst No. 3520-32 Dated 16/11/2017

Copy forwarded to the:-

1. Additional Chief Secretary FATA Secretariat Peshawar.
2. Secretary SSD FATA Peshawar.
3. Director of Education FATA Peshawar.
4. Political Agent Khyber Agency at Peshawar.
5. DD(M&E) Directorate of Education FATA Peshawar.
6. AG Sub Office Peshawar.
7. Agency Accounts Officer Khyber Agency at Jamrud.
8. All AAEOs Local Office.
9. Female Accounts Section.
10. 11. Superintendent /Accountant for entry in her service book.
11. Official concerned.
12. Office Copy.

ATTN: Aves

J 17/11/2017

A-D (M&E)

(16) 20/11/2017

AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

(9) *Amir* (10)

Minutes of the Meeting Regarding Disposal of Departmental Appeal / Representation

Meeting of Committee was held on 22/12/2017 at 11:00 AM in the office of the Chairman in order to examine/scrutinized the appeals submitted by appellants against the dismissal/removal order passed by Agency Education Officers on various grounds mentioned in the impugned orders, the following attended the meeting.

Additional Director (Estab)..... (Chairman)

Deputy Director (Estab)..... (Member)

Deputy Director (Colleges)..... (Member)

Assistant Director Litigation (Member)

The appellants were provided opportunity of hearing one by one keeping in view principles of natural justice. The Committee after perusal of the record available and discussion on each issue unanimously agreed to submit the following recommendation for approval of Competent Authority.

1. Gui Afshan Ex-T.T

The appellant was initially appointed on 03/09/2007 at GGPS Zawa School Khyber Agency. The contention of the appellant that she was detailed GGPS Sheikh Wal and according to her own statement she performed her duty there-but during the hearing proceeding when she was asked to produced the re-deployment order to the above mentioned school the appellant kept "Mum" and pretended to have been directed by the authorities verbally to perform her duty in GGPS Sheikh wal, the appellant also conceded and admitted that she remained absent from duty and paid monthly rupees to the then Assistant Agency Education Officer Female Miss Shahnaz who were involved in instigating and encouraging the teachers to remain absent from duty and to pay her monthly portion of their salaries. The removal order dated 16/11/2017 have been issued by the Competent Authority after fulfillment of all codial formalities therefore the same may be recommended as intact and the appeal in hand is order as regretted. Moreover the allegation against Mst. Shehnaz the then Female Assistant Agency Education Officer Khyber Agency has to be probed by the concerned Agency Education Officer through an independent inquiry.

2. Irum Naz Ex-PST:

The appellant was appointed on 25/08/2006 at GGPS Muhammad Hassan Ba (Khyber Agency). She was removed from service on account of willful absence from duty feeling aggrieved the appellant preferred appeal to Director Education FA and proper opportunity of hearing was provided to the appellant, during t

Attes b.
[Signature]

10

9

course of proceeding the appellant admitted before the committee that she remain absent from duty due to law and order situation in the area and later on she was directed verbally by the then Agency Education Officer to perform in Kalanga School upto 2009 and on closing of said school she performed duty in Sarband area. In 2016 school was shifted to Bara again. The committee when thoroughly heard the appellant inquired about her duty since January-2016 to November-2017 but the appellant was in no position to support her stance and stated that whether she was remained absent as inquiry officer directed her not to attend the duty.

Keeping in view all the codial formalities fulfilled by the Agency Education Officer and the Educational status of FATA, children which is highly at stake due to such abseentism of teachers who often pretend to take shelter under the pretext of law & order situation and just receiving salaries at the cost of poor children of FATA but did not bother to perform their duties therefore the authorities will have no option but to proceed against all those involved in un-authorized and willful absence from duty, therefore, in view the above observations, legal and factual position of the case, fresh/de novo enquiry may be conducted by Directorate of Education FATA and then may be proceeded according to the recommendation of the enquiry committee.

2. Sana Bibi Ex-T.T:

The appellant was removed from service on account of willful absence from duty vide order dated 16/11/2017. She did not appear before the committee so office representative is directed to inform the concerned appellant for the next date of hearing along with complete record of the case.

3. Mst. Abida Waqar, Ex-PST:

The appellant was appointed on 29/06/2006 in GGPS Misal Khan Shalman Landi Kotal Khyber Agency and removed from service on account of willful absence from duty vide order dated 16/11/2007 feeling aggrieved she filed appeal before Director Education FATA and was properly rendered opportunity of hearing to defend her stance before the committee, during hearing she stated that she was initially redeployed verbally to GGPS Wahid Shah School on 03/02/2011. She openly admitted before the committee that she had not regularly performed her duty in GGPS Wahid Shah. After the appellant was thoroughly heard by the committee she was inquired about her duty since January-2016 to November-2017 and the appellant conceded her absence from duty during all this period. Keeping in view the codial formalities fulfilled by the Agency Education Officer and the negligent and indifferent attitude of the appellant towards her national sacred duty the committee recommended her appeal as regretted and also recommended to issue a circulation by the Director of Education FATA to all Agency Education Officers to conduct weekly and monthly visits of schools in their

11
done 30/5/18

(11) (10)

respective agencies and check the absenteeism cases with in a parameters of law/rules.

4. Mst. Faheema Ex-PST:

The appellant was appointed in GGPS Aka Kheil Zawa Misa Bara Khyber Agency and removed from service on account of willful absence from duty vide order dated 16/11/2017. feeling aggrieved of the impugned order she preferred departmental appeal and was provided opportunity for hearing keeping in view principal of natural justice. The appellant frankly admitted that she remained absent from duty as she monthly paid a portion of his salary to the then female AAEO name Mst. Shehnaz in lieu of her absence from duty for consecutive three years. She also produced attendance register for the month of April, May, September, October and November 2017. In view of her express admission and codal formalities fulfilled by the Agency Education Officer. The committee recommends that in case of verification of the attendance register by the enquiry committee, only three (03) increments will be forfeited and the removal order will set-aside, otherwise, the removal order issued by the AEO concerned will be remained intact. The committee also recommended that the Agency Education Officer concerned to proceed as per rules against the said officials (Mst. Shehnaz) who were alleged to be involved in such corrupt practices and doing harm to the poor and vulnerable section of society which is no more in a position to bear the difficulties of time but the authorities who have their constitutional obligations to bring back the de-railed Educational system of FATA into a line leading towards the betterment of Education in FATA, therefore the concerned AEO is also recommended to take initiative against the said Ex- AAEO Female within parameters of law/rules.

5. Mst. Bibi Janan, Ex-PST:

(11) 30/5/18

The appellant was appointed in GGPS Khanan Mela Orakzai Agency and was verbally informed the committee to have been compulsory retired from service due to willful absence from duty although according to the appellant she regularly performed her duty upto 2015 but in absence of record the committee therefore directed the office representative to ask the Agency Education Officer concerned to produced the relevant record pertain to the appellant case and the appellant was also directed to produce duty certificate upto 2015 and any other document upon which she relied, her appeal is deferred to a next date for provision of record.

6. Mst. Bibi Hawai Noor, Ex-PST:

The appellant appeal have already been disposed of by the Committee previously however she was given the opportunity again in which she requested to consider her re-adjustment on community PST post but as she lacks professional qualification of PST from recognized institution therefore her this request cannot be entertained and also there is verdict of Supreme Court of Pakistan were Skill

Accepted

(12) (17)

Development Councils certificates which is not acceptable for appointment purposes any more therefore the appeal in hand is recommended to be regretted.

7. Mst. Wajiha Gul, Ex-PST:

The appellant was appointed as communal school teacher at GCPS Abdul Karim Killi and later on regularized on 30/05/2017 and adjusted at Sida Jan Bara Khyber Agency, during the course of hearing the appellant frankly admitted the fact of her absence from the duty and admitted that the school was far away, therefore she could not attend the duty, appeal in hand recommended to be regretted.

8. Murad Ali Sher, Chowkidar:

The appellant was appointed on the post of Chowkidar at GPS Alam Sher Mohmand Agency, he was removed from service vide order dated 29/01/2016, feeling aggrieved prefer departmental appeal he was given opportunity of hearing according to the principal of natural justice in order to support his stance. The appellant was found absent from his duty, and proper inquiry was conducted by the AEO concerned, the inquiry committee also submitted its report on 05/01/2016 finding the appellant as defaulter subsequently notices were served upon the appellant by the concerned Agency Education, Officer but the appellant failed to appear before the concerned Authority to explain for his willful absence, therefore he was proceeded as per rules. The committee unanimously agreed to recommend the case of the appellant as regretted.

9. Gul Bahadar Ex-PST:

" 30/5/18

The appellant was appointed as PST teacher in Kurram Agency in 1994, subsequently applied for extra ordinary leave without pay w.e.f 01/11/2004 to 31/08/2008. The committee without going into details that whether his leave was properly sanctioned at that time or not inquired from the appellant that whether he had resume his duty or not when his leave was expired, the appellant admitted that he did not performed his duty as he settled now in Islamabad. The indifferent attitude of the appellant did not entitle him for any relief under the law as after lapse of 10 long years he had preferred an appeal which is a time barred issue, as during all these years he remained absent from duty and presumed to have been removed from services with retrospective effect. The question that whether he has been served any notice or not have been meet out over here before this committee as the committee provided him opportunity of hearing and the appellant was in no position to support his stance, therefore the committee recommend to declare him as removed from service and his appeal is recommended to be regretted.

10. Muhammad Arif Ex-A.T:

The appellant concerned during course of hearing admitted before the committee that he remains abroad since 2007 to 2010 without prior approval from sanctioning authority. The serious question which has to be investigated through

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impartial inquiry that the salaries received by the appellant has been recovered or not should also be settled by the concerned Agency Education Officer as being custodian of National Exchequer. The department is under constitutional obligation to have a strict check over such cases and made every Endeavour to recover a single penny from those who have illegally withdrawn from the national exchequer. The appellant was provided an opportunity of hearing also a statement of allegations was shown to him therefore no question arise as to codial formalities and the appellant is presumed to have been removed from services on account of willful absence from duty and the appeal in hand is recommended to be regretted.

11. Abdu Rauf Ex-PST:

The Appellant was working as PST teacher in Khyber Agency and removed from services on account of receiving dual financial benefits from national Exchequer as he was charged sheeted on the ground previously got financial benefits as Chowkidar at GGPS Gul Abad Jamrud and PST teacher at GMS Chappiri Jamrud. Consequently inquiry committee was nominated and appellant was found defaulter.

The Agency education officer after fulfillment of necessary cordial formalities proceeded for removal from services vide order dated 24.8.2017 feeling Aggrieved Appellant preferred departmental Appeal and was provided Opportunity of hearing.

The Appellant whose name is Abdur Rauf S/O Abdul Qadoos merely denied the Allegations leveled against him but when he was confronted to produce any evidence in support of his stance but he was found answerless.

The committee found that the person who got himself retired as chowkidar from Education Department Jamrud Khyber Agency was name as Abdul Rauf s/o Abdul qadoos and the one who was working as PST was also abdul rauf s/o abdul qadoos and the Appellant did not denied the similarities of names and parentage , more over proper inquiry had also been conducted and input of Agency Account office has also endorsed the one got financial benefits as Chowkidar and the one working as PST teacher having a double role on the part of the appellant, and cannot be entitled for any relief under the law, this being the position lead the committee to conclusion that the Appeal is liable to be dismissed and recommended to be regretted.

11 done 30/5/18

13. Mr Zahir Hassan EX.DM

The Appellant was ordered as compulsory retired from services on account of his being abroad without prior approval of competent authority. The brother of the appellant appeared before the committee and informs the committee that the appellant is still abroad this being the position the appeal in hand is regretted.

A-16
A-16
A-16

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14. Ibad Ali Ex.PST

The Appellant was appointed as PST in Orakzai Agency and his services was disposed of by the Agency Education officer concerned on account of submission of bogus certificate at the time of appointment in order to get illegal advantage over others deserving candidates; during proceeding it was confirmed from litigation section that the Appellant has also submitted Writ petition No.4067-P/2016 which is pending Adjudication before Peshawar high court therefore committee unanimously decided to regret his appeal.

15. Molvi Kamal-Ud-Din Ex-TT:

The Committee was informed that the appellant was appointed as TT in GMS Sando Khel Mohmand Agency in the year 1983 and due to his illness he could not performed his duty and resultantly his salary was stopped by concerned authorities w.e.f 1990. The Appellant knocked the door of the department after a lapse of long 28 years which is badly time barred and regretted, as the appellant never bother to approached proper forum for leave neither bother to apply for retirement on medical ground, so strong presumption is that he was remained absent from duty willfully, the appeal in hand is recommended to be regretted in capital letters.

Additional Director (Estab)

30/05/18

Deputy Director (Estab)

30/5/18

Deputy Director (Colleges)

Hamid

Assistant Director Litigation

Sanveer 30/05/18

[Large handwritten signature]

ND (15) (1)

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. _____, 2019



Mst. Faheema [GGHS Mawaz Kalay, Aka khel Bara,
Khyber Agency] W/O Falak Naz R/O Village
Mohalla Tanha Zai, Umar Zai, Charsadda.

..Petitioner

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat Peshawar.
2. Director of Education, Directorate of Education situated at GT Road, Peshawar City.
3. District Education Officer, DEO Office, District Khyber.

**WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973**

Respectfully Sheweth,

The Petitioner submits as under,-

1. That the Petitioner was appointed on 29/11/2005, consequent upon the approval of the then AEO Khyber Agency at Jamrud. (Copy of the Appointment Order is annexed as Annexure "A").
2. That on 16/11/2017, The AEO Khyber Agency, At Jamrud was pleased to issue a removal from service Order (Annexure "B").
3. That the Petitioner being aggrieved from the Removal Order dated 16/11/2017 filed a departmental appeal before the Director Elementary/Secondary within 15 days of issuance of removal Order.

ATTESTED
EXAMINER
Peshawar High Court

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4. That the Departmental Authority on 30/05/2018, while considering the departmental appeal of the Petitioner recommended "that in case of verification of the attendance register by the enquiry committee, only 3 increments will be forfeited and the removal order will set-aside, otherwise, the Removal order issued by the AEO concerned will be remained intact. (Copy of minutes are attached as Annex "D")
5. That since 30.05.2018, the respondents has neither issued the reinstatement Order nor verified the attendance register as required under the law, despite, several requests were made to Respondents.
6. The Petitioner feeling aggrieved from the unlawful act of the Respondents files the instant writ petition inter-alia on the following grounds:-

GROUND:

- A. That the Petitioner has not been treated in accordance with law.
- B. That the Respondents with no good ground are lingering on the matter and are still failed to verify the record as was directed by the Respondent No.02.
- C. That the unusual delay i.e almost 14 months in conducting verification of Attendance register by the enquiry committee has caused a lot of miseries to the Petitioner. The Respondents are neither conducting verification of Attendance Register nor imposing punishment of forfeiture of 3 increments as decided by the Respondent No.2 in the minutes of meeting dated 30/05/2018.
- D. That not only the petitioner but also the pupils are suffering for the said unusual delay in verification of Attendance Register.
- E. That the Petitioner may please be allowed to adduce other grounds at the time of arguments.

ATTESTED
EXAMINER
Peshawar High Court

(17)

(3)

F. That as per government Servant (Efficiency and Discipline) Rules, 2011, The enquiry Committee or Enquiry Officer, as the case may be, shall submit its/his reports to the competent authority within 30 days of initiation of enquiry but in the instant matter, since 30.05.2018 the petitioner has not been reinstated for the purpose of enquiry.

G. The petitioner is a poor woman having no other source of income time and again knocking the door of Respondents but all in vein.

H. That the Respondents are well aware about the fact that from the years 2000-2011, the whole Khyber agency was the victim of terrorism, and much of the official record of school along with School buildings was destroyed and it is quite impossible for them to find out the record related to petitioner with respect to her performance in schools, hence they purposely are delaying the matter.

It is, therefore, most humbly prayed that on acceptance of this Writ Petition, this Honorable Court may kindly direct the respondents to reinstate the Petitioner and not to any act contrary to Law. Any other remedy deems fit may also be granted under the circumstances.

Dated: 04.07.2019

Petitioner

Through

Muhammad Adeel Butt
Advocate High Court

CERTIFICATE:

Certified as per information furnished by my client that on the statutory ground no such like writ petition has earlier been filed before this Hon'ble Court.

Advocate

LIST OF BOOKS:

- 1) Constitution of Islamic Republic of Pakistan, 1973.
- 2) Any other law books as per need.

ATTESTED
EXAMINER
Peshawar High Court

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IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P.No. _____/2019

Mst. FaheemaPetitioner

Versus

Government of Khyber Pakhtunkhwa through
Secretary Education and othersRespondents

ADDRESSES OF THE PARTIES

PETITIONER:

Mst. Faheema [GGHS Mawaz Kalay, Aka khel Bara,
Khyber Agency] W/O Falak Naz R/O Village
Mohalla Tanha Zai ,Umar Zai, Charsadda.

RESPONDENTS:

1. Government of Khyber Pakhtunkhwa through Secretary Education, Civil Secretariat Peshawar.
2. Director of Education, Directorate of Education situated at GT Road ,Peshawar City.
3. District Education Officer, DEO Office , District Khyber.

Petitioner

Through

Muhammad Adeel Butt
Advocate High Court

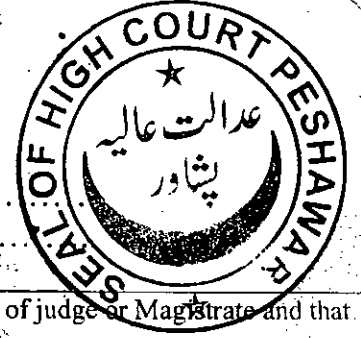
CERTIFIED TO BE TRUE COPY

Examiner, Peshawar
Peshawar High Court, Peshawar
Authorised under Article 17 of
the Qanun-e-Istishadat Order 1974

27 JUL 2019

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PESHAWAR HIGH COURT, PESHAWAR
FORM "A"
FORM OF ORDER SHEET.



Court of

Case No.

Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of judge or Magistrate and that of parties or counsel where necessary
1	2	3
	24.7.2019.	<p><u>Writ Petition No.3858-P/2019.</u></p> <p><u>Present:-</u></p> <p>M/s Muhammad Adeel Butt & Humaira Gul Advocates, for the petitioner.</p> <p>=====</p> <p><u>IKRAMULLAH KHAN, J:-</u> Through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner has prayed for the following relief:-</p> <p><i>"that on acceptance of this Writ petition, this honourable Court may kindly direct the respondents to reinstate the petitioner and not to do any act contrary to law. Any other remedy deems fit may also be granted under the circumstances."</i></p> <p>2. As petitioner was a civil servant, who had filed a departmental appeal, the copies of which are also placed on file and the same has already been regretted, so the petitioner is required to file an appeal before the worthy</p>

ATTESTED
EXAMINER
Peshawar High Court

Service Tribunal concerned subject to limitation
if she so advised. As such this writ petition is
dismissed accordingly. *[Signature]*

Announced.
24.7.2019.

[Signature]

JUDGE

[Signature]

JUDGE

No. 28361

Date of Presentation of Application 27/7/19

No of Pages 6

Copying fee 262

Total 27310

Date of Preparation of Copy 27/7/19

Date of Delivery of copy 27/7/19

Received By Rodul Amin

CERTIFIED TO BE TRUE COPY
 Examiner
 Peshawar High Court, Peshawar
 Authorised Under Article 67 of
 The Qanun-e-shahadat Order 1988

27 JUL 2019

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR


Service Appeal No. 1285/2019

Fahima Ex-PST VS. Government of KPK

Subject: Release of salary

Respectfully Sheweth;

- 1) With profound regard it is stated that Honourable Service Tribunal Khyber Pakhtunkhwa Peshawar passed the order on 03.03.2020 to attach the salary of the Director E&SE KPK Peshawar (Respondent), as the undersigned (Director E&SE KPK Peshawar) had not decided the appeal of the appellant.
- 2) Now the departmental appeal of the appellant Fahima is decided and copy is attached, so it is utmost humble request to release the salary of Director E&SE Peshawar (Respondent).


Director

Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar

DIRECTORATE OF E&SE DEPARTMENT KHYBER PAKHTUNKHWA, PESHAWAR.

NOTIFICATION.

- 1 Whereas, the appellant namely Mst. Faheema Ex-PST was appointed against the PST post vide order bearing Endst: No.6691-96 dated 29-11-2005 at GGPS Aka. Khel Zawa Bara Khyber issued by the then Agency Education officer Khyber and removed from service on account of her willful absence from duty vide the impugned order dated 16-11-2017 after observing all the codal formalities by the Respondent Department.
- 2 And whereas, aggrieved from the above mentioned impugned order dated 16/11/2017, the appellant has filed a Departmental Appeal which was not decided within the statutory period of 90 days, hence, a Service Appeal No: 1285/2019, on dated 30/09/2019 under case titled Mst. Faheema Ex-PST Vs Govt: of KPK & others still pending adjudication before this Honorable Tribunal, Peshawar.
- 3 And whereas, an inquiry committee was constituted by the Respondent No.2/Director E&SED KPK Peshawar, to probe into the matter & the inquiry committee has submitted inquiry report to the Respondent Department vide Endst No. 3099-4000 dated 20-04-2019, with the recommendations that the Departmental Appeal for Reinstatement in service against the PST post be rejected by maintaining the impugned order dated 16/11/2017 of the then AEO Khyber on the grounds that appellant has not performed her official duty against the PST post & has drawn salaries & allowances without any legal justification and has thus found guilty of causing huge financial losses to the Govt: Treasury.
- 4 And whereas, the Honorable Service Tribunal Peshawar vide order dated 03/03/2020 rendered in the tilted service appeal has directed the Respondent No.2 to produce the record of the appellant including regression of the Departmental Appeal by the appellate authority in the titled case on the date fixed.

Now therefore, in compliance of the order sheet dated 03/03/2020 of the Honorable Service Tribunal, having gone through the whole case record along with consulting the relevant provision of E & D Rules 2011 & in Exercise of the Powers conferred upon the undersigned under U/S-21 of General Clauses Act 1897 as amended in 1956 & in a capacity of an Appellate Authority in the instant case, the Departmental Appeal of the appellant is hereby stand rejected by maintaining the impugned order dated 16/11/2017 with immediate effect and in the interest of public service.

Sd/-
Director,
(E&SE) Department
Khyber Pakhtunkhwa, Peshawar.

Endst: No: 2013-18/DD (Litigation) Mst: Faheema Ex PST Khyber Dated Peshawar the 5/8/2020

Copy forwarded for information & n/action to the:-

- 1 Registrar Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
- 2 Addl: Advocate General Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
- 3 Deputy Director (Legal) local Directorate.
- 4 District Education Officer (M/F) Khyber
- 5 Ex-Official concerned.
- 6 PA to Director local office.

[Signature]
Deputy Director (Estab)
Directorate of Education (NMTD)
Warsak Road Peshawar.

Agency Education Office
Khyber Agency at Jamrud

Phone. 091-5820584 Fax 091-5820265

NOTIFICATION

1. **WHEREAS** the Agency Education Officer Khyber Agency had come to know through the AAEO (Female) - Bara Khyber Agency, that Mst:Faheema PTC P/No/0041 82 GGPS Akha Khel Zawa Bara Khyber Agency is absent since her appointment order AEO Khyber Enst No.6691-96 dated 29/11/2005. It was published in daily news paper Daily Aaj and Daily Awasaf dated 5th April 2017 informed all (101) female ghost employees to report for duty.
2. **WHEREAS** On the recommendation of Enquiry Committee vide this office Endst No.1691-1697 dated 20/03/2017, The undersigned charge sheeted you vide this office Endst No. Endst No.1485-90/Charge Sheet dated 21/09/2017.
3. **WHEREAS** Your reply to the charge sheet declared unsatisfactory by the Enquiry Committee constituted vide this Office Endst No.1575-78 dated -21/09/2017 for personal hearing vide Enquiry Officers letter No.208 dated 19/10/2017
4. **NOW THEREFORE** In exercise of the powers conferred under Para 4 b (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) rules 2011, the competent Authority, Agency Education Officer Khyber, is pleased to impose a major penalty "removal from service" upon Mst:Faheema PTC P/No/00414782 GGPS Akha Khel Zawa Bara Khyber Agency with immediate effect.

(MUHAMMAD JADOON KHAN)
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

Endst No. 352032 Dated 16/11/2017

Copy forwarded to the:-

1. Additional Chief Secretary FATA Secretariat Peshawar.
2. Secretary SSD FATA Peshawar
3. Director of Education FATA Peshawar.
4. Political Agent Khyber Agency at Peshawar.
5. DD(M&E) Directorate of Education FATA Peshawar.
6. AG Sub Office Peshawar.
7. Agency Accounts Officer, Khyber Agency at Jamrud.
8. All AAEOs Local Office.
9. Female Accounts Section.
10. 11. Superintendent /Accountant for entry in her service book.
11. Official concerned.
12. Office Copy.

AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

Deputy Director (Estab)
Directorate of Education (NMTD)
Warsak Road Peshawar.

To

The Director,
Elementary & Secondary Education (FATA).
FATA Secretariat, Warsak road, Peshawar,

Subject:-

**APPEAL AGAINST THE IMPUGNED ORDER OF
REMOVAL FROM SERVICE.**

Dear sir,

Kindly refer to Notification issued by Agency Education Officer, Khyber Agency, Jamrud vide No 3536-57, dated 6.11.2017 on the above subject of removal from Service.

I humbly put down the following clarification in my instant appeal against the impugned order for dispensing justice in my favors.

- 1) As per charge No. 1 Reflected in my removal notification I have never been absent from my duty. This charge is based on presumption only. Has this been so, any documentary proof would have been reflected in removal order. Hence I deny this charge totally.
- 2) I have replied the charge sheet in detail and denied all the charges which were based on fake grounds.
- 3) I totally deny this charge. My reply to charge sheet was totally satisfactory as for my person and charge was concerned. Also I was not afforded any opportunity of personal hearing which was mandatory under E&D Rules, 2011 and which is against the E&D Rules.

Sir,

This inquiry and its subsequent proceedings are mala fide, baseless and against the natural justice, hence it is, therefore prayed to kindly accept my appeal and quash the impugned order of my removal from service being the Appellate authority.

Your's Faithfully,

Faheema

(Mst, Faheema)

PTC Teacher

(Under Removal form service)

(Under Removal from Service)

LTC Joseph
(with Remarks)

John J. [Name]

approach
and discuss the individual order of my removal from service pending the appropriate
action of the appropriate justice, pending it is therefore being to kindly review my service
this individual and its subsequent proceedings are with the process and

21:

2011 and which is against the E&D Rules
of behavior of personal matters which was authorized under E&D Rules
as per the reason and charges was concerned with I was not allowed to
2) I would deny any charges which apply to charges which was totally satisfactory

were provided by the [Name]
3) I have reviewed the charges which in detail and denied all the charges which

order. Hence I deny this charge totally
this person and any documentation which would have been reviewed in relation to
person's name from my duty. This charge is based on information which was
1) As per charges which I received in my removal notification I have never

published order for disbanding justice in my service
I hereby put down the following classification in my personal affairs against the

from service
Agency, January 1960 2248-21, dated 6/11/2011 on the above subject of removal
which refer to notification issued by Agency Education Officer Kalyan

Dear Sir

REMOVAL FROM SERVICE
AFFIRMATION OF THE INDIVIDUAL ORDER OF

137th Secretariat, Warid and [Name]
Elementary & Secondary Education (E&S)
The Director

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2527 /ST

Dated 18, 08 / 2020


To

The Accountant General,
Government of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: - ORDER IN APPEAL NO. 1285/2019 MST. FAHEEMA.

I am directed to forward herewith a certified copy of order dated 13.08.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 550-51 /ST

Dated 12-03 2020


To

1. The Accountant General,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. Director E&SE Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - ORDER IN APPEAL NO.1285/2019 MST. FAHEEMA.

I am directed to forward herewith a certified copy of order dated 03.03.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.