

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR .

S.A.# 15918/2020

Liaqat, Subject Specialist,Appellant.

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa & others..... **Respondents**

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

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VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary E&SE & others..... **Respondents.**

PARAWISE COMMENTS FOR & ON BEHALF OF THE RESPONDENTS

Respectfully Sheweth,

The Respondents submit as under:-

Preliminary Objections

1. The appellant has got no cause of action/locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon'able Tribunal, hence is liable to be dismissed on this score.
4. The appellant has not come to this Hon'able Tribunal with clean hands.
5. The appellant has filed the instant appeal with malafide intension just to pressurize the Respondent for gaining illegal service benefits.
6. The present appeal is liable to be dismissed fro mis-joinder & non joinder of necessary parties.
7. The instant appeal is against the prevailing law & rules.
8. The appellant is stopped by her own conduct to file the instant appeal.
9. The instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
10. That the order dated 15-01-2020 & 29-01-2020 are legally competent and is liable to be maintained in favour of the Respondent.
11. That the appellant has been treated as per law, rules and discretionary powers conferred upon respondent No.1, under Section-10 of Civil Servant Act 1973.
12. That this Hon'able Tribunal has got no jurisdiction to entertain the instant service appeal, as no Departmental Appeal has been filed by the Appellant.
13. That the appellant is not an aggrieved person under the relevant Article-212 of 1973. Constitution of Pakistan.
14. That the departmental appeal of the appellant is badly time barred, hence not maintainable under Service Tribunal Act.

FACTS.

1. Para-1 is relates to the Service record of the appellant.
2. This para of appeal also relates to the service record of the appellant.
3. That para 03 also relates to the service record of the appellant.
4. That para 04 is also relates to the service record of the appellant.

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5. Correct to extent of FIR lodged against the appellant in Police Station Ghazi District Haripur. The appellant has sexually harassed the female student during the exam.
 6. That the appellant was arrested and released on bail by the Judicial Magistrate-I Ghazi Haripur vide order dated 16-10-2017.
 7. That one Mst. Saima Bibi D/O Quadrat Din has appeared before the court and has alleged the commission of sexual harassment with her on 17-07-2017 by the appellant. It has been further stated that a senior teacher namely Zahida Parveen was appointed by Allama Iqbal Open University for duty at the exam hall in GGHS Khalo District Haripur, during which the girls were allowed cheating openly by taking bribe and subjecting them to sexual abuse.
 8. That the appellant has rendered himself liable to be proceeded against under E&D Rules 2011 for the charges of misconduct and therefore propose, that disciplinary action may be initiated against him under the rules, hence charge sheet was served upon the appellant.
 9. That the Inquiry Committee was constituted, whereby the Sub. Div. Education Officer (Male) Haripur was asked to nominate departmental representative to assist the Inquiry Committee.
 10. As already explained in forgoing paras.
 11. Incorrect. The inquiry committee recommended that the Mr. Liaqat SS is guilty of impersonated himself as examination staff in Allama Iqbal Open University exam. Autumn 2016 in the female exam centre. He is also guilty of allowing open cheating to female students and doing sexual intercourse with females within the premises of GGHS Khalo Ghazi Haripur.
 12. As explained in forgoing para-11.
 13. As explained in forgoing para-11.
 14. Correct.
 15. Incorrect and not admitted. During the inquiry proceedings against appellant it was detected that all the allegation against the appellant is correct, proved.
 16. Incorrect. The said/mentioned reply to the charge sheet is devoid of valid grounds/justification, hence rejected by the Competent Authority.
 17. The Competent Authority has considered the charges against the appellant, evidence on record, inquiry report, explanations of the appellant and declared the charges against the appellant, have been proved. And after fulfilling all codal formalities the Competent Authority imposed major penalty of Removal from service.
 18. Incorrect and not admitted. That proper opportunity of personal hearing was granted to the appellant by the Secretary Auqaf, Hajj Religious and Minority Affairs Department on behalf of the Competent Authority on 28-11-2019 (**Annex-A**).
 19. That Mst. Zahida Parveen and Mst. Yasmeen Habib have already been censure by the worthy Chief Secretary Khyber Pakhtunkhwa. However during the personal hearing the appellant could not present any solid or convincing arguments in his favour and is mere repetition of his statement made before the Inquiry Committee.
 20. As explained in forgoing para.
 21. That para 21 pertains to record.
 22. Incorrect and not admitted. That vide para-18 the appellant stated that no hearing has been given to appellant, while in the instant para stated that no meaningful hearing was given.
 23. That the appellant was removed from service on 15-01-2020, while filed the departmental appeal on 25-02-2020, which is evident from departmental appeal annexed with Same

Appeal at page No. 53. The same was badly time barred and not maintainable under the Service Tribunal Act.

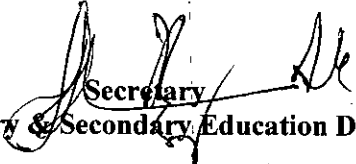
24. Incorrect and not admitted. The penalty imposed upon the appellant is according to law, rules on the subject, natural justice, acts, material on record, inquiry report, evidence on record and confession of the appellant, hence legal, lawful, by the lawful authority hence, tenable/maintainable in the eye of law. The present appeal is liable to be dismissed inter alia on the following grounds:-

Grounds

- A. Incorrect and not admitted. The appellant has been treated in accordance with law and no right of the appellant has been violated. Hence denied being a false and baseless and against the facts, record and inquiry proceedings.
- B. Incorrect as already explained vide para-11.
- C. Incorrect and not admitted. Appellant proved to have committed the offence.
- D. Incorrect. The statement of the appellant in this para is false baseless, against the facts, record and inquiry report. In fact, proper proceedings were conducted against the appellant after obtaining approval of the Competent Authority.
- E. As replied in para-C above.
- F. Incorrect and not admitted. The statement of the appellant in this para is manufacture one and a mere concocted story the allegation against the appellant were detected by the inquiry officer.
- G. Incorrect and not admitted. The charges leveled against the appellant are based on fact which were proved within the meaning of law, thus the penalty imposed is tenable and liable to be maintained in the eye of law and justice. Hence this para is denied.
- H. Incorrect and not admitted. The appellant thus been treated in accordance with law and no right of the appellant has been violated, hence denied.
- I. As already explained in forgoing para.
- J. As already explained in forgoing para.
- K. As already explained in forgoing para.
- L. As already explained in forgoing para.
- M. As already explained in forgoing para.
- N. As already explained in forgoing para.
- O. As already explained in forgoing para.
- P. As already explained in forgoing para.
- Q. As already explained in forgoing para.
- R. As already explained in forgoing para.
- S. As already explained in forgoing para
- T. As already explained in forgoing para.
- U. As already explained in forgoing para
- V. As already explained in forgoing para.
- W. As already explained in forgoing para
- X. As already explained in forgoing para
- Y. The respondents also seek the permission of this Hon'able Tribunal to adduce more grounds and proofs at time of arguments.

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In view of the above made submissions, it is, therefore, most humbly prayed that this Honourable Tribunal may very graciously be pleased to dismiss the appeal with cost in favour of the Respondents.


Secretary
Elementary & Secondary Education Department.

SECRETARY
Elementary and Secondary Education
Govt. of Khyber Pakhtunkhwa

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GOVERNMENT OF KHYBER PAKHTUNKHWA
AUQAF, HAJJ, RELIGIOUS AND MINORITY AFFAIRS DEPARTMENT
 SDU BUILDING, ATTACHED DEPARTMENT'S COMPLEX KHYBER ROAD PESHAWAR
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MOST IMMEDIATE / THROUGH REGISTRY

No. PS/AHR&MAD/1-40/2019/
 Dated Peshawar the 21st November, 2019

To
 Mr. Liaqat Subject Specialist (Urdu),
 GHSS Jhamra Haripur.

Subject: **PERSONAL HEARING**

I am directed to refer to the subject noted above and to state that the competent authority has agreed to provide you a chance of personal hearing. You are hereby directed to appear before the Secretary Auqaf, Hajj, Religious & Minority Affairs Department, in his Office, on **28.11.2019 at 2:00 PM for personal hearing.**

o/c

 SECTION OFFICER (ADMN)

Endst. of Even No. & Date:

Copy forwarded to PS to Secretary Elementary & Secondary Education with the request to depute a well conversant officer to attend the personal hearing proceeding on the above date time & venue, please.

o/c

 SECTION OFFICER (ADMN)

21/11/19
Admin
[Signature]

- Copy to:**
1. Director, E&SE KP, Peshawar.
 2. DEO, Male, Haripur.
 3. P S to Chief Secy