

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT
ABBOTTABAD.

Appeal No. 1179/2023

GULFAMEERAppellant

VERSUS

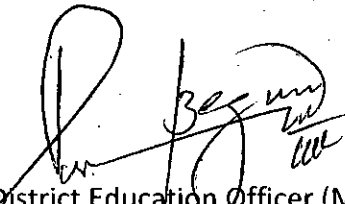
Govt: of Khyber Pakhtunkhwa & Others.....Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

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Dated: 18/01/2024


District Education Officer (M)
Kohistan Upper
(Respondent No. 3)

26-03-2024
A. A. Baad
S. B.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT**ABBOTTABAD.****Appeal No. 1179/2023**

GULFAMEERAppellant

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTSKhyber Pakhtunkhwa
Service TribunalDiary No. 11488Dated 29-2-2024**RESPECTFULLY SHEWETH:-**

Comments on behalf of Respondents are submitted as under: -

PRELIMINARY OBJECTION:

1. That the appellant has no cause of action to file the instant appeal against the answering respondents.
2. **That the instant appeal of the appellant is time barred. Hence, liable to be dismissed without any further proceeding.**
3. That the instant appeal is not maintainable in its present form.
4. That the appellant has filed the present appeal just to pressurize the respondents.
5. That the instant service appeal is based on malafide intentions.
6. That the appellant has not come to this Honorable Tribunal with clean hands. Hence, not entitled for any relief.
7. That the appellant is estopped to sue through his own conduct.
8. That the instant appeal is not maintainable due to non-joinder and mis-joinder of necessary parties.
9. That the appellant has concealed material facts from his Honorable Tribunal in the instant service appeal. Hence not entitled for any relief and appeal is liable to be dismissed without any further proceeding.
10. That the impugned notification dated 09-09-2021 is legally competent.

FACTUAL OBJECTIONS:

1. That the Para No. 1, of the service appeal pertains to the service record of the appellant hence, need no further comment.

2. That the Para No. 2, of the service appeal pertains to the service record of the appellant hence, need no further comment.
3. That the Para No. 3, of the service appeal as composed is incorrect hence, denied and not admitted. The appellant did not render her services regularly, as the appellant was irregular in performing duties. The appellant often remained absent from her duties and her performance was unsatisfactory. Further stated that as per report of Sub-Divisional District Education officer (Female) & Assistant Sub-Divisional District Education officer (Female) Dassu on 26-05-2021, the appellant was reported absent from her school duty since long. A Show cause notice was served by DEO (F) vide this office Endstt: No.4068-73 dated 02-08-2021, but appellant neither filed reply to show cause notice nor made any personal appearance. The appellant also failed to resume her duty. The Appellant's services were not satisfactory according to rules, after having considered charges and evidence on record, the charges against the appellant have been proven and the Respondent No.3 being competent authority imposed the major penalty of "removal from service" vide Endstt: No.4627-37 dated. 09-09-2021. (Photocopy of the Absent report, Show Cause Notice & removal from service order are annexed as **annexure "A", "B" & "C"**)
4. That the Para No. 4, of the service appeal as composed is incorrect hence, denied. Further stated that the appellant has drawn their regular pay till 2016, but due to non-availability of position code for the post of PST cadre in BPS-04, the appellant's pay was automatically stopped.
5. That Para No. 6, of the service appeal as composed is incorrect hence, denied. Detail reply has already been given in above paras.
6. That Para No. 6, of the service appeal as composed is incorrect hence, denied. The plea of the appellant is mainly based on mala-fide intention as the act of the respondent with regard to impugned notification dated 09-09-2021 is within legal sphere and is liable to be maintained. The appellant leveling baseless allegation just to save her skin.
7. In reply to Para No. 7, of the service appeal it is submitted that the appellant has filed departmental appeal which was rejected vide order dated 05-01-2023 on merit of the case by the appellate authority. (Photocopy of Notification dated 05-01-2023 is annexed as **annexure "D"**)
8. That the Para No. 8, of the service appeal as composed is incorrect hence, denied. The para is Correct to the extent that the appellant submitted departmental appeal to the Director E&SE KPK Peshawar and the Director vide letter No.952/F.NO F-14/F/Appeal

/Kohistan Lower dated 17-11-2021, ask for submission of comments and in response to the letter the comments were submitted vide DEO (F) Kohistan Endstt: No. 2142 dated 31-05-2022.

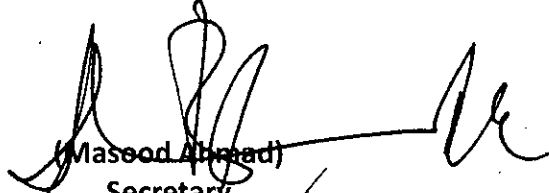
9. That the Para No. 9, of the service appeal as composed is incorrect hence, denied. Further stated that the statement of the appellant is baseless & without any cogent reasons and justification. Detail reply has already been given in para No.8 of the factual objection
10. That the Para No. 10, of the service appeal as composed is incorrect hence, denied. The appellant was treated in accordance with law and rule. Detail reply has already been given in preceding paras.
11. That the Para No. 11, of the service appeal as composed is incorrect hence, denied. The Appellant is not aggrieved person by any means, her removal from service order is in accordance with law and passed after observing all codal formalities. Hence, the appellant is not entitled to any relief.


GROUND:

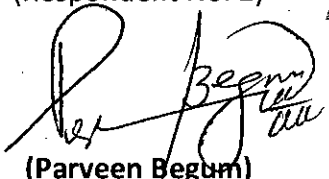
- A. That ground "a", of the instant service appeal as composed is incorrect hence, denied. The impugned notification dated 09-09-2021 is legally competent as the respondent No.3 has observed all the codal formalities prior to issuance of said Notification. Hence the plea of the appellant is liable to be dismissed
- B. That ground "a", of the instant service appeal as composed is incorrect hence, denied. Further stated that as per report of SDEO/ASDEO (F) during their visit to GPS Teyal on 26-05-2021, the appellant remained willful absent from her duty without prior approval of leave sanction/permission.
- C. That ground "c", of the instant appeal as composed is incorrect hence, denied. Detailed and comprehensive reply has already been given in the Para No. 2 of the factual objection.
- D. That ground "d", as composed is incorrect hence, denied and not admitted. The appellant was treated in accordance with law and rule. The impugned Notification dated 22-07-2023 was issued after observing all codal formalities.
- E. That ground "e", as composed is incorrect hence, denied and not admitted. A Show cause notice was served by DEO (F) vide this office Endstt: No.4068-73 dated 02-08-2021, but the appellant neither filed reply to show cause notice nor made any personal appearance. The appellant also failed to resume her duty.

- F. That ground "F", as composed is incorrect hence, denied and not admitted. The act of the answering respondent is within legal parameter and by observing all the codal formalities.
- G. That the Para of the ground "G" as composed is incorrect, hence denied. Appellant was treated in accordance with rules and law.
- H. That the Para "H" of the ground as composed is incorrect, hence denied. The Appellant was treated in accordance with rules and law. Detail reply has already been given in above Paras.
- I. That the Para "I" of the ground as composed is incorrect, hence denied. The Appellant was treated in accordance with rules and law. Detail reply has already been given in above Paras.
- J. That ground "J", as composed is incorrect hence, denied and not admitted. The Detail reply has already been given in above Paras.
- K. That the Para "K" of the ground as composed is incorrect hence, denied. Appellant was treated in accordance with rules and law

Under the circumstances, it is humbly prayed that the instant service appeal may kindly be dismissed with cost.


 (Masood Ahmad)
 Secretary
 (E&SED) Khyber Pakhtunkhwa
 Peshawar.
 (Respondent No. 1)


 (Samina Altaf)
 Director
 (E&SED) Khyber Pakhtunkhwa
 Peshawar.
 (Respondent No. 2)


 (Parveen Begum)
 District Education Officer (Female)
 Kohistan Upper
 (Respondent No. 3)

**Before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar Camp
court Abbottabad**

Appeal No. 1179/2023.

GULFAMEERAppellant

VERSUS

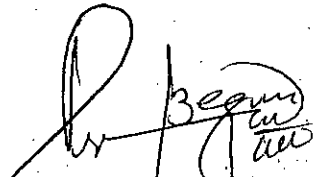
Govt: of Khyber Pakhtunkhwa & Others.....Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

AFFIDAVIT

I, Mr. **Parveen Begum**, District Education Officer (M) Kohistan Upper, do hereby affirm and declare that contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal and the answering respondents have neither been placed ex-parte nor their defense have been struck off */cost*.




DEPONENT
 (Parveen Begum)



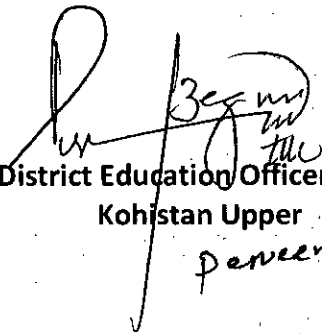
OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
KOHISTAN UPPER

Email. emiskohistan@yahoo.com

Phone No. 0998-407128

AUTHORITY LETTER

Mr. Muhammad Siddique ADEO, DEO (Male) Office, is hereby authorized to submit Parawise comments in Service Appeal No.1179/2023, case titled Gulfameer Vs Govt: of Khyber Pakhtunkhwa, on behalf of respondents before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar.


District Education Officer (F)
Kohistan Upper
Paveen Begum



(6) Annexure "A" (137)

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER

(FEMALE) KOHISTAN

Endst: No. 923 /SDEO (F) KH Dated 08/06/ 2021

To,

The District Education Officer
(Female) Kohistan Upper

Subject:

ABSENT REPORT TEACHING AND NON-TEACHING
STAFF OF GGPS MEDAN TEYAL.

Memo:

The undersigned visited of the said school along with ASDEO (F) circle Dassu/Harban Dated on 26/05/2021. Staff was found absent form their duty for long time all school record is missing. According to official record following staff were appointed there.

1. MST, Abida Qalandar PST (455258) ✓
2. MST, Gul Fameer PST (✓
3. Class IV Habib Nabi (514008) ✓

As per verbally reported by community said staff was absent and never seen here and also further reported that although Mst: Gul Fameer PST was a local teacher but she is not performing duty. Abida Qalandar PST belong to Pallas District and throughout absent. Same is the case with Class IV. He is also irresponsible physically school building is satisfactory

Therefor it is humbly requested to take strict action against the absent staff under the E&D rule 2011.

Note:

Showcase notice has been issued Dated on 25-11-2020 for both Teachers but they were not reply yet.


SDEO (F)
Dassu

Mushtaq
0.16

7

Annexure 'B'

162



OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE KOHISTAN UPPER

Email: Dofemalekohistanupper@gmail.com- 0998407225

Show Cause Notice:

I, Muhammad Amin District Education officer (F) Kohistan Upper, the Competent Authority under the Khyber-Pakhtunkhwa Government Servant Efficiency & Disciplinary Rules 2011, do hereby serve upon you, MST: Gul Farnear PST GGPS Maydan Teyal for the following charges;

1. As per report of SDEO/ ASDEO Circle Dasso on 26-05-2021 you willfully remained absent from your duty since long and up to till now without proper permission/intimation or leave.
2. Therefore, you are directed to resume your duty immediately and show cause of your absent period with solid reasons.
3. Thus you proved negligent and subvert government official and you have committed the gross act/omissions of misconduct, inefficiency, subversion, specified in Rule 3 of the mentioned rules.

As a result, thereof, I as the Competent Authority, have tentatively decided to impose upon you, the major penalty of removal from service and recovery of illegal pay of your absent period, mentioned in Rule 4(1), (a) and (b), of the ibid Rules.

You are, therefore, required to show cause as to why one are more penalties in sub rule No.4 (a) and 4(b) provided in the aforesaid Rules should not be imposed upon you and also intimate whether you desire to be heard in person.

If no reply on your behalf to this effect is received, to this office, within 07 days of delivery of this show cause, it shall be presumed that you have no defense to put in and, in that case, Ex-parte action will be taken against you.

(Muhammad Amin)
District Education Officer (F)
Kohistan Upper.

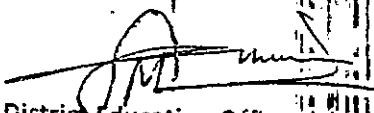
Endorsement No. 4068-73

Dated: 02/08/2021

Attested
Q. 16

Copies for information and necessary action forwarded to the:

1. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner Kohistan Upper.
3. The PA to District Education Officer (F) Kohistan Upper.
4. The Deputy District Education Officer (F) Dasso, Kohistan Upper.
5. MST: Gul Farnear PST GGPS Maydan Teyal
6. Copy to Master File for record.


District Education Officer (F)
Kohistan Upper.

Acknowledgment: I _____ received my copy.

Signature: _____ Date: _____

(8)

Annexure
176

C



**OFFICE OF DISTRICT EDUCATION OFFICER
(FEMALE) KOHISTAN**

OFFICE ORDER/ REMOVAL FROM SERVICE

01. **WHEREAS** as per the numerus complaints received to the undersigned through various means the following female teachers remained absent from their duties without any prior permission or leave for several years.
02. **WHEREAS** their schools remained closed/Non-functional during the repeated visits of EMA.
03. **WHEREAS** they were reported absent by EMA time and again during the visits of the concerned DCMA's.
04. **WHEREAS** they put their fake attendance in the school registers at their home.
05. **WHEREAS** the concerned ASDEOs were directed to verify their absenteeism.
06. **WHEREAS** the concerned ASDEOs confirmed/verified their absenteeism as per their report.
07. **WHEREAS** show cause notices were issued to them vide the references made against their names.
08. **WHEREAS** they submitted their reply which were found inconvincible and thus they admitted the charges leveled against them.
09. **WHEREAS** they failed to avail the chance of personal hearing.

Therefore the undersigned being the competent authority, do hereby impose **Major Penalty of Removal from Service**, upon the following female teachers under Rule 4(b) of E&D Rules 2011, with immediate effect, in the interest of public service.

S.No	Name of Teacher with designation	Name of School	Show cause reference	Remarks
01	Maryam Anwar PST	GGPS Kuz Komila	No.4038-43 dated:02/08/2021	
02	Arifa Bibi PST	GGPS Dhoop Lohi	No.4056-61 dated:02/08/2021	
03	Gul Fameer PST	GGPS Maidan Tayal	No.4068-73 dated:02/08/2021	
04	Hari Jan PST	GGPS Khat Kandia	No.4122-27 dated:02/08/2021	
05	Asmat Begum PST	GGPS Khat Kandia	No.4128-33 dated:02/08/2021	
06	Shabnum Afiat PST	GGPS Karang	No.4176-81 dated:02/08/2021	
07	Nasreen Bibi PST	GGPS Khel Gabral	No.4188-93 dated:02/08/2021	
08	Maryam Bibi PST	GGPS Kai Rustum Abad	No.4200-4204 dated:02/08/2021	

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Qalk

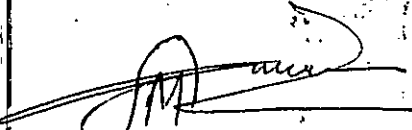
MUHAMMAD AMIN
District Education Officer
(Female) Kohistan

Endstt; No. 4627-36/DEO (F) KH Dated: 09/09/2021

Copy of the above forwarded to the:-

01. PS to Secretary Elementary & Secondary Education Department KPK Peshawar.
02. PA to Director Elementary & Secondary Education KPK Peshawar.
03. Deputy Commissioner Kohistan Upper.
04. District Monitoring officer Kohistan Upper.
05. District Accounts Officer Kohistan Upper.
06. SDEO/DDO (F) concerned with the directions to stop their pay and make necessary entries in the service books.
07. ASDEO Circle concerned.
08. PA to DEO (F) local office.
09. Teachers concerned.
10. Office File.

13/9/21
9/9



**District Education Officer
(Female) Kohistan**

65

2/2/21

1/2/21

9

Rejected



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR**

118

Rejected file

NOTIFICATION

1. **WHEREAS**, the District Education Officer, Female Kohistan Upper has imposed major penalty of removal from Service upon the below Ex-teachers of District Kohistan Upper under E&D Rules-2011 vide her Notifications issued under Endorsement No. 4627-36 dated 09-09-2021, and No. 4607-16 dated 09-09-2021 and No. 1782-89 dated; 23-06-2021.
2. **ANDWHEREAS**, the Appellants concerned submitted their appeals for their reinstatements to this office and sent these appeals to the DEO (F) Kohistan Upper for her comments/views vide letter No. 7251 dated: 11-08-2021, No. 5348 dated: 04-10-2021 and No. 2213 dated; 22-09-2021 and the DEO (F) Kohistan Upper submitted her report dated: 31-05-2022.
3. **ANDWHEREAS**, an opportunity of personal hearing were granted to the appellants vide this office letter No. 8398 dated: 15-11-22, No. 6520-21 dated; 07-11-2022 and No. 5579 dated: 06-12-2022, and attended this Directorate on due date and time.
4. **ANDWHEREAS**, after going through the material on the record and statements of the appellants during the personal hearing, and the charges against them have been proved and found guilty.

Now therefore, in exercise of power conferred under the Government of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, the appellate authority, Director (E&SE KP) rejected the appeals of appellants under Rule 17 (2) (a) of the E&D Rules-2011 in the interest of the public service.

- 1) Gul F Amir Ex PST GGPS Madian Teyal.
- 2) Hari Jan Ex PST GGPS Khat Kandia.
- 3) Maryam Bibi Ex PST GGPS Koi Rustam Abad.

**Director
Elementary & Secondary
Education Khyber Pakhtunkhwa**

*Mustead
Q. 16*

5252-55

Indst: No. / F.No.322/Vol-II/F/Appeal Kohistan Upper Dated 05/11/2023

Copy forwarded for information to the:

1. District Education Officer (Female) Kohistan Upper.
2. District Account Officer Kohistan Upper.
3. Sub Division Education Officer (Female) concerned.
4. Teacher Concerned.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa.



[Signature]
**Assistant Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar**

*AD EO P. M.
[Signature]
25/11/2023*