

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

Appeal No. 1299/2023

MASOOMA BEGUM.....Appellant

VERSUS

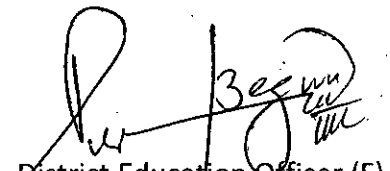
Govt: of Khyber Pakhtunkhwa & Others.....Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

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Dated: 18/01/2024


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

22-04-2024
A. Abael
S.B

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

Appeal No. 1299/2023

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VERSUS

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

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth:-

Khyber Pakhtunkhwa
Service Tribunal
Date No. 11489
Date 29-2-2024

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.

FACTUAL OBJECTIONS:

1. That the Para No. 1, of the service appeal as composed is correct.
2. That the Para No. 2, of the service appeal pertains to record hence, need no further comment.
3. That the Para No. 3, of the service appeal as composed is correct.
4. That the Para No. 4, of the service appeal as composed is correct.
5. That the Para No. 5, of the service appeal as composed is correct.
6. That the Para No. 6, of the service appeal pertains to record hence, need no further comment.
7. That the Para No. 7, of the service appeal the instant service appeal as composed is incorrect & misleading hence, denied. The inquiry report annexed with the service appeal does not pertains to the appellant. Further stated that in compliance of

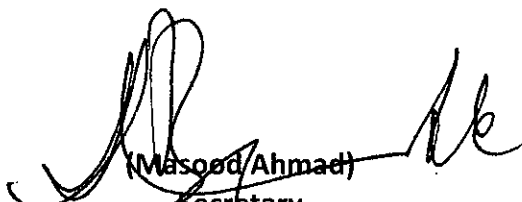
honorably Khyber Pakhtunkhwa Service Tribunal Peshawar the respondent No.2 constituted an inquiry committee comprising of officers, Mr. Sheraz Ahmad DEO Mohmand & Mr. Muhammad Ilyas, DEO lakki Marwat vide Notification No.451-55/F.No.Pesh:F.NO:323/Vol;3/ dated 16-12-2022 to conduct denovo inquiry. The inquiry committee submitted its report with recommendation that the order issued by DEO (F) Kohistan vide order Endst: No. 1198-1210 dated 20-04-2019, may be considered intact. Resultantly, competent authority withdraw the reinstatement order dated 4-01-2023 vide Notification No. 8565-69 /F.No.323/Vol;3/appeal Kohistan upper dated 13-02-2023. The Notification dated 13-02-2023 was issued after observing all codal formalities hence, same is liable to be maintained. **(Photocopy of notification dated 13-02-2023, photocopy of inquiry report & photocopy of notification dated 13-02-2023 are annexed as Annexure "A", "B" & "C")**


GROUNDS:

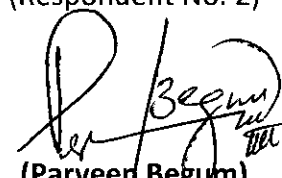
- i. That ground "I", of the instant service appeal as composed is incorrect hence, denied. The impugned notification dated 13-02-2023 is legally competent as the respondent No.3 has observed all the codal formalities prior to issuance of said Notification. Hence the plea of the appellant is liable to be dismissed.
- ii. That ground "ii", of the instant service appeal as composed is incorrect hence, denied. In compliance of Honorable Service Tribunal judgment dated 23-11-2022, the respondent No.2 constituted inquiry committee vide Notification No. 451-55/F.No.Pesh: F.NO:323/ Vol;3/ dated 16-12-2022 to conduct inquiry. The Inquiry committee conducted denovo inquiry and submitted its report vides No.636 dated 21-01-2023 and the appellant was treated in accordance with law and rule.
- iii. That ground "iii", of the instant appeal as composed is incorrect hence, denied. The act of the answering respondents are within legal parameter and by observing all the codal formalities.
- iv. That ground "iv", as composed is incorrect hence, denied and not admitted. The appellant was treated in accordance with law and rule. The answering respondents provided the opportunity of defense and personal hearing to the appellant vide office Endstt: No. 3977 dated 19-07-2023 and the appellant appeared for personal hearing on 21-07-2023 and recorded his statement.
- v. That ground "v", as composed is incorrect hence, denied and not admitted.
- vi. That ground "f", as composed is incorrect hence, denied and not admitted. All the codal formalities have been observed by answering respondents prior to issuance of impugned notification dated 22-07-2023. The appellant was treated in accordance with law and rule.

- vii. That ground "vi", as composed is incorrect hence, denied and not admitted. The impugned notification dated 13-02-2023 was issued after conducting denovo inquiry. The appellant was treated in accordance with law and rule.
- viii. That ground "vii", as composed is incorrect hence, denied and not admitted. All the proceeding has been done by the answering respondents as per rules and law.
- ix. That ground "ix", as composed is incorrect. The respondents have not violated Article 10-A of the constitution Islamic Republic of Pakistan and the appellant has been dealt in accordance with law.
- x. In reply of ground "x", of the appeal is that the Appellant was treated in accordance with rules and law. The respondents have not infringed the constitutional rights of the appellant under Article 4 of the constitution Islamic Republic of Pakistan. Hence, denied.
- xi. That ground "ix", as composed is incorrect hence, denied and not admitted. In the light of the recommendations of the inquiry committee, the Respondent No.2(appellate authority) vide order dated 13-02-2023 and Respondent No.3(competent authority) vide order dated 31-05-2023, passed the speaking order and upheld the order issued by DEO (F) Kohistan dated 20-04-2019. The acts of the answering respondents are in accordance with the rules and laws.
- xii. That ground "xii", as composed is incorrect hence, denied and not admitted. The Notification dated 13-02-2023 was issued in the light of the recommendations of the inquiry committee and after observing all codal formalities hence, same is liable to be maintained.

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. 1299/2023

MASOOMA BEGUM.....Appellant

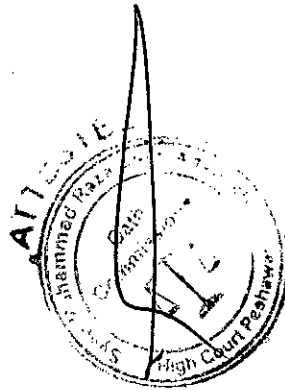
VERSUS

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.*



Parveen Begum
DEPONENT
(Parveen Begum)



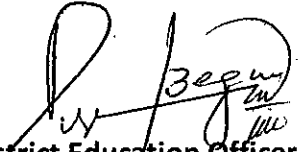
OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
KOHISTAN UPPER

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.1299/2023, case titled Masooma Begum Vs Govt: of Khyber Pakhtunkhwa, on behalf of respondents before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar.


District Education Officer (F)
Kohistan Upper

(Parveen Begum)

Assistant Director (Female)
E&SE, Khyber Pakhtunkhwa
06/07/2022

Missed
O.I.L

1. Muhammad Sheraz (B-19) Ex DEO ~~Mardan~~ Now at the disposal of this Directorate (court judgment attached)
2. Muhammad Ilyas (B-18) DEO (M) Lakki Marwat (court judgment attached) (Registered)
3. District Education Officer (F) Kohistan Upper with the remarks to assist and provide the relevant record to the Inquiry Officer concerned.
4. This office Notification issued vide No.451-55 dated 16.12.2022 is hereby withdraw for the subject case.
5. PA to Director E&SE Kp Peshawar.

Copy forwarded to the:-

Endst: No.451-55/F.No. Pesh. F.NO.323/Vol.3/ Dated 16/12/2022

Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

The inquiry committee shall submit its report to this office within ten (10) days with clear recommendations positively.

- 1:- Muhammad Sheraz (B-19) Ex DEO ~~Mardan~~ Now at the disposal of this Directorate
Chairman
- 2:- Muhammad Ilyas (B-18) DEO (M) Lakki Marwat
Member

The Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar is pleased to constitute the following committee to conduct de-novo inquiry in the light of Service appeal No. 1400/2019, Sharqat-un-Nisa Ex PST GGS Sultan Harband Tehsil Dassa District Kohistan and others (18) connected appeals.

NOTIFICATION

TO BE SUBSTITUTED WITH EVEN NO. & DATED
DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

Annexure "A"

(5)



No: 636

Dated: 21-01-2023

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa Peshawar.

SUBJECT: DE-NOVO INQUIRY AGAINST THE REMOVAL OF PRIMARY SCHOOL TEACHERS.

A) Introduction:

Reference to the Notification vides End: NO.451-55/F.No. Pesh:F.NO:323/vol:3 dated 16/12/2022 received on January 7, 2023 on our watt:App No by the Directorate of E&SED, Peshawar, KPK, the undersigned have been nominated as inquiry committee to conduct de-novo inquiry in the light of service appeal No.1400/2019 Sharafat-un-NisaEx:PST GGPS Sultan Abad Tehsil Dassu District Kohistan and others(18) connected Service appeals.

B) Procedure:

1. The committee visited the directorate of E&SE on January 9, 2023 in order to get the record.
2. While going through the record, questionnaires were prepared in three categories.
 - A) Questionnaire for teachers
 - B) Questionnaire for Primary Schools Head Teachers (PSHT)
 - C) Questionnaire for officers.
3. A letter to the DEO(F) Kohistan was drafted, but the post of DEO(now filled) and DDEO were vacant and one ADEO Primary post is filled who is reluctant to accept the responsibilities.
4. The letter along with the questionnaires were sent on 12/1/2023 to the Additional Director(F) on her Watts App No.03345621982 for the purpose to deliver these to all the concerned in order to proceed further.
5. The letter along with the questionnaires were also sent on 13/1/2023 to the Mr. Abdullah ADEO Primary Kohistan Upper on his Watts App No.0304926604 for the purpose to deliver these to all the concerned in order to proceed further.
6. The letter along with the questionnaires were also sent on 13/1/2023 to the Mst. Fozia SDEO Tehsil Dassu Kohistan Upper, In-charge DEO on her Watts App No.03449457709 for the purpose to deliver these to all the concerned in order to proceed further.
7. The responsibilities are assigned to so many responsible persons, as no one is accepting responsibilities.
8. The letter along with the questionnaires were sent 14/1/2023 to the Mst. Perveen Begam DEO Upper Kohistan Upper (New incumbent), on her Watts App No.03469694361 for the purpose to deliver these to all the concerned and inform them about the timing and for cross examination in order to proceed further.

(6)

Amir Singh B



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23-1-2023

23/1/23

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9. As per reply received by the committee member, Mr. Muhammad Ilyas DEO (M) Lakkimarwat, DEO (F) Upper Kohistan is reluctant to cooperate with the inquiry committee.
10. I as chairman of the inquiry committee, personally contacted, Mst: Perveen Begam DEO (F) Upper Kohistan on her mobile contact No: 03339195013 on 14/1/2023 at 7:56PM, She received the call and after my introduction as inquiry officer, she did replied from the other side. I re-dialed her mobile number but she was not picking the phone.
11. I also informed the Mst: Naghmana Sardar Add: Director Directorate of E&SED, Peshawar about the situation.
12. The letter along with the questionnaires were sent vide No.409 dated 13/1/2023 to the DEO(F)Kohistan Upper, through registered doc, for the purpose to deliver these to all the concerned in order to proceed further.
13. All the questionnaire were handed over to every teacher on a proper receipt.(Receipt is Attached as ANNEX:1)
14. As per letter the committee members visited DEO (F) office Abbotabad on 20/01/2023 at 10:00AM.
15. The SDEO Tehsil Dassu, Mst: Fozia, ASDEO circle Seo/Kandia Mst: Nusrat and ASDEO circle Dassu upper Mst: Faheem along with dealing assistant Mr. Habib ul Haq were present on the venue.(Attendance is Attached as ANNEX:2)
16. Statements of the above officers were also recorded.(Statement is Attached as ANNEX:3)
17. The inquiry committee started their proceedings by calling the concerned teacher one by one along the PSHT if any. The following teachers attended the proceedings.(Attendance of the teachers is Attached as ANNEX:4)
18. The following teachers did not attend the inquiry proceedings and remained absent.
 1. Gul bibi Ex: PST GGPS-SeraIshah 2. Gul shahnaz Bibi Ex PST GGPS Nimrati SOSAK 3. Mst. Nagina Otali Ex: PST GGPS-Baja Lohi 4. Mst. Raqib Ex: PST GGPS-SerGarhi 5. Rehanabibi Ex: PST GGPS-Seri GABRIALL 6. Mst. Sadaf Zeb Ex: PST GGPS-Pashot
 7. Mst. Shgufta Kiran Ex: PST GGPS-Baja Lohi 8. Mst. Shaheen Zameer Ex: PST GGPS-Lohi Dader Abad 9. Shakira Bibi Ex: PST GGPS-Mehranabad.
19. On face to face discussion and by cross examination of the data the committee noted the following findings/remarks.

C) FINDINGS

Sr. No	Name and designation	School name	Record checked	Remarks
1	Asma Bibi PST	GGPS SerGari (Record is Attached as ANNEX:5)	Questionnaire Charge report Attendance register	Reply was prepared and written by someone else and she was unable to write her own name. Unsigned by any officer/head Factitious attendance register has been made with no signature

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	Bibi Rashida PST	GGPS SerGari (Record is Attached as ANNEX:6)	Questionnaire Charge report Attendance register	Reply was prepared and written by someone else and she was unable to write her own name. Unsigned by any officer/head Factitious attendance register has been made with no signature
3	JohajraBbi PST	GGPS Barbak (Record is Attached as ANNEX:7)	Questionnaire Charge report Attendance register	Reply was prepared and written by someone else and she was unable to write her own name. Unsigned by any officer/head Factitious attendance register has been made with no signature
4	Masooma PST	GGPS Gareeri (Record is Attached as ANNEX:8)	Questionnaire Charge report Attendance register	Reply was prepared and written by someone else and she was unable to write her own name. Unsigned by any officer/head Attendance for the months of Feb:2019 Seems original but the other pages attached is factitious with no signature of any authority.
5	Salma Bibi PST	GGPS Kemiaabad (Record is Attached as ANNEX:9)	Questionnaire Charge report Attendance register	Unaware of the name of the school where she has performed her duty. Reply was prepared and written by someone else and she was unable to write her own name. Seems original but Unsigned by any officer/head Copy of the attendance register attached is factitious with no signature of any authority with no justification for cutting lower part of the attendance register.
6	Zarmeena Bibi PST	GGPS Kemiaabad (Record is Attached as ANNEX:10)	Questionnaire Charge report Attendance register	Reply was prepared and written by someone else and she was unable to write her own name. Seems original but Unsigned by any officer/head Copy of the attendance register attached is factitious with no signature of any authority with no justification for cutting lower part of the attendance register.
7	Gul Pari PST	GGPS Goshali (Record is Attached as ANNEX:11)	Questionnaire Charge report Attendance register	Reply was prepared and written by herself. Original and signed by an officer/head No record is available
8	SairaBegam PST	GGPS Ishpidar (Record is Attached as ANNEX:12)	Questionnaire Charge report Attendance register	Reply is available Available and seems original No record is available
9	Ayesha qureshi PST	GGPS Habibabadkoli (Record is Attached as ANNEX:13)	Questionnaire Charge report Attendance register	Reply is available No record is available
10	Sharafat un Nisa PST	GGPS Sultan Abad (Record is Attached as ANNEX:14)	Questionnaire Charge report Attendance register	Reply is prepared and written by herself. No record is available One month record for the month of May,2019 is available. No transfer order is available. She is a qualified woman and seems a competent teacher but where and with whom permission she has performed duty in various schools. Her service has been verified by the DDO concerned up to 2018.

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D) CONCLUSION:

After going through the whole record, face to face discussion with the teachers, discussion with the father/guardian/husband of the concerned teachers, officers, the committee reached to the conclusion that teachers appeared before the committee did not produced a valid proofs or justification to prove the performance of their duty regularly in their respective duty stations. And the DEO(F) office issued proper show cause notices(Attached as ANNEX:15), give proper opportunity for personal hearing, also published the absent notice in the daily NEWS(Attached as ANNEX:16), but they neither appear for personal hearing nor attended the office of the DEO or their duty stations after publication in the NEWS. Hence the committee recommends:

E) RECOMMENDATIONS

- i. The order issued vide End: No.1198-1210 dated 20/4/2019 by the office of district education office female kohistan is stand still.
- ii. Direction may be issued to Miss Parveen (DEO) Kohistan Upper for to provide full cooperation with enquiry Committee
- iii. Mr. Abdullah ADEO(P) O/O DEO(F) Kohistan Upper may please be Proceeded for disowning responsibility , non cooperation with enquiry Committee in such like sensitive matter& for his willful absence to join the enquiry proceedings on dated 20-01-2023
- iv. All dealing hands in the Directorate of E&SE involved in delaying the instant case, may please be formally proceeded.

[Signature]
21/1/2023

Sheraz Ahmad
Chairman of the Inquiry Committee
Ex: DEOMohmand

[Signature]

Mr. Muhammad Ilyas
Co -member of the Enquiry Committee
DEO Lakki Marwat

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

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Annexure 'C'

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Notification

In pursuance of the orders of Learned Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad judgment received on 23.11.2022, clear cut recommendation of the inquiry committee comprising upon the following members

- i) Mr. Sheraz Ahmad Chairman Ex DEO Mohmand.
- ii) Muhammad Ilyas Co-member DEO (M) Lakki Marwat,

The order issued vide this Directorate of E&SE KPK vide endst; NO:4920-28/File NO:451-55/F.NO;II/Lit-II/S.A 1400/2019/Shirfat-un-Nisa and others dated 4.1.2023 is hereby withdrawn and the order issued by DEO (F) Kohistan vide endst;NO:1198-1210 dated 20.4.2019 considered as intact.

**Director
Elementary & Secondary
Education Khyber Pakhtunkhwa**

Endst.No. 8565-69 /F.No.323/Vol;3/appeal Kohistan upper
Dated Peshawar the 13/2/2023

Copy for information to the:-

1. Chairman Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad w/r to his service appeal NO:1400/2019 Sharafat-un-Nisa Ex PST GPS,Sultan Abad Harband Teshil Dasso District Kohistan
2. P/S to Secretary E&SE Department KPK
3. Deputy Director (F) Establishment II local Directorate with the request that the then DEO,SDEO,and dealing other hands O/O DEO(F) Kohistan Upper may be proceeded under the E&D rules 2011 being incompetent and negligence of their responsibilities as Drawing and Disbursing officer because those schools which were non-functional and the teachers were drawing salaries regularly,
4. Mr.Abdullah ADEO (Primary) O/O the DEO(F) Kohistan Upper may be ask to explain with his position with in 10 days, that why you did not own the responsibility your non-cooperation with inquiry committee in such like sensitive matter.
5. District Education Officer (F) Kohistan Upper, for strict compliance

**Deputy Director (Female)
Elementary & Secondary
Education Khyber Pakhtunkhwa**

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Di Dui up DEO
13/2/23



DA
7/3/2023



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**OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) KOHISTAN UPPER.**

OFFICE ORDER:-

Whereas the following (18) Teachers was removed from service on willfully absent from their duty.

1. Mst.Sharafat-Un Nisa PST GGPS Sultan Abad Kohistan Upper.
2. Mst: Gul Shahnaz Bibi PST GGPS Nimraty Sosak Kohistan Upper.
3. Mst;GUI Pari PST GGPS Dadair Goshali Kohistan Upper.
4. ✓ Mst:Masooma Begum PST GGPS Tiyal Maidan Kohistan Upper.
5. Mst:Saira Qayoum PST GGPS Ishpidar Kohistan Upper.
6. Mst:Asma PST GGPS Ser Gari Kohistan Upper.
7. Mst;Rehana Bibi PST GGPS Seri Gabral Kohistan Upper.
8. Mst;RASHIDA Bibi PST GGPS Serto Kandia Kohistan Upper.
9. Mst:Shakira Bibi PST GGPS Mehran Abad Kohistan Upper.
10. Mst:Zarmina Pst GGPS Kemia Abad Kohistan Upper.
11. Mst;Gul Bibi PST GGPS Seral Shah Abad Kohistan Upper.
12. Mst: RAqiba PST GGPS Serghari Kohistan Upper.
13. Mst: Johajira PST GGPS Bar Bak Kohistan Upper.
14. Mst; Shagufta Kiran Pst GGPS Baja Lohi Kohistan Upper.
15. Mst; Salma Main PST GGPS Kemia Abad Kohistan Upper.
16. Mst: Sadaf Zaib PST GGPS Pashut Kohistan Upper.
17. Mst: Shaheen Zameer PST GGPS Lohi Dadair Kohistan Upper.
18. ✓ Mst: Nagina Utair PST GGPS Baja Lohi Kohistan Upper.

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Whereas the above Ex Teachers submitted service appeal before. Honorable service tribunal Peshawar Abbott Abad bench connected under service appeal NO:1400/2019 .The honorable service tribunal allowed the appeal in hand and case remitted the back to the department for de-novo inquiry.

Whereas the worthy Director constituted inquiry committee vide No 451-55/F.No 323/Vol 3 dated 16/12/2022.

Whereas the inquiry committee submitted their report and recommended that all allegation leveled against the above teachers are proved, therefore, the removed orders of the above teachers are stand still.

Whereas in the light of inquiry committee report the worthy Director withdrawn the re-instatement order of the above teacher re-instated for the purpose of de-novo inquiry vide notification NO 4920-281fno-151-555/ F.NO: II /Lit-11/SA 1400/2019/Sharfatun nisa and other dated 04-01=2023 and removal order of the above teachers issued by then DEO (F) Kohistan Upper Vide No 1198-1210 dated 20-4-2019 considered as intact.

In view of the above being competent authority as District education officer (F) Kohistan upper on the recommendation of inquiry committee removal order of the above teachers are considered as intact.

Received
By DEO (F)
09/06/2023

OC
District Education Officer.
(Female) Kohistan

Attested
9.11.23

Endstt: No 473-78 DEO (F) KH: Dated 31-5-2023.

Copy for information to the

1. Director (E&SE) Department Khyber Pakhtunkhuwa Peshawar
2. PS TO secretary (E&SED) Khyber Pakhtunkhuwa Peshawar
3. District Account Officer Kohistan Upper.
4. District Monitoring Officer (IMU) Kohistan Upper.
5. SDEO (F) Dassu /SEO/Kandia/Harban Basha
6. All Concerned EX PSTs

OC
District Education Officer.
(Female) Kohistan