

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 254/2016

Date of Institution ... 14.03.2016

Date of Decision ... 11.02.2021

Miss Nuzhat D/O Sher Afsar R/O Bazargi Tehsil Lahore District Swabi.
... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Education,
Peshawar and five others. ... (Respondents)

Present.

Mr. Hidayatullah Khattak,
Advocate. ... For appellant

Mr. Kabirullah Khattak,
Addl. Advocate General ... For respondents.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN
MRS. ROZINA REHMAN, ... MEMBER(J)
MR. ATIQR REHMAN WAZIR, ... MEMBER(E)

JUDGMENTHAMID FAROOQ DURRANI, CHAIRMAN:-


1. Learned counsel for the appellant opened the case by reading both the judgments handed down by the Honourable Members, respectively.

2. In the judgment Honourable Member (Mr. Ahmad Hassan) held that the appellant was awarded major penalty on the basis of fact finding enquiry which was not tenable in the eyes of law. Action on the part of respondents was

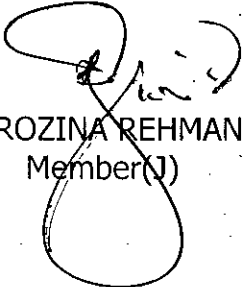
void ab-initio, unlawful and illegal. The matter was, therefore, required to be remitted to the respondents to conduct denovo enquiry according to Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 and thereafter pass orders as deemed appropriate.

3. On the other hand, Honourable Member (Mr. Muhammad Amin Khan Kundi) was pleased to partially allow the appeal and set aside the impugned order. The competent authority was directed to issue show cause notice to the appellant that why she may not be removed from service on such and such grounds and after replying and opportunity of personal hearing, pass order deemed appropriate. However, the reinstatement of appellant into service and issue of back benefits were made subject to the outcome/decision of the show cause notice.

4. We are of the considered view that the resultant findings in judgments by both the learned Members were similar i.e. remand/remission of the case to departmental authority for decision afresh in accordance with the rules. In the judgment by Mr. Muhammad Amin Khan Kundi, learned Member, the reinstatement of appellant into service and issue of back benefits was made subject to the outcome/decision of the show cause notice. We are not in agreement with the said part of judgment for the reason that a civil servant cannot be enquired against/put to enquiry without his reinstatement. It is, therefore, held that for the purpose of denovo enquiry the appellant be reinstated into service. The issue of back benefits shall, however, be decided as per the outcome of denovo enquiry.



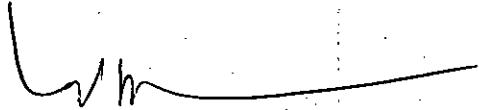
5. With the observations herein-above, the appeal in hand is disposed of. File be consigned to the record room.



(ROZINA REHMAN)
Member(J)



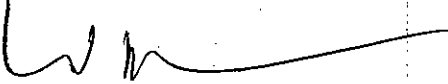


(HAMID FAROOQ DURRANI)
Chairman



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

ANNOUNCED
11.02.2021

S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	11.02.2021	<p><u>Present.</u></p> <p>Mr. Hidayatullah Khattak, Advocate ... For appellant</p> <p>Mr. Kabirullah Khattak, Addl. Advocate General alongwith Sher Zada, ADO ... For respondents.</p> <p>Vide our detailed judgment; the appeal in hand is disposed of. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (ROZINA REHMAN) Member(E) </div> <div style="text-align: center;">  CHAIRMAN </div> </div> <div style="display: flex; justify-content: space-around; align-items: center; margin-top: 20px;"> <div style="text-align: center;">  (ATIQ-UR-REHMAN WAZIR) Member(E) </div> </div> <p><u>ANNOUNCED</u> 11.02.2021</p>

02.09.2020

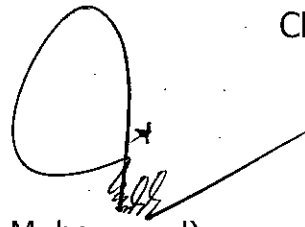
Counsel for the appellant and Addl. AG alongwith Asar Jan, ADO for the respondents present.

Learned counsel for the appellant, after arguing the case at some length, requested for time to further document the brief and also place on record copies of judgments of this Tribunal in other appeals against the impugned order.

May do so before next date of hearing. Adjourned to 12.11.2020 for hearing before the Larger Bench.


(Rozina Rehman)
Member(J)


Chairman



(Mian Muhammad)
Member(E)

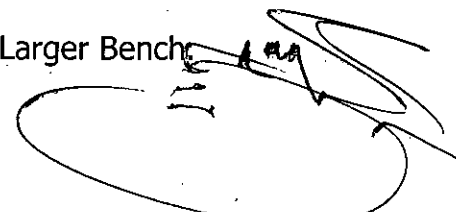
12.11.2020

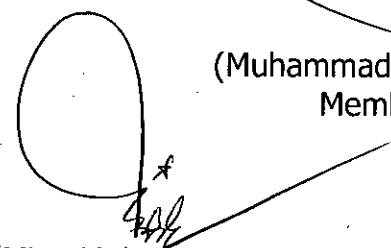
Junior counsel for appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Sher Zada ADEO (Litigation) for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 11.02.2021 for hearing before the Larger Bench.


(Rozina Rehman)
Member (J)


(Muhammad Jamal Khan)
Member (J)


(Mian Muhammad)
Member (E)

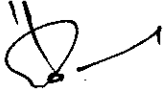
254/2016

07.02.2020

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

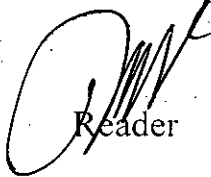
Due to incomplete Bench, the matter is adjourned to 15.04.2020 for arguments before the Larger Bench.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

15.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 15.07.2020 before Larger Bench.


Reader

15.07.2020

Bench is incomplete. Therefore, the case is adjourned to 23-7-20 for the same as before.

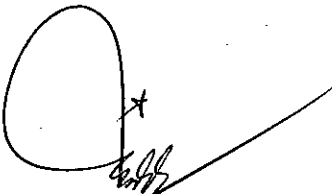

Reader


23.07.2020

Nemo for appellant.

Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

Due to general strike of the bar, the case is adjourned to 02.09.2020 before Larger Bench.

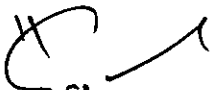

(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

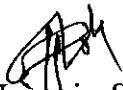
08.11.2019

Counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present.

To come up alongwith Appeal No.474/2017 for orders regarding application for formation of Bench comprising all the Members and Chairman of the Tribunal, on 12.12.2019 before Larger Bench.


(Mr. Hamid Mughal)
Member


CHAIRMAN

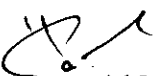

(Hussain Shah)
Member

12.12.2019


Appellant in person and Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present.

Vide our detailed order of even date in service appeal No. 474/17, the objection regarding constitution of Bench is over ruled and the appeal is posted before a Bench already constituted.

A request for adjournment is made due to non availability of learned counsel for the appellant, owing to general strike of the bar. Adjourned to 07.02.2020 before Larger Bench.


(M. Hamid Mughal)
Member


CHAIRMAN


(Hussain Shah)
Member

10/07/2019

Be laid before a larger bench minus the hon'ble members having the difference of opinion. To come up for further proceeding/arguments on 29/08/2019.

Notices to the parties be issued accordingly.


Chairman


29.08.2019

Counsel for the appellant and Mr. Usman Ghani District Attorney for the respondents present.

Due to paucity of time, the matter is adjourned to 08.11.2019 for hearing before the Larger Bench.



(M. Hamid Mughal)
Member


Chairman



(Hussain Shah)
Member

15/10/19

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 254/2016

Date of institution ... 14.03.2016
Date of judgment ... 17.05.2019

Miss Nuzhat D/o Sher Afsar
R/o Bazargi Tehsil Lahore District Swabi.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar.
2. The Director Education, Elementary & Secondary Education Civil Secretariat, Peshawar.
3. Deputy Director (Establishment) Elementary & Secondary Education, Civil Secretariat Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Female) Kohistan.
5. Executive District Officer Elementary & Secondary Education Kohistan.
6. District Coordination Officer District Swabi.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AGAINST THE ORDER OF THE RESPONDENT NO. 4, DATED 22.11.2015, WHEREBY RESPONDENT REMOVED THE SERVICES OF THE APPELLANT WITH IMMEDIATE EFFECTS.

Mr. Hidayatullah Khattak, Advocate. .. For appellant.
Mr. Kabirullah Khattak, Additional Advocate General .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
MR. AHMAD HASSAN .. MEMBER (EXECUTIVE)

DISSENTING JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was appointed as Primary School Teacher vide order dated 21.07.2009 by the competent authority of District Kohistan. The appellant was transferred from

*M. Amin
17.5.2019*

2

District Kohistan to District Swabi vide order dated 15.10.2011. The District Education Officer Kohistan withdrawn the transfer order of the appellant vide order dated 22.10.2015 and on the same day i.e 22.10.2015 the competent authority also removed the appellant from service on the basis of inquiry report. The appellant received the impugned order of her removal from service on 24.11.2015 as per para-4 of service appeal and thereafter, filed the departmental appeal on 10.12.2015 which was not responded hence, the present service appeal on 14.03.2016.

3. Respondents were summoned who contested the appeal by filing of written reply/comments.

4. Learned counsel for the appellant contended that the appellant was appointed as Primary School Teacher vide order dated 21.07.2009 by the competent authority of District Kohistan. It was further contended that the appellant was transferred from District Kohistan to District Swabi vide order dated 22.10.2015. It was further contended that the appellant was also removed from service on the same day i.e 22.10.2015 by District Education Officer Kohistan. It was further contended that the appellant remained in service for about six years. It was further contended that only fact finding inquiry was conducted wherein neither the appellant was associated nor any charge sheet, statement of allegation was framed or served upon the appellant nor proper inquiry was conducted nor opportunity of personal hearing and defence was provided to the appellant nor any show-cause notice was issued therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Additional Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was appointed as Primary School Teacher by the District Education Officer (Female) Kohistan but the domicile certificate of the

M. Amin
17.5.2019

appellant pertain to District Swabi. It was further contended that neither any advertisement was published before her appointment order nor any departmental selection committee was constituted nor any test interviews was conducted nor merit list was prepared therefore, the appellant was illegally appointed by the competent authority without conducting codal formalities. It was further contended that fact finding inquiry was also conducted and on the basis of fact finding inquiry, the appellant was rightly removed from service and prayed for dismissal of appeal..

6. Perusal of the record reveals that the appellant was appointed as Primary School Teacher by the District Education Officer (Female) Kohistan vide order dated 21.07.2009.. The record further reveals that the appellant was transferred from District Kohistan to District Swabi vide order dated 15.10.2011 but her transfer order was withdrawn by the competent authority vide order dated 22.10.2015 and on the same day i.e 22.10.2015 she was removed from service on the basis of inquiry report. The record further reveals that though a fact finding inquiry was conducted wherein it was recommended that the appointment order of the appellant was illegal, irregular and against the recruitment policy and liable to be cancelled and on the basis of said inquiry report, the competent authority removed her from service but the record reveals that she was neither associated in the said inquiry nor any show-cause notice, opportunity of personal hearing was provided to the appellant before imposing the major penalty of removal from service. Meaning hereby that the competent authority has violated the principles of natural justice as he was required to issue show-cause notice before imposing the major penalty that why major penalty of removal from service may not be imposed on her on such and such grounds and after reply to the show-cause notice and providing opportunity of personal hearing pass appropriate order. As such, the appeal is partially accepted, the impugned order is set-aside and the competent authority is

M. Anwar
17.5.2019

directed to issue show-cause notice to the appellant that why she may not be removed from service on such and such grounds and after replying and opportunity of personal hearing, pass order deem appropriate. However, the reinstatement of the appellant into service and issue of back benefits will be subject to the outcome/decision of the show-cause notice. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
17.05.2019

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

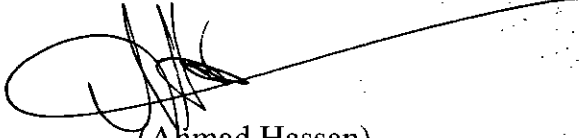
(AHMAD HASSAN)
MEMBER
(Not agreed dissenting note is attached)

17.05.2019

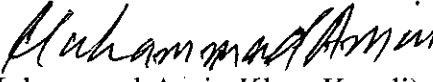
Counsel for the appellant present. Mr. Kabirullah Khattak,
Additional Advocate General for respondents present. Arguments
heard and record perused.

The appeal was heard on 17.05.2019, however, after hearing
members of the Divisional Bench failed to arrive at a consensus
judgment. Separate judgments written by us be placed before the
worthy Chairman for appropriate orders.

Announced:
17.05.2019



(Ahmad Hassan)
Member




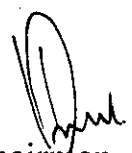
(Muhammad Amin Khan Kundi)
Member

22.03.2019 Junior to Mr. Hidayatullah Khattak, Adocate for
appellant and Addl. AG alongwith Abdur Rehman, Dy.
DEO(F) for the respondents present.

Request for adjournment is made on account of
personal engagement of learned senior counsel for the
appellant.

Adjourned to 15.05.2019 before the D.B.


Member


Chairman

15.05.2019 Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG
for the respondents present. Arguments heard. To come up for order on
17.05.2019 before D.B.

(AHMAD HASSAN)
MEMBER

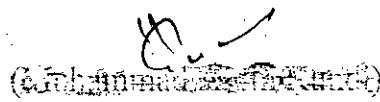

(M. AMIN KHAN KUNDI)
MEMBER

24.12.2018

Junior to counsel for the appellant and Mr. Kabirulah Khattak learned Additional Advocate General for the respondents present. Junior to counsel for the appellant requested for adjournment as senior counsel for the appellant is not in attendance. Adjourned. To come for arguments on 30.01.2019 before D.B.



Member



Member

30.01.2019

Clerk to counsel for the appellant Mr. Usman Ghani learned District Attorney present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 01.02.2019 before D.B.

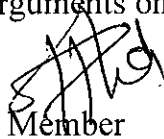
Member



Member

01.02.2019

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 13.02.2019 before D.B.



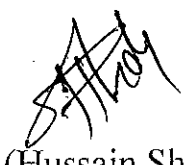
Member



Member

13.02.2019

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant requested for adjournment Adjourned. To come up for arguments on 22.03.2019 before D.B.



(Hussain Shah)

Member




(Muhammad Amin Khan Kund)

Member

18.07.2018

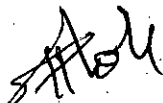
Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 11.09.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

11.09.2018

Learned counsel for appellant and Mr. Kabir Ullah Khattak learned AAG present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 05.11.2018 before D.B


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

05.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 24.12.2018.


READER

29.09.2017

Clerk to counsel for the appellant and Asst:AG for the respondents present. Clerk to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 27.12.2017 before this D.B.


Member


Chairman

27.12.2017

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come for arguments on 27.02.2018 before the D.B.


Member


Chairman

27.02.2018

Clerk of the counsel for appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Clerk of the counsel for appellant seeks adjournment as counsel for the appellant is not available today. To come up for arguments on 02.05.2018 before the D.B.


Member


Chairman


02.05.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General present. The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come up for the same on 18.07.2018


READER

29.12.2016

Counsel for the appellant and Mr. Hameedur Rahman, AD alongwith Addl. AG for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 22.02.2017.


Chairman

22.02.2017


Clerk to counsel for the appellant and Mr. Fazal Malik Junior Clerk alongwith Mr. Zia Ullah, GP for respondents present. Rejoinder submitted. To come up for arguments on 19.06.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

19.06.2017

Appellant present in person. Mr. Kabir Ullah Khattak, Assistant AG for the respondents present. Arguments could not be heard due to learned member executive is on leave. To come up for argument on 29.09.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member

23.06.2016

Clerk of counsel for the appellant present. Security and process fee have not been deposited. Requested for granting further opportunity to deposit security and process. Request is accepted. Directed to deposit the same within a week there-after notices be issued to the respondents for written reply/comments for 30.08.2016 before S.B.

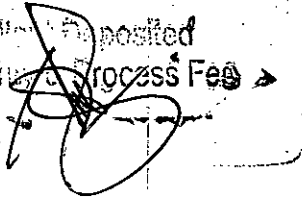


MEMBER

30.08.2016

Counsel for the appellant present. Security and process fee not deposited. Requested for further time. Last opportunity granted. The same be deposited within a week where-after notices be issued to the respondents for written reply/comments for 02.11.2016 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

02.11.2016

Clerk to counsel for the appellant and Mr. Hameed ur Rehman, AD (Litigation) alongwith Assistant AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 29.12.2016.


Chairman

11.04.2016

Counsel for the appellant present. Learned counsel for the appellant argued that appellant was appointed as PST in the year. 2009 and vide impugned order dated 20.10.2015 removed from service on the allegation not known to the appellant. That after communication of the impugned order dated 24.11.2015, appellant preferred departmental appeal on 01.12.2015 which was not responded and hence the instant service appeal on 17.3.2016.

That the appointment of the appellant was made in the prescribed manner where-after she was discharging functions and performing duty including receipt of salary. That neither any enquiry was conducted in the prescribed manner nor appellant associated with the same nor any opportunity of hearing extended to her.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 23.05.2016 before S.B.


Chairman

23.5.2016




Agent of counsel for the appellant present. Security and process fee have not been deposited. The same be deposited within a week where-after notices be issued to the respondents for written reply/comments for 23.06.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 254/2016


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	17.03.2016	<p>The appeal of Mst. Nuzhat resubmitted today by Mr. Hidayt Ullah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	21.3.16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>28-03-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	28.03.2016	<p>Agent of counsel for the appellant present. Learned counsel for the appellant is stated busy at Islamabad. Adjourned for preliminary hearing to 11.4.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mst. Nughat D/O Sher Afsar r/o Bazargi Tehsil Lahore Distt. Swabi received to-day i.e. on 14.03.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Address of respondent no. 6 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Law under which appeal is filed is wrong.
- 3- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 4- Copy of Transfer order mentioned in para-2 of the memo of appeal in respect of appellant is not attached with the appeal which may be placed on it.
- 5- Copies of appointment and removal orders in respect of appellant mentioned in memo of appeal are not attached with the appeal which may be placed on it.

No. 422 /S.T,

Dt. 14/3 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Hidayatullah Khattak Adv. Pesh.

PTO

Sw,

Re-submitted after doing the needful

Hiedang

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 254 /2016

Miss Nuzhat **Appellant**

VERSUS

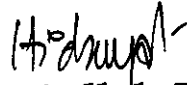
Govt. of Khyber Pakhtunkhwa
Through secretary education & others..... **Respondents**

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5.	Copy of transfer order dated 15/10/2011	B	8
6.	Copies of the both orders dated 22/10/2015 (Transfer & Removal)	C	9-10
7.	Copy of the departmental representation	D	11-12
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Appellant

Through


Hidayatullah Khattak
Advocates, Peshawar

Date: __/__/2016

①

BEFORE THE COURT OF WORTHY CHAIRMAN SERVICES
TRIBUNAL, PESHAWAR

Service Appeal No. 254/2016

W.P. Province
Service Tribunal
Diary No. 209
Dated 14-03-2016

Miss Nuzhat D/o Sher Afsar

R/o Bazargi Tehsil Lahore District Swabi.....Appellant

V E R S U S

1. Government of Khyber Pakhtunkhwa through
Secretary Education, Peshawar
2. The Director Education, Elementary & Secondary
Education Civil Secretariat, Peshawar
3. Deputy Director (Establishment)
Elementary & Secondary Education, Civil
Secretariat Khyber Pakhtunkhwa, Peshawar
4. District Education Officer (Female) Kohistan
5. Execution District Officer Elementary & Secondary
Education Kohistan
6. District Coordination officer.....Respondents

DIST. Swabi.

Filed to-day
Subscribed
Registration
14/3/16

Re-submitted to-day
and filed.

Subscribed
Registration
17/3/16

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
AGAINST THE ORDER OF THE RESPONDENT
No.4, DATED 22.11.2015, WHEREBY
RESPONDENT REMOVED THE SERVICES OF
THE APPELLANT WITH IMMEDIATE EFFECTS

PRAYER IN APPEAL

On acceptance of instant appeal the impugned order dated 22.11.2015 of the respondent No.4 may please be set aside and the appellant be re-instated into services with all back benefits.

Respectfully Sheweth:-

1. That appellants were appointed as PST teacher on 21.07.2009 at District Kohistan. (Copy of appointment letter is attached as annexure "A").
2. That on 15.10.2011 appellant was transferred from Kohistan District to Swabi. (Copy of transfer order dated 15.10.2011 is attached as annexure "B").
3. That on 22.11.2015 the respondent No.4 withdrawn the transfer order and also issued another order on the same day i.e. 22.11.2015 of removal of the services of the appellants with immediate effect.

services of the appellants with immediate effect.
(Copies of the both the order dated 22.10.2015 are attached as annexure "C").


4. That feeling aggrieved from the order dated 22.10.2015 which was received to appellant on 24.11.2015 preferred a representation before the competent authority i.e respondent No.2. *(which is attached here as Ann - D.*
5. That the respondent No.2 did not respond/ adjudicate upon the representation of the appellants and assail the same inter alia on the following grounds:

G R O U N D S:

- A. That the impugned termination/removal order is against facts and services law.
- B. That the so-called inquiry has been conducted at the back of the appellant and no show cause notice whatsoever has been issued to the appellant.
- C. That no chance of personal hearing has been affected to appellant which is settled procedure of service law.

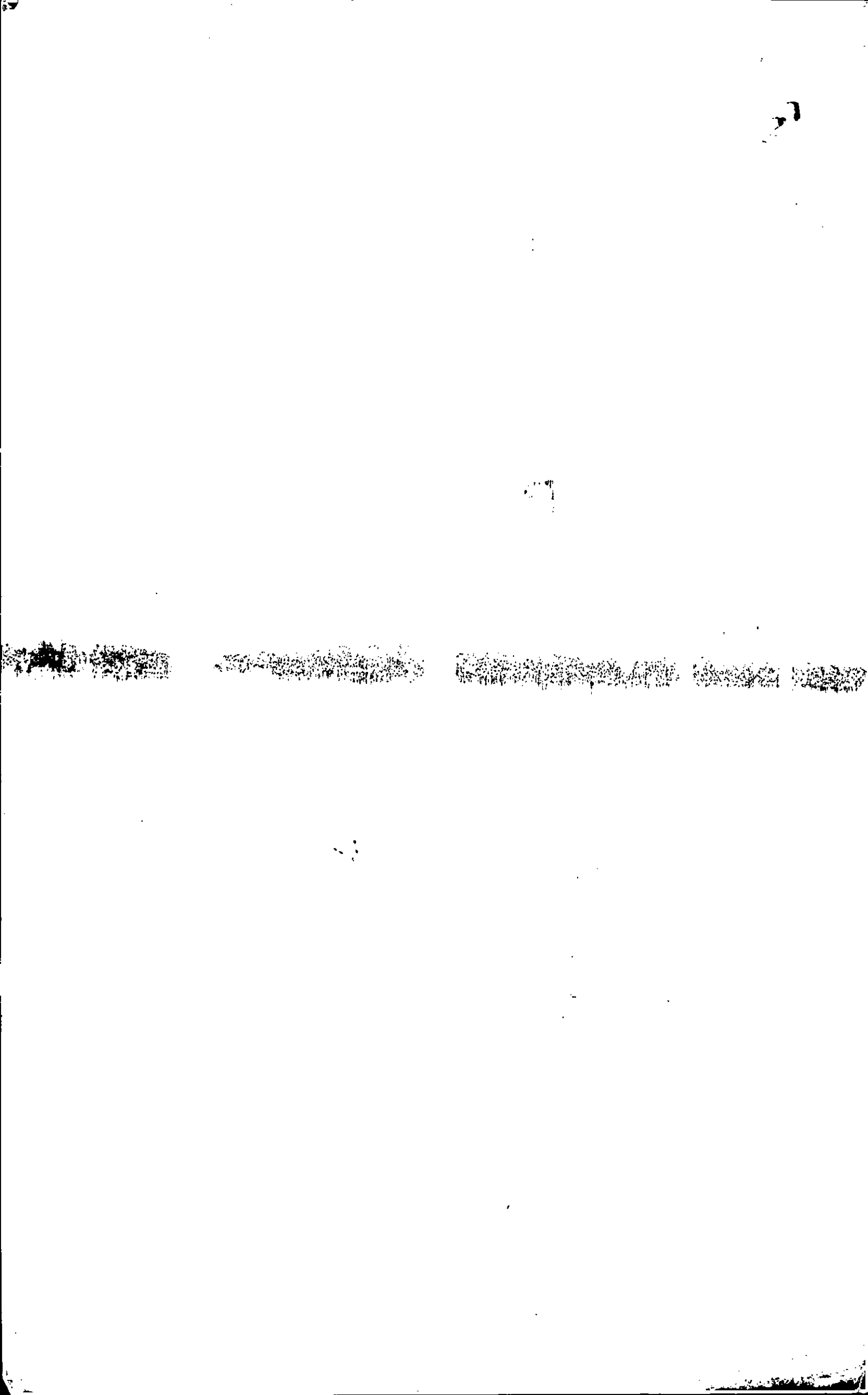
- D. That all the impugned inquiry proceeding has been adopted at the back of the appellant.
- E. That the findings of inquiry committee and the removal order are arbitrary, with ^{alt} lawful authority, beyond their jurisdiction and have no effects on the accrued legal rights of the appellant.
- F. That any other ground shall be taken with the permission of this Honourable Tribunal.

It is therefore most humbly prayed that on acceptance of this service appeal, the impugned removal order dated 22.10.2015 may please be set aside and the appellant be re-instate into service with all back benefits

Through 
Appellant

Dated 08.03.2016


Hidayatullah Khattak
Advocate High Court



5

**BEFORE THE COURT OF WORTHY CHAIRMAN SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2016

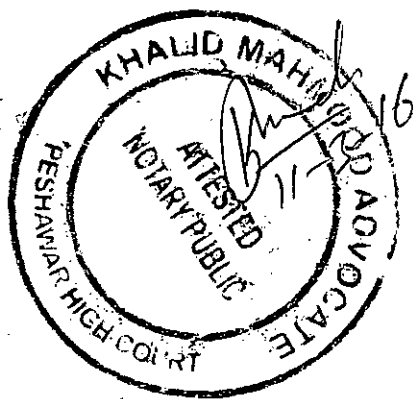
Miss Nuzhat **Appellant**

V E R S U S

Government of Khyber Pakhtunkhwa
Through Secretary Education & others..... **Respondents**

A F F I D A V I T

I, Hidayatullah Khattak, Advocate, Peshawar as per instructions of my client, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



[Handwritten Signature]
DEPONENT

6

**BEFORE THE COURT OF WORTHY CHAIRMAN SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2016

Miss NughatAppellant

V E R S U S

Government of Khyber Pakhtunkhwa
Through Secretary Education & others.....Respondents

ADDRESSES OF PARTIES

APPELLANTS:

Miss Nughat D/o Sher Afsar
R/o Bazargi Tehsil Lahore District Swabi

R E S P O N D E N T S

1. Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar
2. The Director Education, Elementary & Secondary Education Civil Secretariat, Peshawar
3. Deputy Director (Establishment) Elementary & Secondary Education, Civil Secretariat Khyber Pakhtunkhwa, Peshawar
4. District Education Officer (Female) Kohistan
5. Execution District Officer Elementary & Secondary Education Kohistan
6. District Coordination officer *District Swabi*

M. A.
Appellant

Through

Hidayatullah Khattak
Advocate High Court

Dated 08.03.2016

(7) A

**OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY &
SECONDARY EDUCATION KOHISTAN**

APPOINTMENT

Consequent upon approval of District Departmental Selection Committee of Elementary & Secondary Education Department Kohistan the competent authority is pleased to appoint the following (Female) candidates against the post of PST in BPS-7 in the schools noted against each according to the Policy issued by the Government of NWFP Elementary & Secondary Education Department in the interest of public service with immediate effect.

S.#.	Name of Candidate	Father Name	R/O	Name of School where appointed	Remarks
1	Alia Ghafoor	Ghafoor Gul	Sawabi	GGPS Kass Banda	Agst V.Post
2	Ruqia Begum	Mustafa Gul	-do-	GGPS Kass Banda	-do-
3	Nuzhat Begum	Sher Afsar	-do-	GGPS Yazai	-do-
4	Rashida	Javaid Khan	Abbottabad	GGPS Chiragh Abad	-do-
5	Aafia Bibi	Qazi Abdur Raheed	-do-	GGPS Chiragh Abad	-do-
6	Naila Bibi	Sumandur Khan	Mansehra	GGPS Harban Kot	-do-

CONDITIONS

1. No TA/ DA is allowed to any one
2. Charge report should be submitted to all concerned
3. Their appointment is purely on temporary basis and liable to termination at any time with out assigning any reason/ notice
4. They will be governed by such rules & regulation enforced and as prescribed by the Government from time to time for the category of the Government Servants to which they belong
5. In case the above candidates failed to assume the charge of his post with in fifteen days of the issuance of this Order their appointment will automatically stand cancelled.
6. They should produced Age & Health Certificate from EDO Health Kohistan
7. They should not be allowed to take over charge if their age is less than 18-years & above 35-years.
8. Their original certificates/ Degrees should be verified by Dy: District Officer (Female) E&SE Kohistan from the concerned board/ University/ Institution before drawl of their pay

Executive District Officer
E&SE Kohistan

Endst: No. 3189-9/4

Dated Kohistan the 21/7 /2009

Copy of the above is forwarded to the:

1. PS to Secretary Elementary & Secondary Education Department NWFP Peshawar
2. PA to Director Elementary & Secondary Education NWFP Peshawar
3. District Coordination Officer Kohistan
4. District Accounts Officer Kohistan
5. Dy: DO (F) E&SE Kohistan
6. Candidates concerned

Executive District Officer
E&SE Kohistan

ATTESTED

8

B

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

OFFICE ORDER.

Consequent upon the ban relaxation by the competent authority, the following PST (Female) are hereby transferred/adjusted against the vacant post of PST at the Schools noted against in their own pay & BPS in the interest of public service with immediate effect.

S.No	Name Designation	Present School	Transfer to	Remarks
1	Mst. Alia Ghafoor PST	GGPS; Banjar Yanjoal Kohistan	GGPS No.2, Batty Swabi.	Against V/Post
2	Mst. Ruqia Begum PST	GGPS Mada Khail Kohistan	GGPS; Haryan Swabi	-do-

Note:-

- i. Charge report should be sent to all concerned.
- ii. No TA/DA etc are allowed.
- iii. The EDOs (E&SE) concerned are directed to check their original service documents before making payment of salaries.
- iv. Their Seniority will be determined under the rules.

Endst: No. 2511-19 /F.No.167/Vol-IV/Transfer (F) K.P. Dated Peshr the 15/10 2011

DIRECTOR

Copy of the above is to the:-

1. Executive District Officers (E&SE) Kohistan & Swabi.
2. District Accounts Officers Kohistan & Swabi.
3. Teachers concerned.
4. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
5. Master File.

[Signature]
19/10/2011

Deputy Directress (Estab)

Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

[Signature]

[Signature]
17/10/11



C

9

OFFICE OF THE DISTRICT EDUCATION OFFICER, (F) KOHISTAN.

Ph: & Fax No. 0998407225

OFFICE ORDER..

In compliance with the Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar letter No.3081/F.No.20 (F) enquiry dated 16/03/2015, Reminder No. 2200/F No.20/(F) enquiry dated 20/04/2015/, No. 3530/ F No.20/(F) enquiry dated 22/05/2015, and No.3696/F No.20/(F) enquiry Dated 24/08/2015. and In light of recommendation of enquiry officer, the following PST teachers are hereby removed from service with immediate effect.

S/NO	Name	School
1 ✓	Nuzhat PST	GGPS Kas banda
2	Nazia Qazi PST	GGPS Bar komila
3 ✓	Alii. Ghafoor	GGPS Kas banda
4 ✓	Rugia PST	GGPS Kas banda
5	Sara PST	GGPS Kundal
6	Khushnuma PST	GGPS Dubair
7	Mussarat bibi PST	GGPS Badar shaha

District Education Officer
(Female) Kohistan

E/No. /Estab: 7/01-10 /DEO (F) KH: dated 27-10-2015.

Copy of the above is forwarded to:

1. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
2. The District Education Officer (F) District Swabi, for necessary action at her end as the above teachers are now posted in District Swabi.
3. The District Accounts Officer, Swabi.
4. The District Accounts Officer, Kohistan.
5. The Sub Divisional Education Officer (F) Kohistan.
6. Office record.

District Education Officer
(Female) Kohistan

Received today
on 24/11/2015

Hee/ll

**OFFICE OF THE DIRECTOR OF ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR**

NOTIFICATION

The transfer orders of the following teachers from District Kohistan to District Swabi issued vide this office Endst.No. detail given below are hereby withdrawn due to their illegal and irregular appointments as per report of the inquiry officer vide letter No 02 dated 2-12-2014.

10

S.N	Name of Teacher	From District Kohistan	To District Swabi	Endst.No.
1.	Alia Ghafoor PST	GGPS Banjar Yanjool	GGPS Battai No. 2	Endst.No.2511-15 dated 19-10-2011
2.	Ruqia PST	GGPS Mada Khel	GGPS Haryan Banda	Et.No.2511-15 dated 19-10-2011
3.	Nazhat PST	GGPS Banjar Yanjool	GGPS Haryan Banda	Endst.No.2527-31 dated 24-11-2010
4.	Khushnama PST	GGCMS Kohistan Jijal	GGPS Hayatabad	Endst.No.985-90 dated 08-01-2011
5.	Nazia Qazi PST	GGPS Bar Komila	GGPS Razi Bahadur Koti	Endst.No.4980-85 dated 20-09-2011
6.	Sara PST	GGPS Saglo	GGPS Dheri Dheri	E.No.1599-1605 dated 15-02-2011
7.	Mussarat PST	GGPS Abad Sao Samad	GGPS Palosat	Endst.No.7490-95 dated 27-09-2008
8.	Aneela PST	GGPS Kohistan	GGPS No.1 Dheri Gandaj	Endst.No.505-10 dated 08-10-2010

Director
Elementary & Secondary Education
Khyber Pakhtunkhwa,

Endst. No. 3022 / F.No.20/(F) Enquiry dated Peshawar the 22/10/2015

Copy to the:-

1. District Account Officer Swabi & Kohistan,
2. District Officer (Female) Swabi & Kohistan,
3. Teacher Concerned,
4. P.A to Director Local Office

Deputy Director (Female)
(E&SE) Khyber Pakhtunkhwa,

19/11/15

noted on
12/11/2015
notify to all ASD EO
circle concerned.
i) Sam Durr
ii)

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) SWABI.

Endst.No. 309a-4 / DA-I (Estab) Dated Swabi the 12/11/2015

Copy of the above is forwarded for information and strict compliance to the:-

1. Sub-Divisional Education Officer (Female) Lahor, Swabi and Topi.
2. District Accounts Officer Swabi.

[Signature]

DISTRICT EDUCATION OFFICER
(FEMALE) SWABI.

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (FEMALE) LAHOR

Endst.No. 1479-80 Dated Lahor the 16/11/2015

Copy of the above is forwarded for information and strict compliance to the:-

1. District Education Officer Female Swabi w/r to her Endst. refer to above.
2. All concerned teacher from SNO: 1 to 6.

[Signature]

15/11/2015

10

4

1. The first part of the document is a list of names and addresses of the members of the committee.

~~1-12-2015~~

SUBJECT: DEPARTMENTAL APPEAL/REPRESENTATION/REVIEW
AGAINST THE DISMISSAL ORDER DT: 22-10-2015 (RECEIVED
ON 24-11/2015) ISSUED BY THE DEO(F) KOHISTAN.

Respected Sir,

Appellant submits as under:-

- 1- That some posts of PSTs were advertised in the District Kohistan for one of which the appellant also applied.
- 2- That being fully qualified and fulfilling all the formalities and the recommendations of the Departmental Selection Committee, the appellant was appointed as PST in BPS-7 vide order dated 31/7/2009.
- 3- That right from the taking over of charge, the appellant performed her duties whole heartedly and to the entire satisfaction of her superiors and on many occasions the performance of the appellant were duly acknowledged.
- 4- That your good self was kind enough to transfer the appellant from District Kohistan to District Swabi and consequently, after taking the charge in District Swabi, appellant performed her duties at District Swabi.
- 5- That besides the fact that the appellant was regularly performing her duties at District Swabi but even then the DEO(F) swabi was reluctant to pay the monthly salary to the appellant. The said act of the DEO (F) was challenged before the Peshawar High Court Peshawar through writ Petition No. 812-P/2013 and after going through the case history, the Honourable Chief of Peshawar High Court admitted said writ and directed the concerned officers of the education department to pay the salary of the appellant forthwith.
- 6- That after the said orders of the Honourable Peshawar High Court Peshawar, the appellant time and again visited the office of the DEO(F)Swabi for payment of the salary of the appellant but always the appellant was informed that her case is in progress and the salary of the appellant will be paid as early as possible.
- 7- That it is also important to mention here that although the education department was not making payment of monthly salary to the appellant but even then the appellant was performing here duties in the school regularly.
- 8- That the appellant was deeply shocked on 24-11-2015 when the DEO(F) swabi handed over a copy of Office Order dated 22-10-2015 issued by the DEO(F) Kohistan, vide which the appellant was removed from service.

Handwritten signature
ATTESTED

12

9- That being aggrieved from the above said Removal Order of the appellant, the appellant has left with no option but to approach your good self though the Appeal/Representation/Review in hand on the following grounds amongst others :-

GROUND:

- H- That the impugned Removal Order dated 22-10-2015 (Received on 26-11-2015) is illegal, Void ab-initio, based on malafide, without lawful authority and nullity in the eyes of law.
- I- That the impugned Removal Order dated 22-10-2015 was issued without giving proper chance of hearing/explanation to the appellant.
- J- That no Charge Sheet or Show Cause Notice was ever served upon the appellant before issuance of the impugned order.
- K- That the appellant was neither associated with the so-called Inquiry as the appellant was never called by the Inquiry Officer to present her stance before the so-called Inquiry.
- L- That copy of the said co-called Inquiry Report was neither provided to the appellant, and on this score alone, the impugned Removal Order is liable to be set aside.
- M- That before issuance of the said impugned Removal Order, the appellant has not been afforded any chance of personal hearing, hence condemned unheard.
- N- That the appellant has served the department for more that 6 years and there is not a single complaint the appellant.

Keeping in view the above, it is requested that the impugned Removal order dated 22-10-2015 of the DEO(F) Kohistan may kindly be set a side and the appellant be re-instated in service with all back benefits.

It is also requested that all the outstanding salaries of the appellant may also please be paid.

Nuzhat

Nuzhat Begum
Ex-Primary School Teacher
Village & PO Bazargai
Tehsil Razzar,

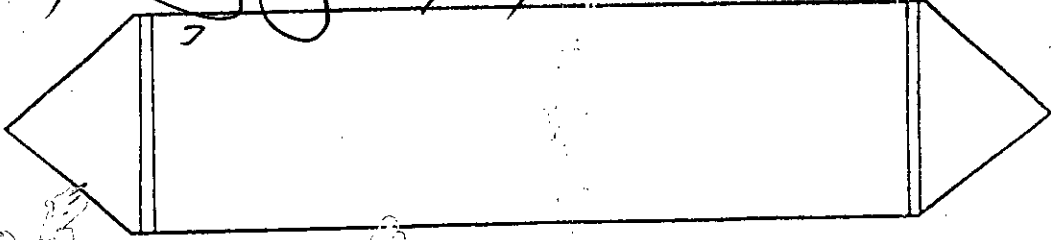
District Swabi.

Dated. ___/11/2015.

ATTACHED

(13)

بعد الت سرگرمیوں کے بیویوں کے



بنام حکومت وکٹریٹ

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی مکمل کارروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی مکمل کارروائی کا کامل اختیار ہوگا۔ نیز
دیکل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے مکمل یا جزوی کارروائی کے واسطے اور دیکل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو چیز چاہے جانے التوائے مقدمہ کے سبب سے وہ ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے اہر ہو تو دیکل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا ادکالت نامہ لکھد یا کہ سن رہے۔

المترقوم _____ ماہ _____ 20

_____ واہ الع

کے لئے منظور ہے۔

در

بمقام

Averto
Hedg

Handwritten signature or mark on the right margin.

**BEFORE THE KHYER PAKTUNKHAWA SERVICE
TRIBUNAL, PESHAWAR**

Service appeal No.254/2016

Mst. Nuzhat.....APPELLANT

VERISUS

Govt: of KPK and others.....RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF 5THE KHYBER
PAKTUNKHAWA SERVICE TRIBUNAL ACT, 1974,**

Respectfully Sheweth,

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

No.1 to 5 AS UNDER:-

**Appeal
INDEX**

S.No	Description of documents	Annexure	Pages
1.	COMMENTS		1 - 5
2.	Affidavit		
3.	LETTER OF INQUIRY	A	
4.	Inquiry Report	B	
5.	Letter of Respondent No. 1 to Respt 2	C	
6.	Removal order and Inter District order	D & E	


DISTRICT EDUCATION OFFICER
(FEMALE) KOHISTAN

**BEFORE THE KHYER PAKTUNKHAWA SERVICE
TRIBUNAL, PESHAWAR**

Service appeal No.254/2016

Mst. Nuzhat.....APPELLANT

VERISUS

Govt: of KPK and others.....RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF 5THE KHYBER
PAKTUNKHAWA SERVICE TRIBUNAL ACT, 1974,**

Respectfully Sheweth,

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

No.1 to 5 AS UNDER:-

PRELIMINARY OBJECTIONS.

1. That the appellant is not an aggrieved persons.
2. That the appellant has got no cause of action/locus standi to file the instant Appeal.
3. That the Appeal is not maintainable in the present circumstances of the issue.
4. That the appellant has concealed the material facts from Hon'ble Tribunal.
5. That the appeal is time barred and not maintainable in eye of Law.
6. That the appeal is groundless and based on malafide, hence the same is liable to be dismissed.
7. That the appellant has estopped by her own conduct.
8. That the service appeal is against the facts, prevailing rules and policy.

FACTUAL OBJECTIONS.

1. Para No.1 is incorrect, the appointment order of appellant is illegal, fictitious, she had indulged into the Government Service fraudulently. In such illegal appointments, the Director Elementary & Secondary Education, Khyber Paktunkhwa, Peshawar was

initiated an enquiry whereby *“the Mr. Riyast BS-19 District Education Officer was appointed an Inquiry Officer to conduct an Inquiry Of Eight (8) PST Teachers appointed in District Kohistan and then transfers to District Swabi to verify as to whether they have been appointed legally or Illegally”* vide Notification Endst No. 826-29 dated 09-10-2014 **(Annexure A)**. that an Inquiry Office conducted an Inquiry and submitted reports regarding the appointment of eight PST including the appellant, wherein the committee recommended to the extent of the appellant that; *-(a). Mst. Nuzhat PSTD/O sherafsar was appointed as PST at GGPS Yazaivide appointment order issued Endst: No. 3189-94 dated 31-07-2009 the order was issued in advance and as per entry in serviced book she took over changeat GGPS Kas Banda onth same day instead of yazai. She was again adjusted at GGPS Yanjool w.e.f 01-03-2011 vide EDO E&SE Kohistan No.741-49 dated 22-04-2011. the source 1 for release of pay was verified from District account Officer Kohistan in th M.O 5/2011 along with the adjustment of arrear of pay for the M.O 3-4/2011. it mean that she could not get salary from date of appointment to 02/2011(19 months). that indicates she was appointed without the availability of post and on availability of post she was adjusted in at GGPS Yanjool. the source 1 for release of pay was verified from District account Officer Kohistan in th M.O 5/2011 along with the adjustment of arrear of pay for the M.O 3-4/2011. it mean that she could not get salary from date of appointment to 02/2011(19 months). that indicates she was appointed without the availability of post and she adjusted in Banjar Yanjool. (a) She was appointed on simple hand written application without merit list and without code formalities. (b) She was appointed by pick and chooses method (e). No other record is available for further verification. That after perusal*

of available record, facts and finding, the an inquiry office has made the following recommendation as

1. ***The appointment orders are illegal and irregular and against the recruitment policy/ rules. The appointing authority could not absolve himself from the responsibilities, hence Department proceeding/legal action may be initiated against the appointing authority.***
2. ***The appointments of above mention teachers (including appellant) are illegal and irregular hence liable to be withdrawn / cancelled / terminated.***

(Inquiry Report as Annexure B)

That an Inquiry Report mention ibid was sent to Respondent No. 2 by the Respondent No. 1 for implementation and further process in according to report of Inquiry Office vide latter No. 3081 dated 16-03-2015, **(Annexure C)** On the bases on inquiry ibid Removal form Service Orders of all Eight PST including appellant were issued by the Respondent No. 2, vide Office Order No. 7105-10 dated 22-10-2015, **(Annexure D)**

2. Para No. 2 is incorrect, as the factual position has already been explained, that appointment order was faked the appellant didnot stand in the merit anywhere, as per report of the inquiry Officer the transfers orders of the all the teachers from District Kohistan to District Swabi issued by the Director, Elementary & Secondary Education Khyber Paktunkhwa Peshawar Respondent No. 1 was withdrawn due to their illegal and irregular appointments vide Notification Endst. No. 3887-84 dated 22-10-2015. **(Annexure E)**
3. Para No. 3 is incorrect. Respondent No. 2 was withdrawn due to their illegal and irregular appointments vide Notification Endst. No. 3887-84 dated 22-10-2015
4. Para is in correct, the departmental appeal of appellant was rightly, has rejected by Respondent No. 2. As per rule.

5. Para is in correct, the departmental appeal of appellant was rightly,has rejected by Respondent No. 2 As per rule Whereas the appellant has no right to invoke the jurisdiction of this Hon'bleTribunal.

GROUNDS


- A. Para is incorrect detail reply has given in Para No.1.
- B. Para is incorrect, the DirectorElementary& Secondary Education Khyber Paktunkhwa Peshawar was initiated an enquiry whereby *"theMr.Riyast BS-19 District Education Officer was appointed an Inquiry Officer to conductan Inquiry Of Eight (8) PST Teachers appointed in District Kohistan and then transfers to District Swabi to verify as to whether they have been appointed legally or Illegally"*vide Notification Endst No. 826-29 dated 09-10-2014 Para is incorrect detail reply has given in para No.1.
- C. Para is incorrect,all the proceeding was adopted as per rules and report of the inquiry officer.
- D. Para is incorrect, Respondents are bound to obey the rules, policy and law.
- E. Para is incorrect,all the proceeding was adopted as per rules and report of the inquiry officer.
- F. Para is incorrect, appellant has no right of standing on the bases of fake and illegal appointment order.Whereas the appellant has no right to invoke the jurisdiction of this Hon'bleTribunal.


PRAYER.

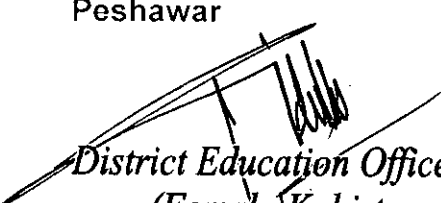
It is therefore humbly prayed that on acceptance of above Para wise comments the appeal may graciously be dismissed with cost.

Respondents.....


Secretary,
E&SE Khyber Pakhtunkhwa
Peshawar


Director,
E&SE Khyber Pakhtunkhwa
Peshawar


Deputy Director,
E&SE Khyber Pakhtunkhwa
Peshawar


District Education Officer,
(Female) Kohistan.

Annexure (A)

NOTIFICATION

Supdt I
To be
Please

Mr. Riyaz Khan (B-19) District Education Officer (Male) Kohistan is hereby appointed as enquiry officer to conduct an enquiry against Eight (8) PST Teachers appointed in District Kohistan and then transfer to District Swabi to verify as to whether they have been appointed legally or illegally. The letter of the District Education Officer (Female) Swabi vide No. 1031 dated 5-6-2013 is attached herewith.

The enquiry reports along with clear findings and recommendations should reach this office within 15 days positively.

Director
Education & Skill Development
Khyber Pakhtunkhwa, Peshawar

826-29
No 20 (F) Teacher Enquiry Division Dated 9/10/2014

- 1. Mr. Riyaz Khan (B-19) District Education Officer (Male) Kohistan
- 2. District Education Officer (Female) Kohistan with the remarks to assist and provide relevant record to the Enquiry Officer concerned
- 3. District Education Officer (Female) Swabi w/r to her letter No. 1031 dated 5-6-13
- 4. P.A. to Director, E&SE Peshawar
- 5. Mr. Riyaz Khan



[Signature]
Deputy Director (Female)
E&SE, Khyber Pakhtunkhwa, Pesh

9/10/14

Keep the
near
16/10



16/10/14



OFFICE OF THE DISTRICT EDUCATION OFFICER,
(MALE) KOHISTAN.

No. 22-10314 Dated: 22-12/2014

ADDE
3/12/2014

To

Director,
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Subject:

INQUIRY REPORT REGARDING PROMPT ACTION AGAINST THE TEACHERS APPOINTED IN
DISTRICT KOHISTAN

Memo: Reference your letter issued under Endst No 826-29 F.No.20/f teachers enquiry division dated 09/10/2014, the enquiry report on the subject matter is as under.

Background/TOR

To probe into the matter on the subject cited above in R/O the following PST teachers who were appointed in District Kohistan and later on they were transferred to District Swabi

- 1. Mst Nuzhat PST ✓
- 2. Mst Nazia Qazi PST ✓
- 3. Mst Alia Ghafoor ✓
- 4. Mst Sultana PST ✓
- 5. Mst Sara PST ✓
- 6. Mst Khus Numa PST ✓
- 7. Mst Mussarat Bibi PST ✓
- 8. Mst Anila Iqbal PST ✓

DD(F)

Procedure

- 1. Consultation with DEO (E) and SDEO (F) in Chair.
- 2. Collection of relevant record/information from DEO (F) and SDEO (F) in Chair.
- 3. Validation of record/information from District Accounts Officer Kohistan.

Facts

22/12/14

- i. Mst Nuzhat Begum PST:
She was appointed as PST at GGPS Yazal vide appointment order issued Endstt No.3189-94 dated 31-07-2009 and she took over the charge on the same day at GGPS Kass Banda instead of GGPS Yazal. After taking over charge she was again adjusted at GGPS Banjar Yanjool w.e.f. 01-03-2011 vide EDO E&SE Kohistan No.741-49 dated 22-04-2011.
The source for the release of pay was verified from District Accounts Office Kohistan in the M/O 5/2011 along with the adjustment of arrear of pay for the M/O 3-4/2011, it mean that she could not get salary from date of appointment to 02/2011 (19 months).
- c. This indicates that she was appointed without the availability of post and she was adjusted in GGPS Banjar Yanjool.
- d. She was appointed only on pick and chooses method.
- e. She was appointed on single hand written application.
- ii. Mst Nazia Qazi PST:
a. Mst Nazia Qazi D/O Qazi Abdul Harj was appointed as PST GGPS Bar Korhila vides appointment order issued under Endst No.8836-12 dated 07/12/2006 and She took over t

Anne
(B) 2

✓
iii. **Mst Aija Ghafoor PST:**

- a. Mst Aija Ghafoor D/O Ghafoor Gul R/O of District Swabi was appointed as pst at GGPS Kass Banda Vide appointment order issued Endstt No.3189-94 dated 31.07.2009 and took over the charge on the same day.
- b. She was again adjusted at GGPS Yanjool w.e.f 01-03-2011 vide EDO E&SE Kohistan No.741-49 dated 22-04-2011.
- c. The source I for the release of pay was verified from District Accounts Office Kohistan in the M/O 5/2011 along with the adjustment of arrear of pay for the M/O 3-4/2011.
- d. It mean that she could not get salary from date of appointment to 02/2011 (19 months) that indicate that she was appointed without the availability of post and on the availability of post she was adjusted in at GGPS Yanjool.
- e. She was appointed only on pick and chooses method.
- f. She was appointed on single hand written application.

✓
iv. **Mst Ruqia PST:**

- a. Mst Ruqia Begum D/O Mustafa Gul R/O of District Swabi was appointed as pst at GGPS Kass Banda Vide appointment order issued Endstt No.3189-94 dated 31.07.2009 and took over the charge on the same day.
- b. After taking over charge she was again adjusted at GGPS Dassu w.e.f 01-03-2011 vide EDO E&SE Kohistan No.741-49 dated 22-04-2011.
- c. The source I for the release of pay was verified from District Accounts Office Kohistan in the M/O 5/2011 along with the adjustment of arrear of pay for the M/O 3-4/2011 it mean that she could not get salary from date of appointment to 02/2011 (19 months) that indicate that she was appointed without the availability of post she was adjusted at GGPS Dassu.
- d. She was appointed only on pick and chooses method.
- e. She was appointed on single hand written application.

✓
Mst Sara PST:

- a. Mst Sara Begum D/O Fazal Yazdan R/O Mardan (Swabi) was appointed as PST GGPS Kundal Vide DEO (F) Kohistan appointment order issued under Endst No.827-33 dated 2/2/1996 being SSC and RTC and as per entry in the service book she took over the charge on 3/2/1996.
- b. As per entry in the service book the pay of the said teacher was released vide DEO (F) Letter No.16071-73 dated 12/10/2010 in the period w.e.f. 01/12/2006 to 3/4/2012 (41 Months) as treated as EOL without pay and the period w.e.f date of appointment 30/11/2006 is not trace able for the month of October 2010.
- c. As per entry in the service book, the source I for the release of salary was verified from District Accounts Office for the month of 11/2010, the pay of the teacher for the period 1/5/2010 to 31/10/2010 has already been drawn.
- d. She was appointed on 2/2/1996 and got the salary w.e.f 1/5/2010, that indicates that she remained without salary from 2/2/1996 to 30/4/2010 (14 years & 3 Months)
- e. It is astonishing that how the appointment is valid.
- f. She was appointed only on pick and chooses method.
- g. She was appointed on single hand written application.

✓
vi. **Mst Khush Numa PST:**

- a. Mst Khush Numa D/O Khurshid Ahmad R/O Swabi was appointed as PST at GGPS Dobair Villages being only SSC Vide appointment order issued under Endst No. 539-44 dated Kohistan

Annex 3
(B)

- d. She was appointed being low academic qualification.
 - e. She was transferred from Kohistan on 8/1/2011 and she got the salary for only 2 month from Kohistan.
 - h. She was appointed only on pick and chooses method.
 - i. She was appointed on single hand written application.
 - vii. **Mst Mussarat Bibi PST:** ✓
 - a. Mst Mussarat Bibi D/O Hazrat Wali was appointed as PST at GGPS Badar Shaha vide appointment order issued Endst No.1135-40 dated 1/2/1996 w.e.f 1/5/1996. the order was issued in advance and as per entry in the service book she took over the charge on 1/5/1996.
 - b. She was appointed being only SSC with 342/850 marks less than 40% in 3rd division. She was appointed on simple hand written application without merit list and without other coddles formalities.
 - c. She was appointed with a very low academic qualification.
 - e. She was appointed on simple hand writing application
 - f. She was appointed by pick and chooses method
 - g. No other record is available for further verifications
 - viii. **Mst. Nadia Qazi**
 - a. Mst. Nadia Qazi D/O Qazi Fazal Haq was appointed as PST GGPS bar Komila vide appointment order issued under End: No.8836-42 dated 07-12-2006
 - b. According to the merit list of Female candidates for the year 2006, she falls at S.No.28/06 being SSC.
 - c. She was appointed on simple hand writing application
 - d. She was appointed by pick and chooses method
 - e. No other record is available for further verifications.
- The score of all these candidates has been changed/ inserted in pen writing and has been changed and the appointments were made randomly and disorderly.

Findings

- 1. The appointments were made without the availability of vacant post and the submission of charge reports is merely the paper work that is why the source I for the release of salary was verified after the issuance and adjustment in 2nd orders.
- 2. The appointments were made with poor/ relaxed criteria with the intension to induct the candidates and leave out them from District Kohistan as soon as possible and the similar has been done.
- 3. The appointments were made to use District Kohistan as a launching bad/ back door for accommodating academically poor candidates.
- 4. The appointments were made on pick and choose policy.
- 5. The appointments were made in pierce-nial by violating the rules.

Photocopy of appointment orders, charge report, pages of service books and merit lists for the year 2006 and 2008 are attached here with as Annexure "A" & "B".

Recommendations.

After perusal of available record, facts and findings, the following recommendations are made.

- 1. The appointments are illegal and irregular and against the recruitment rules / policy, the appointing authority could not absolve himself from the responsibilities hence departmental proceeding/ legal action may be initiated against the appointing authority.
- 2. The appointments of above mention teachers are illegal and irregular hence liable to be withdrawn / cancelled / terminated.

Annexure

(4)

3-57
18/5/2015

Handwritten notes on the left margin, including "File" and other illegible scribbles.

The District Education Officer,
(Female) Kohistan

Subject INQUIRY REPORT

I am directed to refer to the subject cited above and to enclose herewith a copy of the enquiry report and to ask you to decide the case in the light of the recommendation of the enquiry report carried out by Mr. Riasat Khan District Education Officer (Male) Kohistan under intimation to this office.

Encl. No.

Copy to the:-

1. Director (E&SE) Khyber Pakhtunkhwa Local Director:-

Deputy Director Female
E&SE Khyber Pakhtunkhwa

Handwritten signature and date: 18/5/15

Deputy Director Female
E&SE Khyber Pakhtunkhwa

Handwritten signature

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2803
2015

Anne (D) (4)

OFFICE OF THE DIRECTOR OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA

NOTIFICATION

The transfer orders of the following teachers from District Kohistan to District Swabi issued via this office Endst.No. detail given below are hereby withdrawn due to their illegal and irregular appointments as per report of the inquiry officer vide letter No.02 dated 2-12-2014.

S.N	Name of Teacher	From District Kohistan	To District Swabi	Endst.No.
1.	Alia Ghafoor PST	GGPS Banjar Yanjool	GGPS Battai No.2	Endst.No.2511-15 dated 19-10-2011
2.	Ruqia PST	GGPS Madā Khel	GGPS Haryan Banda	Et.No.2511-15 dated 19-10-2011
3.	Nuzhat PST	GGPS Banjar Yanjool	GGPS Haryan Banda	Endst.No.2527-31 dated 24-11-2010
4.	Khushnama PST	GGCMS Kohistan Jijal	GGPS Hayatabad	Endst.No.985-90 dated 08-01-2011
5.	Nazia Qazi PST	GGPS Bar Komila	GGPS Razi Bahauar Koti	Endst.No.4980-85 dated 20-09-2011
6.	Sara PST	GGPS Saglo	GGPS Aala Dher	E.No.1599-1605 dated 15-02-2011
7.	Mussarat PST	GGPS Abad Sao Samad	GGPS Palosai	Endst.No.7490-95 dated 27-09-2008
8.	Aneela PST	GGPS Koz	GGPS No.1 Dheri Gandaf	Endst.No.505-10 dated 08-10-2010

Director
Elementary & Secondary Education
Khyber Pakhtunkhwa,

Endst: No. 2007-09 /F.No.20/(F) Enquiry dated Peshawar the 22/10/2015

Copy to the:-

1. District Account Officer Swabi & Kohistan
2. District Officer (Female) Swabi & Kohistan
3. Teacher Concerned.
4. P.A to Director Local Office

Deputy Director (Female)
(E&SE) Khyber Pakhtunkhwa,

19/11/15

Annexure

(E)

OFFICE OF THE DISTRICT EDUCATION OFFICER, (F) KOHISTAN.

Ph & Fax No. 0998407225

OFFICE ORDER

In compliance with the Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar letter No.3081/F.No.20 (F) enquiry dated 16/03/2015, Reminder No. 2200/F No.20/(R) enquiry dated 20/04/2015/, No. 3530/F No.20 (F) enquiry dated 22/05/2015, and No.3696/F No.20/(F) enquiry Dated 24/08/2015 and In light of recommendation of enquiry officer, the following PST teachers are hereby removed from service with immediate effect.

S/NO	Name	School
1	Nuzhat PST	GGPS Kas banda
2	Nazia Qazi PST	GGPS Bar komila
3	Alia Ghafoor	GGPS Kas banda
4	Ruqia PST	GGPS Kas banda
5	Sara PST	GGPS Kundal
6	Khushnuma PST	GGPS Dubair
7	Mussarat Bibi PST	GGPS Badar shaha

District Education Officer
(Female) Kohistan

No. / Estab. / DEO (F) Kohistan

Copy of the above is forwarded to
 The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
 The District Education Officer (F) Distret Swabi, for necessary action at her end as the above teachers are
 now posted in District Swabi.
 The District Accounts Officer, Swabi.
 The District Accounts Officer, Kohistan.
 The District Education Officer (F) Kohistan.
 Office record

District Education Officer
(Female) Kohistan

D

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

In Re:

Service Appeal No.254/2016

Date of hearing 22.02.2017

Mst. Nuzhat.....**Appellant**

Versus

Govt. of KPK & others.....**Respondents**

**REJOINDER ON BEHALF OF THE
APPELLANT IN RESPONSE TO REPLY
FILED BY RESPONDENT**

Respectfully Sheweth:

All the preliminary objections raised by the answering respondents are erroneous and frivolous as having no factual and legal backing and footings. Impugned order of respondent No.4 has been made on 22.10.2015, department appeal on 01.12.2015 and the present service appeal has been filed after the expiry of stipulated period of 90 days, therefore well within time. As per terms and condition of the appointment letter, appellant is a civil servant for all purpose and intent Civil Servant and governed by rules of Civil Servant Act, 1973 the Khyber Pakhtunkhwa Servant Act, 1973 has provided

remedy in case of any adverse action. Appellant legal services has been terminated without the complaint of the Civil Servant Act, 1973, therefore, appellant has very prima facie case, cause of action and locus standi. The present appeal has been filed after observing all the codal formalities. All the necessary parties has been properly arrayed as respondents. Appellant has pleased all the material facts before this Hon'ble Tribunal and nothing has been concealed in this respect. No principal of estoppels lies against the appellant.

ON FACTS:

1. Para No.1 of the reply by the answering respondents is wrong, misleading and baseless hence denied. the so-called inquiry has been conducted at the back of the appellant. All the proceedings has been conducted by the respondents are one sided having no legal footings. The appellant has not been associated with inquiry proceedings, and the inquiry report is also prepared on the baseless record and one sided inquiry. No statement of allegation, charge sheet and personal hearing opportunity has not been given hence this inquiry report, inquiry and impugned order dated 22.10.2015 have no legal effects on the legal accrued rights of the appellant.

2. Reply of Para No.2 of the comments of the answering respondents is wrong, baseless and not correct. The appellants appointments were made after adopting all the codal formalities by the concerned officials. No illegality and irregularity were made in these appointment in the rejoinder no needs to further submits.

As stated above all the alleged and impugned actions and impugned order have been imitated and conducted at the back of the appellant and no personal hearing operation has been afforded to the appellant hence ground of the appeal of the appeal is right.

3. Para No.3 of comments is wrong, illegal without any reason. The appellant appointment was made by the competent after fulfilling the codal formalities

4-5 Para No.4 and 5 of the comments is also wrong, incorrect and based on malafide

GROUNDS

A. Reply of the respondents to ground "A" is not correct, wrong and ground A of the appeal is correct. As stated in the proceeding Para of the elaborated.

4

- B. Reply to the answering respondents to ground B is wrong based on malafide intention. As stated in the preceding Para of the rejoinder, the impugned inquiry, inquiry report are one sided and the ground B is correct.
- C to E Reply to ground C, D & E are wrong and incorrect. no codal formalities have been adopted and the appellant has not been treated in accordance with law and procedure and ground C, D & E are correct.
- F. As no reply has been given to ground F to the appeal has been given hence no needs to answer in rejoinder.

It is, therefore most humbly prayed that on acceptance of this rejoinder, the appeal in hand may please be allowed and the reply/comments may please be dismissed with cost.

Appellant
Through


Hidayatullah Khattak
Advocate, Peshawar

Dated 22/02/2017

5

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

In Re:
Service Appeal No.254/2016
Date of hearing 22.02.2017

Mst. Nuzhat.....**Appellant**

Versus

Govt. of KPK & others.....**Respondents**

AFFIDAVIT

I, Hidayatullah Khattak Advocate High Court as per instructions of my client, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

