

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR AT CAMP COURT ABBOTTABAD

BEFORE: SALAH-UD-DIN ... MEMBER (Judicial)
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No. 261/2023

Mst. Hari Jan PST Government Girls Primary School Gath Kandia
District Kohistan Upper. (Appellant)

Versus

District Education Officer (F) District Kohistan Upper and 02 others.
(Respondents)

Present:

Mr. Munfat Ali Yousafzai, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy District AttorneyFor respondents

Date of presentation of Appeal.....31.01.2023
Date of Hearing.....12.12.2023
Date of Decision.....12.12.2023

JUDGMENT

SALAH-UD-DIN, MEMBER: Precise averments as per memorandum of appeal are that the appellant was appointed as Primary School Teacher vide appointment order dated 02.12.2009; that the appellant was efficiently and regularly performing her duties to the entire satisfaction of her superiors and was never found absent during the visits of her high-ups; that she was awarded major penalty of removal from service vide the impugned order dated 09.09.2021 without any charge sheet, statement of allegations or show-cause notice; that the appellant preferred departmental appeal

before the appellate Authority, which was rejected vide order dated 05.01.2023, hence the instant appeal.

2. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through their representative and contested the appeal by way of filing written reply raising therein numerous legal as well as factual objections.

3. Learned counsel for the appellant contended that no charge sheet or statement of allegations was issued to the appellant and she was removed from service without even providing any opportunity of personal hearing. He next contended that the procedure for taking departmental action against a civil servant is provided in Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and the competent Authority was legally bound to comply the same but the proceedings against the appellant were taken at her back in a fanciful and arbitrary manner. He further contended that the appellant was performing her duties regularly and the allegations of her absence from duty are wrong and false. He also contended that as the prescribed procedure was not adopted by the competent Authority, therefore, the impugned orders are liable to be set-aside and the appellant is entitled to be reinstated in service with all back benefits.

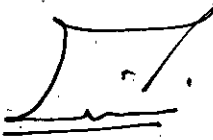
4. On the other hand, learned Deputy District Attorney for the respondents has contended that the appellant was reported

absent from duty by her officer, therefore, show-cause notice was issued to her but she did not submit any reply of the same. He next contended that the appellant was called for personal hearing but she did not appear before the competent Authority. He further argued that the appellant remained absent from duty and had put signatures in the attendance register to justify her bogus presence on duty. He further contended that the appellant had remained absent from duty, therefore, she was removed from service by complying all legal and codal formalities. In the last he requested that the impugned orders may be kept intact and the appeal in hand may be dismissed with cost.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. A perusal of the record would show that show-cause notice was issued to the appellant on 02.08.2021, wherein it is mentioned that as per report of SDEO/ASDEO Circle Seo Kandia, the appellant had willfully remained absent from duty on 09.05.2021. Nothing is available on the record, which could show that the said show-cause notice was personally served upon the appellant. While going through the contents of show-cause notice issued to the appellant on 02.08.2021, nothing has been mentioned therein that the competent Authority had decided to dispense with the conducting of inquiry as provided in Rule-7 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Moreover, according to the show-cause

notice, the absence of the appellant was just only for one day i.e 09.05.2021. Supreme Court of Pakistan in its judgment reported as 2004 SCMR 616 has held that in case of imposing of major penalty, the principle of natural justice requires that a regular inquiry be conducted in the matter and opportunity of personal hearing and defense be provided to the civil servant proceeded against. While going through the record, we have observed that the appellant has been awarded major penalty of removal from service in a haphazard manner without complying the required procedure prescribed in the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. The impugned orders are, therefore, not sustainable in the eye of law and are liable to be set-aside.



7. Consequently, the impugned orders are set-aside and the appellant is reinstated in service with directions to the competent Authority to conduct de-novo inquiry in the matter strictly in accordance with the relevant law/rules within a period of 60 days of receipt of copy of this judgment. Needless to mention that the appellant shall be associated with the inquiry proceedings and fair opportunity be provided to her to defend herself. The issue of back benefits shall be subject to outcome of the de-novo inquiry. In case the respondents failed to conduct de-novo inquiry within the period of 60 days mentioned above, the appellant shall be deemed to have been reinstated in service with all

back benefits. Parties are left to bear their own costs. File be
consigned to the record room.

ANNOUNCED

12.12.2023



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD



(FARHEHA PAUL)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD

Naeem Amin

SCANNED
KPST
Peshawar

ORDER
12.12.2023

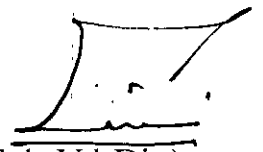
Learned counsel for the appellant present. Mr. Ihsanullah, ADEO alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the impugned orders are set-aside and the appellant is reinstated in service with directions to the competent Authority to conduct de-novo inquiry in the matter strictly in accordance with the relevant law/rules within a period of 60 days of receipt of copy of this judgment. Needless to mention that the appellant shall be associated with the inquiry proceedings and fair opportunity be provided to her to defend herself. The issue of back benefits shall be subject to outcome of the de-novo inquiry. In case the respondents failed to conduct de-novo inquiry within the period of 60 days mentioned above, the appellant shall be deemed to have been reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
12.12.2023



(Fareeha Paul)
Member (Executive)
Camp Court Abbottabad



(Salah-Ud-Din)
Member (Judicial)
Camp Court Abbottabad

Naeem Amin


SCANNED
KPS I
Poonawar

13th June, 2023

1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith Mr. Abdul Haq, Budget Officer for the respondents present.

2. Representative of the respondents submitted reply/comments. Copy of the same was handed over to the learned counsel for the appellant. This case pertains to Camp Court, Abbottabad, therefore, it be fixed for 29.08.2023 for arguments before DB at Camp Court, Abbottabad. P.P given to the parties.

SCANNED
KPST
Peshawar


(Kalim Arshad Khan)
Chairman


Mutazem Shah

29th Aug. 2023

1. This case was fixed for hearing via video link from Abbottabad, but learned counsel for the appellant put appearance at Principal Seat. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith Mr. Shah Wali Ullah, Computer Operator for the respondents present.

2. Being not prepared, learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 12.12.2023 before D.B at Camp Court, Abbottabad. P.P given to the parties.

SCANNED
KPST
Peshawar


(Salah-Ud-Din)
Member (J)


(Kalim Arshad Khan)
Chairman

*Mutazem Shah *

14th March, 2023

Counsel for the appellant present. Preliminary arguments heard and record perused.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security within 10 days. Thereafter, local respondents be served through ordinary mode while out-district respondent be served through TCS, the expenses of which shall be deposited by the appellant within 10 days. To come up for written reply/comments on 04.05.2023 before the S.B. Parcha Peshi given to the parties.

SCANNED
K. ST.
Peshawar


Rs-100/-
Appellant Deposited
Security & Process Fee

Asad Ali Khan
20/3/23


(Fareeha Paul)
Member(E)

04.05.2023 Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Faheem, Assistant for the respondents present.

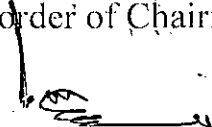

Reply/comments on behalf of respondents not submitted. Record shows that notice has not been issued to respondent No. 1, therefore, respondent No. 1 be summoned through TCS, the expenses of which be deposited by the appellant within three days. Thereafter notice be issued to respondent No. 1 for submission of reply/comments. Adjourned. To come up for reply/comments on 13.06.2023 before S.B. Parcha Peshi given to the parties.


(Muhammad Akbar Khan)
Member (E)

FORM OF ORDER SHEET

Court of _____

Case No.- 261/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/1/2023	<p>The appeal of Mst. Hari Jan presented today by Mr. Munfat Ali Yousafzai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>02-02-23</u>. Parcha Peshi is given to appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p> <p>Clerk of counsel for the appellant present.</p> <p>Due to general strike of the lawyers case is adjourned. To come up for preliminary hearing on 14.03.2023 before S.B.</p> <p> (Rozina Rehman) Member (J)</p>
02.02.2023		

SCANNED
KPST
Peshawar

SCANNED
KPST
Peshawar

BEFORE THE KHYBER PAKHTUNKHWASERVICE TRIBUNAL,
PESHAWAR.

To

The Chairman Khyber Pakhtunkhwa Service Tribunal Peshawar

Hari Jan PST

VERSUS

Education Department

.....

APPLICATION FOR THE HEARING THE ABOVE
MENTION APPEAL AT THE PRINCIPAL SEAT IN
PESHAWAR.

Respectfully Sheweth.


1. That the above mention appeal is to be constituted here at the Principal seat of Khyber Pakhtunkhwa Service Tribunal in Peshawar.
2. That the appellat want the hearing of this appeal be heard here that the Principal seat in Peshawar.

It is therefore requested that the above mention appeal be heard here at the Principal seat of Khyber Pakhtunkhwa Service Tribunal in Peshawar.

Dated 31/01/2023

Appellant/Petitioner

Through


Munfat ali Yousafzai
Advocates High Court
Peshawar

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWAPESHAWAR**

Service Appeal No.

261 /2023

Mst. Hari Jan PST Government Girls Primary School Gath
Kandia District Kohistan Upper.

..... Appellant

Versus

SCANNED
KPST
Peshawar

District Education Officer (F) District Kohistan Upper & others

..... Respondents

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S.No	Description of Documents	Annex	Pages
1.	Memo of appeal with affidavit		1-6
2	Copy of Appointment Order	A	7
3	Copy of the impugned order dated 09-09-2021	B	8
4	Copies of the departmental appeal and appellate order	C & D	9-10
5	Wakalatnama		11

Appellant

Through



Munfat Ali Yousafzai
Advocate High Court
Cell: 0344-9213367

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWAPESHAWAR**

Service Appeal No.

261/2023

Mst. Hari Jan PST Government Girls Primary School Gath
Kandia District Kohistan Upper.

..... Appellant

Versus

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3348

Dated 31-1-2023

1. District Education Officer (F) District Kohistan Upper ✓
2. Director E & SE Department Khyber Pakhtunkhwa,
Peshawar
3. The Secretary E & SE Department, Khyber Pakhtunkhwa
Peshawar.

..... Respondents

**APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL
ACT, 1974 AGAINST THE IMPUGNED ORDER DATED
09-09-2021 WHEREBY THE MAJOR PENALTY OF
REMOVAL FROM SERVICE HAS BEEN IMPOSED
UPON THE APPELLANT AND AGAINST THE
IMPUGNED APPELLATE ORDER DATED 05-01-2023,
WHEREBY DEPARTMENTAL APPEAL OF THE
APPELLANT HAS BEEN REJECTED ON NO GOOD
GROUNDS.**

Filed to-day
Registrar
31/1/2023

PRAYER

On accepting this service appeal, the impugned order dated 09/09/2021 and the impugned appellate order dated 05-01-2023 may very kindly be set aside and the appellant be reinstated into service with all back benefits.

Any other relief which this Hon'ble Tribunal deems appropriate that may also be awarded in favour of the appellant.

Respectfully Sheweth;

Brief facts giving rise to this appeal are as under:

1. That the appellant was the employee of the respondent department and was serving as PST Teacher at GGPS Kath Kandia District Kohistan Upper, quite efficiently and to the entire satisfaction of the her superiors since 02-12-2009, **(Copy of Appointment Order is attached as annexure _____ A)**
2. That appellant was never found absent during surprise visits of her officers and performing her duties regularly.
3. That astonishingly the respondent department issued the impugned order dated 09-09-2021, whereby major penalty of removal from service was imposed on the appellant without giving any warnings, absents notice, show cause notice and without facts finding enquiry in the matter. **(Copy of the impugned order dated 09-09-2021 is attached as annexure _____ B)**

4. That feeling aggrieved from the order dated 09-09-2021 the appellant preferred departmental appeal before the appellate authority on 21-09-2021, and the appellate authority rejected the departmental appeal or the appellant on 05-01-2023, **(Copies of the departmental appeal and appellate order are attached as annexure**

C & D)

5. That the appellant feeling aggrieved from the impugned order dated 09-09-2021 and appellate order dated 05-01-2023, have no other remedy but to file this service appeal on the following grounds amongst the other grounds.

GROUND:

- A. That both the impugned orders of the respondents are illegal, unlawful, against the facts, based on mala fide intention, against the norms of natural justice, violative of the Constitution and Service Laws and material on record, hence the same are not tenable and liable to be set aside in the best interest of justice.
- B. That the appellant has not been treated by respondents in accordance with law and rules of the subject noted above and as such the respondents violated article 4, 25 of the constitution of Islamic Republic of Pakistan 1973,
- C. That no warnings, absence notice, show cause notice, has been served on the appellant before issuing the order dated 09-09-2021, hence the appellant is unheard.
- D. That, no opportunity of hearing was given by the respondents to the appellant before issuing the impugned

order, which is clearly the violation of principles and rules of services similarly against the principles enshrined by the honorable supreme court in various judgments.

- E. That no regular enquiry has been conducted before issuing the impugned orders dated 09-09-2021 and 05-01-2023.
- F. That both the respondents have not properly evaluated the facts and evidences on record before passing the impugned orders. There is nothing on record which shows that appellant is unable to perform the duty in the respondent department.
- G. That no chance of defense, personal hearing has been provided to the appellant before issuing the impugned orders.
- H. That appellant is young energetic efficient person and having un blemished service record which could be verified from the service record of the appellant, therefore the appellant is entitled for reinstatement with all back benefits.
- I. That the appellant seeks permission to advance other grounds and proofs at the time of arguments.

On accepting this service appeal, the impugned order dated 09/09/2021 and the impugned appellate order

dated 05-01-2023 may very kindly be set aside and the appellant be reinstated into service with all back benefits.

Any other relief not specifically prayed for but deems appropriate in the circumstances of the case may also be granted.


Appellant

Through



Munfat Ali Yousafzai
Advocate High Court

Dated: 30/01/2023

Certified that as per instruction of my client no such appeal has been filed before this Hon'ble Forum.

Advocate

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWAPESHAWAR**

Service Appeal No.

/2023

Mst. Hari Jan PST Government Girls Primary School Gath
Kandia District Kohistan Upper.

..... Appellant

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..... Respondents

AFFIDAVIT

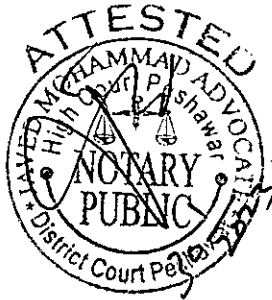
I, **Munfat Ali Yousafzai Advocate**, do hereby solemnly affirm and declare that as per instructions of my client the contents of the above appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Hon'ble Tribunal.



ADVOCATE

CNIC: 16202-3021334-3

Cell: 0344-9213367



(6)



OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE KOHISTAN UPPER

Email: Dofemalekohistanupper@gmail.com - 0998407225

Show Cause Notice:

I, Muhammad Amin District Education officer (F) Kohistan Upper, the Competent Authority under the Khyber Pakhtunkhwa Government Servant Efficiency & Disciplinary Rules 2011, do hereby serve upon you, MST: Hari Jan PST GGPS Kaht Kandla for the following charges:

1. As per report of SDEO/ASDEO Circle Geo Kandla, on 09-05-2021 you willfully remained absent from your duty and school was found closed without proper permission/intimation or leave.
2. Therefore, you are directed to resume your duty immediately and show cause of your absent period with solid reasons.
3. Thus you proved negligent and subvert government official and you have committed the gross act/omissions of misconduct, inefficiency, subversion, specified in Rule 3 of the mentioned rules.

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

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

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

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

Endorsement No: 4/22-27

Dated: 02/08/2021

Copies for information and necessary action forwarded to the:

1. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner Kohistan Upper.
3. The RA to District Education Officer (F) Kohistan Upper.
4. The Deputy District Education Officer (F) Dassa, Kohistan Upper.
5. MST: Hari Jan PST GGPS Kaht Kandla.
6. Copy to Master File for record.

District Education Officer (F)
Kohistan Upper.

Budget Account Officer
DEO (N) Kohistan Lower

Acknowledgment: I _____ received my copy.

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

A-7

APPOINTMENT

Consequent upon approval of Departmental Committee Kohistan, on the acceptance of appeal the competent authority is pleased to appoint the following (Female) candidates in BPS-7 plus usual allowance as due and admissible under the rules in the schools noted against each on vacant posts with immediate effect in the interest of public service according to the merit policy issued by the Government of NWFP Elementary & Secondary Education Department, subject to the following conditions.

S.#	Name of Candidates with Father Name	R/O	Name of School	Remarks
1	Gul Naz D/O Qazi Ahmad	Manspitiya	GGPS Bar Komila	Agst V. Post
2	Kosur D/O Javald Khan	-do-	GGPS Kuz Komila	-do-
3	Maria D/O Qazi Ahmad	-do-	-do-	-do-
4	Sajida D/o Jahanzeb	-do-	GGPS Kuss Banda	-do-
5	Nasreen Akhtar D/O Gul Zaman	-do-	-do-	
6	Tahira Yusuf D/O Mohd Yusuf	-do-	GGPS Kuz Komila	-do-
7	Hari Jan D/O Afsar Jan	Komila	-do-	-do- in BPS-5

CONDITIONS

1. Charge report should be submitted to all concerned
2. No TA/ DA is allowed to him
3. Her appointments is purely on temporary basis and liable to termination at any time with out assigning any reason/ notice
4. She 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 she belong
5. In case the above candidate failed to assume the charge of his post with in 15-days, her appointment will automatically stand cancelled
6. She should not be allowed to take over charge if his age is less than 18-years and above 35-years.
7. She should produced Age & Health Certificate from EDO Health Kohistan before taking over Charge.
8. Dy: District Officer (F) is directed to verify his certificates/ Documents from the concerned Board/ Institution before drawl of her pay.

Executive District officer
(E & S) Education Kohistan

Endst: No. 411-16/

Dated Kohistan the 20/11/2009

Copy of the above is forwarded to the

1. PA to Director Schools & Literacy NWFP Peshawar
2. District Nazim Kohistan
3. District Coordination Officer Kohistan
4. District Accounts Officer Kohistan
5. Dy: District Officer (F) E&SE Kohistan Kohistan
6. Candidate concerned.

Executive District officer
(E & S) Education Kohistan



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

OFFICE ORDER/REMOVAL FROM SERVICE

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

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

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

MUHAMMAD AMIN
District Education Officer
(Female) Kohistan

بکھنور جناب ڈائریکٹر ایجوکیشن خیبر پختونخواہ پشاور

9-4

درخواست برائے: ہمدانصاف

جناب عالی

بمطابق برخواستگی آرڈر نمبر 4627-36 DEO (F) KH DATED: 9/9/2021

سیرل نمبر 4 جواب ذیل پیش خدمت ہے کہ

(1) بحوالہ شوکاز نوٹس نمبر 27-4122 تاریخ 2/8/2021 جواب ذیل پیش خدمت ہے کہ میں نمبر بالا کے تحت جاری شدہ شوکاز نوٹس کا جواب بدور نمبر 3/9/2021 صاحب DEO کے دفتر میں جمع کیا تھا۔ جس نے اچانک سائلہ کی مندر پر فائرنگ کی صورت گولی لگی تھی اس لیے سائلہ کو فوری طور پر اپنے گھر آنا پڑا تھا۔

(2) بحوالہ EMA + DCMAS دوروں کے دوران میں کبھی بھی اپنی ڈپٹی پر ہمیشہ سے حاضر اور مصروف کار پائی گئی تھی جسکی باقاعدہ رپورٹ آپ کے متعلقہ دفتری ریکارڈ سے کلیئر کی جاسکتی ہے اسلئے یہ بتانا کہ میں ان کی ہر دورے کے دوران غیر حاضری پائی گئی۔ بتانا غلط ہے۔

(3) سرکل ASDO زانانہ کی رپورٹ میں سکول سے لمبے عرصے کیلئے غیر حاضر رہی ہوں لیکن کیا تصدیق کیلئے اور بیان شدہ نمبر 2 کی رپورٹ مہمانہ برائے تصدیق کیلئے کافی سمجھی جائے۔

(4) سکول چونکدار کی بیانات بڑے عرصے سے سکول نہیں آئی اگر ایسا ہے تو پھر بھی ماہانہ حاضری کی تصدیق کیلئے نمبر 2 کے تحت بیان شدہ ریکارڈ کافی نہیں ہوگا۔ البتہ اس قسم کے بیان سے چونکدار صاحب خود ہی اس بیان کے اپنے ساتھ نسبت ہونے سے انکاری ہے۔

اسلئے اس قدر جواب برائے نوٹس Removal From Service جناب کی خدمت عرض ہے۔ اور

استدعا ہے کہ میرے خلاف لگائے جانے والے الزامات سے مجھے بری الزامہ قرار دے کر مجھے میری نوکری پر بحال کیا جائے تو آپ کی بڑی مہربانی ہوگی۔

HARI JANU

فقط ہری جان GGSP PST

گھٹ کنڈیا اپر کوہستان

149
21-Pr-2021

(M)



D-10

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

NOTIFICATION

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

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

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

Director
Elementary & Secondary
Education Khyber Pakhtunkhwa

Endst:No. 5252-55 /F.No.322/Vol-II/F/Appeal Kohistan Upper Dated 05/01/2023.

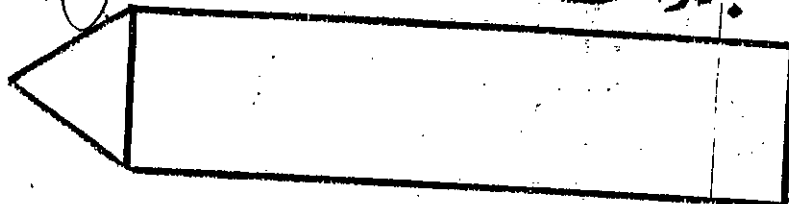
Copy forwarded for information to the:-

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

Assistant Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

M. A. M.

حسبہ بخشوں کو ۱۹۰۵ کے اصول کے تحت ہونا چاہیے
بعدالت



SCANNED
KPST
Peshawar

مورخہ
مقدمہ
دعویٰ
جرم
ہمکارہ پیری جان آئی پی سی ۲۰۰۰ منجانب
بنام
مباح
عوامی حکومت
باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
کیلئے منصفیت کل کو منسوخ کر دیا گیا

آن مقام پیش اور
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور یا اختیارات حاصل ہوں گے
اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے
سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔
کہ پیروی نہ کر کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

۲۰

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المقوم لیسٹریٹ
۱۱/۱۱/۱۱

واہ العبد

(M)

BC-14-4634

Cell-03449213367

Harijan

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No. 70

Appeal No. 261 of 20²³
Haris Jam Appellant/Petitioner

DEO (P) versus Respondent

Respondent No. (1)

Notice to: —

District Education Officer (P) District Kohistan Upper.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 13/06/2023 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. dated~~

Given under my hand and the seal of this Court, at Peshawar this 17th

Day of May 20²³

For Reply

[Signature]

Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

✓ DE. A. MONTORSIWA
TRIBUNAL

No: 5553

Documents

No: 5553

No: 5553

No: 5553

No: 5553

No: 5553

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL No 261 OF 2023

Mst. Hari Jan

Appellant

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5553

Dated 24/5/2023

VERSUS

1. District Education Officer (Female) Kohistan Upper
2. Director Elementary & Secondary Education KPK Peshawar
3. Govt of Khyber Pakhtunkhwa through Secretary
Elementary Secondary Education KPK Peshawar

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.1, 2, 3.

INDEX

S#	Particulars of documents	Annexure	Pages
1	Comments along with affidavit		1-5
2	Copy of show cause notice etc	"A"	6
3	Copy of Removal order	"B"	7
4	Copy of rejection of departmental appeal	"C"	8
5	Copy of Authority Letter		9

Dated 19-05-2023

13/6/2023

Respondent No. 1
District Education Officer,
(Female) Kohistan Upper

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL No 261 OF 2023

Mst. Hari Jan -----

Appellant

VERSUS

3. District Education Officer (Female) Kohistan Upper
4. Director Elementary & Secondary Education KPK Peshawar
3. Govt of Khyber Pakhtunkhwa through Secretary
Elementary Secondary Education KPK Peshawar

Respondents

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

- I. That the appellant did not come to this Honorable Tribunal with clean hands.
- II. That the appellant has got no cause of action /locus standi to file the
Instant appeal
- III. That the appellant is estopped to sue through his own conduct.
- IV. That the present appeal is not maintainable due to non-joinder and
Mis-joinder of necessary parties.
- V. That the appellant has concealed the material facts from this Honorable
Tribunal, hence appeal is liable to be dismissed without any further
proceeding.

(2)

VI. That the appellant has already been removed from Service after

Completion of all codal formalities vide order dated 09/09/2021, hence

Appeal is liable to be dismissed.

VII. That the appeal is time bared hence not maintainable and liable to be

Dismissed.

Factual Objections:

1. Correct, pertain to the appellant personal record.
2. Incorrect strongly denied that the appellant reported absent from duty by her officer, showcause notice was served to the appellant no reply received. On the receiving no reply of showcause notice then the appellant was called for personal hearing but the appellant did not come for this, the appellant did not performed her duty in school and proved unauthorized absent from her duty.

(Copy of showcause notices is annexed as annexure-A).

3. Incorrect strongly denied that the appellant make a fake and bogus attendance on register and did not performed her duty in the school. Show cause notice was served to him and no reply was found a chance of personal hearing was also provided to the appellant but did not come to the office for personal hearing, her willful absence was proved, hence the appellant was removed from service under the efficiency & disciplinary rules 2011 by following al codal formalities dated 09-09-2021.

(Copy of removal order annexed as annexure B)

4. Incorrect strongly denied that the appellant departmental appeal is badly time barred hence the competent authority reject her appeal by following all codal formalities.

(Copy of rejection of appeal is annexed as annexure-C)

5. Strongly denied that the appellant is not aggrieved person her appeal is badly time barred hence need to dismissed on the above facts.


(3)

GROUNDS:



- A. Incorrect, strongly denied that the impugned order is issued by following all the codal formalities as stated in Para 2, 3 & 4 of factual objections.
- B. Incorrect, strongly denied the competent authority issued removal order by fulfilling all codal formalities a detailed reply has been given in Para No.2,3 & 4 of factual objections.
- C. Incorrect strongly denied that showcause notice was issued to the appellant a chance for personal hearing was also provide as stated in Para 2 above of factual objections.
- D. Incorrect strongly denied that the appellant has provided the opportunity for self-defense and his absence was proved.
- E. Incorrect strongly denied as stated in Para 2 & 3 above of factual objections.
- F. Incorrect strongly denied that as stated that by passing these order all codal formalities in above as stated in Para 2 & 3 above of factual objections.
- G. Incorrect strongly denied that the appellant has provided the opportunity for self-defense and his absence was proved.
- H. It relates to appellant personal record.
- I. That the respondents seek leave of this Honorable Tribunal to raise additional grounds /points/records during the course of arguments.

It is therefore, in the light of above stated facts and circumstances,
Very humbly prayed that appeal in hand may please be dismissed with cost.

4


SECRETARY
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar


DIRECTOR
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar


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

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL No 261 OF 2023

Mst. Hari Jan

Appellant

VERSUS

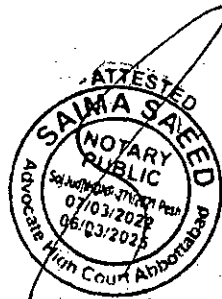
5. District Education Officer (Female) Kohistan Upper
6. Director Elementary & Secondary Education KPK Peshawar
3. Govt of Khyber Pakhtunkhwa through Secretary
Elementary Secondary Education KPK Peshawar

Respondents

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3.

AFFIDAVIT

I, Mr. Shah Wali Ullah representative on behalf of DEO (F) Kohistan Upper, is hereby solemnly affirm and declare that the contents of foregoing comments of the appeal No. 261/2023 titled Mst. Hari Jan versus Govt: of KPK are true and correct to the best of my knowledge and belief and nothing is being suppressed from the Honorable Court.



23/05/23

Shah Wali Ullah
DEPONENT



(7)

R/S

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

OFFICE ORDER/REMOVAL FROM SERVICE

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

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

S.No	Name of Teacher with designation	Name of School	Show cause reference	Remarks
01	Maryam Anwar PST	GGPS Kuz Kamila	No.4038-43 dated:02/08/2021	
02	Arifa Bibi PST	GGPS Dhoop Lohi	No.4056-61 dated:02/08/2021	
03	Gul Fameer PST	GGPS Maidun Tayal	No.4058-73 dated:02/08/2021	
04	Hari Jan PST	GGPS Khat Kandia	No.4122-27 dated:02/08/2021	
05	Asmat Begum PST	GGPS Khat Kandia	No.4128-33 dated:02/08/2021	
06	Shabnum Afiat PST	GGPS Karang	No.4176-81 dated:02/08/2021	
07	Nasreen Bibi PST	GGPS Khel Gabral	No.4188-93 dated:02/08/2021	
08	Maryam Bibi PST	GGPS Kai Rustum Abad	No.4200-4204 dated:02/08/2021	

MUHAMMAD AMIN
District Education Officer
(Female) Kohistan

Scanned with CamScanner

Budget & Account Officer
DEO (M) Kohistan Lower



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

NOTIFICATION

1. **WHEREAS**, the District Education Officer Female Kohistan Upper has imposed major penalty of removal from Service upon the below Ex teachers of District Kohistan Upper under E&D Rules-2011 vide her Notifications issued under Endorsement No. 4627-36 dated 09-09-2021, and No: 4607-16 dated 09-09-2021 and No: 1782-89 dated; 23-06-2021.
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- 1) Gul Fahir Ex PST GGPS Madian Teyal.
- 2) Hari Jan Ex PST GGPS Khat Kandia.
- 3) Maryam Bibi Ex PST GGPS Koi Rustam Abad.

Director
Elementary & Secondary
Education Khyber Pakhtunkhwa

Ends: No. 5252-55 /F.No.322/Vol-II/F/Appeal Kohistan Upper Dated 05/01/2023.

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4. Teacher Concerned.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa.

Assistant Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Budget & Account Officer
DEO (M) Kohistan Lower



9

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

No 778 DEO (F)/UK Dated 22/05/2023.

AUTHORITY LETTER:

Mr. Shah Wali Ullah Computer Operator (BPS-16)/representative for Court cases is hereby authorized to attend all the Court cases of Honorable Peshawar High Court and its benches in KPK as well as Honorable Service Tribunal KPK Peshawar and its Camp Courts and submission of Parawise comments on behalf of the District Education Officer (Female) Kohistan Upper.

It is further directed to attend all the Court Cases on behalf of the undersigned and maintained the record of all Court cases and will be eligible to claim TA/DA as per rule.

District Education Officer
(Female) Kohistan Upper

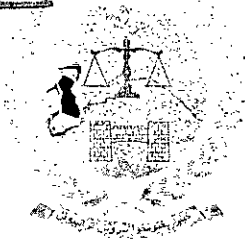
Endst.No 779-82 DEO (F)/UK Dated 22/05/2023.

Copy of the above is forwarded for information to the:-

- 1- PS to Deputy Secretary (Legal) Elementary & Secondary Education Department, KPK, Peshawar.
- 2- PA to Director, Elementary & Secondary Education, KPK, Peshawar.
- 3- PA to AAG High Court Peshawar & Service Tribunal KPK, Peshawar.
- 4- PA to DEO (F) local office.
- 5- Office file

District Education Officer
(Female) Kohistan Upper

22/5/23



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

No. 1000 /ST Dated 30/4/2024

Ph:- 091-9212281
Fax:- 091-9213262

To

The District Education Officer (Female),
Kohistan Upper.

Subject

JUDGMENT IN SERVICE APPEAL NO. 261/2023 TITLED HARI JAN
- VERSUS- THE DISTRICT EDUCATION OFFICER (FEMALE)
DISTRICT KOHISTAN UPPER AND OTHERS

Dear Sir,

I am directed to forward herewith a certified copy of order dated. 12.12.2023, passed by this Tribunal in the above mentioned service appeal for compliance.

Encl. As above.

(AAMIR FAROOQ KHATTAK)
ASSISTANT REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.