

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT

ABBOTTABAD.

Appeal No. 1118/2022

SAIRA BANOAppellant

VERSUS

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

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

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Dated: ___/03/2024

District Education Officer (M)
Kohistan Upper
(Respondent No. 1)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT**ABBOTTABAD.****Appeal No. 1118/2022**

Saira BanoAppellant

VERSUS

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

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS**RESPECTFULLY SHEWETH:-**

Comments on behalf of Respondents are submitted as under:-

PRELIMINARY OBJECTION:

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

FACTUAL OBJECTIONS:

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

2. Reply of Para No. 2, of the service appeal is that the appellant did not render her services regularly, the appellant's service record indicates irregularity in duty performance. The local community lodged complaints with the District Education Officer (F) Kohistan Upper regarding the appellant's consistent absence from GGPS Chuchang without prior permission or sanctioned leave. The appellant was reported absent by Sub-District Education Officer (SDEO) w.e.f 01-01-2018 to 20-10-2020, via letter No.808 dated 20-10-2020 and again on 28/05-2021. The appellant marked fake and bogus attendance in the school attendance register and did not perform duties at the school, and the District Education Officer instructed the Assistant District Education Officer to verify the appellant's absenteeism. Subsequently, the officer concerned submitted a report confirming and verifying the appellant's absence from duty and the school was found closed. Based on the report from the Sub-District Education Officer (SDEO)/Assistant Sub-District Education Officer (ASDEO) of Circle Dassu dated 28/05/2021, a Show cause notice was served by DEO (F) vide this office Endstt: No.4062-67 dated 02-08-2021, but appellant neither filed reply to show cause notice nor made any personal appearance. The appellant also failed to resume her duty. The Appellant's services were not satisfactory according to rules, after having considered charges and evidence on record, the charges against the appellant have been proven and the Respondent No.1 being competent authority imposed the major penalty of "removal from service" vide Endstt: No.4607-16 dated 09-09-2021 (Photocopy of the Absent reports, Explanation, Show Cause Notice & removal from service order are annexed as annexure "A", "B", "C" & "D")
3. That the Para No. 3, of the service appeal as composed is incorrect hence, denied. The departmental submitted by the appellant to appellate authority has been rejected. (Photocopy of the letter dated 6/01/2023 is annexed as annexure "E")
4. Reply of Para No.3 of the appeal has already been given in the preceding para/foregoing paras
5. That Para No. 6, of the service appeal is legal hence, need no comments.

That the instant service appeal is time barred and may be dismissed inter alia on the following grounds.

GROUND:

- A. That ground "A", of the instant service appeal as composed is incorrect hence, denied. The impugned notification dated 09-09-2021 is legally competent as the respondent


No.3 has observed all the codal formalities prior to issuance of said Notification. Hence the plea of the appellant is liable to be dismissed

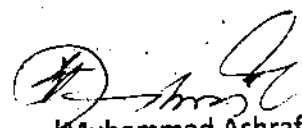
- B. That ground "B", of the instant service appeal as composed is incorrect hence, denied. Further stated that as per report of SDEO/ASDEO (F) during their visit to GGPS Chuchang on 28-05-2021, the appellant remained willful absent from her duty without prior approval of leave sanction/permission.
- C. That ground "C", of the instant appeal as composed is incorrect hence, denied. Detailed and comprehensive reply has already been given in the Para No. 2 of the factual objection.
- D. That ground "D", as composed is incorrect hence, denied and not admitted. The appellant was treated in accordance with law and rule. The impugned Notification dated 09-09-2021 was issued after observing all codal formalities.
- E. That ground "E", as composed is incorrect hence, denied and not admitted. The act of the answering respondent is within legal parameter and by observing all the codal formalities.

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



(Samina Altaf)
Director

(E&SED) Khyber Pakhtunkhwa
Peshawar.

 (Respondent No. 2)


(Muhammad Ashraf)

District Education Officer (Female)
Kohistan Upper

 (Respondent No. 1)

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

Appeal No. 1118/2022

SAIRA BANOAppellant

VERSUS

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

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

AFFIDAVIT

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



**DEPONENT
(Muhammad Ashraf)**

Annexure 'A' (120)

(5)

VISIT REPORT OF GGPS CHUCHANG

The undersigned paid a surprise visit to GGPS Chuchang on 05-08-2021 at 7:30 AM as the detailed Report is as under:

1. During my surprise visit the school was closed there was no teaching staff and also no teaching attendance record in the said school.
2. According to official record there is one teacher Namely MST Saira Bano PST 331926 is appointed in the aforesaid school.
3. Community was verbally reported that student come to school regularly but teacher not attend the school due to which the students of the school are facing hardship with getting proper education and also waste precious time of the student.
4. Surprisingly the teacher was never mark absent by EMA staff report.
5. Physically of the said school was not good condition.
6. This teacher willfully absent from their duties during my throughout visit with any information / proper permission leaves of this office this is the loss of the Government treasure

The report is submitted for further necessary action Please.

Assistant Sub Divisional Education Officer
(Female) DASSU Kohistan

Attested
Q. 16

ADSD PY

Put up in file

8-9-21



136

6

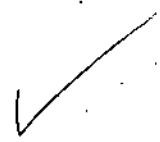
OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER

(FEMALE) KOHISTAN

Endst: No. 924 /SDEO (F) KH Dated 08/06/2021

To,

The District Education Officer
(Female) Kohistan Upper



Subject:

ABSENT REPORT OF MST, SAIRA SARFARAZ PST GGPS CHUCHANG

Memo:

At the eve of the surprise visit of the undersigned at said school along with ASDEO(F) circle Dassu/Harban at 8:10 am Dated on 28/05/2021 said School was again closed Mst, Saira Bano (331926) was absent without intimation to undersigned. It is communicated with community that, Mst Saira PST was appointed in this school but she was not performing regularly and also verbally reported that, our children's were deprived of proper Education.

Therefore it is humbly requested to take action against Defaulter/Absent Teacher and arrange responsible Teacher for safety of our children's at said school.

Report is submitted for further necessary action pleas

SDEO (F)
Dassu

Mst Saira
08/06

ADEO (PY)

Put up on file

23/6/21

D No 205
Dated - 23/6/2021

(38)

(7)

(38)

(۷)

مکمل ۱۹۶۱۳ جلوسہ کو

تاریخ: 19-03-2018

حاضرین: 2

بیموزوں کی تعداد: 3

حاضرین: 39

بیموزوں کی تعداد: 109

سازش :- ایک شہر سدا کہ خیال چھوڑ کر تیسری جملہ دو شہر
 اور انہ لوہ نڈاش دہلاں شہر چلے تیسری میر کون سے
 سکر لوں سے بیان کر الفز بیو کر آئی ہیں میرے علم میں
 سکر لوں شہر بہت نکالی کے معاملہ میں (اعلیٰ میں)
 سکر لوں میں بہ Discipline ہے اور نہ یہاں بہت نکالی ہے۔
 بہت نکالی نہ بہت نکالی کی وجہ سے (بھول) کی تعداد کم نہیں جا
 سکتی ہے۔ ال شہر کے علاوہ شہر کا شہر کو بہاں
 تصانیف کیا جائے تاکہ یہاں سے بھول کی تعلیمی ضروریات
 پوری ہوں اور وقت ضائع نہ ہو۔

Miscellaneous

مکمل PS ۱۹۶۱۳ جلوسہ کو

تاریخ: 20-03-2019

حاضرین: 3

بیموزوں کی تعداد: 3

حاضرین: 153

بیموزوں کی تعداد: 167

سازش :- تیسری شہر کو حاضر ہوا گیا۔ یہ تیسری شہر
 کو دیکھت پر لود میں۔ یہ تیسری شہر بھول کے مستقل کو
 بہا کر دیا گیا۔ درسا دہلاں سے بہا نا واقف نہیں۔ ال شہر
 کو چھری، بہا کر کہ ال کی جگہ کوئی تجربہ کار شہر کو
 تصانیف کیا جائے تاکہ بھول کو بہت عا سکر

مکمل ۱۹۶۱۳ جلوسہ کو

تاریخ: 19-03-2017

حاضرین: 5

بیموزوں کی تعداد: 1

حاضرین: 5

بیموزوں کی تعداد: 5

سازش :- مکمل بھول کو لود بہت ہے اور یہ شہر ساڑھ
 کو لود بہت ہے شہر بھول کی جاتی ہے بہت زیادہ شہر بہت ہے
 کو لود بہت ہے اس کے خلاف سخت سے سخت کارروائی کا اہلی
 کی جاتی ہے اس کو لود کی سے بہت سے بہا ہے۔

(8)

آج روم 2/17 اور آج ٹاک 3/17 جو عندیہ ہے

جو کدور عبدالحکیم حاکم بنائے تھے کیریزڈور سے

دوبینہ میں گاؤں کے سے غیر حاکم حسین

ڈاکٹر بٹہ بابو سام کیرٹھی سے حسین کے

سید سے یہ کتا بار پہلے ہی وہی دیکھ رہے تھے

لیکن ڈکائی آر (F) - ان عرصے کے دوران قاتل

نہیں کیا ہے یہ دونوں بھروسے حاکم حسین

سام اپنے گروں میں رکھے ہوئے ہیں

F+5 حاکم لگائے ہیں اور ڈکائی

ڈاکٹر بار بار چچ دیتا ہے

لیڈا ریڈ میں قدم ہے

موصول
تعمیراتی

F.I.
FARZANA NERII
A.S.D. (F)
Circle Darjeeling

عبدالحکیم
1340/15051649
کیریزڈور

اللہ اعلم
بالحق

Annexure 'B'

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

9

No. 1371

13

44

To

Mst. Saira Sarfraz, PSI GGPS Chuchang

Subject: EXPLANATION

As per report of ASDEO (F) Dassu/Harban, your School was closed. Non functional during visit of ASDEO (F) Dassu on 19-03-2019. you remained habitually absent from your school duty.

You are hereby called to explanation to explain your position within 07 days otherwise disciplinary action will be initiated against you under (11&12) Rule 2011

District Education Officer.
(Female) Kohistan.

Enclst No

1372-73

Dated

6/5/19

2019

7/6

M. Usman

Q. 1/6

- Copy of the above is forwarded to the:
- 1- Sub Divisional Education Officer (F) Dassu Kohistan
 - 2- ASDEO (F) Dassu/Harban

District Education Officer.
(Female) Kohistan.



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: Saira Bano PST GGPS Chochung for the following charges:

1. As per report of SDEO/ ASDEO Circle Dasso on 28-05-2021, you willfully remained absent
2. from your duty and school was found closed without proper permission/intimation or leave.
3. Therefore, you are directed to resume your duty immediately and show cause of your absent period with solid reasons.
4. Thus you proved negligent and subvert government official and you have committed the gross act/omissions of misconduct, inefficiency, subversion, specified in Rule 3 of the mentioned rules.

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

You are, therefore, required to show cause as to why one 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.

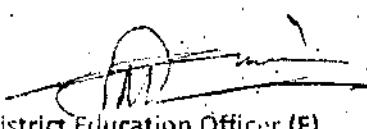
(Muhammad Amin)
District Education Officer (F)
Kohistan Upper.

Endorsement No. 6062-67

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 PA to District Education Officer (F) Kohistan Upper.
4. The Deputy District Education Officer (F) Dasso, Kohistan Upper.
5. MST: Saira Bano PST GGPS Chochung
6. Copy to Master File for record.


District Education Officer (F)
Kohistan Upper.

Acknowledgment: I _____ received my copy.

Signature: _____

Date: _____

Annexure C

10

Attested
Q. 14



Annexure 4 11

OFFICE OF DISTRICT EDUCATION OFFICER (FEMALE)
KOHISTAN

OFFICE ORDER/ REMOVAL FROM SERVICE

01. **WHEREAS** as per the numerus complaints received to the undersigned through various means the following female teachers remained absent from their duties without any prior permission or leave for several years.
02. **WHEREAS** their schools remained closed/Non-functional during the repeated visits of EMA.
03. **WHEREAS** they were reported absent by EMA time and again during the visits of the concerned DCMA's.
04. **WHEREAS** they put their fake attendance in the school registers at their home.
05. **WHEREAS** the concerned ASDEOs were directed to verify their absenteeism.
06. **WHEREAS** the concerned ASDEOs confirmed/verified their absenteeism as per their report.
07. **WHEREAS** show cause notices were issued to them vide the references made against their names.
08. **WHEREAS** they failed to reply their show causes within the stipulated period.
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	Kalsoom Bibi PST	GGPS Tayyab Abad	No.4044-49 dated:02/08/2021	Mlegled
02	Banazir PST	GGPS Lohi Dadir	No.4050-55 dated:02/08/2021	Q.16
03	Saira Bano PST	GGPS Chuchang	No.4062-67 dated:02/08/2021	
04	Abida Qalandar PST	GGPS Maidan Tayal	No.4074-79 dated:02/08/2021	
05	Shainaz PST	GGPS Faridoon Abad	No.4086-91 dated:02/08/2021	
06	Najma PST	GGPS Dhop Lohi	No.4098-4103 dated:02/08/2021	
07	Nasreen Basheer PST	GGPS Sheshrat	No.4104-09 dated:02/08/2021	
08	Nasreen Akhtar PST	GGPS Sheshrat	No.4110-15 dated:02/08/2021	
09	Parveen Akhtar PST	GGPS Pari Kandia	No.4116-21 dated:02/08/2021	
10	Fazilat Begum PST	GGPS Sigloo	No.4134-39 dated:02/08/2021	
11	Kalsoom Bibi PST	GGPS Sigloo	No.4140-45 dated:02/08/2021	

(12)

12	Musarat Gul PST	GGPS Sigloo	No.4146-51 dated:02/08/2021
13	Gul Nar PST	GGPS Thooti	No.4158-63 dated:02/08/2021
14	Asmat Bibi PST	GGPS Karang	No.4170-75 dated:02/08/2021
15	Samina Kosar PST	GGPS Kai Rustum Abad	No.4205-10 dated:02/08/2021



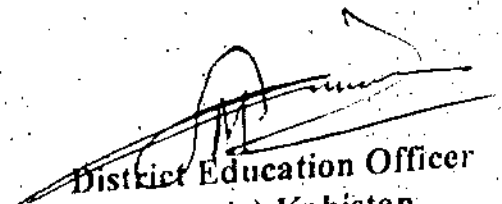
Handwritten notes and signatures on the left margin, including a circled '15'.

MUHAMMAD AMIN
District Education Officer
(Female) Kohistan

Endstt; No. 4607-16 /DEO (F) KH Dated: 09/08/2021

Copy of the above forwarded to the:-

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


District Education Officer
(Female) Kohistan

Miscellaneous
Q.16

Annexure 'E' (13)



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

(17)

NOTIFICATION

WHEREAS the District Education Officer (Female) Kohistan Upper has imposed minor penalties of removal from service upon the below Ex teachers of District Kohistan Upper under F&D Rules, 2011 vide her Notifications issued under Endorsement Nos. 1627/16 dated 09/09/2021, 1628/16 dated 09/09/2021 and No. 1782/16 dated 11/06/2021.

AND WHEREAS the Appellants concerned submitted their appeals for their removal from this office and sent these appeals to the DEO (F) Kohistan Upper for her consideration vide Nos. 7281 dated 11/08/2021, No. 5318 dated 04/10/2021 and No. 2243 dated 11/08/2021 and the DEO (F) Kohistan Upper submitted her report dated 11/05/2022.

AND WHEREAS an opportunity of personal hearing were granted to the appellants vide orders of competence No. 8398 dated 15/11/22, No. 6520/21 dated 07/11/2022 and No. 5379 dated 10/11/2022 but they have not attended this Directorate on due date and time.

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

- 1. Name: Bibi Ex PST GGPS Gabru
- 2. Name: Bibi Ex PST GGPS seri Gabru
- 3. Shabnum Afant Ex PST GGPS Samad Abad.
- 4. Naseem Akhtar Ex PST GGPS Sheshrat.
- 5. Saira Bano Ex PST GGPS Chushing.
- 6. Anzeli Ex PST GGPS Rustamabad.
- 7. Maryam Bibi Ex PST GGPS rustan Abad
- 8. Masarat Gul Ex PST GGPS Khat Gandia
- 9. Nasreen Bashir Ex PST Sheshrat.

Attested
O.A.K.

Director
Elementary & Secondary
Education Khyber Pakhtunkhwa

51170-82

File No. J. No. 322 Vol. II Appeal Kohistan Upper Dated 06/01/2023
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. P.A. Director Elementary & Secondary Education Khyber Pakhtunkhwa

S.D.O. concerned

Signature

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

137
25/01/2023

(BETTER COPY)

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

NOTIFICATION

1. **WHERE AS** 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 Notification issued under Endorsement No: 4627-36, dated:09.09.2021 and No. 4607-16, dated: 09.09.2021 and No. 178-89 dated: 23.06.2021.
2. **AND WHERE AS** the Appellants concerned submitted their appeals for their reinstatement 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. **AND WHERE AS** an opportunity of personal hearing were granted to the appellants vide this office letter No. 8398, dated: 15.11.2022. No. 6520-21, dated: 07.11.2022 and No. 5579, dated: 06.12.2022 but they have not attended this Directorate on due date and time.

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 the appellants under Rule 17 (2) (a) of the E&D rules 2011 in the interest of the public service.

1. Nasreen Bibi Ex PST GGPS Gabir
2. Najma Bibi Ex PST GGPS Seri Gabir.
3. Shabnam Affat Ex PST GGPS Samad Abad.
4. Naseem Akhtar Ex PST GGPS Sheshrat.
5. Saira Bano Ex PST GGPS Chuchang.
6. Anila Ex PST GGPS Rustam Abad.
7. Maryam Bibi Ex PST GGPS Rustam Abad.
8. Musarat Gul Ex PST GGPS Khat Gandia.
9. Nasreen Bashir Ex PST Sheshrat.

**Director
Elementary & Secondary Education
Khyber Pakhtunkhwa**

Endst No. 5470-82/F.No.322/Vol-II/F/ Appeal Kohistan Upper Dated: 06.01.2023

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**