

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Service Appeal No.350/2024


Zohra Bibi D/O Muhammad Hussain Village Mula Gojar Tehsil Warai Jabbar Dir
Upper. (Appellant)

Versus

1. Secretary, Elementary and Secondary Education Khyber Pakhtunkhwa
Peshawar, and Others. (Respondents)

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Deponent

①

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Discy No. 15158

Date: 22/8/24

Service Appeal No.350/2024

Zohra Bibi D/O Muhammad Hussain Village Mula Gojar Tehsil Warai Jabbar Dir
Upper. (Appellant)

Versus

1. Secretary, Elementary and Secondary Education Khyber Pakhtunkhwa
Peshawar, and Others. (Respondents)

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENT No. 1 to 4.

Respectfully sheweth:-

PRELIMINARY OBJECTIONS

1. That the Appellant is not the "aggrieved" person with the meaning of Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974.
2. That the Appellant has got no cause of action /locus stand to file this service appeal because the Appellant did not come on merit.
3. That the Appellant has not come to this Honorable tribunal with clean hands rather than the instant service appeal is mainly based on malafide intentions just to put pressure on the respondent department for illegal Re-instatement.
4. That the Appellant is estopped by his own conduct.
5. That the instant service appeal suffers from laches, hence not maintainable in the present form.
6. That the service appeal in hand is badly barred by the relevant provision of Law/Rules/Policy in Field.
7. That the Appellant the instant service appeal of the appellant is badly time barred as she was removed from service vide order dated 02-12-2015, while she had filed her department appeal vide dated 27-09-2023, furthermore the said departmental Appeal of appellant has been decided as barred by time vide order dated 30-01-2024.
8. That the appellant was removed from service vide order dated 02/12/2015, due to long absenteeism after the completion of all the codal formalities.

9. That the appellant was served with the show cause notices but she did not resume her duty within stipulated period, that's why major penalty of removal from service was imposed upon her.

ON FACTS

1. Para -1 of the facts pertains to record.

2. Para -2 of the facts pertains to record.

3. Para -3 of the facts is incorrect and further stated that neither the appellant had applied for leave nor leave was sanctioned to her, hence denied.

4. Para-4 of the facts is incorrect and further stated that the leave was not sanctioned to the appellant nor she assumed her duty within stipulated period, that's why she was removed from service vide order dated 02-12-2015.

5. Para -5 of the facts is incorrect, and further stated that the appellant was reported absent by the Sub Division Education Officer Wari Dir Upper, in this regard a show cause notice was issued for resuming of duty along with explanation in which she failed to reply and also did not resume her duty. However, last show cause was issued to her through press which was published in daily "AAJ" dated 16-11-2015, but she did not resume her duty. hence, she was removed from service vide order dated 02-12-2015.

(Copy of the show cause notices are attached as "A", Copy of the removal of service order dated 02-12-2015 is attached as "B").

6. Para-6 of the facts pertains to record.

7. Para-7 of the facts is incorrect; details have been submitted in the foregoing Para's.

8. Para-8 of the facts is incorrect; details have been submitted in the foregoing Para's.

9. Para-9 of the facts is the repetition of the above para,s however it is pertinent to mention here that the appellant was bound to file the departmental appeal with 30 days of the final order whereas, the departmental appeal has been filed after 8 years is badly time barred.

10. Para- 10 of the facts pertains to record.

11. Para 11 of is incorrect.

12. Para-12 of the facts is incorrect, hence denied. The appellant has been dealt as per law rules and policy.

15. Para-15 of the is incorrect and further stated that the departmental appeal of the appellant has been decided vide order dated 31-01-2024 by rejecting/ disregarding by the department as badly time barred.

(Copy of the Notification dated 31-01-2024 is attached as "C")

GROUND

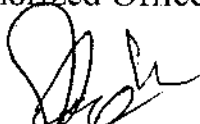
- 1)** In correct and not admitted. The stance of the Appellant is without any moral and legal justification on the grounds that the appellant has been treated as per law and policies.
- 2)** Incorrect hence denied. detail has been submitted in the facts above.
- 3)** Incorrect hence denied. detail has been submitted in the facts above.
- 4)** Incorrect hence denied. detail has been submitted in the facts above.
- 5)** Incorrect hence denied. detail has been submitted in the facts above.
- 6)** Legal, however, the respondents also seek permission to additional grounds/case laws during arguments on the date fixed.

It is, therefore, humbly prayed that on acceptance of the above submission, the instant time barred service appeal may very graciously be dismissed in favor of the answering respondents with cost.

(Masood Ahmad)
Secretary,

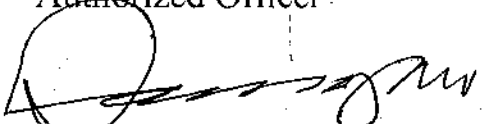
(Samina Altaf)
Directress,

Authorized Officer


Faiz Alam

Additional Secretary E&SED
Khyber Pakhtunkhwa Peshawar
Respondent No. 1

Authorized Officer


Abdus Samad

Respondent No. 3&4
E&SE Khyber Pakhtunkhwa Peshawar



(Hussan Ara)
District Education Officer (F)
Dir Upper
Respondent No.2

**BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR**

Service Appeal No.350/2024

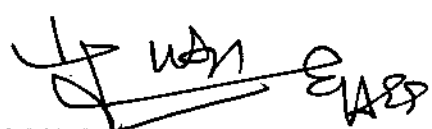
Zohra Bibi D/O Muhammad Hussain Village Mula Gojar Tehsil Warai Jabbar Dir
Upper. (Appellant)

Versus

1. Secretary, Elementary and Secondary Education Khyber Pakhtunkhwa
Peshawar, and Others. (Respondents)

Affidavit

I, Hussan Ara DEO(F) Dir Upper hereby solemnly affirm and declare that contents of the accompanying para wise reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this August court.


Deponent
Hussan Ara



AUTHORITY LETTER

I, Husan Ara, District Education Officer Female Dir Upper do hereby authorized Mr. Mr. Hazrat Wahab Superintendent BPS-17 o/o the SDEO (F) Wari Dir Upper to submit the comments /reply in Service Appeal No.350/2024, Title: Zuhra Bibi v/s Government of Kp and others, hence an authority letter is hereby issued in favor of the above named office.



(Husan Ara)
District Education Officer (F)
Dir Upper
Respondent No. 3

(6)

**OFFICE OF THE DISTRICT EDUCATION OFFICER
FEMALE DIR UPPER**

PH No. 0944-881400-Fax-880411 E-mail emisdirupper@gmail.com

OFFICE ORDER

Whereas, I Mr. Moinud Din District Education Officer Male/Female Dir Upper, as competent authority, am of the opinion that the following teachers have rendered themselves liable to be proceeded against as they have committed the following acts/ omissions with the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

Statement of allegations.

That they have been remained absent from the date mentioned against each names without prior sanction of the competent authority. Their act is against the office discipline and amounts to miss-conduct under rule 3 (b) & (d) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

Whereas, 1st show Cause notices were issued to the accused Vide this Office Endst: No. dated noted against each name, but they did not resume duties within stipulated period.

Whereas, 2nd show Cause notices were issued to the accused Vide this Office Endst: No. dated noted against each name, but they did not resume duties within stipulated period.

#	Name & Designation	Name of School	Date of absenteeism	Show cause notice Nos & Dates on which they were informed	Termination w.e.f, Date
1	Naveeda, TF	GGHS Akhgram	02/5/2015	No:294 Dt:12/8/2015 No:823 Dat:7/10/2015	2/5/2015
2	Shahida, TT	GGMS Kakad	01/08/2012	No:1306-8 Dt:31/8/2015 No:381 Dat:21/8/2015	01/08/201
3	Kifayat, CT	GGHSS Dir	24/1/2010	No:3456-66 Dt:22/9/2010 No:6449-50 Dat:02/12/2010	24/01/2010
4	Zuhra Bibi, PST	GGPS Sankore 1	12/10/2013	No:383 Dated:23/02/2015	12/10/2013
5	Chulam Sadiq CH	GGHS Gogyal	01/08/2014	No:-295 Dated:12/08/2015 No:614-15 Dated 16/09/2015	1/8/2014
6	Zahid NQ	GGHS Gogyal	30/01/2015	No:272 Dated:30/01/2015	03/10/2015

Whereas, the last show cause notice was issued to them through press which has been published in Daily "Aj" dated 16-11-2015, but they did not resume their duties within stipulated period.

Now therefore, I, Moinud Din, DEO Male/Female Dir Upper in the capacity of competent authority am satisfied that the charges against the accused teachers/class IV have been proved beyond no doubt. I, as a competent authority under the power conferred upon me under Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 is hereby impose Major penalties of Removal from service upon the above mentioned teachers/class IV from the date mentioned each name.

(MOINUD DIN)
DISTRICT EDUCATION OFFICER
FEMALE DIR UPPER

No. 1555-58 /F. No. /DEO(F)/ADO(Estt:)/Secy/Dated Dir Upper 2/12 /2015.

Copy forwarded for information & necessary action to:-

1. The District Accounts Officer Dir Upper.
2. Head Mistresses concerned
3. SDEO(F) Wari for information & Necessary action.
4. Official concerned.

DISTRICT EDUCATION OFFICER
FEMALE DIR UPPER

OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER FEMALE WARI DIR UPPER.

No 439-4 /S D E O. (FEMALE) WARI DATED THE 9 / 17 / 2015.

To

1. Saeeda Bibi PST Jelare No 2
2. Zohra Bibi PST Sankore No 1
3. Inayatullah Chowkidar Jatgram Gharbi

Subject: SHOW CAUSE NOTICE

With reference to the letter No 383 dated 23/02/2015 you, Zohra Bibi PST GGPS Sankore No 1 is hereby informed that show cause notice has been served against you by respected DEO (F) Dir Upper as you have been absent from your duty from 12-10-2013 without any sanctioned leave from the concerned department. In this regard explanations have been served against you in different occasions: No 219 dated 11-04-2015 and No 824 dated 24-09-2014 but we feel regret to inform you again that you have critically failed to explain your position positively within the described period.

Similarly, You, Saeeda Bibi GGPS Jelare No 2 has been found absent since 20-09-2014 without any sanctioned leave from the concerned department and explanations have been called against you with letter Nos 917 dated 04-12-2014 and 167-3 dated 08-03-2014. Despite the fact you have failed to explain your position to this office positively within the given times as per departmental rules.

Likewise, you, Inayatullah Chowkidar GGPS Jatgram Gharbi has been absent from 22-08-2014 without any sanctioned leave from the concerned department and explanation have been labeled against you under letter No 835 dated 29-09-2014 and 299 dated 12-02-2015.

Based on the above show cause notice and explanations you all are again directed/ informed to resume your duty in your schools and show the cause of your absenteeism within fifteen days on the issue of this notice positively. If you failed to resume your duty within the stipulated period disciplinary action will be taken against you Under E. & D rules 2011.

Sub-Divisional Education officer
(F) Wari Dir Upper

Endost No _____ Dated _____ 2015.

Copy of the above is forwarded to the:-

1. District Education Officer Female Dir Upper.
2. Office File.

Sub-Divisional Education officer
(F) Wari Dir Upper

A. Masud
AD



File No - 39

NOTIFICATION

Consequent upon the approval of the Appellate Authority, the appeal of Mst. Zuhra Bibi Ex-PST GGPS Sankore No. 1 Dir Upper is hereby disregarded, as badly time barred under rules 17 (2)(a) of E.&D-Rules 2011.

DIRECTOR
Elementary & Secondary
Education Khyber Pakhtunkhwa.

9009-10

Inst:No. /E.No. A-17/appeal/Dir Upper

Dated Peshawar the 31/01/2024

Copy forwarded for information to the:-

1. District Education Officer (Female) Dir Upper w/r to her letter No. 2125-27 dated 13.1.2023 with the direction to inform the teacher concerned accordingly.
2. Teacher concerned.
3. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa.

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

31/01/2024

Amirul
(Signature)

AO EO/P2
as directed
14/2/2024

D / ubair / Peshawar / Re-Instntment

Amirul
File A/A
14/2/24



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

NOTIFICATION

I, Samina Altaf, Director Elementary & Secondary Education Department Khyber Peshawar do hereby authorize, Mr. Abdus Sammad, Deputy Director (Legal) Directorate of Elementary & Secondary Education to sign parawise comments, replies, implementation report, objection petitions, civil miscellaneous application etc on my behalf for onward submission before the courts of law/tribunals as the case may be, with immediate effect in the interest of public service.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst. No. 9.6.33-413 /F.No. AD(LI-10)/E&SE/Office Correspondence/Vol-II/2024
Dated Peshawar the 26/07/2024.

Copy of the above is forwarded for information & n/action to the:

1. Chief Secretary Khyber Pakhtunkhwa.
2. Advocate General Khyber Pakhtunkhwa.
3. Secretary Law Department Khyber Pakhtunkhwa.
4. Learned Registrar High Court Peshawar (with one each spare copy for the Honorable Judges).
5. Learned Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar (with one each spare copy for the Honorable Chairman/Members).
6. All Section Officers E&SE Department Khyber Pakhtunkhwa Peshawar.
7. All District Education Officer (Male/Female) Khyber Pakhtunkhwa.
8. PS to Secretary E&SE Department Khyber Pakhtunkhwa Peshawar.
9. PA to Additional Secretary (General) E&SE Khyber Pakhtunkhwa Peshawar.
10. PA to Director E&SE Department Khyber Pakhtunkhwa Peshawar.
11. Master File.

(Signature)
(SAMINA ALTAF)
DIRECTOR

Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

Dated Peshawar, the 24-07-2024

NOTIFICATION

NO.SO(Lit-II)/E&SED/1-5/2021. The undersigned (Masood Ahmad, Secretary Elementary & Secondary Education Department) is pleased to authorize Mr. Faiz Alam, Additional Secretary (Establishment), Elementary & Secondary Education Department to sign parawise comments, replies, implementation reports, objection petitions, civil miscellaneous applications etc on my behalf for submission before various courts of law/tribunals in the best public interest.

(MASOOD AHMAD)

SECRETARY

**Elementary & Secondary Education
Department, Khyber Pakhtunkhwa**

Indst: No. _____

Dated _____

Copy forwarded to the:-

1. Chief Secretary Khyber Pakhtunkhwa.
2. Advocate General Khyber Pakhtunkhwa.
3. Secretary Law Department.
4. Registrar Peshawar High Court Peshawar (with one each spare copy for the Honorable Judges).
5. Registrar Service Tribunal Peshawar (with one each spare copy for the Honorable Chairman/Members)
6. All Section Officers (Litigation) E&SE Department.
7. PS to Secretary E&SE Department.
8. PA to Additional Secretary (General) E&SE Department.
9. PAs to Deputy Secretary (Legal-I&II) E&SE Department.

SECTION OFFICER (Lit-II)