


FORM OF ORDER SHEET

Court of _____

Appeal No. 950/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/07/2024	<p>The appeal of Mst. Shabnum Afiat resubmitted today by Mr. Jehan Afsar Paindakhel Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on 02.09.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mst. Shabnum Afiat received today i.e on 14.06.2024 is incomplete on the following score which is returned to the appellants for completion and resubmission within 15 days.

- Blank* → ① Check list is not attached with the appeal.
2 ✓ Annexures of the appeal are unattested.
③ ✓ Appeal has not been flagged/marked with annexures marks.
④ ✓ Memorandum of appeal is not signed by the appellants.
5- ✓ Affidavit is not attested by the Oath Commissioner.
6 ✓ Copy of appointment order mentioned in the memo of appeal is not attached with the appeal.
- impugned* ⑦ Copy of impugned order dated 09.09.2021 and departmental appeal against it mentioned in the memo of appeal are not attached with the appeal be placed on it.
- ⑧ Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal be placed on it.
- 9- Annexures of the appeal are not in sequence.
- ⑩ All the annexures of the appeal are illegible be replaced by legible/better one.
- 11- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 216 /Inst;/2024/KPST,

Dt. 20/6 /2024.


20/6/24
OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Jehan Afsar Paindakhel Adv.
High Court. Peshawar.

=> All the objections removed & re-submitted on: 5/7/2024

=> Neither any charge sheet, statement of allegation or show cause issued nor served upon appellants. No inquiry is conducted nor appellants is associated in the alleged inquiry.

BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 950 /2024

SHABNUM AFIAT _____ Appellant

Versus

DIRECTOR ELEMENTARY AND SECONDARY EDUCATION & ANOTHER
_____ Respondents

INDEX

S.No.	Particulars	Annexure	Page Nos.
1.	Memo of Appeal		1-4
2.	Affidavit		05
3.	Addresses of Parties		6-6A 6-5A
4.	Copy of appointment order dated: 20-07-2009	A	6-6A
5.	Copy of impugned order dated: 09-09-2021	B	6-B
6.	Copy of departmental appeal & impugned order dated: 20-05-2024 and 06-01-2023	C-D-E	7-10
7.	Copy of reinstatement orders of other similarly placed employees	F	11-18
8.	Wakalatnama		19

Dated:-14/06/2024

Through _____ Appellant


Jehan Afsar Khan Painsa Khel
Advocate High Court, Peshawar

①

**BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR**

Service Appeal No. 950 /2024

**Khyber Pakhtunkhwa
Service Tribunal**
Diary No. 13570
Dated 14-06-2024

**Shabnum Afiat, Ex-PST GGPS, Karung, Kohistan (Upper) R/O
Karung, Kohistan Upper. _____ Appellant**

Versus

1. **Director, Elementary & Secondary Education, Directorate of
Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.**
 2. **District Education Officer (F), District Kohistan Upper.**
- _____ Respondents**

**SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE
TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER
OF RESPONDENT No. 1 WHO DISMISSED THE APPEAL
OF APPELLANT VIDE ORDER DATED: 20-05-2024 (ON
THE PRETEXT THAT APPELLANT'S DEPARTMENTAL
APPEAL HAS ALREADY BEEN DISMISSED ON 06-01-
2023) AND AGAINST THE IMPUGNED ORDER OF
RESPONDENT No. 2 WHO VIDE ORDER DATED: 09-09-
2021 REMOVED THE APPELLANT FROM SERVICE.**

PRAYER IN APPEAL:

**ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED
ORDERS DATED: 20-05-2024 READ WITH ORDER
DATED: 06-01-2023 & 09-09-2021 MAY KINDLY BE SET
ASIDE, RESULTANTLY APPELLANT MAY KINDLY BE
RE-INSTATED IN SERVICE WITH ALL BACK BENEFITS.**

Respectfully Sheweth:

The appellant most humbly presents her grievances as under:-

1. **That appellant was appointed as Primary School Teacher vide appointment
order dated: 20-07-2009.**

{True copy of appointment order is attached,
as mark Annex-A}

2. That appellant after her appointment, served at Govt. Girls Primary School in District Kohistan Upper without any complaint from her superiors, having unblemished service record on her credit.
3. That on 09-09-2021 respondents issued impugned order of removal from service of appellant on the pretext of willful absence from official duties. Needless to mention that respondents in the impugned order stated that they have served the appellant with show cause notice, but surprisingly, no show cause notice was served upon her.

**{Copy of impugned order dated: 09-09-2021
is attached, as mark Annex-B}**

4. That after receiving the impugned order of removal from service, appellant preferred departmental appeal before the appellate authority on 23-09-2021 and since then she was waiting for the outcome of the departmental appeal. It would be relevant to mention that appellant not only visited the office of respondent No. 1 couple of times but also made reminders of appeal. On 20-05-2024 respondent No. 1 issued the impugned order wherein she stated that appellant's departmental appeal has been rejected vide impugned order dated: 06-01-2023. Needless to mention that said order dated: 06-01-2023 is not served upon the appellant.

**{Copy of departmental appeal, impugned
order dated: 20-05-2024 and 06-01-2023 is
attached, as mark Annex-C, D & E}**

5. That it would be relevant to mention that other similarly placed employees who were also removed from service through a single order, have been reinstated in service through order of departmental appellate authority or through orders of this august tribunal.

**{Copies of reinstatement orders are attached,
as mark Annex-F}**

6. That appellant feeling dissatisfied and aggrieved from the impugned orders, actions and inactions of the respondents, having no other alternate and adequate remedy is invoking the jurisdiction of this august tribunal on the following grounds inter-alia:-

GROUNDS:

- A. Because the impugned orders, actions and inactions of the respondents vide which they have removed the appellant from service & her departmental appeal is rejected is against law, facts and in utter disregard of the material available on record, hence the same is untenable.
- B. Because neither any charge sheet is issued nor statement of allegation is served upon the appellant which is against the settled provision of service law.

- C. **Because** neither any notice for absence is issued nor served upon the appellant.
- D. **Because** appellant has served the department with great zeal, devotion and to the entire satisfaction of respondents, having no blemished record, so taking such a harsh step is unwarranted.
- E. **Because** respondents have failed to show and prove the absence period of appellant from service, as from the impugned order it only transpires that appellant was absent on 08-08-2019 only.
- F. **Because** it has been clear from the record of the case that E & D rules have blatantly been violated while dealing with the case of appellant.
- G. **Because** no chance of personal hearing was given by the respondents while dealing with the rights of the appellant in service and the whole episode was done in a cursory manner, which is alien to the norms of justice.
- H. **Because** the appellant was condemned unheard while imposing major penalty upon her, hence the impugned orders are against the service laws and rules.
- I. **Because** the appellant had been made victim of discrimination, demerits, partiality and favoritism without any just and reasonable cause thereby offending the fundamental rights of the appellant as provided by the constitution of 1973, hence the impugned orders detailed above are liable to be set at naught.
- J. **Because** the respondents in utter disregard to the principles of the fairness, merit and transparency, passed the impugned orders which are against the law, illegal, unlawful and void ab initio and liable to be turned down.
- K. **Because** the appellant is very hardworking and punctual in her duty, therefore, no complaint received by the Respondents against the appellant but the Respondents proceeded against the appellant by ordering her removal from service, which is against the law and fundamental rights of the appellant.
- L. **Because** the present impugned orders are illegal, illogical, against facts, without jurisdiction and suffering from material irregularity, hence they are untenable and liable to be struck down.
- M. **Because** the Respondents erroneously exercised their powers against judicial principle and have passed the impugned orders and opened a new pandora box in clear violation of Service law, hence, the said impugned orders are liable to be set aside, and the appellant may kindly be re-instated in service with all back benefits.


- N. **Because** the impugned action and inaction on the part of respondents is against the directions of Hon'ble Superior Courts of Pakistan, given in plethora of verdicts.
- O. **Because** the appellant crave for leave to add further grounds at the time of oral arguments before this Hon'ble Court highlighting further contraventions of the provisions of the Constitution which adversely affected the appellant.

PRAYER

In view of the above, it is humbly prayed that this Hon'ble Tribunal may graciously be pleased to:

- (I) **Set aside** the impugned order dated: 20-05-2024 & 06-01-2023 of respondent No. 1 (who dismissed departmental appeal of the appellant) being illegal, unlawful, void ab initio and against the settled provisions of law.
- (II) **Set aside** the impugned order dated: 09-09-2021 (vide which respondent No. 2 removed the appellant from her service) being illegal, unlawful, void ab initio and against the settled provisions of law.
- (III) **Re-instate** the appellant into service from the date of removal from service with all back benefits.
- (IV) **Any** other relief deemed appropriate in the circumstances, not specifically for, may also be given to the appellant.

Dated: 14-06-2024

Through Appellant

Jehan Afsar Khan Painda Khel
 Advocate High Court, Peshawar.

VERIFICATION:

It is verified that all the contents of the instant appeal are true and correct and nothing has been concealed intentionally from this Hon'ble Tribunal.


Deponent

Note: That no such like petition / Appeal on this subject matter has earlier been filed before this Hon'ble Tribunal.

5

**BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR**

Service Appeal No. _____/2024

SHABNUM AFIAT _____ Appellant

Versus

DIRECTOR ELEMENTARY AND SECONDARY EDUCATION & ANOTHER
_____ Respondents

AFFIDAVIT

I, **Shabnum Afiat, Ex-PST GGPS, Karung, Kohistan (Upper) R/O Karung, Kohistan Upper**, do hereby solemnly affirm and declare on oath that all the contents of the accompanying appellant are true and correct to the best of my knowledge and belief and nothing has been kept concealed intentionally from this Hon'ble Tribunal.

Identified By:

JAK
Jehan Afsar Khan Pinda Khel
Advocate High Court, Peshawar.

Shabnum Afiat
Deponent



(6) 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 (Female) candidates (H/C wise) against the post of PST in _____ the schools _____ according to the Policy issued by the Government of _____ Elementary & _____ Department in the interest of public service with immediate effect.

S.No.	Name of Candidate	Father Name	RTI	Name of School where appointed	Remarks
1	Shirina	Abdul	Sec	GGPS Sec VIII	Agst. Post
2	Asma Bibi	Saidullah	Sec	GGPS Bar Kumbha	do
	Shirina	Abdul	Sec	GGPS Sec VIII	Agst. Post

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 within 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 and Domicile certificates should be verified by Dy. District Officer (Female) E&SE Kohistan from the concerned board/ University/ Institution before draw of their pay

Executive District Officer
E&SE Kohistan

Order No. 2919-27

Dated Kohistan the 20/7 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

Jawad Khan
Executive District Officer
E&SE Kohistan

ATTESTED

Better copy

(B-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 (U/C wise) against the post of PST in BPS-5 in the schools noted against each according to the policy issued by the Govt. of N.W.F.P ESED in the interest of public service with immediate effect.

S.No.	Name of candidate	Father Name	R/O	Name Of School	Remarks
1.	Shabnam	Afiyat Khan	Seo	GGPS Seo VIII	Against V.Post
2.	Asma BiBi	Saif Ullah	Seo	GGPS Bar Komila	-do-

CONDITIONS

1. No TA/DA is allowed
2. Charge report should be submitted to all concerned
3. Their appointments are purely on temporary basis and liable termination at any time without 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 Govt. Servants to which they belong
5. In case the above candidates failed to assume the charge of his post within fifteen days of the issuance of this order their appointments will automatically stand cancelled.
6. They should produce age and health certificates from DEO health Kohistan
7. They should not be allowed to take over charge if their age is less than 18 years & above 35.
8. Their original certificates/degrees and domicile certificates should be verified by Dy: District Officer (F) E&SE Kohistan from concerned board /University/Institution before drawl of the pay,

Executive District Officer
ESE Kohistan

-sd-

By
ATTESTED

6-B

OFFICE OF THE DEO Kohistan
(F) UPPER

B

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 Maidan 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 Khel Gubral	No.4188-93 dated:02/08/2021	
08	Maryam Bibi PST	GGPS Kai Rastum Abad	No.4200-4204 dated:02/08/2021	

MUHAMMAD AMIN
District Education Officer
(Female) Kohistan

ATTESTED

ATTESTED

396

23-9-2011

Shah

2011/03/09

ATTESTED

تاریخ

الساكن

بیت آیت ام جعفر علیہ السلام

بیت آیت ام جعفر علیہ السلام

بیت آیت ام جعفر علیہ السلام

بیت آیت ام جعفر علیہ السلام

بیت آیت ام جعفر علیہ السلام

بیت آیت ام جعفر علیہ السلام

بیت آیت ام جعفر علیہ السلام

بیت آیت ام جعفر علیہ السلام

بیت آیت ام جعفر علیہ السلام

بیت آیت ام جعفر علیہ السلام

بیت آیت ام جعفر علیہ السلام

بیت آیت ام جعفر علیہ السلام

(2)

②

C-1

To,

The Director
Elementary & Secondary Education
KPK Peshawar.

THROUGH PROPER CHANNEL

Subject; DEPARTMENTAL APPEAL AND REQUEST FOR RE INSTATMENT.
AGAINST PST POST.

R/Sir,

With due honour and respect I want to recall your kind honour towards the following few lines:-

1. That I have been appointed as PST Teacher at GGPS seavill vide DEO(F) Kohistan under endst No. 2919-24 Dated 20/7/2009
2. That I have taken over charge on 20/07/2009 as PST teacher and regularly performed my duty to the entire satisfaction of my high ups.
3. That due to unknown reason I have been removed from service.
4. That a male enquiry officer has not been known the problems/grivencies of female teacher and take a serious action on the spot.
5. That the inconsiderate and harsh behaviour of the male officer creates so much problems to the female.
6. That I have been sent departmental appeal for re instatment on 23.9.2021 but no favourable action taken/availed so far.

Hence your kind honour is hereby requested to accept my appeal, re enquire the observation /charges fixed on me with out any clarification and to re instate me against the PST post on humanterrain base.

Thanks.

Dated 20/04/2024.

Yours Obedient.

(Mrs. Shabnam Afjat)
PST GGPS Karung Kohistan upper.

②

ADDE(A)
6/5



D
9



The Director, Education Officer
Khyber Pakhtunkhwa

Subject: APPEAL IN RESPECT OF SHABNUM ALI TAIB EX-EST. GUPS KARONG

Memo:

I am directed to refer to the subject cited above and to state that appeal for re-instatement in service in respect of Mrs. Shabnum Ali Taib Ex-EST. GUPS Karung Khatlon, Upper has already been rejected under rules 17 (2) (a) of the E&D rules 2011 on 06-01-2023. This Directorate had already granted opportunity of personal hearing to her and others vide letter NO:6519-21n dated 7-11-2022 but she failed and not attend this office.

[Handwritten signature]
Assistant Director (Estab: Female)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

No. _____

Copy forwarded for information and necessary action to the :-
1 Section Officer (F) Primary E&SED Department KP

[Handwritten signature]
Assistant Director (Estab: Female)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar
20/5/2024

[Handwritten signature]
ATTESTED

Better copy

(9-A)

**Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar**

**No.5759/322 vol;II appeal Kohistan Upper
Dated:20-05-2024**

To,

**The District Education Officer,
(F) Kohistan upper**

**Subject:- APPEAL IN RESPECT OF SHABNUM AFFIAT EX
PST GGPS KARUNG**

Memo:-

I am directed to refer to the subject cited above and to state that appeal for re-instatement in service in respect of Mst; Shabnum Affiat EX PST GGPS Karung Kohistan upper has already been rejected under rules 17 (2) (a) of the E&D rules 2011 on 06-01-2023, this directorate has already granted opportunity of personal hearing to her and others vide letter NO:6519-21 dated 7-11-2022 but she had failed and not attend this office.

**female)
Education
Peshawar**

**Assitant Director (Estab:
Elementary & Secaondary
Khyber Pakhtunkhwa**

Sd: 20-05-2024


ATTESTED

(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 9.9.2021, and No. 1607-16 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: 01-10-2021 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, 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 appellants under Rule 17 (2) (a) of the E&D Rules-2011 in the interest of the public service.

- 1) Nusrat Bibi Ex PST GGPS Gabir.
- 2) Najma Bibi Ex PST GGPS seri Gabir.
- 3) Shabnum Afalt Ex PST GGPS Samad Abad.
- 4) Naseem Akhtar Ex PST GGPS Sheshrat.
- 5) Saima Bano Ex PST GGPS Chushing.
- 6) Aneela Ex PST GGPS Rustanabad.
- 7) Maryam Bibi Ex PST GGPS rustan Abad.
- 8) Musarat Gul Ex PST GGPS Khat Gandia.
- 9) Nusrat 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.

ATTESTED

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

To ER Primary A.S.

Please for Jaffer N/A 17/11/22

Assistant Director (Female)
Ministry of Education
Khyber Pakhtunkhwa

2-5/3/2022

ATTESTED

Director
Ministry of Secondary
Education Khyber Pakhtunkhwa
2-5/3/2022

6. SIAW THIRTEEN (13), in exercise of power conferred under the Government of Khyber
Pakhtunkhwa Government Servants (E&C) Rules, 2011 the appellant authority,
District Education Officer and the District Education Officer Female
Kohistan Upper Kohistan issued under Ladoosment No. 4627-36 dated 9.9.2021 is hereby
set aside and Mr. Muzam Ali Khan, G.P.S, Kuz Kohistan District Kohistan Upper is
hereby re-instated in service with immediate effect, and the major penalty is
converted into minor penalty of withholding her annual increments maximum
for two years as specified in Rule (4)(b)(ii) of E&C Rules-2011 and her absence
interacting period is treated as leave without pay as per Creditary Leave under
Rule 123 of revised leave rules-1981.

5. AND WHEREAS, the appellate authority after having examined the appeal, and the
District Education Officer Female Kohistan Upper submitted

1. AND WHEREAS, the District Education Officer (Female) Kohistan Upper submitted
report dated 10.2.2022. ✓

2. AND WHEREAS, the Appellate Authority forwarded her departmental appeal to
District Education Officer (Female) Kohistan Upper for detail report/commitments vide her
letter No. 1038 dated 26.5.2021. ✓

3. AND WHEREAS, the Appellate Authority dated 21.9.2021. ✓
advised an appeal before the appellate authority dated 21.9.2021. ✓

4. WHEREAS, Mr. Muzam Ali Khan, G.P.S, Kuz Kohistan District Kohistan Upper
submitted an appeal dated 9.9.2021. ✓
appeal dated 9.9.2021. ✓

5. WHEREAS, the Khyber Pakhtunkhwa (E&C) Rules-2011 major penalty of removal from
service is hereby set aside and Mr. Muzam Ali Khan, G.P.S, Kuz Kohistan District Kohistan
Upper is hereby re-instated in service with immediate effect, and the major penalty is
converted into minor penalty of withholding her annual increments maximum
for two years as specified in Rule (4)(b)(ii) of E&C Rules-2011 and her absence
interacting period is treated as leave without pay as per Creditary Leave under
Rule 123 of revised leave rules-1981.

DIRECTOR GENERAL OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR

NOTIFICATION



11

11

(12) E (27)

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

NOTIFICATION

1. WHEREAS the Khyber Pakhtunkhwa E&D Rules-2011 major penalty of removal from Service was imposed upon Mst. Asmat Begum, Ex-PST, GGPS, Khai Kandia and Mst. Shahnaz Ex PST GGPS Faridoun Abad District Kohistan Upper by the District Education Officer (Female) Kohistan Upper vide her office Notifications bearing issued under Endorsement No. 4627-36 dated 9.9.2021 and No. 4607-16 dated 9.9.2021.

2. WHEREAS, Mst. Asmat Begum, Ex-PST, GGPS, Khai Kandia and Mst. Shahnaz Ex PST GGPS Faridoun District Kohistan Upper lodged an appeal before the appellate authority dated 21.9.2021

3. AND WHEREAS, the District Education Officer (Female) Kohistan Upper submitted her report vide letter No. 2159 and 2161 dated 31.5.2022.

4. NOW THEREFORE, in exercise of power conferred under the Government of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 the appellant authority, Director (E&SE) accepted the appeals of Mst Asmat Begum, Ex-PST, GGPS, Khai Khandia and Mst. Shahnaz Ex PST GGPS Faridoun Abad District Kohistan Upper and the removal order of the District Education Officer (Female) Kohistan Upper Notification issued under Endor Nos. 4627-36 dated 9.9.2021 and No. 4607-16 dated 9.9.2021 are hereby set aside and Mst Asmat Begum, Ex-PST, GGPS, Khai Khandia and Mst. Shahnaz Ex PST GGPS Faridoun Abad District Kohistan Upper are hereby re-instated in service with immediate effect, under Rules 17(2)(c) of the E&D Rules-2011 and their absence /intervening period are treated as leave without pay i.e Extra Ordinary Leave under Rule(12) of revised leave rules-1981.

Director
Elementary & Secondary
Education Khyber Pakhtunkhwa

Order No. 21707/22 No. Kohistan Upper/Vol-2 dated Peshawar the 09/09/2022
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

ATTESTED

Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa

27/12/22
ADEC (F. P. Y)
13/9/2022 DLEO
S. NO. 1-
11/12/2022

(13)

47

F

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

NOTIFICATION

- 1 WHEREAS the District Education Officer Female Kohistan has imposed major penalty of removal from service upon Mst. Arifa Bibi Ex-PST, GGPS Dhoop Lohi District Kohistan Upper under E&D Rules, 2011 vide her Notification issued under Endorsement No. 4627-36 dated 9.9.2021.
- 2 WHEREAS, Mst. Arifa Bibi Ex-PST, GGPS Dhoop Lohi District Kohistan Upper lodged an appeal before the appellate authority dated 14.9.2021.
- 3 AND WHEREAS, the Appellate Authority forwarded her departmental appeal to District Education Officer (Female) Kohistan Upper for detail report/comments vide this office letter No. 2213 dated 22.9.2021.
- 4 AND WHEREAS, the District Education Officer (Female) Kohistan Upper submitted report vide letter No. 2166 dated 31.5.2022.
- 5 AND WHEREAS, an opportunity of personal hearing was granted to Mst. Arifa Bibi Ex-PST, GGPS Dhoop Lohi District Kohistan Upper, Schedule on dated 18.7.2022 vide this office letter NO. 6390 dated 6.7.2022 and the appellant concerned has attend the said meeting on due date and time respectively.
- 6 AND WHEREAS, the appellate committee examined the appeal, and the appellant convinced and justified her appeal before the committee,
- 7 NOW THEREFORE, in exercise of power conferred under the Government of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 the appellant authority, Director (E&SE) accepts the appeal of Mst. Arifa Bibi Ex-PST, GGPS Lohi Dedar District Kohistan Upper and the removal order of the District Education Officer Female Kohistan Upper Notification issued under Endst No. 4627-36 dated 9.9.2021 is hereby set aside and the appellant concerned is hereby re-instated in service with immediate effect, under rule (17) (2)(c) of the E&D Rule- 2011 and her absence/intervening period is treated as leave without pay i.e Extra Ordinary Leave under Rule(12) of revised leave rules-1981

**Director
Elementary & Secondary
Education Khyber Pakhtunkhwa**

593438
Endst.No. _____ /P.No. 322/Vol-1/F/Appel, Kohistan Upper Dated Peshawar the 3/11/2022
Copy forwarded for information to the:-

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

ADDO (Senior) Pesh



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

ATTESTE

(14) (F-1)

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR AT CAMP COURT ABOOTTABAD**

BEFORE SALAH-UD-DIN MEMBER (Judicial)
FAREHA PAUL MEMBER (Executive)

Service Appeal No. 261/2023

Mst. Hani Jan PST Government Girls Primary School Gath Kandin
District Kohistan Upper. (Appellant)

VERSUS

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

Present:

Mr. Mumtaz Ali Yousafzai, Advocate For the appellant
Mr. Asif Musood Ali Shah, Deputy District Attorney For 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

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTE

(15)

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

ATTEST

ATTESTED


Deputy District Attorney
Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011

show-cause notice was issued to her but she did not appear in reply of the same. He next considered 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 no signature in the attendance register to justify her bogus presence on duty. He further considered 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.

J.L.

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

ATTEST



FILED
20
Khyber Pakhtunkhwa
Government Servants (Efficiency & Discipline) Rules, 2011

17

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

ATTESTED

ATTESTED

Secretary, Government of Khyber Pakhtunkhwa

18

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

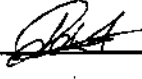



(FARLEHA PAUL)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD

Certified to be true copy

M. A. KHAN
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 15-1-24
Number of Words 57
Copying Fee 25/-
Urgent _____
Total 25/-
Name of Applicant _____
Date of _____ 16-1-24
Date of _____ 16-1-24

ATTESTED

50	39836	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈوکیٹ: 	PESHAWAR BAR ASSOCIATION	
بار کونسل ایسوسی ایشن نمبر: bc-09-1646		
رابطہ نمبر: 0333-9433554		

بعدالت جناب: چئیرمین خیبر پختونخواہ اسٹریٹجی کے بی کے لیسٹ اور

مخانب: ایڈوائس	دعویٰ:
	علت نمبر:
	مورخہ:
شہین آفتاب بنام دختر آفتاب ایڈوائس	جرم:
	تھانہ:

باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام کورٹ ٹریبونل پشاور کیلئے جہاں افسر پانڈہ ضیل ایڈووکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوفہ کو مقدمہ میں کاروائی کا کامل اختیار ہے اور وہ وکیل صاحب کو راضی نامہ کرنے و تقریریں ویصلہ برحلف دینے جواب دعویٰ اقبال اور دعویٰ اور درجہ اولیٰ ہر قسم کی تصدیق زریں پر دستخط کرنے سے اجتناب ہوگا، نیز بصورت عدم حیرت یا ڈگری میٹرفرہ یا اپیل کی صورت میں منسوخی، نیز دائر کرنے اپیل و طعناتی و پیروی کی صورت میں اختیار ہوگا اور بصورت مقدمہ میں کسی کل یا جزوی کاروائی کے واسطے وکیل یا مختار قانون دان کے سببے ہمراہ یا اپنے ہی نام سے تقرر کیا جائے گا اور صاحب مقرر شدہ کو وہی جملہ امور والا اختیار حاصل ہوں گے اور اس کا سامنے منظر و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جہانہ کے مقصد کے سبب سے ہوگا اسے اپنی پیشی مقام دورہ یا حد سے باہر ہوتو وکیل صاحب پانڈہ کی ذمہ داری ہوگی کہ وہ پیروی کی صورت میں ہر ایک کام کو دیکھ دیا تاکہ سندر ہے



المرقوم: 11/06/2024

الع ہد ہد واہ ہد الع ہد ہد
مقام لیسٹ اور کے لئے منظور ہے۔

Attested by


نوٹ: اس وکالت نامہ کی فوٹو کاپی نا قابل قبول ہوگی۔

مسماة شہین آفتاب ایڈوائس
Shahina