

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.90/2024

Mst. Nighat Shaheen, PST GGPS Zaida Tehsil and District Swabi..

Appellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary E&SED, Khyber Pakhtunkhwa.
2. Director E&SE, Khyber Pakhtunkhwa, Peshawar
3. District Education Officer (Female) Swabi.
4. Sub Divisional Education Officer Female Swabi.
5. Head Teacher Government Girls Primary School No.3 Zaida.
6. District Accounts Officer Swabi.

Respondents

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DISTRICT ACCOUNTS OFFICER
SWABI

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6. District Accounts Officer Swabi. Respondents

PARA WISE COMMENTS ON BEHALF OF THE RESPONDENT No. 6

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the appellant has continuously been concealing the material facts from this honorable tribunal during service appeal, execution petition and in the instant service appeal, hence, committed a serious breach of discipline.
2. That the service appeal is wrong, baseless and not maintainable, it shows no strong cause to be taken for adjudication, therefore, the same service appeal is liable to be rejected/ dismissed.
3. That the service appeal is unjustifiable, baseless, false, frivolous and vexatious. Hence the same is liable to be dismissed with the order of special compensatory cost in favour of respondents.
4. That no constitutional or legal right of the appellant has been violated, therefore, the appellant is not entitled to invoke the constitutional jurisdiction of this honourable Service Tribunal under Article 212 of the constitution of Pakistan.
5. That the appellant has not come to the Court/Tribunal with clean hands.
6. That the appeal is bad for misjoinder and non-joinder of the necessary party.
7. That the appellant has filed the instant appeal just to pressurize the respondents.
8. That the appellant has no cause of action to file the instant appeal.
9. That the appeal is not maintainable in the eye of law.
10. That the instant appeal is not maintainable in the present form and also in the present circumstances of the issue.

11. That in the judgment it is also ordered that "intervening period including all the unauthorized absence period after the expiry of sanction leave shall be treated as leave without pay" hence the serviced appeal is liable to be dismissed.

Facts: -

1. Pertains to record of Education Department and respondent No.1 to 5 will be in a better position to answer the same.
2. Pertains to record of Education Department and respondent No.1 to 5 will be in a better position to answer the same.
3. Pertains to record of Education Department and respondent No.1 to 5 will be in a better position to answer the same.
4. Pertains to record of Education Department and respondent No.1 to 5 will be in a better position to answer the same.
5. Pertains to record of Education Department and respondent No.1 to 5 will be in a better position to answer the same.
6. That the CPLA No 354-P/2018 was dismissed on technical ground of barred by time.
7. That the appellant was not entitled of pensionary benefits at all, because the appellant has left the department without any NOC and sanction of Ex-Pakistan leave. Thus the appellant has committed violation of rule 2.11 (c) of the civil servant's pension rules 1963, the question of wrong calculation cannot arise.
8. Incorrect, hence strongly denied. Appellant is not entitled for pension and pensionary benefits at all.
9. That the appellant is not an aggrieved person at all. That the calculations made by the respondents regarding pension and pensionary benefits are totally correct and according the service record. Actually appellant is not entitled for pension and pensionary benefits as per law. That appellant was allowed leave for the period of two years w.e.f.15.12.2009to16.12.2010 with half pay and

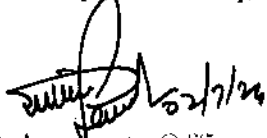
from 4.11.2010 to 15.12.2011 without pay but after expiry of sanctioned leave she remained absent from duty with effect from 16.12.2011 therefore the competent authority awarded punishment of removal from service vide order dated 4.11.2016. The appellant then preferred an appeal before this hon'ble tribunal when was allowed and impugned punishment was modified and converted into compulsory retirement from service vide judgment dated 16.1.2018 after the said decision the appellant approached the respondent No.3. District education (female) Swabi for preparation of pension case. That accordingly the office of undersigned in the light of data provided by the respondent No.3. in respect of service record of the appellant calculate and fixed the pension of the appellant. The appellant filed the execution petition before this Hon'ble tribunal, accordingly order for granting of pension and pensionary benefit was passed by this ibid tribunal. That the respondent No.3. vide notification bearing Endst No. 2860 dated 19.10.2022 Complied to the direction of this Hon'ble tribunal but the appellant again filed the present appeal being aggrieved from the said notification and requested this Hon'ble tribunal to direct the respondents for recalculation of pension and commutation of the appellant. Appellant has no cause of action to file the instant service appeal and the service appeal in hand is liable to be dismissed on the following grounds.

Grounds: -

- A. Incorrect, hence denied. Detailed reply is given above.
- B. Incorrect, hence denied. Unlawful request cannot be addressed according to the law, rules and policy.
- C. Incorrect, hence denied. Appellant is not entitled for grant of any pension and pensionary benefits as per rule 2.11 (C) of the civil servant's pension rules 1963.

- D. Incorrect, hence denied. The minimum pension per month prevailing in the province has been awarded to the appellant. The question of discrimination cannot arise.
- E. Incorrect, hence denied. That according to the judgment of this hon'ble tribunal punishment of removal from service awarded to the appellant is modified and converted into compulsory retirement from service the appellant misconceived the judgment of this hon'ble tribunal because in the said judgment it is also ordered that **"intervening period including all the unauthorized absence period after the expiry of sanction leave shall be treated as leave without pay"**. since the appellant was allowed leave w.e.f. 15.12.2019 to 3.11.2010 with half pay and 4.11.2010 to 15.12.2011 without pay and the appellant after expiry of sanctioned leave was absented therefore was removal from service on 21.12.2016 after court decision major penalty removal from service converted to compulsory retirement but period from 4.11.2010 to 19.10.2022 treated as "extra ordinary leave" according to the rule the service of appellant will be counted till the date of expiry leave with half pay i.e. 3.11.2010 because the period of i.e. 4.11.2010 to 19.10.2022 lies within the domain of leave without pay and in such circumstances she cannot claim any kind of retirement benefits etc. The respondent No6 has rightly calculated the pension and commutation of the appellant in the light of the relevant rules. The respondent No.6 has processed the pension as per pension paper sanctioned from competent authority i.e. the respondent NO.3 DEO(F) Swabi. Net pension allowed at the rate of minimum pension rate i.e. RS 10000/. Along with 2022, 2023 increase and medical
- F. Incorrect, hence denied. The instant pension and pensionary benefits are also violation of rule 2.11 (C) of the rules 1963.
- G. No comments.

In view of the above stated submissions, it is earnestly requested that the appeal in hand may very graciously be dismissed with special compensatory cost.


District Accounts Officer
Swabi
Respondent No.6

Affidavit

I, Sultan Syed DAO Swabi do hereby solemnly affirm and declare on oath that the contents of the comments submitted by respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal. It is further, stated on oath that in this appeal the answering respondents have neither been ex-parte nor has their defense struck off.

Sultan Syed
21/12/24

District Accounts Officer
Swabi
Respondent No.6

ATTESTE!





DISTRICT EDUCATION OFFICE (FEMALE) SWABI
 (Office phone Fax No 0938280339, emisfswabi@yahoo.com)

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 Annex: "B"

NOTIFICATION

WHEREAS Mst. Nighat Shaheen, Daughter of Mahboob Khan Mohalla Touse Khani, Village & Post Office Zaida Tehsil and District Swabi was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011 on account of her willful and un-authorized absence from duty with effect from 26-2-2015 till the issuance of this order and was directed to resume her duty vide final absent Notice No. 1430 dated 05-4-2016 but she failed to resume her duty.

AND WHEREAS absentee notice was served upon the accused official Mst. Nighat Shaheen, Daughter of Mahboob Khan Mohalla Touse Khani, Village & Post Office Zaida Tehsil and District Swabi PST Govt. Girls Primary School No.1 Shahmansoor Tehsil and District Swabi through "Daily News Paper "Aaj" Peshawar dated 06-5-2016 to resume duty within 15 days but on 24-5-2016 she submitted application that she filed a Service appeal No.720/2015 before the Khyber Pakhtunkhwa Tribunal Peshawar for her adjustment on the post of PST and resumption of Charge after expiry of long leave.

AND WHEREAS the Honorable Service Tribunal disposed her appeal on 03-11-2016 as "Since the question of exemption of duty is involved, therefore in the stated situation, the appellant is directed to report personally to the office of DEO (F) Swabi within a week positively for further necessary steps in the matter. The appeal is disposed of in the above terms. Parties are left to bear their own costs." But she did not obey/comply the honorable tribunal orders. Now the undersigned in the capacity of the competent authority after having considered the charges of willful and un-authorized absence from duty against the accused have been proved.

NOW, THEREFORE, in exercise of the powers conferred under Section 10 (ii) of the Khyber Pakhtunkhwa Removal from service under (Efficiency & Discipline) Rules 2011, the undersigned in the capacity of competent authority is pleased to impose the major penalty of removal from service upon Mst. Nighat Shaheen, Daughter of Mahboob Khan Mohalla Touse Khani, Village & Post Office Zaida, Tehsil and District Swabi PST Govt. Girls Primary School No.1 Shahmansoor Tehsil and District Swabi with immediate effect. The period of her absence from duty with effect from 26-2-2015 till the issuance of this order be treated as un-authorized absence from duty with out pay.

(NAGHALANA SARDAR)
 DISTRICT EDUCATION OFFICER
 (FEMALE)SWABI

Order No. 4651/57 /F. No. DA-II/Removal from service dated Swabi the: 21/11/2016.

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

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. District Accounts Officer, Swabi.
3. Sub-Divisional Education Officer (Female) Swabi.
4. Mst. Nighat Shaheen, Daughter of Mahboob Khan Mohalla Touse Khani, Village & Post Office Zaida Tehsil and District Swabi.

S/-
 DISTRICT EDUCATION OFFICER
 (FEMALE)SWABI

Accepted
 District Edu. Officer
 (Female) Swabi

Accepted
 District Accounts Officer
 Swabi

ATTSTEI



DISTRICT EDUCATION OFFICE (FEMALE) SWABI



Office Phone & Fax No. 0938280330, email: deofswabi@yahoo.com

TO BE SUBSTITUTED WITH THE OFFICE ORDER VIDE ENDST: NO 5056-G/DA-I
RETIREMENT FILE, DATE SWABI THE 17/10/2019.

OFFICE ORDER

Consequent upon the judgment passed by the honorable Khyber Pakhtunkhwa service tribunal Peshawar, in the service appeal No. 411/2017, titled Nighat Shaheen Ex PST GGPS No 1 Shahmansoor Swabi, dated 16/01/2018, wherein major penalty of removal from service was modified and converted into compulsory retirement from service. The intervening period including all the unauthorized absence periods after the expiry of sanctioned leave 16/12/2011 shall be treated as leave without pay. The department was aggrieved by this judgment, and civil petition No. 354-P/2018 was filed in the apex supreme court of Pakistan. The detail of sanctioned leave with effect from 15/12/2009 to 03/11/2010 (322 days) are on average half pay while w.e.f 04/11/2010 to 15/11/2012 (408 days) extraordinary leave (EOL) without pay.

In light of this development, the then competent authority Ms: Dilshad Begum District Education Officer Female Swabi converted the major penalty of removal from service into compulsory retirement, subject to the final outcome of the supreme court of Pakistan in the civil petition number 354-P/2018, vide order Endst: No 5056-G/DA-I retirement file, dated Swabi the 17/10/2019. The civil petition No. 354-P/2018 was dismissed being barred by time on 09/05/2022.

The petitioner filed execution petition No 368 of 2022 wherein direction was issued vide order dated 14/10/2022 to implement the judgment in letter and spirit. Thus, in compliance with the court order, the major penalty of removal from service is converted into compulsory retirement and the intervening period including all the unauthorized absence periods after the expiry of sanctioned leave with effect from 04/11/2010 is treated as leave without pay.

Note:

1. She is entitled to pensionary benefits under the rules.
2. Entry to this effect should be made in her original service book.
3. Encashment of leave in Lieu of LPR is not admissible to the official concerned under the Khyber Pakhtunkhwa civil servant revised leave rules, 1981.

(SOFIA TABASSUM)
DISTRICT EDUCATION OFFICER
(FEMALE) SWABI

Endst No 2860 / Dated:- 17/10/2022.

Copy of the above is forwarded to the:-

1. Registrar Khyber Pakhtunkhwa service tribunal Peshawar.
2. Director E&SE Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner Swabi.
4. District Accounts Officer Swabi.
5. SDEO (F) Swabi with remarks to complete the process on a war basis being a court matter.
6. Education Monitoring Authorities Swabi.
7. ADEO (Primary) Local Office Swabi.
8. Head Teacher GGPS No.1 Shahmansoor.
9. Nighat Shaheen W/O Mehboob Khan Ex PST, Mohallah Tawas Khani VPO Zaida Swabi.

[Signature]
District Accounts Officer
Swabi
17/10/2022

[Signature]
DISTRICT EDUCATION OFFICER
(FEMALE) SWABI
17/10/2022

LAST PAY CERTIFICATE

Last Pay Certificate of Mst Nighat Shaheen EX-PST

of the GGPS-1 Shahmansoor

proceeding to Compulsory Retirement

2. He has been paid upto 04-11-2010

as per following rates:— Pay & Allowances

PARTICULARS:	Rate
Substantive Pay:—	0001-B Pay Rs: 8470/-
Officiating Pay:—	1000-HRA Rs: 1059/-
Exchange Compensation Allowance:—	1210-C.A Rs: 00/-
	1300-M.A Rs: 1000/-
	1770-ARA Rs: 370/-
	1830-SRA Rs: 657/-
	1831-ARA Rs: 657/-
	1864-ARA Rs: 803/-
	1908-ARA Rs: 1580/-
	1953-ARA Rs: 390/-
Total	Rs: 14986/-

Deduction	
3012-GPF	320/-
3501-BIF	180/-
3511-G.I.	07/-
3604-AGI	67/-
3610-EEF	15/-
Total	Rs. 589/-

Deductions:—

3. He made over charge of the Office of PST (Bps-7) post at

GGPS No-1 Shahmansoor Swabi

on the 04-11-2010 noon of 04-11-2010

4. Recoveries are to be made from the pay of the Government servant as detailed on the reverse.

5. He has been paid leave salary as detailed below. Deductions have been made as noted on the reverse.

From _____ to _____ at Rs. _____ a month.
 From _____ to _____ at Rs. _____ a month.
 From _____ to _____ at Rs. _____ a month.

6. He is entitled to draw the following:—
 He is also entitled to joining time for _____ days.

7. The details to the Income Tax recovered from him upto the date from the beginning of the current year are noted on the reverse.

Dated at _____
 District Accounts Officer Swabi
 Signature _____
 Designation: Sub Divisional Education Officer (Female) Swabi
 P.T.O.

**PENSION FORM TO BE USED IN CASE OF
SUPERANNUATION/RETIRING/INVALID/COMPENSATION/COMPULSORY RETIREMENT**
[To be issued by the Sanctioning Authority 90 days before Superannuation/retirement of the retiring government servant]

Subject: SANCTION OF PENSION ON SUPERANNUATION/RETIRING/INVALID COMPENSATION AND COMPLUSORY RETIREMENT

On attaining the age of superannuation/having applied for retiring/invalid/compensatory pension vide application dated ___ OR has been retired **Compulsorily vide Notification No. 2860 dated 19-10-2022** issued by District Education Officer (F) E&SE Distt: Swabi **Mst. Nighat Shaheen D/O Mehboob Khan** Designation **PST** drawing pay/emoluments **Rs. 8660/-** (reckonable towards pension), in **BS :07** on **Regular** Basis (Please indicate nature of appointment i.e. Regular/ Officiating or Acting Charge/Current Charge w.e.f **22-09-1986** **Personnel No. 00234274** CNIC No. **16202-0894420-8** presently posted as **PST** has retired/[is due to be retired] has been retired compulsorily from the Government service (tick whichever is applicable) on **04-11-2010** date, after availing LPR for **(00)** days/leave encashment in lieu of LPR Rs. _____

PENSION CALCULATION

Gross Pension	Rs. 4849.6/-
Commutation	Rs. On (44 years) (1697.36*269.6556=457702.63/-) 280060/-
Net Pension	Rs. 3152.24/- 3083/-
Other Benefits	
1:-	Rs. _____
2:-	Rs. _____
3:-	Rs. _____

Annual Inc is not allowed in Compulsory retirement

Gratuity (In case where qualifying service is 5 years or more but less than 10 years)
Rs: _____

1:- His Date of birth is **01-10-1967** Date of 1st entry into government service is **22-09-1986** and **EOL availed (4367) days**. Total Length of qualifying service for pension is **(24) years (01) Months (12) Days**

2:- Certified that No Inquiry is pending against him.

3:- Certified that no recovery is outstanding against him.

4:- Certified That:

i:- Advance drawn (if any) stand fully repaid, along with interest.

ii:- An amount of Rs. _____ on account of _____ (HBA/MCA etc.) Principal amount along with interest is outstanding which may be recovered from the pension.

5:- Anticipatory pension upto (35 %) of full pension is sanctioned as admissible to him

6:- Certified that deficiency/disciplinary/criminal case pending the aforementioned retired government servant has been finalized, therefore, final pension @ (35%) after adjustment of already paid amount of anticipatory pension and commutation amounting (35%) (Subject to a maximum of 35% of gross pension) as determined by the concerned Accounts Office, may be paid.

7:- Undersigned is satisfied that service of retiring employee has been satisfactory. Administrative and financial sanction for grant of pension/commutation @ (35%) upto maximum of 35% of gross pension, if so opted by the retiring government servant, to be determined by the Account office, is hereby accorded in favor of **Mst**

Nighat Shaheen Ex- PST GGPS-01 Shahmunsoor Swabi through Bank/Post Office Treasury **NBP Zaida** Branch Code No. 1972 .Account No. **4063909800** mentioned in DC S) Form enclosed) as

admissible under the rules.

[Signature]
District Accounts Officer
Swabi

OR

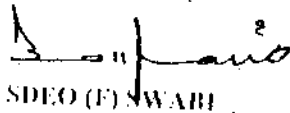
(7-a) Undersigned is satisfied that the services of MST. Nighat Shaheen has not been satisfactory and it has been decided that the full pension/gratuity found to be admissible under the rules should be reduced by the specific amount or percentage given below.

- i:- Amount or percentage of reduction in pension
- ii:- Amount or percentage of reduction in gratuity
- iii:- Sanction is hereby accorded to the grant of pension/gratuity so reduced.

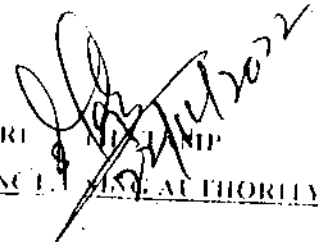
8:- The Payment of pension and/or gratuity may commence w.e.f 19-10-2022

Following documents attached

[[Pension application [[Notification of retirement. [[Last Pay Certificate (LPC) [[Pension contribution receipts/Bank Challan/acceptance certificate (in service Death) [[Original Service Book along with it attested copy/service statement (in case of gazetted government servant)]] NDC Form Estate Office in case of Government accommodation. [[Three attested Photographs of pensioner.]] Dependents List.]] Specimen Signatures/Left, Right hand thumb and fingers impression form.]] No Demand, Declaration, non-taking & Option certificate.]] Pensioner Bank Account Detail.


SDEO (F) SWABI

HEAD OFFICE/DEPARTMENT

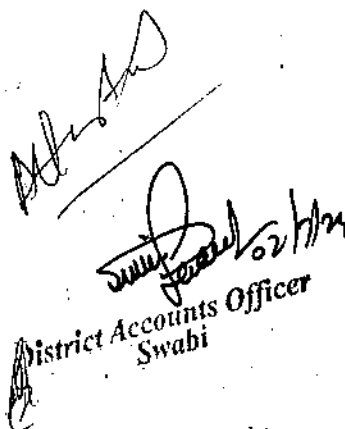

SIGNATURE
PENSION SANCTIONING AUTHORITY

W

1:- The AGPR/Accounts Office is requested to grant pension and to issue a copy of computerized pension payment order (C.P.O)/pension Payment Order (PPO) to this Department/office.

2:- Mst. Nighat Shaheen EX-PST GGPS-03 Shahmansour Tehsil & District Swabi you are hereby informed that your commutation (if opted) and first monthly pension shall be transferred/credited by the Accounts Office in the Bank/post office/treasury office NBP (aid Code No.1972 Account No. 4063909800 as opted by you.

Important: Every pensioner family is bound to provide life Certificate, Marriage Certificate to his/her bank on or before 10th March and 10th September of each year (Annex-A)


District Accounts Officer
Swabi

**PENSION ROLL DATA SHEET
NOT A PAYMENT ADVICE**

Date of issue : 16.12.2022
PPO Type : FRESH
PPO Number : 00234274-01
Pensioner ID : 00234274
Pension Register No:
Pensioner's Name : **NIGHAT SHAIHEEN**
Father / Husband name : **GOHAR ZAMAN**
Designation: PRIMARY SCHOOL TEACHER
NIC No.: 1620208944208
Grade / Scale : 07
Department/Min: Education Schools
Pensioner's Type: **SELF**
Pension Type: **COMPULSARY RETIREMENT**
Date of Birth : 01.10.1967
Date of appointment: 22.09.1986
Date of retirement: 19.10.2022
Date of Death:
Date of commence : 20.10.2022
Date of Restoration : 19.10.2037
Accounts office ID : SU
Accounts office Name : Sawabi
Federal / Province : Khyber Pakhtunkhwa
Length of Qualifying Service : 24 years, 1 months, 13 days
No. and Date of sanction of pension / Letter No. : DEO F SWABI
NO.3234 DATED 22.11.2022
and the date of the other Audit and Accounts officer authorising
the Pension/Gratuity/Commutation
Permanent Address: TAWASKHANI, ZAIDA, SWABI

Note :
Age : 56 years
Last Drawn pay/Emoluments(Rs.): 8470.00 ✓
Gross Pension(Rs.) : 4743.20 ✓
1/4th Surrendered Portion (Rs.) :
Committed Portion (Rs.) : 1660.12 ✓
Net Pension (Rs.) : 10000.00 ✓
Net Family Pension (Rs.) : 0.00
Amount of Commutation(Rs.) : 290060.00
With Held Amount (Rs.) : 0.00
Life Time Arrears (Rs.) : 0.00
Arrears Of Pension (Rs.) : 20941.00
Special Additional Pension (Rs.): 0.00
Commutation Percentage : 35.00
Commutation Table value : 14.56
Recovery on A/C of :
Debitable to Govt : Khyber Pakhtunkhwa

*PPO NO
90 22/15B*

PROPOSED PENSION SLIP

Payment details

Wage Type	Wage Type Text	Amount
0100	Monthly Pension - Self	10000.00
0101	Pension Increases - Self	3915.00
1599	Medical Allow - Pensioner	750.00
1600	Med. All. 2015 Pensioner	187.56
5901	Arrears of Pension	20941.00

He/She is also entitled to the following increases

Sr. No.	Period	Increase % or amount	Increase Amount	W.E.F.
1	JUL.2019	10.00 %	1000.00	01.12.2022
2	JUL.2021	10.00 %	1100.00	01.12.2022
3	JUL.2022	15.00 %	1815.00	01.12.2022
4	0.	Rs. 0.00	0.00	
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Accounts Officer
20/12/22
**District Accounts Officer
Swabi**

Bank Details

Bank Account Number : 4063909800
Bank Branch : ZAIDA BRANCH
ZAIDA BRANCH
Payment Mode : NATIONAL BANK OF PAKISTAN
ACCOUNTS OFFICER
(Pension)