

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.

Appeal No. 739/2024

Zahida Khanum Aftab..... Appellant.

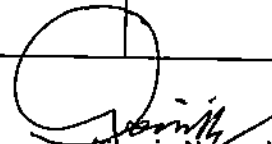
Versus

1. Director elementary and secondary education department  
Peshawar KPK.

2. District Education officer (F) District Khyber &amp; Others. .... Respondents.

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 (Shazia Nawaz)  
 District Education Officer (F)  
 Khyber at Jamrud

**BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.**

**Appeal No. 739/2024**

**Zahida Khanum Aftab..... Appellant.**

**Versus**

**1. Director elementary and secondary education department**

**Peshawar KPK.**

**2. District Education officer (F) District Khyber &**

**Others..... Respondents**

**Comments on behalf of Respondents No.1 & 2.**

**Khyber Pakhtunkhwa  
Service Tribunal**

**Diary No. 17246**

**Dated 28-10-24**

**Preliminary objections.**

- That the appellant has got no cause of action locus standi to file the instant appeal.
- That the appellant has not come to this honorable tribunal with clean hands.
- That appellant has concealed material facts from this honorable tribunal.
- That the appellant is estopped by his own to bring the present appeal.
- That the appeal is barred by law.



**Respectfully Sheweth:**

**ON FACTS.**

01. Pertains to record.

02. The appellant was relieved of the duty by the then Agency Education

Officer Khyber to join Federal Directorate of Education (FDE) on

deputation w.e.f. 01-06-2005 to 30-05-2008, without the approval of the Competent Authority. **(Annex-A)**

03. That the appellant was neither granted extension in deputation, nor permanent absorption w.e.f 01-06-2008, but continued performing her duty over there till 16-06-2020 as from service book record.

04. That the appellant request for repatriation to her parent Department, when she was on the verge of retirement, which was honored and a report was prepared. **(Annex-A)**

05. That the appellant submitted her application for adjustment at District Khyber against the post of PST with effect from the date of her repatriation vide dated 23-07-2020, which was sent to District Education Officer Khyber for report vide letter No. 2189 dated 10-08-2020.

06. Needs no comments as the fact narrated in the para pertains to the action of federal directorate Islamabad not to this department. Moreover, the services of appellant is PST have already been terminated vide notification date 19.04.2023, passed by the director E & SE on account of continuous absence from the duty in term of FR 18.

07. That the Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar as Appellate Authority, reviewed the evidences available on the record and examined the official record, findings revealed that the appellant had been absent from duty for more than five years according to FR 18 and Rules 12 of Khyber Pakhtunkhwa Civil Servant Revised Leave Rules, 1981, a Civil Servant's

services are automatically stand terminated after five years of continuous absence. **(Annex-B)**

08.No comments.

09.That then the competent Authority was pleased to impose the major penalty of "Removal/termination from Government Service", moreover, the services of Mst. Zahida Khanum Ex PST GGPS Gagra District Khyber have been automatically stood terminated/removed with effect from 01-06-2008 as specified in Rule-4 (b) (iii) of the mentioned Rules with immediate effect in the interest of public service. Furthermore her remaining deputation period is considered illegal absence. **((Annex-B)**

**Ground:**

- A. Incorrect. Hence denied. The respondent department has treated the appellant in accordance with laws and rules. The appellant was issued the show causes. The appellant absent to perform duty without any prior permission.
- B. Incorrect, hence denied. Elucidated in para 6, 7 and 9.
- C. Incorrect, hence denied. Proper opportunity was given to the appellant, but she failed to mend her illegal behavior.
- D. Incorrect, hence denied. As elucidated above, the appellant could not mend his conduct and ultimately proved to be guilty of misconduct and violation of rules.
- E. Incorrect denied. Elucidated in para 7 and 9.

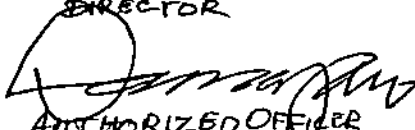
- F. Incorrect, hence denied. As elucidated in para 6.
- G. Incorrect denied. All the codal formalities was fulfilled according to rules and law mention in para 7 and 9
- H. As replied above.
- I. Incorrect denied. As replied in para 6, 7 and 9
- J. Incorrect denied. Show cause was issued to the appellant.
- K. Incorrect denied. Show cause was sent and served upon the appellant vide No. 5765 dated 06.07.2022 and return receipt No. 490 date 21.07.2002. **(Annex- C and D)**
- L. Incorrect. Hence denied. The respondent department has treated the appellant in accordance with laws and rules.
- M. The respondent department also seeks permission of this Honorable Tribunal to advance other grounds at the time of hearing the instance case.




Pray:

In light of the above stated facts, it is submitted that the case of the appellant may be ordered as dismissed with cost.

Respondent No.1

SAMINA ALTAH  
DIRECTOR  
  
AUTHORIZED OFFICER  
ABDUS SAMAD  
(DEPUTY DIRECTOR)  
Director of E&SE  
Khyber Pakhtunkhwa  
Khyber


Respondent No. 2

  
(Shazia Nawaz)  
District Education Officer (F)  
Khyber at Jamrud

Affidavit

I, Shazia Nawaz District Education Officer Khyber do hereby solemnly affirm and declare that the contents of the accompanying better para-wise comments submitted by the respondents is correct to the best of my knowledge and belief and nothing has been concealed from this honorable court. It is further stated under oath that respondent's defense was neither stuck off or nor ex-parte in the aforementioned instant case.



  
(Shazia Nawaz)  
District Education Officer (F)  
Khyber at Jamrud

Respondent No-2.

28 OCT 2024

**BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.**

Appeal No. 739/2024

Zahida Khanum Ftab.....

Appellant.

Versus

1. Director elementary and secondary education department  
Peshawar KPK.

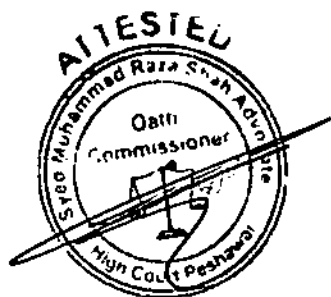
2. District Education officer (F) District Khyber &  
Others..... Respondents

**Affidavit**

I, Shazia Nawaz District Education Officer Khyber (F) do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments submitted by the respondents is correct to the best of my knowledge and belief and nothing has been concealed from this honorable service tribunal. It is further stated under oath that respondent's defense was neither stuck off or nor ex-parte in the aforementioned instant case.



(Shazia Nawaz)  
District Education Officer (F)  
Khyber at Jamrud



20 Oct 2024

**BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.**

**Appeal No. 739/2024**

**Zahida Khanum**

**Aftab..... Appellant.**

**Versus**

**1. Director elementary and secondary education department**


**Peshawar KPK.**

**2. District Education officer (F) District Khyber & Others....**

**Respondents**

**Authority Letter**

Mr. Munawar Khan focal Person of (Litigation) District education Officer Khyber is hereby authorized to submit para-wise comments in the service tribunal on the behalf of respondents.

  
(Shazia Nawaz)  
District Education Officer (F)  
Khyber at Jamrud



ANX-A

(217) P-8



**District Education Office  
Khyber Tribal District at Jamrud**

Phone. 091-5820265 Fax 091-5820265

No 22819  
Dated 19/9/2022

To

The Directorate of Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar.

Sub:- DEPUTATION PERIOD

Memo:-

Reference your letter No. 2189/F, No. E-6/IPT/Mst Zahida Aftab PST Dated 10/7/2020 on the subject cited above.

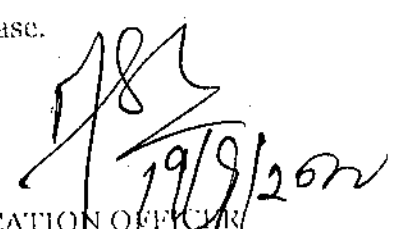
It is stated that first Mst. Zahida Aftab (Khanam) PST GGPS Gagra Tehsil Landi Kotal District Khyber was on deputation from 01-06-2005 to 31-05-2008 at Federal Directorate of Education (FDE) Islamabad. Flag (A).

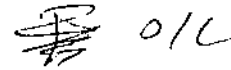
After that her deputation period was extended w.e.f 1-6-2008 up to 2010. Flag (B).

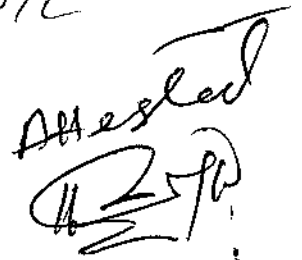
She has been issued NOC in 2013 for permanent absorption vide this office letter No. 6290 dated 1/10/2013. Flag (C)

After the issuance of NOC This office was not intimated about her status whether she was permanently absorbed or kept her for so many years without extension. The concerned quarter may be approached for the

The complete report submitted for further process please.

  
19/9/2022  
DISTRICT EDUCATION OFFICER  
KHYBER TRIBAL DISTRICT AT JAMRUD

  
OIC

Attested  




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

ANX - B

**NOTIFICATION**

WHEREAS, Mst. Zahida Aftab Khanum joined Education Department on 09-01-1995 at GGPS Near Khan Kot District Khyber, and served over there till 30-09-1995.  
AND WHEREAS, she was transferred to GGPS Gagra District Khyber on 09-10-1995, and served over there till 31-05-2005.  
AND WHEREAS, she was relieved of the duty by the Agency Education Officer Khyber to join Federal Directorate of Education (FDE) on deputation w.e.f. 01-06-2005 to 30-05-2008, without the approval of the Competent Authority.  
AND WHEREAS, she was neither granted extension in deputation, nor permanent absorption w.e.f. 01-06-2008, but continued performing her duty over there till 16-06-2020.  
AND WHEREAS, she requested to FDE for repatriation to her parent Department, when she was on the verge of retirement, which was honored.  
AND WHEREAS, she submitted her application for adjustment at District Khyber against the post of PST with effect from the date of her repatriation vide dated 23-07-2020, which was sent to District Education Officer Khyber for report vide letter No. 2189 dated 10-08-2020.  
AND WHEREAS, the District Education Officer Khyber submitted its report vide letter No. 20319 dated 19-09-2020, with the remarks that she availed deputation w.e.f. 01-06-2005 to 31-05-2008 at FDE Islamabad, and then her deputation was extended up to 31-05-2010. Subsequently she was also issued NCC for permanent absorption during 2013 on her own request. However the D.E.O. concerned added that she neither intimated the Department of the status of her permanent absorption or any further extension in deputation.  
AND WHEREAS, the Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar (Appellate Authority), after having examined the evidences available on the record, is of the view that she has remained absent for more than five years from her duty in the light of "as provided in section 9 (Sl. No.1 (4-c)) of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989:- "After five years of continuous absence, Khyber Pakhtunkhwa Civil Servant Revised Leave Rules, 1981.  
NOW THEREFORE, in the light of above mentioned facts, the Appellate Authority has been pleased to declare that the services of Mst. Zahida Aftab Khanum Ex PST GGPS Gagra District Khyber have been automatically stood terminated with effect from 01-06-2008. Furthermore her remaining deputation period is treated as un-authorized, absence.

**Director**

**Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar**

Endst: No. 19/08-13 /E-06/Deputation cases of Female teachers.  
Dated Peshawar the 19/04/2023

Copy forwarded to the:-

1. District Education Officer (F) Khyber.
2. District Accounts Officer Khyber.
3. Ex PST concerned.
4. PS to Secretary to Govt. of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Peshawar.
5. Additional Director (Estab) Merged District Khyber Pakhtunkhwa Peshawar.
6. PA to Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.

**Deputy Director (Estab)**

**Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar**

AHested  
[Signature]



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DIRECTORATE OF ELEMENTARY &  
SECONDARY EDUCATION KHYBER  
PAKHTUNKHWA PESHAWAR

NO. 5765 DATED 6/7/2022

P-10 ANX-C

Registered

To

The District Education Officer (Female),  
Khyber at Jamrud.

Subject: - **DEPARTMENTAL ACTION/SHOW CAUSE NOTICE.**

I am directed to refer to the subject cited above and to enclose here with two copies of Show Cause notices, in respect of Mst. Zahida Aftab Khanum Ex PST GGPS Landi Kotal District Khyber, which may be served upon her and one copy of the same may be returned to this office duly signed by the accused teacher, as a token of receipt of his copies.

Deputy Director (Estab)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

Endst: No. \_\_\_\_\_

Copy of the above is forwarded to:-

1. PA to Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.

Deputy Director (Estab)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

No 490  
Dt 21/7/22

Attested



ANX-D P-11

SHOW CAUSE NOTICE

ANX-D

12/10

I, Hafiz Dr. Muhammad Ibrahim Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar, as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve upon you, Mst. Zahida Aftab Khanum Ex PST GGPS Landi Kotal District Khyber as show cause for details as below:-

(i) That consequent to the inquiry process, wherein you were given opportunity of personal hearing and ask you to provide the following services documents:-

- a) Copy of 1<sup>st</sup> appointment Order
- b) Copy of 1<sup>st</sup> deputation notification.
- c) Copy of Extension notification in Deputation.
- d) Any other deputation/absorption notification.
- e) Any other documents regarding your deputation.

ii) But you have failed to provide the requisite information on the eve of personal, hearing.

And

iii) Subsequently, after going through the findings and recommendations along with material on record and connected papers including your defence before the inquiry officer.

2. I am satisfied that you have committed the following acts/omissions specified in section 3 of the said rules.

- i. you got your 1<sup>st</sup> deputation without proper producers as it was not notified by the Competent Authority.
- ii. You got 1<sup>st</sup> deputation on the simple relieving slip issued by then Agency Education Officer now D.E.O. (F) Khyber.
- iii. After completion of 1<sup>st</sup> deputation period, you were properly repatriated to your parent department, but you ~~HAVE CONTINUED YOUR SERVICE~~ under the Federal Directorate of Education Islamabad.
- iv. Furthermore you were again repatriated to your parent department during 2021, and your request regretted by this Directorate, you again started your services at Federal

Attested  
H. S. W.



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

P-12

P-12

Directorate of Education Islamabad and meanwhile you  
attained the age of superannuation.

v. **Miss-conduct.**

3. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you a Major/Minor Penalty as mentioned in Rules (4) (a) (ii) of E&D Rules, 2011.

4. You are, thereof, required to reply to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

5. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

**DIRECTOR**  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar

Attested