

PUNJAB SERVICE TRIBUNAL, LAHORE

ORDER SHEET

4901/2023

APPELLANT/
PETITIONER

APPEAL NO. _____ 200

Ahmed Nawaz, Social Welfare Officer

Versus

Department: Social Welfare & Bait-ul-Maal Department

RESPONDENT

Date of order of proceeding	Order with signature of Chairman, Members and that of parties or counsel, where necessary.
1	2
17.05.2024	<p>PRESENT</p> <ol style="list-style-type: none">1. Mr. Allah Nawaz Khosa, Advocate / Counsel for the appellant.2. Mr. Atta M. Khan, District Attorney. <p>The appellant was proceeded against departmentally under Punjab Employees Efficiency, Discipline & Accountability Act, 2006 on the following allegations:-</p> <p><i>"You have remained absent from duty w.e.f. 22.1.2021 uptill now. You submitted an application for grant of (90 days) earned leave w.e.f. 19.11.2021 to 20.02.2022 on 19.11.2021 without leave entitlement from concerned District Accounts Office and then submitted another application on 08.02.2022 for extension of leave w.e.f. 21.02.2022 to 22.03.2022. After that, you joined your duty on 24.03.2022 and again submitted an application on 14.04.2022 for grant of earned leave for the period of 120 days w.e.f. 30.03.2022 to 27.07.2022. But authority has not approved / granted leave as mentioned above. Therefore, it is assumed that you proceeded on self sanctioned leave without approval of authority."</i></p> <p>On the above said allegations, the appellant was awarded punishment of "removal from service" His departmental appeal/remedies were also rejected by the Departmental Authorities. Hence, the instant appeal filed before this Tribunal.</p> <ol style="list-style-type: none">2. I have heard the learned counsel for the appellant,

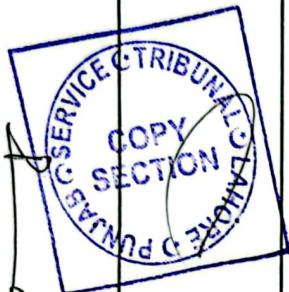
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Stamp: PUNJAB SERVICE TRIBUNAL LAHORE COPY SECTION

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		<p>learned District Attorney on behalf of the state at length and perused the record.</p> <p>3. The appellant has stated that due to his family problems and dispute with his wife, he could not attend his duty. He had also moved applications for earned leave but the same were not decided by the Departmental Authority. He has also mentioned his own medical problems, due to which, he was constrained to remain absent from duty. He has also attached medical certificates alongwith his appeal. Moreover, it appears that the appellant had a total absence if about 08 months and had also moved applications for earned leave on medical and other grounds, however, the same were not decided by the Departmental Authority and marked him absence from duty without deciding the leave applications of the appellant.</p> <p>4. I have further perused the Rules Regulating decisions on the Leave applications, in which, it has been provided as under Rules 1(12)</p> <p style="text-align: center;"><i>xii). All applications for long leave shall be decided within thirty days and any delay in sanction or refusal and communication to the applicant will be the responsibility of the leave sanctioning authority."</i></p> <p>From the perusal of the said Rules, it appears that all the long leave applications shall be decided within 30 days but the Departmental Authority has failed to produce any record of the decision on the long leave applications of the appellant. The appellant has also produced copy of the order of Hon'ble Lahore High Court, Lahore, in which, the Hon'ble Lahore High Court, Lahore directed the Departmental Authority to decide the leave application of the appellant in its order on 18.10.2022. However,</p>



17-5-2024
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TRIBUNAL
2023
and

1 2 3

despite this direction, the Departmental Authority has failed to produce any record or any decision made on the leave applications of the appellant. So, the Departmental Authority is equally responsible for not making any decision on the leave applications of the appellant.

5. So, in the given circumstances of the case as well as documents placed on record, the appellant needs some leniency so, the punishment of "removal from service" is very harsh. Hence, the punishment of "removal from service" is modified/converted into "forfeiture of one year approved service" Resultantly, the appellant is reinstated into service. The intervening period is treated as leave of the kind due.



Mian Muhammad Abdul Rafique
D&SJ/Member-VI

CERTIFIED TO BE A TRUE COPY
Registrar
Punjab Service Tribunal
Lahore

13/6/23

Punjab Service Tribunal Lhr. Form No. *2023-27*

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(1)
BEFORE THE PUNJAB SERVICE TRIBUNAL, LAHORE

4901
15.11.23
4603
24-10-23
Service Appeal No. _____/2023

Mr. Ahmed Nawaz Ex- Social Welfare Office S/o Abdul Hameed
R/o House No.70 Block 7, District Bhakhar.

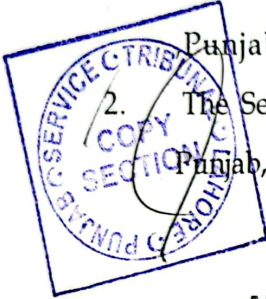
...APPELLANT

VERSUS

1. Chief Secretary, Government of Punjab, Civil Secretariat
Punjab, Lahore.

2. The Secretary, Social Welfare & Bait-ul-Maal Government Of The
Punjab, Lahore.

...RESPONDENTS



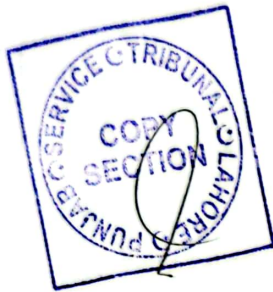
**APPEAL U/S 4 OF THE PUNJAB SERVICE TRIBUNAL ACT
1974, AGAINST THE ORDER DATED 14/07/2023
WHEREBY THE APPELLANT WAS AWARDED MAJOR
PENALTY OF REMOVAL FROM SERVICE**

CLAIM IN APPEAL

To accept the instant appeal, to set aside the Removal order dated 14/07/2023 after Declaring the Same To Be Illegal, Without Jurisdiction, Arbitrary, Malafide, Against Law And Facts And As Such Appeal Of The Appellant May Very Kindly Be Accepted and appellant may very kindly be reinstated into service alongwith all back benefits alongwith all back benefits.

Respectfully Sheweth:-

1. That the addresses of the parties have rightly been incorporated in the title / instant appeal for effective service of summons and notices upon the parties.
2. The appellant, hereinafter referred to as "the Appellant," is writing this appeal in response to the decision to remove the Appellant's service under the PEEDA Act 2006.. Copy of Show Cause (**Annexure-A**) Reply(**Annexure-B**) and impugned order 14.07.2023 is hereby enclosed as **Annexure-C**



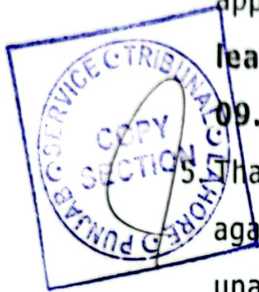
On July 14, 2023, the appellant was subjected to a significant disciplinary action, which took the form of a removal from service, based on purported violations of established rules and regulations. In response to this adverse decision, the appellant promptly exercised his right to challenge the validity and fairness of the said penalty. On July 25, 2023, the appellant duly filed an appeal against the impugned order, thus invoking the formal dispute resolution mechanism provided by the applicable legal framework.

It is pertinent to note that as of the present date, the said appeal remains pending Copy of appeal is hereby enclosed as **Annexure-D**

The Appellant firmly believes that the decision to remove the Appellant from service is unjust, and the Appellant humbly requests kind attention to the following points

3. That the Appellant was appointed as a Social Welfare Officer on 21/04/2010 through the Punjab Public Service Commission, and the Appellant's service was regularized on 07/04/2011. Throughout the tenure, the Appellant has diligently performed official duties with competence and dedication, maintaining a clean and admirable service record.

4. That disciplinary proceedings were initiated against the Appellant based on allegations of unauthorized absence and self-sanctioned leave. However, The Appellant diligently submitted leave applications for approval, seeking proper authorization for any time off work. Unfortunately, these applications were neither approved nor rejected by the authority, leading to a state of uncertainty for the Appellant. This is a clear violation of Clause (XII) of notification no. SORI(S&GAD)-1-25/2001 dated 09/09/2013 issued by S&GAD, which requires the timely decision on leave applications by the sanctioning authority. **Copy of leave application and Notification dated 09.09.2013** is hereby enclosed as **Annexure-E/F**



5. That the disciplinary proceedings were initiated against the Appellant based on allegations of unauthorized absence and self-sanctioned leave. However, it is crucial to clarify that the Appellant remained in duty during the alleged duration, as the Appellant continued to receive a salary continuously. Moreover, it is pertinent to mention that during this period, the Appellant was transferred and posted at various stations, responsibly assuming charge at each place of posting. These facts indicate that the allegation of continuous absence is against the established facts and the Appellant's commitment to duty. Copies of salary slips and as well joining reports are hereby enclosed as **Annexure-G**

6. That the delay in sanctioning or refusing the Appellant's leave applications despite repeated requests, are serious violations of the PEEDA Act 2006 and established legal precedents.

7. That the Honorable Courts have consistently held that inquiry reports must be supplied to civil servants.

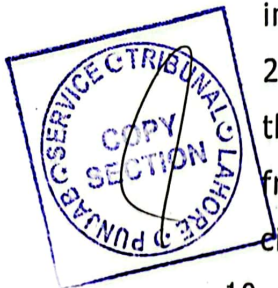
8. That during the alleged duration of absence, the Appellant faced severe family crises, including the Appellant's wife seeking dissolution of their marriage and obtaining custody of their minor daughter. These circumstances resulted in immense stress and illness, which led the Appellant to apply for leave. Unfortunately, the department did not communicate their decision on these leave applications, leaving the Appellant in a state of uncertainty. Copies of medical prescriptions are hereby enclosed as **Annexure-H**

9. That subsequently, the Appellant was falsely implicated in an anti-corruption case and arrested on 25-05-2023. Despite the ongoing legal proceedings, the authority awarded the major penalty of removal from service without considering the facts and circumstances surrounding the case.

10. That major penalty was awarded without conducting a proper inquiry, violating the principles established by the Honorable Supreme Court in various judgments. These judgments have held that major penalties cannot be awarded through summary procedures and that inquiries cannot be conducted in the absence of the civil servant.

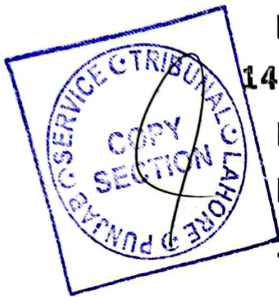
11. That allegations which made on me are made in hasty, mechanical, arbitrary and fanciful manner and without applying judicial and judicious mind, in slipshod manner whereas under the law it is required that when there is allegation has been made out it should be made with convincing reasons which are missing in the proceedings.

12. That the appellant cannot be subjected to be punished with improper enquiry, which is also to dictum laid down by the Apex Court of the country in various judgments and Fair trial opportunity shall be



granted according to Article 10-A of constitution of Islamic Republic of Pakistan, 1973.

13. That the facts of the case were disputed by the parties and as such a regular inquiry should have been conducted by some independent inquiry officer to sift truth and lie of the matter involved in the case of the appellant but no regular inquiry was conducted by competent authority only preliminary inquiry was conducted in absence of the appellant without providing relevant record to the appellant as a result of the same the defense of the appellant was seriously prejudiced.



14. That it is settled law that regular inquiry cannot be replaced with preliminary inquiry and nobody can be punished with on the basis of preliminary inquiry. Reliance is placed in **PLJ 2010 Tribunal Cases 65 ,2000 SCMR 1868 &1743**

15. That it is settled principle of law that whenever controversial question regarding evidence is involved ,an opportunity of cross examination of witnesses is to be given to accused civil servant and for that proper clause is to initiate regular inquiry against accused civil servant otherwise finding recorded against civil servant will be more on conjectures than on evidence. **2005 TD (Service)625(c)**

16. That inquiry report not supplied to the appellant till today which is clear violation of section 13(4)(D) of PEEDA Act 2006. The Honorable Courts also in various judgments held that the civil servant shall be reinstated into service if inquiry report was not supplied. Reliance is placed in **2005 PLC(C.S)311, PLD 1981 S.C 176 PLD 2002 S.C 667,2000 PSC 547,1991 PLC(C.S)706+581 AND PLJ 1993 LHR.27 .**

17. That the above mentioned facts and circumstances clearly revealed that the appellant is being victimised by the authority without any legal justification.

18. That no regular inquiry was conducted and the appellant was awarded major punishment mere on the basis of fact finding inquiry in absence of the appellant, however it is settled law that fact finding inquiry cannot be substituted of regular inquiry Reliance is Placed on **2004 SCMR 294, 2012 TD Service 391**

19. That fact finding inquiry was in absence of the appellant and the appellant was not provided any opportunity of defense which is violation of principle of natural justice, hence the appellant condemned unheard.

20. That the honorable Supreme Court in various judgments held that major penalty could not be awarded by adopting summary procedure and inquiry also couldn't be conducted in absence of the civil servant. Reliance is placed on **2003 SCMR 681, 2004 SCMR 316, 2008 SCMR 1369, 2007 PLC (CS) 215, 2010 PLC (C.S) 1143.**

21. That entire service record of the appellant is clean, blotless, and admirable and not a single major punishment existing in the service record of the appellant, the appellant always performed my official duties efficiently and diligently. The appellant always obeyed the orders of his Senior Officers and complied with orders/instructions issued by the Senior Officers. It proves my good conduct, behavior, competence; good reputation, honesty, effective supervision; monitoring, management and command but this



particular aspect was not considered while imposing major penalty of removal from service.

22. The Supreme Court of Pakistan has given guide lines how to conduct regular enquiry. In this regard, decision of Apex court published in 2004 PLC (CS) 1306 is as below:-

Nature and conduct of Departmental Enquiry was not a confidential matter, but record must show involvement/ association of accused civil servant with commissioned misdeeds. Enquiry proceedings were of judicial nature in which participation of accused civil servant was necessary condition and "SINE QUA NON" for the reasons that departmental enquiry was first stage of judicial proceeding which must be conducted strictly in accordance with requirement of law and not whimsically. Examination of witness must be in the presence of accused civil servant during enquiry proceeding

That the Apex Supreme Court of Pakistan in various citations declared that before awarding major punishment regular enquiry is mandatory. The punishment awarded without regular enquiry is not only in violation of directions of Supreme Court of Pakistan but against the natural justice. Following citations of Apex court of Supreme Court are relied upon:-

1. 1986 PLC 639



2. 2000 PLC (CS) 270
3. 2000 PLC (CS) 1196
4. 1984 PLC 639
5. 2004 PLC (CS) 1293

23. That the appellant since the date of removal from service is jobless and have not gainfully employees elsewhere.

PARYER -

In light of the above points, the Appellant firmly believes that the impugned punishment order dated 14/07/2023 of the Secretary Social Welfare & Bait-ul-Maal Government of the Punjab, Lahore is wholly illegal, without jurisdiction, ab-initio, void, arbitrary, discriminatory, against law and facts.

The Appellant, very kindly, prays for the setting aside of the said order after declaring the same to be illegal, without jurisdiction, ab-initio, void, arbitrary, discriminatory, against law, and facts. Furthermore, the Appellant earnestly prays for the reinstatement of the Appellant into the service along with all back benefits. The Appellant humbly requests that the service appeal of the Appellant may very kindly be accepted accordingly.

Humble Appellant:

Through

[Signature]
CERTIFIED TO BE A TRUE COPY
Registrar
Punjab Service Tribunal
Lahore

[Signature]
13/6/23

[Signature]
ALLAH NAWAZ KHOSA
Advocate High Court,
Office No.09,
33/A Queens Road, Lahore.
0333-6073636

CERTIFICATE:

As per instructions, this is the first appeal in this Hon'ble Punjab Service Tribunal, Lahore against the impugned order.

Advocate *[Signature]*



14

GOVERNMENT OF THE PUNJAB
SOCIAL WELFARE & BAIT-UL-MAAL
DEPARTMENT

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Dated Lahore the 14th July, 2023

ORDER

NO.SO(E)3-22/2010(P-II); WHEREAS, on the basis of information received through Assistant Director (Admn), Directorate General, SW&BM, Punjab, Lahore vide letter No.DGSW(E)-1(1226)/10-14531-32 dated 25.07.2022, disciplinary proceedings under the provisions of Punjab Employees, Efficiency, Discipline and Accountability Act, 2006 were initiated against Mr. Ahmed Nawaz, former Social Welfare Officer, UCDP, D.G Khan currently posted as Social Welfare Officer, CD, Vehova, D.G Khan. Therefore, a Show Cause Notice was issued to him in terms of Section 5(1)(a) read with section 7(a) & (b) of the Act ibid vide order dated 19.08.2022 on the charges of absence from duty w.e.f 22.11.2021 to 19.08.2022 and misconduct, which are reproduced as under: -

"You have remained absent from duty w.e.f 22.11.2021 uptill now. You submitted an application for grant of (90 days) earned leave w.e.f 19.11.2021 to 20.02.2022 on 19.11.2021 without leave entitlement from concerned District Accounts Office and then submitted another application on 08.02.2022 for extension of leave w.e.f 21.02.2022 to 22.03.2022. After that, you joined your duty on 24.03.2022 and again submitted an application on 14.04.2022 for grant of earned leave for the period of 120 days w.e.f 30.03.2022 to 27.07.2022. But authority has not approved / granted leave as mentioned above. Therefore, it is assumed that you proceeded on self sanctioned leave without approval of authority"

2. **AND WHEREAS**, the accused submitted reply to the Show Cause Notice on 27.08.2022 which was found unsatisfactory.

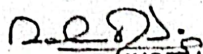
3. **AND WHEREAS**, accused was called for personal hearing under Section 7(d) of the Act ibid on 26.10.2022, 4.11.2022 and 18.11.2022. But he did not appear. Therefore, show cause cum personal hearing notice was published in daily Nawa-e-Waqt dated 3.12.2022 and 92 News dated 6.12.2022 with the directions to appear personally within 07 days of the publication of the notice otherwise ex-parte decision will be taken against him. But he again did not turn up in response to the notice published in the newspapers.

(15)

4. AND WHEREAS, Medical Superintendent, DHQ Hospital, D.G Khan was requested to make arrangements for the complete medical examination of Mr. Ahrned Nawaz. The purpose of constitution of medical board was to determine as to whether accused officer was medically fit or not for the specific period of absence from duty mentioned in Show Cause Notice because accused officer submitted leave applications on medical grounds. But he did not appear before medical board for medical examination to ascertain his medical fitness.

5. AND WHEREAS, accused officer did not appear for personal hearing despite number of opportunities having been offered to him. Further, he has also not appeared before the medical board for his medical examination. Therefore, it is presumed that he has nothing to say in his defence and does not want to rebut the evidence available in the case file. In view of this, the charge of absence from duty stands proved against the accused officer.


6. NOW, THEREFORE, I, Zahoor Hussain, Secretary to Government of the Punjab, Social Welfare and Bait-ul-Maal Department / Competent Authority exercising the powers vested under Section 7 (f) read with Section 4 (1) (b) (v) of Punjab Employees Efficiency, Discipline and Accountability Act, 2006, do hereby impose major penalty of "Removal from Service" upon Mr. Ahmed Nawaz posted as Social Welfare Officer, CD, Vehova, D.G Khan w.e.f. the date of absence from duty i.e. 22.11.2021.


(ZAHOOR HUSSAIN)
SECRETARY
SW&BM DEPARTMENT/
COMPETENT AUTHORITY

NO. & DATE EVEN:

A copy is forwarded for information and necessary action to:-

1. The Director General, SW&BM, Punjab, Lahore.
2. The Divisional Director, SW&BM, D.G Khan.
3. The Deputy Director, SW&BM, D.G Khan.
4. The District Accounts Officer, D.G Khan.
5. P.S.O to the Secretary SW & BM Department.
6. Mr. Ahmed Nawaz, Social Welfare Officer, CD, Vehova, D.G Khan.
7. Master file/personal file.


(FAUZIA RUBY) 14/7/23
SECTION OFFICER (ESTT.)



10
NO. SO(E)3-22/10(P-II)
GOVERNMENT OF THE PUNJAB
SOCIAL WELFARE AND BAIT-UL-MAAL DEPARTMENT
12-M, MODEL TOWN EXTENSION, LAHORE.

Dated Lahore the 19th August, 2022

To,

Mr. Ahmed Nawaz,
Social Welfare Officer, UCDP, D.G Khan.

SUBJECT: SHOW CAUSE NOTICE UNDER SECTION 7(a) AND (b) OF THE PUNJAB - EMPLOYEES EFFICIENCY, DISCIPLINE AND ACCOUNTABILITY ACT, 2006.

WHEREAS, on the basis of information provided by the Assistant Director (Admn), SW&BM Punjab, Lahore vide letter No. DGSW(E)-1(1226)/10-14531-32 dated 25.07.2022, it is necessary to proceed against you under Section 7(a) and (b) of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006, on the following charge of misconduct and absence from duty:-

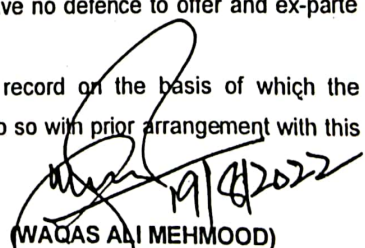
"You have remained absent from duty w.e.f 22.11.2021 uptill now. You submitted an application for grant of (90 days) earned leave w.e.f 19.11.2021 to 20.02.2022 on 19.11.2021 without leave entitlement from concerned District Accounts Office and then submitted another application on 08.02.2022 for extension of leave w.e.f 21.02.2022 to 22.03.2022. After that, you joined your duty on 24.03.2022 and again submitted an application on 14.04.2022 for grant of earned leave for the period of 120 days w.e.f 30.03.2022 to 27.07.2022. But authority has not approved/granted leave as mentioned above. Therefore, it is assumed that you proceeded on self sanctioned leave without approval of authority.

2. **AND WHEREAS**, it is not necessary to hold a regular inquiry against you under the act ibid and, therefore, a Show Cause Notice under Section 5(a) read with section 7 (a) and (b) of Punjab Employees Efficiency, Discipline and Accountability Act, 2006 is required to be served upon you on account of above mentioned charge.

3. **NOW, THEREFORE**, you are hereby called upon to show cause in writing, within seven days of the receipt of this notice, as to why one or more penalties as prescribed in Section 4 of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006, may not be imposed upon you.

4. Your reply to Show Cause Notice should reach this office within seven days, failing which it shall be presumed that you have no defence to offer and ex-parte decision will be taken against you.

5. In case you desire to consult any record on the basis of which the aforesaid charge is levelled against you, you may do so with prior arrangement with this office within the stipulated period of time.


(WAQAS ALI MEHMOOD)
SECRETARY
SOCIAL WELFARE AND BAIT-UL-MAAL
DEPARTMENT /
COMPETENT AUTHORITY