

REGISTERED



**GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT**

ORDER

No. LO(Appeal)1-10/2022. WHEREAS, Mr. Muhammad Jahanzaib, ex-Music Teacher (BS-11), Govt. Secondary Special Education Centre, Rahim Yar Khan ('appellant') with reference to his departmental appeal filed under Section 16 of the PEEDA Act, 2006 ('Act') against order dated 21.08.2024 ('Impugned Order') passed by Director General, Special Education, Punjab / Competent Authority ('DGSE') whereby major penalty of 'dismissal from service' ('impugned penalty') under Section 4(1)(b)(vi) of the PEEDA Act, 2006 was imposed upon the appellant.

2. AND WHEREAS, comments on the departmental appeal were obtained from the DGSE. Deputy Secretary, Special Education Department was appointed as Hearing Officer to submit report after affording an opportunity of personal hearing to the appellant in presence of Departmental Representative of Directorate General of Special Education, Punjab, Lahore.

3. AND WHEREAS, after affording an opportunity of personal hearing, the Hearing Officer submitted his report stating therein that during the hearing proceedings, the appellant, while reiterating the stance already taken by him in his departmental appeal, *inter alia*, contended that the charge levelled against him is false and contrary to record; that the inquiry was not conducted in accordance with the law; that he was not provided ample opportunities to rebut the charge and to cross examine the witnesses, *who deposed against him*; that the penalty imposed upon him, *in view of the facts of the case*, is harsh and unjustified; that the Principal concerned used to harass the students of Allama Iqbal Open University who attended the school for teaching practice. The Principal concerned also solemnized second marriage with a student by harassing her in 2021; that when he came to know about Principal's second marriage, he condemned the said act of the Principal. Therefore, he turned against him and got him dismissed from service; that the Principal hatched a conspiracy against him and shifted him to other class than that of music class and directed him to teach Islamyat, Urdu, History and Geography to students of his class and also shifted a class 10th student namely Ms. Farah Ishfaq to teach the Nursery class students despite his request for shifting her to any other classroom; that as the Principal was plotting a conspiracy against him, therefore, he did not shift her, whereas, neither did she file any complaint against him nor she appeared before the Inquiry Officer; that no cross questioning was held between him and Ms. Farah Ishfaq; that Ms. Farah Ishfaq is not completely blind, instead, she is partially sighted; that how is it possible that a blind person may harass a sighted person?; that the person seen in the video relied by the DGSE is not him and he has been implicated into this case with *mala fide* intentions of the Principal; that the Principal vide letter dated 09.11.2021 restrained him to attend the Centre then how can he harass / molest any female student on 29.11.2021. Lastly, he requested that his appeal may be allowed, the impugned penalty order may be set-aside and consequently, he may be exonerated from the

charge and he may be re-instated into service with all back benefits.

4. **AND WHEREAS**, on the other hand, the Departmental Representative while relying on the record pertaining to the case, reiterated the stance already taken by DGSE in report and parawise comments and further stated that inquiry proceedings were conducted by the Inquiry Officer in accordance with the provisions of PEEDA, Act, 2006, all record was thoroughly scrutinized and statements of all concerned were recorded and right of cross examination was provided to the appellant but despite availing such right he failed to prove his innocence; that serious charge of misconduct, *levelled against the appellant through order of inquiry*, stood proved against him; that the arguments of the appellant are fallacious and carry no weight; that the penalty imposed by the Competent Authority commensurates with the gravity and severity of the guilt of the appellant. While rebutting the stance of the appellant, the Departmental Representative stated that the letter dated 09.11.2021 is actually dated 09.12.2021 but inadvertently date on the letter was mentioned as 09.11.2021 to substantiate this argument, he relied upon the extract of diary dispatch register which shows that said letter bearing No. GSSEC/RVK/21/245 was issued on 09.12.2021. In order to further corroborate this stance, he submitted that the appellant submitted an application dated 03.12.2021 before the Deputy Commissioner, Rahim Yar Khan requesting therein that he may be allowed to reside within the premises of the Centre. The essence of the Departmental Representative's argument was that, through the letter dated 09.12.2021, the Principal merely prohibited the appellant from conducting classes and residing within the Centre but did not bar him from attending the Centre. To substantiate this position, the Departmental Representative referred to an application submitted by the appellant seeking permission from the Deputy Commissioner. Based on these facts, the Departmental Representative contended that the appellant's claim lacks merit and does not warrant consideration. To rebut the stance of the appellant that the person seen in the video recording is not him, the Departmental Representative stated that forensic report from Punjab Forensic Science Agency was obtained which shows that there is no editing in the video. He further contended that the person seen in the video is the appellant and the video was recorded within the premises of the Centre by CCTV camera, hence question of *mala fide* and wrong implication does not arise. He lastly requested that departmental appeal of the appellant being bereft of merits may be dismissed.

5. **AND WHEREAS**, examination of the relevant records contained in the file, considering the facts of the case and after taking into consideration, the departmental appeal of the appellant, reply/comments filed by the DGSE and report of Hearing Officer, it has been observed that the Principal, Govt. Secondary Special Education Centre, Rahim Yar Khan, vide letter dated 30.11.2021, filed complaint before the District Education Officer (Special Education), Bahawalpur ('DEO') regarding unethical acts, like molesting the blind female students by the appellant. The DEO concerned got a probe conducted into the complaint. The Probe Officer after conducting probe proceedings, concluded that all the allegations of sexual molestation leveled against the appellant stood proved. Where-after, DEO concerned forwarded the same to Directorate General of Special Education, Punjab vide letter dated 13.12.2021. Upon receipt of the Probe Report, the appellant was placed under suspension vide order dated 20.12.2021 and disciplinary proceedings were initiated against him by the DGSE being Competent Authority under the enabling provisions of Act *ibid* on the following charge of misconduct through a regular inquiry by appointing an Inquiry Officer vide order dated 26.01.2022;

“Unethical Acts, involving inappropriate touch, undesirable behavior and harassment to female visually impaired students of Govt. Secondary Special Education Centre, Rahim Yar Khan time and again.”

6. **AND WHEREAS**, after receipt of inquiry report, DGSE issued Show Cause cum Personal Hearing Notice under Section 13(4) of the Act *ibid* to the appellant and after granting him hearing in accordance with the law, imposed major penalty of dismissal from service upon the appellant vide order dated 09.05.2022. Feeling aggrieved and dissatisfied, the appellant preferred departmental appeal under Section 16 of the Act *ibid* before Secretary Special Education / Appellate Authority which was rejected vide order dated 28.10.2022. The appellant then filed Service Appeal No. 54/2023 before Punjab Service Tribunal, Lahore ('PST') which was partially allowed by the PST vide order dated 14.06.2023 and the penalty and appellate orders were set aside and the appellant was reinstated into service and the case was remanded to the Competent Authority for holding a proper regular inquiry into the allegations against the appellant. DGSE, vide order dated 04.12.2023, *substituted vide order dated 19.01.2024*, ordered initiation of de novo inquiry against the appellant by appointing an Inquiry Officer. After receipt of inquiry report, same was examined and in terms of Section 13(6) of the Act *ibid*, it was remanded to the Inquiry Officer vide order dated 30.04.2024 for providing right of cross examination to the appellant and for getting the video verified from Punjab Forensic Science Agency ('PFSA').

7. **AND WHEREAS**, the Inquiry Officer after removing the shortcomings and conducting comprehensive inquiry submitted inquiry report, where-after, DGSE issued Show Cause cum Personal Hearing Notice under Section 13(4) of the Act *ibid* to the appellant and after granting him hearing in accordance with the law, consulting the relevant record, complaint, probe report, inquiry report, recommendations of the Inquiry Officer and outcome of the personal hearing, found that the charge leveled against the appellant stood fully proved. However, the penalty recommended by the Inquiry Officer does not commensurate with the gravity of his guilt because he was habitual of molesting the female special students. Molesting the visually impaired female students in the premises of Institution by the appellant was a grave offence. Special students are the most vulnerable segment of the society. Being a teacher, it was the duty of the appellant to guide them about good ethics, but unfortunately, he himself indulged in unethical acts with his female students which act is highly objectionable and intolerable as it hurts the repute of Special Education Department, trust of society and special students and their parents. His unethical acts affected the atmosphere of the Institution badly. Hence, DGSE being Competent Authority while disagreeing with the recommendations of the Inquiry Officer and in exercise of powers vested in her under Section 13(5) read with Section 4 of the Act *ibid* imposed major penalty of "**dismissal from service**" under Section 4(1)(b)(vi) of the Act *ibid* upon the appellant vide impugned order, dated 21.08.2024.

8. **AND WHEREAS**, a wade through the record reveals that the Inquiry Officer has also attached pictorial evidences regarding the molesting of female student by the appellant in the classroom with the inquiry report. Moreover, video clips obtained through CCTV camera installed in the classroom of the appellant verified by the PFSA that same is unedited, showing his unethical behaviour are also available on record. It is also observed

that the appellant has not identified any illegality or irregularity in the impugned penalty order. The appellant's stance, as presented in the departmental appeal, lacks reasoning, justification, and fails to find support in the available record. Despite being afforded ample opportunities to provide evidence refuting the charge, substantiating his position, and establishing his innocence, the appellant has not done so. It is evident that the observations made by the Competent Authority in the impugned penalty order are well-founded and align with the record. Consequently, there is no justification for interference in order passed by Competent Authority in accordance with the law and attending circumstances of the case.

9. **AND WHEREAS**, it is further observed that the appellant, *rather than introducing/placing any new piece of evidence/information*, has simply re-stated his previous position, which had been presented both before the Inquiry Officer and the Competent Authority. It is important to note that the appellant's stance was thoroughly assessed initially by the Inquiry Officer and subsequently by the Competent Authority. It is pertinent to mention that the appellant has not provided compelling reasons to exonerate himself from the charge levelled against him, as sufficient evidence in shape of statements of the teaching staff and video recording is available on record to connect the appellant with the commission of the charge levelled against him. Furthermore, video recording of the incident which was got verified by PFSA also supports the impugned penalty order and it has been mentioned in the report of PFSA that the video is unedited. Suffice is to observe that said video was recorded through CCTV cameras of the Centre and the person seen in the video is the appellant, hence the stance of the appellant that he has been involved in the case with *mala fide* intentions of the Principal does not hold water. It is also observed that the appellant failed to present any convincing evidence that would suggest the inaccuracy of the charge brought against him.

10. **AND WHEREAS**, upon thorough examination of the records, it is evident that, during the course of the inquiry proceedings, the charge pertaining to the appellant's molestation of female student of the Centre has been substantiated. Furthermore, it is observed that the justifications put forth by the appellant in his defense lack merit. The Departmental Representative has presented sufficient documentary evidence to rebut the stance of the appellant regarding order issued by Principal concerned and letter dated 09.11.2021. The appellant has failed to identify any mis-reading or non-reading of facts or evidence that could have resulted in a miscarriage of justice. The order issued by the Competent Authority is found to be legally sound, and no legal deficiencies are apparent. Additionally, there are no extenuating circumstances in this case that would justify intervention in decision arrived by the Competent Authority.

11. **AND WHEREAS**, it is not out of place to mention that teaching is a noble and prophetic profession carrying precarious responsibilities towards nation building process through character building and knowledge of the next generation. Teachers are part of the fundamental foundation that cultivates the minds and skills of a child. Teachers not only teach and impart knowledge but also inspire and motivate the students as a role model. Children with special needs enrolled in institutes imparting special education are most vulnerable. Hence, the special education teachers occupy a sensitive position when they are entrusted with the responsibility of teaching and nurturing these students. Irrefutably, the appellant being a teacher of students with special needs, was to act as a role model for them but

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Unfortunately, the appellant exhibited such a conduct with students that too with a blind student, evident from record, documentary evidence and verbal submissions, which is deplorable and unbearable. The conduct of the appellant towards performance of his official duties remained objectionable, prejudicial to good service order, unbecoming of an officer or gentleman and contrary to principles of good governance and canons of service discipline. It is well entrenched by now that a person, *who is involved in the charge of misconduct involving moral turpitude / harassing female students*, cannot be shown any leniency. In this background, the appellant deserves no premium. Concerning the imposition of the penalty, it is noted that the charge of grave misconduct has been substantiated against the appellant. Consequently, the Competent Authority has appropriately imposed a penalty which commensurates with the gravity of the proven charge.

13. **NOW THEREFORE, I, Saima Saeed**, Secretary Special Education Department being the Appellate Authority in the instant case, after going through the relevant record, hearing report and the pictorial / video evidences against the appellant, for reasons stated herein above, am of the considered view that video recordings (*verified by PFSA*) are available on record which fully connect the appellant with the charge levelled against him and the decision arrived by the Director General Special Education / Competent Authority whereby major penalty of *dismissal from service* has been imposed upon the appellant vide order dated 21.08.2024 is in accordance with law and facts of the case and no exception can be taken from it. Therefore, in exercise of powers conferred upon me under Section 16(2)(a) of the Act *ibid*, instant departmental appeal filed by the appellant is hereby **rejected** and the order dated 21.08.2024 passed by the Director General, Special Education / Competent Authority is upheld.

Dated Lahore the
November 21st / 2024

Saima Saeed

(SAIMA SAEED)
SECRETARY

GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT/
APPELLATE AUTHORITY

No. & Date Even.

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

1. Accountant General, Punjab, Lahore.
2. Director General, Special Education, Punjab, Lahore.
3. District Accounts Officer, Rahim Yar Khan.
4. District Education Officer (Special Education) Bahawalpur.
5. Principal, Govt. Secondary Special Education Centre, Rahim Yar Khan.
6. Appellant concerned / **Mr. Muhammad Jahanzaib**, ex-Music Teacher (BS-11), Govt. Secondary Special Education Centre, Rahim Yar Khan. **Resident of Mohallah Khokhran, Nawa Kot, Tehsil Khanpur, District Rahim Yar Khan. Postal Address Sadar Bazar Nawa Kot Tehsil, Khanpur, District Rahim Yar Khan.**
7. PS to Secretary Special Education Department.

[Signature]
SECTION OFFICER (ESTT.-I)
SPECIAL EDUCATION DEPARTMENT