

REGISTERED



**GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT**

ORDER

SO(Estt)40-337/2017: WHEREAS, on the basis of documentary evidence available on record disciplinary proceedings were initiated against **Ms. Kanwal Javed**, Junior Special Education Teacher (BS-16), Govt. Deaf and Defective Hearing Model High School for Girls, Rajgarh, Chauburji, Lahore ('accused officer') vide Show Cause Notice dated 22.08.2023 under Section 7(b) read with Section 5(1)(a) of the PEEDA Act, 2006 ('Act') on the following charges of misconduct:

- Lama Saeed*
- i. You remained willfully absent from duty w.e.f. 01.04.2022 to 30.05.2022 without prior approval / sanction of leave by competent authority. During absence period w.e.f 01.04.2022 to 30.05.2022 you received pay and allowances and you at your own level converted your said absence period to Extra Ordinary Leave (without pay) and deposited Rs. 98,796/- in the Govt. treasury without approval/sanction of the competent authority. Hence you have been found guilty of gross misconduct.**
 - ii. You remained willfully absent from duty w.e.f. 08.09.2022 till date without prior approval / sanction of leave by competent authority. During absence period w.e.f. 08.09.2022 to 12.07.2023 you received pay and allowances and you at your own level converted your absence period w.e.f. 08.09.2022 to 12.07.2023 to Extra Ordinary Leave (without pay) and deposited Rs. 61,5270/- in the Govt. treasury without approval / sanction of the competent authority. Hence you have been found guilty of gross misconduct.**
 - iii. While you were unauthorizedly absent from duty, you filed an application dated 10.08.2023 with subject 'joining report after leave' and below your signatures you while misusing official stamp of the post of J.S.E.T (H.L.C) Govt. Deaf & Defective Girls High School Rajgarh Chauburji Lahore affixed the same on the application containing following words which tantamounts to gross misconduct;**

**Kunwal Javaid
J.S.E.T (H.L.C)
Govt. Deaf & Defective
Girls High School
Rajgarh Chauburji Lahore,"**

2. AND WHEREAS, through the above said Show Cause Notice, the accused officer was directed to submit her defence reply within 07-days but she did not do so. Therefore, in order to finalize the disciplinary proceedings, the accused officer

was afforded an opportunity of personal hearing under Section 7(d) of the Act *ibid* and for said purpose vide letter dated 28.09.2023, she was directed to appear before **Deputy Secretary Special Education / Hearing Officer** appointed under Section 7(d) of the Act *ibid* on 12.10.2023.

3. **AND WHEREAS**, the Hearing Officer after affording opportunities of personal hearing to the accused officer, submitted report of hearing proceedings concluding therein that all the charges levelled against the accused officer stand proved. The Hearing Officer after perusing the record of the case stated that the accused officer filed her written reply to the charges during course of personal hearing which was thoroughly examined and evaluated in light of available record. The Hearing Officer further observed that perusal of the stance put forth by the accused officer to defend charge No. 1 depicts that she has not denied the fact that she remained unauthorizedly absent from duty w.e.f. 01.04.2022 to 30.05.2022. With regards to the stance of the accused officer that she filed application for grant of leave but the application was not decided and she proceeded on leave, it is observed that mere filing of application does not confer any right to the employee to proceed on leave before its approval / decision (*as the case may be*). The accused officer has tried to shift the burden of her unauthorized / intentional and willful absence on the Headmaster/ Headmistress concerned. The justification accorded by the accused officer in this regard is inadequate and deficient. The stance of the accused officer that since she had deposited the salaries drawn for the period of leave, therefore, *ex-post facto* period of absence w.e.f. 01.04.2022 to 30.05.2022 is liable to be treated as EOL (without pay) is based on misconception because the accused officer cannot direct the Competent Authority to treat any period of absence (*that too which is unauthorized*) as per her own whims and wishes.

4. **AND WHEREAS**, the Hearing Officer with regards to charge No. 2, after examining the record, observed that the stance taken by the accused officer to defend this charge is fallacious and does not merit consideration for more than one reason. No law allows any civil servant to remain absent from duty without prior permission of leave by the Competent Authority, hence the stance taken by the accused officer that domestic affairs compelled her to remain absent from duty is unwarranted and tantamount to admission. Neither any application of the accused officer for grant of EOL for any period (*especially mentioned in written reply*) was ever received in this department nor any permission to join the duty was ever granted to the accused officer by Section Officer (Estt.), Special Education Department. The stance taken by the accused officer to this extent is based on misstatement. The accused officer has miserably failed to substantiate that her absence from duty w.e.f. 08.09.2022 till date (*more than one year*) is authorized and/or with prior approval of the leave by Competent Authority.

5. **AND WHEREAS**, the Hearing Officer with regards to charge No. 3 observed that the stance of the accused officer in reply to this charge is based on misunderstanding and the same also *prima facie* seems to be misplaced. The accused officer was absent from duty and admittedly she was not attending the school for almost

last one year, therefore, she was not supposed to use the stamp of the school / her post. The affixation of the official stamp by the accused officer on the application filed by her transpires that official stamp was misused and the same was affixed on the application to mislead the departmental authorities.

6. **AND WHEREAS**, after having considered all aspects and material related to the case, reply of the accused officer with documents annexed therewith and report of Hearing Officer, it has been noticed the accused officer remained willfully absent from duty initially w.e.f. **01.04.2022 to 30.05.2022** (for a period of two months) and later on w.e.f. 08.09.2022 till date (for more than one year) and no cogent, convincing and confidence inspiring evidence has been brought on record by the accused officer to substantiate that her absence is neither willful nor unintentional. After consulting the record, I am tempted to observe that no circumstances extenuating in nature exist in favour of the accused officer through which it can be deduced that absence of the accused officer is due to circumstances which are beyond her control. It is also noted that the stance taken by the accused officer in her defense reply (which was filed after lapse of time granted to the accused officer in Show Cause Notice) is even otherwise misconceived and devoid of logical reasoning. Moreover, the stance of the accused officer is vague and merely an after-thought. It is further observed that nobody, other than the accused officer herself, is to be blamed for the predicament in which she finds herself today. The accused officer has not been able to persuade that her absence, which is for more than one year, is not willful. It is further noted that Section 7(f) of the PEEDA Act, 2006 provides as under;

- (f) impose any one or more penalties mentioned in section 4, by an order in writing, if the charge or charges are proved against the accused:

Provided that-

(i) where charge or charges of grave corruption are proved against an accused, the penalty of dismissal from service shall be imposed, in addition to the penalty of recovery, if any; and

(ii) where charge of absence from duty for a period of more than one year is proved against the accused, the penalty of compulsory retirement or removal or dismissal from service shall be imposed upon the accused.

There is no cavil to the proposition that absence from duty without approval of leave by Competent Authority tantamounts to misconduct as defined under Section 2(n)(vii) of the Act *ibid* and constitutes culpable wrongdoing. Record fully corroborates that the accused officer has been found guilty of charge of absence from duty w.e.f. 01.04.2022 to 30.05.2022 (for two months) and w.e.f. 08.09.2022 till date (for more than one year) without prior approval / permission of Competent Authority.

Saima Saheed

7. **AND WHEREAS**, the stance of the accused officer that she has deposited the salaries drawn by her for the period she remained absent, hence her absence period is liable to be treated as Extra Ordinary Leave (without pay) is also misconceived for the reason that the accused officer remained unauthorizedly absent from duty and did not perform any work, hence she was not liable to draw salary for said period. Furthermore, the accused officer cannot decide as to what treatment should be given to the period of unauthorized absence. With regards to the stance of the accused officer that she filed applications is concerned, it is observed that mere filing of application for grant of leave does not confer any right to the employee to proceed on leave before its approval / decision by the Competent Authority. Admittedly, the accused officer has taken the stance with an intention to shift the burden of her unauthorized / intentional and willful absence on the Headmaster/ Headmistress concerned. The justifications accorded by the accused officer is her defense are found to be inadequate and deficient. As far as charge of affixation of official stamp is concerned, it is noticed that the accused officer was absent from duty and admittedly she was not attending the school for almost last one year, hence, she could not use the stamp of the school. The affixation of the official stamp on the application shows that official stamp was unauthorizedly used and affixed on the application filed by the accused officer in order to mislead the authorities.

8. **NOW THEREFORE**, I, **Saima Saeed**, Secretary Special Education / Competent Authority in the instant case, *for reasons recorded herein above*, am of the view that record fully corroborates that the accused officer has been found guilty of charge of absence from duty and it is established from record that the absence of the accused from duty is willful and intentional. The conduct of the accused towards performance of her official duty remained prejudicial to good service discipline and tantamounts to gross misconduct, therefore, keeping in view the gravity of proven charge, in exercise of powers vested upon me under the Section 7(f) read with Section 4 of the Act *ibid*, major penalty of "**Removal from service**" in terms of Section 4(1)(b)(v) is hereby imposed upon the accused officer.

Saima Saeed
(SAIMA SAEED)
SECRETARY to

GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT /
COMPETENT AUTHORITY

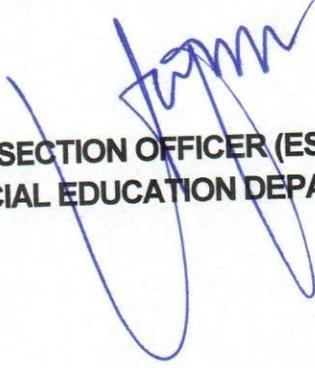
Dated Lahore, the
January 08th/2024

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 Education Officer (Special Education), Gujranwala.
4. Principal / Headmaster / Headmistress, Govt. Deaf and Defective Hearing Model High School for Girls, Rajgarh, Chauburji, Lahore to ensure delivery of this order to the accused officer at her residential and official address through all possible means including whatsapp and email at her official email address under intimation to this Department.
5. PS to Secretary Special Education Department, Lahore.
6. Statistical Officer, Directorate General of Special Education, Punjab, Lahore.
7. Accused officer concerned / **Ms. Kanwal Javed**, Junior Special Education Teacher (BS-16), Govt. Deaf and Defective Hearing Model High School for Girls, Rajgarh, Chauburji, Lahore. Resident of House No.9, Street No. 4-B, Milat Road, Sanda Khurd, Lahore.


SECTION OFFICER (ESTT.)
SPECIAL EDUCATION DEPARTMENT