

REGISTERED



GOVERNMENT OF THE PUNJAB  
SPECIAL EDUCATION DEPARTMENT

**ORDER**

**No.SO(Estt.)20-192/2020. WHEREAS,** District Education Officer (Special Education), Rawalpindi forwarded absence report submitted by the Incharge Headmistress, Govt. Special Education Centre, Mansar, District Attock stating therein that the **Ms. Arooj Fatima**, Speech Therapist (BS-17), previously posted at Govt. Special Education Centre, Mansar, District Attock, presently reported to Department (**'accused officer'**) has been found absent from duties without any intimation or prior approval of the Competent Authority w.e.f. 14.03.2022 till date. Subsequently Secretary Special Education being Competent Authority vide order dated 24.10.2022 directed the accused to report to department on administrative grounds and initiated disciplinary proceedings against her vide Show Cause Notice dated 28.10.2022 under Section 7(b) read with Section 5(1)(a) of the Act *ibid* on the following charge of misconduct on account of absence from duty:

**"You have been found absent from your duties w.e.f 14.03.2022 till date without any intimation or prior permission of the Competent Authority."**

2. **AND WHEREAS,** pursuant to order dated 24.10.2022, the accused officer submitted her joining on 27.10.2022. Furthermore, through the above said Show Cause Notice, the accused officer was directed to submit her defence reply within 07-days but the accused filed an application dated 03.11.2022 for provision of record. The requested record pertaining to charge was provided to her vide letter dated 08.11.2022. Even after provision of record, the accused did not file written reply, therefore, in order to finalize the disciplinary proceedings, vide letter dated 25.11.2022, it was decided to afford an opportunity of personal hearing to the accused officer under Section 7(d) of Act *ibid* and for this purpose she was directed to appear before the Additional Secretary, Special Education / Hearing Officer appointed under Section 7 (d) of the Act *ibid* on 06.12.2022. As per record, prior to date of hearing, the accused officer filed her defense reply on 31.11.2022 which was examined and found unsatisfactory.

3. **AND WHEREAS,** the Hearing Officer after affording an opportunity of personal hearing to the accused officer submitted Hearing Report whereby, she observed that the accused officer is a contract employee and her absence period cannot be treated as a matter of routine particularly when various other issues of complicated nature are involved in the matter. Moreover, facts of the case have since been denied by the accused officer, therefore, they have become controversial and necessitate holding of regular inquiry. It was further observed by the Hearing Officer that it is very difficult to reach the logical conclusion of the matter through summary proceedings and regular inquiry is required to be conducted to thrash out the real facts. The Hearing Report and other record relating to the case was examined and it was found that since the absence has been denied by the accused officer therefore, any penalty imposed based on summary proceedings will be against the interest of justice and will also defeat the provisions of PEEDA Act, 2006 and merits of the case. Therefore, regular inquiry was initiated against the accused

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officer under the Act *ibid* on the following charge of misconduct vide order dated 27.03.2023 by appointing Mr. Mr. Muhammad Mushtaq, Principal (BS-19), Government Secondary School for Hearing Impaired (Boys), Mianwali as Inquiry Officer:

**“The accused, despite rejection of her leave application for grant of 69 days leave without pay w.e.f. 14.03.2022 to 21.05.2022, remained willfully absent from duties without approval / permission of the Competent Authority. The accused joined her duties on 21.05.2022 and attended the Centre till 29.05.2022 but she again absented herself without approval / permission of Competent Authority w.e.f 30.05.2022 till 26.10.2022.”**

4. **AND WHEREAS**, the Inquiry Officer conducted the inquiry into the above-mentioned charge and submitted report, wherein the Inquiry Officer concluded that the charge of misconduct stands fully proved against the accused officer and it was recommended that major penalties of “Removal from Service’ under section 4(1)(b)(v) of the PEEDA Act, 2006 may be imposed upon the accused officer.

5. **AND WHEREAS**, upon receipt of the Inquiry Report, Show Cause-cum Personal Hearing Notice was issued to the accused officer under Section 13(4) of the Act *ibid* directing her to submit her additional defence, *if any*, and to appear before the undersigned for personal hearing on 04.07.2023. The Departmental Representative was also directed to appear on the said date alongwith record in terms of Section 13(4)(e) of the Act *ibid*.

6. **AND WHEREAS**, the accused officer and Departmental Representative appeared on the fixed date and the accused officer opted not to submit additional defense reply and relied upon the reply already submitted during inquiry proceedings. During the course of personal hearing, the accused officer while reiterating the stance already taken by her during inquiry proceedings stated that the recommendations of the Inquiry Officer are contrary to the record as her absence was due to medical reason and cannot be termed as intentional. Lastly, she requested that the charge is baseless and devoid of merit, therefore, she may be exonerated from the charge.

7. **AND WHEREAS**, during the course of personal hearing the Departmental Representative apprised the facts of the case and, *inter alia*, stated that record related to the charge was provided to the accused officer and inquiry proceedings have been conducted by the Inquiry Officer in accordance with the provisions of the Act *ibid* and statements of all concerned were recorded. The Departmental Representative further stated that charge stood proved against the accused officer and the penalty proposed by the Inquiry Officer commensurates with the guilt of accused officer and gravity of the charge that stood fully proved.

8. **AND WHEREAS**, after hearing the accused officer, Departmental Representative, examining the record produced by the departmental representative, considering the material related to the case available in the shape of inquiry report and keeping in view the findings and recommendations of the Inquiry Officer, it has been observed that inquiry proceedings have been conducted by the Inquiry Officer

in accordance with the provisions of the Act *ibid*, merits of the case have been duly appreciated and due process as provided under the law has been adopted by the Inquiry Officer. It has further been observed that as per findings of Inquiry Officer the charge of misconduct on account of absence from duty levelled against the accused officer stood fully proved. Perusal of record annexed with the inquiry report depicts that findings of the Inquiry Officer are based on record and no exception can be taken from that. It has further been observed that during the course of personal hearing the accused officer failed to disprove the veracity of the findings and recommendations of the Inquiry Officer. Moreover, there exist sufficient incriminating documentary evidence which connect the accused officer with commission of charge levelled against her. It has further been observed that during the course of personal hearing, no new and plausible piece of evidence has been brought on record by the accused officer to rebut the evidence already available on record and no such kind of fresh evidence has been produced by the accused officer which could prove that the charge levelled against her is false and contrary to the record. It has further been observed that the penalty recommended by the Inquiry Officer commensurates with gravity of guilt of the accused officer.

9. **AND WHEREAS**, perusal of record further shows that the accused officer was appointed in the year 2021 on contract basis for a period of five years and she is still a contract employee and her services are governed under the Contract Appointment Policy, 2004 and the terms and conditions laid down in offer of appointment dated 13.01.2021 duly accepted by her at the time of joining Govt. service. Clause 7(c) of Guidelines for Fixing Terms and Conditions of Contract Appointments (Annex-B) of the Contract Appointment Policy-2004 provides as under;

*(c) Leave on medical grounds without pay shall be admissible on production of medical certificate by the competent authority as per Punjab Medical Attendance Rules, 1959. **However, if medical leave continues beyond 3 months, his contract shall be liable to be terminated.***

It is noticed that if the absence of accused officer, *which is for more than 7 months and reasons thereof are medical grounds as per stance taken by the accused officer in her reply*, is adjudged on the touchstone of above stated clause of Contract Appointment Policy-2004, it makes it abundantly clear that contract of the accused officer is liable to be terminated. It is further observed that the medical record attached with the reply of the accused officer shows that she could have travelled but she preferred to remain absent from duty and she did not file any formal application. Moreover, the accused officer got herself examined from private doctor and medical record attached with her reply has been issued by a private doctor and not by any authorized medical officer as provided under Punjab Medical Attendance Rules, 1959 and Revised Leave Rules, 1981.

10. **AND WHEREAS**, Clause 7(i) of the Annexure-B of the Contract Appointment Policy, 2004 titled *Guidelines for fixing terms and conditions of Contract Appointment*, provides as under;

*(i) The competent authority may allow Extra Ordinary Leave without pay under special circumstances up to two months during the tenure of 3 to 5 years to a contract employee. **However, the contractee during***

**the first year of his appointment shall be entitled to extra ordinary leave (EOL) without pay for 15 days only.**

Perusal of above clause of Contract Appointment Policy, 2004 transpires that the accused officer was also not entitled for leave without pay for a period more than two months, therefore, her application for grant of leave for a period of 69-days w.e.f. 14.03.2022 to 21.05.2022 was not even tenable but also liable to be rejected being contrary to provisions of Contract Appointment Policy-2004. It is further observed that the accused officer remained willfully absent from duty for 69-days w.e.f. 14.03.2022 to 21.05.2022 without sanction of leave. It is also pertinent to note here that the leave title/account submitted by the accused officer alongwith reply contained tempering/over writing/cutting which also casts shadow on her conduct. There-after, she remained absent from duty w.e.f. 31.05.2022 and during the summer vacations which started from 01.06.2022 till 31.07.2022, she was contacted by the Headmistress concerned to attend the Centre and to take part in the survey being conducted by the Special Education Department and to perform duty of speech therapy for the new entrants but accused officer failed to attend the Centre and remained willfully absent. Upon re-opening of the Centre, after summer vacations w.e.f. 01.08.2022, the accused officer again did not attend the Centre and remained absent from duty without applying for leave and/or any intimation. The absence of accused officer for more than 7 months is unjustified as much as the stance taken by the accused officer in her reply submitted before the inquiry officer is contradictory and an attempt to undermine the disciplinary proceedings.

11. **AND WHEREAS**, it is further observed that the accused officer took another stance during inquiry proceedings that she intimated the Headmistress concerned about her medical condition and did not file formal application; she being ignorant of official procedure considered it sufficient to intimate the Headmistress. This stance of the accused officer is naïve and liable to be spurned being contrary to record. No record of communication has been provided through which it could be established that the accused officer intimated the Headmistress concerned and requested for grant of medical leave. It is admitted that the accused officer never filed application for grant of medical leave and remained absent from duty without approval of leave by Competent Authority. Moreover, it is entrenched principle of law that ignorance of law is no excuse. The stance of the accused officer could not hold field in light of record available in the file. It is observed that the absence of the accused officer from duty for more than 7 months, was willful, intentional, unauthorized, without approval of leave by Competent Authority and circumstances not extenuating in nature. At the cost of repetition, it is noted that the stance of accused officer that her absence, *which is for more than 7 months*, is due to medical grounds/reasons is misconceived as nothing had estopped the accused officer to at least inform the department but as per record she neither applied for leave nor informed this department and preferred to proceed on leave without obtaining prior sanction of leave by Competent Authority. This fact is sufficient to establish that leave of the accused officer was unlawful and unauthorized and the same squarely tantamounts to misconduct.

12. **AND WHEREAS**, absence from duty is a grave misconduct as defined under Section 2(n)(vii) of the Act *ibid* and entails serious consequences. Due to the absence of the accused officer, *who is still a contract employee*, from duties, for a

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period which is more than 7 months, special students of the Centre remained deprived of their right of speech therapy. It is manifestly clear that the conduct and careless attitude of the accused officer towards performance of her official duties, being contract employee, shows that she is not interested in performing Government job and her further retention in Government service will not serve any useful purpose for the department and special students.

13. **NOW THEREFORE**, I, **Saima Saeed**, Secretary Special Education being Competent Authority in the instant case, for reasons recorded herein above, in exercise of powers vested upon me under Section 7(f) read with Section 4 of the Act *ibid*, am of the view that willful absence from duty without approval of leave by Competent Authority squarely falls within ambit of 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 and 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 and agreeing with the recommendations of the Inquiry Officer*, major penalty of "**Removal from service**" in terms of Section 4(1)(b)(v) is hereby imposed upon the accused officer and accordingly as per Clause 3(XVIII)(8) of the Contract Appointment Policy, 2004 her contract is hereby terminated.

*Saima Saeed*

(SAIMA SAEED)

SECRETARY to

GOVERNMENT OF THE PUNJAB  
SPECIAL EDUCATION DEPARTMENT /  
COMPETENT AUTHORITY

Dated Lahore, the  
July 31<sup>st</sup> /2023

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. Statistical Officer, Directorate General of Special Education, Punjab, Lahore.
4. District Education Officer (Special Education) Rawalpindi to ensure delivery of this order to the accused officer under intimation to this department.
5. Incharge Headmistress, Govt. Special Education Centre, Mansar, District Attock to ensure deliver of this order to the accused under intimation to this department.
6. Accused officer concerned / Ms. Arooj Fatima, Speech Therapist (BS-17), previously posted at Govt. Special Education Centre, Mansar, District Attock, presently reported to Department Resident of House No. 180, Q-Block, Extension, Model Town, Lahore.
7. PS to Secretary Special Education Department.
8. Master File.

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