

REGISTERED



**GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT**

ORDER

Sadiqabad
SO(Estt)20-249/2022: WHEREAS, Deputy Director (Admn), Directorate General of Special Education vide letter dated 18.10.2023 forwarded letters of District Education Officer (Special Education), Bahawalpur dated 07.10.2023 and Principal, Govt. Secondary Special Education Centre, Sadiqabad dated 13.09.2023 whereby un-dated resignation tendered by **Ms. Sehrish Bari**, Speech Therapist (BS-17), Govt. Special Education Centre, Sadiqabad. Resident of House No. 264, U-Block, Farid Town, Sahiwal ('accused officer') was forwarded. While the case of the accused officer was under consideration, the Principal, Govt. Secondary Special Education Centre, Sadiqabad vide letter dated 27.11.2023 (*forwarded through letter of Deputy Director (Admn) dated 01.01.2024 and of District Education Officer (Special Education), Bahawalpur dated 18.12.2023*) duly supported by relevant documents and extracts of attendance register, informed that the accused officer is not attending the Centre w.e.f. 21.08.2023 and her salary/pay has also been stopped. The un-dated resignation of the accused officer was examined and it was found that the same is defective in nature having not been addressed to Competent / Appointing Authority and the same is also violative of Clause 3(XVII)(i) of the Contract Appointment Policy, 2004 read with Clause 18 of the terms and condition of service contained in offer of appointment dated 31.05.2022 duly accepted by the accused officer while joining Government service. The resignation of the accused officer was also in violation of standing instructions issued by Regulations Wing, S&GAD regarding acceptance of resignation. Moreover, the accused officer after tendering resignation without waiting for the fate of the same was not performing her duties, hence she was found absent from duty w.e.f. 21.08.2023.

2. AND WHEREAS, keeping in view willful absence of the accused officer from duty, other related facts of the case and on account of availability of sufficient documentary evidence on record, *while dispensing with regular inquiry in terms of Section 5 of the PEEDA Act, 2006*, disciplinary proceedings were initiated against the accused officer vide Show Cause Notice dated **01.01.2024** under Section 7(b) read with

Section 5(1)(a) of the PEEDA Act, 2006 ('Act') on the following charge of misconduct on account of absence from duty:

"You have been willfully absent from your duties w.e.f. 21.08.2023 till date without prior permission / approval of leave by the Competent Authority which manifestly shows your irresponsible behavior towards discharge of your official duties".

3. **AND WHEREAS**, through the above said Show Cause Notice, the accused officer was directed to submit her defence reply within 07-days. But despite lapse of considerable time, she failed to submit her reply. Therefore, in order to finalize the disciplinary proceedings, it was decided to afford an opportunity of personal hearing to the accused officer under Section 7(d) of Act *ibid* and for said purpose, vide letter dated 29.01.2024, **Deputy Secretary, Special Education Department** was appointed as Hearing Officer under Section 7(d) of the Act *ibid* and the accused officer was directed to appear before the Hearing Officer on 16.02.2024.

4. **AND WHEREAS**, the Hearing Officer submitted hearing report stating therein that the accused officer did not appear on the date fixed for personal hearing i.e., 16.02.2024 despite intimation through service of notices of personal hearing on her residential address. To meet the ends of justice and to provide full, complete and fair opportunities of hearing to the accused officer, she was afforded 2nd opportunity of personal hearing and she was directed to appear on 23.02.2024 but again she did not appear. The Hearing Officer further stated that the hearing notices were served to the accused officer on her residential address and copies of the same were also sent to District Education Officer (Special Education) concerned and Headmaster concerned to ensure the delivery of notice to the accused officer. The hearing notices were also uploaded on the official website of the department, but despite meticulous adherence to all procedural, legal, and regulatory formalities, and despite proper information/service of notices, the accused officer failed to attend the scheduled personal hearing proceedings. The Hearing Officer further apprised that for safer administration of justice and to ensure grant of just hearing to the accused officer, she was afforded 3rd opportunity of personal hearing (*as last and final opportunity*) and directed to appear on **01.03.2024**. The notice of hearing was duly served to the accused officer at her residential address, with additional copies dispatched to the relevant District Education

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Officer (Special Education) and the concerned Headmaster to ensure the notice's delivery to the accused officer. The hearing notice was also uploaded on the official website of the department. But, despite observing all just, legal and codal formalities and proper intimation the accused officer did not attend the personal hearing proceedings.

5. **AND WHEREAS**, the Hearing Officer after consulting record, observed that the accused officer was appointed as Speech Therapist (BS-17) on contract basis for a period of five years and posted at Govt. Special Education Centre, Sadiqabad vide order dated 27.09.2022 and she is still a contract employee. Being contract employee, the services of the accused officer are governed in accordance with the provisions of Contract Appointment Policy, 2004 read with terms and conditions duly accepted by the accused officer at the time of joining service, contained in offer of appointment dated 31.05.2022. The Hearing Officer further observed that the accused officer failed to furnish her written reply in response to the Show Cause Notice dated 01.01.2024. Clause-04 of the Show Cause Notice provides that *"Your reply to Show Cause Notice should reach the undersigned, within the said period failing which it shall be presumed that you have accepted the charge and you have no defence to offer"*. Failure on the part of accused officer to file reply to Show Cause Notice tantamounts to admission of charge, hence the charge leveled against the accused officer stands proved.

6. **AND WHEREAS**, the Hearing Officer further observed that the accused officer was afforded three (03) opportunities of personal hearing with the direction to appear for personal hearing but she failed to attend the personal hearing proceedings which shows that she has no supporting documents to defend her case and justify the charge of unauthorized absence levelled against her. The Hearing Officer, *after evaluating the record connected with the case*, also observed that the accused officer absented herself from duty since 21.08.2023 till date (*this period spans over more than 07 months*) without any intimation or prior permission of the Competent Authority which is deliberate, willful and unauthorized because she is not entitled for such long leave being a contract employee. The Hearing Officer further observed that it can safely be inferred from the record that conduct of the accused officer towards performance of her official duty remained highly prejudicial to good service discipline, unbecoming of an officer and tantamounts to gross misconduct.

7. **AND WHEREAS**, the Hearing Officer also noted that the accused officer tendered resignation without mentioning any date, which was forwarded to this department vide letter dated 18.10.2023. The Hearing Officer further stated that the resignation tendered by the accused officer does not merit consideration because the same is contrary to the instructions issued by Regulation Wing of S&GAD and Clause 3(XVII)(i) of the Contract Appointment Policy read with clause 18 of the offer of appointment accepted by the accused officer. The Hearing Officer further stated that as per Clause 3(XVII)(i) of the Contract Appointment Policy read with Clause 18 of the offer of appointment dated 31.05.2022, the accused officer was required to give one-month advance notice or to pay one month salary for termination of the contract. The Hearing Officer concluded that the accused officer being contract employee has been found guilty of misconduct on account of absence from duty w.e.f. 21.08.2023 till date (for a period more than 07 months) and the charge stood proved against her. The accused officer is knowingly avoiding to appear for personal hearing and is delaying the finalization of disciplinary proceedings.

8. **AND WHEREAS**, following a comprehensive review of all pertinent aspects and materials pertaining to the case, as well as the report submitted by the Hearing Officer, it has been noticed the accused officer being contract employee remained willfully absent from duty w.e.f. 21.08.2023 till date (for a period more than 07 months) 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 unauthorized. After consulting the record, I am inclined to observe that no circumstances extenuating in nature exists in favour of the accused officer through which it could be inferred that absence of the accused officer is due to circumstances which are beyond her control as the accused officer has neither filed any application for sanction of leave nor intimated the department in this regard. The accused officer also failed to file her defense reply in response to the Show Cause Notice dated 01.01.2024. Clause 04 of the Show Cause Notice reads as under;

"4. Your reply to Show Cause Notice should reach the undersigned, within the said period failing which it shall be presumed that you have accepted the charge and you have no defence to offer."

It is observed that failure of the accused officer to respond to the Show Cause Notice constitutes an admission of the charge. Therefore, the charge against the accused

officer is deemed to be substantiated. As per record, the accused officer was provided ample opportunities of personal hearings but wilful and intentional non-appearance of the accused officer for personal hearing shows that she is avoiding to appear for personal hearing and is delaying the finalization of disciplinary proceedings. If the wilful absence of accused officer from duty being contract employee, *which spans over more than 07 months*, is adjudged on the touchstone of provisions of Contract Appointment Policy, 2004, it makes it abundantly clear that she is not entitled for such long leave and as per provisions of Contract Appointment Policy, 2004 her contract is liable to be terminated. 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 PEEDA Act, 2006 and constitutes culpable wrongdoing. Record fully corroborates that the accused officer has been found guilty of charge of absence from duty w.e.f. 21.08.2023 till date **(for more than seven months)** without prior approval / permission of Competent Authority.

9. **NOW THEREFORE, I, Saima Saeed**, Secretary, Special Education Department and the Competent Authority in the present matter, having thoroughly reviewed all pertinent aspects and materials related to the case, hold the opinion that the resignation tendered by the accused officer cannot be acceded to being patently defective in nature, contrary to standing instructions issued by Regulations Wing of S&GAD and violative of Clause 3(XVII)(i) of the Contract Appointment Policy, 2004 read with Clause 18 of the offer of appointment dated 31.05.2022 duly accepted by the accused officer at the time of joining Government service (*these clauses of Contract Appointment Policy, 2004 and offer of appointment dated 31.05.2022 bound the accused officer to give one month's notice or pay one month salary/pay for termination of the contract*), hence the resignation tendered is hereby declined. In addition to above, records unequivocally establish that the accused officer has been found guilty of misconduct due to her absence from duty w.e.f. 21.08.2023 to date. This absence of the accused officer is willful, unauthorized, and falls outside the purview of the Contract Appointment Policy, 2004. It is also evident from duty that the conduct and nonchalant attitude displayed by the accused officer towards the fulfillment of her official obligations indicate a lack of interest in performing Government duties. Hence, retaining her in Government service would not serve any beneficial purpose for the department or the special students. Therefore, *keeping in view the gravity of proven charge and in exercise of powers vested upon me under the PEEDA Act, 2006 and for reasons*

recorded hereinabove, major penalty of "Removal from service" in terms of Section 4(1)(b)(v) of the PEEDA Act, 2006 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)
SECRETARY to

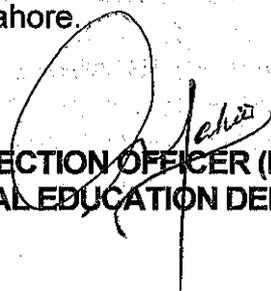
GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT /
COMPETENT AUTHORITY

Dated Lahore, the
April 8 /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), Bahawalpur.
4. Principal / Headmaster / Headmistress, Govt. Special Education Centre, Sadiqabad to ensure delivery of this order to the accused officer at her residential and official address through all possible means including email at her official email address under intimation to this Department.
5. Statistical Officer, Directorate General of Special Education, Punjab, Lahore.
6. Accused officer concerned / **Ms. Sehrish Bari**, Speech Therapist (BS-17), Govt. Special Education Centre, Sadiqabad. Resident of House No. 264, U-Block, Farid Town, Sahiwal.
7. PS to Secretary Special Education Department, Lahore.



SECTION OFFICER (ESTT.)
SPECIAL EDUCATION DEPARTMENT