

REGISTERED.



**GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT**

ORDER

No. SO(Estt.)36-56/2011. WHEREAS, on receipt of a complaint filed by Mr. Andryas Masih, Junior Clerk, Finance Section, Board of Intermediate and Secondary Education, Lahore ('complainant') containing allegations of using abusive language on the call and hurting the religious sentiments of the complainant by Mr. Mustansar Mustafa, Junior Special Education Teacher. (MC/BS-16), Govt. Special Education Centre, Fortabbas, District Bahawalnagar ('accused'), a probe was got conducted by Deputy Commissioner, Bahawalpur by appointing Additional Deputy Commissioner (HQ), Bahawalpur as Probe Officer. The Probe Officer submitted his report and recommended that in the light of the confession/admission of misbehaviour and use of foul and abusive language by the accused against the complainant, regular inquiry proceedings may be initiated against the accused under PEEDA Act, 2006. Deputy Director (Admn), Directorate General of Special Education forwarded a letter alongwith probe report with the request to initiate disciplinary action against the accused on account of misconduct.

2. **AND WHEREAS**, disciplinary proceedings were initiated against the accused vide Order of Inquiry dated 19.12.2022 under Section 3 read with Section 5 and 9 of the Act *ibid* by appointing Ms. Shazia Noreen, Headmistress (BS-18), Govt. Special Education Centre, Chistian as Inquiry Officer on the following charge of misconduct:

"The accused called Mr. Andryas Masih, Junior Clerk, Finance Section, Board of Intermediate and Secondary Education, Lahore on 20.08.2022 at 07:00. PM from his mobile No. 0301-7762590 and used abusive language and threatened him of dire consequences. The accused with the deliberate and malicious intention of wounding and outraging the religious feelings of Mr. Andryas Masih insulted his religion and his religious beliefs by uttering derogative words about his religion and community. The conduct of the accused is highly prejudicial to good service and discipline, unbecoming of an officer and/or gentleman and tantamounts to gross misconduct".

3. **AND WHEREAS**, the Inquiry Officer after conducting inquiry proceedings submitted Inquiry Report, wherein the Inquiry Officer stated that the charge stands partially proved and recommended imposition of following penalties in terms of Section 4(a)(i) & (iii) of the Act *ibid*:

1. Censure.
2. Fine, equal to the basic pay of 05 (five) days.

4. **AND WHEREAS**, upon receipt of inquiry report, Show Cause cum Personal Hearing Notice under Section 13 (4) of Act *ibid* was issued to the accused directing him to submit additional defence, if any, and also to appear on 10.03.2023 before Deputy Secretary Special Education / Hearing Officer appointed under Section 13(4)(c) of the Act *ibid*, for personal hearing. The Departmental Representative was also directed to appear before the Hearing Officer alongwith all record under Section 13(4)(e) of the Act *ibid*. The Hearing Officer after granting

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hearing to the accused in presence of departmental representative submitted report of hearing proceedings observing therein that inquiry proceedings have not been conducted by the Inquiry Officer in accordance with the provisions of PEEDA Act, 2006, merits of the case have not been appreciated and due process as provided under the law has not been adopted by the Inquiry Officer. Findings of the Inquiry Officer are not based on facts. The Inquiry Officer failed to take into consideration merits of the case and ignored vital points pertaining to the charge especially the contents of call recording. The Inquiry Officer did not provide opportunity of cross examination to the accused and did not record statement of the complainant. The Hearing Officer suggested that facts of the case necessitates that *de novo* inquiry proceedings may be initiated against the accused by appointing another suitable officer as Inquiry Officer and Departmental Representative so that ends of justice can be met and the accused may be afforded fair opportunities to vindicate his stance.

5. **AND WHEREAS**, after examining the case in light of available record, *de-novo* disciplinary proceedings were initiated against the accused under Section 13(6) of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 by appointing **Ms. Samina Akhtar**, Headmistress (BS-18), Govt. Special Education Centre, Mandi Yazman, District Bahawalpur as Inquiry Officer to proceed against the accused in terms of Section 5 read with Section 9 of the Act *ibid* vide order dated 10.04.2023.

6. **AND WHEREAS**, the Inquiry Officer after conducting *de novo* inquiry proceedings submitted Inquiry Report vide letter dated **01.06.2023**, wherein the Inquiry Officer stated that the charge stands proved and recommended imposition of minor penalty of "*withholding of one annual increment for the period of one year*" under Section 4(1)(a)(iii) of the Act *ibid*.

7. **AND WHEREAS**, upon receipt of *de-novo* inquiry report, Show Cause cum Personal Hearing Notice under Section 13(4) of Act *ibid* was issued to the accused directing him to submit additional defence, if any, and also to appear on **22.06.2023** before **Deputy Secretary, Special Education / Hearing Officer** appointed under Section 13(4)(c) of the Act *ibid*, for personal hearing. The Departmental Representative was also directed to appear before the **Hearing Officer** alongwith all record under Section 13(4)(e) of the Act *ibid*.

8. **AND WHEREAS**, the Hearing Officer after affording opportunity of personal hearing to the accused in presence of Departmental Representative, submitted report of hearing proceedings stating therein that the accused officer and departmental representative appeared on the 22.06.2023 and the hearing proceedings were conducted as per provisions of the Act *ibid*. The Hearing Officer further stated that during the course of hearing, the accused while tendering unconditional apology requested for taking lenient view and stated that the incident on the basis of which instant disciplinary proceedings have been initiated took place due to heat of the moment; that he had no intention to hurt the religious feeling of the complainant; that he has also apologized to the complainant regarding the incident; that he will mend his ways in future.

9. **AND WHEREAS**, the Departmental Representative narrated the entire facts of the case and, *inter alia*, contended that all record related to the charge was provided to the accused and inquiry proceedings were conducted by the Inquiry

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Officer in accordance with the provisions of the Act *ibid* and statement of the accused and the complainant was recorded. Departmental Representative further stated that charge stood proved against the accused and it is evident from the record that accused used abusive language deliberately. The Departmental Representative while refereeing to the findings of Inquiry Officer stated that the charge of misconduct stood proved against the accused. He further stated that during the course of inquiry proceedings, the accused was confronted with the call recording containing use of abusive language, the accused in this regard admitted that it was his own voice and he made the said call to the complainant. The Departmental Representative further asserted that the accused admitted his guilt and mainly relied upon the apology letter stating that he and complainant has arrived at a settlement and complainant had forgiven him. The Departmental Representative stated that penalty proposed by the Inquiry Officer, in view of the emerging facts of case, commensurates with the guilt of accused.

10. **AND WHEREAS**, after hearing the accused officer, Departmental Representative, examining the additional defence of the accused and documents annexed therewith, considering the material related to the case available in shape of inquiry report and keeping in view the findings and recommendations of the Inquiry Officer, the Hearing Officer observed that de novo inquiry proceedings have been conducted by the Inquiry Officer in accordance with the provisions of PEEDA Act, 2006, merits of the case have been duly appreciated and due process as provided under the law has been adopted by the Inquiry Officer. The Hearing Officer further noticed that during course of inquiry proceedings, the accused was provided full, fair and complete opportunities to vindicate his stance and prove his innocence but he instead of denying the charge, admitted the same and relied upon a letter whereby he tendered unqualified apology to the complainant and the complainant accepted the same for the will of God. This very fact is sufficient to prove that the accused has admitted his guilt and it is settled by now that where the accused himself admits his guilt, he does not deserve any leniency. The Hearing Officer further observed that the accused failed to substantiate his stance and to place on record any new piece of evidence to rebut the evidence already available on record. The Hearing Officer was of the view that the findings and recommendations of the Inquiry Officer, after thorough perusal, are found to be based on record, made after considering all aspects of the case and taking into consideration the entire circumstances involved in the case. He further observed that no exception can be taken from the findings and recommendations of the Inquiry Officer which are made after applying judicious mind and fulfilling all requirements of law and the same are in consonance with the record and spirit of the law. The Hearing Officer is of the view that the penalty recommended by the Inquiry Officer commensurates with gravity of guilt of the accused.

11. **AND WHEREAS**, perusal of findings and recommendations of the Inquiry Officer, additional defense reply submitted by accused officer and report of Hearing Officer coupled with record available in file shows that the accused admitted the charge which is evident from the additional defence reply and has not denied the making of phone call to the complainant. It is also established from record that the accused used abusive language with the complainant and also threatened him of dire consequences, he also admitted this fact and did not deny his voice during course of inquiry proceedings. Hence, the charge to this extent stood proved. It also stood proved that the accused has done this act deliberately and with malicious

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intention to wound and outrage the religious feelings of the complainant. The accused insulted the religion of the complainant and his religious beliefs by uttering derogative words about his religion and community.

12. **NOW THEREFORE, I, Saima Saeed, Secretary Special Education / Competent Authority** in the instant case, after having considered all the aspects, material relating to the case and recommendations of the Inquiry Officer, *for reasons stated herein above*, am of the considered view that charge of misconduct stand proved against the accused and the penalty recommended by the Inquiry Officer commensurates with gravity/severity of guilt of the accused. Therefore, in exercise of powers vested in me under Section 13(5) read with Section 4 of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006, *while agreeing with the recommendations of the Inquiry Officer*, minor penalty of **“withholding of increments for one year”** under Section 4(a)(ii) of the Act *ibid* is hereby imposed upon the accused.

Saima Saeed

(SAIMA SAEED)

SECRETARY SPECIAL EDUCATION /
COMPETENT AUTHORITY

Dated Lahore, the
July 26th /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. District Education Officer (Special Education), Bahawalpur to ensure delivery of this order to the accused and implementation of the penalty under intimation to this department.
4. Govt. Special Education Centre, Fortabbas, District Bahawalnagar to ensure delivery of this order to the accused officer and implementation of the penalty under intimation to this department.
5. Accused Officer concerned / **Mr. Mustansar Mustafa**, Junior Special Education Teacher (MC/BS-16), Govt. Special Education Centre, Fortabbas, District Bahawalnagar.
6. PS to Secretary Special Education Department.
7. Master file.

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