



ORDER

SO(Estt)21-393/2021: WHEREAS, Deputy Director (Admn), Directorate General of Special Education, Punjab, Lahore vide letter dated **17.03.2023** forwarded letter of District Education Officer (Special Education), Sargodha dated **02.02.2023** alongwith report of Headmaster, Govt. Special Education Centre, Quaidabad, District Khushab dated **17.01.2023**, *duly supported with extract of attendance register and ancillary documents*, wherein Headmaster concerned intimated that **Ms. Abeeha Fatima**, Psychologist (BS-17), Govt. Special Education Centre, Quaidabad District Khushab (**'accused officer'**) was granted 90-days maternity leave w.e.f. 03.10.2022 to 31.12.2022 and after availing the said maternity leave and expiry of winter vacations, she did not join duty w.e.f. 09.01.2023 and has been found absent from duties without prior approval / permission of Competent Authority.

2. **AND WHEREAS**, keeping in view the absence of the accused officer from duties without prior approval of leave by the Competent Authority, *as delineated above*, and due to availability of sufficient documentary evidence on record, *while dispensing regular inquiry*, disciplinary proceedings were initiated against the accused officer vide Show Cause Notice dated **28.03.2023** 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 found absent from duty w.e.f 09.01.2023 to date without any intimation or prior permission of the Competent Authority."

3. **AND WHEREAS**, through the above said Show Cause Notice, the accused officer was directed to submit her defence reply within 7-days and accordingly she filed written defense reply which was examined and found unsatisfactory, therefore, in order to finalize the disciplinary proceedings, vide letter dated **26.04.2023**, the accused was afforded an opportunity of personal hearing under Section 7(d) of the Act *ibid* on **10.05.2023** and for said purpose **Additional Secretary, Special Education** was appointed as **Hearing Officer** under Section 7 (d) of the Act *ibid*.

4. **AND WHEREAS**, the Hearing Officer after affording opportunity of personal hearing to the accused officer, submitted report of hearing proceedings stating therein that the accused officer appeared on **10.05.2023** and she while reiterating the stance already taken in her written defense requested that she may be exonerated from the charge.

5. **AND WHEREAS**, the Hearing Officer after examining the record stated in hearing report that defense reply submitted by accused officer coupled with record annexed therewith manifestly shows that charge of absence from duty without prior intimation / approval of leave by Competent Authority has not been denied by the accused officer rather she has submitted that due to her posting at far flung area she

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was unable to join back after expiry of leave due to harsh weather and living conditions at Quaidabad and it was very hard for her to travel and reside with her minor son there. The Hearing Officer further stated that during the course of hearing the accused officer was confronted *whether after expiry of her maternity leave, she filed any application for grant of leave before the Competent Authority?* In response thereof, the accused officer presented an application dated Nil addressed to Headmaster, Govt. Special Education Centre, Quaidabad, Khushab which was allegedly sent via TCS on 08.02.2023. The accused officer maintained that said application was not processed. The application presented by the accused officer was perused and it has been observed by the Hearing Officer in this regard that maternity leave of the accused officer expired on 31.12.2022, whereas, winter vacations ended on 08.01.2023 but the accused officer sent the said application to the Headmaster concerned on 08.02.2023 wherein it was requested that **unpaid leave for two months w.e.f. 01.02.2023 to 31.03.2023** may be granted. It has been further observed by Hearing Officer that the said application was sent after lapse of almost one month and *no justification regarding delay occurred in sending application has been explained by the accused officer.* The said application was also sent via TCS and the accused officer did not report back to Centre for joining after expiry of her maternity leave. Furthermore, the leave title attached with the application was incomplete and even without signatures.

6. **AND WHEREAS**, the Hearing Officer further observed that the accused officer is contract employee and the contract employees are liable to perform duties, *in public interest*, as may be entrusted to him/her by the Competent Authority from time to time. The request of the accused officer for grant of two months leave without pay was even otherwise not tenable being contrary to the provisions of Contract Appointment Policy, 2004. The Hearing Officer is of the view that it is established from record that the accused officer failed to discharge her duties as assigned to her and she has been found guilty of misconduct on account of absence from duty. It has also been observed by the Hearing Officer that the accused officer took a plea regarding issuance of appointment order twice and preference given by her, as per Hearing Officer, this plea of the accused officer at this belated stage during instant proceedings under PEEDA Act, 2006 on the charges of misconduct is irrelevant because once the accused officer assumed the charge at her place of posting there-after she cannot challenge that order on the principle of *fait accompli*. The accused officer also took a stance that she applied for her transfer on e-portal but no order till date has been passed. As per Hearing Officer, this stance of the accused officer is also misconceived because applying for transfer does not give any license to the applicant to remain absent from duty without intimation/prior approval of leave. The Hearing Officer observed that the accused officer has failed to substantiate her stance regarding absence from duty without prior approval / sanction of Competent Authority and failed to prove her innocence. No extenuating circumstances are involved in this case which were beyond the control of the accused officer and the absence of the accused officer from duty w.e.f. 09.01.2023 till date is willful and intentional.

7. **AND WHEREAS**, after having considered all aspects and material related to the case and report of Hearing Officer, it has been observed by the

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undersigned that the accused officer was appointed on 08.04.2022 on contract basis for a period of five years and she joined her duties on 22.04.2023, by virtue of this fact, the accused officer 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 18.11.2021 duly accepted by her at the time of joining Govt. service. Clause 7(i) of the Annexure-B of the Contract Appointment Policy, 2004 titled *Guidelines for fixing terms and conditions of Contract Appointment*, provides that 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.** This clause made it abundantly clear that application of the accused officer for grant of EOL without pay for a period of two month was not tenable being contrary to provisions of Contract Appointment Policy, 2004. As far as stance of accused officer that she applied for leave and sent her application to Headmaster but the same was not processed is concerned, it is noted that mere filing of application for grant of leave does not confer any right in favour of the applicant to proceed on leave before its decision by the Competent Authority. Furthermore, as per record, the application filed by the accused officer for grant leave was not supported with proper documents and was incomplete. As far as stance of the accused officer that she applied for her transfer to Jhelum on e-Portal of Special Education Department but her request is still pending is concerned, it is observed that as per Transfer Policy, 2022 of Special Education Department applications are received on e-Portal only against vacant posts and as per record, no post of Psychologist (BS-17) was lying vacant at Jhelum when the e-Portal was lastly opened for receiving transfer applications, therefore, stance of accused officer is contrary to record. Moreover, as per record, the accused officer did not file any application for her transfer to Jhelum on e-Portal. It is further observed that even otherwise, no right accrues in favour of the applicant to remain absent from duty after filing application for transfer.

8. **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 period which is more than 4 months*, special student of the Centre remained deprived from their basic right of psychological services. It is manifestly clear that the conduct and careless attitude of the accused officer toward performance of her official duties, *being contract employee*, shows that she is not interested in performing Govt. job and her further retention in Government service will not serve any useful purpose for the department and special students.

9. **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

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remained prejudicial to good service discipline and tantamounts to gross misconduct, therefore, *keeping in view the gravity of proven charge*, 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 Saheed

(SAIMA SAEED)
SECRETARY to

GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT /
COMPETENT AUTHORITY

Dated Lahore, the
May 27/2023

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), Sargodha** to ensure delivery of this order to the accused under intimation to this department.
5. **Headmaster**, Govt. Special Education Centre, Quaidabad, District Khushab to ensure deliver of this order to the accused under intimation to this department.
6. **Accused officer concerned** / Ms. Abeeha Fatima, Psychologist (BS-17), Govt. Special Education Centre, Quaidabad District Khushab, Resident of 112/4 KRL Officers Colony, Qadeer Road Near Khana Bridge, Rawalpindi.
7. **PS** to Secretary Special Education Department, Lahore.

Hameed
SECTION OFFICER (ESTT.)