



**GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT**

ORDER

No.LO(Appeal)1-95/2023. WHEREAS, Mr. Shafiq Ahmad, Junior Clerk, (BS-11), Govt. Special Education Centre, Depalpur ('appellant') filed departmental appeal under Section 16 of the PEEDA Act, 2006 ('Act') against order dated 31.10.2023 ('Impugned Order') passed by Director General Special Education, Punjab ('DGSE') whereby minor penalty of 'withholding of annual increment for a period of two years' under Section 4(1)(a)(ii) ('impugned penalty') was imposed upon the appellant.

2. AND WHEREAS, comments on the appeal were obtained from DGSE. Deputy Secretary, Special Education Department was appointed as Hearing Officer to submit report after affording an opportunity of personal hearing to the appellant in presence of Departmental Representative of Directorate General of Special Education, Punjab, Lahore.

3. AND WHEREAS, after affording an opportunity of personal hearing, the Hearing Officer submitted report of hearing proceedings stating therein that during the hearing proceedings, the appellant, while reiterating the stance already taken by him in his departmental appeal, *inter alia*, contended that the charges levelled against him are false and contrary to record and the penalty imposed upon him, *in view of the facts of the case*, is unjustified as no charge stood proved during inquiry proceedings. He, lastly, requested that the impugned penalty order may be set-aside and he may be exonerated from the charges.

4. AND WHEREAS, the Departmental Representative apprised that the appellant was proceeded against departmentally through regular inquiry under statutory regime of Act *ibid* on the following charges of misconduct by appointing an inquiry officer;

- i. *That Shafiq Ahmad, Junior Clerk misbehaved with Headmistress during office hours and demanded Rs. 50,000/- from the school's budget without any reason.***
- ii. *Shafiq Ahmad, Junior Clerk changed the lock of clerical office on 13-06-2022 without the consent of Headmistress and to keep the keys of new lock by himself.***
- iii. *The said accused official indulged in misbehaving with other colleagues which caused undesirable environment in the school.***

After receipt of inquiry report from the Inquiry Officer, DGSE disagreed with the findings of the Inquiry Officer and ordered initiation of de novo inquiry against the appellant under Section 13(6) of the Act *ibid*. Upon finalization of said de novo disciplinary proceedings, the Inquiry Officer recommended imposition of minor penalties of "withholding of annual increments for a period of two years" and "withholding of promotion for a period of three years provided that this period shall be counted from the date when a person junior to the accused is considered for promotion and is promoted on regular basis for the first time" under Sections 4(1)(a)(ii) &

(v) of the Act *ibid*. But, DGSE while disagreeing with the recommendations of the Inquiry Officer and while taking lenient view, imposed impugned penalty upon the appellant vide impugned order.

5. **AND WHEREAS**, the Hearing Officer after hearing the appellant in presence of Departmental Representative of Directorate General of Special Education observed that the appellant has not pointed out any illegality or irregularity in the penalty order. The stance taken by the appellant in his departmental appeal is devoid of reasoning, justification and cannot be corroborated by record. The appellant was provided ample opportunities to place on record evidence to rebut the veracity of the charge, to vindicate his stance and to prove his innocence but he failed to so do. The appellant failed to perform his duties in befitting manner and his conduct was unbecoming of an officer. No cogent reasons have been put forth by the appellant for absolving him from the charges levelled against him. No mis-reading/non-reading of facts or evidence which has resulted in miscarriage of justice, has been pointed out by the appellant. The order passed by Competent Authority does not suffer from any legal infirmity which may warrant interference. With regards to imposition of penalty, the Hearing Officer has observed that during course of inquiry, charges pertaining to misbehaviour by the appellant with Headmistress concerned and other colleagues during office hours stood proved but the charge with regards to alleged demand of Rs. 50,000/- out of school budget did not prove. Moreover, the appellant during course of hearing before the Hearing Officer admitted that he changed the locks of the clerical office on 13.06.2022 and kept the keys of new lock with him, hence the penalty inflicted upon the appellant, *in view of the gravity of proven charges*, commensurate with the gravity of charge.

6. **AND WHEREAS**, after examining/perusing the relevant record available in the file and being mindful of the facts of the case, it has been observed that it is the province and dominion of the Competent Authority to award punishment in case the allegations of misconduct are proved in the inquiry but same can be set aside, *inter alia*, on the ground where it is shown that the findings and decision arrived by the Competent Authority is, *on the face of it*, against the evidence or so patently improbable, or perverse that to accept it could amount to perpetuating a grave miscarriage of justice. It is established from record that the charges of inefficiency and misconduct stood proved against the appellant and no plausible justification to rebut the veracity of the charges has been given by the appellant. From perusal of the observations / findings / reasons recorded by the Competent Authority in the impugned penalty order for awarding impugned penalty, it transpires that the same have been made after application of judicial mind, taking into account all the attending circumstances of the case and the same are in consonance with the record. No mis-reading / non-reading of facts or evidence which has resulted in miscarriage of justice, has been found and also not pointed out by the appellant in this appeal. The impugned order which has been passed by Competent Authority does not suffer from any legal infirmity and no mitigating circumstances exist in this case which may warrant interference. As per record, the Competent Authority, *while disagreeing with the recommendations of the Inquiry Officer has already taken lenient view*, hence the no case of further interference is made out.

7. **NOW THEREFORE**, for reasons recorded above, instant departmental appeal filed by the appellant fails and the same is accordingly **rejected** in terms of Section 16(2)(a) of the Act *ibid* being devoid of merits and the order of the Competent Authority dated 31.10.2023 is upheld.

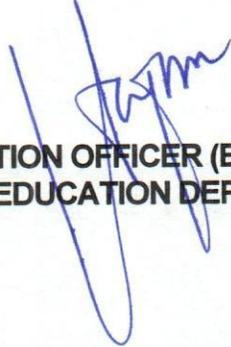
Dated Lahore the
January 08th 2024


(SAIMA SAEED)
SECRETARY to
GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT/
APPELLATE AUTHORITY

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. Director (Admn), Directorate General of Special Education, Punjab, Lahore.
4. District Education Officer (Special Education), Lahore.
5. Appellant concerned / **Mr. Shafiq Ahmad**, Junior Clerk, (BS-11), Govt. Special Education Centre, Depalpur.
6. PS to Secretary Special Education Department.


SECTION OFFICER (ESTT.)
SPECIAL EDUCATION DEPARTMENT