

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 823/2020

Date of Institution ... 04.02.2020

Date of Decision ... 22.12.2021

Mr. Mehboob Ali, PST (PBS-12), GPS Beha Swat.

... (Appellant)

VERSUS

The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

Taimur Ali Khan
Advocate

... For Appellant

Noor Zaman Khattak,
District Attorney

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

This single judgment

shall dispose of the instant service appeal as well as the following connected service appeals, as common question of law and facts are involved therein.

1. Service Appeal bearing No. 824/2020 titled Niaz Muhammad
2. Service Appeal bearing No. 825/2020 titled Jawhar Ali
3. Service Appeal bearing No. 826/2020 titled Akbar Zaib
4. Service Appeal bearing No. 827/2020 titled Ikramullah
5. Service Appeal bearing No. 828/2020 titled Javid Iqbal

02. Brief facts of the case are that the appellants, while serving as Primary School Teacher BPS-12, were proceeded against on the charges of misconduct and four of the appellants were awarded with minor punishment of withholding

of two increments for the years 2019-20 vide order dated 04-10-2019, whereas two of the appellants namely Niaz Muhammad and Javid Iqbal were removed from service vide order dated 04-10-2019 against which the appellants filed departmental appeals dated 16-10-2019, which was not responded within the statutory period, hence the instant service appeal with prayers that the impugned order dated 04-10-2019 may be set aside and two annual increments for the years 2019 and 2020 may be restored with all back benefits and the appellants namely Niaz Muhammad and Javid Iqbal may be re-instated in service with all back benefits.

03. Learned counsel for the appellants has contended that the impugned order dated 04-10-2019 and not taking action on departmental appeal of the appellant are against law, facts and norms of natural justice and material on record, therefore not tenable and liable to be set aside; that no inquiry was conducted against the appellants to dig out the reality about the allegations and penalties has been imposed upon the appellants in a slipshod manner, which is violation of law and rule as well as judgments of superior courts; that no reason has been recorded by the competent authority to dispense with the inquiry, which is violation of law and rule, as such the impugned order is liable to be set aside; that no charge sheet was issued to the appellants before passing the impugned order, which is violation of law and rule; that in reply to the show cause notice, the appellant denied the entire allegations and gave the real picture about the situation and also requested the competent authority that proper inquiry may be conducted through impartial inquiry committee to find out the reality about the allegations, despite no inquiry was conducted by the competent authority and the appellants were punished for no fault of them; that no opportunity of personal hearing was afforded to the appellants before passing the impugned order, which is violation of sub-rule (d) of Rule-7 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011; that the land was donated by the local community for the building of Government

Primary School (GPS) Beha and PARASA also constructed building for GPS Beha, but the staff of Government High School(GHS) Beha illegally occupied the newly constructed building , on which the appellants alongwith staff of GPS Beha filed complaint to DEO Swat against the illegal occupation of GPS Beha, despite the building was handed over to GHS Beha, due to which baseless allegations were leveled against the appellants and without conducting regular inquiry, the penalty of withholding of two annual increments for the years 2019 and 2020 has been imposed upon the appellant vide order dated 04-10-2019, whereas major penalty of removal from service has been imposed upon Niaz Muhammad and Javid Iqbal; that the appellants did not commit any misconduct and was punished for no fault on their part.

04. Learned District Attorney for the respondents has contended that the District Education Officer directed the appellants on 03-07-2019 on the school logbook to run GPS Beha in the building of GHS Beha and spare the middle portion of the school for functioning of GHS Beha, as the enrollment of GHS Beha is 425, whereas enrollment of GPS Beha is 168; that such decision was made in the best interest of public service, but the appellants disobeyed the order of District Education Officer; that in the previous year enrollment of GPS Beha was crossing figure of 400 but the appellants declined it to 168, which shows clear position of their inefficiency; that the appellants misbehaved with head master of GHS Beha, lodged an illegal FIR against the staff and locked class rooms for the students, which clearly indicates their misbehavior, misconduct and arrogance; that the appellant wasted precious time of the students, which shows negligence on their part; that due to the reasons mentioned above, the appellant was proceeded against and regular inquiry was dispensed with and the appellant was awarded with minor punishment of withholding of two increments.


05. We have heard learned counsel for the parties and have perused the record.


06. Record reveals that the issue erupted between the staff of GHS Beha and GPS Beha Swat, when old building of GPS Beha was demolished and new building was constructed and was occupied by GHS Beha. Stance of the appellant was that local community donated land for GPS Beha; hence, the GHS Beha cannot occupy the school building of GPS Beha illegally. Consequently the appellant alongwith other staff was proceeded against and without conducting regular inquiry, show cause notices were served upon them and four of them were awarded with minor penalty of withholding of two increments for the year 2019 and 2020, whereas two of them were awarded with major punishment of removal from service vide order dated 04-10-2019 without affording them opportunity of defense, which was not in accordance with law. We have also observed that disciplinary proceedings conducted against them were result of personal vendetta, which however was not warranted. The appellants were not served with charge sheet/statement of allegations and were proceeded against summarily without adhering to the method prescribed in law.

07. We are of the considered opinion that the appellants have not been treated in accordance with law and were penalized for personal scores without observing the legal formalities.

08. In a situation, we are inclined to accept the instant appeal as well as the connected service appeals. The impugned orders dated 04-10-2019 are set aside and two annual increments for the year 2019, 2020 are hereby restored with all consequential benefits, and the appellants Niaz Muhammad and Javid Iqbal are re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
22.12.2021


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ UR REHMAN WAZIR)
MEMBER (E)

ORDER

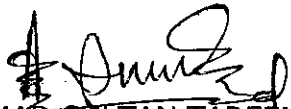
22.12.2021

Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for the respondents present. Arguments heard and record perused.

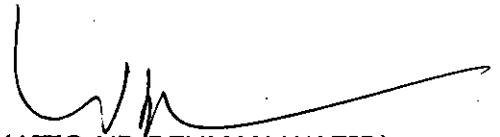
Vide our detailed judgment of today, separately placed on file, we are inclined to accept the instant appeal as well as the connected service appeals. The impugned orders dated 04-10-2019 are set aside and two annual increments for the year 2019, 2020 are hereby restored with all consequential benefits, and the appellants Niaz Muhammad and Javid Iqbal are re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

22.12.2021



(AHMAD SULTAN TAREEN)
CHAIRMAN




(ATIQ UR REHMAN WAZIR)
MEMBER (E)

21.12.2021

Appellant in person present. Mr. Noor Zaman Khattak,
District Attorney for respondents present.

File to come up alongwith connected Service Appeal bearing
No. 828/2020 titled Javid Iqbal Versus Education Department on
22.12.2021 before D.B


(Atiq Ur Rehman Wazir)
Member (E)


Chairman

13.08.2021

Counsel for appellant present.

Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

Former made a request for adjournment. Request is accorded. To come up for arguments on 20.10.2021 before D.B.



(Rozina Rehman)
Member (J)

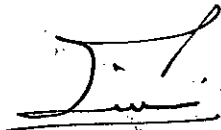


Chairman

20.10.2021

Mr. Taimur Ali Khan, Advocate, for the appellant present. Mr. Hussain Ali, Litigation Officer alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

File to come up alongwith connected Service Appeal bearing No. 828/2020 titled Javid Iqbal Versus Education Department on 14.12.2021 before D.B.



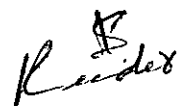
(Salah-Ud-Din)
Member (Judicial)



Chairman

14-12-21

DB is on Tour ease to come up
For the same on Dated. 21-12-21


Recorder

ORDER

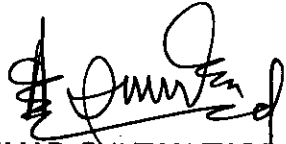
22.12.2021

Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, we are inclined to accept the instant appeal as well as the connected service appeals. The impugned orders dated 04-10-2019 are set aside and two annual increments for the year 2019, 2020 are hereby restored with all consequential benefits, and the appellant Niaz Muhammad is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

22.12.2021



(AHMAD SULTAN TAREEN)
CHAIRMAN




(ATIQ UR REHMAN WAZIR)
MEMBER (E)

Learned counsel for the appellant present. Mr. Noor Zaman
ak, District Attorney for the respondents present. Arguments heard
record perused.

Vide our detailed judgment of today, passed in service appeal
bearing No. 823/2020 titled Mehboob Ali Versus The Secretary (E&SE)
Khyber Pakhtunkhwa, Peshawar and two others is accepted. The
impugned orders dated 04-10-2019 are set aside and two annual
increments for the year 2019, 2020 are hereby restored with all
consequential benefits, and the appellant Niaz Muhammad is re-instated in
service with all back benefits. Parties are left to bear their own costs. File
be consigned to record room.

ANNOUNCED
22.12.2021


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ UR REHMAN WAZIR)
MEMBER (E)

ORDER

22.12.2021

Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for the respondents present. Arguments heard and record perused.


Vide our detailed judgment of today, passed in service appeal bearing No. 823/2020 titled Mehboob Ali Versus The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar and two others is accepted. The impugned orders dated 04-10-2019 are set aside and two annual increments for the year 2019, 2020 are hereby restored with all consequential benefits, and the appellant Niaz Muhammad is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

22.12.2021



(AHMAD SULTAN TAREEN)
CHAIRMAN



(ATIQ UR REHMAN WAZIR)
MEMBER (E)

ORDER


22.12.2021

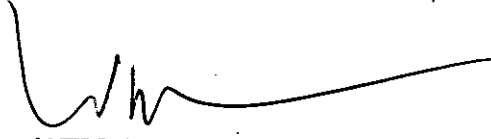
Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, passed in service appeal bearing No. 823/2020 titled Mehboob Ali Versus The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar and two others is accepted. The impugned orders dated 04-10-2019 are set aside and two annual increments for the year 2019, 2020 are hereby restored with all consequential benefits, and the appellant Niaz Muhammad is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

22.12.2021


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ UR REHMAN WAZIR)
MEMBER (E)

ORDER


22.12.2021


Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, passed in service appeal bearing No. 823/2020 titled Mehboob Ali Versus The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar and two others is accepted. The impugned orders dated 04-10-2019 are set aside and two annual increments for the year 2019, 2020 are hereby restored with all consequential benefits, and the appellant Niaz Muhammad is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

22.12.2021


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ UR REHMAN WAZIR)
MEMBER (E)

ORDER


22.12.2021


Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, passed in service appeal bearing No. 823/2020 titled Mehboob Ali Versus The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar and two others is accepted. The impugned orders dated 04-10-2019 are set aside and two annual increments for the year 2019, 2020 are hereby restored with all consequential benefits, and the appellant Niaz Muhammad is re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

22.12.2021


(AHMAD SULTAN TAREEN)
CHAIRMAN



(ATIQ UR REHMAN WAZIR)
MEMBER (E)


29.03.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General present and made a request for adjournment on the ground that instant case had been marked to Asif Masood Ali Shah learned Deputy District Attorney for arguments, who is not available due to demise of his uncle, therefore, request for adjournment was made which is acceded to.

Case is adjourned to 3/16/2021 for arguments before D.B.


(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

03.06.2021

Appellant present through counsel.

Muhammad Rasheed learned Deputy District Attorney for respondents present.

Learned counsel for appellant submitted rejoinder which is placed on file. To come up for arguments on 13.08.20210 before D.B.


(Rozina Rehman)
Member (J)


Chairman

01.09.2020

Junior to counsel for the appellant present.

After admission of appeal on 27.02.2019, notices have not been served upon the respondents. Therefore, notices be issued to the respondents for submission of written reply/comments on 27.10.2020 before S.B.


Chairman

27.10.2020

Nemo for appellant.

Kabir Ullah Khattak learned Additional Advocate General alongwith Wahid Ullah for respondents present.

Written reply on behalf of respondents was not submitted. Representative of respondents requests for time to furnish written reply/comments. Opportunity is granted. To come up for written reply/comments on 22.12.2020 before S.B.



(Rozina Rehman)
Member (J)

22.12.2020

Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Hussain Ali Litigation Assistant for respondents present.

Representative of respondents submitted reply which is placed on file. To come up for rejoinder, if any, and arguments on 29.03.2021 before D.B.


(Rozina Rehman)
Member (J)

27.02.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (PST) has filed the present service appeal against the order dated 04.10.2019 whereby minor punishment of withholding of two annual increments for the year 2019 & 2020 was awarded to him.

Submissions made by the learned counsel for the appellant, need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 14.04.2020 before S.B.

APB
Security & Process Fee
27/2/20



Member

14.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 08.07.2020 for the same. To come up for the same as before S.B.



Reader

08.07.2020

Counsel for the appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

Written reply on behalf of respondents was not submitted. Learned AAG requested for time in order to submit written reply/comments. Opportunity is granted. To come up for written reply/comments on 01.09.2020 before S.B.



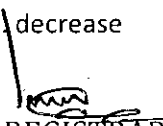

Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 823/2020

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 04/02/2020 | <p>The appeal of Mr. Mehboob Ali presented today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please decrease</p> <p style="text-align: right;"> REGISTRAR 4/2/2020</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/02/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 823 /2020

Mehbbob Ali

V/S

Education Deptt:

INDEX

| S. No. | Documents | Annexure | P. No. |
|--------|---|----------|--------|
| 01 | Memo of appeal | ----- | 01-04 |
| 02 | Copies of Fard, work order of PARASA, complaint and application | A,B,C&D | 05-08 |
| 03 | Copies of show cause notice and reply to show cause notice | E&F | 09-11 |
| 04 | Copies of order dated 04.10.2019 and departmental appeal | G&H | 12-15 |
| 05 | Vakalat Nama | ----- | 16 |

APPELLANT

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

Bilour plaza, Peshawar cantt:
Cell# 0333-9390916

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO. 823 /2020

Khyber Pakhtunkhwa
Service Tribunal

No. 988

Dated 04-02-2020

Mr. Mehboob Ali, PST (PBS-12),
GPS Beha, Swat.

(APPELLANT)

VERSUS

1. The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar.
2. The Director (E&SE), Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Male), Swat.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 04.10.2019, WHEREBY THE PENALTY OF WITH HOLDING OF 02 ANNUAL INCREMENT FOR THE YEAR 2019 & 2020 HAS IMPOSED UPON THE APPELLANT AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day

Registrar

04/02/2020

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 04.10.2019 MAY KINDLY BE SET ASIDE AND THE 02 ANNUAL INCREMENT FOR THE YEAR 2019 & 2020 OF THE APPELLANT MAY BE RESTORED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant is performing his duty in GPS Beha as Primary School Teacher (BPS-12). It is pertinent to mention here that since appointment, the appellant is performing his duty with great devotion and honesty whatsoever assigned to him and no complaint has been filed against the appellant regarding his performance.
2. That the local people of the Community denoted land for GPS Beha which is evident from Fard. The building of GPS was damaged and under PARASA program, the concerned department constructed new building for GPS Beha and during the construction the staff and student of GPS Beha was shifted to GHS Beha and the students of GPS beha were thought in evening shift in GHS Beha. When the construction of the new building was completed, GHS staff illegally occupied the building of the GPS Beha before handling over the building to the department, on which the appellant along with staff of GPS Beha filed complaint to DEO (M) Swat against the illegal occupation of GPS Building by GHS staff, but despite taking action on the compliant of GPS Beha Staff according to law and rules, the DEO (M) Swat handed over the new constricted building to GHS Beha staff, on which the appellant and other staff of GPS Beha also filed application to your respondent No2 to look into the matter in accordance with law and rules. **(Copies of Fard, work of PARASA, complaint and application are attached as Annexure A,BC&D)**
3. That show cause notice was issued to the appellant in which different baseless allegations were leveled against the appellant. The appellant submitted detail reply to show cause notice and denied all allegations and gave real facts about the situation and also requested that proper inquiry may be conducted on the allegations through impartial inquiry committee. **(Copies of show cause notice and reply to show cause notice are attached as Annexure-E&F)**
4. That without serving charge sheet and without conducting regular on the allegations mentioned in show cause to dig out the realty and without considering the reply of the appellant, penalty of with holding of 02 annual increments for the year 2019 & 2020 has imposed upon the appellant vide order dated 04.10.2019, against which the appellant filed departmental appeal on 16.10.2019, which was not responded within the statutory period of ninety days. **(Copies of order dated 04.10.2019 and departmental appeal are attached as Annexure-G&H)**

5. That appellant has no other remedy except to file the service appeal for redressal of his grievance on the following grounds amongst others.

GROUND:

- A. That not taking action on the departmental appeal of the appellant and the impugned order dated 04.10.2019 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. That no inquiry was conducted against the appellant to dig out the reality about the allegations and penalty of withholding of 02 annual increments for the year 2019 & 2020 has imposed upon the appellant in slipshod manner, which is the violation of law and rules and as well as Superior Courts judgments.
- C. That no reason has been recorded by the competent authority to dispense with inquiry, which is violation of law and rule and as such the impugned order dated 04.10.2019 is liable to be set aside.
- D. That no charge sheet was issued to the appellant before passing the impugned order dated 04.10.2019, which is the violation of law and rules.
- E. That in reply to show cause notice, the appellant denied the entire allegations and gave the real about the situation and also requested to competent authority that proper inquiry may be conducted through impartial inquiry committee to find out the reality about the allegations, but despite that no inquiry was conducted by the competent authority and the appellant was punished for no fault on his part.
- F. That no opportunity of personal hearing was provided to the appellant before passing the impugned order dated 04.10.2019, which is violation of Sub Rule (d) of Rule 7 of E&D Rules 2011.
- G. That the land was donated by the local community for the building of GPS and the PARASA also constructed building for GPS Beha, but the staff of GHS Beha illegally occupied the newly constructed building on which the appellant along with staff of GPS Beha filed complaint to DEO (M) Swat against the illegal occupation of GPS

Building by GHS staff, but despite taking action on the complaint of GPS Beha Staff according to law and rules, the DEO (M) Swat handed over the new constructed building to GHS Beha staff, due to which baseless allegations were leveled against the appellant and without conducting regular inquiry on the allegations, the penalty of withholding of 02 annual increments for the year 2019 & 2020 has imposed upon the appellant vide order dated 04.10.2019 on that baseless allegations.

- H. That the appellant did not conduct any misconduct and was punished for no fault on his part and as such the impugned order dated 04.10.2019 is liable to be set aside.
- I. That the appellant has been condemned unheard throughout and has not been treated according to law and rules.
- K. That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

M. Ali

APPELLANT

Through:

Taimur Ali Khan

TAIMUR ALI KHAN

ADVOCATE HIGH COURT

Asad Mahomood

ASAD MAHOMOOD

ADVOCATE HIGH COURT

A 5

فردا انتخاب از جمع بندی سال 2019ء موضوع (لو) حد بست نمبر 101

تحصیل سوات سوات 9013 مٹہ سیبوجنی ضلع سوات

| نمبر کھاتا | نمبر کھانہ | نام مالک مع احوال | نام کاشتکار مع احوال | رقبہ | نمبر ضلع | رقبہ | قسم زمین | وسا | آبپاشی | کان | مع شرح | کیفیت |
|------------|------------|-------------------|----------------------|------|----------|------|----------|------|--------|------|--------|-------|
| 2298 | 2823 | صوبہ گل | صوبہ گل | 5256 | 2 | 0 | سوات | سوات | سوات | سوات | سوات | سوات |

مطلوبہ زمین کھانہ 5256 - 2
نمبر کھاتا 2823
نمبر کھانہ 2298
صوبہ گل

Handwritten signature

Handwritten signature

Handwritten signature and text

21/06/2018

ATTESTED

Fr
wo
folc
5
6
7
8
T
qu
Tin
The
Cop



OFFICE OF THE PROJECT DIRECTOR
PaRRSA /USAID PROJECTS UNIT
C&W DEPARTMENT SAIDU SHARIF SWAT
Ph.#. 0946-721781 091-5700107
E-mail: parrsa.pusw@hotmail.com
NO. 193/7mp /PaRRSA/PU-SW/2012
DATED 05 /05 /2016

B6

To,

M/S Muhammad Alam Khan Janu
Government Contractor
Village Janu, P.O & Tehsil Khwaza Khela
District Swat

SUBJECT:- RE-CONSTRUCTION /REHABILITATION OF FLOOD DAMAGED
SCHOOLS UNDER PARRSA PROGRAM
SUB-HEAD: GPS BIHA DISTT SWAT

The Evaluated lowest bid cost amounting to Rs. 23.437 (M) Rupees
Twenty three point four three seven (Million) offered by you for execution of the subject Cited
work on the basis of item rates (as per BOQ attached) is hereby approved subject to the
following condition.

1. Fulfillment of all Codal and financial formalities.
2. The Deputy Director/Assistant Director PaRRSA/USAID C&W Deptt. in charge are responsible for the execution of the work according to the specifications and scope of work provided in the administrative approval
3. The work may be completed in stipulated period.
4. You are directed to execute contract agreement before commencement of the work
5. The execution of work shall take place when funds are released
6. The income tax and stamp duty shall be recovered a per rules
7. The Deputy Director PaRRSA/USAID C&W Deptt. /consultants will specify the quarry /sources of the basic material to the contractor so as to ensure the good quality of work
8. The scope of work may be restricted to approved bid cost of the work both qualitatively and quantitatively.
9. Time allowed for completion of works is (12 months)
10. The tender is liable to cancellation with penalty if the work is Sublette
Copy of BOQ annexed.


PROJECT DIRECTOR

Copy forwarded for information:

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. Deputy Director PaRRSA/USAID Project Unit C&W Department Swat
3. Program Manager PDMA/PaRRSA Peshwar
4. Senior Engineer Contract PDMA/PaRRSA Peshwar
5. Project Manager PMU PaRRSA Swat
6. D.A.O (Local)
7. Team Leader, Shaz Consultants Phase-IV Hayatabad Peshawar who will be responsible for the execution of work according to the specification and scope of Work provided in the Administrative Approval.

ATTESTED

C 7

~~Amir~~

To

The DEO Sahib

Edu Dept

Swat Gulkada

Subject: Request for legal action against illegal occupation of the building of GPS Biha by the staff of GHS Biha

Sir,

Honorably, the following request is made:

1. The building of GPS Biha was under construction since last three years and the school was running at the building of the GHS biha afternoon.
 2. Now the construction work has been completed yet not handed over to the dept.
 3. The staff of GHS illegally occupied the building.
 4. It is the violation of the departmental rules regulations and misuse of authority.
 5. The building is the property of GPS biha from the days of the swat state.
 6. The construction company constructed the building for GPS biha.
- Therefore it is requested to refrain the GHS staff from gross misconduct.

Thanks

HT+staff GPS Biha

Niaz Muhammad
HSHT
G.P.S, Beha, Dist. Swat.

Copies forwarded to sectary edu KPK
Director edu KPK
Director Parrsa
SDEO Circle Matta

Received
Jan 21/07
P.A

P.A To
District Education Officer
Male, Swat

D
ATTESTED

D (B)

Approved

To,

The Director Sb

Edu Department

KPK PESHAWAR DIRECTORATE

GPS HT + Staff vs GHS – BIHA HT + Staff TEH MATTA

District Swat

Subject: Appeal against the unjust decision of building exchange by DEO sb Swat.

Dear Sir,

Honorably the following request is made:

- 1) A complain was filed against the illegal occupation of the building of GPS Biha by the staff of GHS Biha.
- 2) Formerly the matter was neglected and finally the building is handed over to the staff of GHS Biha.
- 3) The decision have no legal ground and justification.
- 4) This unjust and illegal decision will only increase the problems and miseries of the students and staff.
- 5) Therefore, it is requested to look into the matter in the light of rules and laws prevailing.
- 6) Our claim is supported by the documents attached.
So the little children should not be
Deprived of their just right.

Thanks.

HT+Staff+PTA
GPS Biha

Date : 04-07-2019

Copies forwarded to

¹²
Sectery Education

DC Swat

AC Matta

Ac
ATTESTED



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT

E
9

SHOW CAUSE NOTICE ✓

I Muhammad Amin, District Education officer (M) Swat, the Competent Authority under the Khyberpukhtun Khawa Government Servant (Efficiency & Disciplinary) , Rules 2011, do hereby serve upon you, Mr. Mehboob Ali PST GPS Beha District Swat, this show cause notice as follows:-

1. That the District Education Officer directed you on 3.7.2019 on the school log book to run GPS Beha in the building of GHS Beha and spare the Middle portion of the school for functioning of GHS Beha, because the enrolment of GHS is 425 and the enrolment of GPS is 168. The decision was made in the best interest of students. But you disobeyed the order of District Education Officer.
2. In the previous years the enrolment of GPS Beha was crossing the figure of 400 but you declined the enrolment to 168. This shows clear position of your inefficiency.
3. You misbehaved with the Head Master of GHS Beha, lodged an illegal FIR against the staff and locked class rooms for the students, which clearly indicates your misbehavior, misconduct and arrogance.
4. You have wasted precious time of the innocent children. You and your staff is wandering here and there in police stations and Courts in illegal and irrelevant prosecution and killing the precious time of students which shows your negligence in duties.
5. You filed a court case against the Education Department, although no personal grievances have been implemented against you, which shows your disloyalty and disobedience towards the Government and Department.

Thus as per available material on the record you have committed disobedience, inefficiency, misbehavior, misconduct, negligence and major corruption.

You are therefore, required to show cause as to why major penalty provided in the aforesaid Rules should not be imposed upon you " the minor penalty of "with holding 03 annual increments for the year 2019,2020 & 2021 " under 4 (a) (ii) of the ibid Rules.

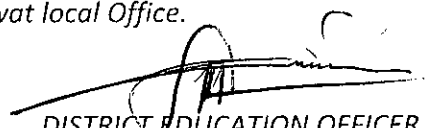
If no reply to this office is received within 15 days of delivery of this show cause, it shall be presumed that you have no defense to put in and in that case Ex-parte action will be taken against you.

(MOHAMMAD AMIN)
DISTRICT EDUCATION OFFICER (M)
SWAT
Dated 5/8/2019.

434-38
Endst: No. _____/PSHT

Copy forwarded to:-

- 1- The Director of Elementary and Secondary Education Khyber PukhtunKhwa, Peshawar.
- 2- The Deputy Commissioner Swat.
- 3- The DMO Swat District Swat.
- 4- The SDEO Matta Swat with the remarks to hand over show cause notice to the teacher concerned Swat.
- 5- Mr. Mehboob Ali PST GPS Beha Matta (Registered).
- 6- P.A to District Education Officer (M) Swat local Office.
- 7- The Official Concerned.


DISTRICT EDUCATION OFFICER (M)
SWAT

Mr. Mehboob Ali PST GPS Beha Matta District Swat.(Registered).

ATTESTED

بخدمت جناب DEO صاحب محکمہ تعلیم ضلع سوات

عنوان: شوکا زونٹس کے جوابات۔

جناب عالی!

اداب: گزارش ہے کہ شوکا زونٹس میں میرے خلاف جو الزامات لگائے گئے ہیں ان میں کوئی حقیقت نہیں اور جناب والا کو جس نے بھی معلومات فراہم کی ہیں وہ ذاتی عناد پر مبنی ہے جس کا حقیقت درج ذیل ہے۔

1۔ محترم ڈی ای او صاحب! تین جولائی 2019 کو ہمیں کوئی ایسا دفتر آئی آرڈر یا نوٹس نہیں ملا جس میں یہ بیان کیا گیا ہوں کہ گورنمنٹ پرائمری سکول بہا کوہائی سکول کے بلڈنگ میں چلایا جائے اور مڈل حصے کوہائی سکول کیلئے خالی کرایا جائے۔ تو اس بات کی حقیقت اور سچائی یہ ہے کہ یہاں پر مڈل اور ہائی سکول کا کچھ بھی نہیں ہے۔ اس پرائمری سکول کے بلڈنگ کیلئے جو زمین دیا گیا ہے یہ دو کنال زمین محکمہ پٹوار میں پرائمری کی ملکیت ہے۔ نئے کمروں کی منظوری پرائمری کے بچوں کیلئے ہوئی ہے۔ ورک آرڈر پرائمری کے نام پر ہے۔ سکول پر بورڈ پرائمری کا لگا ہے۔

محترم ڈی ای او صاحب آپ تین جولائی 2019 کے لاگ بک نوٹس کے متعلق بتا رہے ہیں کہ حقائق حقیقت یہ ہے کہ ہائی سکول کے ہیڈ ماسٹر اور سٹاف نے 18 مئی 2019 کو پرائمری سکول کے نئے تعمیر شدہ کمروں پر قبضہ کیا تھا۔ سکول کا تعمیراتی کام مکمل نہیں ہوا تھا اور نہ ہی ٹھیکہ دار نے بلڈنگ کو ادارے کے حوالہ کیا تھا۔ اسی دوران ہائی سکول کے ہیڈ ماسٹر اور سٹاف نے پرائمری کے حق پر ڈاکر ڈالا۔ اور ہائی بلڈنگ کو تالے لگائیں۔ ہم نے بار بار محکمے کو اس مسئلے کے طرف توجہ دلانے کی اپیلیں کیں لیکن کوئی جواب نہیں ملا۔ (ثبوت منسلک ہیں)

2۔ پچھلے سالوں میں جب پرائمری طلباء کا تعداد 400 سے تجاوز کر رہا تھا تو وہ بھی ہمارے محنت اور کوششوں کا ثمر تھا۔ لیکن جب پرائمری کا پُرانا بلڈنگ گرایا گیا اور محکمے نے ہمارے ساتھ کسی قسم کا تعاون نہیں کیا۔ کئی دن ہمارا سارا سٹاف بچوں کے پڑھائی جاری رکھنے کیلئے خالی بلڈنگ یا گھر ڈھونڈتے رہے۔ ہم پورے سٹاف نے مارنگ ٹائم میں پرائمری سکول کو کسی دوسری جگہ پر چلانے کے لئے کرایا کا ذمہ بھی لیا لیکن محکمے نے ہمیں سیکنڈ سٹاف میں پرائمری کوہائی سکول کے بلڈنگ میں چلانے پر مجبور کیا تو اسی دن سے ہائی سکول کے ہیڈ ماسٹر نے پرائمری کے بچوں سے زیادہ تر کمرے بند کر کے، واش روم کو تالے لگائیں، بجلی کے لائن کو پرائمری سے بند رکھا گیا اور معصوم اور کم عمر بچوں کو کھلے برآمدے میں دھوپ اور بارشوں میں پڑھائی پر مجبور کیا۔ پورے تین سال پرائمری بچے اور سٹاف ذلیل و خوار ہوتے رہے۔ یہ صورت حال دو دفعہ سابق ڈی ای او صاحب نواب علی خان دیکھ چکے ہیں۔ ان ہی وجوہات کے بناء پر پرائمری کا تعداد کم ہوتا رہا۔ بار بار ادارے کو آگاہ کرتے رہے لیکن ادارہ خاموش تماشائی بنا رہا۔ آج جب پھر پرائمری سٹاف کو پُرانے تین کمرے ملیں تو اللہ کے فضل اور اساتذہ کے محنت سے ایک دفعہ پھر تعداد 210 سے تجاوز کر گئے۔ پرائمری کو اس کا حق دو اور زلٹ دیکھو۔ تعداد کم ہونے کی ساری ذمہ داری محکمے پر عائد ہوتی ہے۔

3۔ محترم ڈی ای او صاحب: تین سال ہائی سکول کا ہیڈ ماسٹر ہم سے ملے ہی نہیں بد اخلاقی اور بد تمیزی کا تو کوئی سوال ہی پیدا نہیں ہوتا۔ DEO صاحب کو یہ رپورٹ مکمل جھوٹ، منافقت اور حسد پر مبنی ملی ہے۔ سٹاف کے خلاف کسی قسم کا کوئی قانونی یا غیر قانونی ایف آئی آر درج نہیں کیا گیا بلکہ ہم اگست کوہائی کے ہیڈ ماسٹر اور سٹاف نے پرائمری سٹاف کے خلاف 107/151 کے لئے درخواست دیا جسکی ثبوت ہمارے ساتھ ہیں۔ آپ پڑھ سکتے ہیں متعلقہ پولیس سٹیشن اور تحصیل عدالت میں ہمیں ذلیل کیا گیا۔ جس کے پانچ دن بعد ہم نے اپنے دفاع اور حفاظت کیلئے درخواست دیا۔ لیکن اُن سے کسی نے نہ وجہ پوچھی اور نہ وضاحت طلب کی۔ کیا ہم اس محکمے کے ملازم نہیں ہیں؟ ہائی سکول کے طلباء سے کمرے ہم نے نہیں بند کیے۔ انہوں نے پہلے ہی سے چار کمرے قبضہ کیے تھے اور چار کمرے عدالتی حکم پر جو بندہ عدالت نے بھیجا تھا اُس نے بند کیے تھے جو DEO صاحب کے حکم پر ASDEO منہ احسان اللہ نے کھول دیے اور اب پورا نیا بلڈنگ ہائی سکول کے زیر استعمال ہے۔

ATTACHED

4- ہم نے کبھی بھی مہسوم بچوں کا وقت ضائع نہیں کیا ہم اپنے فرائض منصبی بخوبی انجام دے رہے ہیں۔ ہم پولیس سٹیشن اور عدالتوں میں کبھی نہیں گھومیں۔ اگست کے مہینے میں پانچ دفعہ ایچ افسروں نے ہمارے پرائمری کاسٹ پرائز ویزٹ کیا۔ جو بھی آیا ہمارا پورا اسٹاف حاضر اور مصروف کار پایا۔ (ثبوت لفٹ ہیں)

5- علاقے کے عوام پر پرائمری بچوں کے والدین اور پی ٹی سی کمیٹی کے مداخلت کو مد نظر رکھ کر ہم نے حالات کو مزید بگڑنے سے بچانے کیلئے انصاف کے لئے عدالت سے رجوع کیا۔

نوٹ: ہائی کے تعداد کو بنیاد بنا کر بلڈنگ ان کے حوالہ کرنا سراسر نا انصافی ہے۔ اگر ہائی کو ضرورت تھی تو محکمہ کے افسران بالا کو ہائی سکول میں توسیع کرنا چاہئے تھا نہ کہ پرائمری ان کے حوالہ کرنا۔ اگر جناب والا مہربانی کر کے ان الزامات کے جائزہ کے لئے غیر جانبدار کمیٹی منتخب کریں تو حقیقت سامنے آجائیں گا۔

از: محبوب علی جی پی ایس بہا۔

ATTESTED



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT.

NOTIFICATION ✓

1. Whereas Mr. Mehboob Ali PST BPS-12 GPS Beha Swat, was proceeded against the Khyber Pakhtunkhwa Government servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the show cause notice.
 2. Whereas a show cause notice was issued vide this office Endst: No. 434-39 dated 5.9.2019 for the charges leveled against him.
 3. Whereas last year the enrolment of the school was 425 but the same enrolment was reduced to 168 which is a clear proof of his inefficiency on one hand and not taking interest in teaching learning process and decreasing the enrolment on the other hand.
 4. Whereas his misbehavior with the Head Master of GHS Beha and lodging a false FIR against him without the approval and consent of this office.
 5. Whereas he was held responsible of wasting the precious time of the students of the school GHS Beha as well as the innocent kids of GPS Beha.
 6. Whereas he filed a court case against his Department without any personal grievances.
 7. Whereas the District Education Officer (M) Swat being competent authority after having considered the charges and evidences on record against him and found them as proved
- Now, Therefore I Muhammad Amin District Education Officer (M) Swat being competent authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 do hereby impose upon him "withhold two annual increment for the year 2019 & 2020" under 4 (a) (ii) of the ibid Rules with immediate effect in the interest of public service.

(MUHAMMAD AMIN)
DISTRICT EDUCATION OFFICER (M)
SWAT


Dated 4/10/2019

Endst: No. 2074-28 /P.F/GPS Beha/DEO/M.

Copy forwarded to:

- 1- The Director Elementary & Secondary Education KPK Peshawar.
- 2- The District comptrollers of Account Swat at Saidu Sharif.
- 3- The District Monitoring Officer Swat.
- 4- The Sub Divisional Education Officer (M) Matta Swat with the direction to serve the order on the accused teacher.
- 5- P.A to District Education Officer (M) Swat the local office.
- 6- Mr. Mehboob Ali PST GPS Beha Matta (Registered).


DISTRICT EDUCATION OFFICER (M)
SWAT


ATTESTED

To

The Worthy Director, Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

Mehboob Ali H (13)

**SUBJECT: DEPARTMENTAL APPEAL AGAINST THE ORDER
DATED 04.10.2019, WHEREBY THE APPELLANT HAS
BEEN REMOVED FROM SERVICE.**

RESPECTED SIR,

Most humbly it is submitted that:


1. That the appellant was appointed in Education Department as PST (BPS-12). It is pertinent to mention here that since appointment, the appellant was performing his duty with great devotion and honesty whatsoever assigned to him and no complaint has been filed against the appellant regarding his performance.
2. That the appellant was performing his duty in GPS Beha as Primary School Teacher and due to large number of students and old building of the GPS Beha, the department constructed new building for GPS Beha and during the construction the staff and student of GPS Beha was shifted to GHS Beha and when the construction of the new building was completed, GHS illegally occupied the building of the GPS Beha before handling over the building to the department, on which the appellant along with staff of GPS Beha filed complaint to DEO (M) Swat against the illegal occupation of GPS Building by GHS staff, but despite taking action on the complaint of GPS Beha Staff according to law and rules, the DEO (M) Swat handed over the new constricted building to GHS Beha staff, on which the appellant and other staff of GPS Beha also filed application to your Honour to look into the matter in accordance with law and rules. **(Copies of complaint and application is attached as Annexure A&B)**
3. That show cause notice was issued to the appellant in which different baseless allegations were leveled against the appellant. The appellant submitted detail reply to show cause notice and denied all allegations and gave real facts about the situation and also requested that proper inquiry may be initiated on the allegations through impartial inquiry committee. **(Copies of show cause notice and reply to show cause notice are attached as Annexure-C&D)**

De
ATTESTED

4. That without serving charge sheet and without conducting regular on the allegations mentioned in show cause to dig out the realty and without considering the reply of the appellant, penalty of withholding of two annual increment for the year 2019 & 2020 has been imposed upon the appellant vide order dated 04.10.2019. **(Copy of of all documents order dated 04.10.2019 is attached as Annexure-E)**
5. That now the appellant wants to file departmental appeal against the removal order dated 04.10.2017 on the following grounds.

GROUND:

- A) That the impugned order dated 04.10.2019 is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That no inquiry was conducted against the appellant to dig out the realty about the allegations and penalty of withholding of two annual increment for the year 2019 & 2020 has been imposed upon the appellant in slipshod manner, which is the violation of law and rules and as well as Superior Courts judgments.
- C) That no reason has been recorded by the competent authority to dispense with inquiry, which is violation of Sub rule (a) of Rule 5 of E&D Rules 2011 and as such the impugned order of imposing the penalty of withholding of two annual increment for the year 2019 & 2020 is liable to be set aside.
- D) That no charge sheet was issued to the appellant before passing the impugned order of imposing the penalty of withholding of two annual increment for the year 2019 & 2020, which is the violation of law and rules.
- E) That in reply to show cause notice, the appellant denied the entire allegations and gave the real about the situation and also requested to competent authority that proper inquiry may be conducted through impartial inquiry committee to find out the realty about the allegations, but despite that no inquiry was conducted by the competent authority and the appellant was punished for no fault on his part.


ATTACHED

- F) That no opportunity of personal hearing was provided to the appellant before passing the impugned order dated 04.10.2019, which is violation of Sub Rule (d) of Rule 7 of E&D Rules 2011.
- G) That the the department constructed building for GPS Beha, but the staff of GHS Beha illegally occupied the newly constructed building on which the appellant along with staff of GPS Beha filed complaint to DEO (M) Swat against the illegal occupation of GPS Building by GHS staff, but despite taking action on the compliant of GPS Beha Staff according to law and rules, the DEO (M) Swat handed over the new constricted building to GHS Beha staff, due to which baseless allegations were leveled against the appellant and without conducting regular inquiry on the allegations, the penalty of withholding of two annual increment for the year 2019 & 2020 has been imposed upon the appellant vide order dated 04.10.2019 on that baseless allegations.
- H) That the appellant has been condemned unheard throughout and has not been treated according to law and rules.

It is, therefore, most humbly requested, that on the acceptance of this departmental appeal, impugned order dated 04.10.2019 may be set aside and the two annual increment for the year 2019 & 2020 of the appellant may be restored with all back and consequential benefits.

M. Ali
APPELLANT

Date: 16-10-2019.

Mehboob Ali,
Ex-PST GPS Beha
R/O Village Beha
P/O Matta, District Swat.
Cell#

AA

ATTESTED

ATTESTED

VAKALAT NAMA

NO. _____/2020

IN THE COURT OF KP Service Tribunal Peshawar

MEHBOOB ALI (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Education Dept (Respondent)
(Defendant)

I/We, Mehboob Ali

Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2019

M. Ali
(CLIENT)

Asad
Asad Mahmood
Advocate High Court
Shah Faisal
ADVOCATE
SUF

ACCEPTED

TAIMUR ALI KHAN
Advocate High Court
BC-10-4240
CNIC: 17101-7395544-5
Cell No. 0333-9390916

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar

**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No. 823/2020

Mehboob Ali PST (BPS-12) GPS Beha, District Swat.

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
3. District Education officer (Male) Swat.

..... Respondents

Parawise Comments on Behalf of the Respondents:

Respectfully Shewith

Preliminary objections:

1. That the Appellant is not an aggrieved person within the meaning of Section 4 of the service Tribunal Act, 1974.
2. That the Appellant has no cause of action / locus standi.
3. That the Appellant has not come to this Honorable Court with clean hands.
4. That the Appellant has filed this instant service appeal just to pressurize the respondents.
5. The present service appeal is liable to be dismissed for non-joinder/miss joinder of necessary parties.
6. That the instant service appeal is against the prevailing law and rules.
7. That the Appellant has filed this instant Service Appeal on malafide motives.
8. That the instant appeal is badly time barred.
9. That the instant service appeal is not maintainable in the present form, and above in the present circumstances of the issue.
10. That the Appellant has estopped by his own conduct.
11. That the Appellant has concealed the material facts from this Honorable Tribunal.

FACTS:

1. That the Para No.1 is correct. Hence no comments.
2. That the Para No.2 is correct to the extent of the building completion, the rest of the para is incorrect and denied. Being competent authority, respondent no.3 directed the Appellant as well as the High School staff for the mentioned shifting in the best interest of students.
3. That the Para No.3 is incorrect and not admitted. The Appellant ignored the directions of the competent authority and behaved rudely. He was time and again ordered to comply with the direction of the respondent no.3 but he was reluctant to do so which is gross misconduct on part of the Appellant. Therefore, Show Cause Notice was issued to him under E & D rules 2011. *(Copy of Log Book as annexure A)*
4. That the Para No.4 is incorrect and not admitted. The material available on record and misconduct of the Appellant was enough to proceed against him under the rules, therefore, enquiry was not needed in the instant case.
5. That the instant service appeal of the Appellant is bereft of any merit, hence liable to be dismissed inter alia following grounds.


GROUNDS

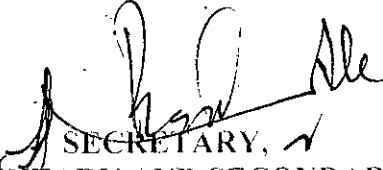
- A. That the Para No. A is incorrect and denied. The respondent department has to act according to the rules, policy and law. The Appellant has been treated in accordance with law, rules and policy.
- B. That the Para No. B is incorrect and denied. The Appellant has been treated in accordance with law, rules and policy. The respondent department cannot even think of the violation of any Article of the constitution.
- C. That the Para No. C is repetition of above para, hence no comments.
- D. That the Para No. D is incorrect and denied. Detail reply of this Para has already been given in the above Paras.
- E. Para No. E is repetition of above para, hence no comments.
- F. That the Para No. F is incorrect and not admitted. The material available against the Appellant were sufficient to impose major penalty under E & D rules 2011 to the Appellant without enquiry and personal hearing.
- G. That the Para No. G is correct to the extent of the construction of the building the rest of the para is incorrect and denied. The shifting of the students from GHS building to GPS building was issued by the respondent no.3 in the best interest of students. The Appellant on his own ill will was reluctant to obey the orders of the high ups and misconducted by not obeying the orders.
- H. That the Para No. H is incorrect. As stated in the foregoing paras, the respondent department acted under the rules and policy.
- I. That the Para No. I is repetition of the above paras. Hence, no comments.

J. That the Para No. J is irrelevant, however the respondents also seek permission of this Honorable Tribunal to advance further grounds at the time of arguments.

It is, therefore, very humbly prayed that the instant service appeal of the Appellant may be dismissed with cost in favor of the respondents.


DISTRICT EDUCATION OFFICER (M)
SWAT AT GULKADA


DIRECTOR,
ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA


SECRETARY,
ELEMENTARY AND SECONDARY
EDUCATION PESHAWAR

(C)

Annex

The undersigned visited DHS/ dPS Beha on 3-7-2019 along with SDEO + ASDEO P principal dHSS Labat. Both dPS and dHS are currently functioning in the same old building of DHS Beha in Morning and evening shifts respectively. New dPS + dHS has been reconstructed and handed over to department.

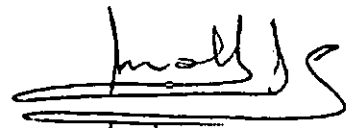
There are 5 classrooms and an office in old dHS building. The classwise and section wise enrolment of dHS is as under.

| | | | | | |
|-------|-------|--------|--------|-------|-------|
| 6th A | 6th B | 7th A | 7th B | 8th A | 8th B |
| 57 | 64 | 42 | 35 | 38 | 35 |
| 9th A | 9th B | 10th A | 10th B | | |
| 48 | 45 | 32 | 29 | | |

The staff room + Lib + Store (RTB) is functioning in the same building.

P.T.O

Attested



20/11/2020
 Head Master
 Govt High School
 Bina Swol

6 Class rooms, i.e. 6th A, 6th B, 7th A, 7th B, 8th A and 8th B with total enrolment of 270 have been accommodated in new C.M.S. Building.

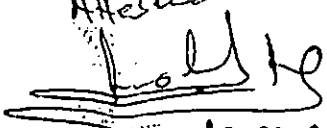
The C.P.S. is currently being run in C.M.S. old building in 2nd shift i.e. evening. The enrolment of C.P.S.

is as under

| | | | | | |
|-------------|-----|-----|-----|-----|-----|
| Kd | 1st | 2nd | 3rd | 4th | 5th |
| 18 | 28 | 21 | 25 | 37 | 39 |
| total = 168 | | | | | |

There are 8 new and 3 old rooms in new C.P.S. + C.M.S. Building.

Keeping in view the ground realities, school enrolment, material on record and evidence heard, the following decisions are hereby taken in the best interest of students, Department of Public Education.

Attested

30/11/2020
Head Master
Govt High School
Bina Swal

(3)

The cps with total enrolment of 168 can be easily accommodated in the old dts building, with total 6 rooms, an ideal cps. Therefore the PSHT, ASD EO & SDEO (M) Matter are hereby directed to shift cps Beha in the building of old dts.

2. The H/M dts Beha is hereby directed to shift the school to new building of CMS, with 11 rooms and 10 class rooms which can be easily accommodated in that building.

3. Both the morning & evening shifts are hereby shifted to morning shift in the best of students.

P.T.O

Attested.

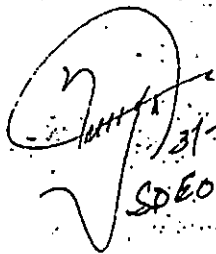


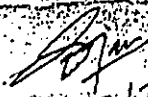
20/11/2020
Head Master
Govt High School
Biha Swat

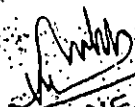
4. The SDEO (M) Mulla is hereby directed to rationalize the teaching staff of DPS Beha as per student enrolment immediately.

5. The P.S.H.T, DPS Beha is hereby directed to improve the School enrolment.


6. The E.R. and P.T.R. funds shifted to DPS Beha.


3/7/2019
SDEO (M), Mulla


3/7/2019
P.S.H.T. Beha


A.S.D. (M) Mulla

3-7-2019.
District Education Officer (M)
Distt: Swat.


23/07/2019
Head Master,
Govt High School
Beha Swat

Attested



20/11/2020
Head Master
Govt High School
Beha Swat

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 823/2020

Mahboob Ali

VS

Education Department

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (1-10) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Admitted correct by the respondents department as the record of the appellant is present with the department.
2. First portion of para 2 is admitted correct by the respondents hence no comments, while the rest of para is incorrect as the new building was constructed for GPS Beha, but the staff of GHS illegally occupied the new constructed building of GPS Beha before its handing over to the department on which the appellant and staff of GPS adopted proper way and filed application/complaint to respondent No.2 and No.3, but no action has been taken on that application/complaint and the appellant and the staff of the GPS Beha has done all that in the interest of students of the GPS Beha as the old building of GHS Beha is located in Village Nalkot and already GPS Nalkot is working in that location and by shifting of GPS Beha to the old building of GHS Beha, people of village of Beha were not willing to send their children to GPS Beha as it is at distance from village Beha and already GPS Nalkot is present in that location and due to that reason the GPS Beha was again shifted to newly constructed building of GPS Beha which is evident from the log book PTC meeting minutes, letter dated 25.11.2019 and 14.12.2019. (Copies of log book, PTC meeting Minutes, letter dated 25.11.2019 and 14.12.2019 are attached as Annexure-A,B,C&D)

3. Incorrect. The appellant did not ignore the direction of the competent authority and did not behave rudely and acted upon as he was directed by his high ups.
4. Incorrect. The appellant was removed from service on baseless allegations and without conducting proper inquiry which is not permissible under the law and rules.
5. Incorrect. The appellant has good cause of action to file the instant as he was removed from service for no fault on his part.

GROUND:

- A) Incorrect. The respondent department has not acted in accordance with law, facts, norms of justice and material on record, therefore not tenable and liable to set aside.
- B) Incorrect. The appellant has not been treated in accordance with law and rules and has been removed from service in slip shod manner without conducting proper and regular inquiry, which is violation of law and rules and as such the impugned order is liable to be set aside on this ground alone.
- C) Incorrect. As replied in B above.
- D) Not replied according to para D of the appeal. Moreover para D of the appeal is correct.
- E) Not replied according to para E of the appeal. Moreover para E of the appeal is correct.
- F) Incorrect. While para F of the appeal is correct.
- G) First portion of G is admitted correct, hence no comments, while the rest of the para is incorrect, hence denied as the interest of the students of GPS Beha was in that to not to shift that school to the old building of GHS Beha as the old building of GHS Beha is located in Village Nalkot and already GPS Nalkot is working in that location and by shifting of GPS Beha to the old building of GHS Beha, people of village of Beha were not willing to send their children to GPS Beha as it is at distance from village Beha and already GPS Nalkot is present in that location and due to that reason the GPS Beha was again shifted to newly constructed building of GPS Beha, which means that the respondents admitted the stance of the appellant by not shifting GPS Beha to the old building of GHS Beha, but despite that the appellant was punished for no fault on his part. Moreover the appellant has always obeyed order of his superiors.

- H) Incorrect. The respondent department did not act in accordance with law and rules.
- I) Incorrect. While para I of the appeal is correct.
- J) Incorrect. While para J of the appeal is correct.
- K) First portion of para K is incorrect hence denied as the appellant has legal right to advance other grounds and proof at the time of hearing, while the rest of para is legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT

THROUGH:



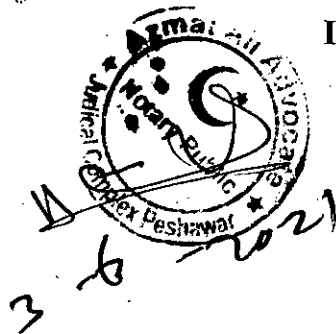
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

ATTESTED


DEPONENT



لاک بک (حصہ دوم)

رپورٹ کی روشنی میں سکول
انتھارٹی نے جو کارروائی کی۔

رائے / رپورٹ معائنہ

visit of G.P.S. Biha on the
Directions of DEO(M) Swat about
the shifting of the students

Dated: 05.09.2018

Time: 10.30 AM

As telephonically directed by DEO
Swat, I visited G.P.S. Biha regarding
the shifting of the students to the
old building of G.P.S. Biha.

I have been directed by DEO Swat
that Mr. Haq Muhammad PSH T and
Mr. Javed Iqbal SPST have been
issued show cause notices. Mr. Haq

Muhammad is no more in charge
of the G.P.S. Biha. According to his
directions Mr. Akbarzeb PSH T will
be in charge of the G.P.S. Biha.

Therefore the newly appointed
incharge is directed to shift the
students to the old building of G.P.S.
Biha immediately. He is further
more directed to unblock the
doors of the new building and

لاگ بک (حصہ دوم)

2

رپورٹ کی روشنی میں سکول
انتھارٹی نے جو کارروائی کی۔

رائے / رپورٹ معائنہ

and leave the building to
MHS Beha.
According to his directions
Mr. Mchaseb will responsible
if he refused the shifting of the
students to the old building.



05.03.2018

Ihsanullah
Asstt. Sub Divnl. Edu. Officer (M)
Circle Matta-2 Swat.

Copy to
① DFO (M) Swat
② SDO (M) Matta

B (3)

(10)

بوقت 10:30 مورخہ 21-11-019 حضرت مقام GPS Beha

ایجنڈا

| | |
|---|---|
| 1 | GPS بہائے طلباء کو GHS بہائے برائے عمارت میں منتقل کرنے کے حوالے سے |
| 2 | احلاس |
| 3 | |
| 4 | |
| 5 | |

| ذمہ داریاں | فیصلہ | ایجنڈا |
|--|---|--------|
| Staff x P.T.U Medical 12/11/2019 | آج کے احلاس میں جملہ کھیتی عملہ ان کے منتفقہ حوالہ | |
| | پریہ حتمی فیصلہ کیا کہ چونکہ حاجی سکول کا ہزارہ بلڈنگ | |
| | ننگوٹ گاؤں کے حدود میں واقع ہے اور وہاں پر وہیں | |
| | یہی GPS ننگوٹ بھی موجود ہے۔ اس لئے ہم اپنے بچوں | |
| | کو ننگوٹ کے حدود میں بھیجے گئے کسی بھی صورت تیار | |
| | ہائیں ہیں۔ یہ عمارت گاؤں بہا کا تاریخی ورثہ ہے اسلئے | |
| | بچوں اس سے محروم نہ کیا جائے۔ مزید جملہ کھیتی عملہ ان | |
| بے اصرار بنالایے اپنے فیصلے پر نظر ثانی اور پرائمری سکول | | |
| کے بلڈنگ کو پرائمری بچوں کو حوالہ کرنے کیلئے درخواست کی۔ | | |

دستخط چیئر پرسن اصدر Aurang Jeh دستخط جنرل سیکری Adeeb
 (تمام نمبر ان کے دستخط ہوں گے)

| | | | | |
|--|--|--|--|--|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

(4) (P)

OFFICE OF THE ASSISTANT SUB DIVISION EDUCATION OFFICER MATTA CIRCLE II

To

The

Sub Divisional Education Officer (Male) Matta

Dated 25/11/2019

Subject: Reshifting Of GPS Beha to the Newly Constructed Building

Memo:

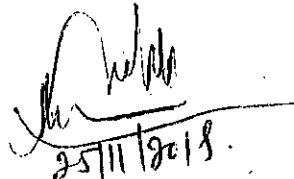
In compliance to DEO (Male) swat order Dated 07/11/2019 the staff of GPS Beha is shifted the school W.e.f 20-11-2019. I personally visited the school on 21-11-2019, and found that the staff of GPS Beha present in the old GHS Building but there were no students present because the parents are not interested to send their children to the old GHS Building.

Ptc council has also passed a resolution to re-shift the school Building to the newly constructed building of GPS Beha. Copy of the resolution is attached. As the old Building of GHS Beha is in the boundaries of Nalkot and GPS Nalkot is situated only a few steps away from the GHS old building.

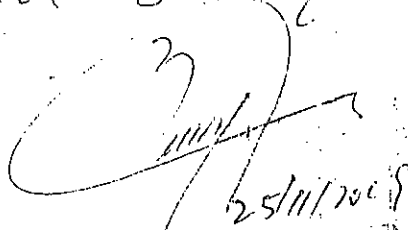
If the GPS Beha school runs in GHS Beha old building it will certainly effect GPS Nalkot and eventually both the schools will be merged.

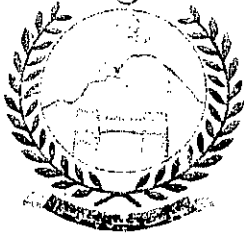
Therefore it is suggested to re-shift GPS Beha to the newly Constructed building of GPS Beha, Middle section of GHS Beha and GPS Beha will run in the same newly constructed building of GPS Beha and high section will shift to the old GHS Beha building.

Endst No 173 -


25/11/2019
Assistant Sub Divisional Edu Officer (M)
Matta Circle II

*Forwarded in original
to the DEO (M), Swat for
info please*


25/11/2019
Sub Div. Edu. Officer (M)
Matta Circle II



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT

1509

No. /F.No.21/DEO(M) Swat/PARRSA

Dated 14/12/2019

To,

The Sub Divisional Edu. Officer
(Male) Matta Swat

Subject:- WORKING OF GPS, GMS AND GHS BEHA IN THE CONCERNED BUILDING

Memo:-

Reference your letter No.173 dated 25/11/2019, The undersigned is pleased to distribute various portions /classes of the mentioned Schools in subject cited above as per the following distribution of building .

- 01). GPS Beha will work in its old three rooms building.
- 02).GMS portion of GHS Beha (class 6th to 8th) will work in newly constructed Middle building.
- 03).High portion of GHS Beha (class 9th to 10th) will work in old building of GHS Beha

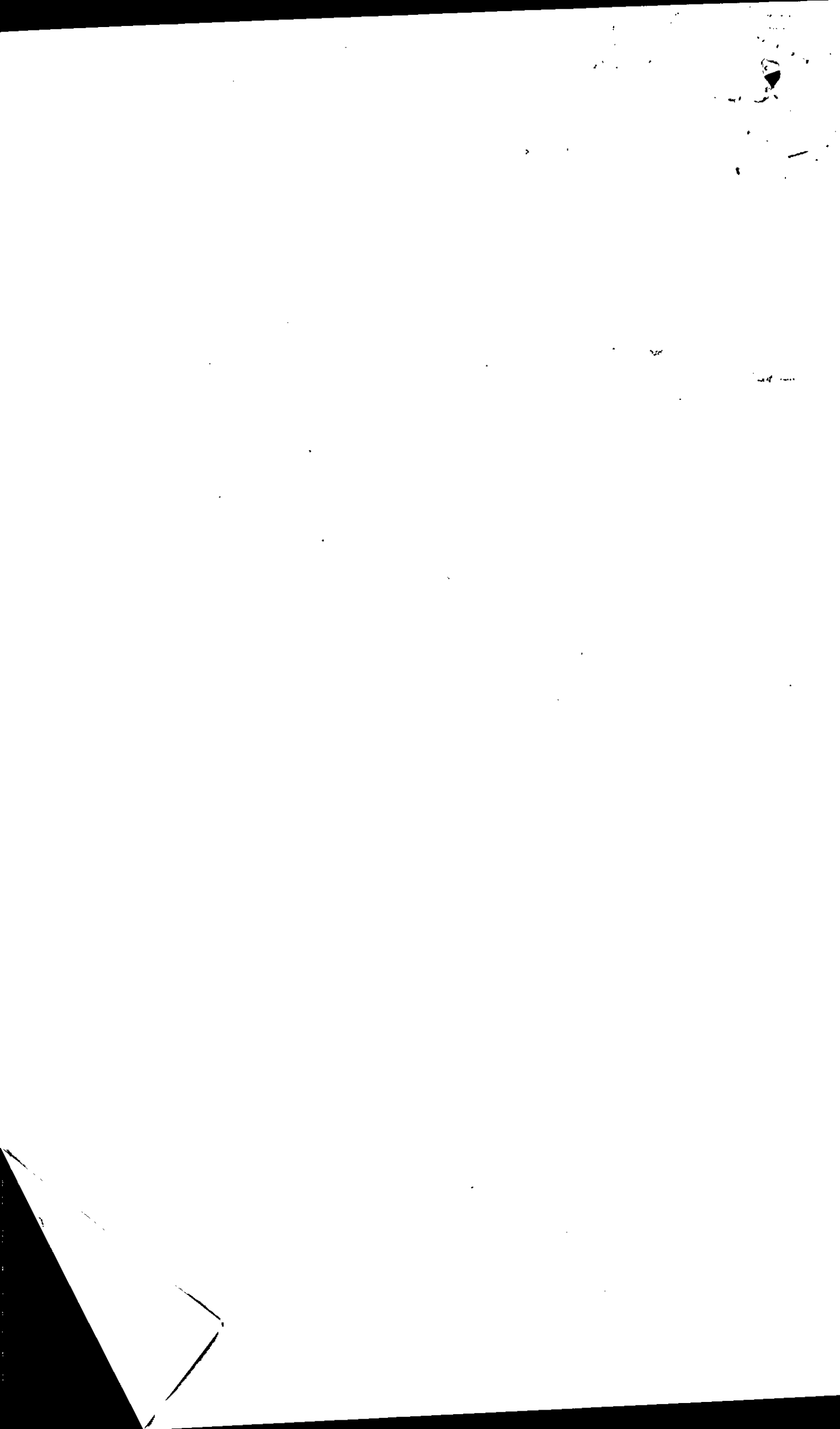
District Education Officer (M)
Swat

Endst: No. 5691-96 1

Copy forwarded to:-

- 01). The Director E&SE Khyber Pakhtunkhwa Peshawar.
- 02). The Deputy Commissioner Swat
- 03). The District Monitoring Officer Swat.
- 04). The Head Master GHS Beha for information and necessary action, please.
- 05). ASDDEO(M) Circle Matta.
- 06). The Head Teacher concerned. GPS Beha

District Education Officer (M)
Swat





**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 940 /ST

Dated: 25-4- /2022

All communications should be
addressed to the Registrar KPK Service
Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
Swat.

Subject: JUDGMENT IN APPEAL NO. 823/2021 MR. MEHBOOB ALI.

I am directed to forward herewith a certified copy of Judgement dated
22.12.2021 passed by this Tribunal on the above subject for compliance please.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR