



Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ **828/2020** _____

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. Javed Iqbal 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>

27.02.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (SPST) has filed the present service appeal against the order dated 04.10.2019 whereby ~~major punishment of removal from service was imposed upon him~~ ~~year 2019 & 2020~~ ~~major punishment of removal from service was imposed upon 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.

Secy
Dated
14/04/2020


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)

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.

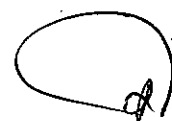

(Rozina Rehman)
Member (J)

22.12.2020

Counsel for appellant present.

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

Written reply was not submitted. Representative of respondents made a request for adjournment to furnish reply/comments; granted. To come up for written reply/comments on 04.02.2021 before S.B.


(Rozina Rehman)
Member (J)

04.02.2021

Counsel for the appellant and Addl. AG alongwith Hussain Ali, Litigation Officer for the respondents present.

Respondents have furnished the reply/comments. Placed on record. The appeal is assigned to D.B for arguments on 29.03.2021. The appellant may furnish rejoinder, within one month, if so desires.

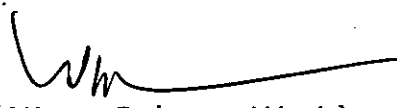

Chairman


29.03.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General present.

File to come alongwith connected appeal No.823/2020 titled Mehboob Ali Vs. Education Department, on 03/06/2021 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 13.08.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman

13.08.2021

Counsel for appellant present.

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

File to come up alongwith connected Service Appeal No.823/2020 titled Mehboob Ali Vs. Education Department on 20.10.2021 before D.B.



(Rozina Rehman)
Member (J)

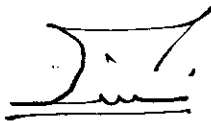


Chairman

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.

During the course of arguments when our attention was invited to para-6 of the reply of the appellant to the show-cause notice, it was found therein that he had previously faced two inquiries and matter was sub-judice before the Hon'ble High Court. The service appeal has not been documented in this respect. Let the appellant place on file copies of relevant record of previous inquiries and of the case pending in High Court on 14.12.2021 before the D.B.



(Salah-Ud-Din)
Member (Judicial)



Chairman

14-12-21

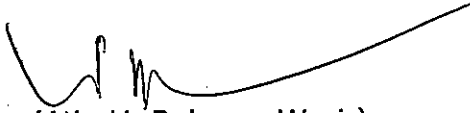
DB is on Tans case to come up
For the same on Dated. 21-12-21

Reedee

21.12.2021

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

Appellant requested for adjournment on the ground that his
counsel is not available today due to strike of Lawyers. Adjourned.
To come up for arguments before the D.B on 22.12.2021.


(Atiq Ur Rehman Wazir)
Member (E)


Chairman

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 placed on file, of service appeal bearing No. 823/2020 titled "Mehboob Ali Versus The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar and two others", we are inclined to accept the instant service appeal. 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)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 828 /2020

Javid Iqbal

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


ASAD MAHMOOD
ADVOCATE HIGH COURT

Bilour plaza, Peshawar cantt:
Cell# 0333-9390916

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 828 /2020

Case No. 986

Dated 04-02-2020

Mr. Javid Iqbal, Ex-SPST (PBS-14),
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 APPELLANT WAS REMOVED FROM
SERVICE AND AGAINST NOT TAKING ACTION ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN
THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER
DATED 04.10.2019 MAY KINDLY BE SET ASIDE AND THE
APPELLANT MAY BE REINSTATED INTO SERVICE 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.

Filed to-day
4/2/2020
Registrar

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was performing his duty in GPS Beha as Senior Primary School Teacher (BPS-14). 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 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 No.2 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 removal from service 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 removal from service 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 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 removal from service has been imposed upon the appellant vide order dated 04.10.2019 on that baseless allegations.

- H. That one of the allegation in show cause notice that you have embezzlement in the school fund. Recovery was imposed against upon you, but you concealed the facts, failed the recover loss of Government Exchequer and thus you involved in major corruption. It is pertinent to mention here that, that issue was occurred in the year 2015 and the appellant has already been punished on that issue and two inquiries conducted against the appellant on that issue was challenged by him in the Honourable High Court Peshawar at Mingora/Darulqaza Bench Swat which is still subjudice to the august Court and it has also been mentioned by the appellant in his reply to show cause notice. Moreover as per different Courts/Tribunal judgments previous omission cannot be based for subsequent omission specially on which some one has already been punished.
- I. That the appellant did not conduct any misconduct and was punished for no fault on his part and as such impugned order dated 04.10.2019 is liable to be set aside.
- J. 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.

Through:


APPELLANT


TAIMUR ALI KHAN
ADVOCATE HIGH COURT


ASAD MAHMOOD
ADVOCATE HIGH COURT

A 5

فردا انتخاب از جمع بندی سال 2012ء موضع 9 حدیست نمبر 101

9013

تحصیل سوات زلی تحصیل مٹہ سیبوجنی ضلع سوات

کیفیت	گان مع شرح	وساں آباشی	رقبہ قسم زمین	نمبر ضرہ مع درہ	نام کاشتکار مع احوال	نام مالک مع احوال	نمبر کتنی کاشتکار	نمبر کماں
			2-5256		موضوع دسی ملک تھیں نہ اندامہ فریقہ نمبر زمین پندرہ چار درہ	سرور علی حکومت	2833	2290

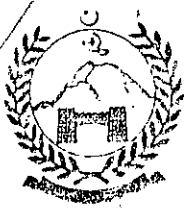
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21/06/2018

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

To,

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

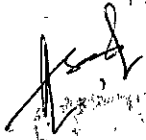
SUBJECT:- RE-CONSTRUCTION /REHABILITATION OF FLOOD DAMAGED
SCHOOLS UNDER PARRSA PROGRAM
SUB-HEAD: GPS BIHA DISTT SWAT

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 as 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 Peshawar
 4. Senior Engineer Contract PDMA/PaRRSA Peshawar
 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.
- 

Annexure *10* *17*

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
FISHT
G.P.S, Beha, Distt. Swat.

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

Received
21/07/07
P.A.

P.A To
District Education Officer
Male, Swat

ATTESTED

Annexure

D *(B)*
10

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
Secretary Education

DC Swat

AC Matta

AS
ATTACHED



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. Javid Iqbal SPST 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 are 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.
6. You had made embezzlement in school fund. Recovery was imposed against you. But you concealed the facts, failed to recover loss of the Government ex-checqure and thus you are involved in major corruption.

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 major penalty of "REMOVAL FROM SERVICE" under 4 (b) (iii) 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.

Endst: No. 46269 /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. Javid Iqbal SPST 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. Javid Iqbal SPST GPS Beha Matta District Swat. (Registered).

بخدمت جناب DEO صاحب محکمہ تعلیم ضلع سوات

عنوان: شوکا ز نوٹس کے جوابات۔

جناب عالی!

اداب: گزارش ہے کہ شوکا ز نوٹس 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 دفتری 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 پرنٹل 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 حالانکہ 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 ٹھیکدار نے بلڈنگ کو ادارے کے حوالہ کیا تھا۔ اسی دوران ہائی سکول کے ہیڈ ماسٹر اور سٹاف نے پرائمری کے حق پر ڈاکو 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 کھڑا 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 رہیں۔ ہم پورے سٹاف نے مارننگ ٹائم میں پرائمری سکول کو کسی دوسری جگہ پر چلانے کے لئے کرایا کا ذمہ بھی لیا لیکن محکمے نے ہمیں سینیڈ شفت 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 رکھیں، واش روم کو تالے لگائیں، بجلی کے لائن کو پرائمری سے بند رکھا گیا اور محصوم اور کم عمر بچوں کو کھٹکے برآمدے میں دھوپ اور بارشوں میں پڑھائی پر مجبور کیا۔ پورے تین سال پرائمری بچے اور سٹاف ذلیل و خوار ہوتے رہیں۔ 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 رہیں لیکن ادارہ خاموش تماشا بناتا رہا۔ آج جب پھر پرائمری سٹاف کو ہرانے 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 رزلٹ 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 بدتمیزی 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 کم 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 ان 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۔ انھوں نے پہلے ہی سے چار کمرے قبضہ کیے تھے اور چار کمرے عدالتی حکم پر جو بندہ عدالت نے بھیجا تھا اس 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

ذرا استعمال ہے۔

4- ہم نے کبھی بھی موصوم 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 پانچ افسروں نے ہمارے پرائمری کانسٹیبل پر انٹرویو کیا۔ جو بھی آیا ہمارا پورا اسٹاف حاضر اور مصروف کار پایا۔ (ثبوت لفت ہیں)

5- علاقے کے عوام 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۔

6- میرے کیس کے متعلق دو دفعہ انکوائری ہو چکی ہے۔ ہائی کورٹ میں کیس چل رہا ہے 23 اکتوبر 2019 کو میرا تاریخ مقرر ہے۔ عدالت جو بھی فیصلہ کریں گا مجھے منظور ہوگا۔ کیونکہ انصاف کیلئے ملک میں عدالتیں قائم ہیں۔

نوٹ: ہائی کورٹ کے بعد ادا کیا گیا بنا کر بلڈنگ ان کے حوالہ کرنا سراسر نا انصافی ہے۔ اگر ہائی کورٹ ضرورت تھی تو محکمہ کے افسران بالا کو ہائی سکول میں توسیع کرنا چاہئے تھا نہ کہ پرائمری ان کے حوالہ کرنا۔ اگر جناب ڈالامہر بانی کر کے ان الزامات کے جائزہ کے لئے غیر جانبدار کمیٹی منتخب کریں تو حقیقت سامنے آجائے گا۔

از: جاوید اقبال جی پی ایس بہا۔

ATTESTED



9 (12)

**OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT.**

NOTIFICATION

1. *Whereas Mr. Javid Iqbal SPST BPS-14 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. 462-69 dated 5.9.2019 for the charges leveled against him.*
3. *Whereas as 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 he is responsible for embezzlement of the school funds and he was directed to make recovery of the same but he concealed the facts and did not recover the embezzled money.*
8. *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 " the major penalty of "REMOVAL FROM SERVICE" under 4 (b) (iii) of the ibid Rules with immediate effect in the interest of public service.

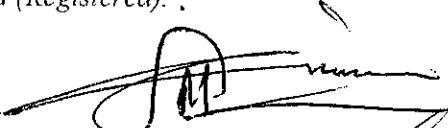
(MUHAMMAD AMIN)
DISTRICT EDUCATION OFFICER (M)
SWAT

2018-23
Endst: No: _____ /P.F/GPS Beha/DEO/M.

Dated 4/10/2019

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. Javid Iqbal SPST GPS Beha Matta (Registered).


DISTRICT EDUCATION OFFICER (M)
SWAT

To

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

**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 a teacher and with the passage promoted to the post of SPST (BPS-14) due to excellent performance. 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 Senior 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 handing 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)**

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, the appellant was removed from service 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 the appellant was removed 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 removal dated 04.10.2019 is liable to be set aside.
- D) That no charge sheet was issued to the appellant before imposing major punishment of dismissal from service, 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.
- F) That no opportunity of personal hearing was provided to the appellant before passing the impugned order of removal from service, which is violation of Sub Rule (d) of Rule 7 of E&D Rules 2011.

AA
ATTESTED

G) That the the department constructed building for GPS Beha, but the staff of GHS Beha illegally occupied the newly constructed building

(15)

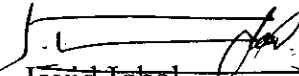
on which the appellant along with staff of GPS Beha filed complaint to DEO (M) Swat against the illegal occupation of GPS Building by GHS staff, but despite taking action on the complaint of GPS Beha Staff according to law and rules, the DEO (M) Swat handed over the new constricted building to GHS Beha staff, due to which baseless allegations were leveled against the appellant and without conducting regular inquiry on the allegations, the appellant was removed from service 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 appellant may be reinstated into service with all back and consequential benefits.

Date: 16-10-2019

APPELLANT

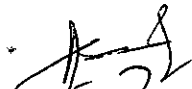

Javid Iqbal,

Ex-SPST GPS Beha

R/O Village Beha

P/O Matta, District Swat.

Cell# 03 47 9695677


ATTESTED

VAKALAT NAMA

NO. _____/2019

IN THE COURT OF KP Service Tribunal, Peshawar

JAVID IQBAL EX- SPST. GPS. BIHA (Appellant)
TEH-MADRA-DASTI-SWAT (Petitioner)
(Plaintiff)

VERSUS

Education Dept (Respondent)
(Defendant)

I/We, Javid Iqbal

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

Javid Iqbal
(CLIENT)

Asad Mahmood
Advocate High Court

Shah Faisal
ADVOCATE

ACCEPTED

Taimur Ali Khan
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. 828/2020

Javid Iqbal Ex-SPST (BPS-14) 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 mala fide 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 sifting 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 correct to the extent of the embezzlement made by the Appellant, the rest of the para is irrelevant. In fact, the Appellant made embezzlement in the school funds and after proper enquiry, he was found guilty and he was directed to recover the amount due. But he has not yet recovered the same. The Honorable Service Tribunal also

dismissed his appeal on that issue which clearly means that he has to recover the amount due.

- I. That the Para No. I is incorrect. As stated in the foregoing paras, the respondent department acted under the rules and policy.
- J. That the Para No. I is repetition of the above paras. Hence, no comments.
- K. That the Para No. K 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: A

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

There are 5 classrooms and one office in old CHS building. The class-wise and section wise enrolment of CHS 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 (R.T.B) is running in the same building room.

P.T.O

Attested

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

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.H.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 burden on head, the following decisions are hereby taken in the best interest of students, Department & Public.

Attested:



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

(3)

1. 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, ASDEO & SDEO (M) Matta 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 interest of students.

P.T.O

A#esw.



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

4. The SDEO (M) Maska is hereby directed to rationalize the teaching staff of dPS Beha as per student involvement immediately.

5. The PSHT, dPS Beha is hereby directed to improve the school involvement.

6. The ERC and PTR funds shifted to dPS Beha.

[Signature]
3/7/2019
Pr. S. S. dehati
[Signature]
3/7/2019
SDEO (M) Maska
[Signature]
A. S. D. E. O. Maska

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

[Signature]
03/07/2019
Head Master
Govt High School
Beha Swat

Attested -

[Signature]
30/11/2020
Head Master
Govt High School
Beha Swat

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 828/2020

Javid Iqbal

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. That issue was occurred in the year 2015 and the appellant has already been punished on that issue and two inquiries conducted against the appellant on that issue was challenged by him in the Honourable High Court Peshawar at Mingora/Darulqaza Bench Swat which is still subjudice to the august Court and it has also been mentioned by the appellant in his reply to show cause notice. Moreover as per different Courts/Tribunal judgments previous omission cannot be based for subsequent omission specially on which some one has already been punished.
- I) Incorrect. The respondent department did not in accordance with law and rules and punished the appellant for no fault on his part.
- 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:

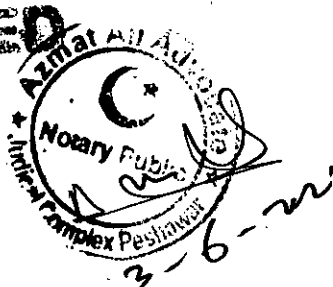


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

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

راگ ایک (حصہ دوم)

رپورٹ کی روشنی میں سکول
اقتاری 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: 05.08.2019

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 the incharge
of the G.P.S. Biha. According to his
directions Mr. Akbarzeb pst will
be the incharge 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. Mubarek will responsible
if he refused the shifting of the
students to the old building.



05.08.2018

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

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

(3) B

بوقت 10:30 مورخہ 21-11-2019 گھنٹرات مقام GPS Beha

ایجنڈا

1	GPS بہا کے طلباء کو GHS بہا کے پرانے ٹکارت میں منتقل کرنے کے حوالے سے
2	احلاس
3	
4	
5	

ایجنڈا	فیصلہ	ذمہ داریاں
	آج کے احلاس میں جملہ کمیٹی ممبران نے متفقہ طور پر یہ حتمی فیصلہ کیا کہ جو نئے حاجی سکول کا پراڈ بلڈنگ نکلوٹ گاؤں کے حدود میں واقع ہے اور وہاں پر وہیں	Staff x PTU Medical 12/11/2019
	یہی GPS نکلوٹ بھی موجود ہے۔ اس لئے ہم اپنے بچوں کو نکلوٹ کے حدود میں بھیجے گئے کسی بھی صورت تیار نہیں ہیں۔ یہ پھارے گاؤں بہا کا تاریخی درتہ ہے اسلئے	
	بھیس اس سے محروم نہ کیا جائے۔ صدر پیر جملہ کمیٹی ممبران نے افسران بالا سے ایچے فیصلے پر نظر ثانی اور پرائمری سکول کے بلڈنگ کو پرائمری کے بچوں کو حوالہ کرنے کیلئے درخواستیں کی۔	

دستخط چیئر پرسن امدر Aurang Jeh دستخط جنرل سیکرٹری Adeeb

(تمام ممبران کے دستخط ہونگے)

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240

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 -

[Signature]
25/11/2019

Assistant Sub Divisional Edu Officer (M)

Matta Circle II

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

[Signature]
25/11/2019
Sub Div. Edu Officer (M)



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT

100

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. 5691-961

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



BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 828/2020

Javid Iqbal

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. That issue was occurred in the year 2015 and the appellant has already been punished on that issue and two inquiries conducted against the appellant on that issue was challenged by him in the Honourable High Court Peshawar at Mingora/Darulqaza Bench Swat which is still subjudice to the august Court and it has also been mentioned by the appellant in his reply to show cause notice. Moreover as per different Courts/Tribunal judgments previous omission cannot be based for subsequent omission specially on which some one has already been punished.
- I) Incorrect. The respondent department did not in accordance with law and rules and punished the appellant for no fault on his part.
- 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.



DEPONENT

رکب (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: 05.08.2018.

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 the incharge
of the G.P.S. Biha. According to his
directions Mr. Akbarzeb pst will
be the incharge 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. M. Beha will responsible
if he refused the shifting of the
students to the old building.



05.08.2018

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

Copy to
DFO (M) Swat
DFO (M) Matta

B (3)

(10)

GPS Beha مقام گھمراٹ 10:30 مورخہ 21-11-019 بروز

ایجنڈا

1	GPS بہا کے طلباء کو GHS بہا کے پرانے عمارت میں منتقل کرنے کے حوالے سے
2	احلاس
3	
4	
5	

ذمہ داریاں	فیصلہ	ایجنڈا
Staff x P.T.U Medgal 12/2011	آج کے اجلاس میں جملہ کمیٹی ممبران نے متفقہ طور پر یہ حتمی فیصلہ کیا کہ چونکہ حالیہ سکول کا پرانہ بلڈنگ نلگوٹ گاؤں کے حدود میں واقع ہے اور وہاں پر وہیں کی GPS نلگوٹ بھی موجود ہے۔ اس لئے ہم اپنے بچوں کو نلگوٹ کے حدود میں بھیجے گئے کسی بھی صورت تیار نہیں ہیں۔ یہ تیار گاؤں بہا کا تاریخی ورثہ ہے اسلئے ہمیں اس سے محروم نہ کیا جائے۔	
	مزید جملہ کمیٹی ممبران نے اصرار کیا ہے کہ اپنے فیصلے پر نظر ثانی اور برائری کر کے بلڈنگ کو برائری کے حوالے کر کے دیا جائے۔	

Aleah

دستخط جنرل سیکریٹری

Aurang Jeh

دستخط چیئر پرسن اصدر

(تمام ممبران کے دستخط ہونگے)

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204

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 -

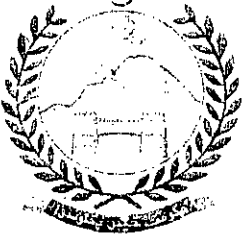
[Handwritten Signature]
25/11/2019

Assistant Sub Divisional Edu Officer (M)

Matta Circle II

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

[Handwritten Signature]
25/11/2019
Sub Div. Edu Officer (M)



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT

1000

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 .

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- 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 /

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