Form- A FORM OF ORDER SHEET

Court of_____

	Case No	1110 /2022			
S.No.	Date of order proceedings	Order or other proceedings with signature of judge			
1	2	3			
1.	13/07/2022	The appeal of Mr. Muhammad Huzaifa resubmitted today by Mr Asad Mehmood Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR			
2-		This case is entrusted to Single Bench at Peshawar for preliminar hearing to be put there onNotices be issued to appellan			
		and his counsel for the date fixed.			
		CHAIRMAN			
		,			
	-				

The appeal of Mr. Muhammad Huzaifa son of Tajmal Khan Ex-Chowkidar district Kohat received today i.e. on 27.06.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Appeal has not been flagged/ marked with annexures marks.
- 3- Annexures of the appeal are unattested.
- 4- Memorandum of appeal is not signed by the appellant.
- 5- Affidavit is not attested by the Oath Commissioner.
- 6- Copies of appointment order and enquiry report mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 7- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2114 /S.T.

Dt. 27/6 /2022

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ased Mehmood Adv. Pesh.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR CHECK LIST

CASE TITLE:

__V/S

CAS	E TITLE:	YES	NO
<u></u> S#_	CONTENTS	7	
1 1	This Appeal has been presented by: ASAD MALINOOD.		
	This Appeal has been presented by. 143410 in the Signed the Whether Counsel/Appellant/Respondent/Deponents have signed the	1	
2	requisite documents?	/	
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10	Whether annexures are legible?	✓	
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25	Rule 11, notice along with copy of appeal and annexales has		
	l	1	
26		-	
	Whether copies of comments/reply/rejoinder provided to opposite		
27	party? On	1	- -

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

ASAD MAHMOOD

Signature:

Dated:

Before Khyber Pakhtunkhwa Service Tribunal, Peshawar

Appeal No. Mo.../2022

Huzaifa S/O Tajmal Khan, Ex-Chowkidar, R/O Ghari Dhodiwal District Kohat.

Appellant

Versus

INDEX

Sr. No.	DESCRIPTION	ANNI	EXURE PAGE N	<i>o</i> .
1	Memo of Appeal		<u> </u>	
2.	Appointment Order		A = 4A	
3.	Certificate of Transfer of Charge		<u>5</u>	. — . —
4.	Enquiry Report		C 6-7	
5.	Impugned Original Order		D 8	•
6.	Departmental Appeal		E 9 - 10	
. <i>7</i> .	Impugned Appellate Order		F 11	
8.	Vakalatnama	,		

Through

Appellant

Asad Mahmood

Advocate High Court

Perhaman

* 12 1.

Before Khyber Pakhtunkhwa Service Tribunal, Peshawar

Service Appeal No....../2022

Muhammad Huzaifa S/O Tajmal Khan, Ex-Chowkidar, R/O Ghde Phodocal District Kohat.

Appellant

Versus

Dated 27-6-2822

- 1. Government of KPK, through Secretary, Elementary and Secondary Education, Peshawar.
- 2. Director, Elementary And Secondary Education, Directorate of Elementary and Secondary Education, Peshawar, Khyber Pakhtunkhwa.
- 3. Assistant Director (Admn), Directorate of Elementary and Secondary Education, Peshawar, Khyber Pakhtunkhwa.

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST IMPUGNED ORDER DATED 30TH DECEMBER, 2021 WHEREBY APPELLANT IS IMPOSED PENALTY OF REMOVAL FROM SERVICE WITH RETROSPECTIVE EFFECT I.E. 1ST DECEMBER, 2021 AND AGAINST APPELLATE ORDER DATED 31^{SI} MAY, 2022 WHEREBY DEPARTMENTAL APPEAL OF APPELLANT IS REJECTED.

PRAYER:

ON ACCEPTANCE OF THIS SERVICE APPEAL, THE IMPUGNED ORDER DATED 30TH DECEMBER, 2021 AND APPELLATE ORDER DATED 31ST MAY, 2022 MAY KINDLY BE SET ASIDE AND APPELLANT MAY KINDLY BE RE-INSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS TO SAVE JUSTICE FROM BEING DEFEATED.

Hon'ble Tribunal,

Essential facts of the case:

The instant service appeal emerges from the facts are:

1. The appellant was appointed at Government Girls High School No. 1 Kohat through Endst No. 1883-90 dated 26th February, 2021 (Annexure-A) against the vacant post of chowkidar under DECEASED SON QUOTA.

- The appellant have reported to the Office of Headmistress Government Girls High School No. 1 Kohat on the very next day i.e. 27th February, 2021 and Certificate Of Transfer Of Charge (Annexure-B) was issued and copy thereof was submitted to District Accounts Officer (DAO) Kohat to do the needful for the purpose of salary against the post of Chowkidar.
- 3. The appellant was allegedly charged with baseless allegations of using proxy and committing immoral activities without having any cogent and un-rebuttable evidences thereof on record to prove the bare allegations, beyond any reasonable doubt, against the accused official/appellant.
- 4. The appellant was departmentally proceeded without probing into the matter by carrying out any enquiry in a manner provided by law; neither any inquiry in accordance with law was ever conducted nor any prosecution witnesses was ever produced to be cross-examined by the appellant to adhere with the principles of natural justice; no opportunity of personal hearing is ever afforded to defend himself and to satisfy the codal procedure.
- 5. That in the light of so-called enquiry report (Annexure-C) the penalty of "Removal From Service" was imposed upon appellant through impugned order dated 30th December 2021 with retrospective effect from 1st December, 2021(Annexure-D); with out charge sheet, statement of allegations and final show cause notice being served upon appellant, to save the mandatory provisions of law and natural justice from being defeated.
- 6. The departmental appeal on 24th January, 2022 (Annexure-E) was moved against the impugned order which has been turned down by the appellate authority through order dated 31st May, 2022 (Annexure-F). Hence, feeling aggrieved of the impugned orders, appellant submits this instant service appeal on the grounds inter alia:

Legitimate Grounds:

- A. The impugned original and appellate orders, being passed by the respondents, without adhering to the mandatory provisions of law and satisfying the principle of justice. Hence the impugned orders, being passed contrary to law and principle of natural justice, are liable to be set aside.
- B. The impugned order dated 30th December 2021 passed with retrospective effect made the impugned order void and void order is no order in the eyes of law. Hence, it is liable to be set aside.
- C. The impugned appellate order is passed by an incompetent authority which made the order void and void order is no order in the eyes of law. Hence, it is liable to be set at naught.
- D. The appellant was allegedly charged with baseless allegations of using proxy and committing immoral activities without having cogent and un-rebuttable evidences thereof on record to prove the bare allegations, beyond any reasonable doubt, accused official/appellant guilty of committing misconduct.

Hence, the impugned orders, being passed in violation of mandatory provisions of law, are liable to be struck down.

- E. The appellant was departmentally proceeded without probing into the matter by carrying out an enquiry in a manner provided by law, neither any opportunity of defending him against the baseless allegations; neither any inquiry in accordance with law is ever conducted nor prosecution witnesses is ever produced to be cross-examined and to prove appellant guilty of misconduct. Hence, the impugned orders without adhering to the prescribed legal procedure made the orders null and void in the eyes of law.
- F. The impugned order based on so-called enquiry report speaks loudly of malafide on the part of respondents.
- G. The impugned orders are NON SPEAKING ORDERS for having no explicit cogent or compelling reasons and passed in violation of clause 24-A of General Clauses Act. Further, NON SPEAKING ORDER is no order in the eyes of law, hence liable to be struck down.

The instant service appeal may kindly be accepted in favour of appellant as prayed for. Any other remedy if this court deems fit may also be granted in favour of appellant.

Through

Asqa Mahmood Advocate High Court

<u>AFFIDAVIT</u>

It is stated on oath on this 27 day of June, 2022 that the contents of the appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honourable court.

1 /2 - 06 - 200

Deponent

KOHAT

APPOINTMENT ORDER

Consequent upon the recommendations of the Departmental Selection Committee, the Comptainty is pleased to order the appointment of the following candidates in deceased son, quota against the post of Classes (Rs. 9610-390-21310) plus usual allowances as admissible under the Rules. The competent authority pleased to post them against vacant position mentioned before their name on the terms & conditions given by mediate effect:

Deceased Sons Quota

■me	Father Name	Nature of Deceased/Relation	Domi;	Date of Deceased	Designation/ Place c posting
ihammad zifa	Tajama! Khan	Death in Service (Mother) PST	Kohat	09/01/2005	Chowkidar /GGHSS No Kohat
i Arsh	S.Jaífar Shah	Death in Service (Husband) Chow:		30/10/2017	SWP / GGHS Hassan Ki Kachai Kohat
. 0600511	rabigu tali fyticii	त्यवस्य कि हम्स्यम् (Hunband) Chow:	voliar	22-07-2020	Chewidar / Grasses Pur Kohat
er Hayat	Sadal Khan	Medical Board (Father) Chow:	Lachi	27-08-2020	Chowkidar at GGPS Ha: Banda Kohat

te: No TA/DA etc is allowed.

ms & Conditions

- 1. Charge reports should be submitted to all concerned in duplicate.
- 2. Their seniority will be determined in accordance with the relevant Rules in the field:
- 3. They should not be handed over charge if they exceed the age of 40 Years or below 18 Years.
- 4. Their services are liable to termination on One month's notice from either side. In case of resignation without of their One month Pay/Allowances shall be forfeited to the Government.
- They should join their post within 15 days of the issuance of this order, their appointment shall be treated / care automatically and no subsequent appeal etc shall be entertained in this behalf.
- 6. Health & Age certificate should be produce from the Medial Superintendent concerned before taking over charge.
- 7. They will be governed by such Rules & Regulation as may be issued from time to time by the Government.

iod. In case of misconduct, they shall be preceded under the Rules famed from time to time.

They will be on probation for a period on one year, extendable to another one year.

لي المالية District Education Offic (Female) Kohat

-. 1983-90 File /Deceased Quota/Class-IV Appott:

Dated Kohat the 26 101

rwarded for information and necessary action to the: A to Director E&SE Khyber Pakhtunkhwa, Peshawar.

eputy Commissioner Kohal.

-istrict Accounts Officer Kohat.

histrict Monitoring Officer (IMU) Kohat.

JDEO (Female: Rohal & Lachi.

all Principals/ Headmasters/Head Teachers conce ned.

Official Concerned.

#AlFile

District Education Off







OFFICE OF THE HM GGHSS No 1 KOHAT

CERTIFICATE OF TRANSFER OF CHARGE

1. Certified that we have on the (F.N) of this day 27/02/2021Respectively made over and received charge of this office Principal GGHSS No 1 Kohat POST Chowkidar vide Endst: 1883-90 file/Deceased Quota/Class-IV Dated 26/2/2021

2. Particulars of cash and important secret and confidential documents handed over are noted On the reveres:-

Signature of relieved

Vacant

Government Servant Designation

(Vacant)

Station: GGHSS No 1 Kohat.

Signature of relieving

Government Servant

<u>Muhammad Huzaifa</u> <u>Chowkidar</u>

Designation

Dated Kohat the 27/2/2021

principal GGHSS No 1 Kolmit

Endst No_SI-S3 /File. Charge Report

Forwarded to the:-

District Education Officer (Female) Kohat

District Account officer Kohat.

Personal File.

Office Copy.

Principal

GGHSS No 1 Kohat PRINCIPAL

GGHSS No.1 Kohat

Annexure O 100 Supolt. 106 (Ar pol 1 45) DEO 03-25 (-1) por 0-13/13/23. No 2 -2 -16. 22-10-2021: 0) 9 5485 (38 2) 5 38-10-2021 De July 2 20 Comp 1 (2) 200 min min 38-10-2021 De July 2 20 20 Comp 1 (2) 200 min min July 3, 91 Co Cin, 8 3 60 min 51 (min) ple 31 2 3 6 66 感觉地点的。 (2) JUNOU D'ENES « CON LIPE (D) ا من دود المواقري آ من ادر عام الراعلي الواقري 11) B (1) B (2000) Sign of Ellips

Ribo No CAD SNO CITY REHSS. (1) 1/1/3 0/0/0 AS 2 LOB (3/3)6 B3/6 9- (2) - 117-0 (3), multiple of the We will be the control of the contro - 6 m - 13 - 18 2 (18 > 3, 3) 04/11/2021 2)00 DA COMPANION DE O

AnnexIRE D 8

OFFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)

NOTHICATION:

WHEREAS, Huzifa S/O Tajmal Khan resident of Ghari Dhodiwal Kohat city Appointed as Chowkidar at GGHSS No.1 Kohat vide DEO (F) Koahat Endst No.1883-90 dated 26/02/2021. WHEREAS, the Principal unanimously recommended that Mr. Huzaifa Chowkidar GGHSS No.1 City. Kohat has committed immoral activities in school premises, and should be penalized

as per E&D Rules 2011.

WHEREAS, Auzifii , (Chowkidar), GGHSS &a i City, Kohin, was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011, for the charge triusing proxy.

WHEREAS, Huzifa , (Chowkidar), GGHSS No.1 City, Kohat, As per apptit order terms and conditions he was appointed for one year probation period.(Condition No.9)

WHEREAS, Inquiry committee was constituted vide this office No.5485/Class-IV/File dated 22/10/2021.

WHEREAS the Enquiry committee categorically recommended the penalty of "Removal from Service" for accused chowkidar.

WHEREAS, Charge Sheet/Statement of allegation was issued vide this office No.6140/06/voll'General File/2021/Estab: Primary/DEO (F) Kohat dated 16/11/2021was also served upon the accused chowkidar but he failed to submit either written reply or presenting himself for perso ad hearing.

WHEREAS the Competent Authority District Education Officer (Female) Kohat after having considered the charges and evidence on record and agreed with the recommendation of enquiry officer, as well as the condition No.8 of appit; order the undersigned found your performance unsatisfactory during the probation period.

THEREFORE, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa Govi Servants (Efficiency & Discipline) bales, 2011, the Competent Authority (District Education Officer Female Kohat) is pleased to impose major penalty of "Removal from Service" under the Rule 4(b)(iii) upon Huzaita, Chowkidar GGHSS No.1 City, Kohat with effect from 01/12/2021.

> DISTRICT EDUCATION OFFICER (FEMALE) KOHAT

Endst: 7287-95 Date 301 12 12021

Copy forwarded to the:-

Director, E&SE, Peshawar ſ,

Deputy Commissioner Koliat.

District Monitoring Officer Kohat. 111.

Principal GGHSS No.1 City Kohat. IV.

District Accounts Officer Kohat. ν.

Official Concerned VI.

Personal File VII.

(PEMALID KOHAT

Scanned with CamScanner

ANNEXURE-E



То

The Director, Elementary and Secondary Education, Peshawar

Subject:

Departmental Appeal against the impugned office order bearing No.7287-94 dated 30.12.2021 whereby the major penalty of removal from service was imposed upon the appellant.

Respectfully Sheweth;

With profound respect the undersigned/appellant submits as under:

- That the appellant was appointed as chowkidar (BPS-3) at GGHSS No.1 Kohat vide appointment order No.DE (F) Kohat Ends: No.1883-90 dated 26.02.2021 and served the department almost one year with unblemished record.
- 2) That the appellant was served with a show case wherein allegation of immoral activities in school premises were leveled against him.
- That an inquiry was conducted vide office No.5485/ class-IV/file dated 22.10.2021 whereas the inquiry committee recommended major penalty of removal from service.
- 4) That in the light of recommendation major penalty from removal from service was imposed vide order dated 30.12.2021.
- Thus, the appellant being aggrieved from the impugned order dated 30.12.2021 file the instant departmental appeal for redressal of his grievances.

GROUNDS:

Firstly, it is stated that the impugned order dated 30.12.2021 and the inquiry report submitted by the inquiry officer are against the law, facts and material available on record and no meaningful opportunity of personal hearing was afforded to the appellant and the whole process of disciplinary proceedings against the appellant was conducted in a mechanical manner without adhering to the principles of natural justice.

Secondly, it is further clarified that the impugned order and report of Inquiry Officer are based on misreading and non-reading of evidence



produced by the parties during course of regular inquiry where crucial evidence on record, was neglected that lead to this impugned summary of inquiry.

That the appellant has been discriminated in awarding punishment and adopted pick and choose policy and also the abuse of process of law, which has been conferred upon the inquiry officer.

That the appellant is a sole source of his family whereas the appellant was appointed on the deceased sons quota and having no other family member to support his ailing father.

Undersigned being innocent vehemently denies the vague, non-specific and unsubstantiated allegations as contained in the show cause/regular inquiry and the impugned order, therefore, it is, humbly submitted that the impugned order dated 30.12.2021 may graciously be set aside and the appellant be reinstated in service.

Any other relief though not specifically asked for may also be granted.

Dated: 24.01.2022

Appellant-in-Person

Muhammad Uzaifa

Chowkidar

GGHSS No.1 Kohat

Cell: 0333-9619448 CNIC 14301-0523048-3



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA PESHAWAR.

/F.No.271/A-20/C-IV/Kohat Vol-8

Dated Peshawar the

Phone: 091-9225344

Email: ddadmn.ese@gmail.com

To

The District Education Officer (Female) (Male) Kohat.

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED OFFICE ORDER BEARING NO. 7287-94 DATED 30.12.2021 WHERBY THE PENALTY OF REMOVAL FROM SERVE WAS IMPOSED UPON

APPELANT

Memo:

357/ I am directed to refer to your letter No 351 dated 22/04/2022 on the subject cited above and to ask you that the appeal in r/o Huzifa Chowkidar GGHSS No.1 City Kohat has been examined/analyzed by this office Hence inform the appellant concerned that his appeal has been rejected by the appellate authority.

> Assistant Director (Admn) Directorate E& Secondary Education

Khyber Pakhtunkhwa, Peshawar

Endst; No.

Copy forwarded to the: -

Huzifa Chowkidar GGHSS No.1 City Kohat. 1.

PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa 2. Peshawar.

3. Master File.

Assistant/Director (Admn)

Directorate E& Secondary Education

Khyber Pakhtunkhwa, Peshawar

لعدالت

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Muhammal Huzaita دعوي God of KPK

باعث تحريرا نكه

مقدمه مندرجه عنوان بالامين ابني طرف سے واسطے بيروي وجواب دہي وکل کاروائي متعلقه

آن مقام بشاور كيلي اسر فحود البرسط

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کوراضی نامه کرنے ق تقرر ثالث و فیصله پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیدار عرضی دعوی اور درخواست ہرفتم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کیطرفہ یا اپیل کی برا مدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کامختاج ہو گا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیار ات حاصل ہوں گے اوران کا ساختہ پر داختہ منظور وقبول ہو گا دوران مقدمہ میں جوخرچہ ہر جانہ التوائے مقدمہ ہوں گے سبب سے وہوگا۔کوئی تاریخ بیشی مقام دورہ پر ہویا حدسے باہر ہوتو وکیل صاحب پابند ہوں گے۔

که پیروی مذکورکریں ۔لہذاو کالت نامہ کھدیا کہ سندر ہے۔

,20,22 () 9

کے لئے منظور ہے۔