

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Miscellaneous Application No. 304/2022

Muhammad Suleman Vs. Education Department

ORDER

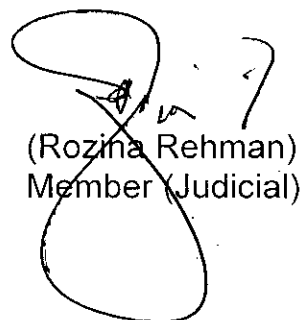
24.03.2022

The instant Miscellaneous application, submitted by the appellant for correction of date of decision, received through office. Be entered in the relevant register. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Record requisitioned and perused.

Through the instant application, the appellant is seeking correction of date of decision, which was inadvertently mentioned in the judgment as 17.01.2022 instead of 19.01.2022. On perusal of the record, it transpired that the concerned Service Appeal bearing No. 1332/2018 titled Muhammad Suleman Vs. Government of Khyber Pakhtunkhwa was decided on 19.01.2022 however due to inadvertence, the date of decision was wrongly mentioned as 17.01.2022. This Tribunal within the meaning of Subsection-(02) of Section-7 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 is deemed as civil court under the Code of Civil Procedure, 1908. Section-152 C.P.C provides for amendment of the judgment, decree or orders. It provides that mistakes in judgments, decrees or orders or errors arisen therein from any accidental slip or omission may at any time be corrected by the court either of its own motion or on the application of any of the parties. In the present case, year and month are correct but the date has been written as 17.01.2022 instead of 19.01.2022 due to typographical mistake which is an accidental slip. Therefore, the case is fit for exercise of jurisdiction U/S 152 C.P.C as described before. Office is directed to make necessary correction by substituting the date 17.01.2022 with 19.01.2022 in the judgment as well as in the short order and relevant record accordingly. Copy of this order as well as copy of the application be placed on file of Service Appeal No. 1332/2018. After necessary correction in the concerned judgment, certified copies of the same be sent to both the parties. File be consigned to the record room after its completion.

ANNOUNCED

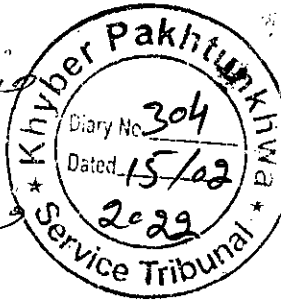
24.03.2022


(Rozina Rehman)
Member (Judicial)


(Salah-Ud-Din)
Member (Judicial)

خدمتِ صواب رجسٹرار صاحب سروس ٹریبونل پشاور

صواب عالی



موردبانہ گزارش کھدہ سائل محمد سلمان ولد گلگڑ خان
سروس اپیل نمبر 1332/2018 سکول دیوبند تحصیل ایبٹ آباد

صواب عالی سائل کی تاریخ 19/01/2020 تھی اس تاریخ پر سائل
کے حق میں فیصلہ ہوا ہے۔ سائل کو جب فیصلہ وصول ہوا تو
غلطی سے اس پر تاریخ 17/01/2020 لکھی گئی تھی۔ آپ سے
گزارش کھدہ اس تاریخ کو درست کیا جائے۔

غلط تاریخ 17/01/2020


درست تاریخ 19/01/2022

نوازش ہوگی

العارض

محمد سلمان ولد گلگڑ خان نگری پالہ پوسٹ آفس
15-02-2022
ممبر کھدہ، ضلع و تحصیل ایبٹ آباد

put up to the concern D.B
with relevant appeal.


15/2/2022

Reader.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, ABBOTTABAD.

Service Appeal No. 1332/2018

Date of Institution ... 23.10.2018
Date of Decision ... 17.01.2022 19.01.2022

Muhammad Suleman S/O Ghakkar Khan R/O Nagri Bala, at
Present GPS Tatreela, Tehsil & District Abbottabad.

... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa Elementary & Secondary
Education Peshawar and two others.

... (Respondents)

Choudhry Abdur Rauf Chohan,
Advocate

... For appellant.

Kabir Ullah Khattak,
Additional Advocate General

... For respondents.

Salah-Ud-Din

...

Member (J)

Rozina Rehman

...

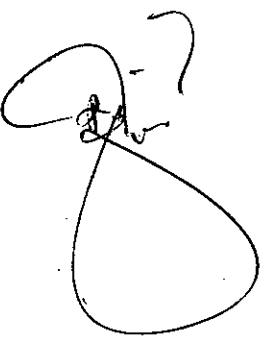
Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): Briefly stating the facts necessary

for the disposal of the lis in hand are that appellant was appointed as
PST. While serving at GPS Tutial Battangi, Abbottabad, he was
implicated in a case registered U/S-409/34 PPC and accordingly, he
was served with charge sheet and Luqman Ali Khan was appointed as
Inquiry Officer. Consequently, he was awarded major penalty of
reduction in rank on 24.03.2016 against which he filed departmental
appeal on 21.04.2016 which was rejected and thereafter, he filed
Service Appeal No.672/2016. Vide order dated 22.02.2018 of this

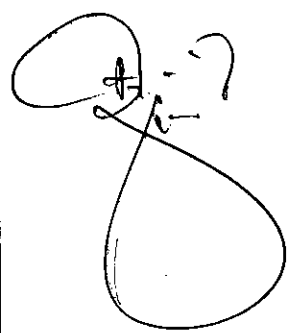
Correction made as per order dated 24.03.2022
passed in Miscellaneous Application No. 304/2022



Tribunal, his appeal was accepted and penalty was set aside. The Department was however, left at liberty to hold de-novo proceedings. In pursuance to judgment of this Tribunal, Dr. Inayat-ur-Rehman Vice Principal GHS No.1 was appointed as Inquiry Officer to conduct de-novo inquiry under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 vide Notification dated 21.03.2018. Charge sheet and statement of allegations were issued to appellant. Inquiry report was submitted and final show cause notice was issued, which was replied. As per recommendation of Inquiry Officer, major penalty of reduction to lower post i.e. from BS-15 to BS-14 was imposed upon him vide order dated 08.06.2018. He filed departmental appeal which was rejected, hence, the present service appeal.

2. We have heard Choudhry Abdu Rauf Chohan Advocate learned counsel for appellant and Kabir Ullah Khattak, learned Additional Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Choudhry Abdur Rauf Chohan Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that impugned order is illegal, wrong, against the service laws and rules being premature. He contended that order of this Tribunal in respect of de-novo proceedings was not complied with according to rules & regulations; that he was not afforded any opportunity of personal hearing. It was further submitted that the Anti-Corruption Department did not find any illegality after proper inquiry and scrutiny of the whole record which is evident from the order of Anti-Corruption



Department, therefore, the entire allegations leveled against the appellant are baseless. It was further submitted that the appellant followed the instructions of the ADO Circle and other high-ups for shifting the text books from GPS Tutial Battangi to GPS Kotlian, Abbottabad and in this regard, statements of responsible Members of PTC are available on file which clearly proves that appellant was falsely implicated in the case and was wrongly proceeded against departmentally for no fault on his part. He, therefore, requested for acceptance of instant service appeal.

4. Conversely, learned AAG submitted that as per report of ASDEO Circle Nathiagali, appellant was carrying text books of Government Primary School Tutial Battangi, Abbottabad in Suzuki No.3837 at Baragali Kasala Road for the purpose of illegal sale and in this regard, FIR No.217 was registered on 08.12.2015 U/S-409/34 PPC at PS Donga Gali, Abbottabad. He submitted that charge sheet and statement of allegations were served upon appellant and proper inquiry was conducted, where-after, he was awarded punishment according to law which does commensurate with the guilt of the appellant.

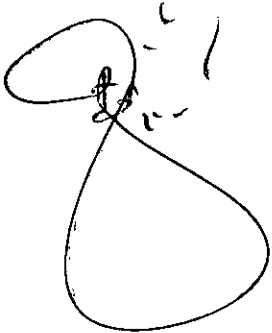
5. From the record it is evident that appellant Muhammad Suleman while posted as PSHT at GPS Tutial Battangi, Circle Nathiagali Abbottabad was allegedly implicated in case FIR No.217 dated 08.12.2015 registered at Police Station Donga Gali U/S 409/34 PPC. Besides the appellant one Javid Akhtar and Daud (both serving teachers) were also implicated in the above-mentioned FIR. The record is totally silent in respect of departmental proceedings against

the other two teachers. The present appellant applied for bail before arrest in the above-mentioned FIR and his petition was allowed by a competent court of Law on 26.02.2016. It is crystal clear from the record that his Service Appeal No. 672/2016 was accepted and Department was held at liberty to hold de-novo proceedings vide judgment of this Tribunal dated 22.02.2018. In pursuance to the judgment of this Tribunal, charge sheet and statement of allegations were issued and inquiry Officer was appointed. The inquiry report is available on file which clearly shows that no evidence was recorded by the Inquiry Officer and he relied upon the inquiry report which was rejected by this Tribunal in the earlier round of litigation. The recommendations of the Inquiry Officer are hereby reproduced for ready reference:

"RECOMMENDATIONS:

On the basis of above findings/facts concluded during conducting enquiry the following recommendations are suggested for favorable consideration.

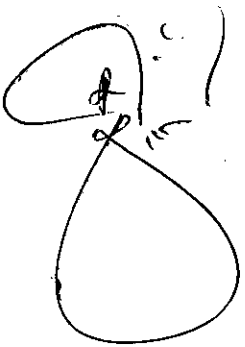
- In the light of reports of ASDEO Circle, previously inquiry report conducted by Mr. Luqman Ali Khan Principal GHSS Nagri Bala Abbottabad, rejection of appeals by competent authorities DEO(M) Abbottabad and Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, the undersigned is of the opinion/view that Major penalty already imposed under Khyber



Pakhtunkhwa Govt: Servants Rules (4) (b) (i), be intact/retain against Mr. Muhammad Suleman SPST and enquiry may be declared as ex-parte vide rules quoted as Annexure-U-II.

- To direct all Heads of Institutions especially primary Schools, with the directions that without prior permission of the competent authority, no Govt: Property can move/shift at any cost. A general circular may please be issued in this regard."

6. From the above, it is evident that despite repeated requests by the appellant, opportunity was not afforded for personal hearing and without submission of reply to the charge sheet, inquiry report was submitted and that too, with the recommendations of earlier inquiry report. Final show cause notice was served upon appellant and a detailed reply was submitted which again was not taken into consideration and no evidence in this regard was collected and same major penalty on the strength of same (old) inquiry report was imposed upon appellant vide order dated 08.06.2018. From the entire record, it is evident that no evidence was recorded by the Inquiry Officer which could show that text books were carrying by the appellant in the Suzuki for the purpose of illegal sale. As there was no case, therefore, the subject inquiry was filed by the Anti-Corruption Establishment Khyber Pakhtunkhwa, Peshawar which report is available on file. Co-employees were not proceeded against departmentally which shows discrimination. Besides members of the PTC produced affidavits which also favor the appellant.



7. In this view of the matter, the instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

(17.01.2022)

19.01.2022



(Salah-ud-Din)

Member (J)

Camp Court, Abbottabad



(Rozina Rehman)

Member (J)

Camp Court, Abbottabad

Correction made as per order dated 29.03.2022
Passed in Miscellaneous Application No. 304/2022

Order

17.01.2022

19.01.2022

This case was fixed for 16.02.2022 for arguments, but on the written request of learned counsel for appellant, case file was requisitioned for today.

Counsel for the appellant present.

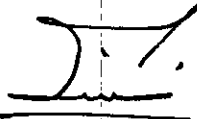
Kabir Ullah Khattak, learned Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our judgment of today of this Tribunal placed on file, the instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

Announced.

17.01.2022

19.01.2022



(Salah-Ud-Din)
Member (J)

Camp Court, Abbottabad



(Rozina Rehman)
Member (J)

Camp Court, Abbottabad

Correction made as per order dated 24-03-2022
Passed in Miscellaneous Application No. 304/2022

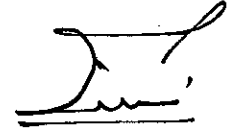
20.12.2021

Appellant alongwith Mr. his counsel present. Mr. Muhammad Riaz Khan Painsdakhel, Asst: AG alongwith Mr. Sohail Ahmad Zeb, Litigation Officer for respondents present.

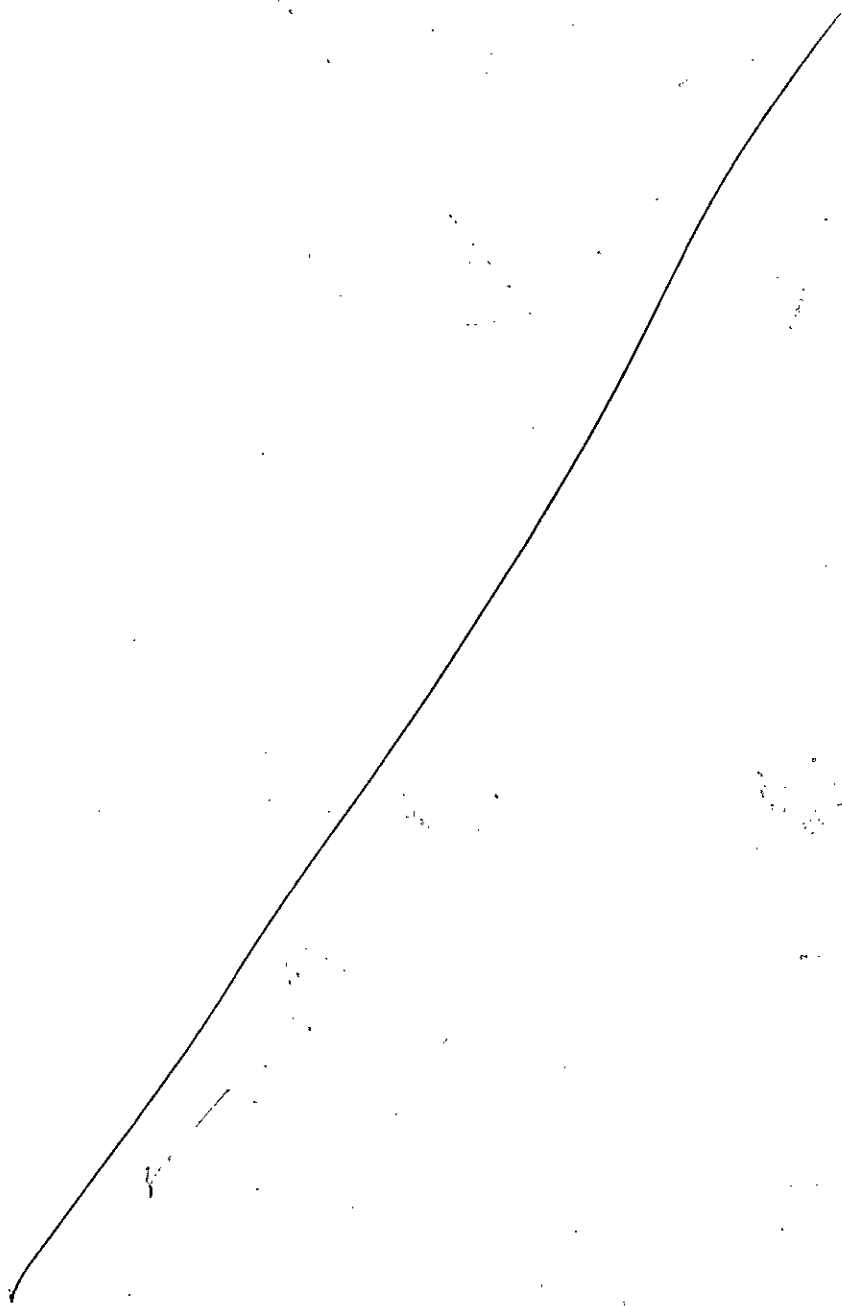
Learned counsel for the appellant sought adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 16.02.2022 before D.B at camp court Abbottabad.



(Mian Muhammad)
Member(E)



(Salah Ud Din)
Member(J)
Camp Court Abbottabad



24.09.2021

Choudhary Abdur Rauf Chohan, Advocate, for the appellant present. Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he is not feeling well today. Adjourned. To come up for arguments before the D.B on 19.11.2021 at Camp Court Abbottabad.



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

19.11.2021

Counsel for appellant present.

Muhammad Rasheed learned Deputy District Attorney alongwith Sohail Ahmad Zeb Litigation Officer for respondents present.

The learned Member (Judicial), feeling not well, is unable to attend the proceedings. Therefore, case is adjourned. To come up on 20.12.2021 before D.B at Camp Court, Abbottabad.



Chairman
Camp Court, A/Abad

20.01.2021

Due to COVID-19, the case is adjourned for the same on 8.02.2021 before D.B.


READER

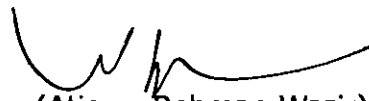
18.02.2021

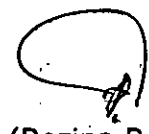
Learned counsel for the appellant present.

Noor Zaman Khattak learned District Attorney for respondents for respondents present.

Learned counsel for the appellant requests for adjournment as he has not prepare the brief.

Adjourned to 20.05.2021 for arguments before D.B at Camp Court, Abbottabad.


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Abbottabad


(Rozina Rehman)
Member (J)
Camp Court, Abbottabad

20/5/21

*Due to COVID 19, case is adjourned
to 24/9/21 for the same.*

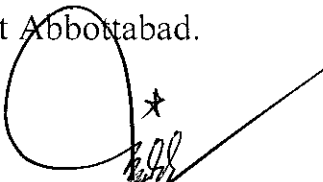
*Atiq
Reader*

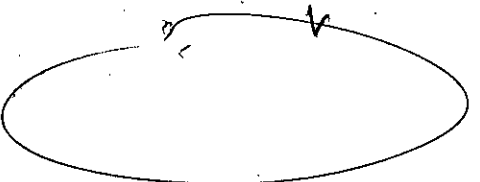
14.09.2020

Appellant is present in person. Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General alongwith Mr. Sohail Ahmad Zeb, Assistant Litigation for respondents present.

Appellant requested for adjournment on the ground that his counsel is indisposed today and cannot attend the Tribunal.

Adjourned to 17.11.2020 for arguments before D.B at camp court Abbottabad.


(Mian Muhammad)
Member(E)

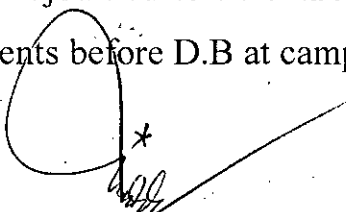

(Muhammad Jamal)
Member
Camp Court A/Abad

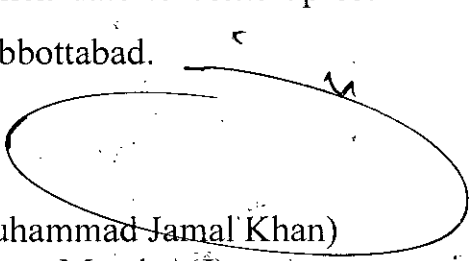
17.11.2020

Appellant is present in person. Mr. Usman Ghani, District Attorney alongwith Mr. Sohail Ahmad Zeb, Assistant Litigation for respondents is present.

Appellant requests for adjournment as his learned counsel is not available today.

Adjourned to 20.01.2021 on which date to come up for arguments before D.B at camp court Abbottabad.


(Mian Muhammad)
Member(E)


(Muhammad Jamal Khan)
Member(J)
Camp Court Abbottabad



Due to covid ,19 case to come up for the same on / /
at camp court abbottabad.


Reader

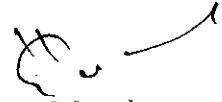
Due to summer vacation case to come up for the same on
18 15 20 at camp court abbottabad.


Reader

18.11.2019


Appellant in person present. Mr. Usman Ghani, District Attorney alongwith Mr. Sohail Ahmad Zeb, Assistant for respondents present. Appellant submitted rejoinder which is placed on file. A copy of the same was also handed over to the representative of the respondents. Appellant is directed to submit member copy of the instant appeal. Adjourn. To come up for arguments on 19.12.2019 before D.B at Camp Court, Abbottabad.



Member


Member
Camp Court Abbottabad

19.12.2019

Appellant in person and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Sohail Ahmed Zeb, Litigation Officer for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 18.02.2020 for arguments before D.B at Camp Court Abbottabad.


(Hussain Shah)
Member
Camp Court Abbottabad


(M. Amin Khan Kundi)
Member
Camp Court Abbottabad

17.09.2019

Counsel for the petitioner and Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mr. Saqib Shehzad, Assistant (Litigation) for the respondents present. Representative of the department submitted joint para-wise comments on behalf of respondents No. 1 to 3 which is placed on record. Case to come for rejoinder and arguments on 18.11.2019 before D.B at Camp Court Abbottabad.



(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

18.11.2019


Appellant in person present. Mr. Usman Ghani, District Attorney for respondents present. Appellant submitted rejoinder which is placed on file. A copy of the same was also handed over to the representative of the respondents. Appellant is directed to submit member copy of the instant appeal. Adjourn. To come up for arguments on 19.12.2019 before S.B at Camp Court, Abbottabad.

Member

Member
Camp Court Abbottabad


17.06.2019

None for the appellant present. Mr. Muhammad Bilal, DDA alongwith Mr. Sohail Ahmad Zeb, Assistant Litigation for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 09.07.2019 before S.B at camp court Abbottabad.


(Ahmad Hassan)
Member
Camp Court A/Abad

09.07.2019

None present on behalf of the appellant. Mr. Sohail Ahmad Zeb, Assistant alongwith Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for further adjournment. Adjourned to 16.09.2019 for written reply/comments before S.B at Camp Court Abbottabad. Notice be also issued to appellant and his counsel for attendance for the date fixed.



(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

21.03.2019

Appellant Muhammad Suleman in person present. Preliminary arguments heard. It was contended by the appellant that he was imposed major penalty of reduction in rank from the post of Primary School Head Teacher to the post of Senior Primary School Teacher. The appellant filed service appeal which was partially accepted vide judgment dated 22.02.2018 and the respondent-department was directed to conduct de-novo inquiry. It was further contended that respondent-department has neither conducted proper inquiry as per direction of this Tribunal judgment nor provided opportunity of personal hearing and defence and he was again imposed major penalty of reduction from the post of Primary School Head Teacher to the post of Senior Primary School Teacher vide order dated 08.06.2018. The appellant filed departmental appeal on 09.06.2018 which was rejected on 30.08.2018 and received to the appellant on 26.09.2018 hence, the present service appeal. It was further contended that since the respondent-department has not conducted de-novo inquiry as per direction of this Tribunal and rule therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the appellant need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 17.06.2019 before S.B at Camp Court Abbottabad.

Appellant  admitted
Security & Process Fee


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1332/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/10/2018	<p>The appeal of Mr. Muhammad Suleman received today by post may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 23/10/18</p>
2-	22-11-2018	<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>28-01-2019</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
	18.01.2019	<p>Appellant absent. Adjourn. To come up preliminary hearing on 21.03.2019 before S.B. at Camp Court Abbottabad.</p> <p style="text-align: right;"><i>[Signature]</i> Member Camp Court A/Abad</p>

BEFORE THE KHYBER PAKHTUKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1332/2018

Muhammad Suleman S/o GhakKar Khan R/O Nagri Bala, at Present G.P.S
Tatreela, Tehsil & District, Abbottabad.

...APPELLANT

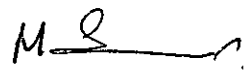
V E R S U S

Government of Khyber Pakhtunkhwa Elementary & Secondary Education
Peshawar through Secretary & Two others

...RESPONDENTS

SERVICE APPEAL
INDEX

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3.	Copy of the judgment of ASJ-VII,	"B"	11-12
4.	Copies of relevant documents	"C"	13-21
6.	Copy of Judgment dated 22/02/2018	"D"	22-24
7.	Copies of notification alongwith charge sheet	"E"	25-28
8.	Copy of inquiry report	"F"	29-32
9.	Copy of application	"G"	33
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...APPELLANT
(IN PERSON)

BEFORE THE KHYBER PAKHTUKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 1332 /2018

Muhammad Suleman S/o GhakKar Khan R/O Nagri Bala, at Present
G.P.S Tatreela, Tehsil & District, Abbottabad.

VERSUS

...APPELLANT...
Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1553

Dated 23/10/2018

1. Government of Khyber Pakhtunkhwa Elementary & Secondary Education Peshawar through Secretary.
2. Director Elementary & Secondary Education KPK, Peshawar
3. District Education Officer (Male) Abbottabad.

...RESPONDENTS

APPEAL U/S 4 OF THE NWFP SERVICE TRIBUNAL ACT,1974 AGAINST THE MAJOR PENALTY OF REDUCTION TO LOWER POST OF P.S.T (BPS-15 TO BPS-14) UNDER OFFICE ORDER NO. 6910-14 DATED 08/06/2018 PASSED BY RESPONDENT NO.3, LATTER ON RESPONDENT NO.2, ALSO REJECTED THE DEPARTMENTAL APPEAL OF APPELLANT UNDER OFFICE ORDER NO. 3776 DATED 30-08-2018. THIS ACT OF THE RESPONDENTS IS PREMATURE, ILLEGAL, WITHOUT CONDUCTING REGULAR INQUIRY, AGAINST THE SERVICE RULES AND LAWS WITHOUT SUFFICIENT REASONS AND ON FLIMSY GROUNDS WHICH IS LIABLE TO BE SET ASIDE THROUGHOUT COST.

Filed to-day
Registrar
23/10/18

PRAYER:-

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, IMPUGNED ORDERS NO. 6910-14 DATED 08/06/2018 PASSED BY RESPONDENT NO.3, AND ORDER NO. 3776 DATED 30-08-2018 BY RESPONDENT NO.2, MAY GRACIOUSLY BE SET ASIDE AND RESPONDENTS BE DIRECTED TO WITHDRAW THE IMPUGNED OFFICE ORDERS OF MAJOR PENALTY IMPOSED UPON APPELLANT OF REDUCTION TO LOWER POST OF P.S.T, BPS-15 TO BPS-14 IN THE BEST INTEREST OF NATURAL JUSTICE.

Respectfully Sheweth,

THE FACT LEADING RISE TO THE PRESENT APPEAL ARE AS UNDER:-

1. That, the Appellant was appointed as P.S.T teacher in Education Department on 11.11.1989.
2. That, the appellant performed his duty deliberately and devotedly to the best of his abilities and to the entire satisfaction of superior.
3. That, appellant while serving at GPS Tutial Battangi, Abbottabad local police station lodged an bogus FIR against the appellant under Section 409/34 PPC that appellant is illegally involved in carrying of text books of Govt Primary School Tutial Battangi, Abbottbad in Suzuki

No. CL-3837 at Bara Gali Kasala road for the purpose of illegal sale. *(Copies of FIR is attached as annexure "A")*.

4. That, the appellant moved an application for pre-arrest Bail in the Court of ASJ-VII, Abbottabad, the allegation leveled against the appellant are malafide and baseless, the honourable court confirmed the B.B.A of the appellant. *(Copy of the judgment of ASJ-VII, is attached as Annexure "B")*

5. That, on 09.12.2015, respondent No.3, issued charge sheet against the appellant alongwith two other companions on the same date Respondent No. 3, appointed an inquiry officer namely Luqman Ali Khan for conducting departmental inquiry against appellant and other companions.

6. That, on 08.01.2016, appellant and his other companions submitted an application in light of Affidavit given by the chairman of PTC alongwith a resolution passed in the meeting of PTC members, to the SSP investigation, Abbottabad for rejection of fake and bogus FIR. *(Copies of relevant documents are annexed as annexure "C")*

7. That, on 21.04.2016, appellant filed departmental representation/appeal before respondent No.2, which was rejected and feeling aggrieved, appellant filed service appeal No. 672/2016, before this Hon'ble Tribunal was accepted and the major penalty was set-

aside and Hon'ble Tribunal issued direction to respondents for holding Denovo proceedings within the period of 90 days. *(Copy of Judgment dated 22/02/2018 is attached as annexure "D")*.

8. That, on 21/03/2018, respondent No.3 issued notification for Denovo Inquiry in compliance with the Judgment of this Hon'ble Tribunal. **(Copies of notification alongwith charge sheet are annexed as annexure "E")**
9. That, on 16/04/2018, appellant submitted an application before the respondent No.3 for reinstatement of appellant at his original position at which, respondent No.3, issued order on 21/03/2018 for reinstatement of appellant at his original position.
10. That, the inquiry officer neither provided any opportunity to appellant for submitting reply nor for defense and inquiry officer also had not visited the school and submitted so-called inquiry report on 28/04/2018. **(Copy of inquiry report is annexed as annexure "F")**
11. That, on 03/05/2018, appellant submitted an application for the purpose of reopening of the inquiry

which is still pending before respondent No.3. **(Copy of application is annexed as annexure "G")**

12. That, on 07/05/2018, respondent No.3 issued a Show Cause Notice to appellant and appellant submitted his reply on 18/05/2018. **(Copies of show cause notice and written reply are annexed as annexure "H")**

13. That, on 24/05/2018, Deputy District Education Officer, Abbottabad, issued a letter to appellant for personal hearing and appellant appeared before the said officer on 31/05/2018 but no proper opportunity of personal hearing was given to the appellant. **(Copies of order and written statement of personal hearing are annexed as annexure "I")**

14. That, on 08/06/2018, once again respondent No.3 issued order of major penalty of reduction to lower post i.e. BPS-15 to BP-14, against the appellant. **(Copy of impugned order dated 08/06/2018 is annexed as annexure "J")**

15. That, on 09/06/2018, appellant filed a departmental appeal against the impugned order before respondent No.2 which was rejected by respondent No.2 and informed respondent No.3 in this regard who further informed the Sub Divisional Education Officer Abbottabad on 08/09/2018 vide letter No. 9944 and the appellant was informed about the rejection of departmental appeal by the

SDEO (Male) Abbottabad on 24/09/2018. (Copies of departmental appeal ,rejection order and information letter are annexed as annexure "K")

16. Thus, the appellant has come to this Honourable Tribunal within time and the impugned order is liable to be set-aside, inter-alia on the following grounds:-

GROUND S:-

- a. That, the impugned order is malafide, discriminatory and against the service rules and laws, hence liable to be set aside.
- b. That, the impugned order is premature, void, illegal, without lawful authority, against the principles of natural justice, an illegal exercise of power and it has been issued without conducting regular inquiry.
- c. That, the inquiry officer has not conducted the Denovo Inquiry according to the Rules and Regulations and he has no right to report the matter ex-parte.
- d. That, the inquiry officer did not provide the opportunity of personal hearing and defense to the appellant and also not informed the appellant for submitting the reply of charge sheet.
- e. That, the impugned order is liable to be set-aside because the respondent No.3 issued the impugned

order in haste and did not made proper scrutiny of the record available on the file.

- f. That, the Anti Corruption Department, after inquiry and proper scrutiny of the whole record, did not found any illegality and thus consigned the file to record room. (**Copy of the order of Anti corruption department is annexed as annexure "L"**)
- g. That, impugned order is wholly without jurisdiction and called for interference by this honourable court.
- h. That, the impugned order has been passed premature and allegations leveled against the appellant are baseless and nothing was recovered from the appellant and honourable court also confirmed the pre-arrest bail of the appellant and appellant was found innocent.
- i. That, the performance of the appellant is self speaking as due to his better and satisfactory performance he was up-graded in BPS-15.
- j. That, the appellant followed the instructions of the ADO Circle, Ishtiaq Khan and other high ups authorities for shifting the text books from GPS Tutial Battangi to GPS Kotlian, Abbottabad, the evidence of responsible PTC Members are available in court file. Hence the appellant is innocent and falsely charged in above mentioned

case just for personal grudge, so that the appellant may suffer from financial loss and mental torture.

- k. That, the inquiry officer conducted the Denovo inquiry without connecting previous accused and submitted report against the appellant, which is totally bogus and liable to be set-aside. **(Copies of written statements are annexed as annexure "M")**
- l. That, the impugned order is totally illegal, against the FR-29.
- m. That, the impugned order is time barred and issued after the stipulated period of 90 days, settled by this Hon'ble Tribunal.
- n. That, the appellant was not provided proper opportunity of personal hearing under E&D Rules 2011.
- o. That, appellant seeks permission of this Honorable Tribunal to agitate additional grounds at the time of hearing of this appeal.
- p. That, the instant appeal is well within time.

In the circumstances, It is, therefore, humbly prayed that, on acceptance of the instant service Appeal the impugned orders no. 6910-14 dated 08/06/2018 passed by respondent no.3, and order No. 3776 dated 30-08-2018 by respondent no.2, may

graciously be set aside and respondents be directed to withdraw the impugned office orders of major penalty imposed upon appellant of reduction to lower post of P.S.T, BPS-15 to bps-14 in the best interest of natural justice. and appellant may please be given his original post of PST BPS-15 with all back benefits OR any other relief which this honourable tribunal deems fit and proper in the best interest of justice.

ME
...APPELLANT
(IN PERSON)

Dated:-22/10/2018

AFFIDAVIT:-

Muhammad Suleman S/o GhakKar Khan R/O Nagri Bala, at Present G.P.S Tatreela, Tehsil & District, Abbottabad...**appellant**, do hereby declare that the contents of instant **Service Appeal** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.

ME
DEPONENT

Dated:-22/10/2018

3

Muhammad Daud etc Vs State

محمد داؤد علی دیگر کے خلاف ریاست
لاہور سندھ ہائی کورٹ لاہور

11

ANNEXURE
B



IN THE COURT OF RIAZ AHMAD,
ADDITIONAL SESSIONS JUDGE-VII, ABBOTTABAD.

B.B.A No. 351/4-B of 2015

Muhammad Daud etc --Vs-- State

EX#3
1.2.2016

Accused/petitioners Muhammad Daud and Muhammad Suleman on ad-interim pre-arrest bail alongwith counsel present. Dy.PP for the state present.

(2) The above named accused / petitioners seeks their pre-arrest bail in case FIR No. 217 dated 08.12.2015 under section 409/34 PPC was registered at PS Donga Gali.

(3) Learned counsel for accused/ petitioners argued that the accused/ petitioners are falsely charged in the instant case by the local police with the collusion of co-accused Rashid and Javed Akhtar. He further argued that the accused/ petitioners were not present on the spot and were wrongly involved in the present case.

(4). Learned Dy. PP for the state argued that the accused/petitioners are directly charged in the FIR and no malafide has been point out by the learned counsel for the accused/petitioners on the part of prosecution.

(5). Arguments heard and record perused.

(6). After hearing arguments of learned counsel for the accused/ petitioners and Dy.PP for state, this court is of the opinion that admittedly the accused/ petitioners have been implicated in the present case by the local police on the statements of co-accused namely Rashid and Javed Akhtar. Tentative assessment of record available on file reveals that neither any recovery has been affected from the accused/ petitioners nor any other criminating material has been recovered them, which could prima facie connect the accused/ petitioners with the commission of offence. There is nothing on record which could suggest that accused/ petitioners remained in such like cases and as case of the accused/ petitioner falls within the ambit of further inquiry. Moreover, learned Dy.PP for state stated at the bar that the offence u/s 409 PPC in the instant case falls within the jurisdiction of anti-corruption department and in this regard the local police were also directed to shift the instant case to Anti Corruption Police Station but they (local police) failed to comply with their directions, which clearly shows malafide on the part of local police. Furthermore, co-accused namely Rashid and Javed Akhtar, having similar role, have already been

Of...
14.01.16

مقدمہ نمبر

351/4B

رہنما

08/12/15

فیصلہ اپیشی

26/02/16

26/02/16

Handwritten signature and initials, including 'NIL' and a large signature.

Attested to be a True Copy

27 FEB 2016

EXAMINER
District & Sessions Judge,
Abbottabad

Handwritten signature

ATTESTED

Sardar Muhammad Akmal
B.A. LL.B Advocate
DISTRICT COURT ABBOTTABAD

12

Muhammad Daud etc Vs State

Or-6(cont) released on bail by my predecessor vide order dated 15/12/2015.

So, in these circumstances sending the accused/ petitioners, who are school teachers, behind the bar would serve no useful purpose. Therefore, the accused/ petitioners are held entitled to the extraordinary concession of pre-arrest bail.

Hence, in view of the above, pre-arrest bail petition of the accused/ petitioners is accepted and ad-interim pre-arrest bail already extended to the accused/petitioner by this court is hereby confirmed on the existing bail bonds. Record be returned. File be consigned to record room after completion and compilation.

Announced
26.02.2016

Attested to be a True Copy

27 FEB 2016

EXAMINER
District & Sessions Judge,
Abbottabad

(Riaz Ahmad)
Additional Sessions Judge-VII,
Abbottabad.

26/02/016

4011 Date 27/02/16

No of Presentation Application _____

No of Words _____

Copying Fee _____

Urgent Fee _____

Total _____

Date of Copyies _____

Date of Preparation of Copy 27/02/16

Date of Delivery of Copy 27/02/16

VERIFIED



دو قطعہ اسٹامپ ہائیلیٹ $\frac{1}{2}$ ہر ایک مالیت میں مبلغ 50 روپے
 بقدرہ عدالت 217 سو فیصد $\frac{1}{2}$ ہر ایک جرم $\frac{409}{34}$ ہر ایک تصانیف ڈونگا مٹلی۔

بیان حلفی

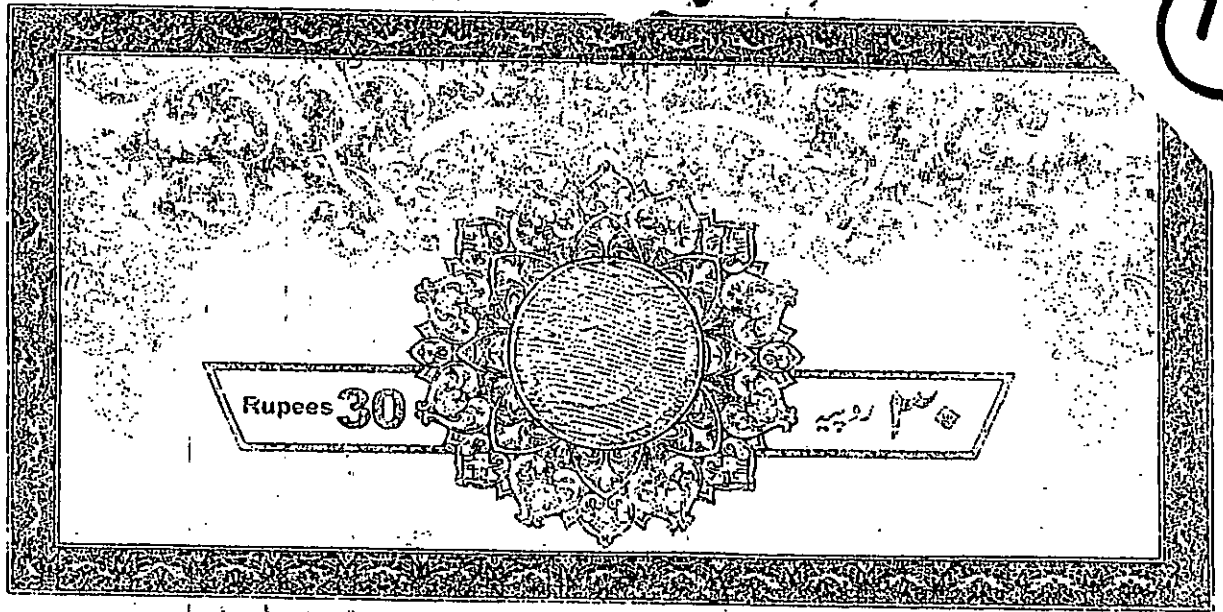
مکہ تاج گہ و گہ محمد حسن قوم ٹرڈرانل سکندری عدالتی پیشگی نوری بابہ
 ڈاکٹر خانہ سمندر کوہ تحصیل و ضلع ایبٹ آباد حلفاً بیان
 میں کہ میں عمرہ و دو سال کے پیرنٹس اینڈ پیپر
 کیونٹی گورنمنٹ پرائمری سکول تھانہ ٹنگ کی عہدہ
 کیٹی کا چیئر مین ہوں۔ کیٹی کو 1997 کے نام سے موسم
 کیا جاتا ہے۔ کیٹی کو سکول کے بچوں اور اساتذہ کے
 بنائے ہوئے مسائل سکول کی سرٹی اور فعال رکھنے کیلئے
 فنڈ ٹاٹ کے تصرف اور دیگر تقاضا مسائل کو حل
 کرنے کے لئے اختیار حاصل ہیں۔ چونکہ عمرہ
 سکول کے ذریعے میں سکول کی عمارت گرنے کی وجہ
 سے کیٹی کی وصالت سے سکول کیلئے دوسری بلڈ بینگ
 کرایہ پر کیٹی بچوں کی پڑھائی جاری رکھی گئی تھی۔ چونکہ
 سکول میں سکول کے گرنے سے بستی بنا دیں، عمارت کی
 تشریحاً، پیرانے ڈیسک، پیچ ٹاٹ اور وافر مقدار



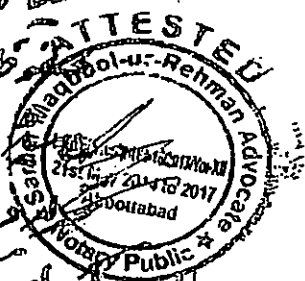
3-4/16

ATTESTED

Attested
 Nazim Maqbool - ar-Rehman Advocate
 Rawalpindi



میں تدریسی کتب خانے جو دوسرے سکولوں کو بھی فراہم کئے
 جانے کیلئے اس سکول میں بھی کچھ بڑی تھیں تو مندرجہ
 اور شاہ شہرہ سکول کی عمارت سے گورنمنٹ پرائمری
 سکول کٹھیاں داغلی کھار میں منتقل کرنے کیلئے قدرہ
 ۲۰۱۵ کو جہاں تھیں نے خصوصی اجلاس طلب کر کے فیصلہ
 کیا تھا کہ یہ جملہ سامان کٹھیاں سکول میں منتقل کر کے
 محفوظ رکھا جائے جو جہاں کے قراہ داد منظور ہوئے
 جہاں کے سکول میں جو جہاں کا سکول بھی ہے
 اور اس تھیں میں پہلی کٹیپ میں کتابوں کی ۱۰۰
 ۱۰۰ کی صورتوں کی ۳۵۳۶ میں قریباً ۱۰۰
 وہ اس وقت خانہ کتبا میں موجود ہے
 کٹھیاں کے ٹیچر جہاں اور سرکار خانہ کتبا
 کے کو بل کر سکولوں میں لوڈ شہرہ کتبا میں کٹھیاں
 سکول میں محفوظ رکھنے کی ہدایت کر چکا ہے۔
 میں اس خاصہ سازش کے تحت طور پر
 سکول کی کو روک کر غیر قانونی طور پر جہاں کے
 بالاج کر کے ڈرائیور اور جہاں کے
 کو جہاں کے طور پر جہاں کے قراہ داد میں



ATTESTED

15

4/5

بند حوالہ سے کرومیا جس کے اس اقدام کو منسوخ
کی پراسیکیوشن نے بس غلط قرار دیکر اسکے پیرے
کو غیر قانونی قرار دیا ہے۔ جو ماسٹری و وائڈ
اور عدلیہ بیان کو بھی غیر قانونی طور پر مملکت
کھا گیا ہے۔ بیان حلف سند "تقریر ہے"

الحق قومی 08
2016

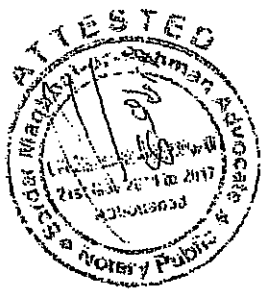
13101-0957565-7

تاج قمر و حسین قوم کورال سندہ علی بنی
نگری باہ

تاج قمر

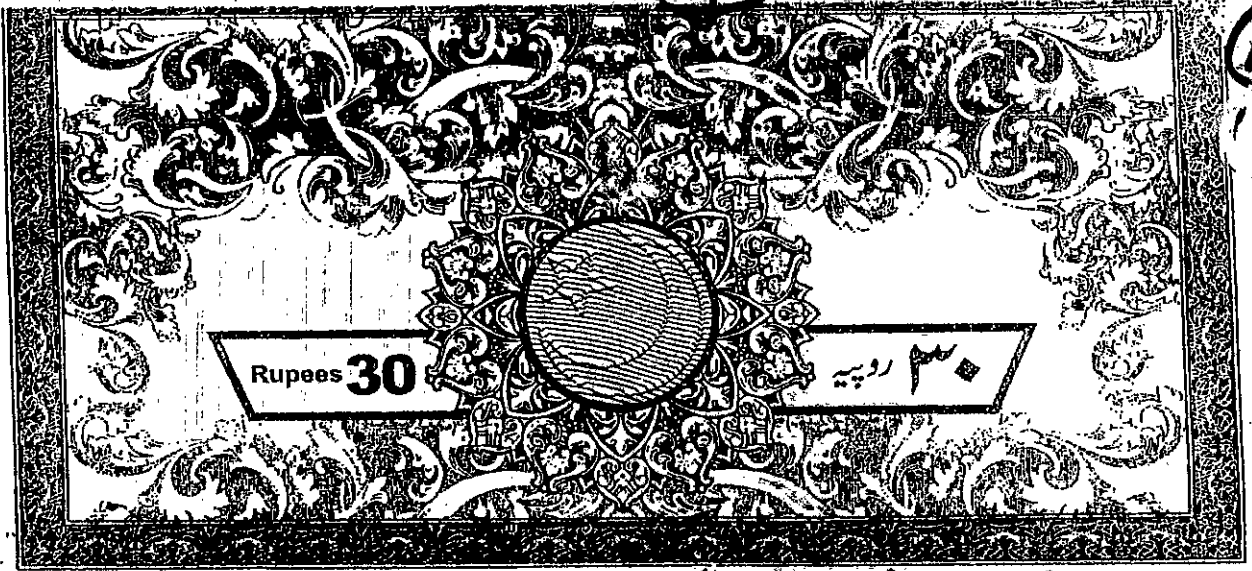
13101-0957565-7
تاج قمر

Name: ABDUL SHAKOOR
Registration # 60 Dated: 04-11-1998
Nature of License: - Petition Writer Grade I
Place of Business: - Abbottabad
My License expires on: 31-08-2016
Serial # of number: 6
Date: 08-01-2016
Cost received Rs: 2000



216 SHAKOOR
STAMP VENDOR
GATEWAY, Abbottabad 2116

STAMP



دو قطعہ سٹاپ مائینی 30/2 کل مالیتی مبلغ - 106 روپے
جمعہ 17 مورخہ 12/2015 08 جرم 409/34 بمقام عدالت ڈوننگا گل
بیان حلفی

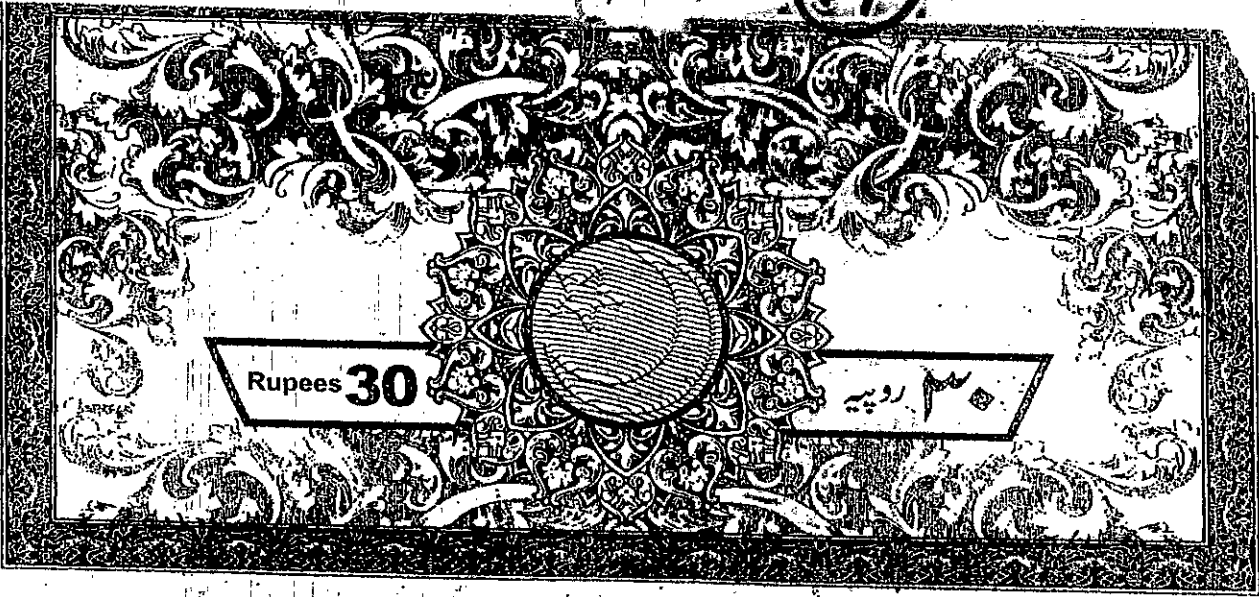
مذکورہ سلیمان ولد ننگہ خان قوم گروہراں سکنتہ سید گروہراں گلشن بالا
تھانہ ڈوننگا گل تحصیل و ضلع ایبٹ آباد حلفاً یہ بیان کرتا ہوں کہ
میں عرصہ قریب 6 سال سے گورنمنٹ پرائمری سکول تتیال جنگل میں
مدرسہ تعلیمات میں کورس کر رہا ہوں۔ دو سال سے بطور سید ماسٹر
تعمیرات میں کورس کر رہا ہوں۔ دو سال سے رہا ہوں۔ چونکہ مورخہ 12
2015 کے زلزلے میں سکول کی سرکاری عمارت گر کر
مائل کار پور جنگل تھی۔ جس کی بنیاد پر سکول کیلئے قریب ہی ایک
عمارت مبلغ پندرہ ہزار روپے مالانہ کرایہ پر حاصل کی گئی جو حرف
تین گروہرات پر مشتمل تھی۔ جن میں حرف بچوں کی کلاس سہ
ہوا سکتی تھیں۔ اوپر سامان سرکاری از قلم پرانی کتب خانے
جو 22 بورڈوں میں بیک کر رہا تھی۔ اور پرائمری ناچارہ پیش
ڈیسک۔ گروہراتی عمارت کی کچھ کلاسیاں جسکی چادر میں وٹیر
کو اس گروہراتی عمارت سے محفوظ جگہ پر منتقل کیا جانا مقصد
تھا۔ جس کیلئے سکول کی جہاز نے مورخہ 12/2015 کو ایک خصوصی
اجلاس طلب کر کے اس میں سامان منتقلی کے عنوان
پر ایک ایجنڈا زیر بحث لایا کہ قرار داد منظور کی کہ متاثرہ
گورنمنٹ پرائمری سکول تتیال جنگل سے اسکی عمارت



7/10/16

ATTESTED
M.A. LL.B AGVO
DISTRICT COURT ABBOTTABAD

ATTESTED



کارآمد لکڑے۔ ٹوٹے پھوٹے خال توڑ لیسکے۔ بیچ اور چادر میں وغیرہ اور
 سکول میں بڑی کافی مقدار میں پیرانی کتابیں۔ گورنمنٹ پرائمری
 سکول کٹلیاں پنچاگرہ جہاں کٹلیاں میں بحفاظت رکھنے کیلئے شفٹ
 کیجائیں۔ جو پرائمری منظور کردہ قرار دیا جے ملتے ہی مورچہ 2015 کو
 میں نے سہ روز کی کرایہ پر منگوا کر اس میں 22 بوریاں پیرانی کتابیں۔
 کٹلیاں سکول پنچاگرہ کیلئے جاوید اختر پٹیچر صاحب کو ملے کر کتابیں
 3837 باب جس کا ڈرائیور راشد خان ولد آزاد خان سکھ
 رہ تھا۔ میں لوڈ کروا کر اسکے ساتھ ماسٹر جاوید اختر کو بھیجا کر
 کٹلیاں روانہ کیا۔ جو تقریباً ایک بجے جے پتہ چلا کہ
 پیرانی کتابوں والی 22 بوریاں جے سہ روز کی کے پولیس نے تھانہ چڑھا
 گئی میں بندہ کروں میں۔ اور جاوید اختر پٹیچر اور راشد خان ڈرائیور
 کو بھی پولیس نے حوالہ سے میں ڈال دیا ہے۔ اور پولیس نے
 میرے اور ماسٹر محمد واؤڈ کو بھی ملزم بنا دیا ہے۔ جو میں نے
 اور ماسٹر محمد واؤڈ صاحب نے مورچہ 2015 کو اپنی ضمانت قبل از
 گرفتاری کیلئے عدالت جناب سیشن جے صاحب ایسٹ آباد
 میں اپنے وکیل کی وساطت سے درخواست دی ہے۔ جو
 نقل FIR سے پتہ چلا کہ عدالت کو وہ فی الحال پیرانی ماسٹر جاوید
 کے بیان کو الٹ لکھ کر عدالت کے سامنے طور پر چھوٹی اور من گھڑی
 FIR درج کر دی۔ جو سراسر جھوٹی ہے۔ اور جس ماسٹر محمد واؤڈ



ATTESTED

ولد سردار کمال خان قوم کھڑاں سکھ گلی سنگھ گلی جس کی بیوی
 سماتہ زبیرہ داؤد جس کو علی انسر ولد کمال خان
 قوم کھڑاں سکھ گلی سنگھ نے مورخہ 13/01/1999 کو قتل کر دیا تھا
 اور محمد داؤد کی رپورٹ اور ویڈیو پر پریسڈنٹ علی
 مقدمہ عدالت 134 مورخہ 13/01/1999 جرم 302/34 عدالت ڈونگا
 میں درج رجسٹر ہو کر یہ دو ملزمان علی انسر اور خان انسر
 پولیس نے گرفتار کر کے جیل بھجوا دیے جن میں سے خان انسر
 پولیس میں ڈیپوٹیشن سے اور عدالت سے بری ہو چکا ہے
 جبکہ علی انسر عدالت سے حاضر ضمانت پر ہے۔ ان
 دونوں نے پولیس حوالدار نور علی چوکی پارٹنر گلی کو خبر
 کر داؤد کو مقدمہ میں پیشانے کیلئے جھوٹا اور خود ساختہ
 کہانی پر مبنی مقدمہ درج کروایا۔ اور اس پر غیر قانونی طور
 پر مقدمہ درج کیا گیا۔ کیونکہ عدالت کورہ محمد انور نے کو کتاب
 کا محفوظ تھا۔ نہ اسے کسی حفاظت نے کتابوں کے خوردبرد
 جانے کی رپورٹ کی۔ نہ ہی جاوید اختر نے ان کتابوں
 کی خریداری کا اہمے کیا۔ بلکہ عدالت کورہ محمد انور علی
 خود ساختہ کہانی بنا کر اپنی طرف سے جھوٹا مقدمہ
 درج کر دیا۔ جو اس پر جھوٹا اور خود ساختہ کہانی
 پر مبنی ہے۔ بیان حلفی سندھ قریب ہے۔

51
 رقم 246

3-4225067-13101

محمد سلیمان ولد گنگوٹ خان قوم کھڑاں سکھ گلی سنگھ گلی
 نگری بالا ڈاک خانہ سندھ
 تحصیل و ضلع ایبٹ آباد

Name: ABDUL SHAKOOR
 Registration # 58 Dated 04-11-1998
 Nature of License: Petition Writer Grade Ist.
 Place of Business: Abbottabad
 My License expires on: 01-08-2018
 Serial # of new license: 4



M. ISMAIL SAGHI
 Stamp Vendor No. 119
 Kotichery Abbottabad

30/12
 09-01-16
 2120

قرارداد نو عمر

اجلاس بی ٹی سی پی ایس میں تیناں ٹنگی
 (Earthquake Damage) سکول متاثر نزلہ
 آج مورخہ 20 نومبر 2015 کو بی ٹی سی پی ایس
 تیناں ٹنگی میں منعقد ہوا
 صدارت میں اجلاس کی صدارت جمہوری بی ٹی سی تانہ محمد نے کی
 آغاز میں اجلاس کی کارروائی سے آغاز تلاوت کلام پاک سے ہوا
 اجلاس میں تمام ممبران بی ٹی سی اور بچوں کے والدین نے شرکت
 کی شریک اور اجلاس کو صیانت کیا گیا حالہ و نزلہ کا دورہ کیا گیا اور
 سکول تیناں ٹنگی میں ایجنڈے کے مطابق بی ٹی سی کے بچوں کی تعلیم
 سے متاثر ہوئے ہیں اور ان کے تعلیمی مسائل کو حل کرنے کے لیے کوئی دوسری قلم تلافی کرنے
 تمام ممبران اور والدین نے وعدہ کیا کہ اس مسئلہ کو حل کرنا ہے
 تک پہنچائیں گے اور نئے بلڈنگ بنائیں گے
 اس کے ساتھ ہی اجلاس ختم ہوا

- | سیریل نمبر | نام | تعداد |
|------------|-----------------|-------|
| 1 | جمہوری بی ٹی سی | 1 |
| 2 | جمہوری بی ٹی سی | 2 |
| 3 | جمہوری بی ٹی سی | 3 |
| 4 | جمہوری بی ٹی سی | 4 |
| 5 | جمہوری بی ٹی سی | 5 |
| 6 | جمہوری بی ٹی سی | 6 |
- CHAIRMAN P.T.C. GPS Tattal Battangi Abbottabad
- Attestation
- Sardar Muhammad Akina
 M.A. LL.B. ADVOCATE
 DISTRICT COURT ABBOTTABAD

ATTES

قرار داد ماہ دسمبر

اجلاس P.T.C. ٹورنٹ میں ایگزیکٹو سکول شمالی ہنگری
ریجنڈا سوامان شفٹنگ
آج مورخہ 5 دسمبر 2015 کو پٹی میں P.S. جی
شمال ہنگری کا اجلاس زیر صدارت چیئر مین P.T.C.
تاج محمد شفیع ہوا

آغاز اجلاس کی کارروائی کا آغاز تلاوت کلام پاک سے
ہوا۔ اجلاس میں پی ٹی سی ممبران کونسل اور
شاف نے شرکت کی۔ اجلاس میں بتایا گیا کہ یوم
شفٹنگ سکول اور کراچی پر ایسے گئے مکان میں جگہ
نا کافی ہونے کی صورت میں پیرانا ساعان کمی سرکاری
پلٹنگ میں شفٹ کیا جائے۔ لہذا اجلاس میں پی
ایا گیا کہ اس کے لیے حوزوں جگہ گاؤں کسان
P.S. کے کھلیاں ہے۔
اس سلسلے میں جملہ ساعان جو ضرورت سے
زیادہ ہے اور حوزوں کی تدریسی عمل
میں رکاوٹ بنتا ہے اس سبب کو شفٹ
کیا جائے

اس میں ناکارہ کتب پرانے ٹوٹے
یوٹے ڈیسک بیچ اور پلٹنگ کی چند
عمارتی بلڈیناں اور عین چادریں شامل ہیں۔
لہذا پی ٹی سی اراکین اور علم سٹاف اس
بات پر متفق ہیں کہ پلٹاز جملہ ضروری
ساعان کو شفٹ کیا جائے

اس کے علاوہ کارروائی اختتام پزیر ہوئی

P.T.O

Attested

Attest
M.A. L.L.B. & VOCAL
DISTRICT COURT ABBOTABAD

ATTESTED

تاج محمد
CHAIRMAN P.T.C.
G.P.S. Tattal Battangi
Abbottabad.

PSAT
GPS
Tattal Battangi

- | سیریل نمبر | نام | پتہ |
|------------|--------------------------|-----------|
| 1- | تاج محمد | چیمبر لین |
| 2- | محمد سلیمان | سیکرٹری |
| 3- | محمد شعیب | شعبہ |
| 4- | سلمان خان | مطبخ |
| 5- | آصف پیرس نظام | ممبر |
| 6- | محمد یاسر بونو کونسلر | ممبر |
| 7- | سرور محمد انور نائب ناظم | ممبر |

Sardar Muhammad Yasir
North Council
Village Council Nagri Bala
Tahsil & Distt. Abbottabad

[Handwritten Signature]

17-5A

36-R.P
8.1.16

21

P.P. 409/34

خدمت جناب SSP صاحب الائنسیشن ایسٹ آباد

For proper action
and report back.

درخواست برادری انٹوئری وغیرہ تیارانہ تفتیشی مقصد
D.S.P. Galiyat

Personal and Verbal report

Superintendent of Police
Circle Galiyat
12-1-16

گزارش جبکہ مقدم عدالت 217 مورخہ 8/12/15 بمقام P.P. 409/34

تھانہ ڈومنگا علی ایسٹ آباد درج 7 رجسٹر ہو کر زیر تفتیش مقامی پولیس تھانہ
مذکورہ ہے۔ مقدمہ جو کہ ذاتی ریختن ہونے اور علیحدگی کا احساس ہے۔
ایک مقدمہ عنوان میں اصل حقائق کو مستحکم کرنے کیلئے تفتیشی عمل جاری ہے
استعمال کیے جا رہے ہیں جبکہ مورخہ 26/10/15 کے شدید زلزلہ میں سکول
کی بلڈنگ شکستہ ہوئی اور ناقابل استعمال ہو چکی تھی۔

2: یہ کہ گورنمنٹ پرائمری سکول تھیال بنگلی میں موجود سکول کا سامان و
فرنیچر سمیت دیگر سکول کا ریکارڈ تیار ہونے کا خدشہ لاحق ہو چکا
تھا جس پر پرائمری سکول کی ٹائم شدہ P.T.C کمیٹی نے متفقہ طور پر قرارداد
منظور کرتے ہوئے فیصلہ کیا کہ سکول میں موجود سرکاری سامان کو
تیار ہونے سے بچانے کیلئے سرکاری بلڈنگ میں منتقل کیا جائے۔

3: قرارداد کی منظوری کے بعد سکول کا سامان اور ریکارڈ تیار، مکدیاں، صحتی چادریں
سرکاری سکول کی بلڈنگ میں منتقل کی جا رہی تھی کہ اساتذہ سے ذاتی ریختن کی بناء
پر مقامی پولیس کو اطلاع دی گئی کہ سامان فروخت کیا گیا ہے جبکہ تھیال
کی نسبت سے قرارداد P.T.C پر عمل درآمد کیا جا رہا تھا جس میں کمیٹی
مذکورہ اور دیگر کوئی بھی عملہ نہیں ہیں۔ (قرارداد، بیان حلقہ لکھیے)

لھذا استدعا ہے کہ مقدمہ عنوان کی از سر نو تفتیش کرتے ہوئے
اصل حقائق منظر عام پر نہ لائے ہوئے بیان حلقہ لکھیے، قرارداد
P.T.C کو شامل تفتیش کرنے کا حکم صادر فرمایا جاوے اور مقدمہ
کو خارج فرمایا جاوے۔
المقوم 8/16

محمد سلیمان بیڈنچیر، محمد داؤد نائب مدرس گورنمنٹ پرائمری سکول تھیال بنگلی ایسٹ آباد

ATTESTED

(22)

BEFORE THE KHYBER PAKHTUKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 672 /2016

ANNEXURE
D

Muhammad Suleman S/o GhakKar Khan R/O Nagri Bala, at Present
G.P.S Maira Pasala Tehsil & District, Abbottabad.

VERSUS

...APPELLANT
Khyber Pakhtukhwa
Service Tribunal

Diary No. 635

Dated 14-6-2

1. Government of Khyber Pakhtunkhwa Elementary & Secondary Education Peshawar through Secretary.
2. Elementary & Secondary Education Peshawar through Director Education.
3. District Education Officer (Male) Abbottabad.

...RESPONDENTS

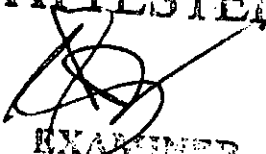
APPEAL U/S 4 OF THE NWFP SERVICE TRIBUNAL ACT,1974 AGAINST THE MAJOR PENALTY OF REDUCTION TO LOWER POST OF P.S.T (BPS-15 TO BPS-14) UNDER OFFICE ORDER NO. 269-72 DATED 24-03-2016 PASSED BY RESPONDENT NO.3, LATTER ON RESPONDENT NO.2, ALSO REJECTED THE DEPARTMENTAL APPEAL OF APPELLANT UNDER OFFICE ORDER NO. 5088-90 DATED 23-05-2016. THIS ACT OF THE RESPONDENTS IS PREMATURE, ILLEGAL, WITHOUT JURISDICTION, AGAINST THE SERVICE RULES AND LAWS WITHOUT SUFFICIENT REASONS AND ON FLIMSY GROUNDS WHICH IS LIABLE TO BE SET ASIDE THROUGHOUT COST.

Filed to-day

Registrar

14/6/16

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT ABBOTTABAD

Service Appeal No. 672/2016

Date of Institution... 14.06.2016

Date of decision... 22.02.2018



Muhammad Suleman son of Ghakkar Khan R/O Nagri Bala, at present GPS Maira Pasala Tehsil and District, Abbottabad. ... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa Elementary & Secondary Education, Peshawar through its Secretary. ... (Respondents)

Sardar Muhammad Akmal, Advocate ... For appellant.

Mr. Kabirullah Khattak, Addl. Advocate General ... For respondents.

MR. NIAZ MUHAMMAD KHAN, MR. MUHAMMAD HAMID MUGHAL, ... CHAIRMAN MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was awarded major penalty of reduction in rank on 24.3.2016, against which he filed departmental appeal on 21.4.2016 which was rejected on 23.05.2016 and thereafter, he filed the present service appeal on 14.06.2016. The charge against the appellant was transportation of some official books for sale. An FIR was also lodged against three persons including the present appellant.

ATTESTED

ATTESTED

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ARGUMENTS

3. The learned counsel for the appellant argued that in the impugned order reference was made to findings/recommendations of the enquiry report but no charge sheet and statement of allegations were issued to the appellant.
4. On the other hand learned AAG argued that the appellant was issued show cause notice and the nature of the offence attributed to the appellant was of a severe nature and the authority rightly imposed the penalty. That the enquiry officer recorded the statements and a questionnaire was also issued to the appellant.

CONCLUSION.

5. Admittedly no charge sheet or statement of allegations were issued to the appellant and the enquiry was conducted without any charge sheet and statement of allegations. Without commenting on the nature of the guilt or the merits of the case, the departmental proceedings were illegal. No penalty could be imposed on the basis of such proceedings.
6. Consequently the present appeal is accepted and the penalty is set aside. The department is, however, at liberty to hold denovo proceedings within a period of ninety days from the date of receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room.

Announced
22.02.2018

SD/- Niaz Muhammad Khan, ^{MD}
Chairman
Cand. Const. Appeal.

SD/- M. Hamid Nughal,
Member

Certified to be true copy
E. M. Khan
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

Date of Presentation of Application 02-03-18
Number of Words 1200
Copying Fee 8/-
Urgent 2/-
Total 10/-
Name of Copyist
Date of Completion of Copy 02-03-18

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ANNEXURE
5

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

NOTIFICATION

In pursuance to Judgment of Honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad passed in Service Appeal No.672/2016 dated 22.02.2018, Dr; Inayat -ur-Rehman, Vice Principal GHS No.1 Havelian Abbottabad is hereby appointed as Inquiry Officer to conduct de novo inquiry under E&D Rules 2011 in respect of Mr. Muhammad Sulaiman, SPST GPS Tatreela Circle Nathiagali and submit comprehensive report for further proceedings.

TERMS OF REFERENCE

To probe the following issues:-

"The accused while posting as PSHT at GPS Tatial Batangi was illegally involved in carrying text books of the said school in Suzuki No.CL-3837 at Bara Gali Kasala Road for the purpose of illegal sale which amounts to gross misconduct, inefficiency. Corruption and professional dishonesty. FIR was also registered against him vide No.217 dated 08.12.2015 Under Section 409/34 PPC at Police Station Donga Gali as per report of ASDEO Circle Nathia Gali dated 09.12.2015

The inquiry officer shall submit report to the undersigned within ten (10) days with solid recommendation as laid down in Rules 11 to 14 of the Khyber Pakhtunkhwa Govt: Servants Efficiency & Disciplinary Rules 2011. Opportunity of self defense and cross examination, the witness/evidence be provided to the accused.

sd
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

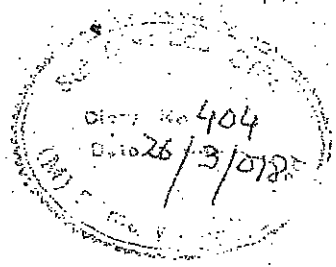
Eudst: No. 3514-18 / M. Sulaiman SPST (Litg)
Copy forwarded to the:-

Dated 2/3 /2018

1. Registrar Honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad w/r to Judgment passed in service appeal No.672/2016 dated 22.02.2018.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
3. Dr; Inayat -ur-Rehman, Vice Principal GHS No.1 Havelian, alongwith copy relevant documents.
4. Sub Divisional Education Officer (Male) Abbottabad with the remarks to cooperate with the inquiry officer.
5. Mr. Muhammad Sulaiman, SPST GPS Tatreela (Nathia Gali)

[Signature]
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

M. Bakhsh
ASST.
W.D. G. T. Form No.
cover sheet
[Signature]
24/3/18



ATTESTED

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

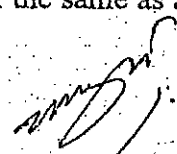
No. 35/13 /PF M.Sulaiman/ Lit.

Dated 21 / 03 /2018

The Sub Divisional Education Officer
(Male) Abbottabad

Subject: CHARGE SHEET & STATEMENT OF ALLEGATIONS
Memo:

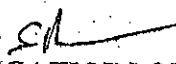
Charge Sheet & Statement of Allegations in respect of Mr. Muhammad Sulaiman, SPST GPS Tatreela (Nathiagali) is attached herewith. You are directed to serve the same to the concerned teacher and return copy of the same as a token of receipt to this office.


DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Endst: of even No. & date

Mr. Muhammad Sulaiman, SPST GPS Tatreela Circle Nathiagali Abbottabad alongwith copy of charge sheet, statement of allegations & inquiry notification.

M. Ballin
Asst. Secy
Mr. Sulaiman is
concerned.
M. Ammar
Asst. Secy
26/03/18


DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

TESTED

Sub Div: Edu C. O.
Diary No. 409
Date 26/3/18
(M) Primary Abbot.

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) ABBOTTABAD

NO. 3573 /Litg/M. Sulaiman, SPST

Dated 21/3 /2018

DISCIPLINARY ACTION

Qazi Tajammal Hussain, District Education Officer (Male) Abbottabad, as competent authority, am of the opinion that Mr. Muhammad Sulaiman, SPST GPS Tatreela Circle Nathiagali has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

1. That you, while posted as PSHT at GPS Tatial Batangi Circle Nathiagali Abbottabad was illegally involved in carrying text books of the said school in Suzuki No.CL-3837 at Bara Gali Kasala Road for the purpose of illegal sale. FIR was also registered against you vide No.217 dated 08.12.2015 Under Section 409/34 PPC at Police Station Donga Gali as per report of ASDEO Circle Nathia Gali dated 09.12.2015.
2. For the purpose of inquiry of the said accused with reference to the above allegations Dr. Inayat-ur-Rehman, Vice Principal, GHS Havelian, Abbottabad is hereby appointed as inquiry officer under Rule 10 (I) (a) of the ibid Rules:
2. The inquiry Officer shall, in accordance with the provisions of the ibid Rules, provide reasonable opportunity of hearing and cross examination to the accused, record its findings and make, within ten days, recommendations as to punishment or other appropriate action against the accused.
3. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry Officer.

COMPETENT AUTHORITY

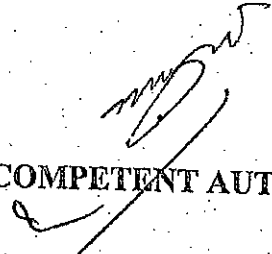
Mr. Muhammad Sulaiman, SPST GPS Tatreela Circle Nathiagali

ATTESTED

CHARGE SHEET

I Qazi Tajammal Hussain, District Education Officer (Male) Abbottabad as Competent Authority, hereby charge you, Mr. Muhammad Sulaiman, SPST, GPS Tatreela Circle Nathiagali as follows:

1. That you, while posted as PSHT at GPS Tatial Batangi Circle Nathiagali Abbottabad was illegally involved in carrying text books of the said school in Suzuki No.CL-3837 at Bara Gali Kasala Road for the purpose of illegal sale. FIR was also registered against you vide No.217 dated 08.12.2015 Under Section 409/34 PPC at Police Station Donga Gali as per report of ASDEO Circle Nathia Gali dated 09.12.2015.
2. By reason of the above, you appear to be guilty of gross misconduct, inefficiency, Corruption and professional dishonesty under Rule-3 of the Khyber Pakhtunkhwa Govt: Servants (E&D) Rules 2011 and have rendered yourself liable to all or any of the penalties specified Rule- 4 of the Rules ibid.
3. You are, therefore, required to submit your written defence within ten days of the issuance of this Charge Sheet to the Inquiry Officer.
4. Your written defense, if any, should reach the Inquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be head in person.
6. A statement of allegations is enclosed.


COMPETENT AUTHORITY

Mr. Muhammad Sulaiman, SPST GPS Tatreela Circle Nathiagali


ATTESTED

**ENQUIRY AGAINST MR.MUHAMMAD SULEMAN SPST GPS TATREELA
CIRCLE NATHIAGALI DISTRICT ABBOTTABAD.**

Enquiry Constituted.	Enquiry constituted by District Education Officer (M/S) Abbottabad vides Endst: No.3514-18/M.Suleman SPST (Litg) dated Abbottabad the 21.03.2018.
Enquiry Officer.	Dr, Muhammad Inayatur-Rehman (B-18) Vice Principal GHS No.1.Havelian District Abbottabad
Enquiry Against	Mr. Muhammad Suleman SPST GPS Tatreela Circle Nathiagali District Abbottabad..
Period of Enquiry.	April 2018

NATURE OF ENQUIRY:

The genesis of enquiry was restoration of "Reduction of Appellant from scale BPS-14 to Scale BPS-15 in pursuance judgment of Khyber Pakhtunkhwa Service Tribunal Abbottabad Branch order vide Appeal No.672/2016, announced on 22.02.2018, and hold denovo proceeding into the matter.

HISTORY OF ENQUIRY:

An FIR No.217 dated 08.12.2015 under section 409/34 PPC registered at Police Station Donga Gali Abbottabad against the Official under enquiry in regarding with illegal purchase/sale of Text Books carrying from Govt: Primary School Tutial Batangi. (Annexure-A).

The accused official obtained bail from ^{Add} session judge-V Abbottabad on 08.12.2015 (Annexure-B).

The ASDEO circle Ishtiaq khan submitted a report to DEO (M) Abbottabad on 09.12.2015 which is self-explanatory against the officials under enquiry.

He declared him involved in illegal sale/purchase of Text Books and for disciplinary action against him (Annexure -C).

District Education Officer (M) Abbottabad in the term of rule 6 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Disciplinary) rules 2011 suspended has services for initial period of ninety(90) days vide order Endst:No.9595-9601/EB-I/enquiry/PST dated 09.12.2015 and Mr.Luqman Ali Khan Principal GHSS Nagri Bala Abbottabad was appointed enquiry officer vide Endst:No.9602-7/EB-I/enquiry dated 09.12.2015 to conduct enquiry and submit his recommendations to DEO for further proceeding and necessary action(Annexure-D)-I II

Mr. Luqman Ali Khan enquiry officer while conducting enquiry served questionnaire to the official as well as recorded his statement (Annexure-E).

On the bases of finding/facts the enquiry officers recommend the official for major penalty reduction to lower grade/scale to the competent authority (Annexure-F).


ATTESTED

District Education Officer (M) Abbottabad as competent authority issue show cause notice to accused teacher vide letter No.1368-70/EB-I/Enquiry dated 22.02.2016 (Annexure-G)

The teacher under enquiry Mr. Muhammad Suleman PST submitted an appeal to DEO(M) Abbottabad on dated 12.02.2016 against the penalty and also submitted the PTC resolution as well as affidavits of himself and Taj Muhammad. (Annexure -H-I-II-III-IV)

District Education Officer (M) Abbottabad as competent authority rejected his appeal and imposed the major penalty as recommended by enquiry officer "REDUCTION OF LOWER POST SPST" in exercise the power conferred upon him under Rule 4 sub Rule(b)(i) of Khyber Pakhtunkhwa Govt: Servants Rules (Efficiency & Disciplinary) 2011 vide order Endst:No.2369-72/EB-I/Enquiry/Text Books dated Abbottabad the 24.03.2016, and No; 3491-94/F.No.14/Vol:V dated 05.05.2016 (Annexure-I)

Mr. Muhammad Suleman PST submitted an appeal to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar on dated 21.04.2016 against the order of DEO(M) Abbottabad dated 24.03.2016.

He also blamed the enquiry officer that he has not conducted the enquiry as per law and Rules. (Annexure-J)

Director Elementary & secondary Education Khyber Pakhtunkhwa rejected his appeal vide order Endst:No.5088-90/F.No.162 Appeal PST/TT/AT/Qari dated 23.05.2016. (Annexure-K)

The teacher concerned filed a service appeal No.672/2016 in Service Tribunal Abbottabad Branch for resolving his grievances. (Annexure-L) The reply of department is attached as (Annexure-M)

District Education Officer (M) Abbottabad requested Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar for constitution of denovo enquiry vide letter No.7726-28/ADEO/lit dated 06.10.2016 and also to Senior Govt: Pleader Abbottabad vide No.8379-80/ADEO/lit dated 26.10.2016 (Annexure-N-I-II)

Honorable Service Tribunal Khyber Pakhtunkhwa Abbottabad Branch announced its judgment on dated 22.02.2018 with the remarks "consequently the present appeal is accepted and the penalty is set aside. The department is however, at liberty to hold denovo proceeding with in period of ninety (90) days from the receipt of this judgment" (Annexure-O)

Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar issued order to District Education Officer for compliance of judgment appeal 672/2016 vide No.433/ST dated 01.03.2018 (Annexure-P)

ATTESTED

Assistant Director (lit-II) Elementary & secondary Education Khyber Pakhtunkhwa addressed a letter to DEO(M) Abbottabad in this connection vide No.1574/lit-II dated Peshawar the 08.03.2018 (Annexure-Q)

In pursuance of Service Tribunal judgment District Education Officer (M) Abbottabad issued restoration order of BS-15 in respect of Mr. Muhammad Suleman SPST, vide Endst: No.3520-23/M.Suleman/Lit-II dated 21.03.2018,(Annexure-R I) and constituted an enquiry for purpose of denovo proceeding into the matter. (Annexure-R II)

PROCEDURE OF ENQUIRY:

On Appointment by District Education Officer(M) Abbottabad as enquiry officer, the undersigned informed SDEO(M) Abbottabad & Mr. Muhammad Suleman SPST through Regd: letter & Telephonically. ASDEO Mr.Ishtiaq khan was also contacted in this connection to record his statement. (Annexure-S)

Mr. Muhammad Suleman sent an application which was submitted to DEO (M) for further necessary action.(Annexure T I-II),and the teacher concerned was contacted telephonically to submit reply for charge sheet he arrived on 23.04.2018 but not submitted the same. On 26th April 2018 he requested to contact his lawyer. I refused, that I have no concern with his lawyer. He insisted and contacted his lawyer with the undersigned. He was once again directed to be present on 27th & 28th April 2018 for submission of his reply, but he replied that he will be on leave for said days and unable to submit the reply.

He has failed to submit reply for charge sheet/allegations within stipulated period already specified in charge sheet& vide No. SO((REG-VI) E&AD/2-6/2010 of Khyber Pakhtunkhwa Government Servants(Efficiency & Discipline) Rules, 2011,(11)(2) (Annexure-U I-II).

FINDINGS:

From the perusal record/documents the following findings were concluded.

- An FIR No.217 dated 08.12.2015 was registered against Mr. Muhammad Suleman SPST in which Mr.Javed Akhtar admitted the charge as already annexed as Annexure-A.
- Enquiry Officer Mr.Luqman Ali Khan Principal GHSS Nagri Bala recommend the major penalty under Rule (4) (b) (i) Khyber Pakhtunkhwa Govt: Servants rules 2011. (Annexure V)
- ASDEO Circle submitted reports to DEO (M) Abbottabad vide dated 09.12.2015(already annexed as Annexure C) & on 26.04.2018(Annexure W)
- District Education Officer(M) Abbottabad rejected appeal of the accused teacher vide order No.,& date already annexed as Annexure-I


ATTESTED

- Director Elementary & Secondary Education Khyber Pakhtunkhwa rejected appeal vide No.& date already annexed as Annexure-K
- The learned court in its judgment accepted appeal of the accused teacher however, advice the department for **denovo proceeding** into the matter already annexed as Annexure-O.

6

RECOMMENDATIONS:

On the bases of above findings/facts concluded during conducting enquiry the following recommendations are suggested for favorable consideration.

- In the light of reports of ASDEO circle, previously enquiry report conducted by Mr.Luqman Ali Khan Principal GHSS Nagri Bala Abbottabad, rejection of appeals by competent authorities DEO(M) Abbottabad and Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, the undersigned is of the opinion/view that Major penalty already imposed under Khyber Pakhtunkhwa Govt: Servants Rules (4)(b)(i), be intact/retain against Mr. Muhammad Suleman SPST and enquiry may be declared as ex-part vide rules quoted as Annexure-U-II
- To direct all Heads of Institutions, especially primary Schools, with the directions that without prior permission of the competent authority, no Govt: Property can more/shift at any cost. A general circular may please be issued in this regard.

Enquiry was conducted in the best interest of public

Dr.Muhammad Inayat ur Rehman
(Enquiry Officer)
V.Principal, GHS No.1 Havelain, A. Abad
Contact: 0344_0322-9663279.

ATTESTED

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحب (مردانہ) ضلع ایبٹ آباد

عنوان: درخواست برآمد Re-open کئے جانے انکوائری

جناب عالی!

1- آپ کے دفتر سے جاری ہونے والے آرڈر مورخہ 21/03/2018 کے تحت ڈاکٹر عنایت الرحمن وائس پرنسپل گورنمنٹ ہائی سکول نمبر 1 حویلیاں کو سائل کا انکوائری آفیسر مقرر کیا گیا۔ مذکورہ آفیسر نے مورخہ 02/04/2018 کو سائل کو تحریری طور پر مطلع کیا کہ مجھے آپ کا انکوائری آفیسر مقرر کیا گیا ہے اور میں انکوائری کے متعلق آپ کے سکول حاضر ہوں گا۔ مذکورہ آفیسر سائل کے سکول میں حاضر نہیں ہوئے تو سائل نے ایک درخواست بذریعہ جسٹری انکوائری آفیسر کو مورخہ 16/04/2018 کو ارسال کر دی۔

2- مورخہ 26/04/2018 کو انکوائری آفیسر نے سائل کو بوقت 2:01 بجے دن موبائل نمبر 0344-9663279 سے کال کر کے مطلع کیا کہ میں مورخہ 28/04/2018 کو آپ کے سکول میں آپ کی انکوائری کے حوالے سے حاضر ہوں گا مگر انکوائری آفیسر سائل کے سکول حاضر نہیں ہوئے اور نہ ہی سائل کو اس بابت کوئی اطلاع دی۔

3- مورخہ 30/04/2018 کو انکوائری آفیسر نے انکوائری رپورٹ جمع کروادی جو کہ سراسر نا انصافی ہے اور یکطرفہ کارروائی کا کوئی قانونی جواز موجود نہ تھا۔

لہذا استدعا ہے کہ انکوائری کو Re-Open کرتے ہوئے سائل کو چارج شیٹ کا جواب جمع کروانے اور صفائی پیش کرنے کا موقع فراہم کیا جائے۔ نیز انکوائری آفیسر کو تبدیل کرتے ہوئے کوئی نیا انکوائری آفیسر یا انکوائری کمیٹی مقرر فرمائی جائے۔

المرقوم: 03/05/2018

العارض:

محمد سلیمان (SPST) گورنمنٹ پرائمری سکول تتریلہ، ایبٹ آباد

رابطہ نمبر: 0345-9543065

ATTESTED

34

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

No. 5462 /Suleman/Litig
Dated 07/05 /2018

ANNEXURE
"H"

The Sub Divisional Education Officer (Male)
Abbottabad

Subject: **SHOW CAUSE NOTICE**
Memo:

Show cause notices in respect of Mr. Muhammad Suleman, PSHT GPS Thunda Tajwal (Nathiagali) is attached herewith. You are directed to serve the same to the concerned teacher and return one copy to this office as a token of receipt duly received by him.

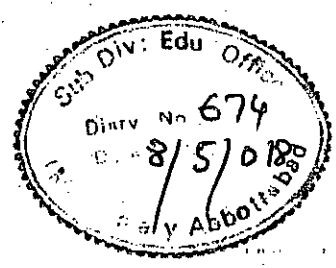
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

*M-Busini
Asst
Mr. Suleman to
concerned.*
*ASST
07/05/2018*

*Mat to concern
ASST at 11:06 AM
09/05/2018*

Received
11-05-2018
[Signature]

ATTESTED



SHOW CAUSE NOTICE

I Qazi Tajamal Hussain, District Education Officer (Male) Abbottabad as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011 do hereby serve you, Mr. Muhammad Suleman, PSHT GPS Thunda Tajwal (Nathiagali), as follows:-

1. (i) That consequent upon the submission of inquiry report conducted against you by the Inquiry Officer dated 28.4.2018.
- (ii) On going through the findings and recommendations of the Inquiry Officer, the material on record and other connected papers.

I am satisfied that you have committed the following offenses/acts/omissions specified in Rule-3 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.

- a) You failed to submit reply of charge sheet & statement of allegations served upon you through Sub Divisional Education Officer (M) Abbottabad vide this office Memo: No.3513 dated 21.3.2018 within stipulated period to the inquiry officer, did not cooperate him by using lame excuses to conduct inquiry within the time limit deliberately.
- b) You, while posted as PSHT at GPS Tatial Batangi Circle Nathiagali Abbottabad was illegally involved in carrying text books of the said school in Suzuki No.CL-3837 at Bara Gali Kasala Road for the purpose of illegal sale. FIR was also registered against you vide No.217 dated 08.12.2015 Under Section 409/34 PPC at Police Station Donga Gali as per report of ASDEO Circle Nathia Gali dated 09.12.2015

2. As a result thereof, I, as Competent Authority have tentatively decided that major penalty of REDUCATION TO LOWER POST OF SPST under Rule-4(1) Sub Rule (b) (i) of Khyber Pakhtunkhwa, Government Servant (Efficiency & Discipline) Rules, 2011 already imposed upon you vide this office Endst: No. 2369-72 dated 24.3.2016 be intact/retain under Rule-4 of rules ibid.

3. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than ten days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.


COMPETENT AUTHORITY

Mr. Muhammad Suleman, PSHT GPS Thunda Tajwal (Nathiagali)


ATTESTER

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحب (مردانہ) ضلع ایبٹ آباد۔

عنوان: پیرا دائرہ تحریری جواب شوکاز نوٹس جاری کردہ ڈسٹرکٹ ایجوکیشن آفیسر

(مردانہ) ضلع ایبٹ آباد بمطابق لیٹر نمبر 5462 مورخہ 07-05-2018

وصول شدہ 11-05-2018-

جناب عالی! درخواست ذیل عرض ہے۔

i - E&D رولز 2011ء کے مطابق شوکاز نوٹس کے ساتھ انکوائری رپورٹ کالف ہونا ضروری ہے جبکہ سائل کے خلاف جاری ہونے والے شوکاز نوٹس کے ساتھ انکوائری رپورٹ کی کاپی لف نہیں ہے جو کہ متعلقہ قانون کی خلاف ورزی ہے۔

ii - یہ کہ سائل کا جوائڈ جسٹمنٹ آرڈر BPS-15 میں مورخہ 21-03-2018 کو ظاہر کرتے ہوئے جاری کیا گیا ہے یہ آرڈر غیر قانونی ہے کیونکہ یہ آرڈر سابقہ تاریخ پر جاری کیا گیا اور چارج شیٹ کے جاری ہونے کی تاریخ پر جاری نہیں ہوا۔

iii - یہ کہ آپ نے Statement of allegation میں یہ بات ذکر کی ہے کہ چارج شیٹ کا جواب جمع کرانے کیلئے انکوائری آفیسر ٹائم اور جگہ کا تعین کرے گا جبکہ انکوائری آفیسر نے ٹائم اور جگہ کا کوئی تعین نہیں کیا۔

iv - یہ کہ سائل کو چارج شیٹ مورخہ 21-03-2018 جب موصول ہوئی تو انکوائری آفیسر نے SDO مردانہ تحصیل ضلع ایبٹ آباد کو Subject: Provision of Record کے نام سے ایک لیٹر جاری کیا جس کی بابت سائل کو بھی مطلع کیا اور یہ لیٹر سائل کو مورخہ 10-04-2018 کو موصول ہوا جس کے بعد سائل نے انکوائری کمیٹی کو درخواست دے دی جس کی روشنی میں سائل کا BPS-15 آرڈر سابقہ تاریخ میں جاری کیا گیا۔

v - یہ کہ مورخہ 26-04-2018 کو بوقت 2:00 pm سائل کو انکوائری آفیسر کی طرف سے موبائل نمبر 0344-9663279 سے سائل کو کال موصول ہوئی کہ میں مورخہ 28-04-2018 کو آپ کے سکول حاضر ہوں گا مگر بوقت متعین تاریخ اور وقت پر انکوائری آفیسر سائل کے سکول میں حاضر نہ ہوئے اور نہ ہی سائل کو اپنے نہ آنے کے متعلق آگاہ کیا۔

RECEIVED

vi - یہ کہ مورخہ 30-04-2018 کو انکوائری آفیسر نے انکوائری رپورٹ دفتر میں جمع کروادی اور سائل کے خلاف یکطرفہ کارروائی کی سفارش کی جو کہ صریحاً خلاف قانون ہے جس میں سائل کے بنیادی حقوق کو سلب کیا گیا ہے۔

vii - یہ کہ جب سائل کو معلوم ہوا کہ انکوائری آفیسر نے انکوائری رپورٹ جمع کروادی ہے اور سائل کو اپنے دفاع کا موقع فراہم نہیں کیا ہے تو سائل نے آپ کے دفتر میں مورخہ 03-05-2018 کو انکوائری Reopen کرنے کیلئے درخواست جمع کروادی جس پر تاحال فیصلہ ہونا باقی ہے۔

viii - یہ کہ چارج شیٹ میں جن الزامات کا ذکر کیا گیا ہے وہ الزامات بے بنیاد اور حقائق کے منافی ہیں اور سائل مکمل طور پر انکاری ہے کہ وہ ایک معلم ہونے کی حیثیت سے غیر قانونی سرگرمیوں میں ملوث نہیں ہو سکتا۔

ix - یہ کہ سائل کے سکول کے اساتذہ اور سابقہ سکول کے اساتذہ بھی اس بات پر گواہ ہیں کہ انکوائری آفیسر انکوائری کے سلسلے میں ہمارے سکول میں نہ تو حاضر ہوئے ہیں اور نہ ہی اس متعلق ہمیں آگاہ کیا گیا ہے۔

x - یہ کہ شوکا ز نوٹس کا جواب میعاد کے اندر دیا جا رہا ہے اور یکطرفہ کارروائی کا جواز باقی نہیں ہے اور شوکا ز نوٹس کے ساتھ ثبوت بھی فراہم ہیں۔

xi - یہ کہ سائل کو ذاتی شنوائی کا موقع فراہم کیا جائے۔

لہذا استدعا ہے کہ مندرجہ بالا حقائق کی روشنی میں شوکا ز نوٹس کو واپس لیتے ہوئے انکوائری داخل دفتر فرمائی جاوے اور سائل کو اپنی اصلی پوزیشن میں بحال کرتے ہوئے جملہ بقایا جات ادا کرنے کے احکامات صادر فرمائے جائیں۔

المرقوم: 18-05-2018

العارض

محمد سلیمان (PSHT) گورنمنٹ پرائمری سکول ٹھونڈا تاجوال سرکل نتھیا گلی، تحصیل ضلع ایبٹ آباد۔

ATTESTED

38

ANNEXURE
"1"

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

No. 6239 /Suleman/Litig

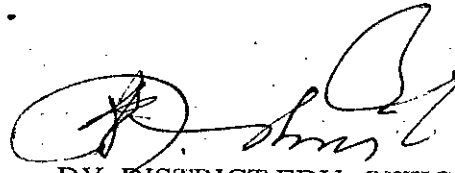
Dated 24/5 /2018

The Sub Divisional Education Officer(Male)
Abbottabad

Subject: PERSONAL HEARING

Memo:

I am directed to refer to the subject cited above and to ask you to intimate Mr. Muhammad Suleman, PSHT GPS Thunda Tajwal Circle Nathiagali to attend office of the District Education Officer (Male) Abbottabad on 31.5.2018 at 10.00 AM for personal hearing.


DY: DISTRICT EDU: OFFICER (M)
ABBOTTABAD

*M. Basim
Asstt.
Mr. Suleman
Asstt. Dir
N/Gali.*

25/5/18

*inform to ASDEO
by call at 09.19 AM
on 28/05/18*

*8
2*

776
28/5/018

Received
[Signature]
29/5/018


ATTESTED

بھنور جناب D.E.O (مردانہ) ضلع ایبٹ آباد۔

عنوان: ذاتی شنوائی بمطابق لیٹر نمبر 6239 مورخہ 24-05-2018 جاری کردہ

Deputy:DEO ایبٹ آباد

جناب عالی! درخواست ذیل عرض ہے۔

۱۔ یہ کہ سائل کے خلاف فریش انکوائری مکمل طور غیر قانونی اور غیر آئینی اور قابل منسوخی ہے۔ سائل کے دفاع کے تمام راستے بند کرتے ہوئے سائل کو برغمال بنا کر اپنی ذاتی خواہش کے مطابق سائل کے خلاف مترادف ہے۔

۲۔ یہ کہ انکوائری آفیسر انکوائری کے قوانین سے لاعلم تھے اور انکوائری موضوع حادثہ پر کی جاتی ہے۔

۳۔ یہ کہ آپ نے چارج شیٹ میں یہ بات ذکر کی ہے کہ انکوائری میں جواب جمع کروانے اور ذاتی شنوائی کی جگہ اور ٹائم انکوائری آفیسر متعین کرے گا۔ انکوائری آفیسر نے نہ تو کسی ٹائم کا تعین کیا اور نہ ہی کسی جگہ سائل کو طلب کیا۔

۴۔ یہ کہ شوکار نوٹس کے جواب میں پیرا نمبر 5 میں یہ بات ذکر کی جا چکی ہے کہ انکوائری آفیسر فون کے ذریعے اطلاع کرنے کے باوجود انکوائری کے لئے نہیں آئے اور نہ ہی مزید کارروائی کے لئے سائل کو تحریراً یا بذریعہ فون آگاہ کیا۔

۵۔ یہ کہ شوکار نوٹس کے جواب کے ساتھ تحریری بیانات منسلک ہیں جو انکوائری آفیسر کی عدم دلچسپی اور عدم حاضری کو ضادر کر رہے ہیں۔

۶۔ یہ کہ انکوائری آفیسر نے یکطرفہ کارروائی کرتے ہوئے انکوائری رپورٹ جب جمع کروائی تو اس کے فوراً بعد سائل نے انکوائری (Re-Open) کرنے کیلئے بضابطہ درخواست جمع کروائی جس پر ابھی تک فیصلہ نہیں ہوا اور قانون کے مطابق اس درخواست پر سائل کو تحریری فیصلے سے مطلع فرمایا جائے۔

۷۔ یہ کہ سائل کے ساتھ ذاتی رنجش اس بات سے بھی عیاں ہے کہ اپریل 2018ء کے تیسرے عشرے میں سائل

کا BPS-15 کا آرڈر مورخہ 21-03-2018 سے جاری کر کے بظاہر عدالت کے سامنے سرخروہ ہونے کی کوشش کی گئی ہے جو کہ غیر قانونی ہے اور عدالت کے آرڈر کی تضحیک ہے۔

۸۔ یہ کہ مندرجہ بالا حقائق کی روشنی میں انکوائری آفیسر کو مسائل کی ذاتی شنوائی کے مرحلے کے دوران حاضر ہونے کیلئے کہا جائے جو روبرو مجاز اتھارٹی اور میرے اس بات کو ثابت کریں کہ وہ انکوائری کے لئے مسائل کے موجودہ یا سابقہ سکول میں حاضر ہوئے۔

۹۔ یہ کہ 26-04-2018 کو بوقت 2:00PM بذریعہ موبائل نمبر 0344-9663279 سے بتایا گیا کہ وہ 28-04-2018 کو آپ کے سکول میں آئیں گے۔ کیا وہ وقت مقررہ پر حاضر ہوئے کہ مسائل نے چارج شیٹ کا جواب جمع کروانے میں لیت و لعل سے کام لیا ہوا انہوں نے تحریری طور پر مسائل کو وقت مقررہ اور تاریخ پر طلب کیا ہو اور مسائل نے آرڈر کی تعمیل نہ کی ہو۔

لہذا استدعا ہے کہ انکوائری کو داخل دفتر کرتے ہوئے مسائل کے جملہ بقایا جات جاری کرنے کے احکامات صادر فرمائے جائیں۔

محمد سلیمان P.S.H.T گورنمنٹ پرائمری سکول ٹھونڈا تاجوال۔
رابطہ نمبر: 0345-9543065

ATTESTED

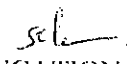
OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD
ORDER

41
 ANNEXURE
 J

WHEREAS major penalty of "REDUCTION TO LOWER POST" was imposed upon you Mr. Muhammad Suliman, while posted as PSHT at GPS Tatial Batangi Abbottabad vide this office order issued under Endst: No.2369-72 dated 24.3.2016/.

2. AND WHEREAS in pursuance to the judgment of Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court Abbottabad passed in Service Appeal No. 672/2016 announced on 22.2.2018, this office Notification issued vide Endst: No. 2369-72 dated 24.3.2016 was restored and you were further posted at GPS Thunda Tajwal (Nathia Gali) vide Endst: No.3520-23 dated 21.3.2018.
3. AND WHEREAS you were proceeded for having committed the following gross irregularities which constitute inefficiency, misconduct and corruption under Rule-3 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.
4. AND WHEREAS Inquiry Officer was appointed vide this office notification issued under Endst: No.3514-18 dated 21.3.2018 to conduct de novo inquiry against you under the rule and provide you the opportunity of self defence and as well as cross examination the witness against you, if any. Charge Sheet and Statement of Allegation was served upon you through SDEO(M) Abbottabad vide this office Memo: No.3513 dated 21.3.2018.
5. AND WHEREAS inquiry officer provided you the opportunity of self defence as well as cross examination and submitted its findings and recommendation on 23.4.2018.
6. You failed to submit reply of charge sheet & statement of allegations served upon you through Sub Divisional Education Officer (M) Abbottabad vide this office Memo: No.3513 dated 21.3.2018 within stipulated period to the inquiry officer, did not cooperate him by using lame excuses to conduct inquiry within the time limit deliberately and your application for re-opening of inquiry dated 03.5.2018 was regretted vide this office Memo: No.5693 dated 11.5.2018.
7. You, while posted as PSHT at GPS Tatial Batangi Circle Nathia Gali Abbottabad was illegally involved in carrying text books of the said school in Suzuki No.CL-3837 at Bara Gali Kasala Road for the purpose of illegal sale. FIR was also registered against you vide No.217 dated 08.12.2015 Under Section 409/34 PPC at Police Station Donga Gali as per report of ASDEO Circle Nathia Gali dated 09.12.2015;
8. AND WHEREAS Show Cause Notice was served upon you through Sub Divisional Education Officer (Male) Abbottabad vide this office Memo: No. 5462 dated 07.5.2018, wherein major penalty of Reduction to lower post of SPST was tentatively imposed upon you under Rule-4 of rules ibid.
9. AND WHEREAS your reply dated 11.5.2018 of the show cause notice was received which was found unsatisfactory and you were summoned for personal hearing on 31.5.2018 through SDEO(M) Abbottabad vide this office Memo: No.6239 dated 31.5.2018..
10. AND WHEREAS you appeared for personal hearing on the due date and failed to defend the charges leveled against you.
11. AND by reason of above you appear charges leveled against you have been proved and you were found guilty of misconduct, inefficiency or corruption under rule-4 of the said rules.

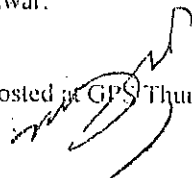
NOW THEREFORE, as per recommendation of the inquiry officer, the Competent Authority in exercise of the power conferred upon him under Rule-4 of Khyber Pakhtunkhwa, Government Servant (Efficiency & Discipline) Rules, 2011 that major penalty of "REDUCTION TO LOWER POST" already imposed upon Mr. Muhammad Suleman, SPST Govt: Primary School Tareela Nathia Gali Circle presently posted as PSHT at GPS Thunda Tajwal Nathia Gali shall remain intact.


 DISTRICT EDUCATION OFFICER (M)
 ABBOTTABAD
 Dated 8/6 /2018

Endst: No. 6910-14 /PF Suliman /Litig Branch
 Copy for information & necessary action to the:-

1. Honourable Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court Abbottabad w/r to judgment passed in Service Appeal No. 672/2016 announced on 22.2.2018.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Comptroller of Accounts Abbottabad
4. Sub Divisional Education Officer (Male) Abbottabad ..
5. Mr. Muhammad Suliman, SPST GPS Tatial Batangi Nathia Gali presently posted at GPS Thunda Tajwal.

received by Teacher
 11/6/18
 M. Angin
 PSHT
 12/6/18
 Teacher
 11/6/18
 received by
 11/6/18


 DISTRICT EDUCATION OFFICER (M)

825
 9/8/18

Before the Director E&S Education Khyber

Pakhtunkhwa Peshawar

ANNEXURE
K

عنوان

Departmental Appeal Against Order reduction to lower post vide

Endst No. 6910-14 dated 08.06.2018 issued by DEO (M) Abbottabad

جناب عالی! موجبات اپیل ذیل ہیں۔

- 1- مذکورہ بالا آرڈر غیر قانونی و آئینی اور قابل منسوخی ہے۔
- 2- یہ کہ سائل کے خلاف Service Tribunal کے فیصلہ مورخہ 22.02.2018 کی روشنی میں کوئی انکوائری نہیں ہوئی جو نام نہاد انکوائری آفیسر مقرر کیے گئے انھوں نے سائل کو دفاع کا موقع فراہم کیے بغیر انکوائری رپورٹ جمع کروادی۔ سائل نے بروقت DEO مردانہ ضلع ایبٹ آباد کو انکوائری Reopen کرنے کے لیے درخواست دی جس پر کوئی کارروائی نہیں ہوئی اور نہ ہی سائل کو اس بابت مطلع کیا گیا۔
- 3- یہ کہ مذکورہ بالا آرڈر اس لحاظ سے بھی قابل منسوخی ہے کہ مجاز اتھارٹی نے سائل کو E&D رولز 2011ء کی سیکشن 15 کے تحت Personal Hearing کا موقع فراہم نہیں کیا اور Personal Hearing کے متعلق جو نام نہاد کارروائی عمل میں لائی گئی وہ Incompetent Authority نے کی جو کہ اس کے ہرگز مجاز نہ تھے۔
- 4- یہ کہ DEO مردانہ ایبٹ آباد نے سروس ٹریبونل کے فیصلے پر من و عن عمل نہیں کیا اور سائل و سروس ٹریبونل کو دھوکہ دیتے ہوئے اپریل 2018ء کے تیسرے عشرے میں سابقہ تاریخ 21.03.2018 سے سائل کا BPS-15 کا آرڈر جاری کیا جو کہ


ATTESTED

سروس ٹریبونل کے فیصلے کا مزاق اڑانے کے مترادف ہے اور توہین عدالت کے زمرے میں آتا ہے۔

5- یہ کہ مذکورہ آرڈر اس لحاظ سے بھی قابل منسوخی ہے کہ اس آرڈر میں سزا کا کوئی ٹائم مقرر نہیں کیا گیا اور یہ FR-29 کی صریحا خلاف ورزی ہے۔

6- یہ کہ نام نہاد چارج شیٹ میں جن الزامات کا ذکر کیا گیا ہے وہ حقیقت کے برعکس ہیں اگر انصاف پر مبنی انکوائری ہوتی تو اصل حقائق سامنے آسکتے تھے مگر انکوائری نہ کر کے سائل کے بنیادی حقوق کو سلب کیا گیا۔

7- یہ کہ محکمانہ اپیل ہذا اندر میعاد ہے۔

لہذا استدعا ہے کہ مندرجہ بالا حقائق کی روشنی میں مذکورہ آرڈر کو منسوخ فرماتے ہوئے سائل کو اپنی اصلی پوزیشن میں جملہ بقایا جات سمیت بحال فرمایا جاوے۔

اپیلانٹ!

(Handwritten Signature)

محمد سلیمان SPST گورنمنٹ پرائمری سکول تتریلہ ڈاکخانہ سمندر کٹھہ

تخصیص و ضلع ایبٹ آباد۔ رابطہ نمبر 0345-9543065 مورخہ 09/06/2018

No. 535

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or of which no acknowledgement is due.

Rs. Ps.

Received a registered* addressed to

Date Stamp

Initials of Receiving Officer

* Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures)

(in words)

Insurance fee Rs.

Weight (in words)

Kilo Grams

Name and address of sender

insured.

TESTED



44

**DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.**

No. 5370 F. No. 162/Vol:17 Appeal of
PST(M) General.
Dated Peshawar the 30/8 /2018.

To,

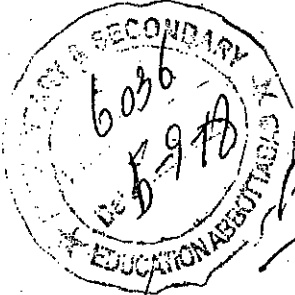
The District Education Officer(M)
Abbottabad.

Subject: - **APPEAL.**

Memo:-

I am directed to refer to your letter No.8694 dated 07.08.2018 on the subject cited above and to state that the appeal of Muhammad Suliman SPST GPS Tatial Batangi Abbottabad light of DEO (M) Abbottabad report is hereby rejected.

I am further directed to ask you to inform the teacher concerned accordingly.



[Signature]
Deputy Director (Estab)
Elementary & Secondary Edu.
Khyber Pakhtunkhwa Peshawar.

Endst: No. _____

Copy forwarded to the:-

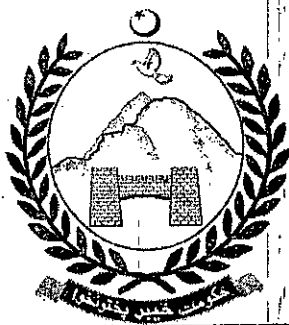
1. P.A to Director Elementary and Secondary Education local office.

[Signature]
Deputy Director (Estab)
Elementary & Secondary Edu.
Khyber Pakhtunkhwa Peshawar.

TESTED

45

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) ABBOTTABAD



NO. 9944 /F. No Lat P/F Suliman

Dated 8 /09/2018

☎ 0992-9310102, 0992-330131

📧 EDO.Education.Atd@gmail.com

The Sub Divisional Education Officer (M)
Abbottabad

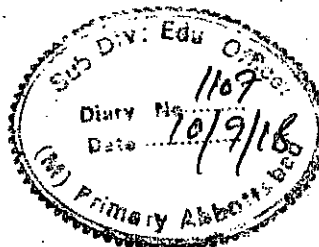
Subject:- APPEAL

Memo:-

With reference to the subject cited above and enclose please find herewith a copy
Memo: No.5376 dated 30.08.2018 received from Directorate of E&SE KPK for further n/a.

*M. Bashir
Asst. Dir.
P. G. Inform 25
Asst. + Teacher
concerned accordingly*

DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD



07.09.2018

*noted &
informal to
teacher council.*

*Informal
washed on 11/09/18.
at 9.40*

M. A. washed

*Received Teacher
24-9-2018*

ATTESTED

48

ANNEXURE
7

To

The Assistant Director Crimes,
Anti-Corruption Establishment,
Abbottabad.

No. 8177 /ACE, dated 16/05/2017.

Subject: OPEN ENQUIRY NO. 34/2016-EDUCATION AGAINST THE CONCERNED STAFF OF EDUCATION DEPARTMENT, DISTRICT ABBOTTABAD.

Reference your report dated 29.08.2016.

The subject enquiry has been filed. Record be completed accordingly. The enquiry file is returned herewith in original for record.

Assistant Director Admn.,
Anti-Corruption Establishment,
Khyber Pakhtunkhwa,
Peshawar.

No. /ACE, dated 10/5/2017.

Copy to office concerned.

Assistant Director Admn.,
Anti-Corruption Establishment,
Khyber Pakhtunkhwa,
Peshawar.

ATTESTED

میں متنی محمد رفیق ولد دادن خان ساکنہ گلشن

EX جو کیمیا ر S.P.S گتیاں سینگلی بیان دیتا
ہوں کہ میں حلازحت سے خورہ 16-10-17 کو

سنگروش ہوا اور محمد سلیمان S.P.S

S.P.S گتیاں انکوائری کے متعلق جو سے سے

نے رابطہ نہیں کیا۔ جبکہ 17/12/15 کو جو

انکوائری ہوئی تھی جو اس انکوائری کا صلہ بتایا

گیا تھا اور یا قاعدہ جو سے بیان قلم بند کروایا گیا۔

محمد رفیق

نام

13101-609894-3

Nic

دستخط محمد رفیق

ATTESTED

میں مستی مشتاق احمد ہیڈ ٹیچر GPS سٹیٹیل سائنسز
 تکہ اپنے دو اساتذہ مسعود الرحمان SPST
 اور محمد طارق SPST تحریر دیتے ہیں کہ
 ہمارے سکول ہذا میں ہمارے پاس مورخہ 12/09/2018
 سے اب تک کوئی بھی انکوائری آفیسر سیلوان پ
 کی انکوائری کے بارے میں نہیں آیا ہے
 اور نہ ہی ہم سے کوئی انکوائری ہوئی ہے

الحاضر

S. M. A. PSHT
 GPS TATIAL BATTANI
 ABBOTTABAD
 14/05/2018

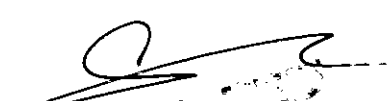
1. مشتاق احمد

SPST
 14/05/2018

2. مسعود الرحمان

SPST

3. محمد طارق


 محمد طارق

میں مہسی محمد جاوید ولد کالا خان PSHT گورنمنٹ

پرائمری سکول تتریلہ میں مورم 07 مئی 2016ء

سے یہاں تعینات ہوں۔

محمد سلیمان SPST کے خلاف سروس ٹریبونل

کے فیصلے کے بعد سکول ہذا میں مہری موجودگی

یا عدم موجودگی میں کوئی بھی آفیسر انوائٹری کے لیے

نہیں آیا۔

میں نے تحریری طور پر حلفا بیان دے دیا ہے

تاکہ سند رہے

محمد جاوید PSHT GPS تتریلہ سکول

HEADMASTER
GOVT. PRIMARY SCHOOL
TATREELA (ATD) 14/5/18

ATTESTED

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.**

APPEAL No.1332/2018

MUHAMMAD SULEMAN.....Appellant

VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.....Respondents

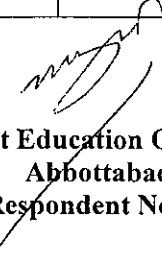
JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

SERVICE APPEAL

INDEX

Sr. No.	Description	Page Nos	Annexures
1	Comments alongwith affidavit	1 to 4	
2	Copy of report of ASDEO Circle dated 09-12-2015	05	"A"
3	Copy of Notification No. 3520-23 dated 21-03-2018	06	"B"
4	Copy of Notification No. 3514-18 dated 21-03-2018	07	"C"
5	Copy of Charge Sheet	08	"D"
6	Copy of Statement of Allegation	09	"E"
7	Copy of Inquiry Report	10 to 13	"F"
8	Copy of letter of personal hearing dated 24-05-2018	14	"G"
9	Copy of proceedings of personal hearing on 31-05-2018	15 to 17	"H"
10	Copy of the statement of ASDEO circle dated 26-04-2018	18	"I"

Dated: 27/06/2019


District Education Officer (M)
Abbottabad.
(Respondent No. 3)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.**

APPEAL NO.1332/2018

MUHAMMAD SULEMAN.....Appellant

VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth:-

Comments on behalf of respondents are submitted as under:-

PRELIMINARY OBJECTIONS:-

1. That the appellant has no cause of action to file the instant service appeal.
2. That the appellant has no locus standi to file the present appeal.
3. That the appellant did not come to this Honorable Tribunal with clean hands hence, appeal is liable to be dismissed without further proceeding.
4. That the appellant concealed and distorted the material facts from this Honorable Tribunal.
5. That the present appeal has been filed just to pressurize and blackmail the respondents hence, liable to be dismissed.
6. That the instant service appeal is not maintainable in its present form.
7. That the instant appeal is hopelessly time barred.
8. That the appellant has suppressed the original facts from this Honorable Tribunal hence, not entitled for any relief & appeal is liable to be dismissed without any further proceeding.
9. That both the order passed by the authorities is per law and rules after fulfillment all the codal formalities hence, appeal is liable to be dismissed on this score alone.
10. That the appellant has committed a cognizable offence due to which criminal case was registered against the appellant under section 409/ 34 PPC at PS douna gali Tehsil & District Abbottabad hence, appeal is liable to be dismissed.

FACTUAL OBJECTIONS:-

1. That Para No. 1, of the instant appeal relates to the service record of appellant.
2. That Para No. 2, of the instant appeal is subject to cogent proof.
3. That Para No. 3, of the instant appeal as compose is incorrect hence, denied. As per report of ASDEO Circle Nathia Gali 09-12-2015, appellant involved carrying of Text Books of Government Primary School Tutial Batangi Abbottabad in Suzuki No. CL-3837 at Bara Gali Kasala Road for the purpose of illegal sale & FIR No. 217 dated 08-12-2015 charge under section 409/34

PPC PS Donga Gali Abbottabad. (Copy of report of ASDEO Circle dated 09-12-2015 is annexed as annexure "A").

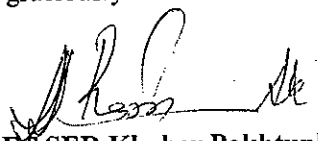
4. That Para No. 4, of the instant appeal relates to judicial record.
5. That Para No.5, of the instant appeal is correct.
6. In reply to Para No. 6, of the instant appeal it is submitted that as per inquiry report all the charges which were leveled against appellant have been proved.
7. That Para No. 7 of the instant appeal is correct.
8. In reply to Para No. 8, of the instant appeal it is submitted that in pursuance to the judgment of this Honourable Tribunal dated 22-08-2018 answering respondent has set aside the penalty and posted the appellant as PSHT (BPS-15) at GPS Thunda, Abbottabad vide Notification No. 3520-23 dated 21-03-2018 and appointed an inquiry officer to conduct De-novo inquiry vide Notification No. 3514-18 dated 21-03-2018, charge sheet and statement of allegation were served upon appellant vide letter No. 3519 dated 21-03-2018. (Copy of Notification No. 3520-23 dated 21-03-2018, Notification No. 3514-18 dated 21-03-2018, charge sheet and statement of allegation dated 21-03-2018 are annexed herewith as annexure "B", "C", "D" & "E" respectively).
9. That Para No. 9, of the instant appeal is correct.
10. That Para No. 10, of the instant appeal as composed is incorrect hence, denied as per inquiry report appellant failed to submit his reply to charge sheet as well as the statement of allegation as appellant insisted the inquiry officer to contact his Lawyer. (Copy of inquiry report is annexed herewith as Annexure "F").
11. In reply to Para No. 11, of the instant appeal it is submitted that there is no such provision available under E&D Rules regarding reopening of inquiry report when the accused failed to furnish his reply within the stipulated period.
12. That Para No. 12, of the instant appeal is correct.
13. That Para No. 13, of the instant appeal as composed is incorrect hence, denied appellant was provided an opportunity of personal hearing vide letter 6239 dated 24-05-2018 and same was availed by the appellant on 31-05-2018. (Copy of letter of personal hearing dated 24-05-2018 and proceedings of personal hearing on 31-05-2018 are annexed herewith as annexure "G" & "H").
14. That Para No. 14, of the instant appeal is correct.
15. That Para No. 15, of the instant appeal is correct to the extent of rejection of departmental appeal on 30-08-2018 whereas, rest of the Para as composed is incorrect hence, denied as the appeal in hand in hopelessly time barred.
16. That Para No. 16, of the instant appeal as composed is incorrect hence, denied.


GROUNDS:-

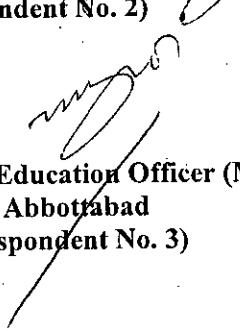
- a. That ground a, as composed is incorrect hence, denied.
- b. That ground b, as composed is incorrect hence, denied as the impugned order was issued after observing the due process of law.
- c. That ground c, as composed is incorrect hence, denied as Denovo inquiry was conducted in accordance with the prescribed manners.

- d. That ground d, as composed is incorrect hence, denied as comprehensive reply has already been given in para No. 13 of the Factual Objections.
- e. The ground e, as composed is incorrect hence, denied.
- f. In reply to ground f, it is submitted that Denovo inquiry was conducted under E&D Rules 2011 and all the allegations levelled against the appellant have been proved.
- g. That ground g, as composed is incorrect hence, denied as the impugned order was issued after observing the due process of law.
- h. That ground h, as composed is incorrect hence, denied.
- i. That ground i, as composed is incorrect hence, denied.
- j. That ground j, as composed is incorrect hence, denied as per statement of ASDEO circle dated 26-04-2018 he did not give any instruction regarding the shifting of books. (Copy of the statement of ASDEO circle dated 26-04-2018 is annexed herewith as annexure "I").
- k. That ground k, as composed is incorrect hence, denied.
- l. That ground l, as composed is incorrect hence, denied.
- m. That ground m, as composed is incorrect hence, denied.
- n. That ground n, as composed is incorrect hence, denied.
- o. No comment.
- p. That ground p, as composed is incorrect hence, denied as instant appeal is hopelessly time barred.
- q. That the respondents seek permission of this Honorable Tribunal to advance further grounds during the arguments.

It is, therefore, very humbly prayed that in the light of forgoing comments the appeal in hand may graciously be dismissed with cost throughout.


Secretary E&SED Khyber Pakhtunkhwa
Peshawar
(Respondent No. 1)


Director E&SE Khyber Pakhtunkhwa
Peshawar
(Respondent No. 2)


District Education Officer (M)
Abbottabad
(Respondent No. 3)

(4)

Before the Honorable Khyber Pakhtunkhwa Service Tribunal
Peshawar At Camp Court Abbottabad.

APPEAL NO.1332/2018

MUHAMMAD SULEMAN.....Appellant

VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

AFFIDAVIT

I, Mr. Qazi Tajamal Hussain, District Education Officer (M) Abbottabad, declare on oath that the contents of forgoing Comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.


DEPONENT

Ann-A" (S)

OFFICE OF THE A.S.D.E.O CIRCLE NATHIAGALI ABBOTTABAD.

The District Education Officer (M)
Abbottabad.

Subject:- REPORT REGARDING ILLEGAL CARRYING/SALE
OF TEXT BOOKS.

Sir,

It is submitted that the following teachers are involved in carrying of text books of Govt: Primary Schools in Suzuki No. CL-3837 at Bara Gali Kasala Road for the purpose of illegal sale and also registration of FIR against them in case No.217 dated 08-12-2015 under Section 409/34 PPC registered at Police Station Donga Gali Abbottabad (Copy attached).

1. Mr. Muhammad Sulaiman, PSHT GPS Tutial Batangi (Circle Nathia Gali).
2. Mr. Muhammad Daud, PST GPS Tutial Batangi (Circle Nathia Gali).
3. Mr. Javed Akhter, PST GPS Kutlian (Circle Nathia Gali).

You are therefore requested to initiate disciplinary action against the above named teachers under the rules.

(ISHTIAQ KHAN)
ASDEO CIRCLE NATHIA GALI
ABBOTTABAD

ADD 4/2

9/12/15

9/12/2015

11035
9-1-2015

Ann - B (6)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

NOTIFICATION

In pursuance to Judgment of Honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad passed in Service Appeal No.672/2016 dated 22.02.2018, this office Notification issued vide Endst: No. 2369-72 dated 24.3.2016 in respect of Muhammad Sulaiman, SPST GPS Tatreela, Abbottabad is hereby restored and further posted as PSHT at GPS Thunda Tajwal till the finalization of denovo proceedings.

1/2
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Endst: No. 3520-23 / PF M. Sulaimant(Litig)
Copy forwarded to the:-

Dated 21/3 /2018

1. Registrar Honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad w/r to Judgment passed in Service Appeal No.672/2016 dated 22.02.2018.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Sub Divisional Education Officer (Male) Abbottabad.
4. Mr. Muhammad Sulaiman, SPST GPS Tatreela presently posted as PSHT at GPS Thunda Tajwal.

1/2
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Ann - C (7)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

NOTIFICATION

In pursuance to Judgment of Honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad passed in Service Appeal No.672/2016 dated 22.02.2018, Dr; Inayat -ur-Rehman, Vice Principal GHS No.1 Havelian Abbottabad is hereby appointed as Inquiry Officer to conduct denovo inquiry under E&D Rules 2011 in respect of Mr. Muhammad Sulaiman, SPST GPS Tatreela Circle Nathiagali and submit comprehensive report for further proceedings.

TERMS OF REFERENCE

To probe the following issues:-

“The accused while posting as PSHT at GPS Tatal Batangi was illegally involved in carrying text books of the said school in Suzuki No.CL-3837 at Bara Gali Kasala Road for the purpose of illegal sale which amounts to gross misconduct, inefficiency. Corruption and professional dishonesty. FIR was also registered against him vide No.217 dated 08.,12.2015 Under Section 409/34 PPC at Police Station Donga Gali as per report of ASDEO Circle Nathia Gali dated 09.12.2015

The inquiry officer shall submit report to the undersigned within ten (10) days with solid recommendation as laid down in Rules 11 to 14 of the Khyber Pakhtunkhwa Govt: Servants Efficiency & Disciplinary Rules 2011. Opportunity of self defense and cross examination, the witness/evidence be provided to the accused.

[Signature]
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Endst: No. 3514/18 / M. Sulaiman SPST (Litg)
Copy forwarded to the:-

Dated 24/3/2018

1. Registrar Honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad w/r to Judgment passed in service appeal No.672/2016 dated 22.02.2018.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
3. Dr; Inayat -ur-Rehman, Vice Principal GHS No.1 Havelian alongwith copy relevant documents.
4. Sub Divisional Education Officer (Male) Abbottabad with the remarks to cooperate with the inquiry officer.
5. Mr. Muhammad Sulaiman, SPST GPS Tareela (Nathia Gali)

[Signature]
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

NO. 359 /M. Suliman SPST

Dated 2/3/2018

CHARGE SHEET

I Qazi Tajammal Hussain, District Education Officer (Male) Abbottabad as Competent Authority, hereby charge you, Mr. Muhammad Sulaiman, SPST GPS Tatreela Circle Nathiagali as follows:

1. That you, while posted as PSHT at GPS Tatial Batangi Circle Nathiagali Abbottabad was illegally involved in carrying text books of the said school in Suzuki No.CL-3837 at Bara Gali Kasala Road for the purpose of illegal sale. FIR was also registered against you vide No.217 dated 08.12.2015 Under Section 409/34 PPC at Police Station Donga Gali as per report of ASDEO Circle Nathia Gali dated 09.12.2015.
2. By reason of the above, you appear to be guilty of gross misconduct, inefficiency. Corruption and professional dishonesty under Rule-3 of the Khyber Pakhtunkhwa Govt: Servants (E&D) Rules 2011 and have rendered yourself liable to all or any of the penalties specified Rule- 4 of the Rules ibid.
3. You are, therefore, required to submit your written defence within ten days of the issuance of this Charge Sheet to the Inquiry Officer.
4. Your written defense, if any, should reach the Inquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be head in person.
6. A statement of allegations is enclosed.


COMPETENT AUTHORITY

Mr. Muhammad Sulaiman, SPST GPS Tatreela Circle Nathiagali

NO. 3519 /Litg/M. Sulaiman, SPST

Dated 21/3/2018

DISCIPLINARY ACTION

Qazi Tajammal Hussain, District Education Officer (Male) Abbottabad as competent authority, am of the opinion that Mr. Muhammad Sulaiman, SPST GPS Tatreela Circle Nathiagali has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

1. That you, while posted as PSHT at GPS Tatial Batangi Circle Nathiagali Abbottabad was illegally involved in carrying text books of the said school in Suzuki No.CL-3837 at Bara Gali Kasala Road for the purpose of illegal sale. FIR was also registered against you vide No.217 dated 08.12.2015 Under Section 409/34 PPC at Police Station Donga Gali as per report of ASDEO Circle Nathia Gali dated 09.12.2015.
2. For the purpose of inquiry of the said accused with reference to the above allegations Dr. Inayat-ur-Rehman, Vice Principal, GHS Havelian, Abbottabad is hereby appointed as inquiry officer under Rule 10 (1) (a) of the ibid Rules:
2. The inquiry Officer shall, in accordance with the provisions of the ibid Rules, provide reasonable opportunity of hearing and cross examination to the accused, record its findings and make, within ten days, recommendations as to punishment or other appropriate action against the accused.
3. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry Officer.

[Signature]
COMPETENT AUTHORITY

Mr. Muhammad Sulaiman, SPST GPS Tatreela Circle Nathiagali

**ENQUIRY AGAINST MR.MUHAMMAD SULEMAN SPST GPS TATREELA
CIRCLE NATHIAGALI DISTRICT ABBOTTABAD.**

Enquiry Constituted.	Enquiry constituted by District Education Officer (M/S) Abbottabad vides Endst: No.3514-18/M.Suleman SPST (Litg) dated Abbottabad the 21.03.2018.
Enquiry Officer.	Dr, Muhammad Inayat-ur-Rehman (B-18) Vice Principal GHS No.1.Havelian District Abbottabad
Enquiry Against	Mr. Muhammad Suleman SPST GPS Tatreela Circle Nathiagali District Abbottabad..
Period of Enquiry.	April 2018

NATURE OF ENQUIRY:

The genesis of enquiry was restoration of "Reduction of Appellant from scale BPS-14 to Scale BPS-15 in pursuance judgment of Khyber Pakhtunkhwa Service Tribunal Abbottabad Branch order vide Appeal No.672/2016, announced on 22.02.2018, and hold denovo proceeding into the matter.

HISTORY OF ENQUIRY:

An FIR No.217 dated 08.12.2015 under section 409/34 PPC registered at Police Station Donga Gali Abbottabad against the Official under enquiry in regarding with illegal purchase/sale of Text Books carrying from Govt: Primary School Tutial Batangi. (Annexure-A).

The accused official obtained bail from ^{Add} session judge-VI Abbottabad on 08.12.2015 (Annexure-B).

The ASDEO circle Ishtiaq khan submitted a report to DEO (M) Abbottabad on 09.12.2015 which is self-explanatory against the officials under enquiry.

He declared him involved in illegal sale/purchase of Text Books and for disciplinary action against him (Annexure -C).

District Education Officer (M) Abbottabad in the term of rule 6 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Disciplinary) rules 2011 suspended has services for initial period of ninety(90) days vide order Endst:No.9595-9601/EB-I/enquiry/PST dated 09.12.2015 and Mr.Luqman Ali Khan Principal GHSS Nagri Bala Abbottabad was appointed enquiry officer vide Endst:No.9602-7/EB-I/enquiry dated 09.12.2015 to conduct enquiry and submit his recommendations to DEO for further proceeding and necessary action(Annexure-D)-I II

Mr. Luqman Ali Khan enquiry officer while conducting enquiry served questionnaire to the official as well as recorded his statement (Annexure-E).

On the bases of finding/facts the enquiry officers recommend the official for major penalty reduction to lower grade/scale to the competent authority (Annexure-F).

(11)

District Education Officer (M) Abbottabad as competent authority issue show ~~case~~ notice to accused teacher vide letter No.1368-70/EB-I/Enquiry dated 22.02.2016(Annexure-G)

The teacher under enquiry Mr. Muhammad Suleman PST submitted an appeal to DEO(M) Abbottabad on dated 12.02.2016 against the penalty and also submitted the PTC resolution as well as affidavits of himself and Taj Muhammad. (Annexure -H-I-II-III-IV)

District Education Officer(M) Abbottabad as competent authority rejected his appeal and imposed the major penalty as recommended by enquiry officer "REDUCTION OF LOWER POST SPST" in exercise the power conferred upon him under Rule 4 sub Rule(b)(i) of Khyber Pakhtunkhwa Govt: Servants Rules(Efficiency & Disciplinary) 2011 vide order Endst:No.2369-72/EB-I/Enquiry/Text Books dated Abbottabad the 24.03.2016, and No; 3491-94/F.No.14/Vol:V dated 05.05.2016 (Annexure-I)

Mr.Muhammad Suleman PST submitted an appeal to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar on dated 21.04.2016 against the order of DEO(M) Abbottabad dated 24.03.2016.

He also blamed the enquiry officer that he has not conducted the enquiry as per law and Rules. (Annexure-J).

Director Elementary & secondary Education Khyber Pakhtunkhwa rejected his appeal vide order Endst:No.5088-90/F.No.162 Appeal PST/TT/AT/Qari dated 23.05.2016. (Annexure-K)

The teacher concerned filed a service appeal No.672/2016 in Service Tribunal Abbottabad Branch for resolving his grievances. (Annexure-L) The reply of department is attached as (Annexure-M)

District Education Officer (M) Abbottabad requested Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar for constitution of denovo enquiry vide letter No.7726-28/ADEO/lit dated 06.10.2016 and also to Senior Govt: Pleader Abbottabad vide No.8379-80/ADEO/lit dated 26.10.2016(Annexure-N-I-II)

Honorable Service Tribunal Khyber Pakhtunkhwa Abbottabad Branch announced its judgment on dated 22.02.2018 with the remarks "*consequently the present appeal is accepted and the penalty is set aside. The department is however, at liberty to hold denovo proceeding with in period of ninety (90) days from the receipt of this judgment*" (Annexure-O)

Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar issued order to District Education Officer for compliance of judgment appeal 672/2016 vide No.433/ST dated 01.03.2018(Annexure-P)

Assistant Director (lit-II) Elementary & secondary Education Khyber Pakhtunkhwa addressed a letter to DEO(M) Abbottabad in this connection vide No 1574/lit-II dated Peshawar the 08.03.2018 (Annexure-Q)

In pursuance of Service Tribunal judgment District Education Officer (M) Abbottabad issued restoration order of BS-15 in respect of Mr. Muhammad Suleman SPST, vide Endst: No.3520-23/M.Suleman/Lit-II dated 21.03.2018,(Annexure-R I) and constituted an enquiry for purpose of denovo proceeding into the matter. (Annexure-R II)

PROCEDURE OF ENQUIRY:

On Appointment by District Education Officer(M) Abbottabad as enquiry officer, the undersigned informed SDEO(M) Abbottabad & Mr. Muhammad Suleman SPST through Regd: letter & Telephonically. ASDEO Mr.Ishtiaq khan was also contacted in this connection to record his statement. (Annexure-S)

Mr. Muhammad Suleman sent an application which was submitted to DEO (M) for further necessary action.(Annexure T I-II),and the teacher concerned was contacted telephonically to submit reply for charge sheet he arrived on 23.04.2018 but not submitted the same. On 26th April 2018 he requested to contact his lawyer. I refused, that I have no concern with his lawyer. He insisted and contacted his lawyer with the undersigned. He was once again directed to be present on 27th & 28th April 2018 for submission of his reply, but he replied that he will be on leave for said days and unable to submit the reply.

He has failed to submit reply for charge sheet/allegations within stipulated period already specified in charge sheet& vide No. SO((REG-VI) E&AD/2-6/2010 of Khyber Pakhtunkhwa Government Servants(Efficiency & Discipline) Rules, 2011,(11)(2) (Annexure-U I-II).

FINDINGS:

From the perusal record/documents the following findings were concluded.

- An FIR No.217 dated 08.12.2015 was registered against Mr. Muhammad Suleman SPST in which Mr.Javed Akhtar admitted the charge as already annexed as Annexure-A.
- Enquiry Officer Mr.Luqman Ali Khan Principal GHSS Nagri Bala recommend the major penalty under Rule (4) (b) (i) Khyber Pakhtunkhwa Govt: Servants rules 2011. (Annexure V)
- ASDEO Circle submitted reports to DEO (M) Abbottabad vide dated 09.12.2015(already annexed as Annexure C) & on 26.04.2018(Annexure W)
- District Education Officer(M) Abbottabad rejected appeal of the accused teacher vide order No.,& date already annexed as Annexure-I

- Director Elementary & Secondary Education, Khyber Pakhtunkhwa rejected appeal vide No.& date already annexed as Annexure-K
- The learned court in its judgment accepted appeal of the accused teacher however, advice the department for denovo proceeding into the matter already annexed as Annexure-O.

RECOMMENDATIONS:

On the bases of above findings/facts concluded during conducting enquiry the following recommendations are suggested for favorable consideration.

- In the light of reports of ASDEO circle, previously enquiry report conducted by Mr.Luqman Ali Khan Principal GHSS Nagri Bala Abbottabad, rejection of appeals by competent authorities DEO(M) Abbottabad and Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, the undersigned is of the opinion/view that Major penalty already imposed under Khyber Pakhtunkhwa Govt; Servants Rules (4)(b)(i), be intact/retain against Mr. Muhammad Suleman SPST and enquiry may be declared as ex-part vide rules quoted as Annexure-U-II
- To direct all Heads of Institutions, especially primary Schools, with the directions that without prior permission of the competent authority, no Govt: Property can more/shift at any cost. A general circular may please be issued in this regard.

Enquiry was conducted in the best interest of public

Dr.Muhammad Inayat ur Rehman
(Enquiry Officer)
V.Principal, GHS No.1 Havelain, A. Abad
Contact: 0344_0322-9663279.

Ann. "G" (14)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

No. 6239 /Suleman/Litig


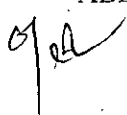
Dated 24/5 /2018

The Sub Divisional Education Officer(Male)
Abbottabad

Subject: PERSONAL HEARING

Memo:

I am directed to refer to the subject cited above and to ask you to intimate Mr. Muhammad Suleman, PSHT GPS Thunda Tajwal Circle Nathiagali to attend office of the District Education Officer (Male) Abbottabad on 31.5.2018 at 10.00 AM for personal hearing.


DY: DISTRICT EDU: OFFICER (M)
ABBOTTABAD


Personal hearing in respect
Mr Mohammad Suliman Psht Gps

Tatvda cisale Mathigallia, Dated, 31/05
time 11:00 2018.
A.M

1) انگوائٹری آفیسر ڈائریکٹر عنایت الرحمن صاحب سے انگوائٹری کے حوالے سے
آپ سے کب رابطہ کیا گیا ہے کیا

جواب :- انگوائٹری آفیسر نے پہلی دفعہ 10/4/18 کو دوسری مرتبہ 18/4/18 اور تیسری مرتبہ 28/4 کو
کو رابطہ کیا۔ مزید ٹیلی فون 344-9663279 سے رابطہ کیا۔ اور حوالہ 28/4 کو
سکول آنے کا کہہ کر وہ میز پر سکول نہیں آئے اور نہ دوبارہ رابطہ کیا۔

2) آپ انگوائٹری آفیسر سے کب ملے یا نہیں ملے

جواب :- میں انگوائٹری آفیسر سے 23/4/18 کو ملا

31-05-018

3) آپ کو چارج شیٹ کب ملی

جواب :- مجھے چارج شیٹ 31/3/18 کو وصول ہوئی

4) آپ نے چارج شیٹ کا جواب کب دیا -

انگوائٹری آفیسر نے 26/4/18 کو تیسری دفعہ فون بوقت 2:00pm کو رابطہ کیا 344-9663279
سے بتایا گیا کہ وہ 28/4/18 کو آپ سے سکول میں آئیں گے۔ مگر وہ وقت عقزہ پر
میں سکول نہیں آئے۔ اور نہ ہی دوبارہ کوئی رابطہ کیا۔ سہ ماہی کو چارج شیٹ کا
DT

جواب دینے کا موقع ہی نہیں دیا گیا۔ اور ایک طرف کارروائی کرتے ہوئے
عبرے خلاف جواب دہی میں جمع کیا گیا۔

اس کے بعد سائل نے فورم 3/5/018 کو انڈوسٹی (Re-open) کرنے
کے لیے، بظابطہ درخواست جمع کروائی جس پر ابھی تک فیصلہ نہیں ہوا
اور قانون کے مطابق اس درخواست پر سائل کو تحریری فیصلے سے
مطلع فرمایا جائے۔

31-05-018

31-05-018

~~_____~~
Attested
31/5/18

(3)

آپ نے Show Cause کا جواب انٹوائری آفیسر کو دیا یا آفس میں لیا جمع کر دیا۔

جواب: سوال کا جواب ~~سوال کے مطابق~~ دیا گیا۔

اس سوال کا جواب انٹوائری آفیسر نے مجھ سے نہیں لیا۔ وقت کا قصین کے موقع پر نہیں لیا۔ اور میرے خلاف لکھ دیا۔
6) کیا انٹوائری آفیسر نے آپ کو ملنے کی کوئی آفیسری مہلت دی تھی۔

جواب: انٹوائری آفیسر نے 28/4/18 کو خود میرے سکول آنے کا کہا تھا مگر وہ میرے سکول میں نہیں آئے اور نہ دوبارہ رابطہ کیا۔
7) اگر یہاں تودہ کن سے تاریخ تھی۔

جواب: انہوں نے 28/4/18 کی تاریخ دی مگر وہ سکول نہیں آئے۔

8) انٹوائری آفیسر نے آپ سے جو رابطہ کیا وہ کن سے ٹیلی فون نمبر سے کیا اور کس ٹیلی فون نمبر سے کیا۔
جواب: انٹوائری آفیسر نے 0344-9663279 اس نمبر سے 0345-9543065 پر رابطہ کیا۔

9) کیا آپ نے انٹوائری آفیسر سے اپنے دیکھنے سے ملنے سے اجازت لیا ہے اور یہاں تو کیوں
جواب: میں نے انٹوائری آفیسر کو دیکھنے سے جلنے کا نہیں کہا۔

10) اس کے علاوہ آپ اپنے دفاع میں کچھ لکھنا چاہتے ہو تو لکھ لیں۔
میں اپنے دفاع کے لیے ایک عدد درخواست جو کہ Page 2 اور 3 پر مشتمل ہے وہ ساتھ منسلک کرنا چاہتا ہوں۔

محمد سیف خان P.S.H.T گورنمنٹ پرائمری سکول ٹھٹو نڈا تاجوال
31-05-18

Annexure W (E)

Ann - I

وہاں پر انٹرویو کے لیے تمہیں
PSTH کے ساتھ ساتھ

تاریخ!

GPS کے ساتھ ساتھ اس کے ساتھ ساتھ
کرنے کے لیے اس کے ساتھ ساتھ
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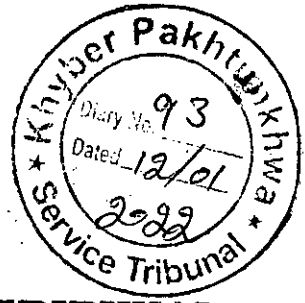
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PSTH کے ساتھ ساتھ اس کے ساتھ ساتھ
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Assistant District Officer
(E & SE) Abbottabad.

26/4/2018

ADP
03/35850792
131015172.528-9



BEFORE KHYBER PAKHTUNHWA SERVICE TRIBUNAL,
PESHAWAR, CAMP COURT ABBOTTABAD.

Application No. _____/2022

IN

Service Appeal No: 1332 of 2018

*put up to the
court reader concerned*

*Shay
12/1/22*

.....
Muhammad Suleman S/o Ghakkar Khan, resident of Nagri
Bala, at Present GPS Tatreela, ehsil and District Abbottabad.

....APPELLANT

Versus

Government of Khyber Pakhtunkhwa through Secretary
Elementary & Secondary Education Department
Peshawar & Others.

....RESPONDENTS

SUBJECT: APPLIAATION FOR EARLY HEARING OF TITLE SERVICE APPEAL.

Respectfully Sheweth:

1. That, the title Service Appeal is pending adjudication before this Honourable Service Tribunal since 22/10/2018 and next date for hearing is fixed for 16/02/2022.
2. That, the appellant was imposed major penalty of "Reduction to Lower Post of P.S.T (BPS-15 to BPS-14) by respondent No.3 due to which the whole service career of the appellant is being suffered very badly and, beside this the appellant is also suffering through huge financial loss.


*Fix in the form starting from
17-1-2022
12-01-2022*

*19/1
2022*

3. That, the next date of hearing is fixed for 16/02/2022 which is too long.
4. That, if the title service appeal is not fixed for an early hearing then the whole Service career of the applicant / appellant will be suffered badly and, beside this, the applicant / appellant and his family will suffer huge financial loss.

It is therefore, humbly requested that on acceptance of instant application, title service appeal may kindly be fixed for an early hearing during the month of January 2022 before the Camp court Abbottabad in the best interest of justice.

Dated: 11/01/2022


Muhammad Suleman
(SPST) GPS, Tatreela, ATD
(APPLICANT / APPELLANT)
(IN PERSON)

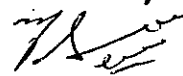
CERTIFICATE:

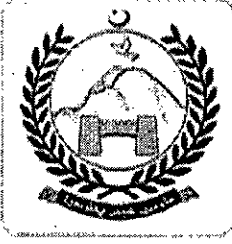
Certified that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

11/01/2022

DEPONENT

Muhammad Suleman
(APPLICANT / APPELLANT)





**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 480 /ST

Dated: 17-2- /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
Abbotabad.

Subject: JUDGMENT IN APPEAL NO. 1332/2018 MR. MUHAMMAD SULAIMAN.

I am directed to forward herewith a certified copy of Judgement dated 17.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

بعدالت جناب سروس ٹرائیونل کمیٹی کورٹ ایپل ایبڈ آباد

محمد سلیمان بنام گورنمنٹ ایم ایم

درخواست براد تبدیل تاریخ مقدمہ عنوان نمبر 1332/18

جناب عالی درخواست ذیل مضمون ہے۔

① یہ کہ مقدمہ عنوان زیر سماعت عدالت جناب پٹنہ جس میں لا. 7 تاریخ 11/11/32ء میں فیصلہ صادر ہوا ہے۔

② تاکہ مقدمہ عنوان میں جوچہ بیجا لگا گیا ہے اس میں جو کسی انداز میں آئندہ آئندہ ایک کورٹ میں سماعت کیلئے مقرر کر دیا جائے تو ممکن نہ ہو سکے گا۔

لہذا اس لئے عوامی مقدمہ کی تاریخ تبدیل کر کے آئندہ آئندہ ہفتہ آئندہ ایک کمیٹی کورٹ میں تاریخ مقرر کی جاوے

الکرم
24/09/2021

محمد سلیمان بنام گورنمنٹ
محمد علی عبدالرحمن جو کزن اینڈ کونٹری