

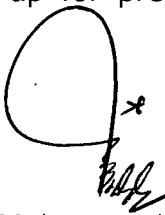


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1071/2022

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 29/06/2022 | <p>The appeal of Mr. Faiz Rasan resubmitted today by Mr. Hamza Amir Gulab Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p> |
| 2- | 4/7/22 | <p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>13.7-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p> CHAIRMAN</p> |
| | 13.07.2022 | <p>Appellant in person present and requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for preliminary hearing before the S.B on 14.09.2022.</p> <p> (Mian Muhammad) Member (E)</p> |

The appeal of Mr. Faiz Rasan SPST GPS Ferozpur Takht Bai District Mardan received today i.e. on 20.06.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures-B, E, F and G of the appeal are illegible which may be replaced by legible/better one.
- 2- Annexures of the appeal may be attested.

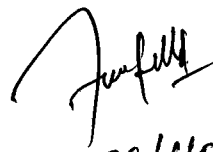
No. 2083 /S.T,

Dt. 22/6 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Hamza Amir Gulab Adv.
High Court Peshawar.

See, Resubmitted after Compliance.


29/6/2022.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Faiz Rissan (vs) Secretary Elementary and Secondary

| S# | CONTENTS | YES | NO |
|----|--|-----|----|
| 1 | This Appeal has been presented by: | ✓ | |
| 2 | Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents? | ✓ | |
| 3 | Whether appeal is within time? | ✓ | |
| 4 | Whether the enactment under which the appeal is filed mentioned? | ✓ | |
| 5 | Whether the enactment under which the appeal is filed is correct? | ✓ | |
| 6 | Whether affidavit is appended? | ✓ | |
| 7 | Whether affidavit is duly attested by competent Oath Commissioner? | ✓ | |
| 8 | Whether appeal/annexures are properly paged? | ✓ | |
| 9 | Whether certificate regarding filing any earlier appeal on the subject, furnished? | ✓ | |
| 10 | Whether annexures are legible? | ✓ | |
| 11 | Whether annexures are attested? | ✓ | |
| 12 | Whether copies of annexures are readable/clear? | ✓ | |
| 13 | Whether copy of appeal is delivered to AG/DAG? | ✓ | |
| 14 | Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents? | ✓ | |
| 15 | Whether numbers of referred cases given are correct? | ✓ | |
| 16 | Whether appeal contains cutting/overwriting? | ✓ | |
| 17 | Whether list of books has been provided at the end of the appeal? | ✓ | |
| 18 | Whether case relate to this court? | ✓ | |
| 19 | Whether requisite number of spare copies attached? | ✓ | |
| 20 | Whether complete spare copy is filed in separate file cover? | ✓ | |
| 21 | Whether addresses of parties given are complete? | ✓ | |
| 22 | Whether index filed? | ✓ | |
| 23 | Whether index is correct? | ✓ | |
| 24 | Whether Security and Process Fee deposited? On _____ | ✓ | |
| 25 | Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____ | ✓ | |
| 26 | Whether copies of comments/reply/rejoinder submitted? On _____ | ✓ | |
| 27 | Whether copies of comments/reply/rejoinder provided to opposite party? On _____ | ✓ | |

Edm
KPK

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

Name:

Hamza Amir Gulab

Signature:

[Signature]

Dated:

26/6/2022

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. 1071 /2022

Faiz Rissan

....Appellant

VERSUS

Secretary Elementary and Secondary Education Khyber Pakhtunkhwa
Peshawar

..... Respondents

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| 3. | Addresses of parties | | 7 |
| 4. | Copy of Visit report | A | 8 |
| 5. | Copy of Show Cause notice dated 11.2.2022 | B | 9 |
| 6. | Copy of Reply and statements | C and D | 10-14 |
| 7. | Copy of letter dated 2.3.2022 regarding personal hearing | E | 15 |
| 8. | Copy of Impugned Order dated 04.03.2022 | F | 16 |
| 9. | Copy of Departmental Appeal | G | 17-19 |
| 10. | Wakalatnama | | 20 |

Faiz Rissan
Appellant

Through

Hamza Amir Gulab
Hamza Amir Gulab

&

Muhammad Nouman
Muhammad Nouman

Advocates High Court

Cell: 03005936155

**BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. _____/2022

Faiz Rasan SPST GPS Ferozpur Takht bai District Mardan
.....Appellant

VERSUS

1. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) Mardan
4. SDEO (M) Takht Bhai Mardan

..... Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,1974
AGAINST THE IMPUGNED ORDER DATED 4.03.2022 OF
RESPONDENT 3 WHEREBY APPELLANT WAS IMPOSED
PENALTY OF COMPULSORY RETIREMENT AND OF
APPELLATE AUTHORITY (RESPONDENT NO 2)
WHEREBY HE DID NOT RESPOND TO DEPARTMENTAL
APPEAL /REPRESENTATION OF THE APPELLANT**

PRAYER

On acceptance of this appeal the impugned order dated 04.03.2022 of Respondent 3 regarding compulsory retirement of Appellant may graciously be set aside and the Appellant be reinstated in service with all back benefits.

Respectfully Sheweth

FACTS

1. That the appellant was inducted in Education Department in the year 1997 as PST and now serving as SPST GPS Ferozpur in BPS-14 and thus he has about 25 years of service in his credit.

2. That in the long carrier of the appellant no complaint has ever been reported against him and thus he is having an unblemished service record.

3. That on 13.01.2022 SDEO (M) Takht Bhai (Respondent No 4) visited the school and alleged that the Appellant was busy in playing with mobile and his child studying in class 4 has long hair.
Copy of Visit report is annexed as Annexure A

4. That on 11.2.2022 vide letter No 1468/sdea t.bhai, Appellant was served with show cause notice regarding misbehaviour and indiscipline in providing information/response.
Copy of Show Cause notice dated 11.2.2022 is annexed as Annexure B

5. That Appellant replied to the show cause notice and statements of Mr. Ayub Khan PSHT GPS Ferozpur Takhtbhai and Mr. Hamil Ahmad SPST GPS Ferozpur Takhtbhai was also attached with the reply wherein both the teachers stated that the undersigned was only giving information regarding his sons form-B from the Mobile for uploading the same in soft form to ASDEO Circle, hence he was not playing with mobile.

Copy of Reply and statements are annexed as Annexure C and D

6. That after receiving the reply to show cause notice, DEO (male) Mardan (Respondent No 3) directed the Appellant to attend personal hearing on 5.3.2022 at 1.00 Pm.

Copy of letter dated 2.3.2022 is annexed as Annexure E

7. That without waiting for the personal hearing, on 04.03.2022 vide letter Endst No. 2148-G/SDEO.T.Bhai, District Education Officer (Male) Mardan (Respondent No 3) imposed major penalty of Compulsory Retirement upon the undersigned.

Copy of Impugned Order dated 04.03.2022 is annexed as Annexure F

8. That aggrieved from the Order of Respondent No 3 the Appellant preferred Departmental Appeal/Representation to Respondent No.2 on 07.03.2022 But the appeal till now the same has not been responded yet.

Copy of the departmental Appeal/Representation is annexed as Annexure G

9. That the appellant after exhausting the departmental remedy and waiting for statutory period i.e. ninety 90 days, is preferring the instant service appeal before this Hon'ble Court on the following grounds:

GROUNDS

- A. That no regular or proper inquiry as required was conducted nor the mandatory procedure for inquiry was adopted and thus the impugned order of compulsory retirement is standing in vacuum.
- B. That as stated above that the applicant was never associated with any inquiry nor any opportunity of personal hearing was provided to him and thus he has been condemned unheard.
- C. That the impugned Order has been passed in vacuum without having solid, cogent and convincing evidence and is the result of colourable exercise of power.
- D. That the impugned Order of Compulsory Retirement is illegal, ultra vires, unfounded, void an initio, unlawful and thus ineffective upon the rights of the Appellant.
- E. That in view of the above facts and circumstances, the impugned order dated 04.03.2022 of compulsory retirement is void ab-initio as neither the appellant was served any statement of allegation, nor he was associated with any inquiry nor any opportunity of personal hearing was provided to him.
- F. That no fair opportunity of hearing has been afforded to the Appellant.
- G. That the impugned punishment is prima facie harsh and unreasonable when the same is placed in juxta position with the nature of allegations therefore this Hon'ble Court needs to interfere to pass an appropriate order to meet the ends of justice.

H. That other grounds will be taken at the time of arguments with prior approval from this Hon'ble Tribunal.

It is, therefore most humbly prayed that by accepting this appeal, the impugned order dated 04.03.2022 of Respondent 3 regarding compulsory retirement of Appellant may graciously be set aside and the Appellant be reinstated in service with all back benefits. **OR** any other relief this Honourable Court may deem just and proper be also passed in favour of Appellant.

[Handwritten signature]

Appellant

Through

[Handwritten signature]

Hamza Amir Gulab

&

[Handwritten signature]

Muhammad Nouman

Advocates High Court

CERTIFICATE

Certified that no such like Appeal has been filed earlier than this Appeal before this Honourable Court.

[Handwritten signature]

Advocate

6

**BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. _____/2022

Faiz Rasan

.....Appellant

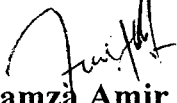
VERSUS

Secretary Elementary and Secondary Education Khyber
Pakhtunkhwa Peshawar Respondents

AFFIDAVIT

I, Faiz Rasan S/O Behram Khan R/O SPST GPS Ferozpur Takht bai District Mardan , do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

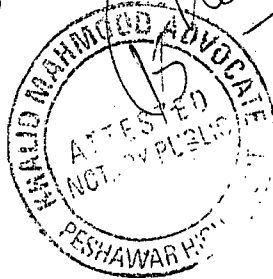
Identified by


Hamza Amir Gulab

Advocate


DEPONENT

CNIC#:16101-9180515-5



(7)

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2022

Faiz Rasan

....Appellant

VERSUS

Secretary Elementary and Secondary Education Khyber
Pakhtunkhwa Peshawar

..... Respondents

ADDRESSES OF PARTIES

APPELLANT:

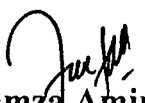
Faiz Rasan SPST GPS Ferozpur Takht bai District Mardan

RESPONDENTS

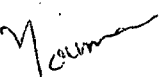
1. Secretary Elementary and Secondary Education Khyber
Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education Khyber
Pakhtunkhwa Peshawar.
3. District Education Officer (Male) Mardan
4. SDEO (M) Takht Bhai Mardan


Appellant

Through


Hamza Amir Gulab

&


Muhammad Nouman

Advocates High Court

PART II - REMARKS

For Statistics, see page

Remarks

"Action taken by the School Authority"

Explanation is called from him for his non cooperation & rude behaviour & students were found very weak.

visited: Gps Ferozpur

Dated: 13/01/2022

Teacher: $\frac{03}{03}$

Chow: $\frac{01}{01}$

Serial: 105

Basic facilities available. Cleanliness was not so good the Civil Chowkidar is directed to ensure well in time cleanliness of the school.

I checked class 3rd of Mr. Faiz Rasan & found very weak. I also found one of his child studying in class 4th he has a long hair by asking from his father Mr. Faiz Rasan he ~~was~~ told that it is not a matter.

By my entering to the school he was busy in playing with mobile.

13/01/2022
S. B. K. (M) T. B. K.
Sum

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

No. 1460 /sdoo (M) /

Dated: 11.02.2022

SHOW CAUSE NOTICE

I, Zulfikar ul Mulk, District Education officer (Male) Mardan as Competent Authority under the Khyber Pakhtunkhwa government servants (Efficiency & Discipline) Rules, 2011, do hereby serve you Mr. Faiz Rasan SPST GPS Ferozpur shows cause notice as follows

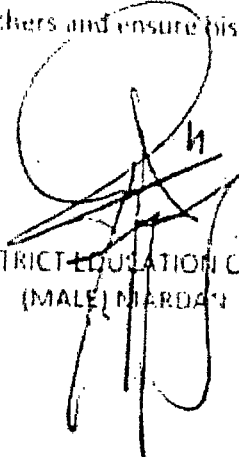
- a. During the visit of the school by SDEO(M) concerned, you showed misbehavior and indiscipline in providing information/response.
- b. In exercise of the power conferred by the KPK Govt. servant (Efficiency & Discipline) Rules, 2011, the Competent Authority is hereby pleased to serve you with the instant show cause notice regarding your ill manner, with the direction to submit your defense in writing within 07 days of the issuance of this notice as to why the minimum/major penalty of Rule 4(3)(a) of the said rules should not be imposed upon you and also intimate whether you desire to be heard in person.
- c. In case you failed to submit your reply within the stipulated period, it will be presumed that you have no defense to offer and ex-parte decision will be taken against you.

(Zulfikar ul Mulk)

**DISTRICT EDUCATION OFFICER
(MALE) MARDAN**

Copy to the:

- 1. SDEO(M) Tahlt Bina to serve show cause notice on cited teachers and ensure his reply.


**DISTRICT EDUCATION OFFICER
(MALE) MARDAN**

LEGIBLE COPY

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

No. 1468/sdeo T.Bhai

Dated 11.02.2022

(9)

SHOW CAUSE NOTICE

I, Zulfiqar ul Mulk, District Education Officer (Male) Mardan as Competent Authority under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you Mr. Faiz Rasan SPST GPS Ferozpur shows cause notice as follows:

- a. During the visit of the school by SDEO(M) concerned you showed misbehaviors and indiscipline in providing information/response.
- b. In exercise of the power conferred by the KPK Govt servant (efficiency & Discipline) Rules, 2011, the Competent Authority is hereby pleased to serve you with the instant show cause notice regarding your ill manner with the direction to submit your defense in writing within 07 days of the issuance of this notice as to why the minor / major penalty of Rule 4(a)/(b) of the said rules should not be imposed upon you and also intimate whether you desire to be heard in person.
- c. In case you failed to submit your reply within the stipulated period, it will be presumed that you have no defense to offer and ex-parte decision will be taken against you.

**(ZULFIQAR UL MULK)
DISTRICT EDUCATION OFFICER
(MALE) MARDAN**

Copy to the:

1. SDEO(M) Takht Bhai to serve show cause notice on cited teachers and ensure his reply.

**DISTRICT EDUCATION OFFICER
(MALE) MARDAN**

J. M. L.

The District Education Officer (M) Mardan

Subject :- Reply of the Showcause notice.

Sir,

It is stated that SDEO (M) T. Bhai visited on 10 of January 2022 during his arrival we were providing the student's data demanded by the worthy SDEO (M) Mardan through SDEO, and Adhos. I Mr Faiz Ratan SPST was telling data of my two sons from Form "B" in my mobile phone in the meanwhile which was uploading and sending by Mr Jamil Ahmed SPST on which the SDEO T. Bhai mentioned that Mr Faiz Ratan was playing a mobile which is not correct. The messages of registration are on the record.

The other issue he has made that the hairs of one of the my sons M. Waqas are long therefore he was cut and strucked off on the order of SDEO concerned and now he is not in school but gone to madrasa from the causing of not cutting his hairs.

Another objection he made is that the students had written the food lesson in which living organisms word was written in which the alphabet "L" was written (d) style.

which seems to the strangers just like (d). The photo of workbook of the students of the day is annexed.

Sir, Another question was that he asked a student to say dua e gunut when she recited the objected that she did not recited Bismillah.

Another question he put to say to the students of class and what is called the english on which he objected.

(161) Dear Sir, I am suffering from psycce troubles for sometimes I forgot my memories at all. due to binacial problems breakthrough occurs in treatment which causes badly on my civil life too. Sometimes the way and route from masjid to home is also forgotten on which the neighbors help me to arrive at home.

I sometime record something in hard copies and in audio & videos. which is part of my treatment by doctors.

Dear Sir,

(12)

Despite of my mental and
Psychic Issues I am trying hard work
to teach the students but sometimes my
senses are shut down to the earth with
crash.

My reserves of money is grabbed
by fraudulent persons now I am
in the position to spend normal
and to continue my treatment
and to perform duty simply.

These are the causes on the
base of which the worthy S.P.E.O
concern has called me therefore
my to be obliged and not to order
my self party but my obligations
to be accepted by the
worthy D.E.O (M) Mardana

Thanks

Faiz Razaan SPST GPS Ferozpur

T. Bhai Nalain
16/12/22

Statement of Mr. Ayub KHAN P.S.H.T

G.P.S Feroz Pur Takht Bhai (Mardan)

It is stated that Mr Faiz Roshan S.P.S.T

^{G.P.S} Feroz Pur was telling the date of his two

sons in class 4th and 5th from Form "B" in his

mobile phone uploading by Mr Jamil Ahmed S.P.S.T

in the soft program sending to the A.S.D.E.O circle

and was not playing in mobile as the S.D.E.O ^(M.T)

stated visiting G.P.S Feroz Pur on 13-1-2022.

10/1/22

Head Teachers
G.P.S. Feroz Pur,
Takht Bhai (Mardan)

Ayub Khan P.S.H.T
G.P.S Feroz Pur Takht Bhai
Mardan

Statement of Mr. Jamil Ahmed SPST

GPS Feroz Pur Takht Bhai (Mardan)

It is stated that Mr Faiz Rasan SPST
GPS Feroz Pur was telling the data of his
Tale Sans in class 4th and 5th from
Form "B" in his mobile phone which
I was uploading in the soft
proof form sending to the S.D.E.O
circle. I state that Mr Faiz Rasan SPST
was not playing in mobile as the
S.D.E.O (MT) was started visiting
GPS Feroz Pur on 13-1-2022.

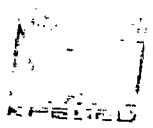
Jamil Ahmed SPST
GPS Feroz Pur
Takht Bhai Mardan

B.aml

14-1-2022



DISTRICT EDUCATION OFFICE (M) MARDAN
Phone & Fax #. 0937933151
Email address: deomalemardan@gmail.com



No. 2023 / 11/11/2022 Date 02-03-2022

To

The SOLIDARITY Takht Bhai

Handwritten notes:
bā F
injection received by
B
3/3/22

SUBJECT REPLY TO SHOW CAUSE NOTICE/PERSONAL HEARING

Memorandum

Reference to the subject cited above. In this regard you are directed to attend office of the undersigned along with Mr. Faiz Nisan SPST GPS Ferozpur for personal hearing on Friday, 03rd March, 2022 at 01:00 PM.

Signature
DISTRICT EDUCATION OFFICER
(MALE) MARDAN
(N)

PLEASE NOT SIGN UNDER THE TABLE, EXCEPT YOUR SHOES & USE THEM TO KICK OUT CORRUPTION

Better copy

15

**ELEMENTARY & SECONDARY EDUCATION DEPARTMENT, GOVT;
OF KHYBER PAKHTUNKHWA**

District Education Office (M) Mardan

No. 2023 / dated 02.03.2022O

To

SDEO (M) Takh Bhai

Subject: Reply to Show Cause Notice/ Personal Hearing.

Memo.

Reference to the subject cited above. In this regard you are directed to attend office of the undersigned along with Mr. Faiz Rasan SPST GPS Ferozpur for personal hearing on Friday 5th March 2022 at 01.00 PM.

DISTRICT EDUCATION OFFICER

(MALE) MARDAN

Faiz Rasan

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDANOFFICE ORDER

WHEREAS, Mr. Faiz Rason SPST GPS Ferozpur was reported by SDEO(M) Takht Bhai vide letter No:239 dated 01-01-2022.

WHEREAS, an explanation was also called from him by SDEO concerned but he neglected and ignored.

AND WHEREAS, a show cause notice was issued to him vide this office under Endst No 1462 dated 11-07-2022.

AND WHEREAS, he has submitted reply to the show cause notice and in light of which he was called for personal hearing.

WHEREAS, during personal hearing and written reply to show cause notice he himself confessed that he is a psyche and trouble in performing duties.

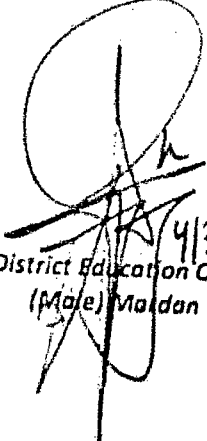
Now in exercise of the power conferred under khyberPakhtunkhwa Govt servants E&D rules 2011 (4b-ii), and on the basis of personal hearing and other evidence from the record, the undersigned being Competent Authority is pleased to impose the penalty of Compulsory Retirement upon, Mr Faiz Rason SPST GPS Ferozpur with immediate effect

(Zulfiqar ul Mulk)
District Education Officer
(Male) Mardan

Endst No. 2148-6 /SDEO T Bhai/ Dated: 04/03/2022

copy forwarded for information and necessary action to the:-

1. Director E&SE Education KPK, Peshawar.
2. DAO Mardan
3. SDEO(M) Takht Bhai
4. Official concerned


District Education Officer
(Male) Mardan

LEGIBLE COPY

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

OFFICE ORDER

(16)

WHEREAS, Mr Faiz Rasan SPST GPS Ferozpur was reported by SDEO(M) Takht Bhai vide letter No 239 dated 01.01.2022.

WHEREAS, an explanation was also called from him by SDEO concerned but he neglected and ignored.

AND WHEREAS, a show cause notice was issued to him vide this office under Endst No 1468 dated 11.02.2022.

AND WHEREAS, he has submitted reply to the show cause notice and in light of which he was called for personal hearing.

WHEREAS, during personal hearing and written reply to show cause notice he himself confessed that he is a psyche and trouble in performing duties.

Now in exercise of the power conferred under Khyber Pakhtunkhwa Govt Servants E&D rules 2011 (4b-ii), and on the basis of personal hearing and other evidence from the record, the undersigned being Competent Authority is pleased to impose the penalty of Compulsory Retirement upon, Mr Faiz Rasan SPST GPS Ferozpur with immediate effect.

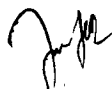
(ZULFIQAR UL MULK)
DISTRICT EDUCATION OFFICER
(MALE) MARDAN

Endst No. 2148-G/SDEO T. Bhai/Dated 04.03.2022

Copy forwarded for information and necessary action to the:-

1. Director E&SE Education KPK, Peshawar.
2. DAO Mardan
3. SDEO(M) Takht Bhai
4. Official Concerned.

DISTRICT EDUCATION OFFICER
(MALE) MARDAN



As per statement

Director Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

Subject: DEPARTMENT APPEAL AGAINST ORDER OF
DISTRICT EDUCATION OFFICER (MALE)
MARDAN DATED 06.03.2022 WHEREBY THE
APPELLANT WAS COMPULSORY RETIRED FROM
HIS SERVICE.

ABDE (M)

process

[Signature]

16/5/22

Respected Sir,

1. That the appellant was inducted in Education Department in 30.06.1997 as PST and now serving as SPST GPS Ferozpur in BPS-14.
2. That the Appellant has about 24 years of service in his credit and throughout his career, he has performed his duty with full devotion, dedication and commitment and no complaint whatsoever has ever been made against him.
3. That on 13.01.2022 SDEO (M) Fakir Bhai visited the school and alleged that the undersigned was busy in playing with mobile and his child studying in class 3 has long hair.
4. That on 11.2.2022 vide letter No 1468-sdea t.bhai, the undersigned was served with show cause notice regarding misbehavior and indiscipline in providing information response.

[Signature]

NO 64

7-2-2022

[Signature]

Better copy

17


To

**Director Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar**

**Subject: DEPARTMENT APPEAL AGAINST ORDER OF
DISTRICT EDUCATION OFFICER (MALE)
MARDAN DATED 04.03.2022 WHEREBY THE
APPELLANT WAS COMPULSORY RETIRED FROM
HIS SERVICE.**

Respected Sir,

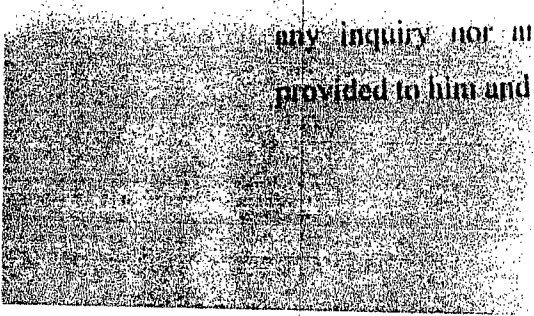
1. That the appellant was inducted in Education Department in 30.06.1997 as PST and now serving as SPST GPS Ferozpur in BPS-14.
2. That the Appellant has about 24 years of service in his credit and throughout his career, he has performed his duty with full devotion, deduction and commitment and no complaint whatsoever has ever been made against him.
3. That on 13.01.2022 SDEO (M) Takht Bhai visited the school and alleged that the undersigned was busy in playing with mobile and his child studying in class 4 has long hair.
4. That on 11.2.2022 vide letter No 1468/sdea t.bhai, the undersigned was served with show cause notice regarding misbehavior and indiscipline in providing information/response.



That the undersigned replied to the show cause notice and statements of Mr. Ayub Khan PSE GP, Ferozpur Talukhano and Mr. Hamid Ahmad PSE GP, Ferozpur Talukhano was also attached with the reply wherein both the teachers stated that the undersigned was only giving information regarding his soft form-B from the Mobile for uploading the same in soft form by ASDFO Circle, hence he was not playing with mobile

Copy of Reply and statements are attached.

- 6. That after receiving the reply to show cause notice, DEO (Male) Mardan directed the undersigned for personal hearing on 5.3.2022 at 1.00 Pm.
- 7. That without waiting for the personal hearing, on 04/03/2022 vide Endst No. 2148-G/SDEO.T.Blai, District Education Officer (Male) Mardan imposed major penalty of Compulsory Retirement upon the undersigned.
- 8. That no regular or proper inquiry as required was conducted and the mandatory procedure for inquiry was adopted and that the impugned order of compulsory retirement is standing in vacuum.
- 9. That as stated above that the applicant was never associated with **any inquiry nor any opportunity of personal hearing was provided to him and thus he has been condemned unheard**



5. That the undersigned replied to the show cause notice and statements of Mr. Ayub Khan PSHT GPS Ferozpur Takhtbhai and Mr. Hamil Ahmad SPST GPS Ferozpur Takhtbhai was also attached with the reply wherein both the teachers stated that the undersigned was only giving information regarding his sons form-B from the Mobile for uploading the same in soft form to ASDEO Circle, hence he was not playing with mobile.

Copy of Reply and statements are attached.

6. That after receiving the reply to show cause notice, DEO (male) Mardan directed the undersigned for personal hearing on 5.3.2022 at 1.00 Pm.
7. That without waiting for the personal hearing, on 04.03.2022 vide Endst No. 2148-G/SDEO.T.Bhai, District Education Officer (Male) Mardan imposed major penalty of Compulsory Retirement upon the undersigned.
8. That no regular or proper inquiry as required was conducted nor the mandatory procedure for inquiry was adopted and thus the impugned order of compulsory retirement is standing in vacuum.
9. That as stated above that the applicant was never associated with any inquiry nor any opportunity of personal hearing was provided to him and thus he has been condemned unheard.

[Handwritten signature]

That the impugned order is ultra vires in violation of law and is void ab initio, void ab initio and consequently evidence and is the result of colourable exercise of power.

11. That the impugned Order of Compulsory Retirement is illegal, ultra vires, unfounded, void ab initio, unlawful and thus ineffective upon the rights of the Appellant.

12. That in view of the above facts and circumstances, the impugned order dated 04.03.2022 of compulsory retirement is void ab initio as neither the appellant was served any statement of allegation, nor he was associated with any inquiry nor any opportunity of personal hearing was provided to him.

It is, therefore prayed that by accepting this appeal the impugned order dated 04.03.2022 may please be set aside and the appellant may be reinstated in service with all back benefits. And if I am ill, then my case may be referred to D.O Health please.

Appellant

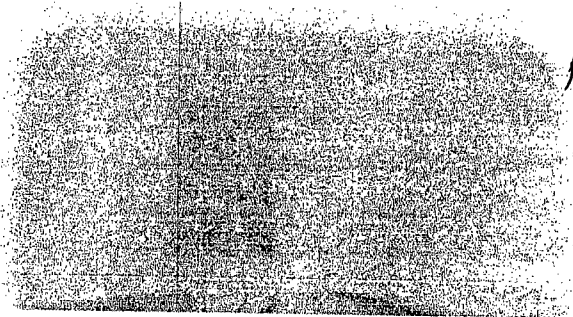
Faiz Rasan
SPST

Naqam
7/3/22

Dated 7.3.2022

G.P.S Ferozpur Takht Bhai Mardan

Mob: 0313-9257559



10. That the impugned Order has been passed in vacuum without having solid, cogent and convincing evidence and is the result of colourable exercise of power.
11. That the impugned Order of Compulsory Retirement is illegal, ultra vires, unfounded, void an initio, unlawful and thus ineffective upon the rights of the Appellant.
12. That in view of the above facts and circumstances, the impugned order dated 04.03.2022 of compulsory retirement is void ab-initio as neither the appellant was served any statement of allegation, nor he was associated with any inquiry nor any opportunity of personal hearing was provided to him.

It is, therefore prayed that by accepting this appeal the impugned order dated 04.03.2022 may please be set aside and the appellant may be reinstated in service with all back benefits. And if I am ill, then my case may be referred to D.G Health please.

Appellant

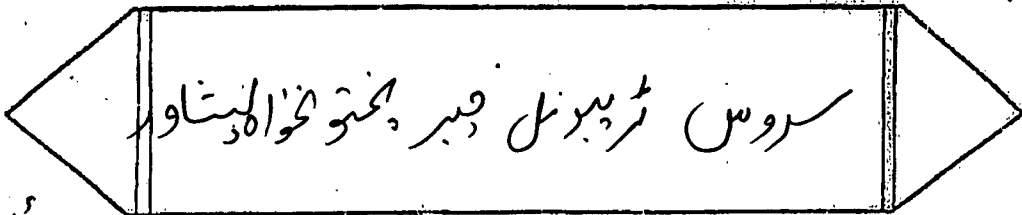
Faiz Rassan
SPST

Dated 7.3.2022

G.P.S Ferozpur Takht Bhai Mardan

Faiz

بعدالت



2022ء منجانب سائل -
فیض رسالہ بنام سید ذی اللہ علیہ السلام وغیرہ

Service Appeal.

موزخہ
مقدمہ
دعویٰ
پریم

باعث تحریر آئنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیرودی اور جواب دہی وکیل کاروائی متعلقہ
آج کے مقام لسٹ اور کیلئے گمرہ امیر گلاب محمد نوحان
مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو رضی نامہ کرنے والے و تقرر ثالثیت ہ فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بہ صورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیرودی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائرہ کرنے اپیل گمرانی و نظر ثانی و پیرودی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لانا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سہارا
پر واخذہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیرودی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المترقون 20
ماہ جون 2022

Accepted & Accepted

گمرہ امیر گلاب
936155

Muhammad Nouman
Advocate