

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

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Service Appeal No: 1395/2018

Mujahid Ali Ex.SPST, GPS Sadabahar, Gujrat, Mardan(Appellant)

VERSUS

The Secretary (E & SE) Khyber Pakhtunkhwa, Peshawar & Others.

(Respondents)

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Respondents No 1 to 3

Through

District Education Officer
(Male) Mardan

Dated: 21/1/19

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(Respondents)

Para Wise Comments on Behalf of Respondents No 1 to 3.

Respectfully, Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standis, to file the instant appeal.
2. That the instant appeal is incompetent in its present form, hence the appeal is liable to be dismissed.
3. That the instant appeal is badly time barred.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to this Honorable Tribunal with clean hands.
6. That the appellant is estopped by his own conduct.
7. That the appellant has concealed the material facts from this Honorable tribunal hence the appeal is liable to be dismissed.
8. That the instant appeal is against the prevailing law and rules.

FACTS:

1. Para No 1 is incorrect to the extent of his satisfactory duty, as the Appellant is his ill behaviour toward his duty and continuous complaints made against the appellant from the PTC Chairman of the concerned School regarding non performing duty/absenteeism in the school, hence denied.
2. Para No 2 pertains to record, hence need no comments.
3. Para No 3 is incorrect, baseless, against law and fact as the appellant was treated as per law and is given full opportunity of personal hearing. The respondent conducted regular enquiry against the appellant. The Inquiry Officer stated in his recommendation ``That the great interest of students the appellant may be given compulsory retirement. The appellant submitted an application for Re.enquiry.After Conducted another enquiry, the allegations

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of misconduct were proved against the appellant by the statements which was recorded in the enquiry, then the respondent issued order vide No 8650-51 dated 08-11-2018 and retained the compulsory retirement of the appellant, hence denied.

(Copy Of personal hearing, Complaint, enquiry & Order are as Annex A-B-C-D & E).

4. Para No 4 pertains to record, hence need no comments.
5. Para No 5 is incorrect, baseless, against law and fact as the order of compulsory retirement dated 11-07-2018 issued on the basis of proofs of charges leveled against the appellant which proved during the enquiry and the departmental appeal is rejected on merit and cogent reason, hence denied.
6. Para No 6 need no comments, However detail reply of the grounds is as under:

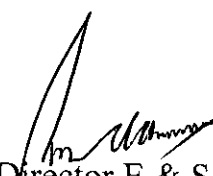
GROUND:

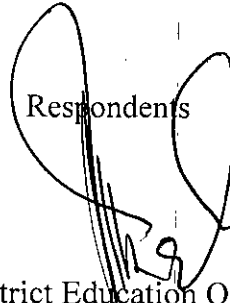
- A. Para No A is incorrect, baseless, against law and fact as the order dated 19-07-2018 and 11-07-2018 issued on the basis of proof of charges leveled against the appellant which is proved during the enquiry, hence denied.
- B. Para No B is incorrect, baseless, against law and fact as proper enquiry was conducted against the appellant and proper opportunity has been given to the appellant for his defence, hence denied.
- C. Para No C is incorrect, baseless, against law and fact as both of the enquiry are proper conducted against the appellant and the allegations of misconduct are proved against the appellant by the statements which was recorded in the enquiry, hence denied.
- D. Para No D pertains to record, hence need no comments.
- E. Para No E is incorrect, baseless, against law and fact as the SDEO (M) visited the school of the appellant as the PTC chairman made complaint against the appellant regarding non performing duty/absenteeism in the school, hence denied.
(Copy of complaint is as annex B)
- F. Para No F is incorrect, baseless, against law and fact as regular enquiry were conducted against the appellant and the appellant has not submitted an application for provide inquiry report, hence denied.
- G. Para No G is incorrect, baseless, against law and fact as the respondent being a responsible government officers acted in accordance with law, hence denied.
- H. Para No H is incorrect, baseless, against law and fact as the transfer of the appellant is withdrawn on the basis of public interest. (Copy of application is as Annex F)
- I. Para No I is incorrect, baseless, against law and fact as there is parent teacher council (PTC) in every School, the parent of the student, elected a chairman and the PTC chairman made complaint against the appellant regarding non performing duty/absenteeism in the school, hence denied.


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- J. Para No J is incorrect, baseless, against law and fact as the departmental appeal is rejected on merit and cogent reason, hence denied.
- K. Para No K is incorrect, baseless, against law and fact as the appellant has not been condemned unheard and the appellant has given full and proper opportunity of his defence, hence denied.
- L. That the respondent seeks permission to raise additional grounds at the time of arguments.

It is therefore humbly prayed that in the light of above facts, the appeal may please be dismissed with cost.


The Director E & S E
Peshawar.

Respondents

District Education Officer
(Male) Mardan


The Secretary E & S E
KPK Peshawar.

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The Secretary (E & SE) Khyber Pakhtunkhwa, Peshawar & Others.

(Respondents)

AFFIDAVIT

I, Mr. Sajid Khan Legal Advisor Education Department Mardan do hereby solemnly affirm and declare that the contents of Para Wise Comments submitted by Respondents No 1 to 3 are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Deponent



Sajid Khan
16101-6005318-5

1) آپ کا پورا نام

2) آپ کب سے کلمہ تعلیم میں بطور پرنسپل ہیں

3) آپ کی تعلیمی قابلیت کیا ہے

4) طلبہ ماسٹر صاحب کے دور کے مطابق آپ انٹر سکول لیکچرر آتے ہیں اور وقت سے پہلے سکول سے نکل جاتے ہیں، جو خلاف قانون ہے، وہ تباہی

5) آپ خلاف شکایت ہے کہ آپ سکول کو اسٹیل سودا سلف خرید لیتے ہیں اور وہ قانون کے خلاف ہے۔ جو خلاف قانون ہے۔ وہ تباہی

6) آپ خلاف شکایت ہے کہ آپ سکول میں آؤٹ سائڈ کے کرائے میں کچن اور کھانا بنوائے ہیں اور کچن کو کھانا بنانے میں لگاتے ہیں۔ وہ تباہی

7) آپ خلاف شکایت ہے کہ آپ کچن کو کھانے میں لگاتے ہیں اور کچن کو کھانا بنانے میں لگاتے ہیں۔ وہ تباہی

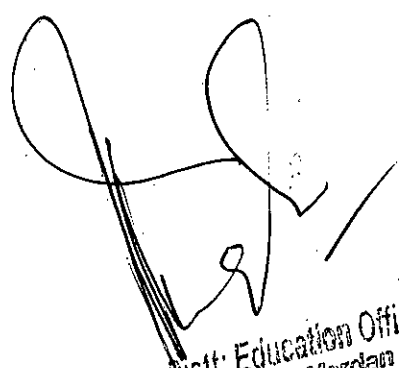
8) آپ خلاف شکایت ہے کہ آپ کچن کو کھانا بنانے میں لگاتے ہیں اور کچن کو کھانا بنانے میں لگاتے ہیں۔ وہ تباہی

بہار کے ASPB کے تعلیمی کمیشن کے بارے میں
اتحادیہ

① سالانہ اجتماع سے ASPB ملک کے اعلیٰ تعلیمی کمیشن
اور اعلیٰ تعلیمی سولڈم کے متعلق کچھ اقدامات کی ہیں

② ایک نئی کمیٹی کا قیام ہو۔

③ ایک طرف سندھ میں اعلیٰ تعلیمی کمیشن کو متاثر رکھنے
توں نہ پانچ طرف ERD مولانا 2011 کے تحت کارروائی
عمل میں لائی ہے۔


Distt: Education Officer
(Male) Merdan

صاحبزادہ

S.P.S.T

سید اسماعیل علی گڑھی

22

1 میرا پورا نام صاحبزادہ ہے

2 میں 1997 سے فتح علیہ علیہ میں پڑھتا ہوں

3 میرا گوالڈیٹس F.A ہے

4 جب مدرسہ پہ تو P.T.A کا ممبر تھا۔ چھٹن نہیں، لیٹ آنے کی بات نہیں

وقت پر سکول آتا ہوں اور وقت پر چھٹی کرنا ہوں۔ اللہ تعالیٰ سے ڈرتا ہوں

5 میرا سکول سرگودھا ہے۔ واقعہ یہ ہے کہ میرے پاس کسی کام کے لئے نہیں پہنچتا ہوں

6 تو سکول ہے۔ خواہ مخواہ۔ بھونک والہین یا توں شخص سرکاری کام کے

دائیں آتا ہوں۔ میرے پاس ہمارا معاشرے کے ساتھ تعلق ہے۔ نادر ولد

میں ہے سکول کے طرف کا تعلق ہے۔ سب سب کی بات ہے۔ میں اللہ تعالیٰ سے ڈرتا ہوں

ایک دن ہم سے شہرور پوچھے والے۔ میں اپنے کسی مطالبے بھونکے ساتھ خوب

گفت کرتا ہوں۔

7 میں خوش آتا ہوں۔ اگرچہ اپنے طرف سے ملتا اور خوب دلتن سے کام لیتا ہوں

تو وہ یہ میرے ہیں

22
8 خاص طور پر = میں بائیس سال کا پڑھتا ہوں۔ چوتھی اور پانچویں کلاس میں
میں سکولوں میں لے گیا ہے۔ میرا پورا نام ہے۔ کوئی مسئلہ نہیں
(شکر ہے) Thank

④

②

①

①

A.S.P. صاحبان سے معائنہ کیا گیا

انہوں نے ملکی حالت اچھی کر لی

⑩ سالانہ معائنہ میں A.S.P. صاحبان کی حوالوں

مذاہمتوں کی کمزوری کی نشاندہی کی گئی اور یہاں تک کہ

تمام کمزوریوں کو ختم کر کے اسے اسے معائنہ دوبارہ

کیا گیا اس میں اچھے نکلنے سے قدرے اچھے نتائج آئے۔

صاحبان اور ان کے ساتھ وہ ملکی معائنہ ہوا گیا۔

⑪ معائنہ میں کچھ کمی لگتی تھی۔

کام میں کچھ کمی لگتی تھی۔ اس کے ساتھ ساتھ وقت کم وقت پر جانا ہے۔

⑫ درجہ بالا تمام نام حقیقت پر مبنی ہے۔

انہوں نے ملکی معائنہ کیا گیا اور ان کے ساتھ وہ ملکی معائنہ ہوا گیا۔

محمد علی بیگ

26/06/18



Handwritten signature of District Education Officer

Distt. Education Officer (Muz) Muzaffargarh

(حصہ دوم)

لاک بک

Amix B-8 (8)

(44)

رپورٹ کی روشنی میں سکول
انتھارٹی نے جو کارروائی کی۔

رائے / رپورٹ معائنہ

GPS

Sarda Bahar

- EMIS code
33024

فائد

کو:

میں

میں

Date

18 ¹²
2017

Planned visit :-

I am verbally directed by worthy SDO (M) Mardan to visit the school as PTC Chairman made complaints against Mr. Mujahid Ali SPS. In his complaint he said that the above cited do not perform duty in the school.

I met PTC Chairman RAGZ AL & took written statement from him. He admitted that the said teacher may be transferred to this school to any other school.

J.F. class checked no response & this class is also teacher by the said teacher.

7/12/17

دستخط

تاریخ

(حصہ دوم)

لاگ بک

9

رپورٹ کی روشنی میں سکول
اقتدار فی سہے جو کارروائی کی۔

رائے / رپورٹ معائنہ

PSHT is directed to attend JP. training tomorrow as said teacher is not taking interest in the JP. class.

I recommend him to be taken from this school on admining the proposal of the said teacher will be forwarded to SDO Yarden by tomorrow.

Annual inspection will be held on 4/01/2018. Update your school record like PTC, Stock, admi withdrawl.

Electricity/water exist and functional.

Attested
HEAD TEACHER
P.S Sada Bahar
11/1/18

ASDO
Gujrat

Annex C-10

Enquiry Report I

15
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Introduction

Reference your office order No.1358/G I have been appointed as enquiry officer in the enquiry against Mr Mujahid Ali SPST GPS Sadabahar Gujrat Mardan.

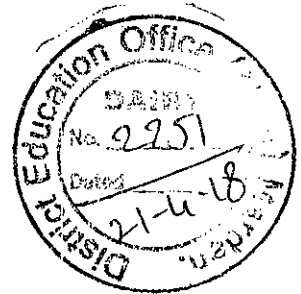
History

According your office order a written Complaint was submitted against the SPST Mr Mujahid Ali by the Chairman PTC of the same school. The allegations against him are as under.

- 1) He takes no interest in teaching to students.
- 2) He brings notorious persons to school.
- 3) He sends children to shops.

Procedure

- 1) I visited the school myself.
- 2) I met the inhabitants of the area and took their views about the case.
- 3) I took written statement from the PSHT of the school.
- 4) I took written statement from the chairman PTC.
- 5) I served a questionnaire to Mr Mujahid Ali SPST.
- 6) I got the views of a member of PTC on Phone.
- 7) I got relevant copies of the record of the school.




Findings

- 1) Mr Mujahid Ali SPST is a complex Character. He gets benefits from the customs and traditions of the area.
- 2) He is not equipped with the knowledge and personal tracts needed for a teacher even he has not improved his academic qualification after FA.
- 3) From the time of his arrival in this school time and again he has been advised and directed by his PSHT but of no use.
- 4) At last he was transferred to some other school on 12-01-2018. but after a month he managed to cancel his transfer order.
- 5) The statements and school record shows that he is involved in late coming, early going, sending students to shops, bringing outsiders to school premises.
- 6) He does not take interest in educating of students Teaching is just an economical support for him.

Recommendations

In the light of the above mentioned points and record it is hereby recommended that in the greater interest of the students Mr Mujahid Ali SPST GPS Sada Bahar Gujrat may be given compulsory retirement after fulfilling all the codal formalities.


Wasi Ullah Mayar
Principal
GHSS Mayar Mardan

PRINCIPAL
G.H.S.S. Mayar
Mardan

Annex D - (1/1)

(1/1)

De novo Inquiry in r/o Mujahid Ali SPST GPS Sadabahar Gujrat Mardan

Dated: - 22-10-2018

No: 970

Inquiry Officer:-

Hamid Khan
Principal GHSS Sowaryan Mardan

Dates of inquiry:-

08/08/2018
11/10/2018
15/10/2018

Venue :-

DEO (M) Mardan
GPS Sadabahar Gujrat Mardan
GHSS Sowaryan Mardan

Subject :- Denovo inquiry in Compulsory Retirement case

Introduction

According to the DEO (M) Mardan office order vide Endst; No:- 6019 / Teach Req Vol: I / Dated: 03-08-2018, the undersigned was nominated as inquiry officer to conduct De novo inquiry in the light of appeal submitted by Mr. Mujahid Ali Ex- SPST GPS Sadabahar Gujrat regarding his Compulsory Retirement case.

Brief History:-

In the light of written complaint of chairman and members PTC of GPS Sadabahar Gujrat and recommendations of ASDEO circle, against Mujahid Ali SPST, he was transferred to GPS Peshkand. However he did not obey the order and using various channels he managed to cancel his transfer order. PTC of both the schools were against him and applied against him. An inquiry was ordered to know the facts. The inquiry officer recommended him for compulsory retirement. The DEO (M) Mardan issued him a show cause notice which he did not reply. Then he was called for personal hearing. He could not satisfy the authority and was ordered for compulsory retired. He appealed the Director Elementary & Secondary Education khyber Pakhtunkhwa on 19-07-2018 for reinstatement. The Director E&SE asked DEO (M) Mardan for submission of detail report. He was called for personal hearing in the Directorate but again he was unable to satisfy the higher authorities and his appeal was rejected. In Parallel, he lodged another appeal, on 30-07-2018 to the Director E&SE for re inquiry as he blamed the inquiry officer for partiality.

Procedure Adopted:-

The inquiry officer visited DEO (M) Mardan, GPS Pani Aladad khel and GPS Sadabahar Gujrat Mardan. All provided and available concerned record was checked. Written statements of the PSHT GPS Sadabahar, PTC Chairman and member and Mujahid Ali were obtained. Views of ASDEO circle, staff of GPS Pani Aladad khel, councilors of the VC and other elders of the area were taken.

Investigation:-

Through my personal visit of the school and DEO (Male) Mardan, statements of the Head Teacher, chairman and councilor of PTC and Mujahid Ali, views of staff of GPS Aladad khel, ASDEO Circle, locals of the areas, councilors of VC and checking of the record, the following points were observed.

Kain -

(12)

(17)

Findings:-

1. He has been ordered compulsory retired vide. DEO (M) Mardan Endst; No. 5557-58 Dated: 11-07-2018.

- . His appeal against compulsory retirement has been rejected vide Director E&SE Endst; No. 180/F/vol:17/Appeal of PST (M) General Dated: 19/9/2018.
- . He is still attending the school and signing in the attendance register.
- . His salary has not been stopped and has drawn his salary up to September 2018.
- . He is a liar and a foolish, funny and complex character.
- . There is contradiction in his statements after few minutes.
- . He approached and pressurized the under signed through dozens of officers, officials, political and union leaders.
- . He visited the under signed at home many times.
- . He tried to bribe the under signed with gifts.
- . He tells the stories of his bribery given to various officials and officers and seems that he spent his service with the help of these mal practices.
- . He is unmarried but pretends to be married and has little children.
- . The staff of his previous school said that we did not bother about his teaching in this school but always keep one person after him not to indulge with the pupil.
- . He is an FA PTC. He has not improved his academic or professional qualification.
- . He was appointed by an MPA due to threat of suicide during a public jalsa where he climbed a high tree and threatened to jump down.
- . He served in the far flung areas due to his incompetency.
- . Sadiq ahmad GMPS sadabahar and Niaz ali khattak GHS Bakhshali are his main sponsors. Sadiq ahmad is with him everywhere. He is an influential and manages him to escape.
- . He blamed his head teacher for demanding money and inquiry officer for being partial. However in his written statement he denied both his allegations. He blamed his focal person for delay of his reply of show cause notice. He blamed chowkidar for bringing outsiders to the school.
- . All the appeals or statements produced by Mujahid Ali are in different hand writing. His own hand writing is very bad. It seems that he cannot even write or express himself.

VISIT FOR INQUIRY

The under sign visited GPS Sadabahar on 11-10-2018, for the purpose of inquiry. I reached the school at 0840 h along with the class IV of GMPS Sadabahar. The Head Teacher was on Casual Leave. Mujahid ali was absent though he had signed in the attendance register at 0800h. Chowkidar was also absent. The school was run by a young boy Hasnain introduced as a worker of some NGO/project. The chowkidar had not signed in the register since 01-10-2018. The ASDEO had visited the school on 09-10-2018 but not checked the chowkidar. There was no written of Mujahid Ali about leaving the school. Chowkidar reached the school after 1000h.

After 15 minutes Mujahid Ali reached. Just after him Sadiq ahmad reached. Then the focal person along with another teacher came, pretending to come for duty as single teacher school and by the orders of the ASDEO and traditions of the circle. However later on the Head Teacher told that never before any teacher had been deputed here due to single teacher. Chairman and members of PTC were called for inquiry as they have filed complaint against Mujahid Ali. Suddenly kisan, youth and general councilors appeared for surprise visit of the school. Some other persons also came to pressurize the inquiry officer and the Chairman & member PTC. These all were informed by Sadiq Ahmad PST. However they left the school after the ultimatum of leaving the inquiry.

They all were of the view that the punishment may be reduced to transfer and stoppage of increments.

Statement of PTC Chairman and member

They stated that their complaint is real and factual. They filed complaint to the DEO after various verbal attempts which were turned down. They said that nobody has used them against Mujahid Ali.

Khan

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Statement of the Head Teacher

The head teacher stated that all the record provided to the previous Inquiry officer are real and correct. He had warned Mujahid Ali verbally and in written many times but in vain. Neither has he agitated PTC against Mujahid ali nor has seen or met the inquiry officer before this inquiry.

Statement of Mujahid Ali

Mujahid Ali stated that the Head Teacher had not demanded any amount from him. Neither the Head Teacher had agitated the PTC chairman or members nor has any links with the previous inquiry officer. He made the chowkidar responsible for all his irregularities.

Apple of discard

The chowkidar is land doner/owner. He had occupied the school for long. He resisted during reopening of the school, installation of main gate, foundations of boundary wall and construction of Group latrine. He does not perform duty in the morning. He has always refused to sign any order book. He does not bother the Head Teacher. He does not clean the school or water the ground and plants. He attempted, with the help of his relatives teachers and councilors to lower down the enrolment by getting SLCs for favor of merging the school and getting the school building free for personal uses.

Conclusion:

His appeal against his compulsory retirement has already been rejected by the applet authority. All the allegations and complaints filed against Mujahid Ali by the Chairman and members PTC and the Head Teacher GPS Sadabahar are real, factual and proved. Mujahid Ali is not a serious person. He plays in the hands of others. His company is not good. He is a low IQ person and is misfit in the profession. His previous record is not positive.

Besides Mujahid Ali, the chowkidar of the school is a hinder in maintaining good educational environment in the school.

Recommendations:-

1. The under sign agrees with the recommendation of the previous inquiry in the best interest of the students and department.

2. Order of rejection of appeal by the Director E&SE should be conveyed to Mr. Mujahid Ali Ex-SPST GPS Sadabahar Gujrat immediately.

3. His pay should be stopped immediately.

4. Salary drawn after 11-7-18 should be recovered from him as per the following detail:

a. 11-7-18.....31-7-18 (21 days) =	Rs. 27717/-
b. 01-8-18.....31-8-18 (31 days) =	Rs. 40916/-
c. 01-9-18.....30-9-18 (30 days) =	Rs. 45338/-

Total recovery = Rs. 113971/-

5. The Head Teacher and the chowkidar of this school should also be transferred to some other schools of the circle and new staff should be posted here.

Khan

(HAMID KHAN)
Inquiry Officer / Principal
GHSS Sowaryan Mardan

سپتھوڈائٹس برائے فاجوڈ علی صہب S.P.S.T 13
بہ انگریزی سکول سے لیا گیا ہے۔

1- نام: فاجوڈ علی صہب S.P.S.T سدا بہار سکول گجرات

2- تعلیمی قابلیت: F.A - تاریخ تصدیقی: 23-6-1997

3- آپ کے خلاف شکایت ہے کہ آپ سکول لیک آؤٹ میں
جو آپ نے لکھنا یا کھلوانا ہے۔ آپ کی حکومت ہے۔ ڈیوٹی وقت پر آنا ہے۔

4- آپ سکول سے باہر اپنے لوگوں سے ملنے آئے ہیں جو کہ

معاشرے میں بدنامی اور منشیات استعمال کرنے سے آپ
بے گناہ ہو گئے ہیں کہ اس سے آپ کا بیٹہ بدنام ہو گا ہے؟
جواب: خدا کے قسم میں باہر لوگوں سے کوئی واسطہ نہیں ہے۔
نشر نامہ۔

5- آپ کے پاس سکول میں جمع ہونے کو منع کیا ہے۔

ان کو آپ منع نہیں کرتے ہیں؟

جواب: اسناد میں خواہ مخواہ معاشرے کو روکنا ہے۔

6- ڈیوٹی کے دوران جو بائیل کا استعمال کی شکایت ہے آپ
کے خلاف ہے۔ اس سے آپ کو کوئی متاثر نہیں ہونی؟

سنتی (2) سوچو، ان باتوں سے آئندہ سوچنا کیلئے لکھو۔
13

7- آپ اپنے طلباء کو دیکھی سے سبق نہیں پڑھاتے
کیا آپ ان کی ذمہ داری نہیں لیتے؟

جواب: نہیں پڑھتا، لکھتا ہے، اس کے ساتھ ساتھ حضرت کریم الرحمن اللہ تعالیٰ
جو کچھ دیکھتا ہے۔

8- کچھ عرصہ پہلے آپ ان اس سیکشن سے ٹرانسفر ہو گئے تھے

آپ کو وہ حصہ پڑھنا پڑا تھا، بعد کیوں لکھے؟

جواب: بے گناہ ہیں خدا کا قسم، کچھ توئی غلطی نہیں ہوئی، میں دوبارہ آ گیا

9- آپ کلاس کی تیاری میں کون سے وسائل استعمال کرتے
تھے؟

جواب: میں کلاس، مختلف قسم کے ایوارڈ، استعمال کرتا ہوں، جاکر لکھتا ہوں،
کتاب، وغیرہ

10- آپ کا انداز یہی ہے کہ ایڈمنٹیشن کا کام
کسی سے لینا چاہیے کیوں نہیں لیتے؟

جواب: اللہ عزوجل کا جو کچھ میں ڈسٹری بیوٹنگ کا استعمال کرتا ہوں
کھڑا، کھڑوں دور سے لکھتا ہوں، لکھتا ہوں۔

۱۱۔ کیا آپ ایسی ان قدر عقیدت اطفال پر تامل فرمائیں

۱۳۔ ہم سے غلطی ہونے پر ہمیں اپنے آپ کو شیمان ہونے کا اندازہ

کھانا پانی ہوتا ہے۔ شکر ہے۔

۱۲۔ ایسی طرف سے آپ کو کھانا چاہیے تو

چاہیے۔

کھانا والے میں حکم لکھا ہے کہ تم نے تالیس سال فریقین سے تمام

دس سال ہوں۔ تالیس سے قبل میں جیسے سکولوں میں رہا تھا ہوں

سکول کے بچوں کا اچھا رفیق رہا۔ وہ جو خود بہت شہر حلاف در خواست

سوالیہ میں مصافی مانگتا ہوں، اسے سکول میں دوبارہ آرڈر ہوا ہے

توں سکول وغیرہ لکھیں۔ اس کے بعد ان کے وقت کا خیال رکھو

کھانا پر مشورے سے ہیں، آج دن ضرور اللہ تعالیٰ ہم سے باز رہے

27/2

کرم

جناب انگریزی آفیسر صاحب وسیع الشہ صاحب
جناب عالی (17) (18)

(18)

ہم پی ٹی سی ممبران یوز والدرین سدا بہار نے مجاہد علی مدیٹر
پر دو دفعہ درخواست دی تھی۔ کہ یہ بے کار استاد ہے۔
سکول کو لیٹ آتا ہے۔ کفوڑی بات پر بچوں کو سزا دی
جاتی ہے۔ جس سے بچے زخمی ہوتے ہیں۔ کلاس میں بیٹھ کر
بچے لڑتے جھگڑتے ہیں۔ کلاس میں موبائل پر باتیں کرتے ہیں۔ بچوں کو دکان سے
جس دن دوسرا استاد چھٹی پر ہوتا ہے۔ یہ سکول سے باہر
فکر لگاتا ہے۔ فاصلے کر چرسٹیوں سے اس کا میں شہیا
ہے۔ اس ضمن میں ہم نے شکایت کی تو سرکل تجربات کے
آفیسر صاحب نے سکول آکر جیسر میں نئے تحریری درصورت
لگائی۔ اور وہ کافی جہی بنایا تھا۔ کہ یہ استاد ٹیچنگ نہیں
ہے۔ اس کے بعد اس کا تبادلہ ہو گیا۔ اور افسر علی پٹیل نے سکول
سکول سے سدا بہار آ گیا تھا۔ جو کہ ایسا کامن استاد تھا۔
لیکن مجاہد علی نے ^{SPST} ڈوڑ لگایا اور آرڈر کینسل کیا۔ اب
ہمارا یہ مطالبہ ہے۔ کہ مجاہد علی کو جہاں سے تبدیل
کرائیں۔ اور افسر علی کا تبادلہ دوبارہ سدا بہار سکول کرائیں۔
یہ ہمارے بچوں پر احسان ہوگا۔ ہم تا عمر شکر گزار ہیں۔

محمد رشاد محمد رشاد
محمد آریاز ^{PTZ} محمد آریاز
حضرت شہر قندے سید
عنی رحمان ^{P.T.C} محمد
03424209416

27/2/18
PTC گورنمنٹ پرائمری سکول سدا بہار (گجرات)
العبد ریا علی
ریاض علی
Chairman P.T.C.
G.P.S Sada Bahar
(Gujrat) Mardan
03023936614
نوٹسیر خان ^{PTC} محمد
03028391820
امیر احصیم ^{PTC} محمد
03065738013
فاجی مرسلین ^{PTC} محمد



جناب انگوائری آفسر صاحب (وسیع اللہ صاحب)

میں نے آپ نے مجھے اعلیٰ سطح پر جاننے سے اپنے بیان

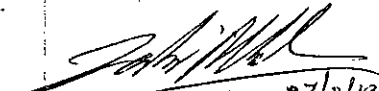
ریکارڈ کرنے کا کہا تھا۔

توسیرہ طرف سے یہ بیان ہے۔ ہمارے ATC حیدر میں نے مجھے اعلیٰ

کے متعلق جو شکایت تھی ہے۔ اور جو بائیس ذکر ہے۔

وہ سب حقیقت پر مبنی ہیں۔ مجھے اعلیٰ جاننے والوں میں سے بلکہ

دیکھی ہیں۔


 HEAD TEACHER 2/18
 3 PS Sada Bahar
 GUJRAT

Annex E = 88 19/11

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

OFFICE ORDER

Mr. Mujahid Ali Ex-SPST GPS Sadabahar Gujrat has been compulsory retired from Services vide this office order No.5557-58 dated 11-07-2018 in the light of inquiry report.

He filed an appeal to the Director E&SE Khyberpakhtunkhwa Peshawar for his re-instatement, which was rejected by the highups vide order No.1801/F.No.162/Vol:17/Appeal of PST(M) General dated 19-09-2018.

The cited teacher has approached to director E&SE Khyberpakhtunkhwa Peshawar through another application and on the body of application Director E&SE instructed this office for conducting Denvo inquiry. This office conducted inquiry and the inquiry officer agreed with the recommendations of previous inquiry (compulsory Retirement).

Keeping in view of the above, the undersigned is pleased to RETAIN the penalty of COMPULSORY RETIREMENT in r/o Mujahid Ali Ex-SPST GPS Sadabahar Gujrat.

(IJAZ ALI KHAN)

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

Endst:No. 8650-51 /P.F/Dated: 08-11- /2018

Copy forwarded to the:-

1. SDEO(M) Mardan with the direction to made recovery of the salary drawn after 11-07-2018 if any, with intimation to this office.
2. DAO Mardan.
3. Mr. Mujahid Ali Ex-SPST GPS Sadabahar Gujrat.

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

[Handwritten signature]

S.D.E.O میل مردان

مکتبہ جناب

Annex "F" 20

20

جناب عالی!

مودیانہ گزارش ہے کہ مجاہد علی S.P.S.T

①

کا تبادلہ 12/11/2018 کو Endo No 397/G کے مطابق G.P.S

پیشکش ہوا ہے۔ آپ صاحبان سے گزارش ہے کہ ہم اس

پیکر کے خلاف اپیل کرتے ہیں کہ اس کی تبادلہ روک

دی جائے اور کسی دوسری جگہ اس کی Adjustment کی

جائے۔ کیونکہ اس کے کردار آج سے ہمارے تحفظات ہے

جو کہ ہمارے بچوں اور ان کے مستقبل کے لئے خوش اثر

نہیں ہیں۔ بڑی مہربانی سے

Forwarded to S.D.E.O (M) Mardan

Handwritten signature and stamp: S.D.E.O (M) Mardan

العارضی

19/11/2018

موصوف

باشترگان

باشترگان پیشکش

MERAZAM

Nazim Chougullia (Mardan)

NRG-06160975792-5

mob-0345-4008813

MUMTAZ ALI

دل ریجان

Handwritten signature

Handwritten signature

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Handwritten signature

خدمت چنا - S.D.F.O. میل سرگودھا

Handwritten text, mostly illegible due to blurriness and fading.

Forwarded
S.D.F.O. (M) Muzelair
for handling
22/11/17

Handwritten notes and stamps on the left side of the page.

21/11/17
Handwritten notes and stamps on the right side of the page.

AMIN YAZ ALI

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1395/2018

Mujahid Ali

VS

Education Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:-

Preliminary Objections:

(1-8) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Incorrect, the appellant did not show ill behavior towards his duty and did not remain absent from his duty which is evident from the attendance register attached with the appeal. Moreover, he has performed his duty to best of his abilities and capabilities.
2. Admitted correct by the respondents as the service record of the appellant is present with the department.
3. Incorrect, the appellant was not treated in accordance with law and rules as no charge sheet & statement of allegation were served to the appellant, which is mandatory under the law. Moreover, both the inquiries conducted against the appellant were not according to the prescribed procedure as no proper chance of defence was provided to the appellant because neither the statements were recorded in the

presence of the appellant nor gave him opportunity of cross examination.

4. Admitted correct by the respondents as the service record of the appellant is present with the department.
5. Incorrect, the impugned order of compulsory retirement was passed with adopting proper which is liable to be set aside.
6. No comments.

GROUND:

- A) Incorrect, the impugned order dated 19/09/2018 and 11/07/2018 were passed without adopting proper procedure, which are liable to be set aside.
- B) Incorrect, inquiry was not conducted against the appellant according to the prescribed procedure as no proper chance of defense was provided to the appellant.
- C) Incorrect, while ground C of the appeal is correct.
- D) Admitted correct by the respondents as the service record of the appellant is present with the department.
- E) Not replied according to ground E of the appeal. Moreover, Para E of the appeal is correct as in Para E it is about the visit of ASDEO and not SDEO.
- F) Incorrect, provision of the inquiry report to the appellant is responsibility of department.
- G) Not replied according to Para G of the appeal. Moreover, Para G of the appeal is correct.
- H) Incorrect, while Para H of the appeal is correct.
- I) Incorrect, the Chairman may be biased against the appellant and to know the real situation about the complaint regular inquiry was necessary which has not been done in the case of appellant.

Moreover, the Head Teacher and other teachers of the concerned also gave statement about the good performance of the appellant. **(Copy of statement is attached as annexure R-1).**

- J) Incorrect, while Para J of the appeal is correct.
- K) Incorrect, while Para K of the appeal is correct.
- L) Legal

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


APPELLANT

Through:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
&

(ASAD MAHMOOD)
ADVOCATE HIGH COURT

AFFIDAVIT

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


DEPONENT



R-I اقرار نامہ

ہم سٹاف گورنمنٹ مسجد پرائمری سکول سدابہار گجرات یہ اقرار کرتے ہیں۔

کہ مجاہد علی ایس پی ایس ٹی گورنمنٹ پرائمری سکول سدابہار ایک

مختی، بااخلاق، دیانتدار اور فرض شناس پیکر ہے۔ اور اپنے خاندان

کا واحد کفیل اور سہارا ہے۔ لیکن مذکورہ پیکر کو ذاتی عناد کا نشانہ بنا

کر جبری ریٹائر کیا گیا ہے۔ جناب عالی! ان تمام حالات کے ذمہ دار


پی ٹی سی چیئرمین اور ممبران ہیں

لہذا مجاز حکام سے عاجزانہ استدعا کی جاتی ہے۔ کہ مذکورہ

پیکر کو اپنے سابقہ پوسٹ پر بحال کرنے کے احکامات صادر فرمائیں۔

بندہ تاحیات دعا گو رہیگا۔

نام	عہدہ	دستخط
صدیق احمد	ہیڈ پیکر	0346.6890591 موبائل نمبر
مینیر خان	پیکر	
احمد علی خان	پیکر	
عباس علی	پیکر	Aali


Head Teacher
G.P.S
Sadabahr Gujrat (Mardah)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWR

Service Appeal No: 1395/2018

Mujahid Ali Ex.SPST, GPS Sadabahar, Gujrat, Mardan(Appellant)

VERSUS

The Secretary (E & SE) Khyber Pakhtunkhwa, Peshawar & Others.

(Respondents)

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1.	Para wise comments along with affidavit		01	06
2	Copy of Letter	"A"	07	----
3	Copy of order	"B"	08	---
4	Copy of De-novo Inquiry	"C"	09	15
5	Copy of ,Re-instead Order	'D'	16	----
6	Copy of Personal Hearing	E	17	19

Respondent



District Education Officer
(Male) Mardan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No: 1395/2018

Mujahid Ali Ex.SPST, GPS Sadabahar, Gujrat, Tehsi & Distt, Mardan

(Appellant)

VERSUS

The Secretary (E & SE) Khyber Pakhtunkhwa, Peshawar & Others.

(Respondents)

Para Wise Comments on Behalf of Respondents No 1 to 3.

Respectfully, Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standi, to file the instant appeal.
2. That the instant appeal is badly time barred.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. That the appellant has concealed the material facts from this Honorable Tribunal, hence the appeal is liable to be dismissed.
5. That the respondent No 1 has directed to the respondent No 2&3 through a letter No So (LIT-1) E&SE /1-1/2012, Dated 26-06-2019, that the competent Authority is pleased to re-instate him into service with immediate effect, with the direction to conduct departmental inquiry strictly accordance with rules, law and policy. (Copy of Letter is as Annexure A)
6. That the appellant Ex-PST is hereby Re-instated and adjusted him at GMPS Sadabahar vide order No 7719-20 dared 03-07-2019 on temporary basis for the purpose of De-novo Inquiry only with immediate effect, as per acceptance of the appeal of the appellant.

(Copy of order is as annexure B)

7. That the respondent No 3 conducted de-novo inquiry and nominated as inquiry Officer against the appellant. The Inquiry Officer recommended the appellant for Re-instatement anywhere vacant post in his circle. The Inquiry Officer has not recommended the appellant for the backbenfits and The inquiry Officer has submitted inquiry Report to the respondent No3 i-e (DEO male Mardan)for necessary action.

(Copy of De-novo Inquiry is as Annexure C)

8. That the respondent No3 /Competent Authority is pleased to Re-instate the appellant with immediate effect 03-07-2019 and the nonperformance duties w.e.f 11-07-2018 to 02-07-2019 is treated leave without pay. (i-e, No Service No pay.) (**Copy of ,Re-instead Order is as Annexure D**)

FACTS:

1. Para No 1 pertains to record, hence need no comments.
2. Para No 2 pertains to record, hence need no comments.
3. Para No 3 is incorrect, baseless, against law and fact as the appellant was treated as per law and is given full opportunity of personal hearing. The respondent conducted regular enquiry against the appellant. The Inquiry Officer stated in his recommendation ``That the great interest of students the appellant may be given compulsory retirement, hence denied.

(Copy of Personal hearing is as Annexure E)

4. Para No 4 pertains to record, hence need no comments.
5. Para No 5 pertains to record, however the respondent conducted regular enquiry against the appellant, hence need no comments.
6. Para No 6 pertains to record, hence need no comments.
7. Para No 7 is incorrect, baseless, against law and facts as the appellant was treated as per law and rules. That the respondent No 1 has directed to the respondent No 2 & 3 through a letter No So(LIT-1) E&SE /1-1/2012, Dated 26-06-2019, that the competent Authority is pleased to re-instate him into service with immediate effect, with the direction to conduct departmental inquiry strictly accordance with rules, and policy. The respondent conducted de-novo inquiry and nominated as inquiry Officer against the appellant. The Inquiry Officer recommended the appellant for Re-instatement and has not recommended the appellant for the backbenfits and the inquiry Officer has submitted inquiry Report to the respondent No3 i-e (DEO male Mardan) for necessary action. The respondent No3 /Competent Authority is pleased to Re-instate the appellant with immediate effect 03-07-2019 and the nonperformance duties w.e.f 11-07-2018 to 02-07-2019 is treated leave without pay, hence denied.

(Copies of Letter, Order, De-novo Inquiry & Re-instead Order are as Annexure A, B, C&D)

8. Para No 8 pertains to record, hence need no comments.
9. Para No 9 pertains to record, hence need no comments.
10. Para No 10 no comments, However detail reply of the grounds is as under:

GROUND:-


- A. Para A is incorrect, baseless, against law and facts as the respondent No 1 examined the appeal of the appellant and directed to the respondent No 3 (DEO Male mardan) to re-instate the appellant into service with immediate effect, and Conduct De-novo inquiry. The Inquiry Officer recommended the appellant for Re-instatement anywhere vacant post in his circle. While the Inquiry Officer has not recommended the appellant for the backbenfits, hence, denied. **(Copy of Letter of Respondent No 3 is as Annexure A)**
- B. Para B is incorrect, baseless, against law and facts as the respondent No 1 directed to the respondent No 3 (DEO Male mardan) to re-instate him into Service with immediate effect, and Conduct De-novo inquiry. The respondent No3 /Competent Authority is pleased to Re-instate the appellant with immediate effect 03-07-2019 and the nonperformance duties w.e.f 11- 07- 2018 to 02-07-2019 is treated leave without pay.
(Copy of, Re-instead Order is as Annexure D)
- C. Para C is incorrect, baseless, against law and facts as the respondent No3 Competent Authority is pleased to Re-instate the appellant with immediate effect 03-07-2019and the nonperformance duties w.e.f 11-07-2018 to 02-07-2019 is treated leave without pay.

(Copy of, Re-instead Order Annexure D)

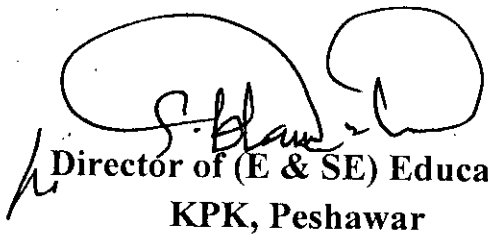
- D. Para C is incorrect, baseless, against law and facts as the respondent No3 being a Govt officer acted accordance with law and rules, hence denied
- E. That the respondent seeks permission to raise additional grounds at the time Of arguments.

It is therefore humbly prayed that in the light of above facts, the application of the appellant may please be dismissed with cost.


Respondent



**District Education Officer
(Male) Mardan**



**Director of (E & SE) Education
KPK, Peshawar**



**Secretary of (E & SE) Education
KPK, Peshawar**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 1395/2018

Mujahid Ali Ex.SPST, GPS Sadabahr, Gujrat, Mardán(Appellant)

VERSUS

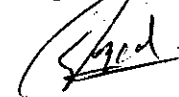
The Secretary (E & SE) Khyber Pakhtunkhwa, Peshawar & Others.

(Respondents)

AFFIDAVIT

I, Mr. Sajid Khan Litigation Officer Education Department Mardan do hereby solemnly affirm and declare that the contents of Para Wise Comments submitted by Respondents No 1 to 3 are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Deponent



Sajid Khan

16101-6005318-5

Annexure - A - (7)

1/30/1

Annex - A - (7)

GOVERNMENT OF KHYBER PAKHTUNKHWA

Elementary and Secondary Education Department

Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar

NO.S.O (LIT-I)/E&SE/1-1/2012/

Dated Peshawar the 26-6-2019

To

1. The Director ,
Elementary & Secondary Education,
Peshawar.
2. The District Education officer(M),
Mardan

37

**SUBJECT: - DEPARTMENTAL APPEAL IN RESPECT OF MUJAHID ALI EX
PST MARDAN DISTRICT**

I am directed to refer to the subject noted above, and to state that this office examined the appeal of the one Mr. Mujahid Ali ex-SPST District Mardan and decided that as the appellant has not been treated as per law, rules and policy in vogue. Therefore the competent authority is pleased to re-instate him into service with immediate effect, with the direction to conduct departmental inquiry strictly accordance with rules, law and policy.

Section officer (Lit-III)

Enclst. NO & date as above.

Copy to:-

1. Mujahid Ali ex-SPST District Mardan.
2. P.S to AS (Estab) E&SED
3. P.A to DS (Legal) E&SED



Section officer (Lit-III)

Annex B

8

39

OFFICE OF THE DISTRICT EDUCATION OFFICER(MALE) MARDAN

OFFICE ORDER

Consequent upon the acceptance of appeal in r/o Mr. Mujahid Ali Ex-SPST GPS Sadabahar Gujrat Mardan by the Secretary E&SE Khyberpakhtunkhwa, Peshawar vide No.S.O (LIT-I)/E&SE/1-1/2012 dated 26-06-2019, Mr. Mujahid Ali Ex-SPST is hereby re-instated and adjusted him at GMPS Sadabahar on temporary basis for the purpose of Denve Inquiry only with immediate effect.

(Zulfiqar ul Mulk)

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

Endst.No. 7719-20 /P.F/Dated: 3-7-2019

Copy forwarded to the:-

1. PS to Secretary E&SE Khyber Pakhtunkhwa, Peshawar.
2. PA to Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. SDEO(M) Mardan.
4. Mr. Mujahid Ali

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

5

6

Annex C (9)

5

OFFICE OF THE PRINCIPAL GHS BAKHSHALI MARDAN

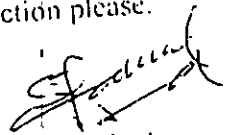
No. 775 Dated 07/08/2019

To

The District Education Officer
E& SE (Male) Mardan

Sir.

In response your letter No. 8244-45 on dated July. 15th 2019. I Shakil Ahmad is hereby nominated as inquiry officer against Mr. Mujahid Ali SPST GPS Gujarat Mardan. The inquiry report against Mr. Mujahid Ali SPST GPS Gujarat Mardan is hereby submitted in the Honourable office of DEO (M) Mardan for necessary action please.



Principal
GHS Bakhshali
Mardan.

SHAKEEL AHMAD
PRINCIPAL
G.H.S.S. Sharqi Hoti
Mardan

10

A DE NOVE INQUIRY REPORT AGAINST
MUJAHID ALI SPST GPS SADABAHAR GUJRAT

ADDEC (E) GUJRAT
6/8/19
7/8/19



SUBMITTED TO

THE DISTRICT EDUCATION OFFICER
E&SE (Male) MARDAN
August, 2019

6832
789

(11)

43

STATEMENT OF ALLEGATIONS

WHEREAS, it has been reported that Mr. Mujahid Ali SPST GPS Sadabahr, District Mardan is alleged to have committed the following acts of omission and commission constituting inefficiency & misconduct which tantamount to misconduct under Government Servants (E & D) rules 2011.

- That you were found guilty of gross misconduct under KPK Govt servant E&D rules 2011 being non performing your duties efficiently.

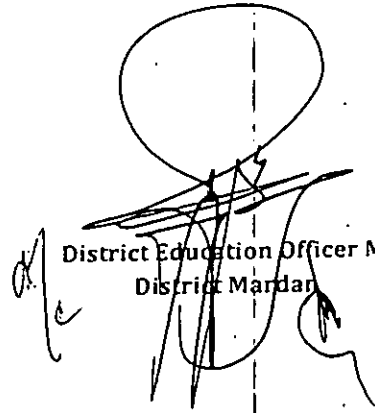
The order of the inquiry is being issued by the DEO (M) Mardan in context & compliance of the direction of worthy Secretary E&SE Khyber Pakhtunkhwa, Peshawar No.S.O (LIT-I)/E&SE/1-1/2012 dated 26-06-2019.

(Zulfiqar ul Mulk)
District Education Officer Male
District Mardan

Endstt; No. SD 412-413 dated: 15-7-2019

Copies submitted for information & necessary action to;

1. Director, E&SE Khyber Pakhtunkhwa, Peshawar
2. Deputy Commissioner Mardan
3. Sub Divisional Education Officer (M) Mardan
4. Mr. Mujahid Ali SPST


District Education Officer Male
District Mardan

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CHARGE SHEET

WHEREAS, it has been reported that Mr. Mujahid Ali SPST GPS Sadabahar, District Mardan is alleged to have committed the following acts of omission and commission constituting inefficiency & misconduct which tantamount to misconduct under Government Servants (E & D) rules 2011.

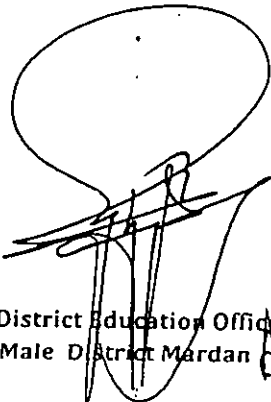
- Where As a complaint received against Mr. Mujahid Ali SPST GPS Sadabahar regarding non performing his duties.
 - And Where As, this office nominated an inquiry officer to conduct proper inquiry in the case vide this office No. 1358/G dated 15-02-2018 and inquiry officer recommended his compulsory retirement.
 - And Where As, a show cause notice was issued to him vide this office No.3881-82 dated 05-05-2018.
 - And Where As his reply to the show cause notice was received to this office vide SDEO(M) Mardan office letter No.1301 dated 05-06-2018 in which no clarification was submitted regarding charges against him.
 - And Where As he was called for Personal Hearing twice vide this office No. 4283 dated 22-05-2018 and through SDEO vide this office No.5006 dated 12-06-2018.
 - And Where As the Competent Authority, after having considered the charges and evidence on record was not satisfied from his written statement given by him at the time of personal hearing.
 - And Where As He found guilty of gross misconduct under KPK Govt servant E&D rules 2011.
 - AND WHEREAS by reasons of the above, the Competent authority has imposed the major penalty of Compulsory Retirement from the service upon Mr. Mujahid Ali SPST GPS Sadabahar Gujrat and compulsory retirement order issued vide this office Endst No. 8650-51 dated 08-11-2018.
1. AND WHEREAS, the Worthy Secretary E&SED KPK has re-instated him in service and direct the undersigned for conducting the Denve inquiry.
 2. AND THEREFORE, Mr. Zulfiqar-ul-Mulk DEO (M) Mardan accompanied by Mr. Muhammad Shakeel Principal GHSS Sharqi Hoti is nominated as inquiry officer to dig out the factual position through formal inquiry proceedings into the above mentioned charge.
 3. The accused official Mr. Mujahid Ali SPST GPS Sadabahar is required to submit his reply to the inquiry officer within 10 days and appear before the inquiry officer for the inquiry proceedings on the date and place fixed by the inquiry officer. In case of his failure, it shall be presumed that the accused has no defense to offer or has declined to offer the same and accepts the charges and in that case disciplinary proceedings shall be conducted against him ex-parte.
 4. The inquiry shall be conducted in accordance with the provisions contained in (E&D) Rules, 2011 and the report of findings and recommendations shall be submitted to the DEO (M) Mardan preferably within 20 days of the initiation of the inquiry.

(Zulfiqar ul Mulk)
District Education Officer Male
District Mardan

Endstt: No. 82471-215 dated 15-7-2019

Copies submitted for information & necessary action to;

1. Director E&SE Khyber Pakhtunkhwa, Peshawar
2. Deputy Commissioner Mardan
3. Principal GHSS Sharqi Hoti to conduct Denve inquiry.
4. The SDEO(M) Mardan
5. Mr. Mujahid Ali SPST GMPS Sadabahar Gujrat.


District Education Officer
Male District Mardan

2

To

The District Education Officer
E& SE (Male) Mardan

Sir,

In response to your letter No. 8244-45 on dated July, 15th 2019, the undersigned is hereby nominated as inquiry officer against Mr. Mujahid Ali SPST GPS Sadabahar Gujarat. As inquiry Officer constituted by you, will submit his report on basis of evidence and relevant interviews for your necessary action. The inquiry officer went to the following personnel and stations on 28th and 30th July of this year, and prepared the report on the basis of-

A). Minutes of the meeting (enclosed) with:

- i). Mr. Ihsan Ali Chowkidar GPS Sadabahar Gujarat.
- ii). Mr. Mujahid Ali SPST GPS Sadabahar Gujarat.
- iii). Mr. Zahir Muhammad Head Teacher GPS Sadabahar Gujrat.
- iv). Mr. Muhammad Asim Chowkidar GPS Bako Muhammad Khail Mardan

B). Other documents from-

- i) Inquiry Report of Wasi Ullah Principal GHSS Mayar Mardan
- ii) Inquiry Report of Hamid Khan Principal GHSS Sowaryan Mardan.
- iii) Attendance Register photo Copies of GPS Sadabahar Gujrat Mardan
- iv) Attendance Register photo Copies of GPS Bako Muhammad Khail Mardan

C). The Inquiry officer visited the following places -

1. Office of the DEO M Mardan.
2. GPS Sadabahar Gujarat Mardan.
3. GPS Bako Muhammad Khail Mardan.

E). Brief history of the Inquiry-

In the light of both earlier conducted inquiries against Mr. Mujahid Ali SPST in connection of Head teacher of the said school Mr. Zahir Muhammad and PTC Chairman written complaint, the accused official has been compulsory retired. Now the competent authority has re-instated him into service with immediate effect, with the direction to conduct departmental inquiry strictly accordance with rules, law and policy.

F). Actual finding of the Inquiry-

According your office order a written report was submitted against the SPST Mr. Mujahid Ali by the PTC Chairman and Members of the said school. The allegations were as under:-

46
13

63

(14)

G) Allegations and Findings

The allegations were as under:

Allegation 1

(1. He takes no interest in teaching to students)

The PTC Chairman has been claimed that Mr. Mujahid Ali SPST did not take interest in teaching learning process. (Annex 1 Inquiry report by Wasi Ullah)

Finding 1

When I visited the school on 28-7-2019, the school gate was locked from the inner side. I knocked the main gate; the Chowkidar came to the gate and open it. Due to his family was set in the school we sit in nearby shop. I asked about the presence of Mr. Mujahid Ali SPST in the school during his duty. He replied that the said teacher has arrived always in time.

The Complaint of PTC chairman is baseless, because how can realize a PTC chairman the performance of a teacher within school. A Head teacher is the back bone and leader of a school. Head teachers are ultimately responsible for the smooth running of a school, the academic achievement of its pupils and the management of its staff.

The role of the PTC Committee will make efforts for increase in enrollment, discourage dropouts, motivate parents concerning education of their children, create awareness of importance of education and motivate parents to send their children, particularly girls, to schools, organize walks etc. The task of the PTC chairman and members is to indicate the weaknesses of the said teacher and should forward to ASDEO M Mardan through Head Teacher of the said school.

Allegation 2

(2. He brings notorious persons to school)

The accuser PTC committee blamed the said teacher that he has involved in the ingress of irrelevant notorious persons into the school.

Finding 2

I asked from Ihsan Ali Chowkidar about the entrance of irrelevant people in the school by Mr. Mujahid Ali SPST of this school. He totally denied such type of people brought by the said teacher in the school. (Statement of Chowkidar is hereby attached)

Allegation 3

(3. He sends children to shops)

The PTC Chairman accused Mujahid Ali in his complaint letter that he sent the students outside the school for personal matters.

(75)

6/1

Finding 3

Honourable sir! With investigation of this allegation from Ihsan Ali Chowkidar of the said school, his response was once again in negative form. He said that there is no fact in this assertion. He added that my duty is on gate and I have never seen such notorious type people with the said teacher. He also included that there was a conflict between the Head Teacher Mr. Zahir Muhammad and Mr. Mujahid Ali due to unknown reason. So this assertion is also baseless. (Statement of Chowkidar is hereby attached)

Conclusion and Recommendations

Upon completion of the inquiry, the inquiry officer produces a written report to District Education Officer that states what evidence was reviewed and summarizes relevant interviews.

Keeping the above findings in view, Mr. Mujahid Ali SPST GPS Sadabahar is inerrant regarding all allegations. The attendance registers of GPS Sadabahar and GPS Bako Muhammad Khail also reflects his punctuality in the relevant schools. (Photo Copies attached)

Honourable sir! All the charges are baseless and may please think over on these facts and re-instate him anywhere vacant post in his circle.

Principal
GHS Bakhshali
Mardan
SHAKEEL AHMAD
PRINCIPAL
G.H.S.S. Sharqi Hoti
Mardan

Annexure D (16)

Annex D (16)

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

OFFICE ORDER

WHEREAS, Mr. Mujahid Ali SPST GPS Sadabahar Gujrat has been compulsory retired from services vide this office order No.5557-58 dated 11-07-2018.

AND WHEREAS, He has been reinstated in service by Secretary E&SE Khyber Pakhtunkhwa, Peshawar vide No.SO(LIT-I)/E&SE/1-1/2012/ dated 26-06-2019 with the condition to conduct derive inquiry in the case.

WHEREAS, charge sheet, statement of allegation and show cause notice was served upon Mr. Mujahid Ali through inquiry officer.

AND WHEREAS, the inquiry officer conducted inquiry in cited case and submit his recommendations vide No.775 dated 07-08-2019 with the remarks to permanent reinstate Mr. Mujahid Ali.

Now in exercise of the power conferred under Khyber Pakhtunkhwa Govt servants E&D rules 2011, the undersigned being Competent Authority is pleased to REINSTATE Mr. Mujahid Ali with effect from 03-07-2019 and adjust him at GMPS Sadabahar on the basis of STR

Note: The period performing duties w.e.f 11-07-2018 to 02-07-2019 is treated as leave without pay. If he receive pay of the mentioned period, the same may be recovered from him and forfeit in Govt treasury

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

Officer

Endst No. 92141-15 / Dated 21-8-2019

copy forwarded for information and necessary action to the:-

1. Secretary E&SE Khyber Pakhtunkhwa with his letter No mentioned above
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. DMO(IMU) Mardan.
4. SDEO(M) Mardan with the remarks to made entry in his service book.
5. Mr. Mujahid Ali GMPS Sadabar Gujrat (Registry)

District Education Officer
(Male) Mardan

سوانامہ برائے خا خا خا خا SPST 30 رکنی
یہ امری سنتوں سے لایا گیا ہے۔

1- نام: خا خا خا خا SPST سوانامہ برائے خا خا خا خا
2- تعلیمی قابلیت: F.A - تاریخ تصانیف: 23-6/1997

3- آپ کے خلاف شکایت ہے کہ آپ سنتوں سے لگتے ہیں
جواب: جی نہیں ہاں بلکہ خلاف ہے۔ آپ کی حکومت ہے۔ ڈیوٹی وقت پر کرتا ہوں۔

4- آپ سنتوں سے باہر ایسے لوگوں سے ملنے دیتے ہیں جو کہ

سائنس میں بیڑنگ اور منشیات استعمال کرتے ہیں۔ آپ
یہ نہیں سمجھتے کہ اس سے آپ کا مستقبل بدلتا ہو گا؟
جواب: خدا کے قسم میں ہاں لوگوں سے کوئی واسطہ نہیں ہونی
نہ کرتا ہوں۔

5- آپ کے پاس سنتوں سے باہر ایسے لوگ ملتے ہیں کہ

ان کو آپ منع نہیں کرتے ہیں؟
جواب: اسناد میں حوالہ تھا ہاں منع کرتا ہوں۔

6- ڈیوٹی کے دوران حوالہ کا استعمال کی شکایت ہے آپ
کے خلاف ہے۔ اس سے آپ کی ڈیوٹی متاثر نہیں ہونی؟

سب سے پہلے (2) سو بائیس آج ہے۔ آئندہ سو بائیس لکھ لکھو گے۔

13

7- آج ایک طلبہ کو دیکھی ہے سبق میں یہ لکھا ہے

سب سے پہلے آج کی 3 مہ داری میں ہے؟
جواب: سب سے پہلے آج ہے۔ آج کے ساتھ میں سمجھتے ہیں کہ اللہ تعالیٰ

سوچنے والا ہے۔

8- کچھ عرصہ پہلے آج کی اس سبکوں سے شروع ہوئی تھی

آج کا دوسرا حصہ ہے۔ نقد کیوں ہے؟

جواب: بے گناہ ہیں خدا کے قسم صحیح ہے توئی غلطی نہیں ہے اس سے میں دونوں کا

9- آج کے کلاس کی تیاری میں کون سے ذرائع استعمال کیے گئے

جواب: میں کلاس، مختلف قسم کا ایسا رڈ، شمال، جنوب، جہاں گئے ہیں،
عند، وغیرہ

10- آج کی تیاری کا سلسلہ کہہ کر ایک ایک حصہ میں ہے

کسی سے رہنمائی کیوں دیتے ہیں؟

13- اللہ تعالیٰ جو قدر میں ڈیکھتی کا استعمال کر کے رہنمائی

کے ذریعہ وہاں جوڑ سکتے ہو گے تو سب کو ملے گا

اسلام

۱۱ - کیا آپ ایسی تہمتیں افغان سرکار پر لگاتے ہیں؟
۱۳ - ہم نے غلطی کی ہے، میں اپنے لیے یہ شہیمان بیوں اسکرین
حفاظت رکھتا ہوں۔

۱۲ - ایسی طرف سے آپ کو لگنا صحیح ہے تو۔
۱۳ -

خدا والا، میں محمد تقی صاحب کو تیس سال سے شمال اور وسط سے تمام
دے رہا ہوں، میں سے عقل میں جتنے سوالوں میں رہ گیا ہوں
سوالوں بچوں کا اچھا ارتقاء دے ہو جو کہ میں خلاف درخواست
سوالوں میں صاف مانگتا ہوں، اس سوالوں میں دو بارہ آرڈر ہوا ہے
توں مسلم و غیر مسلم - اس کے بعد جو وقت کا سوال آگیا
تو نہ ہر چیز ہے، میں ایک دن صبر و استقامت سے ہم سے باز رہا
میں سے

محمد تقی صاحب
۲۷/۲

Before The KPK Service Tribunal Peshawar

DBI

20/10

SR & DBI

Appeal NO. 1395/2018

Mujahid Ali verses Secretary Education
Edn Deptt Peshawar.

Put up to the worthy chairman
with appeal.

Application for early hearing



Respectfully sheweth

22/10/21

Reads


1. That the above title appeal is now fixed on
31-1-2022 which is very far off and I request
that the above titled appeal may be fixed as
soon as possible.

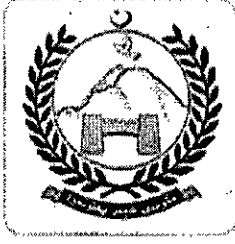
NFA

10/11/2021

It is, therefore, most respectfully prayed
that the above title appeal may
be fixed for hearing as soon as
possible.

Date: 22-10-2021


Mujahid Ali
Petitioner



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 720 /ST

Dated: 21-3-2022

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
Mardan.

Subject: JUDGMENT IN APPEAL NO. 1395/2018 MR. MUJAHID ALI.

I am directed to forward herewith a certified copy of Judgement dated 31.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1395/2018

Date of Institution ... 05.11.2018
Date of Decision ... 31.01.2022

Mujahid Ali, S.P.S.T, GPS Sadabahar, Gujrat, Mardan.

... (Appellant)

VERSUS

The Secretary (E&SE) Khyber Pakhtunkhwa and three others.

... (Respondents)

Taimur Ali Khan,
Advocate

... For appellant.

Naseer Ud Din Shah,
Assistant Advocate General

... For respondents.

Salah-Ud-Din
Rozina Rehman

... Member (J)

... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The relevant facts leading to filing of instant appeal are that appellant was working on the post of Senior Primary School Teacher (SPST) in GPS Sadabahar, Gujrat. A complaint was filed against the appellant and on the strength of that complaint, appellant was transferred to GPS Peshkand. He filed an application seeking cancellation of that transfer order which application was accepted and his transfer order was withdrawn. An inquiry was conducted against him on the strength of the aforementioned complaint and it was on 11.07.2018 when appellant was compulsorily retired from service. He filed departmental appeal

which was rejected. He then filed the instant service appeal. In the meanwhile, he had also filed an application with a request for de-novo inquiry which was honored and de-novo inquiry was conducted. He was reinstated into service but the intervening period w.e.f 11.07.2018 to 02.07.2019 was treated as leave without pay. He, therefore, filed departmental appeal for the grant of arrears which was not responded to. As the present appeal had been filed with the prayer for reinstatement with all back benefits but he was reinstated during the pendency of the instant appeal, therefore he filed an application seeking amendment in the instant appeal which was allowed by this Tribunal.

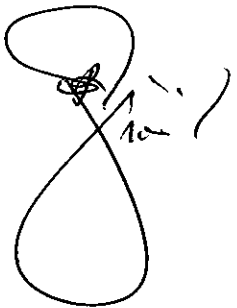
2. We have heard Taimur Ali Khan Advocate for appellant and Naseer ud Din Shah, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Taimur Ali Khan Advocate, learned counsel appearing on behalf of appellant, inter-alia, submitted that the order of the authority vide which period w.e.f 11.07.2018 to 02.07.2019 was treated as leave without pay is against law, facts and norms of justice and liable to be modified to the extent that the entire period may be treated on full pay with all back benefits. It was further argued that the Inquiry Officer submitted detailed report in de-novo proceedings which report favors the appellant but the same was not taken into consideration and the appellant was deprived from his legal rights, he therefore, submitted that there remains no ground to deprive the appellant from full pay for the period mentioned above.



4. Conversely learned AAG submitted that the appellant was treated according to law and was given full opportunity of personal hearing. He contended that proper regular inquiry was conducted against appellant and that the allegations of misconduct were proved against the appellant and lastly, it was argued that the SDEO (M) visited the School of the appellant as the PTC Chairman made complaint against the appellant regarding non-performance of duty/absenteeism, therefore, proper regular inquiry was conducted and that he was never condemned unheard as he was given full and proper opportunity of his defense.

5. From the record, it is evident that a complaint was filed against the appellant by the Members of PTC, wherein, different allegations were leveled against appellant. He was transferred to GPS Peshkand on 12.01.2018 on the strength of this complaint. He then submitted an application seeking cancellation of the transfer order with a request for transfer to a suitable place keeping in view his enmity. His application was considered and his transfer order was withdrawn on 14.02.2018 by the DEO (Male), Mardan. An Inquiry Officer was nominated to conduct inquiry, who recommended his compulsory retirement vide report dated 15.02.2018, where-after, show cause notice was issued to the appellant on 05.05.2018. It was on 11.07.2018 when major penalty of compulsory retirement from service was imposed upon appellant by District Education Officer (Male), Mardan. He preferred departmental appeal which was rejected on 19.09.2018, where-after, the present service appeal was filed. During the pendency of present service, another application was

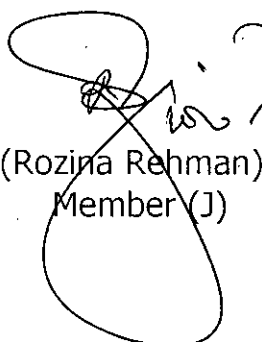


submitted by the appellant for de-novo inquiry which was allowed and Principal GHS Bakhshali, Mardan was appointed as Inquiry Officer who conducted inquiry and submitted his report. All the allegations leveled against the appellant were declared baseless and accordingly, he was reinstated in service w.e.f 03.07.2019 and was adjusted at GMPS Sadabahar on the basis of STR, however, the intervening period w.e.f 11.07.2018 to 02.07.2019 was treated as leave without pay which order of the authority is not in accordance with law. As discussed earlier that de-novo inquiry was conducted, proper report was submitted by the enquiry officer and on the strength of inquiry report, appellant was reinstated into service. Major penalty of compulsory retirement from service had been imposed upon appellant by the authority and there was no fault of the appellant.

6. The preceding discussion vividly transpires that appellant was not treated in accordance with law and he made out a case for indulgence of this Tribunal, therefore, he is entitled to all back benefits for the intervening period w.e.f 11.07.2018 to 02.07.2019. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
31.01.2022


(Salah-Ud-Din)
Member (J)


(Rozina Rehman)
Member (J)

Order
31.01.2022

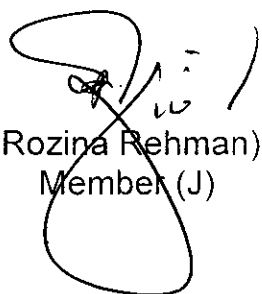
Appellant present through counsel.

Naseer Ud Din Shah learned Assistant Advocate General for respondents present.

Vide our judgment of today of this Tribunal placed on file, appellant was not treated in accordance with law and he made out a case for indulgence of this Tribunal, therefore, he is entitled to all back benefits for the intervening period w.e.f 11.07.2018 to 02.07.2019. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
31.01.2022


(Salah-Ud-Din)
Member (J)

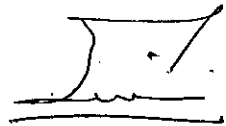

(Rozina Rehman)
Member (J)

12.07.2021

Appellant alongwith Mr. Taimur Ali Khan, Advocate, present. Mr. Sajid, ADO (Litigation) and Mr. Muhammad Sajid, Superintendent alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and stated at the bar that brief of the instant appeal was handed over for preparation to Mr. Muhammad Adeel Butt, learned Additional Advocate General, however he is unable to appear before the Tribunal today due to illness, therefore, an adjournment may be granted. Learned counsel for the appellant is having no objection on the adjournment. Adjourned. To come up for arguments before the D.B on 20.10.2021.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

20.10.2021

Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Sajid Ali ADEO for respondents present.

Former made a request for adjournment. Opportunity is granted. To come up for arguments on 31.01.2022 before D.B.



(Atiq-Ur-Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

13.01.2021

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Sajid, ADEO, on behalf of respondents No. 1 to 3, are also present.

Representative of respondents No. 1 to 3 furnished written reply on behalf of the said respondents which is placed on file. Neither written reply on behalf of respondent No. 4 submitted despite last chance nor any representative on his behalf is present, therefore, learned Additional Advocate General is directed to contact respondent No. 4 and submit written reply on the next date by way of last chance. File to come up for written reply/comments on behalf of respondent No. 4 on 11.03.2021 before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

11.03.2021

Counsel for the appellant present. Addl: AG alongwith Mr. Sajid, Supdt: for respondent No.4 present.

Written reply on behalf of respondents No. 1 to 3 have already been submitted while representative of respondent No.4 rely on the same.

Adjourned to 12.07.2021 for rejoinder/ arguments before D.B.

(Mian Muhammad)
Member (E)

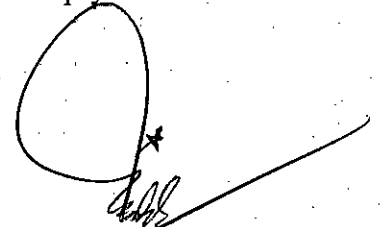
01.10.2020

Counsel for the appellant present.

Mr. Kabirullah, Khattak, Additional Advocate General
alongwith Mr. Sajid, Supdt for respondents present.

Written reply on behalf of the respondents not
submitted. Learned AAG requested for time to submit written
reply/comments. Requested is allowed.

Adjourned to 24.11.2020 for written reply/comments
before S.B.

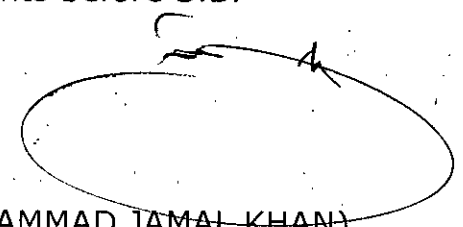


(Mian Muhammad)
Member (E)

24.11.2020

Learned counsel for appellant is present. Mr. Kabirullah
Khattak, Additional Advocate General for the respondents is also
present.

Written reply on behalf of respondents not submitted.
Learned Additional Advocate General requests for further time to
contact the respondents and furnish written reply/comments on
the next date of hearing. Adjourned to 13.01.2021 on which date
file to come up for written reply/comments before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

25.06.2020

Learned counsel for the appellant and Mr. Muhammad Jan learned DDA for the respondents present.

Former states that the appellant was restored in service through order dated 21.08.2019 passed by respondent No.3. However, he has not been allowed the back benefits. Learned counsel, in the circumstances, requests for permission to submit an amended memorandum of appeal.

Allowed subject to all just exceptions. The amended appeal may be submitted within a fortnight.

Adjourned to 12.08.2020 before S.B.


Member


Chairman

12.08.2020


Counsel for the appellant, Addl. AG alongwith Sajid ADEO for respondent No. 3 present.

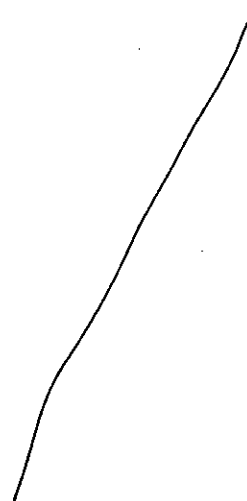
Learned counsel submitted amended memo of appeal. Placed on record. Copy whereof handed over to representative of respondent No. 3. Notice be issued to respondents No. 1, 2 & 4. To come up for reply/comments on amended memo. of appeal on 01.10.2020 before S.B.


Chairman

01.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 25.06.2020 before D.B.


Reader



29.10.2019

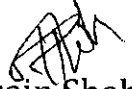
Due to incomplete bench the case is adjourned. To come up for the same on 02.01.2020 before D.B.

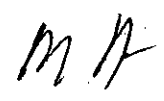

Reader

02.01.2020

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present.

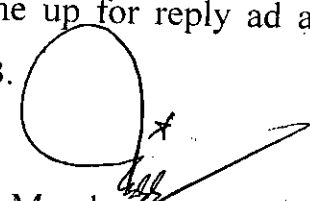
The case was fixed for final arguments but today learned counsel for the appellant submitted application for amendment in service appeal on the ground mentioned in the application. Copy of the same is handed over to learned Additional AG. Case to come up for reply and arguments on amendment application on 14.02.2020 before D.B.



(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

14.02.2020

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Sajid ADO present. Representative of the respondent department requested for adjournment. Adjourned To come up for reply ad arguments on 30.03.2020 before D.B.


Member


Member

13.03.2019 Appellant in person present. Mr. Sajid Khan ADO representative of respondents department present and submitted written reply. Adjourn. To come up for rejoinder/argument on 29.05.2019 before D.B


Member

29.05.2019 Appellant with counsel and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourn. To come up for arguments on 02.08.2019 before D.B.


Member


Member

02.08.2019 Learned counsel for the appellant present. Mr. Zia Ullah learned DDA present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 29.10.2019 before D.B.


Member


Member



1395/18

03.12.2018

Counsel for the appellant present.

Learned counsel for the appellant contends that the appellant was awarded major penalty of compulsory retirement from service on 11.7.2018, primarily on a complaint of Member of PTC (Parent Teacher Committee). That, during departmental proceedings resulting in the impugned order the mandatory provisions contained in Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011 were disregarded. That, the appellant was not provided charge sheet and was also not given opportunity of cross examining the witnesses appearing before the DEO against him.

In the facts and circumstances of the case, the instant appeal merits admission for regular hearing. Admit. The appellant is directed to deposit security and process fee within 10 days. Notices be issued to the respondents for submission of written reply/comments on 28.01.2019 before S.B.

Appellant Deposited
Security & Process Fee



Chairman

28.01.2019

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Representative of the department is not present therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 13.03.2019 before S.B.

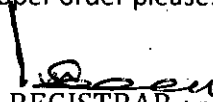
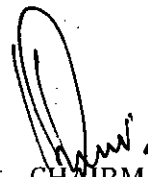


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1395/2018

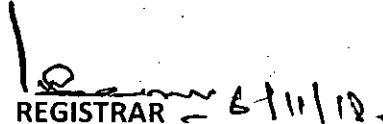
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/11/2018	The appeal of Mr. Mujahid Ali resubmitted today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.  REGISTRAR 13/11/18
2-	17-11-2018	This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>3-12-18</u> .  CHAIRMAN

The appeal of Mr. Mujahid Ali SPST GPS Sadabahr Gujrat Mardan received today i.e. on 05.11.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Documents referred to in the memo of appeal are not attached with the appeal which may be placed on it.
- 3- Copy of impugned order and departmental appeal against it are not attached with the appeal which may be placed on it.
- 4- Annexures of the appeal may be flagged.
- 5- Annexures of the appeal may be attested.
- 6- Six more copies sets of the appeal along annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2198 /S.T,


Dt. 6-11 /2018.


REGISTRAR - 6/11/18.
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv. Pesh.

Respected Sir

- 1- Removed
- 2- Removed
- 3- copy of impugned order is at page 11 and departmental appeal is at page -12.
- 4- Removed
- 5- Removed
- 6- Removed

Resubmitted after compliance
13/11/2018 

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Amended Service Appeal No.1395/2018

Mujahid Ali.....Petitioner

V E R S U S

Secretary (E & SE) and others.....Respondents

INDEX

S#	Description of the Documents	Annex	Pages
1	Memo of Appeal		01-4
2	Copies of the complaint, application and order dated 14.02.2018	A,B&C	05-07
3	Copy of inquiry report	D	08
4	Copies of show cause notice and reply to show cause notice	E&F	09-10
5	Copies of order dated 11.07.2018,departmental appeal & rejection order dated 19.09.2018	G,H&I	11-13
6	Copy of service Appeal No.1395/2018	J	14-17
7	Copies of denovo inquiry reports and order dated 21.08.2019	K&L	18-22
8	Copy of departmental appeal	M	20-23
9	Copies of application and order sheet dated 25.06.2020	N&O	24-27

THROUGH
LA Haid
ABDUL WAHID Advocate

[Signature]
APPELLANT
MUJAHID ALI
[Signature]
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

&
[Signature]
(ASAD MAHMOOD)
ADVOCATE HIGH COURT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Amended Service Appeal No.1395/2018

Mujahid Ali S.P.S.T

GPS Sadabahar, Gujrat, Mardan

(APPELLANT)

VERSUS

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

(RESPONDENT)

AMENDED APPEAL UNDER SECTION OF KP SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 21/8/2019 WHEREBY THE APPELLANT WAS REINSTATED INTO SERVICE, BUT THE PERIOD WITH EFFECT FROM 02/07/2018 TO 02/07/2019 WAS TREATED WITHOUT PAY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

THAT ON ACCEPTANCE OF THIS AMENDED APPEAL ORDER DATED 21/8/2019 MAY BE MODIFIED TO THE ENTENT THAT THE PERIOD WITH EFFECT FROM 11/7/2018 TO 02/07/2019 MAY KINDLY BE TREATED ON FULL PAY ALONG WITH ANCILLARY RELIEF INCLUDING SENIORITY AND OTHER BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOR OF THE APPELLANT.

RESPECTFULLY SHEWTH:

FACT:

1. That the appellant is working on the post of Senior Primary School Teacher (SPST) in GPS Sadabahar Gujrat and was performing his duty with great devotion and honesty whatever so ever assigned to him.
2. That complaint of baseless allegations has been filed against the appellant and on the bases of that complaint, the appellant was transfer to GPS Peshkand. The appellant filed application for cancellation of that transfer order or posting in some other places as the appellant has enmity and due to which the transfer order of the appellant withdrawn vide order dated 14.02.2018 **(Copies of the complaint, application and order dated 14.02.2018 are attached as annexure-A,B&C)**
3. That without communicating charge sheet and statement of allegations to the appellant, irregular inquiry was conducted against the appellant on that baseless complaint in questionnaire form without providing opportunity of defense to the appellant as neither statements of the witnesses were recorded in the presence of the appellant nor gave him opportunity of cross examination of that witnesses, but despite that the inquiry officer held him responsible. **(Copy of inquiry report is attached as Annexure-D).**
4. That show cause noticed was issued to the appellant in which it was mentioned that you often come late to school, leave school early, sending student to shop and bringing outsider to school premises and do not take interest in your school duty, the appellant submitted reply to show cause notice in which he denied all allegations. **(Copies of show cause notice and reply to show cause notice are attached as Annexure-E&F)**
5. That on the bases of baseless allegations and irregular inquiry, the appellant was compulsory retired from service vide order dated 11.07.2018. The appellant filed departmental appeal on 16.07.2018 which was rejected on 19.09.2018 without any reason and the rejection order was received by the appellant on 29.10.2018. **(Copies of order dated 11.07.2018, departmental appeal & rejection order dated 19.09.2018 are attached as Annexure-GH&I)**
6. That the appellant then filed Service Appeal No.1395/2018 in this honorable Tribunal with prayer for reinstatement into his service with all back and consequential benefits. **(Copy of service Appeal No.1395/2018 is attached as Annexure-J)**