

S.A#.377/2018 Qari Waheed Ullah Jan Vs. Education Department

Date of Institution: 15.03.2018

Date of Decision: 02.02.2022

Order

02.02.2022

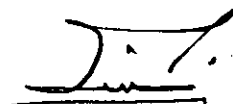
Appellant with counsel present.

Naseer Ud Din Shah learned Assistant Advocate General alongwith Sajid Ali ADEO for the respondents present.

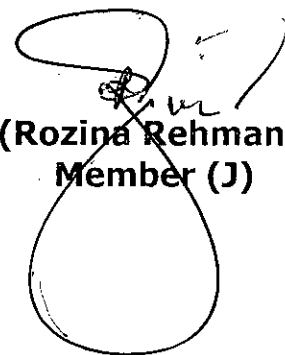
This appeal has been filed against the order dated 16.11.2017 vide which appellant was awarded major penalty of compulsory retirement from service.

From the record, it is evident that during the pendency of appeal in hand, appellant was reinstated into service but later on, his order of reinstatement was withdrawn, therefore, he filed another Service Appeal bearing No.317/2019 which was allowed and order of reinstatement of appellant was kept intact. The appeal in hand having become infructuous is, therefore, dismissed. No order as to costs. File be consigned to the record room.

ANNOUNCED.
02.02.2022



**(Salah-ud-Din)
Member (J)**

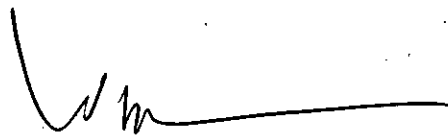


**(Rozina Rehman)
Member (J)**

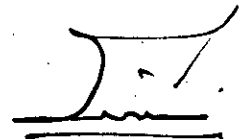
02.09.2021

Appellant alongwith Mr. Akbar Ali, Advocate present, who submitted fresh Wakalat Nama on behalf of the appellant. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment on the ground that he has been freshly engaged and has not gone through the record. Adjourned. To come up for arguments before the D.B on 01.11.2021.



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



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

01.11.2021

Counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Sajid Litigation Officer for respondents present.

The learned Member (Judicial) is on leave, therefore, case is adjourned. To come up for arguments on 02.02.2022 before D.B.


Chairman

19.11.2020

Appellant with counsel present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

A request for adjournment was made as issue involved in the present case is pending before Larger Bench of this Tribunal. Adjourned. To come up for arguments on 12.02.2021 before D.B.



(Atiq ur Rehman Wazir)
Member (E)



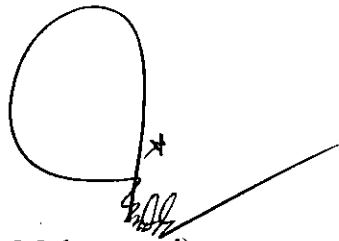
(Rozina Rehman)
Member (J)

12.02.2021

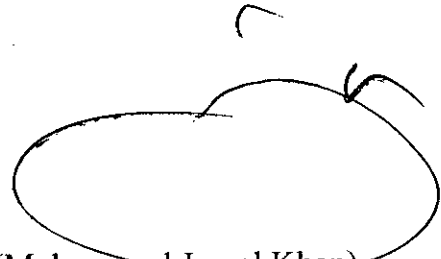
Appellant in person present. Adl: AG for respondents present.

Appellant requested for adjournment due to general strike of the Bar.

Adjourned to 04.05.2021 for arguments before D.B.



(Mian Muhammad)
Member (E)



(Muhammad Jamal Khan)
Member (J)

4.5.2021

Due to COVID-19, the case is adjourned to 2.9.2021 for the first time.



12.06.2020

Clerk to counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Clerk to counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 21.08.2020 before D.B.



(Rozina Rehman)
Member



(M. Amin Khan Kundi)
Member

21.08.2020

Due to summer vacation case to come up for the same on 18.09.2020 before D.B.



Reader

18.09.2020

Counsel for appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former requests for adjournment as issue involved in the present case is pending before Larger Bench of this Tribunal. Adjourned. To come up for arguments on 19.11.2020 before D.B.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

13.01.2020

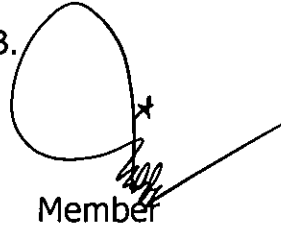
Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 02.03.2020 before D.B.


Member


Member

02.03.2020

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 01.04.2020 before D.B.


Member


Member

01.04.2020

Due to public holiday on account of COVID19, the case is adjourned to 12.06.2020 for the same as before.


Reader

14.11.2019

Counsel for the petitioner present. Mr. Asst: AG alongwith Mr. Sajid, ADEO for respondents present. Representative of the respondents submitted reply on application for restoration of appeal which is placed on file. Arguments on application for restoration of appeal heard and case file perused.

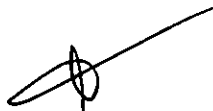
Learned counsel for the appellant contended that the case was fixed on 12.06.2019. It was further contended that the appellant and his counsel appeared on 12.6.2019 and the case was adjourned to 09.08.2019. It was further contended that later on due to misunderstanding the case was dismissed in default in late hours. It was further contended that when the appellant and his counsel came to the court on 09.8.2019, they were informed that the appeal was dismissed in default on the said date i.e. 12.06.2019 due to misunderstanding, therefore, he immediately filed application for restoration of appeal on 22.08.2019. It was further contended that the application for restoration of appeal is well within time and the appeal was dismissed in default due to misunderstanding of the court staff and not on the fault of the appellant.

On the other hand learned Assistant Advocate General opposed the arguments of the learned counsel for the appellant and stated that the application for restoration of appeal is barred by time and prayed for dismissal of application for restoration of appeal.

Record revealed that the case was fixed for 12.06.2019. Learned counsel for the appellant has claimed in restoration of application that the appellant alongwith his counsel were appeared on the said date and reader of the Tribunal had adjourned the case to 09.08.2019 but later on due to misunderstanding the appeal was dismissed in

MA

default. In support of his claim, the appellant has also submitted an affidavit. The diary register of the reader was also perused by this Tribunal, wherein the case was adjourned from 12.06.2019 to 09.08.2019 but later on due to misunderstanding the appeal was dismissed in default on 12.06.2019. Moreover, the application is within time, therefore, the application for restoration of appeal is accepted and the appeal is restored and be fixed for its previous proceedings on 13.01.2020 before D.B. Notices be issued to the respondents.


Member


Member

08.10.2019

Petitioner in person present. Reply on the present restoration application not submitted. Sajid ADO representative of the respondent department absent. Respondents as well as absent representative be put to notice for reply. Adjourn. To come up for reply and arguments on 18.10.2019 before D.B.


Member


Member

18.10.2019

Petitioner with counsel present. Asst: AG for respondents present. Asst: AG seeks time to submit reply on restoration application. Adjourned. To come up for reply/arguments on restoration of appeal on 14.11.2019 before D.B.



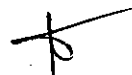


Member


Member

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 308/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	22.08.2019	<p>The application for restoration of appeal No.377/2018 submitted by Mian Afrasiab Gul Kakakhel Advocate, may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 22/8/19</p>
2	11.09.2019	<p>This restoration application is entrusted to B. Bench to be put up there on <u>11-9-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsel for the petitioner present. Asst: AG for respondents present. Notices be issued to the respondents for submission of reply on restoration application. To come up for reply/arguments on restoration application on 08.10.2019 before D.B.</p> <p style="text-align: center;">  (Ahmad Hassan) Member  (M. Amin Khan Kundi) Member </p>


377/18, Qari Waheedullah vs Govt

12.06.2019

Nemo for appellant. Mr. Muhammad Riaz Paindakhel, Asstt. AG for the respondents present.

It is already past 3.30 P.M and no one is in attendance on behalf of the appellant after repeated calls.

Dismissed for non-prosecution. File be consigned to record room.



Member



Chairman

Announced:
12.06.2019

04.03.2019

Appellant in person present. Learned counsel for the appellant is absent. Mr. Kabirullah Khattak, Additional AG for the respondents present. Appellant seeks adjournment. Adjourn. To come up for arguments on 10.04.2019 before D.B.



(M. HAMID MUGHAL)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

09.04.2019

Appellant in person present. Addl: AG alongwith Mr. Sajid Khan, ADO for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourned. Case to come up for arguments on 27.05.2019 before D.B.



(Ahmad Nassan)
Member


(M. Amin Khan Kundi)
Member

27.05.2019

Appellant in person and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Due to general strike on the call of Bar Council, learned counsel for the appellant is no in attendance. Adjourned. To come up for arguments on 12.06.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

17.08.2018

Appellant Qari Waheed Ullah in person present. Mr. Kabirullah Khattak, Addl. AG for respondents present. Written reply not submitted. Learned AAG sought some time to submit the same. Granted. To come up for written reply/comments on 28.09.2018 before S.B.



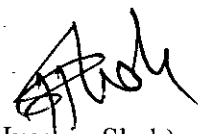
Chairman

28.09.2018

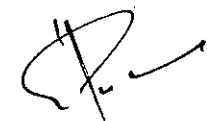
Counsel for the appellant present. Sajid Khan, ADO alongwith Mr. Kabirullah Khattak, Addl. AG for the respondents present. Written reply submitted. To come up for rejoinder, if any, and arguments on 20.11.2018 before the D.B.

20.11.2018

Appellant in person and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Muhammad Raziq H.C for the respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 09.01.2019 before D.B



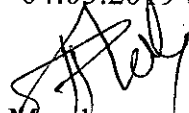
(Hussain Shah)
Member



(Muhammad Hamid Mughal)
Member

09.01.2019

Appellant in person and Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Appellant requested for adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 04.03.2019 before D.B



Member



Member

26.04.2018 Appellant in person present. The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on **22.06.2018** before S.B.


Reader

22.06.2018

Counsel for the appellant Qari Waheed Ullah present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Education Department as Qari. It was further contended that during service the appellant was imposed major penalty of compulsory retirement from service by the competent authority vide order dated 16.11.2017. It was further contended that the appellant filed departmental appeal on 27.11.2017 which was not responded hence, the present service appeal on 15.03.2018. It was further contended that neither proper charge sheet and statement of allegation was served, nor proper inquiry was conducted nor opportunity of personal hearing and defence was provided to the appellant hence, the appellant was condemned unheard therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days thereafter notice be issued to the respondents for written reply/comments for 17.08.2018 before S.B.

Appellant Deposited
Security & Process Fee


(Muhammad Amin Khan Kundi)
Member

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 377/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15/03/2018	<p>The appeal of Mr. Waheed Ullah presented today by him, may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 15/3/18</p>
2-	26/03/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/04/18.</u></p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>
	09.04.2018	<p>Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 26.04.2018 S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Member</p>

Form-A

FORM OF ORDERSHEET

Court of _____

Case No. 377 /2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15/03/2018	<p>The appeal of Qari Waheedullah presented today by him, may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;">  REGISTRAR </p>
2-	21-03-2018	<p>This case is entrusted to Touring S. Bench at Swat for preliminary hearing to be put up there on <u>06-04-2018</u>.</p> <p style="text-align: right;">MEMBER</p>

BEFORE THE PROVINCIAL SERVICES TRIBUNAL

PESHAWAR

Appeal No. 377 /2018

Qari Waheed Ullah Versus..... The E D O & Others

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4	Wakalatnama		

Dated- 05-03-2018


APPELLANT

**QARI WAHEED ULLAH
THROUGH COUNSEL**

**SHUAIB SULTAN
ADVOCATE
HIGH COURT**



BEFORE THE PROVINCIAL SERVICES TRIBUNAL

PESHAWAR

Appeal No. 377 /2018

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 397
Dated 15/03/2018

Qari Waheed Ullahson of Abdur Raziq, (Ex-Senior Qari) resident of Takkar road sadder colony, Tehsil Takht Bahi & District Mardan.....Appellant

Versus

1. The Government of Khyber Pakhtun Khawa through Secretary, Education.
2. The Director (E & SE) Khyber Pakhtun Khawa, Peshawar.
3. The Executive District Officer Male (E & SE), Mardan. Respondents

**APPEAL UNDER SECTION 4, OF THE KHYBER
PAKHTUNKHWASERVICE TRIBUNAL ACT, 1974, AGAIST THE
IMPUGNED ORDER OF THE DISTRICT EDUCATION OFFICER(MALE)
MARDAN/ RESPONDENT NO.03, CONTAINED IN OFFICE ORDER/
ENDST 10100/ G P.F, DATED 16-11-2017, WHEREBY THE APPELLANT
IS AWARDED THE MAJOR PENELITY OF "COMPULSORY
RETIRMENT" FROM SERVICE, WHICH IS ILLEGAL, VOID, AGAINST
LAW AND FACTS, WHILE DEPARTMENTAL APPEAL FILED ON
DATED 27/11/2017, RECEIVED VIDE DAIRY 1414, DATED 28-11-2017
REMAINED UN-RESPONDED EVEN AFTER LAPSE OF 90
DAYS, WHICH IS ILLEGAL AGAINST LAW AND FACTS.**

Filed to-day

Registrar

PRAYER

**ON ACCEPTANCE OF THE INSTANT APPEAL THE IMPUGNED
ORDER OF THE DISTRICT EDUCATION OFFICER(MALE) MARDAN /
RESPONDENT NO.03, CONTAINED IN OFFICE ORDER/ ENDST 10100/
G P.F, DATED 16-11-2017. WHEREBY THE APPELLANT HAS BEEN
AWARDED MAJOR PENELITY OF COMPULSORY RETIRED FROM
HIS SERVICE, MAY PLEASE BE SET ASIDE AND THE APPELLANT**

15/3/18

**MAY BE REINSTATED INTO HIS SERVICE WITH ALL BACK SERVICE
BENEFITS**

**ANY OTHER CONSEQUENTIAL RELIEF, NOT SPECIFICALLY
PRAYED FOR AND DEEMED APPROPRIATE BY HIS HONORABLE
TRIBUNAL, IN FACTS AND CIRCUMSTANCES OF THE CASE, MAY
ALSO BE GRANTED TO THE APPELLANT.**

Respectfully Sheweth,

ON FACTS:-

Brief facts giving rise to the present appeal are as under

- I- That the appellant was performing his duty as Senior Qari, in the elementary and secondary Education department Khyber Pakhtun khawa, and was posted at Government High School PatiKalan.
- II- That during the course of his service, some known miscreant's leveled baseless, false allegation/ complaint against the appellant of his involvement in immoral activities.
- III- That the respondent No. 03/ District Education Officer (Male) Mardan, on the recommendation of the inquiry committee, imposed major penalty of compulsory retirement of the appellant from service. **(Copy the order is attach as annexure "A")**
- IV- That aggrieved therefrom, the Appellant preferred departmental Representation/ Appeal to the Director (E & SE) Khyber Pakhtun Khawa, Peshawar / Respondent No.02. On 27-11-2017, which was received vide office diary No. 1414, dated 28-11-2017. **(copy of the Departmental Representation/ Appeal is attached as annexure "B")**
- V- That the Appellate order was never conveyed to Appellant, even after the lapse of ninety (90) days, Hence, this Appeal is within time. The impugned order is unjustified, illegal, against the principles of natural Justice, ultra vires and the same is liable to be set aside on the following grounds inter alia;

GROUND:-

1. Because the Appellant was falsely implicated, the allegation/ complaint of his involvements in immoral activities are wrong,

baseless, without any proof and cogent evidence; he was never involved in such activities, which was made basis of his compulsory retirement from service, the alleged involvement of the appellant is with mala fide intention and concocted one.

2. Because appellant has not been afforded a fair opportunity of hearing which is sine-qua-non for any action under service law and entrenched in our judicial system.
3. Because there are glaring illegalities and irregularities committed in the inquiry committee till the compulsory retirement from his service of the appellant.
4. Because appellant has not been afforded a fair opportunity of hearing which is sine-qua-non for any action under service law and entrenched in our judicial system.
5. Because the Appellant was condemned unheard. The inquiry was conducted in his absence, neither his statement was recorded nor he was inform about the inquiry.
6. Because there is no charge sheet statement of allegations in instant case.
7. Because appellant is not handed over inquiry report/ proceedings. In spite of oral and written requests till today.
8. Because none of the witnesses are examined in presence of appellant.
9. Because appellant has not been afforded opportunity of cross examination.
10. Because impugned penalty is very harsh, keeping in view has past unblemished 21 years service and splendid performance.
11. Because the entire proceeding and resultantly impugned order is void, nullity in the eye of law, having no backing of rules/ law.
12. Because impugned order is not supported by reasons, much less cogent reasons as envisaged in the General Clauses Act as well as

the principle of Natural justice which are deemed to be enshrined in every statute whether specifically provide or not.

13. Because he was not supplied the copy of Inquiry report and was kept in dark about the findings of the inquiry.
14. Because the allegation of appellants involvement in immoral activities are wrong and ill-founded.
15. Because inquiry committee has involved the appellant with mala fide intention and for ulterior motive.
16. Because since the Appellants appointment in 06-06-1996, he perform his duty with dedication, to the entire satisfaction of his superiors; there is no complaint against him.
17. Because the service record of the Appellant has been clean and unblemished, rather commendable throughout his service.
18. Because it is statutory duty of respondents to decide departmental appeal of the appellant on cogent grounds/ reasons, but this important duty is being neglected without any cogent reasons.
19. The Appellant leave of this Honourable Tribunal to claim further grounds also;

It is therefore most humbly requested that On acceptance of the instant appeal, the impugned order of compulsory retirement from service contained in office order/ Endst 10100/ G P.F, dated 16-11-2017, may please be set aside, and appellant and may be reinstated into service with all back service benefits.

Any other consequential relief, not specifically prayed for and deemed proper and appropriate by his Honorable Tribunal, under the facts and circumstances of the case, may also be granted to the appellant.

Dated – 05-03-2018


APPELLANT

Qari Wahed Ullah

AFFIDAVIT

I, Qari Waheed Ullah ex- senior Qari son of Abdur Razi R/O Takkar road Saddar colony, Tehsil Takht Bahi District Mardan, do hereby state on solemn affirmation that the contents of the instant Appeal is true, correct to the best of my knowledge and belief and nothing has been concealed in this respect.

DEPONENT



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN**NOTIFICATION**

I, Ijaz Ali Khan District Education officer (Male) Mardan as Competent Authority under the Khyber Pakhtunkhwa Government servants (Efficiency & Discipline) Rules, 2011, do hereby serve Mr. Waheed Ullah Jan S.Qari GHS Pati Kalan follows:

ATTENDED

- Where As Mr. Waheed Ullah Jan Qari GHS Pati Kalan involved in immoral activities.
- And Where As a show-cause notice regarding involvement in immoral activities penalty was tentatively proposed under rules 4(b) of Khyberpakhtunkhwa Govt servant E&D rules 2011.
- And where As your response to the show cause notice was not satisfactory.
- And where As a formal inquiry has been conducted and the charges leveled upon you were proved.
- And Where As you were directed to attend the office of the undersigned for personal hearing.
- And where As you attend the office of the undersigned on 27-10-2017 for personal hearing.
- And where As the Competent Authority is not satisfied from your written statement at the time of personal hearing, after having considered the charges evidence on record.
- And Where As you found guilty of gross misconduct under KPK Govt servant E&D rules 2011.

Now in exercise of the power conferred to me under rules 4(b) sub rules (ii) of the KPK Govt servant E&D rules 2011, the undersigned being competent authority is pleased to impose the major penalty of Compulsory Retirement from the service upon Mr. Waheed Ullah Jan Qari GHS Pati Kalan w.e.f 15-11-2017.

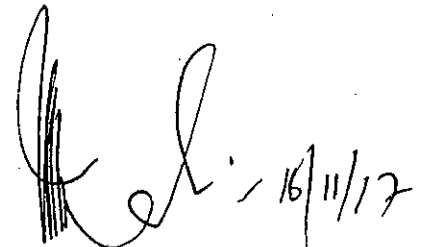


(Ijaz Ali Khan)
District Education Officer
(Male) Mardan

Endst: No. 10000/2 P.FDated 16/11 /2017.

Copy forwarded to the:-


1. Head Master GHS Pati Kalan
2. District Accounts Officer Mardan
3. Mr. Waheed Ullah Jan Qari GHS Pati Kalan
4. DMO(I MU) Mardan
5. General File.



District Education Officer
(Male) Mardan

To,

The Director,
Elementary & secondary Education,
Khyber Pakhtunkhwa,
Peshawar.



ATTESTED

Through proper channel

Subject:- DEPARTMENTAL APPEAL/ REPRESENTATION.

Respected Sir,

My this appeal/ representation is against the office order/ Endst 10100/ G P.F, dated 16-11-2017 of the District Education Officer (Male) Mardan, whereby major penalty of compulsory retirement was imposed upon me. (copy the order is attach as annexure "A")

FACTS

- I- That I was performing my duty as Senior Qari, in the elementary and secondary Education department Khyber Pakhtunkhwa, and was presently posted at Government High School PatiKalan Mardan.
- II- That some unknown miscreants have leveled baseless, complaints of my involvement in immoral activities.
- III- That the concern District Education Officer (Male) Mardan, has constituted inquiry committee, in order to probe allegations against me, whereby on the recommendations of the inquiry committee, the District Education Officer (Male) Mardan, imposed major penalty of compulsory retirement from service.
- IV- That the impugned order is illegal, void, untenable under the Law and against the principals of natural justice on the following amongst many other grounds inter alia,

GRUNDS:-

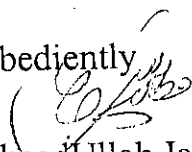
1. That the allegations of my involvements in immoral activities are wrong, baseless, without any proof and cogent evidence. I was never been involved in any such activities/ case.
2. That my alleged involvement is with malafide intention and concocted one.
3. That there are glaring illegalities and irregularities committed since my involvement in the case till my compulsory retirement from service.
4. That I was not afforded a fair opportunity of hearing. Thus I was condemned unheard. The inquiry was conducted with mala fide intention.
5. That the District Education Officer (Male) Mardan constituted an inquiry officer, who was inimical towards me, I have put forward my reservations to the concern District Education Officer (Male) Mardan, and the District Nazim Mardan, has also directed the DEO Male for replacement of the inquiry committee, which was not taken into consideration. **(copy attach as annexure "B")**
6. That in spite of my reservation regarding the inquiry committee, I appeared before the committee in order to put forward the factual position of my baseless involvement in the case, but on the day I was not heard in person, the inquiry officer was reluctant to hear me in person, in order to explain my position, thus I was condemned unheard. **(copy attach as annexure "C")**
7. That I was not supplied the copy of Inquiry report, with the show cause Notice as required under the rules and was kept in dark about the findings of the inquiry.

8. That the District Nizam has suspended/ held in abeyance the compulsory retirement order, issued by the District Education Officer, (Male) Mardan and constituted a fact finding inquiry committee. (copy attach as annexure "D")
9. That the concern District Education Officer (Male) Mardan is reluctant to follow the aforesaid executive order of the District Nazim.
10. That the allegation of my involvement in immoral activities against me is also wrong and ill-founded.
11. That since my appointment i.e. 1996 in the department, I perform my duty with dedication, to the entire satisfaction of my superiors; there is no complaint against me in the whole of my service.
12. That the baseless complaint was lodged against me on 22-08-2017, while I was promoted to Senior Qari B.P.S. 15 in the light of non-involvement certificate, ACRs, results and synopsis duly signed by reporting officer and countersigned by District Education Officer (Male) Mardan.
13. That my service record has been clean and unblemished, rather commendable throughout my service.

It is requested that setting aside the impugned order of my compulsory retirement from service, I may be exonerated from the charges and may be reinstated into service with all back service benefits.

Dated - 27-11-2017

Yours obediently


Qari Waheed Ullah Jan
Ex-S.Qari, GHS Pati
Kalan Distt: Mardan.

WAKALAT NAMA

In the court of Khyber Pakhtunkhwa Services Tribunal
Peshawar

Qari Waheed Ullah

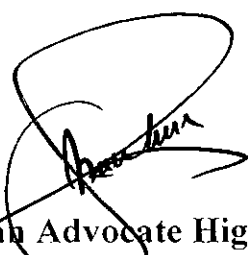
Plaintiff
Petitioner
Appellant

VERSUS

The Govt et

Defendant
Respondent

I/ we Qari Waheed Ullah in
the above noted Appeal do hereby appoint and
constitute Mr. Shuaib Sultan Advocates Mardan as Counsel in subject proceeding
and authorize him to appear, plead etc., compromise, withdraw or refer to
arbitration for me/ us, as my/ our Advocate in the above matter, without any
liability for his default and with the authority to engage/ appoint any other
Advocate/ Counsel at my/ our behalf all sums and amounts payable to deposited on
my/ our account in the above noted matter.


Shuaib Sultan Advocate High Court
District Courts Mardan
Bar Council, S. No. Bc-10-5973


Signature of client: _____

Dated: 15-03-2018

Constitutions from Islam---Two similarly placed persons could not be treated differently--- Principle of equality before law and prohibition of discrimination between the similarly placed persons, was the essence of rule of law---Even selective, discriminatory and distinctive treatment by the Government was also prohibited---Two similarly and equally placed persons, could not be treated differently.

M. Zahid Aman and Shakeel Ahmad for Petitioner.

Nemo for Respondents.

Date of hearing: 15th July, 2010.

JUDGMENT

MAZHAR ALAM KHAN MIANKHEL, J.--The petitioner herein seeks issuance of appropriate writ by directing the respondents to regularize his service in the NAB as he has served the NAB initially as private investigator from 2000 to 2006 and then from 2006 to 2008 as a contract employee in (BPS-18). His services were once again hired as such for another period of six months with effect from April 7, 2009 to October 6, 2009. Being a qualified, skilful and experienced person, he too deserves alike treatment as was meted out to one Miss Aaliya Rasheed who being contract employee in BPS-18 was inducted in regular service of the NAB in BPS-19 on the directive/notification issued by the Prime Minister.

2. The learned counsel for the petitioner, in support of his petition further submitted that the name of the petitioner was not considered by the respondent No.2 for the regular post of BPS-18 advertised by the NAB in spite of strong recommendations of respondent No.3. He added that still forty sanctioned posts of BPS-18 are lying vacant for the last so many years.

3. As against that, the learned counsel for the respondents submitted that the case of the petitioner can, in no terms be equated with that of Mst. Aaliya Rasheed as she was working on contract against a sanctioned establishment post whereas the petitioner was appointed, on contract on lump sum basis under section 28(0) of National Accountability Ordinance, 1999 whereas regular appointment is made under Employees Terms and Conditions of Services (TCS), 2002. The petitioner also lacked the prerequisite five years post academic qualification in BPS-17 or equivalent in the fields of investigation or inquiries etc. as provided in the schedule provided in the TCS. He further submitted that the present petition is barred under explanation IV of section 11 and Order II, rule 2 of C.P.C. as his earlier writ petition was dismissed and the present one is barred under the above provisions of C.P.C.

4. We have considered the submissions of the learned counsel for the parties and have gone through the available record. The same would reveal that the petitioner initially was working with the NAB as private investigator from 2000 to 2006 and then was appointed as investigation officer on contract for a period of two years from 2006 to 2008. His status was equivalent to that of BPS-18 for the purposes of T.A./D.A. only. Then once again he served



DFA

Qari Waheed Ullah

22.06.2018

Counsel for the appellant Qari Waheed Ullah present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Education Department as Qari. It was further contended that during service the appellant was imposed major penalty of compulsory retirement from service by the competent authority vide order dated 16.11.2017. It was further contended that the appellant filed departmental appeal on 27.11.2017 which was not responded hence, the present service appeal on 15.03.2018. It was further contended that neither proper charge sheet and statement of allegation was served nor proper inquiry was conducted nor opportunity of personal hearing and defence was provided to the appellant hence, the appellant was condemned unheard therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days thereafter notice be issued to the respondents for written reply/comments for 17.08.2018 before S.B.

(Muhammad Amin Khan Kundi)
Member

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 377/2018

Qari Waheed Ullah S/O Abdur Raziq (Ex- Senior Qari) R/O Takkar Road Saddar
Colony Tehsil Takht Bhai Distt MardanAppellant.

VERSUS

Govt of KPK through Secretary Elementary & Secondary Education KPK &
OthersRespondents.

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES	
1.	Para wise comments along with affidavit		01	04
4	copy of Enquiry Report	"A"	05	14
5	copy of notification	"B"	15	--
6	copy of personal hearing	"C"	16	17
7	Copy of show cause notice	"D"	18	--
7	Copy of complaint	"E"	19	--

Respondents No 1 to 3

Through

District Education Officer
(Male) Mardan

Dated:

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 377/2018

Qari Waheed Ullah S/O Abdur Raziq (Ex- Senior Qari) R/O Takkar Road Saddar
Colony Tehsil Takht Bhai Distt MardanAppellant.

VERSUS

Govt of KPK through Secretary Elementary & Secondary Education KPK &
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 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:

- I. Para No I pertains to record, hence need no comments.
- II. Para No II is incorrect, baseless, against fact & law, as the charges leveled against the appellant was not false allegation which was proved during the enquiry, hence denied.
(Copy of the enquiry is as Annex "A")
- III. Para No III pertains to record, hence need no comments.
- IV. Para No IV pertains to record, hence need no comments.
- V. Para No V is incorrect, baseless, against facts as the departmental appeal has been decided / rejected by the respondent No 2 vide Order No 5288-80 Dated 23-01-2018, and the order is just and legal as the answering respondent being responsible government officer acted

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in accordance with law and no any ultra vires act is done by the answering respondent, hence denied, (Copy of Notification/ Reply is as Annex "B").

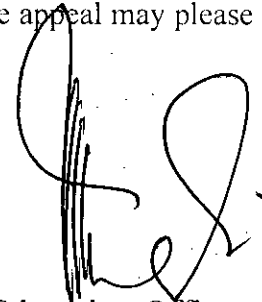
However detail reply of the grounds is as under.

GROUND:


1. Para No 1 is incorrect, baseless, against fact & law, as the appellant is habitual bad character person who acts immorally, unnaturally and inhumanely with little kids. The appellant is involved satanic activities not only Mr. Habib (Student) but so many students have been targeted and disgracefully attacked by the appellant, and the compulsory retirement of the appellant is not with malafide intention and the order is issued due to his bad character and immoral activities, hence denied. (Copy of enquiry is as Annex "A").
2. Para No 2 is incorrect, baseless, against facts as proper enquiry was conducted against the appellant and proper opportunity has been given to the appellant for his defence, hence denied. (Copy of personal hearing is as Annex "C")
3. Para No 3 is incorrect, baseless, against the fact & law, as there is no any illegality and irregularity in the enquiry, hence denied.
4. Para No 4 is incorrect, baseless, against facts as proper enquiry was conducted against the appellant and proper opportunity has been given to the appellant for his defence, hence denied. (Copy of personal hearing is as Annex "C")
5. Para No 5 is incorrect, baseless, against fact as the enquiry was made in the presence of the appellant and the appellant was not condemned unheard, hence denied.
6. Para No 6 is incorrect as proper charge sheet is existing in the enquiry report, hence denied.
7. Para No 7 is incorrect as the appellant has been provided the enquiry report as well as the order of the compulsory retirement, hence denied.
8. Para No 8 is incorrect, baseless as the statement of the victim (Habib Ullah) as well as other witnesses i.e. gulzada and Head Master of the School has been taken in the presence of the appellant, hence denied.
9. Para No 9 is incorrect, baseless, against fact as the appellant has not been condemned unheard and the appellant has given full and proper opportunity of his defence, hence denied.
10. Para No 10 is incorrect, baseless as the penalty of the compulsory retirement is not harsher than the immoral act done by the appellant which is proved against him, hence denied.
11. Para No 11 is incorrect, baseless as the order issued by the answering respondent is valid, and the respondent issued the proper show cause notice to the appellant and after completion of all codal formalities the appellant has been compulsory retired from his service, hence denied. (Copy of show cause notice is as Annex "D")
12. Para No 12 is incorrect, baseless, against facts as the compulsory retirement order is issued on the basis of the enquiry which is supported by cogent reason and no any negation of natural justice is made on the part of the answering respondent, hence denied.

- 13. Para No 13 is incorrect, baseless as the appellant has not been kept in dark as the appellant has been given full opportunity of hearing, hence denied. (Copy of personal hearing is as Annex "C")
- 14. Para No 14 is incorrect as the allegation of the appellant i.e. involvement in immoral and satanic activities is proved through the enquiry, hence denied.
- 15. Para No 15 is incorrect as the enquiry committee is fair and just and no any malafide intention is made by the enquiry committee, hence denied.
- 16. Para No 16 pertains to record however according to the enquiry the appellant is habitual, as there was a complaint against the appellant regarding immoral act, hence need no comments. (Copy of the complaint is as Annex "E")
- 17. Para No 17 is incorrect, baseless as according to the enquiry the appellant is habitual, and the appellant has not been cleaned, hence denied.
- 18. Para No 18 is incorrect, baseless, against facts as the departmental appeal has been decided to be rejected by the respondent No 2 vide Order No 5288-80 Dated 23-01-2018, and the order is just and legal as the answering respondent being responsible government officer acted in accordance with law and no any ultra vires act is done by the answering respondent, hence denied, (Copy of Notification/ Reply is as Annex "B").
- 19. That the respondent seeks permission to raise additional grounds at the time of arguments.

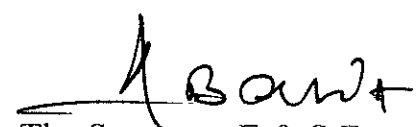
It is therefore humbly prayed that in the light of above facts, the appeal may please be dismissed with cost.



District Education Officer
(Male) Mardan



The Director E & S E
Peshawar



The Secretary E & S E
KPK Peshawar.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 377/2018

Qari Waheed Ullah S/O Abdur Raziq (Ex- Senior Qari) R/O Takkar Road Saddar
Colony Tehsil Takht Bhai Distt MardanAppellant.

VERSUS

Govt of KPK through Secretary Elementary & Secondary Education KPK &
OthersRespondents.

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 on behalf of Respondents No
1, 2 and 4 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

Annex A (5)

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Office of the Principal

GHS Babuzai Katlang Mardan

No. 447 Dated 05/10/2017

District Education Officer Male

E/S Mardan

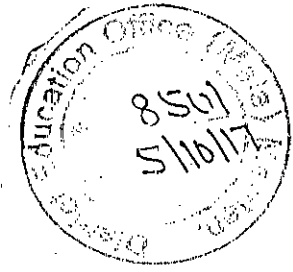
Subject; Enquiry report against Senior Qari Waheedullah Jan for his immoral and satanic behaviour with six class student Mr Hubaib Roll No 10

R/Sir

Enclosed find herewith the attached enquiry report for further necessary action please.

Principal 05/10/2017

GHS Babuzai Katlang
Mardan
G.H.S. Babuzai Katlang,
Distt. Mardan



Handwritten notes: 1020 (S) 4.10.17

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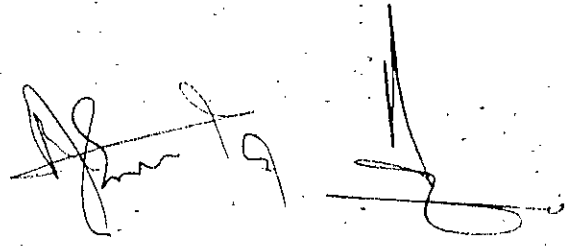
Subject: Enquiry Report against Senior Qari Waheedullah Jan GHS Pati
Kalan Takht Bhai Mardan for his immoral, brutal and satanic behavior with
a six class student named Hubaib Roll No 10

ASSIGNED BY: DISTRICT EDUCATION OFFICER MALE E/S MARDAN

ENQUIRY OFFICERS: 1; ARSHAD HUSSAIN PRINCIPAL
GHS BABUZAI KATLANG MARDAN

2; Abdul Khaliq ASDEO Male
Lund Khwar Mardan

DATE OF SUBMISSION OF THE ENQUIRY REPORT: 25/10/20



(2)

Inquiry report against MR Waheedullah Jan Senior Qari GHS Pati Kalan Takht Bhai Mardan for his unnatural and humiliating behaviour with a sixth class student Mr Muhammad Hubaib Roll No 10

No. 447

Dated 05/10/2017

Inquiry Officers (01) Arshad Hussain Principal GHS Babu Zai Katlang Mardan
(02) Abdul Khaliq ADEO Lunhwar Mardan

Date of Inquiry ~~05.10.2017~~ 15/9/2017

cutting attested

Venue GHS Pati Kalan Takht Bahi Mardan

Subject: Inquiry report against MR Waheedullah Jan Senior Qari GHS Pati Kalan Takht Bhai Mardan.

Introduction

A severe moral complaint was filed by the Head Master GHS Pati Kalan Takht Bhai Mardan against Senior Qari Waheedullah Jan stated that a student of 6th class named Muhammad Hubaib S/O Easa Khan Village Pati Kalan Takht Bhai had complained against the said teacher for his immoral and unnatural behaviour/action with him

Having taken action District Education Officer Male Mardan appointed an enquiry committee comprising us Arshad Hussain Principal GHS Babuzai Katlang Mardan and Mr ~~Abdul Khaliq~~ *Abdul Khaliq* SDEO Male Katlang Mardan as enquiry officers to find out the ground *Lunhwar*

realities and submit report with clear recommendations.

[Handwritten signatures]

3

برالترجا
27

Procedure adopted

Reference to District Education Officer Male E/S Mardan Order No-7504-06 Dated 07/09/2017 We informed The Head Master GHS Pati Kalan Takht Bhai, Senior Qari Waheedullah Jan and the concerned student Mr Muhammad Hubaib 6th class of the school through mobile phone about the enquiry and visited the school on 15/09/2017 at 08 AM. All the above concerned persons were present on the juncture.

Findings

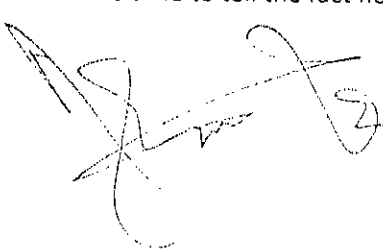
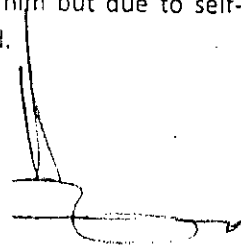
Visited the school and enquired about the case from the Head Master of the school first. He said, "Some days ago a voice of multitude arose from 6thA class after second period. I went there and asked the reason. Students of the whole class were mysteriously talking with each other but at last a student Mr Hubalb Roll No 10 came out of the class and wanted to tell me the story in my office". When the said student was asked by the Head Master in his office He said, " Qari Waheedullah Jan is our Islamiyat and pashto teacher. He teaches us pashto in second period. On day he came to our class usually and put my hand on his sexual organs beneath his long shirt having put his leg on my desk. I tried to push back my hand but he forced to place his penis in my hand and both my class fellows MR Zia Ur Rahman Roll No 48 and Mr Awals Khan Roll No 16 witnessed the immoral action of the said teacher. On the second day the teacher repeated the same wicked action seen by a large number of students. When the teacher got out from the class all the students giggled". Head Master asked both the witnessed students and they testified the bad action of the said teacher Qari Waheedullah Jan against Hubaib that is why the Head Master filed a severe complaint against the teacher.

Then we asked the exploited student Mr Hubaib and both the witness students Zia Ur Rahman and Awais one by one about the real position in the office of Head Master. All the three students repeated their same statements given to the Head Master. Their written statement attached attested by the Head Master of the school.

We also summoned the accused teacher to office of Head Master and asked about the case. He sworn on the holy book Qur'an and also took oath on the divorce of his wife that he had not done the above discussed satanic action with the student. He gave us written statement in his favour but this is only false pretext.

We visited sixth A class and asked the whole students about the ground realities. Thirteen students out of eighty students testified the dirty action of Waheedullah Jan.

Another student Mr Samiullah Jan Roll No 47 of the same class also complained that the said teacher had done that action also with him but due to self-esteem he had kept secrete. Now it is the time to tell the fact he added.

(4) (9) 04

A student of Ninth class Mr Imad Roll No 72 also confessed that when he was in 7th class sitting at the end of the class the said teacher rubbed his penis with his back in erected position and so he changed his seat.

Conclusion

Keeping in view the above facts it is concluded that Senior Qari Waheedullah Jan is habitual bad character person who acts immorally, unnaturally and inhumanly with little kids whose parents send their children in the hope of better future and healthy personality of their little twigs. According to a proverb bend little twig while it is young. But the said teacher is habitually busy in his above discussed satanic activities beneath the prophetic shadow of teacher. Not only Mr Hubaib but so many students have been targeted and disgracefully attacked by the said teacher.

Recommendations

In the light of discussed realities it is recommended

1; The said teacher Waheedullah Jan may please be downgraded to BPS 12.

2; He may please be transferred out district/Far flung area.

3. Necessary entry of downgrading due to satanic action must be made in his service book.

Enclosures:

1. Written statement of Mr Hubaib class 6th, Mr Zia Ur Rahman class 6th Roll NO 48 and Mr Awais Khan Roll No 16 class 6th attested by the Head Master of the school.
2. Statement of Qari Waheedullah Jan the accused teacher.
3. statement of N/Qasid Gulzada. of the school.

This inquiry report comprises 04 pages and every page signed

The end

Enquiry Officers

1; Arshad Hussain Principal / 8/2017

GHS Babu Zai Katlang Mardan

2; Abdul Khaliq

ADEO Male Lund Khwar

(15)

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میں سہمی حبیب ولد عیسیٰ خان صاحب نے حتمی یہ اقرار کرنا ہوا ہے

کہ فارما کا پورے عبدالرحمان نے اپنا جتنی حصہ میرے دادا کو میں دیا کہ

اور مجھے ہر فعلی کے لیے لپہا تھا - جس پر میرے دونوں ڈسک فیلو

نواہ سے

~~15/9/2017~~

عبدالرحمان



مرعی حبیب ولد عیسیٰ خان
تجارت حتمی روئے

نواہ دستخط

صیاء الزمیں

اویس خان

13,

مورفہ
15/9
2017

Attested
SM

HEAD MASTER
G.H.S PATI KALAN
TAKHT BHAI MARDAN



To

The Enquiry Officer Sb.

Subject: - STATEMENT.

R/Sir,

Kindly refer to verbal directions dated 15-09-2017 on the subject cited above, it is submitted for your kind information that I have been performing my duty in E&SE Deptt: since long. At present I am working as S.Qari at GHS Pati Kalan Takht Bhai Mardan. I have performed my entire duty upto the satisfaction of my superiors with no complaints from any corner. Prior to this station, I was performing my duty at GHS Mazdoor Abad Takht Bhai Mardan. The Ex-Head Master of GHS Pati Kalan namely Mr.Rasheed Ahmad had recommended me for transfer to GHS Pati Kalan resultantly my transfer order was issued. My performance can be confirmed from Mr.Rasheed Ahmad Ex-Head Master of this school. Apart from that I have recently been promoted from Qari BS-12 to S.Qari BS-15 in the light of my service documents contains ACRs, Non Involvement Certificate, Service Certificates etc duly signed by reporting Officer and countersinged by High ups which reveals my innocence and crystal clear service record. If I was involved in such baseless charges, how can these responsible officers have signed my ACRs & Non Involvement Certificate etc: All these documents are solid proof for my innocence.

As far as the question of my involvement in present case, I swear on oath that neither I was involved in this act nor has any relation. Some miscreants have tried to involve me in this game just to defame me. I am a religious person having strong religious background. All the innocent students are just like my children.

The competent authority is requested to file such a baseless complaint and exonerate me from the charges.

I shall ever pray for all concerned authorities.

Sincerely your's



(WAHEEDULLAH JAN)

S.Qari.

GHS Pati Kalan Mardan.

15/9/017

گل زادہ ولد شریف گل ۱۸/۵ گورنمنٹ ایس سون یا تی

میں خدایا و حاضر ناظر جان رفقا ہی خوش و خواص نکو ویر

کہ محمد حبیب خانی ولد عیسیٰ خانی کلاس ششم 22/8
2017

گورنمنٹ ایس سون یا تی میں شعیب بی -

کہ قادی و حیدر اللہ جان نے پیرڈے دوران امرڈیسک پر

ایسا پادوں رکھ دیا - اور میرے لکھو کو پلڑے پر ایسے لکھو ایسے

پر رکھ رکھ رکھ دیا - میں شعیب بی سن رمنز کورہ نالاطالب علم کو

دعوت ماکرہ کے دھڑ میں لائے اس کو لکھ کر دیا -

لائسنس نے ایسا بیان حیدر ماکرہ کے ساتھ دیکھا رکھ دیا -

گل زادہ شریف گل

Attestation
4/10/17
HEAD MASTER
GHS PATIKALAN
MARDAN

~~Signature~~

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN.

OFFICE ORDER

The following committee are hereby constituted to conduct enquiry in the complaint against Mr. Waheedullah Jan S.Qari Govt:High School Pati Kalan T.Bhai Mardan and submit report /recommendation to this office within a week time positively for further necessary action.

- 1.Mr.Arshad Hussain Principal Babozai Katlang Mardan.(Chairman)
- 2.Mr.Wisal Muhammad SDEO(M) Katlang Mardan(Member)

(Ijaz Ali Khan)
District Education Officer
(Male) Mardan.

7504-6
Endst:No. _____/PF Waheedullah Jan S.Qari/Dated Mardan the 7-9- /2017.

copy of the above is forwarded for information & n/action to the

1. Mr.Arshad Hussain Principal Babozai Katlang Mardan.(Chairman).
2. Mr.Wisal Muhammad SDEO(M) Katlang Mardan(Member)
3. Headmaster ,GHS Pati Kalan Teh:Takht Bhai Mardan.

9
District Education Officer
(Male) Mardan.
519117

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OFFICE OF THE DISTRICT EDUCATION

OFFICER (MALE) MARDAN.

NO. 516 /PF file Waheedullah Ex-S.Qari

Dated Mardan the 20/1/2018.

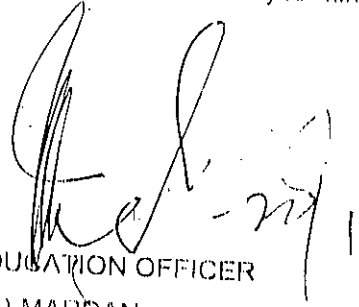
To

Mr. Waheedullah Jan Ex-Qari
GHS Pati Kalan r/o Takht Bhai

Subject:- Request for Copy of Enquiry Report Required under Khyber
Pakhtunkhwa Right to Information Act 2013.

Memo:

The copy of enquiry report enquiry conducted in your case is sent herewith for your kind information please.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN.
20/1/18

DIRECTORATE OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA

NOTIFICATION.

1. WHEREAS, Mr. Waheed Ullah Jan S.Qari GHS Pati Kalan Mardan proceeded under the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011 for charges of involvement in immoral activities/misconduct.
2. AND WHEREAS, the DEO (M) Mardan being competent authority has constituted an enquiry committee vide his office Endst: No.7504-6 dated 07.09.2017.
3. AND WHEREAS, the DEO (M) Mardan being competent authority has imposed the major penalty of "Compulsory Retirement" from service w.e.f 15.11.2017 vide his office Endst: No.10100 dated 16.11.2017.
4. AND WHEREAS, the above named teacher submitted an appeal to this office vide dated 28.11.2017, the same appeal was sent to DEO(M)Mardan for comments vide this office letter NO.1010 dated 05.12.2017 the DEO(M)concerned submitted his comments to this office vide his letter No.81 dated 02.01.2018.
5. AND WHERE AS, the DEO (M) concerned served show cause notice upon the teacher concerned and offered an opportunity for person hearing. The teacher concerned appeared for personal hearing vide dated 16.10.2017 at 2.00 PM but his nothing for his defence.
6. AND WHERE AS as per DEO (M) comments to this office vide No.81 dated 02.01.2018 the appellant is sexually perverted and has habitual lust for loose and immoral activities. The DEO (M) Mardan report shows that such like person is a menace and is beast for innocent kids. The Department doesn't need the services of such like beast.
7. AND WHEREAS, the competent authority Director Elementary and Secondary Education (Khyber Pakhtunkhwa) after, being competent authority, having considered the charges and evidence on record, is of the view that charges against accused teacher have been proved.
7. NOW THEREFORE, in exercise of powers conferred under Khyber Pakhtunkhwa Servants (Efficiency & Discipline) Rules-2011 the appellate authority has decided to reject the appeal of Mr. Waheed Ullah S.Qari GHS Pati Kalan Mardan on the above mentioned grounds.

DIRECTOR.

Endst: No. 588-80 /F No. 39/Vol:II/Complaint(N)Gen: Dated Peshawar the 22/01/2018.

Copy forwarded for information and necessary action to the:-

1. District Education Officer (M) Mardan w/r to his No. cited above.
2. Teacher concerned.
3. P/A to Director E&SE, Khyber Pakhtunkhwa, Peshawar.
4. Master File.

[Signature]
Deputy Director (Estb'd)
Elementary & Secondary Edu.
Khyber Pakhtunkhwa Peshawar.

19/1/18
22/1/18

need.....

17

~~18~~

I am ready for clarification of my self,
being innocent anytime in this case.

Q No 4. ~~Is~~ Is opportunity has been provided
for defence
to you during the inquiry?

Ans: I have submitted my reply to the I/O officer
However no proper opportunity was given
to me for my defence ~~is~~ during
the conduction of inquiry.

دو کور بلا سے کچھ (AEO) کے پاس آج کے لئے

دیکھا دیکھا گیا

محمد نسیم (AEO) کے پاس

27/10/17

16/02-3219989-1

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MRDAN.

SHOW CAUSE NOTICE.

I Mr. Ijaz Ali Khan District Education Officer (Male) Mardan as Competent Authority under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline Rules 2011) do hereby serve Show Cause upon you, Mr. Waheedullah Jan Qari GHS, Pati Kalan Takht Bhai as follows:-

- a. Whereas, you Mr. Waheedullah Jan Qari GHS, Pati Kalan Takht Bhai Mardan is involved in immoral and satanic case as reported by the Headmaster of your school received bearing this office dairy No.7390 dated 26-08-2017.
- b. The formal inquiry has been conducted and the charges proved against you.
- c. In exercise of powers conferred by the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline Rules 2011), the Competent Authority is hereby pleased to serve you with the instant show cause notice in your involvement in immoral and satanic case with the direction to submit your defense in writing within 7 days of the issuance of this notice as to why major penalty of rule 4 (b) of the said rules should be imposed upon you. Beside, intimate this office whether you desire to be heard in person on 16/10/2017 at 2.00 pm in the office of D.E.O (male) Mardan.

In case you failed to submit your reply within stipulated period. it will be presumed that you have no defense to offer and an ex-parte decision will be taken against you.

COMPETENT AUTHORITY

Mr. Waheedullah Jan Qari
GHS, Pati Kalan Takht Bhai Mardan

Immoral action

I was

کھنور جناب ڈی۔ ای۔ سردان

عنوان شکایت خلاف قاری و صدر انرجان S. Dasi

1149

جناب عالی
 و تذاویب کی جاتی ہے نہ آج صبح لیکچر کلاس میں ایک طالب علم حبیب الرحمن
 جماعت ششم قاری کے خلاف شکایت کر آیا یہ مذکورہ قاری
 کلاسوں میں اس کا عنوان تھیں اس پر کھانا تو دینا ہے اور پھر قریب کرنا چاہیے
 درکل تو کھانا بعد آئے تو کیا جس پر اس سے انکار کیا
 عین اب عالی نے پھر یہاں تک حکم فرمایا ہے کہ اسے لبت شرم اور لبت اہلاقی ہائے
 سے آدھ کہ نہ اساتذہ محمد فاروق آبی اور محمد اکرم کو بھی بلا یا
 در اس لڑکے نے ان کے سامنے کھی لی کیا بیان دیا
 لہذا مذکورہ قاری کو سخت سے سخت منردی جائز



ہدایت سر اسلم خان کا پی پی او
 22-8-18

HEAD MASTER
 GHS PATI KALAN
 MARDAN

کواہ
 جنرل انوٹر سٹاڈرمان
 سائے بیان دیا
 طالع علم نام سید
 سید علی شاہ

16
 (6)
 23/8/18

the changes levelled

BEFORE THE PROVINCIAL SERVICES TRIBUNAL, PESHAWAR

CM No:- Restoration Appli. no. 308/2019 /2019

In
Appeal No. 377/2018

Qari Waheed Ullah
..... **Appellant**

Versus Govt. of KPK etc
..... **Respondents**

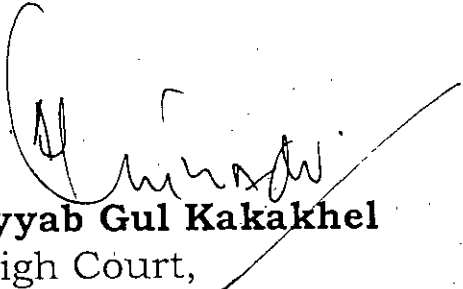
I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Application for restoration	*	1-2
2.	Affidavit	*	3
3.	Copy of order dated 12/06/2019	A	4-5

Dated:- 22/08/2019

Appellant

Through:-


Mian Afrasyab Gul Kakakhel
Advocate, High Court,
Peshawar.
Cell# 0333-9215562
Address: Office No. 46, Liberty
Mall Upper Tehkal University
Road, Peshawar
afrasyab.advocate@gmail.com

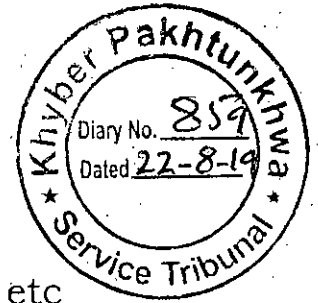
1

BEFORE THE PROVINCIAL SERVICES TRIBUNAL, PESHAWAR

CM No:- _____/2019

In

Appeal No. 377/2018



Qari Waheed Ullah
..... Appellant

Versus

Govt. of KPK etc
..... Respondents

**APPLICATION FOR RESTORATION OF THE
ABOVE TITLED APPEAL NO.377/2018 AND
DECISION ON MERIT.**

Respectfully Sheweth:-

1. That the appellant has filed the above titled Appeal which has been admitted for full hearing vide order dated 12/06/2019.
(Copy is attached).
2. That the above titled appeal was fixed for hearing before this Honourable Court on 12/06/2019, whereby both the counsel and the applicant appeared and assured their attendance and this Hon'ble Court adjourned the case to 09/08/2019, but due to some misunderstanding the appeal was dismissed vide order dated 12/06/2019.
3. That on 09/08/2019, when the appellant along with counsel appeared, it was shock to know that the same has been dismissed,

hence this application on the following grounds:

Grounds:-

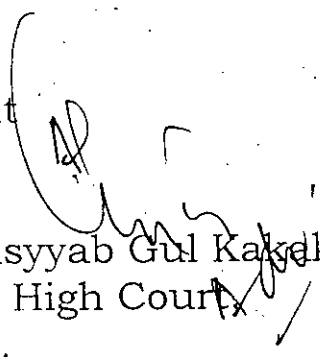
- A. That the appellant present with his counsel on the date fixed but due to the reason mentioned above the appeal was dismissed.
- B. That the counsel has attended the Honourable Court and also marked attendance.
- C. That law favors decision on merit to avoids technicalities moreover the application is quit with in time.
- D. That the above captioned case had been admitted for full hearing and valuable rights of appellant are involved for its decision on merit.

It is, therefore, most humbly prayed that on acceptance of this application the above tilted case may kindly be restored for its decision on merit.

Dated:- 22/08/2019

Appellant

Through:-


 Mian Afrasyab Gul Kakhel
 Advocate, High Court
 Peshawar.

BEFORE THE PROVINCIAL SERVICES TRIBUNAL, PESHAWAR

CM No:- _____/2019

In

Appeal No. 377/2018

Qari Waheed Ullah
..... **Appellant**

Versus

Govt. of KPK etc
..... **Respondents**

AFFIDAVIT

I, **Qari Waheed Ullah S/o Abdur Raziq, (Ex-Senior Qari) R/O Takkar Road Sadder Colony Tehsil Takht Bhai, District Mardan**, do hereby solemnly affirm and declare on oath that the contents of accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.

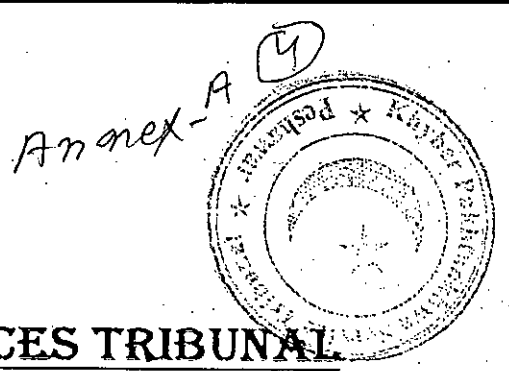
DEPONENT

CNIC# 16102-3219989-1

Cell# 0311-9125335

Identified by:

Mian Afrasyab Gul Kakakhel
Advocate, High Court,
Peshawar.



BEFORE THE PROVINCIAL SERVICES TRIBUNAL

PESHAWAR

Appeal No. 377 /2018

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 397
Date 15/03/2018

Qari Waheed Ullahson of AbdurRaziq, (Ex-Senior Qari) resident of Takkar road sadder colony, Tehsil Takht Bahi & District Mardan.....Appellant

Versus

1. The Government of Khyber Pakhtun Khawa through Secretary, Education.
2. The Director (E & SE) Khyber Pakhtun Khawa, Peshawar.
3. The Executive District Officer Male (E & SE), Mardan: Respondents

APPEAL UNDER SECTION 4, OF THE KHYBER PAKHTUNKHWASERVICE TRIBUNAL ACT, 1974, AGAIST THE IMPUGNED ORDER OF THE DISTRICT EDUCATION OFFICER(MALE) MARDAN/ RESPONDENT NO.03, CONTAINED IN OFFICE ORDER/ ENDST 10100/ G P.F, DATED 16-11-2017, WHEREBY THE APPELLANT IS AWARDED THE MAJOR PENELITY OF "COMPULSORY RETIRMENT" FROM SERVICE, WHICH IS ILLEGAL, VOID, AGAINST LAW AND FACTS, WHILE DEPARTMENTAL APPEAL FILED ON DATED 27/11/2017, RECEIVED VIDE DAIRY 1414, DATED 28-11-2017

REMAINED UN-RESPONDED EVEN AFTER LAPSE OF 90 DAYS, WHICH IS ILLEGAL AGAINST LAW AND FACTS.

PRAYER

ON ACCEPTANCE OF THE INSTANT APPEAL THE IMPUGNED ORDER OF THE DISTRICT EDUCATION OFFICER(MALE) MARDAN / RESPONDENT NO.03, CONTAINED IN OFFICE ORDER/ ENDST 10100/ G P.F, DATED 16-11-2017. WHEREBY THE APPELLANT HAS BEEN AWARDED MAJOR PENELITY OF COMPULSORY RETIRED FROM HIS SERVICE, MAY PLEASE BE SET ASIDE AND THE APPELLANT

Certified to be

Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

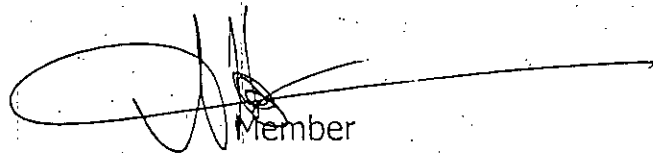
377/18, Qari Waheedullah vs Govt



12.06.2019 Nemo for appellant, Mr. Muhammad Riaz Paindakhel, Asstt. AG for the respondents present.

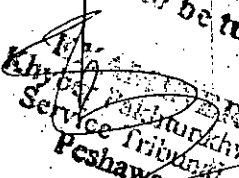
It is already past 3:30 P.M and no one is in attendance on behalf of the appellant after repeated calls.

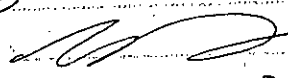
Dismissed for non-prosecution. File be consigned to record room.


Member


Chairman

Announced:
12.06.2019

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application	22-08-19
Number of Pages	800
Copying Fee	12-00
Urgent	4-00
Total	16-00
Name of Applicant	
Date of Completion of Copy	22-08-19
Date of Delivery of Copy	22-08-19

19

بعد التفت فہرستوں میں مندرجہ ذیل شخص کو درخواست

Rep. Appeal No: 377/18

2019ء پنجاب اسمبلی
قاری وصیر احمد
بنام گورنمنٹ روڈ

مورخہ
مقدمہ
دعویٰ
جیم

باعث تحریر آنکے

صحت پر وسوسہ
کے لئے منظور ہے۔

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیری وجواب دہی وکیل کاروائی متعلقہ
آن مقام کے لئے کلمہ کیا گیا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالثہ فیصلہ برخلاف دیئے جواب دہی اور اقبال دعویٰ اور
یہ صورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضعی دعویٰ اور درخواست ہر قسم کی تصدیق
زر این پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیری یا ڈگری یکطرفہ یا ایبل کی برآمدگی اور منسوخ
نیز دائر کرنے ایبل نگرانی و نظر ثانی و بیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ
پرداخت منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جائزہ 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 بیروی
مذکور کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سند ہے۔

دستخط قاری وصیر احمد
وکیل صاحب

19 20

المہر توہم

استغاثہ

AF
کے لئے منظور ہے۔

سام

بمقام

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 777/2018

Restoration Application No 208/2019

Qari Wahid ullah Versus The Govt of KPK, etc.

(Appellant)

(Respondents)

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES	
1.	Para wise Reply, of the Restoration Application		01	---
2.	Copy of Affidavit		02	--
3.	Copy of Order Sheet		03	---

Respondents

District Education Officer
(Male) Mardan

Dated: _____

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 777/2018

Restoration Application No 208/2019

Qari Wahid ullah Versus The Govt of KPK, etc.

(Appellant)

(Respondents)

Para Wise Reply on Behalf of Respondents

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the instant application is badly time barred.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appellant has concealed the material facts from this Honorable Tribunal hence, the application is liable to be dismissed.

ON FACT:

1. Para No 1 Pertains to record, hence needs no comments.
2. Para No 2 is incorrect, baseless, and against facts as Per the Order sheet dated 12-06-2019, of the honorable Service Tribunal, It is past 3:30 P.M and no one is attendance on behalf of the appellant after repeated calls. And the appellant just to waist the precious time of the honorable Tribunal, hence denied.
3. Para No 3 Pertains to his personal matters, however the application is time barred, hence needs no comments.

GROUND:

- A- Para No A is incorrect, baseless, and against facts as Per the Order sheet dated 12-06-2019, of the honorable Service Tribunal, It is past 3:30 P.M and no one is attendance on behalf of the appellant after repeated calls. And the appellant just to waist the precious time of the honorable Tribunal, hence denied.
- B- Para No B Pertains to records, however the application is time barred, hence needs no comments.
- C- Para No C is correct, extent to decision on merit the remaining para is incorrect, the restoration application is time barred which is not technicalities, Its fall on the Limitation Act, Hence, denied.
- D- Para No D Pertains to record, furthermore the respondents involved the valuable rights in the above captioned case, hence needs no comments.

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

Respondents
District Education Officer
(Male) Mardan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHA WAR

Service Appeal No: 777/2018

Restoration Application No 208/2019

Qari Wahid ullah Versus The Govt of KPK, etc.

(Appellant)

(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 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

سروس ٹریڈنگ لیسٹنگ

ماری و صبر اللہ

ماری و صبر اللہ بنام

مقدمہ اپیل نمبر 377/248

مورخہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام لیسٹنگ کے لیے ایڈووکیٹ جنرل کی طرف سے مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضعی دعویٰ اور درخواست ہر قسم کی تصدیق و زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا ایک طرف یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

2021

سید

02

الرقوم

وکل

العہد گاہ العہد

کے لئے منظور ہے۔

Attest & Accepted

سید

مقام