

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 784/2018

Date of Institution ... 08.06.2018

Date of Decision ... 07.07.2021

Muhammad Yasin, PSHT (BPS-16)
GPS Khushal Garh, Tehsil Dargai, District Malakand.
... (Appellant)

Versus


Director Elementary & Secondary Education Department, Khyber
Pakhtunkhwa, Peshawar and one other.
... (Respondents)

MR. NOOR MOHAMMAD KHATTAK,
Advocate ... For appellant.

MR. RIAZ AHMAD PAINDAKHEIL,
Assistant Advocate General ... For respondents.

MR. SALAH-UD-DIN, ... MEMBER (JUDICIAL)
MS. ROZINA REHMAN, ... MEMBER (JUDICIAL)
MR. ATIQ-UR-REHMAN WAZIR, ... MEMBER (EXECUTIVE)

JUDGMENT



SALAH-UD-DIN, MEMBER:- The appellant has filed the instant Service Appeal against the impugned order dated 09.02.2018, whereby minor penalty of stoppage of one annual increment was imposed upon the appellant and the departmental appeal filed by the appellant was not responded by the respondents.

2. Precise facts as gleaned from the record are that the appellant was serving as PSHT in education department, when a complaint was filed against him, resulting in initiation of disciplinary action against the appellant. The appellant was issued show cause notice by the

competent authority and upon submission of reply by the appellant, the competent authority straight away imposed minor penalty of stoppage of one increment for one year upon the appellant vide impugned order dated 09-02-2018. The departmental appeal of the appellant was not responded by the respondents within the statutory period of ninety days, hence the instant Service Appeal.

3. Respondents submitted their comments, wherein it was mainly alleged that upon joint complaint of inhabitants of village Khushal Garh, proper inquiry was conducted against the appellant and minor penalty of imposition of stoppage of one annual increment for one year was rightly imposed upon the appellant.


4. The instant Service Appeal was heard by a Division Bench of this Tribunal comprising of Mr. Hamid Mughal, the then Member Judicial and Mr. Ahmad Hassan, the then Member Executive, however they rendered dissenting judgments in the matter, therefore, the appeal was referred to Larger Bench for its decision.

 5. Learned counsel for the appellant has contended that upon a false and baseless complaint, show-cause notice was issued to the appellant and minor penalty of stoppage of one annual increment for one year was straight away imposed upon the appellant, without issuing of any charge sheet or statement of allegations to the appellant; that the impugned penalty was imposed upon the appellant on the basis of fact finding inquiry and without affording any opportunity of personal hearing to the appellant; that the impugned order is void ab-initio, therefore, the same may be set-aside.

6. On the other hand, learned Assistant Advocate General for the respondents has argued that upon complaint of inhabitants of village Khushal Garh, regarding chaotic situation in GPS Khushal Garh, inquiry was conducted into the matter and after complying of proper procedure for inquiry, the minor penalty of imposition of one annual increment was imposed upon the appellant; that the appellant was afforded ample opportunity of personal hearing and the requirements of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules,

2011 were complied with in letter and spirit, therefore, the appeal is liable to be dismissed.

7. Arguments heard and record perused.

8. A perusal of record would show that it was upon complaint of residents of Khushal Garh, regarding chaotic situation in GPS Khushal Garh, that Mr. Abdul Samad SDEO (Male) Dargai was appointed as Inquiry Officer for inquiry into the matter, who submitted his inquiry report alongwith findings as well as recommendations on 27.10.2017. Office order dated 25.09.2017, whereby SDEO (Male) Dargai was appointed as Inquiry Officer as well as the inquiry report submitted by him would show that the same was a fact finding inquiry. The inquiry officer has recommended that the appellant alongwith Mr. Abdul Khalid SPST and Mr. Khan Bahadar SPST may be proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, however instead of acting upon the recommendations of the inquiry officer, the District Education Officer (Male)  Malakand/competent Authority issued show-cause notice to the appellant on 17.11.2017. In the said show-cause notice, the findings of the inquiry officer in the fact finding inquiry were put to the appellant and after submission of reply, the competent Authority imposed minor penalty of stoppage of one annual increment upon the appellant. It is well settled that a civil servant cannot be awarded any penalty even of minor nature, on the basis of fact finding inquiry.

9. In case of disciplinary action against a civil servant, normally procedure as laid down in Rule-5 and Rule-10 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 is followed. Where the competent Authority decides to dispense with inquiry, it shall record reasons for doing so. The show-cause notice issued by the competent Authority is not of such nature, whereby the competent Authority decides to dispense with holding inquiry. It is also evident from the record that instead of giving personal hearing to the appellant, the competent Authority has assigned the said task to a committee constituted vide order dated 04.01.2018, which act of the authority is also patently illegal. The crux of the discussion is that the impugned

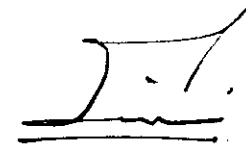
order of stoppage of one annual increment imposed upon the appellant is wrong and illegal, hence not sustainable in the eye of law.

10. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned order and the appellant is held entitled to all consequential benefits, if any. The respondents shall, however be at liberty to conduct de-novo inquiry into the matter, if so desire. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
07.07.2021



(ROZINA REHMAN)
MEMBER (JUDICIAL)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)



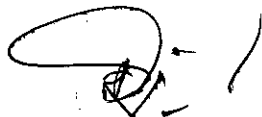
(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

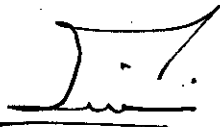
ORDER
07.07.2021

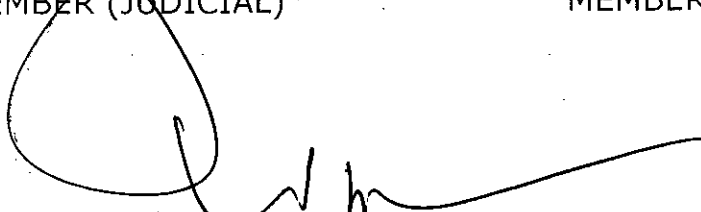
Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Mr. Riaz Ahmed Paindakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed by setting-aside the impugned order and the appellant is held entitled to all consequential benefits, if any. The respondents shall, however be at liberty to conduct de-novo inquiry into the matter, if so desire. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
07.07.2021


(ROZINA REHMAN)
MEMBER (JUDICIAL)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


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

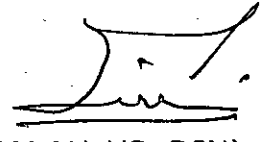
29.06.2021

Mr. Said Khan, junior of learned counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant has proceeded to home ^{due to} for some domestic engagements. Adjourned. To come up for arguments before the Larger Bench on 07.07.2021.



(ROZINA REHMAN)
MEMBER (JUDICIAL)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)




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

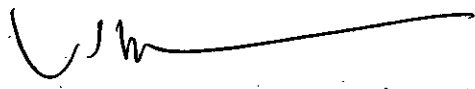
03.12.2020

Mr. Mir Zaman Safi, Advocate, for appellant is present. Mr. Muhammad Jan, Deputy District Attorney, for the respondents is also present.

Learned counsel representing appellant requested for adjournment for not preparing the brief. Request is allowed with the direction to prepare the brief well before the next date. File to come up for arguments on 09.03.2021 before Larger Bench.


(MIAN MUHAMMAD)
(MEMBER EXECUTIVE)

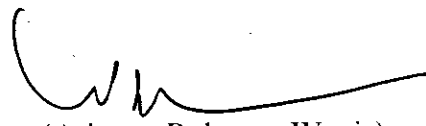

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

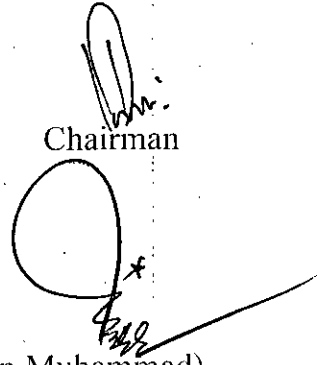

(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

09.03.2021

Counsel for the appellant and Muhammad Rashid, DDA for respondents present.

Former requests for adjournment due to his indisposition today. Adjourned to 29.06.2021 for hearing before the Larger Bench.


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

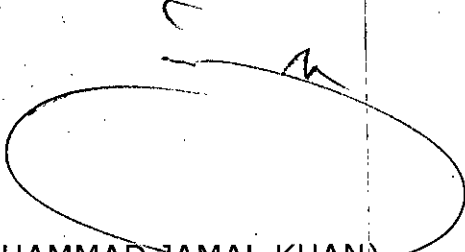

Chairman
(Mian Muhammad)
Member(E)


20.08.2020 Due to summer vacation case to come up for the same on 10.11.2020 before Larger Bench.


Reader

10.11.2020 Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is present.

Since the Members of the High Court as well as of the District Bar Associations, Peshawar, are observing strike today, therefore, learned counsel for appellant is not available today. Adjourned to 03.12.2020 on which date to come up for arguments before the Larger Bench.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)


(ROZINA REHMAN)
MEMBER (JUDICIAL)


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

784/18

03/02/2020

Be laid before a larger bench minus the hon'ble members having the difference of opinion. To come up for further proceeding/arguments on 12/03/2019.

Notices to the parties be issued accordingly.



Chairman

12.03.2020

Counsel for the appellant present. Mr. Muhammad Jan, DDA for the respondents present.

The Worthy Chairman is on leave, therefore, the bench is incomplete. The matter is adjourned to 11.06.2020 for arguments before the Larger Bench.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

11.06.2020

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

Due to incomplete Bench, the matter is adjourned to 20.08.2020 for arguments before the Larger Bench.


(M. Amin Khan Kundi)
Member


Chairman

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	20.12.2019	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 784/2018</p> <p>Date of Institution 08.06.2018 Date of Decision 20.12.2019</p> <p>Mr. Muhammad Yasin PSHT (BPS-16), GPS Khushal Garh, Tehsil Dargai District Malakand.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <p>1. The Director Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar. 2. The District Education Officer (Male), District Malakand.</p> <p style="text-align: right;">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Ahmad Hassan -----Member(E)</p> <p style="text-align: center;"><u>JUDGMENT</u> <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> Learned counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney present.</p> <p>2. The appellant (PSHT) has filed the present service appeal against the order dated 09.02.2018 whereby minor penalty of stoppage of one increment for one year was imposed upon him.</p> <p>3. Learned counsel for the appellant argued that the appellant is serving as PSHT and during his service, baseless complaint was lodged against him, which resulted into Show</p>

20.12.2019

Cause Notice dated 17.11.2017 properly replied by the appellant and in his reply to Show Cause Notice, he denied all the allegations leveled against him; that the respondent department without fulfilling the codal formalities, straight away issued the impugned order dated 09.02.2018 in relation to imposition of minor penalty; that the impugned order is against law, facts and norms of justice; that no regular inquiry was conducted against the appellant, nor he was afforded opportunity of personal hearing/defense; that the matter was patched up between the complainant party and school staff including the appellant during Jirga and to this effect compromise deed/razi nama is available on file; that the appellant filed departmental appeal against impugned order however did not receive any response till the institution of the present service appeal.

4. As against that learned DDA argued that the present service appeal is not competent for the reason that the appellant has not made impugned, the order dated 03.05.2018 whereby the departmental appeal of the appellant against the original impugned order dated 09.02.2018 was rejected; that when the appellant was serving as PSHT GPS Khushal Garh Tehsil Dargai, a joint written complaint was lodged against him as well as other school staff by Village Nazim Khushal Garh, Chairman PTC Committee GPS Khushal Garh Dargai and its members and inhabitants of Khushal Garh regarding bad and

20.12.2019

chaotic situation at GPS Khushal Garh and the PMRU office of the Chief Secretary Khyber Pakhtunkhwa also took notice of same; that the District Education Officer (M) Malakand appointed the inquiry officer to personally hear all the teachers in order to dig out the real facts and remedial action for the worst situation in the school as pointed out in the complaint; that the inquiry officer discussed the issue with all the stakeholders i.e. the complainant party, staff of the school and senior students of the school and gave his finding that there is total disorder and anarchy in the school and that the appellant is not competent team leader and that the teachers namely Abdul Khaliq (SPST) and Khan Bahadur (SPST) are not obedient and co-operative subordinates rather try to create problem for the head teacher (appellant); that thereafter the D.E.O Male served proper Show Cause Notice, which was also replied by the appellant and the competent authority after having considered the charges, the material/evidence on record and reply of the appellant to the Show Cause Notice, awarded minor punishment of stoppage of one increment for one year to the appellant; that the appellant was also afforded opportunity of personal hearing/defense.

5. Arguments heard. File perused.

6. With their joint written comments, the respondents have also annexed the order dated 03.05.2018 regarding rejection of the departmental appeal filed by the appellant, which order

20.12.2019

dated 03.05.2018 has not been made impugned by the appellant in the present service appeal. The appellate order was also passed well before the institution of the present service appeal. Hence in the given circumstances when the order of the appellate authority dated 03.05.2018 holds field but not challenged, the contention of learned DDA regarding the omission of the appellant to challenge the appellate order dated 03.05.2018 is found forceful.

7. Joint complaint of Village Nazim Khushal Garh, Chairman PTC Committee GPS Khushal Garh Dargai and its members and inhabitants of Khushal Garh, available on file, paints a picture of chaos and sorry state of affairs in the GPS Khushal Garh. Headmaster (appellant), teachers and even Class-IV of the said school were alleged to be involved in the mess.

8. The issue was placed before Jirga and perusal of compromise deed/razi nama would lead to the conclusion that the allegation leveled against the appellant and other staff were true.

9. In the fact finding inquiry, the inquiry officer also held the appellant and the teachers named above responsible for the deplorable situation of the school. Hence proper Show Cause Notice was served upon the appellant wherein the competent authority clearly stated that he is satisfied that the appellant has committed acts/omissions of ceasing to be efficient and is

20.12.2018

guilty of misconduct. The appellant was also afforded opportunity of personal hearing through committee constituted for the said purpose.

10. Learned counsel for the appellant remained unable to demonstrate that the impugned order is perverse/capricious, arbitrary or actuated with malice. The appellant has been awarded minor penalty of stoppage of just one increment and only for one year as such in the circumstances of the case, contention of learned counsel for the appellant that the appellant has been condemned without regular inquiry has no force in it.

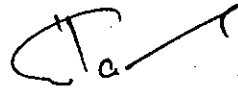
11. As a sequel to above, the appellant has not been able to seek indulgence of this Tribunal. Consequently the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

(Ahmad Hassan)
Member

(Not agreed/separate judgment is attached)

ANNOUNCED

20.12.2019


(Muhammad Hamid Mughal)
Member

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 784/2018

Date of Institution ... 08.06.2018

Date of Decision ... 20.12.2019

Mr. Muhammad Yasin, PSHT (BPS-16), GPS Khushal Garh, Tehsil Dargai, District Malakand. ... (Appellant)

VERSUS

The Director E&SE Department, Khyber Pakhtunkhwa, Peshawar and one other. ... (Respondents)

MR. NOOR MUHAMMAD KHATTAK,
Advocate --- For appellant.

MR. MUHAMMAD JAN,
Assistant Advocate General --- For respondents

MR. AHMAD HASSAN, --- MEMBER(Executive)
MR. MUHAMMAD HAMID MUGHAL --- MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS.

02. Learned counsel for the appellant argued that while serving as PSHT (BPS-15) in connection with certain allegations, a show cause notice dated 17.11.2017 was served on him to which he replied. That without fulfillment of codal formalities minor penalty of stoppage of one annual increment was awarded to the appellant vide impugned order dated 09.02.2018. Feeling aggrieved, he filed departmental appeal on 15.02.2018, which remained unanswered, hence, the present service appeal. The respondents were required to follow the procedure laid down in E&D

Rules 2011 by serving charge sheet and statement of allegation⁴ on the appellant and after fulfillment of laid down procedure penalty could be awarded. Despite being a mandatory provision of rules no opportunity of personal hearing was extended to him, hence, it was not sustainable in the eyes of law.

03. Learned District Attorney argued that a written complaint was lodged against the appellant by Nazim, General Councilor, PTC committee of GPS Khushal Ghar about the issues of the said school. As a sequel to the said complaint, the respondents ordered a probe into the matter by appointing an enquiry officer to conduct ^{fact} finding enquiry. Thereafter, a show cause notice was served on the appellant and was also called for personal hearing. Resultantly, penalty was awarded to him vide impugned order dated 09.02.2018. All codal formalities were observed before imposition of penalty on the appellant.

CONCLUSION.

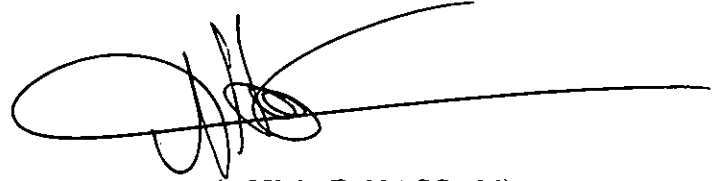
04. The Nazim and other residents of Khushal Ghar submitted a written complaint against the appellant, wherein it was alleged that affairs of GPS, Khushal Ghar were not being run properly and the appellant was held responsible for the sorry state of affairs. The respondents ordered fact finding enquiry through an enquiry officer. Enquiry report was submitted by the enquiry officer on 27.10.2017. He recommended that the appellant, Mr. Abdul Khaliq, SPST, Mr. Bahadar Khan, SPST may be proceeded under E&D Rules 2011. Instead of acting on the recommendations of the enquiry officer, the respondents served a show cause notice dated 17.11.2017 on the appellant. In this show cause notice attention of the appellant was invited to the fact finding enquiry. After receipt of reply of the

appellant minor penalty of stoppage of one annual increment was imposed on the appellant.

05. The impugned order passed by the respondents is not backed by the procedure laid down in E&D Rules 2011. The appellant was awarded minor penalty on the basis of fact finding enquiry. We have reiterated in numerous judgments that no penalty to a civil servant can be awarded on the basis of fact finding enquiry. No distinction is available in the judgments of the superior courts that minor penalty can be awarded on the basis of fact finding enquiry. It is an often quoted legal proposition that a thing must be done in the manner prescribed by the law.

06. Normally procedure laid down in Rule-5 and 10 of E&D Rules 2011 is followed, when the government wants to proceed against a delinquent officer/official. Moreover, where the competent authority decides to dispense with enquiry then reasons in writing will have be recorded, that it is satisfied that there is no need to hold an enquiry (Rule-1(B) of Rule-5 of E&D Rules 2011). In this case perusal of show cause notice revealed that no reasons were not recorded by the competent authority, rather a reference was made to the fact finding enquiry. This show cause notice, as such is not the one where the competent authority decided to dispense with regular enquiry. Moreover, instead of calling the appellant for personal hearing, the competent authority assigned this task to a committee notified vide order dated 04.01.2018 which was patently illegal and unlawful. By not conducting formal enquiry other formalities contained in the said rules were also not observed and in nutshell the impugned order being illegal, unlawful was not tenable in the eyes of law.

07. Foregoing in view, the appeal is accepted and the impugned order dated 09.02.2018 is set aside. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
Member

(MUHAMMAD HAMID MUGHAL)
Member

Not agreed dissenting note attached

ANNOUNCED

20.12.2019

20.12.2019

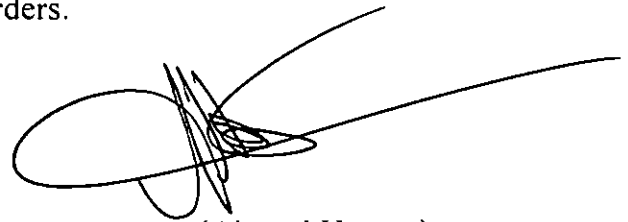
Appellant with counsel present. Mr. Muhammad Jan, Deputy District Attorney for respondents present. Arguments heard and record perused.

The appeal was heard on today, however, after hearing members of the Divisional Bench failed to arrive at a consensus judgment. Separate judgments written by us be placed before the worthy Chairman for appropriate orders.

Announced:
20.12.2019



(Muhammad Hamid Mughal)
Member



(Ahmad Hassan)
Member

19.04.2019

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 13.06.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

13.06.2019

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Bashir Ahmed, Headmaster for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 31.07.2019 for arguments before D.B.

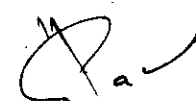

(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

31.07.2019

Junior to counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 09.10.2019 before D.B.


Member


Member


9-10-2019 Due to tour of Honble Member to camp court Swat the case is adjourned to 20-12-2019


Rendy

04.12.2018


Counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 24.01.2019 before D.B.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

24.01.2019

Junior to counsel for the appellant present. Mr. Muhammad Jan, DDA alongwith Mr. Bashir Ahmad, Headmaster for respondents present. Junior to counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 08.03.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

08.03.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 19.04.2019 before D.B.


(M. AMIN KHAN KUNDI)
MEMBER


(M. HAMID MUGHAL)
MEMBER

19.07.2018

Learned counsel for the appellant present.
Preliminary arguments heard.

The appellant (Ex-PSHT) has filed the present appeal against the order dated 09.02.2018 whereby he was awarded minor ~~penalty~~ **of stoppage of one increment for one year.**

Points raised need consideration. The present appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 04.09.2018 before S.B.

Appellant Deposited
Security & Process Fee


Member


04.09.2018

Learned counsel for the appellant and Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Bashir Ahmed, Head Master for the official respondents present. Written reply not submitted on behalf of the official respondents. Learned Additional Advocate General requested for adjournment. Adjourned. To come up for written reply/comment on 18.10.2018 before S.B


Member

18.10.2018


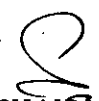

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Bashir Ahmad Head Master for the respondents present. Representative of the respondents submitted written reply/comments. Adjourn. To come up for rejoinder if any and arguments on 04.12.2018 before D.B


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 784/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/06/2018	<p>The appeal of Mr. Muhammad Yasin presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	19.06.2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/6/18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Appellant in person present and seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for preliminary hearing on 19.07.2018 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 784 /2018

MUHAMMAD YASIN V/S EDUCATION DEPARTMENT

INDEX

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4.	Impugned order	C	6.
5.	Departmental appeal	D	7.
6.	Vakalat nama	8.

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK,
ADVOCATE

Flat No. 3, Upper Floor,
Islamia Club Building,
Khyber Bazar, Peshawar
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 784 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1037

Dated 8-6-2018

Mr. Muhammad Yasin, PSHT (BPS-16),
GPS Khushal Garh, Tehsil Dargai, District Malakand.

..... **APPELLANT**

VERSUS

- 1- The Director E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Education Officer (Male), District Malakand.

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDER DATED 09.02.2018
WHEREBY MINOR PENALTY OF STOPPAGE OF ONE
ANNUAL INCREMENT WAS IMPOSED ON THE
APPELLANT AND AGAINST NOT TAKING ACTION ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN
THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 09.02.2018 may very kindly be set aside and the respondents may be directed to restore/release the one annual increment of the appellant with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Filed to-day

Registrar

8/6/18

Brief facts giving rise to the present appeal are as follows:-

- 1- That appellant is serving as PSHT (BPS-15) in the respondent Department and right from appointment till date the appellant is serving the respondent Department quite efficiently and up to the entire satisfaction of his superiors.
- 2- That during service as PSHT in the respondent Department a complaint was lodged against the appellant on the basis of some baseless allegations. That due to the above mentioned complaint the respondent No.2 issued a show cause notice vide dated 17.11.2017 which was properly replied by the appellant and denied all the allegations leveled against him. Copies of the show cause notice and reply are attached as annexure..... **A & B.**

- 3- That the respondent No.2 without fulfilling the codal formalities and entering into the matter straight away issued the impugned order dated 09.02.2018 whereby minor penalty of stoppage of one annual increment has been imposed on the appellant. Copy of the impugned order is attached as annexure C.
- 4- That feeling aggrieved from the impugned order dated 09.02.2018 the appellant preferred Departmental appeal before the respondent No.1 on 15.2.2018 but no reply has been received so far. Copy of the Departmental appeal attached as annexure..... D.
- 5- That appellant having no other remedy but to file the instant service appeal before this august Tribunal on the following grounds amongst the others.

GROUND:

- A- That the impugned order dated 09.02.2018 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That appellant has been punished on the basis of a baseless complaint which has not been inquired by the respondents through proper legal procedure.
- D- That no charge sheet and statement of allegation has been issued to the appellant by the respondent No.2 before issuing the impugned order dated 09.02.2018.
- E- That no opportunity of personal hearing/defense has been given to the appellant before issuing the impugned order dated 09.02.2018.
- F- That the complainant has not been cross examined by the appellant and as such the respondents violated Rule-11 of the E&D Rules 2011.
- G- That no regular inquiry has been conducted in the matter of the appellant which is as per Supreme Court judgments is necessary in punitive actions against the Civil Servants.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 06.06.2018

APPELLANT

Yaseen

MUHAMMAD YASEEN

THROUGH:

NK

NOOR MOHAMMAD KHATTAK

&

**MUHAMMAD MAAZ MADNI
ADVOCATES**



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) MALAKAND

A-94

Show Cause Notice

I, Mr. Muhammad Uzair Ali District Education Officer (M) Malakand as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve upon you, Mr. Muhammad Yaseen, PSHT GPS Khushal Garh (Tehsil Dargai), this show cause notice as follow: -

- 1 That SDEO (Male) Dargai addressed a letter vide his office No.892/SDEO (M) DRG/Estt:PTC dated 19-09-2017 regarding a joint complaint by the Village Nazim, Councilors and inhabitants of Khushal Garh for written complaint of the bad and chaotic situation of Education in the school.
- 2 That an inquiry was launched to personally hear all the teachers to dig out the real facts and remedial action for the worst situation in the school as has pointed in the complaint.
- 3 That Inquiry Officer has found and reported that you have failed to be a competent team leader.
- 4 That as a Head Teacher you have failed to involve all the teachers in consultation while taking decisions regarding school matters.
- 5 That there is total disorder and anarchy in the school.
- 6 That your this attitude has badly affected the educational environment of the school and innocent kids.
- 7 That Inquiry Officer has recommended to take necessary action against you under E&D Rules 2011.
- 8 That you are once more informed that whether you want to be personally heard as the undersigned (being competent authority) explaining your position for the above irregularities including your defense as I am satisfied that you have committed the following acts/ omissions specified in Rule,3 (d) of the aforementioned Rules i.e.

- i Ceased to be efficient for the above reasons.
- ii Guilty of mis-conducted.

- 7 As a result, thereof, I as the competent authority, have tentatively decided to impose upon you *the Major/Minor penalties* under Rule 4 (b) (i) (ii) & Rule (a) (ii) of the ibid rules.
- 8 You are, therefore, required to show cause as to the aforementioned penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
- 9 If no reply to this effect is received within 15 days of its issuance, it shall be presumed that you have no defense to put in and in that case Ex-Parte action shall be taken against you.

(Prof. Muhammad Uzair Ali)
Competent Authority

District Education Officer (M)
Malakand

Dated Batkhela the 17/11/2017

Endst; No. 12290-94 /DEO (M) Mkd/Pry; Estb; /Notices of Absence/Removal from Service

Copy of the above is forwarded for information to the: -

- 1 Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 2 SDEO (M) Dargai, Malakand.
- 3 ADO Litigation Local Office.
- 4 Muhammad Yaseen, PSHT GPS Khushal Garh Tehsil Dargai, Dist: Mkd.
- 5 Office Copy.

Competent Authority
District Education Officer (M)
Malakand

Muhammad Yaseen, PSHT GPS Khushal Garh Tehsil Dargai, Dist: Mkd.

ATTESTED

محفوظ جنتا DEO (مدراء) (EUSE) مدکنڈ مقام سخیلہ

عنوان: Show cause notice کا جواب

B (5)

جنتا عالی!

میں ملک یاسین خان ہیڈ ماسٹر GPS، خوشحال گڑھ (بدرہ) مؤدبانہ گزارش کرتا ہوں کہ ہمارے خلاف ویلج ناظم اور PTC جیر میں نے جو الزامات لگائے تھے وہ سب جھوٹ اور بے بنیاد ثابت ہوئے۔

اس سلسلے میں سابق نائب ناظم محمد یونس کے حجرہ میں مورخہ 27/11/2017

ضلعی ناظم اعلیٰ سید احمد علی شاہ باجے کے زیر نگرانی ایک جرگہ مقرر ہو چکا۔ جرگہ میں ضلعی ناظم نے 70% ناظم ارشد خان صاحب، PTC جیر میں عزت گھن صاحب اور GPS، خوشحال گڑھ کے جملہ کسٹاف کے

درمیان راضی نامہ تحریر کر کے دستخط کیا اور ساتھ ہی سید احمد علی شاہ نے اپنے بیان میں فرمایا کہ آئندہ نیلے ہم سکول کے بچوں کے فلاح و بہبود

کی خاطر جملہ کسٹاف سے ہر پور تعاون کریں گے۔ اس راضی نامہ کی غلطی کا ہی درخواسے پتہ لگا کے ساتھ منسلک ہے۔ لہذا آپ صاحبان

براہ رحم ہمارے خلاف Show cause notice ختم کرنے کے احکامات صادر فرما کر مشور فرمائیں۔

مفت زیادہ آداب

آپ کے تابع حکم

1- PSHT ملک یاسین خان

2- خان بہادر SPST

3- عبدالحق SPST

GPS، خوشحال گڑھ (بدرہ)

Head Master
G.P.S Khushal Garh
Badraga Grade 18

ATTESTED

مراعاتی نامہ

5/A

P.S. جو خوشحال ٹرڈ کے آسانڈہ ڈرام اور P.T.C. چیئرمین + چیئر مین
 ویلج ڈونشن خوشحال ٹرڈ کے درمیان جو تنازعہ تھوڑے تو بڑے عسیران
 اور علاقہ عمائدین نے مندرجہ ذیل مشراط نامہ (افہام) و تفہیم سے حل کیا۔

- ① مشورہ آسانڈہ ٹرڈ کے ایسی ڈیپٹی فوشی اسٹیوپی سے سرانجام دینے
- ② آسانڈہ ایسے درمیان ٹوٹی جھونک سے اجتناب کرنے
- ③ اور مکمل طلبہ کو ایسے تبدیلی ماحول فراہم کرنے
- ④ P.T.C. چیئرمین اور ویلج ناظم مشورے کے جملہ مسائل سے حل میں

مشورہ انتظامیہ کی ہر ہر تعاون کر کے ادارہ اپنا کیمپس دہلی لے لیتے ہیں
 ہر مشورے آسانڈہ ڈرام ٹیچر سے ہر ہر تعاون کرنے اور
 ہر مشورے مشورے معاملات میں آسانڈہ سے مشاورت کر کے تاکہ
 مشورے میں یہ جیتی جیتی فضا قائم ہوں۔

- دستخط آسانڈہ ڈرام -
 1- محمد یاسین
 2- عبدالغنی
 3- خان بیگم
- دستخط چیئر مین
 1- حاجی حسین خان
 2- حاجی علال لالہ
 3- محمد یونس صاحب ناظم
- دستخط P.T.C. چیئر مین
 1- محمد یونس
 2- محمد یونس
 3- محمد یونس
 4- محمد یونس
 5- محمد یونس
 6- محمد یونس
 7- محمد یونس

ATTESTED

D.O.M.
 Recd. as desired
 (Sd/-) Ahmad Ali Khan
 District Nazim
 District Government Malakand

OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
MALAKAND

C-6

NOTIFICATION /

1. WHEREAS, Mr. Muhammad Yaseen, PSHT (BPS-15) GPS Khushal Garh Tehsil Dargai was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for the charges mentioned in the show cause notice issued vide this office Endst: No/2290-94 dated 17-11-2017.
2. AND WHEREAS, Mr. Abdus Samad SDEO (Male) Dargai was appointed as inquiry officer to conduct formal inquiry against the accused teacher for the charges levelled against him in accordance with the rules.
3. AND WHEREAS, the inquiry officer after having examined the charges, evidence on record of the accused teacher has submitted the report.
4. AND WHEREAS, the DEO (Male) Malakand being Competent Authority issued show cause notice to him.
5. AND WHEREAS, the Competent Authority (D.E.O. Male Malakand) after having considered the charges and evidence on record, reply of the accused teacher in response to the show notice and personal hearing granted to him on 09-01-2018, is of the view that the charges against the accused teacher have been proved.
6. NOW, THEREFORE, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (DEO "M" Malakand) is pleased to impose, a minor penalty of "Stoppage of one increment for one year" upon Mr. Muhammad Yaseen PSHT (BPS-15) GPS Khushal Garh (Tehsil Dargai).

Prof. Muhammad Uzair Ali
Competent Authority
District Education Officer Male
Malakand

Dated 09-02/2018

Endst: No. 1251-56 /Pry/DA-1 Btk/Inquiry Against M. Irshad.

Copy of the above is forwarded to the :-

- 1 Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 2 District Accounts Officer, Malakand.
- 3 SDEO (Male) Dargai with the remarks that necessary entry to this effect may be made in the Service Book of the teacher and also intimate this office for the same by providing a copy of that entry.
- 4 ADO Litigation Local Office.
- 5 Mr. Muhammad Yaseen PSHT (BPS-15) GPS Khushal Garh Tehsil Dargai.
- 6 Office Copy.

District Education Officer Male
Malakand

ATTESTED

To

The Director (E&SE) Department,
Khyber Pakhtunkhwa, Peshawar.

D-7

Subject: **DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 09/02/2018 WHEREBY ONE ANNUAL INCREMENT OF THE APPELLANT HAS BEEN STOPPED.**

Respected Sir,

Most respectfully it is stated that I am working as PSHT under the control of DEO (Male) at Government Primary School Khushal Garh Tehsil Dargai District Malakand. I am performing my duties right from the date of my promotion to the post of PSHT with full devotion and struggled for betterment of the school concern. A written complaint has been lodged by the village Nazim, councilor and inhabitants of the locality against me along with my other colleagues by questioning our performance. Due to the above mentioned complaint the District Education Officer (Male), Malakand issued a show cause notice which was properly replied by me and denied all the allegations leveled against me. The Competent authority without entering into controversy straight away issued the impugned order dated 09.02.2018 whereby minor penalty of the stoppage of one annual increment was imposed upon me, which is against the law and prevailing rules as it is issued in a hasty manner showing malice and malafide on the part of the concerned authorities.

It is, therefore, most kindly requested that the impugned notification dated 09.02.2018 may kindly be set aside and the annual increment may kindly be restored to the undersigned with all back benefits.

Dated: 15.2.2018

Your Obediently



MUHAMMAD YASEEN

PSHT (BPS-15),

Khushal Garh Tehsil Dargai

ATTESTED



VAKALATNAMA

Before the KPK Service Tribunal Peshawar

OF 2018

Muhammad Yasin

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Department

(RESPONDENT)
(DEFENDANT)

I/We Muhammad Yasin

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2018


CLIENT

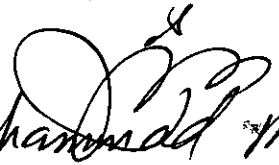

ACCEPTED
NOOR MOHAMMAD KHATTAK
ADVOCATE

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141


Advocate

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHW
PESHAWAR

Service Appeal No : 784/2018

Mr. Muhammad Yasin PSHT (BPS-15)
GPS Kushal Garh, Tehsil Dargai District Malakand.


(Appellant)

VERSUS

EDUCATION DEPARTMENT

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Representative of, 18/10/2018
District education Officer,
(M) Malakand at Batkhela.

1

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHWA PESHAWAR

Service Appeal No :784/2018

Mr.Muhammad Yasin PSHTT (BPS-15).

Govt Primary School Kushal Garh , Tehsil Dargai , District Malakand (Appellant)

VERSUS

1. The Director Elementary and secondary Education Khyber Pakhtoonkhwa Peshawar.
2. The District Education Officer (Male) Malakand at Batkhela.

(Respondents)

Para wise comments on behalf of respondents No 1&2

Respectfully Sheweth
Preliminary Objections.

1. That the appeal is badly barred by time and under the rules is not maintainable.
2. That the appellant has concealed material facts from the Honorable Service Tribunal.
3. That the appellant has got no cause of action to file the instant appeal.
4. That the appellant has got no locus standi to ask for claim.
5. That the appellant is estopped by his own conduct to file the present appeal.
6. That the appeal is not maintainable in its present form and is not competent.
7. That the Honorable Tribunal has got no jurisdiction to entertain the appeal.

FACTS.

1. Pertains to record needs no comments.
2. Incorrect, A joint written Complaint was lodged against the appellant and other staff of the school by the village Nazim ,General Councilor , PTC Committee of GPS Khushal Garh and inhabitants of Khushal Garh of the bad and chaotic situation in the school. While (PMRU) Office of the Chief Secretary Khyber Pakhtunkhwa Peshawar also sent the issue with the proposed solution to respondent No.2 through Deputy Commissioner Malakand .
(Complaint Copy & PMRU report are attached as annexure A&B)
3. Incorrect and denied, respondent No.2 has fulfilled all the code of formalities according to the rules ,issued show cause notice to the appellant ,proper *inquiry* was conducted through SDEO Dargai and personal hearing committee was constituted and the committee has given ample opportunity to the appellant *for* his defense along with his other staff members.
(Copy of Show Cause notice, Inquiry letter, Inquiry Report, Personal hearing Letter and Minutes of Personal hearing Committee are attached as annexure C, D, E, F, G)

2

- 4 Incorrect, departmental appeal of the appellant was considered by respondent No.1 and ordered issued to respondent No. 2 for the submission of detail report/comments within a week time and after the submission of detail report respondent No. 1 rejected his appeal on valid grounds.
(Letter for submission of detail report & rejection order are annexed as annexure H,I)
5. The appellant has got no cause of action to file instant appeal.

GROUND.

- A Not admitted, the impugned order dated 09.02.2018 issued by respondent No 2 is not against the law, facts and norms of natural justice and materials on the record showed that no violation has been made issuing the impugned order.
- B Incorrect, the appellant has been treated in accordance with law by the respondent department and no violation has been made of the Constitution of Islamic Republic of Pakistan 1973.
- C. Incorrect, materials on the record showed that no violation has been made. proper inquiry has been conducted and fulfilled all the code formalities according through proper legal procedure .
(Inquiry report attached as annexure E)
- D. Incorrect and denied, before issuing the impugned order dated 09.02.2018 respondent no No.2 fulfilled all code formalities according to the rules.
- E Incorrect and denied, full opportunity of personal hearing and participation in the proceeding to the appellant have been provided by the respondent department.
- F Incorrect and denied the complaint has been cross examined by the appellant as he made the compromise through District Nazim, village Nazim and PTC chairman along with other inhabitants without inform the department.
(written compromise annexed with the appeal annexure page 5)
- G. Incorrect and denied, proper inquiry has been conducted through Sub Divisional Education Officer Dargai and no violation has been made as per Supreme Court judgments. **(As annexed D, E)**
- H. The Respondents also seeks permission to raise additional grounds at the time of arguments.

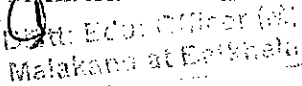
It is therefore most humbly prayed that in the light of the above facts the instant appeal may be dismissed with cost.

(RESPONDENT NO1)


DIRECTOR (E & SE) DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.

(RESPONDENT NO 2) ✓


DISTRICT EDUCATION OFFICER
(M) MALAKAND AT BATKHELA.


Distt. Edu. Officer (M)
Malakand at Batkhela

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHWA PESHAWAR

Service Appeal No :784/2018

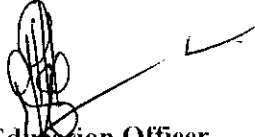
Mr. Muhammad Yasin PSHT (BPS-15)
Govt Primary School Kushal Garh , Tehsil Dargai , District Malakand.....(Appellant)

VERSUS

EDUCATION DEPARTMENT

AFFIDAVIT

I , do hereby solemnly affirm and declare on oath that all the contents of the accompanying parawise comments are true and correct to the best of my knowledge and belief and all the coddle formalities were fulfilled.


District Education Officer
(M) Malakand at Batkhela.
Distt. Edu. Officer (M)
Malakand at Batkhela

P.T.O.

مقامت کے لئے درخواست ہے۔
P.T.O. کے لئے
مقامت کے لئے درخواست ہے۔

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مقامت کے لئے

مقامت کے لئے
P.T.O. کے لئے

(Annexure A)

مقامت کے لئے درخواست ہے۔
مقامت کے لئے درخواست ہے۔
مقامت کے لئے درخواست ہے۔



اسلئے مجبور ہو کر ان مسائل کو آپ صاحبان کی خدمت میں پیش کرتے ہیں۔

اسلئے ضاب والا بھول کابیت وقت ضائع ہو گیا ہے۔

اور باقی وقت کو ضائع ہو گیا۔ سے بچ کر مواظبت کریں۔ اور ان مسائل کو حل

تاکہ مجھے آپنی تعلیم و علم حاصل کریں۔

حسن بانی پورجی

<p>فہماریا کتہ اللہ اللہ</p>	<p>اللہ</p>	<p>عزت علی بی بی صاحبہ مہر بی بی صاحبہ اللہ</p>	<p>ARSHAD KHAN Village Nazim Khushal Garh 2 Badragga MWD.</p>
<p>اللہ</p>	<p>اللہ</p>	<p>اللہ</p>	<p>اللہ</p>
<p>اللہ</p>	<p>اللہ</p>	<p>عمیر زردہ</p>	<p>اللہ</p>
<p>اللہ</p>	<p>اللہ</p>	<p>اللہ</p>	<p>سید خان</p>
		<p>عمیر زردہ</p>	<p>اللہ</p>
		<p>اللہ</p>	

(6)

ممبران
GPS فونیکال گروپس

دستخط

عمر جمال

Amir

Chief Counselor
Mustafa Center

لا عزت گل حسین PTC

MSB
0352-8182465

ATZ

رق بارڈن خان عمر PTC =

سید اللہ خان

بی سید اللہ خان عمر PTC =

فونیکال

بی فونیکال عمر PTC =

فونیکال

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19.09.2017

پ-آئی-ای
حاجی سید الرحمن صاحب

ڈائریکٹر

Forwarded to SDEC(M) Jehu Dargai with the
remarks that the only solution to this
problem is that whole the staff along
with children may be transferred
to scattered schools.

~~Signature~~

ISCAS

ASDEC

19/09/2017



(7)

Annexure B
(76)

**OFFICE OF THE,
DEPUTY COMMISSIONER MALAKAND**

No. 16807 /Performance
Dated Malakand the 08 November, 2017

To

The Coordinator (PMRU),
Office of the Chief Secretary,
Government of Khyber Pakhtunkhwa, Peshawar.

Subject: **IDENTIFICATION OF 1 PRESSING ISSUE AT EACH UC LEVEL AND PROPOSED SOLUTION HELD ON DATED 07/11/2017 AT 09:00 AM UNDER THE CHAIRMANSHIP OF ADDITIONAL DEPUTY COMMISSIONER MALAKAND.**

Reference Integrated Performance and Monitoring system, Performance Management and Reforms Unit, Office of the Chief Secretary, Khyber Pakhtunkhwa, Peshawar through online system wherein the activity was assigned by the worthy Chief Secretary Khyber Pakhtunkhwa, Peshawar.

The requisite information on the prescribed proforma in respect of District Malakand is sent herewith as desired please.

ADO PM
For Report
S.No: 05

S.No	Name of UC	Tehsil	Issue	Proposed solution existing resources	Timeline
01	Middle Batkhela	Batkhela	Cleanness issue in the area.	The local Nazemins will be requested to clean the area from their own resources.	01 month
02	Dheri	Batkhela	Need for establishment of Janazgah.	The area Nazimen and TMO will be requested to select an area in Shamilat through Jirga for the purpose.	04 months
03	Totakan	Batkhela	Drinking water supply issue.	Some fund be utilized from ADP fund of V/C and XEN (PHE) Batkhela, be requested to take further necessary steps in the issue.	04 months
04	Kherkay	Dargai.	Itwar Bazar is held on road side which block the flow of traffic from Dargai to Wazir Abad.	TMO Dargai will be directed to shift Itwar Bazar to other place.	01 months
05	Badraga	Dargai	In GPS, GMS of Khusal Ghar Kopper, the students of the said schools <u>have suffered</u> due to <u>non interest</u> of teachers.	The DEO (M) will be <u>requested</u> to <u>make</u> inquiry and <u>solve</u> the issue.	01 months
06	Dhery Julagram	Batkhela	Water supply scheme in the U/C completed	The XEN (PHE) Batkhela will be	03 months

07	Alladand	Batkhela	Cleanness issue in the area.	The local Nazemins will be requested to clean the area from his own resources.	01 months (2)
08	Upper Batkhela	Batkhela.	Cleanness issue in the area.	The local Nazemins will be requested to clean the area from own resources.	01 months
09	Koper	Dargai.	Some private people of U/C Koper want to occupy the land reserved for UC building.	Assistant Commissioner Dargai, be requested to resolve the matter.	01 months
10	Sakhakot Bandajat	Dargai.	Irrigation channels are blocked due to sedimentation.	The XEN Irrigation will be requested to resolve the issue.	02 months
11	Sakhakot Khas	Dargai.	The Irrigation channels are passed inside the houses and are blocked.	The XEN Irrigation will be requested to resolve the issue.	02 months.
12	Hero Shah	Dargai.	Boundary wall of graveyards do not exists.	TMA Dargai is requested to take necessary legal action.	03 months
13	Pir Khel	Batkhela.	Drinking water supply scheme is required in the area.	XEN (PHE) Malakand is requested to make arrangements.	04 months
14	Thana Bandajat	Batkhela.	Drinking water supply scheme is required in the area.	XEN (PHE) Malakand is requested to make arrangement.	04 months
15	Thana Khas	Batkhela.	Cleanness issue in the area.	The local Nazemins will be requested to clean the area from his own resources.	01 months
16	Meherdai	Dargai.	This U/C is located at main Malakand road due to high rush and speed of vehicles road accidents occurs.	N.H.A is requested to install cat eyes on the road side at the chowk.	01 months
17	Malakand.	Batkhela.	There is water supply scheme but the distribution of connection use unjusted due to this reason a lot of Population facing grate hardships.	XEN (PHE) <u>is requested to ensure equal distribution</u> of water to each house.	02 months
18	Dargai.	Dargai.	The "Janazgha" of Dargai is established by TMA Dargai, however the land is Shamilat due to which it is disputed among the peoples, and is still not functional	Assistant Commissioner, Dargai, is requested to resolve the issue.	02 months

16300-20

(9) dated 08-11-2017

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Copy forwarded to:

1. The Deputy Commissioner, Malakand.
2. PSO to Chief Secretary, Government of Khyber Pakhtunkhwa Peshawar.
3. Secretary to Commissioner, Malakand Division, Saidu Sharif Swat.
4. Deputy Coordinator (PMRU), Office of the Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
5. The Executive Engineer (PHE), Malakand.
6. The Executive Engineer (Irrigation), Malakand.
7. The Executive Engineer (WAPDA), Malakand.
8. The District Education Officer (M), Malakand at Batkhela.
9. The Assistant Commissioner, Batkhela.
10. The Assistant Commissioner, Dargai.
11. The Assistant Director (LG&RDD), Malakand.
12. The Tehsil Municipal Officer, Batkhela.
13. The Tehsil Municipal Officer, Dargai.

For inform
please.

(For information and necessary action as per the proposed solution please).

m. j. m.
Additional Deputy Commissioner,
Malakand



Show Cause Notice

(10) (Annexure C) 22

DISTRICT EDUCATION OFFICER
(MALE) MALAKAND

I, Mr. Muhammad Uzair Ali District Education Officer (M) Malakand as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve upon you, Mr. Muhammad Yaseen, PSHT GPS Khushal Garh (Tehsil Dargai), this show cause notice as follow: -

- 1 That SDEO (Male) Dargai addressed a letter vide his office No.892/SDEQ (M) DRG/Estt:PTC dated 19-09-2017 regarding a joint complaint by the Village Nazim, Councilors and inhabitants of Khushal Garh for written complaint of the bad and chaotic situation of Education in the school.
- 2 That an inquiry was launched to personally hear all the teachers to dig out the real facts and remedial action for the worst situation in the school as has pointed in the complaint.
- 3 That Inquiry Officer has found and reported that you have failed to be a competent team leader.
- 4 That as a Head Teacher you have failed to involve all the teachers in consultation while taking decisions regarding school matters.
- 5 That there is total disorder and anarchy in the school.
- 6 That your this attitude has badly affected the educational environment of the school and innocent kids.
- 7 That Inquiry Officer has recommended to take necessary action against you under E&D Rules 2011.
8. That you are once more informed that whether you want to be personally heard as the undersigned (being competent authority) explaining your position for the above irregularities including your defense as I am satisfied that you have committed the following acts/ omissions specified in Rule,3 (d) of the aforementioned Rules i.e.

- i Ceased to be efficient for the above reasons.
- ii Guilty of mis-conducted.

- 7 As a result, thereof, I as the competent authority, have tentatively decided to impose upon you *the Major/Minor penalties* under Rule 4 (b) (i) (ii) & Rule (a) (ii) of the ibid rules.
- 8 You are, therefore, required to show cause as to the aforementioned penalty should not be imposed upon you and intimate whether you desire to be heard in person.
- 9 If no reply to this effect is received within 15 days of its issuance, it shall be presumed that you have no defense to put in and in that case Ex-Parte action shall be taken against you.


(Prof. Muhammad Uzair Ali)
Competent Authority
District Education Officer (M)
Malakand

Dated Batkhela the 17/11/2017

Endst; No/2290-94 /DEO (M) Mkd/Pry: Estb; /Notices of Absence/Removal from Service

Copy of the above is forwarded for information to the: -

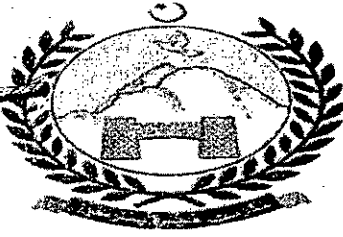
- 1 Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 2 SDEO (M) Dargai, Malakand.
- 3 ADO Litigation Local Office.
- 4 Muhammad Yaseen, PSHT GPS Khushal Garh Tehsil Dargai, Dist: Mkd.
- 5 Office Copy.


Competent Authority
District Education Officer (M)
Malakand

Muhammad Yaseen, PSHT GPS Khushal Garh Tehsil Dargai, Dist: Mkd.

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(Annexure D)



OFFICE OF THE
DISTRICT EDUCATION OFFICER,
(MALE) MALAKAND.

OFFICE ORDER /

Mr. Abdus Sama SDEO (Male) Dargai is hereby appointed to carry out inquiry regarding complaints as reported by him vide his office No.892/SDEO (M)DRG/ Estt:PTC dated 19-09-2017 against the staff at **GPS Khushal Garh (Tehsil Dargai)**.

The **inquiry officer** is required to carry out detailed inquiry and submit a comprehensive report in the matter so as to proceed further under E&D rules in vogue


(PROFESSOR MUHAMMAD UZAIR ALI)
DISTRICT EDUCATION OFFICER
(MALE) M A L A K A N D

Endst: No. 10054-56/

Dated 25/9/2017

Copy forwarded for information and necessary action to :-

- 1 The Director, E&SE Khyber Pakhtunkhwa Peshawar.
- 2 Mr. Abdus Samad SDEO (M) Dargai with the remarks to carry out a clear and comprehensive inquiry and submit detailed report and suggestions to this office for further n/a under the rules.
- 3 Head Teacher concerned.


DISTRICT EDUCATION OFFICER
(MALE) M A L A K A N D



12

Annexure E
DA(P)
Process 2/17

OFFICE OF THE
SUB DIVISIONAL EDUCATION OFFICER (MALE)
DARGAI Distt: Malakand

No 1045 /SDEO(M)DRG/Estt: Inquiry
Dated Dargai the 27/10/2017

To

The District Education Officer
(M) Malakand at Batkhela.

Subject:

Inquiry Report regarding Staff of GPS Khushal Garh Tehsil Dargai.

Memo:

Kindly refer to office order No 10054-56 dated 25-09-2017.
The undersigned conducted inquiry regarding the staff of GPS Khushal Garh.

Inquiry report supporting with documentary proof is submitted herewith for
necessary action under the rules.

ABDUS SAMAD (Inquiry Officer)
Sub Div: Edu: Officer (M)
Dargai Malakand

→ Muhammad Yaseen, Head Teacher GPS Khushal Garh.
→ Abdul Khalig, SPST " "
→ Khan Bahadar, SPST " "

13

Annexure E

17



**OFFICE OF THE
SUB DIVISIONAL EDUCATION OFFICER (MALE)
DARGAI Distt: Malakand**

No 1045 /SDEO(M)DRG/Estt: Inquiry
Dated Dargai the 27/10/2017

Subject: Inquiry Report Regarding a complaint against the teaching staff of
GPS Khushal garh Dargai.

1. Introduction:

Mr. Arshad Khan village Nazim Khushal Garh Badragga Malakand and Mr. Izat Gul chairman PTC GPS Khushal Garh Dargai submitted a complaint with SDEO (M) Dargai regarding the ill state of affairs at GPS Khushal Garh owing to the hostile attitude of teachers towards one another at school. The same complaint was processed on ward to the DEO (M) Malakand. Taking notice of the complaint, The DEO (M) Malakand appointed the undersigned as inquiry officer vide office order, bearing Endst: No 10054-56 dated 25.09.2017.

2. Proceedings:

In compliance to the said order, the undersigned visited GPS Khushal Garh on 02/10/2017 in order to probe into the matter deeply. The inquiry officer held separate meetings with Mr. Ali Haidar (Head Master) GMS Khushal Garh, Mr. Arshad Khan village Nazim, Mr. Izat Khan chairman PTC, Head teacher of the school and other teaching staff of the school.

The inquiry officer discussed the school affairs in details with the above mentioned stake holders of the school. The undersigned also got written statements from the concerned persons (Annexure-A,B,C,D,E,F,G,H,I,J)

Senior students of the school were also consulted regarding the state of affairs at the school.

In the meanwhile Mr. Muhammad Ishaq ASDEO also submitted his written Report, in which he seconded the statements of the community members:

In view of all the verbal discussions and written statements of the concerned stake holders, the inquiry officer has reached to the following conclusion.

14

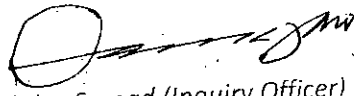
(Annexure E)
(16)

Findings:

- I. Mr. Muhammad Yaseen Head teacher GPS Khushal Garh is not a competent team leader.
He does not involve all the teachers in consultation while taking decisions regarding school.
- II. There is total disorder and anarchy in the school.
- III. Mr. Abdul Khaliq SPST and Mr. Khan Bahadar SPST are not obedient and co-operative sub ordinates. They are not lending any support to the Head teacher rather try to create problems for the Head teacher.
- IV. Political confrontation among the community members has also ruined the Peaceful environment of the school.

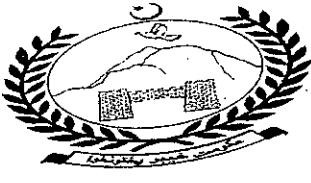
4. Recommendation:

Mr. Muhammad Yaseen PSHT, Mr Abdul Khaliq SPST and Mr. Khan Bahadar SPST may be proceeded against under Efficiency & Disciplinary rules 2011. }


Abdus Samad (Inquiry Officer)
Sub Div: Edu: Officer (M)
Dargai, Malakand

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(Annexure F) (38)



OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
MALAKAND

OFFICE ORDER /

For personal hearing, the following committee is hereby constituted to hold the personal hearing on 04-01-2018 and submit the minutes of the proceeding alongwith recommendation in the purview of the E&D Rules, 2011 in the ongoing inquiry against the staff of GPS Khushal Gharh (Tehsil Dargai) and Muhammad Irshad PSHT GPS Drey Sarey (D/Alladand).

- 1 Mr.Midrarullah Dy: DEO Local Office.
- 2 Mr.Ihtishamul Haq, ADEO Pry: Establishment local office.
- 3 Mr.Raes Khan, ADEO Litigation local office.
- 4 Dealing Assistants Local office.

Prof. Muhammad Uzair Ali
Competent Authority
District Education Officer Male
Malakand

Dated 04-01/2018

Endst: No. _____

Copy forwarded for information and necessary action to the :-

- 1 Director, E&SE Khyber Pakhtunkhwa Peshawar.
- 2--3 SDEO (Male) Batkhela & Dargai.
- 4 ADEO Litigation Local Office.
- 5 Teachers concerned.
- 6 Committee members.
- 7 Dealing Assistants concerned.


District Education Officer Male
Malakand

13

Amroha (G) 20

OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
MALAKAND

MINUTES OF THE MEETING COMMITTEE.

The personal hearing committee meeting held in connection with the Personal hearing of Mr. Muhammad Yaseen PSHT, Mr. Khan Bahadar SPST, and Mr. Abdul Khaliq SPST GPS Khushal garh Dargai at the office of the DEO (M) Malakand at Batkhela on 09/01/2018.

The committee gave ample opportunity to the cited complainants to Defend their case with solid proofs and figures if any. After thoughtful deliberation and Focused discussion the following minutes were framed.

1. Whereas the whole staff of the school are blamed each other.
2. They quarreled with each other in nonsense tasks.
3. They all are not ready to show tolerance.
4. The innocents' kids suffers due to these every day quarreling of teachers.
5. The reputation of the school also declines in the public.
6. Whereas minor punishment i.e. stoppage of increment for one year may be stopped from cited teachers

The following attended the Meeting.

1. Mr. Midrarullah Dy: DEO Local Office. _____
2. Mr. Ihtishamul Haq ADEO Pry: Establishment local office. _____
3. Mr. Raees Khan ADEO litigation local office. _____
4. Mr. Dealing Assistant Pry: Establishment local office. _____

Prof: Muhammad Uzair Ali

Competent Authority

Distric Education Officer Male
Malakand.

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(Annexure H)



DA(P)
Furnish the required detail report
13/3/18

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

No. 255 /F. No. 162/Vol:14/Appeal of
PST(M)General.
Dated Peshawar the 14/03/2018.

To,

The District Education Officer (M)
Malakand.

Subject: - **DEPARTMENTAL APPEAL.**

I am directed to refer to the subject noted above and to enclose herewith a copy appeal in respect of Mr. Muhammad Yaseen PSHT Khushal Garh Tehsil Dargai Malakand and to you to submit detail report/comments to this office within a week time.

[Signature]
Assistant Director (Estab :)
Elementary & Secondary Ed
Khyber Pakhtunkhwa Peshaw
* 13/3/18

Endst: No. _____

Copy forwarded to the:-

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

Assistant Director (Estab :)
Elementary & Secondary Ed
Khyber Pakhtunkhwa Peshaw

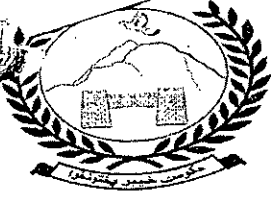
[Signature]
ADO P.M.
27/3/18

Office is not responsible
if inland registered

18

Amnazeem (H-I)

53



**OFFICE OF THE
DISTRICT EDUCATION OFFICER,
(MALE) MALAKAND**

No. 290 /Pry/Inq: Khushal Garh.
Dated: 11-9- /2018.

To,

The Director,
E&SE KP Peshawar.

Regd.

Subject:- **DEPARTMENTAL APPEALS.**

Memo:

Reference your office memo No.4285/F.N.162/Vol:11/Appeal of PST (M)General dated 2/3/2018 and No.2855/Vol:11/Appeal of PST (M)General dated 2/3/2018 both on the above subject.

In this regard it is stated that a detailed procedure of inquiry has been processed against the accused teachers i.e. Mr: Khan Bahadar SPST and Mr: Muhammad Yaseen PSHT GPS Khushal Garh which copies are attached as given below for your kind perusal and further necessary action please.

- 1 Verious complaints by the DC of Khulee Kachihri ,Community members & PTC Chairman & other Members of the PTC.
- 2 Copies of Show cause notice, inquiry report, Office ordeer regarding personal hearing, minutes of hearing Committee.
- 3 Notification regarding minor penalty i.e Stopage of one increment for one year".

Encl:As above.

11/11/18
DISTRICT EDUCATION OFFICER,
(MAKE) MALAKAND



(19) Registered
Amroze J

DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

No. 142 /F.No.162/Vol:IX/Appeal of
PST(M)General.
Dated Peshawar the 3 5 /2018.

To,

The District Education Officer (M)
Malakand.

Subject:- **DEPARTMENTAL APPEAL.**

Memo:-

I am directed to refer to your letter No.2902 dated 11.04.2018 on the subject cited above and to state that the appeal of Mr. Muhammad Yaseen PSHT GPS Khushal Garh Malakand in light of DEO(M)Malakand report is hereby rejected.

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

3/5/18
Deputy Director (Estab)
Elementary & Secondary Edu
Khyber Pakhtunkhwa Peshawar.

Endst: No. _____

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

*1) TAW
1/20 of Yaseen
concerned*

Deputy Director (Estab :)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MALAKAND

Endst: No. 4085-87 /CNIC Verifications.

Dated 21-05 /2018.

Copy of the above is forwarded to the :-

- 1 Deputy Director (Estab) E&S Education KP Peshawar with ref: to the above letter.
- 2 SDEO (Male) Dargai with the remarks that the above named teacher may be informed accordingly.
- 3 Mr.Muhammad Yaseen, PSHT GPS Khushal Garh District Malakand for information as noted above.

31/5/18
DISTRICT EDUCATION OFFICER,
(MALE) MALAKAND.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1565 /ST

Dated: 09/08 /2021

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,
Malakand.

Subject: JUDGMENT IN APPEAL NO. 784/2018, MR. MUHAMMAD YASIN.

I am directed to forward herewith a certified copy of Judgement dated
07.07.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR