

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 828/2018

Date of Institution ... 13.06.2018
Date of Decision ... 03.06.2021

Mr. Khalid Khan Ex-Computer Operator Office of DEO (Female), Mardan.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and four others.

... (Respondents)

MUHAMMAD AMIN AYUB
Advocate

...

For Appellant

MUHAMMAD ADEEL BUTT
Additional Advocate General

...

For Respondents

MR. SALAH UD Din

...

MEMBER (J)

MR. ATIQ UR REHMAN WAZIR

...

MEMBER (E)

JUDGMENT: -

Mr. ATIQ UR REHMAN WAZIR: - Brief facts of the case are that the appellant, while serving as computer operator in Education Department was proceeded against on the charges of changes made in the merit list of NTS candidates in the office of District Education Officer (Female) Mardan, which resulted into irregularities in the appointments made to this effect. As a result of disciplinary proceedings, major penalty of dismissal from service was imposed upon the appellant, vide impugned notification dated 30-01-2018. The appellant filed departmental appeal dated 20-02-2018, which was also rejected vide order dated 05-06-2018. Feeling aggrieved, the appellant filed the instant service appeal with the prayer that the impugned orders

mentioned above may be set aside and the appellant may be re-instated in service with all back benefits.

02. Written reply/comments were submitted by respondents.

03. Learned counsel for the appellant has contended that the appellant was wrongly and illegally proceeded against, as the appellant was posted as Computer Operator in EMIS Section only for the purpose of entry of questionnaire regarding school census into EMIS database and was having no concern whatsoever, with the process of recruitment; that no documentary order is available on record, which could show that the appellant was assigned any duty in the recruitment process; that an inquiry was initiated against the DEO (F) Mardan along with seven other officials including the appellant, wherein the main charges leveled against DEO (F) were non-constitution of scrutiny committee and departmental selection committee for the purpose, whereas the so-called committee, which made such recruitment was verbally made without issuance of any notification to ascertain the level of responsibility assigned to every official; that as is evident from the inquiry report, the final merit list was not signed by members of the so-called departmental selection committee, which raises so many questions about the credibility of officials, who actually conducted the recruitment process; that the appellant was implicated merely on the ground that he was a computer operator in the said office. Learned counsel for the appellant contended that the actual culprits were awarded minor penalties, whereas the appellant was awarded major penalty of dismissal from service, which is discriminatory on part of the respondents. Reliance was placed on 2004 SCMR 158. Learned counsel for the appellant added that the respondents merely relied upon recommendations of the inquiry officer and ignored the fact that no specific allegation through evidence was proved against the appellant, whereas the prosecution was duty bound to prove the allegations for which the appellant was dismissed. Reliance was placed on 2020 SCMR 1245. Learned counsel for the

appellant further added that departmental appeal of the appellant was rejected without mentioning any reason, it however was obligatory upon the respondents to decide his representation with reason. Reliance was placed on 2004 PLC (CS) 294 and 2008 PLC (CS) 970. Learned counsel for the appellant argued that the fact finding inquiry so conducted was replete with deficiencies as it was conducted in questionnaire form, which procedure had been disapproved by the Supreme Court of Pakistan. Reliance was placed on 2008 PLC (CS) 786 and 1993 SCMR 1440. That major penalty of dismissal from service was imposed upon the appellant without holding a regular inquiry and recording of evidence, which was a gross violation of article 10-A of the Constitution. Reliance was placed on 2015 PLC (CS) 381, 2009 SCMR 412, 2019 PLC (CS) 224 and 1996 SCMR 802. Learned counsel for the appellant contended that no proper opportunity of personal hearing was afforded to the appellant and departure from such rule may render such order illegal. Reliance was placed on PLD 2008 SC 412. Learned counsel for the appellant have referred to Section 2 (f) (ii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, whereas in case of appellant competent authority for personal hearing was Chief Secretary, but record reveals that the appellant was provided opportunity of personal hearing by Secretary Education, which was illegal and contrary to the provisions of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Learned counsel for the appellant added that as is evident from record there is no evidence whatsoever to prove that such changes were made in the merit list by the appellant, but he was penalized mere on presumption that his wife was also a candidate in such recruitment, which might have prompted the appellant to bring changes in the merit list. That the respondents ignored the main culprits and held the appellant responsible for an irregularity, which was not committed by him. Learned counsel for the appellant prayed that in view of

the above situation, the impugned order dated 30-01-2018 may be set aside and the appellant may be re-instated in service with all back benefits.

04. Learned Additional Advocate General, representing the respondents has contended that a proper inquiry was conducted against the appellant as well as seven other delinquent officials, where proper opportunity of defense was afforded to the appellant, but the inquiry so conducted held the appellant responsible for making changes in the merit list, which resulted into irregularities in the recruitment process. He further added that wife of the appellant namely Lubnaz was also recruited in the process, who served for almost three months, but was dismissed from service. That the appellant misguided the selection committee by submitting manipulated merit list. That the appellant was rightly penalized in accordance with law and every opportunity of defense was afforded to the appellant but he failed to prove his innocence. Learned Additional Advocate General prayed that the instant appeal being devoid of merit may be dismissed.

05. We have heard learned counsel for the parties and have perused the record.

06. Record reveals that in order to fill in certain vacancies in the office of DEO (Female) Mardan, the District Education Officer, being competent authority for such recruitments, adopted an irregular procedure. The inquiry so conducted reveals that no scrutiny committee and departmental selection committee was constituted for the purpose and the job description introduced and circulated by Education Department was ignored. The report further reveals that such recruitments were made by a departmental selection committee verbally constituted by the District Education Officer. According to the instructions Manual of Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa dated 22-10-2014, members of DSC are mandated to check and cross check the record thoroughly and confirm score of each

an incompetent authority, which is sheer violation of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

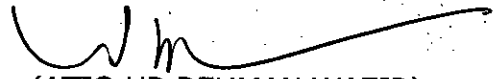
07. In view of the above discussion, the instant appeal is accepted and the appellant is re-instated in service with all back benefits. No orders as to costs. File be consigned to record room.

ANNOUNCED

03.06.2021



(SALAH UD DIN)
MEMBER (JUDICIAL)



(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)

ORDER

03.06.2021

Muhammad Amin Ayub, Advocate for the appellant present. Mr. Sajid, ADO (Litigation) alongwith Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted and the appellant is re-instated in service with all back benefits. No orders as to costs. File be consigned to record room.

ANNOUNCED
03.06.2021



(SALAH UD DIN)
MEMBER (JUDICIAL)



(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)

29-3 .2020

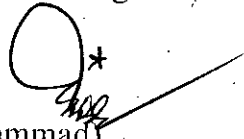
Due to summer vacation, case is adjourned to
16-3-2021 for the same as before.


Reader

16.03.2021

Counsel for the appellant and Addl. AG for the respondents present.

Due to paucity of time, instant matter is adjourned to 31.05.2021 for hearing before the D.B.


(Mian Muhammad)
Member (E)



Chairman

31.05.2021

Mr. Muhammad Amin Ayub, Advocate, for the appellant present. Mr. Sajid, ADO (Litigation) alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Arguments heard. To come up for order before the D.B on 03.06.2021.


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


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

18.08.2020

Due to summer vacations, the case is adjourned to
28.10.2020 for the same.


Reader

28.10.2020


Proper D.B is on Tour, therefore, the case is
adjourned for the same on 29.12.2020 before D.B.


Reader

10.02.2020

Appellant alongwith his counsel and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 03.03.2020 for record mentioned in order sheet dated 01.11.2019 and arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

03.03.2020

Counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Learned DDA seeks adjournment to produce relevant record. Adjourned to 31.03.2020 for record mentioned in order sheet dated 01.11.2019 and arguments before D.B.


Member


Member

31.3.2020

*Due to public holiday on account of covid 19.
therefore the case is adjourned on 10.6.2020
for the same as before*


Member

10.06.2020

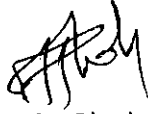
Clerk to counsel for the appellant present. Addl: AG for respondents present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 18.08.2020 before D.B.


MEMBER


MEMBER

01.11.2019

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith M/S Fazle Subhan, Section officer on behalf of respondent No. 2 and Sajid, ADO on behalf of respondents No. 4 & 5 present. Representative of respondent No. 2 is directed to produce all the relevant record of inquiry proceeding on the next date positively. Adjourned to 06.12.2019 for record and arguments before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

06.12.2019

Due to general strike of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Sajid, ADO for the respondents present. Adjourned to 05.02.2020 for record and arguments before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

05.02.2020

Since 5th February has been declared as public holiday on account of (Kashmir Day) therefore, the case is adjourned for the same on 10.02.2020 before D.B. Parties be informed accordingly.




READER

07.08.2019

Appellant with counsel and Mr. Zia Ullah learned Deputy District Attorney alongwith Riaz Gul Admin Officer present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 24.08.2019 before D.B.


Member


Member

~~07.08.2019~~

~~Learned counsel for the appellant present. Mr. Zia Ullah, DDA along with Riaz Gul Admin Officer and other respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for further record and arguments on 24.08.2019 before D.B.~~

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Member~~

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Member~~

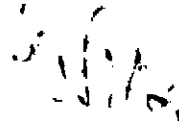
20.09.2019

Learned counsel for the appellant present and requested for adjournment to produce copy of judgment passed in service appeal filed by one Hanif Ullah DEO. Mr. Zia Ullah learned Deputy District Attorney present. Adjourn. To come up for further proceedings/arguments on 01.11.2019 before D.B.


Member


Member

A.L.



25.02.2019

Counsel for the appellant and Mr. Usman Ghani,
District Attorney for the respondents present.

Learned counsel for the appellant requests for
adjournment due to his over occupation before the
Honourable High Court today. Adjourned to
13.05.2019 before the D.B.


Member


Chairman


13.05.2019


Nemo for the appellant. Mr. Zia Ullah Learned
Deputy District Attorney for the respondents present. Due
to leave of the worthy Chairman the case is adjourned to
22.07.2019 for arguments before D.B.


(Hussain Shah)
Member

22.07.2019

Learned counsel for the appellant present. Mr. Zia
Ullah learned Deputy District Attorney for the
respondents present. The copy of the statement of the
witnesses recorded by the inquiry officer is not
available on record. Respondents are directed to direct
the representative to attend the court and furnish
complete inquiry record including the copy of statement
of the witnesses. Adjourned. To come up for complete
inquiry record and arguments on 07.08.2019 before
D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

23.07.2018

Learned counsel for the appellant present.
Preliminary arguments heard.

The appellant (Ex-Computer Operator) is aggrieved against the order dated 30.01.2018 whereby he was awarded major penalty of dismissal from service and against the order dated 05.06.2018 whereby his departmental appeal was regretted.

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 11.09.2018 before S.B.

Appellant Deposited
Security & Process Fee



Member

11.09.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply not submitted. Learned AAG sought some time to submit the same. Granted. Case to come up for written reply/comments on 06.11.2018 before S.B.


Chairman

06.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 24.12.2018. Written reply received, on behalf of respondent No.4 by Mr. Fazal Wahid HC.


READER

24.12.2018

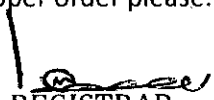

Appellant in person and Addl. AG for the respondents present.

The reply by respondents is already placed on file. To come up for arguments before the D.B. on 25.02.2019. The appellant may submit rejoinder within a fortnight, if so advised.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 828 /2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/06/2018	<p>The appeal of Mr. Khaled Khan resubmitted today by Mr. Khaled Rehman Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR - 28/6/18</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23/7/18</u>.</p> <p style="text-align: right;"> MEMBER</p>

The appeal of Mr. Khaled Khan Ex-Computer Operator Office of the DEO Female Mardan received today i.e. on 13.06.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

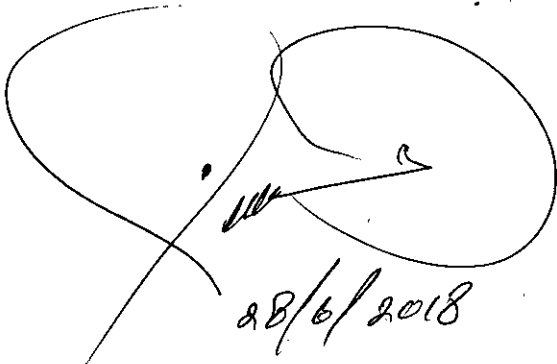
- 1- Memorandum of appeal may be got signed by the appellant.
- 2- The annexures referred to in the memo of appeal are not attached with the appeal which may be placed on it.

No. 1219 /S.T,

Dt. 13/06 /2018.


REGISTRAR 13/6/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khaled Rehman Adv. Pesh.

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- لکھو کالہ کالہ
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28/6/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 828 /2018

Khalid Khan..... Appellant

Versus

The Govt. of KPK and others..... Respondents

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Through

Appellant

Khaled Rahman
Advocate,
Supreme Court of Pakistan
3-D, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

Dated: 28 /06/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 828 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1047

Dated 13-6-2018

Mr. Khalid Khan

Ex-Computer Operator

Office of the D.E.O. (Female), Mardan

Appellant

VERSUS

1. **The Govt. of Khyber Pakhtunkhwa**
Through Chief Secretary,
Civil Secretariat, Peshawar.
2. **The Secretary**
Govt. of Khyber Pakhtunkhwa
Elementary & Secondary Education Department,
Civil Secretariat, Peshawar.
3. **The Director,**
Elementary & Secondary Education
Khyber Pakhtunkhwa,
Directorate of Elementary & Secondary Education,
G.T. Road, Peshawar
4. **The District Education Officer (Male),**
District Mardan
5. **The District Education Officer (Female),**
District Mardan.....

Respondents

Filed to-day

Registrar

13/6/18

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 30.01.2018 WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE AGAINST WHICH HE FILED REVIEW/APPEAL BEFORE THE COMPETENT AUTHORITY ON 20.02.2018 BUT THE SAME WAS UNLAWFULLY REGRETTEED VIDE IMPUGNED APPELLATE ORDER DATED 05.06.2018.

Re-submitted to-day
and filed.

PRAYER:

On acceptance of the instant appeal, impugned Notification dated 30.01.2018 and impugned appellate order dated 05.06.2018 may kindly be brushed aside and the appellant be reinstated into service with all back benefits.

Registrar
13/6/18

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the appellant was inducted in the Police Force as Constable on 07.02.2002. Later on, he was appointed against the post of Computer Operator in the Education Department through proper channel on 26.12.2009. Throughout his service, he performed his duty honestly, efficiently and to the entire satisfaction of his high-ups and no complaint whatsoever has ever been raised against him from any quarter. At the time of passing impugned Notification, appellant was posted in the office of Respondent No.5.
2. That it is submitted that whenever result of the NTS test is announced, Merit Lists are published on the site, the same are downloaded in the office of the concerned DEOs. Furthermore, the same are in access of all the officials of the concerned office. It is important to add here that the job description of the designated post held by the appellant has not been specified and as such the responsibilities as Computer Operator in EMIS Section is entries of questionnaires regarding school census, into the EMIS data-base and their further submission to provincial EMIS at Peshawar Secretariat for generating reports to high-ups for planning and development in Education Sector and other work entrusted by the competent authority for the time being in public interest.
3. That while performing duties, when all of sudden appellant was charge sheeted and statement of allegations (**Annex:-A**) alleging therein changes in the merit list of NTS candidates against Qaria post in DEO(F) Office, Mardan. Since the charges were unfounded, misplaced therefore, appellant denied the same and made a detailed reply (**Annex:-B**) thereto thereby explaining his position before the Competent authority. Copy of the reply may be considered as part of this appeal.

4. That it is noteworthy that after announcing NTS result, the Respondent No.5 endorsed/approved vide Pay Release order of the candidates dated 15.06.2015 (*Annex:-C*) declared that appointee score was also compared with the Merit List and found correct as per condition No.5 of the appointment order, hence appointee's pay is hereby released w.e.f. the date of her taking over charge.
5. That thereafter, on the basis of false allegation a summary and fact finding enquiry was conducted against the appellant and 07 others by the Enquiry Committee at the back of the appellant and the report was then submitted to the competent authority. Even the copy of the report (*Annex:-D*) was obtained by appellant himself. It is necessary to add here that the Enquiry Committee recommended other delinquent civil servants who were also enquired into along with appellant for minor penalties:

S#	Name	Designation	Recommended penalty	Imposed Penalty
1.	Mr. Hanifullah,	DEO (F) (BPS-19)	withholding one increment for one year	withholding one increment for one year
2.	Mst. Dilshad Begum	Ex-DEO (F)	withholding of one increment for three years	withholding of one increment for three years
3.	Mst. Farida Begum	Principal, GGHSS Rustam Khel	Censure	Exonerated from the charges.
4.	Mst. Saeeda Begum	Principal (BPS-20) GGHS No.1, Mardan	withholding one increment for one year	withholding one increment for one year
5.	Mr. Abdullah Jan	Junior Clerk (BPS-11)	Dismissal from service	withholding of one increment for three years
6.	Mr. Khalid Khan	Computer Operator (BPS-12)	Dismissal from service	Dismissal from service

Thus, vide impugned order dated 30.01.2018 (*Annex:-E*) appellant was imposed upon major punishment of dismissal from service while the other awarded minor punishment even Mr. Abdullah Jan, Junior

Clerk (BPS-11) who was recommended for major penalty of dismissal from service while he was imposed upon minor penalty of withholding of one increment for three years while the appellant was awarded such a harsh punishment. (Orders dated 30.01.2018 *Annex:-F*).

6. That on the basis of the illegal and incorrect findings, the competent authority issued the appellant a Show Cause Notice (*Annex:-G*) which too was replied (*Annex:-H*) in detail thereby appellant explained his position before the Competent authority. Reply to the show cause notice may also be considered as part of the appeal.
7. That appellant being aggrieved of the impugned order *ibid*, preferred Departmental Appeal on 20.02.2018 (*Annex:-I*) but the same was unlawfully regretted vide impugned appellate order dated 05.06.2018 (*Annex:-J*), hence instant appeal *inter alia* on the following grounds,

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That the charge of changing NTS result as well as making false entry is totally misplaced accusations and appellant has fully explained his position in that respect before the Competent authority but no heed was given to the explanation offered by the appellant.
- C. That appellant has been imposed upon the major penalty on the basis of no evidence. Not an iota of material has been brought to prove the allegations leveled against the appellant; therefore, the impugned orders are arbitrary, unlawful and hence not sustainable in the eye of

law.

- D. That it is admitted fact that appellant was facing enquiry alongwith other civil servants who were also charged the same allegations but they were awarded only minor penalties, interestingly Mr. Abdullah Jan, Junior Clerk was recommended for dismissal from service but was awarded minor penalty. Similarly one of the delinquent civil servants Mst. Fardia Begum, Principal, GGHSS Rustam Khel recommended for censure was also exonerated from the charges while a discriminatory treatment has been meted out to appellant.
- E. That instead of a regular enquiry, an irregular, fact finding enquiry was conducted in a highly pre-judicial manner and without any evidence the conclusion was jumped upon suddenly on the basis mere surmises and conjectures declaring charges as proved in utter deviation of the procedure and Rules on the subject which has resulted into serious miscarriage of justice.
- F. That it is a settled legal principle that where major penalty is proposed then only a regular enquiry is to be conducted wherein the accused must be associated with all stages of the enquiry including the collecting of oral and documentary evidence in his presence and he must be confronted to the same and must be afforded an opportunity of cross-examining the witnesses. In the case in hand a summary enquiry was concluded in an irregular manner and appellant was illegally found guilty without any evidence. Thus the impugned enquiry being irregular and the impugned orders based thereupon are nullity in the eye of law and hence liable to be set aside.
- G. That the controversy was indeed factual in nature and the same could only be resolved by holding a regular enquiry. It is also a settled legal principle that in such eventuality where factual controversy is involved then only alternative left with the competent authority is to

hold a regular enquiry into the allegations. Since no such enquiry had been contemplated, therefore, the direct and abrupt conclusion arrived at by the Enquiry Officer is ill-founded and therefore not maintainable.

- H. That not only appellant was denied association with enquiry proceedings but even copy of the same not provided to him to prepare his defense and thus appellant was rendered defenseless in an illegal manner. Article-10A of the Constitution of the Islamic Republic of Pakistan, 1973 has been violated and appellant was not given a chance of fair trial.
- I. That no opportunity of personal hearing was afforded to the appellant neither by the competent authority, nor by the Enquiry Officer nor even by the appellate authority which are the mandatory requirements of law. Thus appellant was condemned unheard as the action has been taken at the back of the appellant which is against the principle of natural justice.
- J. That the appellant has served the Department for about 8 years and has consumed his precious life in the service and keeping in view his longstanding unblemished service the imposition of the major penalty in peculiar facts and circumstances of the case is harsh, excessive and does not commensurate with the guilt of the appellant.
- K. That the impugned order of the appellate authority is also void ab-initio because no reasons muchless lawful have been given in support of the order which is against the provision of Section-24A of the General Clauses Act-1897.
- L. That appellant would like to offer some other additional grounds during the course of arguments when the stance of the Respondents is known to the appellant.

candidate from the documents, but such exercise was totally ignored by members of the so called committee. It was also noted that final merit list was not signed by members of the committee verbally made, which made the whole process dubious and suspicious. In the whole episode, we did not find any clue to linkup the appellant with the process of recruitment as no documentary evidence is available on record to ascertain that the appellant was assigned any duty in the recruitment process. The inquiry so conducted is replete with deficiencies, as no evidence is brought on record to show that the appellant brought such changes in the merit list. Presumably, if any changes were made in the merit list by anyone, it was responsibility of the departmental selection committee to have made thorough scrutiny of the record, prior to making of recommendations for appointment. We have observed that the appellant was held responsible mainly on the presumption that as his wife was also recommended for appointment, however in absence of any cogent evidence, making liable the appellant for any maneuvering in the merit list, the appellant cannot be awarded penalty merely on the ground that his wife was also appointed. Furthermore, the responsibility of carrying out of the recruitment in a fair and transparent manner in accordance with law was the duty of members as well as chairperson of the so called departmental selection committee, however they have been awarded minor penalties, whereas the appellant was wrongly and illegally awarded the major penalty of dismissal from service. In light of material available on record, it was observed that the whole proceedings regarding recruitment were carried out in slip shod manner, without resorting to proper legal procedure. it is a well settled legal proposition that regular inquiry is must before awarding major penalty, whereas the inquiry in question was conducted in questionnaire form, which procedure has already been disapproved by the worthy Apex Court. Needless to mention that opportunity of personal hearing was afforded to the appellant but with

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through


Appellant

Khaled Rahman,
Advocate,
Supreme Court of Pakistan

Dated: 28 /06/2018

2

Annex 'A' 8

CHARGE SHEET

I, **Pervez Khattak** Chief Minister Khyber Pakhtunkhwa, as Competent Authority, hereby charge you **Mr. Khalid Khan, Computer Operator (KPO) (BS-12) o/o DEO (F) Mardan** as follows:-

That you, while posted as **Computer Operator (KPO) (BS-12) o/o DEO (F) Mardan** committed the following irregularities:-

- i. You made changes in the merit list of NTS candidates against ~~Order No.~~ in DEO (F) office Mardan.
 - ii. Resultantly irregularities have been found in the appointments ~~of~~ NTS candidates by making fake merit list, but you did not bring ~~the~~ position into the notice of highups in this regard.
 - iii. You were responsible to point out the irregularities in the merit list, but you failed to do so.
2. By reasons of the above, you appear to be guilty of misconduct under ~~Rule 4~~ of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.
3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Inquiry Officer/ Inquiry Committee, as the case may be.
4. Your written defence, if any, should reach the Inquiry Officer/Inquiry Committee within the specified period, failing which it shall be presumed that you have no defence to put forward and ex-parte action shall be taken against you.
5. You should also intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.

**Mr. Khalid Khan, Computer Operator (BS-12),
o/o District Education Officer (F),
Mardan.**

Pervez Khattak
**(Pervez Khattak)
Chief Minister
Khyber Pakhtunkhwa**
4/3/16

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DISCIPLINARY ACTION

I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Mr. Khalid Khan, Computer Operator (KPO) (BS-12) o/o DEO (F) Mardan has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Services (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- i. He made changes in the merit list of NTS candidates against Qaria Posts in DEO (F) office Mardan.
 - ii. Resultantly irregularities have been found in the appointment orders of NTS candidates by making fake merit list, but he did not bring factua position into the notice of highups in this regard.
 - iii. He was responsible to point out the irregularities in the merit list, but he failed to do so.
2. For the purpose of inquiry against the said accused with reference to the above allegations, an Inquiry Officer/Inquiry Committee, consisting of the following, is constituted under rules 10(I)(a) of the rules ibid:-

Mr. Muhammad Arifeen (PCS-SG-BS-21)
Mr. Zahid Khalil, P.L. RITE Charsadda

3. The Inquiry Officer/Inquiry Committee shall, in accordance with the provisions of the rules ibid, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join proceedings on the date, time and place fixed by the Inquiry Officer/Inquiry Committee.

Pervez Khattak
(Pervez Khattak)
Chief Minister
Khyber Pakhtunkhwa

Mr. Khalid Khan, Computer Operator (BS-12),
o/o District Education Officer (F),
Mardan.

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(16)

⑤ 2nd Reply

Annex B²

- 10

To:

1. Mr. Muhammad Arifeen (Secretary Law Department Khyber Pakhtunkhwa) (Inquiry Officer)
2. Mst. Wahida Khalil (Principal RITE-Female Rajjar, Charsadda) (Inquiry Officer).

Subject: **REPLY TO THE CHARGE SHEET**

Respected Sir,

In Reply to the Charge Sheet dated 04/03/2016, received by me on 18/03/2016, I very humbly submitted my reply as under:

1. That the applicant is posted as computer operator BS-12, at office of DEO Female Mardan. It is pertinent to mention here that ever since my appointment, I am performing my duties with great zeal, dedication and without giving any chance of complaint what so ever regarding my performance.
2. That an inquiry has been initiated against the applicant for certain acts/ omissions within the meaning of Rule 03 of the Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules, 2011 resultantly Charge Sheet issued to the applicant from the competent authority.
3. That Para wise reply to the charges leveled against the applicant in charge sheet is as under:-
 - i. That the applicant is neither involved in the recruitment process nor a member of the scrutiny committee and was not the Dealing Assistant regarding the matter in hands. The job description of the post held by the applicant has not specified and as such the responsibilities of the applicant being a Computer Operator in EMIS Section is, entry of Questionnaires regarding school Census into the EMIS Data Base and submission of the said data to the provincial EMIS for further process. The applicant was totally unaware regarding changes made in the merit list of NTS candidates against Qaria post in DEO Female Office Mardan. In this respect the competent authority constituted a committee to carry out interview, documents checking and merit list checking for the post of DM, PET, AT, PST, Qaria vide notification No. 1454 dated 02/03/2015.
 - ii. It is pertinent to mention here that the Directorate sent an Email and the same has been submitted to the competent authority for perusal and further necessary action. The EMIS Section has no concern with appointment process rather it is the Dealing Assistants who then proceed further with the process as desired by the competent authority.

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- iii. The applicant is not involved in preparing of any kind of fake merit list. Whatever I received from the Directorate has been submitted to the competent authority, in soft form, for necessary action. As for the matter of bringing it into the notice of the high ups is concerned it is submitted that I have no concern with same, being not competent authority. Moreover it is the duty of the Scrutiny Committee, Dealing Assistants and Competent Authority to properly and thoroughly check the merit position of each and every candidate before issuing the recruitment order and the concern dealing hands are duty bound to verify the entire testimonials of all appointees from the concerned Boards/ universities before issuing pay release order hence there is no negligence on the part of the applicant being Computer Operator.
4. That I have never committed any act or omission which could be termed as misconduct, the charges leveled against me are incorrect and baseless.
5. That I have long and spotless service career at my credit and I can never imagine doing an act which could bring bad name to me and my esteem Department.
6. That it is further submitted that if your good self is not satisfied with the above submissions then the applicant would like to be heard in person. Keeping in view the above submissions, it is very humbly prayed that the subject Charge Sheet may please be dropped and the applicant may please be exonerated from the charges leveled against him.

Your's sincerely,



(KHALID KHAN)

Computer Operator

DEMIS Section

DEO Female Office Mardan.

Dated: 24/03/2016

ATTESTED



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

PHONE/FAX NO. 0937-9230150

Email Address:- emismardan_deofemale@yahoo.com

Annex C²

-12

PAY RELEASE ORDER

Consequent upon the verification of Academic Certificates/Degree from the concerned Board/University through the concerned School vide No.88-00/N Dated 11/06/2015, in respect of Mst. Lubnaz Begum (Qaria) D/O Ziarat Said GGHS Dako Baba appointed vide this office Endst: No. Endst: No. 2120/G/ Qaria/Adhoc/ Apptt: Dated Mardan the 25 /03 /2015.


Her score was also compared with the Merit list and found correct as per condition No. 5 of mention appointment order. Hence her pay is hereby released w.e.f the date of her taking over charge.

(DILSHAD BEGUM)
DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN.

Endst: No. 5229-32 /Pay Release/Qaria File, dated Mardan the 15/6 /2015

Copy forwarded to the:

1. District Comptroller of Account Mardan.
2. Head Mistress GGHS Dako Baba w/r to her No. 88-00/N Dated 11/06/2015
3. Accountant Local Office.
4. Personal File


DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN

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Annex "D"

ENQUIRY REPORT

Subject: ENQUIRY AGAINST Ms. DILSHAD BEGUM EX-DISTRICT EDUCATION OFFICER (F) MARDAN AND OTHERS IN THE APPOINTMENT OF QARIA POSTS IN OFFICE OF DEO (F) MARDAN

Pursuant to the Section Officer (School/Female) Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department vide Notification No.SO(S/F) E&SE/4-17/2015 Dilshad Begum DEO (F) dated 11.3.2016 (F/A) the Competent authority has been pleased to constitute an enquiry committee comprising Muhammad Arifeen Secretary Law Department and Ms. Waheeda Khalil Principal RITE (F) Charsadda for conducting enquiry into the subject case under Khyber Pakhtunkhwa Government servants (E&D) Rules,2011 against the following accused Officers/Officials:-

1	Ms Dilshad Begum DEO(F) Malakand Ex-DEO(F) Mardan
2	Ms. Saeeda Begum, Principal GGHS No.1 Mardan
3	Mr. Hanifullah DEO (Male) Chitral
4	Ms Fozia Azam ADEO O/O DEO (F) Mardan
5	Gul Bahader Establishment Supdt O/O DEO(F) Mardan
6	Ms. Zakia Hussain, Assistant Programmer O/O DEO(F) Mardan
7	Mr. Abdullah Jan, J/Clerk O/O DEO (F) Mardan
8	Mr. Khalid Khan, Computer Operator O/O DEO(F)Mardan

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2.

The enquiry was based on the following common charges.

- i. You have made Departmental Selection Committee (DSC) for the selection/appointment of the NTS candidates against Qaria Posts but you did not get final merit list signed from the DSC members
- ii. Resultantly irregularities have been found in the appointment orders of NTS candidates by making fake merit list, but you did not take any punitive action against the concerned
- iii. You failed to check and supervise the whole process of the appointments according to the merit of NTS
- iv. You also failed to take timely action against the concerned staff of your office on account of their illegal act who were fully involved in the fake merit list/appointment orders of NTS candidates

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3. All the above Officers/Officials were charge sheeted by the Competent authority and were asked to submit their written replies if any in their defense. Replies to the statement of allegations given by the accused(s) are available at F/B to F/J. Their replies were sifted and in order to reach logical conclusion supplementary questionnaires were served upon the accused(s) as per succeeding para.

4. The Enquiry Committee put the following supplementary questions to the accused (s) which are available in the enquiry report from F/K to F/R.

- a. Have you constituted Departmental Selection Committee (DSC) for appointment of Qaria posts? If so, please provide copy of Notification of Departmental Selection Committee.
- b. Please provide copy of minutes of DSC duly signed by all members of the Committee.
- c. Under what criteria you have checked and scrutinized the whole process of NTS appointment.
- d. When did you know the irregularities found in the appointment of Qaria posts i.e during the process or after appointment made against these posts. Please give details with facts and figures.
- e. Whether timely action has been taken against the defaulters involved in the process or action was delayed intentionally. Give reasons.

Proceedings:

5. All the accused were given personal hearing on 25.4.2016 at 10:00 am. Their replies to the Charge Sheets and replies to supplementary questions were examined and accused were cross examined in the presence of Ms. Shaukat Ara, Assistant Director (Establishment) Directorate of E&SE and Mr. Roohullah, Budget & Accounts Officer O/O DEO (F) Mardan as departmental representative. All the accused (s) have denied the charges but they had no documentary proof to absolve themselves from the charges leveled against them. When members of Departmental Selection Committee were confronted whether they had received copy of Departmental Selection Committee before signing minutes of Departmental Selection Committee they replied in negative.

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Similarly Mr. Khalid Khan Computer Operator and Mr. Abdullah Junior Clerk could not provide any documentary proof for not involving in the changes made in the merit list of NTS test. During inquiry proceeding result was downloaded by the Committee through Mr. Khalid Khan Computer Operator from Website of NTS vide F/S. But when he was confronted by the Committee to demonstrate the technique adopted for changes made in merit list by him. He denied the charge. When cross examined in the presence of Ms. Dilshad Begum Ex-DEO(F) Mardan that when did he submit result of NTS to her that is the same day as claimed by him in his reply, the DEO(F) explained the whole position and informed the Committee that she had received the result from Computer Operator after a week. During a week time he managed to change the result by changing marks of her wife Ms. Lubnaz Begum from 37 to 72 which altered the whole merit of passed candidates. This makes the whole selection process of appointment of Qaria posts doubtful which needs thorough probe for its authenticity. On the same analogy Ms. Zakia Hussain Assistant Programmer and Mr. Gul Bahadar participation in the recruitment process was must but these Officers remained disassociated for the reasons best known to them. Similarly Ms. Farida Begum being member of DSC did not turn up for participation in DSC meeting. Mr. Abdullah Jr. Clerk with the connivance of Mr. Khalid Khan Computer Operator prepared merit list and with each other collusion they managed to deceive Scrutiny Committee and Departmental Selection Committee. In the nutshell wrong appointment of Ms. Lubnaz Begum was made possible due to Mr. Khalid Khan Computer Operator and Mr. Abdullah Jr. Clerk. Ms. Dilshad Begum EX-DEO (F) Mardan through trust as team work posed Confidence on them whereas both of them betrayed her trust which resulted in wrong appointment of Ms. Lubnaz Begum. However when on a receipt of complaint from one of the candidates namely Mst. Saima Naz, the Ex-DEO(F) Mardan not only withdrew appointment of wrong selectee but also recovered pay from the selectee later on. If step for "Nip the evil in the bud" would have been taken by DEO(F) Mardan then nothing would have happened unpleasant.

Findings:

6. The Enquiry Committee after proceedings comes to the following findings that:-

- (i) There is nothing on record to prove that Departmental Selection Committee (DSC) for appointment of Qaria posts in Office of DEO (F) Mardan had been constituted which is must as for filling

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of vacancies in the initial recruitment of any post three essential components (i) availability of posts (ii) Selecting authority i.e. Departmental selection Committee (DSC) in this case and (iii) Appointing authority are sine qua non.

- ii) When members of DSC were confronted by the Enquiry Committee that why they had attended meeting of DSC they had no answer for attending meeting of DSC except verbal instructions by the department. According to Rule 5 of Government of Khyber Pakhtunkhwa Rules of Business, 1985 all verbal orders shall be reduced in writing. This aspect (verbal directions) of the case is also not covered under the aforesaid rules.
- iii. In the whole appointment process the job description introduced and circulated by E&SE department was not followed by Ex-DEO (F) Mardan which resulted into this mess. Those responsible in the process of recruitment such as Mr. Gul Bahadur Superintendent Establishment, Ms. Zakia Hussain Assistant Programmer could not absolve themselves in the process.
- iv. According to the Instructions Manual of Directorate of E&SE Khyber Pakhtunkhwa dated 22.10.2014 the members of the Departmental Selection Committee are mandated to check and cross check the record thoroughly and confirm score of each candidate from the documents, but it seems that this exercise has not been carried out by so called members of the DSC for onward submission to Chairperson of the Committee
- v. It has been confirmed that neither the scrutiny committee nor the Departmental Selection Committee carried out its functions which resulted in the wrong appointment of Ms. Lubnaz as Qaria in the selection process.
- vi. Mr. Khalid Khan, Computer Operator denied relationship with Ms. Lubnaz in writing as well as in Enquiry proceedings whereas according to documents made available from NADRA confirms that she is wife of Mr. Khalid Khan Computer Operator and he successfully made changes in the merit list of NTS results for getting appointment of his wife whereas his sister result in NTS was also available but he did not temper the same to prove himself that his is innocent.

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- Vii Despite the fact that no written orders of Ex-DEO(F) Mardan for carrying out appointment process of Qaria posts are available on record in favour of Mr. Zakia Hussain Assistant Programmer and Mr. Gul Bahadur, Superintendent Establishment but they also remained silent in the whole process which is mis-conduct.

Conclusion:

7. It is evident from above description that except Mr. Zakia Hussain Assistant Programmer and Mr. Gul Bahadur Establishment Superintendent partially all the accused (s) are responsible for the negligence committed by them for signing minutes by so called members of the Departmental Selection Committee without confirming merit position and other criteria of selection process which resulted into the appointment of a candidate namely Ms. Lubnaz being ineligible candidate. Due to tempering in the merit list of NTS test by Mr. Khalid Khan Computer Operator, the whole merit list became dubious and resultant appointment needs revision by another Committee to see the genuineness of those candidates already appointed as result of recruitment process.

8. It is crystal clear that without constitution of Departmental Selection Committee the whole process of recruitment of Qaris is irregular and illegal.

Recommendations:

- i. E&SE Department should issue standing instructions to the Directorate of E&SE Khyber Pakhtunkhwa and all District Education Officers in the Province to constitute Departmental Selection Committees (DSCs) as well as Departmental Promotion Committees (DPCs) according to the format as contained in Khyber Pakhtunkhwa Establishment Code (Page-39) before making any initial appointment or promotion in a transparent manner in future.
- ii. The body NTS is also questionable because it is a non-government Organization, and its services are hired for various recruitment process in government sector and it is paid huge amounts, the amount is not deposited in government treasury rather goes to private sector, While we already have a body like

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ETEA which is a Government body and the amount paid to it is deposited in the Government treasury. So far recruitment in Government sector is concerned the services of ETEA should be hired instead of NTS.

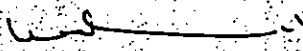
- iii. A high powered Committee may be constituted by E&SE Deptt. in the already made appointments against Qaria posts in Office of DEO (F) Mardan to sift these appointments according to the laid down criteria to bring justice to the candidates who had applied for these posts.
- iv. Since the illegal appointment namely Ms. Lubnaz Begum made by Ms. Dilshad Begum Ex-DEO(F) Mardan already stands terminated and pay deposited in the relevant head of account, therefore no loss occurred to provincial ex-chequer, the Committee recommends that penalty of stoppage of three increments for one year may be imposed upon Ms. Dilshad Begum Ex-DEO (F) for her negligence for not notifying Departmental Selection Committee(DSC) in the matter and not assigning duties to the concerned staff in the whole process.
- v. One increment for one year may be stopped of the so called members i.e Ms. Saeeda Begum, Principal of GGHS No.1 Mardan and Mr. Hanifullah, Ex-DEO(M) Mardan of the DSC for signing minutes of invalid DSC without asking for copy of notification of DSC or knowing status of DSC. This cannot be expected of such a high level officers to do this blunder being highly responsible officers of E&SE Department.
- vi. Ms. Fozia Begum was on maternity leave and did not sign minutes of DSC may be exonerated.
- vii. Ms. Farida Begum a member of DSC should be given censure and transferred from the post because being on an important post she did not attend proceeding of DSC being a member of DSC as well as not confirming in writing which shows carelessness and irresponsibility.



viii. Ms. Zakia Hussain Assistant Programmer and Mr. Gul Bahadur Establishment Superintendent were not involved in the recruitment process however they are on responsible posts and should accept responsibility. They may be given censure and transferred to other stations as they tried to shift the responsibility from themselves although this is a part of their job description.

ix. Charges of changes made in the merit list of NTS by Mr. Khalid Khan Computer Operator were proved beyond any doubt against him may be dismissed from service.

✓ x. Mr. Abdullah Jr. Clerk who remained in preparation of merit list with the Computer Operator in the whole process is equally responsible for wrong appointment may also be dismissed from service on the reason that he did not bring the changes made in the merit list neither in the notice of scrutiny committee nor in the knowledge of DSC.



(MS. WAHEEDA KHALIL)
Principal RITE (F) Charsadda/
Member Enquiry Committee



(MUHAMMAD ARIFEEN)
Secretary, Law, Parliamentary Affairs and
Human Rights Department
Member Enquiry Committee

ATTACHED

Annex "K" 20

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Accountant
local office
per office as
per police &
B. Khan

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the January 30th, 2018

NOTIFICATION

NO. SO(S/F)E&SED/4-17/2015/Inquiry/DEO/Female/Mardan: WHEREAS Mr. Khalid Khan, Computer Operator (BS-12) o/o DEO (F) Mardan was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of bogus appointment orders.

2. AND WHEREAS Muhammad Arifeen (BS-20) Secretary Law Department and Mst. Wahida Khalil, Principal (BS-20) RITE (F) Rajjar Charsadda conducted formal inquiry against the accused.

3. AND WHEREAS the inquiry committee after having examined the charges, evidence on record and explanation of the accused, submitted the report.

4. AND WHEREAS major penalty of "dismissal from service" was imposed vide show cause notice served upon him by the competent authority (Chief Minister, Khyber Pakhtunkhwa).

5. AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence, reply to show cause notice and personal hearing granted to him by the Secretary ST&IT Department Khyber Pakhtunkhwa on behalf of Chief Minister/ Competent authority, is of the view that the charges against him have been proved.

6. NOW, THEREFORE, in exercise of the powers conferred under Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister) is pleased to confirm the major penalty of "dismissal from service" upon Mr. Khalid Khan, Computer Operator (BS-12) o/o DEO (F) Mardan, with immediate effect.

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the:

- i. Principal Secretary to Chief Minister Khyber Pakhtunkhwa
- ii. Accountant General, Khyber Pakhtunkhwa, Peshawar
- iii. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
- iv. District Education Officers (Female) concerned Mardan
- v. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar
- vi. PS to Secretary E&SE Department, Khyber Pakhtunkhwa
- vii. Mr. Khalid Khan, Computer Operator (BS-12) o/o DEO (F) Mardan
- viii. Master File

(ANEELA FAHIM)

SECTION OFFICER (SCHOOLS FEMALE)

ATTESTED

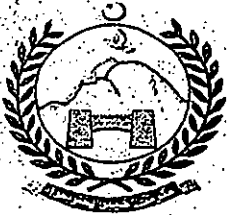
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Notification of dismissed

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GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the January 30th, 2018

NOTIFICATION

NO. SO(S/F)E&SED/4-17/2015/Inquiry/DEO/Female/Mardan: WHEREAS Mr. Hanifullah, DEO (F) BS-19 Chitral was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of bogus appointment orders.

2. **AND WHEREAS** Muhammad Arifeen (BS-20) Secretary Law Department and Mst. Wahida Khalil, Principal (BS-20) RITE (F) Rajjar Charsadda conducted formal inquiry against the accused.

3. **AND WHEREAS** the inquiry committee after having examined the charges, evidence on record and explanation of the accused; submitted the report.

4. **AND WHEREAS** minor penalty of "withholding of one increment for one year" was imposed vide show cause notice served upon him by the competent authority (Chief Minister, Khyber Pakhtunkhwa).

5. **AND WHEREAS** the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence, reply to show cause notice and personal hearing granted to him by the Secretary ST&IT Department Khyber Pakhtunkhwa on behalf of Chief Minister/ Competent authority, is of the view that the charges against him have been proved.

6. **NOW, THEREFORE**, in exercise of the powers conferred under Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister) is pleased to confirm the minor penalty of "withholding of one increment for one year" upon Mr. Hanifullah, DEO (F) BS-19 Chitral, with immediate effect.

On increment

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the:

- i. Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
- ii. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- iii. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- iv. District Education Officers (Female) concerned ~~in~~ Mardan
- v. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- vi. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
- vii. Mr. Hanifullah, DEO (F) BS-19 Chitral.
- viii. Master File.

(Signature)

(ANEELA FAHIM)

SECTION OFFICER (SCHOOLS FEMALE)

ATTES/ED

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Under



Endst to the concerned

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

22

Dated Peshawar the January 30th, 2018

NOTIFICATION

NO. SO(S/F)E&SED/4-17/2015/Inquiry/DEO/Female/Mardan: WHEREAS Mst. Dilshad Begum, Ex-DEO (F) Mardan now DEO (F) Malakand was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of bogus appointment orders.

2. **AND WHEREAS** Muhammad Arifeen (BS-20) Secretary Law Department and Mst. Wahida Khalil, Principal (BS-20) RITE (F) Rajjar Charsadda conducted formal inquiry against the accused.

3. **AND WHEREAS** the inquiry committee after having examined the charges, evidence on record and explanation of the accused, submitted the report.

4. **AND WHEREAS** minor penalty of "withholding of three increments for one year" was imposed vide show cause notice served upon her by the competent authority (Chief Minister, Khyber Pakhtunkhwa).

5. **AND WHEREAS** the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence, reply to show cause notice and personal hearing granted to her by the Secretary ST&IT Department Khyber Pakhtunkhwa on behalf of Chief Minister/ Competent authority, is of the view that the charges against her have been proved.

6. **NOW, THEREFORE**, in exercise of the powers conferred under Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister) is pleased to confirm the minor penalty of "withholding of one increment for three years" upon Mst. Dilshad Begum, Ex-DEO (F) Mardan now DEO (F) Malakand, with immediate effect.

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the:

- i. Principal Secretary to Chief Minister Khyber Pakhtunkhwa
- ii. Accountant General, Khyber Pakhtunkhwa, Peshawar
- iii. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
- iv. District Education Officers (Female) concerned Mardan
- v. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar
- vi. PS to Secretary E&SE Department, Khyber Pakhtunkhwa
- vii. Mst. Dilshad Begum, Ex-DEO (F) Mardan now DEO (F) Malakand
- viii. Master File.

(Signature)

(ANEELA FAHIM)
SECTION OFFICER (SCHOOLS FEMALE)

ATTESTED



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Endst to Mst
concerned
Muhammad
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GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the January 30th, 2018

NOTIFICATION

NO. SO(S/F)E&SED/4-17/2015/Inquiry/DEO/Female/Mardan: WHEREAS Mst. Farida Begum (BS-20) Principal GGHSS Rustam Khel, Mardan was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of bogus appointment orders.

2. AND WHEREAS Muhammad Arifeen (BS-20) Secretary Law Department and Mst. Wahida Khalil, Principal (BS-20) RITE (F) Rajjar Charsadda conducted formal inquiry against the accused.

3. AND WHEREAS the inquiry committee after having examined the charges, evidence on record and explanation of the accused, submitted the report.

4. AND WHEREAS minor penalty of "censure" was imposed vide show cause notice served upon her by the competent authority (Chief Minister, Khyber Pakhtunkhwa).

5. AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence, reply to show cause notice and personal hearing granted to her by the Secretary ST&IT Department Khyber Pakhtunkhwa on behalf of Chief Minister/ Competent authority, is of the view that the charges against her have not been proved.

6. NOW, THEREFORE, in exercise of the powers conferred under Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister) is pleased to exonerate Mst. Farida Begum (BS-20) Principal GGHSS Rustam Khel, Mardan from the charges levelled against her, with immediate effect.

Censure

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the:

- i. Principal Secretary to Chief Minister-Khyber Pakhtunkhwa.
- ii. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- iii. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- iv. District Education Officers (Female) concerned. *Mardan*
- v. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- vi. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
- vii. Mst. Farida Begum (BS-20) Principal GGHSS Rustam Khel, Mardan.
- viii. Master File.

Aneela Fahim
(ANEELA FAHIM)

SECTION OFFICER (SCHOOLS FEMALE)

ATTESTED



*DA Concerns
Endst to the
concerned
Mardan
6/2/18*

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

- 24

Dated Peshawar the January 30th, 2018

NOTIFICATION

NO. SO(S/F)E&SED/4-17/2015/Inquiry/DEO/Female/Mardan: WHEREAS Mst. Saeeda Begum, Principal (BS-20) GGHS No. 1 Mardan was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of bogus appointment orders.

2. **AND WHEREAS** Muhammad Arifeen (BS-20) Secretary Law Department and Mst. Wahida Khalil, Principal (BS-20) RITE (F) Rajjar Charsadda conducted formal inquiry against the accused.

3. **AND WHEREAS** the inquiry committee after having examined the charges, evidence on record and explanation of the accused, submitted the report.

4. **AND WHEREAS** minor penalty of "withholding of one increment for one year" was imposed vide show cause notice served upon her by the competent authority (Chief Minister, Khyber Pakhtunkhwa).

5. **AND WHEREAS** the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence, reply to show cause notice and personal hearing granted to her by the Secretary ST&IT Department Khyber Pakhtunkhwa on behalf of Chief Minister/ Competent authority, is of the view that the charges against her have been proved.

6. **NOW, THEREFORE**, in exercise of the powers conferred under Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister) is pleased to confirm the minor penalty of "withholding of one increment for one year" upon Mst. Saeeda Begum, Principal (BS-20) GGHS No. 1 Mardan, with immediate effect.

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the:

- i. Principal Secretary to Chief Minister Khyber Pakhtunkhwa
- ii. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- iii. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- iv. District Education Officers (Female) concerned *Mardan*
- v. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- vi. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
- vii. Mst. Saeeda Begum, Principal (BS-20) GGHS No. 1 Mardan.
- viii. Master File.

(Signature)

(ANEELA FAHIM)

SECTION OFFICER (SCHOOLS FEMALE)

ATTESTED



*D.A. concerned
Endst. to the
concerned*

6

25

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the January 30th, 2018

NOTIFICATION

NO. SO(S/F)E&SED/4-17/2015/Inquiry/DEO/Female/Mardan: WHEREAS Mr. Abdullah Jan, Junior Clerk (BS-11) o/o DEO (F) Mardan was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of bogus appointment orders.

2. AND WHEREAS Muhammad Arifcen (BS-20) Secretary Law Department and Mst. Wahida Khalil, Principal (BS-20) RITE (F) Rajjar Charsadda conducted formal inquiry against the accused.

3. AND WHEREAS the inquiry committee after having examined the charges, evidence on record and explanation of the accused, submitted the report.

4. AND WHEREAS major penalty of "dismissal from service" was imposed vide show cause notice served upon him by the competent authority (Chief Minister, Khyber Pakhtunkhwa).

5. AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence, reply to show cause notice and personal hearing granted to him by the Secretary ST&IT Department Khyber Pakhtunkhwa on behalf of Chief Minister/ Competent authority, is of the view that the charges against him have been proved.

6. NOW, THEREFORE, in exercise of the powers conferred under Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister) is pleased to impose minor penalty of "withholding of one increment for three years" upon Mr. Abdullah Jan, Junior Clerk (BS-11) o/o DEO (F) Mardan, with immediate effect.

dismissed

SECRETARY

Endst. of Even No. & Date:

Copy forwarded to the:

- i. Principal Secretary to Chief Minister Khyber Pakhtunkhwa
- ii. Accountant General, Khyber Pakhtunkhwa, Peshawar
- iii. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
- iv. District Education Officers (Female) concerned: *Mardan*
- v. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar
- vi. PS to Secretary E&SE Department, Khyber Pakhtunkhwa
- vii. Mr. Abdullah Jan, Junior Clerk (BS-11) o/o DEO (F) Mardan
- viii. Master File

Anela Fahim

(ANEELA FAHIM)

SECTION OFFICER (SCHOOLS FEMALE)

ATTESTED



Endst to me concerned
Maw 6/2/18

- 26

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the January 30th, 2018

NOTIFICATION

NO. SO(S/E&SED/4-17/2015/Inquiry/DEO/Female/Mardan: WHEREAS Mr. Abdullah Jan, Junior Clerk (BS-11) o/o DEO (F) Mardan was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of bogus appointment orders.

2. AND WHEREAS Muhammad Arifeen (BS-20) Secretary Law Department and Mst. Wahida Khalil, Principal (BS-20) RITE (F) Rajjar Charsadda conducted formal inquiry against the accused.

3. AND WHEREAS the inquiry committee after having examined the charges, evidence on record and explanation of the accused, submitted the report.

4. AND WHEREAS major penalty of "dismissal from service" was imposed vide show cause notice served upon him by the competent authority (Chief Minister, Khyber Pakhtunkhwa).

5. AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence, reply to show cause notice and personal hearing granted to him by the Secretary ST&IT Department Khyber Pakhtunkhwa on behalf of Chief Minister/ Competent authority, is of the view that the charges against him have been proved.

6. NOW, THEREFORE, in exercise of the powers conferred under Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister) is pleased to impose minor penalty of "withholding of one increment for three years" upon Mr. Abdullah Jan, Junior Clerk (BS-11) o/o DEO (F) Mardan, with immediate effect.

dismiss

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the:

- i. Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
- ii. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- iii. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- iv. District Education Officers (Female) concerned.
- v. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- vi. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- vii. Mr. Abdullah Jan, Junior Clerk (BS-11) o/o DEO (F) Mardan.
- viii. Master File.

Aneela Fahim
(ANEELA FAHIM)

SECTION OFFICER (SCHOOLS FEMALE)

ATTESTED

SHOW CAUSE NOTICE

Annex 'G' 27

Pervez Khattak Chief Minister Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you Mr. Khalid Khan (BS-12) Computer Operator (KPO) DEO (F) Mardan, as follows:-

- i. That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing; and
- ii. On going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee.

I am satisfied that you have committed the following acts/omissions specified in rule-3 of the said rules.

- a. Inefficiency.
- b. Misconduct.

3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Dismissal from Service under rule 4 of the said rules.

4. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

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

6. A copy of the findings of the inquiry officer / inquiry committee is enclosed.

Pervez Khattak
(Pervez Khattak)
Chief Minister Khyber Pakhtunkhwa
Competent Authority
1/8/2012

Mr. Khalid Khan (BS-12)
Computer Operator (KPO) DEO (F) Mardan.

ATTESTED

G A

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3rd Enquiry/
Final Enquiry
Reply.

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To:

Mr. LalSaeedKhattak,
Section Officer (S/F)
E & SE Department, Govt. of Khyber Pakhtunkhwa,
Peshawar.

Annex "H"

Subject: Reply to Show Cause Notice vide No. SO(S/F) E&SED/4-17/2016 Dated Peshawar 2nd, 2017, Received on 07/08/2017, in r/o Mr. Khalid Khan (BPS-12) Computer Operator o/o DEO (F) Mardan.

Respected Sir,

With reference to the captioned notice (copy is attached for ready reference), the petitioner humbly submits as under:-

1. That, the petitioner is posted in the office of District Education Officer (F) Mardan, as Computer Operator and performing his duties, to the entire satisfaction of his superiors accordingly.
2. That, it was to the utter shock and dismay, when the petitioner received the instant Show Cause Notice, in which the competent authority tentatively decided, to impose the penalty of "Dismissal From Service" on the ground of (a) Inefficiency (b) Misconduct.
3. That, both the allegations are against Law, facts, ground realities and records and the service carrier of the petitioner is spotless and blameless. During his service tenure the petitioner performed his duties honestly and committedly, hence the charges and proposed punishment is too much harsh and against law, and the petitioner is prosecuted for an act which he never committed.
4. That the petitioner already stated before the Inquiry Officers that he not involved in preparing any kind of fake merit list, whatever the petitioner received from the Directorate/NTS had been submitted to the competent authority in soft form, for further preparing merit and necessary actions, hence committed no inefficiency.
5. That the petitioner have not committed any misconduct, because the petitioner have no concern with the recruitment process and the

ATTESTED

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23

competent authority and members of D.S.C, are duty bound to check the merit position and testimonials of each and every candidate before issuing the recruitment order and further the dealing hands are duty bound to verify the entire credentials of all appointees from the concerned Quarters before issuing pay release order, hence there is no misconduct seems on the part of petitioner.

Therefore, it is humbly prayed that keeping in view the service record, good reputation in the department and amongst the colleagues and batch mates and the job description of the petitioner, the petitioner may kindly be exonerated from the charges leveled against and if your good-self is not satisfied with the above submission then the petitioner would like to be heard in person please.

Your'ssincerely,



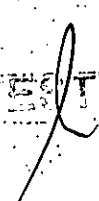
(Khalid Khan)

DEMIS Section

o/o DEO (F) Mardan

Dated 10/08/2017

ATTESTED



①

Annex I

30

To:

The Worthy Chief Minister,
Khyber Pakhtunkhwa, Peshawar

Through: Proper Channel

Subject: Review/Appeal Against the Major Penalty (Dismissal From Service) Imposed, upon the Appellant by the Competent Authority vide Notification No. SO(S/F) E&SED/4-17/2015/Inquiry/DEO/Female/Mardan, dated 30/01/2018, which is against law, facts and in-effective upon the rights of the Appellant and the said impugned Notification dated 30/01/2018 is liable to be set-aside and the Appellant be re-instated into government with entire back-benefits.

Respectfully Sheweth,

The Appellant humbly submitted as under:-

1. That the Appellant namely Khalid Khan joined the government service on 07/02/2002 and was posted as Computer Operator in the Elementary & Secondary Education Department, in the office of DEO (F) Mardan on 26/12/2009.
2. That the Appellant performed his duties, in the main office of District Education Officer, Since 01/07/2013 till date and the entire service record of the Appellant is spotless and blameless and performed his duties/assigned work to the entire satisfaction of his superiors.
3. That the job description of the designated post held by the Appellant has not been specified and as such the responsibilities as Computer Operator in EMIS Section is entries of questionnaires regarding school census, into the EMIS data-base and their further submission to provincial EMIS at Peshawar Secretariat for generating reports to high-ups for planning and development in Education Sector and other work entrusted by the competent authority for the time being in public interest.

ATTESTED

4. That it was to utter-shock and dismay when the Appellant received a Charge Sheet from the Competent Authority, issued on 04/03/2016, regarding multiple allegations including changes in merit list 2015 of NTS candidate in Qaria post in the office of District Education Officer (female) Mardan. **(Copy of Charge Sheet is appended as Annex-A).**
5. That later-on an Inquiry Committee was constituted vide notification dated 11/03/2016. **(Copy of Notification is attached as Annex-B).**
6. That on 24/03/2016, the Appellant submitted his detailed reply to the Charge-Sheet dated 04/03/2016, accordingly before the Inquiry Committee within limit of law, with the rational grounds regarding the allegation leveled against the Appellant, factual position of which are as under:-
 - (a). That the Appellant was neither involved in the recruitment process nor remained a Scrutiny Committee's member and even was not remained as dealing Assistant regarding the subject matter.
 - (b). That the process of NTS result is downloaded when it is sent by the NTS/Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar via E-Mail to District Offices in Excel Sheet (Zipped Form) after which it is collected and circulated by the competent authority to the concerned Dealing Assistant for further recruitment process.
 - (c). That in the entire process of collection of NTS result, the role of the Appellant was just to received it through computer, being a Computer Operator and to disclose it before/through competent authority to all the concerned.
 - (d). That the Inquiry Committee constituted for the purpose, has ignored the facts that changes/alterations in the concerned net pages of NTS has been impossible due to public website.
 - (e). That it is worthy to mention here, that for recruitment process, the NTS result is not sufficient as the candidates are appointed after a long procedure of test and document scrutinization and after which the clear candidates in all respects are appointed, in the whole process, a lot

ATTESTED

of dealing hands and scrutiny/appointment committee are involved, hence irregularity cannot be adopted.

- (f). That even after appointment of the qualified candidates, the original credentials is verified from the concerned quarters by the competent authority for the purpose of release of salary. Hence the entire procedure is adopted with due care and diligence.
- (g). That by ignoring the above mentioned facts, realities and scenario, the constituted Inquiry Committee recommended major penalty (i.e Dismissal from Service) just being a Computer Operator to receive the data and being an innocent one and left the concerned by only imposing minor penalties which is illegal, unjust and unfair. **(Copy of Impugned Notification dated 30/01/2018 is attached as Annex-C).**
7. That it is pertinent to state that the whole Inquiry procedure adopted was not accordingly and neither its member visited the spot nor has re-observed the real facts regarding the subject matter and even not took cognizance relating the procedure of test result collection and just did enquiry from office of the then Secretary Law.
8. *That harsh mood was adopted against the Appellant by imposing major penalty i.e "Dismissal From Service" as the Appellant was being a low-ranked official and has not approached to the high-ups in the matter-in-hand and the other delinquent concerned was just to face minor penalties due to their blue-eyed nature which is totally unjust, illegal and has never meet the end of justice and required to be reviewed/set aside as the entire procedure was mere based on presumptions, assumptions and misreading and non-reading of the actual facts, hence not sustainable in the eye of law.*
9. That the appellant has spotless service career for about (sixteen years (16 years)) and being belong to a poor family having large number of dependant cannot afford the repercussion of this penalty.
10. *That the Appellant has the sheer source of income was just salary and no other means to support his family.*

ATTESTED

11. That the entire notices, issued by the Inquiry Committee and replies submitted by the Appellant are attached for your kind perusal.
12. That the subject-matter badly hits limitation and not maintainable in the eye of law.

Therefore, it is humbly prayed that keeping in view the above mentioned facts, realities and future and service career of the Appellant, the impugned Notification dated 30/01/2018 may kindly be set aside and the Appellant may kindly be re-instated into service w.e.f the date of my dismissal from govt: service, with all back benefits to justify the ends of Justice please.

Dated 16/02/2018

Appellant,


16-02-18

(Khalid Khan)

Ex-Computer Operator

o/o D.E.O (Female) Mardan

Dairy No. ems

Secretariat

III dated 20/02/2018

ATTESTED



Annex J
34

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the June 5th, 2018

OFFICE ORDER

NO. SO(S/E)E&SED/4-17/2015/Inquiry/DEO/Female/Mardan: WHEREAS Mr. Khalid Khan, Computer Operator (BS-12) office of District Education Officer (Female) Mardan was proceeded against under E&D Rules, 2011 on account of bogus appointment orders and major penalty of "dismissal from service" was imposed upon him.

2. **AND WHEREAS** Mr. Khalid Khan filed a departmental appeal against the said penalty, which was examined and was found unsatisfactory.

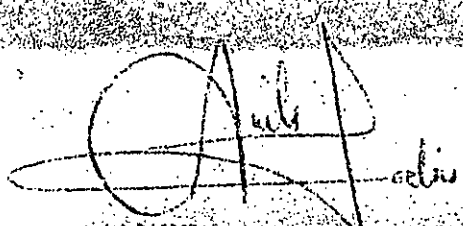
4. **NOW, THEREFORE** the Competent Authority, in view of the above, regretted his appeal having no solid grounds.

Endst: of even No. & date:

SECRETARY

Copy forwarded to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. Director E&SE Khyber Pakhtunkhwa, Peshawar
3. District Education Officer (Female) Mardan
4. District Accounts Officer Mardan
5. in-charge EMIS, E&SE Department for uploading at official website
6. PS to Secretary E&SE Department, Peshawar
7. Official concerned
8. Office order file.



(ANEELA FAHIM)
SECTION OFFICER (SCHOOLS FEMALE)





GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

35

OFFICE ORDER

Dated Peshawar the June 5th, 2018

NO. SO(S/E)E&SED/4-17/2015/Inquiry/DEO/Female/Mardan: WHEREAS Mr. Khalid Khan,

Computer Operator (BS-12) office of District Education Officer (Female) Mardan was proceeded against under E&D Rules, 2011 on account of bogus appointment orders and major penalty of "dismissal from service" was imposed upon him.

2. **AND WHEREAS** Mr. Khalid Khan filed a departmental appeal against the said penalty, which was examined and was found unsatisfactory.

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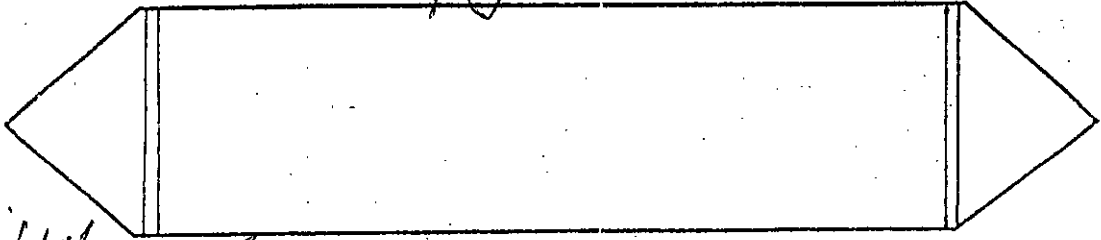
SECRETARY

Copy forwarded to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) Mardan.
4. District Accounts Officer Mardan.
5. In-charge EMIS, E&SE Department for uploading at official website.
6. PS to Secretary E&SE Department Peshawar.
7. Official concerned.
8. Office order file.

(ANJEELA FAHIM)
SECTION OFFICER (SCHOOLS FEMALE)

بعدالت سررسہ درجہ اولیٰ



2018ء پنجاب اسمبلی

غلام غسان بنام وراثت

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آئینکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کے لئے سررسہ درجہ اولیٰ کیلئے غلام غسان بنام وراثت کی درخواست
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 تقرر ثالتہ فیصلہ برحلف دیے جواب دی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی 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 بااختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 22 ماہ 19 2018ء

وہ العیہ
کے لئے منظور ہے۔

بمقام

A tested
Acceptance

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

Service Appeal # 828/2018

Mr. Khalid Khan-----(Appellant)

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES	
1.	Para wise Comments		1	3

Respondents

Through


District Education Officer(F)

Mardan

Dated: 18 / 10 / 2018

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

Service Appeal # 828/2018

Mr.Khalid Khan------(Appellant)

VERSUS

The Govt of Khyber Pakhtunkhwa & others------(Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth,

Preliminary Objection:-

1. That the appellant has got no cause of action & locus standi to file the instant appeal.
2. That the instant appeal is bad in its present form, hence incompetent and liable to be dismissed.
3. That the instant appeal is not maintainable in the eye of law.
4. That the instant appeal is badly time barred.
5. That the instant appeal is liable to be dismissed an account of mis-joinder & Non Joinder of necessary parties.
6. That the appellant is estopped by own conduct to file the instant appeal.
7. That the appellant concealed the material facts and kept this Honourable Court in dark.
8. That the appellant has not come to this Honourable Court with clean hands.

GROUND

1. Para 1 pertains to record, hence no comments.
2. Para 2 pertains to record, however the competent authority has the discretion to entrust multi-official duties to the concerned

dealing assistant apart from their job-description and the then authority has also entrusted, the e-mail collection of important issues and to download it which was carried out by the appellant, hence denied.

3. Reply of Para 3 is that when NTS test was conducted for appointment of different cadres at the time including Qaria post and the NTS website flourished the result, after which the final merit list is prepared, in which NTS score of one of the candidate namely Lubnaz Begum in Qaria list has been changed and she was appointed and served for almost three months and then on a unknown complaint raised by someone, an inquiry was conducted accordingly (Copy of which is already attached as Annex D) and she was dismissed and charge sheet & statement of allegations were served on many delinquent official including appellant being a responsible one. (Copy of reply of charge sheet is already attached as Annex B, with instant appeal)
4. Para 4 is incorrect and the appointee was later-on dismissed with recovery of salaries drawn, hence denied.
5. Para 5 is incorrect and the inquiry was conducted accordingly and the appellant was penalized accordingly along with other delinquent official in the matter in hand. (Copy of dismissal order dated 30-01-2018 is already annexed with instant appeal as Annexure-F)
6. Para 6 is incorrect, baseless, against law & facts, hence denied.
7. Para 7 is incorrect and the instant appeal being devoid of merit is liable to be dismissed.

GROUNDS

- A. Para A is incorrect, baseless, against law & fact and the answering respondents being a responsible government official by keeping in view the law , rules and policy , did accordingly , hence denied.
- B. Para B is incorrect and the appellant being a responsible official received original data of NTS test through E-Mail and then changes was made in the final score of one the candidate namely Lubna

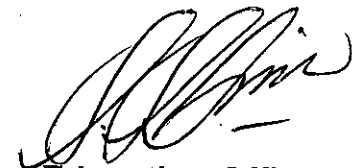
begum in final merit list of Qaria post, hence was inquired accordingly and penalized, hence denied.

- C. Para C is incorrect, baseless, against law & facts, hence denied.
- D. Para D is incorrect and inquiry was conducted according to rules & policy, hence denied.
- E. Para E is incorrect, baseless, against law & facts, hence denied.
- F. Para F is incorrect, baseless and appellant has given the opportunity of hearing & replies accordingly in a regular inquiry, hence denied.
- G. Para G is incorrect, baseless, against law & facts, hence denied.
- H. Para H is incorrect and the answering respondent being a responsible government officials did according to law, rules and policy in vogue.
- I. Para I is incorrect, baseless, against law & facts, hence denied.
- J. Para J pertains to record, hence no comments.
- K. Para K is incorrect, baseless, against law & facts, hence denied.
- L. Para L is incorrect and instant appeal being devoid of merit is liable to be dismissed.

Therefore it is humbly prayed that keeping in view the above mentioned facts, the instant appeal may kindly be dismissed with cost.

Respondents

Through



**District Education Officer (F)
Mardan**

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ENQUIRY REPORT

Subject: ENQUIRY AGAINST Ms. DILSHAD BEGUM EX-DISTRICT EDUCATION OFFICER (F) MARDAN AND OTHERS IN THE APPOINTMENT OF QARIA POSTS IN OFFICE OF DEO (F) MARDAN

Pursuant to the Section Officer (School/Female) Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department vide Notification No.SO(S/F) E&SE/4-17/2015 Dilshad Begum DEO (F) dated 11.3.2016 (F/A) the Competent authority has been pleased to constitute an enquiry committee comprising Muhammad Arifeen Secretary Law Department and Ms. Waheeda Khalil Principal RITE (F) Charsadda for conducting enquiry into the subject case under Khyber Pakhtunkhwa Government servants (E&D) Rules,2011 against the following accused Officers/Officials:-

1	Ms Dilshad Begum DEO(F) Malakand Ex-DEO(F) Mardan
2	Ms. Saeeda Begum, Principal GGHS No.1 Mardan
3	Mr. Hanifullah DEO (Male) Chitral
4	Ms Fozia Azam ADEO O/O DEO (F) Mardan
5	Gul Bahader Establishment Supdt O/O DEO(F) Mardan
6	Ms. Zakia Hussain, Assistant Programmer O/O DEO(F) Mardan
7	Mr. Abdullah Jan, J/Clerk O/O DEO (F) Mardan
8	Mr. Khalid Khan, Computer Operator O/O DEO(F)Mardan

2.

The enquiry was based on the following common charges:

- i. You have made Departmental Selection Committee (DSC) for the selection/appointment of the NTS candidates against Qaria Posts but you did not get final merit list signed from the DSC members.
- ii. Resultantly irregularities have been found in the appointment orders of NTS candidates by making fake merit list, but you did not take any punitive action against the concerned.
- iii. You failed to check and supervise the whole process of the appointments according to the merit of NTS.
- iv. You also failed to take timely action against the concerned staff of your office on account of their illegal act who were fully involved in the fake merit list/appointment orders of NTS candidates.

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3. All the above Officers/Officials were charge sheeted by the Competent authority and were asked to submit their written replies if any in their defense. Replies to the statement of allegations given by the accused(s) are available at F/B to F/J. Their replies were sifted and in order to reach logical conclusion supplementary questionnaires were served upon the accused(s) as per succeeding para.

4. The Enquiry Committee put the following supplementary questions to the accused (s) which are available in the enquiry report from F/K to F/R.

- a. Have you constituted Departmental Selection Committee (DSC) for appointment of Qaria posts? If so, please provide copy of Notification of Departmental Selection Committee.
- b. Please provide copy of minutes of DSC duly signed by all members of the Committee.
- c. Under what criteria you have checked and scrutinized the whole process of NTS appointment.
- d. When did you know the irregularities found in the appointment of Qaria posts i.e during the process or after appointment made against these posts. Please give details with facts and figures.
- e. Whether timely action has been taken against the defaulters involved in the process or action was delayed intentionally. Give reasons.

Proceedings:

5. All the accused were given personal hearing on 25.4.2016 at 10:00 am. Their replies to the Charge Sheets and replies to supplementary questions were examined and accused were cross examined in the presence of Ms: Shaukat Ara, Assistant Director (Establishment) Directorate of E&SE and Mr. Roohullah, Budget & Accounts Officer O/O DEO (F) Mardan as departmental representative. All the accused (s) have denied the charges but they had no documentary proof to absolve themselves from the charges leveled against them. When members of Departmental Selection Committee were confronted whether they had received copy of Departmental Selection Committee before signing minutes of Departmental Selection Committee they replied in negative.

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Similarly Mr. Khalid Khan Computer Operator and Mr. Abdullah Junior Clerk could not provide any documentary proof for not involving in the changes made in the merit list of NTS test. During inquiry proceeding result was downloaded by the Committee through Mr. Khalid Khan Computer Operator from Website of NTS vide F/S. But when he was confronted by the Committee to demonstrate the technique adopted for changes made in merit list by him. He denied the charge. When cross examined in the presence of Ms. Dilshad Begum Ex-DEO(F) Mardan that when did he submit result of NTS to her that is the same day as claimed by him in his reply, the DEO(F) explained the whole position and informed the Committee that she had received the result from Computer Operator after a week. During a week time he managed to change the result by changing marks of her wife Ms. Lubnaz Begum from 37 to 72 which altered the whole merit of passed candidates. This makes the whole selection process of appointment of Qaria posts doubtful which needs thorough probe for its authenticity. On the same analogy Ms. Zakia Hussain Assistant Programmer and Mr. Gul Bahadar participation in the recruitment process was must but these Officers remained disassociated for the reasons best known to them. Similarly Ms. Farida Begum being member of DSC did not turn up for participation in DSC meeting. Mr. Abdullah Jr. Clerk with the connivance of Mr. Khalid Khan Computer Operator prepared merit list and with each other collusion they managed to deceive Scrutiny Committee and Departmental Selection Committee. In the nutshell wrong appointment of Ms. Lubnaz Begum was made possible due to Mr. Khalid Khan Computer Operator and Mr. Abdullah Jr. Clerk. Ms. Dilshad Begum EX-DEO (F) Mardan through trust as team work posed Confidence on them whereas both of them betrayed her trust which resulted in wrong appointment of Ms. Lubnaz Begum. However when on a receipt of complaint from one of the candidates namely Mst: Salma Naz, the Ex-DEO(F) Mardan not only withdrew appointment of wrong selectee but also recovered pay from the selectee later on. If step for "Nip the evil in the bud" would have been taken by DEO(F) Mardan then nothing would have happened unpleasant.

Findings:

6. The Enquiry Committee after proceedings comes to the following findings that:-

- (i) There is nothing on record to prove that Departmental Selection Committee (DSC) for appointment of Qaria posts in Office of DEO (F) Mardan had been constituted which is must as for filling

of vacancies in the initial recruitment of any post three essential components (i) availability of posts (ii) Selecting authority i.e. Departmental selection Committee (DSC) in this case and (iii) Appointing authority are sine qua non.

- ii) When members of DSC were confronted by the Enquiry Committee that why they had attended meeting of DSC they had no answer for attending meeting of DSC except verbal instructions by the department. According to Rule 5 of Government of Khyber Pakhtunkhwa Rules of Business, 1985 all verbal orders shall be reduced in writing. This aspect (verbal directions) of the case is also not covered under the aforesaid rules.
- iii. In the whole appointment process the job description introduced and circulated by E&SE department was not followed by Ex-DEO (F) Mardan which resulted into this mess. Those responsible in the process of recruitment, such as Mr. Gul Bahadur Superintendent Establishment, Ms. Zakia Hussain Assistant Programmer could not absolve themselves in the process.
- iv. According to the Instructions Manual of Directorate of E&SE Khyber Pakhtunkhwa dated 22.10.2014 the members of the Departmental Selection Committee are mandated to check and cross check the record thoroughly and confirm score of each candidate from the documents. but it seems that this exercise has not been carried out by so called members of the DSC for onward submission to Chairperson of the Committee.
- v. It has been confirmed that neither the scrutiny committee nor the Departmental Selection Committee carried out its functions which resulted in the wrong appointment of Ms. Lubnaz as Qaria in the selection process.
- vi. Mr. Khalid Khan, Computer Operator denied relationship with Ms. Lubnaz in writing as well as in Enquiry proceedings whereas according to documents made available from NADRA confirms that she is wife of Mr. Khalid Khan Computer Operator and he successfully made changes in the merit list of NTS results for getting appointment of his wife whereas his sister result in NTS was also available but he did not temper the same to prove himself that he is innocent.

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- Vii Despite the fact that no written orders of Ex-DEO(F) Mardan for carrying out appointment process of Qaria posts are available on record in favour of Mr. Zakia Hussain Assistant Programmer and Mr. Gul Bahadur, Superintendent Establishment but they also remained silent in the whole process which is mis-conduct.

Conclusion:

7. It is evident from above description that except Mr. Zakia Hussain Assistant Programmer and Mr. Gul Bahadur Establishment Superintendent partially all the accused (s) are responsible for the negligence committed by them for signing minutes by so called members of the Departmental Selection Committee without confirming merit position and other criteria of selection process which resulted into the appointment of a candidate namely Ms. Lubnaz being ineligible candidate. Due to tempering in the merit list of NTS test by Mr. Khalid Khan Computer Operator, the whole merit list became dubious and resultant appointment needs revision by another Committee to see the genuineness of those candidates already appointed as result of recruitment process.

8. It is crystal clear that without constitution of Departmental Selection Committee the whole process of recruitment of Qaris is irregular and illegal.

Recommendations:

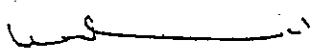
- i. E&SE Department should issue standing instructions to the Directorate of E&SE Khyber Pakhtunkhwa and all District Education Officers in the Province to constitute Departmental Selection Committees (DSCs) as well as Departmental Promotion Committees (DPCs) according to the format as contained in Khyber Pakhtunkhwa Establishment Code (Page-39) before making any initial appointment or promotion in a transparent manner in future.
- ii. The body NTS is also questionable because it is a non-government Organization, and its services are hired for various recruitment process in government sector and it is paid huge amounts, the amount is not deposited in government treasury rather goes to private sector. While we already have a body like

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ETEA which is a Government body and the amount paid to it is deposited in the Government treasury So far recruitment in Government sector is concerned the services of ETEA should be hired instead of NTS.

- iii. A high powered Committee may be constituted by E&SE Deptt. in the already made appointments against Qaria posts in Office of DEO (F) Mardan to sift these appointments according to the laid down criteria to bring justice to the candidates who had applied for these posts.
- iv. Since the illegal appointment namely Ms. Lubnaz Begum made by Ms. Dilshad Begum Ex-DEO(F) Mardan already stands terminated and pay deposited in the relevant head of account, therefore no loss occurred to provincial ex-chequer, the Committee recommends that penalty of stoppage of three increments for one year may be imposed upon Ms. Dilshad Begum Ex-DEO (F) for her negligence for not notifying Departmental Selection Committee(DSC) in the matter and not assigning duties to the concerned staff in the whole process.
- v. One increment for one year may be stopped of the so called members i.e Ms: Saeeda Begum, Principal of GGHS No.1 Mardan and Mr. Hanifullah, Ex-DEO(M) Mardan of the DSC for signing minutes of invalid DSC without asking for copy or notification of DSC or knowing status of DSC. This cannot be expected of such a high level officers to do this blunder being highly responsible officers of E&SE Department.
- vi. Ms. Fozia Begum was on maternity leave and did not sign minutes of DSC may be exonerated.
- vii. Ms. Farida Begum a member of DSC should be given censure and transferred from the post because being on an important post she did not attend proceeding of DSC being a member of DSC as well as not confirming in writing which shows carelessness and irresponsibility.

- viii. Ms. Zakia Hussain Assistant Programmer and Mr. Gul Bahadur Establishment Superintendent were not involved in the recruitment process however they are on responsible posts and should accept responsibility. They may be given censure and transferred to other stations as they tried to shift the responsibility from themselves although this is a part of their job description.
- ix. Charges of changes made in the merit list of NTS by Mr. Khalid Khan Computer Operator were proved beyond any doubt against him may be dismissed from service.
- ✓ x. Mr. Abdullah Jr. Clerk who remained in preparation of merit list with the Computer Operator in the whole process is equally responsible for wrong appointment may also be dismissed from service on the reason that he did not bring the changes made in the merit list neither in the notice of scrutiny committee nor in the knowledge of DSC.



(MS. WAHEEDA KHALIL)
Principal RITE (F) Charsadda/
Member Enquiry Committee



(MUHAMMAD ARIFEEN)
Secretary, Law, Parliamentary Affairs and
Human Rights Department
Member Enquiry Committee



Annex "B"

- 10

To:

1. Mr. Muhammad Arifeen, (Secretary Law Department Khyber Pakhtunkhwa) (Inquiry Officer)
2. Mst. Wahida Khalil (Principal RITE-Female Rajjar, Charsadda) (Inquiry Officer).

Subject: REPLY TO THE CHARGE SHEET

Respected Sir,

In Reply to the Charge Sheet dated 04/03/2016, received by me on 18/03/2016, I very humbly submitted my reply as under:

1. That the applicant is posted as computer operator BS-12, at office of DEO Female Mardan. It is pertinent to mention here that ever since my appointment, I am performing my duties with great zeal, dedication and without giving any chance of complaint what so ever regarding my performance.
2. That an inquiry has been initiated against the applicant for certain acts/ omissions within the meaning of Rule 03 of the Khyber Pakhtunkhwa Govt. Servant (Efficiency & Discipline) Rules, 2011 resultantly Charge Sheet issued to the applicant from the competent authority.
3. That Para wise reply to the charges leveled against the applicant in charge sheet is as under:-
 - i. That the applicant is neither involved in the recruitment process nor a member of the scrutiny committee and was not the Dealing Assistant regarding the matter in hands. The job description of the post held by the applicant has not specified and as such the responsibilities of the applicant being a Computer Operator in EMIS Section is, entry of Questionnaires regarding school Census into the EMIS Data Base and submission of the said data to the provincial EMIS for further process. The applicant was totally unaware regarding charges made in the merit list of NTS candidates against Qaria post in DEO Female Office Mardan. In this respect the competent authority constituted a committee to carry out interview, documents checking and merit list checking for the post of DM, PET, AT, PST, Qaria vide notification No. 1454 dated 02/03/2015.
 - ii. It is pertinent to mention here that the Directorate sent an Email and the same has been submitted to the competent authority for perusal and further necessary action. The EMIS Section has no concern with appointment process rather it is the Dealing Assistants who then proceed further with the process as desired by the competent authority.

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- iii. The applicant is not involved in preparing of any kind of fake merit list. Whatever I received from the Directorate has been submitted to the competent authority, in soft form, for necessary action. As for the matter of bringing it into the notice of the high ups is concerned it is submitted that I have no concern with same, being not competent authority. Moreover it is the duty of the Scrutiny Committee, Dealing Assistants and Competent Authority to properly and thoroughly check the merit position of each and every candidate before issuing the recruitment order and the concern dealing hands are duty bound to verify the entire testimonials of all appointees from the concerned Boards/ universities before issuing pay release order hence there is no negligence on the part of the applicant being Computer Operator.
4. That I have never committed any act or omission which could be termed as misconduct, the charges leveled against me are incorrect and baseless.
5. That I have long and spotless service career at my credit and I can never imagine doing an act which could bring bad name to me and my esteem Department.
6. That it is further submitted that if your good self is not satisfied with the above submissions then the applicant would like to be heard in person. Keeping in view the above submissions, it is very humbly prayed that the subject Charge Sheet may please be dropped and the applicant may please be exonerated from the charges leveled against him.

Your's sincerely,



(KHALID KHAN) 24-03-16

Computer Operator
DEMIS Section

DEO Female Office Mardan.

Dated: 24/03/2016

ATTACHED

Notification of
Dismissal

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Annex "F"



P.A.
Endst to the
concerned
6/2/18

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the January 30th, 2018

NOTIFICATION

NO. SO(S)/E&SED/4-17/2015/Inquiry/DEO/Female/Mardan: WHEREAS Mr. Hanifullah, DEO (F) BS-19 Chitral was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of bogus appointment orders.

2. AND WHEREAS Muhammad Arifcen (BS-20) Secretary Law Department and Mst. Wahida Khalil, Principal (BS-20) RITE (F) Rajjar Charsadda conducted formal inquiry against the accused.

3. AND WHEREAS the inquiry committee after having examined the charges, evidence on record and explanation of the accused, submitted the report.

4. AND WHEREAS minor penalty of "withholding of one increment for one year" was imposed vide show cause notice served upon him by the competent authority (Chief Minister, Khyber Pakhtunkhwa).

5. AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence, reply to show cause notice and personal hearing granted to him by the Secretary ST&IT Department Khyber Pakhtunkhwa on behalf of Chief Minister/ Competent authority, is of the view that the charges against him have been proved.

6. NOW, THEREFORE, in exercise of the powers conferred under Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister) is pleased to confirm the minor penalty of "withholding of one increment for one year" upon Mr. Hanifullah, DEO (F) BS-19 Chitral, with immediate effect.

On ~~1/30/18~~

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the:

- i. Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
- ii. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- iii. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- iv. District Education Officers (Female) concerned ~~Mardan~~ Mardan.
- v. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- vi. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
- vii. Mr. Hanifullah, DEO (F) BS-19 Chitral.
- viii. Master File.

(ANEELA FAHIM)
SECTION OFFICER (SCHOOLS FEMALE)

F

Final
order.

Annex 'A' 8

CHARGE SHEET

I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa, as Competent Authority, hereby charge you Mr. Khalid Khan, Computer Operator (KPO) (BS-12) o/o DEO (F) Mardan as follows:-

That you, while posted as Computer Operator (KPO) (BS-12) o/o DEO (F) Mardan commit the following irregularities:-

- i. You made changes in the merit list of NTS candidates against ~~Quota~~ in DEO (F) office Mardan.
- ii. Resultantly irregularities have been found in the appointment of NTS candidates by making fake merit list, but you did not bring this position into the notice of highups in this regard.
- iii. You were responsible to point out the irregularities in the merit list but you failed to do so.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and to be rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Inquiry Officer/ Inquiry Committee, as the case may be.

4. Your written defence, if any, should reach the Inquiry Officer/Inquiry Committee within the specified period, failing which it shall be presumed that you have no defence to put forward and ex-parte action shall be taken against you.

5. You should also intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

Pervez Khattak
(Pervez Khattak)
Chief Minister
Khyber Pakhtunkhwa
4/3/16.

Mr. Khalid Khan, Computer Operator (BS-12),
o/o District Education Officer (F),
Mardan.

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DISCIPLINARY ACTION

I, Pervez Khattak Chief Minister Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Mr. Khalid Khan, Computer Operator (KPO) (BS-12) o/o DEO (F) Mardan has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- i. He made changes in the merit list of NTS candidates against Qaria Posts in DEO (F) office Mardan.
 - ii. Resultantly irregularities have been found in the appointment orders of NTS candidates by making fake merit list, but he did not bring factua position into the notice of highups in this regard.
 - iii. He was responsible to point out the irregularities in the merit list, but he failed to do so.
2. For the purpose of inquiry against the said accused with reference to the above allegations, an Inquiry Officer/Inquiry Committee, consisting of the following, is constituted under rules 10(I)(a) of the rules ibid:-

Mr. Muhammad Arifeen (PCS-SG-BS-21)
Mr. Khalid Khalil. Pst. RITE Chonjadda.

3. The Inquiry Officer/Inquiry Committee shall, in accordance with the provisions of the rules ibid, provide reasonable opportunity of hearing to the accused, record its findings & make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join proceedings on the date, time and place fixed by the Inquiry Officer/Inquiry Committee.

Pervez Khattak
(Pervez Khattak)
Chief Minister
Khyber Pakhtunkhwa

Mr. Khalid Khan, Computer Operator (BS-12),
o/o District Education Officer (F),
Mardan.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 828/2018

Mr. Khalid Khan Appellant

Versus

The Govt. of KPK and others Respondents

**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE TO
REPLY FILED BY RESPONDENTS.**

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous. Appellant has got cause of action, the appeal is maintainable. The appeal is within time. All the necessary parties have been arrayed in the panel of Respondents. Estoppel does not run against the law, nothing has been concealed from this Hon'ble Tribunal.

Facts:

1. Needs no rejoinder.
2. Misleading. It is the practice of the department that transmission of the important data from the NTS authority is downloaded. It is significant to mention that being government property is accessible to other officials. Furthermore, the job description of the designated post held by the appellant has not been specified and as such the responsibilities as Computer Operator in the EMIS data-base and their further submission to provincial EMIS at Peshawar Secretariat for generating reports to high-ups for planning and development in Education Sector and other work entrusted by the competent authority for the time being in public interest.

3. Untrue hence not admitted. Mere allegations are nothing until and unless the same have been proved against the delinquent civil servant. Appellant performed duties under the directions of the high-ups as per law. Moreover, unknown complaint is not acceptable for taking action as held by the superior courts the appellant should have been confronted to same. Therefore, appellant denied the charges by submitting comprehensive reply thereto.
 4. Irrelevant. In fact it supports the stance of the appellant that the appointee was released salaries by Respondent No.5 after going through the essential process of appointment. Rest of the para is misconceived.
 5. False hence denied. Appellant has not been associated with the enquiry proceedings rather the same was not assigned to appellant which was mandatory under the law. It is relevant to submit that the appellant enquired with other delinquent employees in similar circumstances but malafidely only he was awarded major punishment while the others awarded minors punishment which is clear cut discrimination. Interestingly one Mr. Abdullah Jan, Junior Clerk was recommended for major punishment of dismissal form service while he was imposed upon minor penalty.
- 6&7. Incorrect hence denied. Comprehensive rejoinder has already been submitted in the presiding paras.

Grounds:

A&B. Incorrect hence denied. The appellant was not treated according to law and rules. The appointment order was acted upon by the authorities and salaries of appointee were released after observing all the codal formalities.

C&D. Incorrect hence not admitted. The mandatory procedure of law has not been complied with, which enshrines the appellant but he was

awarded major penalty on the basis of no evidence. Discriminatory treatment has been meted out to appellant and other employees were recommended for minor penalties. Furthermore, one Mr. Abdullah Jan, Junior Clerk was also recommended for major penalty but he was imposed upon minor penalty which shows clear bias against the appellant.

- E-I. Not correct hence denied. The detailed rejoinder has already been submitted.
- J. The answering respondents have evaded the response to the para which amounts to admission.
- K. Untrue hence denied. As per Section-24 A of the General Clauses Act-1897 reasons had to be given in the rejection order.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Appellant

Khaled Rahman

Advocate

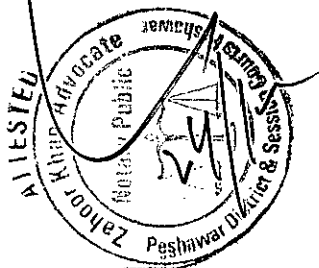
Supreme Court of Pakistan

Dated: 24 / 12 / 2018

Verification

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

Deponent



[Handwritten Signature]

24-12-18

قیمت
50 روپے

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ایڈویٹ: محمد رفیق البوب

بار کونسل ایسوسی ایشن نمبر: 16 6683

رابطہ نمبر: 0313-904048

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

سرحدی کورٹ پشاور

بعدالت جناب:

منجانب: اسلینڈ	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام کے لیے کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز ذمیل صاحب کو راضی نامہ کر کے نوٹس و ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری سیکسٹرنہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل گرانٹی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لائے جانے کے لیے اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیار حاصل ہوں گے اور اس کا سبب پر داخستہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانباً اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم:

الع بد _____ مقام
الع بد _____ کے لیے منظور ہے۔

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1044 /ST

Dated 18 /06 / 2021


To

The Secretary E&SE Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - JUDGMENT IN APPEAL NO. 828/2018, MR. KHALID KHAN.

I am directed to forward herewith a certified copy of Judgement dated 03.06.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

31/5/2021.

S.B. Salahuddin Sb.

Impugned order. 30/1/2018

D. Appeal 20/2/2018.

Appellate order. 5/6/2018.

S.A. 28/6/2018

Joint police Dept. 2012

Appellant was not
Part 7 dealing post.

No chance of personal Hearing. 2003 SCMR 1128
2008 PLD 5412
2003 SCMR 1126

More Reliance on → 2020 SCMR 1245
enquiry report.

Regular enquiry

Discrimination - 2004 SCMR 158
Recommendation of Inquiry
P13 (table)

No evidence against the appellant.

P/34. 2008 Plc CS 920
2024 Plc CS 294.

Factural controversy. 2019 Plc CS 204.

In personal Hearing incompetent authority
i.e. Secy.

DDA. ~~PLIO~~ PLIO Amres. B.

Lubna was wife of the appellant.

of the Act of 2015 by the Government, whereas the Regulations are framed by the BoG under section 24 of the Act of 2015. We have before us both, the Act of 2015 as well as Regulations of the respondent-institution dated 19.01.2016. Both are silent about the grounds on which the Dean can be removed. Even otherwise, the manner through which the disciplinary action against the petitioner was initiated and she was dismissed from service cannot be upheld in any manner as evident from the statement of allegations, the said allegations cannot be established without regular inquiry. Indeed, it is a settled principle of law that any disciplinary proceedings relating to the misconduct of an employee/officer of any department, which entails major penalty of removal/dismissal from service, must be inquired through regular inquiry, which cannot be dispensed with, in matter where controversial facts and ticklish questions are involved. Guidance can be sought from Muhammad Naeem Akhtar v. Managing Director Water and Sanitation Agency LDA, Lahore (2017 SCMR 356), Muhammad Abdul Moied v. Government of Pakistan (2010 SCMR 1546), Government of Punjab v. Tauqeer Mazhar Bukhari (2008 SCMR 1362), Zulfiqar Ali v. District Health Officer, Okara (2014 PLC (C.S.) 856), Syed Sajjad Haider Kazmi v. Director-General (S&GAD) WAPDA (2007 SCMR 1643) and Engineer Majeed Ahmed Memon v. Liaquat University of Medical and Health Sciences Jamshoro (2014 SCMR 1263). In the present case the petitioner has been issued show-cause notice containing serious allegations and without waiting for a detailed reply from her, respondent No. 4 has imposed major penalty of dismissal on the petitioner. This slipshod and hasty decision, not only lacks reasons but is contrary to the established principle of natural justice.

21. Accordingly, for the reasons stated herein above, Writ Petition No.119-A of 2018 is allowed. The impugned show cause notice dated 24.01.2018 as well as termination letter dated 31.01.2018 is held as illegal and without lawful authority, hence, set-aside. However, the BoG, AMTI, may initiate any action for removal of the petitioner in accordance with law.

MH/335/P Petition allowed.

5/29/2021

2019 PLC (C)



GOVERNMENT OF PAKISTAN
MINISTRY OF INTERIOR
NATIONAL DATABASE & REGISTRATION AUTHORITY
Regional Head Office Peshawar

EOBI Building, Plot#31, Sector B-1, Phase-V Hayatabad Peshawar
Tel No. 091-9217844



No. N-16/LEA/Ltr/116

2 | Mar, 2016

To: District Education Officer
(Female) Mardan.

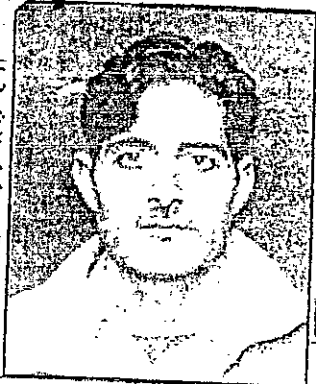
Subject: CNIC Data, Family Tree and Merital Status of Khalid Khan
CNIC 1610222899171

Reference: *Your letter No. 2804 dated 18-03-2016*

1. In response to your above referred letter on the subject captioned above, please find enclosed herewith personal details (with merital status) and family tree of Mr. Khalid Khan s/o Zarif khan CNIC 1610222899171.
2. As per NADRA record Lubnaz D/o Ziarat Said is wife of Khalid khan.
3. Forwarded as desired, please.

[Signature]
21/3/2016
for Deputy Director (LEA Cell)
for Director General
Maj (R) Muhammad Ajmal Khan

جن سنی و روزگار (صرف ایسٹن سویل بیٹے)



5 X 2 38 X 5 CM

- نوٹ (1) جن سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔
 (2) مندرجہ ذیل میں سے کسی ایک کو منتخب کرنا ہے۔
 (3) جن سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔
 (4) اگر پلاننگ کی کارڈ پر مقررہ شرائط پوری ہوں تو یہ سہولت ہے۔
 (5) سنی و روزگار کے لئے ہے۔
 (6) جن سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔

نام اور نام
 1 جن سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔
 2 جن سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔
 3 سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔
 4 جن سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔
 5 جن سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔
 6 جن سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔

1 2 9 7 9 8 7 2 9 4 0

18 سال یا اس سے زیادہ عمر کے افراد کے لئے یہ درخواستیں الگ فارم پر کریں۔

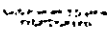
1 جن سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔
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 9 جن سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔
 10 جن سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔
 11 جن سنی و روزگار (صرف ایسٹن سویل بیٹے) کے لئے ہے۔

12 جنس (صرف ایک) مذکر مؤنث
 13 موجودہ ازدواجی حیثیت
 14 مذہب (صرف ایک) اسلام عیسائی ہندو پارسی دیگر
 15 ماہری زبان (صرف ایک) اردو پنجابی سندھی پشتو بلوچی سرائیکی ہندکو برادری دیگر
 16 تعلیمی سیارہ (صرف ایک) ان پاس پرائمری سیکولر پرائمری نل میٹرک ایچ ایچ او ایف ایچ او بی ایچ ایچ او پی ایچ ایچ او بی ایچ ایچ ایچ او دیگر
 17 تعلیم کی نوعیت ابتدائی پرائمری میٹرک ایچ ایچ او ایف ایچ او بی ایچ ایچ او پی ایچ ایچ او بی ایچ ایچ ایچ او دیگر

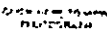
Family Tree of CNIC (beta): 1610222899171

Family ID: V63K17

Personal Details

Photograph	Citizen Number	Name	Father Name	Mother Name	Date of Birth
	Family ID: V63K17	خالد خان	ظریف خان	لائقہ بی بی	29-12-1979

Spouse Details

Photograph	Citizen Number	Name	Father Name	Mother Name	Date of Birth
	Family ID: V63K17	نباز بیگم	زیارت سید	فضیلت بی بی	10-3-1989

Children Details

Photograph	Citizen Number	Name	Father Name	Mother Name	Date of Birth
No Record Found!					