

DEA 985/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 961/2018

Date of institution ... 27.07.2018

Date of judgment ... 21.11.2019

941
2020

Noor Ul Amin, Ex-PST
GPS, Khandaq Adezai, Peshawar.

... (Appellant)

VERSUS

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

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 05.07.2018, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AGAINST THE ORDER DATED 03.01.2018 WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE FOR NO GOOD GROUNDS.

Mr. Taimur Ali Khan, Advocate
Mr. Kabirullah Khattak, Additional Advocate General

For appellant.
For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI
MR. HUSSAIN SHAH

.. MEMBER (JUDICIAL)
.. MEMBER (EXECUTIVE)

M. Amin
21-11-2019

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the appellant and Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Education Department as Primary School Teacher. He was imposed major penalty of removal from service by the competent authority vide order dated 03.01.2018 on the allegation of willful absence from duty with effect from January 2013. The impugned order dated 03.01.2018 was received

to the appellant on 07.03.2018 as alleged by the appellant in para-16 of the departmental appeal and thereafter, he filed departmental appeal on 09.03.2018 which was rejected on 05.07.2018 hence, the present service appeal on 27.07.2018.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Education Department as Primary School Teacher. It was further contended that he was appointed as Primary School Teacher in the year 2000 and has performed his duty with the entire satisfaction of his superiors and no complaint has been filed against him during the performance of his duty. It was further contended that the appellant applied for ex-Pakistan leave with effect from 02.12.2012 to 01.12.2014 which was duly sanctioned by the competent authority vide order dated 31.12.2012. It was further contended that the respondent-department has imposed major penalty of removal from service but neither he was properly summoned for associating him in departmental proceeding nor any charge sheet, statement of allegation was framed and served upon him nor proper inquiry was conducted nor any show-cause notice was issued to him. It was further contended that neither any absence notice was issued at his home address nor any advertisement of absence was published in any newspaper, therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. It was further contended that the appellant was having more than 10 years service in his credit but the same was not considered by the competent authority while imposing the major penalty, therefore, prayed for acceptance of appeal.

5. On the other hand, learned Additional Advocate General for the respondents opposed the contention of learned counsel for the appellant and

M. Amin
21.11.2019

contended that the appellant was serving in Education Department. It was further contended that the appellant remained absent from duty for a long period with effect from January 2013 till the impugned order dated 03.01.2018. It was further contended that the appellant remained absent from duty without the permission of the competent authority. It was further contended that the appellant was proper issued a show-cause notice regarding his absence from duty to which the appellant duly submitted reply but the same was found unsatisfactory by the competent authority. It was further contended that a proper absence notice was also issued to the appellant at his home address and proper absence notice was also published in the daily newspaper "Mashriq" dated 04.12.2017 but the appellant did not attend the duty, therefore, the competent authority has rightly imposed major penalty of removal from service after fulfilling all the codal formalities and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Education Department as Primary School Teacher. He was appointed as Primary School Teacher in the year 2000. The appellant was imposed major penalty of removal from service but the respondent-department has not conducted a proper regular inquiry as neither charge sheet, statement of allegation was framed and served upon the appellant nor any regular inquiry was conducted against the appellant. Though the respondent-department has issued a show-cause notice but neither the respondent-department has dispensed the regular inquiry in the show-cause notice nor any reason for dispensing the regular inquiry has been mentioned in the show-cause notice. Moreover, the appellant was appointed as Primary School Teacher in the year 2000 and he was imposed major penalty of removal from service on the allegation of his absence from duty with effect from January 2013 meaning thereby, that he was having more than 10 years service in his credit with effect from his appointment till his absence, therefore, the impugned

M. Amin
21.11.2019

order of removal from service appear to be harsh. As such, we partially accept the appeal, set-aside the impugned order and convert the major penalty of removal from service into a major penalty of compulsory retirement with effect from the date of his absence i.e January 2013. The absence period is treated as unauthorized absence. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
21.11.2019




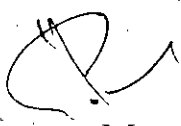
(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

02.08.2019

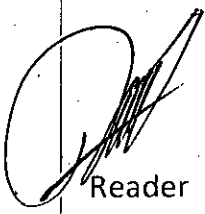
Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment Adjourn. To come up for arguments on 25.10.2019 before D.B.


Member


Member

25.10.2019

Due to tour of the Hon'ble Members to Camp Court Abbottabad, To come up for the same on 21.11.2019 before D.B.


Reader

21.11.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, we partially accept the appeal, set-aside the impugned order and convert the major penalty of removal from service into a major penalty of compulsory retirement with effect from the date of his absence i.e January 2013. The absence period is treated as unauthorized absence. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

21.11.2019



(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

05.03.2019

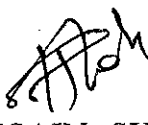
Learned counsel for the appellant Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant submitted rejoinder and request for adjournment. Adjourn. To come up for arguments on 19.04.2019 before D.B.


Member


Member

19.04.2019

Appellant alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 11.06.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

11.06.2019

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

Due to paucity of ~~time~~ the matter is adjourned to 02.08.2019 for arguments before the D.B.


Member

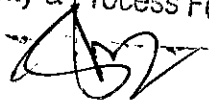

Chairman

19.09.2018


Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that on account of charges of willful absence from duty, he was proceeded departmentally and finally major penalty of removal from service was awarded to him vide impugned order dated 03.01.2018. He filed departmental appeal on 09.03.2018 which was rejected on 05.07.2018, hence, the instant service appeal. As his departmental appeal was filed during the pendency of previous service appeal so learned counsel for the appellant withdrew the same and filed fresh service appeal. Appellant was not treated according to law and rules, rather condemned unheard. Punishment with cumulative effect lacks the backing of law and rules and is not sustainable in the eyes of law.

81/2/18

Appellant Deposited
Security & Process Fee



Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 09.11.2018 before S.B.


(AHMAD HASSAN)
MEMBER


09.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 27.12.2018. Written reply not received. Mr. Hameed Ur Rehman AD representative absent.


READER

27.12.2018

Appellant with counsel present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Arshid Ali AD litigation present. Representative of respondent department submitted written reply. Adjourn. To come up for rejoinder if any and arguments on 05.03.2019 before D.B. -11


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 961/2018


| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 02/08/2018 2-8-18 | <p>The appeal of Mr. Noor-ul-Amin resubmitted today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 2/8/18</p> |
| 2- | 15.08.2018 | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15-8-2018</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p> <p>Mr. Taimur Ali Khan, Advocate counsel for the appellant present. As lawyers community is on strike due to killing of an advocate at D.I.Khan, preliminary arguments could not be heard. Case to come up for preliminary hearing on 19.09.2018 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Chairman</p> |

The appeal of Mr. Noor-ul-Amin Ex-PST GPS Khandaq Adezai received today i.e. on 27.07.2018 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal may be flagged.
- 3- Memorandum of appeal may be got signed by the appellatant.
- 4- Copies of extract from register mentioned in para-2 of the memo of appeal are not attached with the appeal which may be placed on it.
- 5- Copies of letter dated 17.9.2015, rejection order of departmental appeal and order dated 27.6.2018 of this Tribunal mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 6- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 7- Wakalat nama in favour of appellatant be placed on file.
- 8- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1501 /S.T,

Dt. 27/7 /2018.


REGISTRAR 27/7/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Taimur Ali Khan Adv. Pesh.

Respected Sir,

1- Removed

2- Removed

3- Removed


4- copy of extract from register is attached on page-7.

5- copy of 17-9-2015 is attached on page-19, Rejection order on page 28 and 26-7-2018 is on page 33.

6- Removed

7- Removed

8- Removed

Resubmitted after
compliance
2/8/18 

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 961 /2018

Noor Ul Amin

V/S

Education Deptt:

INDEX

| S.No. | Documents | Annexure | Page No. |
|-------|---|------------|----------|
| 1. | Memo of Appeal | ----- | 01-04 |
| 2. | Copies of relevant page of register of Abbas Khan abduction report and order dated 31.12.2012 | A&B | 05-06 |
| 3. | Copies of attendance register, medical reports, application, letter dated 17.09.2015 | C,D,E&F | 07-19 |
| 4. | Copies of show cause notice, reply to show cause notice and order dated 03.01.2018 | G,H&I | 20-22 |
| 5. | Copy of departmental appeal | J | 23 |
| 6. | Copies of service appeal No.903/2018, rejection order dated 05.07.2018, applications for withdrawal, early hearing and order sheet dated 26.07.2018 | K,L,M, N&O | 24-33 |
| 7. | Vakalat Nama | ----- | 34. |

APPELLANT

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,


ASAD MAHMOOD
(ADVOCATE HIGH COURT)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 961 /2018

Khyber Pakhtukhwa
Service Tribunal

Diary No. 1204

Dated 27-7-2018

Mr. Noor Ul Amin, Ex-PST ,
GPS, Khandaq Adezai. *Peshawar*

(APPELLANT)

VERSUS

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

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 05.07.2018, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AGAINST THE ORDER DATED 03.01.2018 WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE FOR NO GOOD GROUNDS.

Filed to-day

[Signature]
Registrar

27/7/18

PRAYER:

Re-submitted to -day
and [unclear]

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDERS DATED 05.07.2018 AND 03.01.2018 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

[Signature]
Registrar

28/8/18

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant joined the education Department as PST in the year 2000 and has performed his duty with the entire satisfaction of his superior and no complaint has been filed against him during the performance of his duty.
2. That the appellant while working in said capacity in GPS Khandaq Adezai Matani in 2009-2010, Taliban has under control the whole area of Matani and they specially targeted the Government Servant and one of the colleague of the appellant namely Abbas Khan has been abducted which was mentioned in the attendance register and the Taliban also threaten the appellant for the same consequence and due that reason, he applied for Ex-Pakistan leave from 02.12.2012 to 01.12.2014 (730 days) which was granted on 31.12.2013 (**Copies of relevant page of register of Abbas Khan abduction report and order dated 31.12.2012 are attached as Annexure-A&B**)
3. That after expiry of leave the appellant submitted his arrival report on 02.12.2014 which is evident from the attendance register and started his duty, the appellant again face the same of same situation of threatening his life due to which he was psychology effected and at the same time he has also problem in spine, therefore he filed application for retirement on medical ground w.e.from 01/01/2015 and on his application, he was directed to appear before the medical board on 30.09.2015 vide letter dated 17.09.2015, however on that day his medical was not done. (**Copies of attendance register, medical reports, application, letter dated 17.09.2015 are attached as Annexure-C,D,E&F**)
4. That show cause notice was issued the appellant and in which it was mentioned that the appellant remained absent from January 2013 till date and when he went to the office to for submission his reply to the show cause notice on 07.03.2018, he was told that he was removed from service vide order dated 03.01.2018 without giving charge sheet and without conducting regular inquiry and handed over the penalty order on 07.03.2018, how ever his submitted his reply to show cause notice. (**Copies of show cause notice, reply to show cause notice and order dated 03.01.2018 are attached as Annexure-G,H&I**)
5. That the appellant filed departmental appeal against the impugned order for his reinstatement into service as he was recovered from the

his illness by proper treatment which was not responded within the statutory period of ninety days. **(Copy of departmental appeal is attached Annexure-J)**

6. That the appellant filed the Service Appeal No. 903/2018 after the lapse of statutory period of ninety days in KPK Service Tribunal in which date was fixed for preliminary hearing on 21.08.2018, however in meanwhile the appellate authority rejected the departmental appeal on 05.07.2018 and the appellant also wants to challenge the order dated 05.07.2018 before the Honourable Service Tribunal, therefore he filed application for withdrawal of service appeal No.903/2018 with the permission of Honourable Tribunal to file fresh one due to the passing the order dated 05.07.2018 along with early hearing application. The august Service Tribunal allowed both the applications on 26.07.2018 and permitted the appellant to withdraw the service appeal No.903/2018 to file fresh one. **(Copies of service appeal No.903/2018, rejection order dated 05.07.2018, applications for withdrawal, early hearing and order sheet dated 26.07.2018 are attached as Annexure-K,L,M, N&O)**
7. That now the appellant come to this august tribunal on the following grounds amongst others.

GROUND:

- A) That the impugned orders dated 05.07.2018 and 03.01.2018 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That no regular inquiry was conducted against the appellant before passing the impugned order of removal from and the authority did not mentioned the reason for dispense off inquiry, which is not permissible in law. Therefore the impugned order is liable to be set aside on this ground alone.
- D) That no charge sheet was served to the appellant before passing the impugned order of removal from service, which is the violation of law and rules.

- E) That the penalty of removal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- F) That the appellant was considered remain absent from January 2013 while the appellant applied for Ex-Pakistan leave from 02.12.2012 to 01.12.2014 (730 days) which was granted on 31.12.2013 and also started his duty after leave, but the authority wrongly presumed the absence period of the appellant and in such like situation regular inquiry is necessary.
- G) That the appellant did not intentionally absent from his duties but due to illness and militancy in the area where the appellant was serving and due to threat to his life, he was compel to remain absent from his duty.
- H) That the appellant was not according to law and rules and was punished for no fault on his part.
- I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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


APPELLANT
Noor Ul Amin

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,


(ASAD MAHMOOD)
ADVOCATE HIGH COURT

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| 10/5 | NAI | 11/1 | NAI | 7/30 | MB | 11/30 | MB | 7/30 | alias 12/35 alias 7/30 |
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| 10/13 | C - Leave | | | | MB | 12/30 | MB | 7/30 | |
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| 10/15 | NAI | 12/30 | NAI | 7/30 | MB | 12/30 | MB | 7/30 | |
| 10/16 | NAI | 12/30 | NAI | 7/30 | MB | 11/30 | MB | 7/30 | |

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| 10/19 | NAI | 11/1 | NAI | 7/30 | MB | 12/30 | MB | 7/30 | |
| 10/20 | NAI | 12/1 | NAI | 7/30 | MB | 12/30 | MB | 7/30 | |
| 10/21 | NAI | 10/45 | NAI | 7/30 | MB | 11/30 | MB | 7/30 | |

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B 6

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (ELEMENTARY & SECONDARY) EDUCATION PESHAWAR.

GRANT OF LEAVE.

Under the Khyber Pakhtunkhwa Govt: servant Revised leave rules, 1981, Sanction is hereby accorded for the grant of Ex Pakistan leave w.e. from 02/12/2012 to 01/12/2014 (730) days leave on without pay in favour of Mr. Noor-ul-Amin, PST Govt: Primary School Khandaq Peshawar.

NOTE :-


- 1 Necessary entry to this effect should be made in his service.
- 2 On expiry of leave he likely to resume his duty at the same post and station where he proceed for further adjustment.

Executive District Officer
Elem: & Sec: Education Peshawar.

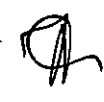
Endst: No. 226869 Dated Peshawar the 3 / 12 /2012

Copy forwarded for information and necessary action to the :-

- 1 District Accounts Officer Peshawar.
- 2 Deputy District Officer (Male) Peshawar w/r to his No.3056 dated 30/11/2012 along with service book and with the remarks to stopped the pay of the teacher concerned and furnish a certificate to this effect.


District Officer (Male)
Elem: & Sec: Education
Peshawar.

lc
1-1-2013



6

جیبر حاضری ماریٹین
23/30 APR 11

جیبر حاضری ماریٹین
11 APR 2011

| کسٹمر | آمد | دستخط | آمد | دستخط | روائی | دستخط | آمد | دستخط | آمد | دستخط | روائی | دستخط | آمد | تاریخ |
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نارتھ ویسٹ جنرل
ہسپتال اینڈ ریسرچ سنٹر

Prof: Tariq Khan (Hashim)

M.B.B.S., F.R.C.S.
Consultant Neurosurgeon
Northwest General Hospital & Research Centre
Sector A-3, Phase-V, Hayatabad, Peshawar.
Ph: 091-5822612-19, Fax: 091-5822620
Email: tariq.k@nwgh.pk, Web: www.nwgh.pk

18 DEC 2014

Date: _____

363 نورالام

Op occipital cervical pain radiating to
arm and side leg. weakness & numb
eye pain.
op. gabr mentated neck muscle
crank over the Refax Hales etc (CR)
EPL 1/1/14 MRS Central mild dis
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1/1/14

DR INDRAL
1/1/14

1/1/14

DR EPINALCR
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DR EPL 2014
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DR ALP (0.2014)
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1/1/14

A project of ALLIANCE HEALTHCARE (Pvt) Ltd.

ماہ بعد معائنے کیلئے تشریف لائیں
زحمت سے بچنے کیلئے مریضوں سے درخواست ہے کہ ڈرٹ کیلئے پیشگی نمبر حاصل کر

پیشگی نمبر: 091-5822612

ATTESTED
Dr

9 14



Northwest General Hospital LABORATORY

Sector A-3, Phase-V, Hayatabad, Peshawar.
Ph: 091-5822612-21, Fax: 091-5822620
Email: pathology@nwgh.pk, Web: www.nwgh.pk

Northwest General
Hospital & Research Centre

Name: NOOR UL AMIN Reg #: 071404651
Age: 35-Y Specimen: 18-Dec-2014 02:53:00 PM
Gender: Male Reported: 18-Dec-2014 4:00:20 PM

1214-16439

Biochemistry

| | | |
|-----------------------------|-------------|-----------------------------|
| Uric Acid | 6.0 mg / dl | Male 3.5-7.2 Female 2.5-6.2 |
| Calcium | 10.24 mg/dl | 8.5 - 10.5 |
| Rheumatoid Arthritis Factor | 4.7 IU/ML | <14 |

A. Latif Malik
Microbiologist
Director Laboratory Services

Dr. Nuzhat S. Khattak
M.B.B.S, F.C.P.S
Consultant Histopathologist

Dr. Ashraf Khan
M.B.B.S, DCP, M.Phil
Consultant Haematologist

Prof. M Naeem Khattak
MS, MRC Path, PhD, FRC Path (UK)
Consultant Microbiologist &
Director Infection Prevention

A project of ALLIANCE HEALTHCARE (Pvt) Ltd.



Northwest General
Hospital & Research Centre

DUPLICATE COPY

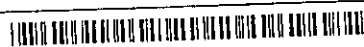
10

DEPARTMENT OF RADIOLOGY

Sector A-3, Phase-V, Hayatabad, Peshawar.
Ph: 091-5822612-21, Fax: 091-5822620
Email: radiology@nwgh.pk, Web: www.nwgh.pk

Name: MOOR UL AMIN
Age: 35-Year(s)
Gender: Male

Reg No: 071404651
Performed: 25-Jul-2014
Reported: 25-Jul-2014 02:37 PM



0714-13606

Ref By: Kamran Amir Khan

MRI CERVICAL SPINE

CLINICAL FEATURES:

Left sided body weakness.

TECHNIQUE:

Multiplanar and multiecho imaging done through cervical spine.

FINDINGS:

There is straightening of cervical spinal curve due to cervical myospasm.

CV5/CV6: Posterior annular bulge of CV5/CV6 intervertebral disc is seen.

CV6/CV7: Posterior annular bulge of CV6/CV7 intervertebral disc is seen.

Rest of the visualized intervertebral discs are unremarkable.

Normal bone marrow signal is noted. Vertebral body heights are maintained.

There are no fractures or dislocations. Disc heights are maintained.

No para vertebral mass seen. Pre-vertebral soft tissues appear normal.

No evidence of any extra-dural / intra-dural mass.

Spinal cord shows no abnormal signal.

No neuroforaminal narrowing is evident.

There is normal craniocervical junction. No cerebellar tonsillar herniation is seen.

IMPRESSION:

Posterior annular bulges of CV5/CV6 and CV6/CV7 intervertebral discs.

Dr. Tahir Malik
FCPS, Interventional Radiologist.

هوالتشانی
Dr. Dilaram Khan

MBBS, MCPS (Med)
FCPS (Gastroenterology)
Gastroenterologist & Hepatologist
Hayatabad Medical Complex Peshawar.

11 1004

Name Alor-ul-Anaia Age Sex M Date 20/11/14

H — ahead
Dep regard
Inward light
Dist sleep
PP Fullness

1 Cap Axesim 40mg
بے — بے — بے

2 Tas Levopraid 50
بے — بے — بے

3P — 120/80
ACILET

3 Tas Citanew 10mg
بے — بے — بے

484 50g/NTIVM 1135

4 Tas Inderal 10
بے — بے — بے

5 Tas Prb 20 5mg
بے — بے — بے

بے — بے — بے

کلینک: کمرہ نمبر B-20 دوسری منزل
خوشحال میڈیکل سنٹر، ڈگری گارڈن پشاور
00-5883758, 0321-9020212

انڈوسکوپنی کی سہولت موجود ہے

ڈاکٹر دلارام خان
گیسٹرو انٹرا و جیسٹ پیپانالوجسٹ
برائے امراض: معدہ، جگر، آنت، کالائیکان

ATTESTED

[Signature]

Dr. Kamran Amin Khan
 MBBS (Pak) MD(USA) FACP(USA)
 Fellow American College Of Physicians (Internal Medicine)
Consultant Physician
 Sector A-3, Phase-V, Hayatabad, Peshawar.
 Ph: 091-5822612-19, Fax: 091-5822620
 Email: kkhan@nwgh.pk, Web: www.nwgh.pk

12



Date: 25-07-14

Urdu 25 July, 14

NOON UL AMIN.

So
 1) HA
 2) NAD P
 3) TAP
 E 150/100
 Lung
 Heart / ce
 MR Bivul
 C-Spine
 Ankle hidge
 C5-6
 C6-7

- 1) Mrs. Cizawew
 06 x 20 in 10-15
- 2) Mrs. Ezizay
 06 x 20 in 10-15
- 3) Mrs. Hain 25-30
 06 x 20 in 10-15

[Handwritten signature]

ATTESTED

[Handwritten signature]

Dr. Kamran Burhan
M.B.B.S. (Pesh) MRCP (UK)

9 AM TO 1 PM
FRI, SAT, SUN, HOLIDAY

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ
NEUROLOGY CLINIC

نیورولوجی کلینک

- ۱: نیابت محمد کی نیت کریں۔
- ۲: دو رکعت صلوٰۃ حاجات پڑھ لیں۔
- ۳: کثرت سے استغفار اور توبہ کریں۔
- ۴: اپنی استطاعت کے مطابق صدقہ دیں۔

ڈاکٹر کامران برهان

ایم بی بی ایس، ایم آر سی پی (یو کے)
کمرہ نمبر ۶۷ سی خیبر میڈیکل سنٹر ڈگری گارڈن پشاور

۹ بجے سے دوپہر بجے تک

تعمیل بروز جمعہ، ہفتہ، اتوار

۹/6/11

حاجت - بیمار

Occipital Head by

N^o, Ev, B, W, S, Temperature, Depress, palp
Pia, Nerve, 140/90

Cardinal 10mg

Ploten 25

11 — 11 — 11

11 — 11 — 11

بیمار اور بدھ کے دن صبح 9 بجے سے دوپہر 1 بجے تک غریبوں کے لئے معائنہ مفت ہوگا۔

معائنہ کے لئے وقت اوقات کار کے دوران کلینک سے حاصل کریں۔ یا بذریعہ موبائل رابطہ کریں اور آنے سے پہلے پوچھ لیں۔

معائنہ کے لئے معلومات اور نمبر صبح 8 سے شام 6 بجے تک موبائل نمبر: 0300-9326739 - 0343-9007750 سے حاصل کیجئے۔ نماز کے اوقات کے علاوہ

Dr. Abid Shah

MBBS, MCPS, FCPS

MEDICAL SPECIALIST &
CARDIOLOGIST

Clinic:

Room # A-8, Khushal Medical Center
Near Khattak Medical Center, Pashawar.

هو الشانی

دہنی سکون کے لئے نماز تلاوت
اور ذکر کثرت سے کریں

لورا لاس

ڈاکٹر عابد شاہ

ایم بی بی ایس، ایم سی پی ایس، ایف سی پی ایس

میڈیکل سپیشلسٹ اینڈ کارڈیالوجسٹ

کلینک

کرہ نمبر A-8 خوشحال میڈیکل سنتر نزد خٹک میڈیکل سنٹر پشاور

Date 24/5/19

Tas. Paracetamol 500mg

ایسٹریڈی رات کی - 4 ڈون

2 1 1 2 - 3 ڈون

Tas. Paracetamol 500mg

Tas. Aspirin 100mg

1/2 + 1/2 - 10 ڈون

1/2 رات کی - 10 ڈون (پہلے سے شروع)

Tas. Beta Blocker 40mg

1/2 + 1/2 - 10 ڈون

Cap. Enalapril 5mg

ایسٹریڈی رات کی - 10 ڈون

Tas. Diclofenac Plus

ایسٹریڈی رات کی - 1 ڈون

Tas. Paracetamol

3 ڈون - 1 ڈون

The Pres

دوبارہ معائنہ..... بعد ہوگا

نمبر اور معلومات کے لئے 091-2240203

ATTESTED

Handwritten signature

Dr. Abid Shah

MBBS, MCPS, FCPS

ME.ICAL SPECIALIST &
CARDIOLOGIST

Clinic:
Room # A-8, Khushal Medical Center
Near Khattak Medical Center, Pashawar.

هو الشانی

ڈاکٹر عابد شاہ

ایم بی بی ایس، ایم سی پی ایس، ایف سی پی ایس

میڈیکل سپیشلسٹ اینڈ کارڈیالوجسٹ

کلینک

کمرہ نمبر A-8 خوشحال میڈیکل سنٹر نزد خٹک میڈیکل سنٹر پشاور

لورالاسین

Date..... 17/7/20

B.P. 120/100

Tas. Lisinapril 75mg

دو بار روزانہ 75mg

Tas. Cardin A 40mg

دو بار روزانہ 40mg

وزن کم کریں
نمک کے استعمال میں کمی کریں
ذہنی دباؤ اور بے چینی سے اجتناب کریں
روزانہ کوریورز سے کامیابی سے لیں

Adv. 24 hour BP Record
monitoring

(Signature)

دوبارہ معائنہ..... بعد ہوگا

نمبر اور معلومات کے لئے 091-2210203

ATTESTED

(Signature)

Dr. Muslim Khan

M. S. (Fesh)
MCPS (Psychiatry)
FCPS - II (Psychiatry)

Psychiatrist
Sarhad Hospital for Psychiatric Diseases
Ex. Psychiatrist LRH Peshawar.



ڈاکٹر مسلم خان

ایم۔ بی۔ بی۔ ایس۔ ایم۔ سی۔ پی۔ ایس (سائیکٹری)
ایف۔ سی۔ پی۔ ایس۔ II (سائیکٹری)
پی۔ جی۔ سی۔ ملڈ ڈیپارٹمنٹ (کینیڈا)

ماہر ذہنی امراض: سر درد، گیس، وہم، مرگی، منشیات و جنسیات
سائیکٹریسٹ سرحد ہسپتال برائے ذہنی امراض
سائیکٹریسٹ لیڈی ریڈنگ ہسپتال پشاور

P/Name Now Amin Age 36 Sex M Date 16/12/14
Address

Rx

2.
Tees Tenormin 50mg

①

Tas Etarime 15mg
①

SEROZAT-CR 12.5mg
①

Caplan 50p
①

رابطے کیلئے

0301-8811963

دوبارہ معائنہ کی تاریخ

تعطیل پروڈاکٹوار

1- ڈاکٹر کے مشورے کے بغیر دوائی کم، زیادہ یا بند نہ کریں۔
2- جسم کے دوسرے حصوں کی طرح دماغ کو بھی بیماری لگ سکتی ہے۔ اس لئے اس کا علاج بھی ضروری ہے۔

NOT FOR COURT USE

کلینک: کمرہ نمبر 18-C خوشحال میڈیکل سنٹر، ڈیگری گارڈن پشاور

Reg No. HPA/500/F/PR/SPEC/57.

E-mail: drmuslimkhan@yahoo.com

محترم صاحب - ڈسٹرکٹ ایجوکیشن آفیسر، ایف ڈی ایف سکول، کھانداق، پشاور۔
 گون - ۱۔ درخواست برآمد تھیں۔ بورڈ ایف ڈی ایف سکول، کھانداق۔
 18

صاحب عالی! گزارش ہے کہ میں صحتی خرابی میں مبتلا ہوں اور طبی ٹیسٹ میں صدمہ ۱-۲-۲۰۰۰ سے مجھے ہلکا ہوا ہے۔ اس لیے ڈسٹرکٹ ایف ڈی ایف سکول، کھانداق میں داخلہ دینا چاہتا ہوں۔
 ادنیٰ سے وہ میں خدمت انجام دے رہا ہوں۔ میں نے اپنے خرابی کے بیان کارڈ اور طبی رپورٹ سے اہم دئے۔
 کچھ عرصہ پہلے رات کے وقت میرا گھر ڈانٹا ہے۔ اور میرا گھر کو لوٹا جس کی وجہ سے میں ڈسٹرکٹ ایف ڈی ایف سکول، کھانداق میں داخلہ دینا چاہتا ہوں۔
 یہ لگتا ہے کہ میرا صدمہ خرابی میں مبتلا ہوا ہے۔ اس لیے ڈسٹرکٹ ایف ڈی ایف سکول، کھانداق میں داخلہ دینا چاہتا ہوں۔
 صاحب عالی اس وقت میں ذہنی اور جسمانی طور پر مفلوج ہو کر رہا ہوں۔
 لہذا استدعا ہے کہ مجھے ڈسٹرکٹ ایف ڈی ایف سکول، کھانداق میں داخلہ دیا جائے۔ کیونکہ میں سرکاری اسکول میں فرائض انجام دے رہا ہوں۔ اور بہت کم عمر میں ہی گزار رہا ہوں۔

انوار الحق
 (M) M. H. H.

نور الہین PST
 ڈسٹرکٹ ایف ڈی ایف سکول، کھانداق

Forwarded and recommended
 for favourable consideration
 Please.

HEAVY CENTER
 Govt. Primary School
 Khandaq Peshawar.

Received
 22/12/10

ATTENDED

[Signature]

DIRECTORATE GENERAL HEALTH SERVICES,
KHYBER PAKHTUNKHWA, PESHAWAR

All communications should be addressed to the Director General Health Services and not to any official by name
Exchange # 021-9210197, ☎ Tele # 9210196 Fax # 021-9210220

⑤
⑥
F
19

No. 10038 Medical

dated 17/9/2015

To

The Dy. District Police Officer
Office (M) Peshawar

Subject: TO APPEAR BEFORE MEDICAL BOARD

Reference your letter No. 1700

12-9-15 Mr./Mrs. NOOR ul Amin Designation PST
is/are referred to appear before the Medical Superintendent Police / Services Hospital,
Peshawar for his / here Medical examination to be carried by the Standing Medical Board /
Standing Invalidation Committee on 30-9-15 At 9:00 A.M along with National

[Signature]
ASSISTANT DIRECTOR (MEDICAL)
DIRECTORATE GENERAL HEALTH
SERVICES, KPK, PESHAWAR.

Medical

17/9/15

Copy with a copy of letter referred to above along with its enclosure is forwarded to the Medical Suptd. Police / Services Hospital Peshawar for information and necessary action.

On arrival, the above name / official / Officer should be examined by the Standing Medical Board / Standing Invalidation Committee and the proceedings of the Standing Medical Board be sent to the above name address under intimation to this office etc.

[Signature]
ASSISTANT DIRECTOR (MEDICAL)
DIRECTORATE GENERAL HEALTH
SERVICES, KPK, PESHAWAR.

DA
part copy
17/9/15

4259
23-9-2015
RECEIVED
DIRECTOR

ATTACHED

3
G
20

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.

SHOW CAUSE NOTICE.

1, (Mr Jaddi Khan Khalil , DEO (M) Peshawar), as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Noor-ul-Amin PST, GPS Khandaq Adezai Peshawar as follow:

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

- (a) Absent from duty w.e.f January 2013 to till date.
- (b) Misconduct.

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

You are, therefore, 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.

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 defence to put in and in that case an ex-party action shall be taken against you.


COMPETENT AUTHORITY
DISTRICT EDUCATION OFFICER,
(Male) PESHAWAR.

ATTESTED



Replay of the show cause notice

4
H (21)

Refer to your show cause notice dated nil regarding

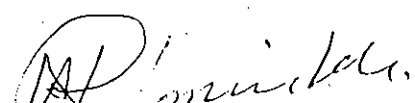
- (a) Absent from duty w.e.f January, 2013 to till date.
- (b) Misconduct

In this connection it is clarified that:

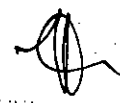
1. I was appointed as PST by DEO (M) Peshawar vide Endst No 1261-15/11 dated: 22/02/2000.
2. I have performed my duty on the entire satisfaction of my high up, up to 01/12/2014.
3. I was granted Ex-Pakistan leave w.e.f 02/12/12 to 01/12/2014 (copy attached)
4. On the expiry of my leave I was resumed my duty at GPS Khandaq Adezai Peshawar.
5. I performed my duty at the said school up to 16/12/2015.
6. In the month of December, 2015 an unto wards situation by the docoits disturbed my mental condition.
7. The doctor advised complete rest. (copy attached)
8. Due to my mental disorder I applied for retirement on medical ground (copy attached)
9. The said application was forwarded to the Director Health by the DEO (M) Peshawar vide - 9220/ dated 12/09/2015 for further process. (Copy attached)
10. Director General Health issued a letter vide 10038/Med, Dated 17/09/2015 & appear before the Medical Board on 30/09/2015.
11. Unfortunately the said meeting was postponed and date was not fixed. so for.

In the light of above facts it is now humbly requested that:

- a) As I have restored my health, so I may kindly be re-instated and my assent period may be considered as leave without pay.
- OR
- b) I may kindly be granted retirement on medical ground.


Yours obediently
Noor-ul-Amin
PST GPS Khandaq Adezai Peshawar

ATTESTED



I
22

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.

NOTIFICATION:-

1. WHEREAS: Mr. Noor ul Amin PST GPS Khandaq Adezai Peshawar was proceeded against under Khyber Pkhtunkhwa Govt: Servant (Efficiency & Disciplinary) Rules 2011 for the charge of will full Absence from duty w.e.f Jan-2013 till date .
2. AND WHEREAS:- Show Cause Notice was served upon the accused Mr.Noor ul Amin PST ,GPS Khandaq Adezai Peshawar through SDEO(M) Town-IV Peshawar Vide No.11115 dated 24/10/2017.
3. AND WHEREAS:- The accused official did not submitted his reply to the show cause notice.
4. AND WHEREAS:- Absent Notice was served upon the accused Mr. Noor ul Amin PST ,GPS Khandaq Adezal Peshawar through Daily Mashriq dated 04/12/2017.to attend the office and explain his absence period but he did not attend the duty.
5. AND WHEREAS:- The competent Authority ,District Education Officer (Male) Peshawar after having considered the charges ,evidence on record and facts of the case of the view that the charges of wilful absence from duty against the official concerned have been proved.
6. NOW THEREFORE, In exercise of the Powers conferred under Rules-4 (b) iii of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I the competent Authority District Education Officer (Male) Peshawar is pleased to impose major penalty of " Removal from Service " upon Mr. Noor ul Amin PST GPS Khandaq Adezai Peshawar with immediate effect. The period of his absence w.e.f January 2013 till date is hereby treated as unauthorized absence from duty without pay.

(Jaddi Khan Khalil)
District Education Officer
(Male)Peshawar.

Endst No. 7232-1/14 / Date: 03/01/2018

Copy forwarded to the :-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. PS to Secretary E& SED Khyber Pkhtunkhwa Peshawar.
3. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
4. Sub Divisional Education Officer (Male) Town-IV Peshawar with the remarks that necessary entry to this effect should be made in his service book & recover any over payment made to the above named official and deposit in to Govt: Treasury under intimation to this office.
5. ASDEO(Male) Circle concerned.
6. Official Concerned.

Dy: District Education Officer
(Male) Peshawar

ATTACHED

9

To

The Director E&S Education
Khyber PakhtonKhwa Peshawar.

J 23

Subject: Appeal against the Major Penalty Removal from service.

Sir,

I have the honour to state that:-

1. I was appointed as PST by DEO (M) Peshawar vide Endst No. 1261-15/II dated: 22/02/2000.
 2. I have performed my duty on the entire satisfaction of my high up, up to 01/12/2014.
 3. I was granted Ex-Pakistan leave w.e.f 02/12/12 to 01/12/2014 (copy attached)
 4. On the expiry of my leave I resumed my duty at GPS Khandaq Adezai Peshawar on 2-12-2014.
 5. I performed my duty at the said school up to 16/12/2015. (copy attached)
 6. In the month of December, 2015 an un towards situation by the docoits, disturbed my mental condition.
 7. The Doctor advised me a complete rest. (copy attached)
 8. Due to my mental disorder I applied for retirement on medical ground (copy attached)
 9. The said application was forwarded to the Director Health by the DEO (M) Peshawar vide - 9220/ dated 12/09/2015 for further process. (Copy attached)
 10. Director General Health issued a letter vide 10038/Med, Dated 17/09/2015 to appear before the Medical Board on 30/09/2015.
 11. Unfortunately the said meeting was postponed and next date was not fixed so far.
 12. Show cause notice was issued by the DEO (M) Peshawar.
 13. The said show cause was not received in time by the u/s due to less communication facilities in the area.
 14. However reply of the show cause notice was submitted to the DEO (M) office on 18/01/2018. (Copy attached)
 15. Besides the consideration of factual position the u/s was removed from service by the DEO (M) Peshawar. (Copy attached)
 16. The copy of removal of service was also not conveyed to the u/s and the same was received on 07/03/2018 from DEO (M) Office.
- It is therefore requested that the u/s may kindly be exonerated from the said major penalty and be Re-instated with all back benefits.

Date: 09/03/2018

Yours obediently
Noor-ul-Amin

PST GPS Khandaq Adezai Peshawar

ATTESTED

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

K
24

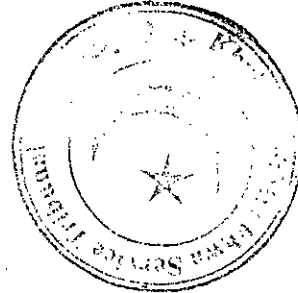
APPEAL NO. 903 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1101

Dated 02-7-2018

Mr. Noor Ul Amin, Ex-PST,
GPS, Khandaq Adezai.



(APPELLANT)

VERSUS

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

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 03.01.2018, WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Received
Registrar
4/7/18

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 03.01.2018 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

Re-submitted today
and filed.

Registrar
17/7/18

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

RESPECTFULLY SHEWETH:

25

FACTS:

1. That the appellant joined the education Department as PST in the year 2000 and has performed his duty with the entire satisfaction of his superior and no complaint has been filed against him during the performance of his duty.
2. That the appellant while working in said capacity in GPS Khandaq Adezai Matani in 2009-2010, Taliban has under control the whole area of Matani and they specially targeted the Government Servant and one of the colleague of the appellant namely Abbas Khan has been abducted which was mentioned in the attendance register and the Taliban also threaten the appellant for the same consequence and due that reason, he applied for Ex-Pakistan leave from 02.12.2012 to 01.12.2014 (730 days) which was granted on 31.12.2013 (Copies of relevant page of register of Abbas Khan abduction report and order dated 31.12.2012 are attached as Annexure-A&B)
3. That after expiry of leave the appellant submitted his arrival report on 02.12.2014 which is evident from the attendance register and started his duty, the appellant again face the same of same situation of threatening his life due to which he was psychology effected and at the same time he has also problem in spine, therefore he filed application for retirement on medical ground w.e.from 01/01/2015 and on his application, he was directed to appear before the medical board on 30.09.2015 vide letter dated 17.09.2015, however on that day his medical was not done. (Copies of attendance register, medical reports, application, letter dated 17.09.2015 are attached as Annexure-C,D,E&F)
4. That show cause notice was issued the appellant and in which it was mentioned that the appellant remained absent from January 2013 till date and when he went to the office to for submission his reply to the show cause notice on 07.03.2018, he was told that he was removed from service vide order dated 03.01.2018 without giving charge sheet and without conducting regular inquiry and handed over the penalty order on 07.03.2018, how ever his submitted his reply to show cause notice. (Copies of show cause notice, reply to show cause notice and order dated 03.01.2018 are attached as Annexure-G,H&I)
5. That the appellant filed departmental appeal against the impugned order for his reinstatement into service as he was recovered from the his ailment by proper treatment which was not responded within the

ATTESTED

Signature
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


statutory period of ninety days. (Copy of departmental appeal is attached Annexure-J)

6. That now the appellant come to this august tribunal on the following grounds amongst others.

GROUND:

- A) That the impugned order dated 03.01.2018 and not taking action on the departmental appeal of the appellant within the statutory period of ninety days are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That no regular inquiry was conducted against the appellant before passing the impugned order of removal from and the authority did not mentioned the reason for dispense off inquiry, which is not permissible in law. Therefore the impugned order is liable to be set aside on this ground alone.
- D) That no charge sheet was served to the appellant before passing the impugned order of removal from service, which is the violation of law and rules.
- E) That the penalty of removal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- F) That the appellant was considered remain absent from January 2013 while the appellant applied for Ex-Pakistan leave from 02.12.2012 to 01.12.2014 (730 days) which was granted on 31.12.2013 and also started his duty after leave, but the authority wrongly presumed the absence period of the appellant and in such like situation regular inquiry is necessary.
- G) That the appellant did not intentionally absent from his duties but due to illness, he was compel to remain absent from his duty.
- H) That the appellant was not according to law and rules and was punished for no fault on his part.

ATTESTED


 Khair-ud-Din
 Service Tribunal,
 Peshawar

1) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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




APPELLANT
Noor Ul Amin

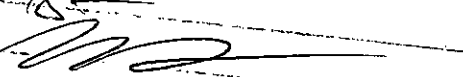
THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,
&

(ASAD MAHMOOD)
ADVOCATE HIGH COURT

Certified to be true copy

Khwaja Ghulam Ghani
Service Tribunal,
Peshawar

Date of Presentation of Application 30-7-18
Number of Weeks 2800
Copying Fee 16
Urgent 2
Total 18
Name of Applicant 
Date of Copy 30-7-18
Date of Delivery of Copy 30-7-18

428

DIRECTORATE OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA

NOTIFICATION.

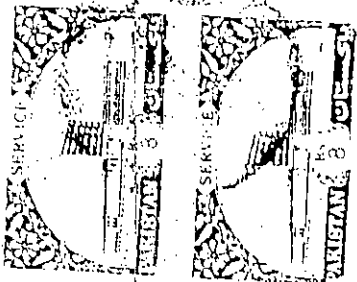
1. WHERE AS the District Education Officer (M) Peshawar imposed major penalty of Removal from service upon Mr.Noor ul Amin Ex-PST GPS Khandaq Adezai Peshawar for the charges of absence from official duty on w.e.f. January 2013.
2. AND WHEREAS, Mr.Noor ul Amin PST GPS Khandaq Adezai Peshawar submitted an appeal to this office vide date 13.03.2018.
3. AND WHEREAS, The appellate authority asked the DEO (M) Peshawar for comments vide letter No.3718 dated 19.03.2018.
4. AND WHEREAS, the DEO (M) Peshawar submitted comments/report vide letter No.11137 dated 07.05.2018.
5. AND WHEREAS, the appellate authority called the Ex-teacher concerned for personal hearing on 03.06.2018. The appellant concerned as well as the DEO(M)Peshawar in person appeared for personal hearing. The DEO(M)Peshawar stated that the appellant during the absence period was abroad and he supported his statement by providing foreign travelling record of the appellant wherein the concerned Ex-PST failed to defend it.
6. AND WHEREAS, the competent authority Director Elementary and Secondary Education Khyber Pakhtunkhwa after having considered the charges and evidence on record is of the view that charges against accused teacher have been proved.
7. NOW THEREFORE, in the light of the above mentioned facts, the appeal in respect of Mr. Noor ul Amin PST GPS Khandaq Adezai Peshawar is hereby Rejected being devoid of facts and merit.

1038 No
DIRECTOR.

Endst: No. 1038 No / F No. 162/Vol:14/Appeal of PST(M)Gen. Dated Peshawar the 5/7/2018

Copy forwarded for information and necessary action to the:-

- 1 District Education Officer (M) Peshawar w/r to his No. cited above.
- 2 Noor ul Amin PST GPS Khandaq Adezai Peshawar.
- 3 P/A to Director E&SE, Khyber Pakhtunkhwa, Peshawar.
- 4 Master File.



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

ATTACHED

[Signature]

M 23



BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No.903/2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 808
Dated 20/08/2018

Noor Ul Amin

V/S

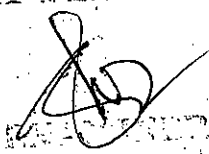
Education Deptt.

APPLICATION FOR WITHDRAWAL OF APPEAL WITH THE
PERMISSION TO FILE A FRESH APPEAL DUE TO THE PASSING
OF REJECTION ORDER 05.07.2018.

RESPECTFULLY SHEWETH:

- 1) That the appellant filed the above mentioned appeal in this Honourable Tribunal against the order dated 03.01.2018 and against not taking action on the departmental appeal of the appellant within the statutory period of ninety days with the prayer to re-instate the appellant into service will all back benefits.
- 2) That the instant appeal is in preliminary stage and date fixed for preliminary hearing is 21.8.2018.
- 3) That the respondent department not taking action on the departmental appeal of he appellant with in statutory period of 90 days, thereafter appellant filed service appeal before the this Hon'ble tribunal and after completion of statutory period of 90 days the appellant filed the instant service appeal, Now, meanwhile the Respondent Department rejected the departmental appeal of the appellant on 5.07.2018. (Copy of the order is attached).
- 4) That due the above mentioned reason, the appellant also want to challenge the order dated 05.07,2018 in this august Tribunal therefore, the appellant wants to withdraw the above titled appeal with the permission to file a fresh one.


ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

It is, therefore, most humbly prayed that file of the above titled appeal of the appellant may be requisite today and kindly be withdrawn with permission to file the fresh appeal.

Appellant
Noor ul Amin

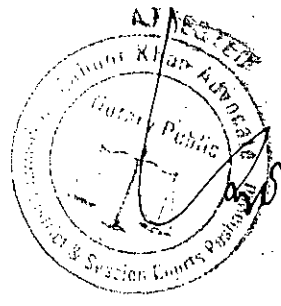
THROUGH:


(TAIMUR ALI)
ADVOCATE HIGH COURT

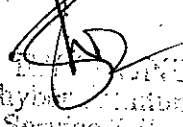
AFFIDAVIT:

I, the appellant state on oath that the contents of the above application is true and correct to the best of knowledge and belief; and nothing has been withheld or concealed from the Honorable Tribunal.


Deponent



Certified to be true copy


District Public Prosecutor
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

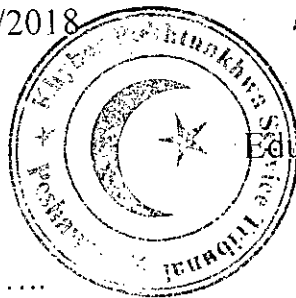
N 31

For Deponent's
Signature
812
21/07/2018

Appeal No. 903/2018

Noor Ul Amin

V/S



Education Deptt:

APPLICATION FOR FIXING OF AN EARLY DATE OF
HEARING IN THE ABOVE TITLED INSTEAD OF 21.8.2018

RESPECTFULLY SHEWETH:

1. That above mentioned appeal is fixed on 21.08.2018 in preliminary hearing in this august Tribunal.
2. That the appellant wants to with draw the instant appeal with the permission to file fresh one and in this respect he field application for with drawl of instant appeal.
3. That it will be in the interest of justice to fix the case today so that the appellant will able to withdraw his instant appeal to file fresh with the permission of this august Tribunal.

It is, therefore, most humbly prayed that on acceptance of this application, that instant appeal may be fixed for today so that appellant can able to withdraw the instant appeal. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

*Retired to
Mol court
clerk's
regional
rel.
Sommer
21/7/18*

Recd by

*Int-up with
file today
26-7-2018*

Appellant

(TAIMUR ALI KHAN)
ADVOCATE, PESHAWAR.

THROUGH:

AFFIDAVIT:

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

Certified to be true copy

ATTESTED

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



[Signature]
Deponent

21-7-18

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 903 /2018



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1101

Dated 02-7-2018

Mr. Noor Ul Amin, Ex-PST,
GPS, Khandaq Adezai.

(APPELLANT)

VERSUS

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

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 03.01.2018, WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Submitted to day
ed.
17/7/18
Registrar

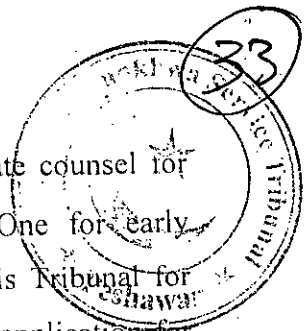
PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 03.01.2018 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

ATTESTED

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

26.07.2018



Today, Mr. Taimur Ali Khan, Advocate counsel for appellant submitted two separate applications. One for early fixation of the appeal which was fixed before this Tribunal for preliminary hearing on 21.08.2018 and the other application for the withdrawal of the appeal with the permission to file a fresh after impugning the order of the appellate authority passed on 05.07.2018. The case file was requisitioned for today.

Mr. Taimur Ali Khan, Advocate on behalf of the appellant and on a notice, Mr. Muhammad Jan, DDA also put appearance on behalf of the respondents.

Learned counsel for the appellant heard. Contends that he filed the appeal within the stipulated period which is fixed for 21.08.2018 for preliminary hearing. That in the meanwhile on 05.07.2018, the appellate authority rejected the departmental appeal of the present appellant which order under the law, needs to be impugned before this Tribunal as well. Further contended that to avoid further delay, he submitted separate application to fix the appeal earlier.

Both the request seem to be genuine and legal as well. As such, on acceptance of application for early hearing, the appeal file was requisitioned for today and notice was also given to the respondents for the purpose of attendance though Mr. Muhammad Jan, DDA present.

So for the request of the withdrawal of the present appeal is concerned, again it is legal and genuine as well. As such, on acceptance of the said written request, the appeal in hand stands dismissed being withdrawn. However, the appellant is allowed to file fresh appeal after impugning the order of the appellate authority within the stipulated period. In the circumstances, parties are left to bear their own costs. File be consigned to the record room.

Announced:
26.07.2018

Chairman 26.7.2018

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation 26-7-18
Number of P.A. 6
Copying Fee 500
Urdu 2/-
Total 502/-
Name of Counselor Taimur Ali Khan
Date of Copying 20-7-18
Date of Delivery of Copy 20-7-18

بعدالت

سروس ٹریڈنگ لیسٹ اور

نور الحسنیٰ 2، پنجاب پبلسٹی
نور الحسنیٰ بنام عدلیہ کیم

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لیسٹ اور کیم کے نامور علی خان اور اسد محمود اور نور الحسنیٰ

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 ثالثہ فیصلہ برحلف دیئے جواب دہی 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 برادگی 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 لیا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ

پر واختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المترقوم

20

واہ العب

بمقام

کے لئے منظور ہے۔

Accepted
Attested

NAA

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

SERVICE APPEAL NO.961/2018

Noor Ul Amin

V/S

Director (E &SE) & others

INDEX

| S. No. | Description of Documents | Annexure | Page No. |
|---------------|--|-----------------|-----------------|
| 1. | Para wise Reply. | ----- | 1-2 |
| 2. | Copy of flight schedule. | A | 3 |
| 3. | Copy of show cause notice. | C | 4 |
| 4. | Copy of publication of Daily News Paper. | D | 5 |
| 5. | Copy rejection of appeal. | E | 6 |

~~District Education Officer,
(Male), Peshawar~~

P - 1

44

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

SERVICE APPEAL NO.961/2018

Noor Ul Amin

V/S

Director (E &SE) & others

REPLY ON BEHALF OF RESPONDENT No.1,2 &3.

Respectively Sheweth:

The Respondent submits below:

PRELIMINARY OBJECTIONS:

1. That the Appellant has got no cause of action /locus standi.
2. That the Appellant has concealed material facts from this Hon,ble Tribunal.
3. That the Appellant has been estopped by his own conduct to file the instant appeal before this Hon'ble Tribunal.
4. That the instant Appeal is badly time barred.
5. That the instant Appeal is not maintainable in its present form.
6. That the instant Appeal is bad for mis- joinder and non- joinder for the necessary parties.
7. That the Appellant has not come with clean hands to this Hon'ble Tribunal.
8. That the instant Appeal is barred by law.
9. That the Appellant does not fall within the ambit of aggrieved person.

ON FACTS.

1. That Para No.1 pertains to record.
2. That Para No.2 is incorrect, misleading and against the facts. The Appellant was willful absent from his duty and the Department took action according to law and rules.
3. That Para No.3 incorrect, misleading and against the facts. The Appellant was abroad and he arrived to Pakistan on 02-06-2018. The Department issue show cause notice on 24-10-2017, publication in Daily News Paper on 04-12-2017 and removed the Appellant form his service on 03-01-2018 while the Appellant replied to show cause has submitted by someone with fake signature of the Appellant on 18-01-2018 because at that time the Appellant was abroad.
(Copy of flight schedule, show cause notice, publication of Daily News Paper are attached as Annex: A,B & C)
4. That Para No.4 is also incorrect, misleading and against the facts. The Appellant had been abroad and someone else/unknown person submitted the reply of show cause but did not appear in person before the competent authority while he arrived to Pakistan on 02-06-2018 after that he filed appeal against his removal order and appear before the competent authority on 06-06-2018 for personal hearing and the competent authority rejected the appeal of the Appellant on the grounds that he had already been removed from service on 03-01-2018 after fulfill all codal formalities under E&D rules.

(Copy rejection of appeal is attached as Annex: D)

48

- 5. That Para No.5 incorrect, misleading and against the facts. Detail reply has been given in the above Para.
- 6. That Para No.6 incorrect, misleading and against the facts. The Appellant did not file the Departmental appeal within the prescribe time. ^{Annex E} - (E)
- 7. That Para No.7 is incorrect, misleading and against the facts. The Appellant has no cause of action to file the instant appeal in the August Service Tribunal.

[Handwritten signature]

GROUNDS

- A. That Ground -A is incorrect and misleading. The Respondent both the orders are according to law and rules.
- B. That Ground -B is also incorrect and misleading. The Respondent Department treated the Appellant according to law and rules.
- C. The Ground-C is incorrect. Detail reply has been given in the above facts Para. As the Appellant was remained willful absent from duty.
- D. That Ground -D is also incorrect and misleading. All the codal formalities adopted but the Appellant had been abroad which is already annexure: A of the reply.
- E. That Ground-E is incorrect and misleading the said penalty is according to law and rules.
- F. That Ground -F is also incorrect, misleading and against the facts. The Appellant had been abroad w.e.f 15-10-2010 to 02-06-2018 frequently.
- G. That Ground -G is also incorrect and misleading. The Appellant did not inform the high ups regarding the illness and threats and he was abroad.
- H. That Ground-H is incorrect and misleading. The Appellant had been abroad and did not inform the Department accordingly.
- I. That respondent also seeks leave of this Hon'ble Tribunal to present case law and to raise additional grounds at the time of arguments.

It is therefore, very humbly prayed that on acceptance of this reply, the instant appeal may very kindly be dismissed with cost.

[Handwritten signature]
 District Education Officer
 (Male) Peshawar

[Handwritten signature]
 Director,
 E & SE KPK Peshawar

[Handwritten signature]
 Secretary,
 E & SE KPK Peshawar

P-4
Annex - B 39
16

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.

SHOW CAUSE NOTICE.

1, (Mr Jaddi Khan Khalil , DEO (M) Peshawar), as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr.Noor-ul-Amin PST, GPS Khandaq Adezai Peshawar as follow:

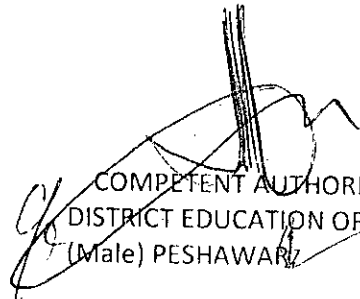
I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules:

- (a) Absent from duty w.e.f January 2013 to till date.
- (b) Misconduct.

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

You are, therefore, 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.

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 defence to put in and in that case an ex-parte action shall be taken against you.


COMPETENT AUTHORITY
DISTRICT EDUCATION OFFICER,
(Male) PESHAWAR

<http://www.dailymashriq.com.pk>

اللہ ہی کیلئے ہیں شرق و مغرب القرآن

DAILY MASHRIQ PESHAWAR

پشاور روزنامہ

مہرؤ کے بانی
سید تاج میر شاہ

مشرق

مستقل اشاعت 51 سال

پشاور اسلام آباد سیکٹ 8 قسٹ مشاعرے ہونے والے کثیر الاشاعت قومی اخبار

ABC CERTIFIED

جلد 51

15 ربیع الاول 1439ھ 4 دسمبر 2017ء 18 ستمبر 13 ربیع 105

نوٹس فیرو حاضری

ہر گاہ آپ کو رالامین بی ایس ٹی گورنمنٹ پرائمری سکول خاندق آدیو کی پشاور مورچہ January 2013 سے اب تک اپنی ڈیوٹی سے فیرو حاضری ہیں۔ آپ کے Show Cause Notice بڈاریہ ایس ڈی او (میل) ٹاؤن۔ IV پشاور مورچہ 24/10/2017 کو بھجوا گیا جس کا آپ نے جواب نہیں دیا اور نہ ہی آپ کا کوئی پتہ چلا لہذا آپ کو بڈاریہ نوٹس ہڈا مطلع کیا جاتا ہے کہ اس نوٹس کی اشاعت کے پندرہ دن کے اندر اندر ڈیوٹی کے دفتر دوران اوقات کار حاضر ہو کر اپنی فیرو حاضری کی وجہ بیان کریں بصورت دیگر آپ کے خلاف یکطرفہ کارروائی عمل میں لاتے ہوئے ای اینڈ ڈیوٹی رولز مجریہ 2011 کے تحت حاصل کردہ اختیارات بروئے کار لاتے ہوئے کارروائی کی جائے گی جو آپ کی ملازمت سے برخاستگی پر منتج ہو سکتی ہے۔

جدی خان خلیل ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ) پشاور

INF(P) 6837 Also available on

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P-6
Answer - 1237

14.9

DIRECTORATE OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA

NOTIFICATION.

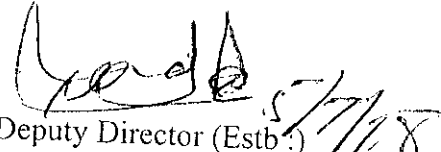
1. WHERE AS the District Education Officer (M) Peshawar imposed major penalty of Removal from service upon Mr.Noor ul Amin Ex-PST GPS Khandaq Adezai Peshawar for the charges of absence from official duty on w.e.f. January 2013.
2. AND WHEREAS, Mr.Noor ul Amin PST GPS Khandaq Adezai Peshawar submitted an appeal to this office vide date 13.03.2018.
3. AND WHEREAS, The appellate authority asked the DEO (M) Peshawar for comments vide letter No.3718 dated 19.03.2018.
4. AND WHEREAS, the DEO (M) Peshawar submitted comments/report vide letter No.11137 dated 07.05.2018.
5. AND WHEREAS, the appellate authority called the Ex-teacher concerned for personal hearing on 06.06.2018. The appellant concerned as well as the DEO(M)Peshawar in person appeared for personal hearing. The DEO(M)Peshawar stated that the appellant during the absence period was abroad and he supported his statement by providing foreign travelling record of the appellant wherein the concerned Ex-PST failed to defend it.
6. AND WHEREAS, the competent authority Director Elementary and Secondary Education Khyber Pakhtunkhwa) after, having considered the charges and evidence on record, is of the view that charges against accused teacher have been proved.
7. NOW THEREFORE, in the light of the above mentioned facts, the appeal in respect of Mr. Noor ul Amin PST GPS Khandaq Adezai Peshawar is **hereby Rejected** being devoid of facts and merit.

DIRECTOR.

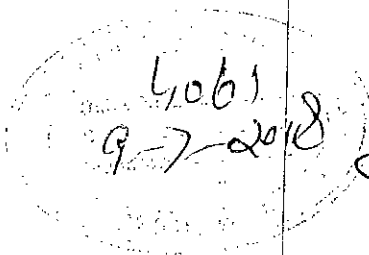
Endst: No. 1038-40 /F No. 162/Vol:14/Appeal of PST(M)Gen. Dated Peshawar the 5/7/18 2018.

Copy forwarded for information and necessary action to the:-

- 1 District Education Officer (M) Peshawar w/r to his No. cited above.
- 2 Noor ul Amin PST GPS Khandaq Adezai Peshawar.
- 3 P/A to Director E&SE, Khyber Pakhtunkhwa, Peshawar.
- 4 Master File.


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


9/7/18



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

No. 2206 /ST

Dated 16 / 12 / 2019

To


The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 961/2018, MR. NOOR UL AMIN.

I am directed to forward herewith a certified copy of Judgement dated 21.11.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 465 /ST/SCJ/SA-961/2018

Dated: 03/03 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To,

The Registrar,
Supreme Court of Pakistan,
Islamabad.

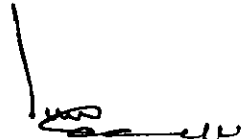
Subject: CIVIL APPEAL NO. 985 of 2020
Secretary Elementary & Secondary Education Department,
Government of KPK, Peshawar and others

Versus

Noor-Ul-Amin

Dear Sir,

I am directed to acknowledge the receipt of your letter no C.A.985/2020-SCJ dated 27-02-2021 alongwith its enclosure..


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

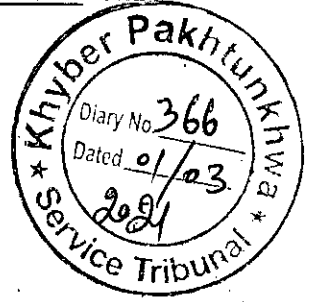
Ph: 9214461
Fax: 9220406

REGISTERED
No. C.A.985/2020 - SCJ
SUPREME COURT OF PAKISTAN

Islamabad, dated 27-2 2021

From The Registrar,
Supreme Court of Pakistan,
Islamabad.

To ✓ The Registrar,
K.P.K. Service Tribunal,
Peshawar.



Subject: CIVIL APPEAL NO. 985 OF 2020

Secretary Elementary & Secondary Education Department, Government of
KPK, Peshawar and others
Versus
Noor-Ul-Amin

**On appeal from the Judgment/Order of the K.P.K. Service Tribunal,
Peshawar dated 21/11/2019 in Appeal.-961/2018.**

Dear Sir,

In continuation of this Court's letter of even number dated 19-12-2020,
I am directed to enclose herewith a certified copy of the Order of this Court dated
22/02/2021 allowing the above cited case in the terms stated therein for information
and further necessary action.

I am further directed to return herewith the original record of the Service
Tribunal, received under the cover of your letter No.4105 dated 23/12/2020.

Please acknowledge receipt of this letter along with its enclosure
immediately.

**Encl: Order:
2. O/Record:**

Yours faithfully,

(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Gulzar Ahmed, C.J.
Mr. Justice Ijaz ul Ahsan
Mr. Justice Sayyed Mazahar Ali Akbar Naqvi

AFR
CIVIL APPEAL NO. 985 OF 2020
(Against the judgment dated
21.11.2019 of the K.P.K. Service
Tribunal, Peshawar passed in
Appeal No.961/2018)

Secretary Elementary & Secondary Education Department,
Government of KPK, Peshawar and others

...Appellant(s)

VERSUS

Noor-ul-Amin

...Respondent(s)

For the appellant(s): Mr. Zahid Yousaf Qureshi, Additional
Advocate General, KPK

For the respondent(s): Mr. Khaled Rahman, ASC
Syed Rifaqat Hussain Shah, AOR

Date of hearing: 22.02.2021

...
ORDER

Gulzar Ahmed, C.J.- The respondent was employed
as Primary School Teacher ("PST") in the Education
Department of Khyber Pakhtunkhwa. He was granted ex-
Pakistan leave from 02.12.2012 to 01.12.2014 vide order dated
31.12.2012. As the respondent did not report to duty on expiry
of his ex-Pakistan leave, he was issued show-cause notice dated
24.10.2017. As the respondent did not report for duty despite
issuance of notice in the newspaper, therefore, vide order dated
03.01.2018 the respondent was removed from service. The

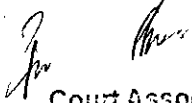
ATTESTED

[Signature]
Court Associate
Supreme Court of Pakistan
Islamabad

respondent filed service appeal before the KPK Service Tribunal ("Tribunal") which by the impugned judgment was partly allowed by converting the major penalty of removal from service into a major penalty of compulsory retirement with effect from the date of his absence i.e. January, 2013 and the absence period was treated as unauthorized absence. While doing so, the Tribunal in paragraph No.6 dealt with the matter as follows:-

"6. Perusal of the record reveals that the appellant was serving in Education Department as Primary School Teacher. He was appointed as Primary School Teacher in the year 2000. The appellant was imposed major penalty of removal from service but the respondent-department has not conducted a proper regular inquiry as neither charge sheet statement of allegation was framed and served upon the appellant nor any regular inquiry was conducted against the appellant. Though the respondent-department has issued a show-cause notice but neither the respondent-department has dispensed the regular inquiry in the show-cause notice nor any reason for dispensing the regular inquiry has been mentioned in the show-cause notice. Moreover, the appellant was appointed as Primary School Teacher in the year 2000 and he was imposed major penalty of removal from service on the allegation of his absence from duty with effect from January 2013 meaning thereby, that he was having more than 10 years service in his credit with effect from his appointment till his absence, therefore, the impugned order of removal from service appear to be harsh. As such, we partially accept the appeal, set aside the impugned order and convert the major penalty of removal from service into a major penalty of compulsory retirement with effect from the date of his absence i.e. January 2013. The absence period is treated as unauthorized absence. Parties are left to bear their own costs. File be consigned to the record room."



ATTESTED


Court Associate
Supreme Court of Pakistan
Islamabad

It may be noted that the Tribunal has proceeded to modify the penalty on two counts; one that no regular inquiry was conducted and the other that the respondent has 10 years service. So far the question of regular inquiry is concerned, we note that the very fact of respondent remaining absent is not a disputed fact and thus there was no occasion for holding a regular inquiry in the matter. Reliance in this behalf can be placed upon the judgment reported as National Bank of Pakistan and another Vs. Zahoor Ahmed Mengal (2021 SCMR 144).

2. Being an employee for 10 years did not give any authority to the respondent on the basis of which he can stay away from job continuously for years altogether and thus in our view, such ground could not have been pressed for modifying the penalty imposed by the department upon the respondent giving premium to him on this misconduct. More so, when we look at the travelling history of the respondent given at page 15 of the paper-book it shows that almost twelve times the respondent has visited abroad and returned to Pakistan showing that he has some other activities and thus was not interested in continuing as PST. We, therefore, find that the modification of penalty by the Tribunal was not in accordance with law. In this behalf reliance can be placed upon the judgments reported as Commissioner Faisalabad Division, Faisalabad and another Vs. Allah Bakhsh (2020 SCMR 1418) and Government of the Punjab through Chief Secretary Vs.

ATTESTED

 
Court Associate
Supreme Court of Pakistan
Islamabad

Muhammad Arshad and 2 others (2020 SCMR 1962).

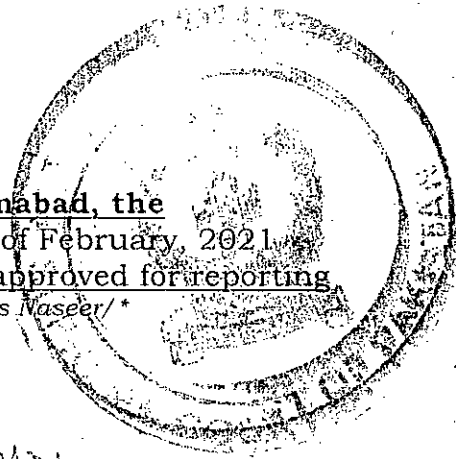
Resultantly, the impugned judgment to the extent of modification of penalty is set aside and the appeal to this extent is allowed.

[Handwritten signatures and initials]

Islamabad, the
22nd of February, 2021.
Not approved for reporting
Waqas Naseer/ *



[Handwritten signature]
24/2/21



Certified to be True Copy

[Handwritten signature]
Court Associate
Supreme Court of Pakistan
Islamabad

1987 P L C (C.S.) 647

[Service Tribunal Sind]

Present: Munawar Ali Khan, Chairman, A.Q.Qazi and Manzoorul Haq Effendi, Members

GHULAM RASOOL BURDY

versus

CHIEF MINISTER, GOVERNMENT PROVINCE OF SIND and 2 others

Appeal No.44 of 1985, decided on 5th March, 1987.

(a) Sind Civil Servants (Efficiency and Discipline) Rules, 1973--

---R.4(1)(a)(ii)--Sind Government Letter No.SOIX-Reg(S&GAD) 4/14-77, dated 27-7-1978--Penalty of withholding of increments-Validity--Term cumulative effect--Meaning and scope--Withholding of increments has to be ordered for specific period which does not mean permanently--Words "cumulative effect" mean permanently for all time to come and thus runs counter to intention of R.4--Instructions contained in Letter No.SOIX-Reg (S&GAD) 4/14-77, dated 27-7-1978 whereby discretion vested in competent authority to specify period for which increment was to be withheld was taken away and that whenever increment is withheld it shall have cumulative effect, held, not in confirmity with statutory Rule and have no effect of amending or overriding statutory Rule--Discretion of competent authority if intended to be taken away or curtailed could be exercised by amending relevant Rule and not by issuance of circular letter.

(b) Civil service--

---Rules--Instructions/ directions issued by Government from time to time have force of Rules but cannot have effect of amending or overriding statutory Rules.

(c) Sind Service Tribunals Act (XV of 1973)--

---S.4--Sind Civil Servants (Efficiency and Discipline) Rules, 1973, R.4--Quantum of punishment--Engineer charged for failure to check measurements in accordance with Rules--Display of inefficiency--Penalty of withholding 3 annual increments, held, a bit severe--Withholding of two increments, would meet ends of justice--Penalty altered accordingly by service Tribunal.

Manzoorul Ali Khan for Appellant.

Rasheed Akhtar Qureshi for Respondents.

JUDGMENT

MUNAWAR ALI KHAN (CHAIRMAN).--By this appeal the appellant has called in question the order of Secretary to Government of Sind, Communication and Works Department, dated 21-3-1985 whereby minor penalty of stoppage of three increments falling due on 1-12-1985, 1-12-1986 and 1-12-1987, with -cumulative effect was impose.

The learned counsel for the appellant did not press the appeal on merits. He however, prayed for reduction in the penalty imposed upon the appellant. He also urged that the words "with cumulative effect" being inconsistent with the relevant rule be dropped from the impugned order.

After hearing the arguments submitted by the learned counsel for the appellant as well as the learned Government counsel Mr. Rasheed Akhtar Qureshi, we dispose the appeal by short order, dated 2nd March, 1987 which reads as under:-

"Appellant and his counsel Mr. Manzoor Ali Khan present. Mr. Rasheed Akhtar Qureshi for the official respondents also present. The learned counsel for the appellant does not press the appeal on merits. He, however, requests that penalty inflicted on the appellant be reduced and the words "with cumulative effect" be dropped. While maintaining the charge proved against the appellant, the penalty is reduced to the extent of withholding two increments, one due on 1-12-1985 and another due on 1-12-1986 without cumulative effect. Reasons to follow. Subject to the modification of the penalty as stated above the appeal is dismissed."

Following are the reasons in support of the above short order: To begin with, it may be examined if the words "cumulative effect" mentioned in the impugned order are in consonance with the relevant provision of the rules. In this connection reference may be made to sub-clause (ii) of clause (a) of sub-rule (1) of rule 4 of the Sinai Civil Servants (E & D) Rules, 1973 (hereinafter-referred to as the said rules). It reads as under:

(ii) -withholding, for a specific period, promotion of increment, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service of post."

Obviously the appellant has been visited with minor penalty of withholding of 3 increments under the above clause. It appears from the language of the said clause that the period for which the increments are withheld has to be specified in the order. In the instant case instead of mentioning the period, three increments due on 1-12-1985, 1-12-1986 and 1-12-1987 "were withheld" "with cumulative effect". In other words the said increments were stopped permanently, for all time to come.

The question arises if the intention of permanent withholding of increment could be attributed to the clause referred to above. We have considered this point carefully. The withholding has to be ordered for specific period, which, in our opinion, does not mean permanently. The punishing authority has to be specific in deciding the period of punishment. In other words some definite period is to be indicated by the said authority in its order. The learned counsel for the appellant and the learned Government counsel also share this view. Accordingly the words "with cumulative effect" used in the impugned order run counter to the intention of the relevant rule reproduced above. If the said words are suffixed with the number of increments, the accused official will be deprived of the said increments permanently, which, as pointed above, cannot be the intention of the rule-making authority.

Line miss in book 648

of Sind- in the S&GAD, bearing No.SOIX, REGIS&GAD) 4/14-77, dated 27-7-1978. It is pertinent to reproduce para 3 of the circular, which reads as under:

"After careful consideration of the above-cited issues it has been decided to withdraw the existing discretion and to prescribe a uniform policy on the subject as follows:-

"(i) Whenever increment is withheld, it shall have cumulative effect i.e., all increments accruing during the penal period would remain withheld for all time to come, and the next increment will become due only after the expiry of the period and on due date i.e. 1st December of the year. However, if there is an efficiency bar, the next increment falling due from 1st December, of the calendar year shall be drawn from the date or subsequent date from which the competent authority allow the civil servant to cross the efficiency bar."

It is obvious that by the above circular the discretion vested in the competent authority under the said rules has been taken away and the said authority has been restricted to follow the so-called uniform policy, namely whenever increment is withheld, it shall have cumulative effect. That is to say that it will stop for ever. Of course the instructions /directions issued by Government from time to time have the force of rules. But that does not mean that they will have the effect of amending or overriding the statutory rules. Since the instructions contained in the above circular, are not in conformity with the statutory rules namely the Sind Civil Servants (E & D) Rules, 1973, they cannot be followed in preference to the said rules. If such arrangement is permitted, it is bound to create confusion in the Government Departments. Since the Government is not precluded from amending the rules the objective in the mind of the Government can be achieved by bringing suitable amendment in the statutory rules. Thus, if the discretion of the punishing authority is intended to be taken away or curtailed, it can be done only by amending the relevant rule and not by issuing the circular of above kind. We are, therefore, clear in our mind that the aforesaid circular does not have the effect of amending the said rules and consequently the

instructions contained therein are of no effect.

Coming to reduction of penalty it may be observed that the only charge for which the appellant has been punished is that he failed to check the measurements in accordance with rules. In other words it means that he displayed his inefficiency. Keeping this charge in view, we think that the penalty of withholding three increments is a bit severe. In our opinion if two increments, one falling due on 1-12-1985 and another on 1-12-1986 are withheld, such penalty will meet the ends of justice. Accordingly we reduce the penalty to two increments as stated above, without cumulative effect. Subject to this modification in the penalty, the appeal was dismissed with no order as to costs.

A.E./117/Sr.E

Orders accordingly.

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.961/2018

Noor ul Amin

VS

Education Deptt:

.....
REJOINDER ON BEHALF OF APPELLANT
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-9) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Admitted correct as the service record of the appellant is present with the department.
2. Incorrect. The appellant working in GPS Khandaq Adezai Matani in 2009-2010, Taliban has under control the whole area of Matani and the Taliban has threaded the appellant for the same consequence and due that reason, he applied for Ex-Pakistan leave from 02.12.2012 to 01.12.2014 (730 days) which was granted on 31.12.2013.
3. Incorrect. after expiry of leave the appellant submitted his arrival report on 02.12.2014 which is evident from the attendance register and started his duty, the appellant again face the same of same situation of threatening his life due to which he was psychology effected and at the same time he has also problem in spine, therefore he filed application for retirement on medical ground w.e.from 01/01/2015 which is also mentioned in attendance register which is attached with the appeal and on his application, he was directed to appear before the medical board on 30.09.2015 vide letter dated 17.09.2015, however on that day his medical was not done. Moreover the appellant assumed that he was retired on medical ground
4. Incorrect. The appellant was removed from service without serving charge sheet and conducting inquiry which is violation of law and rules.
5. Incorrect. While para 5 of the appeal is correct.
6. Incorrect. The appellant filed departmental within time when he has knowledge about his removal from service.
7. Incorrect. The appellant has good cause of action to file the instant appeal.

GROUND:

- A. Incorrect. The impugned order passed by the respondents are not accordance with law and rules and therefore not tenable liable to be set aside.
- B. Incorrect. The respondents department has not treated the appelland accordance to law and rules.
- C. Not replied according to Para-C of the appeal moreover Para-C of the appeal is correct.
- D. Incorrect. While Para-D of the appeal is correct.
- E. Incorrect. The penalty of removal from service imposed upon the appelland was too harsh as he applied for retirement on medical ground assumed that he was retired on medical ground. But the respondents department removed him from service on the basis of absences.
- F. Not replied according Para-F of the appeal moreover Para-F of the appeal is correct.
- G. Incorrect. The appelland applied for retirement on medical ground which was also mentioned is attendance register but the respondent department wrongly assumed as absences and removed him from service on absence. Moreover he properly applied for ex-pakistan which was also sanctioned by the competent authority and after expiry of leave he joined his duty again.
- H. Incorrect. The appelland properly applied for Ex-Pakistan leave and after expiry of leave he joined again his duty and during the performance his duty he became ill and applied for retirement on medical ground and assumed that he was retired on medical ground.
- I. Legal.

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

APPELLANT

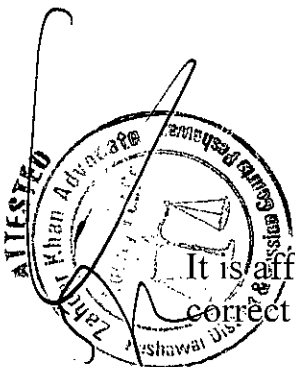
Through:

**(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT.**

AFFIDAVIT

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

DEPONENT



BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.961/2018

Noor ul Amin

VS

Education Deptt:

.....
REJOINDER ON BEHALF OF APPELLANT
.....

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7. Incorrect. The appellant has good cause of action to file the instant appeal.

GROUNDS:

- A. Incorrect. The impugned order passed by the respondents are not accordance with law and rules and therefore not tenable liable to be set aside.
- B. Incorrect. The respondents department has not treated the appellant accordance to law and rules.
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- I. Legal.

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

APPELLANT

Through:

**(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT.**

AFFIDAVIT

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

DEPONENT