

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.807/2018

Date of Institution ... 01.06.2018
Date of Decision ... 12.08.2021

Muntazir Mehdi S/O Imran Ali R/O Lodhi Khel Tehsil & District Hangu.
... (Appellant)

VERSUS

The Director Elementary & Secondary Education Department
Peshawar and two others.
... (Respondents)

Qaiser Abbas Bangash,
Advocate ... For appellant.

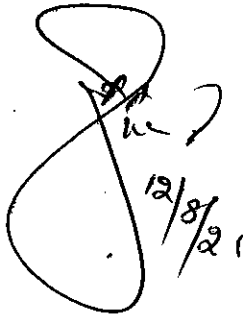
Kabir Ullah Khattak,
Additional Advocate General ... For respondents.

AHMAD SULTAN TAREEN ... CHAIRMAN
ROZINA REHMAN ... MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER : The appellant has filed the present service appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 15.02.2018 vide which major penalty of removal from service was imposed upon appellant.

02. Brief facts of the case are that appellant was appointed as A.T (Arabic Teacher) in a School at Hangu on 05.03.2010. Due to extreme militancy at Tarri Banda G.H.S Hangu, School was closed but the

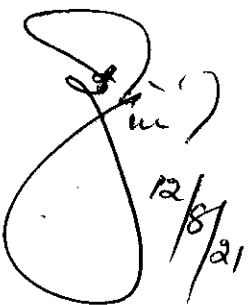

12/8/21

appellant was compelled to ensure attendance in the said School which was already closed and the teaching staff as well as students were also not in attendance. He was proceeded against departmentally and lastly he was removed from service vide impugned order. Feeling aggrieved, he filed departmental appeal which was not responded to, hence, the present service appeal.

03. Learned counsel for the appellant contends that the impugned order is against law and facts as the appellant was not treated in accordance with law. He submitted that the impugned order dated 15.02.2018 was passed in view of previous inquires and that no fresh inquiry was initiated before imposition of the major penalty. He submitted that surprise visit was paid by the authority on 07.02.2017, whereas, the impugned order shows the absence of appellant on 23.01.2017.

04. Conversely learned A.A.G submitted that the School was never closed as there was no militancy in the year 2015-16 and that the staff was performing duty regularly. He submitted that the inquiry was conducted against the appellant according to law and that proper show cause notice was issued to the appellant with direction to resume duty, where-after, he appeared before the District Education Officer and submitted judicial stamp paper that he will never remain absent in future.

05. Record shows that appellant was appointed as Arabi Teacher in School at Hangu on 05.03.2010. He was transferred to G.H.S Tarri Banda Hangu and he served in the said area till 01.10.2015. Perusal of impugned order would reveal that the District Education Officer paid a surprise visit to G.H.S Tarri Banda on 07.02.2017 at 9:00 AM but no inquiry was conducted in order to check the absence of the appellant

A handwritten signature in black ink, followed by the date 12/8/21 written vertically.

rather the inquiries conducted much before the surprise visit were mentioned in the impugned order. The contents of the impugned order show that the appellant was informed on 07.12.2016 with direction to fulfill the requisite in respect of the affidavit. Accordingly, he submitted his statement on a judicial stamp paper on 04.01.2017. He was found absent till 23.01.2017, therefore, he was issued absentee notices prior to the decision on 04.11.2016. All this shows previous closed transactions which have nothing to do with the surprise visit of the District Education Officer on 07.02.2017. As per Rule-3(d) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, a Government servant shall be liable to be proceeded against under these rules if he is guilty of habitual absenting himself from duty without prior approval or leave. In the instant case, if the appellant was not available in the school when surprise visit was paid on 07.02.2017, then the appellant was liable to be proceeded against Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and the initiation of proceedings as per Rule-5 of the Rules ibid has to be followed in letter and spirit. But in the instant case, his past conduct was taken into consideration while passing the impugned order of removal from service.

06. Keeping in view the above discussion, this Tribunal is left with no option but to partially allow this appeal. Accordingly, impugned order is set aside. Case is remitted to the Department with direction to conduct de-novo inquiry in view of Rule-3 (d) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 within 30 days after the receipt of this judgment. Reinstatement and back benefits

 12/8/21

shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED.


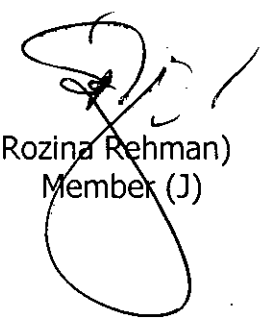
12.08.2021



(Ahmad Sultan Tareen)
Chairman

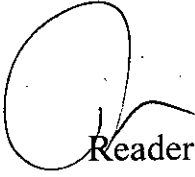


(Rozina Rehman)
Member (J)

S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	12.08.2021	<p><u>Present:</u></p> <p>Qaiser Abbas Bangash, Advocate ... For Appellant</p> <p>Kabir Ullah Khattak, Additional Advocate General ... For respondents</p> <p>Vide our detailed judgment of today of this Tribunal placed on file, instant service appeal is partially allowed. Accordingly, impugned order is set aside. Case is remitted to the Department with direction to conduct de-novo inquiry in view of Rule-3 (d) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 within 30 days after the receipt of this judgment. Reinstatement and back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to record room.</p> <p><u>ANNOUNCED.</u> 12.08.2021</p> <p> (Ahmad Sultan Tareen) Chairman</p> <p> (Rozina Rehman) Member (J)</p>

20.04.2021


Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 12.08.2021 for the same as before.



Reader

31.12.2020

Due to summer vacation, case is adjourned to 12.04.2021 for the same as before.


Reader


08.02.2021

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

Instant application is with the prayer for restoration of appeal No. 807/2018 dismissed for non-prosecution on 13.10.2020.

It is agitated in the application that the appellant/applicant as well as his learned counsel hail from District Kohat and on the relevant day, the local of Darra Adam Khal had blocked the road as protest on the issue of payment of royalty. The non-representation of appellant was, therefore, neither willful nor deliberate.

The record shows that the application in hand was submitted on 20.10.2020, about a week after the dismissal of appeal. Reason noted in the application suggests that it was beyond the control of appellant/applicant as well as his learned counsel who had ^{to} put up appearance before the Tribunal on the date; the appeal was fixed for hearing. It is, therefore, allowed. Appeal No. 807/2018 is restored to its original number and shall come up for hearing on 20.04.2021 before the D.B.

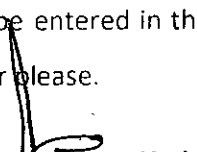
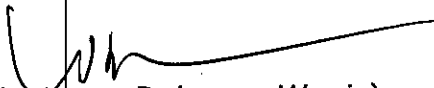
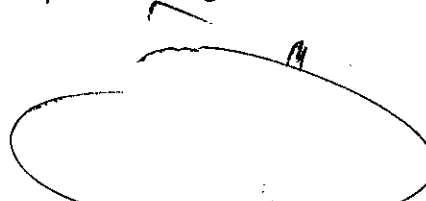

(Atiq-ur-Rehman Wazir)
Member(E)


Chairman

FORM OF ORDER SHEET

Court of _____

Restoration Execution Petition No. 156 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	<u>20.10.2020</u>	<p>The Restoration Application submitted by Mr. Muntazir Mehdi through Syed Mudassir Pirzada Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR,</p>
2-	06.11.2020	<p>This Restoration Application be put up before DB on...<u>06-11-2020</u></p> <p style="text-align: right;">CHAIRMAN</p> <p>Nemo for the applicant.</p> <p>Since the Members of the High Court as well as of the District Bar Associations, Peshawar, are observing strike today, therefore, learned senior counsel for applicant is not available today. Adjourned to 31.12.2020 on which date to come up for further proceedings before D.B.</p> <div style="display: flex; justify-content: space-around; margin-top: 20px;"> <div data-bbox="548 1726 998 1884">  (Atiq-ur-Rehman Wazir) (Member (Executive)) </div> <div data-bbox="1052 1600 1550 1884">  (Muhammad Jamal Khan) Member (Judicial) </div> </div>

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

C.M.No. 156 /2020

IN

S.A.No.807/2018

Muntazir Mehdi.....Petitioner

VERSUS

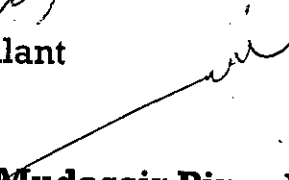
The Director E&SE Department and others ...Respondents

INDEX

S.No.	Description of documents.	Annexure	Pages.
1	Application for restoration.		1-2
2	Affidavit.		3
3	Copy of dismissal order dated 13.10.2020	A	4


Appellant

Through


Syed Mudassir Pirzada
Advocate, Peshawar
Cell: 0345-9645854

Dated: 20.10.2020

(1)

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

C.M.No. _____/2020

IN

S.A.No.807/2018

Muntazir Mehdi.....Petitioner

VERSUS

The Director E&SE Department and others ...Respondents

APPLICATION FOR RESTORATION OF THE
ABOVE NOTED Appeal DISMISSED FOR NON
PROSECUTION ON 13.10.2020.

Respectfully Sheweth;

Applicant submits as under:

- 1) That the above noted appeal was fixed for 13.10.2020, and was dismissed in default for non-prosecution.
- 2) That non-appearance of the appellant as well his counsel was neither intentional nor deliberate, but due to the reason that, appellant alongwith counsel intends to proceed for Hon'ble Tribunal but at the area of Darra Adam Khel, the inhabitant of the said area blocked the Road on a Govt. issue of Royalty, due to appellant and his counsel were stuck, hence the appellant alongwith his counsel were miserably took the opportunity to reach to the Hon'ble Tribunal at the time of 12:00 PM and when inquired about their case, it was told that the case has been dismissed for non-prosecution, hence this application.

2

- 3) That the absence was non-intentional, but for the reason stated hereinabove, moreover, the apex court is of the view the cases should be decided on merits and technicalities should be avoided.
- 4) That valuable rights of the appellant are involved, and if the appeal is not restored the appellant will suffer irreparable loss.

It is, therefore, requested that the above noted appeal may kindly be restored in the interest of justice and be decided on merits.


Appellant

Through

Syed Mudassir Pirzada
Advocate, Peshawar

3

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

C.M.No. _____/2020
IN
S.A.No.807/2018

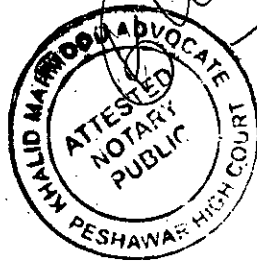
Muntazir Mehdi.....Petitioner

VERSUS

The Director E&SE Department and others ...Respondents

AFFIDAVIT

I, Syed Mudassir Pirzada (Counsel for appellant), do hereby affirm and declare that the contents of the accompanying Application are true and correct and nothing has been concealed from this Hon'ble Court.



Deponent
0345-9645854

13.10.2020

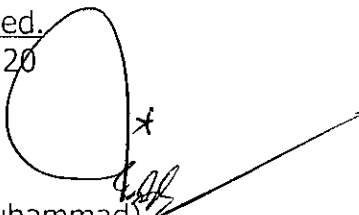
Nemo for appellant.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

This case was called time and again but neither the appellant nor his counsel appeared before the Tribunal.

As such, the appeal stands dismissed in default for non-prosecution. No order as to costs. File be consigned to the record room.

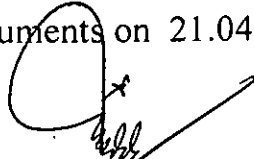
Announced.
13.10.2020


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

21.02.2020

Appellant absent. Learned counsel for the appellant absent. Mr. Ziaullah, DDA for respondents present. Notices be issued to the appellant and his counsel. Adjourned To come up for arguments on 21.04.2020 before D.B.

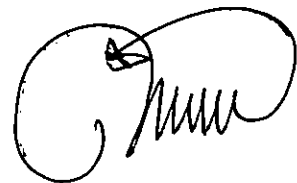


Member



Member

Due to covid, 19 the case is adjourned, to come up for the same on 28/07/2020



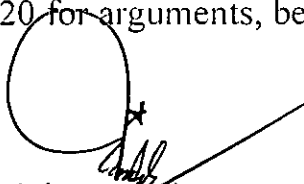
Reader

28.07.2020

Nemo for appellant.

Mr. Muhammad Jan learned Deputy District Attorney alongwith Muhammad Nawaz ADEO (Litigation) for respondents present.

Notice be issued to appellant and his counsel for 13.10.2020 for arguments, before D.B.



(Mian Muhammad)
Member (E)



(Rozina Rehman)
Member (J)

18.07.2019

Learned counsel for the appellant present. Usman Ghani learned District Attorney for the respondent present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.10.2019 before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

8-10-19

*DUE to tour of Honble member
to camp court Swat the case
is adjourned to 17-12-2019*

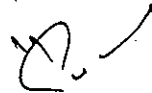
*J
Rodes*

17.12.2019

Lawyers are on strike on the call of Peshawar Bar Association. Adjourn. To come up for further proceedings/arguments on 21.02.2020 before D.B. Appellant be put on notice for the date fixed.



Member



Member

20.12.2018

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Muhammad Nawaz ADO representative of respondent department present and submitted written reply/comments. Adjourn. To come up for rejoinder if any and arguments on 14.02.2019 before D.B. ✓


Member

14.02.2019

Nemo for appellant. Addl. AG alongwith Muhammad Nawaz, ADO (Litigation) for the respondents present;

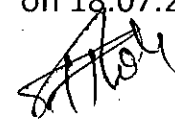
Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant matter is adjourned to 03.05.2019 before the D.B.


Member


Chairman

03.05.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourn. To come up for arguments on 18.07.2019 before D.B.


Member


Member

19.07.2018

Neither counsel for the appellant present.
Preliminary arguments heard.

The appellant (Ex-AT) has filed the present appeal against the order dated 15.02.2018 whereby he was removed from service with recovery of salary/any other amount ~~rep/stock illegally drawn~~.

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 10.09.2018 before S.B.

Appellant Deposited
Security & Process Fee


Member


10.09.2018

Neither appellant nor his counsel present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Written reply not submitted. The latter made a request for adjournment. Granted. Case to come up for written reply/comments on 05.11.2018 before S.B.


Chairman

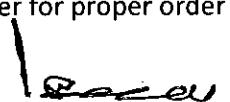
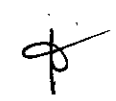
5-11-2018

Due to Retirement of Honorable Chairman the Tribunal is non functional therefore the case is adjourned to come up for the same on 20-12-2018


Reader

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 807/2018


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/06/2018	<p>The appeal of Mr. Muntazir Mehdi resubmitted today by Syed Mudasar Pirzada 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 20/6/18</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/7/18</u>.</p> <p style="text-align: right;"> MEMBER</p>
	2-	

The appeal of Mr. Muntazir Mehdi son of Imran Ali r/o Lodhi Khel Tehsil and District Hango received today i.e. on 01.06.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal may be page marked according to the Index.
- 2- Wakalat Nama in favour of appellant be placed on file.

No. 1142/S.T,

Dt. 01/06 /2018.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Mudasar Pirzada Adv. Kohat.

*Re submitted
by Council on 20/6/18
and was received
on 7-6-18
7/18*

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 807 / 2018.

Muntazir Mehdi S/o Imran Ali R/o Lodhi Khel Tehsil & District Hangu

(Appellant)

Versus

1:-The Director Elementary & Secondary Education Department Peshawar

2:-The Secretary Education Government of KPK Peshawar.

3:- The District Education Officer Male ~~Kohat~~ Hangu

(Respondents)

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S.No	Description of Documents	Annexure	Pages
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5.	Copy of Departmental Appeal 19-02-2018	B	9-10
6.	Copy of Appointment Order	C	11
7.	Copy of DPO Hangu & list of Martyres & misc application	D	12-14
8.	WakalatNama		

Dated: 1/6/2018

Through


Appellant
Syed Mudásir Pirzada
Advocate

District Courts Kohat
Advocate
Cell 0345-9645854

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 807 / 2018.

Muntazir Mehdi S/o Imran Ali R/o Lodhi Khel Tehsil & District Hangu

(Appellant)

Versus

1:-The Director Elementary & Secondary Education Department Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

2:-The Secretary Education Government of KPK Peshawar.

Diary No. 1025

3:- The District Education Officer Male Hangu.

Dated 01-6-2018

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED LETTER /ORDER DATED 15-02-2018 VIDE No 7657 IN WHICH THE RESPONDENT NO:-3 REMOVED THE APPELLANT FROM SERVICE WITHOUT ANY LAWFUL JUSTIFICATION & APPELLANT FEELING AGRIVED FILE DEPARTMENTAL REPRESENTATION DATED 19-02-2018 WHICH WAS NOT ENTERTAIN NOR CONSIDER TILL DATE.. 2/12

Pray:

it is respectfully prayed that on acceptance of instant service appeal the impugned order of respondent No-3 dated 15-02-2018 may set a side and the Appellant may graciously be reinstated in service with all back benefits or any other remedy in the larger interest of justice.

Filed to-day

Registrar

01/6/18

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellants on the following grounds:-

FACTS

1:- That the appellant was appointed as AT (Arabic Teacher) Male in the school at Hangu and on dated 05-03-2010 the appellant was transferred to GHS Tarri banda Hangu and the appellant till 01-10-2015 served in above mention school.

**Re-submitted to -day
and filed.**

Registrar

20/6/18

2:-That the due extrem militancy at Tari Banda GHS Hangu the School was closed and but respondent No-3 having complete knowledge about militancy compell the appellat to ensure attendance at the said school which was already remain closed as well as other teaching staff and student were also not in attendance .

3:-That the appellat due to official pressure ensure the attendance as per the direction of Respondent :-03 at closed school .

4:-That on 28-02-2017 appellat was on the way to closed school miscreants attacked on appellat due to belonging to Aleh –Tashee caste hence there were eminent apprehension of threat to life and this fact has also agaitate before high ups but in vain.

5:-That the appellat without any show cause notice and charge sheet or without following the departmental enquiry procedings the appellat was removed from service expartly.(Copy of impugned order annexed as annexure A)

6:-That appellat feeling aggrieved from the impugned order dated 15-02-2018 file departmental appeal on dated 19-02-2018 before the respondent NO-1which is still not entertain nor consider (Copy of departmental appeal is annexed as annexure B)

7:-That the appellat since his appointment never ever become absent which could be verify from the appellants service record and it is worth mentioning here that the impugned order issued by respondent No-3 on the basis of personal grevience (Copy of appointment order is annexed as annexure C)

8:-That there is no bad entry in the service record of the Appellant but without giving any opportunity of personal hearing the appellat removed from service without any law ful justification.

9-That the appellant time and again inform about apprehension of death due to T.T.P but the said written request not consider by respondent above like departmental representation (Copy of application is annexed as annexure D)

10:-That the Appellant is aggrieved from the illegal act of the respondents and having no alternate remedy except this Honorable , Tribunal for speedy disposal / redressal for infringement of appellant's legal rights through instant service appeal on the following amongst other grounds .

Grounds

1:- That the illegal acts of the respondents No -3 is against to the cannon of law as well as against to the natural justice.

2:-That there is legal cogent reason defined by respondent No-3 for which the present Appellant has been removed from service .

3:-That the impugned transfer order is against to the principal of natural justice and show the discrimination on the part of respondent No-3 .

4:-That the impugned order of the above respondent is illegal and highly condemnable and unlawful in nature .

5:-That the Appellant is a poor and only person to earn the livelihood for her large supported family and the income from his job is a source of spoon feeding for infant children's.

6:-That the bias of the respondent No-1clearly shows by not entertaining the representation of the appellant , keeping in view the decision of apex court the respondent No-1 & 2 were duty bound to record reason of rejection "when departmental

appeal was submitted the competent authority was duty bound to decide same within reasonable time after application of independent mind ,by giving reason such was a requirement of law as well as of the principal of natural justice "2009 (PLC) (CS) 77.

7:- That the Appellant never ever remains absent from his duties till date.


10:- That it is clearly mention in 2003 PLC CS 1468 that any instruction issued in violation of Rules would be illegal and void.

11:- That some other grounds will be agitated at the time of arguments with the permission of this Honorable court.

PRAYER:-

In the light of above circumstances it is respectfully prayed that on acceptance of instant service appeal the Hon bale tribunal may direct to respondents above to set a side impugned order dated 15-02-2018 and the Appellant may graciously be reinstated in service with all back benefit and blessed with any other remedy in the larger interest of justice.

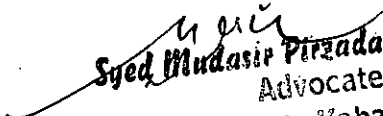
Through


Appellant
Syed Mudasir Pirzada
District Courts Kohat
Syed Mudasir Pirzada
Advocate HC
Cell 0345-9645854

Certificate:-

Certified that as per instruction received from my client this is the first writ petition on the subject matter ever moved before this Honorable Court.

ADVOCATE.


Syed Mudasir Pirzada
Advocate
District Courts Kohat

LIST OF BOOKS

Constitution of Islamic Republic of Pakistan 1973.

Any other Book according to need.

Service Appeal _____ / 2018.

Muntazir Mehdi S/o Imran Ali R/o Lodhi Khel Tehsil & District Hangu

(Appellant)

Versus

1:-The Director Elementary & Secondary Education Department Peshawar

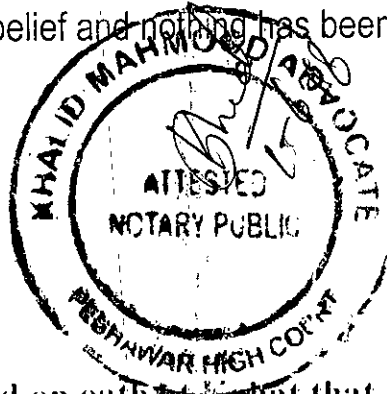
2:-The Secretary Education Government of KPK Peshawar.

3:- The District Education Officer Male Kohat

(Respondents)

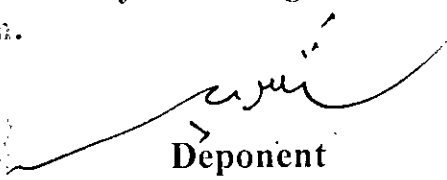
AFFIDAVIT

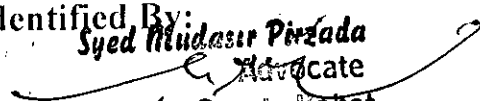
I Muntazir Mehdi S/o Imran Ali R/o Lodhi Khel District Hangu do hereby solemnly affirm and declare that the contents of enclosed appeal are true and correct to the best of my knowledge and belief and nothing has been concealed there form



Verification :-

Verified on oath at Kohat that the contents of above affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed there from.


Deponent

Identified By:

Syed Mudasar Pirzada
Advocate
District Courts Kohat
Syed Mudasar Pirzada
Advocate

Service Appeal _____ / 2018.

Muntazir Mehdi S/o Imran Ali R/o Lodhi Khel Tehsil & District Hangu

(Appellant)

Versus

1:-The Director Elementary & Secondary Education Department Peshawar

2:-The Secretary Education Government of KPK Peshawar.

3:- The District Education Officer Male Kohat

(Respondents)

ADDRESSES OF THE PARTIES

APPELLANT

Muntazir Mehdi S/o Imran Ali R/o Lodhi Khel Tehsil & District Hangu

RESPONDENTS:-

1:-The Director Elementary & Secondary Education Department Peshawar

2:-The Secretary Education Government of KPK Peshawar.

3:- The District Education Officer Male Kohat

Through

Appellant

Syed Mudasir Pirzada
Associate

Syed Mudasir Pirzada
Advocate HC
Cell 0345-9645854

OFFICE OF THE DISTRICT EDUCATION OFFICE MALE HANGU

No: 7657

Dated: 15/02/2018

To

The Mr. Muntizer Mehdi AT,
GHS Tari Banda District Hangu.
REMOVAL FROM SERVICE:-

Subject:
Memo:-

Syed Mudassir Pirzada
Advocate
District Courts Kohat

The case of Mr. Muntizer Mehdi AT, GHS Tari Banda Hangu was decided on 04/11/2016, with the following terms & conditions reproduced under as:- that

1. Recovery of all financial benefits drawn illegally during the entire period of his absence.
2. Conversion of absent period into leave without pay.
3. Affidavit on judicial stamp paper regarding regular duty in future. In case of failure he shall be terminated and will have no right to appeal at any form.

He was informed the above decision on 07/12/2016 with the direction to fulfill the requisite.

On 04-01-2017 he submitted his statement on Judicial Stamp paper without signature and surety required which felt just a take and lack of interest.

On 07-02-2017, the undersigned personally paid a surprise visit to GHS Tari Banda at 09:30am.

Mr. Muntizer Mehdi AT found absent till 23-01-2017, he was issued three absent notices prior to decision on 04-11-2016 and given ample chance to serve but unluckily, he did not show seriousness toward his job/service. He neither submitted/provided the requisite judicial stamp paper nor become punctual towards his duty/service.

He did not paid due consideration to his attendance rather to contact through outsider for relief which itself is against the establish norms.

Further more you were granted NOC for inter District transfer on your request vide this office No.49, dated:06/07/2017, which is still under process. During the course of time you did not attend your duty and continuously remained absent.

Keeping all the above in front, it is cleared and proved that you Mr. Muntazir Mehdi AT GHS Tari Banda have no interest in this service.

Hence in the light of above facts/proof you, Mr. Muntazir Mehdi AT, GHS Tari Banda services are hereby removed forthwith.

Recovery of salary/any other amount or stock received is to be recovered. In case of failure regarding recovery illegal financial drawn, FIR must be logged.

Necessary entries must be made in the relevant record.

DISTRICT EDUCATION OFFICER
MALE HANGU

Dated: 15/02/2018

Indst: No: 7658-64

Copy to

1. Director (E&SE) Khyber Pakhtunkhwa Peshawar.
2. District Account office Hangu.
3. Deputy Commissioner Hangu
4. District Nazim Hangu
5. Head Master GHS Tari Banda Hangu.
6. EMIS Local office Hangu
7. DMO Office Hangu
8. Office Copy.

DISTRICT EDUCATION OFFICER(M)HANGU

محکمہ تعلیم ضلع ہنگو میں بحیثیت AT خدمات دے رہا تھا۔

9-10

عنوان: اپیل بمراد Re-Institment/Transfer to safe School

جناب عالی!

Affidavit
Syed Mudassar Pirzada
Advocate
District Court Kohat

گزارش ہے کہ سائل مورخہ 01.09.2007 سے محکمہ تعلیم ضلع ہنگو میں بحیثیت AT خدمات دے رہا تھا۔ مورخہ 05.03.2010 سائل کی پوسٹنگ GHS تری بانڈہ ہنگو میں کردی گئی۔ سائل مورخہ 01.10.2015 تک GHS تری بانڈہ میں ڈیوٹی سرانجام دیتا رہا۔ حالات کی کشیدگی کی وجہ سے اور دہشت گردوں کے خوف کی وجہ سے GHS تری بانڈہ مکمل طور پر بند ہو گیا۔ نہ صرف اساتذہ بلکہ طلباء کی حاضری بھی ناممکن رہی۔ سائل نے DEO (مردانہ) ہنگو کو درخواستیں دے دیں کہ میرا تعلق فقہ جعفریہ سے ہے۔ یعنی میں شیعہ ہوں۔ اور ہنگو کے ملحقہ علاقوں میں کئی شیعہ اساتذہ کو دہشتگردوں نے قتل کیا ہے۔ لہذا دہشتگردوں کے ہاتھوں مجھے قتل ہونے سے بچایا جائے اور مجھے محفوظ ترین سکول میں تبدیل کیا جائے۔ DEO (مردانہ) ہنگو نے میری التجاء پر کسی قسم کی مناسب کارروائی نہیں کی۔ اُس وقت کے ڈپٹی ڈسٹرکٹ ایجوکیشن آفیسر عقلم بادشاہ دہشتگردوں کے خوف سے یا میرا شیعہ ہونے کی وجہ سے میری مشکلات میں اضافے کا خواہشمند تھا۔ DEO (مردانہ) ہنگو نے سائل کو غیر حاضری کا نوٹس دے دیا۔ جبکہ DEO اور Dpty DEO (مردانہ) ہنگو کو مکمل پتہ تھا۔ کہ مذکورہ بالا بند سکول میں میری ڈیوٹی انجام دینا موت کے مترادف ہے۔ Dpty DEO (مردانہ) عقلم بادشاہ یہی چاہتا تھا کہ دہشت گردوں کے ہاتھوں مجھے مارا جائے۔ چونکہ سائل نے مجبوراً DEO (مردانہ) کے احکامات پر عمل کر کے اُس بند سکول میں حاضری لگانا شروع کر دی۔ اور سائل مورخہ 28.02.2017 تک حاضری لگا تا رہا۔ مورخہ 28.02.2017 کو سائل مذکورہ بالا بند سکول میں حاضری کے لئے جا رہا تھا۔ کہ راستے میں دہشتگردوں نے راستہ روک رکھا تھا اور ہمیں زندہ پکڑنے کی ہر پور کوشش کی۔ موٹر سائیکل چلانے والے ساتھی نے پھرتی کا مظاہرہ کیا اور موٹر سائیکل کو روڈ کی بجائے پکڈ ٹریوں پر ایسے راستوں پر ڈال دیا جہاں سے صرف موٹر سائیکل ہی چلایا جاسکتا تھا۔ اور ہم دہشتگردوں کے ہاتھوں مرنے سے بچ گئے۔ تب سائل نے DEO (مردانہ) ہنگو کو واضح طور پر کہہ دیا کہ آپ کے Dpty DEO عقلم بادشاہ مجھے شیعہ ہونے کی بنا پر دہشت گردوں کے ہاتھوں مارنے کا خواہشمند ہے۔ لہذا مجھے محفوظ سکول میں ڈیوٹی انجام دینے کا حکم نامہ صادر فرمائیں۔ جبکہ وہ اپنی ہی بات پر بھند تھے۔ اس سلسلے میں سائل نے ناظم اعلیٰ ضلع ہنگو کو بھی اپنی مشکلات سے آگاہ کیا۔ علاوہ ازیں حلقہ MPA کو بھی آگاہی دی۔ اور سائل نے DPO ہنگو کو بھی اپنے تحفظ کے لئے سیکورٹی کی استدعا کی۔

ناظم اعلیٰ ضلع ہنگو، حلقہ IMPA اور DPO ہنگو اور علاقے کے معززین کی سفارش پر بھی DEO (مردانہ) ہنگو نے مجھے محفوظ مقام پر تبدیل نہیں کرنا چاہتا تھا۔ مورخہ 06.07.2017 کو ناظم اعلیٰ ضلع ہنگو حلقہ IMPA اور DPO کے علاوہ ہنگو کے عمائدین کی سفارش پر مجھے محفوظ مقام پر تبادلے کی بجائے ضلع کوہاٹ کو تبدیلی کے لئے NOC دے دی تاکہ میں کوہاٹ میں کسی محفوظ سکول میں تبادلہ کر سکوں۔ DEO (مردانہ) ہنگو نے اس شرط پر مجھے NOC دے دی کہ میں جتنے عرصہ غیر حاضر ہوں اس عرصہ کے دوران آپ کی جو تنخواہیں نکلی ہیں وہ آپ کو واپس جمع کرنی پڑیں گی۔ جبکہ اس بند سکول کے دیگر ساتہ گھروں پر تنخواہیں لیتے رہے۔ اس کے علاوہ بھی کئی سکولوں کے ساتہ کو تنخواہیں دی جا رہی تھیں۔ چونکہ سائل جان بوجھ کر غیر حاضر نہیں ہو رہا تھا بلکہ مندرجہ بالا خدشات کی وجہ سے ڈیوٹی سر انجام نہیں دے سکتا تھا۔ اس کے باوجود DEO (مردانہ) ہنگو نے مجھ سے ریکوری کی تاکید کی جو کہ میرے ساتھ نا انصافی تھی، لیکن میں نے پھر بھی حامی بھری۔

DEO (مردانہ) کوہاٹ نے سائل کو ایک محفوظ ترین سکول میں ڈیوٹی انجام دینے کی Post availability دے دی۔ سائل نے ڈائریکٹر ایجوکیشن آف ایلیمینٹری ایجوکیشن میں ضلع ہنگو سے ضلع کوہاٹ کو تبادلے کی درخواست جمع کی۔ ڈائریکٹر صاحب نے خود میرے تبادلے کی یقین دہانی کی تھی۔ مگر بعد میں Dpty DEO عقل بادشاہ نے میری تبدیلی کو روکنے میں نہایت آہم کردار ادا کیا۔ اور جولائی 2017 سے کیس پر مختلف Observation لگوا کر میری تبدیلی کو روکنے کی کوشش کی گئی۔ اور فروری 2018 تک میری محفوظ مقام پر تبدیلی نہ ہو سکی۔ اس سے واضح طور پر تاثر لیا جاسکتا ہے کہ شیعہ ہونے کی وجہ سے میری تبدیلی روک دی گئی۔ اور اب DEO (مردانہ) ہنگو نے صرف شیعہ ہونے کی وجہ سے مجھے ملازمت سے فارغ کر دیا ہے۔ چونکہ میں جان بوجھ کر غیر حاضر نہیں ہوا ہوں بلکہ نامساعد حالات اور دہشت گردوں کے خوف سے اس سکول میں ڈیوٹی انجام دینے سے قاصر رہا۔ لہذا التماس کی جاتی ہے۔ کہ سائل کے کیس پر ہمدردانہ غور کر کے کسی غیر جانبدار کمیٹی سے انکوائری کروا کر مجھے ملازمت پر بحال ہونے اور محفوظ مقام پر تبدیلی کے احکامات صادر فرمائیں۔ بندہ تاحیات دُعا گو رہے گا۔

عین نوازش ہوگی

A Hestead
Syed Mudassar Pirzada
District Advocate
District Courts Kohat

العارض
مانظر مہدی AT
گورنمنٹ ہائی سکول تری بانڈہ ضلع ہنگو
19/2/18

مورخہ 19-2-2018

Annexure C

(11)

OFFICE OF THE EXECUTIVE DISTT:OFFICER (S&L) HANGU APPOINTMENT

Consequent upon the selection & approval by District Recruitment Committee District Hangu, the following appointments are hereby ordered in (BPS-15) in basic pay scale Rs.(3780 -305-12930)plus usual allowances under the rules against vacant posts of the Arabic teachers(AT) Male in the schools noted against each with effect of the terms and conditions given below.

ARABIC TEACHERS MALE (BPS-15)

S.No.	Name of candidate with father name & full address	D/O Birth	Workng/ Fresh	School where appointed	Remarks
1	Muhammad Jan S/O Hakeem Khan GPS NO.1 Dallan	28/08/1977	Workng	GHS Darsamand	A.V.P
2	GhulamSadiq S/O Muhammad Khaliq R/O ShahuwamHangu	5/4/1978	Fresh	GMS Bilyamina	A.V.P
3	Muntazer Mehdi S/O Imran Ali R/O LodhiKhel Tehsil & District Hangu	4/4/1984	Fresh	GMS Azimi Banda	A.V.P
4	Ali Akbar S/O Mamay Khan R/O KotkiBalaHangu	9/4/1979	Fresh	GMS ChappriNaryab	A.V.P
5	Gul Noor S/O Taj Ali Khan GHS KarboghaHangu	01/05/1978	Working	GMS ChappriWaziran	A.V.P
6	RehmanUd Din S/O WazirHashim R/O karboghaHangu	22/1/1978	Fresh	GMS Shamal Din Karbogha	A.V.P
7	FazalKhanan S/O GulKhanan R/O ToraWoiHangu	13/3/1978	Fresh	GMS Anar china	A.V.P
8	Abdul Latif S/O Gul Muhammad Saeed R/O GMS Samana	10/04/1973	Working	GMS Samana	A.V.P
9	Ghazi Ur Rehman S/O Norab Khan R/O ZargiriHangu	10/02/1976	Fresh	GMS Dorari Banda Kahi	A.V.P
10	Ghayoor Syed S/O Syed Muhammad Abbas R/O Ibrahim Zai	12/10/1975	Fresh	GMS Khazina Banda	A.V.P

Syed Mudassar Piazada
Associate
District Courts Kohat

TERMS AND CONDITIONS

1. They may be governed by such rules and regulations as may be prescribe by the Govt time to time for the category of the Govt servant which they belong.
2. Their service will be liable to termination on one month notice from either side. In case of registration without notice one month pay will be forfeited in favour of Govt if resigned without prior notice.
3. They should join the posts with in 15 days after 01-09-2007.
4. Their inter seniority will be determined in accordance with the merit of district departmental selection committee.

5. Charge report should be submitted to all concerned.
6. They will produce the Bank Receipt deposited for the purpose of verification for their certificates/diplomas/degrees/Sanadats& other testimonials before handing/taking over charge & in case of any of their documents proved fake their appointment will be considered cancelled without any rights or privilege.
7. They shall be on probation for the period of two years.
8. Their pay will not be drawn by the concerned DDO till the process of verification of their documents is completed
9. They are required to produce health and age certificates from the medical authority concerned before taking over the charge.
10. If the age of any candidate found less than 18 years or above 35 years, their appointment will also be considered as cancelled.
11. No TA/DA is allowed to anyone.
12. Their appointment is subject to further conditions that they are permanent domiciled of Hangu District.
13. UNDERTAKINGI, _____ GHS/GMS _____
hereby give an undertaking to the effect that if any over sight/mistake/amendments in recruitment policy Govt policy is made, I will have no objection on my termination & also will not submit any petition in the court.
14. Fresh/Contract candidate are regularized on their posts after commencement of NWFP sèvelservants(amendment)act 2005n notified. Vide establishment administration department (regulation wing) Govt of NWFP No.SO(Regulation)(E&AD)I-13/2005 dated 10/08/2005, but they will not avail of pension or gratuity. However such a civil servant will lieu of pension and gratuity be entitled to receiver such an amount contributed but him towards the contributory provident fund, along with the contribution made by Govt to his account in the said fund, in the prescribed manner and they are entitled to get the benefits if regular employers except pension and entry to this effect may be made in their service book.

M. A. I.
Syed Mudassar Pitzada
Advocate
District Courts Kohat

(FAKH-E-ALAM)

DISTRICT COORDINATION OFFICER
DISTRICT HANGU

Endst No. 48-64 Det 18/06 /07

Copy of above is forwarded to the:-

1. Secretary of Govt NWFP schools & Literacy department Peshawar.
2. Director schools & literacy NWFP Peshawar.
3. District Coordination Officer Hangu
4. District Nazim Hangu
5. Disstrict account Officer hangu.
- 6-15 All concerned schools
- 16-25 Official concernes
26. Accountant Local Office
27. Dealing Assistant
- 28 .Office copy for Office record

Taj

**EXECUTIVE DISTRICT OFFICER
SCHOOLS AND LITERACY HANGU**

محترم جناب DPO صاحب نیو

عنوان : درخواست برائے فراہمی سیکورٹی

صاحب عالی !

موردیانہ گزارش ہے کہ سائل جی ایچ ایس تری بانڈہ

میں بطور اے ٹی خدمات سرانجام دے رہا ہے۔ جوہ ضلع نیو کا

حساس ترین علاقہ ہے۔ اور سائل اپنی تشیع سے تعلق رکھتا ہے۔

اور کئی بار سائل کو نامعلوم افراد کی طرف سے دھمکیاں موصول ہوئی

ہیں۔ اور راستے میں پکڑنے کی کوشش کی گئی ہے۔

ماضی میں بھی تری بانڈہ سے منسلک ریپاٹوں میں کئی ایس تشیع

اسانڈہ کے دردی سے شہید کئے گئے ہیں۔

لہذا سائل استدعا کرتا ہے کہ سائل کو تحفظ عنایت م ماکر مشکور نامہ میں

تاکہ مستقبل میں سائل کے ساتھ ماضی میں ہونے والے واقعات

جیسا عادتہ روزنامہ نیو کے

Attest
Syed Muzammil Drazada
Advocate
District Courts Kohat

العارض

منظر میں A.T.

GHS تری بانڈہ ضلع

11/02/17

خدمت جناب سیکرٹری ایجوکیشن صاحب کے پنا کے پشاور

عنوان :- درخواست برائے تبادلہ / ٹرانسفر

جناب عالی

ہوڈ بانہ گزارش ہے کہ سائل جی ایچ ایس تری بانڈہ میں کافی عرصہ سے بطور
اسے ٹی تعینات ہے۔ اور تری بانڈہ پورے ضلع کا دور افتادہ اور حاسن ترین
علاقہ ہے۔ جہاں نہ ٹرانسپورٹ کا کوئی سہم ہے اور نہ رہائش ممکن ہے۔
اور کئی بار سائل کو شدت پسند گروہوں کی طرف سے دھمکیاں بھی ملی ہیں اور پڑھنے کی
کوشش بھی کی گئی ہے اور بڑے کا تعلق بھی اہل تشیع سے ہے اور تری بانڈہ کے ملحقہ علاقوں
میں کئی اہل تشیع اساتذہ بے دردی سے شہید کئے گئے ہیں۔ اور متعلقہ ایجوکیشن آفس میں
بار بار تبادلے کی درخواست دی لیکن صرف ایسی ہی جواب ملتا ہے کہ خالی پوسٹ میں ہے
لہذا سامنے کی طرح ہر کسی درخواست واقع سے بچنے کے لیے سائل بذریعہ درخواست جناب عالی
سے دردمندانہ التماس کرتا ہے کہ سائل کے ضلع نیلو سے ضلع کوپٹ ٹرانسفر کے احکامات
صاحبزادہ کے مشکور فرمائیں۔ سائل تا اب درمناوہ رہے گا۔

1-3-17

Mudassir
Syed Mudassir Pirzada
Advocate
District Courts Kohat

العارض

منتظر مہری A.T

جی ایچ ایس تری بانڈہ، نیلو

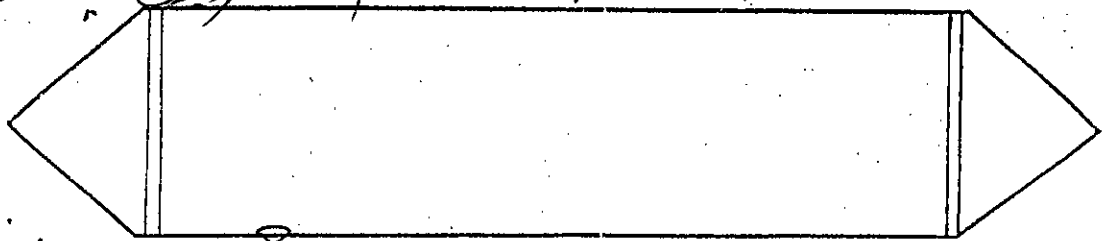
0334-8126063

فہرست شہداء محکمہ ایجوکیشن ضلع ہنگو خیبر پختون خواہ

نمبر شمار	نام شہداء	ولدیت	عہدہ	سکول	سکونت	تاریخ ولادت	تاریخ شہادت
01	حسن خان	شاہ محمد	PST	GPS بڑھ عباس خیل ہنگو	بہادر گڑھی ہنگو		13.03.2008
02	میسر حسین	قمر علی	PST	GPS بڑھ عباس خیل ہنگو	استریزی کواٹ		13.03.2008
03	سید خلیل حسین	سید میر نبی حسین	PST	GPS کچ بانڈہ ہنگو	استریزی پایان ہنگو		10.02.2014
04	فقیر حسین	حاجی محمد حسین	PST	GPS کچ بانڈہ ہنگو	استریزی پایان کواٹ		10.02.2014
05	محمد خان		PST	GPS کچ بانڈہ ہنگو			10.02.2014
06	لیاقت علی	سمل خان	TT	GHS.1 ہنگو	دوری خیل علی زئی کواٹ	01.04.1956	13.05.2014
07	شمیم بادشاہ	حاجی روان شاہ		GHS.1 ہنگو	سین خاوری ہنگو		13.05.2014
08	اعتر حسن	مجاہد علی	تمہ شجاعت	GHS ابراہیم زئی ہنگو	ابراہیم زئی ہنگو		
09	سید منور حسن	سید باقر حسین		GMS دراستہ روڈ ہنگو			تاریخ قاتلانہ حملہ 14.02.2014
10							
11							
12							
13							
14							
15							

Attest
Syed Mudassir Pirzada
Advocate
District Courts Kohat

بعد التضاہی کے اس ٹریبونل نشاہ



2018ء پنجاب ایبلرٹ

بنام

منظور عدالت

مورخہ

مقدمہ

دعویٰ

جرم

دعویٰ نمبر ایبلرٹ
انجمن نشاہ
دعویٰ نمبر

باعث تحریر آنک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام نشاہ کیلئے سید عرشہ بیگم زاہد اللہ و لعل
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلاف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک در و پیہ 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 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانبہ 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۔

المرقوم 12/6/18 جون 2018ء

Accepted
Amended
بند

واہ العبد
منظور عدالت
کے لئے منظور ہے۔
سل

بمقام نشاہ

IN THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

SERVICE APPEAL NO 807/2018

Mr. Muntazir Mehdi s/o Imran Ali Ex. A.T GMS Tari Banda

Petitioner

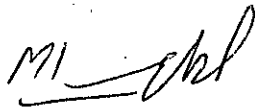
Versus

Govt. to KPK Through Secretary E&SED Khyber Pakhtunkhwa and two others

Respondents

INDEX

S No.	Description of Documents	Annex	Pages
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4.	Show case notice		11-14
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District Education Officer,
(Male) Hangu.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

SERVICE APPEAL No.807/2018

Mr.Muntazir Mehdi S/O Imran Ali Ex.AT GMS Tari Banda,

R/O Village Lodhi Khel Tehsil & District Hangu.....Appellant.

Versus

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

1) The Secretary to Govt:of (E&SE) Department Khyber Pakhtunkhwa
Peshawar.

3) The District Education Officer Male Hangu.

Respondent.

**PARA-WISE COMMENTS ON BAHALF OF RESPONDENT NO.1,2
& 3 ARE GIVEN AS UNDER.****Preliminary Objections.****Respectfully Sheweth**

- 1) That the present appellant has no cause of action.
- 2) That the instant appeals is bad for mis-joinder and non joinder of parties.
- 3) That the instant appeal is not maintainable in its present form.
- 4) That the appellant has not come to the tribunal with clean hands.
- 5) That the appellant has concealed some important material/facts from the honorable tribunal.
- 6) The applicant has been stopped by his own conduct to file the appeal.
- 7) That this Honorable tribunal has no jurisdiction to entertain the appeal.

PRAYERS /FACTS.

1. Para 1 is correct.
2. Para 2 is incorrect, He was in Village Tari Banda, no militancy was going on in Village Tari Banda. In the year 2015-16, there was no worse law and order situation, nor was the school closed. All the other staff was/are performing duty regularly up till now.
3. Para 3 is incorrect. As replied above
4. Para 04 is subject to proof. But no law and order situation was occurred in that particular area up till now.
5. Para No.5 is not correct. Proper Inquiry was conducted against the appellant (copy attached as Annex-A), Show cause notice was issued to the appellant on Dated in the daily Mashriq Peshawar (Copy attached as Annex-B) with the direction to resume his duty, forthwith. He appeared before the DEO, and submitted judicial stamp paper to the effect, that he will not remain absence in future(copy attached).If remained again absent from duty, then I will have no objection nor I will lodged appeal/petition in any form.
6. Para No. 06, pertains to record. The appellant was given ample chance to serve his job. as stated in para No.05.
7. Para No.07 is incorrect as stated in Para No.05.
8. Para No.08 is incorrect; the Removal from Service Order is legal, lawful and observed all codal formalities as per rules.
9. Para No.09 is incorrect. There was no militancy in the region.
10. The applicant has got no cause of action to file instant appeal.

GROUNDS.


1. Incorrect the removal order is correct, lawful and is according to the natural justice.
2. Incorrect The appellant has been proceeded under Efficiency and Discipline Rules,2011 being absent from duty since 04-01-2016.For which three absent notices under register cover has been issued on his home address.(copies attached)
3. Incorrect the Removal from Service order is lawful, legal and accordance to the natural justice. All are equal in the eyes of law.
4. Incorrect the Removal from Service order is lawful, legal and accordance to the natural justice. All are equal in the eyes of law.
5. Proper absent notices on his home address has been issued under register cover to resume his duty, but pay no attention to them as stated in above Para No.05.
6. Incorrect the removal order has been issued w.e.f the day of absence as per rules, which is legal, lawful in the eyes of law.
7. The appellant remain absent from duty for long period. Therefore it was job responsibility of the DEO to precede him under E&D Rules.
10. The appellant was treated according to law.
11. All other facts and material will be placed before the honorable tribunal if any, at the time of arguments.

Prayer Keeping in view the above given comments, the appeal may kindly be dismissed with cost.


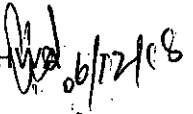
DATED

RESPONDENTS


1)


SECRETARY (E&SE) DEPARTMENTGOVERNMENT OF KHYBER PAKHTUNKHWA
PESHAWAR

2)


THE DIRECTOR (E&SE).
GOVERNMENT OF KHYBER PAKHTUNKHWA
06/12/18

3)


13.11.18
PESHAWAR
THE DISTRICT EDUCATION OFFICER (MALE)
DISTRICT HANGU

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL No.807/2018

Mr. Muntazir Mehdi S/O Imran Ali Ex.A.T GMS Tari Banda Hangu.

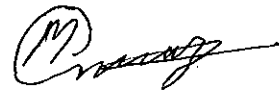
Versus

The Secretary to E&SED Khyber Pakhtunkhwa and two (02) others

AFFIDAVIT

PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO.1, 2 & 3 ARE GIVEN AS UNDER.

I, Muhammad Nawaz, Assistant District Education Officer (Male) District Hangu on behalf of the respondent No.1, 2 & 3 do hereby solemnly affirm and declare on oath that the contents of the Para-wise comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this service tribunal.



DEPONENT

CNIC NO: 14101-6348419-7

(6)

Annex - A

Enquiry Report

Title of the enquiry: Enquiry Against Muntazar Mehdi AT GHS Tari Banda Hangu
Dated of Enquiry: 26/10/2016
Venue of Enquiry: GHS Tari Banda Hangu

Proceeding of Enquiry:

Mr. Mantazar Mehdi AT was directed to appear for enquiry proceedings on the above mentioned date and venue: The teacher, under reference, turned up for enquiry proceedings. Questionnaires were served on Muntazar Mehdi (Annex1) and the I/C of the school (Annex2). Both Muntazar Mehdi and the I/C of the school submitted, their respective replies of the Questionnaires (Annex 3 and 4)

Findings of the Enquiry:

- 1: The teacher, under reference remained absent from his duty wef 01-09/2015 to 20/09/2016 on the pretext of precarious law and order situation. He has miserably failed to justify his stance.
- 2: The concerned I/C of the school, for the reasons best known to him, has failed to inform the high ups about the absence of Mr. Muntazar Mehdi AT.
- 3: Mr. Muntazar Mehdi AT has been continuously drawing his salary, without performing his assigned duty.

Recommendations:

1. Muntazar Mehdi AT may please be charge sheeted for his "will ful" absence under E&D rules 2011.
2. The said teacher may please be directed to deposit all his pay for his absence period one year in the Govt: treasury through challan.
- 3: An explanation may please be served upon the I/C of the school, for his inaction, pertaining to the absence of Muntazar Mehdi AT
4. Mr. Muntazar Mehdi AT may please be directed to regularly perform his duty in the same school without citing any lame excuses.

1. Hassan Bad Shah
Enquiry Officer
Principal GCMHS No,1 Hangu

H B S
26/10/016

2. Afzal Hussain
Enquiry Officer
Head Master GHS Shanwari Hangu

Afzal Hussain
26/10/016

M. Prasad
ADEO (Litigation)
D.E.O. (M)
Hangu

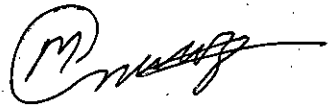
Attested

سوالنامہ برائے منتظر مہدی

- 1- آپ بتانا پسند کریں گے۔ کہ آپ کب سے محکمہ تعلیم کے ملازم ہیں۔
- 2- کیا آپ نے ساری ملازمت شیعہ علاقوں کے مدارس میں کی ہے۔ اگر ہاں تو کون سکولوں میں کی ہے۔
- 3- کیا یہ درست نہیں ہے۔ کہ سرکاری ملازمین کو جہاں محکمہ چاہے تعینات کر سکتا ہے؟
- 4- آپ کی Detailment کینسل ہونے کے بعد آپ نے اپنے سکول میں کوئی Arrival Report جمع کروائی ہے۔ اگر ہاں تو کاپی لف کریں۔ اگر نہیں تو کیا یہ Mis Conduct کے زمرے میں نہیں آتا؟
- 5- آپ سکول سے غیر حاضر تھے۔ تو کیا اس صورت میں آپ نے مجاز اتھارٹی کوئی Earned Leave یا Leave with out pay کی درخواست دی ہے اگر ہاں تو ان درخواستوں کی کاپی لف کریں اور اگر نہیں تو کیا آپ Mis Conduct کے زمرے میں نہیں آئے؟
- 6- کیا یہ بات اخلاقی / قانونی طور پر درست ہے کہ آپ سکول سے غیر حاضر ہو کر بھی مسلسل تنخواہ اور دیگر مراعات حاصل کرتے رہے؟
- 7- کیا آپ کے انچارج ہیڈ ماسٹر یا DDO نے کبھی آپ کو آپ کی غیر حاضری کی بابت میں کوئی ارڈر بک کیا ہے یا آپ کو Abset Notice دیا ہے؟ اگر ہاں تو کاپی لف کریں۔
- 8- کیا آپ نے کبھی مجاز اتھارٹی کو امن وامان کی خراب صورت حال کی باعث اپنی Adjustment کی کوئی درخواست دی ہے اگر ہاں تو کاپی لف کریں۔ اگر نہیں تو کیوں؟
- 9- برائے مہربانی اپنی Detailment دور میں اپنی ڈیوٹی کے حوالے سے گورنمنٹ ہائی سکول لودھی خیل سے راجسٹر معلمین کی تصدیق شدہ کاپی لف کریں

26/11/16
1 حسن بادشاہ انکوآئیری آفیسر
پرنسپل گورنمنٹ سنٹیل ماڈل ہائی سکول نمبر 1 ہنگو

2 افضل حسین انکوآئیری آفیسر / ہیڈ ماسٹر
جی انچ ایس شناوڑی ہنگو



ADEO (Litigation)
D.E.O. (M)
HANGU
Attested

سوالنامہ برائے انچارج ہیڈ ماسٹر طور فرسٹ DM

- 1- آپ بتانا پسند کریں گے کہ: Detailment کنسیل ہونے کے بعد منتظر مہدی نے آپ کے سکول میں: Arrival Report جمع کروائی ہے۔ اگر ہاں تو کاپی لف کریں اور اگر نہیں تو آپ نے اُن کو اس حوالے سے کوئی اڈربک وغیرہ کیا ہے۔ یا نہیں؟ اگر نہیں تو کیا آپ Mis Couduct کے مرتکب نہیں ہوئے۔
- 2- کیا یہ بات آپ کے علم میں ہے کہ منتظر مہدی غیر حاضر ہونے کے باوجود مسلسل تنخواہ ادا دیگر مراعات حاصل کرتے رہے ہیں؟ اگر آپ کے علم میں ہے تو کیا آپ نے DDO کو اس بابت کوئی مراسلہ تحریر کیا ہے؟ اگر ہاں تو کاپی لف کریں۔ اگر نہیں تو مذکورہ InAction کی وضاحت کریں۔
- 3- کیا منتظر مہدی نے By Throgh Proper Channel اپنی ٹراسفر کی کوئی درخواست دی ہے۔ اگر ہاں تو کاپی لف کریں۔
- 4- کیا آپ نہیں سمجھتے کہ غیر حاضری کے باوجود منتظر مہدی کا مسلسل تنخواہ لینا سرکاری خزانے کو نقصان پہنچانے کے مترادف ہے؟ اگر آپ کا جواب ہاں میں ہے تو آپ کے خیال میں سرکاری خزانے کو نقصان پہنچانے جیسے کا ذمہ دار کون ہے؟
- 5- کیا آپ سمجھتے ہیں کہ سرکاری خزانے کو نقصان پہنچانے والا ملازم کے خلاف 2011 کے E&D Rules کے تحت انضباطی کارروائی کا محکمہ اختیار رکھتا ہے؟ اگر ہاں تو کیوں نہ آپ کے خلاف یہ انضباطی کارروائی کی جائے۔


1 حسن بادشاہ انکوائری آفیسر
26/11/2016
پرنسپل گورنمنٹ سنیل ماڈل ہائی سکول نمبر 1 ہنگو

2 افضل حسین انکوائری آفیسر / ہیڈ ماسٹر
جی انچ ایس سٹاؤڈی ہنگو



ADEO (Litigation)
D.E.O. (M)
Hangu
Attested

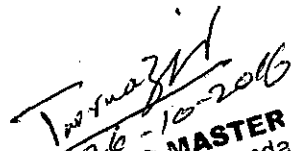
جواب نام :-

- 1- (بندہ ستمبر) 2007ء سے فہمہ تعلیم کا ملازم ہے۔
- 2- ساری ملازمت غیر شعیر علاقوں میں کی ہے بیواٹے ڈیٹیل پوسٹ پر مختصر عرصہ کیلئے ڈیٹیل پوسٹ پر جی ایچ ایس لودھی خیل اور جی ایچ ایس ابراہیم زئی میں۔
- 3- درست ہے لیکن جہاں ڈیوٹی ممکن ہی نہ ہو تو ملازم بے بس ہوتا ہے۔
- 4- چونکہ یہ میرا انفرادی مسئلہ نہیں تھا اور اجتماعی مسئلہ ہونے کی وجہ سے پورے علاقے میں اساتذہ کی میٹنگز شروع ہوئیں۔ مشران کے ساتھ اور سیاسی شخصیات کے ساتھ۔ اسی دوران بندہ ادھر ادھر چکر لگانا ہے اور حالات کی وجہ سے متعلقہ سکول میں حاضر ہونا ناممکن تھا۔
- 5- میں مسلسل دوبارہ ڈیٹیل کروانے کی درخواستیں دیتا رہا اور کسی مناسب سکول میں تقرری کے احکامات صادر فرمانے کی درخواستیں دیتا رہا۔
- 6- سکول میں غیر حاضر ہونے کی صورت میں مراعات حاصل کرنا اخلاقی اور قانونی طور پر بالکل درست نہیں لیکن جب حاضر ہونا جان سے کھیلنے کے برابر ہو تو بندہ کیا کر سکتا ہے۔
- 7- میری معلومات میں ہیں ہے یاں آفس کی طرف سے نوٹس ملے ہیں اور ان کا تحریری جواب بھی دئے ہیں اور ضلعی حکومت کے ایجوکیشن چیرمین کو زہت دے کر یہ نوٹس کے جواب میں آفس میں حاضر ہوا ہوں۔
- 8- ان واماں کی خراب صورت حال کے باعث اپنی Adjustment کی کئی بار درخواست بھی دے چکا ہوں اور مختلف سیاسی شخصیات کے ذریعے بھی درخواست کی ہے۔


 ADEO (Litigation)
 D.E.O. (M)
 Hangu
 Attested

منتظر میری اجے ٹی
 جی ایچ ایس لودھی خیل


 26/10/16


 26-10-2016
 HEAD MASTER
 G.M.S Tari Banda
 ★ Hangu ★

(10)



Annex A

SERVICE CERTIFICATE

Certified that Mr Muntazer Mehdi A.T of GMS Tari Banda Hangu was detailed to GHS IbrahimZai Hangu, then he was further detailed from GHS IbrahimZai to GHS Lodhi Khel Hangu Endst;No; 3011-13 Dated- 17-09-2014. He attended this School w.e.f-19-09-2014 to 29-05-2015, when his detailment Order cancelled, undersigned relieved him on-01-09-2015.

[Handwritten signature]
25-10-2016
HEAD MASTER
Govt: High School
Lodhi Khel (Hangu)
HEADMASTER
GHS LODHI KHEL (HNGU)

[Handwritten signature]

ADEO (Litigation)
D.E.O. (M)
Hangu

Attested

✓

(13)

Annex - B

رجسٹرڈ

تاریخ 7/12/2015

نمبر 4184

ڈسٹرکٹ ایجوکیشن آفیسر

(مردانہ) ضلع ہنگو

منتظم معذری و پورے عمران علی

محلہ صہبہ صہبہ گاؤں لودھی ضلع ہنگو

نوٹس غیر حاضری نمبر (1)

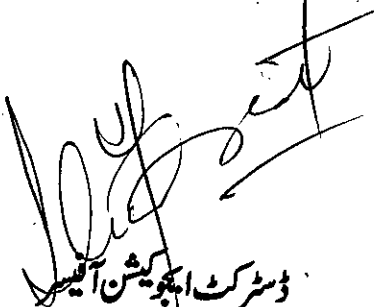
از:

بنام:

عنوان:

یادداشت:

آپ مورخہ 01/10/2015 سے بغیر کسی درخواست/اطلاع کے مسلسل اپنے سکول سے غیر حاضر ہے۔ آپ کو بذریعہ نوٹس ہذا مطلع کیا جاتا ہے۔ کہ آپ اس نوٹس کے اشاعت کے 15 دن کے اندر اندر دفتر ہذا کو حاضر ہو کر زبردستی کے سامنے رو برو پیش ہو جائیں۔ اور اپنی غیر حاضری کی معقول وجہ تحریری طور پر بیان کریں بصورت دیگر آپ کے خلاف ضروری قانونی کارروائی عمل میں لائی جائیگی۔ جو کہ اپنی ملازمت سے برخاستگی پر منتج ہو سکتی ہے۔



ڈسٹرکٹ ایجوکیشن آفیسر

(مردانہ) ضلع ہنگو

مورخہ: 1/1/

مراسلہ نمبر: 4184-1

کاپی برائے اطلاع:-

- (1) ڈائریکٹر آف ایجوکیشن (ایلیمنٹری اینڈ سیکنڈری) ایجوکیشن خیبر پختونخواہ۔
- (2) پرنسپل اھیڈ ماسٹر گورنمنٹ ہائر سکول ہائی انڈل سکول ضلع ہنگو۔
- (3) اکاؤنٹنٹ لوکل آفس۔
- (4) آفس کاپی۔

ڈپٹی ڈسٹرکٹ ایجوکیشن آفیسر

(مردانہ) ضلع ہنگو

o/c



ADEO (Litigation)

D.E.O. (M)

Hangu

attested

تاریخ 31/12/15

نمبر 4432

ڈسٹرکٹ ایجوکیشن آفیسر

(مردانہ) ضلع ہنگو

منظر مصدقہ ولد عمران علی

محکمہ صحت ضلع گاون لودھی ضلع تحصیل و ضلع ہنگو

نوٹس غیر حاضری نمبر (2)

از:

بنام:

عنوان:

یادداشت:

بحوالہ غیر حاضری نوٹس شائع شدہ دفتر ہذا نمبر 4184 مورخہ 07/12/15 جس میں آپ کو ہدایت کی گئی ہے۔ کہ آپ مورخہ 01/10/15 سے بغیر کسی درخواست اطلاع کے اپنی ڈیوٹی سے غیر حاضر ہے۔ اور جسمیں آپ کو ہدایت کی گئی ہے۔ کہ آپ 15 دن کے اندر اندر زبردستی کے سامنے روبرو پیش ہو کر معقول تحریر وجہ بیان کریں۔ لیکن آپ ابھی تک ناکام رہے۔ آپ کو بذریعہ نوٹس ہذا ایک بار پھر مطلع کیا جاتا ہے۔ کہ آپ فوراً دفتر ہذا کو حاضر ہو کر زبردستی کے سامنے روبرو پیش ہو جائیں۔ اور اپنی غیر حاضری کی معقول وجہ بیان کریں بصورت دیگر آپ کے خلاف ضروری قانونی کارروائی کی جائیگی۔ جو کہ اپنی ملازمت سے برخاستگی پر منتج ہو سکتی ہے۔

ڈسٹرکٹ ایجوکیشن آفیسر
(مردانہ) ضلع ہنگو

مورخہ: 1/1/16

مراسلہ نمبر: 4432-2

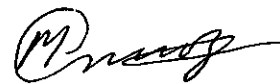
کاپی برائے اطلاع:-

- (1) ڈائریکٹر آف ایجوکیشن (ایلیمنٹری اینڈ سیکنڈری) ایجوکیشن خیبر پختونخواہ۔
- (2) پرنسپل اھیڈ ماسٹر گورنمنٹ ہائیر سکولری اہائی انڈل سکول ضلع ہنگو۔
- (3) اکاؤنٹنٹ لوکل آفس۔
- (4) آفس کاپی۔

ڈپٹی ڈسٹرکٹ ایجوکیشن آفیسر

(مردانہ) ضلع ہنگو

o/c



ADEO (Litigation)

D.E.O. (M)

Hangu

Attested