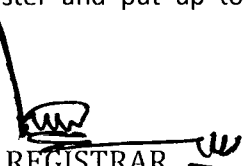

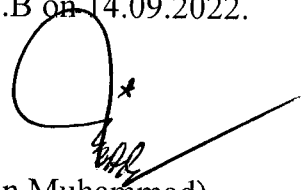



Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1063 /2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/06/2022	<p>The appeal of Mr. Ali Hamayun resubmitted today by Humaira Gul Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	4/7/22	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>13-7-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p> CHAIRMAN</p>
	13.07.2022	<p>Mr. Sardar Ali Khan, Advocate for the appellant present. Preliminary arguments heard.</p> <p>Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments. To come up for reply/comments before the S.B on 14.09.2022.</p> <p> (Mian Muhammad) Member (E)</p>

Rs-700/-
Appellant Deposited
Security & Process Fee .
A 
20/7/22

The appeal of Mr. Ali Hamayun son of Atta Muhammad Khan r/o Pohan Colony near TB Hospital Mardan received today i.e. on 16.06.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1 ✓ Check list is not attached with the appeal.
- 2 ✓ Appeal has not been flagged/marked with annexures marks.
- 3 ✓ Affidavit may be got attested by the Oath Commissioner.
- 4 ✓ Annexures of the appeal may be attested.
- 5 (5) Copies of show cause notice and enquiry report mentioned in para-3 of the memo of appeal are not attached with the appeal which may be placed on it.
- 6- Copies of transfer order and charge report mentioned in para-4 of the memo of appeal are not attached with the appeal which may be placed on it.
- 7 (7) Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 8- Seven more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2043 /S.T,

Dt. 16/06 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Humaira Gul Adv. Mardan.

RIs

Re-submit after doing & completion
of needful other relevant documents will
be given to court at the time of Arguments.

Jawid
Advocate

27-6-22

b. that there were complaints of teachers and students against the appellant about his involvement in immoral activities due to which his posting in female school was not considered appropriate;

c.(not relevant, therefore, not reproduced)

d. that he was relieved by the DEO(F) vide Memo No.3070 dated 09.05.2017 and vide letter No.4462-69 dated 25.05.2017, the Director Elementary & Secondary Education Peshawar placed his services at the disposal of the DEO(F) office for further posting; but he failed to submit arrival till 12.07.2017 and he was called to explain the reason within seven days; that he was adjusted at GHS No.1 Abbottabad vide order No.8314-19 dated 28.07.2017 but he failed to take charge in the said School vide Principal GHS No.1 Abbottabad No.635, dated 04.08.2017 and remained willful absent from duty till the date of dismissal from service i.e. 27.10.2017.

07. The findings of the enquiry committee conducting de-novo enquiry, are reproduced as under:

Findings: Keeping in available record and observation of office files, replies of the concerned, the undersigned officers are of the opinion that;

1. KEY ROLE IN ENGINEERING CRIMINAL PROCEEDINGS AND MISSTATEMENTS: As per point-4 of his reply, he acted as "TRAP AGENT" of his own

on

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No. 1063 /2022

Ali Humayun S/O Atta Muhammad Khan R/O. pohan colony near TB hospital Baghdada ,Mardan

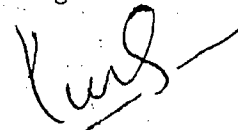
V E R S U S

1. The Director Education, Elementary and Secondary Education KPK Peshawar and others

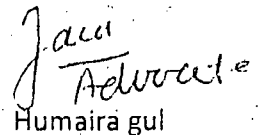
I N D E X

	Description of documents	Annex	Page(s)
1	Grounds of appeal		1-4
2	Copy of office letter dated 29.7.22	A	5
3	Copy of office letter dated 27.2.22	B	6
4	Copy of office letter dated 18.5.22	C	7
5	Copy of KP govt servants E&D Rules 2011	D	8-16
6	Attested copies of attendance register	E	17-19
8	Copy of departmental appeal	F	20-21
9	Copy of reply of respondents	G	22
10	Grievance notice & registry receipt	H	23-26
11	vakalatnama		26A

Appellant
Through counsel



Sardar Ali Khan
Advocate Supreme Court



Humaira Gul
Advocate High Court
Cnic#161020259622-6
Contact #0334-5587109

Email.teacherstudent143@gmail.com

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No.

1063

/2022

Diary No.

311

Dated

16/6/2022

Ali Humayun S/O Atta Muhammad Khan R/O pohan colony near TB
hospital Baghdada ,Mardan Appellant

VERSUS

1. The Director Education, Elementary and Secondary Education KPK Peshawar
2. The District Education Officer (M) Swabi.
3. The Sub-Divisional Education Officer Tehsil Razar (Swabi).
4. The Secretary Education KPK Peshawar.
5. The Headmaster Government Primary School Parra Swabi.

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AND RULE 19 OF KHYBER PAKHTUMKHWAA GOVERNMENT SERVANTS (AFFICIENCY & DECIPLINE)RULES 2011, AGAINST THE IMPUGNED NOTIFICATION NO.1251-56 DATED 27-02-2022, WHEREBY APPELLANT WAS TRMINATED/REMOVED FROM SERVICE WITHOUT ANY JUSTIFICATION OR COGENT REASONS AND THE ORDER DATED 18-05-2022 OF RESPONDENT NO.1 , WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS DISMISSED.

PRAYERS

ON ACCEPTANCE OF THIS APPEAL THE NOTIFICATION NO.1251-56 DATED 27-022022 ISSUED BY RESPONDENT NO.2 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY PLEASE BE RESTORED TO HIS POSITION WITH ALL BACK BENEFITS FROM DATE OF HIS TERMINATION.

Respectfully Sheweth:

1. That the appellant was appointed as pst by the DEO(M) Swabi in 2018 and was serving in Government Primary School Parra Kalu Khan Swabi.
2. That the appellant was found efficient, hardworking and dutiful and a single complaint from his high ups or from general public was not raised during his tenure of service.
3. That un-luckily due to some political pressure on the respondents, the appellant was once issued a show cause notice bearing No.2070-G dated 2411-2020; followed by an enquiry, whereby the appellant was awarded minor penalty of withholding his annual increments for two years and then was transferred to Government Primary School Parra Kalu Khan Swabi on administrative grounds. Copy of office order no.6061/66 dated 29.7.21annexex-A

4. That the appellant resumed his charge in the said school on 04-08-2021 and was performing his duties in the said school efficiently, fact is evident from the attendance register of the school, however despite of that the respondent issued an office order / Notification bearing No.1251-56 dated 27-02-2022, whereby the appellant was removed from his service without fulfillment of pre-requirements. Copy of office order annexed-B
5. That the appellant filed a departmental appeal before the Respondent No. 1 who without providing him an opportunity of hearing, which was his fundamental right as per constitution of the Islamic Republic of Pakistan, thus his appeal was turned down on 18-05-2022. copy of office letter annexed-C
6. That appellant also served the respondents with a grievance petition but of no avail hence the instant appeal on the following amongst other grounds;

GROUND S:

- i. That the impugned Notification No.1251-56 dated 27-02-2022 and order on appeal dated 18-05-2022 both are wrong, illegal, against the norms of justice and law an in utter violation of the guided provisions of Service efficiency Rules. Copy of KP GOVT servants' efficiency rules 2011 annexed-D
- ii. That it was alleged in the show cause notice that the appellant remained absent from his duties from 17-08-2021 to 06-10-2021, whereas the school attendance Register depict that the appellant had regularly attended his duties during this period, and he was regular in his duty in the disputed period. Attested copies of attendance register annexed-E
- iii. That the appellant was regular in his duties and he wasn't absent in the alleged period i.e 17.8.2021 to 6.10.21 ,the allegation of respondents is wrong and without any cogent reason ,which allegation is based on malafide and ill will.
- iv. That the malafide on the part of respondents is also floating from the Termination Notification, wherein the proceedings of previous enquiry have been pasted, by mentioning therein that the absence notice was published in newspaper " Express " dated 10-12-2020 and absence notice in newspaper " Aaj dated 11-12-2020 was published, whereas the current absence allegations are for the period Of 17-8-2021 to 6-10-2021 and in all this period appellant was present on his duty, then how one year before the absence notice could be issued in newspaper. This glaring malice on the part of respondents clearly shows their bad intentions and political victimization at the hands of some Political figure, who had threatened the appellant for dire consequences.

- v. That another glaring malafide intention on the part of respondents is reflecting from the para wise reply to the departmental appeal of the appellant, wherein also the respondents had referred the previous allegations of previous enquiry and by now it is established law and Article 13 of the Constitution also says that no one should be punished twice for the same offence. When in first round the appellant was punished for withholding of two increments of two years, then on the same allegations the appellant could not be removed from his service. Copies of departmental appeal and reply annexed-E & G
- vi. That the appellant has never been issued a show cause notice nor he was ever provided a chance of hearing and by now it is established law that no one could be condemned un-heard. So, respondents had to provide full opportunity of hearing to appellant to justify their act of removal of appellant from service.
- vii. That it is also an established law that major penalty from removal of service could only be awarded when a person is guilty of some heinous offence and that also when the offender is provided full opportunity of hearing and the guilt is proved against him through cogent evidence, but in the present case neither the statement of the concerned headmaster is recoded nor the attendance Register of the School was examined by the enquiry officer.
- viii. That the appellant served the respondents with grievance notice before filing of the instant appeal, who did not respond to the grievance notice, meaning thereby that they admitted the grievances of appellant and they have no reply to the grounds taken by the appellant in notice and in this appeal. Copy of notice and registry receipt annexed-H
- ix. That the appellant has rendered valuable time of his life and at this stage the appellant after losing the job, will face with starvation, thus act of the respondents is absolutely un-justified and un-human, thus requires to be set aside and the appellant may be restored on his position.
- x. That other grounds will be taken at the time of final arguments before the Hon'ble Tribunal, with kind permission of court/tribunal.

It is, therefore, very humbly requested that while accepting this appeal, the Notification of removal of appellant from his service bearing No.1251-56 dated 27-2-2022 and order dated 18-05-2022 passed by respondent No.1 &2 may please be set aside and the appellant may please be restored on his duties along with back benefit from date of his termination. Any other remedy deemed fit for the sake of justice may graciously be allowed for the sake of justice and law.

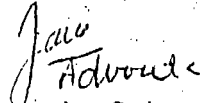
Ali Humayun / appellant

Through



Sardar Ali Khan

Advocate Supreme Court



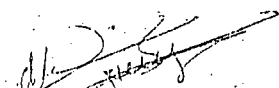
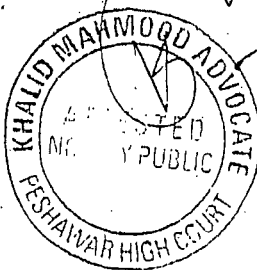
Humaira Gul

Advocate High court

AFFIDAVIT

That the contents of this appeal are true and correct and nothing is concealed from The August Tribunal.

Deponent


Ali Humayun

4A

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Appeal No.

/2022

FULL ADDRESSES OF PARTIES

Ali Humayun S/O Atta Muhammad Khan R/O pohan colony near TB
hospital Baghdada ,Mardan Appellant

V E R S U S

1. The Director , Elementary and Secondary Education KP, Peshawar
2. The District Education Officer (M) Swabi.
3. The Sub-Divisional Education Officer Tehsil Razar (Swabi).
4. The Secretary Education KP Peshawar.
5. The Headmaster Government Primary School Parra tehsil Razar district Swabi.

.....Respondents

Humaira gul
Advocate

Humaira gul

Advocate high court

Contact no. 0334-5587109

Email. teacherstudent143@gmail.com



District Education Officer (Male) Swabi

OFFICE ORDER

Annexure A

WHEREAS as per report of Head Teacher GPS No.2 Adina conveyed through Sub Divisional Education Officer Male Razzar Swabi, you have remained mostly absent from your duty since 15-10-2020.

WHEREAS you have also been declared/found absent by the Education Monitoring Authority (EMA) time and again since 15-10-2020.

WHEREAS your absence from duty report received from SDEO Razzar Swabi vide E/No. 2060/Dated: 21-11-2020 & E/No. 3010/Dated: 03-12-2020.

AND WHEREAS you have also found absent again during visit of ADEO Primary of local Office on dated 04-06-2021.

AND WHEREAS detail of duty/absent period summary received from SDEO male concern vide E/No. 7002-G/Dated 07-06-2021.

AND WHEREAS final status of your duty received from SDEO Male concern vide E/No. 7060/Dated: 10-07-2021.

AND WHEREAS chances have been given to you time and again for resuming duty to be careful in future.

AND WHEREAS as per your service record, you proved yourself to be inefficient and irregular throughout the service.


NOW, THEREFORE, in exercise of the powers conferred under section 4-a (ii) of the Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules, 2011, the undersigned being the competent authority is pleased to impose the minor penalty of *withholding of two annual increment for a period of 2-years* upon Mr. Ali Humayun PST (BS-12) of GPS No.2 Adina Razzar Swabi with immediate effect. The Undersigned has further been pleased to transfer him from GPS No.2 Adina to GPS Parra Kalu Khan Swabi on *Administrative grounds*, while the absence period from date of first time absence till taking over charge in new school is considered/ treated as EOL without pay. Moreover, his pay will be released subject to taking over charge at new station and performing duty regularly.

(ZAHID MUHAMMAD)
DISTRICT EDUCATION OFFICER
(MALE) SWABI

Endst. No. 6061-66 / Dated 29-07 / 2021

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Swabi.
3. District Monitoring Officer Swabi.
4. SDEO Male Razzar with the direction to keep him under observation and submit his monthly performance report to the undersigned regularly.
5. ADEO (Primary) local Office.
6. Official concerned.

ATTESTED


DISTRICT EDUCATION OFFICER
(MALE) SWABI

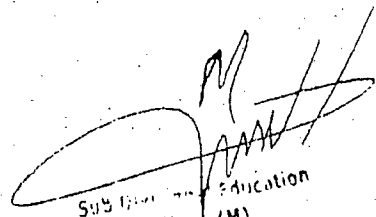
P-TO
↓

5

Ref: office order no- 6061-66 Dated 29/07/2021 (DPO M) Swabi

Encl: No 8013 Dated 3/8/2021

- 1) PSHI GPS No. Adina for Compliance and report
- 2) PSHI GPS No. Kalu Khan for Compliance + report
- 3) ASDEO Cases for information + report



Sub Division Education
District (M)
Razzar (Swabi)

3-8-2

5A

NOTICE (1) - The Post Office is not responsible for loss or damage in the case of inland registered articles unless they are also insured.

SUB DIVISIONAL EDUCATION OFFICER (MALE) RAZZAR (SWABI)
No. 2070-9 Dated Razzar the 24/1/11 /2020.

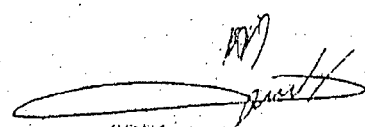
To:

Mr. Ali Humayun s/o Ata Muhammad
Mohallah parra Kalu khan road side
VPO Kalu.khan

Subject: - SHOW CAUSE NOTICE
Memo: -

As per report of the ASDEO Kalu khan regarding absent report of Mr. Ali Humayun PST GPS No-2 Adina has been regularly absent w.e. (02-11-2020 uptil) now.

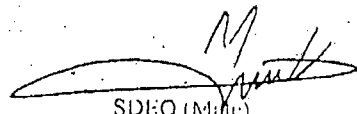
Therefore, you are hereby informing to resume your duty within 15 days positively, otherwise strict disciplinary action will be taken against you under E&D rules 2011.


SDEO (Male)
Tehsil Razzar (Swabi)

Encl: No. 2070-9 /

Copy of the above is forwarded for information & n/a to the:-

1. District Education Officer Male Swabi
2. District Monitoring Officer Swabi
3. ASDEO Concerned
4. Head Teacher concerned
5. Ali Humayun Home Address


SDEO (Male)
Tehsil Razzar (Swabi)

O/c

ATTESTED



District Education Officer (Male) Swabi ⑥

PH No. 0938-280239

Annexure "B"

NOTIFICATION

WHEREAS during visit of the then District Education Officer Male Swabi, you Mr. Ali Humayun PST of GPS Parra Kalu Khan Razzar Swabi have been found absent from your duty and also called for personal hearing vide this Office E/No. 7952/Dated: 27-10-2020.

AND WHEREAS you have remained mostly absent from your duty since 15-10-2020 till date regularly.

AND WHEREAS you have also been reported/found absent by the Education Monitoring Authority (EMA) Swabi time and again since 15-10-2020.

AND WHEREAS Two annual increments for a period of 02 years have been withhold under E&D rules 2011 vide this office Endst No.6061-66 dated 29-07-2021 and was transferred from GPS No.02 Adina to GPS Parra Kalu Khan on administrative grounds.

AND WHEREAS the SDEO Razzar submitted absent report vide his No.8198-G dated 07-10-2021 regarding your willful absent from duty w.e.f 17-08-2021 to 06-10-2021.

AND WHEREAS absence notice is published in two leading newspapers i.e daily "Express" and daily "Aaj" on dated 10-12-2020 & 11-12-2020 respectively by warning him to resume duty within fifteen days but yet again he didn't report for duty at his school.

NOW, THEREFORE, in exercise of the powers conferred under section 4-b (iii) of the Khyber Pakhtunkhwa (Efficiency & Disciplinary) Rules, 2011, the undersigned being the Competent Authority is pleased to impose the major penalty of *removal from service* upon Mr. Ali Hamayun PST of GPS Parra Kalu Khan Tehsil Razzar Swabi and resident of VPO Kalu Khan Tehsil Razzar District Swabi with immediate effect. The intervening period of his absence from duty is treated as un-authorized absence.

(IRFAN ALI)
DISTRICT EDUCATION OFFICER
(MALE) SWABI

Endst. No 1251-56 / Dated 27/10/2022 / 2022

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Swabi.
3. District Monitoring Officer Swabi.
4. SDEO Male Razzar Swabi.
5. Mr. Ali Hamayun S/O Ata Muhammad VPO Kalu Khan Tehsil Razzar District Swabi.
6. Office file.

ATTESTED

DISTRICT EDUCATION OFFICER
(MALE) SWABI

(5A)
چارچہ رپورٹ

کتن مسٹی علی ہمایوں نے آج بمورخہ 04-08-2021 بمطابق آرڈر نمبر 66-6661
مورخہ 29-07-2021 آبدہ از دفتر جناب DEO صاحب مردانہ موہالی
DEO صاحب مردانہ رزڈ آرڈر نمبر 8013 گورنمنٹ پرائمری سکول پیر کالہ کا
میں ایسے عہدے PST کا چارج ازاں پیر کالہ پمپر سے قبل از دو پمپر سنبھال لیا۔

دیکھو چارج دیکھو

Wali
04-08-2021

HEAD TEACHER
P.S. Parra Kalu Khan
Distt: Swabi.

مستند چارج لکھنڈہ
04/8/2021

ATTESTED



Annexure 2 (7) 26)

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

No. 11575 / E.No.2 / Re-Instatement in Service/Estab(M-1)
Dated Peshawar the 30/05/2022

To
District Education Officer
(Male) Swabi.

Subject: APPEAL AGAINST THE ORDER NO. 1251-56 DATED 07-02-2022 WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE

Memo:

I am directed to refer to you: letter No. 3972 Dated: 19-04-2022 on the subject cited above and to ask you that appeal in r/o Mr. Ali Humayun Ex-PST GPS Para Kalu Khan Tehsil Razzar District Swabi has been rejected.

I am further directed to ask to inform the appellant concerned accordingly under intimation to this office.

ATTESTED

[Signature]
Assistant Director (Estab-1)
Directorate of Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar

Enclst; No. _____

Copy forwarded to the :-

1. Mr. Ali Humayun Ex-PST GPS Para Kalu Khan Tehsil Razzar District Swabi.
2. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Master File.

Assistant Director (Estab-1)
Directorate of Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.

OFFICE OF THE DEO (M) SWABI

Number-01 / Dated 30/05/2022

Copy of the above is forwarded to the :-

1. S DEO (M) Razzar with the remarks to hand over the letter to the concerned EX-teacher personally.
2. Mr. Ali Humayun EX-PST GPS Para Kalu Khan Tehsil Razzar through registered cover.

[Signature]
30/5/2022
District Education Officer
Male - Swabi

8
Annandure 17 D 19

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA ESTABLISHMENT AND
ADMINISTRATION DEPARTMENT.**

NOTIFICATION

Peshawar dated the 16th September, 2011.

NO.SO(REG-VI) E&AD/2-6/2010. -In exercise of the powers conferred by section 26, of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

1. Short title, application and commencement.—(1) These rules may be called the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

(2) These shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with affairs of the Province.

(3) These shall come into force at once.

2. Definitions.—(1) In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "accused" means a person in Government service against whom action is initiated under these rules;
- (b) "appellate authority" means the authority next above the competent authority to which an appeal lies against the orders of the competent authority;
- (c) "appointing authority" means an authority declared or notified as such by an order of Government under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and the rules made thereunder or an authority as notified under the specific laws/rules of Government;
- (d) "charges" means allegations framed against the accused pertaining to acts of omission or commission cognizable under these rules;
- (e) "Chief Minister" means the Chief Minister of the Khyber Pakhtunkhwa;
- (f) "competent authority" means-
 - (i) the respective appointing authority;
 - (ii) in relation to a Government servant of a tribunal or court functioning under Government, the appointing authority or the Chairman or presiding officer of such tribunal or court, as the case may be, authorized by the appointing authority to exercise the powers of the competent authority under these rules;

ATTESTED

Provided that where two or more Government servants are to be proceeded against jointly, the competent authority in relation to the accused Government servant senior most shall be the competent authority in respect of all the accused.

- (g) "corruption" means-
 - (i) accepting or obtaining or offering any gratification or valuable thing, directly or indirectly, other than legal remuneration, as a reward for doing or for bearing to do any official act; or
 - (ii) dishonestly or fraudulently misappropriating, or indulging in embezzlement or misusing Government property or resources; or
 - (iii) entering into plea bargain under any law for the time being in force and returning the assets or gains acquired through corruption or corrupt practices voluntarily; or
 - (iv) possession of pecuniary sources or property by a Government servant or any of his dependents or any other person, through his or on his behalf,

which cannot be accounted for and which are disproportionate to his known sources of income; or

- (v) maintaining a standard of living beyond known sources of income; or
- (vi) having a reputation of being corrupt;
- (h) "Governor" means the Governor of the Khyber Pakhtunkhwa;
- (i) "inefficiency" means failure to efficiently perform functions assigned to a Government servant in the discharge of his duties;
- (j) "inquiry committee" means a committee of two or more officers, headed by a convener, as may be appointed by the competent authority under these rules;
- (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
- (l) "misconduct" includes-
 - (i) conduct prejudicial to good order or service discipline; or
 - (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
 - (iii) conduct unbecoming of Government servant and a gentleman; or
 - (iv) involvement or participation for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
 - (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or
 - (vi) making appointment or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
 - (vii) conviction for a moral offence by a court of law.
- (2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. Grounds for proceedings.—A Government servant shall be liable to be proceeded against under these rules, if he is-

- (a) inefficient or has ceased to be efficient for any reason; or
- (b) guilty of misconduct; or
- (c) guilty of corruption; or
- (d) guilty of habitually absenting himself from duty without prior approval of leave; or
- (e) engaged or is reasonably believed to be engaged in subversive activities, or is reasonably believed to be associated with others engaged in subversive activities, or is guilty of disclosure of official secrets to any un-authorized person, and his retention in service is prejudicial to national security; or
- (f) entered into plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily.

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4. Penalties.—(1) The following are the minor and the major penalties, namely:

- (a) Minor penalties:
 - (i) censure;
 - (ii) withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for

promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:

- (iii) recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

(b) Major penalties:

- [(i) reduction to a lower post or pay scale or to a lower stage in a time scale for a maximum period of five years:

Provided that on a restoration to original pay scale or post, the penalized Government servant will be placed below his erstwhile juniors promoted to higher posts during subsistence of the period of penalty;]

- (ii) compulsory retirement;
- (iii) removal from service; and
- (iv) dismissal from service.

ATTESTED

(2) Dismissal from service under these rules shall disqualify a Government servant from future employment under Government.

(3) Any penalty under these rules shall not absolve a Government servant from liability to any other punishment to which he may be liable for an offence, under any other law, committed by him while in service.

5. Initiation of proceedings.—(1) If on the basis of its own knowledge or information placed before it, the competent authority is of the opinion that there are sufficient grounds for initiating proceedings against a Government servant under these rules it shall either:-

- (a) proceed itself against the accused by issuing a show cause notice under rule 7 and, for reasons to be recorded in writing, dispense with inquiry:

Provided that no opportunity of showing cause or personal hearing shall be given where-

- (i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or
- (ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or
- (iii) a Government servant is involved in subversive activities; or
- (iv) it is not reasonably practicable to give such an opportunity to the accused; or

- (b) get an inquiry conducted into the charge or charges against the accused, by appointing an inquiry officer or an inquiry committee, as the case may be, under rule 11:

Provided that the competent authority shall dispense with the inquiry where-

- (i) a Government servant has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or
- (ii) a Government servant is or has been absent from duty without prior approval of leave:

Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary

evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry.

(2) The charge sheet or statement of allegations or the show cause notice, as the case may be, shall be signed by the competent authority.

6. **Suspension.**—A Government servant against whom action is proposed to be initiated under rule 5 may be placed under suspension for a period of ninety days, if in the opinion of the competent authority, suspension is necessary or expedient, and if the period of suspension is not extended for a further period of ninety days within thirty days of the expiry of initial period of suspension, the Government servant shall be deemed to be reinstated:

Provided that the competent authority may, in appropriate case, for reasons to be recorded in writing, instead of placing such person under suspension, require him to proceed on such leave as may be admissible to him, from such date as may be specified by the competent authority.

7. **Procedure where inquiry is dispensed with.**—If the competent authority decides that it is not necessary to hold an inquiry against the accused under rule 5, it shall-

- (a) inform the accused by an order in writing, of the grounds for proceeding against him, clearly specifying the charges therein, alongwith apportionment of responsibility and penalty or penalties proposed to be imposed upon him;
- (b) give him a reasonable opportunity of showing cause against the proposed action, within seven days of receipt of the order or within such extended period, as the competent authority may determine;
- (c) on receipt of reply of the accused within the stipulated period or after the expiry thereof, if no reply is received, determine whether the charge or charges have been proved against the accused or not:

Provided that after receipt of reply to the show cause notice from the accused, the competent authority, except where the Chief Minister himself is the competent authority, shall decide the case within a period of ninety days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons:

Provided further that if the case is not decided by the competent authority within the prescribed period of ninety days, the accused may file an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period;

- (d) afford an opportunity of personal hearing before passing any order of penalty under clause (f), if it is determined that the charge or charges have been proved against him;
- (e) exonerate the accused by an order in writing, if it is determined that the charge or charges have not been proved against him; and
- (f) impose any one or more penalties mentioned in rule 4, by an order in writing, if the charge or charges are proved against the accused:

Provided that where charge or charges of grave corruption are proved against an accused, the penalty of dismissal from service shall be imposed, in addition to the recovery, if any.

8. **Action in case of conviction or plea bargain under any law.**—Where a Government servant is convicted by a court of law on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices, or has been acquitted by a court of law as a result of compounding of an offence involving moral turpitude under any law for the time being in force, the competent authority, after examining facts of the case, shall-

- (a) dismiss the Government servant where he has been convicted on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices voluntarily:

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ATTESTED

Provided that dismissal in these cases shall be with ²[.....] effect from the date of conviction by a court of law; and

- (b) proceed against the Government servant under rule 5, where he has been convicted of charges other than corruption or moral turpitude.

9. **Procedure in case of wilful absence.**—Notwithstanding anything to the contrary contained in these rules, in case of wilful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgment on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an *ex-parte* decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant.

10. **Procedure to be followed by competent authority where inquiry is necessary.**—

(1) If the competent authority decides that it is necessary to hold an inquiry against the accused under rule 5, it shall pass an order of inquiry in writing, which shall include-

- (a) appointment of an inquiry officer or an inquiry committee, provided that the inquiry officer or the inquiry committee, as the case may be, shall be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall be of a rank senior to the senior most accused;
- (b) the grounds for proceeding, clearly specifying the charges along with apportionment of responsibility;
- (c) appointment of the departmental representative by designation; and
- (d) direction to the accused to submit written defense to the inquiry officer or the inquiry committee, as the case may be, within reasonable time which shall not be less than seven days and more than fifteen days of the date of receipt of orders.

(2) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.

(3) In a case where preliminary or fact finding inquiry was conducted, and the competent authority decides to hold formal inquiry, the inquiry officer or the inquiry committee for the purpose of conducting formal inquiry shall be different from the inquiry officer or the inquiry committee which conducted the preliminary.

11. **Procedure to be followed by inquiry officer or inquiry committee.**—(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry *ex-parte*.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.

(4) Statements of witnesses and departmental representative(s), if possible, will be recorded in the presence of accused and vice versa.

(5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.

(6) If the accused absents himself from the inquiry on medical grounds, he shall be

² Deleted by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18th July, 2012.

deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendations of a Medical Board; provided that the competent authority may, in its discretion, sanction medical leave up to seven days without such recommendations.

(7) The inquiry officer or the inquiry committee, as the case may be, shall submit his or its report, to the competent authority within thirty days of the initiation of inquiry:

Provided that the inquiry shall not be vitiated merely on the grounds of non-observance of the time schedule for completion of the inquiry.

12. Powers of the inquiry officer or inquiry committee.—(1) For the purpose of an inquiry under these rules, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act No. V of 1908), in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be the judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

13. Duties of the departmental representative.—The departmental representative shall perform the following duties, namely:

- (a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- (b) cross-examine the witnesses produced by the accused, and with the permission of the inquiry officer or inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and
- (c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

14. Order to be passed on receipt of report from the inquiry officer or inquiry committee.—(1) On receipt of report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (6) of this rule.

(4) Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall-

- (a) inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him;
- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than seven days and more than fifteen days from the day the charge or charges have been communicated to him: provided that the accused shall, in his reply to show cause notice, indicate as to whether he

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wants to be heard in person or not;

- (c) provide a copy of the inquiry report to the accused; and
- (d) direct the departmental representative to appear, with all the relevant record, on the date of hearing.

(5) After affording personal hearing to the accused the competent authority shall, keeping in view the findings and recommendations of the inquiry officer or inquiry committee, as the case may be, facts of the case and defense offered by the accused during personal hearing, by an order in writing-

- (i) exonerate the accused if charges had not been proved; or
- (ii) impose any one or more of the penalties specified in rule 4 if charges have been proved.

(6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee [subject of sub-rule (7) of rule 11].

(7) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the competent authority shall decide the case within a period of fifteen days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons.

(8) If the case is not decided by the competent authority within the prescribed period of fifteen days, the accused may submit an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period.

15. **Personal hearing.**—The competent authority may, by an order in writing, call the accused and the departmental representative, alongwith relevant record of the case, to appear before him, for personal hearing on the fixed date and time.

16. **Procedure of inquiry against Government servant lent to other governments or organizations etc.**—(1) Where the services of Government servant to whom these rules apply are transferred or lent to any other government department, corporation, corporate body, autonomous body, authority, statutory body or any other organization or institution, hereinafter referred to as the borrowing organization, the competent authority for the post against which such Government servant is posted in the borrowing organization may-

- (a) suspend him under rule 6; and
- (b) initiate proceedings against him/her under these rules:

Provided that the borrowing organization shall forthwith inform the authority which has lent his services, (hereinafter referred to as the lending organization) of the circumstances leading to the order of his suspension or the initiation of the proceedings, as the case may be:

Provided further that the borrowing organization shall obtain prior approval of the competent authority in the lending organization before taking any action under these rules against a Government servant holding a post in basic pay scale 17 or above.

(2) If, in the light of findings of the proceedings taken against the accused in terms of sub rule (1), the borrowing organization is of the opinion that a penalty may have to be imposed on him, it shall transmit the record of the proceedings to the lending organization, and the competent authority in the lending organization shall thereupon take action against the accused under rule 14.

(3) Notwithstanding anything to the contrary contained in sub-rules (1) and (2), the Chief Minister may, in respect of certain Government servant or class of Government servants to whom these rules apply, authorize any officer or authority in the borrowing organization to exercise all the powers of the competent authority under these rules.

³ Added by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18th July, 2012.

17. **Departmental appeal and review.**—(1) An accused who has been awarded any penalty under these rules may, within thirty days from the date of communication of the order, prefer departmental appeal to the appellate authority:

Provided that where the order has been passed by the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister.

(2) The authority empowered under sub-rule (1) shall call for the record of the case and comments on the points raised in the appeal from the concerned department or office, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-

- (a) uphold the order of penalty and reject the appeal or review petition; or
- (b) set aside the orders and exonerate the accused; or
- (c) modify the orders or reduce the penalty.

(3) An appeal or review petition preferred under these rules shall be made in the form of a petition, in writing, and shall set forth concisely the grounds of objection in impugned order in a proper and temperate language.

18. **Appearance of counsel.**—No party to any proceedings under these rules at any stage of the proceedings, except proceedings under rule 19, shall be represented by an advocate.

19. **Appeal before Khyber Pakhtunkhwa Province Service Tribunal.**—(1) Notwithstanding anything contained in any other law or rules for the time being in force, any Government servant aggrieved by any final order passed under rule 17 may, within thirty days from the date of communication of the order, prefer an appeal to the Khyber Pakhtunkhwa Province Service Tribunal established under the Khyber Pakhtunkhwa Province Service Tribunals Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974).

(2) If a decision on a departmental appeal or review petition, as the case may be, filed under rule 17 is not communicated within period of sixty days of filing thereof, the affected Government servant may file an appeal in the Khyber Pakhtunkhwa Province Service Tribunal within a period of ⁴[ninety] days of the expiry of the aforesaid period, whereafter, the authority with whom the departmental appeal or review petition is pending, shall not take any further action.

20. **Exception.**—Notwithstanding anything to the contrary contained in these rules, in cases where Government servants collectively strike work, wilfully absent themselves from duty or abandon their official work, the competent authority in respect of senior most accused may serve upon them through newspapers or any other mean, such notice as may be deemed appropriate to resume duty and in the event of failure or refusal to comply with the directive contained in the notice, impose upon the defaulting Government servants any of the major penalties prescribed in these rules.

21. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the competent authority or any other authority for anything done or intended to be done in good faith under these rules or the instructions or directions made or issued there-under.

⁵[.....]

ATTESTED

23. **Repeal.**—(1) The Khyber Pakhtunkhwa government servants (Efficiency & Discipline) Rules, 1973 are hereby repealed.

(2) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any Government servant under repealed rules shall continue under these rules.

(3) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any employee under the said repealed rules or under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and rules made thereunder, or any other law and rules shall continue under that law and rules, in the manner provided thereunder.

⁴ Subs. by Notification No. SO(REG-VT)E&AD/2-6/2010. Dated 18th July, 2012.

⁵ Deleted by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18th July, 2012.

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Annexure f 2523

BEFORE DIRECTOR ELEMENTARY & SECONDARY
EDUCATION (MALE), KHYBER PAKHTUNKHWA.

SUBJECT: APPEAL AGAINST THE NOTIFICATION OF THE
DISTRICT EDUCATION OFFICER (MALE) SWABI, AWARDED
THE PENALTY OF REMOVAL FROM SERVICE TO THE
APPELLANT.

RESPECTED SIR,

With Reference to Notification Endst: No 1251-56 dated 07-02-2022,
whereby the DEO Male, Swabi has awarded me the punishment of
removal from service. (Copy of order is attached as annexure A).

Beside the other legal and factual aspect of the case, charge
levied against the appellant and order of removal is incorrect and
unjustified, while impugned order is illegal and unjustified in the
light of the circumstances of the case, on the following amongst many
other grounds:

1. That the impugned order is against law, rules, fact, record and
circumstances.
2. That section / rule 4B(ii) of KP (Efficiency and Discipline)
Rule 2011 is not applicable against the appellant.
3. That the appellant was never informed and the entire process
against the appellant are wrong, ex-parte, unfair and
against the principles of no one should be condemned unheard.
4. That no proper inquiry was conducted against the appellant as
no notice, no show cause notice, no personal hearing has been
conducted nor the opportunity of cross examination has been
provided. Moreover partiality has been proved as no
statement of the other concerned official has been recorded
which is discrimination amount against the norms of justice.
5. That the appellant has always performed his duty actively and
efficiently and never remain willfully absent, supine / negligent.

ATTESTED

ADDD-411

2022

17/11

17/11/2022

BEFORE DIRECTOR ELEMENTARY & SECONDARY
EDUCATION (MALE), KHYBER PAKHTOONKHWA.

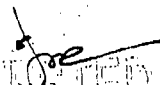
*SUBJECT: APPEAL AGAINST THE NOTIFICATION OF THE
DISTRICT EDUCATION OFFICER (MALE) SWABI, AWARDED THE
PENALTY OF REMOVAL FROM SERVICE TO THE APPELLANT.*

RESPECTED SIR,

With Reference to Notification Endst: No. 1251-56 dated 07-02-2022, whereby the DEO Male, Swabi has awarded me the punishment of removal from service. (Copy of order is attached as annexure A).

Beside the other legal and factual aspect of the case. charge leveled against the appellant and order of removal is incorrect and un justified, while impugned order is illegal and unjustified in the light of the circumstances of the case. on the following amongst many other grounds:

1. That the impugned order is against law, rules, facts, record and circumstances.
2. That section / rule 4B(iii) of KP (Efficiency and Discipline) Rule 2011 is not applicable against the appellant.
3. That the appellant was never informed and the entire process against the appellant are wrong, ex-parte, malafide and against the principles of no one should be condemned unheard.
4. That no proper inquiry was conducted against the appellant as no notice, no show cause notice, no personal hearing has been conducted nor the opportunity of cross examination has been provided. More over partiality has been proved as no statement of the other concerned official has been recorded which is discrimination amount against the norms of justice.
5. That the appellant has always performed his duty actively and efficiently and never remain willful absent, supine / negligent.



ATTESTED


6. That the long standing service of appellant prevailed is over a period of 5/6 years, is clean and unblemished throughout rather commendable.
7. That the appellant was kept unaware of the whole proceedings against him and even order of removal was not conveyed to the appellant. It is pertinent to note that the appellant was regularly attending his School when got knowledge about the removal some days ago, hence the appeal is within time and in case of any technicality the appellant also submit for condonation.
8. That the appellant has not been treated according to law and harsh order has been passed by the DEO.
9. That legal infirmities has been found in the proceedings and illegal notification has been passed.
10. That the act, action, commission and omission of the DEO and inquiry officer are patently illegal, unlawful, without lawful authority, of no legal effect, hence no value in the eyes of law be declared void.
11. That in all respect no case of any penalty is made out against the appellant and the appellant is entitled to be re-instated on his service.
12. That any other ground not specifically mentioned will be raised if called for hearing.

It is humbly prayed that on acceptance of this appeal, the impugned order of removal may kindly be set aside and the appellant may be re-instate into service with continued service and financial benefits.

Dated: 05-03-2022

Yours obediently


Ali Humayun Ex- PST GES Para
Kalu Khan Village & PO Kalu Khan
Tehsil Razzar District Swabi
Mob No 03160935868


ATTACHED

6. That the long standing service of appellant prevailed is over a period of 5/6 years, is cleared and unblemished throughout rather commendable.
7. That the appellant was kept unaware of the whole proceedings against him and even order of removal was not conveyed to the appellant. It is pertinent to note that the appellant was regularly attending his School when got knowledge about the removal some days ago, hence the appeal is within time and in case of any technicality the appellant also submit for condonation.
8. That the appellant has not been treated according to law and harsh order has been passed by the DEO.
9. That legal infirmities has been found in the proceedings and illegal notification has been passed.
10. That the act, action, commission and omission of the DEO and inquiry officer are patently illegal, unlawful, without lawful authority, of no legal effect, hence no value in the eyes of law be declared void.
11. That in all respect no case of any penalty is made out against the appellant and the appellant is entitled to be re-instated on his service.
12. That any other ground not specifically mentioned will be raised if called for hearing.


It is humbly prayed that on acceptance of this appeal, the impugned order of removal may kindly be set aside and the appellant may be re-instated into service with continued service and financial benefits.

Your obediently

Dated: 05-03-2022

Sd/-

**Ali Humayun Ex- PST GPS Para
Kalu Khan Village & PO Kalu Khan
Tehsil Razzar District Swabi
Mob No 03160935868**



Registered / Urgent (28) 22

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Office of the District Education Officer (Male) Swabi

(Office Phone & Fax No. 0938280219 Email: yad@kpk.gov.pk)

No. 3972 PE ALI HUMAYUN I.A. P.S.T. I. No. 110/01

19/04

Annexure G/3

To:

The Director,
Elementary & Secondary Education Khyber Pakhtunkhwa
Peshawar.

SUBJECT: - APPEAL AGAINST THE ORDER NO. 1251-56 DATED 07-02-2022 WHEREBY
THE APPELLANT WAS REMOVED FROM SERVICE

Memo:-

Refer to your letter No. 3671/F No. 24/Re-Instatement in service/Dist: Swabi dated 04-01-2022 on the subject noted above. The request information/report is as under:

- 1:- That he was appointed as P.S.T. vide the D.O. of the District Education Officer Swabi No. 2004/F.No. 120/Appnt of P.S.T. Division of Elementary Education Swabi dated 01-01-2004.
- 2:- That he was mostly remained absent from duty since his appointment.
- 3:- That he was repeatedly reported willful absent from duty by EMA, Head Teacher and by local Citizens through Citizen Portal.
- 4:- That absence notice No. 2079-G dated 24-11-2020 was issued to him by the SDEO Razzar on his home address. But he did not reply.
- 5:- That absence notice was published in two daily leading newspapers 11-12-2020 i.e. daily Express & Aaj. He did not resume his duty and failed to response the same.
- 6:- That as per section 9 of the F&D rules-2011 all the codal formalities have been observed and he was removed from the service vide order Endst No. 1251-56 dated 07-02-2022.
- 7:- That he was willful and habitual absent person. It is evident from the attached inquiry report his service was completely spotted.

The detail report is hereby submitted for your kind perusal and consideration please.

Encl:- Absence notice, Publication in two newspapers, Removal from service Order and inquiry report.

ATTESTED

19.4.2022
DISTRICT EDUCATION OFFICER
(MALE) SWABI

Office of the District Education Officer (Male) Swabi
(Office Phone & Fax No.0938280239, emisswabi@yahoo.com)

No.3972/PF Ali Humayun EX-PST/F.No.01/Dated 19/04/2022

To,

The Director,
 Elementary & Secondary Education Khyber Pakhtunkhwa
 Peshawar.

SUBJECT: **APPEAL AGAINST THE ORDER NO.1251-56 DATED 07-02-2022**
WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE

Memo:-


Refer to your letter No.5671/F.No.24/Re-Instatement in service/Distt:Swabi dated 04-04-2022 on the subject noted above. The request information/report is as under:

- 1:- That he was appointed as PST vide the DEO (M) Swabi NO.100-2004/F.No.130/Apptt: of PST/Deceased son's quota on 28.02.2018.
- 2:- That he was mostly remained absent from duty since his appointment.
- 3:- That he was repeatedly reported willful absent from duty by EMA, Head Teacher and by local Citizens through Citizen Portal.
- 4:- That absence notice No.2070-G dated 24-11-2020 was issued to him by the SDEO Razzar on his home address. But he did not reply.
- 5:- That absence notice was published in two daily leading newspapers 11-12-2020 i.e daily Express & Aaj. He did not resume his duty and failed to response the same.
- 6:- That as per section 9 of the E&D rules 2011 all the codal formalities have been observed and he was removed from the service vide order Endst No.1251-56 dated 07.02.2022.
- 7:- That he was willful and habitual absent person. It is evident from the attached inquiry report his service was completely spotted.

The detail report is hereby submitted for your kind perusal and consideration please.

Encl:- Absence notice, Publication in two newspapers, Removal from service Order and inquiry report.

Sd/- 19.4.2022
 DISTRICT EDUCATION OFFICER
 (MALE) SWABI


 ATTESTED

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Annature. H

1. The District Education Officer (M)
Swabi.
2. The Director Education
3. Elementary and Secondary Education Peshawar.
4. The Sub-Divisional Education Officer (M)
Tehsil Razra (Swabi).

Subject: G R I E V A N C E P E T I T I O N

Respected Sir,

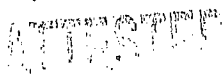
The petitioner respectfully submits as under,

1. That the petitioner was serving as PST (teacher) in Education Department and was posted at Government Primary School Parra Kalo Khan (swabi).
2. That the petitioner was found efficient, hardworking and dutiful and a single complaint from his officer was not raised during his carrier of service.
3. That vide an office order No.2070-G dated 24-11-2020 the petitioner was issued a show cause notice and later on an enquiry was conducted, whereby the petitioner was held liable for the penalty of withholding of two annual increments for two years and transfer on administrative grounds.
4. That the petitioner on 04-08-2021 taken the charge of his duties at Government Primary School Parra Kalo Khan.
5. That after taking the charge in the above mentioned school, the petitioner was regularly attending his duties, which fact is evident from the attendance Register of the School concerned.
6. That the petitioner was issued a Notification bearing No.1251-56 dated 27-02-2022, whereby the services of the petitioner were terminated on the grounds of willful absentia from 17-08-2021 to 06-10-2021.
7. That the petitioner submit his grievances on the following amongst other grounds:

G R O U N D S :

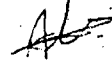
- i. That the so called allegations of absentia from 17-08-2021 to 06-10-2021 is concerned, the official record of the School concerned suggests that the petitioner after posting in the said school has regularly attended the duties as per Attendance Register, and only on 17-08-2021 his absent is marked in the Register although the petitioner had submitted an application for sick leave which is not taken into consideration.

- ii. That similarly on 18-10-2021 and 20-10-2021 again the petitioner has been marked as absent, despite of the fact that on 19-10-2021 it was a gazette holiday (Eid Milad Un Nabi), while on 18-10-2021 and 20-10-2021 the petitioner had applied for sick leave / casual leave but the said leave has not be taken into consideration.
- iii. That the Notification of Termination dated 27-02-2022 would defect that absent notice through Publication of the News Paper " Express " dated 10-12-2020 and "Aaj " dated 11-12-2020 is with respect to the earlier show cause notice and punishment of withholding of Two years annual increment and this publication is not with respect to the present absentia i.e for 18-10-2020 and 20-10-2020. So this is a clear malafide on the part of the Official concerned who did not provided an chance of explanation to the petitioner but on his previous charges, he was held liable for punishment of major penalty of termination.
- iv. That although the Department was bound to issue a proper explanation letter to the petitioner and to provide him an opportunity of his explanation, which was not only his fundamental right but the department was also bounded by the Services Rules to first avail the relevant provisions of law and then to award the punishment, if the guilt was proved against the petitioner.
- v. That the entire proceedings against the petitioner are wrong, illegal, unconstitutional and un-warranted, hence the punishment is not justified, at any cost and this is the golden Maxim that no one could be condemn un heard.
- vi. That the petitioner approached the Director for Elementary and Secondary Education Peshawar for redressal of grievances but he was even not provided any chance to explain his position and even during the departmental enquiry the statement of concerned official has not been recorded to the effect of his absentia on 18-10-2021 and 20-10-2021, which was mandatory.
- vii. That the departmental reply to the appeal also defect that the allegations of previous absentia and punishment is mentioned, while regarding the present absent period of 18-10-2021 and 20-10-2021 a single word has not been mentioned and the entire findings are concentrated over the previous enquiry for which the petitioner was earlier punished.
- viii. That under Article 13 of the Constitution of Islamic Republic of Pakistan one can not be punished twice for the same offence, so when the petitioner was already punished for withholding of two early increments in the previous enquiry then for those allegations the petitioner can not be again punished for major penalty of Termination from service.

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It is, therefore, most humbly requested that while accepting this grievance petitioner, the petitioner may please be restored on his service with back benefits any other relief deemed fit for the sake of justice may graciously be granted in favor of petitioner.

Petitioner




Ali Humayun
PSI Teacher GPS Darya
Tehsil Bazar (Swabi)

Through



Haji Sardar Ali Khan
Advocate Supreme Court
Cell # 0333-9873083


ATTORNEY

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بعدالت حسب مکتوب، سروس ٹریڈمنٹ سٹالہ

مورخہ 16 جون 2022ء منجانب: ایپلانٹ
 مقدمہ بعنوان: گلریہا لون نام: ڈاکٹر ایجوکیشن
 مقدمہ نمبر: رجوعہ
 نوعیت مقدمہ:
 مقدمہ علت نمبر: مورخہ
 جرم: تھانہ

50
روپے

باعث تحریر آنکہ



مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
 سر دراصل خان ASC
 آن مقام سے ملے گئے گھنٹہ وار لیٹ بائی نوٹ کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل مقررہ کو راضی نامہ کرنے و تقرر
 ی ثالث و فیصلہ بر حلف دینے عرضی دعویٰ، جواب دعویٰ، اقبال دعویٰ، جواب الجواب، عذر داری، درخواست زبردفعہ (2) 12
 ض و درخواست برآمد برآمدگی و سرسہنگی مقدمہ، درخواست برآمد منسوخی کارروائی و ڈگری یکطرفہ دائر کرنے جواب، جواب
 الجواب وغیرہ درخواست کارروائی اجراء دائر کرنے و وصولی چیک و رقم اور درخواست از ہر قسم کی تصدیق زراس پر دستخط وغیرہ
 کرنے کا اختیار ہوگا۔ اپیل، اپیل دراپیل، مگرانی، نظر ثانی، رٹ و عذر داری وغیرہ دائر کرنے کا بھی اختیار ہوگا۔ اور بصورت
 ضرورت مذکورہ کے عمل یا جزوی کارروائی کے واسطے وکیل یا مختار قانونی کواچی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب
 مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برداشتہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر
 جانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کا بھی اختیار ہوگا۔ اگر کوئی
 تاریخ پیشی پر وکیل موصوف مقام دورہ پر ہو یا حد سے باہر ہو یا بیمار ہو یا کوئی ضروری کام ہو۔ تو وکیل صاحب پابند نہ ہونگے کہ
 پیروی مقدمہ مذکورہ کریں لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے۔

المقوم: 16-6-22
 مقام: یہ تمام کے لئے منظور ہے۔

نوٹ: اس کالت نامہ کو ذمہ داری حاصل نہیں ہے۔

Advocate I.D:

Bar Council

bc-15-6092

Bar Association

Mardan

Contact #:

0334-5587109

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Attested
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Accepted

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

APPEAL No.....1063..... of 20²² SB

Ali Humayun

Appellant/Petitioner

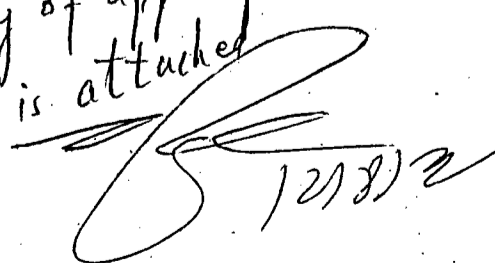
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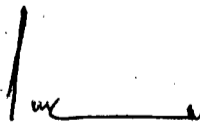
Director education, E & SE KPk Peshawar
RESPONDENT(S)

Notice to Appellant/Petitioner The director education,
E & SE KPk Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 14/09/2022 at 10:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

For Reply
Copy of appeal
is attached

12/8/22


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

APPEAL No. 1063 of 20 22 SE

Ali Humayun

Appellant/Petitioner

Versus

[Handwritten signature]
1208

Director education, [G. SE] KPK Peshawar.

RESPONDENT(S)

Notice to ~~Appellant/Petitioner~~ Respondent (4) The secy education
KPK Peshawar. Secy ESE

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 14/09/2022 at 9:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

For Reply
Copy of appeal
is attached

[Handwritten signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.