

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1254/2014

Date of Institution ... 10.10.2014

Date of Decision ... 27.01.2022

Syed Wajid Ali Shah Ex-Qari GHS Maroba, Nowshera.

... (Appellant)

VERSUS

The Secretary Education (E&SE), Peshawar and others.

... (Respondents)

Syed Noman Ali Bukhari,
Advocate

... For Appellant

Noor Zaman Khattak,
District Attorney

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant joined Education Department as Chowkidar vide order dated 24-10-2005, who later on was appointed as Qari in the year 2007. It was in 2010, when heavy floods damaged official record of the respondents, hence the respondents were unable to ascertain the genuineness of their own employees and for the purpose, a fact finding inquiry was conducted, as a result of which appointment of the appellant was declared to be appointed fraudulently vide order dated 20-10-2012. Feeling aggrieved, the appellant filed departmental appeal followed by Service Appeal No. 1301/2012, which was decided vide judgment dated 21-10-2013. The appellant was re-instated and de-novo inquiry was ordered. As a result of de-novo proceedings, the appellant was

again terminated from service vide order dated 08-07-2014. Feeling aggrieved, the appellant filed departmental appeal dated 18-07-2014, which was not responded, hence the instant service appeal with prayers that the impugned order dated 08-07-2014 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned order is against law, facts and norms of natural justice, therefore, not tenable and liable to be set aside; that the appellant has been condemned unheard and has not been treated in accordance with law; that neither the appellant was associated with proceedings of the inquiry nor statements of the witnesses were recorded in presence of the appellant, thus deprived him of the opportunity to defend his cause; that this Tribunal directed the respondents to conduct regular inquiry in accordance with law by affording appropriate opportunity of defense to the appellant but the respondents did not adhere to the verdict of this Tribunal, hence all such actions are illegal and liable to be set aside; that during the course of inquiry the appellant requested for provision of record, which was not provided to the appellant and which shows malafide on part of the respondents; that the appellant was penalized for no fault of him, as all the record vanished away in floods of 2010, but the appellant could not be blamed for non-availability of record; that the appellant has been discriminated, as similarly placed employees, whose record was damaged/missing, have not been removed from service.

03. Learned District Attorney for the respondents has contended that initially the appellant was appointed as Class-IV/Chowkidar vide order dated 24-10-2005 and performed his duty as Chowkidar in various schools until 31-07-2009, thereafter, he was promoted through a fake order to the post of TT vide order dated 31-07-2009; that the appellant was neither appointed as Qari by the competent authority as per law and rule nor he joined the service as Qari on proper way and manner; that during the course of de-novo proceedings, the

appellant was afforded opportunity of defense, but the appellant failed to prove his innocence; that the appellant was terminated from service after observing all the codal formalities.

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


05. Record reveals that this Tribunal in its judgment dated 21-10-2013 in Service Appeal No. 1301/2012 have already accepted stance of the appellant and was re-instated in service, as the appellant had produced evidences that he had actually worked against the post of Qari until 2012 and obtained salary against the post. Moreover, the respondents also admitted that the appellant was on the strength of education department until 2009, as is evident from the modified charge sheet/statement of allegation. The question of damage caused to official record in 2010 floods is vital, as the appellant in the de-novo proceedings has been subjected to prove his appointment as original, whereas the appellant repeatedly requested for provision of his service book and other necessary document from the official record, as such record is supposed to be in the official custody, but the respondents also are unable to produce record to show that his appointment was fake. The assumption that such record is not traceable, hence might be bogus, would not work, rather such doubtful situation goes in favor of the appellant, as the appellant is not responsible for official record, which was completely damaged in 2010 floods, hence employee could not be punished for any act or omission of the department. Reliance is placed on 2004 SCMR 1662 and 2009 SCMR 663. Inquiry report placed on record would suggest that the appellant served as Qari in various schools until 2012 but since his appointment as Qari is fake/not traceable, hence he is liable to be struck down, which however is not a proper way of disposing an issue involving fundamental rights of an individual. It however was the statutory duty of the inquiry officer to dig out the issue and reach to a logical conclusion. The order affecting the rights of a person

had to be made in accordance with the principle of natural justice, order taking away the rights of a person without complying with the principles of natural justice had been held to be illegal. Government was not vested with the authority to withdraw or rescind an order if the same had taken legal effect and created certain legal rights in favor of the appellant. Reliance is place on 2017 PLC (CS) 585. Impugned order dated 08-07-2014 would suggest that the appellant was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, but provide for penalty to the appellant in terms of termination from service, which as rightly argued by the learned counsel for the appellant is not included in the list of penalties provided in the rules applied on the appellant. The order, therefore, having been passed in blatant disregard of law can only be termed as void and on this score alone, the impugned order is liable to be set at naught.

06. In view of the foregoing discussion, the instant appeal is accepted. The impugned order dated 08-07-2014 is set aside and the appellant is re-instated in service. Intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
27.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


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

ORDER

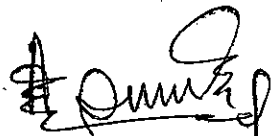
27.01.2022

Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted. The impugned order dated 08-07-2014 is set aside and the appellant is re-instated in service. Intervening period is treated as leave without pay. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

27.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



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

26.01.2022

Syed Noman Ali Shah, Advocate for appellant present and submitted fresh Wakalatnama which is placed on file. Syed Nasirud Din Shah, AAG for the respondents present.

Learned counsel for the appellant seeks short adjournment to prepare the brief. Case is adjourned to 27.01.2022 for arguments before the D.B.



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



Chairman

04:08.2021

Appellant present in person.

Mr. Riaz Khan Paindakheil learned Assistant Advocate General present.

Former made a request for adjournment as his counsel is indisposed. Case is adjourned by way of last chance. To come up for arguments on 12.11.2021 before D.B.



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

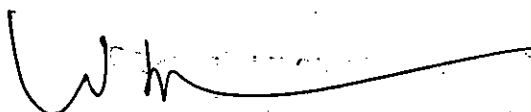


(Rozina Rehman)
Member (J)

12.11.2021

Appellant alongwith his counsel Syed Noman Ali Bukhari, Advocate present and submitted fresh Wakalatnama on behalf of appellant. Mr. Javed Ullah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has been engaged today and not gone through the record. Adjourned. To come up for arguments before the D.B on 10.02.2022.



(Atiq Ur Rehman Wazir)
Member (E)



(Salah-ud-Din)
Member (J)

30.12.2020

Due to summer vacation, case is adjourned to
17-3-2021 for the same as before.


Reader


17.03.2021


Mr. Mubarak Shah, father of the appellant and Addl. AG
for the respondents present.

Former requests for adjournment as learned counsel for the
appellant is engaged before the Peshawar High Court Bench
Abbottabad.

Learned AAG states that adjournments have been sought
and obtained on behalf of the appellant on various previous
occasions and the proceedings are being delayed ~~due to~~
unnecessarily.

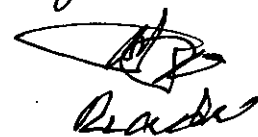
In the circumstances, the instant proceedings are adjourned
to 30.04.2021 for hearing before the D.B but as a last chance.


(Mian Muhammad)
Member (E)

Chairman


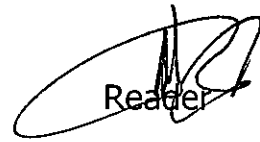
30.4.2021

Due to COVID-19, the case is adjourned
to 4.8.2021 for the same.


Reader

29.10.2020

Proper D.B is on Tour, therefore, the case is
adjourned for the same on 30.12.2020 before D.B.


Reader

29-4 .2020

Due to COVID19, the case is adjourned to

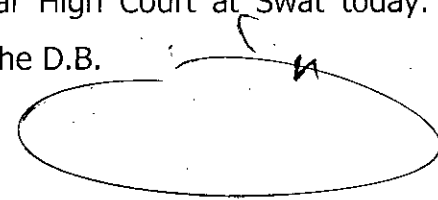
13/7/2020 for the same as before.


Reader

13.07.2020

Syed Numan Ali Bukhar Advocate on behalf of counsel for the appellant and Mr. Ziaullah, DDA for the respondents present.

Former requests for adjournment as learned senior counsel for the appellant is engaged before Darul Qaza Bench of Peshawar High Court at Swat today. Adjourned to 02.09.2020 before the D.B.


Member (Judicial)

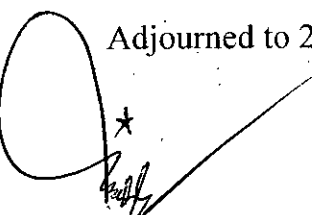

Chairman

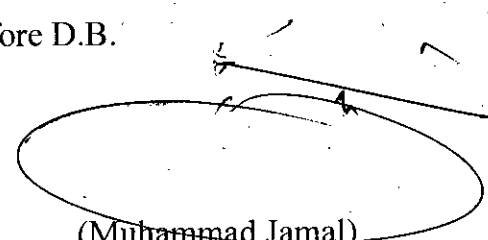
02.09.2020

Mr. Mubarak Shah, father of the appellant on behalf of the appellant present. Mr. Muhammad Jan, DDA alongwith Mr. Yousaf Shah, ADO for respondents present.

Father of the appellant seeks adjournment as learned counsel for the appellant was busy before the august Supreme Court of Pakistan. Appellant is directed to submit member copy of the instant appeal.

Adjourned to 29.10.2020 before D.B.


(Mian Muhammad)
Member(E)


(Muhammad Jamal)
Member(J)

11.02.2020

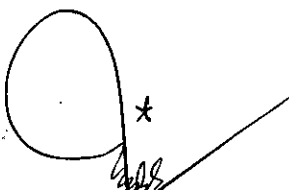
Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 18.03.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

18.03.2020

Counsel for the appellant present. Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment on the ground that similar nature of appeal has been fixed for arguments on 29.04.2020; therefore, the same may also be clubbed with the said appeal. Learned counsel for the appellant also directed to submit Member copy of the instant appeal. Adjourned. To come up for arguments on 29.04.2020 before D.B alongwith connected appeal.


(MAIN MUHAMMAD)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER


29.10.2019 Clerk to counsel for the appellant present. Addl: AG alongwith Mr. Inayatullah, ADEO for respondents present. Clerk to counsel for the appellant seeks adjournment due to general strike of the bar. Adjourned. Case to come up for arguments on 20.11.2019 before D.B.


(Ahmad/Hassan)
Member


(M. Amin Khan Kundi)
Member

20.11.2019 Appellant in person and Mr. Kabirullah Khattak, Additional AG for the respondents present. Appellant requested for adjournment on the ground that his counsel is busy before the Hon'ble Peshawar High Court, Peshawar and cannot attend the Tribunal today. Adjourned to 17.01.2020 for arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

17.01.2020 Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant appeal is adjourned to 11.02.2020 for further proceedings/arguments before D.B.


Member


Member

14.06.2019

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

Due to general strike on the call of the Khyber Pakhtunkhwa Bar Council, the matter is adjourned to 08.8.2019 for arguments before the D.B.


Member


Chairman

08.08.2019

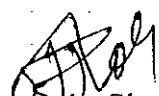
Father of the appellant present. Mr. Muhammad Jan, DDA for respondents present, Father of the appellant seeks adjournment due to general strike on the call of Pakistan Bar council. Adjourn. To come up for arguments on 23.09.2019 before D.B.



Member


Member

23.09.2019

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not in attendance. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Adjourned. To come up for arguments on 29.10.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

23.01.2019

Mr. Taimur Ali Khan, junior counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy before the Hon'ble Peshawar High Court, Peshawar and cannot attend the Tribunal today. Adjourned to 28.03.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

~~24.01.2019~~

~~Learned counsel for the appellant and Mr. Zia Ullah learned Deputy Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 27.03.2019 before D.B.~~

~~Member~~

~~Member~~

28.03.2019

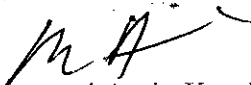
Due to general strike of the bar, the case is adjourn. To come up for arguments on 14.06.2019 before D.B.



Member


Member

10.08.2018

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 09.10.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

09.10.2018

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment as his senior counsel is not available in today. Adjourned. To come up for arguments on 22.11.2018 before D.B.

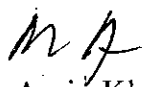

Member


Member

22.11.2018

Junior counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy before the Hon'ble Peshawar High Court. Adjourned. To come up for arguments on 23.01.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

21.12.2017

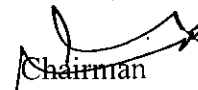
Due to Judicial Officer's Conference today, case is adjourned to 16.02.2018 for the same before the D.B.


Reatier

16.02.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Counsel for the appellant seeks adjournment. To come up for arguments on 24.04.2018 before the D.B.



Member


Chairman

24.04.2018

Learned counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on ~~24.04~~ 2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

21.06.2018

Counsel for the appellant and Adll: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 10.08.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

07.03.2017


Counsel for the appellant and Mr. Ziaullah, GP alongwith Mr. Inayat Ullah, ADO for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 14.06.2017 before D.B.

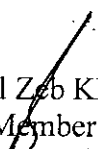

(MUHAMMAD AAMIR NAZIR)
MEMBER


(ASHFAQUE TAJ)
MEMBER

14.06.2017


Agent to counsel for the appellant and Mr. Inayat Ullah, ADO Legal alongwith Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Agent to counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 16.10.2017 before D.B.



(Muhammad Amin Khan Kundi)
Member


(Gul Zeb Khan)
Member

16.10.2017

Clerk of the counsel for appellant present. Mr. Zia Ullah, Deputy District Attorney for the respondents present. Clerk of the counsel for appellant seeks adjournment due to non availability of his senior counsel. Adjourn. To come up arguments on 21.12.2017 before D.B.


(Ahmad Hassan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

14.03.2016

Counsel for the appellant and Mr. Hameed-ur-Rehman, AD (lit.)
alongwith Mr. Ziaullah, GP for respondents present. Learned counsel for
the appellant requested for adjournment. Adjourned for arguments to
6/6/16 before D.B.


MEMBER


MEMBER

06.06.2016

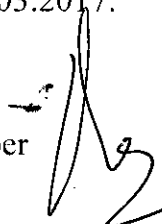
Counsel for the appellant and Mr. Ziaullah, GP for
respondents present. Learned counsel for the appellant requested
for adjournment. Adjourned for arguments to 3.11.16
before D.B.


MEMBER


MEMBER

3.11.2016

Counsel for the appellant and Mr. Ziaullah, GP
alongwith Hameedur Rahman, AD for the
respondents present. Counsel for the appellant seeks
adjournment. Adjourned for final hearing before the
D.B on 07.03.2017.

Member 

Chairman 

5 09.03.2015

Counsel for the appellant, M/S Khurshid Khan, SO for respondent No. 1 and Inayatullah, ADO for respondent No. 3 alongwith Addl: A.G for all respondents present. Requested for adjournment. To come up for written reply/comments on 29.5.2015 before S.B.


Chairman

6

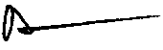
29.05.2015


Counsel for the appellant, M/S Khurshid Khan, SO and Javed Ahmed, Supdt. alongwith Assistant A.G for respondents present. Comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 10.11.2015.


Chairman

10.11.2015

Clerk to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder on behalf of the appellant submitted, copy of which placed on file. To come up for arguments on 14-3-2016.


Member


Member

Appeal No. 1254/2014
Syed Waqid Ali Shah

Reader Note:

02.12.2014

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 22.01.2015 for the same.


Reader

22.01.2015

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 08.07.2014, vide which the major penalty of termination from service has been imposed upon the appellant. Against the above referred impugned order appellant filed departmental appeal on 18.07.2014 which was not responded within the statutory period of 90 days, hence the instant appeal on 10.10.2014.

Since the matter pertains to terms and conditions of service of the appellant, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 09.03.2015 before the learned Bench-III.

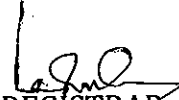

Appellant Deposited
Security & Process Fee
Rs. 350/- Bank
Receipt is Attached with File.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1254/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21/10/2014	<p style="text-align: center;">The appeal of Syed Wajid Ali Shah resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	27-10-2014	<p style="text-align: center;">This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>2-12-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>


Registrar
 of District Court
 District Court
 District Court

The appeal of Syed Wajid Ali Shah Ex-Qari GHS Maroba Nowshera received today i.e. on 10.10.2014 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

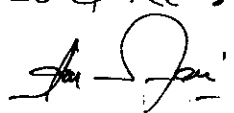
Annexure-G of the appeal is illegible which may be replaced by legible/better one.

No. 1468 /S.T.

Dt. 10/10 /2014.


**REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.**

Mr. Muhammad Asif Yousafzai Adv. Peshawar.

Sir, objection removed & Re-submitted


BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1254/2014

Syed Wajid Ali Shah

V/S

Education Deptt:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	1-4
2.	Copy of stay application and affidavit		5-6
3.	copy of judgment	A	7-9
4.	Copy of notification dated 25.1.2014	B	10
5.	Copy of revised notification dated 14.3.2014	C	11
6.	Copy of modified charge sheet	D	12
7.	Copy of modified statement of allegation	E	13
8.	Copy of reply to modified charge sheet	F	14
9.	Copy of show cause notice	G	15-16
10.	Copy of reply to show cause notice	H	17-18
11.	Copy of order dated 8.7.2014	I	19
12.	Copy of departmental appeal	J	20
13.	Copy of letter dated 10.8.2010	K	21
14.	Copy of letter dated 27.6.2011	L	22
15.	Copy of letter dated 28.5.2011	M	23
16.	Vakalat nama	-----	24

APPELLANT 
Syed Wajid Ali Shah

THROUGH:


M. ASIF YOUSAFZAI

& 
TAIMUR ALI KHAN

(ADVOCATES PESHAWAR)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1254 /2014

Syed Wajid Ali Shah –Ex Qari,
GHS Maroba, Nowshera.

1254
10-10-2014

(Appellant)

VERSUS

1. The Secretary Education (E&SE), Peshawar.
2. The Director, Education (E&SE), Peshawar.
3. The DEO(E&SE), Nowshera. ✓
4. The Secretary, Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 08.07.2014, WHERE THE APPELLANT HAS BEEN TERMINATED FROM SERVICE AND NOT TAKING ACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN STATUTORY PERIOD.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 08.07.2014 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

R. SHEWETH:

1. That the appellant joined the education department as Chowkidar on 24.10.2005. The appellant having the qualification of Qari post, was appointed as Qari in the year 2007 and performed his duties at various Govt. Schools at District Nowshera.

re-submitted to
and filed.

21/10/14

2. That during flood in the years 2010, the official record of the District Nowshera completely damaged. That on the basis of missing/damaged record, a fact finding inquiry committee was constituted and the basis of fact finding inquiry, the appellant was declared to be appointed fraudulently vide order dated 20.10.2012.
3. That against the order dated 20.10.2012 the appellant filed appeal in august Service on dated 05.12.2013 and the service Tribunal was kind enough to accepted the appeal on dated 21.10.2013 and set aside the impugned order dated 20.10.2012 and the appellant be reinstated in service from the date of his removal with the direction to the respondents to conducted a proper enquiry against the appellant in accordance with law. (Copy of judgment of Service tribunal is attached as Annexure-A)
4. That on the basis of Hon'able Tribunal's judgment the appellant was reinstated by notification dated 25.1.2014. The notification dated 25.1.2014 was further modified by revised notification dated 14.03.2014. (Copy of the notification and revised notification are attached as Annexure-B&C)
5. That modified charge sheet and modified statement of allegations was served to the appellant. The appellant was also asked to file reply of charge sheet. The appellant submitted his reply to charge sheet and requested to provide him legible copies of the orders and documents relating to his service as all service record of the appellant are in the office of DEO (E&SE) Nowshera and he has no copy of documents relating to his service career. (Copy of modified charge sheet, modified statement of allegation and reply to charge sheet are attached as Annexure-D,E&F).
6. That one sided inquiry was conducted but none of the statement was recorded or record examine in presence of the appellant. However even then the appellant was held responsible by the inquiry officer, but no penalty was proposed for the appellant in his report.
7. That show cause notice was served to appellant and the appellant submitted his detailed reply to the show cause notice in time and denied all allegations in the reply to the final show cause notice. (Copy of show cause notice and reply to show cause notice are attached as Annexure-G&H)

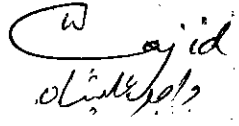
8. That on 08.07.2014 the penalty of termination from service with immediate effect and the salaries drawn be recovered from him was imposed upon appellant under (E&D) Rules 2011 with out chance of personal hearing.(copy of order is attached as Annexure-I)
9. That against the order dated 08.07.2014, the appellant filed departmental appeal on dated 18.07.2014, but the same was not responded after the expiry of statutory period. (Copies of departmental appeal is attached as Annexure-J)
10. That now the appellant come to this august Tribunal on the following grounds amongst others.

GROUND:

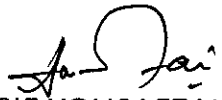

- A) That the impugned order dated 08.07.2014 and not taking action on the departmental appeal of the appellant are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That neither the appellant was associated with the enquiry proceedings nor has any statement of witnesses been recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.
- D) That the appellant was reinstated by the august Tribunal, but the respondent department again imposed penalty of termination on appellant for the same allegations on which he was previously dismissed from the service.
- E) That service Tribunal in its judgment directed the respondents to conducted proper inquiry in accordance with law by giving full chance of personal defense to the appellant, but the appellant was given no chance for his defense during inquiry proceeding, which is the violation of law and rules.
- F) That no proper inquiry was conducted against the appellant which is violation of law and rules.

- G) That the penalty of removal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- H) That the appellant requested to DEO(M)(E&SE), Nowshera to provide all documents relating to his service as all the service record of the appellant in office and he has no record of his service, but the concerned department did not provide the service record to the appellant, which proves the malafide intention on part of the concerned department.
- I) That the appellant has been punished for no fault on his part, because if the service record of appellant was damaged due to flood, then he could not be blamed for act of God Almighty. The damage of record is also admitted by the Deptt: itself.(Copies of letters are attached as Annexure-K,L&M)
- J) That the appellant has been discriminated because, other officials whose record was damaged/missing, have not been removed from service.
- K) That the appellant has not been treated according to law and rules.
- L) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT 
Syed Wajid Ali Shah

THROUGH:


M.ASIF YOUSAFZAI
& 
TAIMUR ALI KHAN

(ADVOCATES, PESHAWAR)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2014

Syed Wajid Ali Shah

V/S

Education Deptt: & others.

**APPLICATION FOR RESTRAINING THE RESPONDENT FROM
MAKING RECOVERY OF SALARIES PAID TO THE APPELLANT
TILL THE DISPOSAL OF MAIN APPEAL.**

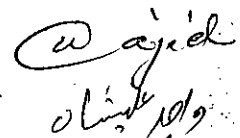
RESPECTFULLY SHEWETH:

1. That the appellant has filed an appeal with application in which no date has been fixed so far.
2. That the grounds of main appeal may also be considered as integral part of this application.
3. That all three ingredients are in favour of appellant.
4. That if the respondents are not restrained from recovery then the appellant will suffer from irreparable loss and has appeal will become infructuous.

It is, therefore, most humbly prayed that the respondents may be restrained from effecting recovery of paid salaries from the appellant till disposal of main appeal. Any other remedy which this august Tribunal deems fit and proper, may also be awarded in favour of appellant.

APPELLANT

Syed Wajid Ali Shah



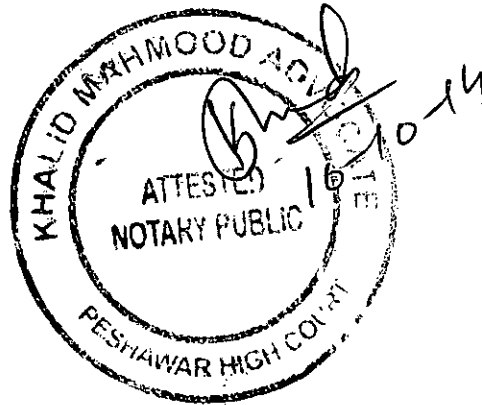
THROUGH:

M. Asif
M.ASIF YOUSAFZAI
& *Taimur Ali Khan*
TAIMUR ALI KHAN

(ADVOCATES, PESHAWAR)

AFFIDAVIT

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



Asif
DEPONENT

F/B A A 6 7

(3)

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.



Appeal No. 130/2012

Date of Institution. ... 05.12.2012
Date of Decision ... 21.10.2013

Syed Wajid Ali Shah Ex-Qari, GHS Pahari Katti Khel,
Nowshera. ...

(Appellant)

VERSUS

1. The District Coordination Officer, Nowshera.
2. The EDO (E&SE), Nowshera.
3. The District Accounts Officer, Nowshera.
4. The Secretary, Government of Khyber Pakhtunkhwa, Finance Department,
Peshawar. ... (Respondents)

MR. MUHAMMAD ASIF YOUSAFZAI,
Advocate

... For appellant

MR. MUHAMMAD JAN,
Government Pleader

... For respondents.

MR. MUHAMMAD AAMIR NAZIR,
MR. SULTAN MAHMOOD KHATTAK,

... MEMBER
... MEMBER

JUDGMENT

MUHAMMAD AAMIR NAZIR, MEMBER.- The appellant Syed Wajid Ali Shah, Ex-Qari, GHS, Pahari Katti Khel, Nowshera through the instant appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, has impugned order dated 20.10.2012 whereby the appointment order of the appellant was stated to be fake with further direction that the salary so far drawn fraudulently by the appellant be recovered and shall be deposited in government treasury; the appellant also impugned order dated 19.11.2012 whereby his departmental appeal was rejected.

2. Briefly stated facts giving rise to the appeal in hand are that the appellant joined the respondent department as Qari in the year 2007. During his service, the appellant performed his duties at various government schools at District Nowshera. That during the floods in the year 2010, the official record of district Nowshera was completely damaged. That on the basis of missing/damaged record, a fact finding

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Peshawar

enquiry committee was constituted and on the basis of fact finding enquiry, the appellant was declared to be appointed fraudulently vide impugned order dated 20.10.2012, it was further directed that the salary so drawn by the appellant may also be recovered. The departmental appeal filed by the appellant dated 5.11.2012 against the impugned order was also rejected on 19.11.2012, hence the instant appeal.

3. After institution of the instant appeal, it was admitted to regular hearing and the respondents were summoned by the Tribunal. The respondents contested the appeal and submitted their written reply. We have heard the arguments of the learned counsel for the parties and perused the record.

4. The learned counsel for the appellant argued before the court that the appellant was properly appointed as Qari in the year 2007 and till passing of the impugned order he served as a teacher in different schools; that during the period; the appellant had drawn salary from the government treasury; that due to heavy floods in the year, 2010, the official record of district Nowshera was completely damaged and due to non-availability of record a fact finding enquiry was made and the appellant was removed from service; that no charge sheet/statement of allegations was served upon the appellant and no proper enquiry was conducted, hence the impugned order passed on the basis of fact finding enquiry is liable to be set aside and the appellant be reinstated in service with all back benefits.

5. The learned Government Pleader in rebuttal argued before the court that the appellant has committed fraud and forgery and pretended to be a government teacher despite the fact that he was not in possession of appointment order in this respect; that the appellant has rightly been removed from service through the impugned order, hence the appeal be dismissed.

6. Perusal of the case file reveals that the appellant claims to be Qari appointed in the year, 2007 and hence performed duties as a teacher in different schools of district Nowshera till the year 2012. In this respect the appellant produced before the Tribunal salary slips and Last Pay Certificate issued to him by the District Accounts Office, Nowshera which prima-facie suggest that the appellant had served in different schools of district Nowshera as teacher till the year 2012 when the impugned order was passed.

7. Respondents removed the appellant on the pretext that he has committed a fraud as he is not in a possession of relevant documents showing him to be legally appointed as Qari. However, it is also a fact that during heavy floods in the year 2010,

ATTESTED
 Tribunal
 Peshawar

~~ATTESTED~~

official record of district Nowshera was inundated and hence the respondents too failed to bring on record any cogent documentary proof that the appellant was not appointed in the year 2007. Only a fact finding enquiry conducted, and on the basis of which the appellant was removed from service through the impugned order dated 20.10.2012. No charge sheet and statement of allegations were issued to the appellant, and no proper enquiry was conducted against the appellant. Hence it would be appropriate to direct the respondents to conduct a full-fledged and proper enquiry against the appellant so that all the issues relating to the controversy should be discussed and addressed properly. Therefore, on acceptance of the appeal, the impugned orders dated 20.10.2012 and 19.11.2012 are hereby set aside and the appellant be reinstated in service from the date of his removal with direction to the respondents to conduct a proper enquiry against the appellant in accordance with the law within a period of three months positively. Parties are left to bear their own costs. File be consigned to the record.

ANNUNCIED
21.10.2013

Certified to be true copy
Khy
Peshawar

Sd/- Muhammad Amir Nazki
Member
Sd/- Gulshan Mahmood Khattak
Member

Date of Issue: 28.10.2013
 Number: 1200
 Class: 8
 Urgency: 2
 Total: 10
 Date: 28.10.2013
 Copy: 28.10.2013

ATTESTED



F/C B 10

**OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA**

(Office Phone#0923-9220228, Fax#0923-9220228)

NOTIFICATION.

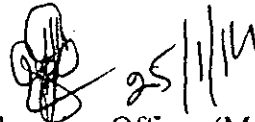
20/12/2013

Mr. Syed Wajid Ali Shah Qari who is already re-instated in service vide this Office Notification No. 7473-78 dated: 20-11-2 as per directions of the Hounorable Service Tribunal Peshawar Government of Khyber Pakhtunkhwa dated 21-10-2013 passed in Service Appeal No.1301/2012 is now hereby adjusted in GHS Marooba Nowshera against the vacant post.

(Muhammad Uzair Ali)
District Education Officer (Male)
Nowshera

Endst: No ⁰⁴ ~~8366~~ -/DEO(M)NSR/EA-S/F.No. 1 /Adjustment of CT Dated Nowshera the 25/11/2014
Copy of the above is forwarded for information and necessary action to the:-

1. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. Director (E&SE) Khyber Pakhtunkhwa Peshawar.
3. Senior District Account Office Nowshera.
4. Head Master GHS Rashakai Nowshera.
5. Official Concerned


District Education Officer (Male)
Nowshera

ATTACHED



(5) F/D C 11

**OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA**

(Office Phone#0923-9220228, Fax#0923-9220228)

REVISED NOTIFICATION

In partial modification of notification issued by this office vide No. 7479-84 dated: 20/11/2013, Mr. Wajid Ali shah GHS Marooba is hereby reinstated in Services from the date of his removal.


However, a full fledged and proper enquiry is ordered against the official to probe into matter of his fake/bogus appointment as per the Service Tribunal's direction.

(Muhammad Uzair Ali)
District Education Officer (Male)
Nowshera

Endstt: No. 10372-78 /DEO (M) NSR/F-2 / Dated: 14 /03/2014

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

1. Senior District Account officer NSR
2. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
3. Director (E&S) Education Khyber Pakhtunkhwa Peshawar.
4. Principal GHS Shaidu Nowshera.
5. Principal GHS Jehangira Road Nowshera.
6. Headmaster GHS Marooba NSR
- ✓ 7. Official concerned.

 14/3/14
District Education Officer (Male),
Nowshera

ATTACHED



D 12

**OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA**

(Office Phone#0923-9220228, Fax#0923-9220228)

No. 10423-24 Dated. 17/03/2014

MODIFIED CHARGE SHEET

I, **Muhammad Uzair Ali** District Education Officer (M) Nowshera as Competent authority, hereby charge you, **Mr. Syed Wajid Ali Shah Qari GHS Marooba Nowshera**, as follows:-

(1) (a). That you fraudulently managed to get appointment through fake/bogus order as Qari and consequently received a huge amount on account of monthly salary and by thus inflicted heavy losses onto the national ex-checker.

(b) That you were also awarded BPS 12 on the Basis of fake and bogus order.

(c). That You were transferred to GMS Kurvi as Qari Vide EDO letter No 9432-40 dated 31-08-2007 as per your Service Book but actually you were appointed as Class-IV in 2005 in Education Deptt: Nowshera and Performed duty as Class-IV till June 2008 in GPS NO 1 Khat Killi Nowshera as per your charge report and Transferred to GMS Kurvi as Class-IV on 31-07-2008 and took overcharge of class -IV in GMS Kurvi on 01-08-2008

(d). that you also managed to get transferred to GMS Aman Kot on 30-06-2010 and then Transferred to GHS Pahari Katti Khel on 31-08-2010. All the administrative orders are of no legal effect as your initial recruitment/appointment is allegedly based on fake/bogus order.

(e) The preliminary enquiry was conducted by Mr. Mian Khalid Shah Principal GHSS Kaka Sahib and you were accordingly removed from service in the light of recommendation of the preliminary enquiry.

(f) That you filed Service Appeal before Honorable Service Tribunal Khyber Pakhtunkhwa and the Honourable Service Tribunal ordered your re-instatement vide Order/Judgment dated 21-10-2013 passed in Service Appeal No.1301/2012 titled as Syed Wajid Ali Shah VS DCO Nowshera, subject to the recommendations of a detailed enquiry.

(g) Accordingly in the light of the above mentioned judgment your services have been restored and now a formal detailed enquiry is being launched against you.


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

(3) Therefore, you are required to submit your written defense within 7 days of the receipt of this Charge Sheet to the Enquiry Committee, as the case may be.

(4) Your written defense, if any, should reach the Enquiry Committee/Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

(5) Intimate whether you desire to be heard in person.

(6) A statement of allegations is enclosed.


17-03-2014
Competent authority:

Syed Wajid Ali Shah Qari GHS Marooba Nowshera.


ATTESTED



E (13)

OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA

(Office Phone#0923-9220228, Fax#0923-9220228)
No. 10421-22 Dated. 17/03/2014

DISCIPLINARY ACTION

I, Muhammad Uzair Ali District Education Officer (M) Nowshera as Competent authority, am of the opinion that Mr. Syed Wajid Ali Shah Qari GHS Maroba, has rendered himself liable to be proceeded against, as he has committed the following acts/omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

MODIFIED STATEMENT OF ALLEGATIONS

1 (a) That he fraudulently managed to get appointment through fake/bogus order as Qari and consequently received a huge amount on account of monthly salary and by thus inflicted heavy losses onto the national ex-checker.

(b) That he was also awarded BPS-12 on the Basis of fake and bogus order.

(c) That he was transferred to GMS Kurvi as Qari vide EDO letter No 9432-40 dated 31-08-2007 as per his Service Book but actually he was appointed as Class-IV in 2005 in education Deptt: Nowshera and Performed duty as Class-IV till June 2008 in GPS NO-1 Khat Killi Nowshera as per his charge report and Transferred to GMS Kurvi as Class-IV on 31-07-2008 and took over charge of class-IV in GMS Kurvi on 01-08-2008

(d) That he also managed to get transferred to GMS AmanKot on 30-06-2010 and then transferred to GHS Pahari Katti Khel on 31-08-2010. All the administrative orders are of no legal effect as his initial recruitment/appointment is allegedly based on fake/bogus order.

(e) The preliminary enquiry was conducted by Mr. Mian Khalid Shah Principal GHSS Kaka Sahib and he was accordingly removed from service in the light of recommendation of the preliminary enquiry.

(f) That he filed Service Appeal before Honorable Service Tribunal Khyber Pakhtunkhwa and the Honourable Service Tribunal ordered his re-instatement vide Order/Judgment dated 21-10-2013 passed in Service Appeal No.1301/2012 titled as Syed Wajid Ali Shah VS DCO Nowshera, subject to the recommendations of a detailed enquiry.


(g) Accordingly in the light of the above mentioned judgment his services have been restored and now a formal detailed enquiry is being launched against him.

2. For the purpose of detail/formal enquiry against the said accused with reference to the above allegations, an enquiry committee, consisting of the following, is constituted under rule 10 (1) (a) of the ibid rules:

- | | |
|--|----------|
| 1. Mr. Matiullah Principal GHS No.1 Shaidu | Chairman |
| 2. Mr. Naeem Khan Principal GHS Jehangira Road | Member |

3. The Enquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the enquiry committee.


17-03-2014
Competent Authority

ATTACHED

Syed Wajid Ali Shah Qari GHS Maroba Nowshera.

F/H F (14)

The District Education Officer (Male)
(E&SE), Nowshera.

Subject: **MODIFIED CHARGE SHEET**

Sir,


Kindly refer to the subject noted above, I request to kindly provide me a legible copies of the orders and documents mentioned below, enabling me to properly answer the charge sheet and to defend myself with cogent reasons. Because my all service record is in the office and I have no any copy of the orders, service book, notifications etc.

1. Service Book
2. Order No.9432-40, dated 31.09.2007.
3. Certificates of the Pay Fixation Party.
4. Total deduction made from my salaries during my service.
5. Order regarding Granting Higher Scale
6. Complete Preliminary Inquiry Report.
7. Copies of Statement of officers/officials recorded during the inquiry report.
8. Monthly Statements of Reconciliation duly reconciled by DAO Nowshera.
9. Copies of Transfer order and LPC.

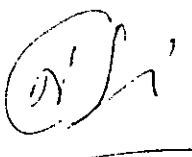
It is, therefore, requested that the above mentioned documents may kindly be provided to me, enabling to submit my reply to the charge sheet.

I shall be thankful for your kind consideration.

Yours Sincerely


(Syed Wajid Ali Shah)
Qari, GHS, Maroba,
District Nowshera


ATTESTED

Res 
21-3-2014



G 15

**OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA**
(Phone & Fax # 0923-9220228)

SHOW CAUSE NOTICE

I, Mr. Muhammad Umar Ali District Education Officer (M) Nowshera, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve upon you, Mr. Wajid Ali Shah Qari GHS Maroba Distt: Nowshera this show cause notice as follow: -

1: That consequent upon the order of the Honourable Service Tribunal in Service Appeal 1304/2012 dated 21-10-2013 wherein this office was directed for your restoration/re-instatement and to conduct detail enquiry. In compliance, this office issued your re-instatement order vide No.7473-78 dated 20-12-2013. You were posted at GHS Maroba and a detail formal enquiry was ordered and conducted against you in the light of the directions of the Honourable Service Tribunal Peshawar. On going through the findings, recommendations, the material on record and other related papers including your defense before the enquiry committee, I am satisfied that you have committed the following acts/omissions specified in Rule 3 of the mentioned rules:

- a. That as per your Service Book you were appointed as Class-IV in 2005 in Education Deptt: Nowshera and performed duty as Class-IV till June 2008 in GPS No.1 Khat Kili Nowshera as per your Charge Report and then transferred to GMS Kurvi as Class-IV on 31-07-2008 and took over charge as Class-IV over there on 01-08-2008.

That you also managed to get the post of TT at GMS Kurvi vide EDO (M) NSR No. 5559-63 dated 31-07-2009. Then you got transferred from GMS Kurvi to GMS Amankot vide EDO (M) NSR No.2311-13 dated 25-05-2010 and worked over there up to 21-09-2010. Later on, you got transferred from GMS Aman Kot to GHS Pahari Kati Khel on 31-08-2010 as Qari vide EDO (M) NSR No/ 1921-25 dated 31-08-2010. All the administrative orders are of no legal effect as it has been proved in the findings of the Detail Enquiry that your initial recruitment/appointment is based on fake/bogus order. So you have been proved to have fraudulently got appointed through fake/bogus order as CT and consequently received a huge amount on monthly pay and thus inflicted heavy losses on to the national exchequer.

2: That, as the Detailed Enquiry Committee has proved your appointment as "totally fake and bogus" and has recommended major penalty of removal from service and recovery of salaries you have fraudulently drawn" I am satisfied that you have committed acts/omissions specified in Rule 3, of the said rules.

3: As a result thereof, I as the competent authority, have tentatively decided in the light of the recommendations and other record at hands to impose upon you the major penalty of dismissal/removal from service specified in Rule 4 of the ibid Rules.

ATTESTED

BETTER COPY
OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA (PHONE & FAX 0923-9220228)

SHOW CAUSE NOTICE

I, Mr. Muhammad Uzair Ali, District Education Officer (M) Nowshera under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve upon you, Mr. Wajid Ali Shah Qari GHS Maroba District Nowshera this show cause notice as follow:

1: That consequent upon the order of the Honourable Service Tribunal in Service Appeal 130/2012 dated 21.10.2013 wherein this office was directed for your restoration / reinstatement and to conduct detail enquiry. In compliance, this office issued your reinstatement order vide No.7473-78; dated 20.12.2013. You were posted at GHS Maroba and a detail formal enquiry was ordered and conducted against you in the light of the direction of the Honorable Service Tribunal Peshawar. On going through the findings recommendations, the material on record and other related papers including you defense before the enquiry committee, I am satisfied that you have committed the following acts / omissions specified in Rule 3 of the mentioned rules:

- a. That as per you Service Book you were appointed as Class-IV in 2005 in Education Department Nowshera and performed duty as Class-IV till June 2008 in GPS No.1 Khat Kili Nowshera as per your Charge Report and then transferred to GMS Kurvi as Class-IV on 31.07.2008 and took over charge as Class-IV over there on 01.08.2008.

That you also managed to get the post of TT at GMS Kurvi vide EDO (M) NSR No.5559-63; dated 31.07.2009, then you got transferred for GMS Kurvi to GMS Amankot vide EDO (M) NSR No.2311-13; dated 25.05.2010 and worked over there up to 21.09.2010. Later on, you got transferred from GMS Aman Kot to GHS Pahari Kati Khel on 31.08.2010 as Qari vide EDO (M) NSR No.1921-25; dated 31.08.2010. All the administrative orders are of no legal effect as it has been proved in the findings of the Detail Enquiry that your initial recruitment/appointment is based on fake / bogus order. So you have been proved to have fraudulently got appointed through fake / bogus order as CT and consequently received a large amount on monthly pay and thus inflicted heavy losses on to the national exchequer.

2: That, as the Detailed Enquiry Committee has proved your appointment as 'totally fake and bogus' and has recommended major penalty of removal from service and recovery of salaries you have fraudulently drawn" I am satisfied that you have committed acts / omissions specified in Rule 3, of the said rules.

3: As a result thereof, I as the competent authority, have tentatively decided in the light of the recommendations and other record at hands to impose upon you the major penalty of dismissal / removal from service specified in Rule 4 of the ibid Rules.

ATTESTED

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

16

5: If no reply to this effect is received within 15 days of its delivery, it shall be presumed that you have no defense to put in and in that case Ex-Parte action shall be taken against you.

6: A copy of the findings is enclosed herewith.

? Not enclosed M/5
E/5

(Professor Muhammad Uzair Ali)
Competent Authority
District Education Officer (M)
Nowshera

11376-11400
Endst; No. _____ /DEO (M) NSR/Estb;Secy/Discp. Action, Dated Nowshera the 03/5/2014

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

1. PS to Minister of Education: E&SE Deptt: Khyber Pakhtunkhwa Peshawar.
2. PS to Secretary E&SE Deptt: Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. Headmaster GHS Maroba Nowshera
- ✓ 5. Mr. Syed Wajid Ali Shah Qari GHS Maroba Distt: Nowshera.
6. Office copy.

03/5/14
District Education Officer (Male)
Nowshera

Mr. Syed Wajid Ali Shah Qari GHS Maroba Distt: Nowshera.

ATTESTED

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

5: If no reply to this effect is received within 15 days of its delivery, it shall be presumed that you have no defence to put on and in that case Ex-Parte action shall be taken against you.

6: A copy of the findings is enclosed herewith.

(Professor Muhammad Uzair Ali)
Competent Authority
District Education Officer (M)
Nowshera.

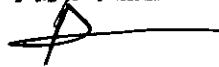
Endst.No.11896-1140/DEO(M)NSR/Estb:Secy/Discp>Action,
Dated Nowshera, the 03.15.2014.

Copy of the above is forwarded for information to the:

1. PS to Minister of Education, E&SE Deptt; Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary E&SE Deptt , KPK, Peshawar.
3. Director, E&SE, KPK, Peshawar.
4. Headmaster, GHS, Maroba Nowshera.
5. Mr. Syed Wajid Ali Shah Qari, GHS Maroba, District Nowshera.
6. Office Copy.

District Education Officer (Male)
Nowshera.

ATTESTED



To

The District Education Officer (Male),
Nowshera.

Subject: **SHOW CAUSE NOTICE DATED 3.5.2014**

Most profoundly, it is submitted that the show cause notice dated 3.5.2014 received to me on 8.5.2014 but without having the copy of findings of the enquiry committee, therefore, on an application I was provided the copy of findings of the enquiry committee on 20.5.2014.

As far as the findings of the enquiry committee is concerned that are biased because the recommendations were duly signed by one Mr. Inayatullah by showing him a member of the enquiry committee, whereas Mr. Inayatullah was never nominated in the statement of allegations as member of the enquiry committee vide Memo 17.3.2014. Thus, such recommendations endorsed by the non member of the committee, is not only prejudice but also violation of the law, rules and norms of justice.

As far as the orders mentioned in the findings of the enquiry committee and statements taken by the enquiry committee are amounting to condemnation unheard because non of the orders or statement of any official was recorded in my presence nor I was allowed to cross examine the same, thus not only miscarriage of justice has been done but also the principle of fair play, violated as held in various judgments of the superior courts.

As the post of Qari and TT carries equal pay scale, therefore, I was allowed to work as TT/Qari at Pahari Katti Khel, therefore, the then EDO, E&SE adjusted me to avoid financial hardship. Thus, it did not mean that the original order of my appointment was fake nor that order has been declared fake by the enquiry committee, even the whole mis-conception arose that the wording "Qari/TT" only on this score my appointment as Qari remained intact and not declared as fake.

Thus, if any mistake committed by the high-ups of the department and issuing order or adjustment against other post for that I can not be held responsible.


ATTESTED

Therefore, keeping in view the above submission, the show cause notice dated 3.5.2014 may be withdrawn/dropped and the matter may also be re-enquired through an independent enquiry committee as directed by the Honorable Service Tribunal, Peshawar.

I also request for giving me an opportunity for personal hearing.

Yours Obediently

① *Wajid*
(Wajid Ali Shah)
QARI
GHS Maroba, Nowshera

② M. Asif
C.T.
GHS. 2. K.K. Schib.
Nowshera.

Received *Di*
3-6-2014

Dispatcher
O/O The DEO (M) NSP

ATTESTED *[Signature]*



R/S
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**OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA**

(Office Phocce#0923-9220228, Fax#0923-9220228)

No. 1223-29 Dated 08/07/2014

Notification

1. WHEREAS Mr. Wajid Ali Shah (Qari) GHS Maroba, the appointment order of the said official is proved fake and bogus.
2. WHEREAS on the formal/ detail enquiry of the enquiry committee, it has been proved that your appointment order is totally fake and bogus.
3. WHEREAS the District Education Officer (M) Nowshera, the competent authority issued show cause Notice to him.
4. WHEREAS the competent authority is satisfied that his reply to the show cause notice is not satisfactory.
5. Now, therefore, in exercise of the powers confirmed under the Khyber Pakhtunkhwa Government servant (Efficiency and Disciplinary) Rules 2011, the competent authority DEO (M) Nowshera is pleased to impose major penalty of "termination from service" upon Mr. Wajid Ali Shah (Qari) GHS Maroba Nowshera with immediate effect and the salaries fraudulently drawn be recovered from him and be deposited in Government Treasury.


(Muhammad Inam Turo)
District Education Officer (M)
Nowshera

Endstt No. _____

Copy for information to:-

1. Registrar Service Tribunal Peshawar
2. Additional Advocate General Service Tribunal Peshawar
3. Director (E&S) Education Govt. of Khyber Pakhtun Khwa Peshawar
4. Deputy commissioner Nowshera
5. District Account Officer Nowshera
6. Principal/Head Master GHS Maroba Nowshera
- ✓ 7. Official Concerned


ATTACHED

District Education Officer (M)
Nowshera

خدمت جناب ڈائریکٹر (E&SE) پشاور

عنوان: اپیل برخلاف آرڈر نمبر 29-1293 مورخہ 08-07-2014

جناب عالی!

گزارش ہے کہ۔

- (1)۔ سائل کو EDO نوشہرہ نے بحوالہ آرڈر نمبر 56-13845 بتاریخ 20-10-2012 کو سروس سے Terminate کر دیا تھا۔ (Flag-A)
- (2)۔ سائل نے اس کے خلاف سروس ٹریبونل میں اپیل کی جس کا فیصلہ سائل کے حق میں بتاریخ 21-10-2013 کو ہوا۔ (Flag-B)
- (3)۔ سائل کو دوبارہ بحوالہ آرڈر نمبر 04-8300 بتاریخ 25-01-2014 سروس پر بحال کیا گیا اور گورنمنٹ ہائی سکول مروہ میں تعینات کیا گیا۔ (Flag-C)
- (4)۔ سائل کے خلاف انکوآری بحوالہ آرڈر نمبر 78-10372 بتاریخ 14-03-2014 کو دوبارہ شروع کر دی گئی۔ (Flag-D)
- (5)۔ سائل کو شوکانوٹس بحوالہ آرڈر نمبر 11400-11396 بتاریخ 03-05-2014 کو دیا گیا۔ (Flag-E)
- جس میں پرسنل ہیرنگ کا ذکر بھی کیا گیا۔
- (6)۔ سائل نے بتاریخ 03-06-2014 کو D.E.O صاحب کو رپلائی جمع کی جس میں یہ بھی التجا کی کہ سائل پرسنل ہیرنگ کیلئے پیش ہونا چاہتا ہے۔ لیکن سائل کو بغیر پرسنل ہیرنگ ملازمت سے برخاست کرتے ہوئے ریکوری کے بھی احکامات بحوالہ آرڈر نمبر 29-1223 بتاریخ 08-07-2014 کو جاری کر دیئے۔ (Flag-F&G)
- (7)۔ سائل نے انکوآری سے پہلے متعدد کاغذات اریکارڈ کیلئے بھی التجا کی تھی تاکہ سائل اپنا دفاع کر سکے لیکن باوجود درخواست کے سائل کو متعلقہ ریکارڈ نہیں فراہم کیا گیا۔ (Flag-H)
- (8)۔ انکوآری افسران نے بھی جو بیان ریکارڈ کئے یا ریکارڈ ملاحظہ کیا وہ بھی یکطرفہ کارروائی تھی کیونکہ سائل کی موجودگی میں نہ تو بیان ریکارڈ کیا گیا اور نہ ہی ریکارڈ ملاحظہ کیا گیا۔ مزید یہ کہ انکوآری افسران نے ان لوگوں کا بیان بھی ریکارڈ نہیں کیا جنہوں نے متعدد متعلقہ حکم نامے جاری کئے تھے۔
- (9)۔ سائل کا کیس سروس ٹریبونل میں بھی زیر سماعت ہے۔

لہذا آپ صاحب سے مودبانہ التماس کی جاتی ہے کہ سائل کو دوبارہ تمام مراعات کے ساتھ ملازمت پر بحال کیا جائے۔

عرضے

آپ کا تابعدار
 واجد علی شاہ قاری
 گورنمنٹ ہائی سکول مروہ
 ضلع نوشہرہ
 18/7/14

ATTESTED

کاپی برائے اطلاع:

- 1۔ ڈسٹرکٹ ایجوکیشن آفیسر نوشہرہ
- 2۔ ڈسٹرکٹ اکاؤنٹ آفیسر نوشہرہ

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OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&SE)
NOWSHERA

OFFICE ORDER:

A committee is constituted of the following members under the Chairmanship of Mr. Ajmeer Shah, Principal GHS No. 2 Nowshera Kalan to retrieve office record from the dumped record ^{and was} ~~are~~ damaged by the July-2010 flood.

- 1) Mr. Ajmeer Shah, Principal GHS No. 2 Nowshera Kalan – Chairman
- 2) Mr. Nasruminallah, ADO, Establishment Local Office – Member
- 3) Mr. Muhammad Javeri, Superintendent, Establishment Branch – Member
- 4) Any two class-IV's nominated by the Chairman

The committee is directed to workout its modalities and complete the task within one month time period positively.

(Muhammad Uzair Ali)
Executive District Officer
(E&SE) Nowshera.

Endst. No. (520-22)

date 28/5/2011

Cop: to:

- FA to Directress (E&SE) Peshawar.
- District Officer (M) Nowshera.
- District Officer (F) Nowshera.

28/5/11
Executive District Officer
(E&SE) Nowshera.

ATTENDED

DISTRICT GOVERNMENT, NOWSHERA,
D.C.O., SECRETARIAT.

No. 9460 /DCO/AO//NSR/Flood.

Dated Nowshera the 14 /12/2010.

22

22

To.

The Secretary,
Finance Department,
Govt. of Khyber Pakhtunkhwa,
Peshawar.

Subject:- DAC MEETING FOR THE FINANCIAL YEAR, 200910.

Please refer to Regional Director Audit (District Govt:) Peshawar letter No.F/Audit/DAC Nowshera/2009-10/10551 dated 05.11.2010 in reply to this office letter No.7531/DCO/AO//NSR/Flood-2010 dated 20.10.2010 on the subject noted above (both copies attached).

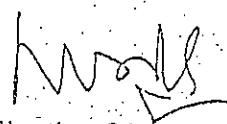
Nowshera had been devastated by the flood of the millennia and almost all the Government Offices and Schools building were badly damaged or destroyed and the Office equipments, furnitures along with all the previous accounts record were fully washed away.

Now the Director General Audit Govt. of Khyber Pakhtunkhwa has directed the District Government for convening DAC meeting for discussion of the previous audit paras.

All the Offices i.e. Health, Education, C & W, DCO, Office have shown their inability for making preparation for the DAC meeting as no relevant accounts, reference record is available with them.

This matter was also taken with Director General Audit District Govt. for guidance, but this office was directed to obtain guidance from the Finance Department Khyber Pakhtunkhwa.

So, it is requested that this office may please be guided as to how the replies to the Audit Paras be prepared when no reference record is available.



District Coordination Officer,
Nowshera.


ATTESTED

Office of the Executive District Officer
Elementary & Secondary Education
Camp Office (Khattak Building)
Nowshera.
No. 26-27 dated 10/8/10

~~10~~
M
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The Audit Officer,
Camp Office,
Executive District Officer
Elementary & Secondary Education
Nowshera.

Subject:
Memo

Reply to the Audit Objections July 2010

As per para-wise Audit observations noted and communicated by the Audit Party July, 7th 2010 to July 27th 2010. It is stated for your kind information that due to the torrential rains, flood in district Nowshera on 29-07-2010 update the relevant old record is completely damaged. The concerned dealing Assistants reported complete damage and inaccessibility to the record lying, sunk in water since 29-07-2010 upto date.

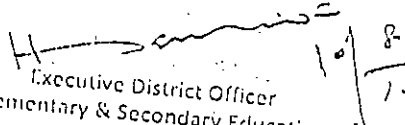
District Officer
(M&F) Secondary
Elementary & Secondary Education
Nowshera.

It is stated that all record relating to this office is not accessible and the staff has been intimated in written vid. no 003 dated 03-08-2010 to make access to the record, So based on the reports of the concerned dealing assistants DO(M&F) and DDO's (M&F) Primary and Secondary, major record of the offices has been damaged due to lying sunk in floor water since 29-07-2010 update: submitted for further necessary action please. Moreover the above statement of the DDO's is hereby endorsed and countersigned.

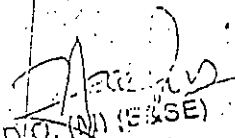
Encl: Even No. & Date

Copy of the above is forwarded to the :-

- 1. Copy to all concerned.
- 2. Office Copy.


Executive District Officer
Elementary & Secondary Education
Nowshera.

Attested


D.O. (M) (E&SE)
Nowshera


ATTESTED

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal, Peshawar

Syed Wajid Ali Shah (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Education Department (Respondent)
(Defendant)

I/We Syed Wajid Ali Shah

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate, Peshawar,** ^{Taimur Ali Khan} _{Adv} to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20.

Wajid
(CLIENT)

ACCEPTED

M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

TAIMURALI KHAN
Advocate

reasons arise the new questions that whether the appts are legal or illegal. The collection of documentary proof for the conduction of impartial enquiry take lot of time, that the areas of service claimed by the teachers before their transfers to the said schools are flood affected area and there is simple nature of excuse with every person that the record is missing during the flood in July 29, 2010.

FACTUAL POSITION.

As per service book Mr. Wajid Ali Shah Qari was appointed as a chowkidar in GPS Pir Sabbaq vide EDO S&L Nowshera endst No. 8733-37/Apptt, Class-IV Dated 24-10-05. He was shown as a Qari w.e.f. 31-08-2007 in BPS-07 at GMS Kurvi NSR, Vide EDO S&L No. 9432-40 dated 31-08-2007. He was awarded BPS-12 w.e.f. 1-9-2007 and Onward by DO(M) E&SE Nowshera in the service book without mentioning any cogent Reasons. As per service book he was transferred to GMS Aman Kot on 30-06-2010 and to GHS Pahari Katti Khel On 31-08-2010 (photo copy of the service book is Annex-). The above noted dates etc are also confirmed by the teacher concerned in the reply of the questionnaire while going through the record and the cross examination collected from the different schools especially GPS Khat Killi No.2 the original story of the case is totally different. The official was appointed as Chowkidar in the Education Deptt. and later on transferred to the Circle Office at GPS Khat Killi No.2 as a Naib Qasid and he was given the charge of the post on 22-10-2007 (copy of charge report, office order of transfer and relieving chit are attached as Annex-).

As per attendance register of GPS No.2 Khat Killi, he performed his duty as a Naib Qasid Upto June-2008 (Statement of Mr. Taj Wali Khan H/Teacher of GPS No.2 Khat Killi Attached alongwith photo copy of the attendance register.

CONCLUSION.

Keeping in view of the above documentary proofs available on the record, the Appointment of Mr. Wajid Ali Shah as Qari is bogus and illegal, the same is also verified By the Ex-EDO S&L Nowshera Mr. Mushtaq Ahmad that no Qari has been recruited Through the advertisement during his tenure as EDO S&L Nowshera.

2-MUHAMMAD ASIF C.T.

FACTUAL POSITION.

As per service book, photo copy provided by the teacher concerned he was appointed as a CT Teacher on 17-02-2007 vide EDO S&L Nowshera No. 4321-27 dated 17-02-2007 in BPS-09 on contract basis in GMS Kana Khel NSR. He was allowed BPS-14 on 1.12.09 In spite of the facts that the teacher concerned passed the BA Exam: in 3rd division from The University of Peshawar in 2004 under Roll No. 35574. He was later on transferred To GHS Pahari Katti Khel on 30-12-2010. During the time of Inspection by MR. Noor Jamal Khan Principal, GHS Badrashi as a DDO to GHS Pahari Katti Khel No service documents i.e Apptt order, Service Book etc: was available on the Record. During his verification/interrogation the teacher concerned submitted his Resignation to the DDO which was further forwarded to the EDO E&SE NSR office for necessary action vide No. ___ dated 06-10-2011 but up till now the decision regarding His resignation is pending, while on the other hand the teacher concerned is performing his duties and drawing salary regularly. The undersigned visited to the school on 24-12-2011 for the mentioned tasks and to collect the record to prove that either the

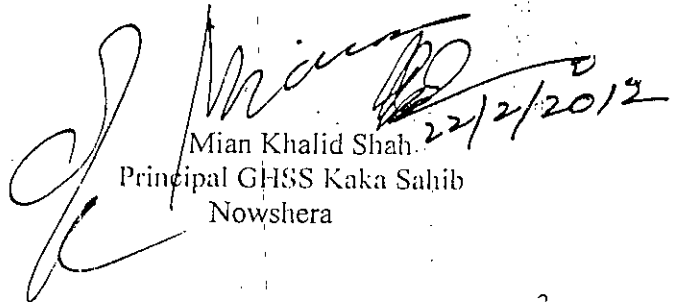
appointments made by the competent authority or otherwise that why the teacher concerned Submitted the resignation to the DDO and later on requested for the withdrawn of his Resignation. The teacher was asked to provide the Service Book, Copy of the Apptt order And transfer order and pay slips prior to the flood in District Nowshera i.e before July -2010. On the basis of the written statement of the teachers that due to the heavy flood in District Nowshera, some record is not available with the teacher i.e Apptt:order. He was Also handed over the questionnaire on 07-01-2012 to provide the detail reply. On the Cross examination of available record to match the same with the service book of the Teacher concerned, it has been observed that three pages of Apptt order No.3821-92 Dated 31-01-2007 of the CT Teachers was issued by the EDO E&SE Nowshera and The name of the teacher concerned is not included in the same order (copy attached). According to his reply to the questionnaire at S.No.12 he made the appeal for non Enclosure of his name in the list separate apptt order was issued by the EDO E&SE NSR On 17-02-2007 and he taken over the charge at GMS Kana Khel NSR and later on he was Posted in the DO Office in 2008. He was again ordered for duties in the same school in September 2010. According to the statement provided in written by the HM, GMS Kana Khel he was transferred to the same school on 01-09-2010 vide order No.482 dated 30-08-2010 by the DO(M) E&SE NSR (copy attached) and performed his duties up to 01-01-2011. He was transferred and relieved from duties to GHS Pehar Katti Khel on 01-01-2011 in the light of EDO E&SE NSR office transfer order No.2646-48 dated 30-12-2010. The HM,GMS Kana Khel further confirmed in written statement that except For the period w.e.from 01-09-2010 to 01-01-2011 the teacher concerned was not on the Strength of this institution in any stage and neither he taken over the charge in the said Institution.

CONCLUSION.

Inspite of the verbal and written request, the teacher concerned failed to provide the copy Of Apptt order to verify that the apptt order was issued by the competent authority (EDO S&L NSR) after obtaining proper codal formalities.The statement of HM,GMS Kana Khel clarify the actual position that the teacher concerned was recruited through the Transfer method in September-2010 and non production of pay slips prior to the flood in July-2010 further verified that this apptt is totally bogus and illegal without observing all The codal formalities.

RECOMMENDATIONS FOR S/NO -1 AND- 2

- 1- For Mr. Wajid Ali Shah Qari and Mr. Muhammad Asif CT of GHS Pahari Katti Khel is required to be conducted, that both the appointments are bogus. In order to fix the responsibility on the Officers/Officials involved in this bungling.
- 2- Necessary action for termination of both the teachers is required to be issued by the competent authority.


Mian Khalid Shah. 22/2/2012
Principal GHSS Kaka Sahib
Nowshera

9

Annex D

OFFICE OF THE DEPUTY DISTRICT OFFICER (M) SCHOOLS & LIT: NOWSHERA.

OFFICE ORDER/

Mr. Syed Wajid Ali Shah Chowkidar Govt; Primary School, Pir Sabag District Nowshera is hereby adjusted/transfer to Circle office Circle Nowshera Cantt at GPS, Khat Killi on his own pay and grade in the interest of public service with effect from the date of his taking over charge :-

No TA/DA is allowed.

Charge report should be submitted to all concerned.

Note; The official is working as Naib Qasid in the said circle.

DEPUTY DISTRICT OFFICER(MALE)
SCHOOLS & LIT: NOWSHERA.

Endst; No, 5477-81 / Dated Nowshera the, 20-10-2007

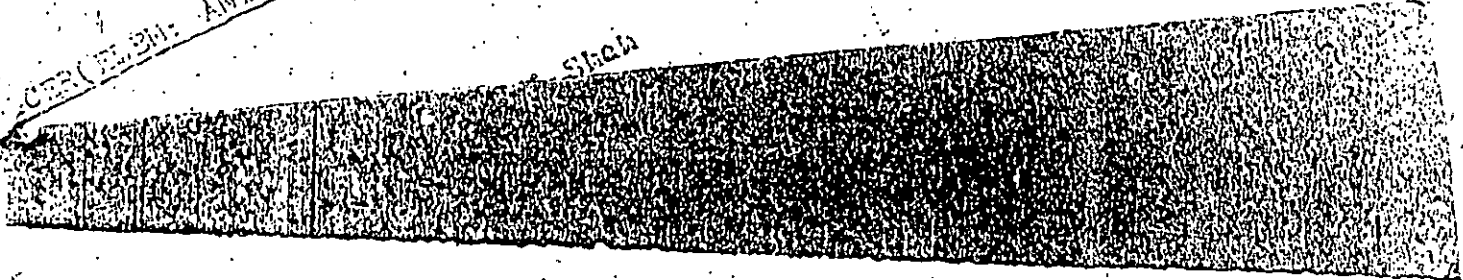
Copy forwarded for information & N/action to the:-

1. Executive District Officer Schools & Litracy Nowshera.
2. District Officer (Male) Schools & Litracy Nowshera.
3. A.D.O. Circle Officer.
4. Head Teacher concerned.
5. Candidate concerned.

Deputy District Officer (Male)
Schools & Litracy Nowshera.

So Imali
 HEAD MASTER
 Govt. Primary School No. 2
 Khat Kili Nowshera
 26/3/014

OFFER (ELEM: AND SECY: EDU:)NOWSHERA
Shah



Ammed G

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEM: & SECY: EDUCATION NOWSHERA.

OFFICE ORDER/

Mr. Wajid Ali Shah Chowkidar GPS Khat Killi is hereby transferred to to JMS Kurvi against H/Qaid Post on his own pay and grade in the interest of public service.

- Note: :
1. NO TA/DA is allowed.
 2. Charge reports should be submitted to all concerned.

P. No. 309584

(MUSHTAQ AHMAD)
Executive District Officer,
Elem: & Secy: Edu: Nowshera.

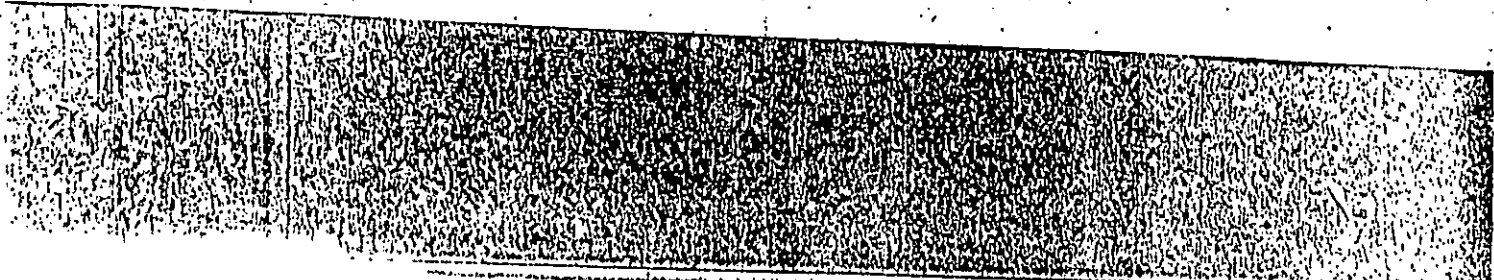
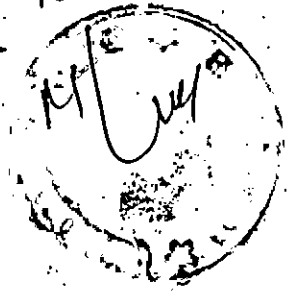
Endat: No. 8826-28

Dated 31/07 /2008.

- Forwarded to the:-
1. District Officer (M) Elem: Sec: Edu: Nowshera.
 2. Dy: District Officer (M) E/SE Nowshera.
 3. Sr: District Accounts Officer Nowshera.

Executive District Officer,
Elem: & Secy: Edu: Nowshera.

Attc



Relieving order

CA

M. K. Majid Ali Shah Chequer
P.S. Khair Kilci/ Circle Nowshera
Latter transferred vide FDO (S&L)
Nowshera under P&S Order NO = 8826-23
dated 31-7-2008.

You are hereby relieved from
your duty at circle Nowshera

ATIS
M. K. Majid Ali

[Signature]
Nowshera

Charge Report




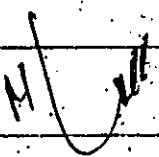
C

Mr. Waheed Ali Shah Naib Qasid

You have been transferred from Circle
Khat-Killi/Circle Nowsara to GMS
Kusm NSR vide EDD (821) office no.
8826-28 dated 31-7-2008.

Hence you are given charge of your
post today on 1-8-2008 before noon.

Headmaster

Headmaster
 Headmaster
 GMS
 Khat-Killi NSR

لصديق

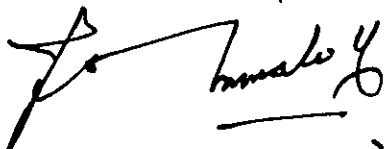
Ammed E

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میں بیڈیٹر تاج ولی خان جی بی ایس نے خٹکے پہ لصدیق کر کے
کہہ دیتا ہوں۔ کہ مسٹی سید واجد علی شاہ نائب قاصد نے یہاں
22¹⁰ کو چارج سنبھال لیا تھا۔ اور وہ جی بی ایس پر سباق
2007
سے یہاں سکول بڈا کو ٹرانسفر ہوا تھا۔ اور سید واجد علی شاہ
نے بطور نائب قاصد اسی سکول میں 22¹⁰ تا جون 2008
2007 تک ڈپٹی سرانجام دی ہے۔

آرڈر بک، ٹرانسفر کاپی، رٹونگ چٹ اور رجسٹر حاضری
معلمین و نائب قاصد کی فولو کاپی بطور ثبوت ساتھ منسلک ہیں



HEAD MASTER
Govt. Primary School No. 2
Khat Kili Nowshera

26/3/14

Relieving slip

L E

(14)

Mr Syed Wajid Ali Shah. checkador you
have been transferred vide O.D.O.M,
S & L NSR Enclt no 5477-B1 dated 22/10/07
to CDS Khat Killi nowshera.
Therefore you are relieved from
~~the~~ duty and report to the
concern stations

Mr. Syed Wajid Ali Shah
Checkador

HEAD MASTER
Govt. Primary School No. 2 26/3/014
Khat Kill Nowshera

and

22/10/07

Govt. Primary School No. 2
Khat Kill 22/10/07

attested

HEAD MASTER
Govt. Primary School No. 2
Khat Kill Nowshera

Statement of Mr: Muhammad Israr (16) (7)
Annex H
Head Master G.M.S.
Kurvi(NSR)

9 ~~Mr~~ Mr: Muhammad Israr is working as a Head Master from 25-5-1995 as H.M. upto now.

It is stated that Mr: Wajed Ali Shah (chaw:) was initially transferred from G.P.S. Khat Killi (NSR) to G.M.S Kurvi (NSR) as Naib Qasid Endst: order NO. 8826-28 dated 31-7-2008. He took his charge on 01-08-2008 at G.M.S. Kurvi (NSR) He performed his duties as Naib Qasid at G.M.S. Kurvi (NSR) from 01-08-2008 to 31-07-2009.

He was promoted to T.T. post at G.M.S. Kurvi (NSR) vide End: NO 5559-63 dt: 31-07-2009. He took his charge on 31-07-2009 a/n as T.T. at G.M.S. Kurvi (NSR)

Later on the said teacher was transferred from G.M.S. Kurvi (NSR) to G.M.S. Aman Kot (NSR)

End: order No 2311-13 dated 25-05-2010



13

Ameed K

Office of the Executive District Officer (Elementary & Secondary) Education Nowshera
Notification

The competent authority is pleased to transfer Mr Wajid Ali Shah
T.T. Govt Middle School Kurvi is hereby transferred to Govt Middle School Aman
Kot on his own pay grade in the interest of public service with immediate.

Note: Charge report should be submitted to all concerned
No TADA is allowed

(Haj) Hasnat Gul Khatkhat
Executive District Officer
Nowshera

Endst: No 2311-13/EDO(E&SE)NSR/Transfer of T.T. Dated. 25/5/2010
Copy of the above is forwarded to the:-

1. Senior District Accounts Officer,
2. Head Master Govt Middle School, concerned
3. Official concerned

Handwritten signatures

District Officer (Male)
Elementary and Secondary
Education Nowshera

(18)

K

Relieving chit

Mr. WAJID Ali Shah TT

You have been transferred from E.M.S
Kurvi Nowshera to E.M.S Aman Kat Distt
Nowshera vide F.D.O. (S.L.) Nowshera

No. 2311-13 dated 25-5-2010.

Hence you are relieved of your
duty today on 09-6-2010. BVA and directed
to report your concerned positively.

Headmaster

HEAD MASTER
Govt. Middle School
Kurvi Distt. Nowshera

M. S. Kurvi NSA.

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S)
EDUCATION NOWSHERA

(19)

Amend N

OFFICER ORDER

Consequent Upon approved by competent authority Mr. Wajid Ali Qari
GHS Amankot Nowshera is hereby Transfer to GHS Pahari Katti khel in
the interest of Public Service with immediate effect.

1. Charge report should be submitted to all Concerned.
2. No TA/DA is allowed.

(Haji Hasanat Gul Khattak)
Executive District Officer
(E&S) Education
Nowshera

Endst. No. / 211 / 2010 Date: 21.10.2010.

Copy to the:-

1. Senior District Accounts Officer Nowshera.
2. D.O (M) Nowshera.
3. Head Master Concerned
4. Official Concerned
5. Office File

District Officer (M)
(E&S) Education
Nowshera

سوال نمبر 5: آپ نے قاری پوسٹ کے لئے درخواست کب اور کہاں جمع کی؟

سوال نمبر 6: کیا اُس وقت قاری پوسٹ کے لئے اشتہار دیا گیا تھا؟ کاپی مہیا کریں۔

سوال نمبر 7: قاری پوسٹ کے لئے آپ نے سکریننگ ٹسٹ کب اور کہاں دیا تھا؟

سوال نمبر 8: قاری پوسٹ کے لئے ٹسٹ کا نتیجہ کب جاری ہوا اور آپ کی پوزیشن کیا تھی؟

سوال نمبر 9: قاری پوسٹ کے لئے انٹرویو کب اور کہاں دیا؟

سوال نمبر 10: Tentative اور فائنل میرٹ لسٹ میں آپ کی پوزیشن کیا تھی؟

سوال نمبر 11: بحیثیت قاری آپ کا تقرر نامہ انفرادی تھا یا اجتماعی؟ کاپی مہیا کریں۔

سوال نمبر 12: میڈیکل سرٹیفکیٹ کب اور کس ہسپتال سے حاصل کیا تھا۔ کاپی مہیا کریں۔

سوال نمبر 13: اصل سروس کب کی کاپی مہیا کریں۔

سوال نمبر 14: بحیثیت قاری آپ (GMS) گورنمنٹ فوڈ سکول میں تعینات ہوئے جبکہ فوڈ سکول میں قاری پوسٹ نہیں ہوتی۔ وضاحت کریں۔

1) ~~_____~~
Principal / Enquiry officer

(3) ~~_____~~

Principal

2)

~~_____~~

office representative

office of the D.O.

Muhammad Naeem principal GHS Jehangira

SR

سوال نامہ از سید واجد علی شاہ صاحب
قاری گورنمنٹ ہائی سکول فروبہ، نظام پور، نوشہرہ

بیان خلقی :

پورا نام :

ولدیت :

گھر کا پتہ :

تاریخ پیدائش :

حکمہ تعلیم میں ملازمت کا آغاز :

عہدہ :

سکول :

سوال نمبر 1 : آپ کا تبادلہ گورنمنٹ پرائمری سکول
خٹ کھلے کب اور کس پوسٹ پر ہوا؟۔ چارج لینے کی
تاریخ کیا ہے؟ آپ نے EPS خٹ کھلے میں کب تک
ملازمت کی؟

سوال نمبر 2 : آپ کا تبادلہ EMS کڑوی ہوا۔ کب اور کس پوسٹ پر؟
وہاں آپ نے کب چارج لیا؟

سوال نمبر 3 : کڑوی آپ کا آبائی گاؤں ہے۔ EMS کڑوی سے
آپ کا تبادلہ EMS۔ آمان کوٹ اور بعد میں EMS
پہاڑی کٹی خیل ہوا۔ اس کی وجوہات درج کریں۔

سوال نمبر 4 : بحیثیت قاری آپ نے آغاز ملازمت کب اور کس سکول
سے کیا۔ چارج لینے کی تاریخ درج کریں۔

سوال نامہ از سید واجد علی شاہ صاحب

قاری گورنمنٹ ہائی سکول فروبہ، نظام پور، نوشہرہ

بیان خلقی :

پورا نام :

ولدیت :

گھر کا پتہ :

تاریخ پیدائش :

حکمہ تعلیم میں ملازمت کا آغاز :

عہدہ :

سکول :

سوال نمبر 1 :- آپ کا تبادلہ گورنمنٹ پرائمری سکول

خٹ ککے کب اور کس پوسٹ پر ہوا؟ - چارج لینے کی

تاریخ کیا ہے؟ - آپ نے EPS خٹ ککے میں کب تک

ملازمت کی؟

سوال نمبر 2 :- آپ کا تبادلہ EMS کڑوی ہوا۔ کب اور کس پوسٹ پر؟

وہاں آپ نے کب چارج لیا؟

سوال نمبر 3 :- کڑوی آپ کا آبائی گاؤں ہے۔ EMS کڑوی سے

آپ کا تبادلہ EMS آمان کوٹ ہوا بعد میں EMS

پہاڑی کٹی خیل ہوا۔ اس کی وجوہات درج کریں۔

سوال نمبر 4 :- بحیثیت قاری آپ نے آغاز ملازمت کب اور کس سکول

سے کیا۔ چارج لینے کی تاریخ درج کریں۔

سوال نامہ از سید واجد علی شاہ صاحب
قاری گورنمنٹ ہائی سکول سروہر، نظام پور، نوشہرہ

بیان خلقی :

پورا نام :

ولدیت :

گھر کا پتہ :

تاریخ پیدائش :

مکتبہ تعلیم میں ملازمت کا آغاز :

عہدہ :

سکول :

سوال نمبر 1 : آپ کا تبادلہ گورنمنٹ پرائمری سکول
خٹ کھلے کب اور کس پوسٹ پر ہوا؟ - چارج لینے کی
تاریخ کیا ہے؟ آپ نے EPS خٹ کھلے میں کب تک
ملازمت کی؟

سوال نمبر 2 : آپ کا تبادلہ EMS کڑوئی ہوا۔ کب اور کس پوسٹ پر؟
وہاں آپ نے کب چارج لیا؟

سوال نمبر 3 : کڑوئی آپ کا آبائی گاؤں ہے۔ EMS کڑوئی سے
آپ کا تبادلہ EMS آمان کوٹ اور بعد میں EMS
پہاڑی کٹی خیل ہوا۔ اس کی وجوہات درج کریں۔

سوال نمبر 4 : بحیثیت قاری آپ نے آغاز ملازمت کب اور کس سکول
سے کیا۔ چارج لینے کی تاریخ درج کریں۔

میں نے آج اہل عدول نامہ وصول کیا۔ انشاء اللہ کل میں گوڈرمنٹ
ہائی سکول شہر و عتبہ آئی کی اس کا جواب پہنچا دوں گا۔ مہر دس ایک جمع رکلرڈ
۱۶-۴-۰۱۶

سوال نمبر 5: آپ نے قاری پوسٹ کے لئے درخواست کب اور کہاں جمع کی؟

سوال نمبر 6: کیا اُس وقت قاری پوسٹ کے لئے اشتہار دیا گیا تھا؟ کاپی مہیا کریں۔

سوال نمبر 7: قاری پوسٹ کے لئے آپ نے سکریننگ ٹسٹ کب اور کہاں دیا تھا؟

سوال نمبر 8: قاری پوسٹ کے لئے ٹسٹ کا نتیجہ کب جاری ہوا اور آپ کی پوزیشن کیا تھی؟

سوال نمبر 9: قاری پوسٹ کے لئے انٹرویو کب اور کہاں دیا؟

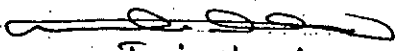
سوال نمبر 10: Tentative اور فائنل میرٹ لسٹ میں آپ کی پوزیشن کیا تھی؟

سوال نمبر 11: بحیثیت قاری آپ کا تقرر نامہ انفرادی تھا یا اجتماعی؟ کاپی مہیا کریں۔

سوال 12: میڈیکل سرٹیفکیٹ کب اور کس ہسپتال سے حاصل کیا تھا۔ کاپی مہیا کریں۔

سوال 13: اصل سروس کب کی کاپی مہیا کریں۔

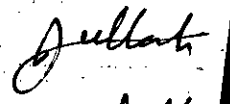
سوال 14: بحیثیت قاری آپ (GMS) گورنمنٹ فوڈ سکول میں تعینات ہوئے جبکہ فوڈ سکول میں قاری پوسٹ نہیں ہوتی۔ وضاحت کریں۔

1) 
Muhammad Naeem
Principal / Enquiry officer

2)



Muhammad Naeem principal GHS Jehangira

(3) 

Muhammad Naeem
office representative
office of the D.O.

NSR

**BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 1254/2014

Syed Wajid Ali Shah VS education Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Incorrect. The appellant joined the education department as chowkidar on 24.10.2005 and having qualification of Qari Post was appointed as Qari in the year 2007. Moreover he was not appointed on fake and bogus order on Qari, but he was appointed by the competent authority after observing all codal formalities, however his service record was damaged due to flood. Therefore the appellant should not be punished for no fault on his part. Moreover the Provincial Inspection Team initiated inquiry against the 73 employees of Education Deptt: in District Nowshera, but Muhammad Asif and Syed Wajid Ali Shah were terminated by the EDO Nowshera before the inquiry report of the Provincial Inspection Team, while others are still serving in the Education Deptt: and also receiving their salaries.

- 2 Incorrect. While para 2 of the appeal is correct.
- 3 Admitted correct by the respondents as the fresh service record of the appellant is in the custody of the department.
- 4 Admitted correct by the respondents as the fresh service record of the appellant is in the custody of the department.
- 5 First portion of para 5 of the appeal is admitted correct hence no comments however in the reply of the appellant, the appellant clear all the position of his appointment as Qari. The rest of the portion of para 5 of the appeal is incorrect as the appellant was appointed by the competent authority after observing all the codal formalities.
- 6 Incorrect. One sided inquiry was conducted against the appellant and no opportunity of defence was provide to the appellant, even then the appellant was held responsible by the inquiry officer, however no penalty was proposed for the appellant in his report.
- 7 Admitted correct by the respondent that show cause notice was served to the appellant, however in his reply he clear all the situation and denied all allegations therein.
- 8 Admitted correct by the respondents that major penalty was imposed the appellant however without giving any chance of defence.
- 9 No comments endorsed by the department which means that para 9 of the appeal is correct.
- 10 Incorrect. The appellant has good cause of action to file the instant appeal.

GROUND:

- A) Incorrect. The order dated 8.7.20014 is not according to law and policy.

- B) Incorrect. The appellant was not provided full opportunity to defend himself and was not treated according to law.
- C) Incorrect. No opportunity was provided to the appellant to defend himself
- D) Incorrect. While para D of the appeal is correct.
- E) Incorrect. The appellant was not provided full opportunity of personal defence according to law.
- F) Incorrect. While para F of the appeal is correct.
- G) Incorrect. The penalty of removal from service is very harsh and not according to law and facts.
- H) Incorrect. While para H of the appeal is correct.
- I) Incorrect. While para I of the appeal is correct.
- J) Incorrect. The appointment order of the appellant was not fake/bogus as the appellant was appointed by the component authority after observing all the codal formalities.
- K) Incorrect. The appellant was not treated according to law and rules.
- L) Legal.

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

APPELLANT
Syed Wajid Ali Shah

Through:


(M. ASIF YOUSAFZAI)
&

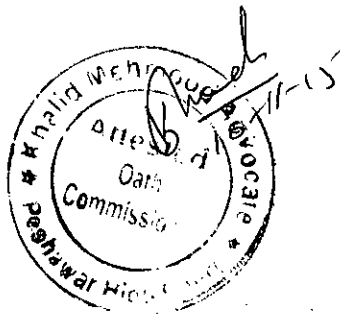
TAK

(TAIMUR ALI KHAN)
ADVOCATES, PESHAWAR.

AFFIDAVIT

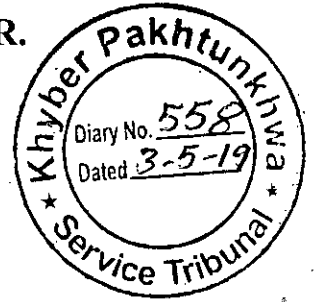
It is affirmed and declared that the contents of rejoinder ^{and appeal} are true and correct to the best of my knowledge and belief.

TAK
DEPONENT



BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1254/2014



Wajid Ali Shah

V/S

Education Deptt:

.....
**APPLICATION FOR FIXING OF AN EARLY DATE OF
HEARING IN THE ABOVE TITLED APPEAL INSTEAD OF
14.06.2019**
.....

RESPECTFULLY SHEWETH:

1. That the appellant has filed the instant appeal against the order dated 08.07.2014, whereby the appellant has been terminated from service and and not taking action on the departmental appeal of the appellant within the statutory period of 90 days.
2. That the instant appeal is in argument stage along with two other connected appeals and the next date fixed in the cases is 14.06.2019 before this Honourable KPK Service Tribunal.
3. That due to the termination from service of the appellant, the financial position of the appellant is very hard and not be bearable and his whole family is effecting badly.
4. That it will be in the interest of justice to fix the case at an early date.

It is, therefore, most humbly prayed that on acceptance of this application, an early date of hearing may kindly be fixed in the instant service appeal instead of 14.06.2019. Any other remedy which this august Tribunal deems fit and appropriate that may also be awarded in favour of the appellant.

Wajid Ali Shah

Appellant

THROUGH:

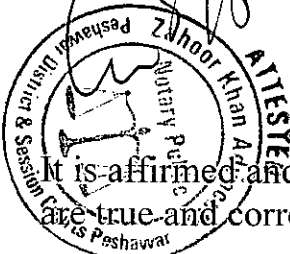
Amir Zai
(M. ASIF YOUSAF ZAI)

ADVOCATE SUPREME COURT

AFFIDAVIT:

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

Wajid Ali Shah
DEPONENT



BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1254/2014

Wajid Ali Shah

V/S

Education Deptt:

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Wajid Ali Shah
Appellant

THROUGH:

Amir Zai
(M. ASIF YOUSAF ZAI)
ADVOCATE SUPREME COURT

AFFIDAVIT:

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

Wajid Ali Shah
DEPONENT

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1254/2014

Wajid Ali Shah

V/S

Education Deptt:

.....
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Wajid Ali Shah

Appellant

THROUGH:

(M. ASIF YOUSAF ZAI)

ADVOCATE SUPREME COURT

AFFIDAVIT:

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

Wajid Ali Shah
DEPONENT

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1254/2014

Wajid Ali Shah

V/S

Education Deptt:

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HEARING IN THE ABOVE TITLED APPEAL INSTEAD OF
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Wajid Ali Shah

Appellant

THROUGH:

(M. ASIF YOUSAF ZAI)

ADVOCATE SUPREME COURT

AFFIDAVIT:

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

Wajid Ali Shah
DEPONENT