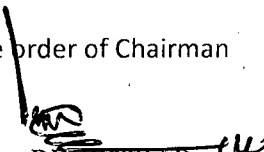


Form- A

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- \_\_\_\_\_ 1374/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/09/2022	<p>The appeal of Mr. Imran Khan presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

SCANNED  
Peshawar

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

APPEAL NO. 1374 /2022

SCANNED  
KPST  
PESHAWAR

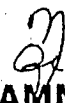
HIJAB KHAN V/S EDUCATION DEPTT:

**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal with Affidavit	.....	1 - 3
2.	Appointment Order	A	4
3.	Impugned Order	B	5
4.	Departmental Appeal & Rejection Letter	C & D	6-8
5.	Vakalatnama		9

  
APPELLANT

Through:

  
NOOR MOHAMMAD KHATTAK  
ADVOCATE  
SUPREME COURT OF PAKISTAN

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

APPEAL NO. 1374 /2022

HIJAB KHAN, Ex-Chowkidar  
 GGPS, Thooti, Kohistan.

..... APPELLANT

**VERSUS**

- 1- The Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
- 2- The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (F), District Kohistan, Khyber Pakhtunkhwa, Peshawar

..... RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 09-09-2021 WHEREBY MAJOR PENALTY OF COMPULSORY RETIREMENT FROM SERVICE HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST THE APPELLATE ORDER DATED 05.09.2022 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLATE HAS BEEN REJECTED ON NO GOOD GROUNDS.**

**PRAYER:**

**That on acceptance of this appeal the impugned orders dated 09.09.2021 and appellate order dated 05.09.2022 may very kindly be set aside and the appellant may kindly be re-instated into service with all consequential back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.**

**R/SHWETH:**

**ON FACTS:**

1. That the appellant was appointed as chowkidar of the respondent department vide order dated 01.06.2010 after fulfilling all the legal & codal formalities required for the post. Copy of the Appointment Order dated 01.06.2010 is attached as annexure ..... **A.**

2. That after posting in GGPS Thooti Kandia, Kohistan the appellant took over the charge of his post and started performing duty with full devotion.
3. That the appellant started performing his duty quite efficiently, whole heartedly and to the entire satisfaction of his high ups.
4. That astonishingly the appellant was compulsory retired from his service vide impugned order dated 09.09.2021 without any lawful justification and without fulfilling the codal formalities. Copy of the impugned order is attached as annexure .....**B.**
5. That the appellant filed departmental appeal against impugned order dated 09.09.2021 to the respondent but was rejected by the respondents vide appellate order dated 05.09.2022 without any good reason. Copy of Departmental Appeal and Rejection Letter are attached as Annexure .....**C & D.**
6. That appellant feeling highly aggrieved and having no other remedy but to file the instant appeal on the following grounds amongst the others.

**GROUND:**

- A- That impugned orders dated 09-09-2021 and 05.09.2022 issued by the respondents are void in nature against the law, facts and norms of natural justice hence not tenable and are liable to be set aside.
- B- That appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the codal formalities required for the major penalty has not been fulfilled by the respondents while issuing the impugned orders dated 09-09-2021 and 05.09.2022.
- D- That, the respondents acted in an arbitrary and malafide manner while issuing impugned orders dated 09-09-2021 and 05.09.2022.
- E- That, no show cause notice has been issued before the issuance of the impugned orders.
- F- That, no right of personal hearing and personal defense has been provided before the issuance of the impugned orders.

- G- That no regular or fact-finding inquiry is conducted in the matter which is pre-requisite as per the judgments of the Apex Supreme Court of Pakistan in punitive matters.
- H- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated:

**APPELLANT**



**HIJAB KHAN**

THROUGH:

**NOOR MUHAMMAD KHATTAK**

**WALEED ADNAN**

**UMAR FAROOQ MOMAND**

**MUHAMMAD AYUB**

**ADVOCATES**

**CERTIFICATE:**

No such like appeal is pending or filed between the parties on the subject matter before this Honorable Tribunal.

**ADVOCATE**

**AFFIDAVIT**

I, Hijab Khan s/o Khan Badshah r/o P.O gamyar Thoti Bar, Tehsil Kandian, District Kohistan do hereby solemnly affirm on oath that the contents of the above appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.

**DEPONENT**

-4- "A"

**APPOINTMENT**

OFFICE OF THE EXECUTIVE DISTRICT OFFICER  
ELEMENTARY & SECONDARY EDUCATION  
KOHISTAN

Consequent upon approval of Departmental Competition Kohistan the concerned authority is pleased to appoint the following Class-IV in BPS-1 the vacant positions as they are available under the ceiling of the schools and against each with appointments offered by the interest of public service according to the merit policy issued by the Government of NWFP Elementary & Secondary Education Department subject to the following conditions.

Name of Candidates with Father Name	PO	Name of School	Ranking
Shah Raza Siddique Badshah	Boat Kandla	GGPS, Thakri, Kohistan	2nd C.P.O.

**CONDITIONS**

1. Charge report should be submitted to all concerned
2. No TA/DA is allowed to them
3. Their appointments is purely on temporary basis and liable to termination at any time with out assigning any reason notice
4. They will be governed by such rules & regulation enforced and as prescribed by the Government from time to time for the category of the Government servants to which they belong
5. In case the above candidates failed to assume the charge of their post within 15-days, her appointment will automatically stand cancelled.
6. They should not be allowed to take over charge if his age is less than 18-years and above 35-years.
7. They should produced Age & Health Certificate from EDO Health Kohistan
8. Dy. District Officer (F) is directed to verify their Documents from the concerned institution before draft of her pay.

Executive District officer  
(E. & S) Education Kohistan

Dated Kohistan the 01-06 2010

Encl. No. 2201-51

Copy of the above is forwarded to the

1. P.A to Director Schools & Literacy NWFP Peshawar
2. District Coordination Officer Kohistan
3. District Accounts Officer Kohistan
4. District Officer (Female) ERSE Kohistan
5. Dy. District Officer (F) ERSE Kohistan.
6. Candidates concerned.

Executive District officer  
(E. & S) Education Kohistan

Better copy

**OFFICE OF THE EXECUTIVE DISTRICT OFFICER**  
**ELEMENTARY & SECONDARY EDUCATION, KOHISTAN**

**APPOINTMENT:**

Consequent upon approval of Departmental Committee Kohistan the competent authority is pleased to appoint the following Class-IV in BPS-1 plus usual allowance as due and admissible under the rules in the schools noted against each with immediate effect in the interest of public service according to the merit policy issued by the Government of NWFP Elementary & Secondary Education Department subject to the following conditions.

S.#	Name of Candidates with Father Name	RO	Name of School	Remarks
1	Hijab Khan S/O Khan Badshah	Thooti Kandla	GGPS Thooti Kandla	Agst V Post

**CONDITIONS:**

1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed to him
3. Their appointments is purely on temporary basis and liable to termination at any time without assigning any reason/notice.
4. He will be governed by such rules & regulation enforced and as prescribed by the Government servants to which he belong.
5. In case the above candidate failed to assume the charge of his post within 15-days, his appointment will automatically stand cancelled.
6. He should not be allowed to take over charge if his age is less than 18-years and above 35-years.
7. He should produce Age & Health Certificate from EDO Health Kohistan.
8. Dy District Officer (F) is directed to verify their Documents from the concerned institution before drawl of her pay.

Executive District Officer  
(E & S) Education Kohistan

Endst: No. 2201-5

Dated Kohistan the 01/06/2010

**OFFICE OF DISTRICT EDUCATION OFFICER (FEMALE)  
KOHISTAN**

**WHEREAS** numerous complaints received to the undersigned through various means the following Chowkidars remained absent from their duties without any prior permission or leave for several years.

**WHEREAS** their schools remained closed/Non-functional during the repeated visits of EMA.

**WHEREAS** they were reported absent by EMA time and again during the visits of the concerned OGMA's.

**WHEREAS** they put their fake attendance in the school registers at their home.

**WHEREAS** the concerned ASDEOs were directed to verify their absenteeism.

**WHEREAS** the concerned ASDEOs confirmed/verified their absenteeism as per their report.

**WHEREAS** show cause notices were issued to them vide the references made against their names.

**WHEREAS** they failed to reply their show causes/convincible reply within the stipulated period.

**WHEREAS** they failed to avail the chance of personal hearing.

Therefore the undersigned being the competent authority, do hereby impose Major Penalty of Compulsory Retirement, upon the following Chowkidars under Rule 4(b) of ESD Rules 2011 with immediate effect, in the interest of public service.

S.No	Name of Teacher with designation	Name of School	Show cause reference	Remarks
01	Muhammad Yabi Chpw	GGPS Sigloo	No.4152-57 dated:02/08/2021	
02	Ajab Khan Chow	GGPS Thooti	No.4164-69 dated:02/08/2021	
03	Muhammad Kabir Chow	GGPS Karang	No.4182-87 dated:02/08/2021	
04	Imran Khan Chow	GGPS Tayyab Abad	No.4217-22 dated:02/08/2021	

**MUHAMMAD AMN**  
District Education Officer  
(Female) Kohistan

Endst: No. 4597-4606/DEO (F) KH Dated: 09/09/2021

Copy of the above forwarded to the:-

01. PS to Secretary Elementary & Secondary Education Department KPK Peshawar.
02. PA to Director Elementary & Secondary Education KPK Peshawar.
03. Deputy Commissioner Kohistan Upper.
04. District Monitoring Officer Kohistan Upper.
05. District Accounts Officer Kohistan Upper.
06. SDEO/DDO (F) concerned with the directions to stop their pay and make necessary entries in the service books.
07. ASDEO Circle concerned.
08. PA to DEO (F) local office.
09. Teachers concerned.
10. Office File.

  
District Education Officer  
(Female) Kohistan

B  
5-



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**OFFICE OF THE DISTRICT EDUCATION OFFICER KOHISTAN**

**OFFICE ORDER COMPULSORY RETIREMENT.**

01. WHEREAS per the numerous complaint received to the undersigned through various means the following chowkidar remained absent from their duties without any prior permission of leave for several years.
02. WHEREAS their school remained close/non-functional during the repeated visits of EMA.
03. WHEREAS they were report absent by EMA time and again during the visits of concerned DCMAAs.
04. WHEREAS they put their fake attendance in the school registers at their home.
05. WHEREAS the concerned ASDEOs were directed to verify their absenteeism.
06. WHEREAS the concerned ASDEOs confirmed/verified their absenteeism as per their report.
07. WHEREAS show cause notices were issued to them vide the references made against their names.
08. WHEREAS they failed to reply their show causes/inconvincible reply within the stipulated period.
09. WHEREAS they failed to avail the chance of personal hearing.

Therefore the undersigned being the competent authority do hereby impose Major Penalty of Compulsory Retirement upon the following Chowkidars under Rules 4(b) ii of E&D Rules, 2011 with immediate effect, in the interest of public service.

S.N	Name of Teacher with designation	Name of School	Show Cause	Remarks
1	Muhammad Nabi Chow	GGPS Siglio	No.4152-57 Dated:02/08/2021	
2	Ajab Khan Chow	GGPS Thooti	No.4164-69 Dated:02/08/2021	
3	Muhammad Kabir Chow	GGPS Karang	No.4182-87 Dated:02/08/2021	
4	Imran Khan Chow	GGPS Tayyab Abad	No.4217-22 Dated:02/08/2021	

MUHAMMAD AMN  
District Education Officer  
(Female) Kohistan

Endst: No. 4597-4606/DEO(F)KH

DATED: 09/09/2021

”ج“ - 6 - ڈاکٹر گلبرگہ اکیڈمی ایف اے سکولنگ ایسوسی ایشن

سلاوہ

عنوان :- حکیمانہ اپیل پر خلاف حکم مورخہ 09-09-2022  
جس کی وجہ سے مسائل کو نوٹری سے درخواست کیا گیا ہے۔

جناب عالی!

مؤدبانہ گزارش ہے۔ کہ مسائل آپ کے زیر سایہ ضلع کوستان  
میں بطور جو کثیرا ضمانت سہ انجام دے دیا گیا۔ یہ کہ مسائل نے بعد از تقینات  
اپنی ڈیوٹی نہایت ایماندارانہ، خوش اہولوں اور جان انسان سے ادا کی ہے۔  
اور تمام سہروں پر بطورڈ میں مسائل کے خلاف نہ کوئی کمپلیٹ ہوئی ہے۔  
اور مسائل کا تمام سہروں پر بطورڈ صاف ہے۔ یہ کہ ہر ایک حکم مورخہ 09-09-2022  
کو بغیر کسی حکیمانہ کارروائی کے یا کوئی شوکار وغیرہ کے نوٹری سے درخواست  
کر دیا گیا ہے۔ جو کہ بغیر مالوں، غیر آئینی اور قدرتی انصاف کے اہولوں  
کے ضلعی ہے۔ حکم ضلعی کے جاری ہونے سے پہلے مسائل کسی قسم کی دفاع  
کا موقع بھی فراہم نہیں کیا۔ یہی وہی حکم زیر بحث غیر قانونی ہے۔  
اور قابل منسوخ ہے۔

لینڈ اسٹریٹجی۔ کہ مسائل کی حکیمانہ اپیل نڈا کو منظور فرما کر حکم  
مورخہ 09-09-2022 کو منسوخ فرمایا جائے۔ اور مسائل کو بطور تمام ملکہ  
صرامات / تحویہ جان نوٹری سے بحال کرنے کا حکم کیا جائے۔ مسائل تمام  
عہدہ و عاقبت رہے گا۔

اللہ اعلم

اللہ عفو آ۔ - 04/2/22

جان عالی

صہ کہ انہ کے لیے طہ طہ کے ساتھ



"A" e.p. - D "e"

- 8 -

- 7 -

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR  
No. LA/ST/17/2022-2023 (VI) Vol-6 Kohistan  
Dated Peshawar the 15/02/2022  
Phone: 091-9225344 Email: dde@kpk.gov.pk

To:

The District Education Officer,  
(Female) Kohistan Upper

Subject: APPEAL FOR RE-INSTATEMENT.  
Memo:

I am directed to refer to this office letter No. 3216 dated 8.2.2022 on the subject cited above and to state that with an appeal in r/o Muhammad Naji Chowkdar GGPS Sigloo, Ajah Khan Chowkdar GGPS Thoot and Imran Khan GGPS Tayyab Abad and ask for detail report at an early date.

*[Signature]*  
14/2/22  
Assistant Director (Admin)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Encl: No. \_\_\_\_\_  
Copy forwarded to the: -

1. PS to Secretary Elementary & Secondary Education Department KPK Peshawar.
2. Deputy Commissioner Kohistan Upper.
3. District Monitoring Officer Kohistan Upper.
4. District Account Officer Kohistan Upper.
5. SDEO/DDO (F) Concerned.
6. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
7. Master File.

*[Signature]*  
Assistant Director (Admin)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

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**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION**

**KHYBER PAKHTUNKHWA PESHAWAR**

No. 4054/F.No.20/A-20/C-IV/Vol-6/Kohistan

Dated Peshawar the 10/02/2022

To,

The District Education Officer,  
(Female) Kohistan, Upper

Subject: **APPEAL FOR RE-INSTATEMENT.**

Memo:

I am directed to refer to refer to this office letter No. 3216 dated 8.2.2022 on the subject cited above and to state that with an appeal in r/o Muhammad Nabi Chowkidar GGPS Sagloo, Ajab Khan Chowkidar GGPS Thooti and Imran Khan GGPS Tayyab Abad and ask for detail report at an early date.

**Assistant Director (Admn)**

Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

10/02/2022

Endst: No. \_



-8- -7- "8"

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION**  
**KHYBER PAKHTUNKHWA, PESHAWAR**  
P.O. No. 291 /A-20/C-IV/Kohistan Vol-5-6  
Dated Peshawar the \_\_\_\_\_ /2023  
Phone: 091-9225344 Email: ddadran.ese@gmail.com

The District Education Officer,  
(Female) Kohistan.

FOR INFORMATION

It is directed to refer to the subject cited above and to state that the appellants Muhammad Nabi S/o Jamdad Ex-Chowkidar GGPS Saglo Kohistan Upper, Imran Khan S/o Khusra Ex-Chowkidar GGPS Tayyab Abad Kohistan and Ajab Khan S/o Khan Badshah Ex-Chowkidar GGPS Thoati Kohistan & Muhammad Kabir Chowkidar were examined/analyzed by this office Hence inform the appellant concerned that their appeals have been rejected by the appellate authority.

Assistant Director (Admin)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

CC: Mr. \_\_\_\_\_

Copy forwarded to the:-

1. Muhammad Nabi S/o Jamdad Ex-Chowkidar GGPS Saglo Upper, Mr. Imran Khan S/o Khusra Ex-Chowkidar GGPS Tayyab Abad and Ajab Khan S/o Khan Badshah Ex-Chowkidar GGPS Thoati Kohistan Muhammad Kabir Chowkidar
2. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Master File.

Assistant Director (Admin)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

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

No. \_\_\_\_\_/F.No.291/A-20/C-IV/Kohistan/Vol-5-6

Dated Peshawar the 05/09/2022

To,

The District Education Officer,  
(Female) Kohistan.

Subject: **APPEAL FOR RE-INSTATEMENT.**

Memo:

I am directed to refer to the subject cited above and to state that the appeal in r/o Muhammad Naboi S/o Jamdad Ex-Chowkidar GGPS Saglo Kohistan Upper, Mr. Imran Khan S/o Khusra Ex-Chowkidar GGPS Tayyab abad Kohistan and Ajab Khan S/o Khan Badshah Ex-Chowkidar GGPS Thooti Kohistan & Muhammad Kabir Chowkidar has been examined/analyzed by this office. Hence inform the appellant concerned that their appeals have been rejected by the appellate authority.

**Assistant Director (Admn)**  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Endst: No. 1265-56/

9-

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

APPEAL NO: \_\_\_\_\_ OF 2022

Hijab Khan

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Education Dept.

(RESPONDENT)  
(DEFENDANT)

I/We Hijab Khan

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** 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 cost. 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.

Dated. \_\_\_\_/\_\_\_\_/2022

حجاب خان  
  
CLIENT

**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**  
&

  
**UMAR FAROOQ**

  
**WALEED ADNAN**

  
**MAYUB**

  
**HAIDER KHAN**  
**ADVOCATES**

**OFFICE:**

Flat No.(TF) 291-292 3<sup>rd</sup> floor  
Deans trade centre Peshawar cantt:  
Mobile No. 0334-5277323