

12.1.2015

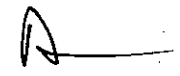
Counsel for the appellant and Mr. Muhammad Jan, GP with Javed Ahmad, Supdt. for the respondents present. Rejoinder received, copy whereof is handed over to the learned GP. Case to come up for arguments on 27.5.2015.


MEMBER


MEMBER

27.05.2015

None for the appellant present. Addl: AG for the respondents present. Since the learned Judicial Member is on tour to camp court D.I Khan, therefore the case is adjourned to 14.12.2015 for arguments before D.B.


Member

14.12.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. The Tribunal was informed by the learned counsel for the appellant that unfortunately the appellant has died. Since the appeal pertains to the penalty under which the appellant promotion was stopped, hence in the circumstances the appeal become abate^d and is disposed off accordingly. File be consigned to the record room.


MEMBER


MEMBER

ANNOUNCED

14.12.2015

1318/13

26.3.2014

Counsel for the appellant and Sr.GP with Javed Ahmad, AD and Khursheed Khan, SO for the respondents present and requested for time. To come up for written reply on 4.6.2014.

MEMBER 

4.6.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Khursheed Khan, SO and Sajjad Rashid, AD for the respondents present and requested for further time. To come up for written reply on 2.9.2014.

MEMBER 

MEMBER 

02.09.2014

Appellant with counsel and Mr. Muhammad Jan, GP with Khursheed Khan, SO and Sajjad Rashid, AD for the respondents present and reply filed. Copy handed over to counsel for the appellant for submission of rejoinder on 17.11.2014.

MEMBER 

17.11.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Khursheed Khan, SO and Mosam Khan, AD for the respondents present. The Tribunal is incomplete. To come up for the same on 12.01.2015.


READER 

Appeal No. 1318/2013.
Mr. Muhammad Ayub.

22.11.2013

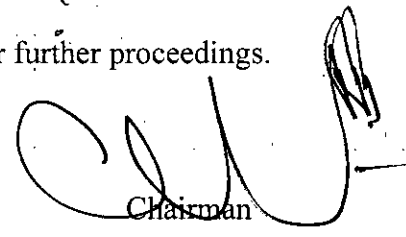
Appellant with counsel present and heard. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. The impugned appellate order dated 02.08.2013 is not a speaking order. Moreover the order has been passed in violation of appeal rule-5 of the Civil Servants (appeal) rules 1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply on 27.01.2014.

Appellant deposited
of Process fee & Security
of Rs. 2000/- Bank Receipt
attached with file


Member

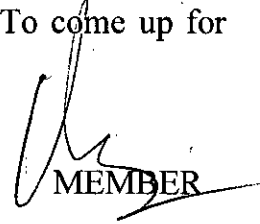
22.11.2013

This case be put before the Final Bench II for further proceedings.


Chairman

27.1.2014



Counsel for the appellant and Mr. Muhammad Jan, GP with Khursheed Khan, SO and Mosam Khan, AD for the respondents present and requested for time. To come up for written reply on 26.3.2014.


MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1318 /2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/09/2013	<p>The appeal of Mr. Muhammad Ayub presented today by Mr. M. 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	17-8-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>22-11-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1318-A /2013.

Mohammad Ayub.

VS

Govt: of KPK etc.

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APPELLANT

MOHAMMAD AYUB

THROUGH:


M.ASIF YOUSAFZAI

ADVOCATE.

1

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 1318-A/2013.

KPK Service Tribunal Peshawar
1329
10-9-13

Mohammad Ayub,
Dy: Distt: Officer, (Male), E&SE,
LakkiMarwat.....Appellant.

VERSUS

- 1- The Govt: of KPK Through The Chief Secretary KPK Peshawar.
- 2- The Chief Secretary KPK Peshawar.
- 3- The Secretary Education (E&SE) KPK Peshawar.
- 4- The Director Education (E&SE) KPK Peshawar.

.....Respondents.

APPEAL UNDER SECTION – 4 OF THE KPK SERVICE TRIBUNALS ACT 1974 AGAINST THE ORDER DATED. 2.8.2013 RECEIVED BY APPELLANT ON 15.8.2013 WHEREBY THE APPEAL/REVIEW AGAINST THE ORDER DATED:13.2.2013 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

KPK Service Tribunal Peshawar
[Signature]
10/9/13

PRAYER: *That on acceptance of this appeal the order dated. 2.8.2013 may be set-aside and the respondents may be directed not to stop the promotion of appellant due to him at relevant time /date by striking down order dated. 13.2.2013. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.*

R.SHEWETH.

- 1- That while performing duties as Dy: Distt: Officer (male) E&SELakkiMarwat, a issue was arose regarding not disbursing the stipend for girls students amounting to Rs. 6138166/- to the Post Office in time. The issue of non-payment of stipend

was due to non-disbursement by the drawing and disbursing officer in time and also because of non-posting of D.O (female) E&SELakkiMarwat.

- 2- That to probe into that issue, a fact finding inquiry was conducted, which recommended two measures; (i)- The EDO LakkiMarwat should ensure payment and release of stipend within 15 days under his supervision and (ii)- to initiate formal proceedings against the EDO LakkiMarwat, S/Clerk of his office and the appellant. Copy of the fact finding inquiry is attached as Annexure – A.
- 3- That on the basis of fact finding inquiry's recommendations a proper charge sheet and statement of allegations were issued. In that statement of allegation charge NO.1 was not about the appellant while charge no.2 was relating to appellant wherein the appellant was charged for using delaying tactics in presenting the record andnot cooperating with the fact finding inquiry committee. Copies of charge sheet and summary of allegations are attached as Annexure – B & C.
- 4- That the appellant submitted his reply to the charge sheet and denied allegations with proofs especially allegation no.2 in his reply to charge sheet is worth perusal. Copy of reply is attached as Annexure – D.
- 5- That then inquiry was conducted whereby the inquiry officer recommended certain punishments and for appellant the inquiry officer recommended minor penalty of stoppage of promotion for five years on the ground that the appellant was drawing and disbursing officer. Copy of the inquiry report is attached as Annexure – E.
- 6- That then a show cause notice was issued which was also replied by the appellant in time and denied all the allegations with cogent reasons. Copies of show cause notice and reply are attached as Annexure – F&G.
- 7- That on 13.2.2013 the penalty of stoppage of promotion for five years was imposed on appellant. The said penalty order

was communicated to appellant on 4.3.2013. The appellant filed departmental appeal on 28.3.2013 through the Director which was returned to appellant on 14.5.2013 for submitting review petition because the appeal was not provided in the rules. Thus the appellant filed review petition on 27.5.2013 which was rejected on 2.8.2013 and the rejection order was communicated to appellant on 15.8.2013. Hence the present appeal. Copies of order, forwarding letter, director letter, review petition and rejection order are attached as Annexure – H,I,J,K,L.

Grounds:

- A- That the order dated. 2.8.2013 and 13.2.2013 are against the law, rules, norms of justice and material on record. Therefore not tenable and liable to be set-aside.
- B- That the appellant has been punished for no fault on his part.
- C- That the final rejection order is not a speaking order which is the violation of section 24-A of the general Clauses Act, and the Supreme Court's judgment reported as 1991 SCMR-2330.
- D- That the appellant was never remained DDO(Drawing & Disbursing Officer), therefore late disbursement of stipends can not be attributed to appellant.
- E- That the inquiry officer has recommended minor penalty for the DDO(Drawing & Disbursing Officer), without finding out as whether the appellant was a DDO or not.
- F- That even the appellant in time on scheduled date present at the office of Rashid Khan Paindakhel(Chairman of Fact Finding Inquiry Committee) but he was not available, then the appellant went to the office of the section officer (MujeeburRehman) who was on leave on that day. The appellant then handed over the reply with record to the RiazBahadur(Project Director) who further advised the appellant to submit the same with Superintendent of MujeeburRehman. Thus no evidence supported the delaying

tactics or non-cooperation with the fact finding inquiry committee.

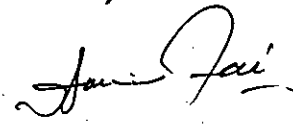
- G- That the inquiry officer has also not recorded the statement of officials mentioned in para-F above who were also mentioned in the reply to charge sheet. Thus the appellant has been held blamed without any supporting evidence.
- H- That the appellant collected only the stipend amount from Govt: Treasury and then deposited the same in the designated account of the EDO (Who is DDO) on the same date. Thus any delay made by the EDO in disbursement of stipend ,for that the appellant can not be held responsible, more over, the appellant was also not holding the charge of Girls Section, therefore, on that score too, the appellant can not be held responsible for non-payment of stipends to girls student.
- I- That the appellant was not given the chance of personal hearing despite the request made in reply to the show cause notice. Thus the appellant has been condemned unheard.
- J- That the appellant has not been dealt according to law and rules and has been penalized fro no fault on his part.
- K- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT


MOHAMMAD AYUB

THROUGH:


M.ASIF YOUSAFZAI
ADVOCATE.

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A
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[Redacted]

Fact-Finding Enquiry Report Regarding Non-Placement of Funds at the Disposal of Post Office for Payment of Stipends to Girls Students for the Period from April to June 2011 by EDO (E&SE) Lakki Marwat.

The Elementary & Secondary Education Department vide notification No. M&E/ESRU/E&SED/2011-12 dated 10th March, 2012 (Annex-A) constituted the following committee to probe in to the non-placement of funds at the disposal of post office for payment of stipends @ Rs. 600/- per student for the period from April to June, 2011, by EDO (E&SE), Lakki Marwat:

1. Mr. Rashid Khan Paindakhel,
Provincial Coordinator, PFTB,
E&SE Department, Khyber Pakhtunkhwa.
2. Mr. Muhammad Younas,
Section Officer (Accounts),
E&SE Department, Khyber Pakhtunkhwa.

2- Terms of Reference of the committee are as under:

- I. To fix responsibility on the officers/officials of the office of EDO (E&SE), Lakki Marwat, for the non-placement of funds at the disposal of GPO for payment of 2nd installment of stipends @ Rs. 600/- per student for the Financial Year, 2010-11.
- II. To ascertain the actual amount kept un-utilized for such a long time and as to whether these funds were lying in the account of EDO or utilized for other purposes during this period.
- III. To fix responsibility for not responding to the explanation called by the E&SE Department inspite of lapse of about four months.
- IV. Any other issue related to non-disbursement of stipens to girls students by EDO (E&SE), Lakki Marwat.

Background

3- The Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, released funds to all the districts for payment of stipends to girls students of class 6th to 10th @ Rs. 200/- per month vide sanction No. CPO/SO/E&SE/S-0/Stipends/09-10/Vol:III dated 28.01.2011 (Annex-B). The EDO (E&SE), Lakki Marwat, was allocated Rs. 20335870/- in the aforementioned release. According to the provision of the PC-I as incorporated in the Agreement signed with the Postmaster General, Khyber Pakhtunkhwa, circulated to the EDOs vide letter dated 18.02.2011 (Annex-C), the payment to girls students had to be made in two installments through Money Orders, the first at the rate of Rs. 1800/- for the period from July, 2010 to March, 2011 (9 months) and the second @ Rs. 600/- for the period from April to June, 2011 (3 months). All the EDOs, including EDO (E&SE), Lakki Marwat, were reminded vide

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letter dated 05.05.2011 to accelerate the process of payment to girls students (Annex-D). The EDO (E&SE), Lakki Marwat, drew an amount of Rs. 14197691/- from Treasury on 02.06.2011 and placed the same at the disposal of General Post Office, Lakki Marwat for payment to 7734 girls students at the rate of Rs. 1800/- each (Annex-E). The amount Rs. 6138166/- was drawn from Government Treasury on 08.06.2011 and deposited in the designated account of the EDO on the same day (Copy of the contingent bill and relevant portion of the bank statement is attached at Annex-F). This amount which was meant for payment of second installment of stipends @ Rs. 600/- per student for the period from April to June, 2011 (3 months) was not placed at the disposal of GPO, Lakki Marwat. When it was pointed out during cross checking with the Postmaster General office, EDO (E&SE), Lakki Marwat, was asked to submit report in the matter as to why the payment was not made to girls students (Annex-G). However, no report was submitted till 6th September, 2011, when all the EDOs including EDO, Lakki Marwat were again asked to complete the payment process immediately (Annex-H). When EDO (E&SE), Lakki Marwat, failed to comply, the matter was reported to Secretary, E&SE, who called his explanation on 11.10.2011 (Annex-I). However, after two reminders issued by the Department on 11.11.2011 and 31.01.2012 (Annex-J), Mr. Abdul Malik, the then EDO (E&SE), Lakki Marwat, forwarded a misleading reply on 10.02.2012 that the explanation had already been replied on 27.10.2011 (Annex-K). During this period, i.e. after issuance of explanation on 11.10.2011, no action was taken by the EDO. The matter was again brought to the notice of Secretary, E&SE, on 02.02.2012, who directed Section Officer (Accounts), E&SE Department, to probe the matter. The directions were conveyed to the Section Officer (Accounts), vide letter dated 11.02.2012 (Annex-L). However, inspite of repeated reminders (Annex-M), the requisite record was not provided to him by the EDO (E&SE), Lakki Marwat (Annex-N). Hence, the instant enquiry was ordered by Secretary, E&SE.

Proceedings

4- As per directions issued to EDO (E&SE), Lakki Marwat, vide Endorsement No. M&E/ESRU/E&SED/2011-12 dated 10th March, 2012 (Annex-A), the relevant record had to be placed before the enquiry committee on 12.03.2012. However, the directions were not complied with and a portion of the record was presented to the committee on 15.03.2012 by Senior Clerk of the EDO office, namely Dil Jan, who also works as Stipends Accountant in the office, which contains the following documents:

- (i) Copy of contingent bills through which the amount of Rs. 14197691/- and Rs. 6138166/- has been drawn from Government Treasury on 02.06.2011 and 08.06.2011, respectively (Annex-F).

- (ii) Copy of letter addressed to Postmaster, GPO, Lakki Marwat, placing Rs. 14197691/- at his disposal for payment to 7734 girl students @ Rs. 1800/- each Annex-E).
- (iii) Copy of challan No. 1 dated 13.03.2012, through which Rs. 998763/- has been deposited in Government Treasury and reconciliation of said amount from District Accounts Officer, Lakki Marwat (Annex-P).
- (iv) List of 8084 girl students who are due for payment of Rs. 600/- each (Annex-Q).

A letter was, therefore, addressed to the following four officials, identified as dealing officials during the period by the incumbent EDO vide his letter dated 14.03.2012 (Annex-R) to attend office of the Provincial Coordinator, PFTB, on 20.03.2012, alongwith complete relevant record (Annex-S):

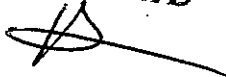
- (i) Mr. Noor Hassan, Ex-EDO (E&SE), Lakki Marwat
- (ii) Mr. Abdul Malik, Ex-EDO (E&SE), Lakki Marwat
- (iii) Mr. Muhammad Ayub, DO (Male), Lakki Marwat
- (iv) Mr. Dil Jan, Sr. Clerk in the office of EDO (E&SE), Lakki Marwat

However, only Muhammad Ayub, District Officer (Male) E&SE, Lakki Marwat, attended office of the Provincial Coordinator, PFTB, on 20.03.2012, and the other three did not turn up. The DO (Male), E&SE, was handed over a fact sheet and Questionnaire for on-spot reply (Annex-T). He promised to reply within two days in person but failed to keep his promise and has not submitted reply so far. The Sr. Clerk, Dil Jan, presented the latest bank statement to the committee on 26.03.2012, which shows that Rs. 41298/- has been transferred in the bank account on 22.03.2012 and Rs. 1884965/- on 24.03.2012, raising the bank balance to Rs. 5139883/- (Annex-U). Cheque of Rs. 5139403/- for payment to 8084 girl students has already been sent to GPO, Lakki Marwat, on 13.03.2012 (Annex-V).

Scrutiny of the Available Record/Findings

- 5-
- (i) The available record provided by Dil Jan, Sr. Clerk, shows that an amount of Rs. 14197691/- was drawn by the EDO (E&SE), Lakki Marwat, on 02.06.2011 and placed at the disposal of GPO, Lakki Marwat, on the same day for payment of stipends to 7734 girls students @ Rs. 1800/- each.
 - (ii) The remaining amount of Rs. 6138166/- was drawn on 08.06.2011 and placed in the designated account of the EDO on the same day. Although, this amount was meant for payment of stipends to girls students for the period from April to June-2011, yet it has not been utilized for that purpose so far.

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- (iii) The bank statement issued on 13.03.2012, shows that an amount of Rs. 2900000/- has been deposited in the account in cash on 13.03.2012. Moreover, Rs. 998763/- which amount was considered as over and above the requirement of 8084 girls students for payment of stipends @ Rs. 600/-, has also been deposited in Government Treasury in cash through challan No. 1, dated 13.03.2012, the amount deposited in the account on 22.03.2012 and 24.03.2012, has already been referred to in para-4 above. This leads the committee to the conclusion that the amount meant for stipends was out of the account till dates aforementioned and when the concerned officials of EDO office felt sure that the enquiry is being conducted and they will not be let off, they deposited the amount in the account as well as in Government Treasury.
- (iv) As telephonically confirmed by the incumbent EDO (E&SE), Lakki Marwat, the following officers/officials identified by him to have been dealing with the stipends account, remained posted for the period noted against each:
- Mr. Noor Hassan, remained posted as EDO (E&SE), Lakki Marwat from 14.03.2009 to 27.02.2011.
 - Mr. Abdul Malik, remained posted as EDO (E&SE), Lakki Marwat from 28.02.2011 to 19.02.2012.
 - Mr. Muhammad Ayub, has been as DO (Male) and Drawing and Disbursing Officer for stipends at district Lakki Marwat, during entire period in question, and is still posted as such.
 - Mr. Dil Jan, Sr. Clerk, has been working as Stipends Accountant during the entire period in question and is still posted as such.

Fixation of Responsibility

- 6-
- Mr. Noor Hassan remained posted as EDO (E&SE), Lakki Marwat, from 14.03.2009 to 27.02.2011. The amount Rs. 6138166/- was drawn from Government Treasury on 08.06.2011. Since the occurrence of drawl happened long after his transfer from the post of EDO, therefore, he cannot be held responsible for the non-placement of funds at the disposal of GPO for payment of stipends to girl students for the period from April to June-2011.
 - The drawl of Rs. 6138166/- occurred during the period when Mr. Abdul Malik was posted as EDO (E&SE), Lakki Marwat. All the correspondence for timely disbursement of stipends to girl students was addressed to him. Even the explanation called on 11.10.2011 was addressed to him by name. In spite of that, neither he took necessary steps to place the requisite amount at the disposal of GPO, Lakki Marwat, for payment to girl students nor he cared to respond to the explanation. He responded to the explanation after second reminder was issued to him on 31.01.2012. In that response also he has tried to mislead the Secretary, E&SE, by stating that he had already responded to the explanation on 27.10.2011.

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there would have been no need of issuing reminders to him on 11.11.2011 and 31.01.2012. Moreover, he would definitely have taken action and placed the amount at the disposal of GPO for disbursement to girl students. His inaction and non-responding to explanation clearly indicates that he intentionally disobeyed the orders of the Secretary, E&SE, as well as utilized the amount meant for stipends, for other purposes and kept the 8084 girl students deprived of the incentive of stipends. His letter dated 10.02.2012, also indicates that even after coming to light of the whole affair, he tried to cover up the embezzlement of Rs. 6138166/- by alluding to clear report of the Audit Party.

In view of the above, Mr. Abdul Malik, Ex-EDO (E&SE), Lakki Marwat, is fully held responsible for:

- (a) Non placement of requisite amount at the disposal of GPO, Lakki Marwat, for payment of stipends to girl students for the period from April to June-2011 (3 months).
- (b) Utilization of the amount of Rs. 6138166/- wholly or a major portion of it for purposes other than payment of stipends to girl students, for which it was actually released by the Government.
- (c) Intentionally avoiding to respond to the explanation called by the Secretary, E&SE, on 11.10.2011.
- (d) Misleading the Department by stating in his letter dated 10.02.2012, that he had already responded to the explanation.
- (iii) Mr. Muhammad Ayub, DO (Male), Lakki Marwat, being Drawing and Disbursing Officer, is also held responsible as collaborator with EDO (E&SE), Lakki Marwat, in non-placement of requisite funds at the disposal of GPO, Lakki Marwat, for payment to girl students. He is also held responsible for delaying tactics in presenting the record to the committee, non-recording of statement and non-reply to the questionnaire handed over to him by the committee on 20.03.2012.
- (iv) Although, Mr. Dil Jan, Sr. Clerk, remained the dealing clerk for payment of stipends and was custodian of record, he being a low grade official, cannot be held responsible for non-payment of stipends to girl students for the period in question. He is, however, held responsible for non-production of record to Section Officer (Accounts), E&SED, and then to the present committee, even after clear orders from the incumbent EDO (E&SE). Even the record which he produced to the committee, was abnormally delayed, which resulted in the delayed submission of this report.

Recommendations

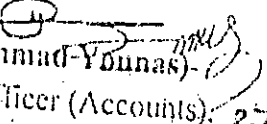
7- In view of the foregoing factual position, the following actions are recommended:


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- (i) The incumbent EDO (E&SE), Lakki Marwat, may be directed to personally pursue the payment process and ensure payment to the girl students within 15 days.
- (ii) Formal disciplinary proceedings, under the E&D Rules, may be initiated against Mr. Abdul Malik, Ex-EDO (E&SE), Lakki Marwat, Mr. Muhammad Ayub, DO (Male), Lakki Marwat, and Mr. Dil Jan, Sr. Clerk, office of the EDO (E&SE), Lakki Marwat.


(Muhammad Younas)
Section Officer (Accounts). 27/3/22
E&SE Department


(Rashid Khan Paindakhel)
Provincial Coordinator, PFTB
E&SE Department

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**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

NOTIFICATION

Dated Peshawar the June 01, 2012

B
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NO.SO(S/M)E&SED/4-17/2012/Abdul Malik (EDO): The Competent Authority is pleased to appoint Syed Alamgir Shah, Special Secretary (BS-20) Govt. of Khyber Pakhtunkhwa, Home & Tribal Affairs Department to conduct inquiry against Mr. Abdul Malik, Ex-Executive District Officer (BS-19) E&SE Lakki Marwat (Now Principal GHSS Khairabad District Mardan) and others on account of allegations/ charges mentioned in the charge sheets and statement of allegations with immediate effect.

2. The Inquiry Officer shall submit recommendations/report to the Competent Authority within thirty (30) days. (Copies of charge sheets & statement of allegations are enclosed).

SECRETARY

Endst: of even No. & Date

Copy forwarded to the:

1. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
2. Syed Alamgir Shah, Special Secretary (BS-20) Govt. of Khyber Pakhtunkhwa, Home & Tribal Affairs Department.
3. Mr. Abdul Malik, Principal GHSS Khairabad District Mardan.
4. Mr. Muhammad Ayub, District Officer (Male), Office of the EDO E&SE Lakki Marwat.
5. Mr. Dil Jan, Senior Clerk, Office of the EDO E&SE Lakki Marwat.
6. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
7. Office order file.

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

ATTESTED

(12)

CHARGE SHEET

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Muhammad Ayub, District Officer (Male) E&SE (BS-18) District Lakki Marwat, as follows:-

That you, while posted as District Officer (Male) E&SE (BS-18), District Lakki Marwat committed the following:

- i. Being Drawing & Disbursing Officer for payment of stipend to girl students of class 6th to 10th, you drew an amount of Rs. 6138166/- from Government Treasury meant for payment of stipend to 8084 girl students @ Rs: 600/- each for a period from April to June, 2011, but did not place the same at the disposal of GPO, Lakki Marwat, for the purpose. A major portion of the amount was used for purposes other than stipend for a period of about nine months.
 - ii. Using delaying tactics in presenting the record and not cooperating with the fact finding enquiry committee.
- 2- By reason of the above, you appear to be guilty of misconduct and corruption under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.
 - 3- You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/ inquiry committee, as the case may be.
 - 4- Your written defence, if any, should reach the inquiry officer/ inquiry committee within specified period, failing which it shall be presumed that you have no defence 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.

A. H. Hoti
22.5.12
(AMIR HAIDER KHAN HOTI)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Muhammad Ayub, District Officer (Male)

REGISTERED
/



GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

NO.PS-SSH/Inquiry /2012
Dated Peshawar, 11th June, 2012.

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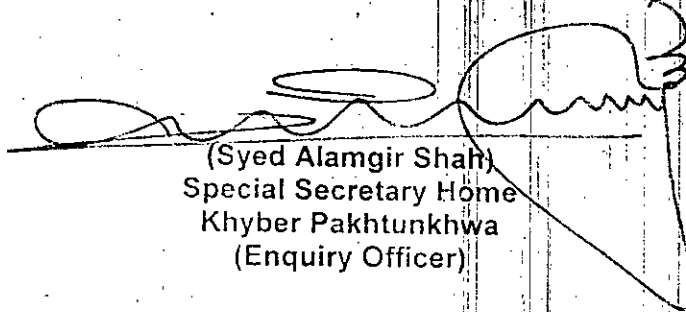
To

1. Mr.Abdul Malik
Ex-Executive District Officer,
Elementary & Secondary Education,
Lakki Marwat
(now Principal GHSS Kariabad, Mardan)
- ✓ 2. Mr.Muhammad Ayub,
District Officer(Male)
District Lakki Marwat
3. Mr.Dil Jan,
Senior Clerk,
Office of the EDO
Elementary & Secondary Education,
Lakki Marwat

Subject:- Charge Sheet and Statement of Allegations

To probe into the accusations leveled against you being mentioned in the Charge Sheets and Statements of Allegations, the undersigned has been appointed as Inquiry Officer vide Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department Notification No.SO(S)/E&SED/4-17/2012/Abdul Makik(EDO) dated 01-06-2012. A copy each of the Charge Sheet and Statement of Allegations are sent herewith for necessary action at your end.

You are also directed to attend office of the undersigned on 18th June, 2012 at 1100 Hours alongwith documents on which you are relying upon for your defence or any other document you think are necessary to be produced. If you failed to attend this office on the date and time mentioned above without any justs, cause and reasons, in that case ex-parte proceedings will be initiated against you.


(Syed Alamgir Shah)
Special Secretary Home
Khyber Pakhtunkhwa
(Enquiry Officer)

Endst.No.& Date.EVEN

Copy to the :-

1. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar. He may please attend the proceedings along with the relevant record on the date and time mentioned above.
2. Section Officer Schools (Male), Elementary & Secondary Education Department, Khyber Pakhtunkhwa. He is also required to bring relevant record and attend the proceedings on the date and time mentioned above.
3. P.S to Secretary to Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department for information.

TESTED

Special Secretary Home

No. /

Dated

15/6/12

D

From

District Officer (M)
Ele: & Sec: Education Lakki Marwat

To

Mr. Syed Alamgir Shah
Special Secretary Home
Khyber Pakhtunkhwa (enquiry officer)

Subject:

CHARGE SHEET AND STATEMENT OF ALLEGATION

Memo:

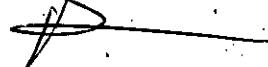
Reference your letter No. NO.PS-SSH/Inquiry/2012 Dated Peshawar 11th June 2012 on the subject cited above.

Reply of allegations leveled against undersigned are pen out below.

I: No doubt undersigned is Drawing & Disbursing Officer for girl stipends and drew Rs 6138166/- from Govt. Treasury and deposited the same in designated account No. 2061-2 of Executive District Officer Ele: & Sec: Education Lakki Marwat. I think the delay in the payment of stipends was due to following reasons.

- a. April to June 2011 was new academic session and due to change in the list of girl students new list were to be collected from girls schools. Collection of new list is not the responsibility of undersigned. Preparation of list of girls student is the responsibility of District officer female. the post of D.O. female was vacant and Mr. Abdul Malik the then Executive District Officer was working as drawing & disbursing officer of the office of District Officer female. District Officer Male is not authorized to conduct meeting of the head of female schools and visit the female schools.
- b. Moreover, no correspondence (reminder, explanation) was made with the undersigned from high ups. Correspondence was made with Executive District Officer Ele: & Sec: Education Lakki Marwat and he did not bring in the notice of undersigned. Undersigned get informed on 28-02-2012 and on with in few days undersigned tackled the problem (photo copy of cheque of GPO and other detail is attached).
- c. Moreover, as a delay of disbursement of amount is concerned, was of the placement of amount in single Executive District Officer designated account No. 2061-2. The drawl form this account is frequently made for multipurpose by D.O (M), D.O (F) and E.D.O. Hence, keeping the Check and balance is totally fall upon activeness of accountant. I the undersigned being Drawing & Disbursing of girls stipeads was not informed either verbally or in written about the balance and disbursement of 6138166/-. As soon as the issue came

ATTESTED




into the notice, undersigned promptly arranged for disbursement and settled the issue. To avoid such like mis-happenings in future undersigned open separate designated bank account No. 1891-2 of district officer for transactions of girls stipends. (16)

II. Undersigned used no delaying tactics, if any delaying tactics were made, the undersigned was kept aloof/uninformed from that. Justification is as under.

Fact finding committee called four officers/official (1) Mr. Abdul Malik the then E.D.O (2) Mr. Noor Hassan Khan Ex-E.D.O (3) District Officer male (undersigned) and (4) Mr. Dil Jan dealing clerk for personal hearing on 20-03-2012. I personally appeared before Mr. Rashid Khan Pinda khel Provincial Co-ordinator FTB on scheduled date i.e 20-03-2012 for hearing and collected questionnaire from him. On 30-02-2012 I attended office of Mr. Rashid Khan Pinda khel to submit my written reply but on that day he was busy in free text books activity. Mr. Mujeeb Ur Rehman Section officer (Schools) was also on casual leave due the death of his close relative. Resultantly I submit my written reply in the office of Mr. Riaz Bahar Director Education Sector Reforms Unit.

As I personally appeared before fact finding committee and submitted my written reply in time so I in person used no delaying tactics.

I want to be appeared in person before your good self to be heard in person.


(Muhammad Ayub)
District Officer (M)
Ele: & Sec: Education Lakki Marwat

ATTESTED


17

INQUIRY REPORT

Subject:- FACT FINDING ENQUIRY REPORT REGARDING NON-PLACEMENT OF FUNDS AT THE DISPOSAL OF POST OFFICE FRO PAYMENT OF STIPENDS TO GIRLS STUDENTS FOR THE PERIOD FROM APRIL TO JUNE 2011 BY EDO (E&SE) LAKKI MARWAT.

INTRODUCTION:-

1. The undersigned was assigned the task of conducting a fact finding inquiry regarding the subject matter vide Elementary & Secondary Education Department Notification No. SO(S/M)E&SED/4-17/2012/Abdul Malik (EDO), dated 1st June 2012 (Annex-I). Background of the case is that Mr. Abdul Malik, Ex-Executive District Officer (BS-19) E& SE Lakki Marwat and Mr. Muhammad Ayub, District Officer (Male) (BS-18) E&SE Lakki Marwat were involved in misuse and non-placement of an amount of Rs. 6138166/- at the disposal of GPO, Lakki Marwat for payment of 2nd Installment of stipends to 8084 girl students @ 600/- per student for the period from April to June 2011 and kept the amount with them for about nine months. Mr. Dil Jan, Senior Clerk (BS-09) Office of the EDO (E&SE) Lakki Marwat who was responsible for maintenance of record for payment of stipend to girl students, did not produce complete record for payment of the stipend for the FY, 2012-11 to the fact finding inquiry committee in time.

2. Progress report provided by the Postmaster General Khyber Pakhtunkhwa to the Elementary & Secondary Education Department revealed the misuse of the above amount and therefore, an explanation was served on them but the competent authority was not satisfied with their explanation and an inquiry under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 was initiated against them.

PROCEEDINGS:-

3. As a preliminary step to the fact finding, Mr. Abdul Malik, Ex-EDO, E&SE Lakki Marwat, Mr. Muhammad Ayub, DO, E&SE Lakki Marwat and Mr. Dil Jan, Sr. Clerk, Office of the EDO (E&SE) Lakki Marwat were charge sheeted (Annex-II, III & IV) as under:-

Mr. Abdul Malik, Ex-EDO (E&SE) Lakki Marwat:

- i. Non-placement of funds amounting to Rs. 6138166/- at the disposal of GPO, Lakki Marwat, for payment of 2nd installment of stipends to 8084 girl students @ Rs. 600/- each for the period from April to June, 2011, for about nine months.

ATTESTED

- ii. Illegal utilization of Rs. 6138166/- wholly or a major portion of it for purposes other than payment of stipends to girl students, for which it was actually released by the Government. Thus he has illegally used the Government money for his benefit for about nine months. He deposited back the same through cash/transfer once the financial irregularity was unearthed by the Department.
- iii. Intentionally avoiding to respond to the explanation called by the Secretary, E&SE Department on 11.10.2011.
- iv. Trying to mislead the Department by stating in letter dated 10.02.2012, that he had already responded to the explanation."

Mr. Muhammad Ayub, DO (E&SE) Lakki Marwat:

- i. Being Drawing & Disbursing Officer for payment of stipend to girl students of class 6th to 10th, he drew an amount of Rs. 6138166/- from Government Treasury meant for payment of stipend to 8084 girl students @ 600/- each for a period from April to June, 2011, but did not place the same at the disposal of GPO, Lakki Marwat, for the purpose. A major portion of the amount was used for purposes other than stipend for a period of about nine months.
- ii. Using delaying tactics in presenting the record and not cooperating with the fact finding enquiry committee."

Mr. Dil Jan, Sr. Clerk, Office of the EDO (E&SE) Lakki Marwat:

- i. Being responsible for maintenance of record of payment of stipend to girl students, he did not produce complete record of payment of stipend for the Financial Year, 2010-11, to the fact finding enquiry committee in time, even after clear orders from the incumbent EDO (E&SE), Lakki Marwat.

4. They were directed to attend the office of the undersigned (Inquiry Officer) on 18th June 2012 at 1100 hours along with documents/written defense. In response to which, they submitted written statement which may be perused at Annex-V, VI & VII.

5. In addition to the written statement, the alleged officers/official were also given a chance of personal hearing and recording their statement. Extracts from their statements/replies to the charge sheets are given below:-

- i. Mr. Abdul Malik, Ex-EDO(E&SE) Lakki Marwat (**Annex-V**) states that he did not deal with placement of funds at the disposal of GPO Lakki Marwat rather this is the responsibility of the DDO (District Officer). He further states that the District Officer and dealing assistant Mr. Dil Jan Khan, Sr. Clerk drew the said amount and instead of placing at the disposal of GPO Lakki Marwat, again deposited the amount into the designated account.
- ii. Mr. Muhammad Ayub, DO (E&SE) Lakki Marwat (**Annex-VI**) states that during April to June 2011 due to commencement of new academic session and change in the list of girl students, the new lists were to be collected from girls schools which was the responsibility of DO Female while the post of DO Female was vacant and Mr. Abdul Malik, the then EDO was working as DDO for the office of DO Female. DO Male is not authorized to conduct meeting of the heads of female schools and visit the female schools. Moreover, the drawl from A/C No. 2061-2 is frequently made for multipurpose by DO (M), DO (F) and EDO. Hence keeping watch on the account totally depends upon activeness of Accountant.
- iii. Mr. Dil Jan, Sr. Clerk, office of the EDO (E&SE) Lakki Marwat (**Annex-VII**) states that he is working in low grade and not holding responsible post. Responsible position for such activities is Account Officer and not the Sr. Clerk. He is only the custodian of the record and not a designated person dealing account matters.

Ahmed

GENERAL OBSERVATIONS:-

6. The Elementary & Secondary Education Department constituted a committee to conduct the fact finding inquiry regarding non-payment of funds which were placed at the disposal of EDO Elementary & Secondary Education vide their Notification (**Ann-VIII**). The Inquiry Committee conducted an exhaustive inquiry and held responsible Mr. Abdul Malik, Ex-EDO E&SE Lakki Marwat fully responsible for non-placement of the required fund at the disposal of GPO Lakki Marwat. They came to the conclusion that Mr. Muhammad Ayub, DO Male, Lakki Marwat, Drawing & disbursing officer, and Mr. Dil Jan Sr. Clerk of the office of the EDO Lakki Marwat are all in league in misappropriation and mismanagement of the fund.

TESTE
[Signature]

FINDINGS:-

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After going through the record provided by the Elementary & Secondary Education, the preliminary inquiry report submitted by the inquiry committee consisting of Mr. Rashid Khan Painsakhel, Provincial Coordinator, PFTB, E&SE Department and Mr. Muhammad Younas, Section Officer (Accounts), E&SE Department and agreement signed between E&SE Department and Post Master General, Khyber Pakhtunkhwa, Peshawar for payment of stipend to Secondary Schools Girls Students and the written statements/interviews of the accused officers, conducted by the undersigned, it became clear that the funds amounting to Rs. 61,38,166/- has been withdrawn by the office of EDO E&SE Lakki Marwat and did not handed over to Post Office as per requirement of the agreement signed between the E&SE Department and Post Office. The funds remained under the custody of the office of the EDO E&SE Lakki Marwat without any lawful authority for 09 months. It was only deposited back when detected by the Elementary & Secondary Education department through its own sources. It would not be out of context to mention that Ex-EDO Lakki Marwat Mr. Abdul Malik admitted before the Inquiry that he had committed blunder and shifted the blame towards DO E&SE, Lakki Marwat, Mr. Muhammad Ayub who was also the Drawing & Disbursing Officer and the Office Clerk, Mr. Dil Jan who was supposed to keep the record. All the three officials interviewed, blamed each other for this mishap. Everyone of them shrugged off his responsibility saying that it is the responsibility of the other which clearly indicated the irresponsible attitude of the officials of the Elementary & Secondary Education of District Lakki Marwat. Further, it may not be out of context that Elementary & Secondary Education Department also did not show the proactive role where there should have been strict watch on the field formation because huge financial implications were involved in the scheme. The inquiry holds responsible all the three accused of misappropriation of funds as per their responsibility and the charges leveled against them stand proved.

RECOMMENDATIONS:-

8. Now, in light of the above, the following recommendations are made:
- i. The check and balance system of the Elementary & Secondary Education Department, especially with regard to payment of stipend to female students from class 6th to 10th requires to be reshaped.
 - ii. From the record and procedure adopted for the disbursement a wide gap has been left where the District Officers E&SE can easily manipulate the money withdrawn in the form of cash.

ATTESTED



- iii. A doubt has been created about the transparency of the procedure adopted by the E&SE Department in this scheme. There may be many more such like cases in other districts as well where the department is required to look into.
- iv. The EDO E&SE being the head of the department at district level is responsible for keeping check on the financial as well as administrative issues of his office in which Mr. Abdul Malik, EDO E&SE has been miserably failed in performing his duties of supervision and administration. Hence the charges leveled against him stand proved. Therefore, the inquiry recommends that major penalty of compulsory retirement may be imposed upon him.
- v. The Drawing & Disbursing Officer was responsible for drawing the amount from the designated account of the EDO E&SE and was supposed to further deposit the money in the Post Office, Lakki Marwat as enshrined in the agreement between the two parties i.e E&SE Department and Post Master General, Khyber Pakhtunkhwa. Therefore, the inquiry came to the conclusion that charges leveled against him also stand proved. But being second in command in the hierarchy, it is recommended that minor penalty of withholding of promotion for five years.
- vi. So far Mr. Dil Jan, Sr. Clerk is concerned, having least responsibility but still he was in league with EDO, E&SE and DO, Lakki Marwat. Therefore, the charges leveled against him are also proved and the inquiry recommends that he may also be given the minor penalty of withholding of increments for two years.



(SYED ALAMGIR SHAH)
SPECIAL SECRETARY HOME/
INQUIRY OFFICER

12/10/12

REGISTERED/AD

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT



No.SO(S/M)E&SED/4-17/2012/Abdul Malik Ex-EDO Lakki Marwat
Dated Peshawar the November 29, 2012

F

22

To

Mr. Muhammad Ayub,
District Officer (Male),
Elementary & Secondary Education,
Lakki Marwat,

Elementary & Secondary Education
Govt. of Khyber Pakhtunkhwa
Civil Secretariat Peshawar.

Subject: - **SHOW CAUSE NOTICE**

I am directed to refer to the subject noted above and to enclose herewith a copy of the Show Cause Notice wherein the Competent Authority (Chief Minister Khyber Pakhtunkhwa) has tentatively decided to impose the Minor Penalty of "Withholding of Promotion for Five Years" under Rule-4 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charge leveled against you.

You are therefore directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

Your reply should reach to this Department within Seven (07) days of the delivery of this letter otherwise ex-parte action shall be taken against you.

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Encl: As Above:

Endst: of even number & date:

Copy of the above is forwarded to PS to Secretary E&SE Department Khyber Pakhtunkhwa.

SECTION OFFICER (SCHOOLS/MALE)

*received today
-2012
(1:00 PM)
[Signature]*

D.O. (E&SE) PESHAWAR
D.No. 1937
Dated 2/12/2012
Lakki Marwat

ATTESTED
[Signature]

(23)

SHOW CAUSE NOTICE

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Ayub, District Officer (BS-18) (Male) E&SE Lakki Marwat as follows:-

- (i) that consequent upon the completion of inquiry conducted against you by the inquiry officer/ inquiry committee for which you were given opportunity of hearing; and
- (ii) on going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry officer/ inquiry committee,-

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

- (a) Inefficient
- (b) Guilty of Misconduct
- (c) Guilty of Corruption

3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of withholding of promotion for five years under rule 4 of the said rules.

4. You are, thereof, 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.

5. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

6. A copy of the findings of the inquiry officer/ inquiry committee is enclosed.

(AMIR HAIDER KHAN HOTI)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Muhammad Ayub, District Officer (BS-18) (Male),
E&SE Lakki Marwat.

ATTESTED

Dated ¹⁰ 20/12/12

9

No. /

From

District Officer Male
Ele: & Sec: Education Deptt., Lakki Marwat

To

Mr. Amir Haider Khan Hoti
Honorable Chief Minister Khyber Pakhtunkhwa

Subject: **SHOW CAUSE NOTICE**

Memorandum;

Reference your letter No. SO(S/M)E&SED/4-17/2012/Abdul Malik Ex-EDO Lakki Marwat Dated Peshawar the November 29, 2012.

Undersigned consider the tentative decision to impose the penalty of "withholding promotion for five years" by the competent authority as unjustified, on the following grounds.

1. Being District Officer Male the drawl and distribution of Girls Stipend amount is not the responsibility of undersigned but that of District Officer female. As the post of District officer female was vacant in June 2011 so the then Executive District Officer E&SE directed undersigned to prepare bill to draw the girls stipend amount of Rs 6138166/- and deposit the same in the designated account of EDO Lakki Marwat (Account No. 2061-2) to avoid delay in the distribution of stipend amount to girls student due to mere vacation of District Officer female post. Resultantly undersigned did the same according to the direction of immediate officer (EDO).
2. As according to rules of business and clear directions of worthy Secretary to Govt: of Khyber Pukhtunkhwa Elementary & Secondary Education Deptt, District Officer male can't visit Girls schools or conduct meeting with female heads of institutions, only Executive District Officer is authorized for the same, so Mr. Abdul Malik the E.D.O started to work as Drawing & Disbursing Officer just after the drawl and depositing the said stipend amount in the designated account of EDO. Therefore, on acquiring DDO ship of District Officer female distribution of stipend amount was the responsibility of the then EDO not of the undersigned.

AMIR HAIDER KHAN
HOTI

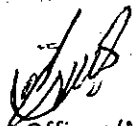
3. No correspondence (reminder, explanation) was made with the undersigned from high ups. Correspondence was made with the then Executive District Officer which was not shared or communicated with the undersigned. Undersigned got informed on 28-02-2012 (after the transfer of the then EDO) when an inquiry was constituted by Mr. Rashid Khan Pinda khel Project Director E&SE Department Khyber Pakhtunkhwa.
4. When Mr. Mir Azam Khan assumed the charge of Executive District Officer, he informed the undersigned about delay in distribution. He directed the undersigned to complete the collection of girls students list and distribution of stipend amount without further delay.
5. In compliance of direction of in chair EDO (Mir Azam Khan) undersigned deal the task on war footing and handing over following items/documents to GPO Lakki Marwat on 13-03-2012.
- Girls Student list
 - Cheque of amounting to RS 51,39,403/- (photo copy attached)
 - 8084 money order forms
 - Soft copy of the Girls Student list (on USB)

The surplus amount of Rs 998763/- was deposited in to Govt Treasury on challan form (photo copy attached) on the same day ie 13-03-2012.

6. GPO Lakki Marwat immediately distributed the money orders and submitted coupons (receipts) to the Executive District Officer E&SE Lakki Marwat.

Enclosures: As above

Note: undersigned desire to be heard in person by the competent authority to justify the position.


District Officer (Male)
E&S Education Deptt: Lakki Marwat

ATTESTED




GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the February 13, 2013

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26

NOTIFICATION

NO.SO(S/M)E&SED/4-17/2012/Abdul Malik Ex-EDO & Others: WHEREAS Mr. Muhammad Ayub, Deputy District Education Officer (BS-18) (Male) Lakki Marwat was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges as mentioned in the Charge Sheet and Statement of Allegations.

AND WHEREAS Syed Alamgir Shah, Special Secretary (BS-20) Home & Tribal Khyber Pakhtunkhwa was appointed as Enquiry Officer to conduct enquiry of the accused officer, for the charges leveled against him in accordance with the Rules.

AND WHEREAS the Enquiry Officer after having examined the charges, evidence on record and explanation of the accused officer has submitted the report.

4. AND WHEREAS a Show Cause Notice was served upon Mr. Muhammad Ayub, Deputy District Education Officer (BS-18) (Male) Lakki Marwat dated 29-11-2012.

5. AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, enquiry report, explanation of the accused officer in response to the Show Cause Notice, is of the view that the charges against the accused officer have been proved.

6. NOW, THEREFORE, in exercise of the powers conferred under Rule-14 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to impose Minor Penalty of "Withholding of Promotion for Five Years" upon Mr. Muhammad Ayub, Deputy District Education Officer (BS-18) (Male) Lakki Marwat.

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3- PSO to Chief Minister, Khyber Pakhtunkhwa.
- 4- District Education Officer (Male) Lakki Marwat.
- 5- District Accounts Officer, Lakki Marwat.
- 6- Mr. Muhammad Ayub, Deputy District Education Officer (Male) Lakki Marwat.
- 7- PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 8- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 9- PS to Additional Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 10- Office order file.

Received
on 4-03-13

[Signature]
4/3/13

[Signature]
(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

REGISTERED

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) LAKKI MARWAT

No 1813

Dated. 28-03-2013

To,

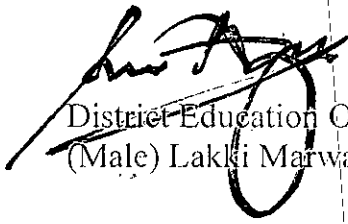
The Director,
Elementary & Secondary Education
Khyber Pakhtunkhwa.

(27)

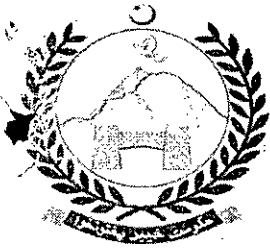
Subject:- DEPARTMENTAL APPEAL IN R/S OF MUHAMMAD AYUB DDEO (MALE)
LAKKI MARWAT.

Memo:-

Enclosed please find herewith the departmental appeal in R/O Muhammad Ayub Khan Deputy District Education Officer (DDEO) (Male) Lakki Marwat is forwarded for onward submission to the quarter concerned.


District Education Officer
(Male) Lakki Marwat.

ATTESTED

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

No.SO(S/M)E&SED/4-17/2012/Abdul Malik Ex-EDO & others
Dated Peshawar the May 14, 2013

To



The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

Subject: - **DEPARTMENTAL APPEAL IN R/O MUHAMMAD AYUB DY: DISTRICT
EDUCATION OFFICER (MALE) LAKKI MARWAT.**

I am directed to refer to your letter No.12/F.NoA-12/Estab:1 dated 02-05-2013 on the subject noted above and to state that Mr. Muhammad Ayub Khan Ex-Deputy District Education Officer (BS-19) (Male) Lakki Marwat may be informed to submit review petition instead of appeal by addressing his request to the Chief Minister, Khyber Pakhtunkhwa instead of Governor Khyber Pakhtunkhwa immediately as the review petition has already been delayed and expired.

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to Mr. Muhammad Ayub Khan, Ex-Deputy District Education Officer (M) (Now Principal GHSS Tajizai District Lakki Marwat) for similar necessary action.


SECTION OFFICER (SCHOOLS/MALE)

ATTESTED


OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) LAKKI MARWAT

No. 3088

Dated. 27-05-2013

To,

The Director,
Elementary & Secondary Education
Khyber Pakhtunkhwa.

(29) = K

Subject:- Review
~~DEPARTMENTAL~~ PETITION IN R/S OF MUHAMMAD AYUB DDEO (MALE) LAKKI MARWAT.

Memo:-

Review.
Enclosed please find herewith the ~~departmental~~ petition in R/O Muhammad Ayub Khan Deputy District Education Officer (DDEO) (Male) Lakki Marwat is forwarded for onward submission to the quarter concerned.

[Signature]
District Education Officer
(Male) Lakki Marwat.

REGISTERED

[Signature]

Muhammad Ayub
Deputy District Education Officer (Male)
(D.O Male) Lakki Marwat.

To:
The Chief Minister (Chief Executive)
Khyber Pakhtunkhwa.

Through:- **PROPER CHANEL.**

Subject:- *Review* PETITION TO ABSOLVE THE PENALTY OF WITH HOLDING OF PROMOTION FOR FIVE YEARS.
Respected Sir,

Most respectfully I beg to state that reference notification issued by Govt. Khyber Pakhtunkhwa Elementary & Secondary Education Department vide No.SO (S/M)4-17/2012/Abdul Malik Ex-Executive District Officer & Others dated Peshawar the February, 13-2013, the penalty of "With holding of promotion for five year" has been imposed by Chief Minister Khyber Pakhtunkhwa (Photo Copy is attached), it is stated that the undersigned requests your good self to ABSOLVE the said penalty being the Chief Minister of Khyber Pakhtunkhwa on the following grounds/ requests.

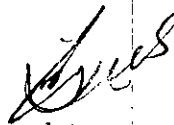
The penalty has been imposed due to delay of payment of stipends to girls students of District Lakki Marwat, and shortage of amount in Executive District Officer, designated account No.2061-2 NBP Lakki Marwat no doubt the undersigned signed the bill for stipend in June 2011 and deposited the amount in Executive District Officer, designated account No.2061-2, as the District Officer (Female) has been retired in June 2011, and the post was vacant.

After that the Executive District Officer, Abdul Malik assumed the DDO ship of DO (Female). The amount was in his designated account and he was DDO of DO (Female), in my opinion he was responsible for preparation of list of girls students and payment in October/November, but he failed to prepare the lists of all girls students (6th to 10th) of the *whole*, District due to militancy in Lakki Marwat district because most of the female schools were closed due to threat from Taliban to Female teacher.

After that explanation has been called from him due to not payment, and delay in payment but no information/correspondence, reminder, explanation were made with the undersigned from Executive District Officer, Director Elementary & Secondary Education or others. In Feb: 2012 Abdul Malik has been transferred and Mir Azam Khan took over charge as Executive District Officer Lakki Marwat. He advised/directed us to prepare, list and pay the stipend amount to G.P.O Lakki Marwat for distribution. The undersigned obeyed the order, complete the money order forms of the students, handed over cheque of Rs.5139403/- for 8084 students on 13-03-2012, to GPO Lakki Marwat (Photo Copy attached)

The amount has been distributed to each and every student. But enquiry has been Lunched against Abdul Malik and others. I provide each and every proof but enquiry officer

has been suspended for 5 Years.
The amount has been distributed and no student remain unpaid, kindly
for promotion from BPS-18 To BPS-19.


Muhammad Ayub
Deputy District Education Officer (M)
(D.O)Lakki Marwat



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

No. SO(S/M)E&SED/4-17/2012/Abdul Malid
Dated Peshawar the August 02, 2013

To

Mr. Muhammad Ayub,
Deputy District Education Officer (BS-18) Male Lakki Marwat.

Subject: - REVIEW PETITION IN DISCIPLINARY ACTION AGAINST MR. ABDUL MALIK EX-DEO MALE (BS-19) LAKKI MARWAT AND OTHERS.

I am directed to refer to your review petition received through Directorate E&SE vide letter No. 5895 dated 31-05-2013 on the subject noted above and to state that the Chief Minister Khyber Pakhtunkhwa/ Competent Authority has rejected your review petition having no valid grounds.

[Signature]
SECTION OFFICER (SCHOOLS/MALE)

Endst: of even number & date:

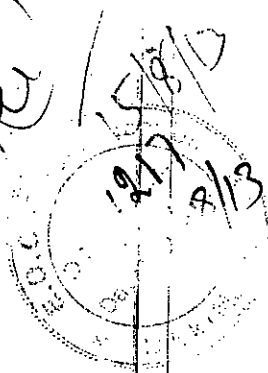
Copy of the above is forwarded to the: -

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. PS to Chief Secretary, Khyber Pakhtunkhwa.
3. PS to Secretary Elementary & Secondary Education Department, Peshawar.

SECTION OFFICER (SCHOOLS/MALE)

*M. Ayub
EX-DDEO*

[Signature]



ATTESTED
[Signature]

15-8

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

Service Appeal No. 1318/2013

Muhammad Ayub

VS

Education Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-10) 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 was not failed in performing his official duties and he did not issue stipend due to non-disbursement by the drawing and disbursing officer in time and also because of non posting of D.O (female).
- 2 Incorrect. While para 2 of the appeal is correct.
- 3 Incorrect and not replied according to para 3 of the appeal.
- 4 Incorrect. The appellant has not confessed his failure in performing his official duty, but he denied allegations with proofs.
- 5 Incorrect. While para 5 of the appeal is correct.
- 6 Incorrect. The appellant did not reveal his failure in performing his duty in his reply to

show cause, but he denied all allegations with cogent reasons.

- 7 Incorrect. The appellant has genuine cause of action to prefer the present appeal which is liable to be accepted on the following grounds.

GROUND:

A- Incorrect. The orders dated 2.8.2013 and 13.2.2013 are against the law, rules, norms of justice and material on record. Therefore not tenable and liable to be set aside.

B- Incorrect. While para B of the appeal is correct.

C- Incorrect. The said order is not speaking one, which is violation of section-24 of the General Clauses Act and Supreme Court's judgment reported as 1991 SCMR-2330.

D- Incorrect. While para D of the appeal is correct.

E- Incorrect. Hence denied.

F- Incorrect. While para E of the appeal is correct.

G- Incorrect. While para G of the appeal is correct.

H- Incorrect. While para H of the appeal is correct.

I- Incorrect. The statement of the appellant is not false as he has not given the chance of personal hearing despite the request made in reply to the show cause notice. Thus the appellant has been condemned unheard.

J- Incorrect. The appellant has not been treated according to the law and rules.

K- Legal.

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

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

SERVICE APPEAL No: 1318/2013.

Muhammad Ayub Dy: District Officer (M) District Lakki Marwat . -----Applicant

VERSUS

Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar & others -----Respondents

PARAWISE COMMENTS/REPLY FOR AND ON BEHALF OF THE RESPONDENTS.

Respectfully Sheweth:-

Preliminary objections

- 1 The appellant has no cause of action/locus standi.
- 2 That the appellant has not come to this Hon! able Tribunal with clean hands.
- 3 The appellant has concealed the material fact from this Hon! able Tribunal, hence liable to be dismissed.
- 4 That the instant appeal is based on malafide intentions .
- 5 That the instant appeal is not maintainable in its present form.
- 6 That the instant appeal is badly time barred.
- 7 That the transfer order dated 31/5/2013 is legally competent.
- 8 That the respondents are empowered to transfer & post a civil servant wherever his services are required.
- 9 That the post in question is of district cadre.
- 10 That the present appeal is against the relevant policy.

ON FACTS

- 1 The appellant was miserably failed in performing his official duties. Being Dy: District Officer for payment of stipend to girls students of class-6th to 10th. The appellant draw an amount of Rs. 6138166/- from Govt: Treasury meant for payment of stipends to 8084 girls students for a period from April to June 2011 and did not place the same amount at the disposal of GPO Lakki Marwat. It is also correct that appellant used delay tactics in presenting the record before the enquiry Committee and the appellant also not cooperating with enquiry Committee, as proved correct by enquiry officer.
- 2 Incorrect. In the mentioned enquiry report, in para-6(iii) fixation of responsibility, it is stated that Mr. Muhammad Ayub DO(M) Lakki Marwat (appellant) being drawing & disbursing officer, is held responsible as collaborator with EDO now DEO(M) E&SE Lakki Marwat in non placement of requisite funds at the disposal of GPO Lakki Marwat for payment to Girls students. He also held responsible for delaying ties and presenting record to the committee, non recording of statement & non/reply to the

questioner to the committee which was handed over to him on 20.3.2012 which is the same enquiry report it is suggested that disciplinary action under E&D Rules, 2011 may be initiated against the appellant, hence the statement of the appellant in this Para is misleading one. (Annexed enquiry report)


- 3 Incorrect. Both documents mentioned in this Para and annexed with the appeal are very clear & states that the appellant has committed, the acts and omission as stated in Para-I & 2 above of this reply.
- 4 Incorrect. In facts the appellant has confessed his failure in performing his official duty & also indicates the malafide of the appellant.
- 5 Incorrect. In the mentioned enquiry report, i.e annexure-"E" of appeal, the DDO was responsible for drawing the amount from the designated accounts of the EDO (M) E&SE Lakki Marwat & was supposed to further the deposit the money in the post office Lakki Marwat as enshrined in the agreement between the two party i.e E&SE Department & Post Master General Khyber Pakhtunkhwa. Therefore, the enquiry came to the conclusion that charges level against him stand proved but being second in command in the hierarchy it is recommended minor penalty of withholding of promotion for 5-years.
- 6 Incorrect. The said reply reveals the malafide of the appellant in failure in performing his official responsibility.
- 7 Incorrect. This Para is related to the record, while the appellant has no locus standi to prefer the present appeal, hence the appeal in hand is liable to be dismissed inter alia on the following grounds :-

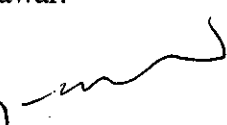
ON GROUNDS

- A That the order dated 2.8.2013 and 13.2.2013 as mentioned in this Para are according to the law. Rules norms of justice and material on record, therefore, tenable in the eye of law.
- B Incorrect. The appellant has been punished on account of allegations as mentioned in statement of allegations and also highlighted in the enquiry report.
- C Incorrect. The said order is speaking one.
- D Incorrect. The statement of the appellant is false & base on malafide motives against the facts & record. The appellant confessed his DDO ship during the enquiry proceedings.
- E As replied in para above.
- F Incorrect. The statement of the appellant in this Para is false, manufactured one & without support of any legal documents/proofs, hence denied.
- G Incorrect & not admitted. The statement of the appellant in this Para is against the enquiry report, hence denied.
- H Incorrect. The appellant was held responsible to place the said amount at the disposal of the GPO Lakki Marwat but he deposited the said amount in designated account of the EDO(M) E&SE for their personal malafide intention, hence this Para is denied.

- I Incorrect. The statement of the appellant is false & against t the enquiry report, hence denied.
- J Incorrect. The appellant has been treated according to the law & rules.
- K The respondents also seeks leave of this Hon! able Tribunal to advance more grounds & proofs at the time of hearing.

In view of the above submission, it is requested that this Hon' able Tribunal may very graciously be pleased to dismiss the appeal with cost in favour of the respondent Department.


Director
E&SE Khyber Pakhtunkhwa,
Peshawar.


Secretary
E&SE Department Khyber
Pakhtunkhwa, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA,
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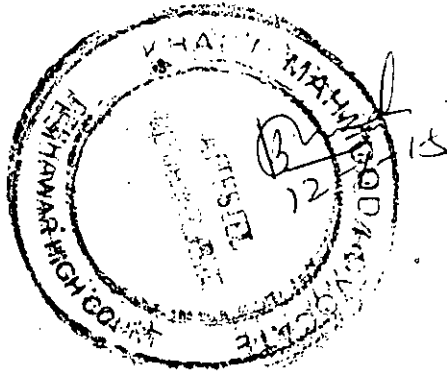
Through:

M. Asif

(M. ASIF YOUSAFZAI)
ADVOCATE,

AFFIDAVIT

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



Asif
DEPONENT