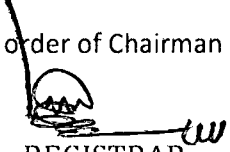


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1460 /2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/10/2022	<p>The appeal of Mr. Waris Khan resubmitted today by Malik Zulfiqar Mahmood Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan on _____. Notices be issued to appellant and her counsel for the date fixed.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR,</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1460/2022

Mr. Waris Khan

.....Appellant

VERSUS

The Government of Khyber Pakhtunkhwa & others.

.....Respondents.

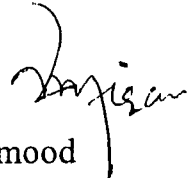
INDEX

Sr#	Description of Documents	Annexure	Page No.
1.	Memo of Appeal		1-2
2.	Affidavit		3
3.	Removal order	"A"	4
4.	Comments of District Education Officer D.I. Khan.	"B"	5
5.	Impugned Notification dated 24.08.2022	"C"	6
6.	Wakalat Naama		7

Appellant

Through

Malik Zulfiqar Mehmood
Advocate



①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1460 /2022

Mr. Waris Khan, Chowkidar, GPS, Wazirabad, D. I. Khan -----Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa.
2. The Secretary Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa
3. The Director Elementary & Secondary Education, Khyber Pakhtunkhwa
4. District Education Officer (Male), D. I. Khan.

----- Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE NOTIFICATION NO.1467-69/F.NO.152/A-20/C-IV/D.I. KHAN VOL-2 DATED 24.08.2022 TO THE EXTENT OF THE WORDS "THE ABSENT PERIOD IS HEREBY TREATED LEAVE WITHOUT PAY", TO BE DECLARED AGAINST LAW & FACTS.

Respected Shewth

Facts

1. That the appellant is the employee of respondent department and is performed his duties quite efficiently and upto the entire satisfaction of his superiors.
2. That the appellant is serving as Chowkidar Govt. Primary School Wazir Abad D.I. Khan.
3. That the appellant was removed from service vide order dated 23.06.2021 notified by the respondent No.04 (Annex-A).
4. That the appellant approached the appellate authority through a Departmental Appeal and the respondent No. 04 submitted the comments (Annex-B), whereby the appellate authority accepted the appeal of the appellant partially and re-instated the appellant in the service and the absent period treated without pay which portion is against the law & facts (Annex-C).

Grounds

2

- A. That the appellant received the Notification dated 24.08.2022 on 13.09.2022 and rejoined the duty on 14.09.2022.
- B. That the portion in the order dated 24.08.2022 that “absent period is hereby treated without pay” is against law & facts and ineffective on the rights of the appellant.
- C. That the decision portion treating absent period is very harsh.
- D. That the appellant has not done any work for livelihood during absent period. Hence entitled for leave with pay for the said period.
- E. That the appellant authority has transgressed his jurisdiction by treating “the absent period as leave without pay” which is not tenable in the eyes of law.

Prayer

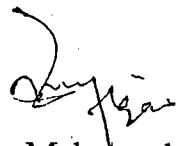
On the acceptance of this Appeal the impugned Notification dated 24.08.2022 to the extent of the words “absent period is treated as leave without pay” may be declared as unlawful and against the law and respondents may kindly be ordered for the counting of the absent period as with pay. Any other remedy which this August Tribunal deems fit may also be awarded in the favour of the appellant.

Dated: 23 /09/2022

Appellant

Waris Khan

Through:


Malik Zulfiqar Mehmood,
Advocate
Cell No.03118808048

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 2022

Mr. Waris Khan

.....Appellant

VERSUS

The Government of Khyber Pakhtunkhwa & others.

.....Respondents.

AFFIDAVIT

Stated on oath the contents of the accompanying service appeal are correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Service Tribunal.



(Signature)
Deponent

Certificate

Certify that no earlier service appeal has been filed by the appellant in the instate matter before this Honourable Service Tribunal.

(Signature)
Certification

OFFICE OF THE DIST. ICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

Tel: 0660200111
Email: deam100@pgo.gov.pk

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12506

Date: 23/06/2021

WHEREAS you Mr. WAZIR KHAN while working as Chowkidar at GPS Wazir Abad Dikhan were proceeded for having committed the following acts, to-wit: (a) negligence and dereliction of duty under rules 1 sub rules (a)(b) & (c) of the Khyber Pakhtunkhwa Govt. Service Rules 2011

- 1. That you were appointed against the post of Chowkidar vide office Order No. 1615-1118 dated 12/01/2018 whereas you submitted arrival on 13/01/2018
- 2. That you remained absent from duties as reported by EMAs (Education Monitoring Authority) as mentioned in various show cause notices served up on you

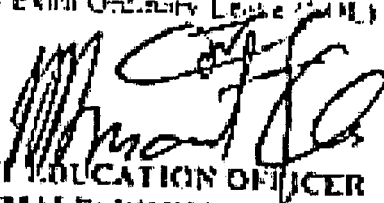
AND WHEREAS show cause notices were served upon you vide office No. 16117 dated 12/06/2019, No. 16147 dated 12/06/2019, No. 20172 dated 03/10/2019 and No. 20665 dated 18/10/2019 by the competent authority i.e. District Education Officer (Male) Dikhan

AND WHEREAS your reply in any of show cause notices was not received

AND WHEREAS you were called to be heard in person vide 31727-ND dated 06/11/2019 but you were failed to appear on personal hearing.

AND WHEREAS you were intimated to join the duties through public notice in Dhilly Mathraq dated 08/02/2021 within 15 days but you failed to do so

NOW THEREFORE the Competent Authority in exercise of the power conferred under Sub Rules 4-b (iii) and 9 of Govt. of Khyber Pakhtunkhwa, Establishment & Administration Department Rules 2011, & Mr. Musarrat Hussain Khan District Education Officer (Male) Dikhan as competent authority is pleased to impose the Major Penalty of "REMOVAL FROM SERVICE" upon Mr. WAZIR KHAN Chowkidar at GPS Wazir Abad from the date of his last show cause notice i.e. 12/06/2019. Moreover, the absence period will be considered as Extra Ordinary Leave (EOL) without pay

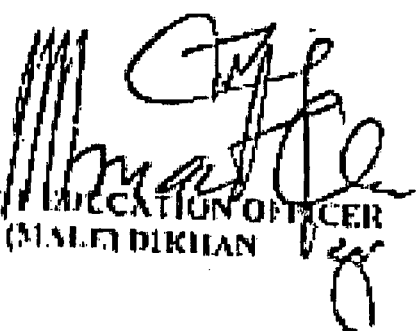

DISTRICT EDUCATION OFFICER
(MALE) DIKHAN

Date: 23/06/2021

Order No. 12506-10
PT

Copy for information & necessary action to the:-

- 1. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar
- 2. Deputy Commissioner Dera Ismail Khan.
- 3. District Comptroller of Accounts Dikhan.
- 4. Principal/ Head Master/ NDEO concerned.
- 5. Master file.


DISTRICT EDUCATION OFFICER
(MALE) DIKHAN

EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN
Toll: 0999330130, 0999330131
Email: emskhan@gmail.com

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No. 22/A/2021
AD-III C-IV D.I.Khan

Dated D.I.Khan the 11/06/2021

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Subject: APPEAL / COMMENTS
Memo

Kindly refer to your Memo No. 223 / No 20/C-IV/DIKhan
Dated Peshawar on the subject cited above

It is submitted for your kind information that Mr. Waris Khan (Ex-Chowkadar
Wazir Abad, D.I.Khan has already been found absent from duty by the Education
Monitoring Authority (EMA) D.I.Khan as well as reported by the Head Teacher SDEC
concerned. According to above facts various show cause notices were also issued to the above
official. The constituted Disciplinary Action Committee (DAC) against Mr. Waris Khan
and others, who were the habitual absent staff according to Education Monitoring Authority
D.I.Khan to decide action against all the defaulters.

In the light comprising of (DAC) the order / notification of "Removal from
Service" issued to Mr. Waris Khan (Ex-Chowkadar) as well as others. The detail comments
alongwith photo copies of all the relevant "Annexures" have already been submitted to your
office under this office Memo No. 6735 dated 08/04/2021.

Now, PSHT concerned said that he was on night duty. He told EMA/DEMA but he
did not pay heed to his request. He was on night duty as August Supreme Court directed for eight
hours duty.


District Education Officer
(Male) Dera Ismail Khan



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NOTIFICATION

1. WHEREAS, Mr. Waris Khan Ex-Chowkidar GPS Wazir Abad D.I.Khan was reported absent from duty by (EMA).
2. WHEREAS, Disciplinary Action Committee (DAC) constituted against Mr. Waris Khan (EMA) D.I.Khan to decide action against the Chowkidar and others.
3. WHEREAS, the (DAC), the order /notification as Removal from service issued to Mr. Waris Khan (Ex.Chowkidar) GPS Wazir Abad D.I.Khan as well as others due to their absence from duty.
4. WHEREAS, this Directorate asked comments from the DEO (Male) D.I.Khan vide letter No.223 dated 22.4.2022 in the light of appeal of Mr. Waris Khan Ex-Chowkidar GPS Wazir Abad D.I.Khan.
5. WHEREAS, this Directorate called Mr. Waris Khan Ex-Chowkidar GPS Wazir Abad D.I.Khan for personal hearing on 01/07/2022.
6. NOW, THEREFORE, the appellate authority Director E&SE Khyber Pakhtunkhwa Peshawar under E&D rules 2011 has accepted his appeal and re-instated Mr. Waris Khan Ex-Chowkidar GPS Wazir Abad D.I.Khan into service and the absent period is hereby treated as leave without pay.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

1467-69
Endst: No. _____ /F.No.152/A-20/C-IV/D.I.Khan Vol-2

Dated Peshawar the 24/08/2022

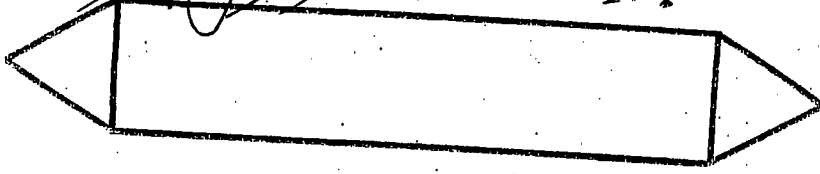
Copy of the above is forwarded for information and n/action to the:-

- 1- District Education Officer (Male)D.I.Khan.
- 2- District Account Officer D.I.Khan.
- 3- Appellant concerned.
- 4- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.
- 5- Master file.

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

بعدالت سرورس راجہ محمد حنیف خان شاہ

(7)



سہ 2ء منجانب

بنام

سرورس اپیل

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام پشاور سرورس راجہ محمد حنیف خان شاہ کیلئے کو حنیف خان شاہ اور صاحب
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے
اور اس کا ساختہ پر داخنتہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے
سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔
کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

سہ 20ء

ماہ

المرقوم

واہ العبد

کے لئے منظور ہے۔

مقام

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