

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**  
**FAREEHA PAUL ... MEMBER (Executive)**

*Service Appeal No.754/2018*

**Muhammad Younas, Ex-CT Teacher GMS Thegary, S/o Farid Gul**  
Resident of Village Rega Tehsil Gara District Buner, at present Village  
Shewa (Sang Bati) Tehsil Razar District Swabi.

.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. **Director** Elementary & Secondary Education, G.T. Road, Hashtnagri, Peshawar.
3. **District Education Officer (Male) District Buner.**

.....(*Respondents*)

Present:

Syed Noman Ali Bukhari,  
Advocate.....For appellant.

Syed Naseer Ud Din Shah,  
Assistant Advocate General.....For respondents.

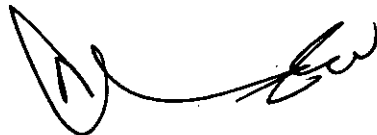
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Date of Institution.....30.05.2018  
Dates of Hearing.....10.10.2022  
Date of Decision.....10.10.2022

**APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST  
THE IMPUGNED ORDER ENDST: NO. 5349-56 DATED  
08.11.20147 WHICH WAS SHOWN/HANDED OVER TO  
APPELLANT ON 12.02.2018 IN THE OFFICE OF DEO  
DISTRICT BUNER.**



## **JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Brief facts of the case are that the appellant was serving in Education Department as CT in Govt: Middle School Thigara District Buner till 12.02.2008; that an FIR No. 2 dated 11.02.2015 under section 409/419 PPC read with Section 5(2) of Prevention of Corruption Act, Police Station Anti Corruption Establishment (ACE), Buner was lodged against the appellant; that the appellant was tried and convicted and sentenced by the Trial Court i.e learned Special Judge Anti-Corruption (Provincial) Khyber Pakhtunkhwa Peshawar vide judgment order dated 18.05.2016; that the appellant challenged the judgment dated 18.05.2016 of the learned Special Judge Anti-Corruption (Provincial) Khyber Pakhtunkhwa Peshawar in Cr. Appeal No. 130/2016 before the Hon'ble Peshawar High Court, Mingora Bench (Darul Qaza) Swat and the Hon'ble Peshawar High Court, Mingora Bench (Darul Qaza), acquitted the appellant from the charges leveled against him vide order dated 10.11.2016; that after acquittal the appellant approached the competent authority for reinstatement of service but in vain; that vide impugned order dated 08.11.2017, the appellant was terminated from service against which the appellant filed departmental appeal which was not responded within the stipulated statutory period, hence the instant service appeal.

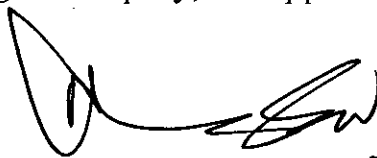


2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned Assistant Advocate General for the respondents.

4. Learned counsel for the appellant contended the impugned order of dismissal of the appellant was prima facie illegal as the same had been passed with retrospective effect and on that ground alone the same was liable to be set aside. That the appellant had not been treated in accordance with law and rules. Learned counsel for the appellant further contended that the respondents had not adopted the legal procedure by issuing show cause notice, personal hearing and conducting regular enquiry etc thus the appellant was condemned unheard. He, therefore, requested that the appellant might be reinstated in service with all back benefits.

5. Learned Assistant Advocate General argued that the appellant had been treated in accordance with law and rules. Respondent department issued charge sheet/statement of allegations and constituted an enquiry committee to conduct enquiry against the appellant and after concluding the enquiry, the appellant was awarded



major penalty of dismissal from service by respondent No.3. Learned AAG requested that the appeal might be dismissed.

6. The record reflects that appellant was proceeded against after having allegedly been found involved in financial embezzlement of the government funds. It appears that initially a show cause notice was issued to the appellant on 28.12.2016 on the allegation that the appellant had utilized an amount of Rs. 1739000/- allocated for construction of rooms; that the said amount was drawn from the Habib Bank Limited, Totalai and kept by the appellant in hand for two years. The show cause notice was replied by the appellant, where-after an enquiry was alleged to have been conducted but there is no order of the constitution of enquiry committee annexed with the reply nor was there any report to show that the enquiry was conducted under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. The only inquiry report found placed on file is of 01.08.2017 which has no reference of any order of constitution of the inquiry committee rather a reference to some telephonic message was made. The said enquiry cannot be termed as a proper enquiry under the prevalent rules rendering the entire action improper and untenable, therefore, on allowing this appeal we set aside the impugned order and direct that re-inquiry be conducted strictly in accordance with the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 within a period of sixty days from the date of receipt of this judgment. The Khyber Pakhtunkhwa



Government Servants (Efficiency & Discipline) Rules 2011 very clearly, unequivocally and very plain and in simplified words states the entire procedure of conduct of departmental proceedings and that too in writing so what the departmental authority is to do is to just keep in front of it the rules and proceed step by step properly associating the appellant. The appellant is reinstated in service for the purpose of enquiry. The back benefits shall be subject to the outcome of the enquiry. The compliance report be submitted to the Registrar of this Tribunal. Similarly the date of receipt of the judgment shall also be communicated to the Registrar. Copy of this judgment be sent to the Secretary to the Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Peshawar and Director Elementary & Secondary Education, Peshawar for information and compliance. Costs shall follow the event. Consign.

**7. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 10<sup>th</sup> day of October, 2022.***



**KALIM ARSHAD KHAN**  
Chairman



**FAREEHA PAUL**  
Member (Executive)

**ORDER**

10<sup>th</sup> Oct, 2022

1. Learned counsel for the appellant present. Syed Naseer Ud Din Shah, Asst: AG alongwith Iftikhar Ghani, DEO(M) for respondents present.

2. Vide our detailed judgement of today placed on file (containing 05pages), therefore, on allowing this appeal we set aside the impugned order and direct that re-inquiry be conducted strictly in accordance with the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 within a period of sixty days from the date of receipt of this judgment. The Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 very clearly, unequivocally and very plain and in simplified words states the entire procedure of conduct of departmental proceedings and that too in writing so what the departmental authority is to do is to just keep in front of it the rules and proceed step by step properly associating the appellant. The appellant is reinstated in service for the purpose of enquiry. The back benefits shall be subject to the outcome of the enquiry. The compliance report be submitted to the Registrar of this Tribunal. Similarly the date of receipt of the judgment shall also be communicated to the Registrar. Copy of this judgment be sent to the Secretary to the Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Peshawar and Director Elementary & Secondary Education, Peshawar for information and compliance. Costs shall follow the event. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 10<sup>th</sup> day of October, 2022.*



**(Kalim Arshad Khan)**  
Chairman



**(Fareeha Paul)**  
Member(Executive)

25<sup>th</sup> July 2022

Learned counsel for the appellant present. Mr. Riaz Ahmad Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 10.10.2022 before the D.B.



(Salah-Ud-Din)  
Member (J)



(Kalim Arshad Khan)  
Chairman

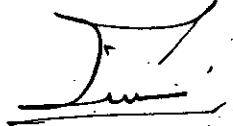
22.03.2022

Appellant in person present. Mr. Kabirullah Khattak,  
Additional Advocate General for the respondents present.

Appellant requested for adjournment on the ground that  
his counsel is busy in the august Peshawar High Court,  
Peshawar. Adjourned. To come up for arguments on 25.05.2022  
before the D.B.



(Rozina Rehman)  
Member (J)



(Salah-ud-Din)  
Member (J)

25<sup>th</sup> May, 2022

Counsel for the appellant present. Mr. Asif Masood,  
Deputy District Attorney alongwith Mr. Iftikhar Ghani, DEO (M)  
Bunner for the respondents present.

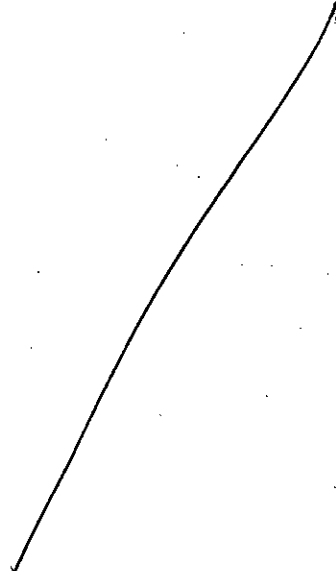
Counsel for the appellant requested for adjournment on the  
ground that he has not prepared the brief. Adjourned. To come up for  
arguments on 25.07.2022 before D.B.



(Fareeha Paul)  
Member(E)



(Kalim Arshad Khan)  
Chairman





18.10.2021

Appellant in person present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General alongwith Ubaid ur Rehman ADEO for respondents present.

Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 13.01.2022 before D.B.



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




(Rozina Rehman)  
Member (J)

13.01.2022

Learned Counsel for the appellant present. Mr. Asif Masood Ali Shah, DDA alongwith Iftikharul Ghani, DEO (M) Buner for the respondents present.

Learned counsel for the appellant requests for adjournment. Request accorded. To come up for arguments on 17.03.2022 before the D.B.



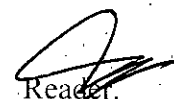
(Atiq-ur-Rehman Wazir)  
Member(E)



Chairman

17.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 22.03.2022 for the same as before.



Reader.


01.04.2021

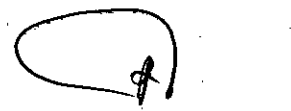
Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General alongwith Iftikhar Ghani D.E.O for respondents present.

Issue involved in the instant case is pending before Larger Bench of this Tribunal, therefore, case is adjourned. To come up for arguments on


12 / 07 / 2021 before D.B.


  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

12.07.2021

Mr. Taimur Ali Khan, Advocate, for the appellant present. Mr. Obaid-ur-Rehman, Assistant alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and stated at the bar that brief of the instant appeal was handed over for preparation to Mr. Muhammad Adeel Butt, learned Additional Advocate General, however he is unable to appear before the Tribunal today due to illness, therefore, an adjournment may be granted. Learned counsel for the appellant is having no objection on the adjournment. Adjourned. To come up for arguments before the D.B on 18.10.2021.

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

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

29.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 05.08.2020 before D.B.



Reader

05.08.2020

Due to summer vacation case to come up for the same on 16.10.2020 before D.B.



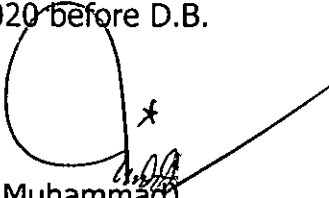
Reader

16.10.2020

Appellant in person present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former made a request for adjournment as his counsel is not available. Adjourned. To come up for arguments on 30.12.2020 before D.B.



(Mian Muhammad)  
Member (E)



(Rozina Rehman)  
Member (J)

30.12.2020

Due to summer vacation, case is adjourned to 01.04.2021 for the same as before.



Reader

31.10.2019


Appellant in person present. Mr. Usman Ghani learned District Attorney alongwith Mr. Abdur Rehman ADO for the respondents present. Appellant requested for adjournment that his counsel is not in attendance. Adjourn. To come up for arguments on 06.12.2019 before D.B.

  
Member

  
Member

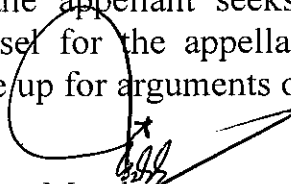
6.12.19

The Bench is incomplete  
Therefore case is adjourned  
to 11-2-2020

  
Rudra

11.02.2020

Junior to counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Junior to counsel for the appellant seeks adjournment as learned senior counsel for the appellant is not available. Adjourned To come up for arguments on 09.03.2020 before D.B.

  
Member

  
Member

11.03.2020

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Ubaid ur Rehman ADO present and submitted additional documents placed on file. Adjournment requested. Adjourn. To come up for arguments on 29.04.2020 before D.B.

  
Member

  
Member

03.05.2019

Appellant in person and Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Atta ur Rehman Inspector present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 28.06.2019 before D.B.

  
Member

  
Member

28.06.2019

Counsel for the appellant and Addl: AG alongwith Mr. Obaid Ur Rehman, ADO for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 27.08.2019 for arguments before D.B.

  
Member

  
Member

27.08.2019

Appellant with counsel and Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Ubaid ur Rehman ADO present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 31.10.2019 before D.B.

  
Member

  
Member

24.09.2018

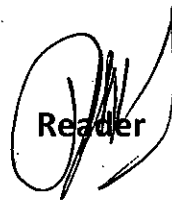
Syed Noman Ali Bukhari, Advocate counsel for the appellant present. Mr. Obaid Ur Rehman, ADO alongwith Mr. Muhamamd Jan, DDA for respondents present. Counsel for the appellant submitted rejoinder which is placed on file. Case to come up for arguments on 07.11.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

07.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 31.12.2018.

  
Reader

28.12.2018

Counsel for the appellant, Addl. AG alongwith Ubaidur Rahman, ADO for the respondents present.

It is stated that Mr. Muhammad Riaz Paindakhel, Asstt. AG was entrusted this case, however, he had to proceed to attend funeral of a near relative, therefore, request for adjournment is made. Adjourned to 11.03.2019 for arguments before the D.B.

  
Member

  
Chairman

14.02.2019

Appellant in person and Addl. AG alongwith Ubaidur Rahman, ADO for the respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant matter is adjourned to 03.05.2019 before the D.B.

  
Member

  
Chairman

11.06.2018

Appellant Muhammad Younas in person alongwith his counsel Mr Asad Khan Mohammadzai, Advocate present and heard.

Contends that vide impugned order dated 08.11.2017 the appellant has been dismissed from service with retrospective effect i.e. 05.11.2001. However, against the impugned order dated 08.11.2017, the present appeal has been filed on 30.05.2018.

The points raised need consideration. The appeal is admitted to regular hearing, subject to all legal objections, including the point of limitation, if raised by the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 02.08.2018 before S.B. Notice of stay application shall also be issued to respondents for the date fixed.

  
Chairman

02.08.2018

Appellant Muhammad Younas in person present. Mr. Obaid Ur Rehman, ADO alongwith Mr. Kabirullah Khattak, Addl: AG for respondents present. Appellant submitted Wakalat Nama of Mr. Muhammad Asif Yousaf Zai, Advocate. Written reply on behalf of the respondents submitted which is placed on file. To come up for rejoinder and arguments on 24.09.2018 before D.B.

  
Chairman

Appellant Deposited  
Security & Process Fee

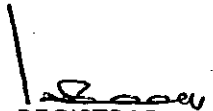
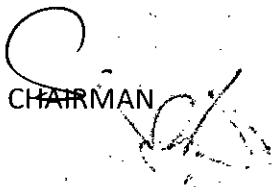
21/7/18

Form -A

FORM OF ORDER SHEET

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

Case No. 754/2018

S.No.	Date of Order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	30/05/2018  31/05/18.	<p>The appeal of Mr. Muhammad Younas presented today by Mr. Asad Khan Muhammadzai Advocate may be entered in the Institution register and put up to the Wrothy Chairman for proper order please.</p> <p style="text-align: right;">                       REGISTRAR 30/5/18                 </p> <p>The case is entrusted to S. Bench for preliminary hearing to be put up there on <u>11/06/18</u></p> <p style="text-align: right;">                       CHAIRMAN                 </p>



**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR.**

Service Appeal No. 754 /2018

**ATTESTED**

Muhammad Younas .....(Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary  
Elementary & Secondary Education and  
others.....(Respondents)

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-6
2.	Affidavit		7
3.	Addresses of the parties		8
4.	Application with affidavit		9-11
5.	Copy of pay slip month of January, 2018 and attendance registered	A	12-15
6.	Copy of F.I.R	B	16
7.	Copy or order dated 18/05/2016	C	17-23
8.	Copies of appeal and order dated 10/11/2016	D	24-35
9.	Copies of applications	E	36-38
10.	Copy of order dated 08/11/2017	F	39
11.	Copy of Departmental Appeal/Representation	G	40-41
12.	Wakalat Nama		42

Appellant

*M Younas*

Through

*Asad Khan*

Dated: 30/05/2018

**Asad Khan Muhammadzai**  
Advocate High Court,  
Peshawar.  
Cell No. 0333-9193087

①

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR.**

Service Appeal No. 754 /2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1018

Dated 30-5-2018

Muhammad Younas Ex-CT Teacher GMS Thegary, S/o Farid Gul Resident of Village Rega Tehsil Gara District Buner, at present Village Shewa (Sang Bati) Tehsil Razar District Swabi.....(Appellant)

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. Director Elementary & Secondary Education, G.T. Road, Hashtnagri, Peshawar.
3. District Education Officer (Male) District Buner.....(Respondents)

**SERVICE APPEAL U/S 4 OF THE SERVICE**

**Filed to-day TRIBUNAL ACT, 1974, AGAINST THE**  
**IMPUGNED OFFICE ORDER ENDST: NO.**  
**5349-56/ DATED 08/11/2017 WHICH WAS**  
**SHOWN/ HANDED OVER TO APPELLANT ON**  
**12/02/2018 IN THE OFFICE OF DEO**  
**DISTRICT BUNER.**

*Received  
30/5/18*

**Respectfully Sheweth:**

The appellant very humbly submits as under:

1. That the appellant was serving in Education Department as CT in Government Middle School Thigaray District Buner till 12/02/2018. (Copy of pay slip month of January, 2018 and attendance registered is attached as annexure "A").
  
2. That it was in the year 2015 when a Case F.I.R No. 2 dated 11/02/2015 Under Section 409/419 PPC R/W Section 5 (2) PC Act, Police Station ACE Buner was lodged against the appellant. (Copy of F.I.R is attached as annexure "B").
  
3. That thereafter the appellant was tried by the trial Court i.e. Judge Special Court Ant Corruption (Provincial) Khyber Pakhtunkhwa, Peshawar and convicted and sentenced the appellant to undergo 03 years SI with a fine of Rs. 200,000/- or in default to undergo six months S.I. u/s 409 PPC with the benefit of 382-B Cr.PC vide order dated 18/05/2016. (Copy or order dated 18/05/2016 is attached as annexure "C").

4. That feeling aggrieved the appellant filed Cr. Appeal No. 130/2016 before the Hon'ble Peshawar High Court, Mingora Bench (Darul Qaza) Swat against the order dated 18/05/2016, the Hon'ble Peshawar High Court, Mingora Bench (Darul Qaza) Swat acquitted the appellant from the charges leveled against him vide order dated 10/11/2016. (Copies of appeal and order dated 10/11/2016 are attached as annexure "D").
5. That after the acquittal the appellant approached the competent authority for re-instatement of service of the appellant through various applications, but in vain. (Copies of applications are attached as annexure "E").
6. That since then the appellant was performing his duty as CT Teacher in Government Middle School Thegaray with full devotion zeal and zests till 12/02/2018.
7. That thereafter on the same allegations on the basis of personal grudges the appellant has terminated from service vide impugned office order Endst: No.

5349-56/ dated 08/11/2017. (Copy of order dated 08/11/2017 is attached as annexure "F").

8. That feeling aggrieved, the appellant filed departmental appeal/representation before the respondent No. 3, which is still pending. (Copy of Departmental Appeal/Representation is attached as annexure "G").
9. That the appellant having no other remedy except to come this Hon'ble Tribunal for redressal of his grievances on the following grounds, inter-alia:

**GROUND:**

- A. That the appellant is the peaceful and well abiding citizen of Pakistan has never ever violated any law, rule or regulations in his entire life.
- B. That the impugned order is illegal, without lawful authority, hence is liable to be set aside.
- C. That the impugned order of appellant dismissal is prima facie illegal as the same has been passed with

retrospective effect and on this ground alone the same is liable to be set aside.

D. That the appellant is performing his duty till date as he has been received salary till the month of Jan 2018 which further shows that the competent authorities is dealing with the vested right of the appellant in a causal and ignorant manner.

E. That no formal what to speak about a regular inquiry is held before passing the impugned order of dismissal, therefore on this score alone the impugned order is liable to be reversed.

F. That it is admitted fact that the appellant was acquitted from the charges leveled against him by the Peshawar High Court, thereafter the respondent No. 3 dismissal from service the appellant on the same allegations, which shows clear cut personal grudges and malafide on the part of respondent No. 3 which is no legal footing in the eyes of law, hence needs interference of this Hon'ble Tribunal.

G. That the appellant nor serve any Show Cause neither conduct any inquiry and no opportunity of personal hearing is given to the appellant and thus he was condemned unheard which is against the centuries old principle of natural justice.

H. That the appellant has performed his duty with a high degree of professionalism and no complaint whatsoever has been made against the appellant.

It is, therefore, most humbly prayed that on acceptance of this Service Appeal, the impugned dismissal order dated 08/11/2017 may kindly be set aside and the appellant may very graciously be re-instated in service with all back benefits.

Any other remedy deemed proper and just may also be granted in favour of appellant.

Appellant *M Yumal*

Through

*Asad Khan*

**Asad Khan Muhammadzai**  
Advocate High Court,  
Peshawar.

Dated: 30/05/2018

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. \_\_\_\_\_/2018

Muhammad Younas .....(Appellant)

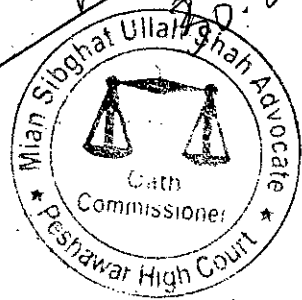
**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education and others.....(Respondents)

**AFFIDAVIT**

I, Muhammad Younas Ex-CT Teacher GMS Thegary, S/o Farid Gul Resident of Village Rega Tehsil Gara District Buner, at present Village Shewa (Sang Bati) Tehsil Razar District Swabi., do hereby solemnly affirm and declare on oath, that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

~~ATTESTED~~  
29.05.2018



M Younas  
**DEPONENT**  
CNIC: 15101-6700099-1



**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR.**

Service Appeal No. \_\_\_\_\_/2018

Muhammad Younas .....(Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary  
Elementary & Secondary Education and  
others.....(Respondents)

**ADDRESSES OF THE PARTIES**

**APPELLANT:**

Muhammad Younas Ex-CT Teacher GMS Thegary, S/o Farid Gul Resident of Village Rega Tehsil Gara District Buner, at present Village Shewa (Sang Bati) Tehsil Razar District Swabi.

**RESPONDENTS:**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. Director Elementary & Secondary Education, G.T. Road, Hashtnagri, Peshawar.
3. District Education Officer (Male) District Buner.

Appellant *M Younas*

Through

*As*

Dated: 30/05/2018

**Asad Khan Muhammadzai**  
Advocate High Court,  
Peshawar.

②

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR.**

C.M. No. \_\_\_\_\_/2018

In

Service Appeal No. \_\_\_\_\_/2018

Muhammad Younas .....(Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary  
Elementary & Secondary Education and  
others.....(Respondents)

**APPLICATION FOR SUSPENSION OF ORDER**

**DATED 08/11/2017 PASSED BY**

**RESPONDENT NO. 3 AND RESTRAINING**

**THE RESPONDENTS FROM MAKING ANY**

**OTHER APPOINTMENT ON THE POST OF**

**APPELLANT TILL THE FINAL DECISION OF**

**THE MAIN SERVICE APPEAL.**

**Respectfully Sheweth:**

1. That the above titled Service Appeal is pending adjudication before this Hon'ble Tribunal, in which no date of hearing has yet been fixed.

- 10
2. That on the face of it, the appellant has got a strong arguable case and is sanguine about its success.
  3. That the balance of convenience also lies in favour of appellant.
  4. That if the operation of the impugned dated 08/11/2017 passed by respondent No. 3 is not suspended then the appellant would sustain irreparable loss.

It is, therefore prayed that on acceptance of this application, the operation of the impugned order dated 08/11/2017 passed by respondent No. 3, may kindly be suspended and the respondents may kindly be restrained from making any other appointment on the post of appellant, till the final disposal of the main Service Appeal.

Appellant

*M. Yunes*

Through

*As*

Dated: 30/05/2018

**Asad Khan Muhammadzai**  
Advocate High Court,  
Peshawar.

10

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**

C.M. No. \_\_\_\_\_/2018  
In  
Service Appeal No. \_\_\_\_\_/2018

Muhammad Younas .....(Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary  
Elementary & Secondary Education and  
others.....(Respondents)

**AFFIDAVIT**


I, Muhammad Younas Ex-CT Teacher GMS Thegary, S/o Farid Gul Resident of Village Rega Tehsil Gara District Buner, at present Village Shewa (Sang Bati) Tehsil Razar District Swabi., do hereby solemnly affirm and declare on oath, that the contents of the **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

**ATTESTED**  
*[Signature]*  
Mian Sibghat Ullah  
Advocate  
Oath Commissioner  
Peshawar Court  
5-2018

*[Signature]*  
**DEPONENT**  
CNIC: 15101-6700099-1

**Dist. Govt. NWFP-Provincial**  
**District Accounts Office Bunair at Dagga**  
**Monthly Salary Statement (January-2018)**

Amr: - A (16)



**Personal Information of Mr MUHAMMAD YOUNAS d/w/s of FARID GUL**

Personnel Number: 00697813      CNIC: 1510167000991      NTN:  
 Date of Birth: 22.03.1968      Entry into Govt. Service: 10.11.2012      Length of Service: 05 Years 02 Months 023 Days

**Employment Category: Active Temporary**

Designation: CERTIFICATED TEACHER      80000558-DISTRICT GOVERNMENT KHYBE

DDO Code: BD6006-

Payroll Section: 001

GPF Section: 001

Cash Center:

GPF A/C No:

Interest Applied: Yes

**GPF Balance:**

143,502.00

Vendor Number: -

**Pay and Allowances:**

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 15

Pay Stage: 5

Wage type		Amount	Wage type		Amount
0001	Basic Pay	22,770.00	1000	House Rent Allowance	1,566.00
1300	Medical Allowance	1,500.00	1911	Compen Allow 20% (1-15)	1,000.00
2148	15% Adhoc Relief All-2013	495.00	2199	Adhoc Relief Allow @10%	343.00
2211	Adhoc Relief All 2016 10%	1,799.00	2224	Adhoc Relief All 2017 10%	2,277.00

**Deductions - General**

Wage type		Amount	Wage type		Amount
3015	GPF Subscription - Rs2890	-2,890.00	3501	Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-125.00	4004	R. Benefits & Death Comp:	-1,052.00

**Deductions - Loans and Advances**

Loan	Description	Principal amount	Deduction	Balance

**Deductions - Income Tax**

Payable: 0.00      Recovered till January-2018: 14.00      Exempted: 14.00-      Recoverable: 0.00

**Gross Pay (Rs.): 31,750.00      Deductions: (Rs.): -4,667.00      Net Pay: (Rs.): 27,083.00**

Payee Name: MUHAMMAD YOUNAS

Account Number: 3450-8

Bank Details: ALLIED BANK LIMITED, 250850 ALIED BANK LTD REGA , REGA

Leaves:      Opening Balance:      Aailed:      Earned:      Balance:

**Permanent Address:**

City: VILLAGE SOWARAI DAGGAR      Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: younasedu11@gmail.com

*A. S.*  
**ATTESTED**

# رجسٹر حاضری مدرسین

(12)

2017

بابت ...

31 جولائی 2017

C.T.

روز	آد	دکھ	روٹی	دکھ	آد	دکھ	روز
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Headmaster  
 G.M.S. The City  
 District - Jhelum

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انفائیہ	02	10					
تحتقاتی							
نیاری							
میزان							

HEADMASTER

Headmaster  
 G.M.S. The City  
 District - Jhelum

# رجسٹر حاضری مدرسین


(14)

2018

ابتداء جنوری

ردیف	تاریخ	حاضرین	غائبین	مذمت	مذمت	مذمت	مذمت	مذمت
1	8/13	مدرسین	2					
2	8/13	مدرسین	2					
3	8/13	مدرسین	2					
4	8/13	مدرسین	2					
5	8/15	مدرسین	1					
6	8/15	مدرسین	2					
7	8/15	DA	11					
8	8/15	مدرسین	2					
9	8/15	مدرسین	1					
10	8/15	مدرسین	2					
11	8/18	مدرسین	2					
12	8/18	مدرسین	1					
13	8/18	مدرسین	2					
14		SUNDAY						
15		Leave						
16	8/15	مدرسین	2					
17	8/15	مدرسین	2					
18	8/15	مدرسین	2					
19	8/13	مدرسین	1					
20	8/15	مدرسین	2					
21		SUNDAY						
22	8/15	مدرسین	2					
23	8/15	مدرسین	2					
24	8/15	مدرسین	2					
25		Leave						
26	8/15	مدرسین	1					
27	8/15	مدرسین	2					
28		SUNDAY						
29	8/15	مدرسین	2					
30	8/15	مدرسین	2					
31	8/15	مدرسین	2					

قسم	میزان	سابقہ	حالیہ	میزان	سابقہ	حالیہ	میزان	سابقہ	حالیہ
اتفاقہ									
استحقاق									
بیماری									
میزان									

  
**HEAD MASTER**  
**G.M.S Thegaray**  
 Dist: Duner

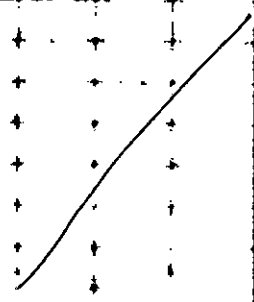
# رجسٹر حاضری مدرسین

2019

ماہ فروری

محمد یونس  
CT

روز	تاریخ	حاضر	غائب	بیمار	اجازت	نوٹس
1	12/02/19	✓				
2	13/02/19	✓				
3	14/02/19	✓				
4						
5						
6	15/02/19	✓				
7	16/02/19	✓				
8	17/02/19	✓				
9	18/02/19	✓				
10	19/02/19	✓				
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اندری  
تعمیرت  
بیان  
بیان

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**ATTESTED**

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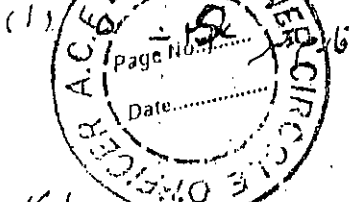
**MASTER**  
G.M.S Thegaray  
Distt: Buner



R. 10.

Annex : A-1

پریسٹن اور ماہنامہ نمبر 17/1894/پبلیکیشن کے تحت



# استدائی اطلاعی رپورٹ

DATED

پریسٹن اور ماہنامہ نمبر 17/1894/پبلیکیشن کے تحت

نسبت جو قابل دست اندازی پوسٹ رپورٹ شدہ پروف 152 مجموعہ صاحبہ و سرکاری  
ایس آر ایس ضلع مالی سال 2013-14

1515

تاریخ 12 مئی 2013ء

14

409/523 P.A. 2013-14

40/45

1180

10/14

2013-14

رپورٹ  
ملاح و ہندہ مستغنیث  
(مہر دفتر) حال اگر کہہ یا گیا ہو  
سہرہ تھانہ سے اور  
Special Judge  
Anti Corruption  
Khyber Pakhtunkhwa  
تعلقہ گگن الاطالعہ دیکھ کر اسے میں توقف ہر وہ جو بیان کرو  
ان کی تاریخ و وقت 5-10

استدائی اطلاع نیچے درج کروا گیا ہے مالی سال 2013-14  
96/14  
10353  
9MS  
PTC  
1193.154  
HRB  
ANCI  
Bumer

تاریخ

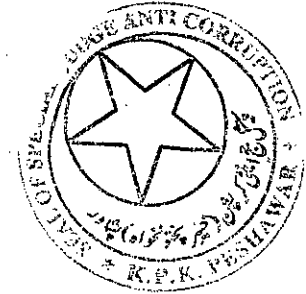
ATTESTED

In the Court of Special Judge, Anti-Corruption, (Provincial), Khyber Pukhtoonkhwa,  
Peshawar.

Case No. 60 of 2015.

Date of Institution. 10.08.2015.

Date of Decision. 18.05.2016.



State..... Versus.

Muhammad Younas S/o Fareed Gul,  
CT Teacher, R/o Rega District Bunair,  
presently Mohallah Yousaf khel Shewa Swabi.

Case FIR No.02 dated 11.02.2015 of P.S. ACE, Bunair, u/s 409/PPC read with section 5(2) of  
Prevention of Corruption Act.

Judgment.

- 1) This judgment is being written to decide Case FIR No.02 dated 11.02.2015 of Police Station Anti-Corruption Establishment (ACE), Bunair, wherein accused Muhammad Younas S/o Fareed Gul has been charged u/s 409 and 419 of PPC read with section 5(2) of Prevention of Corruption Act.
- 2) According to the contents of FIR, during an open enquiry No.96/2014 vide letter No.10353 dated 16.12.2014 it was found that out of the total school funds of Rs.17,39,000/- granted for GMS Tigarey by DFID project for the year 2013-14, an amount of Rs.5,45,846/- was spent by Head Master Muhammad Younas in consultation with the members of PTC on the construction work of the school and had embezzled the remaining amount of Rs. 11,93,154/- by withdrawing the same from HBL Totalai with fake signature of the Chairman PTC. It was added that he had admitted this fact in the statement written by him in his own hand writing therefore he had committed dishonest misappropriation and criminal breach of trust, therefore the case was registered against him after obtaining permission from the senior officer.
- 3) As would appear from the contents of final report, during open enquiry, the CEO met with Muhammad Younas CT in-charge Headmaster, hereinafter referred as accused and also discussed the matter in detail with Tajmal Syed the Chairman Parents-Teachers Committee (PTC), and 1) Ehsan Muhammad S/O Sultan Muhammad 2) Akbar Syed S/O Syed Akbar 3) Haroon S/O Syed Wali Shah 4) Noorul Amin, S/O Syed Ghani Shah, the members of (PTC) who showed their ignorance about withdrawal of the remaining amount from the account. Moreover in his statement written in his own hand writing, accused disclosed that he had been entrusted an amount of Rs.1739000/- for the school by the DFID Project; that out of this amount, he had spent Rs.5, 45,846/- on various works in the school, and Rs.4512/- was lying in the account whereas he would spend the remaining amount on various other works; that he had withdrawn an amount of Rs.11,88,862/- for his personal use due to his personal compulsions and he was liable to deposit the said amount. He also disclosed that it was he who had put his own as well as the (fake) signatures of the chairman. The statements of the chairman PTC and members of the committee were recorded u/s 161 and 164 Cr.PC, who

**ATTESTED**

3)

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Court Of Special Judge

Anti Corruption KPK Peshawar

Special Judge  
Anti Corruption  
Peshawar

18/5/16

**ATTESTED**

corroborated that an amount of Rs.6,00,000/- was withdrawn from the bank with the signature of chairman, whereas the remaining amount was withdrawn and embezzled by using fake signatures of chairman. On 29.12.2014 accused applied that he should be given a respite of one month (for the refund of the amount) as the deal of his landed property was underway. However, he failed to deposit the amount.

- 4) At the conclusion of open enquiry it was held in final report that DFID project had granted an amount of Rs.17,39,000/- for certain construction works to be carried out in the GMS Tigarey. Out of this amount, the accused spent only Rs.5,45,846/- on certain construction work and embezzled the remaining amount. As accused had himself reportedly admitted in his own statement in writing that he had spent the amount on his personal use. Hence on 05.01.2015 a final report was prepared and permission for registration of case against him was obtained.
- 5) The case was thus registered and the accused arrested and interrogated; who disclosed that he was making his all-out efforts to sell his landed property. Bank record and details from District Education Officer were collected and the statements of the concerned were recorded. The accused also produced two receipts showing a total deposit of Rs.3,00,000/- in the Bank (by way of refund).
- 6) In view of the above investigation, challan was submitted against the accused in court. In the challan, it was mentioned that accused had deposited/paid back an amount of Rs.3,00,000/- during investigation. The accused appeared in the court when summoned and after complying with the provisions of section 241-A of Cr.PC, charge was framed against him, to which he pleaded not guilty and claimed trial.
- 7) In order to prove the charge, the prosecution examined as many as Nine witnesses. All the witnesses were crossed examined by the learned counsel for the accused.

ATTESTED

- 8) The gist of the prosecution evidence is as under:-

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 Special Judge  
 Anti Corruption  
 Cyber Pakistun

PW-1 Noor Jalil Khan Circle Officer, ACE Bunair stated to have submitted source report Ex.PW1/1 to the Director ACE, and obtained permission for inquiry vide letter Ex.PW1/2; to have got recorded statements u/s 164 Cr.PC of five PWs; to have received a written statement of accused Muhammad Younas in which he admitted the embezzlement; to have received another application of the accused requesting him to give him some time for deposit of money; to have prepared final report Ex.PW1/4 requesting for registration of case which was allowed vide Ex.PW1/5; to have registered the case vide FIR Ex.PA and to have arrested the accused on 11.02.2015 and prepared his card of arrest. He also disclosed that at the time of arrest accused produced two receipts regarding deposit of money of Rs.3 lacs (Carbon copy of the original having original seal of the bank) Ex.P-1 & P-2. To this effect he stated to have prepared the recovery memo Ex.PW1/7; to have obtained two days police custody of the accused vide application Ex.PW1/8; to have recorded his statement u/s 161 Cr.PC; to have taken into possession 7 CNIC photo copies which are Ex.P-3, 8 cheques Ex.P-4 and 2 balance sheets Ex.P-5; to have placed on file the detail of money from the District

18/5/16  
 Special Judge  
 Anti Corruption  
 Cyber Pakistun

ATTESTED

Education Office Ex.PW1/10 and Ex.PW1/11; to have placed on file the statement of Naveed Iqbal teacher and to have submitted complete challan Ex.PW1/12.

PW-2 Zahid Shah stated that accused facing trial in his presence produced two carbon copies of the receipts bearing No.9954817 dated 15.12.2014 Ex.P-1 through which Rs.Two lacs and receipt No.9954346 dated 26.01.2015 Ex.P-2 through which Rs.One lac were deposited in HBL Totalai, which receipts the I.O. had taken into possession vide recovery memo already Ex.PW1/7 to which he claimed to be a marginal witness at the time of arrest of accused. He also verified that his statement was recorded by the I.O. u/s 161 Cr.Pc.

PW-3 Naveed Iqbal stated that he was posted as CT teacher in GMS Tigarey from 01.07.2012. At that time Ghulam Sarwar was incharge of the school. On 25.03.2013 he was transferred and gave him the charge of the school. At that time the government amount Rs.34,483/- of the school was available. Rs.28483/- was available in cash while Rs.6000/- were in bank account. An entry regarding taking charge from Ghulam Sawar was Ex.PW3/1. Thereafter accused facing trial Younas was transferred to the school and he handed over the charge of the school to him alongwith all documents and amount and he made entry vide order No.33 of the register which is Ex.PW3/2. He also stated to have handed over Rs.7298/- of the school fund in cash to accused facing trial and made entry vide order No.33. He also stated to have submitted his written statement to the I.O.

PW-4 Naseemul Haq stated that during the relevant days he was posted in P&D branch. According to the record on 05.07.2013 Rs.15 lacs through HBL Totalai and on 05.06.2013 Rs.2,05,000/- through HBL Totalai were transferred to PTC account of GMS Tigarey and he handed over a detail to that effect to the ACE officials already Ex.PW1/11. He verified the signature of DEO Bunair over it, and also stated that his statement was recorded by the ACE officials.

Special Judge  
Anti Corruption  
Hyber Pakhtunkhwa Peshawar  
18/5/16

PW-5 Noorul Amin stated that an amount of Rs.17,39,000/- was approved for the repair work of GMS Tigarey from a project. After discussing by the committee, the committee pointed out repair work and thereafter it was approved and with the signatures of chairman Tajmal Said and teacher Muhammad Younas withdrew the amount through cheque for that work. After some days the committee approved repair work but the chairman noticed that no amount was available in the account. Only Rs.6 lacs were spent on the repair work. Thereafter the committee members headed by the chairman reported the matter. He stated that his statement was recorded before the JMIC which was Ex.PW5/, and verified his signature over it.

ATTESTED  
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Court Of Special  
Anti Corruption

PW-6 Tajmal Said stated that an amount of Rs.17,39,000/- was approved for the repair work of GMS Tigarey from DFID project. He added that the amount was lying in the bank account and by procedure it could be withdrawn with his and with the signature of Muhammad Younas accused facing trial. He stated that Rs.6 lacs were spent for the repair work and withdrawn under their signatures. He also claimed that inadvertently the amount of GPS Tigarey was transferred in the account of GMS Tigarey and for that purpose the head master of GPS Tigarey came and he and Muhammad Younas accused facing trial issued

cheque and thereafter he alongwith Muhammad Younas visited the bank for withdrawal of amount. On checking the account had no balance. Thereafter, he with the consultation of the committee members informed the DEO regarding the withdrawal of remaining amount through bogus cheque and signature by accused facing trial. He stated that his statement was recorded before the JMIC which was Ex.PW6/1 and he verified his signature over it.

PW-7 Ghulam Hassan stated that he handed over the letter already Ex.PW1/10 regarding the allocation of fund to Government Middle school Tigarey to the Circle Officer Anti-Corruption Noor Jalil khan.

PW-8 Muhammad Iqbal stated that during the relevant days he was posted as Manager HBL Totalai branch, District Buner. An account was maintained by Government Middle School Tigarey (GMS) at their branch. The Anti-corruption official came and enquired about the said account and he handed over two balance sheets already Ex.P-5, photo copies of 7 CNICs already Ex.P-3, eight cheques already Ex.P-4 (all attested photo copies) to them.

PW-9 Ehsan Muhammad stated that during the relevant days he was the member of the PTC committee for Government Middle School Tigarey. An amount of Rs.17,39,000/- was approved for the repair work, out of which Rs.6 lacs were legally drawn by Muhammad Younas with the signature of Tajmal Said while the remaining amount were withdrawn by accused Muhammad Younas illegally and embezzled the same. He stated that his statement u/s 164 Cr.PC was recorded in the court of JMIC which was Ex.PW9/1 and he also verified his signature over it.

9) After recording the prosecution evidence, statement of the accused was recorded u/s 342 Cr.PC wherein he reiterated his innocence. He was however not willing either to be examined on oath or to produce any defense.

ATTESTED

Arguments of learned Public Prosecutor for state and learned defense counsel were heard and the record was gone through with their valuable assistance.

11) Learned public prosecutor, while elaborating his view point, contended that it had been proved by the unimpeachable evidence of prosecution consisting of the statements of nine PWs, the proceedings carried out and the documents prepared by them, that out of the total amount of Rs.17, 39,000/- of the DFID project for the GMS Tigarey, the accused while posted as Headmaster of GMS Tigarey had withdrawn the amount of Rs.600000/- with the (genuine) signatures of chairman PTC whereas the remaining amount was withdrawn with the fake signatures of the chairman and embezzled by the accuses. He explained that out of all said amount the accused had spent only an amount of 545846/- on the school and an amount of Rs.4512/- was lying in the account at the time of initiating the proceeding against the accused hence he had embezzled an amount of Rs.11,88,642/-. He also referred to the two statements of the accused purportedly furnished by him during the course of investigation which he claimed were in the handwriting of the accused and wherein he had himself admitted that he had withdrawn an amount of Rs.17,39,000/- from the account of school, and while an amount of Rs.5,45,846/- was spent on the school, and Rs.4512/- was lying in the bank, the remaining amount of Rs.11,88,642/- was spent by him to meet his personal needs,

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Court Of Special Judge  
Anti Corruption KPK Peshawar

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Special Judge  
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hyber Pakhtunkhwa Peshawar

ATTESTED

and that he would deposit the said amount in the school (funds) as and when he got the money by selling his landed property. He maintained that all the PWs had firmly withstood the test of cross-examination and their veracity could not be shattered. He claimed that it had thus been proved on record that the accused had committed the offence punishable u/s 419 & 409 of PPC read with section 5(2) of Prevention of Corruption Act and was liable to be punished accordingly.

12) Opposing these contentions the learned counsel for the accused stated that the accused was innocent and was implicated in a false and fictitious case to save the skins of the chairman and the members of the PTC; that the case was fraught with substantial procedural defects; that though the accused had been charged to have put the fake signatures of the chairman PTC over the cheques but the signatures were not sent to FSL for verification; that the evidentiary value of the two statements in writing attributed to the accused was not more than the statements recorded u/s 161 of Cr.PC and therefore they could not be used against him as no independent and reliable evidence was produced to substantiate the prosecution version. He therefore concluded that the prosecution had badly failed to discharge the burden of proving its case against the accused beyond any reasonable shadow of doubt and therefore he was entitled to outright acquittal of the charges leveled against him in this case.

13) It appears from the record that the case against the accused had been initiated on the basis of a source report EXPW1/1. In support of the source report, four members and the chairman of Parent Teachers Committee (PTC) have, almost in one voice, in their separate statements recorded u/s 164 of Cr.PC, deposed that out of the total amount of Rs.17, 39,000/- of the DFID project for the GMS Tegaray, the accused had withdrawn the amount of Rs.600000/- with the (genuine) signatures of chairman in his presence whereas the remaining amount was withdrawn with the fake signatures of the chairman and embezzled by the accused. Out of said members and chairman, two members have been examined as PW5 & PW9 whereas the chairman of PTC as PW6 during trial and they have all fully supported the prosecution version and also verified and corroborated their statements recorded u/s 164 of Cr.PC. Nothing has been brought on record to show that they had any ill-will or hostility to motivate them against the accused. Similarly even during their cross-examination they firmly stood with their stance and nothing could shatter their veracity. The copies of the eight cheques placed on file mentioned above would show that through seven cheques on different occasions an amount of Rs.3,00,000/- vide cheque No.TA06777484+ Rs.1,00,000/- vide cheque No.TA06777485 + Rs.1,10,000/- vide cheque No.TA06777487 + Rs.50,000/- vide cheque No.TA06777488 + Rs.25,000/- vide cheque No.TA06777489 Rs.5,00,000/- vide cheque No.TA06777490 + Rs.5,00,000/- vide cheque No.TA06777491 + Total Rs.15,85,000/- have been withdrawn by the accused whereas through eighth cheque an amount of Rs.3,00,000/- vide cheque No.TA06777492 was transferred to one Behram Syed. Out of the amount of Rs.15,85,000/-, the accused has, as admitted by the prosecution witnesses namely PW-5 & PW-6, spent an amount of Rs.6,00,000/- on the school works and hence he had embezzled the amount of Rs.9,85,000/-. Out of this amount vide two receipts

ATTESTED

*[Signature]*

EXAMINER  
Court of Special Judge  
Anti Corruption K.P.H. Peshawar

*[Signature]*

Special Judge  
Anti Corruption  
hyber Pakhtunkhwa Peshawar

18/5/16

ATTESTED

Ex.P-1 and P-2 mentioned above an amount of Rs.3,00,000/- has been deposited back in the HBL Totalai. Hence the total embezzled amount comes down to Rs.6,85,000/-.

14) PW-2 has appeared as marginal witness of recovery memo Ex.PW1/7 vide which accused had produced to the Circle officer, receipts bearing No.9954817 dated 15.12.2014 Ex.P-1 and No.9954346 dated 26.01.2015 Ex.P-2 through which Rupees two lacs & Rupees one lac respectively were deposited in HBL Totalai. The record of the bank consisting of Two balance sheets, Ex.P-5, photo copies of seven CNIC Ex.P-3 and eight cheques Ex.P-4, supports the prosecution version regarding the withdrawal of the amount from the bank by the accused to the extent of Rs.15,85,000/- only and the same has been proved by the statement of PW-8, the then manager of HBL Totalai also.

15) Two statements have also been attributed to the accused which are also available on the investigation file, and which were allegedly in his hand writing and furnished by him during the course of investigation. In these statements the accused had himself admitted that he had withdrawn an amount of Rs.17,39,000/- from the account of school, and while an amount of Rs.5,45,846/- was spent on the school and an amount of Rs.4512/- was lying in the account, the remaining amount of Rs.11,88,642/- was spent by him to meet his personal needs, and that he would deposit the said amount in the school (funds) as and when he got the money by selling his landed property.

16) The cumulative effect of all the evidence produced by the prosecution mentioned above is that it stands proved that the accused being the Head Master Government Middle School (GMS) Tigarey, a public servant, has committed dishonest misappropriation of an amount of Rs.9,85,000/-. If the amount of Rs.3,00,000/- deposited vide two receipts Ex.P-1 and P-2 mentioned above deposited back in the HBL Totalai is subtracted, the total embezzled amount comes down to Rs.6,85,000/- out of the funds released for the GMS Tigarey, and thus he has committed criminal breach of trust in respect of the said amount, an offence punishable u/s 409 of PPC.

17) As dishonest misappropriation of property/amount by public servant is also an offence of "criminal misconduct" as defined in clause (c) of sub-section (1) of Section 5 and thus punishable under Section 5 (2) of Prevention of Corruption Act therefore to avoid double jeopardy the latter stands merged in the former in view of sub-section (4) of Section 5 of Prevention of Corruption Act.

18) It may be stated here that the maximum term of imprisonment for the offence punishable under section 409 of PPC is ten years whereas the maximum term of imprisonment for the offence punishable under Section 5 (2) of Prevention of Corruption Act is seven years. Generally accepted principle of law is that when an offence is punishable under two different statutes then the statute providing lesser punishment for the offence shall be applied. However in the case in hand the intention of the legislature is different as the express provision of law is holding it otherwise. It has been laid down in Section 5 (4) of Prevention of Corruption Act, that the provision of this section shall be in addition to and not in derogation of any other law for the time being in force and nothing herein contained shall exempt any public servant

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EXAMINER  
Court of Special Judge  
Anti Corruption

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Special Judge  
Anti Corruption  
Khyber Pakhtunkhwa

18/5/16

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from any proceeding which might, apart from this section, be instituted against him. If this provision is not to be treated as superfluous then it would be construed that if the punishment provided for an offence in any other law, in this case the PPC, is greater than the punishment for the same offence in section 5 (2) of the Prevention of Corruption Act, then the punishment provided by that law, in this case the PPC, shall be awarded.

- 19) He is thus convicted u/s 409 of PPC and sentenced to three years simple imprisonment with a fine of Rs.200000/- In case of default of payment of fine he would further undergo simple imprisonment of six months. Benefit of section 382 (B) of Cr.PC is also extended to him.
- 20) As far as section 419 PPC is concerned it relates to the offence of cheating by personation and there is nothing on the record to substantiate the plea of the prosecution that the accused had committed the offence of cheating by personation. Hence the accused is acquitted of the offence.
- 21) The accused being already in custody is sent to jail for serving the sentence awarded to him. The case property, if any, should be kept intact till the expiry of the period of limitation prescribed for appeal/revision and should be disposed of according to law if no appeal is preferred.
- 22) Before parting with this judgment it may be observed that the case of prosecution would have further strengthened, (i) had the signatures of Tajmal Said chairman PTC appearing on the impugned cheques been sent to FSL for comparison and a report obtained from the said laboratory about their fakeness and (ii) if the two letters attributed to the accused would have been exhibited in the statement of PW-1, Circle Officer ACE, and the accused confronted with those letters during his statement recorded u/s 342 of Cr.PC.

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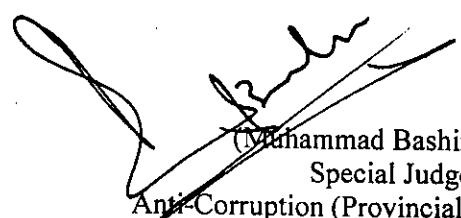
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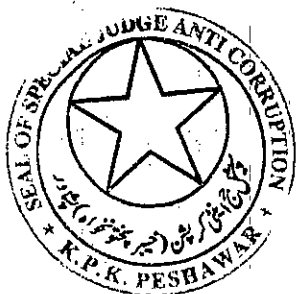
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Anti Corruption KPK Peshawar  
Announced.  
Peshawar.  
18.05.2016.

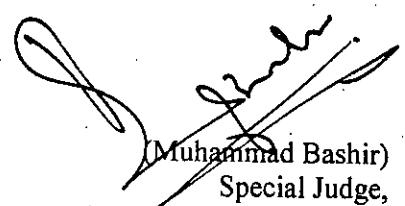
ATTESTED

Certificate.

Certified that this judgment consists of seven pages, each page has been corrected and signed by me wherever necessary.

  
(Muhammad Bashir)  
Special Judge,  
Anti-Corruption (Provincial),  
Peshawar Khyber Pakhtunkhwa.



  
(Muhammad Bashir)  
Special Judge,  
Anti-Corruption (Provincial),  
Peshawar, Khyber Pakhtunkhwa.



Amara (D)

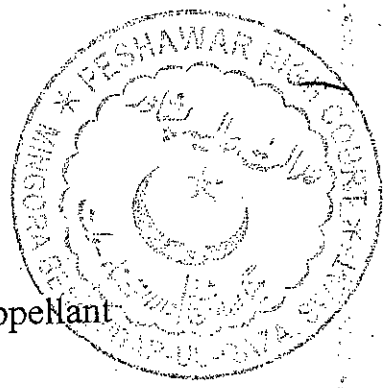
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**IN THE PESHAWAR HIGH COURT MINGORA BENCH**  
**(DARUL QAZA) AT SADU SHAREEF SWAT.**

Cr. Appeal No 130-11 of 2016

Muhammad Younas son of Farid Gul  
Resident of Tehsil Daggar District Bunner  
At present Central Jail Peshawar.....Appellant



**Versus**

The State.....Respondent

Appeal under section 410 Cr.P.C against the impugned Judgment/conviction order dated 18/05/2016 of the learned special Judge, Anti-corruption,(Provincial), Khyber Pukhtoonkhwa, Peshawar whereby the learned trial court convicted the appellant under section 409 PPC for:

- (i) 3 years simple imprisonment with
- (ii) fine of Rs.200000/ in case of default of payment of fine he would further undergo simple imprisonment of six months and
- (iii) Benefit of section 382-B Cr.P.C is extended to the convict/appellant.

**Prayer in Appeal:**

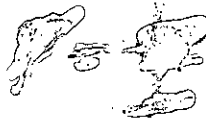
On acceptance of this appeal the impugned Judgment/conviction order dated 18/05/2016 of the learned Special Judge, Anti-Corruption (Provincial) KP Peshawar may kindly be set aside and the appellant may kindly be acquitted of the charged.

**Respectfully Sheweth:**

**ATTESTED**

1. That the impugned Judgment/conviction order of the learned court below is illegal, against the law, facts of the case and natural justice, therefore the same is liable to be set aside.
2. That the impugned Judgment / conviction order has passed by the learned court below against the appellant on presumption and assumptions.

FILED TODAY  
09 JUN 2016



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Judgment Sheet

IN THE PESHAWAR HIGH COURT,  
MINGORA BENCH (DAR-UL-QAZA), SWAT

JUDICIAL DEPARTMENT

..... *CA A* No. *130* ..... of ..... *2016*

JUDGMENT

Date of hearing..... *10/10/2016*.....  
Appellant/Petitioner (s)..... *(Muhammad Younis) by*  
*Mr. Fazal Wahid Advocate*  
Respondent (s)..... *(State) by Barrister Assad Ham*  
*- ur- Rehman Star*  
*Counsel*

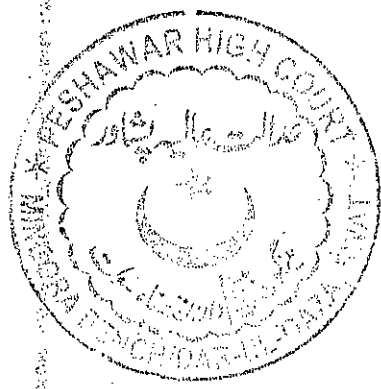


WAQAR AHMAD SETH, J.- Muhammad

Younis, appellant herein, was proceeded against in the Court of Special Judge, Anti-Corruption (Provincial) Peshawar, on the charge of embezzlement of Rs.11,93,154/- out of the total amount of Rs.17,39000/- granted for the GMS Tigarey by DFID project for the year, 2013-14. On proof of the charge, he was sentenced to undergo 3 years S.I. with a fine of Rs.2,00,000/- or in default to undergo six months S.I. under section 409 PPC with the benefit of section 382-B of the Cr.P.C., vide judgment dated 18.5.2016, hence, this Criminal Appeal.

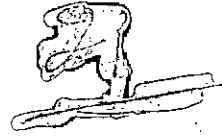
2. Learned counsel appearing on behalf of the appellant contended that when whatever amount

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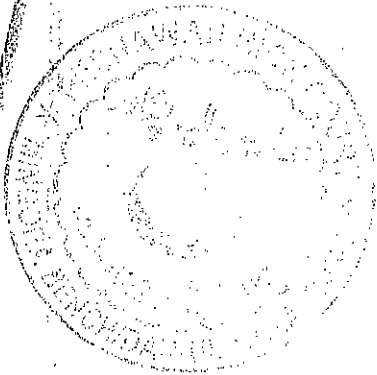


given to the appellant is withdrawn equally under the joint signatures of the appellant and Chairman, Parent Teacher Committee (PTC) and consumed by the Committee on the maintenance, renovation, electrification and other utility works of the School, the appellant only cannot be burdened with charge of withdrawal of money for misappropriation. The learned counsel while discussing the misappropriation on the part of the appellant argued that when various cheques for different amounts at different times issued by the Chairman to the Principal, GPS, Tigarey, on the pretext that the said amount have been inadvertently transferred to the account of GMS Tigarey, without probing that aspect of the case, the testimony of the PWs produced by the Prosecution cannot be relied upon unless corroborated by unimpeachable source and thus the deficiency in the amount allocated for GMS Tigarey cannot be used as evidence against the appellant. The learned counsel further argued that when no evidence whatever has been brought on the record to show in black and white that it was

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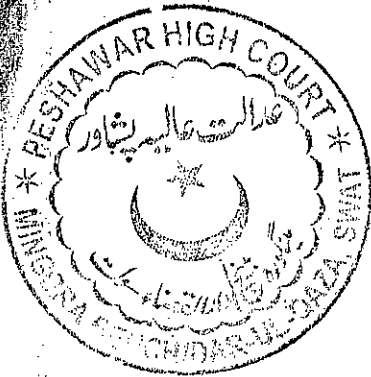
the appellant who fraudulently and dishonestly withdrew the amount of Rs.11,93,154/-, the complicity of the appellant in the commission of the crime cannot be presumed against him. Even otherwise, the learned counsel further added, when PW-1, Investigating Officer, in his statement recorded in Court, affirmed that he has not sent the signature of the Chairman with his specimen signature to the FSL for comparison, in the absence of the Laboratory report, the question of embezzlement against the appellant would not arise. He by elaborating his arguments submitted that where the evidence on the record is deficient and bristling with doubts and infirmities, appellant cannot be convicted on the strength of such charge, that too, when he in his statement recorded under section 342 Cr. P.C. clearly stated that whatever amount given for School has been spent by the Committee on the maintenance of the said School. If the signature of the Chairman, the learned counsel concluded, having not verified by HBL with his specimen signature, is left out of consideration, there remains nothing to link him



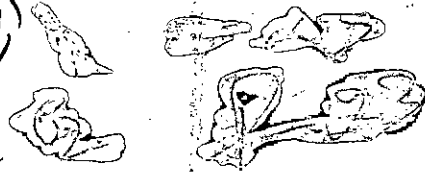
~~APPEAL~~

with the crime, the conviction and sentence recorded by the learned trial Court being based on no evidence, is liable to be set aside.

3. As against that, the learned counsel appearing on behalf of the State contended that the preliminary inquiry and the statements of the P.Ws. connect the appellant with the crime beyond any shadow of doubt. The final report, the learned counsel added, prepared by the C.O. ACE Bunair (PW1) in the wake of misappropriation of the school fund constitutes another circumstance, which clearly links the appellant with the crime. The learned counsel while defending the impugned judgment contended that the appellant being Head Master Government Middle School Thegrey and Incharge, was so deeply entrenched that he fraudulently and dishonestly withdrew the amount of Rs.11, 93,154/- from the HBL Totalay on the forged signature of PTC Chairman for personal use and as such the Government Exchequer suffered a loss of a huge amount. There is ample and overwhelming evidence on the record, the learned counsel added, which shows that he embezzled and



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**ATTESSED**



misappropriated huge amount by corruption and corrupt practices, which is required under the law to be recovered from him so that the loss caused to the national exchequer could be made up. When the charge against the appellant, he added, has been proved beyond doubt and evidence produced against him remained un-shattered, the finding of conviction and sentence is not open to any exception.

4. I have gone through the record carefully and considered the submissions of the learned counsel for the parties.

5. It is not disputed that for the withdrawal of the amount from the HBL concerned, joint signatures of the appellant and the Chairman of the Committee, were required to be available on the cheque. It is also not disputed that various cheques sent to the Bank concerned for the withdrawal of the amount were signed by both of them. Likewise, it is also not disputed that without their joint signatures, neither any amount can be deposited in the Bank nor any amount can be withdrawn therefrom. The question arising for my consideration in



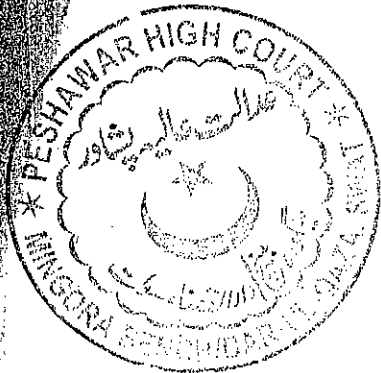
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this appeal is whether the evidence collected by the Investigating Agency together with the one examined in the Court is of a nature as could support and sustain the conviction of the appellant? A perusal of the preliminary inquiry and statements of the PWs. recorded in the Court shows that many officials of the Bank and the Chairman/Members of the Committee in the concerned School, have aided and abetted the commission of the crime but strangely enough their role appears to have been hushed up either with design or by default. The same allegations of corruption were also required to be leveled against the Chairman of the Committee who being the signatory, was equally responsible for the joint withdrawal of the money but the hands of the Anti Corruption Establishment, were never laid on his notwithstanding even withdrawal of amount from the joint account could not have been done without his consent, connivance or complicity. Why this pick and chose, is the most nagging question, which has not been answered by the learned counsel for State. Why the Chairman of the



**ANSWERED**



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P. (31)

Committee, who being also the Custodian of the joint account has not been taken on the board for being interrogated. In case he has been interrogated, why did he remain behind the scene with his face and name veiled and covered? The Investigating Officer, when admitted the signature of the Chairman on the cheque, why he did not send his signature to the FSL with his specimen signature for comparison and why he did not make further probe to reach the hand at the back of all this. The Investigating Officer though admitted in his cross-examination that the amount of GPS Tigarey was mistakenly mixed with the amount of GMS Tigarey, but yet he neither inquired regarding the amount mistakenly mixed nor he inquired that who had drawn that amount. When no explanation comes forth, the only tenable deduction in the circumstances would be that the case was not investigated fairly and faithfully. It looks that actual players of high ranks have been let off and only figurehead has been brought forth to bear the brunt. The entire exercise seems to be an eye-wash. In any case, I am to see whether the



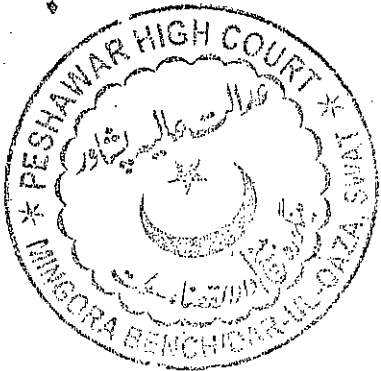
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P-33  
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at each Bank, there is an unerring mechanism of verification for detecting bogus and fake signatures. When no answer muchless satisfactory comes forth, evidence suffered from unconformable contradictions alone cannot provide a dependable foundation for recording or maintaining the convictions of the appellant, especially when evidence of this type can be fabricated by the Investigating Agency at subsequent stage. I do not find any corroborative evidence of this nature on the record. Even otherwise one tainted piece of evidence cannot corroborate another tainted piece of evidence. When this being the position, I do not think, it can prove anything against the accused. Therefore, the link connecting the appellant with the crime cannot be held to have been proved on the record. Therefore, I exclude the Prosecution evidence out of account, especially when it is presumed to be unworthy of credit.



~~ATTACHED~~

7. Though the appellant was intensively interrogated but nothing was found during the investigation as could point to his complicity in the

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P. (34)



crime. It has to be considered and given due weight, when it fits in with the surrounding circumstances. In the absence of any corroboratory evidence, it would not be in accord with the safe administration of justice to maintain the convictions of the appellants, especially when such evidence can easily be procured. Even the evidence of the handwriting expert is always held by the superior Courts to be weak, cannot be believed without corroboration. The judgment rendered in the case of Rehmat Sher-Vs- The State (1987 PCr LJ Lahore 855) can well be referred in this behalf. It is settled principle of law that the testimony of a single witness can be relied upon, if it is free from lapses and lacunas but when it is full of discrepancies and even contradictions, it cannot be relied upon for maintaining conviction in a case of this nature. I, therefore, do not feel persuaded to maintain the conviction and sentence of the appellant.

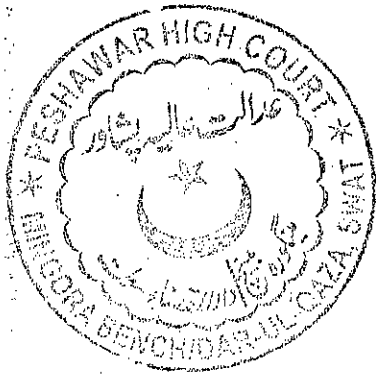
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8. For the reasons discussed above, I have no hesitation to hold that the charge against the appellant has not been proved beyond any shadow

P-35

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of reasonable doubt. I, therefore, allow this Criminal Appeal, set aside the convictions and sentences recorded by the learned trial Court and acquit him of the charges levelled against him. He be set free forthwith, if not required in any other case.



Dated: 10.1.2016

J

S.No. 1490  
 Name of Applicant PAPU RASID  
 Date of Presentation of Application 16.3.17  
 Date of Completion of Court 21.3.17  
 No of Copies 12 P  
 Urgent Fee ---  
 Fee Charged ---  
 Date of Delivery of Copies 21.3.17

**Certified to be true copy**

*[Signature]*  
 EXAMINER  
 Peshawar High Court, Mingora/Bar-at-Tarn, Swat  
 Authorized Under Article 177 of Constitution of Pakistan Order 1984  
21/3/17

**ATTESTED**

"E"

36

*Arif* *Arif* *Arif*

To:

Respected,  
District Education Officer (DEO)  
District Buner

Subject: APPLICATION FOR REINSTATEMENT OF THE APPLICANT IN LIGHT OF THE ORDER OF HON'BLE HIGH COURT DAR UL QAZA SWAT DATED 10.11.2016 IN CR. A NO. 130/2016.

Respected Sir,

Applicant most humbly submits as below.

Applicant holds CT Teacher post at GMS Tigarey and was suspended due to the registration of criminal case against the applicant. Undersigned contested his case before the competent Court of Law and justice and in this consistency filed appeal before worthy Peshawar High Court, Dar ul Qaza Saidu Sharif Swat with the citation of Criminal Appal No. 103/2016 with a titled "Muhammad Younas versus State". Consequently, the appeal of the undersigned is accepted by the worthy High Court on 10.11.2016 and clearly acquitted the undersigned from all the charges leveled against him. (Attested copy of the judgment of worthy High Court is attached).

After the said order of Hon'ble Peshawar High Court, Swat Bench, undersigned is entitled for reinstatement upon the post he possessed earlier as CT Teacher GMS Tigarey. Hence, through this applicant is seeking your considerable approval for the subject ma ter of this application.

It is, therefore, prayed that on acceptance of this application, in the light of the above stated order of Hon'ble High Court, the applicant may be ordered to reinstate upon the said post.

Applicant will remain thankful to you in the rest of his life.

Dated: 05.12.2016

*Dairy No 513*  
*06/12/2016*

*Arif*  
**ATTESTED**

Yours Sincerely,

*M Younas*  
Muhammad Younas

(CT Teacher)  
S/O Farid Gul  
R/o Tehsil Dagar,  
District Buner.  
Cell // 0334-5593592

*At 06-12-2016*

محفوظ جناب ڈائریکٹر ایف ایجوکیشن شیوا اور احمد  
DMM DAM 519  
۱۲/۱۱/۱۷

درخواست براد داد لکھی

جناب عالی -

۱۔ یہ کہ من سائل محمد یونس ولد فرید گل سہانی بونیر محکمہ ایجوکیشن  
میں بطور ٹی پوسٹ C.T پر ڈورنٹس مڈل سکول تھلہ ہی میں ڈیوٹی سر انجام دے  
دیا ہے جو کہ من سائل suspicion بیا گیا تھا۔ جو کہ سائل کا ایسی رتنی کرت ہیں عداوت میں  
سنرا سنائی گئی تھی۔ جو کہ ہائی کورٹ نے بری کر دیا ہے۔

۲۔ یہ کہ محکمہ تعلیم ضلع بونیر کے اعلیٰ افسر نے دوبارہ انکو بری کرنے من سائل کو  
سے درخواست کرنے کے دیکھے۔ جو کہ سائل نے اس انکو بری پر ایسی جمع کر کے ہے  
جو کہ حال فیصلہ نہیں ہو اور کسی التواء میں پڑھا ہے۔

۳۔ یہ کہ سائل کے بارے میں عداوت عالیہ نے فیصلہ صادر فرمایا ہے۔ اور سائل کے کسی  
کو ختم کر دیا گیا ہے۔ اور نئے انکو بری کی ضرورت نہیں ہے۔

۴۔ یہ کہ حالیہ انکو بری غلط بیانی پر مبنی آدم ہے۔ اور زبردستی من سائل سے دستخط لگے  
ہے۔ اور ریکرف کاروائی ہے۔ اور عداوت کے فیصلے کے بعد بیا گیا ہے۔

استدعا ہے کہ سائل کے حق میں ہائی کورٹ کا فیصلہ برقرار رکھا جائے اور سائل کے  
خلاف فدیہ کاروائی روکھ دیا جائے۔

۱۱/۱۳/۲۰۱۷

M YUNUS  
محمد یونس ولد فرید گل ڈورنٹس مڈل سکول تھلہ ہی ضلع بونیر  
CT

ATTESTED

حکومت جناب ڈائریکٹر صاحب محکمہ تعلیم سرائے اور کالجز سکولری سروس  
جناب عالی

گزارش کی بات ہے کہ بندہ نے دفتر ہذا میں مہوار 18-2-14 کو  
اپیل جمع کی ہے 674 DINO

DEO لوئیر سے Remarks مانگے تھے مگر اس وقت اس کی  
جواب نہیں آیا ہے کوالہ 3275 مہوار 18-2-14

اگر آج صاحب لاہور اپنی گزارش Remark لکھے

Reminders کا حکم صادر فرمائیں تاکہ بندہ کا اپیل کاٹلین ہو سکے  
شکریہ  
25/4/18

ADDL  
D/S

آج کا جو زمان  
نورس آف ایس  
GMS

ATTESTED

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Annex "F"

(39) (12)

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

**NOTIFICATION**

WHEREAS Mr. Mohammad Younas CT GMS Thegaray was proceeded against under the Khyber Pukhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. AND WHEREAS The enquiry committee was constituted comprising the following officers to conduct enquiry against the accused CT for the charges levelled against him in accordance with the rules.

1. Mr. Fazal Rashid Principal GHS Kowga
2. Mr. Iftikhar Ul Ghani DDEO Male Buner
3. Mr. Bakht Sher Hussain SDEO Mandanr

3. AND WHEREAS the enquiry committee after examined the embezzlement charges- (Rs 800047/-) evidence on record and has recommended the accused teacher for disciplinary action under KPK Govt. Servants E&D Rules 2011.

4. AND WHEREAS the show cause notice served to the accused CT by the competent authority vide this office Endst. No: 6004-07 dated 19-10-2017 but neither he reply the show cause notice nor desired to be heard in person within stipulated period.

5. AND WHEREAS the competent authority (DEO Male Buner) after having considered the embezzlement charges evidence on record and enquiry report is of the view that the embezzlement charges against the accused CT have been proved.

6. NOW, THEREOF, in exercise of the powers conferred under sub rule 4(b) (IV) & 7(f) of Khyber Pukhtunkhwa Govt. Servants (Efficiency & Discipline) Rules 2011, the Competent Authority is pleased to impose major penalty of "Dismissal from service with effect from 05-11-201 (F/N) upon Mr. Mohammad Younas CT GMS Thegaray."

Note:-

Necessary entry to this effect should be made in his service Book accordingly.

(BAKHT ZADA)  
DISTRICT EDUCATION OFFICER (M)  
BUNER

Dated 8/11/2017.

Endst. No. 5349-561

Copy for information to:-

1. Director (E&SE) Khyber Pukhtunkhwa Peshawar.
2. Deputy Commissioner Buner with the request to recover the amount Rs. 800047/- from the teacher concerned.
3. District Police Officer Buner with the request to recover the amount Rs. 800047/- from the teacher concerned.
4. Director Anti-Corruption Khyber Pukhtunkhwa Peshawar with the request to recover the amount Rs. 800047/- from the teacher concerned.
5. Circle Officer Anti-Corruption Buner with the request to recover the amount Rs. 800047/- from the teacher concerned.
6. District Monitoring Officer Buner.
7. District Accounts Officer Buner.
8. Official Concerned.

DISTRICT EDUCATION OFFICER (M)  
BUNER

Annex "G"

(40)

Dairy No 674

10 AM  
15-2-2018

To,

The Director

Education Khyber Pukhtoon Khwa

Peshawar.

Concerned clerk

Maqsood / Haji Akbar

**Subject :- Departmental representation/Appeal against the impugned office Order No.Endi.No to th.5349-56 dated 08/11/2017 which was shown/handed over e appellant on 12/02/2018 in the office of DEO District Bunner.**

**Respectfully Sheweth:**

1. That the appellant was serving in education department as CT in Govt: Mēdal School Thigaray District Bunner till 12/02/2018. (Copies of duty slip is attached)
2. That it was in the year 2015 when a case FIR No.2 dated 11/02/2015 Under Section 409/419 PPC read with section 5(2) PC Act Police Station ACE Bunner was lodge against the appellant, appellant was convicted by trial court while honorably acquittal by the Hon'able Peshawar High Court Mingara Bench(Darul-Qaza) Swat vide order dated 10/11/2016.(Copy of the order is attached.)
3. That after the acquittal the appellant approached the learned DEO Bunner and the appellant was directed to join his previous duty.
4. That since then the appellant was performing his duty as CT Teacher in Govt: Mēdal School Thegaray with full devotion zeal and zests till 12/02/2018 when he was informed about impugned order.
5. That the appellant is aggrieved form the impugned order file the instant petition on the following grounds.

APPROVED



FOUND.

- A. That the impugned order is illegal, without lawful authorities, hence is liable to be set aside.
- B. That the impugned order of appellant dismissal is prima facie illegal as the same has been passed with retrospective effect and on this ground alone the same is liable to be set aside.
- C. That the appellant is performing his duty till date as he has been paid salary for the month of Jan 2018 which further shows that the competent authorities is dealing with the vested right of the appellant in a causal and ignorant manner.
- D. That no formal what to speak about a regular inquiry is held before passing the impugned order of dismissal therefore on this score alone the impugned order is liable to be reversed.
- E. That no opportunity of personal hearing is given to the appellant and thus he was condemned unheard which is against the centuries old principle of natural justice.
- F. That the appellant has performed his duty with a high degree of professionalism and no complaint what so ever have been made against him.

It is therefore prayed that by acceptance of this departmental representation/Appeal the impugned dismissal order may very graciously be reversed/set aside and the appellant may very kindly be re-instant in service with all back benefit.

Any other remedy deemed proper and just may also be granted.

**ATTESTED**

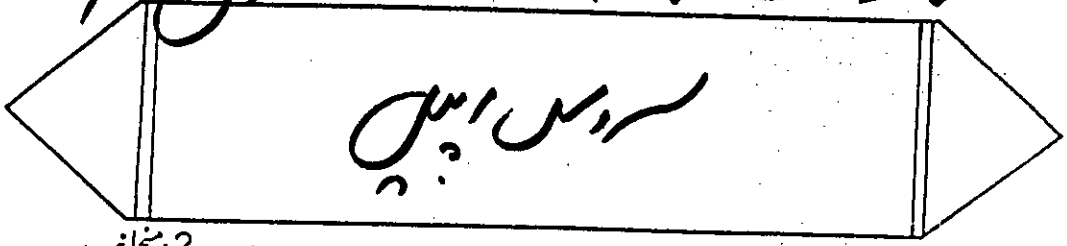


Appellant

*M Younas*  
 Muhammad Younas Ex-CT Teacher GMS Thegary  
 Son of  
 Farid Gul  
 Resident of Village Rega Tehsil Gagra.  
 District Bunnor  
 At present Village Shewa (Sang Bati)  
 Tehsil Razar District Swabi

Dated. 14/02/2018

بعدالت ضابطہ سر دیس ٹریبیونل رپک شہر



2 مخانب

مقدمہ بنام

مورخہ

مقدمہ

دعویٰ

جرم

باعت تحریر آئنگہ  
سپرٹور منڈر کپک اور  
بنام

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام کے لیے اس کے داخل مقدمہ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار دیا گیا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار 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 مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
پروا ختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے دہوگا۔  
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 لکھ دیا کہ مندر ہے۔

المرقوم 30-5-18 ماہ صئی - 2018

بمقام کے لئے منظور ہے۔

Accepted

AS

مخانب  
Sardis Appeal  
مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No 754/2018

Mohammad Younas Ex-CT Teacher GMS Thegaray Tehsil Daggar District Buner.

Appellant

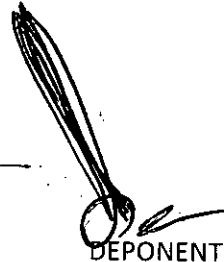
**VERSUS**

District Education Officer Male Elementary & Secondary Education District Buner & Others

Respondents

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DEPONENT  
15101-0882586-3

①

**BEFORE THE KHYBER PUKHTUNKHWA HONERABLE SERVICE TRIBUNAL**  
**PESHAWAR.**

**Service Appeal No. 754/2018**

Muhammad Younas Ex-CT Teacher GMS Thegary, S/O Farid Gul R/O Village Rega Tehsil Gagra, District Buner at present Village Shewa (Sang Batai) Tehsil Razar District Sawabi

Appellant

**Versus**

1. Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
3. District Education Officer Male District Buner

Written Reply/Para wise Comments for & on behalf of Respondents No. 1, 2, 3.

Respectfully Sheweth

**Preliminary Objections.**

1. The Appellant has no cause of action/locus standi
2. The instant appeal is badly time barred.
3. The Appellant has concealed the material facts from this honourable Tribunal, hence liable to be dismissed.
4. The Appellant has not come to this honorable Tribunal with clean hands.
5. The Appellant has filed the instant appeal just to pressurise the respondent.
6. The appellant has filed the instant appeal on malafide motives.
7. The instant appeal is against the prevailing law and rules.
8. That the appellant has been estopped by his conduct to file the appeal.

**Facts**

1. Correct, to the extent before the huge embezzlement amount charges against the appellant, the appellant was performing his duty in Education Department as CT Teacher in Govt: Middle School Thegary District Buner.
2. Correct, to the extent if the appellant was not deposited the embezzlement amount in Govt: treasury as case FIR No 02 dated 11-02-2015 under section -409 PPC R/W section - IV(2) PC act Police Station ACE Buner was lodged against the appellant.
3. ~~.....~~, The Honourable Court of Special Judge Anti-Corruption (Provincial Khyber Pakhtunkhwa Peshawar as already convicted the appellant under section 409 of PPC and sentenced three years simple imprisonment with a fine of Rs 200000/- (two lac) in case of default of payment of fine he would further undergo simple

imprisonment of Six months. Benefit of section 382(B) of CRPC is also extends him. in Para No 9 of the court judgement.

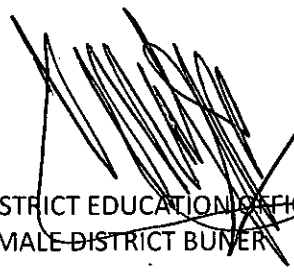
4. Correct, to the extent against the judgement of honourable Anti-Corruption Judge Khyber Pakhtunkhwa Peshawar dated 18-5-2016, the appellant file CR Appeal No130/2016 in honorable Court Darul Qaza Swat which was decided on 10-11-2016 in honourable court acquitted the petitioner against charges level against him not from the embezzlement amount of the Government acquitted in criminal case does not official department proceedings.
5. Pertains to record how can re-instate a convicted/embezzled person against law & Rules.
6. Incorrect, the respondent No3 District Education Officer (M) Buner dismissed the appellant on 05-11-2017(FN) issued the dismissal order of the appellant on 08-11-2017.
7. Correct, to the extent that for non-implementation of order of the higher ups, competent authority has issued charge sheet along with statement of allegation and constituted an enquiry committee to conduct enquiry against the alleged CT Teacher for the charges level against him accordance with the law & Rules. The enquiry committee after examined the embezzlement charges , evidence on record and in his recommendations ,the alleged Teacher for disciplinary action under Khyber Pakhtunkhwa Servant Rules E&D Rules 2011. In the light of enquiry report the competent authority respondent No 3 , District Education Officer(M) Buner imposed major penalty of Dismissal from service upon Mr. Muhammad Younas CT Teacher. After issuance of show cause notice however the appellant did not. submit reply. Copy of charge sheet, inquiry and show cause notice as Annexure A, B & "C".
8. Incorrect, the appellant has not been aggrieved from said order of the competent authority, but the appellant has not been obeyed the order of competent authority for depositing of the embezzlement amount in Govt: Treasury.
9. Pertains to record.


### Grounds.

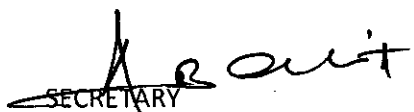
- A. Submit to prove however the appellant was proceed to have committed embezzlement.
- B. Incorrect, the order issued by Respondent No3 is legal justified in accordance with law, Rules and policy of the Government.
- C. Incorrect, As per Para No. B of the Grounds.
- D. Pertains to record.
- E. Incorrect, before dismissal from service the competent authority has conducted enquiry against the appellant in light of enquiry report findings, the appellant has been dismissed from service is already explained in Para's above.
- F. Correct to the extent that the honorable Court Darul Qaza Swat only acquitted the appellant from three years simple imprisonment and fined as RS 200000/- (Two Lac) not from the embezzlement of Govt: amount.

- G. Incorrect, two show cause Notices were issued in the name of appellant on 28-12-2016 & 19-10-2017 reply of the first Show cause notice received from the appellant on 09-1-2017, before the dismissal from service of the appellant Respondent No 3 dismissed the appellant in the light of enquiry conducted against him.
- H. Pertains to record.

In wake of the above noted submission it is requested that this honorable Tribunal Khyber Pakhtunkhwa may very graciously be pleased to dismiss the instant appeal with cost and favour of the respondent department.

  
DISTRICT EDUCATION OFFICER  
MALE DISTRICT BUYER

  
DIRECTOR  
ELEMENTARY & SECONDARY EDUCATION  
KHYBER PUKHTUNKHWA PESHAWAR

  
SECRETARY  
ELEMENTARY & SECONDARY EDUCATION  
KHYBER PUKHTUNKHWA PESHAWAR

6

**BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No 754/2018

Mohammad Younas Ex-CT Teacher GMS Thegaray Tehsil Dagger District Buner.

**Appellant**

**VERSUS**

District Education Officer Male Elementary & Secondary Education District Buner & Others

**Respondents**

**AFFIDAVIT**

I Ubaid Ur Rahman ADEO Litigation Office of the District Education Officer Male do hereby solemnly affirms & state on oath that the whole contents of these comments are true and correct to the best of my knowledge and belief and nothing has been canceled from this august court.



**DEPONENT**

15101-0882586-3

Annexure (A)

(5)

36

## SHOW CAUSE NOTICE.

I, Mr. **Bakht Zada** District Education Officer (M) Buner, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011; do hereby serve you, as follow.

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

- (A) You Mr Muhammad younas S/O Farid Gul CT GMS Tagaray have utilized the ADP No.04190198 for the year 2012-13 amount 1739000/ allocation for the construction of rooms illegally and un law fully .
- (B) You have drawn the amount illegally form HBL Totalai and kept the amount cash in hand for two years , which is gross violation of rules.
- (C) You have already been convicted by the special judge Anti-Corruption Khyber Pakhtun Khwa Peshawar as well as you have behind the bar despite it you have received the salary regularly .
- (D) Time and again you are directed to deposit the remaining amount of Rs ;1188862/- but in vain .
- (E) You have committed embezzlement reached the irreparable loss to the Govt; exchequer.

As a result thereof, I as competent authority, have tentatively decided to impose upon you the major penalties, under rule 4 of the said rules.

You are thereof; required to show cause as to why the one of the major penalty should not be imposed upon you and also intimate whether you desire to be heard in person.


If no reply to this notice is received within seven days of more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-part action shall be taken against you.

(BAKHT ZADA)  
DISTRICT EDUCATION OFFICER  
(M) DISTRICT BUNER

Endst: No. 4567-70 Dated 28-12 /2016

Copy of the above is forwarded for information and necessary action to.

1. Deputy Commissioner Buner.
2. District Monitoring Officer IMU District Buner.
3. Deputy District Education officer Buner.
4. Official Concerned.

  
DISTRICT EDUCATION OFFICER  
(M) DISTRICT BUNER



Amended (B) (6) 58

## SHOW CAUSE NOTICE

I **Mr. Bakht Zada** District Education Officer (M), as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, as follows.

I am satisfied that you have committed the following acts / omissions specified in rule 3 of the said rules;

- (a) You **Mr. Muhammad Younas CT GMS Tegaray S/O Farid Gul** have utilized Rs. 1739000/- the ADP No.04190198 for the year 2012-13 amount allocated for the construction of Rooms illegally and unlawfully.
- (b) You have drawn the amount illegally from PTC A/C of GMS Tegaray HBL Totalai Buner. And kept the amount cash in hand in your own custody for two years, which is a gross violation of rules.
- (c) You have already been convicted by the special judge Anti-corruption Khyber Pakhtunkhwa Peshawar as well as you have behind the bar.
- (d) Time and again you were directed to deposit the usurp amount of Rs.800047/- But in vain.
- (e) You have committed embezzlement and irreparable loss to the Govt: Exchequer.

Consequently a comprehensive /detail enquiry was conducted against you vide this dated 21/07/2017, by the following officers which proved the charges of embezzlement leveled against you.

- (1) Mr. Fazal Rashid Principal GHS Kowga.
- (2) Mr. Ifthikharul Ghani Deputy District Education Officer(M) Buner.
- (3) Mr. Bakht Sher Husain SDEO (M) Mandanr Buner.

As a result thereof, I as competent authority have tentatively decided to impose upon you one of the major penalties, under sub Rule 4 of the said Rules.

You are, thereof, required to show cause as to why the one of the major penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

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

(BAKHT ZADA)

DISTRICT EDUCATION OFFICER (M)  
BUNER.

Endstt: No 6004-07 Dated 19/10/17

Copy of the above is forwarded for information to the

1. Deputy Commissioner Buner
2. District Monitoring Officer Buner
3. Sub Divisional Education Officer (M) Buner
4. Official concerned.

DISTRICT EDUCATION OFFICER (M)

Amere (1)

7

Office of the Principal GHS Kawga (Buner)

NO 115 / inquiry

01  
Dated 18/2017

To,

DEO (M) Buner,

**Subject: Inquiry report against Mr Muhammad  
Younas s/o Farid Gul CT GMS Tigaray.**

Reference: Your telephonic message regarding this inquiry dt 21/7/17

Dear sir, on receiving your telephonic message about the detail inquiry against Mr M.Younas CT GMS Tigaray due to his embezzlement in PTC account. The detail inquiry is below.

**1. Facts Finding Report:**

I(Principal GHS Kawga) along with DY DEO Mr Iftikharul Ghani and Mr Bakht Sher Hussain SDEO(M) Teh:Mandanr reached GHS Totalai near about 10 oclock on Monday dated 24/7/17. Where Principal GHS Totalai Mr Sherin Zada was present. We had already informed Mr M.Israr Khan H.M,GMS Tigaray to bring PTC record and all expenditure files along with him. Mr M.Younas CT GMS Tigaray was also present on the occasion. Due to bad weather we were not able to go GMS Tigaray there fore all of them were asked to present here in GHS Totalai and present his clearance to committee.

2. First of all we inform Mr M.Israr H.M GMS Tigaray to provide the detail of PTC account No:0357-79001276-03 from 2012 to Dec 2015 so that we can know the detail about the credit and debit in that period. He received the detailed report of the prescribed bank from 30/6/2012 to 28/7/2015 which is attached with the inquiry report.

NOTIFICATION.

*Amended (D)*

⑩

WHEREAS Mr. Mohammad Younas CT GMS Thegaray was proceeded against under the Khyber Pukhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. AND WHEREAS The enquiry committee was constituted comprising the following officers to conduct enquiry against the accused CT for the charges levelled against him in accordance with the rules.

1. Mr. FazaL Rashid Principal GHS Kowga
2. Mr. Iftikhar Ul Ghani DDEO Male Buner
3. Mr. Bakht Sher Hussain SDEO Mandanr

3. AND WHEREAS the enquiry committee after examined the embezzlement charges ( Rs 800047/- ) evidence on record and has recommended the accused teacher for disciplinary action under KPK Govt: Servants E&D Rules 2011

4. AND WHEREAS the show cause notice served to the accused CT by the competent authority vide this office Endst. No. 6004-07 dated 19-10-2017 but neither he reply the show cause notice nor desired to be heard in person within stipulated period.

5. AND WHEREAS the competent authority (DEO Male Buner) after having considered the embezzlement charges evidence on record and enquiry report is of the view that the embezzlement charges against the accused CT have been proved.

6. NOW, THEREOF, in exercise of the powers conferred under sub rule 4(b) (IV) & 7(l) of Khyber Pukhtunkhwa Govt: Servants (Efficiency & Discipline) Rules 2011, the Competent Authority is pleased to impose major penalty of "Dismissal from service with effect from 05-11-201 (F/N) upon Mr. Mohammad Younas CT GMS Thegaray."

Note:-

Necessary entry to this effect should be made in his service Book accordingly.

(BAKHT ZADA)  
DISTRICT EDUCATION OFFICER (M)  
BUNER

Endst; No. 5349-561

Dated 8/11/2017.

Copy for information to:-

1. Director (E&SE) Khyber Pukhtunkhwa Peshawar.
2. Deputy Commissioner Buner with the request to recover the amount Rs. 800047/- from the teacher concerned.
3. District Police Officer Buner with the request to recover the amount Rs. 800047/- from the teacher concerned.
4. Director Anti-Corruption Khyber Pukhtunkhwa Peshawar with the request to recover the amount Rs. 800047/- from the teacher concerned.
5. Circle Officer Anti-Corruption Buner with the request to recover the amount Rs. 800047/- from the teacher concerned.
6. District Monitoring Officer Buner.
7. District Accounts Officer Buner.
8. Official Concerned.

DISTRICT EDUCATION OFFICER (M)  
BUNER

# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar

Muhammad Younas (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Education Deptt. (Respondent)  
(Defendant)

I/we Muhammad Younas

Do hereby appoint and constitute **M.Asif Yousafzai, 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 costs.

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

Dated \_\_\_\_\_/20

M Younas  
( CLIENT )

ACCEPTED

M. Asif Yousafzai  
**M. ASIF YOUSAFZAI**  
Advocate

Taimur Ali Khan  
ADW

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

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

statement of Mr Asad Khan advocate  
stated that I am Council for  
petitioner M. Younis. The Appeal is pending  
before Service Tribunal for adjudication  
I would have no objection if the  
petitioner engaged another Council in  
the appeal, more over I have no  
more interest in this case, due  
to the reason that time and again  
this petitioner has come to me for  
given me written (NOC), I felt that  
it is not the way to exclude one  
Council from the case. (Sorry My Brother)  
for using this words. So if you are  
interested in the case, I would have no  
objection.

Asad Khan Muhammad Zai

As 

6333 9193087

**BEFORE THE KPK, SERVICE TRIBUNAL PESHAWAR.**

**Service Appeal No. 754/2018**

Muhammad Younas

VS

Police Deptt:

.....  
**REJOINDER ON BEHALF OF APPELLANT**  
.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-8) 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 Admitted correct by the respondents. Moreover, rest of the contention of the respondent is incorrect.
- 2 Admitted correct by the respondents. Moreover, rest of the contention of the respondent is incorrect.
- 3 No comments.
- 4 Incorrect. While para-4 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, the appellant was acquitted from the

charges leveled against the appellant because the FIR was registered against the appellant on basis of the charges of embezzlement which was already set aside by the Hon'ble Court Daral Qaza Swat, so no more allegation remains against the appellant.

- 5 Incorrect. While para-5 of the appeal is correct as mentioned in the main appeal of the appellant. The allegation of embezzlement was not proved against the appellant.
- 6 Incorrect, hence denied misleading. While para-6 of the appeal is correct as mentioned in the main appeal of the appellant.
- 7 Incorrect, hence denied misleading. While para-7 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, no proper inquiry was conducted against the appellant and the appellant was terminated from service on the basis of allegation which was already set aside by the Hon'ble Court Daral Qaza Swat .
- 8 Incorrect, hence denied misleading. While para-8 of the appeal is correct as mentioned in the main appeal of the appellant.
- 9 No comments.

**GROUND:**

- A) Incorrect. The orders of the respondents are against the law, rules and norms of justice therefore not tenable and liable to be set aside.
- B) Incorrect. While para-B of the appeal is correct as mentioned in the main appeal of the appellant.
- C) Incorrect. Incorrect. While para-C of the appeal is correct as mentioned in the main appeal of the appellant.

- D) Admitted correct by the respondent deptt: as service record is already in custody of the respondent deptt:.
- E) Incorrect. Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Admitted correct by the respondent deptt:.. While the contention of respondent deptt: is incorrect, moreover para-F of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Incorrect. Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant.
- H) Legal.

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

**APPELLANT**

Through:

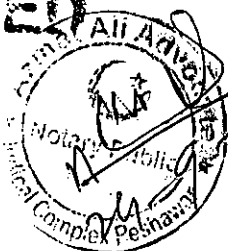
  
(M. ASIF YOUSAFZAI)

  
SYED NOMAN ALI BUKHARI  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

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

**ATTESTED**



  
RESPONDENT



BEFORE THE KPK, SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 754/2018

Muhammad Younas

VS

Police Deptt:

REJOINDER ON BEHALF OF APPELLANT

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-8) 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 Admitted correct by the respondents. Moreover, rest of the contention of the respondent is incorrect.
- 2 Admitted correct by the respondents. Moreover, rest of the contention of the respondent is incorrect.
- 3 No comments.
- 4 Incorrect. While para-4 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, the appellant was acquitted from the

charges leveled against the appellant because the FIR was registered against the appellant on basis of the charges of embezzlement which was already set aside by the Hon'ble Court Daral Qaza Swat, so no more allegation remains against the appellant.

5. Incorrect. While para-5 of the appeal is correct as mentioned in the main appeal of the appellant. The allegation of embezzlement was not proved against the appellant.

6. Incorrect, hence denied misleading. While para-6 of the appeal is correct as mentioned in the main appeal of the appellant.

7. Incorrect, hence denied misleading. While para-7 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, no proper inquiry was conducted against the appellant and the appellant was terminated from service on the basis of allegation which was already set aside by the Hon'ble Court Daral Qaza Swat.

8. Incorrect, hence denied misleading. While para-8 of the appeal is correct as mentioned in the main appeal of the appellant.

9. No comments.

**GROUND:**

A) Incorrect. The orders of the respondents are against the law, rules and norms of justice therefore not tenable and liable to be set aside.

B) Incorrect. While para-B of the appeal is correct as mentioned in the main appeal of the appellant.


C) Incorrect. Incorrect. While para-C of the appeal is correct as mentioned in the main appeal of the appellant.

- D) Admitted correct by the respondent deptt: as service record is already in custody of the respondent deptt:.
- E) Incorrect. Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant:
- F) Admitted correct by the respondent deptt:.. While the contention of respondent deptt: is incorrect, moreover para-F of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Incorrect. Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant.
- H) Legal.

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

**APPELLANT.**

Through:

  
(M. ASIF YOUSAFZAI)

  
SYED NOMAN ALI BUKHARI  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

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

  
DEPONENT

# بعدالت

سروس ٹریڈ میوٹیل لمیٹڈ لاہور

محمد انس 2، منجانب محمد امجدی  
محمد انس بنام محمد نسیم

مورخہ  
تقدیم  
754118 اسیل

دعویٰ

جرم

## باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
آن مقام کیسٹیا ہور کیلئے سند لٹھان علی بخاری  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و 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  
زرائیں 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 مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کارروائی 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 مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے وہ ہوگا 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 لکھ دیا کہ سند ہے۔

Attested & Accepted

20

ماہ

المرقوم

العہد گواہ العہد

کے لئے منظور ہے۔

مقام

M. Juma

Office of the Principal GHS Kawga (Buner)

NO 115 / inquiry

01  
Dated 18/2017

To,

DEO (M) Buner,

**Subject:**

**Inquiry report against Mr Muhammad  
Younas s/o Farid Gul CT GMS Tigaray.**

**Reference:** Your telephonic message regarding this inquiry dt 21/7/17

Dear sir, on receiving your telephonic message about the detail inquiry against Mr M.Younas CT GMS Tigaray due to his embezzlement in PTC account. The detail inquiry is below.

**1. Facts Finding Report:**

(Principal GHS Kawga) along with DY DEO Mr Iftikharul Ghani and Mr Bakht Sher Hussain SDEO(M) Teh:Mandanr reached GHS Totalai near about 10 oclock on Monday dated 24/7/17. Where Principal GHS Totalai Mr Sherin Zada was present. We had already informed Mr M.Israr Khan H.M,GMS Tigaray to bring PTC record and all expenditure files along with him. Mr M.Younas CT GMS Tigaray was also present on the occasion. Due to bad weather we were not able to go GMS Tigaray there fore all of them were asked to present here in GHS Totalai and present his clearance to committee.

2. First of all we inform Mr M.Israr H.M GMS Tigaray to provide the detail of PTC account No:0357-79001276-03 from 2012 to Dec 2015 so that we can know the detail about the credit and debit in that period. He received the detailed report of the prescribed bank from 30/6/2012 to 28/7/2015 which is attached with the inquiry report.

3. According to bank statement the record of credit and debit from 30/6/2012 to 28/7/2015 is under below.

Credit		Debit	
30/6/2012	1060000	21/11/2013	2,00,000
30/6/2012	5100	4/12/2013	3,00,000
29/6/2013	205000	26/12/2013	1,00,000
10/7/2013	10,00,000	13/1/2014	2,00,000
10/7/2013	5,00,000	4/4/2014	1,00,000
26/9/2013	29200	22/4/2014	1,50,000
26/9/2013	13,00,000	10/6/2014	3,00,000
15/12/2014	2,00,000	7/7/2014	1,00,000
20/1/2015	26000	9/7/2014	1,00,000
26/1/2015	1,00,000	21/8/2014	1,10,000
28/7/2015	1,00,000	8/9/2014	50,000
Total	36,25,300	10/10/2014	25,000
		11/11/2014	5,00,000
		18/11/2014	5,00,000
		25/11/2014	3,00,000
		Total	30,35,000

4. Mr M.Younas CT took his charge at GMS Tigaray on 2/10/2013 and he was arrested by the anticorruption on 12/2/2015 and he was in jail till 10/11/2016. He drew Rs:30,35,000 from the bank(21/11/2013 to 25/11/2014).

5. After checking all the record although there is great inaccuracies in that record anyhow the following expenditure has been shown

2012-13 = 74117 PT/CRC

2013-14 = 47630 //

2013 = 516986 Cond. Grant

Total Expenditure Rs=683733

6. According to Mr M.Younas he handed over Rs:13,00,000 to GPS Tigaray for construction of two class rooms due to wrongly converted to GMS Tigaray account. (The check copy is attached on which the signature of incharge GMS Tigaray, chairman GMS Tigaray, Head teacher of GPS Tigaray and chairman GPS Tigaray has been done) Page - 10

It is requested in the honour of DEO(M) to Vouch from SDEO Khudukhel that weather rooms have been constructed on prescribed amount Rs:13,00,000 or not. According to Mr.Younas he deposited Rs:200000 in the bank on 15 Dec 2014 and Rs:1,00,000 on 26/1/2015 which is shown in bank statement. The bank receipt is attached on page no 11. So the total expenditure and deposited amount are under below...

Total expenditure = 6,38,733

Converted to GPS Tigaray= 13,00,000

Deposit cash amount in account = 3,00,000

---

Total amount = 22,38,733

So after all expenditure Rs:7,96,267 is due on him.

7. Expenditure of 2012-13 at Page no 3 six student attendance register @70=Rs:420 although Rs:4200 has been shown in receipt. So after subtraction 420 from 4200 is = 3780 its mean that Rs:3780 is shown wrongly in paid amount. P-14

~~Therefore total amount on him is = 796267 + 3780 = 800047 so Rs:8,00,047 has to be recover from him.~~

8. We asked so many question about that matter from head master M.Israr. which is attached with the paper. He did not give satisfactory answers about the matter although he said that Rs:465000 were present in PTC Fund at the time of my taking over charge in this school. P-3

9. We have given a questionnaire to M.Younas CT in which he admitted that Rs:8,00,047 is due on him, and we have taken a stamp paper in which he promised that he has used this amount wrongly in personal use and will deposit the prescribed amount in the period of 3 months in PTC account. P-1,4

10. M.Younas is suspended on 17/10/2015 and he has remained in jail in anticorruption case from 12/2/2015 to 10/11/2016 and Peshawar high court Mingoara branch has ordered to set him free from jail on 10/11/2016, and honourable judge decided that he alone is not responsible in this crime but chairman and committee members are also included in this crime. This case is not an easy one but it will be made more complex by including chairman in investigation process. Copy of the decision is here by attached with the documents. P-24-35


## Recommendations:

Analyzing and thorough perusal of all the available record and evidences, the enquiry committee sorted out that the accused teacher Muhammad younas CT GMS Teaghary is guilty of embezzling huge amount which resulted pecuniary loss to the state treasury, and misconducted under sub rule (3) (b) & (c) of Khyber PakhtunKwha Government Servant (E&D) rules 2011.


Keeping in view the above discussion, the following recommendations are suggested for further necessary action.

1. The whole amount **Rs; 800047/-** may be recovered from the delinquent and accused teacher thorough Police & anticorruption department under sub rule 7 (f) of the E&D rule 2011. On recovery of the same it may be utilized in the same school on need basis.
2. The accused teacher Mr. Muhammad younas CT GMS Theagary may be dismissed from service due to proved grave charges of corruption & embezzlement under sub rule 4 (b) (iv) and 7 (f) of Khyber PakhtunKwha government servant (E&D) rules 2011.

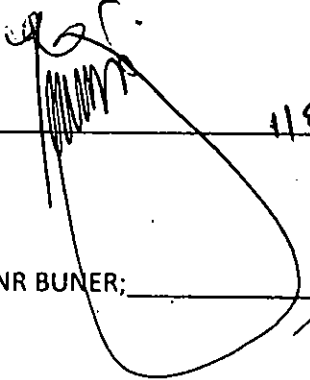
1. FAZLI RASHID PRL GHS KAWGA; \_\_\_\_\_

  
Principal  
G.H.S. KAWGA BUNER

2. IFTIKHARUL GHANI Dy DEO (M) BUNER; \_\_\_\_\_

  
11/8/2017

3. BAKHT SHER HUSSAIN SDEO (M) TEHSIL MANDANR BUNER; \_\_\_\_\_

  
11/8/2017





**OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECY; EDU; BUNER.**  
**NOTIFICATION.**

In compliance with the judgment of Honorable Peshawar High Court Darul Qaza Mingora Bench ( Swat) on writ petition No. 3541/2010 dated 27/6/2012, and writ petition No.1107 dated 21/6/2012 and as approved by District Coordination Officer Buner vide his office Memo: No. 5178 dated 19/10/2012. The following petitioners are hereby appointed as C.T teachers against vacant posts in BPS-15 ( 8500-700-26350 ) plus usual allowances as admissible to them under the rules in the schools noted against their names, from the date of taking over charge with given terms and condition at the end in the best interest of public service.

S.No	Name	Father Name	School Where Posted	REMARKS
1	MUHAMMAD YOUNAS	FARID GUL	GMS SHANGRA	A.V.P
2	NASIB RAHMAN	PURAY	GMS SHANGRA	A.V.P

**Terms and Conditions:-**

1. Their services will be considered regular but without Pension & Gratuity in terms of Section -19 of the NWFP Civil Servant Act, 1973 as amended vide NWEP Civil Servants ( Amendment) Act,2005, they will however be entitled to Contributory Provident fund in such a manner and at such rates as per prescribed by the Govt.
2. In case, they are already in Government; service and working against pension able post on regular basis before 1<sup>st</sup> day of July,2001, without service break, on application to this office through proper channel and selection by this office, is appointed and allowed choice of option either to retain benefit of pension & gratuity as allowed to them under their previous terms of appointment or to avail the benefit of Contributory Provident Fund allowed to them under new appointment.
3. Their services are liable to termination on one month's notice from either side. In case of resignation without notice their one - month pay/allowances shall be forfeited to the Government.
4. They should join their post within 15 days of the issuance of this notification. In case of failure to join their post within 15 days of the issuance of this notification, their appointment will expire automatically and no subsequent appeal etc shall be entertained.
5. They will not claim the financial benefits/arrears, for the period, for which they have not served, as committed in affidavits provided by them.
6. They would be on probation for a period of one year extendable for another one year.
7. They are required to produce health and age certificate from the concerned Medical Superintendent before taking over charge.
8. The Principals / Head Masters / Head mistress concerned may not hand over the charge to the appointee, if there is no vacant post in the school.
9. They will be governed by such rules and regulations as may be issued from time to time by the Govt.
10. Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they shall be proceeded under the rules framed from time to time.
11. They are directed to furnish copies of all sort of certificates/degree/diplomas etc along with their original receipt and photocopies of testimonials pertaining to the verification fee of concerned examination bodies (Board/universities etc) to the Executive District Officer Elementary & Secondary Education Buner. If any certificate/ degree / domicile etc of any candidate found fake or bogus in verification process so he will be terminated with out further notice.
12. The appointing authority shall arrange verification of all the certificates / degrees (Academic / Professional) etc of the appointee and will issue the clearance certificate of each appointee to D.A.O Buner for the release of pay, further more the Drawing and Disbursing Officer will not draw their salaries till the completion of verification process.
13. The Principals/Head Masters concerned would furnish a certificate to the effect that the candidate has joined the post or otherwise after 15 days of the issuance of his posting orders.
14. Charge report should be submitted to all concerned.
15. No TA/ DA will be allowed to the appointee for joining their duty.

(RAJ MUHAMMAD KHAN)  
EXECUTIVE DISTRICT OFFICER  
ELEMENTARY & SECY; EDU; BUNER.

Endst; No.

11329/34

Copy to the:-

1. Director (E&SE) Khyber Pakhtunkhwa Peshawar
2. PS to Secretary (E&SE) Khyber Pakhtunkhwa Peshawar
3. Registrar Peshawar High Court Darul Qaza Mingora Bench ( Swat)
4. District Coordination Officer Buner
5. District Accounts Officer Buner
6. All Concerned.

Dated 8/11/2012.

EXECUTIVE DISTRICT OFFICER  
ELEMENTARY & SECY; EDU; BUNER.

سوال نام برائے پیڈ ماسٹر صاحب SMS ٹیکسٹ کے حوالے سے

سوال 2 = آپ کا نام \_\_\_\_\_ شہزاد اسرار ؟

سوال 2 = سکول میں چارج لینے کی تاریخ \_\_\_\_\_ 2016-11-01

سوال 3 = محمد یونس آف کا سکول میں چارج لینے کی تاریخ \_\_\_\_\_ 2012-11-10  
یونس صاحب آف سے پوچھ کر

سوال 4 = محمد یونس آف 17/10/2015 سے suspend ہے۔ کیا وہ سکول میں چارجی کرنا ہے؟  
\_\_\_\_\_ ہاں

سوال 5 = جب آپ نے سکول میں چارج بحیثیت HM لیا تو PTC اکاؤنٹ میں کُل کتنی رقم موجود تھی؟  
\_\_\_\_\_ 465000

سوال 6 = آپ PTC اکاؤنٹ میں کتنی رقم ہے؟  
\_\_\_\_\_ 339000

سوال 7 = محمد یونس آف نے PTC فنڈ میں CRL + Petty Repairs میں مبلغ 121747/2 روپے فرم کیا ہے کیا آپ اس سے مطمئن ہیں؟  
بشمیر نہیں کیونکہ یہ ایک وقت کی ہیں اور میں بعد میں آئی

سوال 8 = محمد یونس آف نے سکول چارج واری اور گروپ لیڈرین + گورانی پر مبلغ 516986/2 روپے فرم کیا ہے کیا بحیثیت HM آپ اس کام سے مطمئن ہیں؟  
جواب = یہ مہر آنے سے پہلے ہی بات ہے میں اس کے متعلق پوچھ نہیں کہہ سکتا

سوال 9 = بحیثیت HM آپ محمد یونس آف کے بارے میں کچھ لکھنا چاہتے ہیں تو لکھیں؟

No Comments

جواب =

فون 03449625044

شہزاد اسرار SST  
SMS ٹیکسٹ کے

سوال 1: آپ کا نام جمع ودرت کے مڈلوائس ولر فریڈل

سوال 2: gmc تعمیرات میں چارج لینے کی تاریخ 02.10.2013

سوال 3: Bank Statement کے مطابق 30/6/2012 سے 28/7/2015 تک مبلغ 3625300/- روپے

بنک میں بقیہ ATC اکاؤنٹ میں Credit کئے گئے ہیں۔ جن میں سے آرنے 21/12/2013 سے 28/7/2014 تک 30,35,000/- روپے نکالے ہیں کیا یہ صحیح ہے

جواب: ہاں

سوال 4: آپ نے ATC رجسٹر کے مطابق PT/CRC کی کاپی 121747/- روپے فراہم کی ہے کیا یہ صحیح ہے؟

ہاں

سوال 5: Conditional Grant میں آپ نے 516986/- روپے PTC رجسٹر میں فراہم کیا ہے کیا یہ صحیح ہے؟

ہاں

سوال 6: آپ کے بیان کے مطابق 130,000/- (تیرہ لاکھ روپے) HM gms تعمیرات کو برائے تعمیرات دئے گئے ہیں کیا یہ صحیح ہے (ثبوت پیش کریں)؟

جواب: ہاں میں نے 3 لاکھ روپے gms تعمیرات کے پسٹلر (کم فراہم کیا ہے)

سوال 7: آپ کے بیان کے مطابق مبلغ 300,000/- (تین لاکھ روپے) آپ نے ATC اکاؤنٹ میں Cash جمع کئے ہیں کیا یہ صحیح ہے (ثبوت پیش کریں)؟

جواب: ہاں یہ صحیح ہے

سوال 8: اسی طرح آپ نے کل فرم 2238733/- روپے ظاہر کیا ہے کیا صحیح ہے

ہاں

سوال 9: اسی طرح 30,35,000 - 2238733 = 796267/- روپے آپ کے ذمے ہے کیا یہ صحیح ہے

جواب: ہاں یہ صحیح ہے

سوال 10  
 اس طرح مل سے 6 عدد اصرہ (۷) = 7۰% = ۹۲% جبکہ ۹۲۰۰ روپے  
 ظاہر کیا جاتا ہے اس طرح 378۰ روپے زیادہ ظاہر کئے گئے  
 ہیں کیا یہ صحیح ہے

جواب: ہاں = صحیح ہے

سوال 11  
 اس طرح 796267 + 378۰ = 800۰47 روپے بندم آچکا  
 بنایا ہے کیا آپ تسلیم کرتے ہیں۔

جواب: ہاں یہ تسلیم کرتا ہوں۔

سوال 12  
 اگر آپ تسلیم کرتے ہیں تو کیا یہ رقم فائسہ کر دینے

جواب: 3 سال میں رکھ والی ہوگی

سوال 13  
 اگر آپ اس صفحہ میں کچھ لکھنا چاہتے ہیں تو کسی

جواب: میرے ذمہ جو رقم ہے وہ میں واپس لانا چاہتا تھا  
 لیکن میں جیل میں تھا جبور لاکا وکرم سے میری  
 سزا بیلوں کی تھی۔

M. M. M. M.  
 محمد اویس ولد عزیز علی

1-6706099-15101  
 334 5593 592

Detail of PTC Account 03577900127603 (0357 HBL Totalai Buner)

Date	Credit	Date	Debit
30-06-2012	160000	19-9-2012	100000
30-06-2012	5100	13-11-2012	60000
29-06-2013	205000	21-11-2013	200000
10/7/2013	1000000	4/12/2013	300000
10/7/2013	500000	26-12-2013	100000
26-09-2013	29200	13-01-2014	200000
26-09-2014	1300000	4/4/2014	100000
15-12-2014	200000	22-04-2014	150000
20-01-2015	26000	10/6/2014	300000
26-01-2015	100000	7/7/2014	100000
28-07-2015	100000	9/7/2014	100000
<b>Total</b>	<b>3625300</b>	21-08-2014	110000
		8/9/2014	50000
		10/10/2014	25000
		11/11/2014	500000
		18-11-2014	500000
		25-11-2014	300000
		<b>Total</b>	<b>3195000</b>

11  
11

160000

Total Credit 36,25,300/-  
Total Debit 31,95,000/-

30,35,000

YOUR ACCOUNT STATEMENT  
FOR THE PERIOD ENDING: MAY01, 2012 TO DEC31, 2015

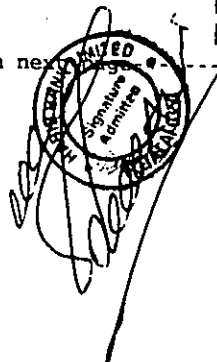
ACCOUNT NO : 0357-79001276-03 OF  
TOTALAI BRANCH

P.T.C. FUND G.M.S.THEGARAY  
VILLAGE THEGARAY  
P/O TOTALAI  
TEH TOTALAI & DIST BUNER

ACCOUNT TYPE : CURRENT A/C  
CURRENCY : Pakistan Rupee  
PRINTING DATE : 24-07-17  
FREQUENCY : INTERIM / DUPLICATE  
PAGE NO : 1  
USER : II9501

DATE	VALUE	PARTICULARS	DEBIT	CREDIT	BALANCE
		BROUGHT FORWARD			900.00
02MAY12	30APR12	Acct Service Cha	50.00		850.00
01JUN12	31MAY12	Acct Service Cha	50.00		800.00
30JUN12		Online Transfer		160,000.00	160,800.00
30JUN12		Transfer - Credi		5,100.00	165,900.00
19SEP12		Cash Withdrawal b 06777476	100,000.00		65,900.00
19SEP12		Chq Book Issue c	150.00		65,750.00
13NOV12		Cash Withdrawal b 06777477	60,000.00		5,750.00
29JUN13		Transfer - Credi		1205,000.00	210,750.00
10JUL13		Transfer - Credi		1,000,000.00	1,210,750.00
10JUL13		Transfer - Credi		500,000.00	1,710,750.00
26SEP13		Transfer - Credi		29,200.00	1,739,950.00
05NOV13		Statement Charge 0357-CC6M2Q-001	35.00		1,739,915.00
		Dup statement charges recovered			
21NOV13		Cash Withdrawal b 06777478	200,000.00		1,539,915.00
04DEC13		Cash Withdrawal b 06777479	300,000.00		1,239,915.00
26DEC13		Cash Withdrawal b 06777480	100,000.00		1,139,915.00
13JAN14		Cash Withdrawal b 06777481	200,000.00		939,915.00
04APR14		Cash Withdrawal b 06777482	100,000.00		839,915.00
22APR14		Cash Withdrawal b 06777483	150,000.00		689,915.00
16MAY14		COMMISSION ON BI 0357-CC6M2Q-001	333.00		689,582.00
		COMMISSION ON BILLS			
		OBC 1490			
10JUN14		Cash Withdrawal b 06777484	300,000.00		389,582.00
10JUN14		Statement Charge 0357-CC6M2Q-001	35.00		389,547.00
		Dup statement charges recovered			
07JUL14		Cash Withdrawal b 06777485	100,000.00		289,547.00
09JUL14		Cash Withdrawal b 06777486	100,000.00		189,547.00
21AUG14		Cash Withdrawal b 06777487	110,000.00		79,547.00
21AUG14		Statement Charge 0357-CC6M2Q-001	35.00		79,512.00
		Dup statement charges recovered			
08SEP14		Cash Withdrawal b 06777488	150,000.00		29,512.00
		SELF			
		MUHAMMAD YOUNAS			
		1510167000991			

Continue on next page



YOUR ACCOUNT STATEMENT  
FOR THE PERIOD ENDING: MAY01,2012 TO DEC31,2015

P.T.C. FUND G.M.S.THEGARAY  
VILLAGE THEGARAY  
P/O TOTALAI  
TEH TOTALAI & DISTT BUNER

ACCOUNT NO : 0357-79001276-03 OF  
TOTALAI BRANCH

ACCOUNT TYPE : CURRENT A/C  
CURRENCY : Pakistan Rupee  
PRINTING DATE : 24-07-17  
FREQUENCY : INTERIM / DUPLICATE  
PAGE NO : 2  
USER : II9501

DATE	VALUE	PARTICULARS	DEBIT	CREDIT	BALANCE
		BROUGHT FORWARD			29,512.00
26SEP14		Transfer - Credi PTC FUNDS NBP		300,000.00	1,329,512.00
10OCT14		Cash Withdrawl b. 06777489 MUHAMMAD YUNAS	25,000.00		1,304,512.00
10 11NOV14		Cash Withdrawl b. 06777490 MUHAMMAD YUNAS SO FARID GUL 1510167000991 0357	500,000.00		804,512.00
10 18NOV14		Cash Withdrawl b. 06777491 BEHRAM SAID SO TAJ MUHAMMAD 1510104241453 THIGRAY GHURGUSHITO 0357	500,000.00		304,512.00
25NOV14		Transfer by Cheq. 06777492 03570004107101	300,000.00		4,512.00
11 15DEC14		Cash Deposit 9954817		200,000.00	204,512.00
20JAN15		Transfer - Credi PTC FUNDS		26,000.00	230,512.00
11 26JAN15		Cash Deposit 9954246		100,000.00	330,512.00
03FEB15		Statement Charge 0357-CC6M2Q-001	35.00		330,477.00
		Dup statement charges recovered			330,442.00
16FEB15		Statement Charge 0357-CC6M2Q-001	35.00		330,407.00
		Dup statement charges recovered			330,407.00
09MAR15		Statement Charge 0357-CC6M2Q-001	35.00		430,407.00
		Dup statement charges recovered			430,407.00
28JUL15		Credit NBP		100,000.00	430,372.00
06OCT15		Statement Charge 0357-CC6M2Q-001	35.00		430,372.00
		Dup statement charges recovered			430,372.00

Opening balance

900.00

Total Debit Transactions

28

Total Amount Debited

3,195,828.00

Total Credit Transactions

11

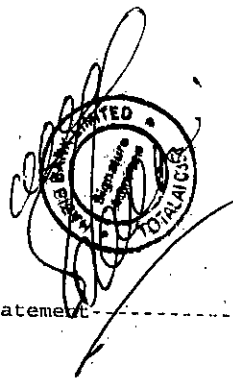
Total Amount Credited

3,625,300.00

Closing Balance

430,372.00

End of statement





OFFICE OF THE DISTRICT EDUCATION OFFICER(M) DISTT; BUNER.

NO. 3644-

DATED. 27/10/2013.

TO

The Manger  
HBL Totali Buner

Subject;- AUTHORITY

Memo:

Mr, Muhammad Younas S/o Farid Gul GMS Thegari District Buner.

Is herby authorised to operate School Account No.35779900127703 and PTC account No.35779900127603-00 in your bank Branch for Transaction.

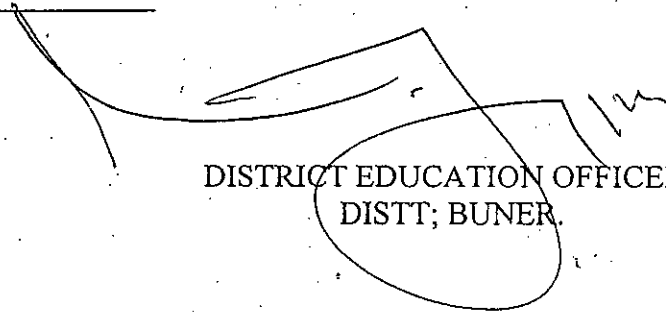
Therefore, it is requested that the Teacher concerned may be facilitated in the interest of public service.

Specimen Signature of Incharge.

1. M Yunas

2. M Yunas

3. M Yunas

  
DISTRICT EDUCATION OFFICER (M)  
DISTT; BUNER.

OFFICE OF THE DISTRICT EDUCATION OFFICER (M/F) DISTRICT BUNER

List of Govt. Primary & Middle (Male / Female) Schools where C/R will be constructed under ESRU 3rd & 4th Tranches under ADP No. 55 / 120499 for the year 2013-14.

Sub Head:

Construction of Addl: C/Rooms through PTC.

S. No	Name of School	PK	A/C No	Bank Name	No. of Class Rooms	Total Amount @ Rs. 650000/- per C/R
1	GGPS Sroo	77	03577900202303	HBL Totalai	2	1300000
2	GPS Trook ✓	77	579-04	HBL Totalai	2	1300000
3	GGMS Kass Koroona	77	03577900120503	HBL Totalai	3	1950000
4	GPS Qabrono Kandaw ✓	77	10001-21	HBL Totalai	2	1300000
5	GPS Tangoro (KK) ✓	77	1307-86	HBL Totalai	2	1300000
6	GPS Shagai ✓	77	1293-37	HBL Totalai	2	1300000
7	GPS Jangdara (KK) ✓	77	1662-86	HBL Totalai	2	1300000
8	GPS Ghund ✓	77	1294-18	HBL Totalai	2	1300000
9	GPS Tigaray	77	3577800127603	HBL Totalai	2	1300000
Total						12350000

Bahram Said Head teacher GPS Thegala 03439622750

03439180481  
03439269539  
03433014176

May 19 19 119  
DISTRICT EDUCATION OFFICER (M/F)  
DISTRICT BUNER

03429125638

03459507297

03429423341

03449691299

03438430746

03139083415

37

03445061850

03139083415

# HBL



HABIB BANK

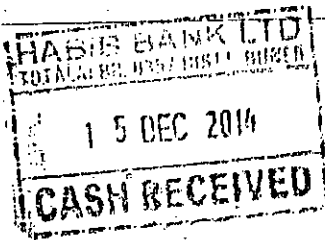
Deposit Slip  
Bank Copy

Branch: \_\_\_\_\_ Date: 13/12/2014  
 Account Title: \_\_\_\_\_  
 IBAN: PK HABB 00  
 Currency:  PKR  USD  EURO  GBP  JPY  Others  PKR  
 Account Type:  Current  Savings  
 Credit Card No.: \_\_\_\_\_  
 CASH (ENTER NOTES DENOMINATIONS ON REVERSE)  BANK / BRANCH  

BANK / BRANCH	CHEQUE/INSTRUMENT NO.	AMOUNT
		20000
TOTAL AMOUNT		20000

Total Amount in Words: Two Lakhs

Depositor's Name: \_\_\_\_\_  
 Contact No.: \_\_\_\_\_  
 Depositor's CNIC No.: \_\_\_\_\_  
 Depositor's Account No.: \_\_\_\_\_  
 Received By: \_\_\_\_\_  
 Depositor's Signature: M. Yunes



9954817

# HBL



HABIB BANK

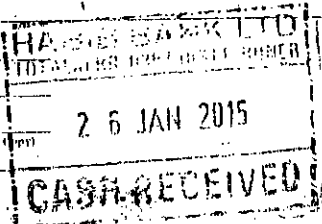
Deposit Slip  
Bank Copy

Branch: \_\_\_\_\_ Date: 26/12/2014  
 Account Title: \_\_\_\_\_  
 IBAN: PK HABB 00  
 Currency:  PKR  USD  EURO  GBP  PKR  Others  
 Account Type:  Current  Savings  
 Credit Card No.: \_\_\_\_\_  
 CASH (ENTER NOTES DENOMINATIONS ON REVERSE)  BANK / BRANCH  

BANK / BRANCH	CHEQUE/INSTRUMENT NO.	AMOUNT
		10000
TOTAL AMOUNT		10000

Total Amount in Words: One Lakh

Depositor's Name: \_\_\_\_\_  
 Contact No.: \_\_\_\_\_  
 Depositor's CNIC No.: \_\_\_\_\_  
 Depositor's Account No.: \_\_\_\_\_  
 Received By: \_\_\_\_\_  
 Depositor's Signature: \_\_\_\_\_



9954346

Total Amount in Bank = 1739915/=

۱۷/۱۲/۱۱

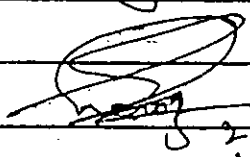
Cash withdrawn Rs = 1735035/=

Amount Used Rs = 552100/

You Mr- Muhammad Yousif CT  
GMS-Theegari have drawn the cash  
Rs = 182935/ which have no record for  
the utilization within school.

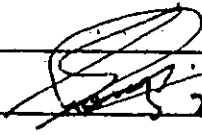
According to the Chairman PTC, ~~that~~  
you have drawn the ~~amount~~ <sup>said amount</sup> on  
fake signature.

You are therefore directed to give  
reason for the above statement  
within fifteen days; failure to this  
may be considered fraud and  
embezzlement in govt. money.



25/11/14  
Shereaz Ahmad  
DDEO(M) Buner

Mr- Muhammad Yousif CT GMS-Theegari 4/12/11  
is hereby suspended from service due  
to the embezzlement of Rs = 188000/ in  
PTC fund. Mr- Abdul Haleem AT of  
this school will work as a Incharge  
Head Master instead of Mr- Muhammed  
Yousif.



24/11/15  
Shereaz Ahmad  
DDEO(M) Buner.

Mr Naveed Tahir is hereby

4/12/11

①

تفصیل (14) جی. اے. گورنمنٹ ہائی اسکول فیصل آباد برائے سال 13-2012

سلاں نمبر	نام	تعداد	نرخ	کل قیمت	کیفیت	ملاحظات
80	عشر ہائیڈروکسی	1	80/-	80	1	
145	جسٹس نائل	1	65	65	1	
4345	جسٹس ہائیڈروکسی	6	70	4200	1	
5620	عشر ہائیڈروکسی	15	85	1275	1	
6070	آرٹھو آرٹھو	1	450	450	1	
6370	آرٹھو آرٹھو	1	300	300	1	
6720	آرٹھو آرٹھو	1	350	350	1	
7200	آرٹھو آرٹھو	6	80	480	1	
7470	آرٹھو آرٹھو	3	90	270	1	
9870	آرٹھو آرٹھو	1	1200	2400	1	
10,020	آرٹھو آرٹھو	1	150	150	1	
10,300	آرٹھو آرٹھو	1	280	280	1	
10,420	آرٹھو آرٹھو	6	20	120	1	
10,445	آرٹھو آرٹھو	1	25	25	1	
10,695	آرٹھو آرٹھو	1	250	250	1	
11,370	آرٹھو آرٹھو	15	45	675	1	
11,850	آرٹھو آرٹھو	1	480	480	1	
11,901	آرٹھو آرٹھو	3	17	51	1	
11,951	آرٹھو آرٹھو	2	25	50	1	
12,091	آرٹھو آرٹھو	1	140	140	2	
12,391	آرٹھو آرٹھو	1	260	260	2	

2

توصیل سے سی سی ایم ایس تصدیق شدہ ہسپتال 2012-13

نمبر شمارہ	نام	تعداد	وزن	کل قیمت	کیفیت	کل رقم
22	پینسل طار الٹرا	1	250	250	2	2601
23	ڈکٹری جی جی U.T.E	1	510	400	2	3001
24	ڈکٹری آرٹن E.E	1	550	450	2	451
25	ڈکٹری فوڈر للوات	1	1050	900	2	351
26	گھنٹی	1	300	300	2	2651
27	ریڑ DUX	5	10	50	2	1701
28	وائٹ اینڈ	2	30	60	2	761
29	سکولر جھنڈہ	2	150	300	2	061
30	شاربزر	6	5	30	2	091
31	ٹشیل وہل	2	40	80	2	171
32	جیو میٹری لکس (ٹرا)	2	375	750	2	921
33	بین پولڈر	2	40	80	2	001
34	ڈالر ٹوائسٹر	3	100	300	2	301
35	بین سٹینڈ	01	250	250	2	551
36	ایئر سینڈ	2	20	40	2	591
37	گیم سٹیک	5	60	300	2	891
38	فوار	1	70	70	3	961
39	ٹسلی گھنٹی	1	290	290	3	251
40	بین کرسٹن	1	30	30	3	281
41	سکاٹ ٹیب	1	80	50	3	331
42	سکاٹ ٹیب	1	25	25	3	356

(4)

## تعمیر اخراجات سے سی جی ایم این ہتھیاروں کی فہرست

نمبر شمار	نام اشیا	تعداد	نرخ	کل قیمت	کیفیت	نمبر شمار
3,447	مکمل برآمد سلاخی و کپڑے		4940	4940	5	63
2,087	کاپی ہتھیار آفس	1	3640	3640	5	64
2,887	کوئلر برڈ (150)	3	1800	600	6	65
2,337	کوئلر برڈ اسٹیل	1	450	450	6	66
2,637	لوٹا برڈ و فلو	5	300	60	6	67
2,997	بلیٹ سٹیل	6	360	60	6	68
2,127	ڈیمو سٹیل	1	130	130	6	69
2,377	حک سٹیل	1	250	250	6	70
2,677	گلاس سٹیل 6	6	300	50	6	71
2,777	مالمی جوئی سٹیل	1	100	100	6	72
2,177	سیدل سٹیل	1.5 kg	400	400	6	73
2,237	سپرے پلاسٹک	1	60	60	6	74
2,297	ڈی پلاسٹک	2	60	30	6	75
2,317	ڈی پلاسٹک	1	20	20	6	76
2,677	ڈسٹن	3	360	120	7	77
2,757	ڈسٹن	1	80	80	7	78
2,507	مالمی پلاسٹک	3	750	250	7	79
2,657	ڈسٹن	1	150	150	7	80
2,827	ڈسٹن	1	170	170	7	81
2,277	مورے	4	450	450	7	82
2,397	ملم	3	120	120	7	83

(5)

2012-13 سال  
التفصيل عن احوال تلاميذ في اقليم الترس قصبه كركه

نمبر شمار	نوع اشیاء	تعداد	نوع	كل قیمت برابری	کیفیت	کل رقم
84	بیلو	1	280	280	9	69,677
85	کره	1	100	100	9	69,777
86	بلاس	1	240	240	9	70,017
87	سجکین	1	70	70	9	70,087
88	درانی	1	100	100	9	70,187
89	کدال	1	160	160	9	70,347
90	کعبوڑه	1	120	120	9	70,467
91	چھری	1	70	70	9	70,537
92	ٹانگے	1	150	150	9	70,687
93	35 گز پلانٹ ڈب	35	1670	1670	10	72,357
94	پمیل برائے سٹان ڈبھا	3	600	200	11	72,957
95	تولہ 2 عدد	2	400	200	12	73,357
96	سولہ عدد (انہ راکٹ)	1+6	210	210	13	73,567
97	اعدد شیل صاب (سلی)	1	550	550	14	74,117   -

G. Total: 74,117 =

کل رقم: 74,117/-

HEAD MASTER  
G.M.S Thegaray  
Distt: Buner.  
28/02/13

Chairman P.T.C  
G.M.S Thegaray

4-2-2013



سال 2013  
 تفصیل اخراجات کسی بھی نامی اہم ترین تفصیلات ہونے پر  
 2013-14

نمبر	نمبر	نمبر	نمبر	نمبر	نمبر	نمبر	نمبر	نمبر	نمبر
<del>150</del>	-	-	-	-	-	-	-	-	-
150	-	49	150	-	150	-	-	-	881
230	-	1080	230	410	3	-	-	-	32
3800	-	38	380	100	3	-	-	-	30
<del>1200</del>	-	<del>1200</del>	<del>150</del>	<del>150</del>	<del>1</del>	-	-	-	<del>44</del>
600	-	511	600	-	2	-	-	-	50
100	-	300	150	-	2	-	-	-	6
10000	-	10000	-	-	01	-	-	-	7
6000	-	16000	-	-	01	-	-	-	8
400	-	400	-	-	01	-	-	-	9
6000	-	6000	-	-	-	-	-	-	10
200	-	1200	-	1200	-	-	-	-	11
350	-	350	350	-	-	-	-	-	12
120	-	120	1	-	-	-	-	-	13
70	-	70	70	-	-	-	-	-	14
50	-	250	-	-	-	-	-	-	15
70	-	70	-	-	-	-	-	-	16
100	-	400	-	-	-	-	-	-	17
20	-	620	70	-	06	-	-	-	18

3500  
 40

تاج محمد  
 محمد رفیق

Tajmal Said  
 Chairman P.T.C  
 G.M.S Therokey

M. YUNUS  
 HEAD MASTER  
 G.M.S Therokey  
 Dist. Buner

(7)

روزانه اسپیڈ ...  
نمبر 15-14-2

41336.0					نرخ راج
1100					سپا ...
770					...
4000					...
400					...
<u>47630</u>					...

*M. Y. Mas*  
 HEAD MASTER  
 C.M.S. Thiegaray  
 Distt: Buner

*Tajmal Saied*  
 Chaudhary P.T.C.  
 G.M.S Thiegaray

سال برائے 2013 (امیدوار) افریقا پر اجماعی فیصلہ کے تحت ایم ایس اے کے تحت

مقررہ نام اور پتہ، توڑنے پر کل قیمت اور دیگر قیمتیں

1	150000	150000	150000	میں پرائیویٹ
2	6000	6000	6000	ایس ایف
3	7000	7000	7000	ایس ایف
4	1500	-	-	گھاس
5	8000	8000	8000	سیرنگ
6	1800	1800	1800	پٹرول
7	1460	-	-	گھاس
8	3300	-	-	ٹیکو
9	12000	1600	70	پٹرول
10	350	-	-	گھاس
11	1200	1200	1200	پٹرول
12	24000	7000	12000	ایس ایف
13	14000	-	-	گھاس
14	22200	3700	1850	پٹرول
15	9000	1500	1100	پٹرول
16	53600	4800	111	پٹرول
17	3850	-	-	گھاس
18	1,17,500	-	-	پٹرول
19	10000	-	-	پٹرول
20	16500	-	-	پٹرول
5,12,740				کل رقم

5,12736  
4250

5,16986

Handwritten signature

Handwritten notes and signature

*N. J. Jones*  
HEAD MASTER  
G.M.S. Thegalar  
Diatti Buncer

Tajmal-Said  
Chairman P.T.C  
G.M.S. Thiegaray

5,16986  
47630  
5,16986

To

**THE DEO. (M) DISTRICT BUNER.**

Subject:- **REPLY TO THE SHOW CAUSE NOTICE DATED**  
**28.12.2016.**

I have been served through show cause notice dated 28.12.2016 which was served upon me on 02.01.2017 my detailed reply to the said show cause notice is as under:-

- A. In reply to the allegation made in Para A of the show cause notice it is submitted that this Para is incorrect misreading and on the same allegation case FIR No.2 dated 11.02.2015 U/S 409-419 PPC 5 (2) PC.Act PS. ACE Buner has previously been recorded wherein I have been acquitted by The Hon'ble Peshawar High Court Mingora Bench (Darul-Qaza, Swat vide order dated 10.11.2016. **(Copy of the same is attached).**
- B. Para "B" of show cause notice is also incorrect, based on no evidence what ever amount is withdrawn by Chairman PTC committee and is spend on the repair renovation, electrification works of the school, hence this Para is denied.
- C. In Reply to Para "C" of Show cause notice it is submitted that I have honorably acquitted by the Peshawar High Court Darul Qaza Mingora Bench vide order dated 10.11.2016 moreover what ever amount I have receive as salary was my right and as per law there is no legal bar to received the same.

D. In Reply to Para "D" it submitted that detailed reply is given in preceded Para hence no demand a direction is to be given to the answering responding.

E. In Reply to Para "E" it is submitted that I have committed no illegal Act or embezzlement nor any losses is cause to Govt Exchequer by the act or omission answering respondents that way is acquitted by a competent Court hence this Para is denied.

It is, therefore, prayed that by acceptance of this Reply to the show cause notice the same may very graciously be withdraw/cancelled and the answering respondents be allowed to continue his service moreover no proper inquiry is conducted by any competent authority and the answering respondent is acquitted of the charge by competent Court.

*M Yunas*  
Muhammad Younas

S/o Farid Gul

05/01/2017

C.T. GMS Thegarhy

Buner,

Dated:- 05/01/2017

Copy forwarded to:-

1. Deputy Commissioner Buner
2. District Monitoring officer IMU District Buner.
3. Deputy District Education Officer Buner.
4. Official Concerned.

## SHOW CAUSE NOTICE.

I, Mr. ~~Bakht Zada~~ District Education Officer (M) Buner, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011; do hereby serve you, as follow.

I am satisfied that you have committed the following acts/omissions specified in rule 7 of the said rules.

- (A) You Mr Muhammad younas S/O Farid Gul CT GMS Tagaray have utilized the ADP No.04190198 for the year 2012-13 amount 1739000/ allocation for the construction of rooms illegally and un law fully .
- (B) You have drawn the amount illegally form HBL Totalai and kept the amount cash in hand for two years , which is gross violation of rules.
- (C) You have already been convicted by the special judge Anti-Corruption Khyber Pakhtun Khwa Peshawar as well as you have behind the bar despite it you have received the salary regularly .
- (D) Time and again you are directed to deposit the remaining amount of Rs; 1188862/- but in vain .
- (E) You have committed embezzlement reached the irreparable loss to the Govt; exchequer.

As a result thereof , I as competent authority , have tentatively decided to impose upon you the major penalties, under rule 4 of the said rules.

You are thereof ,required to show cause as to why the one of the major penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

If no reply to this notice is received within seven days of more than fifteen days of its delivery ,it shall be presumed that you have no defense to put in and in that case an ex-part action shall be taken against you.

(BAKHT ZADA)  
DISTRICT EDUCATION OFFICER  
(M) DISTRICT BUNER

Encls: No. 4567-70 Dated 28-12 /2016

Copy of the above is forwarded for information and necessary action to.

1. Deputy Commissioner Buner.
2. District Monitoring Officer IMU District Buner.
3. Deputy District Education officer Buner.
4. Official Concerned.

DISTRICT EDUCATION OFFICER  
(M) DISTRICT BUNER

خدمت صاحب ڈائریکٹر صاحب قلمیہ فیصلہ صبر رکھتے ہوئے گواہ بننا ہے  
جناب عالی

## مستوان درخواست برآمد Reinstatement

گزارش کی جاتی ہے کہ بندہ کہ جسٹس کیس میں suspend ہے  
یہاں پر پائی کورٹ درالقضاء سورت بندہ کو اس کیس  
میں بری کر کے بندہ کو کوئی چارج نہیں ہے  
عدالت پیش ہونے سے ڈیپارٹمنٹل انکوائری ہو چکی ہے  
بندہ نے 5 دسمبر 2016 کو DEO پونیر کو درخواست دی تھی  
لیکن ابھی تک بندہ کا سسپنشن ختم نہیں ہوئی  
عدالت کے فیصلے کے بعد DEO لاہور بندہ کو شوکاڈنٹس  
میں دی ہے جس پر جواب دی گئی ہے اور دے چکا ہے  
بندہ کو ڈی سی پونیر ڈسٹرکٹ مانیٹرنگ کریں دے چکا ہے  
پائی کورٹ کی چیف جج کی طرف سے  
اگر اوصاف حال بہر پائی کورٹ بندہ کو سسپنشن ختم کر  
کا حکم صادر فرمادیں تو میں ترازو کی ہانگ

آپ کا تابع زان  
ڈی. اے. اے. فرید  
GMS  
تھریڈنگ فیلڈ پونیر



Respected,  
District Education Officer (DEO)  
District Buner

Subject: APPLICATION FOR REINSTATEMENT OF THE APPLICANT IN  
LIGHT OF THE ORDER OF HON'BLE HIGH COURT DAR UL  
QAZA SWAT DATED 10.11.2016 IN CR. A NO. 130/2016.

Respected Sir,

Applicant most humbly submits as below.

Applicant holds CT Teacher post at GMS Tigarey and was suspended due to the registration of criminal case against the applicant. Undersigned contested his case before the competent Court of Law and justice and in this consistency filed appeal before worthy Peshawar High Court, Dar ul Qaza Saidu Sharif Swat with the citation of Criminal Appeal No. 103/2016 with a titled "Muhammad Younas versus State". Consequently, the appeal of the undersigned is accepted by the worthy High Court on 10.11.2016 and clearly acquitted the undersigned from all the charges leveled against him. (Attested copy of the judgment of worthy High Court is attached).

After the said order of Hon'ble Peshawar High Court, Swat Bench, undersigned is entitled for reinstatement upon the post he possessed earlier as CT Teacher GMS Tigarey. Hence, through this applicant is seeking your considerable approval for the subject matter of this application.

It is, therefore, prayed that on acceptance of this application, in the light of the above stated order of Hon'ble High Court, the applicant may be ordered to reinstate upon the said post.

Applicant will remain thankful to you in the rest of his life.

Date: 05.12.2016

Yours Sincerely,

*M Younas*  
Muhammad Younas

(CT Teacher)

S/O Farid Gul

R/o Tehsil Dagar,

District Buner.

Cell # 0334-5593592

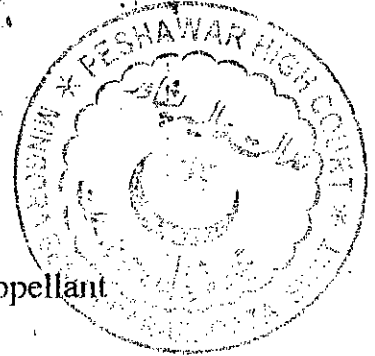
*Daryano S13*  
*8/12/2016*

(D) (S)

**IN THE PESHAWAR HIGH COURT MINGORA BENCH**  
**(DARUL QAZA) AT SADU SHAREEF SWAT.**

Cr. Appeal No 130-11 of 2016

Muhammad Younas son of Farid Gul  
Resident of Tehsil Daggar District Bunner  
At present Central Jail Peshawar.....Appellant



**Versus**

The State.....Respondent

Appeal under section 410 Cr.P.C against the impugned Judgment/conviction order dated 18/05/2016 of the learned special Judge, Anti-corruption,(Provincial), Khyber Pukhtoonkhwa, Peshawar whereby the learned trial court convicted the appellant under section 409 PPC for:

- (i) 3 years simple imprisonment with
- (ii) fine of Rs.200000/ in case of default of payment of fine he would further undergo simple imprisonment of six months and
- (iii) Benefit of section 382-B Cr.P.C is extended to the convict/appellant.

**Prayer in Appeal:**

On acceptance of this appeal the impugned Judgment/conviction order dated 18/05/2016 of the learned Special Judge, Anti-Corruption (Provincial) KP Peshawar may kindly be set aside and the appellant may kindly be acquitted of the charged.

**Respectfully Sheweth:**

1. That the impugned Judgment/conviction order of the learned court below is illegal, against the law, facts of the case and natural justice, therefore the same is liable to be set aside.
2. That the impugned Judgment / conviction order has passed by the learned court below against the appellant on presumption and assumptions.

09 JUN 2016

Judgment Sheet

IN THE PESHAWAR HIGH COURT,  
MINGORA BENCH (DAR-UL-QAZA), SWAT

JUDICIAL DEPARTMENT

..... Cr. A. No. 130 of ..... 2016

JUDGMENT

Date of hearing..... 10/10/2016.....

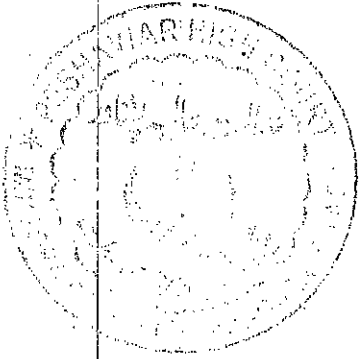
Appellant/Petitioner (s)..... (Muhammad Younis) by  
Mr. Faizal Wahid Advocate

Respondent (s)..... (State) by Barrister Assad Hamid  
- Mr. Rehman State  
Counsel

WAQAR AHMAD SETH, J.- Muhammad

Younis, appellant herein, was proceeded against in the Court of Special Judge, Anti-Corruption (Provincial) Peshawar, on the charge of embezzlement of Rs.11,93,154/- out of the total amount of Rs.17,39000/- granted for the GMS Tigarey by DFID project for the year, 2013-14. On proof of the charge, he was sentenced to undergo 3 years S.I. with a fine of Rs.2,00,000/- or in default to undergo six months S.I. under section 409 PPC with the benefit of section 382-B of the Cr.P.C., vide judgment dated 18.5.2016, hence, this Criminal Appeal.

2. Learned counsel appearing on behalf of the appellant contended that when whatever amount



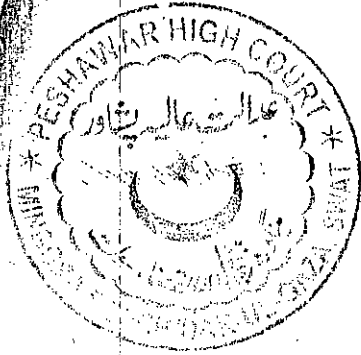
2

given to the appellant is withdrawn equally under the joint signatures of the appellant and Chairman, Parent Teacher Committee (PTC) and consumed by the Committee on the maintenance, renovation, electrification and other utility works of the School, the appellant only cannot be burdened with charge of withdrawal of money for misappropriation. The learned counsel while discussing the misappropriation on the part of the appellant argued that when various cheques for different amounts at different times issued by the Chairman to the Principal, GPS, Tigarey, on the pretext that the said amount have been inadvertently transferred to the account of GMS Tigarey, without probing that aspect of the case, the testimony of the PWs produced by the Prosecution cannot be relied upon unless corroborated by unimpeachable source and thus the deficiency in the amount allocated for GMS Tigarey cannot be used as evidence against the appellant. The learned counsel further argued that when no evidence whatever has been brought on the record to show in black and white that it was

the appellant who fraudulently and dishonestly withdrew the amount of Rs.11,93,154/-, the complicity of the appellant in the commission of the crime cannot be presumed against him. Even otherwise, the learned counsel further added, when PW-1, Investigating Officer, in his statement recorded in Court, affirmed that he has not sent the signature of the Chairman with his specimen signature to the FSL for comparison, in the absence of the Laboratory report, the question of embezzlement against the appellant would not arise. He by elaborating his arguments submitted that where the evidence on the record is deficient and bristling with doubts and infirmities, appellant cannot be convicted on the strength of such charge, that too, when he in his statement recorded under section 342 Cr. P.C. clearly stated that whatever amount given for School has been spent by the Committee on the maintenance of the said School. If the signature of the Chairman, the learned counsel concluded, having not verified by HBL with his specimen signature, is left out of consideration, there remains nothing to link him

with the crime, the conviction and sentence recorded by the learned trial Court being based on no evidence, is liable to be set aside.

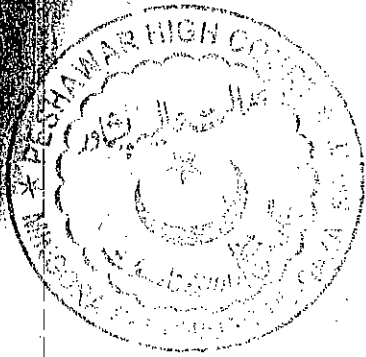
3. As against that, the learned counsel appearing on behalf of the State contended that the preliminary inquiry, and the statements of the P.Ws. connect the appellant with the crime beyond any shadow of doubt. The final report, the learned counsel added, prepared by the C.O. ACE Bunair (PW1) in the wake of misappropriation of the school fund constitutes another circumstance, which clearly links the appellant with the crime. The learned counsel while defending the impugned judgment contended that the appellant being Head Master Government Middle School Thegrey and Incharge, was so deeply entrenched that he fraudulently and dishonestly withdrew the amount of Rs.11, 93,154/- from the HBL Totaley on the forged signature of PTC Chairman for personal use and as such the Government Exchequer suffered a loss of a huge amount. There is ample and overwhelming evidence on the record, the learned counsel added, which shows that he embezzled and



misappropriated huge amount by corruption and corrupt practices, which is required under the law to be recovered from him so that the loss caused to the national exchequer could be made up. When the charge against the appellant, he added, has been proved beyond doubt and evidence produced against him remained un-shattered, the finding of conviction and sentence is not open to any exception.

4. I have gone through the record carefully and considered the submissions of the learned counsel for the parties.

5. It is not disputed that for the withdrawal of the amount from the HBL concerned, joint signatures of the appellant and the Chairman of the Committee, were required to be available on the cheque. It is also not disputed that various cheques sent to the Bank concerned for the withdrawal of the amount were signed by both of them. Likewise, it is also not disputed that without their joint signatures, neither any amount can be deposited in the Bank nor any amount can be withdrawn therefrom. The question arising for my consideration in



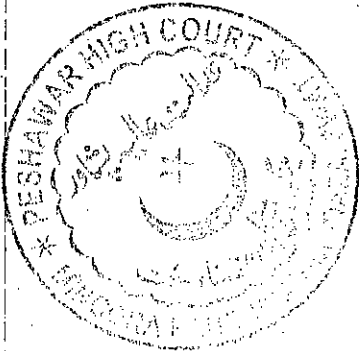
this appeal is whether the evidence collected by the Investigating Agency together with the one examined in the Court is of a nature as could support and sustain the conviction of the appellant? A perusal of the preliminary inquiry and statements of the PWs. recorded in the Court shows that many officials of the Bank and the Chairman/Members of the Committee in the concerned School, have aided and abetted the commission of the crime but strangely enough their role appears to have been hushed up either with design or by default. The same allegations of corruption were also required to be leveled against the Chairman of the Committee who being the signatory, was equally responsible for the joint withdrawal of the money but the hands of the Anti Corruption Establishment, were never laid on his notwithstanding even withdrawal of amount from the joint account could not have been done without his consent, connivance or complicity. Why this pick and chose, is the most nagging question, which has not been answered by the learned counsel for State. Why the Chairman of the



Committee, who being also the Custodian of the joint account has not been taken on the board for being interrogated. In case he has been interrogated, why did he remain behind the scene with his face and name veiled and covered? The Investigating Officer, when admitted the signature of the Chairman on the cheque, why he did not send his signature to the FSL with his specimen signature for comparison and why he did not make further probe to reach the hand at the back of all this. The Investigating Officer though admitted in his cross-examination that the amount of GPS Tigarey was mistakenly mixed with the amount of GMS Tigarey, but yet he neither inquired regarding the amount mistakenly mixed nor he inquired that who had drawn that amount. When no explanation comes forth, the only tenable deduction in the circumstances would be that the case was not investigated fairly and faithfully. It looks that actual players of high ranks have been let off and only figurehead has been brought forth to bear the brunt. The entire exercise seems to be an eye-wash. In any case, I am to see whether the

evidence available on the record can bring guilt home to the accused beyond any shadow of doubt.

6. No doubt, conviction in some cases can be recorded on the testimony of such witnesses but rule of prudence which has crystallized into a rule of law, requires that it alone cannot be made basis for conviction unless it is corroborated by independent, impartial and unimpeachable source. I do not understand how one official on his own, could do all this not for one day or week but for year and year. How the cheques could be processed without the involvement of the other officials/officers working in the Committee or Officers working in the Bank. The presence of many other officials working in the concerned Committee and Bank is yet also another mystery, which becomes deeper and deeper the more, I probe in to that. How a tedious and even tiresome process could be leaped over by the appellant, when the signatures on the cheques during its carrying process passes through many scanning and scrutinizing eyes? How the presence of verification of cheques could be overlooked, when





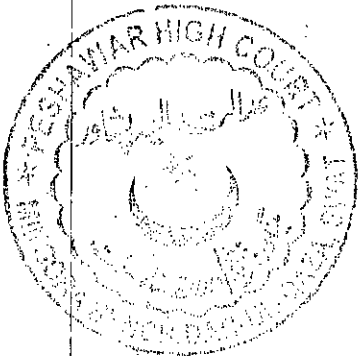
at each Bank, there is an un-erring mechanism of verification for detecting bogus and fake signatures. When no answer muchless satisfactory comes forth, evidence suffered from unconformable contradictions alone cannot provide a dependable foundation for recording or maintaining the convictions of the appellant, especially when evidence of this type can be fabricated by the Investigating Agency at subsequent stage. I do not find any corroborative evidence of this nature on the record. Even otherwise one tainted piece of evidence cannot corroborate another tainted piece of evidence. When this being the position, I do not think, it can prove anything against the accused. Therefore, the link connecting the appellant with the crime cannot be held to have been proved on the record. Therefore, I exclude the Prosecution evidence out of account, especially when it is presumed to be unworthy of credit.

7. Though the appellant was intensively interrogated but nothing was found during the investigation as could point to his complicity in the

crime. It has to be considered and given due weight, when it fits in with the surrounding circumstances. In the absence of any corroboratory evidence, it would not be in accord with the safe administration of justice to maintain the convictions of the appellants, especially when such evidence can easily be procured. Even the evidence of the handwriting expert is always held by the superior Courts to be weak, cannot be believed without corroboration. The judgment rendered in the case of Rehmat Sher-Vs- The State (1987 PCr LJ Lahore 855) can well be referred in this behalf. It is settled principle of law that the testimony of a single witness can be relied upon, if it is free from lapses and lacunas but when it is full of discrepancies and even contradictions, it cannot be relied upon for maintaining conviction in a case of this nature. I, therefore, do not feel persuaded to maintain the conviction and sentence of the appellant.

8. For the reasons discussed above, I have no hesitation to hold that the charge against the appellant has not been proved beyond any shadow

of reasonable doubt. I, therefore, allow this Criminal Appeal, set aside the convictions and sentences recorded by the learned trial Court and acquit him of the charges levelled against him. He be set free forthwith, if not required in any other case.



**Dated: 10.1.2016**

**J**

S.No. 1490  
 Name of Applicant M. A. Khan  
 Date of Presentation of Petition 16.1.17  
 Date of Completion of Case 21.1.17  
 No of Copies 12  
 Urgent Fee \_\_\_\_\_  
 Fee Charged 20/-  
 Date of Delivery of Copies 21.1.17

**Certified to be true copy**

*[Signature]*  
 PESHAWAR HIGH COURT  
 Peshawar High Court, Mingora/Dar-ul-Adl, Swat  
 Authorized Under Article 177 of Constitution of Pakistan Order 1981

نیشنل ڈیٹا بیس اینڈ رجسٹریشن اتھارٹی (وزارت داخلہ)  
اٹھارہ سال سے کم عمر بچوں کا سرٹیفکیٹ

C No: 101151001357

15101-6700099-1

درخواست دہندہ کا شناختی کارڈ نمبر:

محمد یونس

درخواست دہندہ کا نام:

سفر دوری	پیدائش کا ضلع یا ملک تاریخ پیدائش	جنس	والدہ کا نام اور شناختی کارڈ نمبر	والد کا نام اور شناختی کارڈ نمبر	بچے کا نام اور رجسٹریشن نمبر	نمبر شمار
کوئی نہیں	1995-03-10	لڑکی	بانو بیگم 15101-1461384-4	محمد یونس 15101-6700099-1	سمر اقبال 15101-5828783-4	1
کوئی نہیں	1998-04-10	لڑکا	بانو بیگم 15101-1461384-4	محمد یونس 15101-6700099-1	شباب الدین 15101-7004731-7	2
کوئی نہیں	1999-03-25	لڑکی	بانو بیگم 15101-1461384-4	محمد یونس 15101-6700099-1	غزالہ علیا 15101-8287208-4	3
کوئی نہیں	2001-04-01	لڑکی	بانو بیگم 15101-1461384-4	محمد یونس 15101-6700099-1	ایمان 15101-4558977-4	4
کوئی نہیں	2003-04-03	لڑکی	بانو بیگم 15101-1461384-4	محمد یونس 15101-6700099-1	سارہ یونس 15101-4568572-4	5
کوئی نہیں	2004-03-30	لڑکی	بانو بیگم 15101-1461384-4	محمد یونس 15101-6700099-1	حسین یونس 15101-4663477-4	6
کوئی نہیں	2007-03-27	لڑکی	بانو بیگم 15101-1461384-4	محمد یونس 15101-6700099-1	ہستی یونس 15101-3393761-4	7
کوئی نہیں	2009-03-02	لڑکی	بانو بیگم 15101-1461384-4	محمد یونس 15101-6700099-1	خلوہ یونس 15101-7704439-2	8

اس ضلع کے مندرجہ بالا اٹھارہ سال سے کم عمر 8 بچوں کا اندراج ہمارے ریکارڈ میں موجود ہے۔

درج شدہ بچے کی عمر اٹھارہ سال ہونے ہی شناختی کارڈ کے حصول کیلئے درخواست جمع کروائیں۔

اس سرٹیفکیٹ کو سنبھال کر رکھیں کیونکہ بچوں کے اٹھارہ سال کی عمر کو پہنچنے پر انہی نمبروں کے حوالے سے شناختی کارڈ جاری کئے جائیں گے۔

نوٹ: یہ بچے کا فوری طور پر اندراج کروائیں اور نیا رجسٹریشن سرٹیفکیٹ حاصل کریں۔

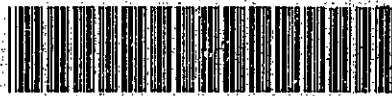
کوائف کی تبدیلی کی صورت میں نیا رجسٹریشن سرٹیفکیٹ حاصل کریں۔

علی ارشد حکیم

دستخط رجسٹرار جنرل

تاریخ اجراء: 2011-11-29

ڈاک خانہ سواڑی، ریگا، تحصیل ڈگر، ضلع بونیر



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