

ORDER

6th Oct, 2022

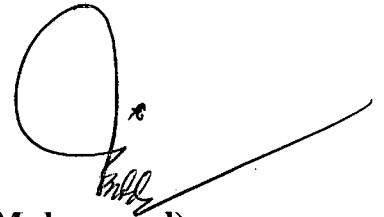
1. Learned counsel for the appellant present. Syed Naseer Ud Din Shah, Asst: AG alongwith Dr. Khalid Saeed, Litigation Officer and Mr. Fahim Khan, Assistant for respondents present.

2. Vide our detailed judgment of today placed in Service Appeal No. 15180/2020 titled "Muhammad Tariq Bhatti-vs- Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and others" (copy placed in this file), this appeal is also decided on the said terms. Costs shall follow the events. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 6th day of Oct, 2022.*



(Kalim Arshad Khan)
Chairman



(Mian Muhammad)
Member(Executive)

2018 P L C (C.S.) 99**[Balochistan High Court]****Before Abdullah Baloch and Muhammad Ejaz Swati, JJ****MAZHAR ILYAS NAGI and others****Versus****GOVERNOR, STATE BANK OF PAKISTAN and others**

C.Ps. Nos.690 and 692 of 2006, decided on 11th September, 2017.

State Bank of Pakistan Act (XXXII of 1956)---

----S. 54, Chap. IV [Ss.17 to 40]---State Bank of Pakistan Staff Regulations (IX of 1999), Regln.34---Constitution of Pakistan, 1973, Art.199---Constitutional petition---Maintainability---Embezzlement of Bank money---Imposition of penalty of permanent deduction of amount from the monthly salary of petitioner/Bank officer---Non-production of defence witness of petitioner before inquiry officer---Contributory negligence---Scope---Petitioner contended that his case was at par with other officers who were exonerated and that inquiry officer had assured him that there was no incriminating material against him. hence, there was no need to lead defence---Validity---Question which fell for consideration was as to whether Bank fell within the definition of the State or authority under the control of Government and its Rules were statutory or otherwise and whether the Bank was a "person" within the meaning of Art.199(1)(a)(ii) read with Art.199(5) of the Constitution---State Bank of Pakistan, a body corporate was established under State Bank of Pakistan Act of 1956--- Bank in question was entrusted with numerous functions with the affairs of the Federation, as well as the Provinces as enumerated in Chap.IV of State Bank of Pakistan Act, 1956---Legislature under S.54(2)(J) of State Bank of Pakistan Act, 1956 delegated power to the Central Board of the said Bank to make regulation consistent with the Act provided for the recruitment of the officers---Terms and conditions of service of employees/officers of the Bank were governed by the State Bank of Pakistan Staff Regulations, 1999 though said staff regulations were non-statutory, however, the employee claimed that he had not been provided equal treatment between similarly placed employees---Record revealed that the petitioner(employee) was rendering meritorious services diligently to the Bank since 1975 when the incident of 1994 was unearthed wherein the main accused the then Chief Manager absconded and was found responsible for entire defalcation/wilful embezzlement including several charges---High ranking Executive of the Bank was appointed as Inquiry Officer who found the then Chief Manager responsible for unearthed defalcation/embezzlement---Findings of Inquiry Officer showed that prior to inquiry proceedings an evasive and unspecified charge sheet was issued to the petitioner, which was replied by the petitioner but, contrary to the request of petitioner, the witnesses of petitioner were not summoned by the Inquiry officer without assigning any plausible reasons rather the petitioner was assured by the Inquiry Officer that no tangible incriminating evidence was available by the prosecution against him, as such, there was no need for the petitioner to lead such defence---While concluding the inquiry proceedings on such vague assurance to the petitioner, the Inquiry Officer recommended for imposition of major penalty to the petitioner by imposing reduction of Rs.2500/- from his salary, permanent reduction as well as imposition of non-payment of back benefits to the petitioner--- Director Personnel though was competent to impose such penalty to the petitioner but the same was harsh, since no findings were recorded by the Inquiry Officer with regard to the financial loss caused to the Bank by the act of petitioner---Merely on the basis of contributory negligence and without determination of responsibility of each officer penalty was unjustified---Petitioner was deprived of opportunity to produce his defence evidence being condemned unheard and discriminated as the case of other four employees/officers co-accused, similarly placed, on identical charge were exonerated and their absence from duty including their suspension was treated as period spent on duty---High Court set

Set aside impugned penalty declaring the same as void ab initio--- Constitutional petition was allowed accordingly.

Nemo for Petitioner.

Muhammad Riaz Ahmed for Respondents.

Date of hearing: 23rd August, 2017.

JUDGMENT

ABDULLAH BALOCH, J.--- This common judgment disposes of C.P No.690 of 2006 and C.P No.692 of 2006 filed by the petitioner Mazhar Ilyas Nagi against the respondents assailing the impugned orders pertaining to the same subject of his service rendered with the respondents, wherein almost claim for same relief on the same cause of action.

C.P No.690 of 2006 containing the following prayers clause:

"In view of the submission made hereinabove, it is humbly prayed that this honourable Court may be pleased to:-

- (1) **Set aside** the impugned original order i.e. letter No.PD.(HRD-6) F-26(Q)5572/99 dated 31st August, 1999 (Annexure 'M'), resulting in imposition of Rs.2500/- permanent reduction in salary; and the appellate order (Annexure 'S') whereby departmental appeal was rejected;
- (2) **Declare** that the aforementioned orders are illegal, mala fide, void, whimsical, capricious, arbitrary, in excess of jurisdiction or colourable exercise of jurisdiction, without lawful authority and of no legal effect; and
- (3) **Direct** the respondents to pay all the back benefits to Petitioner for the period during which he was prevented to serve the Bank for no fault of his own i.e. w.e.f. 25-10-1995 (due from which Petitioner was placed under suspension) to 22-03-1999 (the date of reinstatement in service) including the amount deducted from his salary due to operation of the impugned order till date of retirement from service.
- (4) **Grant** any other relief to which the petitioner is found entitled or which is deemed just and proper by this Hon'ble Court in the facts and circumstances of the case.
- (5) **Award** special costs under section 35-A, C.P.C, 1908, as amended by the Civil Law Reforms Act. 1994 (PLD 1995 Central Statutes 10) in view of respondents' mala fide acts of entangling the Petitioner in unnecessary litigation, subjecting him to harassment and causing material loss in terms of money, time and energy.

While the C.P No.692 of 2006 containing the following prayer clause:

"In view of the submission made here-in-before, it is humbly prayed that this honourable Court may be pleased to:

- (1) **Set aside** original order i.e. letter No. Staff 5775/30-2001 dated 20th October, 2001 (Annexure 'A') and appellate order (Annexure 'C');
- (2) **Declare**,.....

- (a) that the impugned original order i.e. letter No.Staff.5775/30-2001 dated 20th October, 2001 (Annexure 'A') and appellate order (Annexure 'C'), being violative of relevant Regulations, are illegal, mala fide, void, whimsical, capricious, arbitrary, in excess of jurisdiction or colourable exercise of jurisdiction and without lawful authority;
- (b) that the Regulation 34 (iv) of State Bank of Pakistan (Staff) Regulations, 1999 (replacing Regulation 37 (iv) of the Regulations of 1993) read with Office Order No.02 dated the 3rd January, 2000 (of Central Directorate's Letter No.PD.51/Reg.21(i)-99 dated 18-12-1999) [Annexure 'E'], in pari materia WITH Fundamental Rule 53(b) since declared as repugnant to injunctions of Islam, to the extent that it provides for grant of subsistence allowance to suspended employees, is ultra vires of Articles 2-A, 4, 25, 190 and 227(1) of the Constitution of Islamic Republic of Pakistan (1973) and said Regulation has ceased to have effect, from the very date of making of said Regulations, being inconsistent with authoritative verdict given by honourable Supreme Court in the case reported in PLD 1994 SC 72.
- (3) **Direct** the respondents ..
- (a) that the period for which petitioner remained absent from duty for no fault attributable to him due to suspension and dismissal from service (from 25-10-1995 to 23-03-1999), followed by reinstatement in service and regularized by the appropriate authority, may be counted for the purpose of calculating total qualifying service towards Pensionary/ Retirement Benefits;
- (b) **that the arrears may be paid to Petitioner by re-calculating the Pensionary/ Retirement Benefits in terms of above;**
- (c) to act in aid of Supreme Court as mandated by Articles 189 and 190 of the Constitution of Islamic Republic of Pakistan (1973), to honourable Supreme Court of Pakistan' verdict given in the case of I.A. Sherwani (PLD 1994 SC 72) and to pay to Petitioner full salary with all admissible benefits for the period during which he was placed under suspension (25-10-1995 to 17-09-1996);
- (4) **GRANT** any other relief to which the Petitioner is found entitled or which is deemed just and proper by this Hon'ble Court in the facts and circumstances of the case; and
- (5) **AWARD** the costs under section 35-A, C.P.C, 1908, as amended by the Civil Law Reforms Act, 1994, (PLD 1995 Central Statutes 1) in view of respondents' mala fide acts of entangling the Petitioner in unnecessary litigation, subjecting him to harassment and causing material loss in terms of money, time and energy"

2. It is the case of petitioner that he joined the bank as Coin Note Examiner in Grade-II on 18th September 1975 thereafter he was promoted as Coin Note Examiner Grade-I Assistant Treasurer (Officer in Grade-III) and in Treasury Office in Grade-II. It is further submitted by the petitioner that he had been rendering meritorious services with diligently, efficiently and honestly, when in the year 1994 an unfortunate incident of defalcation was unearthed at Quetta Office of the respondent's bank, the then Chief Manager of the Quetta office Mr. Abdul Qayyum Baig soon after the unearthing the case, absconded. He was charged with willful embezzlement/defalcation and several charge sheets were issued to him. He further submitted that high rank executive of Bank Mr. Allahuddin was appointed as Inquiry Officer and notices have been published in the national newspaper directing the then Chief Manager Abdul Qayyum for appearance, however. he failed to appear, as such, ex parte proceedings were initiated against him in the light of available evidence and as a result whereof he was dismissed from service.

3. It has further been averred in the petition that a departmental inquiry was also proceeded against the

petitioner along with twenty other Officers of Bank, which were culminated in arbitrary infliction of major penalty of dismissal from service vide office order PD-206 dated 18th September 1996 purportedly passed under Regulation 37 of Regulation of 1993. The petitioner filed departmental as well as Constitution Petition against his dismissal before the competent forum as well as before the Federal Service Tribunal and this Court too. As a result whereof the petitioner approached the Hon'ble Supreme Court of Pakistan consequent upon dismissal of respondent the service of the petitioner was reinstated by the Hon'ble Supreme Court of Pakistan by virtue of option of conducting de-novo inquiry, he was proceeded against departmental inquiry afresh. A copy of previous charge sheet was served upon the petitioner, which was accordingly replied and charges were again denied vehemently. The petitioner was advised in charge sheet to provide a list of defence witnesses he desires so to examine in rebuttal of charge. The petitioner accordingly annexed the reply of charge sheet a list of defence witnesses, which he desire to examine in his defence. The evidence of said defence witnesses was of material importance for petitioner to prove his innocence, but despite several requests the Inquiry Officer was reluctant to summon the defence witnesses of the petitioner. As a result whereof the petitioner was assured by the Inquiry Officer that since no incriminating evidence was brought against him by the department, as such, the defence witnesses would not be necessary to be summoned.

4. The inquiry officer commenced inquiry proceedings on 17th June, 1999 an expert prosecution witness Mr. Muhammad Akmal, Deputy Chief Manger, State Bank of Pakistan (Prize Bonds) Bolton Market Karachi was examined in support of charge. He submitted his written statement in support of charge, whereafter petitioner cross-examined him in light of express provision of procedure and facts available on the face of record. Credibility of PW-1 produced against the petitioner was impeached through cross-examination and he was completely shaken from his statement. Though the petitioner was intended to produce his defence witnesses, but the Inquiry Officer shown his inability to summon the defence witnesses by stating that due to prosecution's failure to make out a case against him and establish the charge on tangible evidence there is no need to proceed further and lead such defence evidence. In spite of such assurance, petitioner recorded his objection in this regard during the course of Inquiry and reserved his right to examine the witnesses in his defence. Having no alternative petitioner submitted his written arguments pressing into service the fact of failure of prosecution to prove the charge and denial of Inquiry Officer to summon defence witnesses cited by the petitioner in the reply of the charge sheet.

5. On completion of inquiry proceeding penalty of permanent reduction of Rs.2500/- in petitioner salary was mechanically imposed on him by operation of impugned order i.e. letter No. PD (HRD-6 F-2) (Q5572/99) dated 31st August 1999 passed by the Director Personnel Department Central Director of Bank i.e. respondent No.4. Purportedly in exercise of powers conferred by Regulation 34 of the Regulation of the Act, 1999.

6. It is further submitted by the petitioner that in the said impugned order back benefits were also denied to the petitioner and in his absence from duty (due to operations of provision dismissal order w.e.f. dated 18th September 1996 to 21st March, 1999 was regularized by grant of leave due to him no order, However, was passed to regularize the period for which the petitioner kept under suspension i.e. 25th October 1995 to 17th September 1996 and the said period of absence was deemed to regularized by the office order 206, dated 18th September 1996, which had since been set aside by the judgment of Tribunal against which petition of the respondents was dismissed by the Hon'ble Supreme Court of Pakistan and leave to appeal was refused to them. It is further submitted by the petitioner that before imposition of major penalty, neither any final show-cause notice was served on the petitioner nor copy of inquiry report was supplied to enabling him to make representation against specific proposed /quantum of punishment in the light of finding of facts recorded by the Inquiry Officer. It is further submitted by the petitioner that four another co-accused i.e. Mrs. Ali Ahmed, Syed Imtiaz Hussain, Qamar Aziz and Syed Arif Hussain were also proceeded against departmentally on identical charges, but they were discriminately exonerated of charge and their over three years absence from duty including their suspension period was treated as period spent on duty.

7. Being aggrieved from impugned order of infliction of penalty of Rs.2500/- permanent reduction in salary

and denial to back benefit appellant under Regularization 35 of Regularizations preferred for departmental appeal based on good ground of law and facts, but the respondents despite lapse of reasonable period did not dispose of the department appeal of the petitioner. The petitioner filed appeal before the Federal Service Tribunal under section 2-A, but the same appeal was dismissed in limine by the Tribunal without examining any question of law, however, the petitioner assailed the said order before the Hon'ble Supreme Court of Pakistan and the Hon'ble Supreme Court of Pakistan remanded the case of the petitioner to the Federal Service Tribunal Islamabad, which was remained pending for long period of six (06) years on account of evasive attitude of respondents by seeking adjournment on one pretext or the other, however, after the pronouncement of judgment by the Hon'ble Supreme Court of Pakistan in case of Muhammad Mobin-us-Salam v. Federation of Pakistan C.A. 792-816 etc. decided on 27th June 2006 (PLD 2006 SC 602), which was declared the law partially ultra-vires and in conflict of Articles 240 and 260 of Constitution of Islamic Republic of Pakistan, as such, the jurisdiction of Federal Service Tribunal stood abated as intimated by Tribunal vide notice dated 30th June 2006.

8. Having no alternative efficacious remedy the petitioner filed this petition which is pending since 2006 before this Court and was heard from time to time by the different benches, but however, could not decide for the last so many hearings the learned counsel for the petitioner despite service of notices failed to appear before this bench and finally we have left with no option just to hear the arguments of other side and take the submissions of the petitioners mentioned in the memo. of petition as his arguments.

9. Mr. Muhammad Riaz Ahmed, learned counsel for the respondents almost relied upon by the Para wise comments filed by the respondents as well as further contended that the petition of the petitioner is not maintainable in view of the preliminary legal objections taken by the respondents in their Parawise comments. He further contended that the impugned orders were passed after due process of law and the case was proved against the petitioner beyond doubt as per findings of inquiry report submitted by the Inquiry Officer. He further contended that the petitioner was also not entitled for back benefits in view of the recommendations of the Inquiry Officer. He further contended that the competent authority has already taken lenient view against the petitioner by imposing minor penalties upon the petitioner in view of the findings of the Inquiry Officer, as such, he does not deserve for relief claimed for.

10. We have heard learned counsel for the respondents and also gone through the submissions made by the petitioner in the memo. of petition and also minutely perused the record. The first question which falls for consideration is as to whether the respondent Bank falls within the definition of the State, or authority under the control of Government and its rule are statutory or otherwise and whether respondent bank is a "person" within the meaning of Article 199(I)(a)(ii) read with Article 199(5) of the Constitution. State Bank of Pakistan a body corporate was established under the State Bank of Pakistan Act, 1956 (XXXIII of 1956) (hereinafter referred as the Act of 1956). The Bank has been entrusted numerous functions with the affair of the Federation, as well as the province as enumerated in Chapter IV of the Act 1956. The legislature under section 54(2)(J) of the Act of 1956 delegated power to the Central Board of the Bank to make regulation consistent with the Act provided for the recruitment of the officer. The terms and condition of service of employees/officer of the Bank are governed by the State Bank of Pakistan Staff Regulation 1999 though the afore referred staff regulation are non-statutory, however, the petitioner claimed that he had not provided equal treatment between similarly placed employee and on the violation of his fundamental right, this petition is maintainable under Article 199(I)(C) of the Constitution of Islamic Republic of Pakistan 1973 and in the circumstances instant petition is maintainable for enforcement of his fundamental right and he also has no alternate remedy for the same. Reference is placed on Human Right Commission of Pakistan and 2 others v. Government of Pakistan and others PLD 2009 SC 507, Khyber Zaman and others v. Governor State Bank of Pakistan Karachi and others 2005 SCMR 235 and Pakistan Defence Officers Housing Authority and others v. Lt: Col: Syed Jawad Ahmed 2013 SCMR 1707. On merit the record of the instant petition reveals that the petitioner was rendering meritorious services diligently in the bank of respondents w.e.f. 1975 to the unfortunate incident of 1994 was unearthed at Quetta office wherein the main accused the then Chief

Manager namely Abdul Qayyum Baig was absconded and he was found responsible for entire defalcation/willful embezzlement including several charge and high rank executive of the bank appointed as Inquiry Officer and held responsible the then Chief Manager Mr. Abdul Qayyum Baig for unearthed defalcation/ embezzlement.

11. We have also gone through the findings of Inquiry Officer, it is pertinent to mention here that prior to inquiry proceedings an evasive and unspecified charge sheet was issued to the petitioner, which was replied by the petitioner satisfactorily, but during the course of inquiry proceedings, the respondents given fair and sufficient opportunities of producing witnesses against the petitioner, but however in contrary the witnesses of petitioner were not summoned by the Inquiry officer without assigning any plausible reasons and on the other hand, the petitioner was assured by the Inquiry Officer that no tangible incriminating evidence available by the prosecution against him, as such, there is no need for the petitioner to lead such defence evidence. While concluding the inquiry proceeding on such vague assurance to the petitioner, the Inquiry Officer recommended for imposition of major penalty to the petitioner by imposing reduction of Rs.2500/- from his salary permanent as well as imposition of non-paying of back benefit to the petitioner.

12. Though the petitioner raised objection on the jurisdiction of the Director Personnel i.e. respondent No.4 for imposing such penalties in view of disciplinary proceeding against an officer of petitioner's grade. Be that as it may, in our view if at all it be presumed that the respondent No.4 being Director Personnel was competent to impose such penalties over the petitioner, but however, imposition of such major penalty is very harsh, since no findings were made by the Inquiry Officer with regard to the financial loss being arised to the respondents by act of petitioner, as such, merely on the basis of contributory negligence and without determination of responsibility of each officer major penalty was unjustified. Besides, the petitioner was deprived from opportunities to produce his defence evidence being condemned unheard (Audi Alterm Partem). He was also discriminated as the case of other four employees/officers co-accused namely (1) M/s. Ali Ahmed, (2) Syed Imtiaz Hussain, (3) Qamar Aziz and (4) Syed Arif Hussain similarly placed employees on identical charge were exonerated of the charge and their over absence from duty including their suspension was treated as period spent on duty. Their cases as stated above were at par with the case of petitioner and their financial benefits were released, but the petitioner was dealt with the different yardstick. No reason existed as to why case of the petitioner had been dealt differently, therefore, petitioner is also entitle equality of treatment between similarly placed employee. Reference to be made to case titled Kashif Zafar v. Post Master General and others 2013 SCMR 726.

14. In view of the above discussion, we are of the firm view that the penalty imposed upon the petitioner is very unjustifiable his case is identical with the case of other four employees as referred above, as such, the impugned order dated 31st August, 1999 resulting imposition of Rs.2500/- permanent reduction in the salary of the petitioner is declared as void ab inito and set-aside, as such, C.P. No.690 of 2006 is partly allowed and the respondents are directed to refund the said deducted amount to the petitioner from the date of deduction till he was in service.

15. The respondents are further directed to pay the back benefit to the petitioner for period during which he remained under suspension,

16. Since C.P No.690 of 2006 has borne fruit, while in C.P. No.692/2006 the petitioner has almost sought the same relief, which was accorded to him in C.P No.690/2006, as such, we have found no merits in the instant petition, which is accordingly dismissed. Parties are left to bear their own cost.

MQ/127/Bal. Petition allowed.

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PLJ 2022 Tr.C. (Note) 2

[Punjab Service Tribunal, Lahore]

Present: Justice (R) Shoaib Saeed, Chairman

BILAL AHMED, PRINCIPAL (BS-20) GOVERNMENT COMPREHENSIVE HIGHER SECONDARY SCHOOL,
SHEIKHUPURA--Appellant

versus

CHIEF SECRETARY, PUNJAB, LAHORE and another--Respondents

Appeal No. 1941 of 2015, decided on 11.12.2015.

Punjab Employees Efficiency, Discipline and Accountability Act, 2006 (XII of 2006)--

---Ss. 3, 15 & 13(4)--Concealments of facts--Explanation--Initiation of joint disciplinary proceedings--
Charges of inefficiency and misconduct--Issuance of charge sheet--Inquiry report--Recommendations of
inquiry officer--Minor penalty--Stoppage of increments for two years--Exoneration of co-accused--
Adoptation of pick and choose--Discrimination--Challenge to--Authority while agreeing with
recommendations of the-inquiry officer only to extent of appellant awarded minor penalty of stoppage
of increment for a period of two years and while disagreeing with recommendations of inquiry officer
exonerated appellant's co-accused from charges-- Authority adopted pick and choose policy, it is a clear
case of discrimination--Not a single cogent reason has been recorded to establish and substantiate
charges levelled against appellant by way of discussing any concrete evidence on record--Concerned
authority without attending to this aspect of case, awarded minor penalty to appellant--Appeal
allowed. [Para 7] A, B & C

Mian Bilal Bashir, Advocate Counsel for Appellant.

Muhammad Sarfraz Malik, District Attorney.

Naimat Ali, under Secretary Legal/Departmental Representative for Respondents.

Date of hearing: 11.12.2015.

Judgment

Brief facts of the case are that during the scrutiny of the working paper submitted by appellant, Bilal Ahmad (BS-20), Ex-DPI (SE) (on look after charge) originally ex-Additional Director Public Instruction (SE), Punjab and Yousaf Masih Gul (BS-20), Director (Admn-M), office of the Directorate of Public Instructions (SE) Punjab, Lahore for the promotion of SSTs (Male) General Cadre from BS-16 to BS-17 as Headmasters, it was found that the above mentioned officers deliberately concealed the following facts:--

- "i) Muhammad Arshad, ST (Tech), Govt. Model High School, Chishtian, District Bahawalnagar was not regularized in the service neither they produced his regularization order whereas the said teacher was regularized in service vide Order No. 2/21-84/17179/ Admn-I(II) dated 25.3.1987 as SST.
- ii) They did not place the case of Muhammad Arshad, SST (Tech), Govt. Model High School Chishtian, District Bahawalnagar in previous DPC meeting held in March 2013 whereas he attained the requisite qualification as per rules in June, 2012.
- iii) The juniors of Muhammad Arshad got promotion by attaining the prescribed qualification, whereas, they stated that his juniors have not been promoted."

2. Explanation was sought from the appellant and his co-accused. Reply was filed by both officers which was found unsatisfactory. Thereafter, Chief Minister Punjab as competent authority initiated joint disciplinary proceedings under PEEDA Act, 2006 against them on charges of inefficiency and misconduct and appointed Capt. (Retd) Muhammad Yousaf (PAS/BS-21), Ex-Secretary Labour and Human Resource Department, Lahore as inquiry officer. Charge-sheet was issued to the appellant as well as his co-accused on the following charges:--

"a) Because of your misrepresentation the rules/qualification quoted are of 1987 amended in 1992, whereas the fact is that the incumbent was appointed by the Deputy Director, Directorate of Education, Bahawalnagar (Defunct) upon the approval of Deputy Marshal Law Administrator, Sector-4, Bahawalnagar vide letter dated 15.4.1981.

(b) It was revealed that the incumbent was promoted by the Deputy Director, Directorate of Education, Bahawalpur Division, Bahawalpur (Defunct) upon the approval of Deputy Marshal Law Administrator, Sector-4, Bahawalnagar vide letter dated 15.4.1981 with the academic qualification of Matric with Diploma in Associate Engineering (DAE) and you quoted that he was wrongly promoted as SST (Tech) on the basis of Matric with Diploma of Associate Engineering three years which is against the rules of West Pakistan Education Department Subordinate Regional Services (Teaching & Administrative Branch), Women Section Rules 1965.

(c) The letter quoted by you of this department dated 10.1.2003 wherein it is stated that there is no scope of diploma of Associate Engineering three years for promotion as SST (Tech) was issued in 2003 and the incumbent was promoted in the year 1981. The same cannot have retrospective effect.

(d) You mentioned in your explanation that regularization order dated 25.3.1987 of the said incumbent are illegal whereas, the regularization order provided by the said incumbent, wherein almost 285 SSTs are regularized in service and have been further considered in different DPCs time and again for promotions into higher grades. If the said orders are bogus then it is sheer negligence on your part that on what grounds those 285 SSTs were considered in different DPCs held.

(e) You did not scrutinize the record placed before the DPC meeting held on 22.8.2013 and neither pointed out the fact that the name of Muhammad Arshad varies on his degree of BA and B.Ed.

(f) Due to your misrepresentation and concealment of facts Mr. Muhammad Arshad was deprived of his right of promotion who have retired on 31.8.2013.

(g) The working paper of Mr. Muhammad Arshad submitted by you showed him as fresh case whereas, it was a deferred case.

3. Inquiry was held. Inquiry officer submitted inquiry report to the Chief Minister/Competent authority on 16.5.2014 and recommended minor punishment of with-holding of increment for a period of two years upon the appellant as well as minor punishment of with-holding of increment for a period of three years upon the co-accused Yousaf Masih Gul. Thereafter, competent authority issued show cause-cum-personal hearing notice dated 27.8.2014 to the appellant and his co-accused under Section 13(4) of the PEEDA Act 2006 as to why penalties recommended by the inquiry officer be not imposed them.

Appellant submitted his written reply to the show cause notice and denied the charges. The competent authority vide order dated 24.12.2014 imposed minor penalty of stoppage of increment for two years upon the appellant and taking a lenient co-accused of the appellant was exonerated from the charges. Appellant preferred review petition before the Chief Minister which is still undecided. Hence this appeal.

4. Learned counsel for the appellant contends that regular inquiry was held in a slipshod manner in which neither the statement of any witness was recorded in the presence of the appellant nor any documentary evidence was examined in his presence nor was he granted right of cross-examination. The appellant was also not given a chance to produce his defence. That neither the appellant prepared the working paper nor participated in the meeting but inquiry officer failed to consider this fact. That co-accused Yousaf Masih Gul who participated in the meeting and prepared the working paper was exonerated from the charges but appellant was made scapegoat and discriminatory treatment is being meted out to him. The penalty imposed upon the appellant is not justifiable and also not commensurate with the gravity of charges attributed against him. Further contends that impugned order passed by the respondent is non-speaking in nature and is not sustainable in the eyes of law.

5. Conversely, learned District Attorney submits that inquiry officer conducted the inquiry strictly in accordance with the provision of PEEDA Act, 2006. That an opportunity of personal hearing under Section 13(4) of the PEEDA Act 2006 was provided to the appellant by the competent authority vide show cause-cum-personal hearing notice. The appellant was given full opportunity to explain his position but he could not put forth any plausible explanation in his favour, therefore, the punishment is quite just, fair and in consonance with the gravity of the allegations levelled against him. The penalty order passed by the competent authority is legal and sustainable in the eyes of law and without any discrimination. He was rightly punished according to his guilt.

6. Arguments heard, record perused.

7. Inquiry report reveals that charges levelled against the appellant as well as his co-accused were proved and recommended minor penalty of stoppage of increment for a period of two years upon the appellant as well as minor punishment of stoppage of increment for three years upon the co-accused of the appellant. The authority while agreeing with the recommendations of the inquiry officer only to the extent of the appellant awarded minor penalty of stoppage of increment for a period of two years and while disagreeing with the recommendations of the inquiry officer exonerated appellant's co-accused from the charges. It is established from record that the authority adopted pick and choose policy, therefore, it is a clear case of discrimination. On the other hand, learned counsel for the appellant during arguments stated that appellant will retire from service after two days. In this regard, learned counsel for the appellant has placed letter dated 24.02.2007 issued by Regulation Wing of S&GAD in which it is affirmed that "an employee may be at the fag end of his career and imposition of penalty of withholding of increments may cause undue hardship and eventually it may have a bearing upon his pension case. The competent authorities should, therefore, foresee that such a penalty expire well before the date of retirement/superannuation to save the employee from recurring loss." Moreover not a single cogent reason has been recorded to establish and substantiate charges levelled against the appellant by way of discussing any concrete evidence on record. I find that in the present case, concerned authority without attending to this aspect of the case, awarded minor penalty to the appellant. I am inclined to take a lenient view of the appellant's error, this appeal is allowed, impugned orders are set aside.

(Y.A.) Appeal allowed

1993 S C M R 1440

[Supreme Court of Pakistan]

Present: Ajmal Mian, Sajjad Ali Shah and Saleem Akhtar, JJ

JAN MUHAMMAD---Appellant

versus

**THE GENERAL MANAGER, KARACHI TELECOMMUNICATION REGION,
KARACHI and another---Respondents**

Civil Appeal No. 149-K of 1991, decided on 31st March, 1992.

(On appeal from the judgment of the Federal Service Tribunal, Islamabad dated 13-1-1991 passed in Appeal No.56(K) of 1987).

Government Servants (Efficiency and Discipline) Rules, 1973---

---Rr. 6, 5 & 4---Misconduct---Compulsory retirement---Enquiry against Government servant---Procedure---Enquiry proceedings were conducted by way of questionnaire without examination of witnesses in support of charge or defence---Such enquiry proceedings being not consistent with requirements of R. 6, Government Servants (Efficiency and Discipline) Rules, 1973 was not sustainable.

In Government Servants (Efficiency and Discipline) Rules, 1973. "misconduct" is defined. Rule 4 contemplates minor and major penalties. Compulsory retirement is included in major penalties. Rule 5 empowers authorised officer to direct enquiry against Government servant through an Enquiry Officer or Enquiry Committee or if he is satisfied, may order that there would be no enquiry in the interest of security of the country. If it is decided that there should be enquiry

either by Enquiry Officer or Enquiry Committee then procedure laid down in Rule 6 is to be followed and the requirements enumerated therein are that charge shall be framed and Government servant proceeded against would be allowed to reply to the charge after which evidence is to be recorded by examining witnesses in support of the charge allowing opportunity to the affected Government servant to cross examine the witnesses and he can also produce witnesses in his defence. In the present case this procedure as such was not followed in letter and spirit and witnesses were not examined in support of the charge. It was necessary for that reason that ultimately major penalty has been imposed upon the civil servant. The manner in which enquiry proceedings were conducted by way of questionnaire without examination of witnesses in support of charge or defence cannot be approved as it was not consistent with requirements of Rule 6 of the above mentioned Rules. Before the Service Tribunal in written objections filed on behalf of Department order of compulsory retirement has been defended on other unconnected grounds that civil servant was inefficient and unwilling worker. In the enquiry report no comment was made upon plea of civil servant that his immediate superior officer recommended that he was overburdened with his own work and should not be given additional work. Order of compulsory retirement, therefore, was not sustainable as enquiry was not held in accordance with procedure laid down in Rule 6 of Government Servants (Efficiency and Discipline) Rules, 1973. Judgment of Service Tribunal and order of compulsory retirement of civil servant was set aside with the direction that he be reinstated with back benefits. Order of compulsory retirement of civil servant having been set aside on the ground that enquiry was not held as required under the Rules, it was open to Department to take action against him on that ground but strictly according to law and rules.

Rasheed A. Razvi, Advocate Supreme Court instructed by M.A.I. Qarni, Advocate-on-Record for Appellant.

M. Umar Qureshi, Advocate Supreme Court instructed by S.M. Abbas, Advocate-on-Record for Respondents.

Date of hearing: 31st March, 1992.

JUDGMENT

SAJJAD ALI SHAH, J.---In this appeal with leave is challenged judgment dated 13-1-1991 of the Federal Service Tribunal, Islamabad, whereby service appeal of the appellant is dismissed on the ground that it has no merit.

2. Briefly stated the relevant facts giving rise to this appeal are that appellant was serving as Lower Selection Grade Clerk (BPS-9) posted as Head Clerk Phone Branch, Karachi, when on 7-7-1986 he received order from Director, Telephones-II giving him additional work of "Minister communication cases". Assistant Director, Phones-II, who was immediate superior officer of appellant forwarded a note recommending that appellant should be spared as he was already loaded with heavy work on account of shortage of staff and for that reason additional work may be assigned to some other Head Clerk. On the following day appellant was suspended and on 20-7-1986 he was served with charge-sheet on the ground that he had disobeyed the order of superior officer which amounted to misconduct. Appellant submitted his defence denying allegations. Mr. Zahiruddin Siddiqui, A.D. Engineering-II proceeded to examine appellant by directing him to answer questionnaire which was done. After formal personal hearing, order of compulsory retirement of appellant from Government service was passed on 18-11-1986. According to the appellant, he had put in 28 years of service. He filed departmental appeal which was dismissed after which he filed service appeal before the Tribunal which is also dismissed as stated above.

3. We have heard learned counsel for both the parties. It appears from the impugned judgment of Service Tribunal that charge against the appellant is that he disobeyed office order passed on 7-7-1986 directing him to look after "Minister communications cases" in addition to his own duties, which he refused. It is submitted on behalf of the appellant that he did not refuse or disobey the order but apprised his own immediate superior officer about the order and the factual position with regard to his own load of work and on that note his immediate superior officer A.D. Phones-II agreed and recommended in writing that appellant was already overloaded with heavy work in his normal duties, which he had been performing in the face of shortage of suitable staff, hence additional work should be assigned to some other Head Clerk.

4. We have noted' in the record that order assigning additional duty was passed on 7-7-1986 and on the same day appellant forwarded a note in writing to A.D. Phones-II, who on the same day added his own note in hand in the margin agreeing with appellant and recommending that he should be spared. There is also another note of the some officer i.e. A.D. Phones-II made on the, following day directing appellant to clear all the files on his table and then start attending to additional work as well. It, therefore, appears that inbetween these two notes this officer was called and persuaded to change his mind and not recommend that appellant should be spared from additional duty.

5. On 8-7-1986 appellant was suspended and on 20-7-1986 he was charge-sheeted and required to show cause within 7 days as to why penalty of dismissal from service as specified in Government Servants '(Efficiency and Discipline) Rules, 1973 should not be imposed upon him on the ground of misconduct. Mr. Zahiruddin Siddiqui A.D. Engineering-II was appointed as Enquiry Officer. On 3-8-1986 appellant filed written reply to charge-sheet in which allegation levelled against him was denied. Appellant asked for change of Enquiry Officer but his request was declined. In the enquiry no witness was examined and as it appears from the enquiry report dated 26-8-1986, four allegations were noted from which one related to refusal to do additional work and the other three with regard to the objections raised by the appellant himself. It further appears that appellant was cross-examined on these points and his defence in writing was considered and in one short paragraph conclusion is noted that charge of misconduct stands justified. vide order dated 18-11-1986, authorised officer, who is Assistant General Manager-I, Karachi, Telecommunication Region, Karachi, retired appellant compulsorily from Government service with effect from 17-11-1986 with all admissible benefits treating period of suspension as leave admissible.

6. In Government Servants (Efficiency and Discipline) Rules 1973, "misconduct" is defined. Rule 4 contemplate minor and major penalties. Compulsory retirement is included in major penalties. Rule 5 empowers authorised officer to direct enquiry against Government servant through an Enquiry Officer or Enquiry Committee or if he is satisfied, may order that there would be no enquiry in the interest of security of the counts if it is decided that there should be

enquiry either by Enquiry Officer or Enquiry Committee then procedure laid down in Rule 6 is to be followed and the requirements enumerated therein are that charge shall be framed and Government servant proceeded against would be allowed to reply to the charge after which evidence is to be recorded by examining witnesses in support of the charge allowing opportunity to the affected Government servant cross-examine the witnesses and he can also produce witnesses in his defence. It appears that in the instant case this procedure as such was not followed in letter and spirit and witnesses were not examined in support of the charge. It was necessary for that reason that ultimately major penalty has been imposed upon the appellant. The manner in which enquiry proceedings were conducted by way of questionnaire without examination of witnesses in support of charge or defence cannot be approved as it is not consistent with requirements of Rule 6 of the abovementioned Rules. Before the Service Tribunal written objections filed on behalf of respondents order of compulsory retirement has been defended on other unconnected grounds that appellant was inefficient and unwilling worker. In the enquiry report no comment is made upon plea of appellant that his immediate superior officer recommended that appellant was overburdened with his own work and should not be given additional work. For the facts and reasons mentioned above, we are of the view that order of compulsory retirement is not sustainable as enquiry was not held in accordance with procedure laid down in Rule 6 of Government Servants (Efficiency and Discipline) Rules, 1973. We, therefore, set aside impugned judgment of Service Tribunal and order of compulsory retirement of appellant and direct that he be reinstated with back benefits. Since we are striking down order of compulsory retirement of appellant on the ground that enquiry was not held as required under the rules, it is open to the respondents to take action against appellant on that ground but strictly according to law and rules.

Appeal is allowed.

M.BA./J-99/S Appeal allowed.



امتحانی عملہ (سپر نٹنڈنٹ) کیلئے ہدایات

Preparation Day تیاری کا دن

امتحانی عملہ (سپر نٹنڈنٹ) کو امتحان شروع ہونے سے ایک دن پہلے امتحانی مرکز پہنچ جانا چاہیے اور اگلے دن سے شروع ہونے والے امتحان کیلئے انتظامات کرنے چاہئیں۔ جو کہ درج ذیل ہیں۔

- (1) سب سے پہلے طلباء کی فہرست سے (Confidential List) ہر مضمون کیلئے طلباء کی تعداد معلوم کر کے ڈیٹ شیٹ پر دیئے گئے مضامین کے سامنے طلباء کی تعداد لکھ لیں۔ اس کے بعد بینک جا کر تاریخ وار اور مضمون وار پرچوں کے لفافے چیک کر کے اپنی تسلی کریں کہ آپ کے پاس موجود طلباء کی تعداد کے مطابق بینک میں پرچے موجود ہیں یا نہیں۔ اگر کسی قسم کی کمی ہو تو فوراً کنٹرولر امتحانات کو بذریعہ ٹیلیفون اطلاع کریں۔
- (2) پرچوں کی تمام سیل وغیرہ چیک کر کے اطمینان کر لیں کہ کوئی لفافہ مشکوک ہو یا سیل ٹوٹی ہوئی ہو تو اس کی اطلاع فوراً کنٹرولر امتحانات کو دیں۔
- (3) سپر نٹنڈنٹ پرچوں کے مطابق ایک لسٹ تیار کرے گا۔ جس میں ان تمام مضامین اور پرچوں کا ذکر کرے گا۔ جن کا امتحان اس کے مرکز پر ہو رہا ہے اور اس کی نقل نوٹس بورڈ پر آدابہاں کرے گا۔
- (4) سپر نٹنڈنٹ اپنے امتحانی عملہ کی حاضری لے گا اور تسلی کرے گا کہ اس کے پاس مطلوبہ تعداد میں عملہ موجود ہے۔ کسی قسم کی کمی کی صورت میں وہ کنٹرولر ایڈیٹنگ انسپکٹر کی مشاورت کے ساتھ مطلوبہ تعداد میں عملہ پورا کرے گا۔ اور عملہ زیادہ ہونے کی صورت میں فارغ کرے گا۔
- (5) سپر نٹنڈنٹ امتحانی مرکز کو مہیا کردہ شیٹسری چیک کرے گا اور اپنی تسلی کرے گا کہ مطلوبہ تعداد کے مطابق شیٹسری مہیا کر دی گئی ہے اور اگر کوئی کمی ہو تو فوراً بورڈ سے رابطہ کر کے انتظامات مکمل کرے گا۔
- (6) امتحان کے پہلے دن کے لئے پلان تیار کرے گا۔

ہدایات پرچہ سوالات

- (1) ہر امتحانی مرکز کو اس کی مطلوبہ تعداد اور مضامین کے پرچے اس کے مرکز کے نزدیک ترین بینک میں ایک بکس میں بند کر کے رکھ دیئے گئے ہیں۔
- (2) ہر بکس کو دو تالے لگائے گئے ہیں۔ ایک تالے کی چابی بینک منیجر کے پاس اور ایک سپر نٹنڈنٹ کے پاس ہوتی ہے۔ بینک منیجر یا سپر نٹنڈنٹ اکیلے بکس کھولنے کا مجاز نہ ہوگا۔
- (3) کوئی بھی سپر نٹنڈنٹ پرچوں کی وصولی کیلئے اپنے علاوہ کسی دوسرے کو اختیار نہیں دے سکتا۔
- (4) ہر پرچہ ڈیٹ شیٹ کے مطابق مقررہ تاریخ پر پرچہ شروع ہونے کے وقت سے آدھا گھنٹہ پہلے بینک سے حاصل کیا جائے گا۔
- (5) بینک سے پرچے کا پیکٹ وصول کرنے سے پہلے اس بات کی تسلی کر لیں کہ سیل وغیرہ درست ہیں اگر کوئی شک ہو تو کنٹرولر امتحانات سے رابطہ کریں۔
- (6) حل شدہ پرچہ جات روزانہ واپس بینک میں جمع کروانا لازمی ہے۔

STATIONERY شیٹسری

- (1) سپر نٹنڈنٹ امتحان سے ایک دن پہلے جوابی کاپیوں اور اضافی شیٹوں کی مطلوبہ تعداد کی تسلی کرے گا۔ اگر کوئی کمی ہو تو فوراً کنٹرولر امتحانات کو اطلاع کرے گا۔
- (2) اس بات کی تسلی کرے گا کہ شیٹسری والا تھیلا بوری صبح سیل شدہ تھی اگر کوئی شک ہو تو کنٹرولر امتحانات کو اطلاع کرے گا۔
- (3) جوابی کاپیاں امیدواروں کو سیریل نمبر کے حساب سے تقسیم کرے گا۔

- (4) ... (4) ...
- (3) ... (3) ...
- (2) ... (2) ...
- (1) ... (1) ...

پندرہویں سوال

- (6) ... (6) ...
- (5) ... (5) ...
- (4) ... (4) ...
- (3) ... (3) ...
- (2) ... (2) ...
- (1) ... (1) ...

- (5) ... (5) ...
- (4) ... (4) ...
- (3) ... (3) ...
- (2) ... (2) ...
- (1) ... (1) ...

سولہویں سوال

- (5) ... (5) ...
- (4) ... (4) ...
- (3) ... (3) ...
- (2) ... (2) ...
- (1) ... (1) ...

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- ہونے کے ایک گھنٹے کے دوران کوئی بھی ہال سے باہر جائے گا اور نہ ہی کوئی انداز آئے گا۔ امیدوار اور عملہ دونوں کے لئے لازمی ہے۔
- (5) آدھا گھنٹہ لیٹ آنے والے طالب علم کو اس تحریر لے کر سپرنٹنڈنٹ فائل کے اندر موجود فارم پر کر کے پرچہ دینے کی اجازت دی جاسکتی ہے۔ لیکن کسی کو پہلے گھنٹے میں ہال سے باہر جانے کی اجازت نہ ہوگی۔ امیدوار اور عملہ دونوں۔
- (6) انویگیلیٹر (Invigilator) کے درمیان امیدواروں کی تقسیم کیلئے مندرجہ ذیل باتوں کا خیال رکھنا ضروری ہے۔
- (i) 40 امیدواروں پر ایک انویگیلیٹر کا ہونا لازمی ہے۔
- (ii) اگر ایسے کمرے ہوں جن میں 40 سے کم امیدوار بیٹھنے کی گنجائش ہو تو پھر ہر کمرہ میں ایک انویگیلیٹر لگایا جاسکتا ہے۔
- (iii) ایک سے دس تک امیدواروں کیلئے انویگیلیٹر کی ضرورت نہیں ہے تو اس طرح 41 سے 45 پر ایک انویگیلیٹر ہوگا۔ اگر تعداد 81 تا 90 ہے تو انویگیلیٹر 2 ہی لگیں گے۔
- (iv) روزانہ ڈیوٹی کی تقسیم کا فارم پر کرنا لازمی ہے۔
- (7) پرچہ آدھا وقت گزرنے تک کوئی بھی امیدوار باہر لے کر نہیں جاسکتا۔
- (8) ہال کے اندر موبائل فون امنی کمپیوٹر / فوٹو فائل / اسلحہ / اسادہ کاغذ / جسٹا / کتاب یا کوئی بھی امدادی مواد لے کر آنا منع ہے لہذا یہ تمام اشیاء امیدواروں سے لے کر ہال سے باہر رکھ دیں۔
- (9) امیدواروں سے حاصل کیا گیا مواد ہال کے اندر موجود نہیں ہونا چاہیے۔ اسے جمع کر کے ہر صورت میں ہال سے باہر نکال دیں۔
- (10) دوران پرچہ ہال کے اندر چائے اور کھانے پینے کا انتظام کرنا خلاف قانون ہے۔ خلاف ورزی کی صورت میں سزا ہوگی۔
- (11) ہال کے اندر غیر متعلقہ اشخاص کا داخلہ منع ہے۔ صرف اتھارٹی لیٹر والے ہال دیکھ سکتے ہیں۔
- (12) ریڈیٹنٹ انسپکٹر صرف اس وقت ہال میں آسکتا ہے جب اس کی ضرورت ہو اور سپرنٹنڈنٹ اس کو بلائے بصورت دیگر وہ ہال میں نہیں آسکتا۔

امتحانی عملہ کی ذمہ داریاں

ریڈیٹنٹ انسپکٹر کی ذمہ داریاں:-

- کسی بھی ادارہ یا انچارج جس میں ہال ہو ریڈیٹنٹ انسپکٹر ہوگا جس کی ذمہ داریاں مندرجہ ذیل ہوں گی۔
- (1) وہ طلباء / امیدواروں کیلئے مناسب ہال / کمرے / فرنیچر فراہم کرے گا۔
- (2) نگران عملہ کو رہائش اور درجہ چھارم کے ملازم فراہم کرے گا۔
- (3) ہال اور اسٹاف کی حفاظت کے مناسب انتظام کا ذمہ دار ہوگا۔
- (4) تلبیس شخصی کو روکنے کے لئے امیدواروں کی شناخت میں مدد کرے گا۔
- (5) سوالیہ پرچہ جات کا سیل شدہ پیکٹ اور سیل شدہ جوابی کاپیوں کے پارسل پر دستخط کرے گا۔
- (6) کمرہ امتحان میں داخل ہونے سے پہلے اطمینان کرے گا کہ کوئی بھی امیدوار کمرہ امتحان میں کسی قسم کا امدادی مواد لے کر تو نہیں جا رہا ہے۔
- (7) امتحان عملہ ہر قسم کی امداد / سہولت مثلاً رہائش، ٹیلی فون، ٹرانسپورٹ فراہم کرے گا۔ اس کے علاوہ امتحانی عملہ کے مسائل حل کرنے کیلئے تعاون کرے گا۔
- (8) کمرہ امتحان سے باہر امن و امان برقرار رکھنا۔ کمرہ امتحان میں باہر سے مداخلت کو روکنا اس کی ذمہ داری ہوگی۔
- (9) اگر امتحانی عملہ کسی قسم کی قابل اعتراض سرگرمی میں ملوث ہو تو وہ اس کی رپورٹ کنٹرولر امتحانات کو دے گا۔

سپرٹنڈنٹ کی ذمہ داریاں :-

- (1) سپرٹنڈنٹ امتحان شروع ہونے سے ایک دن پہلے امتحانی سینٹر پہنچ کر امتحانات کرے گا گی۔
- (2) سپرٹنڈنٹ پرجوں اجوابی کاپیوں کو چیک کر کے تسلی کرے گا گی کہ مہیا کردہ اشیاء اس کی ضرورت کے مطابق ہیں۔ بصورت دیگر کنٹرولر امتحانات کو اطلاع کرے گا گی۔
- (3) روزانہ شیٹ کے مطابق سوالیہ پرچے پیک سے وصول کرنے کا گی۔
- (4) ہال میں روزانہ 15 منٹ پہلے تمام امیدواروں کو اپنی اپنی سیٹوں پر بٹھانے کا گی۔
- (5) امیدواروں کو وارننگ دے گا گی۔
- (6) دوسرے عملڈیوٹیاں تقسیم کرے گا گی۔
- (7) امیدواروں کو جوابی کاپی ٹانگل کے بھرنے کا طریقہ بتائے گا گی۔
- (8) کسی بھی امید کو پہلے کھٹے میں باہر جانے کی اجازت نہیں دے گا گی۔ ایک کھٹے کے بعد آدھا وقت گزرنے سے پہلے کوئی بھی امیدوار باہر جانا چاہے تو اس کو اجازت ہوگی مگر پرجہ سوالات وہ ساتھ نہیں لے جاسکے گا گی۔
- (9) ایک گھنٹہ سے زیادہ لیٹ آنے والے کو پرجہ دینے کی اجازت نہیں دے گا گی۔
- (10) جوابی کاپیاں رول نمبر کی ترتیب سے تقسیم کرے گا گی۔
- (11) سیٹنگ پلان تیار کرے گا گی۔ حاضری شیٹ پر پہلے سے رول نمبر لکھے گا گی۔
- (12) براس سیل (Brass Seal) مہر لگائے گا گی۔
- (13) امتحانی کمرہ کے اندر امن و سکون کا ماحول فراہم کرنا اس کی ذمہ داری ہوگی۔
- (14) نقل اور دوسرے ناجائز ذرائع روکنا۔
- (15) نقل کرنے والے امیدواروں کے خلاف باقاعدہ کیس بنا کر جوابی کاپیاں درست طریقے پر کنٹرولر کو بھیجے گا گی۔
- (16) روزانہ پرجہ ختم ہونے پر پلاپر بتائے گئے طریقے کے مطابق جوابی کاپیاں کنٹرولر کو روانہ کرے گا گی۔
- (17) امتحان ختم ہونے پر تمام کاغذات اوپر بتائے گئے طریقے کے مطابق پورڈ کو روانہ کرے گا گی۔
- (18) کمرہ امتحان کا مکمل کنٹرول اس کے پاس ہوگا۔ کمرہ امتحان کے اندر تمام معاملات کی ذمہ داری اس پر ہوگی۔
- (19) دوسرے امتحانی عمل کی کارروائی پر نظر رکھنا۔
- (20) سپرٹنڈنٹ اس بات کو یقینی بنائے کہ اس کا اپنا یا ڈیوٹی سٹاف میں سے کسی کا بھی قریبی رشتہ دار بشمول بیٹا، بیٹی، بہن، بھائی، خاوند، بیوی، والد، والدہ وغیرہ اس امتحان میں (کسی بھی سفر سے) شامل نہیں ہے۔
- (21) موبائل کا استعمال طلباء اور طالبات اور پیروائزری سٹاف کے لئے سختی سے منع ہے۔ (ماسوائے سپرٹنڈنٹ صاحب صاحبہ) وہ بھی ایمر جی میں۔
- (22) امتحانی ہال میں چیزیں، بیکری اور کنٹرولر امتحانات کی اتھارٹی کے بغیر کسی کو اندر آنے کی اجازت نہیں۔

تہا بہت ضروری: گورنمنٹ نجیہ پختونخواہ کی امتحانات میں شفافیت کے لئے تمام پورڈ کے چیئرمین صاحبان کی وزیر تعلیم کے ساتھ ہونے والی میٹنگ کے فیصلے کے مطابق پرجہ کھولنے سے پہلے امتحانی عملے کے ہمراہ ریزیزنٹ انسپکٹر اور ایک طالب علم (درج شدہ رول نمبر کے ساتھ) کو Question Paper Pakcet کے سرٹیفکیٹ پر دستخط کرنا لازمی ہے۔ جہاں ممکن ہو وہاں اس عمل کی تصویر بھی بنائی جائے۔

ڈپٹی سپرنٹنڈنٹ کی ذمہ داریاں :-

- (1) سپرنٹنڈنٹ کو امتحان منعقد کروانے میں مدد کرنا۔
- (2) روزانہ طلباء کی جوابی کاپیوں پر رول نمبر چیک کر کے دستخط کرنا اور اس بات کی تصدیق کرنا کہ امیدوار نے اپنا درست رول نمبر صحیح طور پر مخصوص خانے میں لکھا ہے۔
- (3) تلبیس (Impersonation) کو چیک کرنا۔
- (4) انویجیلیٹر کی کارکردگی پر نظر رکھنا۔
- (5) اس کے علاوہ تمام ذمہ داریاں جو اس کو سپرنٹنڈنٹ حوالے کرے گا گی۔
- (6) تمام کاغذات پر سپرنٹنڈنٹ کے ساتھ گواہ کی حیثیت سے دستخط کرنا۔
- (7) چاہے ہال میں ایک ہی امیدوار کیوں نہ ہو ڈپٹی سپرنٹنڈنٹ کو موجود ہونا لازمی ہے۔

انویجیلیٹر کی ذمہ داریاں :-

- (1) سپرنٹنڈنٹ کی طرف سے دی گئی لائن اکرہ پر نگرانی کرنا۔
- (2) کسی بھی صورت میں سپرنٹنڈنٹ کی مرضی کے بغیر وہ اپنا کمرہ لائن نہیں چھوڑے گا گی۔
- (3) گن کر سپرنٹنڈنٹ سے جوابی کاپیاں لے گا گی اور گن کر امیدواروں سے واپس لے کر سپرنٹنڈنٹ کے حوالے کرے گا گی۔
- (4) اسی طرح سے سوالیہ پرچے گن کر لے گا گی اور امیدواروں میں تقسیم کرے گا گی۔
- (5) اپنی لائن اکرہ میں نقل کرنے والوں سے نقل لے کر سپرنٹنڈنٹ کو رپورٹ کرے گا گی۔
- (6) تلبیس شخصی (Impersonation) چیک کرے گا گی۔
- (7) اس بات کی تسلی کرے گا گی کہ کوئی امیدوار اپنے ساتھ جوابی کاپی باہر لے کر نہ جاسکے۔
- (8) وقت ختم ہونے پر اپنے کمرہ لائن کے امیدواروں سے کاپیاں لے گا گی۔ اضافی شیٹ تھی کرے گا گی۔ Blank اور The End کی مہر لگائے گا گی۔ سیریل میں کر کے گن کر کاپیاں سپرنٹنڈنٹ کے حوالے کرے گا گی۔ سپرنٹنڈنٹ اس کام کیلئے ایک Issue/Received فارم پرائٹری کرے گا گی اور دستخط کرے گا گی۔

نوٹ :- حکومت خیبر پختونخواہ کے کنڈکٹ آف ایگزامینیشن آرڈیننس مجریہ 1995ء کے تحت تمام امتحانی عملہ کیلئے لازم ہے کہ وہ صاف شفاف امتحان لیں۔ کسی بھی قسم کی بے قاعدگی کی صورت میں امتحانی عملہ کے خلاف متعلقہ قانون کے تحت کارروائی عمل میں لائی جائے گی۔

پرچہ کا وقت ختم ہونے کے بعد کی کارروائی

- (1) پرچہ کا وقت ختم ہونے سے پندرہ منٹ پہلے سپرنٹنڈنٹ امیدواروں کو آگاہ کرے گا گی۔ کہ وقت ختم ہونے میں پندرہ منٹ باقی ہیں۔ وہ اپنا رول نمبر چیک کر لیں۔ اضافی شیٹ کو درست کر کے Answer Book کے ساتھ تھی کر لیں۔
- (2) وقت ختم ہونے پر سپرنٹنڈنٹ وقت ختم ہونے کا اعلان کرے گا گی اور تمام انویجیلیٹر اپنی لائنوں ا کروں سے کاپیاں لیں گے۔ اس دوران کسی کو باہر جانے کی اجازت نہ دی جائے۔ جب تک کہ تمام انویجیلیٹر اس بات کی تسلی کر لیں کہ تمام امیدواروں سے کاپی لے لی گئیں ہیں۔
- (3) اس بات کا خیال رہے کہ اب ہال میں نگران عملہ انسپکٹر اگر کوئی ہو کے علاوہ کوئی بھی اندر موجود نہ ہو۔ ریڈیٹنٹ انسپکٹر بھی اس دوران ہال میں موجود نہیں ہونا چاہیے۔
- (4) تمام انویجیلیٹر اپنی اپنی کاپیاں گن کر تسلی کریں گے کہ ان کی کاپیاں تعداد کے مطابق پوری ہیں اور اپنی اپنی تعداد سپرنٹنڈنٹ کو لکھائیں گے سپرنٹنڈنٹ ان کی تعداد کو ٹول کر کے معلوم کرے گا گی کہ یہ تعداد حاضر طلباء کی تعداد کے مطابق ہے۔
- (5) اس کے بعد تمام انویجیلیٹر اپنی اپنی کاپیوں پر Blank اور The End کی مہر لگائیں گے۔

Signature of Supdt: Signature of RI/ Signature of V/Inspector

C. No.....	
Name of Center.....	
Name of Supdt.....	
Sig of Supdt.....	
I. Subject.....	
Paper.....	
Nos. of Script.....	
Date.....	
II. Subject.....	
Paper.....	
III. Subject.....	
Date.....	

To,
The Controller of Exams.
BISE Dera Ismail Khan

ایک عزمیہ نامہ ہے

بقیہ نمبر 2

Signature of Supdt: Signature of RI/ Signature of V/Inspector

C. No.....	
Name of Center.....	
Name of Supdt.....	
Subject.....	
Paper.....	
Nos. of Script.....	
Date.....	

To,
The Controller of Exams.
BISE Dera Ismail Khan

ایک عزمیہ نامہ ہے

بقیہ نمبر 1

- یہ عزمیہ نامہ سب سے پہلے ہی کے مطابق جاری ہے۔
- یہ عزمیہ نامہ سب سے پہلے ہی کے مطابق جاری ہے۔
- (10) اس عزمیہ نامہ کے مطابق جاری ہے۔
- اس عزمیہ نامہ کے مطابق جاری ہے۔
- (9) اس عزمیہ نامہ کے مطابق جاری ہے۔
- (8) اس عزمیہ نامہ کے مطابق جاری ہے۔
- (7) اس عزمیہ نامہ کے مطابق جاری ہے۔
- (6) اس عزمیہ نامہ کے مطابق جاری ہے۔

اگر U.F.M. کیس ہوں تو

To,
The Controller of Exams.
BISE Dera Ismail Khan

C. No.....	Subject.....
Name of Center.....	Paper
Name of Supdt.....	Nos. of Script.....
	Nos. of UFM Scripts.....
	Date.....

Signature of Supdt:

Signature of R/I

Signature of V/Inspector

- (13) تھیلا سیل کر کے بینک میں جمع کروائیں۔
- (14) خیال رہے کہ آپ یہ کارروائی زیادہ سے زیادہ ایک گھنٹہ میں مکمل کر لیں اور آدھا گھنٹہ کے اندر نادر بینک میں جمع کرائیں گے یعنی پراچہ ختم ہونے کے بعد ڈیڑھ (1 1/2) گھنٹہ کے اندر نادر تھیلا بینک میں جمع کروانا لازمی ہے۔ بینک آپ کے لئے کھلا رہے گا۔ اگر کوئی بینک ایسا نہ کرے تو اس وقت بذریعہ ٹیلی فون کنٹرولر کو اطلاع کریں تھیلا اپنے ساتھ گھریا سینٹر میں ہرگز نہ لے کر جائیں۔ پرچے آپ کے پاس ڈیڑھ (1 1/2) گھنٹہ سے زیادہ نہیں رہنے چاہیں۔ بصورت دیگر آپ کے خلاف ضابطہ کے مطابق کارروائی ہوگی۔ (یہ مقررہ وقت 100 سے زیادہ پرچوں کیلئے ہے۔ کم تعداد والے پرچوں کو اس وقت سے پہلے بینک میں جمع کروانا لازمی ہے)۔

متفرق

طاق:-

- 1-40 امیدواروں پر ایک انویجیلیٹر لگانے کی اجازت ہے مگر مندرجہ ذیل طریقے کے مطابق۔
- (i) 1 سے لے کر 10 تک امیدواروں پر کوئی انویجیلیٹر نہ لگائیں۔
- (ii) 11 سے 40 تک امیدواروں پر ایک ہی انویجیلیٹر لگائیں۔ اور 41 سے 45 تک بھی ایک ہی انویجیلیٹر لگے گی۔
- (iii) 46 سے 80 تک دو انویجیلیٹر لگائیں۔ اور 81 سے 90 تک بھی دو ہی انویجیلیٹر لگائیں گے۔
- (iv) 91 سے 120 تک تین انویجیلیٹر لگائیں۔ اور 121 سے 130 تک بھی تین ہی انویجیلیٹر لگائیں گے۔
- (v) 131 سے 160 تک چار انویجیلیٹر لگائیں۔ اور 161 سے 170 تک بھی چار ہی انویجیلیٹر لگائیں گے۔
- (vi) 171 سے 200 تک پانچ انویجیلیٹر لگائیں۔ اور 201 سے 210 تک بھی پانچ ہی انویجیلیٹر لگائیں گے۔
- (vii) 211 سے 240 تک چھ انویجیلیٹر لگائیں۔ اور 241 سے 250 تک بھی چھ ہی انویجیلیٹر لگائیں گے۔
- مندرجہ بالا طریقہ کار ہال کی صورت میں لازمی ہے اگر کمرے ہوں تو ہر کمرہ میں کم از کم ایک انویجیلیٹر لازمی ہے۔ اگر کسی پرچہ میں ایک ہی امیدوار ہو تو اس کے لئے سپرنٹنڈنٹ اور ڈپٹی سپرنٹنڈنٹ کا ہونا لازمی ہے ایک مگر ان کسی بھی صورت میں پرچہ نہیں کھول سکتا دو کا ہونا لازمی ہے۔

اعزازیہ
Remuneration مندرجہ ذیل شرح کے مطابق ادا کیا جائے گا۔

تھیوری امتحان میٹرک اسطر

Remuneration in lieu of TA / DA	نان اوکل اوکل (دوٹوں کے لئے)		
1700 روپے یومیہ۔	100 روپے یومیہ۔	پر سنڈنٹ	1
1400 روپے یومیہ۔	75 روپے یومیہ۔	ڈپٹی پر سنڈنٹ	2
1200 روپے یومیہ۔	50 روپے یومیہ۔	اوپر کلبھار	3

OTHER ESTABLISHMENT

1	Daftari Per Working Day	دفتری	50 روپے یومیہ
2	Water Man Per working day	بہشی	40 روپے یومیہ
3	Chowkidar per day including Holidays	چوکیدار	40 روپے یومیہ
4	Sweeper Fixed	خاکروب	300 Fixed
5	Typing of plan fixed	کلرک	200 Fixed
6	Seating Agrrangment Fixed	نشستوں کا انتظام	200 Fixed

STATIONERY

(a) Rs. 500/- Fixed for Annual Exam.

(b) Rs. 250/- Fixed for Supplementary Exam.

CLOTH

(a) Rs. 800/- Fixed for Annual Exam.

(b) Rs. 800/- Fixed for Supplementary Exam.

بینک سے پرچہ وصول کرنے کیلئے ٹرانسپورٹ کے اخراجات کی منظوری کیلئے لازمی ہے کہ سینٹر اور بینک کے درمیان فاصلہ مردوں کیلئے دو گلو میٹر سے زیادہ ہو اور خواتین کیلئے ایک گلو میٹر سے زیادہ ہو۔

سپرٹنڈنٹ فائل

آپ کو مہیا کردہ سپرٹنڈنٹ فائل میں مندرجہ ذیل فارم ہوتے ہیں جن کو صحیح طریقے سے بھر کر امتحان ختم ہونے کے ایک ہفتہ کے اندر اندر کنٹرولر امتحانات کے پاس جمع کروانا لازمی ہے۔

SF-1	Certificate of opening the boxes in bank-1 form.
SF-2	Report regarding evelops containing 2 forms.
☆SF-3	Memo of late commers. 2 Forms.
SF-4	Statement regarding the disposal of blank answer book.
SF-5	Statement of perishable and imperishable articles.
☆SF-6	Form of sanction of extra supervisors.
☆SF-7	Form of showing change in supervisors.
SF-8	Superintendent Report.
SF-9	U.F.Ms File .
SF-10	Certificate dispatch of papers and disposal of furniture.
SF-11	Report regarding warning to candidates against use of unfairments.
☆SF-12	Forms for Sanction Additional expenditure other than prescribed in this book.
☆SF-13	Attendance Chart.
☆ SF-14	Identification form.
	اس کے علاوہ چند ایسے فارم آپ کو دیے جاتے ہیں جو اس فائل میں موجود نہیں ہیں۔ ان کو بھر کر اس فائل کے ساتھ جمع کروانا لازمی ہے۔
1	Declaration by Candidates.
2	Duty distribution of supervisory staff.
	نوٹ: ☆ والے فارم لازمی طور پر بھرا اس فائل کے ساتھ جمع کروائیں۔ اس کے علاوہ Seating Plan سپرٹنڈنٹ فائل کے ساتھ آنا لازمی ہے۔

میل

(1) سپرٹنڈنٹ کو چاہیے کہ وہ اپنا TA بل Supervisory Staff بل Contingent بل صاف درست طور پر بھر کر تمام بلوں کے ساتھ رسیدیں تصدیق شدہ لف کریں۔ اس کے علاوہ جہاں کہیں Sanction کی ضرورت ہو لے کر بل کے ساتھ لگا کر جمع کرائیں تمام اخراجات جن کیلئے ریٹ مقرر شدہ نہیں اگلی منظوری (Sanction) SF-12 پر لازمی لیکر بل کے ساتھ لگائیں۔ ورنہ ادائیگی نہ ہوگی تمام بل ایک ہفتہ کے اندر اندر بورڈ کو ارسال کر دیں تاکہ مل اور غلطیوں پر ادائیگی نہ ہوگی۔

(2) سپروائزری سٹاف میں ڈیوٹی سٹاف کے مکمل کوائف بشمول نام، عہدہ، سکول، بینک اکاؤنٹ، بینک برانچ، بھرتی کوڈ بڑے حروف میں صاف طور پر لکھیں۔ نیز حاضری (Attendance) والے خانے میں P کی بجائے سٹاف کا دستخط کرنا ضروری ہے۔

(3) Contingent Bill اسی صورت میں قابل قبول ہوگا کہ اس کے اندر تمام سپروائزری سٹاف کے ڈیوٹی لیٹر کی کاپیاں، Relieving Chit اور SF-7 Form کی اصل یا فوٹو کاپی منسلک ہو۔

+

سورہ المائدہ میں آیت ۵۱ کی تفسیر میں "وَلَا تَتَّبِعُوا الْاَوَّلِيْنَ وَالْاٰخِرِيْنَ" کے متعلق جو حدیثیں مروی ہیں، ان سے مراد یہ ہے کہ مسلمانوں کو اپنی مثال آپ نہ بنانا چاہیے۔

- (b) Impersonation Case ۵۰۰ روپے
- (a) Impersonation Case ۵۰۰ روپے

U.F.M. کے تحت کیے گئے امور

- (10) Impersonation Case ۵۰۰ روپے
- (9) Impersonation Case ۵۰۰ روپے
- (8) Confidential List ۵۰۰ روپے
- (7) Memo ۱۰۰ روپے
- (6) Impersonation Case ۵۰ روپے
- (5) Seating Plan ۵۰۰ روپے
- (4) Impersonation Case ۱۰۰۰ روپے
- (3) Impersonation Case ۵۰ روپے
- (2) Impersonation Case ۵۰ روپے
- (1) Impersonation Case ۵۰ روپے



تاریخ

- (9) Impersonation Case ۵۰ روپے
- (8) Impersonation Case ۵۰ روپے
- (7) Impersonation Case ۵۰ روپے
- (6) Impersonation Case ۵۰ روپے
- (5) Impersonation Case ۵۰ روپے
- (4) Impersonation Case ۵۰ روپے
- (3) Impersonation Case ۵۰ روپے

تاریخ

- (2) Impersonation Case ۵۰ روپے
- (1) Impersonation Case ۵۰ روپے

تاریخ اور جرم کی تفصیل

یو ایف ایم UFM

عام طور پر یہ دیکھا گیا ہے کہ امتحان میں ناجائز ذرائع کا استعمال کرنے والے طالب علم امیدوار امتحانی عملہ کی کوتاہی اور غلط رپورٹ بھیجنے کی وجہ سے سزا سے بچ جاتے ہیں۔ امتحانات کو صاف اور شفاف بنانے میں استاد کی ذمہ داری ایک بنیادی حیثیت رکھتی ہے۔ ہم سب کا بحیثیت ایک استاد یہ اولین فرض ہے کہ امتحان کو شفاف اور منصفانہ بنائیں۔

تمام ناجائز ذرائع کا خاتمہ کریں اس مقصد کے حصول کے لئے امتحانی عملہ کو مندرجہ ذیل نکات ذہن نشین کر لینا چاہیں۔

- (1) تمام امیدواروں کو پرچہ شروع ہونے سے پہلے اُن سے تمام امدادی مواد لے کر تلف کر دینا چاہیے۔
- (2) اس کے بعد جو امیدوار نقل کرتا ہوا پایا جائے اس سے مواد لے کر اس کی جوابی کاپی کے ساتھ لف کریں۔ اس کے بعد آخر میں تمام کاپیوں کو باقاعدہ کیس بنا کر علیحدہ میمو کے تحت کنٹرولر امتحانات کو الگ سے روانہ کریں۔
- (3) تلبیس شخصی Impersonation کیس کو چیک کرنا، پکڑنا اور اسکے بعد باقاعدہ قانونی چارہ جوئی سپرنٹنڈنٹ کی ذمہ داری ہے۔
- (4) کاپی Smuggled کیس لازمی طور پر مکمل ہونا چاہیے جن میں مندرجہ ذیل دستاویزات کا ہونا لازمی ہے۔
 - (i) ہال کاسٹنگ پلان۔
 - (ii) متعلقہ لائن اکرہ کے انویجیلیٹر کی رپورٹ۔
 - (iii) اس پر سپرنٹنڈنٹ کی رپورٹ جس پر بطور گواہ ڈپٹی سپرنٹنڈنٹ / انویجیلیٹر / ریڈیٹنٹ انسپیکٹر یا انسپیکٹر تمام کے دستخط، نام اور پتہ کے ساتھ ہونے لازمی ہیں۔ ان کے بغیر کاپی سٹکلنگ کا کیس نامکمل ہوگا۔ کاپی نہ ہونے کی ذمہ داری سپرنٹنڈنٹ پر ہوگی۔ جس کی سزا مستقل نااہلی ہے۔ لہذا اس قسم کے Cases کو توجہ کے ساتھ بنائیں۔ صرف یہ لکھ دینا کہ لڑکا کاپی لے گیا یا لڑکی کاپی لے گئی کافی نہ ہوگا۔
 - (iv) اس کے علاوہ اگر کسی ہال میں نقل ہو رہی ہوگی اور انسپیکٹر یا بورڈ کا کوئی ایسا آفیسر کیس پکڑ لے گا تو اس کی ذمہ داری سپرنٹنڈنٹ پر ہوگی اور ان کے خلاف کارروائی ہوگی۔

مجاز اتھارٹی

خانوی و اعلیٰ خانوی تعلیمی بورڈ، ڈیرہ اسماعیل خان۔

01.07.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 11.10.2022 before the D.B.



(Rozina Rehman)
Member (J)



(Salah-ud-Din)
Member (J)

29th Sept 2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

To come up for arguments on 06.10.2022 before D.B at Peshawar alongwith connected appeal No. 15180/2020 titled "M. Tariq Bhatti-vs-Govt: of Khyber Pakhtunkhwa".



(Salah Ud Din)
Member(J)

(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan

P.S

28.07.2021

Learned Addl. A.G be reminded about the omission and for submission of Reply/comments within extended time of 10 days.

Chairman

30.11.2021

None for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Dr. Khalid Saeed, Addl: Litigation Officer, DIK for respondents present.

Representative of the respondents submitted written reply/comments which is placed on file. To come up for arguments on 28.03.2022 before D.B.

(MIAN MUHAMMAD)
MEMBER (E)

28-3-2022

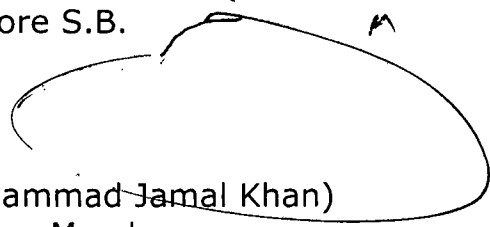
Proper DB not available the case is adjourned to come up for the same as before on 1-7-2022

Anis
Reader

22.02.2021

Junior to senior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Neither written reply on behalf of respondents submitted nor representative of the department is present, therefore, learned Additional Advocate General is directed to contact the respondents and furnish written reply/comments on the next date of hearing. Adjourned to 08.04.2021 on which date file to come up for written reply/comments before S.B.


(Muhammad Jamal Khan)
Member

08.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 07.07.2021 for the same as before.


READER

07.07.2021

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG ~~along with~~ for the respondents present.

Learned AAG seeks further time to submit reply/comments. He is required to contact the official respondents and submit reply/comments in office within 10 days, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 30.11.2021 before the D.B.

Stipulated period has passed and reply has not been submitted.


Chairman

28.12.2020

Mr. Pir Ghulam Khan Marwat, Advocate, for appellant is present.

The concise facts of what has been emphasized by the learned counsel representing appellant is that, the inquiry committee has wrongly indicted appellant of misconduct by finding him guilty for certain acts of commission thus resulting into suggestions of minor penalty of forfeiture of two annual increments for two years, followed by issuance of show-cause notice by the competent authority which was duly replied pointing to the omissions committed by the inquiry officer to which no head was paid culminating into passage of the impugned notification dated 06.07.2020 which was communicated to appellant on 21.07.2020 followed by review petition to the competent authority which remained undecided so far hence, necessitating the present service appeal.

The points so agitated at the bar need consideration. The appeal is admitted for regular hearing subject to all just legal exceptions. Appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 22.03.2021 before S.B.

Appellant Deposited
Security & Process Fee

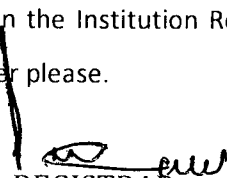
(MUHAMMAD JAMAL KHAN)
MEMBER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 11546 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/11/2020	<p>The appeal of Mr. Muhammad Usman presented today by Mr. Pir Ghulam Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to touring S. Bench at D.I.Khan for preliminary hearing to be put up there on _____</p> <p style="text-align: right;">CHAIRMAN</p>
2-		

**BEFORE THE HONOURABLE KHYBER
PAKHTUNKHWASERVICE TRIBUNAL CAMP COURT DERA**

ISMAIL KHAN

Service Appeal No. 14546/2020

Muhammad Usman **VERSUS** Govt. of KPK and others


SERVICE APPEAL

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2	Preliminary Inquiry order No.SO(B.T)/9-2/HSSC-BISE D.I.Khan Dated 20-05-2019	A	10
3	Copy of reply	B	11-12
4	Copy of formal Inquiry Notification dated 30/10/2019	C	13
5	Copy of charge sheet	D	14
6	Copy of statement of allegation	E	15
7	Copies of reply of charge sheet along with relevant documents	F	16-17
8	Copy of formal Inquiry report	G	18-24
9	Copy of show cause notice vide No SO(B.T)E&SED/9-2/2019/HSSC BISE DIKhan dated 25/02/2020	H	25-26
10	Copy of reply of the show cause	I	27-28
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13	Formal inquiry report for ready reference	L	31-37
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Date: 19/11/2020

Yours Humble Appellant


Muhammad Usman

①

BEFORE THE HONOURABLE KHYBER
PAKHTUNKHWASERVICE TRIBUNAL CAMP COURT DERA
ISMAIL KHAN

Service Appeal No. _____/2020

Muhammad Usman son of Ghulam Sadeeq caste Awan
resident of Faqeer Abad DIKhan serving as SIPE BS-18
Govt. Higher Secondary School No. 2 D.I.Khan.

..... Appellant

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. Secretary to the Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
3. Secretary Establishment Government of Khyber Pakhtunkhwa Peshawar.
4. Director Khyber Pakhtunkhwa Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar.

.....Official respondents

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL
ACT, 1974, AGAINST PUNISHMENT IMPOSED UPON THE
APPELLANT OF THE KIND "WITHHOLDING OF 02 ANNUAL
INCREMENTS FOR TWO YEARS" VIDE IMPUGNED NOTIFICATION
NO.SO(B/T)E&SED/9-2/2019/HSSC BISE D.I.KHAN/MUHAMMAD
USMAN DATED 06-07-2020, AND AGAINST THE INDECISION OF
THE REVIEW PETITION/REPRESENTATION OF THE APPELLANT.

2

PRAYER

On acceptance of this appeal, it is earnestly and very graciously requested to set-aside the impugned notification No.SO(B/T)E&SED/9-2/2019/HSSC BISE D.I.Khan /Muhammad Usman Dated 06-07-2020, may kindly be set aside and appellant may kindly be exonerated from the baseless, false and frivolous charges leveled against him with all back benefits.

Note: That the addresses of the Parties given in the heading of the Petition are true and correct for the purpose of service.

Respectfully Sheweth:-

I, Muhammad Usman, Senior Instructor in Physical Education(SIPE)(BS-18)/GHSS No.2 DIKhan has been aggrieved beyond measure over award of punishment of the kind "withholding of 02 annual increments for two years" inflicted on me without observing due process of law and rules made there under.

FACTS AND ASSUMPTIONS OF THE CASE:

Brief facts and assumptions leading to my humble appeal are as under:-

1. That appellant belongs to a respectable family and serving the most respectful education profession and presently serving as SIPE GHSS No.2 DIKhan. In 2019 HSSC (A) Examination was being started in the month of April 2019. Mr. Gul Nawaz (Vice Principal GHSS NO.2 D.I.Khan) was the resident inspector at GHSS No.2 examination hall. Present appellant was performing duties as chief proctor of school and has nothing to do with the matters inside examination hall. On 26-04-2019, an unpleasant occurrence happened having its detailed history for which the present appellant have to face facts finding inquiry conducted by Mr. Abdul Basit, Additional Secretary(Dev) E&SE Department Kpk vide office order

No.SO(B.T)/9-2/HSSC-BISE D.I.Khan Dated 20-05-2019. Copy of the order is annexed as **Annexure-A**.

2. That the appellant submitted written reply put forward all the detail of true and real facts. Copy of the reply is annexed as **Annexure-B**.
3. That vide Notification No.SO(B.T)/9-2/2019/HSSC INQUIRY/D.I.Khan Dated 30-10-2019 an inquiry committee was constituted against the appellant along with Gul Nawaz Ex-Vice Principal (BS-18) GHSS No.2 DIKhan, Mr. Atta Ullah Chohan Principal (BS 18) GHSS NO.2 D.I.Khan and Mr. Tariq Bhatti, Principal (BS-19). Copies of Notification dated 30/10/2019, charge sheet and statement of allegation are annexed as **Annexure-C, D & E**, respectively.
4. That appellant submitted written reply and annexed all the relevant documents before the inquiry committee. Copies of reply along with relevant documents are annexed as **Annexure-F**.
5. That inquiry committee submitted inquiry report on 28/12/2019, and wrongly found the present appellant guilty of misconduct to the extent of minor act of commission and suggested minor penalty of forfeiture of 02 annual increments for two years. Copy of the inquiry report is annexed is **Annexure-G**.
6. That upon the conclusion, competent authority issued show cause notice vide No. SO(B.T)E&SED/9-2/2019/HSSC BISE DIKhan dated 25/02/2020. Copy annexed as **Annexure-H**.
7. That present appellant submitted reply of the show cause before the competent authority and submitted true and real facts and pointed out the omissions conducted by the inquiry committee. Copy of the reply is annexed as **Annexure-I**.
8. That appellant was awarded penalty of "**withholding of 02 annual increments of two years**" vide notification No.SO(B/T)E&SED/9-2/2019/HSSC BISE D.I.Khan/M. Usman

Dated 06-07-2020. Copy of the impugned notification is annexed as **Annexure-J**.

9. That the impugned notification was communicated to the appellant on 21/07/2020. Feeling aggrieved from the impugned notification, the present appellant preferred review application/representation on 25.07.2020, before the Honorable Chief Minister KPK. Copy of the review is annexed as **Annexure-K** and the same has not yet being decided.
10. That feeling aggrieved from the impugned notification (being final order) and having no other remedy but to knock the doors of this Honourable Tribunal by invoking the jurisdiction under section 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, inter alia, on the following grounds,

GROUND FOR APPEAL

- a) That the impugned notification No.SO(B/T)E&SED/9-2/2019/HSSC BISE D.I.Khan/M. Usman Dated 06-07-2020 is against law, rules, facts and the code.
- b) That appellant has put forth strong arguments /evidences in the preliminary as well as formal inquiry ,that whatever performed by the appellant was in good faith in the interest of students and general public at large expediently but both, the enquiry officer as well as inquiry committee, adopted pick and choose policy and the versions taken by the appellant has nowhere been reproduce in black and white and inquiry is not based on pro and contra evidences and is stated shortly that "Mr.Muhammad Usman could not defend himself fully and was found guilty of misconduct to the extent of minor act of commission." **Annexure-L**
- c) That the authority has passed the impugned order without proper perusal of the record pro and contra evidences and thus caused virtually condemned the appellant on misconceived premises.
- d) That on 26.04.2019 when the appellant was performing his duties as chief proctor at GHSS No.2 DIKhan in school.

5

At the end of paper the parents of students accompanied by the social media self-arrived without invited by me or any one of staff member, complaining about the untoward harsh, harassed and insulting attitude of inspection team and board authorities (chairman ,Secretary , Acting controller of BISE DIKhan along with gun man and two others unknown persons.

- e) That notification dated 30/10/2019(annexure-C) constituting inquiry committee, is itself illegal and against the code, as Mr. Atta-Ullah Chohan Principal GHSS No.2 DIKhan was serving in BS-20. The inquiry committee comprising two members are also of the same grade which is itself is violation of the law, rules and regulations and the whole episode is void ab-intio.
- f) The inquiry committee did not follow the required procedure and merely relied upon hearsay statements and remained biased by closing their eyes towards the stance of appellant. What the appellant did was just to perform his duty as instructed by high ups in good faith. But even then inquiry committee found the present appellant guilty without relying and reasoning upon a single document and evidence respectively. But the inquiry committee did not bother to have some sight upon the other side of the picture. Another fact revealed preplanning of the board members is that official gunman of the chairman was busy in making their favorable video by his cell phone upon the instruction of Chairman. Copy of picture is annexed as **Annexure-M**.
- g) That pertinent to mentioned here that charge sheet and statement of allegation contains some allegations qua event of next day i.e 27.04.2019. the principal GHSS NO.2 Mr, Atta Ullah Chohan was also charge sheeted for the identical allegations. The inquiry committee exonerated Mr. Atta Ullah being not present on eventful day but found guilty the appellant even for the allegations occurred on next day i.e 27.04.2019.
- h) That meticulous perusal of allegations requires avoidance of hearsay statements for the proof or disproof of the charge.

The appellant along with others were served with the identical allegations irrespective of the fact that all were performing their different respective duties in different official capacities. Charge sheet contain the allegation that appellant *called the media persons to high light the issue*. The inquiry committee while dealing with matters relating to automation/social media, it must be verified from concern agencies. Whether it was proved by any record that appellant or others called media. It is settled law of evidence that to prove **a fact**, if it is neither prove nor disprove then it would be considered as not proved. Thus, the inquiry committee did not properly dig out the true facts and the real culprit behind the occurrence.

- i) That the inquiry committee gave its findings qua appellant that *"Mr. Muhamamd Usman could not defend himself fully and was found guilty of misconduct to the extent of minor act of commission"*. The inquiry committee did not give its detailed findings as which allegation was proved against the appellant and which was not or either all the allegations were proved? The whole inquiry report did not bear any single reasoning in support of findings which is sine quo non for any findings upon any fact.
- j) That the inquiry committee found the present appellant guilty of minor act of commission but did not specify what act was committed by the present appellant which make part of the event/occurrence. This shows how much least interest and attention the competent authority have, while inflicting penalty upon a teacher of BS-18.
- k) That the inquiry committee admitted that controller BISE DIKhan, Mr. Tahir ulla jan, has rivalry against the Ex-Vice Principal Mr. Gul Nawaz.
- l) That appellant has been condemned unheard as no opportunity of personal hearing has been provided by the competent authority. The competent authority cannot delegate power of personal hearing to any other official.
- m) That the appellant rely upon the record already attached with the previous replies rendered in consequence of departmental

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proceedings besides the grounds set up in this appeal and also request for raising additional grounds during course of arguments.

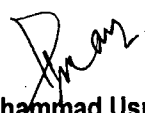
n) That the instant appeal is within time and within the jurisdiction of this honourable Tribunal.

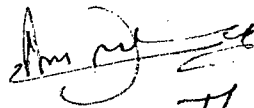
On acceptance of this appeal, it is earnestly and very graciously requested to set-aside the impugned notification No.SO(B/T)E&SED/9-2/2019/HSSC BISE D.I.Khan /Muhammad Usman Dated 06-07-2020, appellant may kindly be exonerated from the baseless, false and frivolous charges leveled against him with all back benefits.

Any other relief which this honorable tribunal may deem fit may granted in the favor of the appellant.

Date: 19/11/2020

Yours Humble Appellant


Muhammad Usman
SIPE(BS-18) GHSS NO. 2 DIK



Through Counsel
Pir Ghulam Khan
Advocate Distt. Bar
D.I.Khan

BEFORE THE HONOURABLE KHYBER
PAKHTUNKHWASERVICE TRIBUNAL CAMP COURT DERA
ISMAIL KHAN

Service Appeal No. _____/2020

Muhammad Usman

VERSUS

Govt. of KPK and others

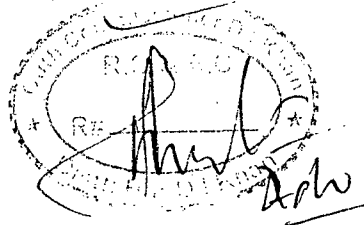
SERVICE APPEAL

AFFIDAVIT

I, **Muhammad Usman** son of Ghulam Saddique caste Awan resident of Faqeer Abad DIKhan serving as SIPE BS-18 Govt. Higher Secondary School No. 2 D.I.Khan, do hereby solemnly affirm and declare on oath that contents of above Service Appeal are true & correct to the best of my knowledge and that nothing has been concealed from this Honourable Court...

Dated: 19/11/2020


DEPONENT

2
Attest


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP COURT

DERA ISMAIL KHAN.

Service Appeal No. _____/2020

Muhammad Usman

VERSUS

Govt. of KPK and others

SERVICE APPEAL

APPLICATION FOR THE SUSPENSION OF OPERATION OF IMPUGNED NOTIFICATION
No.SO(B/T)E&SED/9-2/2019/HSSC BISE D.I.Khan/C _____ Dated 06-07-2020 TILL THE FINAL
DISPOSAL OF THE INSTANT APPEAL. *M. Usman*

Respectfully Sheweth;

The appellant humbly submits as under;

1. That the above titled service appeal is being filed before this honourable Tribunal and the instant application may kindly be treated as integral part of it.
2. That the appellant has prima facie case and balance of convenience also tilts in favour of the appellant.
3. That the respondents are intending to implement the impugned notification dated 06/07/2020 which must cause irreparable loss to the appellant and purpose of the institution of instant service appeal will become futile.
4. That this honourable Tribunal has got vast and ample powers to entertain the instant application.

It is therefore, humbly prayed that the operation of impugned notification No.SO(B/T)E&SED/9-2/2019/HSSC BISE D.I.Khan/M. USman Dated 06-07-2020 may kindly be suspended till the final disposal of the instant service appeal to meet the ends of justice.

Dated: ___/11/2020

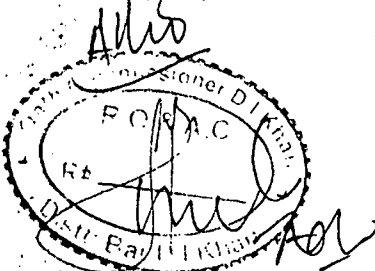
3: Your humble appellant

Muhammad Usman

AFFIDAVIT:

I, **Muhammad Usman**, the appellant, do hereby solemnly affirm and declare on Oath that contents of the application are true and correct to the best of my knowledge and nothing has been deliberately concealed from this Hon'ble Court.

Dated: ___/11/2020



Through counsel
Pir Ghulam Khan
Advocate
Distt. Bar
DIK

Deponent



(A)

(10)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar, the 20-05-2019

OFFICE ORDER

NO.SO(B.T)/9-2/HSSC-BISE.D.I.KHAN

The Competent Authority is pleased to appoint Mr. Abdul Basit, Additional Secretary (Dev.) Elementary & Secondary Education Department Khyber Pakhtunkhwa as Inquiry Officer to conduct facts finding Inquiry into the complaint allegations leveled against Mr. Gul Nawaz Resident Inspector (Vice Principal) GHSS No. 2 D.I.Khan and other staff lodged by Chairman BISE D.I.Khan. (Copy enclosed)

2. The Inquiry Officer shall conduct the inquiry and submit report to the Competent Authority within a week time positively.

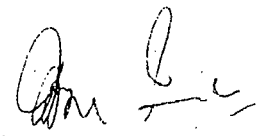
SECRETARY

Encl: (A.A)

Endst: of even No. date.

Copy of the above alongwith a copy of complaint is forwarded for information and necessary action to the following:-

1. Additional Secretary (Dev.) E&S E Department.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar
3. Chairman BISE D.I.Khan.
4. Mr. Gul Nawaz Vice Principal GHSS No.2 D.I.Khan.
5. P.S to Secretary E&SE Department.


(LAL SAEED KHATTAK)
SECTION OFFICER (B/T)



(B)

(P1)

REPLY TO THE QUESTIONNAIRE SERVED BY THE HONOURABLE ADDITIONAL SECRETARY
(Dev) ELEMENTARY AND SECONDARY EDUCATION KHYBER PAKHTUNKHWA.

Name and Designation: Muhammad Usman, SIPE GHSS No.2 Dera Ismail Khan.

1. Under what capacity did you attend meeting at GHSS No.2 D.I.Khan and invited Lawyers, Teachers, Civil Society and instigated them against board officials? Did you take permission from the high ups? If yes, then please provide proof.

Reply: Parents and relatives of the students reached the office of the Principal GHSS No.2 DIKhan, complaining about the untoward, harsh, harassed and insulting attitude of inspection team and board authorities (Chairman, Secretary, acting controller BISE DIKhan along with gunman and two other unknown persons) . On the directions of the Honourable Principal I (Chief Proctor) and Mr. Gul Nawaz (Vice Principal) tried our level best to cool them down in the interest of students, BISE DIKhan and general public at large.

2. By whom AKSSA Official Whats App Group is being run? How many Admins are there? Why were the proceedings of the meeting shared in this Whats App Group? Why did unofficial and threatening language use for the Board Authorities?

Reply: It is run by AKSSA cabinet members. There are seven admins. Neither shared by the undersigned nor by any cabinet member and no unofficial language is used by the undersigned.

3. Under what capacity did you direct Principals, SS and other Teachers to condemn Board Officials and do black ribbon strike in their respective schools on 27-04-2019? Please quote relevant rules.

Reply: Correct up to the extent that everything was done to cool down emotions of society due to irrelevant attitude of inspection team and board officers.

4. What was your speech in the gathering held on 26-04-2019 at GHSS No.2 D.I.Khan? Under what capacity did you demand transfer of Board authorities? Explain legal justification of your demands.

Reply: No speech is delivered by me on 26-04-2019.

5. Have you instigated the students of your school to boycott the paper, use slogans against Board Officials and to block the road?

Usman

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Reply: No, I have not instigated the students to boycott the paper, use slogans against Board Officials and to block the road. Instead I have cool down the emotional mob, so as to avoid any mishap or law and order situation. (Video proof is present)



Muhammad Usman,
Chief Proctor,
GHSS No. 2 DIK

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C



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar, the 30-10-2019

NOTIFICATION

NO.SO(B.T)/9-2/2019/HSSC INQUIRY/D.I.KHAN: In exercise of the powers conferred upon him under Rule-10 of the Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules 2011, the Competent Authority/Chief Secretary Khyber Pakhtunkhwa is pleased to constitute Inquiry Committee comprising the following officers to conduct formal inquiry against: Mr. Gul Nawaz Ex-Vice Principal (BS-18) GHSS NO.2 D.I.Khan now Senior Subject Specialist Maths GHSS No.2 D.I.Khan, Mr. Muhammad Tariq Bhatti Principal (BS-19) GHSS Mandhran Kalan D.I.Khan, Mr. Atta Ullah Chohan Principal (BS-18) GHSS No.2 D.I.Khan and Mr. Muhammad Usman, SIPE/Chief Proctor (BS-18) GHSS No.2 D.I.Khan for the charges mentioned in the Charge Sheets and Statement of Allegations;

- i. Mr. Adil Siddique (PCS EG BS-20)
Commissioner Bannu.
- ii. Mr. Attiq-Ur-Rehman, (BS-20),
Principal GHSS No. 1, Peshawar Cantt.

The Inquiry Committee shall submit report to the Competent Authority within (30) days, positively (copies of Charge Sheets & Statements of Allegations are enclosed for all concerned).

SECRETARY

Encl: (A.A)

Endst: of even No. date.

1. Director E&SE Department Khyber Pakhtunkhwa.
2. Mr. Adil Siddique Commissioner Bannu.
3. Mr. Attiq-Ur-Rehman, (BS-20),GHSS No. 1, Peshawar Cantt.
4. Mr. Gul Nawaz Ex-Vice Principal (BS-18) GHSS NO.2 D.I.Khan; now Senior Subject Specialist Maths GHSS No.2 D.I.Khan.
5. Mr. Muhammad Tariq Bhatti Principal (BS-19) GHSS Mandhran Kalan D.I.Khan
6. Mr. Atta Ullah Chohan Principal (BS-18) GHSS No.2 D.I.Khan.
7. Mr. Muhammad Usman, SIPE/Chief Proctor (BS-18) GHSS No.2 D.I.Khan.
8. PS to Secretary E&SE Department.

Encl: (Charge Sheets/Statement of Allegations)

(LAL SAEED KHATTAK)
SECTION OFFICER (B/T)

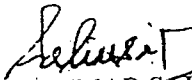
(14)
(D)


CHARGE SHEET

I, ~~Muhammad Salim~~, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, hereby charge you Muhammad Usman, SIPE/Chief Proctor (BS-18), GHSS No.2 D.I.Khan as follows:-

That you, while posted as Muhammad Usman, SIPE/Chief Proctor (BS-18), GHSS No.2 D.I.Khan committed the following irregularities:

- i. You along with other supporting staff of School Unnecessarily started reasoning and shared annoyance regarding the monitoring visit which was personally witnessed by the Additional Deputy Commissioner D.I.Khan.
 - ii. You illegally called the Media Persons to highlight the issue in media to malign the Board efforts for the conduction of fair & transparent exam.
 - iii. You along with other staff instigated the young students not to allow the monitoring team for searching of cheating material, boycott the papers and block the roads.
 - iv. An inquiry was conducted against you, which held you responsible and found guilty of misconduct.
2. By reason of the above, you appear to be guilty of misconduct, inefficiency and corruption under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.
3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the inquiry officer/ inquiry committee, as the case may be.
4. Your written defense, if any, should reach the inquiry officer/ inquiry committee within specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A Statement of Allegations is enclosed.


(MUHAMMAD SALIM)
CHIEF SECRETARY KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY



Muhammad Usman, SIPE/Chief Proctor (BS-18), GHSS No.2 D.I.Khan

(E) (15)

DISCIPLINARY ACTION

I, Muhammad Salim, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Muhammad Usman, SIPE/Chief Proctor (BS-18), GHSS No.2 D.I.Khan rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS


- i. He alongwith other supporting staff of School Unnecessarily started reasoning and shared annoyance regarding the monitoring visit which was personally witnessed by the Additional Deputy Commissioner D.I.Khan.
 - ii. He illegally called the Media Persons to highlight the issue in media to malign the Board efforts for the conductions of fair & transparent exam.
 - iii. He alongwith other staff instigated the young students not to allow the monitoring team for searching of cheating material, boycott the papers and block the roads.
 - iv. An inquiry was conducted against you, which held you responsible and found guilty of misconduct.
2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/ inquiry committee, consisting of the following, is constituted under Rule 10(1)(a) of the ibid Rules:

i. Mr. Adil Siddique Commr. Bannu

ii. Mr. Atiqur Rehman Principel Ghosia

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

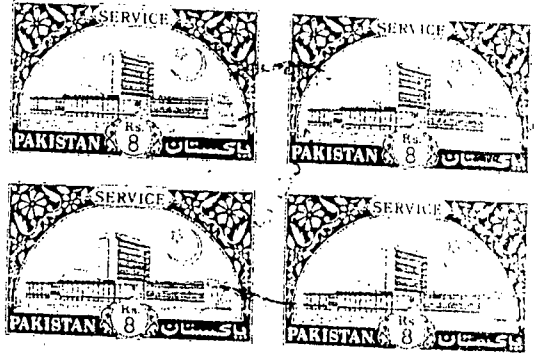
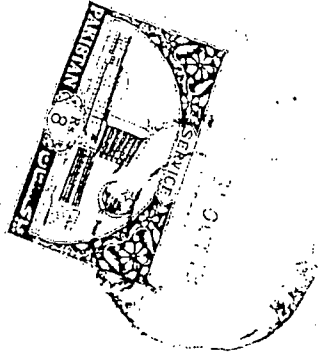
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/ inquiry committee.


(MUHAMMAD SALIM)

**CHIEF SECRETARY KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY**

Muhammad Usman, SIPE/Chief Proctor (BS-18), GHSS No.2 D.I.Khan

Dispatches
Elementary & Secondary Education Deptt
Govt of Punjab, Lahore
Civil Secretariat, Lahore



To,

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1. Mr. Adil Siddique (PCS EG BS-20),
Commissioner Bannu.

(F)

2. Mr. Attiq-ur-Rehman, (BS-20),
Principal GHSS No.1, Peshawar Cantt:

Subject:

NOTIFICATION VIDE GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT VIDE NO.
SO(B.T)/9-2/HSSC INQUIRY/D.I.KHAN DATED 30/10/2019

R/Sir,

Please find below the Para wise replies regarding the allegations
leveled against the undersigned vide Notification mentioned above;

Allegation No.(i):-

You along with other supporting staff unnecessarily started reasoning and
shared annoyance regarding the monitoring visit which was personally
witnessed by Additional Deputy commissioner DIKhan

Reply (i).

I completely deny it as I had neither met with the monitoring team nor
talked to them. Furthermore, written report of the monitoring team as well as
statement of Superintendent Exams does not reflect my name at any stage.
(Please see Annexure -A)

(a). It's stated further that the worthy ADC sahib report is based on carelessness
and without going in to the depth. To quote the carelessness of ADC Sahib please
refer to his wittiness, where he levels allegation against the principal Atta Ullah
chohan, where ADC sahib indulge him in the fuss of the school, while actually Mr.
Atta Ullah chohan Principal was on inspection duty for the day at Govt. Degree
College Pharpur nearly 35 Km away from the school. For ready reference please
refer to the replies of Mr. Atta Ullah chohan Principal.

Allegation No.(ii):-

You illegally called the media person to highlight the issue in the media to
malign the board efforts for the conduction of fair and transparent exams

Reply(ii).

Not Correct , actually at the end of paper the parents of students
accompanied by social media self arrived without invited by me or any one of staff
member , complaining about the untoward, harsh, harassed and insulting attitude
of inspection team and board authorities (Chairman, Secretary, Acting Controller
of BISE DIKhan along with gun man and two others unknown persons.

Atta Ullah Chohan

Allegation No.(iii):-

You along with other staff instigated the young students not to allow the monitoring team for searching of cheating material, boycott the papers and block the roads.

(17)

Reply(iii).

I solemnly declare that I or any other staff member had not instigated the students and it was quite impossible to do so as the students were in the examination hall and no one was allowed to enter there. Moreover, at the end of the paper, the students came out of the exam hall shouting, crying and condemning the brutal behavior of the Board members. The students were very much aggrieved, furious and uncompromising that we became afraid of any big mishap. Seeing this, I being the Chief Proctor along with the then Vice Principal Mr. Gul Nawaz, tried our best to console them and sent them out of school very tactfully. We thought that once the students will go out of the school they will go home but it did not happen, they blocked the road instead. I and Mr. Gul Nawaz consoled them and sent them homes.(video proof available in the USB please watch).

Allegation No.(iv):-

An inquiry was conducted against you , which held you responsible and found guilty of misconduct.

Reply(iv)

I strongly disagree to the allegation levied against undersigned, as the instant preliminary inquiry is biased and based on pick and choose of facts.

SUMUP

All it is to explain further that what the undersigned as a chief Procter acted was in good faith and an expedient action. Had the undersigned not delivered accordingly, then law and order situation would have surly arisen and an irreparable loss would have happened. All the situation, as per statement of the students , was jeopardized by the inspection team, who behaved cruelly by searching them unnecessary.

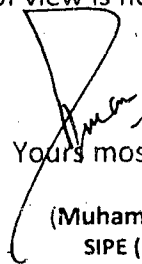
In light facts mentioned above the undersigned may kindly be exonerated from all the charges, being baseless, leveled against me, and the instant inquiry may kindly be filed.

I would also like to be heard in person, in case my point of view is not clear before your good self please .

Submitted Please.

Yours most obedient

(Muhammad Usman)
SIPE (BS-18),
GHSS No. 2 D.I.Khan.



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dated 28.12.2019

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The Secretary,
Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education,
Department, Peshawar.

subject: -inquiry report in respect of:-

- 1) Mr Gul Nawaz Ex-VP(B-18) GHSS NO.2 DIK now SSS GHSS No.2 DIK
- 2) Mr Muhammad Tariq Bhatti principal (B-19)GHSS Mandhran Kalan DIK
- 3) Mr Attaullah Chohan Principal(B-18) GHSS No.2 DIK
- 4) Mr Muhammad Usman SIPE/Chief Proctor (B-18) GHSS No.2 DIK

Memo:-

Reference the Government of KP E&SED NO.SO(BT)/9-2/2019/HSSC Inquiry/DIK dt 30.10.2019 whereby the undersigned along with Mr Adil Siddiq (PCS EG BS-20) commissioner Bannu have been appointed as inquiry committee to conduct formal inquiry under Government of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules 2011 against the above subject stated four officers.

The above enquiry report comprising (04) pages along with (50) annexure(A-L&1-37) is hereby submitted for further process. *Three Attendance Sheets are also submitted.*

[Signature]
Principal,
GHSS No.1 Peshawar Cantt.

Encl: No. 1331-33 Dated 28.12.2019

Copy of this letter is forwarded to:-

1. Mr Adil Siddiq (PCS EG BS-20) commissioner Bannu with respect to today's meeting.
2. Director Elementary & Secondary Education KP, Peshawar.
3. District Education officer (M) Peshawar.

ASE
[Signature]
31/12

DS(A)

SO(BT)

[Signature]
Principal,
GHSS No.1 Peshawar Cantt.

6/11/2020

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INQUIRY REPORT

(19)

2

Inquiry report in respect of:

- 1) Mr Gul Nawaz Ex-VP(B-18) GHSS NO.2 DIK now SSS GHSS No.2 DIK
- 2) Mr Muhammad Tariq Bhatti principal (B-19)GHSS Mandhran Kalan DIK
- 3) Mr Attaullah Chohan Principal(B-18) GHSS No.2 DIK
- 4) Mr Muhammad Usman SIPE/Chief Proctor (B-18) GHSS No.2 DIK

Introduction

Mr. Adil Siddiq Commissioner Bannu Division and Atiq ur Rehman B-20 Principal Government Shaheed Mubeen Shah Afridi Higher Secondary School #1 Peshawar Cantt were assigned inquiry in respect of Mr Gul Nawaz, Mr Muhammad Tariq Bhatti, Mr Muhammad usman & Mr Attaullah Chohan vide No SO(BT/9-2/2019/HSSC Inquiry/DIK dated, 30-10-2019 (Annexure A) along with Charge Sheets (Annexure B,C,D&E) framed as a consequence of preliminary inquiry to be served upon them and Statement of Allegations (Annexures F,G,H&I)

History of the case

History of the case is traced back to the occurrence on 26th April, 2019 during the HSSC(A) certain monitoring teams visited GHSS #2 DIK that annoyed the in charge Principal Mr Gul Nawaz refused to allow one of the monitors for the reason that he would have taken prior permission while entering Examination Center. As a matter of facts there had been a rivalry between two teacher union associations one belonging to the Mr.Gul Nawaz and Qari Usman and the other to the group of controller, Tahir Ullah Jan BISE, D.I.Khan.

Procedure

1. With the receipt of the formal inquiry letter (Annexure A) the accused were called to the office of the Commissioner DIK on 20/11/2019 vide # 1288 dated 05/11/2019 (Annexure J). They submitted their reply to the charge sheets already served upon them.
2. Another round of enquiry was held on 6th December, 2019 (Annexure K) where in Mr Gul Nawaz was absent because of his ill relative so another round of the same enquiry was arranged in office of the Commissioner Bannu on 16th December, 2019. (Annexure L)

Points on record:

1. The Chairman BISE, DIKhan had written a letter to Secretary, Elementary & Secondary Education Department vide No. 161/PS/BISE/DIKhan dated, 10-04-2019 conveying his apprehensions that Mr.Gul Nawaz and others may create problems in the HSSC exams 2019

(Armed & Dangerous)

Armed & Dangerous

On 26th April, 2019 the Chairman, BISE again wrote a letter to the Secretary, Elementary & Secondary Education Department vide No. 164/PS/BISE/ DIKhan dated, 26 -04-2019(Annexure-2). Complaining that:-

- I. One of the monitoring teams headed by Mr Inayat Ali Shah AP had been resisted by the resident inspector Mr Gul Nawaz and did not allow them to enter the Exam Center for inspection.
- II. Furthermore , Mr Gul Nawaz instigated the candidates not to allow the monitoring team for body search for cheating material.
- III. With his connivance the students blocked the road.
- IV. Resorted to humiliation and insult of the monitoring team.
- V. Interference in the official business of BISE DIK.
- VI. The reports of the supervisory staff and that of the superintendent HSSC (A) 2019 also affirmed the interference of Mr Gul Nawaz and others (Annexure-3-4).
- VII. The inspection staff also affirmed the intervention of Mr Gul Nawaz and others in the exam. (Annexure-5-6).
- VIII. Mr Tariq Bhatti tried to defame the sanctity of the BISE DIK by floating statements in the social media (Annexure-7-17).
- IX. Mr Tariq Bhatti has also tried to defame the sanctity of the BISE DIK by floating statements in the print media using and abusive language for BISE staff (Annexure-18-24).
- X. The accused approached high ups by passing the routine chain of command (Annexure-25-28).

Statements of the accused

The enquiry committee on the dates of personal hearing had awarded the accused an opportunity of submission of replies whereupon they were cross questioned and examined in front of the departmental representative. They were provided a conducive environment to defend themselves.

1) Mr Gul Nawaz.

In replies to the allegations 1-5 (Annexure-29-31). he stated that:-

1. He had neither obstructed the monitoring team nor other inspectors
2. All the monitors had been greeted by him with warm well come.
3. He admitted that he was annoyed, with one of the inspectors namely Mr Ashfaq who entered the Examination Hall without prior introduction or permission.
4. That the parents and students were not called for the protest by him rather they by themselves visited the school with the social media after the arrival of their children to their homes complaining about the occurrence of the day.

2) Mr Tariq Bhatti

In replies to the allegations 1-5 (Annexure32-33).

1. Mr Tariq Bhatti recorded his statement that the viral picture of Mr Salim Principal does not relate to his face book account and not related to the occurrence of GHSS #2 on 26-04-2019.



- (21)
2. He stated that he was on inspection duty on 26-04-2019 and he was stopped from carrying out inspection duty by the Chairman BISE DIK insulting and humiliating him.
 3. To another point he responded that he has neither instigated the student nor invited the public and parent for media trial of chairman BISE DIK.
 4. He had blamed the chairman for all the ills and illegal actions done on the day.
 5. Regarding sharing of the AKSSA meetings proceeding and protest against the board authorities he refused all charges but justification was not put forth.
 6. The committee were provided with all the relevant material by departmental representative; he shared on internet, print electronic and social media, even the screen shots of his mobile on face book had been provided to the committee that clearly goes against him.

3) Mr Attaullah Chohan

In replies to allegations 1-4 (Annexure34-35).

1. He denied altogether refusing that he was on inspection duty at GDC Pahr Pur DIKon 26/04/2019.
2. As he was out of station as inquired and investigated during the course of the enquiry proceedings and the charges leveled against him are not correct.

4) Mohammad Usman SIPE

In replies to allegations 1-4 (Annexure36-37).

1. He denied altogether refusing that he neither met the monitoring team nor talked to any one of them.
2. That the parents and students were not called for the protest by him rather they by themselves visited the school with the social media after the arrival of their children to their homes complaining about the occurrence of the day.
3. He has not instigated the students to boycott Exam or block the road.

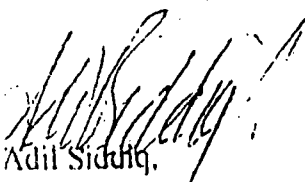
Findings:-

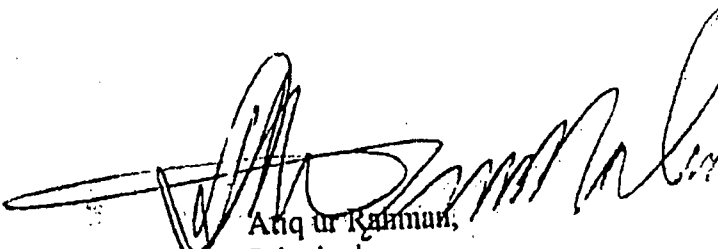
The committee during the proceedings of the enquiry, perusal of the record, other available material and through cross examination of their statements, concluded that:-

1. That Mr Gul Nawaz could not defend himself fully and was found guilty of misconduct.
2. Mr Mohammad Tariq Bhatti could not defend himself fully and was found guilty to the extent of minor act of commission.
3. Mr Mohammad Usman also could not defend himself fully and was found guilty of misconduct to the extent of minor act of commission.
4. Mr Attaullah Chohan could defended himself as he was out of station and was in no circumstances guilty of any act of omission or commission.



- Gul Nawaz , Ex-VP(B-18) GHSS NO.2 DIK now SSS GHSS No.2 DIK may be awarded a major penalty of reduction to a lower post as provided in section 4 (b) 1 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for the commission of misconduct.
2. Mr Tariq Bhatti was found guilty of misconduct as provided in grounds mentioned under rules 3 of the Govt: of Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules 2011 and awarded minor penalty of forfeiture of 3 annual increments as prescribed in Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 under section 4 (a) 1.
 3. Mr Mohammad usman was found guilty of misconduct as provided in grounds mentioned under rules 3 of the Govt: of Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules 2011 and awarded minor penalty of forfeiture of 2 annual increments as prescribed in Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules. 2011 under section 4 (a) 1.
 4. Mr Attaullah chohan may be exonerated.
 5. A job description/ Guide lines for resident inspectors/inspectors may be devised by BOG or as the case may be to vividly describe rules for supervisory staff including body search.
 6. The Establishment department may devise and code of conduct for the unions using whatsapp and other social media links.


Adil Sidani,
Commissioner,
Bannu Division.


Atiq ur Rahman,
Principal,
GHSS #1 Peshawar Cantt.

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LIST OF PENALTIES.

The following are the minor and the major penalties, namely.

(a). MINOR PENALTIES:-

- (i). Censure;
- (ii). Withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post;

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:

- (iii). Recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

(b). MAJOR PENALTIES:-

- (i). reduction to a lower post or pay scale or to a lower stage in a time scale.
- (ii). Compulsory retirement;
- (iii). Removal from service; and
- (iv). Dismissal from service.



Board of Intermediate & Secondary Education
Dera Ismail Khan, Khyber Pakhtunkhwa, Pakistan

Phone: 0966-730501-03
Fax: 0966-730501
Email: www.biser@bisedik.edu.pk

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Dated 10/04/19

The Secretary
Elementary & Secondary Education
Department Govt: of Khyber Pakhtunkhwa
Peshawar.

HURDLES IN THE SMOOTH CONDUCT OF UPCOMING HSSC(A) EXAMINATION 2019.

It is submitted that your good self is well aware that subject examination is commencing from 16th April 2019 in the jurisdiction of BISE DIK. Conduct of smooth & fair examination is the prime responsibility of administration of BISE DIK and at the same time it is one of the huge exercises for any BISE. The administration of BISE is trying its best to get done this activity fairly, smoothly and in most transparent way. However, some of the local teachers association, having vested interests led by Gul Nawaz, vice principal GHSS NO 2 DIK, Mohmmad Ali Sadaqi Principal Darabankhurd DIK etc are creating hurdles in the smooth conduct of said examination. They are trying for interference and are asking for duties of supervisory staff of their near and dears. They are illegally pressing administration of BISE for their undue favour and in case of not fulfilling their demands they may instigate teaching community for non-cooperation. They will also try to damage reputation and good outlook of BISE DIK through various means.

Keeping in view the above, it is apprehended that this group led by above through his colleague may leak question papers and may disseminate it through social media during the said examination. The BISE DIK, bring this on record and notice of high ups for necessary action against the above officer please.


Chairman
BISE, D.I.Khan 19/4



REGISTERED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

25

No.SO(B.T)E&SED/9-2/2019/HSSC BISE D.I.Khan
Dated Peshawar the February 25, 2020

To

H


✓ Mr. Muhammad Usman, SIPE/Chief Proctor (BS-18),
GHSS No.2, D.I.Khan

Subject:- SHOW CAUSE NOTICE.

I am directed to refer to the subject noted above and to enclose herewith a copy of Show Cause Notice wherein the Competent Authority (Chief Minister Khyber Pakhtunkhwa) has tentatively decided to impose minor penalty of "withholding of two annual increments for two years" upon you under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charges leveled against you.

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

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


(LAL SAEED KHATTAK)
SECTION OFFICER (B/T)



Encl: (A.A):

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

1. Chairman BISE D.I.Khan.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar with the request to make sure the delivery of Show Cause Notice to the accused, *copy enclosed*
3. Section Officer (School Male), E&SE Department.
4. P.S to Secretary Elementary & Secondary Education Department.
5. P.S to Special Secretary Elementary & Secondary Education Department.
6. P.A to Additional Secretary Elementary & Secondary Education Department.
7. P.A to Deputy Secretary Elementary & Secondary Education Department.

Encl: (AA)


SECTION OFFICER (B/T)

26

SHOW CAUSE NOTICE

I, Mahmood Khan, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Usman, SIPE/Chief Proctor (BS-18), GHSS No.2 D.I.Khan as follows:-

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

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

a. Misconduct

2- As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of 2 annual increments under rule 4 of the said rules. *for 02 years.*

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

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

5- A copy of findings of the inquiry officer is enclosed.


(MAMOOD KHAN)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Muhammad Usman, SIPE/Chief Proctor (BS-18), GHSS No.2 D.I.Khan

To

The Honorable Chief Minister

Khyber Pakhtunkhwa

Through :

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION
DEPARTMENT PESHAWAR.

Subject:

SHOW CAUSE NOTICE.

Reference Letter No.SO(B.T) E&SED/9-2/2019-HSSC BISE DIKhan

Dated. Peshawar The February 25,2020

Honorable Sir

The allegations/ Recommendations are baseless and based on pick and choose, without reproducing the full statement with solid proofs put forth before the inquiry committee by the undersigned with reference to the context.

Similarly the stance taken by the undersigned has not been analyzed critically but rather negated / rejected by the inquiry committee and has shortly written a few words in finding/ recommendations that "Mr. Muhammad Usman could not defined himself fully and was found guilty of misconduct to the extent of minor act of commission". Which in against justice and rules for the conduct of inquiry. The findings of inquiry committee are one sided and biased. For example, as evident from the written parawise replies corresponding the allegations, the undersigned has fully along with solid proofs given statement and has defended himself, but the committee has not reproduced it ibid, where in the report of Additional Deputy Commissioner was declared baseless on the bases that the ADC along with the Chairman involves Principal Mr. Atta ullah Chohan in the fuss under question, but Mr. Atta ullha Chohan was on inspection duty for the day and the same fact is admitted by the inquiry committee subsequently and the Mr. Atta Ullah Chohan is excluded based on the fact supra mentioned the whole of the complaint along with the facts findings by the inquiry committee is fake because the benefit of slightest suspicion goes to the accused. The inquiry committee, rendering negligence, has not highlighted this fact mentioned above. Similarly, undersigned

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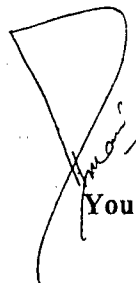
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being duty bound as a chief proctor acted in good faith and general public at large but inquiry committee has also not taken it in their account has not rebutted it with reasons . For ready reference the copy of replies responding the allegations put forth before the inquiry committee corresponding is annexure (A), which clearly show that the replies of the undersigned has been misrepresented and pick/choice policy has adopted.

It is therefore prayed very humbly to exonerate the undersigned from the fake, negligence base facts finding/ recommendation by to set a side tentative penalty mentioned in show cause notice.

In case of ambiguity, if any, the undersigned would like to be heard in person.

Submitted please .



Yours most obedient

Muhammad Usman CIPE
GHSS No. 2 DIKhan





GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

29

Dated Peshawar the, 06-07-2020

NOTIFICATION

NO.SO(B/T)E&SED/9-2/2019/HSSC BISE D.I.KHAN/M.USMAN: WHEREAS Mr. Usman SIPE/Chief Proctor (BS-18), GHSS No.2 D.I.Khan was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the Charge Sheet and Statement of Allegations.

2. AND WHEREAS Mr. Adil Siddique Commissioner Bannu and Mr. Atiq Ur Rehman Principal, GHSS No.1 Peshawar Cantt were appointed as Inquiry Committee to conduct Inquiry against the accused officer, for the charges leveled against him in accordance with the rules.

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

4. AND WHEREAS a Show Cause Notice was served upon Mr. Usman SIPE/Chief Proctor (BS-18), GHSS No.2 D.I.Khan which was communicated to the accused On 25-02-2020.

5. AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) has been pleased to grant personal hearing to Mr. Usman SIPE/Chief Proctor (BS-18), GHSS No.2 D.I.Khan and authorized Secretary to Govt. of Khyber Pakhtunkhwa Administration Department to grant personal hearing to the accused officer.

6. AND WHEREAS the accused officer Mr. Usman SIPE/Chief Proctor (BS-18), GHSS No.2 D.I.Khan was called for personal hearing by the Secretary to Govt. of Khyber Pakhtunkhwa Administration Department on 08-06-2020.

7. AND WHEREAS the Chief Minister/Competent Authority after having considered the charges and evidence on record, explanation of the accused officer in response to the Show Cause Notice, is of view that the charges against the accused officer have been proved.

8. NOW, THEREFORE, in exercise of the powers conferred under Rule-14 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to impose minor penalty of **"WITHHOLDING OF 02 ANNUAL INCREMENTS FOR 02 YEARS"** upon Mr. Usman SIPE/Chief Proctor (BS-18), GHSS No.2 D.I.Khan of the charges levelled against him.

SECRETARY

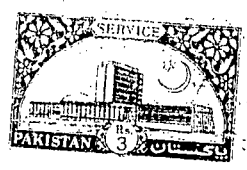
Endst: of Even No. & Date:

Copy forwarded to the: -

1. Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
2. Accountant General Khyber Pakhtunkhwa, Peshawar.
3. Director E&SE Khyber Pakhtunkhwa for further necessary action.
4. Chairman BISE D.I.Khan.
5. PSO to Chief Secretary Khyber Pakhtunkhwa.
6. District Education Officer (Male) D.I.Khan for further necessary action.
7. P.S to Secretary E&SE Department.
8. Officer concerned.

So (S/M) E&SE Deptt

(LAL SAEED KHATTAK)
SECTION OFFICER (BOARD/TRG)



Director
Elementary Education Deptt
Islamabad

(30)

جناب عزت مآب

(K)

وزیر اعلیٰ خیبر پختونخواہ

نظر ثانی اپیل بر خلاف نوٹیفیکیشن نمبر

عنوان

NO. SO(B.T)E&SED/9_2/2019/HSSC BISE DIKHAN/MUHAMMAD USMAN dated 06-07-2020, Received on 21/07/2020

بجوالہ

Rule 14 and Rule 17 Efficiency and Discipline rules 2011 Khyber Pakhtunkhwa

بوجہ درج ذیل حقائق و دلائل

جناب عالی

۱۔ یہ کہ درخواست کنندہ تاحال اسی ہی نقطہ پر کھڑا ہے جو کہ درخواست کنندہ نے اظہار وجوہ نوٹس

SO(BT)E&SED/9_2/2019 DIKHAN dated 25-02-2020

کی پاداش میں جواب آنجناب کے حوالے کیا تھا جواب لف ہے

۲۔ یہ کہ مذکورہ انکوائری میں حقائق کو چھپا کر پسند ناپسند نئی بنیاد پر لکھی گئی ہیں اور درخواست کنندہ کے دلائل کو من و عن تحریر میں نہیں لایا گیا

۳۔ یہ کہ مذکورہ انکوائری امتیازی ہے مثلاً عطاء اللہ چوہان کو مذکورہ واقعہ میں پوری طرح ملوث کیا گیا تھا مگر بعد میں معلوم ہوا کہ عطاء اللہ چوہان تو

سرے سے اسکول میں موجود ہی نہیں تھا اور مذکورہ دن گورنمنٹ ڈگری کالج پہاڑ پور میں انسپکشن ڈیوٹی سرانجام دے رہا تھا

۴۔ یہ کہ جو کچھ ہم نے کیا وہ طلباء اور عوام الناس کے مفاد میں تھا لیکن افسوس کے انکوائری کمیٹی نے (Good faith) کو اپنی

Findings میں نہ لکھا ہے اور نہ ہی دلائل کے ساتھ نفی کیا ہے

۵۔ یہ کہ میں حلفاً کہتا ہوں کہ مندرجہ بالا حقائق حقیقت پر مبنی ہیں اور اس میں کوئی بدینتی نہیں ہے اور نہ ہی کوئی حقیقت کو چھپا کے رکھا ہے

۶۔ یہ کہ اور آنجناب کے پاس بجوالہ رولز 17 ای این ڈی رولز 2011 مذکورہ سزا کو ختم کرنے کے وسیع اختیارات موجود ہیں کاپی رولز 17 لف

ہیں

لہذا ہمدردانہ اپیل کی جاتی ہے کہ سائل کی مذکورہ سزا ختم فرمائی جاوے

سائل تازیت آپ کی دونوں جہانوں میں کامیابی کے لیے دعا گوہ رہے گا



آپ کا خیر اندیش

محمد عثمان

SIPE/Chief Proctor BS-18
GHSS, NO.2 DIKHAN



(L) (31)

No. 1330

dated 28.12.2019

To
The Secretary,
Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education,
Department, Peshawar.

subject: -inquiry report in respect of:-

- 1) Mr Gul Nawaz Ex-VP(B-18) GHSS NO.2 DIK now SSS GHSS No.2 DIK
- 2) Mr Muhammad Tariq Bhatti principal (B-19)GHSS Mandhran Kalan DIK
- 3) Mr Attaullah Chohan Principal(B-18) GHSS No.2 DIK
- 4) Mr Muhammad Usman SIPE/Chief Proctor (B-18) GHSS No.2 DIK

Memo:-

Reference the Government of KP E&SED NO.SO(BT)/9-2/2019/HSSC Inquiry /DIK dt 30.10.2019 whereby the undersigned along with Mr Adil sididiq (PCS EG BS-20) commissioner Bannu have been appointed as inquiry committee to conduct formal inquiry under Government of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules2011 against the above subject stated four officers.

The above enquiry report comprising (04) pages along with (50) annexure(A-L&1-37) is hereby submitted for further process. *Three attendance sheets are also submitted.*

[Signature]
Principal,
GHSS No.1 Peshawar Cantt.

Encl: No. 1331-33 Dated 28.12.2019

Copy of this letter is forwarded to:-

1. Mr Adil sididiq (PCS EG BS-20) commissioner Bannu with respect to today's meeting.
2. Director Elementary & Secondary Education KP, Peshawar.
3. District Education officer (M) Peshawar.

ASE
[Signature]
31/12

DS(A)
[Signature]
SO (BT)

[Signature]
Principal,
GHSS No.1 Peshawar Cantt.

6/11/2020

Urgent
PE Examin - Bc
[Signature]

SA
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30/12

INQUIRY REPORT

32

Z

Inquiry report in respect of:

- 1) Mr Gul Nawaz Ex-VP(B-18) GHSS NO.2 DIK now SSS GHSS No.2 DIK
- 2) Mr Muhammad Tariq Bhatti principal (B-19)GHSS Mandhran Kalan DIK
- 3) Mr Attaullah Chohan Principal(B-18) GHSS No.2 DIK
- 4) Mr Muhammad Usman SIPE/Chief Proctor (B-18) GHSS No.2 DIK

Introduction

Mr. Adil Siddiq Commissioner Bannu Division and Atiq ur Rehman B-20 Principal Government Shaheed Mubeen Shah Afridi Higher Secondary School #1 Peshawar Cantt were assigned inquiry in respect of Mr Gul Nawaz, Mr Muhammad Tariq Bhatti, Mr Muhammad usman & Mr Attaullah Chohan vide No SO(BT/9-2/2019/HSSC Inquiry/DIK dated, 30-10-2019 (Annexure A) along with Charge Sheets (Annexure B,C,D&E) framed as a consequence of preliminary inquiry to be served upon them and Statement of Allegations (Annexures F,G,H&I)

History of the case

History of the case is traced back to the occurrence on 26th April ,2019 during the HSSC(A) certain monitoring teams visited GHSS #2 DIK that annoyed the in charge Principal Mr Gul Nawaz refused to allow one of the monitors for the reason that he would have taken prior permission while entering Examination Center. As a matter of facts there had been a rivalry between two teacher union associations one belonging to the Mr.Gul Nawaz and Qari Usman and the other to the group of controller, Tahir Ullah Jan BISE, D.I,Khan.

Procedure

1. With the receipt of the formal inquiry letter (Annexure A) the accused were called to the office of the Commissioner DIK on 20/11/2019 vide # 1288 dated 05/11/2019 (Annexure J). They submitted their reply to the charge sheets already served upon them.
2. Another round of enquiry was held on 6th December, 2019 (Annexure K) where in Mr Gul Nawaz was absent because of his ill relative so another round of the same enquiry was arranged in office of the Commissioner Bannu on 16th December, 2019. (Annexure L)

Points on record:

1. The Chairman BISE, DIKhan had written a letter to Secretary, Elementary & Secondary Education Department vide No. 161/PS/BISE/DIKhan dated, 10 -04-2019 conveying his apprehensions that Mr.Gul Nawaz and others may create problems in the HSSC exams 2019

(Annexure I)

On 26th April, 2019 the Chairman, BISE again wrote a letter to the Secretary, Elementary & Secondary Education Department vide No. 164/PS/BISE/ DIKhan dated, 26 -04-2019(Annexure-2). Complaining that:-

- I. One of the monitoring teams headed by Mr Inayat Ali Shah AP had been resisted by the resident inspector Mr Gul Nawaz and did not allow them to enter the Exam Center for inspection.
- II. Furthermore , Mr Gul Nawaz instigated the candidates not to allow the monitoring team for body search for cheating material.
- III. With his connivance the students blocked the road.
- IV. Resorted to humiliation and insult of the monitoring team.
- V. Interference in the official business of BISE DIK.
- VI. The reports of the supervisory staff and that of the superintendent HSSC (A) 2019 also affirmed the interference of Mr Gul Nawaz and others (Annexure-3-4).
- VII. The inspection staff also affirmed the intervention of Mr Gul Nawaz and others in the exam. (Annexure-5-6).
- VIII. Mr Tariq Bhatti tried to defame the sanctity of the BISE DIK by floating statements in the social media (Annexure-7-17).
- IX. Mr Tariq Bhatti has also tried to defame the sanctity of the BISE DIK by floating statements in the print media using and abusive language for BISE staff (Annexure-18-24).
- X. The accused approached high ups by passing the routine chain of command (Annexure-25-28).

Statements of the accused

The enquiry committee on the dates of personal hearing had awarded the accused an opportunity of submission of replies whereupon they were cross questioned and examined in front of the departmental representative. They were provided a conducive environment to defend themselves.

1) Mr Gul Nawaz.

In replies to the allegations 1-5 (Annexure-29-31). he stated that:-

1. He had neither obstructed the monitoring team nor other inspectors
2. All the monitors had been greeted by him with warm well come.
3. He admitted that he was annoyed, with one of the inspectors namely Mr Ashfaq who entered the Examination Hall without prior introduction or permission.
4. That the parents and students were not called for the protest by him rather they by themselves visited the school with the social media after the arrival of their children to their homes complaining about the occurrence of the day.

2) Mr Tariq Bhatti

In replies to the allegations 1-5 (Annexure32-33).

1. Mr Tariq Bhatti recorded his statement that the viral picture of Mr Salim Principal does not relate to his face book account and not related to the occurrence of GHSS #2 on 26-04-2019.

2. He stated that he was on inspection duty on 26-04-2019 and he was stopped from carrying out inspection duty by the Chairman BISE DIK insulting and humiliating him.
3. To another point he responded that he has neither instigated the student nor invited the public and parent for media trial of chairman BISE DIK.
4. He had blamed the chairman for all the ills and illegal actions done on the day.
5. Regarding sharing of the AKSSA meetings proceeding and protest against the board authorities he refused all charges but justification was not put forth .
6. The committee were provided with all the relevant material by departmental representative; he shared on internet, print electronic and social media, even the screen shots of his mobile on face book had been provided to the committee that clearly goes against him.

3) Mr Attaullah Chohan

In replies to allegations 1-4 (Annexure34-35).

1. He denied altogether refusing that he was on inspection duty at GDC Pahr Pur DIK on 26/04/2019.
2. As he was out of station as inquired and investigated during the course of the enquiry proceedings and the charges leveled against him are not correct.

4) Mohammad Usman SIPE

In replies to allegations 1-4 (Annexure36-37).

1. He denied altogether refusing that he neither met the monitoring team nor talked to any one of them.
2. That the parents and students were not called for the protest by him rather they by themselves visited the school with the social media after the arrival of their children to their homes complaining about the occurrence of the day.
3. He has not instigated the students to boycott Exam or block the road.

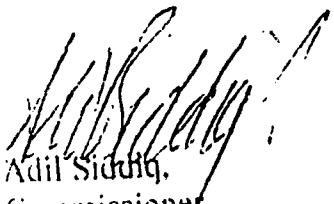
Findings:-

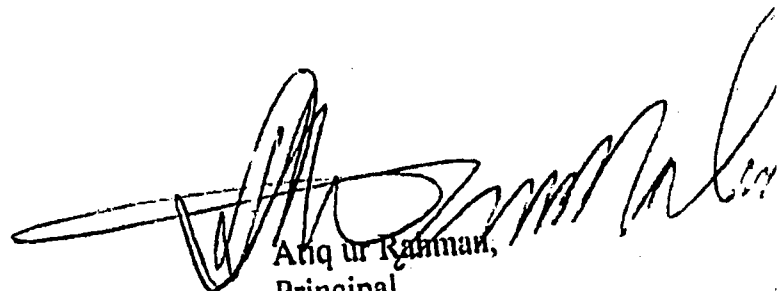
The committee during the proceedings of the enquiry, perusal of the record, other available material and through cross examination of their statements, concluded that:-

1. That Mr Gul Nawaz could not defend himself fully and was found guilty of misconduct.
2. Mr Mohammad Tariq Bhatti could not defend himself fully and was found guilty to the extent of minor act of commission.
- ③ Mr Mohammad Usman also could not defend himself fully and was found guilty of misconduct to the extent of minor act of commission.
4. Mr Attaullah Chohan could defended himself as he was out of station and was in no circumstances guilty of any act of omission or commission.

Mr Gul Nawaz , Ex-VP(B-18) GHSS N0.2 DIK now SSS GHSS No.2 DIK may be awarded a major penalty of reduction to a lower post as provided in section 4 (b) 1 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for the commission of misconduct.

2. Mr Tartiq Bhatti was found guilty of misconduct as provided in grounds mentioned under rules 3 of the Govt: of Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules 2011 and awarded minor penalty of forfeiture of 3 annual increments as prescribed in Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 under section 4 (a) 1.
3. Mr Mohammad usman was found guilty of misconduct as provided in grounds mentioned under rules 3 of the Govt: of Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules 2011 and awarded minor penalty of forfeiture of 2 annual increments as prescribed in Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules. 2011 under section 4 (a) 1.
4. Mr Attaullah chochan may be exonerated.
5. A job description/ Guide lines for resident inspectors/inspectors may be devised by BOG or as the case may be to vividly describe rules for supervisory staff including body search.
6. The Establishment department may devise and code of conduct for the unions using whatsapp and other social media links.


Adil Siddiq,
Commissioner,
Bannu Division.


Aniq ur Rahman,
Principal,
GHSS #1 Peshawar Cantt.

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LIST OF PENALTIES.

The following are the minor and the major penalties, namely.

(a). **MINOR PENALTIES:-**


- (i). Censure;
- (ii). Withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post;

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:

- (iii). Recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

(b). **MAJOR PENALTIES:-**

- (i). reduction to a lower post or pay scale or to a lower stage in a time scale.
- (ii). Compulsory retirement;
- (iii). Removal from service; and
- (iv). Dismissal from service.



Board of Intermediate & Secondary Education
Dera Ismail Khan, Khyber Pakhtunkhwa, Pakistan

Phone: 0966-730501-03
Fax: 0966-730501
Email: webmaster@bisedik.edu.pk

37

Dated 10/04/19

BISE/DIK

The Secretary
Elementary & Secondary Education
Department Govt: of Khyber Pakhtunkhwa
Peshawar.

HURDLES IN THE SMOOTH CONDUCT OF UPCOMING HSSC(A) EXAMINATION 2019.

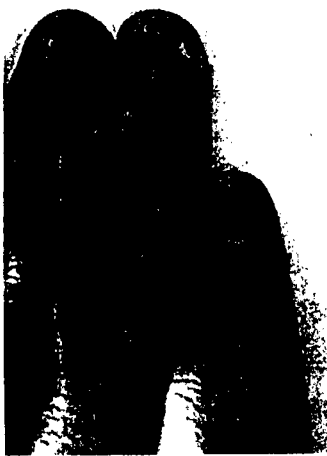
It is submitted that your good self is well aware that subject examination is commencing from 16th April 2019 in the jurisdiction of BISE DIK. Conduct of smooth & fair examination is the prime responsibility of administration of BISE DIK and at the same time it is one of the huge exercises for any BISE. The administration of BISE is trying its best to get done this activity fairly, smoothly and in most transparent way. However, some of the local teachers association, having vested interests led by Gul Nawaz, vice principal GHSS NO 2 DIK, Mohammad Ali Sadaqi Principal Daraband Khurd DIK etc are creating hurdles in the smooth conduct of said examination. They are trying for interference and are asking for duties of supervisory staff of their near and dears. They are illegally pressing administration of BISE for their undue favour and in case of not fulfilling their demands they may instigate teaching community for non-cooperation. They will also try to damage reputation and good outlook of BISE DIK through various means.

Keeping in view the above, it is apprehended that this group led by above through his colleague may leak question papers and may disseminate it through social media during the said examination. The BISE DIK, bring this on record and notice of high ups for necessary action against the above officer please.

[Handwritten signature]

[Handwritten signature]

Chairman 194
BISE, D.I.Khan





PIR GHULAM KHAN

Advocate

bc-16-1199

Date of issue: December 2018

Valid upto: December 2021



ADVOCATE

وکالت نامہ

کورٹ
فیس

بعد از اجراء
محمد عثمان بن محمد حسین و محمد عثمان بن محمد حسین (ابن اسلٹ) مقام سرگودھا کی طرف سے
دعویٰ باجرم
تفصیل دعویٰ باجرم

باہم تحریر شدہ
محمد عثمان بن محمد حسین و محمد عثمان بن محمد حسین (ابن اسلٹ) مقام سرگودھا کی طرف سے

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا بنا ہڈے دیگر راضی و موافق عدالت حاضر ہونا ہوں گا اور ہر وقت ہمارے مطابق مقدمہ وکیل صاحب
موسوف کو اطلاع دے کر حاضر عدالت کریں گا اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب
موسوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موسوف صدر پتھری کے علاوہ یا پتھری کے اوقات سے پہلے یا بیچے یا بروز تعطیل
بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر پتھری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پتھری کے اوقات کے آگے یا بیچے پیش ہونے
پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار یا ایسے ایسے کسی معاوضہ کے ادا کرنے یا عمت نہ رہیں کرنے کے بھی صاحب موسوف ذمہ دار نہ ہوں گے نیز
کوکل سماعت پر وادعت صاحب موسوف میں کردہ ذات خود منظور قبول کرے گا اور صاحب موسوف کو عرض دعویٰ یا جواب دعویٰ یا درخواست اجراء اسمائے ذمہ
نظر ثانی اپیل گمرانی و ہر قسم درخواست ہر قسم کے بیان دینے اور پر ناٹھی یا راشنی نامہ و فیصلہ برعکف کرنے اقبال دعویٰ کا بھی اختیار ہو گا اور بصورت مقرر ہونے
تاریخ پیش مقدمہ سرکار حیران از پتھری صدر بیرونی مقدمہ سرکار نظر ثانی اجلی و گمرانی و برآمدگی مقدمہ یا منسوی ڈگری یک طرفہ یا درخواست حکم امتناعی یا قرنی
یا گرفتاری قبل از فیصلہ اجراء کے ڈگری بھی صاحب موسوف کو بشرط ادا فیصلہ شدہ عین پیروی کا اختیار ہو گا اور تمام سماعت پر وادعت صاحب موسوف میں کردہ
از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موسوف کو یہ بھی اختیار ہو گا کہ مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی یا بصورت درخواست نظر ثانی
اپیل گمرانی یا دیگر معاملہ و مقدمہ مذکورہ کسی دوسرے وکیل یا غیر منظر کو اپنے عہدے یا اپنے عہدہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر معاملہ میں حق اور ویسے
اختیارات حاصل ہوں گے بیتے صاحب موسوف کو سناؤں ہیں اور دوران مقدمہ میں جو کچھ ہر جہات اتواء پڑے گا وہ صاحب موسوف کا حق ہو گا نیز
صاحب موسوف کو پوری فیس تاریخ پیشی سے پہلے ادا بن کر دینا ہے کہ صاحب موسوف کو پورا اختیار ہو گا کہ مقدمہ کی پروا نہ کریں اور ایسی صورت
میں میرا کوئی مطالبہ کسی قسم کا صاحب موسوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ تحریر کیا ہے تاکہ مسترد نہ ہو
تاریخ 16 مارچ 2020
بعضیوں وکالت نامہ میں لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

محمد عثمان بن محمد حسین (ابن اسلٹ)

Accepted
Am M
Advised
16/11/2020

[Handwritten Signature]

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 14546/2020

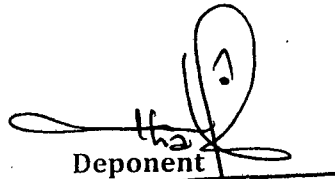
Muhammad Usman

VS

Government of KPK

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Deponent

Dr. Khalid Saeed Akbar

Divisional Litigation Officer

Secretariat & Directorate of E&SE KP Peshawar

0343-903-3399

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR .

S.A.# 14546/2020.

Muhammad Usman, SIPE BS-18, GHSS NO.2 D.I.Khan.....Appellant.

VERSUS

1. Chief Secretary, Khyber Pakhtunkhwa.
2. Secretary E&SE, Department.
3. Secretary Establishment Department
4. Director E&SE Khyber Pakhtunkhwa Peshawar..... **Respondents.**

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF THE RESPONDENTS

Respectfully Sheweth,

The Respondents submit as under:-

Preliminary Objections

1. The appellant has got no cause of action/locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon'ble Tribunal, hence is liable to be dismissed on this score.
4. The appellant has not come to this Hon'ble Tribunal with clean hands.
5. The appellant has filed the instant appeal with malafide intension just to pressurize the Respondent for gaining illegal service benefits.
6. The present appeal is liable to be dismissed fro mis-joinder & non joinder of necessary parties.
7. The instant appeal is against the prevailing law & rules.
8. The appellant is stopped by his own conduct to file the instant appeal.
9. The instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
10. That the order dated 06-07-2020 is legally competent and is liable to be maintained in favour of the Respondent.
11. That the appellant has been treated as per law, rules and discretionary powers conferred upon respondent No.1, under Section-10 of Civil Servant Act 1973.
12. That this Hon'able Tribunal has got no jurisdiction to entertain the instant service appeal, as Departmental Appeal has been filed by the Appellant barred by time as well as the Service Appeal.
13. That the appellant is not an aggrieved person under the relevant Article-212 of 1973 Constitution of Pakistan.

FACTS.

1. Pertains to the Service record of the appellant, however the concern Chairman, BISE D.I.Khan lodged complaint against the appellant alongwith others (**Annex-A**).
2. That the Competent Authority is pleased to appoint Mr. Abdul Basit, Additional Secretary (Development) E&SE Department as Inquiry Officer to conduct fact finding inquiry into the matter. The Inquiry Officer recommended that the appellant and others engaged in arranging protests both inside and outside of the school premises and inserted to all extra official means

except reporting the matter to the office of Secretary E&SE Department. Hence they have been found guilty of misconduct and may be proceeded against under relevant E&D Rules.

3. That the Competent Authority/ Chief Secretary KP constituted inquiry committee to conduct formal inquiry against the appellant alongwith others for the charges mentioned in the charge sheet and statement of allegations.
4. Pertains to record.
5. That the inquiry committee submitted report, whereby recommended that the appellant namely Muhammad Usman was found guilty of misconduct as provided in grounds mentioned under Rule (3) of the Govt. of KP Civil Servant (Efficiency & Discipline) Rules 2011, and awarded minor penalty of forfeiture of 02 annual increments as prescribed in KP Govt. Servant (Efficiency & Discipline) Rules 2011 under Section 4(a)1.
6. That as per findings of the inquiry committee major charges leveled against the appellant has been proved, hence show cause notice was issued to the appellant.
7. Incorrect. The said/mentioned reply to the show cause notice is devoid of valid grounds/justification.
8. That the Competent Authority has considered the charges against the appellant, evidence on record, inquiry report, explanations of the appellant and declared the charges against the appellant, have been proved. And after fulfilling all codal formalities the Competent Authority imposed minor penalty of withholding of 02 annual increments for two years.
9. Incorrect and not admitted. That the impugned notification was issued on 06-07-2020, while the departmental appeal annexed with Service Appeal having no dairy No, which indicate that departmental appeal never filed before the Competent Authority.
10. Incorrect and not admitted. The penalty imposed upon the appellant is according to law, rules on the subject, natural justice, Acts, material on record, inquiry report, evidence on record and confession of the appellant, hence legal, lawful, by the lawful authority hence, tenable/maintainable in the eye of law. The present appeal is liable to be dismissed inter alia on the following grounds:-

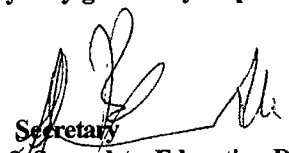
Grounds

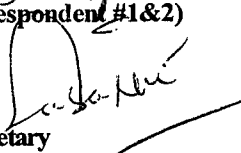
- A. Incorrect and not admitted. The appellant has been treated in accordance with law and no right of the appellant has been violated. Hence denied being a false and baseless and against the facts, record and inquiry proceedings.
 - B. Incorrect as already explained in forgoing para, however the appellant has been provided full opportunity to defended himself during inquiry proceedings .
 - C. Incorrect and not admitted. The Appellant proved to have committed the offence.
 - D. Incorrect. The statement of the appellant in this para is false baseless, against the facts, record and inquiry report. In fact, proper proceedings were conducted against the appellant after obtaining approval of the Competent Authority.
 - E. As replied in para-D above.
 - F. Incorrect and not admitted. The statement of the appellant in this para is a mere concocted story. The allegations leveled against the appellant were detected by the inquiry officer.
 - G. Incorrect and not admitted. The charges leveled against the appellant are based on fact which were proved within the meaning of law, thus the penalty imposed is tenable and liable to be maintained
-

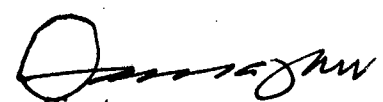
in the eye of law and justice. Hence this para is denied.

- H. Incorrect and not admitted. The appellant thus been treated in accordance with law and no right of the appellant has been violated, hence denied.
- I. As already explained in forgoing para.
- H. As already explained in forgoing para.
- K. As already explained in forgoing para.
- L. Incorrect and not admitted.
- M. Incorrect and not admitted.
- N. That the instant service appeal is badly time barred, hence on this score the present service appeal is not maintainable under the KP Service Tribunal Act 1974.

In view of the above made submissions, it is, therefore, most humbly prayed that this Honourable Tribunal may very graciously be pleased to dismiss the appeal with cost in favour of the Respondents.


Secretary
Elementary & Secondary Education Department.
(Respondent #1&2)


Secretary
Establishment Department.
(Respondent # 3)


Director
E&SE Khyber Pakhtunkhwa Peshawar
(Respondent # 4)

4

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 14546/2020

Muhammad Usman

VS

Government of KPK

Affidavit

I, Dr. Khalid Saeed Akbar Divisional Litigation Officer for Secretariat and Directorate of Elementary & Secondary Education Department KPK Peshawar do hereby solemnly affirm and declared on oath that the contents of above mentioned service appeal are correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.



Deponent
Dr. Khalid Saeed Akbar
12101-0899674-5

(5)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

Dated Peshawar, the 25-10-2021.

AUTHORITY LETTER.

Certified that Dr. Khalid Saeed Akbar Divisional Litigation Office D. I.Khan is hereby authorized to attend the KP Service Tribunal Peshawar on behalf of Secretary E&SE, Department in connection with Service Appeal No. 14546 & 14547/ 2020 title Muhammad Usman and Gul Nawaz.

A handwritten signature in black ink, appearing to be 'Khalid Saeed Akbar', written over the printed name 'Secretary'.

Secretary
Elementary & Secondary Education,
Department.

Board of Intermediate & Secondary Education
Dera Ismail Khan, Khyber Pakhtunkhwa, Pakistan

Phone: 0966-730501-03
Fax: 0966-730501
Email: webmaster@bisedik.edu.pk

Dated 10/04/19

PS BISE/DIK

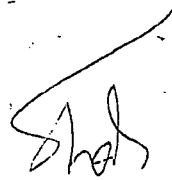
The Secretary
Elementary & Secondary Education
Department Govt: of Khyber Pakhtunkhwa
Peshawar.

Subject: **HURDLES IN THE SMOOTH CONDUCT OF UPCOMING HSSC(A) EXAMINATION 2019.**

Sir,

It is submitted that your good self is well aware that subject examination is commencing from 16th April 2019 in the jurisdiction of BISE DIK. Conduct of smooth & fair examination is the prime responsibility of administration of BISE DIK and at the same time it is one of the huge exercises for any BISE. The administration of BISE is trying its best to get done this activity fairly, smoothly and in most transparent way. However, some of the local teachers association, having vested interests led by Gul Nawaz, vice principal GHSS NO 2 DIK, Mohammad Ali Sadaqi Principal Darabankhurd DIK etc are creating hurdles in the smooth conduct of said examination. They are trying for interference and are asking for duties of supervisory staff of their near and dears. They are illegally pressing administration of BISE for their undue favour and in case of not fulfilling their demands they may instigate teaching community for non-cooperation. They will also try to damage reputation and good outlook of BISE DIK through various means.

Keeping in view the above, it is apprehended that this group led by above through his colleague may leak question papers and may disseminate it through social media during the said examination. The BISE DIK, bring this on record and notice of high ups for necessary action against the above officer please.


Chairman
BISE, D.I.Khan 10/4



IS

(A)

**Board Of Intermediate & Secondary Education
Dera Ismail Khan, Khyber Pakhtunkhwa, Pakistan**

Phone: 0966-730501-E
Fax: 0966-730501
Email: webmaster@bisedik.edu.pk

164/PS/BISE DIKhan.

Dated: 26-04-2019

(7)

Secretary to Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.

Subject: **REPORT REGARDING (HSSC ANNUAL EXAMINATION 2019) DATED 26-04-2019**

Dear Sir,

It is submitted that, in order to eradicate cheating and to conduct the subject Exam smoothly, Eleven monitoring team, (comprising of officers of Schools and Colleges) has been constituted to visit and monitor the exam centers. They submit their reports / recommendations to the Board authorities for corrective measures. The same practice was also invogue in recent SSC(A) Exam, 2019.

Today on 26-04-2019, one of the monitoring teams, (headed by Mr Inayat Ali Shah A/P) has to visit GHSS No.2, DIKhan Hall A & B as per given schedule.(Copy attached). When this monitoring team arrived at the exam center, the resident inspector Mr Gul Nawaz (Vice Principal) and some staff members of the School resisted and did not allow the Monitoring Team to enter the exam center for inspection. Further, the resident inspector instigated candidates not to allow them for searching of cheating material, boycott the Papers and to block the road. (Reports of Monitoring Team and Center Superintendent are attached).

Meanwhile, the Monitoring team informed the under signed regarding the above situation which was shared with the high ups of E&SE Department telephonically. Relevant authorities of the board (Chairman, Secretary and Controller, rushed to the exam center to assist the supervisory staff and to overcome the situation. Also, Additional Deputy Commissioner DIKhan was requested for administrative support and he personally witnessed the situation. The Resident Inspector and other supporting staff of the School started reasoning and showed their annoyance regarding the monitoring visit. This is obvious interference in the official business of the Board and facilitation of cheating. They also called media persons to highlight this issue in local media to malign the board efforts.

In this regard, it is pertinent to mention that BISE DIKhan has already conveyed its apprehensions prior to commencement of Exam regarding the intention of wrong doers (Copy attached).

Keeping in view, strict disciplinary action may please be initiated for interference in the official business and hindrance in the smooth conduct of HSSC Annual Examination, 2019.

Submitted please.

25

ASE

30/4

CHAIRMAN
BISE DIKHAN

26/4

Copy to:

1. The Deputy Commissioner, Dera Ismail Khan Division, DIKhan.
2. Office record.

D S (A)

50(BT)

(A/B/S)

BEFORE THE HCN'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

S.A No. 14546/20

MUHAMMAD USMAN

Versus

GOVT Khyber Pakhtunkhwa & Others

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Through

Appellant

MUKAMIL SHAH TASKEEN
Advocate, High Court
Peshawar

BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

S.A No. 14548/20

MUHAMMAD USMAN

Versus

GOVT Khyber Pakhtunkhwa & Others

Rejoinder on Behalf of the
Appellant to the comments filed
by the Respondents

Respectfully Sheweth,

Reply to Preliminary objections: -

Para 1 to 13:

All the Preliminary Objections raised & agitated by the Respondents are false, concocted, misleading & hypocritic hence all are denied sternly. Appellant has got a good prima facie case having locus standi, to file the instant Appeal, the objection in the matter are not in accordance with the relevant law therefore the same are not maintainable, the appeal of the appellant is within time, the appellant has come with clean hand, with bonafide intention, under the prevailing law, he has stated the truth and nothing has been concealed from this Hon'ble Tribunal. The question of stopped, misjoinder and non-joinder, not competency or not applicability is not raised. The order dated 06-07-2020 issued by the respondents is based on malafide intention, against the fact rules and law. The appellant has not treated as per law. In the matter this Hon'ble Tribunal has got jurisdiction, the appellant being aggrieved person is entitled for the relief as he has sought.

On Facts -

1. In reply to para no 1 of the comments, it is submitted that detail facts have been mentioned in the appeal which are correct, mentioning complaint dated 10-04-2019 as annexure A with the comments clearly shows malafide, ill will and preplanning against the appellant.
2. In the reply of para no 2 of the comment, it is submitted that detail written reply as annexed B with the appeal is true and based on real facts, while finding of the inquiry officer are based on malafide intention which is illegal and not according to the law and rule. All allegation against the appellant mentioned in the comments are false and incorrect.
3. In reply of para no 3 of the comment, it is submitted that all the inquiry proceeding, charge sheet and statement of allegation are illegal, based on malafide intention and not acceptable by prudent mind.
4. No reply.
5. In reply of para no 5 of the comment it is stated that finding of inquiry committee, charge sheet and other allegations are false, wrong and based on malafide intention on the basis of which such penalty was awarded without proper perusal of the record and thus cause virtually condemned the appellant on misconceived premises.
6. In reply to para no 6 of the comment it is stated that the finding of the inquiry committee, charges, show

cause notice all are based on malafide intention and all are not sustained in the eye of law and against the rule and regulation and constitution of Islamic Republic of Pakistan.

7. Para 7 of the comment is incorrect and para 7 of the appeal is correct.
8. Para 8 of the comment is Incorrect and base on malafide intention.
9. Para 9 of the comment is Incorrect and base on malafide intention. The correct and true position is mentioned in the appeal.
10. In reply of the para no 10 of the comment it is stated that the allegation of para no 10 is clearly shown malafide on the part of the respondent. The penalty awarded is not according to law, available record, rule regulation hence all allegation proceedings etc are illegal, unlawful and not maintainable in the eye of law.

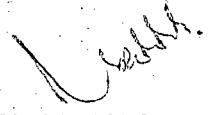
GROUNDS:

All the replies as given in the grounds of the comments of the respondents are baseless, concocted, fabricated and are sternly denied. While ground of the appeal are true and correct. The respondents have given a malicious and hypocritical scenario just to mislead the Hon'ble Tribunal while the true, correct and detailed picture is given at the main Appeal.

It is therefore, most humbly prayed that on acceptance of the instant rejoinder, the Service Appeal of the Appellant may very graciously be allowed as prayed for therein.

Through

Appellant


MUKAMIL SHAH TASKEEN
Advocate, High Court
Peshawar

Dated: /03/2022

BEFORE THE HON'BLE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

Muhammad Usman


Versus

GOVT Khyber Pakhtunkhwa & Others

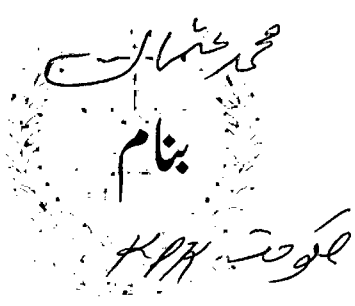
AFFIDAVIT

I, Mukam Ullah Shah Taskeen Advocate, do hereby solemnly affirm and declare on oath that contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.


Deponent

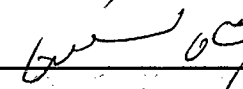
قیمت 50 روپے	59260	  
ایڈوکیٹ: 		
بار کونسل/ایسوسی ایشن نمبر: ۱۵-۶۵۷۷-۷۷		پشاور بار ایسوسی ایشن، خیبر پختونخواہ
رابطہ نمبر: ۰۳۶۲۶۵۵۵۹۳		

بعدالت جناب: سرور سٹریٹ سٹیٹ لکچر

منجانب:	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام کے لیے حکم کیسے  کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت 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 اور بصورت ضرورت مقدمہ مذکورہ 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 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 ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: ۸-۱۲-۲۰۲۰

العواہ شد العبد
مقام کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

(A)

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

Put up to the Hon'ble Chairman
with relevant papers.

T.A No:- _____/2022

In

Reference: SA# 14546/2020.



017/22
Muhammad Usman *28/7/22* versus Govt of KPK & other

Read
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These & Mit
account
to

APPLICATION FOR TRANSFER OF
CASE/APPEAL NO.14546/2020 FROM THIS
BENCH TO THE SEAT/BENCH OF DERA
ISMAIL KHAN.

Respectfully Sheweth:-

1. That the captioned case is pending for adjudication before this Hon'ble Tribunal / Bench which is fixed for 11/10/2022.
2. That the parties and subject matter is related to D.I.Khan, Therefore the case/appeal need to be transfer and heard by the bench/seat of D.I.Khan.
3. That there is no legal bar in transferring the case/appeal from this seat/bench to the D.I.Khan seat/bench.

It is, therefore, prayed that on acceptance of this application, the above noted case/appeal may be transferred from this seat/bench to the seat of D.I.Khan.

Dated:- 06-July-2022

Petitioner

Through:-

Mukamil Shah Taskeen
Advocate, High court
Peshawar

Note:-

As per instruction of my client, no such like petition has earlier been filed by the Petitioner in this Honourable Tribunal

Affidavit:

I, Mukamil Shah Advocate High Court Peshawar, do hereby solemnly affirm and declare on oath that all the contents of instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

Deponent
Mukamil Shah Taskeen
Advocate



(D)

BEFORE THE HON'BLE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

T.A No:- _____/2022

In

Reference: SA# 14546/2020.

Muhammad Usman **versus** Govt of KPK & other

=====

APPLICATION FOR TRANSFER OF
CASE/APPEAL NO.14546/2020 FROM THIS
BENCH TO THE SEAT/BENCH OF DERA
ISMAIL KHAN.

Respectfully Sheweth:-

1. That the captioned case is pending for adjudication before this Hon'ble Tribunal / Bench which is fixed for 11/10/2022.
2. That the parties and subject matter is related to D.I.Khan, Therefore the case/appeal need to be transfer and heard by the bench/seat of D.I.Khan.
3. That there is no legal bar in transferring the case/appeal from this seat/bench to the D.I.Khan seat/bench.

It is, therefore, prayed that on acceptance of this application, the above noted case/appeal may be transferred from this seat/bench to the seat of D.I.Khan.

Dated:- 06-July-2022

Petitioner

Through:-

Mukamil Shah
Mukamil Shah Taskeen
Advocate, High court
Peshawar

Note:-

As per instruction of my client, no such like petition has earlier been filed by the Petitioner in this Honourable Tribunal

Affidavit:

I, Mukamil Shah Advocate High Court Peshawar, do hereby solemnly affirm and declare on oath that all the contents of instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

Mukamil Shah
Deponent
Mukamil Shah Taskeen
Advocate
Peshawar

