

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1233/2017

Date of Institution ... 07.11.2017

Date of Decision ... 26.01.2022

Shafi Ullah son of Fazle Mehmood, PST Government Primary School Dir Colony
Ring Road, Peshawar. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary Elementary and
Secondary Education, Civil Secretariat, Peshawar and others.
... (Respondents)

Javed Iqbal Gulbela,
Advocate

... For Appellant

Asif Masood Ali Shah,
Deputy District Attorney

... For respondents

AHMAD SULTAN TAREEN ...
ATIQU-UR-REHMAN WAZIR ...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant, while serving as PTC Teacher in Education Department, was proceeded against on the charges of absence from duty and was ultimately dismissed from service vide order dated 03-07-2017. The appellant filed departmental appeal followed by Service Appeal No 1233/2017, which was accepted vide judgment dated 14-12-2018 and penalty of dismissal was converted into compulsory retirement. The respondents filed Civil Appeal No. 1561/2019 and the august Supreme Court of Pakistan set aside the judgment dated 14-12-2018 and remanded it to this tribunal for deciding the appeal afresh.

02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law, hence his rights secured und

Constitution has badly been violated; that the appellant has been awarded major punishment of dismissal from service without conducting a regular inquiry, hence the appellant was deprived of the opportunity to defend his cause; that absence of the appellant was not willful but due to severe enmity, due to which the appellant went in hiding for some time and it was not possible for the appellant to resume his duty at the cost of his life, but such stance of the appellant was never taken into consideration; that on the basis of such enmity, the appellant was killed on 19-04-2019 and now legal heirs of the appellant are pursuing his case; that no proper procedure was adopted, while passing the impugned order of dismissal; that the respondents treated the absence period as leave without pay, hence there remains no reason to further penalize the appellant after regularization of his absence.

03. Learned Deputy District Attorney for the respondents has contended that the appellant remained absent from duty since 01-01-2014, hence he was served with a show cause notice dated 29-04-2017, followed by its publication in two newspapers on 03-06-2017; that the appellant responded to the show cause notice vide letter dated 15-06-2017; that the appellant has taken the stance that his absence was not willful, but due to enmity, but the competent authority after fulfilling formalities under Rule-9 of E&D Rules, 2011 dismissed the appellant from service vide order dated 03-07-2017.

04. We have heard learned counsel for the parties and have perused the record.

05. Impugned order of dismissal would suggest that the appellant was proceeded against on the ground of absence for the mentioned period, however the authority has treated the mentioned period as leave without pay, as such the very ground, on the basis of which the appellant was proceeded against, has vanished away and in view of regularization of his absence, the authorities did not have any justification to penalize the appellant on such absence. Wisdom in this

respect derived from the judgment of the august Supreme Court of Pakistan, reported as 2006 SCMR 434 and 2012 TD (Services) 348.

06. The authorities had proceeded the appellant under Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, but at a belated stage, as the respondents claimed that the appellant was absent since 2014 and absence notices were issued in June, 2017, which speaks volumes of the in-efficiency on part of the respondents. Interestingly, the proceedings so conducted under Rule-9 of the rules ibid were followed in a novel way. After issuance of the absence notices by the respondents, the appellant submitted reply of the show cause that his absence was not willful but was due to enmity; hence, the respondents were required either to allow the appellant to resume his duty or in case, respondents were not satisfied with reply of the appellant, in that situation, the appellant was required to be proceed as per law by issuing him proper charge sheet/statement of allegation and proper inquiry was required to be conducted, thereafter show cause notice was required to be served upon the appellant. In a situation, if the appellant fail to respond, in that situation the respondents would have to take ex-parte action, but the respondents despite his response, had unlawfully taken ex-parte action and dismissed the appellant without proceeding him as per method prescribed in law, which however was not warranted and on this score alone, the impugned order is liable to be set aside. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice.

07. We have observed that the appellant was condemned unheard and he was not afforded appropriate opportunity to defend his cause. It however, is a cardinal principle of natural justice of universal application that no one should be condemned unheard and where there was likelihood of any adverse action against anyone, the principle of Audi Alteram Partem would require to be followed by providing the person concerned an opportunity of being heard. The appellant repeatedly submitted before the competent authority that his absence was not willful, rather due to severe enmity, but no heed was paid his clamour. Such apprehensions of the appellant proved true at the cost of his life, as the appellant was killed by his enemies on 19-04-2019 during the course of litigation, In circumstances, it can be concluded that absence of the appellant was not intentional, nor was the appellant guilty of charges of gross misconduct or corruption, therefore extreme penalty of dismissal from service for the charge of absence is on higher side, hence, quantum of the punishment needs to be reduced. Reliance is placed on 2006 SCMR 1120. Charge against the appellant was not so grave as to propose penalty of removal from service, such penalty appears to be harsh, which does not commensurate with nature of the charge. The appellant has admitted his absence but such absence was not willful, which does not constitute gross misconduct entailing major penalty of dismissal from service. Competent authority had jurisdiction to award any of the punishments mentioned in law to the government employee but for the purpose of safe administration of justice such punishment should be awarded which commensurate with the magnitude of the guilt, Otherwise the law dealing with the subject would lose its efficacy. Reliance is placed on 2006 SCMR 1120.


08. So far as the question of limitation is concerned, the appellant was dismissed from service vide order dated 03-07-2017 and he filed departmental appeal on 25-07-2017, which was not responded within the stipulated timeframe, hence the appellant instituted the service appeal on 07-11-2017 well within time,

even if there was an issue of limitation in the instant case, no limitation would have run for challenging the impugned order, as such order was passed in violation of mandatory provisions of law. Reliance is placed on 2007 SCMR 834.

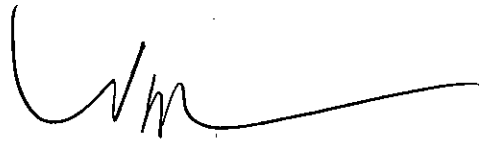
09. We are of the considered opinion that the appellant has not been treated in accordance with law. Since the appellant is no more but keeping in view, his length of service and gravity of the charges leveled against him, we are inclined to partially accept the instant appeal by converting penalty of dismissal into compulsory retirement from service. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

26.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



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

ORDER
26.01.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for respondent present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, we are inclined to partially accept the instant appeal by converting penalty of dismissal into compulsory retirement from service. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
26.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



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

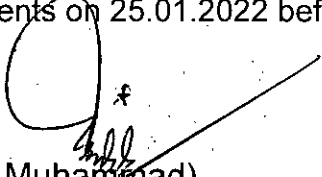
Appeal No. 1233/2017, Shafiullah vs Govt


11.11.2021

Zainul Abideen Advocate junior to Javid Iqbald
Gulbela Advocate present.

Muhammad Riaz Khan Paindakheil learned Assistant
Advocate General for respondents present.

Reportedly, appellant is dead and in this regard, an
application seeking impleadment of the legal heirs of the appellant
was submitted which application was not objected to, hence,
accepted. All the legal heirs stand impleaded in the panel of
respondents. Office is directed to make entries with red ink in the
memo of appeal as well as in the relevant register. To come up
for arguments on 25.01.2022 before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

25.01.2022

Appellant in person and Mr. Asif Masood Ali Shah,
DDA for the respondents present.

Former seeks short adjournment as his learned
counsel is not in attendance due to general strike of the
lawyers. The matter has been remanded by the august
Supreme Court of Pakistan. To come up for arguments on
26.01.2022 before the D.B.

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

Chairman

S.A No. 1233/Neem/2017

ORDER

28.05.2021

Appeal received from August Supreme Court of Pakistan vide order dated 05.05.2021 in Civil Appeal No. 1561/2019. Assigned to D.B for final hearing and disposal for 13-09-2021 Notices be issued to the parties for the date fixed.



Chairman

13.09.2021

Hamza Durrani Advocate junior to Javid Iqbal Gulbela Advocate present.

Muhammad Adeel Butt learned Additional A.G for respondents present.

Former made a request for adjournment as senior counsel is not available. Request is accorded. To come up for arguments on 11.11.2021 before D.B.



(Rozina Rehman)
Member (J)


Chairman

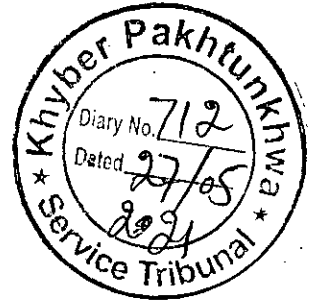
PH: 9214461
Fax: 9220406

REGISTERED
No: C.A.1561/2019 - SCJ
SUPREME COURT OF PAKISTAN

Islamabad, dated 27-05-2021

From The Registrar,
Supreme Court of Pakistan,
Islamabad.

To The Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.



Subject: CIVIL APPEAL NO. 1561 OF 2019

Govt of Khyber Pakhtunkhwa through Secretary Elementary & Secondary
Education Peshawar & others s/o
Versus
Shafi Ullah (decd.) Thr. LRs.

**On appeal from the Judgment/Order of the K.P.K. Service Tribunal,
Peshawar dated 14/12/2018 in Appeal.1233/2017.**

Dear Sir,

In continuation of this Court's letter of even number dated 27-09-2019,
I am directed to enclose herewith a certified copy of the Order of this Court dated
05/05/2021 allowing and remanding the above cited case in the terms stated therein for
information and further necessary action.

The operative part of the order is as under:-

"...2. In the circumstances, the impugned judgment dated 14.12.2018 is
set aside and the matter is remanded to the Tribunal for deciding the
appeal afresh and in accordance with law. The point of limitation be
also addressed by the Tribunal.

3. The appeal in the above terms stand allowed."

I am further directed to return herewith the original record of the Service
Tribunal received under the cover of your letter No.1683 dated 01/10/2019.

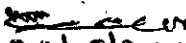
Please acknowledge receipt of this letter along with its enclosure
immediately.

Encl: Order:
2. O/Record:

Yours faithfully,


(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

Submitted for perusal please.


28/5/2021.

Humble Chairman.

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Gulzar Ahmed, CJ
Mr. Justice Mazhar Alam Khan Miankhel

CIVIL APPEAL NO.1561 OF 2019

[Against the judgment dated 14.12.2018, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Service Appeal No.1233 of 2017]

**Government of Khyber Pakhtunkhwa
through Secretary Elementary &
Secondary Education, Peshawar and
others.** ...Appellant(s)

Versus

Shafi Ullah (decd) through L.Rs. ...Respondents

For the Appellant(s) : Mian Shafaqat Jan, Additional
Advocate General, KP
Muhammad Aslam S.O. Litigation
Abdul Samad, D.D. (Legal)

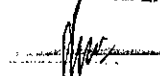
For Respondent (s) : Mr. Zulfiqar Khalid Maluka, ASC
Mr. Ahmed Nawaz Chaudhry, AOR

Date of Hearing : 05.05.2021

ORDER

GULZAR AHMED, CJ.- The Khyber Pakhtunkhwa Service Tribunal, Peshawar (**the Tribunal**) in the impugned judgment dated 14.12.2018, has assigned no reason as to why it has modified the penalty of dismissal from service to that of compulsory retirement and thus, we note it to be a non-speaking order. The respondent has remained absent from duty for more than 03 years and apparently, such fact was also not disputed by the respondent. In any case, the Tribunal has to apply its judicial mind to the facts and circumstances of the case and give proper

ATTESTED



Court Associate
Supreme Court of Pakistan
Islamabad



reason for the modification of penalty from dismissal to that of compulsory retirement. Mere mentioning that the respondent has 20 years' service and the punishment is harsh, was not justified and does not make out a legal ground for interfering with the penalty imposed by the department. Even the fact that the respondent has remained in employment for 20 years seems to be in disputed as in the leave granting order, it has been provided that respondent has 12 years' service.

2. In the circumstances, the impugned judgment dated 14.12.2018 is set aside and the matter is remanded to the Tribunal for deciding the appeal afresh and in accordance with law. The point of limitation be also addressed by the Tribunal.

3. The appeal in the above terms stand allowed.

Sd/- _____ ACJ
Sd/- _____ J

Bench-I
Islamabad
05.05.2021
Rabbani

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Certified to be True Copy

[Handwritten signature]

Court Associate
Supreme Court of Pakistan
Islamabad



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 900 /ST/SCJ/SA-1233/2017

Dated: 28/05/2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To,

The Registrar,
Supreme Court of Pakistan,
Islamabad.

Subject: CIVIL APPEAL NO. 1561 OF 2019


Govt of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar & other S/o

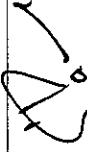
Versus

Shafi Ullah (decd.) Thr. LR.

Dear Sir,

I am directed to acknowledge the receipt of your letter no C.A.1561/2019-SCJ dated 20-05-2021 alongwith its enclosure..


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
 14.12.2018		<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p align="center">Service Appeal No. 1233/2017</p> <p align="center">Date of Institution 07.11.2017 Date of Decision 14.12.2018</p> <p>Shafi Ullah son of Fazle Mehmood, Ex-PST Government Primary School Dir Colony Ring Road, Peshawar.</p> <p align="right">Appellant</p> <p align="center">Versus</p> <p>1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar. 2. Director Elementary & Secondary Education, Peshawar 3. District Education Officer (Male) G.T Road Peshawar.</p> <p align="right">Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member (J) Mr. Ahmad Hassan-----Member (E)</p> <p align="center"><u>JUDGMENT</u></p> <p><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> - Learned counsel for appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.</p> <p>2. The appellant (Ex-PST) has filed the present appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 03.07.2017 whereby he was awarded major penalty of</p>

dismissal from service on the ground of absence from duty w.e.f 01.01.2014 till date.

3. Learned counsel for the appellant stated that the appellant was appointed in the respondent department as PTC Teacher in the year 1992. At the very outset learned counsel for the appellant argued that the appellant had more than 20 years of service at his credit and in view of the prolonged length of service of the appellant the impugned order of dismissal from service is very much harsh and excessive and as such the same may be converted into compulsory retirement.

4. As against that learned Additional Advocate General argued that the appellant remained absent from duty for sufficient period of more than three (03) years and hence he was rightly awarded the punishment vide the impugned order.

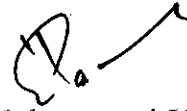
5. Arguments heard. File perused.

6. There is no dispute that the appellant has put in more than 20 years of service prior to the issuance of impugned order of his dismissal from service. Hence keeping in view the services rendered by the appellant and the precedents of this Tribunal in similar nature cases, for the purpose of safe administration of justice, the impugned punishment of dismissal from service is modified and converted into compulsory retirement from service w.e.f the date of issuance of impugned order i.e. w.e.f 03.07.2017. The absence period as mentioned in the impugned order shall be treated as unauthorized

absence from duty without pay. Parties are left to bear their own costs. File be consigned to the record room.



(Ahmad Hassan)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED
14.12.2018

06.08.2018

Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Clerk to counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourned. To come up for arguments on 21.09.2018 before D.B.

MA

(Muhammad Amin Kundi)
Member

[Signature]

(Muhammad Hamid Mughal)
Member

21-9-2018

Since 21-9-18 has been declared as public holiday, therefore the case is adjourned for hearing on 8-11-2018.

[Signature]

08.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 14.12.2018

14.12.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Vide separate judgment of today of this Tribunal placed on file, the impugned punishment of dismissal from service is modified and converted into compulsory retirement from service w.e.f the date of issuance of impugned order i.e. w.e.f 03.07.2017. The absence period as mentioned in the impugned order shall be treated as unauthorized absence from duty without pay. Parties are left to bear their own costs. File be consigned to the record room.

[Signature]

(Ahmad Hassan)
Member

[Signature]

(Muhammad Hamid Mughal)
Member

ANNOUNCED
14.12.2018

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8102-P-18

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12.03.2018

Appellant in person present. Mr. Riaz Paindakhel, Assistant AG alongwith Arshad Ali, ADO for the respondent present. Written reply not submitted. Learned Assistant AG requested for adjournment. Adjourned. To come up for written reply/comments on 27.03.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member


27.03.2018

Appellant in person present. Mr. Kabir Ullah Khattak, Addl: AG alongwith Mr. Arshad Ali, ADO for the respondent present. Written reply submitted. To come up for rejoinder and arguments on 05.06.2018 before D.B.


Member

05.06.2018

Clerk of Mr. Javid Iqbal Gulbela, Advocate present and submitted Wakalat Nama of on behalf of the appellant. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Muhammad Arshad Ullah, for respondents present. Clerk to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on ~~05.08~~ 06.08.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member


26.12.2017

Counsel for the appellant present. Preliminary arguments heard and case file perused. The appellant was dismissed from service on 03.07.2017 against which he filed departmental appeal on 25.07.2017 which was not responded to and thereafter he filed the present service appeal on 07.11.2017.

The grounds taken by the learned counsel for the appellant are that the appellant was not heard. That no final show cause notice was given to the appellant and no proper enquiry was conducted.


Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 12.02.2018 before S.B.


(Chairman)


12.02.2018

Clerk of the counsel for appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Written reply not submitted. Learned Additional AG requested for adjournment. Adjourned. To come up for written reply/comments on 27.02.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member (J)

27.02.2018

Appellant in person and Addl: AG alongwith Mr. Arshad Ali, ADO for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 12.03.2018 before S.B.


(Ahmad Hassan)
Member (E)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1233 / of 2017

**Khyber Pakhtukhwa
Service Tribunal**

Diary No. 1272

Dated 07-11-2017

Shafi Ullah son of Fazle Mehmood, PST
Government Primary School Dir Colony
Ring Road, Peshawar... ..

... Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa
through Secretary Elementary and
Secondary Education, Civil Secretariat,
Peshawar.

2. Director Elementary and Secondary
Education, Civil Secretariat, Peshawar.

3. District Education Officer (Male)
G.T. Road, Peshawar. ...

... Respondents

APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED ORDER OF
DISMISSAL FROM SERVICE OF THE
APPELLANT DATED 03.07.2017.

Prayer:

On acceptance of this Service Appeal the impugned order of dismissal from service of the appellant dated 03.07.2017 may please be set aside and the appellant be reinstated to his service with all back benefits.

Filed to-day

Registrar

7/11/17. Respectfully Sheweth:

1. That the appellant was appointed as PST on 21.05.1992 in Government Primary School Mera Urmar Payan No.3 Peshawar. (Copy of Appointment Letter dated 21.05.1992 is attached herewith as annexure 'A').

- 2
2. That the appellant has served the respondent department up-till 25 years and has never given any chance of complaint to the general public as well as to the high ups of the department.
 3. That in the year 2009 the appellant was transferred to Government Primary School Dir Colony Ring Road Peshawar and has served in the said School for about 8 years.
 4. That because of some domestic problems the appellant remained absent from his service for some time, however, when he again approached to the higher authority for rejoining of his duties, instead of accepting the request of the appellant the respondent department served a Show Cause Notice upon the appellant . (Copy of the Show Cause Notice is attached herewith as annexure 'B').
 5. That appellant duly replied to the said Show Cause Notice, thereby explaining his factual position for his absentia. (Copy of the reply to the Show Cause Notice dated 15.06.2017 is attached herewith as annexure 'C').
 6. That to the astonishment of the appellant he was handed over a copy of letter dated 03.07.2017, whereby it was revealed upon the appellant that he has been awarded a major penalty of dismissal from service. (Copy of the impugned letter dated 03.07.2017 is attached herewith as annexure 'D').
 7. That being aggrieved of the above noted impugned letter the appellant then submitted a Departmental Appeal dated 25.07.2017, whereby he requested for setting aside the order of dismissal and for his reinstatement back to his service. (Copy of thy Departmental Appeal dated 25.07.2017 is attached herewith as annexure 'E').
 8. That no heed whatsoever was paid by the respondent department to the above said Departmental Appeal of the appellant, hence there being no other remedy the appellant approaches this Honourable Service Tribunal on the following grounds amongst the others:-

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GROUNDS:

- a. That the order of dismissal of the appellant from service is illegal, unlawful, without authority and jurisdiction and being based on the malafide intention of the respondent, is liable to be set aside.
- b. That it has been explained by the appellant that because of his some domestic problems he was unable to attend the School for some time, however, no heed whatsoever has been paid to the request of the appellant and even his departmental appeal was not replied.
- c. That no process/procedure whatsoever has been adopted by the concerned department and the appellant has been handed over the letter of dismissal just after issuance of the Show Cause Notice.
- d. That it has been held by the Apex Courts that while awarding the major penalty it is necessary for the department that all the codel formalities must be fulfilled, however, no such formalities has been adopted by the concerned department.
- e. That neither any inquiry proceeding was initiated nor any Inquiry Officer was deputed to make inquiry into the case but the appellant has been punished just like a summary trial without going through any inquiry proceedings.
- f. That the appellant has not been handed over even the Second Show Cause Notice which is necessary under the circumstances to be handed over to the appellant.
- g. That the appellant has been condemned unheard and no chance of defence has been provided to the appellant, hence the whole proceeding/process against the appellant is baseless and liable to be set aside.

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- h. That the appellant has never given any chance of complaint to his high ups nor to the students community but has been punished without fault at his part.


It is, therefore, most humbly prayed that on acceptance of this Service Appeal the impugned order of dismissal from service of the appellant dated 03.07.2017 may please be set aside and the appellant may very graciously be reinstated back to his service with all his back benefits.

Any other relief deemed fit and proper under the circumstances which has not been asked for, may also please be granted to the appellant very graciously.

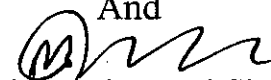


Appellant

Through:


(Ghulam Nabi Khan)
Advocate,
Supreme Court of Pakistan
B-17, Haroon Mansion
Khyber Bazar, Peshawar
Cell # 0300-5845943

And


(Mian Tajammal Shah)
Barrister, Peshawar.

Dated: 7.01.2017

CERTIFICATE:

Certified that as per instructions of my client, no such Service Appeal on behalf of the Appellant has earlier been filed in this Honourable Service Tribunal on the subject matter.


Advocate

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

IN RE:
Service Appeal No. _____ / of 2017


Shafi Ullah son of Fazle Mehmood, PST... ... Appellant

VERSUS


Government of Khyber Pakhtunkhwa
through Secretary E&SE Peshawar and others... ... Respondents

AFFIDAVIT

I, Shafi Ullah son of Fazle Mehmood, PST Government Primary School Dir Colony, Ring Road Peshawar, do hereby solemnly affirm and declare that the contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Service Tribunal.


Deponent

IDENTIFIED BY:


(Ghulam Nabi Khan)
Advocate, Peshawar.

Amerkot
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OFFICE OF THE DISTRICT EDUCATION OFFICER(M) PRIMARY PESHAWAR

APPOINTMENT

Consequent upon the selection made by the Departmental Selection Committee, the following candidates of PF-7-Peshawar-7 are hereby appointed ^{in BPS-7} as untrained P.T.C. teachers in the schools mentioned against each at the rate of Rs. 1095/- Per month fixed plus usual allowances as admissible under the rules with effect from the date of their taking over charge in the interest of public service:-

S.No./S.No. in the M/List.	Name of candidate	School where appointed.	Remarks
1/41.	Gulzar Ahmad s/o Abdul Aziz Vill:Gulozai Peshawar	GMFS Jhagra Pesh	against newly created post.
2/42.	Jehan Zeb s/o Firdous Khan Vill:Surezi Payan Pesh	GMFS Mera Kachori Pesh.	..do..
3/44.	Iqbal Husain s/o Raees Khan Village Kandi Ager khel Badaber	GMFS Badaber Pesh.	..do..
4/45.	Mohammad Iltaf s/o Amir Zada Village Surezi Bala Pesh	GMFS Banda Kachori	..do..
5/46.	Farmanullah Khan s/o Sardar Khan Village Urmar Miana Peshawar	GMFS Urmar Bala No.2	..do..
6/47.	Habib Khan s/o Mir Ahmad Khan Moh:Agerkhel Badaber Pesh	GMFS Kharkhari Pesh	..do..
7/48.	Mohammad Salim s/o Mohammad Yusuf Dalazak Peshawar	GMFS Malogo Peshawar	..do..
8/49.	Allah Dad s/o Umar Khan Surezi Bala Peshawar	GMFS Urmar Payan Pesh	..do..
9/51.	Azizur Rehman s/o Habibur Rehman Village Najvi, Wadpaga Pesh	GMFS Mera Urmar Payan	..do..
10/52.	Mohammad Zubair s/o Mursalin Moh:Gari Bazar Chamkani Pesh	GMFS Telaband Pesh	..do..
11/53.	Samiullah s/o Sufaid Shah Surezi Payan Peshawar	GMFS Maryam Zai	..do..
12/54.	Safmullah s/o Fazal Mohammed village Chamkani Peshawar	GMFS Mera Uramar No.2	..do..

(see next page).

aid
→

TERMS AND CONDITIONS

1. The appointments are purely temporary and liable to termination without assigning any reasons or prior notice. In case any of the teachers intends to leave service, he shall have to submit one month prior notice or forfeit one months pay and allowances in lieu thereof.
2. In case a candidate fail to take over charge with in 15 days of the issue of this order, his appointment will stand cancelled automatically.
3. No TA/DA/TG etc is allowed.
4. No joining time is allowed except what is absolutely necessary for transit.
5. Charge reports should be submitted to all concerned.
6. They should produce health and age certificate from the Civil Surgeon Peshawar, with in 7 days of the taking over charge against PTC post.
7. They should not be handed over charge if their age are less than 18 years or exceeds 25 years.
8. Pay scales/service rules are subject to the revision in accordance with the orders to be passed by the Govt from time to time.

Khurshid Ahmad
District Education Officer
(M) Peshawar.

Endst. No. 107-118 / Appointment Dated Pesh the 10/5/1992

Copy for information and n/action to the:-

1. Director Primary Education, NWFP, Peshawar.
2. Accountant General, NWFP, Peshawar.
3. P/S to the Honourable Minister for Education, NWFP.
4. P/S to the Secretary Education, Govt of NWFP.
5. Sub Divisional Education Officer (M) Peshawar.
6. Candidate concerned.
7. P/Files.

10/5/92
District Education Officer (M)
Primary, Peshawar

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.SHOW CAUSE NOTICE.

1, (Mr Jaddi Khan Khalil , DEO (M) Peshawar), as competent authority, under the Khyber-Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Shafiullah, PST, GPS Dir Colony Peshawar as follow:

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

- (a) Absent from duty w.e.f 1-1-2014
- (b) Misconduct.

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

You are, therefore, 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.

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.

COMPETENT AUTHORITY
DISTRICT EDUCATION OFFICER,
(Male) PESHAWAR

Handwritten signature

Ames C

The DEO (M) Peshawar.

Subject: Slow cause notice

8

Respected Sir

Most respectfully it is stated that I received the slow cause notice issued to me on 20 May 2017 and I submitted the reply in your good office diary no 1276 dated 27-5-2017 but a notice in the newspaper daily Aaj dated 2-06-2017 published against me.

However I here by again humbly submit that due to enmiting my life was in danger. Therefore as the risk of life is ~~re~~ unrecoverable risk Therefore

1830
15-6-2017

PTC

Ad

=====

it is requested that I may please be
given a chance to continue my duties.

yours obediently,

usd

Shafi ulah

RST GPS Dir collony.

(9)
Amend 16
11/1/17

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.

NOTIFICATION:-

1. WHEREAS: Mr. Shafiullah PST GPS Dir Colony Peshawar was proceeded against under Khyber Pkahtunkhwa Govt: Servant (Efficiency & Disciplinary) Rules 2011 for the charge of Absence from duty w.e.f 01/01/2014 till date.
2. AND WHEREAS: SDEO (M) Town-II Peshawar reported on 10/04/2017 that Mr. Shafi Ullah PST, GPS Dir Colony Peshawar was absent from duty w.e.f 01/01/2014 till date.
3. AND WHEREAS:- Show Cause Notice was served upon the accused Mr. Shafiullah PST, GPS Dir Colony Peshawar through SDEO(M) Town-II Peshawar Vide No.1416, dated 29/04/2017.
4. AND WHEREAS: - the accused official submitted his reply on 27/05/2017 after due time which was found not satisfactory.
5. AND WHEREAS:- Absent Notice was served upon the accused Mr. Shafiullah PST, GPS Dir Colony through Daily Mashriq dated 03/06/2017, to attend the office of the undersigned and explain his absence period.
6. AND WHEREAS the accused official submitted his reply to the absent notice on 15/06/2017 which was also found not satisfactory.
7. AND WHEREAS the said Mr. Shafiullah PST, Government Primary School Dir Colony Peshawar was called for personal hearing on 24/06/2017 through SDEO (Male) Town-IV Peshawar vide No.5995 dated 22/06/2017, he appeared for personal hearing on the said date.
8. AND WHEREAS:- The competent Authority, District Education Officer (Male) Peshawar after having considered the charges, evidence on record and facts of the case of the view that the charges of willful absence from duty against the official concerned have been proved.
9. NOW THEREFORE, In exercise of the Powers conferred under Rules-4 (b) iv of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I the competent Authority District Education Officer (Male) Peshawar is pleased to impose major penalty of "Dismissal from Service" upon Mr. Shafiullah PST, GPS Dir Colony Peshawar with immediate effect. The period of his absence with effect from 01/01/2014 till date is hereby treated as unauthorized absence from duty without pay.

(Jaddi Khan Khalil)
District Education Officer
(Male) Peshawar.

Endst No. 7168-74 / Date: 3/7/2017.

Copy forwarded to the :-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. PS to Secretary E& SED Khyber Pkahtunkhwa Peshawar.
3. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
4. Sub Divisional Education Officer (Male) Town-IV Peshawar with the remarks that necessary entry to this effect should be made in his service book. The pay and allowances for the period as mentioned above may be recovered from the official concerned and deposited into government treasury under intimation to this office.
5. ASDEO (Male) Circle concerned.
6. PA to District Education Officer (male) Peshawar.
7. Official Concerned.

03/07/17
Dy: District Education Officer
(Male) Peshawar.

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3

Amnat E 4

حکومت ضلع ڈیر گھڑا ایجنسی ایئر سٹیشن اردو کیشن - ضلع کوٹوالہ نام

15) جناب عالی - اپیل برائے بحالی ملازمت

گزارش ہے کہ سائل گورنمنٹ پرائمری سکول ڈیر کالونی پشاور میں بحیثیت PST کام کر رہا تھا۔ سائل کو 2014-1-1 سے عرصہ گزر گیا ہے اور اس سائل کو ڈسٹریکٹ ایجوکیشن آفیسر (مردانہ) پشاور کے اردو نمبر 7168-7168 مورخہ 3-7-2017 کے تحت سرکاری ملازمت سے فوری طور پر ہٹا دیا گیا ہے۔

سائل 1992-5-21 سے تعینات ہے۔ سائل کو 2014-1-1 سے عرصہ گزر گیا ہے۔ سائل کی تنخواہ 2016-8-1 کو بند ہو گئی۔ سائل کو 2017-4-27 کو شوکار ٹولنس جاری کیا گیا۔ جو کہ سائل کو 2017-5-20 کو موصول ہوا۔ جس کا جواب سائل نے 2017-5-27 کو دیا گیا۔ حیرانگی کی بات ہے کہ جواب ملنے کے بعد بھی 2017-6-2 کو اظہار میں سائل کے مسئلے پر دستاویز چھایا گیا کہ سائل نے ابھی تک کوئی جواب نہیں دیا ہے۔ اس اظہار کو ٹولنس کے لیے سائل نے دوبارہ 2017-6-15 کو جواب دفتر میں داخل کر دیا تھا۔ اس کے بعد 2017-6-24 کو سائل کی پراسنل ہیئرنگ ہوئی۔ اس کے بعد سائل کو ملازمت سے ہٹا دیا گیا۔ سائل عرض کرتا ہے کہ سائل کے ساتھ نزیہتی برتی جائے اور سائل کو ملازمت بحال کیا جائے۔

شکر۔

شفیع اللہ سلیقہ PST

GPS ڈیر کالونی

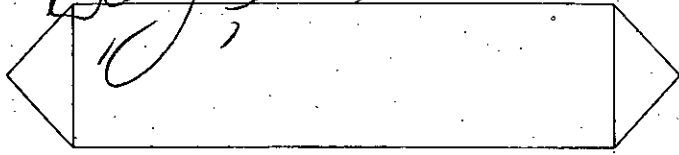
مینڈوہ سٹی انڈیا - اردو نمبر 0345-9219560

1817

25/7/17

Amnat

بعدالت سردہ سرسبز ملک



(201) پنجاب
بنام سید
شعیب احمد

مورخہ

مقدمہ

دعویٰ

جرم

Amd

باعث تحریر آنکہ

محکم دلائل سے مزین و متنوع ومنفرد موضوعات پر مشتمل مفت آن لائن مکتبہ

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

آن مقام کیلئے عہدہ کی فون سوئیٹ

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ 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 پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Amd
Sul M
A

Handwritten signatures and notes on the right margin.

المرقوم T ماہ 201)

الع د گ الع

مقام کے لئے منظور ہے۔

SERVICE APPEAL NO.1233/2017

Mr. Shafiullah

V/S

Secretary Education Etc.

REPLY ON BEHALF OF RESPONDENT NO.1, 2 & 3.

Respectively Sheweth:

The Respondent submits below:

PRELIMINARY OBJECTIONS:

1. That the Appellant has got no cause of action /locus standi.
2. That the Appellant has concealed material facts from this Hon,ble Tribunal.
3. That the Appellant has been estopped by his own conduct to file the instant appeal before this Hon'ble Tribunal.
4. That the instant Appeal is badly time barred.
5. That the instant Appeal is not maintainable in its present form.
6. That the instant Appeal is bed for mis- joinder and non- joinder of the necessary parties.
7. That the Appellant has not come with clean hands to this Hon'ble Tribunal.
8. That the instant Appeal is barred by law.

ON FACTS.

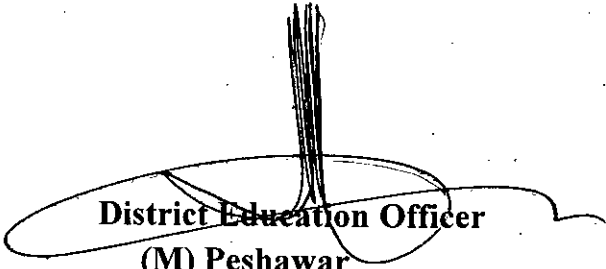
1. That Para No.1 is correct and pertains to record.
2. That Para No.2 pertains to record.
3. That Para No.3 is also pertains to record.
4. That Para No.4 is incorrect and misleading. The Appellant was willful absent from his duty since 01-01-2014 and the SDEO concerned reported him absent, so he informed the DEO (M) about the absentee of the Appellant through letter No. 783 dated: 10-04-2017 with the request of the disciplinary proceedings and the competent authority issued him show cause notice vide letter No. 1416 dated: 29-04-2017. The competent authority also informed the Appellant through publications on 03-06-2017 in Dailies Mashriq & Aaj about his absentee report.
(Letter show cause notice and publications of dailies Mashriq & Aaj are attached as Annex: A,B & C).
5. That in reply to Para .No.5, it is submitted that the reply of Appellant did not satisfy the competent authority regarding his four year absentee and he did not provide any solid reason of his absentee.
6. That in reply to Para No.6, the appellant^{AM} given chances to explain his plausible position and issued letter No.5995 dated: 22-06-2017 for personal hearing. The appellant appeared before the authority on 24-06-2017 where he did not advance plausible reason regarding his illegal prolong absentee. Furthermore, the appellant admitted his illegal absentee, so the competent authority took action against the appellant under E & SE rules -4 (b) and issued him dismissal order.
(Letter of personal hearing, attendance sheet and personal hearing sheet are attached as Annex: D, E & F)
7. That Para No.7 is pertains to record.

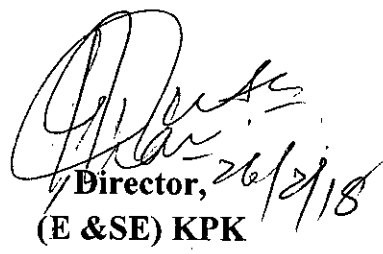
8. That in reply to Para No.8 the appellant has no cause of action to knock the door of this Hon,ble Tribunal.

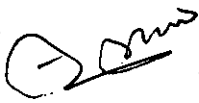
GROUND

- a. That Ground – a incorrect, the appellant was willful absent and remained absent from his duty without information to the high ups, and furthermore, the respondent fulfills all the codal formalities.
- b. That Ground- b is incorrect, misleading and against the facts. The appellant has been treated according to law and rules.
- c. That Ground- c is incorrect and misleading the respondent adopted all the proceeding according to law and rules.
- d. That Ground- d incorrect the detail reply has been given in above Paras.
- e. That Ground-e is incorrect, misleading. The respondent gave him opportunities to justify his absentee. But he did not justify his absentee period, Moreover, the appellant admitted his illegal absentee and his personal hearing sheet which is Annex: F.
- f. That Ground- f incorrect. The detail reply has been given in the above Para.
- g. That Ground – g also incorrect and misleading. The appellant has been given chance but he did not justify his willful absentee and failed.
- h. That Ground- h incorrect and misleading. The detail reply has been given in the above Para.

It is therefore, very humbly prayed that on acceptance of this reply, the instant appeal may very kindly be dismissed with cost.


District Education Officer
(M) Peshawar


Director,
(E & SE) KPK


SECRETARY
(E & SE) KPK

Annex - (A)

10-3-17
17



Office of the Sub Div. Education Officer (M) Town II Darmang Peshawar

No. 783 /

Dated Peshawar the 10/4 /2017

To

The District Education Officer
(Male) Peshawar

Subject: REPORT/ABSENT FROM DUTY

Memo :

I am to refer to this office letter/report No.628(B) dated 28-02-2017 on the subject noted above and to state that a show cause notice has been served upon one of the reported absent official Mr. Naseemullah Chowkidar GPS Landi Daudzai Peshawar by your office, while no action/orders/guidance has been received so far in respect of the 2nd official reported as absent from duty, namely Mr. Shafiullah PST of GPS Dir Colony Peshawar.

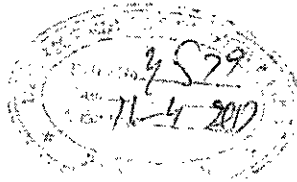
It is, therefore, requested that disciplinary proceedings may be initiated against Mr. Shafiullah PST of GPS Dir Colony Peshawar please.

SUB DIV. EDU. OFFICER
(M) TOWN II PESHAWAR

Endst.No. _____

- 1) P.A to Director Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.

Rahim Bakhsh
[Signature]
11/4/17



Sd/-
SUB DIV. EDU. OFFICER
(M) TOWN II PESHAWAR

1-1-19

DISTRICT EDUCATION OFFICER,
(MALE) PESHAWAR.

No. 1416

Dated 29/6 /2017.

(10)

To,

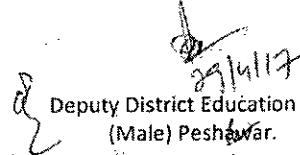
The Sub Divisional Education Officer,
(Male) Town-II Peshawar.

Subject SHOW CAUSE NOTICE.

Memo:

Enclose please find herewith show cause notice (in-duplicate) in r/o Mr.Shafi Ullah PST,GPS Dir Colony Peshawar and you are directed to serve upon to above named official through register AD immediately under intimation to this office .

Encl: As above.


Deputy District Education Officer,
(Male) Peshawar.

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.

SHOW CAUSE NOTICE.

1, (Mr Jaddi Khan Khalil , DEO (M) Peshawar), as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Shafiullah, PST, GPS Dir Colony Peshawar as follow:

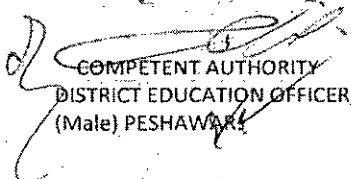
I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules:

- (a) Absent from duty w.e.f 1-1-2014
- (b) Misconduct.

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

You are, therefore, 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.

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.


COMPETENT AUTHORITY
DISTRICT EDUCATION OFFICER,
(Male) PESHAWAR.

27

DISTRICT EDUCATION OFFICER,
(MALE) PESHAWAR.

No. 5095

Dated 22/6/2017

21

To,

The Sub:Divisional Education Officer,
(Male) Town-IV Peshawar.

Subject : PERSONAL HEARING.

Memo:-

You are requested to direct Mr. Shafi Ullah PST, GPS Dir Colony Peshawar to attend the office of the under signed on 24/06/2017 at 9-00 A.M for personal hearing positively.

[Signature]
22/6/17
DY: DISTRICT EDUCATION OFFICER,
(MALE) PESHAWAR.


Received to dep.
27/06/17
[Signature]

Vill: Cham
Peshawar

60

22

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR**Attendance sheet for Personal Hearing dated on 24/06/2017**

S.No	Name of Teacher with Designation	Name of School	Contact No	Signature
1	Shafi Ullah PST	GPS Dir Colony Peshawar	0345-9219860	

Answer - (F)

23

مورخہ 24-06-2017

پرنسپل ہیرنگ

نام مستفیج اللہ ولدت فضل محمود

موجودہ پتہ: انقلاب روڈ علی محفل و ضلعو لکھنؤ

شناختی کارڈ نمبر 5-9671392-17301

موجودہ پوسٹ بمسکیل PST BPS 12

موجودہ سکول جی بی ایس ڈیر کالونی

سوال نمبر 1۔ آپ کی تعیناتی PST پوسٹ پر کب ہوئی ہے؟

جواب 2992-05-21

سوال نمبر 2۔ موجودہ سکول میں آپ کا تبادلہ کب ہوا اور چارج کس تاریخ کو لیا؟

جواب 2009 کو

سوال نمبر 3۔ کیا یہ درست ہے کہ آپ انفر کی اطلاع کے سکول سے غیر حاضر ہیں؟

جواب ہاں

سوال نمبر 4۔ آپ کے پاس آپ پر لگائے گئے ان الزامات کی صفائی میں کہنے کے لئے کچھ ٹھوس وجوہات ہیں؟ اگر ہیں تو کیا؟

جواب کچھ خاص نہیں لیکن زبانی بہتر ہو کر سنا تا تھا

سوال نمبر 5۔ آپ کے خیال میں اس مسئلے کا کیا حل ہے؟

جواب مجھے آخر کی موقع دیا جائے اس لئے ریگولر ڈیوٹی رو لیا

نشان انگوٹھا

27/6/17

2 years & 8 months salary was

paid —

R-10
24

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.

NOTIFICATION:-

1. WHEREAS: Mr. Shafiullah PST GPS Dir Colony Peshawar was proceeded against under Khyber Pkhtunkhwa Govt: Servant (Efficiency & Disciplinary) Rules 2011 for the charge of Absence from duty w.e.f 01/01/2014 till date.
2. AND WHEREAS: SDEO (M) Town-II Peshawar reported on 10/04/2017 that Mr. Shafi Ullah PST, GPS Dir Colony Peshawar was absent from duty w.e.f 01/01/2014 till date.
3. AND WHEREAS:- Show Cause Notice was served upon the accused Mr. Shafiullah PST, GPS Dir Colony Peshawar through SDEO(M) Town-II Peshawar Vide No.1416, dated 29/04/2017.
4. AND WHEREAS: - the accused official submitted his reply on 27/05/2017 after due time which was found not satisfactory.
5. AND WHEREAS:- Absent Notice was served upon the accused Mr. Shafiullah PST, GPS Dir Colony through Daily Mashriq dated 03/06/2017, to attend the office of the undersigned and explain his absence period.
6. AND WHEREAS the accused official submitted his reply to the absent notice on 15/06/2017 which was also found not satisfactory.
7. AND WHEREAS the said Mr. Shafiullah PST, Government Primary School Dir Colony Peshawar was called for personal hearing on 24/06/2017 through SDEO (Male) Town-IV Peshawar vide No.5995 dated 22/06/2017, he appeared for personal hearing on the said date.
8. AND WHEREAS:- The competent Authority, District Education Officer (Male) Peshawar after having considered the charges, evidence on record and facts of the case of the view that the charges of willful absence from duty against the official concerned have been proved.
9. NOW THEREFORE, In exercise of the Powers conferred under Rules-4 (b) iv. of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I the competent Authority District Education Officer (Male) Peshawar is pleased to impose major penalty of "Dismissal from Service" upon Mr. Shafiullah PST, GPS Dir Colony Peshawar with immediate effect. The period of his absence with effect from 01/01/2014 till date is hereby treated as unauthorized absence from duty without pay.

(Jaddi Khan Khalil)
District Education Officer
(Male) Peshawar.

Endst No. 7168-74 / Date: 3/7 / 2017.

Copy forwarded to the :-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. PS to Secretary E& SED Khyber Pkhtunkhwa Peshawar.
3. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
4. Sub Divisional Education Officer (Male) Town-IV Peshawar with the remarks that necessary entry to this effect should be made in his service book. The pay and allowances for the period as mentioned above may be recovered from the official concerned and deposited into government treasury under intimation to this office.
5. ASDEO (Male) Circle concerned.
6. PA to District Education Officer (male) Peshawar.
7. Official Concerned.

03/07/17
Dy: District Education Officer
(Male) Peshawar.

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A# 1233/2017

Shafi Ullah

Versus

Government of Khyber Pakhtunkhwa and Others

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Dated: 01/08/2018

Appellant

Through


JAVED IQBAL GULBELA,

&


SAGHIR IQBAL GULBELA

Advocates High Court

Peshawar

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

In S.A# 1233/2017

Shafi Ullah

Versus

Government of Khyber Pakhtunkhwa and Others

**REJOINDER ON BEHALF OF THE
APPELLANT TO THE COMMENTS
FILED BY THE RESPONDENTS**

Respectfully Sheweth,

Reply to Preliminary objections:-

1. Incorrect and Denied. The appellant has got a good cause of action and locus standi.
2. Incorrect and denied.
3. Incorrect and denied.
4. Misleading. Hypocratic and wrong, hence denied. Moreover law always favors adjudication on merits and technicalities must also be ignored while disposing cases.

5. Incorrect and denied.

6. Incorrect and denied.

7. Incorrect and denied

8. Incorrect and denied

On Facts:-

A. No comments.

B. No comments

C. No comments.

D. Para No.4 of the comments is wrong, concocted, fabricated, vexatious, frivolous, and is denied. Proper and detailed reply is already been given in the corresponding para and rest of the paras of the main appeal.

E. Hypocratic and misleading, hence denied. Detailed picture is given in the main appeal.

F. Incorrect fabricated and concocted, hence denied. However detailed reply is given in the main appeal.

G. No comments.

H. Incorrect and denied.

On Grounds:-

- a. Incorrect and denied, while that of the main appeal is correct
- b. Incorrect and denied, while that of the main appeal is correct
- c. Incorrect and denied, while that of the main appeal is correct
- d. Incorrect and denied, while that of the main appeal is correct
- e. Incorrect and denied, while that of the main appeal is correct
- f. Incorrect and denied, while that of the main appeal is correct
- g. Incorrect and denied, while that of the main appeal is correct
- h. Incorrect and denied, while that of the main appeal is correct.

It is, therefore, most humbly prayed that on acceptance of instant rejoinder, the appeal of the appellant may graciously be allowed, as prayed for therein.

Dated: 01/08/2018

Through Appellant
JAVED IQBAL GULBELA,
&
SAGHIR IQBAL GULBELA
Advocates High Court
Peshawar

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A# 1233/2017

Shafi Ullah

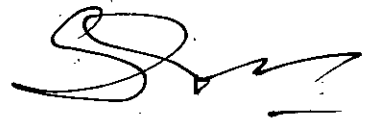
Versus

Government of Khyber Pakhtunkhwa and Others

AFFIDAVIT


I, Saghir Iqbal Gulbela (Adv) S/o Jan Muhammad R/o Gulbela Peshawar, as per instruction of my client, 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



CNIC: 17301-1502481-3

Identified By:-


Javed Iqbal Gulbela
Advocate High Court
Peshawar


ATTORNEY
KHALIDA RAHMAN
C. ADVOCATE
OATH COMMISSIONER
PESHAWAR

وکالت نامہ

بعدالت: صاحب سروس ٹریڈنگ صدر مختار خواجہ لکھنؤ
 شعیب اللہ بنام صاحب
 منجانب رسیدت دعویٰ
 تاریخ ۱۴/۰۶/۵۷

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی
 بمقام۔۔۔۔۔ کیلئے جاوید اقبال گل بیلہ ایڈووکیٹ ہائٹی کورٹ لاہور میں لکھا گیا
 مقرر کیا ہے۔ کہ میں ہر پیشی کا خود یا بزرگیو مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل
 صاحب موصوف کو اطلاع دے کر حاضر عدالت کرونگا، اگر پیشی پر من مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے
 کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر
 مقام پچہری کی کسی اور جگہ یا پچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہونگے۔ اگر
 مقدمہ علاوہ صدر مقام پچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پچہری کے اوقات کے آگے پیچھے پیش ہونے پر
 من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی
 صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کوکل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور
 صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و
 تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل
 کرنے اور ہر قسم کے بیان دینے اور سپرد و نمائش و راضی نامہ فیصلہ برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور
 بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم اتناعی یا ترقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف
 کو بشرط ادائیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا
 اس کے کسی جزوی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ
 مقرر کریں اور ایسے مشیر قانون کے ہر امر دہی اور ویسے ہی اختیارات حاصل ہونگے جیسے کے صاحب موصوف کو حاصل
 ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو
 پوری فیس تاریخ پیشی سے پہلے ادا نہ کرونگا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت
 میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سند ہے۔
 مورخہ ۱۴/۰۶/۵۷۔۔۔۔۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ گیا ہے اور منظور ہے۔

Accepted by

صاحب موصوف
 ۱۵/۰۶/۵۷

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 27 /ST

Dated 4-1- / 2019

To


The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: -

JUDGMENT IN APPEAL NO. 1233/2017, MR. SHAFI ULLAH.

I am directed to forward herewith a certified copy of Judgement dated 14.12.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

BEFORE THE HON'BLE FEDERAL SERVICE TRIBUNAL
PESHAWAR

CM No: _____/2021

In

Service Appeal No: 1233/2017

Shafi Ullah

V E R S U S

Govt of KPK Peshawar

Application for Impleadment/Placing On File The
List of LRs of the Appellant Shafiullah (Late) in
Service Appeal No.1233/2017

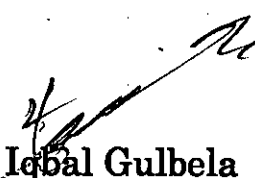
Respectfully Submitted:

1. That the above titled Service Appeal No. is pending adjudication for this Hon'ble Service Tribunal and is fixed for today i.e 11.11.2021.
2. That infact the appellant breath his last on dated 19.04.2020. (Copy of death certificate is annexed).
3. That the following are the LRs of the Appellant namely:-
 - (i) Ambreen W/o Shafiullah.
 - (ii) Abdullah Mehmood S/o Shafiullah.
 - (iii) Ayesha Bibi D/o Shafiullah
4. That in the given circumstances of the case, be impleaded/placing on file of the list of LRs of the Appellant is indispensable.

It is therefore most humbly prayed that on acceptance of instant Application the LRs of the Appellant may kindly be arrayed^{impleaded} in instant service appeal.

Through

Dated: 11/11/2021


Javed Iqbal Gulbela
Advocate, Supreme Court,
of Pakistan.

BEFORE THE HON'BLE FEDERAL SERVICE TRIBUNAL
PESHAWAR

CM No: _____/2021

In

Service Appeal No: 1233/2017

Shafi Ullah

V E R S U S

Govt of KPK Peshawar

AFFIDAVIT

I, **Ambreen W/o Shafiullah R/o New Qadakhel Inqilab Road Chamkani Peshawar.**, do hereby solemnly affirm and declare that all the contents of the instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

Ambreen
DEPONENT _____

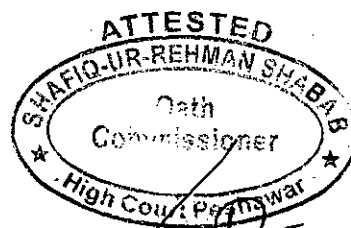
CNIC: 17301-8260523-4

CELL NO: 0316-9741512

Identified by:

Javed Iqbal Gulbela
JAVED IQBAL GULBELA

Advocate Supreme Court
of Pakistan.



Shafiq-ur-Rehman Shabab
11-11-2021



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 939 /ST

Dated: 25-4- /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

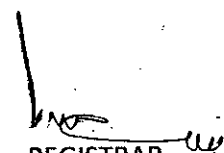
To

The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 1233/2017 MR. SHAFI ULLAH.

I am directed to forward herewith a certified copy of Judgement dated 26.01.2022 passed by this Tribunal on the above subject for compliance please.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR