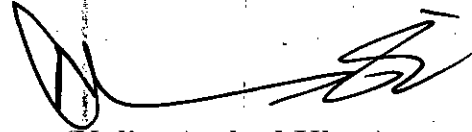


ORDER

28th Oct, 2022

1. Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.
2. Vide our detailed order of today placed in Service Appeal No. 4760/2020 titled "Mst. Bilqees-vs-Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others" (copy placed in this file), this appeal is also allowed. Costs shall follow the events. Consign.
3. *Pronounced in open court in D.I.Khan and given under our hands and seal of the Tribunal on this 28th day of October, 2022.*



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




**(Rozina Rehman)
Member (Judicial)
Camp Court D.I.Khan**

29th September, 2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Learned counsel for the appellant seeks adjournment in order to properly assist the court on the next date. Adjourned. To come up for arguments on 28.10.2022 before the D.B at Camp Court D.I.Khan.




(Salah Ud Din)
Member (Judicial)
Camp Court D.I.Khan



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

27.01.2022

Tour is Cancelled, therefore, case is adjourned to 26.05.2022 for the same as before.


Reader.

26.05.2022

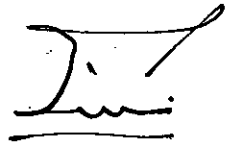
Nemo for the appellant. Mr. Farhaj Sikandar, District Attorney for the respondents present.

Reply/comments on behalf of respondents have already been submitted, therefore, to come up for arguments on 28.07.2022 before the D.B at Camp Court D.I.Khan.

Notice for prosecution of the appeal be issued to the appellant as well as his counsel through registered post for the date fixed.



(Rozina Rehman)
Member (J)
Camp Court D.I.Khan



(Salah-ud-Din)
Member (J)
Camp Court D.I.Khan

28.07.2022

Due to summer vacations, the case is adjourned to 29.09.2022 for the same as before.



Reader


25.10.2021

Appellant with counsel present.

Mr. Muhammad Rasheed, Deputy District Attorney for respondents present.

Reply on behalf of respondents was not submitted. Learned Deputy District Attorney made a request for time to submit reply/comments; granted with direction to furnish the same within 10 days in office positively. If the written reply/comments are not submitted within stipulated time, the right of respondents for submission of reply shall be deemed as struck off. To come up for arguments on 13.12.2021 before D.B at Camp Court D.I. Khan.

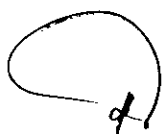

(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)
CAMP COURT, D.I KHAN


(ROZINA REHMAN)
MEMBER (J)
CAMP COURT, D.I KHAN

13.12.2021.

Counsel for appellant and Mr. Muhammad Adeel Butt, learned Additional Advocate General for the respondents present.

The respondents having failed to submit the reply on previous date were directed to do the needful with adjournment of the proceedings for today but they have again not filed the comments/written reply and seek adjournment. Learned AAG is required to contact the respondents for submission of written reply within 10 days in office, failing which they shall be liable to payment of cost of Rs. 5000/- for submission of reply on the date fixed. If they fail to submit the reply on the next date, no further adjournment shall be granted for such purpose and appeal shall be heard on available record. Case to come up on 27.01.2022 before D.B at Camp Court, D.I.Khan.


(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan


Chairman
Camp Court, D.I.Khan

28.07.2021

Appellant with counsel present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 25.10.2021 before the D.B, at camp court D.I.Khan.

Appellant Deposited
Security & Process Fee

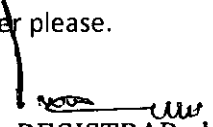


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 4761/2021 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/04/2021	<p>The appeal of Mr. Farhadullah received today by post through Sheikh Iftikhar-ul-Haq 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>
2-	04/06/2021	<p>This case is entrusted to S. Bench Peshawar. Notices be issued to appellant/counsel for preliminary hearing on 28/07/2021.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KPK SERVICES TRIBUNAL PESHAWAR

In Service Appeal No. _____/2021

Farhad Ullah
(**Appellant**)

Versus

Govt Of KPK, etc
(**Respondents**)

INDEX

S.No	Description of document	Annexure	Pages
1.	Service Appeal with affidavit	--	1-6
2.	Copy of the appointment order	A	- 7-
3.	Copies of attendance register	B	8-11
4.	Copy of the impugned order	C	-12-
5.	Copies of the departmental appeal and letter dated 20/01/2021	D & D/1	13-15
6.	Wakalatnama	--	-16-

Dated 07/04/2021

Your humble appellant,


Farhad Ullah

Through counsel:-


Sheikh Iftikhar ul Haq
Advocate High Court

District Bar Dera Ismail Khan

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Service Appeal No. 4761/2021

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 4825

Dated 9/4/2021

Farhad Ullah son of Mashal Khan caste Marwat r/o village
Masha Mansoor Tehsil & District Lakki Marwat, Ex-Chowkidar
GGCMS Masha Mansoor Lakki Marwat. **03429363076**

.....(**APPELLANT**)

VERSUS

1. Government of KPK, Through Secretary Elementary & Secondary Education Peshawar.
2. The Director (E&S) Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Female) Lakki Marwat.

..... (**RESPONDENTS**)

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974.**

PRAYER

On acceptance of the instant appeal the impugned office order bearing No. 5050-56 dated 30/12/2020 issued by the respondent#3 may kindly be set aside vide which by imposing the major penalty of removal from service the appellant was removed from services with immediate effect and also against the appellate order qua the departmental appeal wherein the respondent#2 remained silent/not taken any action by not deciding the departmental appeal of the appellant meaning thereby rejection of departmental appeal of the appellant within stipulated period and thus the service of the appellant be restored with all back benefits by setting aside the impugned office orders mentioned above.

Filed to-day

Registrar,
9/4/2021

[Handwritten signature]
Adv.

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Respected Sir,

Appellant humbly submits as under;

1. That the appellant was appointed as Chowkidar in GGCMS Masha Mansoor Lakki Marwat and on ~~10/06/2007~~. Copy of the appointment order is annexed as **Annexure-A**.
2. That the appellant was performing his duties to the entire satisfaction of his high-ups and never absented himself throughout his service career. In this respect attendance register of the school is very much clear. Copies of the attendance register are annexed as **Annexure-B**.
3. That in the month of November 2020, due to crucial and critical conditions of the COVID-19, the school was closed to some extents and conditions, in spite of this the appellant performed his duties and remained punctual and never absented himself as evident from the attendance register.
4. That the appellant was performing duties and on the instructions of political vendetta in spite of on duty, the appellant was marked absent on 18/12/2020 in his presence due to personal grudges and instructions of political vendetta because some of the family members of appellant are having/belonging with political rivals of the ruling party. Thus, the appellant was on duty on the eventful day i.e. 18/12/2020. In spite of this, ironically, the respondent#3 issued the impugned office order No. 5050-56 dated 30/12/2020 vide which the service of the appellant was removed by imposing major penalty. Copy of the impugned order dated 30/12/2020 is annexed as **Annexure-C**.
5. That the appellant feeling aggrieved, preferred a departmental appeal vide dairy No. 231 dated 06/01/2021 to the respondent#2 being appellate authority, which was not accepted within stipulated period. It is also pertinent to mention that later on 20/01/2021 the respondent#2 called the detailed report/comments from the respondent#3 vide letter No. 2842 dated 20/01/2021. Copies of the

*in reply
AW!*

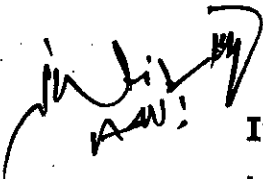
3

departmental appeal and letter dated 20/01/2021 are annexed as **Annexure-D & D/1**.

6. That appellant feeling aggrieved by the impugned order dated 30/12/2020, hence, the instant appeal on the following grounds.

GROUND

- a. That the impugned order is against law, fact and circumstance of the case, hence, is not tenable in the eye of law but liable to be set aside.
- b. That the impugned order has been passed with mala-fide and hasty manner as, no charge sheet, statement of allegations, opportunity of replication, hearing, first show cause notice, final show cause notice, in short no inquiry has been conducted whatsoever, thus the impugned order is against the principle of law, service rules, policy and is not in the commence of EASTA Code.
- c. That the appellant is punctual and was on duty and never remained absent from duty and the alleged proceeding is on the bases of political pressure and victimization.
- d. That this honourable Tribunal has got vast and ample powers to entertain the instant appeal.
- e. That counsel for the appellant may graciously be allowed to raise additional grounds at the time of arguments.


It is therefore humbly prayed that On acceptance of the instant appeal the impugned office order bearing No. 5050-56 dated 30/12/2020 issued by the respondent#3 may kindly be set aside vide which by imposing the

4

major penalty of removal from service the appellant was removed from services with immediate effect and also against the appellate order qua the departmental appeal wherein the respondent#2 remained silent/not taken any action by not deciding the departmental appeal of the appellant meaning thereby rejection of departmental appeal of the appellant within stipulated period and thus the service of the appellant be restored with all back benefits by setting aside the impugned office orders mentioned above.

Dated 07/02/2021

Your humble appellant,


Farhad Ullah

Through counsel:-


Sheikh Iftikhar ul Haq
Advocate High Court
District Bar Dera Ismail Khan

5

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

In Service Appeal No. _____/2021

Farhad Ullah
(**Appellant**)

Versus

Govt Of KPK, etc
(**Respondents**)

AFFIDAVIT

I, Farhad Ullah, appellant herein, do hereby solemnly affirm on oath that all parawise contents of the accompanying appeal are true and correct to the best of my knowledge, belief and information; that nothing has been concealed or kept secret from this worthy Tribunal, nor anything contained therein is based on exaggeration or distortion of facts.

Dated 07/04/2021

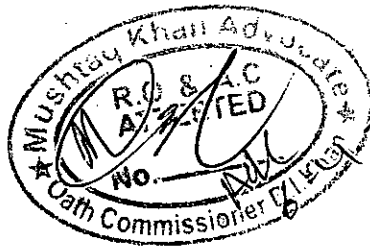
Identified by
initials
Sr. J. Khan
no

Farhad Ullah
Deponent

VERIFICATION

Verified on oath at DIKhan, this 7 day of April, 2021, that all contents of the above appeal are true and correct.

Dated 07/04/2021



Farhad Ullah
Appellant

6

BEFORE THE KPK SERVICES TRIBUNAL, PESHAWAR

In Service Appeal No. _____/2021

Farhad Ullah
(Appellant)

Versus

Govt Of KPK, etc
(Respondents)

ADDRESSES OF PARTIES

Farhad Ullah son of Mashal Khan caste Marwat r/o village
Masha Mansoor Tehsil & District Lakki Marwat, Ex-Chowkidar
GGCMS Masha Mansoor Lakki Marwat.

.....**(APPELLANT)**

-
1. Government of KPK, Through Secretary Elementary & Secondary Education Peshawar.
 2. The Director (E&S) Education Khyber Pakhtunkhwa Peshawar.

District Education Officer (Female) Lakki Marwat.

Sh: J. H. Khan
Sh: J. H. Khan
Sh: J. H. Khan

7

Ann: "A"

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (SCHOOLS & LITERACY) LAKKI MARWAT

OFFICE ORDER

As approved by the District Selection committee Lakki Marwat, the appointment of the below named fixed class- IV is hereby ordered @ Rs:4000/- per month, in the school against him his name in the interest of public service from the date of their taking over charge with the following terms & conditions.

S: NO	Name/Father Name and address	Date of birth	Designation	place of posting	Remarks
1	Farhad-ullah Khan S/O Mahal Khan R/O Masha- Munsior	09.11.1988	Fixed Class-IV	Masha Munsior	Against vacant post

TERMS & CONDITION

1. The appointment has been made purely on contract basis and can be terminated any time without any notice.
2. his monthly pay is Rs:4000/- fixed and will be rendered as a miscible under the rules.
3. He is directed to produce health & age Certificate from the medical superintendent DHO Lakki Marwat.
4. Large reports should be submitted to all concerned.

Order NO: 2059-62

Dated Lakki the 19/11/2007

(MUHAMMAD USER)
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY LAKKI MARWA

Copy of the above to the:-

1. Deputy Dist Officer (N) Primary Lakki Marwat.
2. Distt Accounts Officer Lakki Marwat.
3. Medical Superintendent DHO Lakki Marwat.
4. Candidate concerned.

EXECUTIVE DIST OFFICER
SCHOOLS & LITERACY LAKKI MARWAT..

Head Mistress
M.S. Masha- Munsior
Lakki Marwat

Attested by True Copy

8

Anx = "B"

رجسٹر حاضری مدرسین سہ ماہیہ 2020

بابت مہینہ

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Attested to be true copy
 17/11/20

رجسٹر حاضرین مدرسین

2022

بابت ماہ

سہارا عباس خان
P.S.T

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7/10/2022

CHS MASHA MASRATI
Lahore

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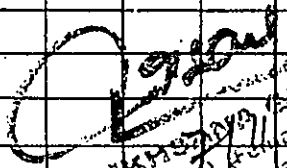
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رجسٹر حاضری مدرسہ سین

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 HUMAN RIGHTS
 ASIDE FROM
 Lakki Marsat

Absent. absent.

میں	سابقہ	حالیہ	میں	سابقہ	حالیہ	میں	سابقہ	حالیہ	میں	سابقہ	حالیہ

FOR NO ADDRESS

Attested to be true copy

نور الدین

چتر حاضری مدرسین سیدنی ایس ایس ٹی صدر منڈی اور کراچی بکٹ ماہ دسمبر سال 2020

(11)

نام
عہدہ
شاخہ کلاس
قریبی درجہ
مدرسہ

روز	آمد	دستخط	رواگی	آمد	دستخط	رواگی	آمد	دستخط	رواگی	آمد	دستخط	رواگی	آمد	دستخط	رواگی
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Handwritten signature and date: 12/12/2020

Distt. Education Officer
Female
Lakri Bazar

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18-12-2020

To be True copy

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(12)

ANX = "C"

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) LAKKI MARWAT
OFFICE ORDER:-

WHEREAS Mr. Farhad Ullah Chowkidar GGCMS Masha Mansoor Lakki Marwat was proceeded under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules.2011.

AND WHEREAS During the course of surprise visit of GGCMS Masha Mansoor paid by the District Education Officer (F) Lakki Marwat accompanied with SDEO (F) Lakki Marwat the school was found closed.

AND WHEREAS the chowkidar concerned was also found absent from school duty, which is against the rules and regulations, as he is responsible to look after the property of school building.

AND WHEREAS as per report of SDEO (F) Lakki Marwat vide No. 1050/SDEOF/LM dated 21-12-2020 the concerned chowkidar is badly misconduct with SDEO (F) Lakki Marwat and his attitude was not accordingly. He was directed for identification but he showed harsh behavior.

NOW, THEREFORE, in exercise of the power conferred to the undersigned under Rule, 4-B (III) of the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules 2011, the competent authority (DEO Female Lakki Marwat) after having considered the charges and evidence on record, is pleased to impose Major penalty of **(Removal from Service)** upon **Mr. Farhad Ullah Chowkidar GGCMS Masha Mansoor**, Lakki Marwat in the interest of public service with immediate effect.


(Sabra Parveen)
District Education Officer
(Female) Lakki Marwat

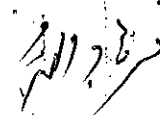
Endst: No. 5050-56

Dated: 30/12/2020.

Copy forwarded to the:-

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. District Accounts Officer Lakki Marwat.
3. District Monitoring Officer Lakki Marwat.
4. SDEO (F) Lakki Marwat.
5. Mr. farhad ullah Chowkidar GGCMS Masha Mansoor Lakki Marwat
6. Master file.


District Education Officer
(Female) Lakki Marwat

Attached to be taken copy


(13)

Anx. "D"

بھخور جناب ڈائریکٹر ایجوکیشن ری ایڈیو سیکٹری ایجوکیشن چیئر پختونخوا ایشیا اور

231
داری
صحنہ
6
2021

اپیل برائے منسوخی حکم و فیصلہ مورخہ 30-12-2020 بذریعہ ڈی ای او فی میل کی مرمت

و بحالی ایپلانٹ بر ملازمت حسب ضابطہ

جناب عالی! ایپلانٹ حسب ذیل عرض رساں ہے۔

یہ کہ ایپلانٹ بعد آباؤ اجداد منسوخ و منسوخ و منسوخ کی مرمت کی پیدائشی وراثی ہے۔

یہ کہ ایپلانٹ عرصہ تقریباً 13، 14 سال سے بحیثیت چوکیدار جی ای ایم ایس منسوخ کی مرمت میں ڈیپٹی سرانجام دے رہے ہیں۔

یہ کہ ایپلانٹ نے دوران ملازمت کبھی کسی قسم کی غیر حاضری نہیں کی ہے۔ اور نہ اس سے قبل ایپلانٹ کو نکلنے کی جانب سے کسی قسم کا شکایتوں ملے۔ اور نہ نکلنے کو شکایت کا موقع دیا ہے۔

یہ کہ ایپلانٹ سکول کے نزدیک رہائش پذیر ہے اور غیر حاضری کا سبب پیدائش نہیں ہوتا ہے اور نہ بد اخلاقی کرنے کا حوالہ پیدا ہوتا ہے۔

یہ کہ مورخہ 31-12-2020 کو ڈی ای او فی میل کی مرمت آئی تھی اور اس دن سکول بند تھا جبکہ ایپلانٹ ڈیپٹی پر موجود تھا لیکن

اس کے باوجود ایپلانٹ کو ملازمت سے برخاست کیا گیا ہے۔ نقص لاف ہے۔

یہ کہ ایپلانٹ کے بارے میں متعلقہ شاف سے معلومات کی جا سکتی ہے۔

یہ کہ ایپلانٹ کے چھوٹے چھوٹے بچے سے اور کافی عرصہ ملازمت میں نہایت احسن طریقے سے گزار دی ہے۔

Attached to be true copy

لہجہ عالیہ

14

یہ کہ اپنا بیلائٹ کے ذریعہ معاش صرف یہی ملازمت ہے اور اگر اپنا بیلائٹ کو بحال نہ کیا گیا تو اپنا بیلائٹ کو بحال نہ کرنا قابل عملی نقصان پہنچنے کا قوی اندیشہ موجود ہے۔

یہ کہ اپنا بیلائٹ اپنی ذیلی و معاشی کی بابت ہر قسم شہادت بہت پیش کرنے کو تیار ہے۔
یہ کہ اپنا بیلائٹ آخر کار کے لئے ہم چوں کہ شہادت کا موقع دیکھ کر کوئی نہیں دے گی۔

لہذا استدعا ہے کہ بحفاظت اور اپنی اپنی ہذا حکم و فیصلہ مورخہ 2020-12-31
منسوخ کیا جائے اور اپنا بیلائٹ کو بحال کیا جائے۔

الحاضر علیہ والہ
فرمان اللہ ولہ تعالیٰ عنان

جو کہ یہاں رہی جی بی ای ایس سندھ سمبوری موروث

بیان طاقی۔

طاقی بیان کرتا ہوں کہ جملہ مراتب دروغ راست میرے علم و یقین کے مطابق صحیح درست ہے۔

ATTESTED



الحاضر علیہ والہ
فرمان اللہ ولہ تعالیٰ عنان

Attest to be True only
ذریعہ والہ



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.**

No. 2542 /F.No. /A-20/C-IV/Appeal/Lakki/Farhad

Dated Peshawar the 20 / 1 / 2021

Phone: 091-9225344

Email: ddadm.ee@gmail.com

ANK. D/E

15

To

The District Education Officer
(Female) Lakki Marwat

Subject: **APPEAL**

Memo:

I am directed to refer to the subject noted above and to enclose herewith a copy of appeal lodged by Mr. Farhad Ullah s/o Mashal Khan Chowkidar GGCMS Masha Mansoor District Lakki Marwat.

You are therefore directed to submit detailed report/comments at an early date.

Assistant Director (Admn)

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst; No. 2543

Copy forwarded to the: -

1. Mr. Farhad Ullah s/o Mashal Khan Chowkidar GGCMS Masha Mansoor District Lakki Marwat.
2. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Master File.

Assistant Director (Admn)

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Attached to be taken copy



S.M. JUMHARUL HAQ
Advocate High Court
N.J.C. 12201-0316740-9
S.No. 1365



Issuing Authority

وکالت

16

کورٹ
فیس

Before the K.P.K Service Tribunal

Camp

Appellant

مخالف

Fazharullah vs Court of K.P.K

Contd. I. K

Service Appeal

دعویٰ باجزم

تفصیل دعویٰ باجزم

باعث تحریر آنگہ

D. I. Khan

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیرونی وجوہات دہی برائے پیش یا تفسیر مقدمہ بنام

Chaudhry J. Khan vs. Government of Punjab

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا بڑا بڑا لیدر رو برو عدالت حاضر ہوں گا اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ بیرونی غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ یا کچہری کے اوقات سے پہلے یا بیچے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر کچہری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے یا بیچے پیش ہونے پر مظہر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا سخت نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے مجھ کو کل ساختہ پر داخست صاحب موصوف مثل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ یا درخواست اجراء اسمائے ذگری نظر ثانی نہیں مگرانی و ہر قسم درخواست برقم کے بیان دینے اور پر تالیق یا راضی نامہ و فیصلہ برطرف کرنے اقبال دعویٰ کا بھی اختیار ہو گا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مقرر بیرون از کچہری صدر بیرونی مقدمہ مقرر نظر ثانی اپیل و مگرانی و برآمدگی مقدمہ یا منسوخی ذگری یک طرفہ یا درخواست حکم اتمامی یا قرتی یا گردانی قبل از فیصلہ اجراء ذگری بھی صاحب موصوف کو بشرط ادا کی علیحدہ مختصمیردی کا اختیار ہو گا اور تمام ساختہ پر داخست صاحب موصوف مثل کردہ از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو کہ مقدمہ مقررہ یا اس کے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل مگرانی یا دیگر معاہلہ و قدمہ مذکورہ کسی دوسرے وکیل یا بیرونی کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانب التواء پڑے گا وہ صاحب موصوف کا حق ہو گا مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے
مورخہ ۰۶ ماہ اپریل ۱۹۷۰
مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

Accepted
[Signature]

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

APPEAL No. 4761 of 20 21

Farhad ulah

Appellant/Petitioner

Versus

Through Secy: Edu: KP St Pesh

RESPONDENT(S)

Notice to Appellant/Petitioner

*Farhad ulah S/o Mashal
Caste Marwat R/o village
Mashal Mansoor Tehsil 2 Distt:
Lalaki Marwat*

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 28/12/2021 at 12:00 PM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at Peshawar

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

APPEAL No.....*4761*..... of 20 *21*

Farooq Allah

Appellant/Petitioner

Versus

Through Secy: Edm. Is. P. Pesh.

RESPONDENT(S)

Notice to Appellant/Petitioner

Counsel

*Sheikh Y. Iqbal ul Haq
Advocate High Court
D.I. Khan*

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on *28-7-2021* at *9:00 AM*

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at Peshawar

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 4761/2021

Farhad Ullah

VERSUS

Govt of KPk, and Others

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1,2,3

Index

S/No	Subject	Annexure	Page No
1	Written reply / comments	-----	1-3
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4	Copy of removal order of appellant's sister	B	7
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①

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA
SERVICE TRIBUNAL, PESHAWAR**

Service appeal No.4761/2021

Farhad Ullah

VERSUS

Govt of KPk, ETC

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1,2,3

Respectfully Sheweth,

The Respondents humbly submits as under:

PRELIMINARY OBJECTIONS:

- i. That the appeal is badly time barred.
- ii. That the appellant has got no locus-standi to file the instant appeal.
- iii. That the appellant has not come to this tribunal with clean hands.
- iv. That the appeal is not maintainable in the present form and also in the present circumstances.
- v. That the appellant has filed the instant appeal just to pressurize the respondents.
- vi. That the appeal is against the facts, rules and laws.
- vii. That the appellant is precluded and estopped from filing the instant appeal due to his own conduct.
- viii. That the appellant has concealed some material facts from this Hon'ble Tribunal. That the appellant has submitted fabricated documents / attendance register, because he was Chowkidar in the said school. forcibly entered attendance on behalf of himself and her sister Mst Balqeess, while appellant is problematic and rude to officials and even to officers. In this respect most of the time oral complaints were made before authority and the SDEO (F) circle concerned submitted report mentioned in removal order about the absence, misconduct and rude behaviour of appellant. (Copy of report of SDEO (F) is Annexure-A)
- ix. That it is submitted before Hon'ble Tribunal that the both appellant and his sister are habitual absentee and as member of local political influential family they didn't bother to perform their duties and on asking appellant

about his and her sister's absence from school he misbehaved with officers. even with the then respondent No.3 and threatened the respondent No.3 for asking about absence from duty and marking false attendance in register. It is pertinent to mention here that the appellant forcibly entered his and his sister's false attendance in the register.

- x. It is sadly to admit that if the appointment order of appellant and his other brother and sister are considered the appellant and his sister are appointed on the said school being land owners. So being land owners, they are all in all, habitually absentees and no one could dare to ask about their absence, misbehaviour or misconduct. The competent authority, the then D.E.O (F) Lakki Marwat, rightly removed the appellant on his absence and misconduct.

FACTS:

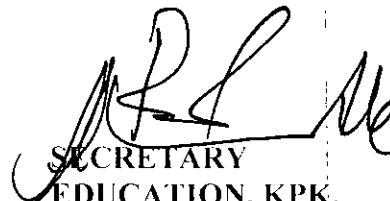
1. Para No-1. It is submitted that the appellant along-with his sister Mst Balqees bibi were appointed on the said School.
2. That Para No-2 is incorrect. Hence completely denied. The appellant was chowkidar of the said School, who being land owner forcibly marked attendance in attendance register. The whole attendance is fake and fabricated by the appellant. The appellant is habitual absentee and is of rude behaviour.
3. That Para No-3 is also incorrect. The appellant was habitual absentee and guilty of misconduct and found absent from duty.
4. Para No.4 is incorrect. Because appellant and his sister are land owners and the appellant considered himself all in all. The school was closed on the surprised visit by the respondent No.3 / the then DEO (F) Lakki Marwat, moreover the SDEO(F) circle concerned has already complained through Report No. 857/SDEOF/LM dated: 13-11-2020 about the appellant and his sister's absence and misconduct etc. therefore the competent authority has rightly removed appellant from service due to non-performance of duty and misconduct. No political influence or interference is involved in appellant's removal from service.
5. Para No.5. It is submitted that the appellant was rightly removed from service due to his absence from duty and misconduct, therefore the case was declared unfit for consideration.
6. The present appeal is filed just to pressurize the department, therefore liable to be dismissed on the following grounds interalia...


GROUNDS:


- A. That Para No. A is incorrect. The competent authority found the appellant guilty of absence from service, misconduct and misbehavior. therefore appellant is rightly removed from service.
- B. Para No. B is incorrect. It is respectfully submitted that the competent authority herself and on the report of SDEOF circle concerned found the school closed and appellant absent from duty, therefore, there was no need of inquiry about the matter. It is pertinent to mention here that the appellant's sister was caller on the same school and was also removed from service due to illegally closure of school and absence from duty. (Copy of removal order of appellant's sister is Annexure-B)
- C. Para No. C is incorrect. The appellant was habitual absentee and was also guilty of misconduct and was also involved in giving verbal threats to the then DEO (F) Lakki Marwat.
- D. Para No.D. It is submitted before this Hon'ble Tribunal, that the appellant is not entitled to any leniency due to his own misconduct and long absence from duty.
- E. Para No.E. That the respondents may be allowed to raise / advance additional ground at the time of arguments.

It is therefore most humbly prayed that this Hon'ble Tribunal may very graciously be pleased to dismiss the instant appeal with cost.

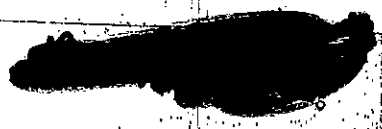
Dated: /11/2021


**SECRETARY
 EDUCATION, KPK,
 PESHAWAR
 RESPONDENTS NO.1**


**DIRECTOR E&S
 EDUCATION, KPK,
 PESHAWAR
 RESPONDENTS NO.2**


**DISTRICT
 EDUCATION OFFICER (F)
 LAKKI MARWAT.
 RESPONDENT NO.3**

Annex (B)



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) LAKKI MARWAT
OFFICE ORDER:-

WHEREAS Mst. Balqis Caller GGCMS Masha Mansoor Lakki Marwat was proceeded under the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011.

AND WHEREAS During the course of surprise visit of GGCMS Masha Mansoor, paid by the District Education Officer (F) Lakki Marwat, accompanied with SDEO (F) Lakki Marwat the school was found closed.

AND WHEREAS the caller concerned was also found absent from school duty, which is against the rules and regulations, as she is responsible to look after the property of school building.

AND WHEREAS as per report of SDEO (F) Lakki Marwat vide No. 857/SDEOF/LM dated 13-11-2020 the concerned caller is habitually absent from school duty and lives in Peshawar.

NOW, THEREFORE, in exercise of the power conferred to the undersigned under Rule, 4-b (III) of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules 2011, the competent authority (DEO Female Lakki Marwat) after having considered the charges and evidence on record, is pleased to impose Major penalty of **(Removal from Service)** upon **Mst. Balqis caller GGCMS Masha Mansoor** Lakki Marwat in the interest of public service with immediate effect.

(Sabra Parveen)
District Education Officer
(Female) Lakki Marwat

Dated: 31/12/2020.

Endst: No. 5079-84

- Copy forwarded to the:-
1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
 2. District Accounts Officer Lakki Marwat.
 3. District Monitoring Officer Lakki Marwat.
 4. SDEO (F) Lakki Marwat.
 5. Mst. Balqis caller GGCMS Masha Mansoor Lakki Marwat
 6. Master file.

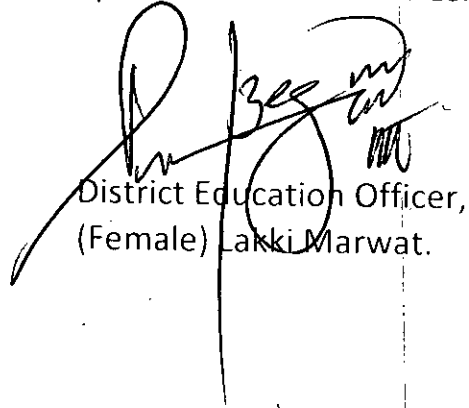
District Education Officer
(Female) Lakki Marwat

B. J. Khan
Attested to by true copy

8

AUTHORITY

Mr. Muhammad Nazir Khan Litigation Officer office of the District Education Officer (Female) Lakki Marwat is hereby authorized to submit the para wise reply in service appeal No.4761/2021 Mr. Farhadullah VS Govt: of PKP in the Honourable Service Tribunal Khyber Pakhtunkhwa Peshawar.



District Education Officer,
(Female) Lakki Marwat.

1196

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 4761/2021

Farhad Ullah

Versus

Govt. of KPK and others



SCANNED
KPST
Peshawar

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:-

REPLY ON PRELIMINARY OBJECTIONS:-

1. That the appeal is well within time, hence, para is misconceived because the impugned order has been issued on 30/12/2020; appellant submitted departmental appeal on 06/01/2021 and submitted the instant appeal well within time.
2. That the appellant being aggrieved from the impugned order, hence, hence, appellant has got clear locus standi and para is misconceived.
3. That the answering respondent has not explained that how the appellant has come to this Honourable tribunal with unclean hands, hence, this para is denied.
4. That the appellant has been removed from service a stroke of pen, hence, the appellant being aggrieved, therefore, the appeal is maintainable in its present form and attending circumstances, this para is denied.
5. Para is denied. the answering respondents has not explained that how the appellant is pressurizing the answering respondents
6. That the answering respondents have not explained that how the instant appeal is against facts, rules and laws. Hence, this para is totally denied.
7. That the answering respondents have not explained that how the appellant had been estopped from filing the instant appeal due

Handwritten signature/initials

to his own conduct, hence, against facts, rules and laws. Hence, this para is totally denied.

8. That para#8 is totally denied. The appellant never concealed the material facts from this Honourable Tribunal. The stance of the answering respondents that the appellant submitted fabricated documents/attendance register because the said register is not in the custody of appellant. Moreover, the appellant is not problematic employee because no complaints are available on the record against the appellant, furthermore, the alleged report is fabricated and manipulated one because the said report had not been served upon the appellant by the answering respondents. Hence, this para is totally misconceived by counter affidavit.
9. Para#9 is totally denied. The appellant never absented himself and always remained on duty. The stance of the answering respondents of misbehaving, threatening and forcibly entering in attendance in attendance register is squarely baseless and is without legal footings because the answering respondents never reported the matter in any competent forum. Hence, this para is mis-formulated.
10. Para#10 is incorrect and misconceived, hence, denied. the stance of the answering respondent in respect of appointment on the basis of Land Donors is totally denied because as evident from the appointment order that has been made on merit and not on the basis of Land Donors. Hence, this para is denied.

OBJECTIONS ON FACTS:-

- 1) Admitted by the respondents, hence, needs no reply.
- 2) Para#2 is squarely denied. Detail reply is given in supra paras. The appellant never remained absented from duty.
- 3) Para#2 is squarely denied. Detail reply is given in supra paras. The appellant never remained absented from duty.

- 4) Incorrect and misconceived. The appellant replied in detail in the supra paras. Moreover, the appellant always remained on duty. The appellant has been made an escape goat due to pressure of political figures.
- 5) Para#5 is incorrect and misconceived. The appellant was removed from services illegally with one stroke of pen, although the appellant always remained on duty, hence, this para is denied.
- 6) Incorrect and misconceived. The appellant replicate para of the appeal.

OBJECTION ON GROUNDS:

- A. Incorrect and misconceived, hence, denied. The appellant was on duty despite the fact that in those days COVID-19 was its peak and the educational institution were closed due to SOPs. Hence, the appellant was illegally removed.
- B. Para#B is misconceived the appellant being regular subordinate employee of the answering respondents, hence, as per admission of the answering respondents that no inquiry was conducted, hence, the impugned order has been passed against the principles of law, service policy, service rules and this sole ground is sufficient to accept the appeal of appellant.
- C. Para C is denied and detail answer is given in supra paras and para of the main appeal is replicate.
- D. That para#D is incorrect.
- E. Para#E is incorrect. The appellant be allowed to raise additional grounds during the course of arguments.

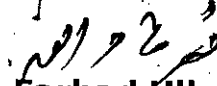
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It is therefore, humbly prayed that appeal of the appellant may kindly be accepted as prayed for in the head note of the main appeal.

Any other relief deems appropriate may please be given to the appellant.

Dated: 05/9/2022

Yours Humble Appellant



Farhad Ullah

Through Counsel



Sheikh Iftikhar ul Haq

Advocate Supreme Court

BEFORE THE HONOURABLE SEREVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 4761/2021

Farhad Ullah

Versus

Govt. of KPK and others

REJOINDER ON BEHALF OF APPELLANT

AFFIDAVIT

I, **Farhad Ullah**, the appellant, 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 deliberately concealed from this Honourble Court.

Dated: 05/9 /2022

Farhad Ullah

Farhad Ullah

DEPONENT



Identified by:

Muhammad
05/9
2022

Sheikh Iftikhar ul Haq

Sheikh Iftikhar ul Haq
Advocate Supreme Court