

13.04.2022

Nemo for the petitioner.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Muhammad Faizan S.O (Litigation) for the respondents present.

Representative of the respondents submitted implementation report which is placed on file. Notice be issued to petitioner and his counsel for 04.07.2022 before S.B.



(Rozina Rehman)  
Member (J)

4<sup>th</sup> July, 2022

Learned Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Naseer Ud Din, Assistant for respondents present.

Representative of the respondents submitted copy of order No. SO(SM) E&SED/4-14/2018/Mr Hiayat Ullah dated 22.02.2022 whereby in compliance of the judgment of the Tribunal, the respondents restored "two annual increments for two years" w.e.f 22.05.2019 subject to the outcome of the CPLA in the august Supreme Court of Pakistan. Since the order of the Tribunal has been complied with, therefore, the instant execution petition is disposed off in the above terms. Consign.

*Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 04<sup>th</sup> day of July, 2022.*



(Kalim Arshad Khan)  
Chairman

EP 108/2021

05.01.2022

Muhammad Tariq, son of the petitioner and Mr. Kabirullah Khattak, Addl. AG alongwith Syed Nasirud Din, Assistant for the respondents present.


Representative of the respondents stated that the they have filed CPLA before the August Supreme Court of Pakistan against the judgment of this Tribunal, but no suspension order has been granted till date. The respondents are directed to implement the judgment conditionally subject to outcome of CPLA by the August Supreme Court of Pakistan, failing which coercive measure will be taken against them. Case to come on 17.02.2022 for implementation report before the S.B



(Rozina Rehman)  
Member (J)

17.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 13.04.2022 for the same as before.



Reader



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT**

Dated Peshawar the February 22, 2022

**NOTIFICATION**

**NO.SO(SM)E&SED/4-14/2018/ Mr Hidayat Ullah : WHEREAS** Mr. Hidayat Ullah, Ex-Principal (BPS-19) GHSS Battara District Buner was proceeded under Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.

2. **AND WHEREAS** the Competent Authority (Chief Minister Khyber Pakhtunkhwa) had imposed minor penalty of **"Withholding of two annual increments for two years"** upon Mr. Hidayat Ullah, Ex-Principal (BPS-19) GHSS Battara District Buner vide this Department Notification NO. SO(SM)/E&SED/4-14/2018/ Hidayatullah Add Dir DCTE dated 22.05.2019.

2. **AND WHEREAS** he filed a service appeal No. 1155/2019 before the Service Tribunal Khyber Pakhtunkhwa Peshawar.

3. **AND WHEREAS** he filed an implementation/COC No. 108/2021 in service appeal No. 1155/2019 before the Khyber Pakhtunkhwa Service Tribunal. The Service Tribunal vide its order dated 05.01.2022, has directed to implement the judgment conditionally subject to the outcome of CPLA.

4. **NOW, THEREFORE**, In exercise of the powers conferred under section-4 (1) (a) of the Khyber Pakhtunkhwa Govt. Servants (Appointment, Promotion & Transfer) Rules 1989, the Competent Authority (Chief Minister Khyber Pakhtunkhwa) is pleased to restore **"two annual increments for two years"** w.e.f 22.05.2019, subject to the outcome of CPLA in the Supreme Court of Pakistan.

**SECRETARY TO GOVT OF KHYBER AKHTUNKHWA  
E&SE DEPARTMENT**

**Endst: of even No. & Date**

Copy forwarded to the:

- 1- Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
- 2- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 3- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 4- District Education Officer (Male), Buner
- 5- District Accounts Officer, Buner.
- 6- PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 7- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 8- Mr. Mr. Hidayat Ullah, Ex-Principal (BPS-19) GHSS Battara District Buner
- 9- Section Officer (Lit-II), E&SE Department, Khyber Pakhtunkhwa
- 10- Office order file.

EDM  
22-2-2022

22/2

(SYEDA ZAINAB NAQVI)  
SECTION OFFICER (SCHOOLS MALE)

22-02-2022

16.08.2021

Son of the petitioner present and seeks time to produce counsel on next date. Mr. Kabirullah Khattak, Addl. AG also seeks time to contact the respondents.

Learned AAG is required to contact the respondents and submit implementation report on 18.10.2021 before S.B.

  
Chairman

18.10.2021

Nemo for the petitioner and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Learned AAG seeks adjournment in order to contact the respondents. Notice shall also be issued to the petitioner for the next date. To come up for implementation report on 17.11.2021 before S.B.

  
Chairman

17.11.2021

Petitioner in person present. Mr. Kabirullah, Addl: AG for respondents present.

Implementation report not submitted. Learned AAG seeks further time to contact the respondents for submission of implementation report on the next date. Granted but as a last chance. To come up for implementation report on 05.01.2022 before S.B.

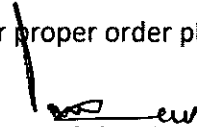

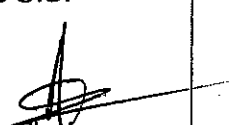
  
(Mian Muhammad)

Member(E)

FORM OF ORDER SHEET

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

Execution Petition No. 108 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02.06.2021	<p>The Execution Petition submitted by Mr. Hidayat Ullah through Mr. Mushtaq Ahmad Khan Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	25.06.2021	<p>This Execution Petition be put up before S. Bench on <u>25/06/21</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsel for the petitioner present.</p> <p>Notice be issued to the respondents. To come up for implementation report on 16.08.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p>

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

Implementation/COC No...../2021

in service appeal No 1155 of 2019

Hidayatullah s/o Inayatullah presently serving as principle GHSS  
Batara tehsile Daggar district Buner

.....petitioner

Vs

Director E & SE Khyber Pukhtoonkhwa at Peshawar and others


.....respondents

Index

S.NO	Description of Documents	Annexure	Pages
1	Implementation petition/COC		1-3
2	Addresses of parties		4
3	Affidavit		5
4	Service appeal	A	6-9
5	Judgment/order dated 3.3.2021	B	10-15
6	Application for implementation to respondent.	C	16
7	Wakalat nama		17

  
Petitioners

through

  
Mushtaq Ahmad Khan  
Advocate

Office at district court  
Buner.

Cell no 03469014199

1

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

Implementation/COC No. 108...../2021

in service appeal No 1155 of 2019

Hidayatullah s/o Inayatullah presently serving as principle  
GHSS Batara tehsile Daggar district Buner

.....petitioner

Vs

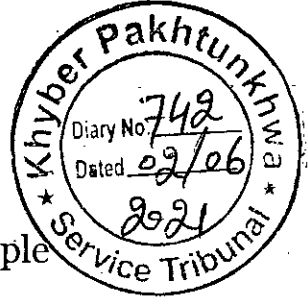
1. Director E & SE khyber pukhtoonkhwa at Peshawar.
2. Secretary E & SE khyber pukhtoonkhwa at Peshawar.
3. Chief Minister Khyber pukhtoon khwa at Peshawar
4. Govt of K.P.K through secretary E & SE Khyber  
pukhtoonkhwa at Peshawar

.....Respondents

**PETITION FOR IMPLEMENTATION OF ORDER AND  
JUDGMENT DATED 3/3/2021 PASSED BY THIS  
WORTHY TRIBUNAL IN APPEAL NO 1155 OF 2019  
READ AND ALONG WITH SECTIONS 3.4 OF THE  
CONTEMPT OF COURT ACT FOR INITIATION OF  
CONTEMPT PROCEEDINGS AGAINST THE  
RESPONDENTS FOR NOT HONORING THE  
JUDGMENT/ORDER IBID.**

**Respectfully sheweth:**

1. That the captioned service appeal was decided by this honorable tribunal in favor of the petitioner and the minor penalty of withholding of two annual increments for two years imposed by respondents was quashed. ( appeal no 1155 of 2019 and judgment/order dated 3.3.2021 attached as annexure A and B ).



2

2. That after the aforesaid Judgment the petitioners several time visited the office of the respondents for the implementation of the judgment/order of this honorable tribunal but no proper heed was paid to the request of the petitioners.**(applications for implementation of the judgment/order dated 3/3/2021 attached as annexure C).**
3. That the respondents are willfully disobeying the order/judgment of this honorable tribunal and despite the passage of about 3 months they have not implemented the aforesaid order which amounts to contempt of court and the respondents needs to be prosecuted under the contempt laws.
4. That the respondents are constitutionally bound to give respect to and implement the judgments'/orders of this worthy tribunal and their refusal in this regard to expunge and set aside the penalty from the service record of the petitioner is unlawful and contemptuous.
5. That the petitioner seeks the permission of this honorable tribunal to rely on additional ground at the time of arguments.

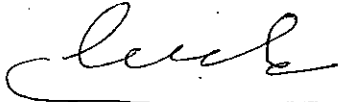
It is therefore kindly prayed that on acceptance of this petition the judgment and order dated 3/3/2021 of this worthy tribunal may kindly be implemented in its letter and



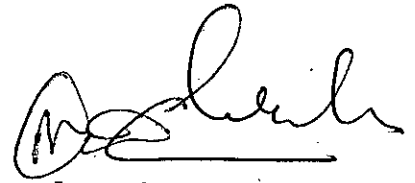
3

spirit and contempt of court proceedings be initiated against the respondents.

Dated: 27.5.2021

  
petitioners

Through



Mushtaq Ahmad Khan

Advocate

Office at District Court

Daggar Buner

Cell no 03469014199

**Certificate:**

As per instruction of my client it is certified that no such like Implementation/COC application have earlier been filled in the matter.

  
Advocate

**List of books:**

1. Civil Procedure Code.
2. Any other law book as per need.

  
Advocate

(4)

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

Implementation/COC No...../2021

in service appeal No 1155 of 2019

Hidayatullah s/o Inayatullah presently serving as principle GHSS  
Batara tehsile Daggar district Buner

.....petitioner

Vs

Director E & SE Khyber Pukhtoonkhwa at Peshawar and others

.....respondents

**Addresses of parties:**

**Addresses of petitioner:**


Hidayatullah s/o Inayatullah presently serving as principle GHSS  
Batara tehsile Daggar district Buner .Mob No 03449671623.

**Addresses of the respondents**

1. Director E & SE khyber pukhtoonkhwa at Peshawar.
2. Secretary E & SE khyber pukhtoonkhwa at Peshawar.
3. Chief Minister Khyber pukhtoon khwa at peshawar
4. Govt of K.P.K through secretary E & SE Khyber  
pukhtoonkhwa at Peshawar.

  
Petitioners

through

  
Mushtaq Ahmad Khan  
Advocate

Office at district court  
Buner.

5

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

Implementation/COC No...../2021

in service appeal No 1155 of 2019

Hidayatullah s/o Inayatullah presently serving as principle GHSS  
Batara tehsile Daggar district Buner

.....petitioner

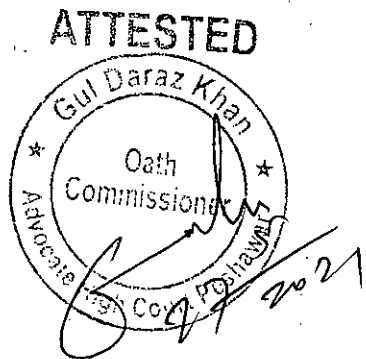
Vs

Director E & SE Khyber Pukhtoonkhwa at Peshawar and others

.....respondents

**Affidavit**

I, Hidayatullah petitioner, do hereby solemnly affirm and declare on oath that the contents of the instant c.o.c is correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.



Deponent.....

**Hidayatullah**

(6) - Annex B -

Before the service tribunal khyber pukhtoonkhwa Peshawar .

Service appeal No.....2019

1. Hidayatullah s/o Inayatullah presently serving as principle GHSS Batara tehsile Daggar district Buner .....Appellant

vs

1. Director E & SE khyber pukhtoonkhwa at Peshawar.
2. Secretary E & SE khyber pukhtoonkhwa at Peshawar.
3. Chief Minister Khyber pukhtoon khwa at peshawar
4. Govt of K.P.K through secretary E & SE Khyber pukhtoonkhwa at Peshawar.....respondents

ATTESIED

Service Appeal against the impugned appellate order dated 27/8/2019 whereby the respondent No 3 rejected the appeal of the appellant against the impugned original order dated 22/5/2019 whereby penalty of "withholding of two annual increments for two years" was imposed upon the appellant.

The appellant submits as follows:

1. That while serving as Additional director BS 19 (TPD) Director of curriculum and teacher Education Khyber pukhtunkhwa Abbottabad, the appellant, beside other duties, was also assigned the duties of chairman implementation and Monitoring committee by the director (DCTE) Abbottabad for the project in the name and style of "English language Training for primary school teachers" being launched and executed in collaboration with the British council.
2. That in connection with the afore said project a meeting was held on 21/3/2018 in the office of the director DCTE wherein the appellant was going to finalize the presentation for the steering committee of the said project when in the mean while the director DCTE namely Gohar Ali khan started undue interference and passed ridiculous remarks on the presentation of the appellant where after the appellant tried to pacify him and requested him for patient hearing for the proper understanding of the presentation but he started abusing the appellant and attacked him which resulted into a scuffle .
3. That on the same date mentioned in the preceding para, the appellant was relieved/transferred by the director DCTE from his duties and on the same date the services of the appellant was placed at the disposal of the directorate of E & SE Khyber pukhtunkhwa vide notification dated 21/3/2018 and on the same date his salary was stopped with effect from

(7) (2)

ATTESTED  
(M)

1/3/2018. in total derogation of law and rules where against the appellant filled an appeal and representation before the secretary govt of KPK and account officer Abbottabad.(notification dated 21/3/2018 , appeal and representation to secretary govt of KPK and account officer Abbottabad and document of stoppage of salary attached as anx A,A1 , A2 and A3 )

4. That the director DCTE Gohar ali khan used to nurse grudge and hatred against the appellant since his transfer and on so many occasion he translated it into action by using abusive language like the present one and due to these dismal condition the appellant had also moved an application for his premature retirement, hence on 21/3/2018 just after the unfortunate incident the appellant filled an application/complaint against the director Gohar ali khan for necessary action.(application of the appellant Dated 21/3.2018 along with receipt of TCS attached as anx B while application for shifting of DDO ship due to premature retirement, document evidencing that factum and later on application for withdrawal of the application for retirement are attached as anx B1, B2 and B3)
5. that it is astonishing that no heed was paid to the application of the appellant and conversely hasty proceedings were initiated against the appellant under the pressure and back stair influence exerted by the director DCTE where after the appellant was punished before starting of departmental proceedings in the shape of his transferring , stoppage of his salary and suspension etc.
6. That vide notification dated 18/9/2018 an inquiry committee was constituted which served the charge sheet and statement of allegation upon the appellant which was properly replied by the appellant.(notification dated 18/9/2018 along with charge sheet and statement of allegations and reply to the charge sheet attached as anx C and D)
7. That the appellant also filled another appeal in continuation of his prior appeal for ventilation of his grievances before the secretary E & SE kpk but in vain.(appeal/remainder dated 10/10/2018 along with TCS receipt attached as anx E).
8. That it is pertinent to mention here that no initial show cause notice had been provided to the appellant and during inquiry proceedings the appellant had not been provided the opportunity of cross examination of the alleged witnesses and complainant.
9. That vide impugned order dated 22/5/2019 penalty of withholding of two annual increments for two years was imposed upon the appellant without providing him the opportunity of personal hearing.(impugned order dated 22/5/2019 attached as anx F)
10. That aggrieved from the aforesaid order the appellant preferred a departmental appeal before the respondent no 3 but the same was rejected vide impugned appellate order dated 27/8/2019.hence this service

ATTESTED

88

p/o receipt and impugned appellate order dated 27/8/2019 attached as  
anx G and H).

**Grounds:**

- a. That the impugned original order dated 22/5/219 and appellate order dated 27/8/2019 are against law, rules and natural justice hence not tenable in the eye of law.
- b. That neither a show cause notice has been sent to the appellant nor he has been given opportunity of personal hearing on the impugned proposed action on which score alone the impugned order is illegal and against the golden principle of audi alterm partem.
- c. That the mandatory provisions of Khyber pukhtunkhwa Government servants (efficiency and discipline) rules 2011 have not been complied with in the proceeding against the appellant which vitiates the whole proceedings against the appellant. the appellant have not been provided the opportunity of personal hearing and cross examination of the complainant and alleged witnesses despite his written request for the same.
- d. That there is no iota of evidence against the appellant regarding the allegations that he was the aggressor. No fact finding inquiry has been constituted for determining the factom of "aggressor and aggressed upon" and the whole proceeding against the appellant are the result of malafide, ill will, bias and unilateral approach on the part of the respondents in collusion with the complainant.
- e. That on the same date i.e 21/3/2018 the appellant was relieved/transferred by the director DCTE from his duties and on the same date the services of the appellant was placed at the disposal of the directorate of E & SE Khyber pukhtunkhwa vide notification dated 21/3/2018 and on the same date his salary was stopped with effect from 1/3/2018 in total derogation of law and rules which show the malafide, illegality and unfairness of the respondents in the disposal of the issue.
- f. That a hasty and arbitrary proceedings were initiated and conducted against the appellant which is a classical example of the Maxim "justice hurried is a justice buried".

ATTESTED



g. That the appellant was neither provided the copies of the statements of the alleged witnesses, if any, nor was the copy of the inquiry proceedings provided to him.

- h. That the statement in para No 5 of the impugned order dated 22/5/2019 regarding grant of opportunity of personal hearing to the appellant by the Secretary Finance (FATA) is totally false and fabricated statement which cannot be substantiated by the respondents.
- i. That the appellant seeks the permission of this honorable court to rely on additional grounds at the time of arguments.

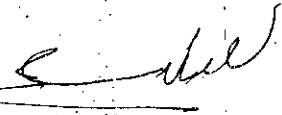
(4) (9)

**Prayer:**


It is therefore kindly requested that the appeal of the appellant may kindly be accepted by setting aside the impugned appellate order dated 27/8/2019 and the impugned original order dated 22/5/2019 and the actions and inaction of the respondent pertaining to transfer of the appellant as OSD, stoppage of his salary for about 10 months on the same date of alleged occurrence may kindly be declared as a punishment before trail hence malafide.

Any other relief not specifically prayed for and which this worthy tribunal deem fit and appropriate in the facts and circumstances of the instant case may also kindly be granted for the end of justice.

Dated: 2/9/2019



Appellant

Through 

Mushtaq Ahmad Khan Alizai

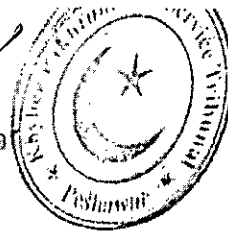
Advocate, office district court

Buner. cell No 03469014199.

**ATTESTED**



10 Anne B



Before the service tribunal khyber pukhtoonkhwa Peshawar

Service appeal No. 1155/2019

1. Hidayatullah s/o Inayatullah presently serving as principle GHSS Batara tehsile Dargar district Buner ..... Appellant

vs

Khyber Pakhtunkhwa Service Tribunal

Case No. 1261

Dated 17-9-2019

- 1. Director E & SE khyber pukhtoonkhwa at Peshawar.
- 2. Secretary E & SE khyber pukhtoonkhwa at Peshawar.
- 3. Chief Minister Khyber pukhtoon khwa at peshawar
- 4. Govt of K.P.K through secretary E & SE Khyber pukhtoonkhwa at Peshawar..... respondents

Service Appeal against the impugned appellate order dated 27/8/2019 whereby the respondent No. 3 rejected the appeal of the appellant against the impugned original order dated 22/5/2019 whereby penalty of "withholding of two annual increments for two years" was imposed upon the appellant.

The appellant submits as follows:

- 1. That while serving as Additional director BS 19 (TPD) Director of curriculum and teacher Education Khyber pukhtunkhwa Abbottabad, the appellant, beside other duties, was also assigned the duties of chairman implementation and Monitoring committee by the director (DCTE) Abbottabad for the project in the name of "English language Training for primary school teachers" being launched and executed in collaboration with the British council.
- 2. That in connection with the afore said project a meeting was held on 21/3/2018 in the office of the director DCTE wherein the appellant was going to finalize the presentation for the steering committee of the said project when in the mean while the director DCTE namely Gohar Ali khan started undue interference and passed ridiculous remarks on the presentation of the appellant where after the appellant tried to pacify him and requested him for patient hearing for the proper understanding of the presentation but he started abusing the appellant and attacked him which resulted into a scuffle.
- 3. That on the same date mentioned in the preceding para, the appellant was relieved/transferred by the director DCTE from his duties and on the same date the services of the appellant was placed at the disposal of the directorate of E & SE Khyber pukhtunkhwa vide notification dated 21/3/2018 and on the same date his salary was stopped with effect from

ed-to-day  
19/18  
registrar

TESTED

19/18  
REGISTRAR  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

ATTESTED

M



11



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT SWAT.

Service Appeal No.1155/2019

Date of Institution ... 17.09.2019

Date of Decision ... 03.03.2021

Hidayat Ullah S/o Inayat Ullah, presently serving as Principal GHSS Batara Tehsil Daggar, District Buner. ... (Appellant)

VERSUS

The Director Elementary and Secondary Education, Khyber Pakhtunkhwa Peshawar and three others. ... (Respondents)

MR. MUSHTAQ AHMAD KHAN ALIZAI,  
Advocate

For appellant.

MR. M. RIAZ KHAN PAINDAKHEL  
Assistant Advocate General

For respondents

MIAN MUHAMMAD  
ROZINA REHMAN

MEMBER(Executive)  
MEMBER(Judicial)

JUDGEMENT

MIAN MUHAMMAD, MEMBER:- The appellant has come to the Service Tribunal against impugned order dated 22.05.2019 and impugned appellate order dated 27.08.2019. The same have been assailed in the service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

**ATTESTED**

*[Signature]*  
Secretary  
Khyber Pakhtunkhwa Service Tribunal  
Camp Court, Swat

FACTS.

Brief facts of the case are that while the appellant was posted as Additional Director (BS-19) (TPD) in the Directorate of Curriculum and Teachers Education (DCTE), Abbottabad an unpleasant episode of scuffle between the appellant and Director took place on 21.03.2018 when a power point presentation was being finalized for steering committee of the project "English Language Training for

**ATTESTED**

*[Signature]*

Primary School Teachers. The appellant was directed on the same date i.e. 21.02.2018 to report to the Directorate of Elementary and Secondary Education Peshawar. He was issued charge sheet statement of allegations and an enquiry committee constituted on 18.09.2018 for the purpose of conducting formal enquiry against the appellant. Consequent upon submission of the enquiry report dated 02.11.2018, the competent authority issued the impugned order dated 22.05.2019, whereunder the minor penalty of "withholding of two annual increments for two years" was awarded to the appellant. The appellant preferred Review petition under rule 17 (1) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 which was rejected and communicated to the appellant on 27.08.2019 hence the present service appeal submitted in Service Tribunal on 17.09.2019.

03. We have heard arguments of the parties and gone through the case file with the assistance of learned counsels for the parties thoroughly and in details.

ARGUMENTS.

04. Learned counsel for the appellant at the outset of addressing his arguments contended that the ends of justice have not been met and the appellant has been discriminated on the ground that the co-accused (Director, DCTE) was not charge sheeted because the scuffle and unpleasant event had taken place between them. But only the appellant has been targeted and subjected to disciplinary proceedings whereas the other party i.e Director, DCTE has been set free without putting him under disciplinary proceedings for the principles of justice, equity and fair play. He while referring to the conclusion of the report of enquiry committee argued that a departmental enquiry was not initiated for the purpose of fixing responsibility and the formal enquiry was initiated against the appellant in an impulsive and hasty

*[Handwritten signature]*

**ATTESTED**  
*[Signature]*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**ATTESTED**  
*[Signature]*

13

manner. Moreover, statement of the witnesses were not recorded or provided to the appellant with enquiry report. It was vehemently contended that no opportunity of cross examination has been provided to the appellant as well as no opportunity of personal hearing afforded by the competent authority before passing the impugned order irrespective of the fact that it has been claimed in the impugned order dated 22.05.2019. In support of his arguments, he drew strength from and relied on 1984 PC (CS) 560, 1999, PLC (CS) 1332, 2005 PLC (CS) 256, 2005 SCMR 1814, 2006 PLC (CS) 1352 and 2009 PLC (CS) 280.

*[Handwritten signature]*

05. Learned Assistant Advocate General on the other hand contradicted plea of learned counsel for the appellant and argued that the appellant has been a patient of hypertension and this has been the cause for incident took place on 21.03.2018. The fact has been admitted by the appellant in his recorded statement. He rebutted objection of learned counsel for the appellant that statement of the witnesses have not been recorded or at least not provided to the appellant. He categorically stated that statements of the relevant witnesses have been recorded and the same is part of the enquiry report. He contended that opportunity of personal hearing has been provided to the appellant and the impugned orders passed after fulfillment of all codal formalities according to the law and rules applicable to the appellant. The appeal is therefore without merits, may be dismissed.

**ATTESTED**  
*[Handwritten signature]*  
NUMBER 06.  
Dharmacharya  
Pattinson

CONCLUSION.

06. It is evident that an unpleasant incident took place on 21.03.2018 between the appellant and his Director (DCTE) and the department was required to have conducted an initial departmental/fact finding enquiry to have determined and fixed responsibility on the delinquent official where-after a formal enquiry under the

**ATTESTED**

*[Handwritten signature]*

14

Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 would have been initiated. In the absence of such fact finding enquiry, the charge framed against the appellant was "you have abused and attacked the Director DCTE in an official matter and have violated the official decorum" which seems one sided on the ground that only the appellant was grilled and subjected to disciplinary proceedings. It was incumbent upon the respondent-department to have proceeded against both the officials by issuing them charge sheet/statement of allegations.

07. On submission of the enquiry report by the enquiry committee, show cause notice was required to have been issued to the appellant under Rule-14(4) of the Khyber Pakhtunkhwa Governments Servants (Efficiency and Discipline) Rules 2011 and opportunity of personal hearing was required to have been given to the appellant by the competent authority but it does not seem to have taken place as is evident from the letter of respondent No.2 (Secretary, Elementary and Secondary Education) dated 20.02.2019. Under the said letter, a show cause notice was communicated to the appellant whereas in the impugned order dated 22.05.2019 it is mentioned that "personal hearing granted to him by the Secretary Finance (FATA) on behalf of the Chief Minister, Khyber Pakhtunkhwa on 04.10.2018". This illegality on part of respondents is manifested from the report of enquiry committee which held its proceedings on 04.10.2018 and 08.10.2018 and the impression has been given that the opportunity of personal hearing was afforded to the appellant on behalf of the Chief Minister, Khyber Pakhtunkhwa being competent authority but actually it was at the stage of enquiry proceedings when the appellant and other eye witnesses were examined and heard by the enquiry

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Khyber Pakhtunkhwa  
Tribunal  
Rawalpindi

committee. An opportunity of personal hearing was therefore mandatory to have been afforded to the appellant subsequent to show cause notice under Rule-14(4) of

**ATTESTED**

*[Handwritten signature]*



(16)

Annex 'C'

محرمیت جناب ڈائریکٹر ریسٹریٹری ایڈ مسیٹر ڈی آر گویشہ چیئر مین مینجمنٹ

درخواست نمبر ۱۱ عمل درآمد فیصلہ مورخہ 3-3-2021  
فیصلہ مینجمنٹ سروس ٹریڈ یونیورسٹی شاور

جناب عالی! درخواست صوبہ ذیل ہے

۱۔ یہ کہ مسائل اب صاحبان کی طرف سے مسائل کا 2 سال  
انٹرنیٹ رولز کی سزا کو بحسنور سروس ٹریڈ یونیورسٹی  
جسٹس کیا تھا چونکہ مسائل کا حق میں مورخہ 2-3-3 کو  
فیصلہ سزا ہے۔ (فیصلہ لوف ہے)

2۔ یہ کہ مسائل کے سروس ڈیکارڈ سے مذکورہ سزا اخصاف  
وقف کرنا انتہائی ضروری ہے کیونکہ مسائل کا ایسا صماز  
عدالت نے ضم ہے۔

کیذا اس سزا یہ کہ مسائل کا درخواست  
کہ صرف سروس ڈیکارڈ  
سے سزا مذکورہ ختم و حفظ کیا گیا

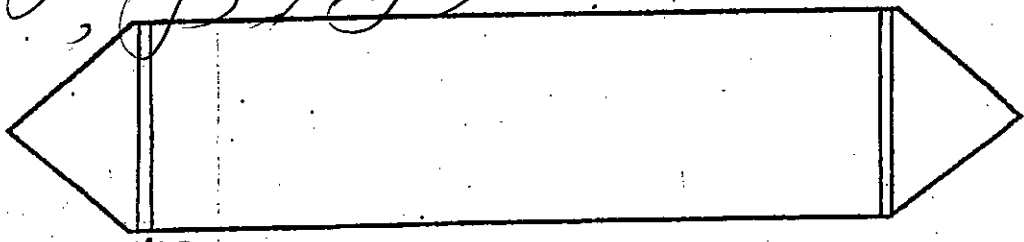
ATTESTED

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ایچ نالہ زمان بدیت اللہ ولد قناہ اللہ  
سر جسٹس GHSS بنارہ برسر

مورخہ 7-3-2021

بعد الت جناب سرور سٹریٹس سٹیٹس ورکی



2 مخانب  
بنام

موزخه  
مقدمه  
دعوی  
جرم

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ  
سَمِعْنَا وَنُؤِیْدُ

باعث تحریر آئنگہ

آن مقام سٹارڈ کیلئے مستحق اور جان متعلقہ مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک دروپہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہر جاند التوائے مقدمہ کے سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

20

ATTESTED

کے لئے منظور ہے۔

attested and accepted

بمقام

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

Implementation/COC No. <sup>108</sup>...../2021

in service appeal No 1155 of 2019

Hidayatullah s/o Inayatullah presently serving as principle GHSS  
Batara tehsile Daggar district Buner

.....petitioner

Vs

Director E & SE Khyber Pukhtoonkhwa at Peshawar and others


.....respondents

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5	Judgment/order dated 3.3.2021	B	10-15
6	Application for implementation to respondent.	C	16
7	Wakalat nama		17

  
Petitioners

through

  
Mushtaq Ahmad Khan  
Advocate

Office at district court  
Buner.

Cell no 03469014199



1

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

Implementation/COC No...../2021

in service appeal No 1155 of 2019

Hidayatullah s/o Inayatullah presently serving as principle  
GHSS Batara tehsile Daggar district Buner

.....petitioner

Vs

1. Director E & SE khyber pukhtoonkhwa at Peshawar.
2. Secretary E & SE khyber pukhtoonkhwa at Peshawar.
3. Chief Minister Khyber pukhtoon khwa at Peshawar
4. Govt of K.P.K through secretary E & SE Khyber  
pukhtoonkhwa at Peshawar

.....Respondents

**PETITION FOR IMPLEMENTATION OF ORDER AND**  
**JUDGMENT DATED 3/3/2021 PASSED BY THIS**  
**WORTHY TRIBUNAL IN APPEAL NO 1155 OF 2019**  
**READ AND ALONG WITH SECTIONS 3.4 OF THE**  
**CONTEMPT OF COURT ACT FOR INITIATION OF**  
**CONTEMPT PROCEEDINGS AGAINST THE**  
**RESPONDENTS FOR NOT HONORING THE**  
**JUDGMENT/ORDER IBID.**

**Respectfully sheweth:**

1. That the captioned service appeal was decided by this honorable tribunal in favor of the petitioner and the minor penalty of withholding of two annual increments for two years imposed by respondents was quashed.( appeal no 1155 of 2019 and judgment/order dated 3.3.2021 attached as annexure A and B ).

2

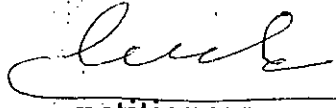
2. That after the aforesaid Judgment the petitioners several time visited the office of the respondents for the implementation of the judgment/order of this honorable tribunal but no proper heed was paid to the request of the petitioners.**(applications for implementation of the judgment/order dated 3/3/2021 attached as annexure C).**
3. That the respondents are willfully disobeying the order/judgment of this honorable tribunal and despite the passage of about 3 months they have not implemented the aforesaid order which amounts to contempt of court and the respondents needs to be prosecuted under the contempt laws.
4. That the respondents are constitutionally bound to give respect to and implement the judgments'/orders of this worthy tribunal and their refusal in this regard to expunge and set aside the penalty from the service record of the petitioner is unlawful and contemptuous.
5. That the petitioner seeks the permission of this honorable tribunal to rely on additional ground at the time of arguments.

It is therefore kindly prayed that on acceptance of this petition the judgment and order dated 3/3/2021 of this worthy tribunal may kindly be implemented in its letter and

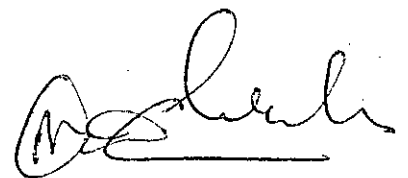
3

spirit and contempt of court proceedings be initiated against the respondents.

Dated: 27.5.2021

  
petitioners

Through



Mushtaq Ahmad Khan  
Advocate  
Office at District Court  
Daggar Buner  
Cell no 03469014199

**Certificate:**

As per instruction of my client it is certified that no such like Implementation/COC application have earlier been filled in the matter.

  
Advocate

**List of books:**

1. Civil Procedure Code.
2. Any other law book as per need.

  
Advocate

4

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

Implementation/COC No...../2021

in service appeal No 1155 of 2019

Hidayatullah s/o Inayatullah presently serving as principle GHSS  
Batara tehsile Daggar district Buner

.....petitioner

Vs

Director E & SE Khyber Pukhtoonkhwa at Peshawar and others

.....respondents

**Addresses of parties:**

**Addresses of petitioner:**

Hidayatullah s/o Inayatullah presently serving as principle GHSS  
Batara tehsile Daggar district Buner .Mob No 03449671623.

**Addresses of the respondents**

1. Director E & SE khyber pukhtoonkhwa at Peshawar.
2. Secretary E & SE khyber pukhtoonkhwa at Peshawar.
3. Chief Minister Khyber pukhtoon khwa at peshawar
4. Govt of K.P.K through secretary E & SE Khyber  
pukhtoonkhwa at Peshawar.

  
Petitioners

through

  
Mushtaq Ahmad Khan  
Advocate

Office at district court  
Buner.

5

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

Implementation/COC No...../2021

in service appeal No 1155 of 2019

Hidayatullah s/o Inayatullah presently serving as principle GHSS  
Batara tehsile Daggar district Buner

.....petitioner

Vs

Director E & SE Khyber Pukhtoonkhwa at Peshawar and others

.....respondents

**Affidavit**

I, Hidayatullah petitioner, do hereby solemnly affirm and declare on oath that the contents of the instant c.o.c is correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.

Deponent.....

**Hidayatullah**



⑥ - Annex B -

Before the service tribunal khyber pukhtoonkhwa Peshawar .

Service appeal No.....2019

1. Hidayatullah s/o Inayatullah presently serving as principle GHSS Batara  
tehsile Daggar district Buner .....Appellant

vs

1. Director E & SE khyber pukhtoonkhwa at Peshawar.
2. Secretary E & SE khyber pukhtoonkhwa at Peshawar.
3. Chief Minister Khyber pukhtoon khwa at peshawar
4. Govt of K.P.K through secretary E & SE Khyber pukhtoonkhwa at  
Peshawar.....respondents

Service Appeal against the impugned appellate order dated 27/8/2019 whereby the respondent No 3 rejected the appeal of the appellant against the impugned original order dated 22/5/2019 whereby penalty of "withholding of two annual increments for two years" was imposed upon the appellant.

The appellant submits as follows:

1. That while serving as Additional director BS 19 (TPD) Director of curriculum and teacher Education Khyber pukhtoonkhwa Abbottabad, the appellant, beside other duties, was also assigned the duties of chairman implementation and Monitoring committee by the director (DCTE) Abbottabad for the project in the name and style of "English language Training for primary school teachers" being launched and executed in collaboration with the British council.
2. That in connection with the afore said project a meeting was held on 21/3/2018 in the office of the director DCTE wherein the appellant was going to finalize the presentation for the steering committee of the said project when in the mean while the director DCTE namely Gohar Ali khan started undue interference and passed ridiculous remarks on the presentation of the appellant where after the appellant tried to pacify him and requested him for patient hearing for the proper understanding of the presentation but he started abusing the appellant and attacked him which resulted into a scuffle .
3. That on the same date mentioned in the preceding para, the appellant was relieved/transferred by the director DCTE from his duties and on the same date the services of the appellant was placed at the disposal of the directorate of E & SE Khyber pukhtoonkhwa vide notification dated 21/3/2018 and on the same date his salary was stopped with effect from

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- 1/3/2018 in total derogation of law and rules where against the appellant filled an appeal and representation before the secretary govt of KPK and account officer Abbottabad.(notification dated 21/3/2018 , appeal and representation to secretary govt of KPK and account officer Abbottabad and document of stoppage of salary attached as anx A,A1 , A2 and A3 )
4. That the director DCTE Gohar ali khan used to nurse grudge and hatred against the appellant since his transfer and on so many occasion he translated it into action by using abusive language like the present one and due to these dismal condition the appellant had also moved an application for his premature retirement, hence on 21/3/2018 just after the unfortunate incident the appellant filled an application/complaint against the director Gohar ali khan for necessary action.(application of the appellant Dated 21/3.2018 along with receipt of TCS attached as anx B while application for shifting of DDO ship due to premature retirement, document evidencing that factum and later on application for withdrawal of the application for retirement are attached as anx B1, B2 and B3)
  5. that it is astonishing that no heed was paid to the application of the appellant and conversely hasty proceedings were initiated against the appellant under the pressure and back stair influence exerted by the director DCTE where after the appellant was punished before starting of departmental proceedings in the shape of his transferring , stoppage of his salary and suspension etc.
  6. That vide notification dated 18/9/2018 an inquiry committee was constituted which served the charge sheet and statement of allegation upon the appellant which was properly replied by the appellant.(notification dated 18/9/2018 along with charge sheet and statement of allegations and reply to the charge sheet attached as anx C and D)
  7. That the appellant also filled another appeal in continuation of his prior appeal for ventilation of his grievances before the secretary E & SE kpk but in vain.(appeal/remainder dated 10/10/2018 along with TCS receipt attached as anx E).
  8. That it is pertinent to mention here that no initial show cause notice had been provided to the appellant and during inquiry proceedings the appellant had not been provided the opportunity of cross examination of the alleged witnesses and complainant.
  9. That vide impugned order dated 22/5/2019 penalty of withholding of two annual increments for two years was imposed upon the appellant without providing him the opportunity of personal hearing.(impugned order dated 22/5/2019 attached as anx F)
  10. That aggrieved from the aforesaid order the appellant preferred a departmental appeal before the respondent no 3 but the same was rejected vide impugned appellate order dated 27/8/2019 hence this service

(38)

p/o receipt and impugned appellate order dated 27/8/2019 attached as anx G and H).

**Grounds:**

- a. That the impugned original order dated 22/5/219 and appellate order dated 27/8/2019 are against law, rules and natural justice hence not tenable in the eye of law.
- b. That neither a show cause notice has been sent to the appellant nor he has been given opportunity of personal hearing on the impugned proposed action on which score alone the impugned order is illegal and against the golden principle of audi alterm partem.
- c. That the mandatory provisions of Khyber pukhtunkhwa Government servants (efficiency and discipline) rules 2011 have not been complied with in the proceeding against the appellant which vitiate the whole proceedings against the appellant .the appellant have not been provided the opportunity of personal hearing and cross examination of the complainant and alleged witnesses despite his written request for the same.
- d. That there is no iota of evidence against the appellant regarding the allegations that he was the aggressor .No fact finding inquiry has been constituted for determining the factom of "aggressor and aggressed upon" and the whole proceeding against the appellant are the result of malafide, ill will, bias and unilateral approach on the part of the respondents in collusion with the complainant .
- e. That on the same date i.e 21/3/2018 the appellant was relieved/transferred by the director DCTE from his duties and on the same date the services of the appellant was placed at the disposal of the directorate of E & SE Khyber pukhtunkhwa vide notification dated 21/3/2018 and on the same date his salary was stopped with effect from 1/3/2018 in total derogation of law and rules which show the malafide ,illegality and unfairness of the respondents in the disposal of the issue.
- f. That a hasty and arbitrary proceedings were initiated and conducted against the appellant which is a classical example of the Maxim " justice hurried is a justice buried".
- g. That the appellant was neither provided the copies of the statements of the alleged witnesses, if any, nor was the copy of the inquiry proceedings provided to him.
- h. That the statement in para No 5 of the impugned order dated 22/5/2019 regarding grant of opportunity of personal hearing to the appellant by the Secretary Finance (FATA) is totally false and fabricated statement which cannot be substantiated by the respondents
- i. That the appellant seeks the permission of this honorable court to rely on additional grounds at the time of arguments.

ATTACHED  
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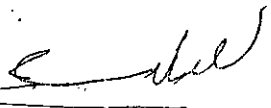
(4) (9)

**Prayer:**

It is therefore kindly requested that the appeal of the appellant may kindly be accepted by setting aside the impugned appellate order dated 27/8/2019 and the impugned original order dated 22/5/2019 and the actions and inaction of the respondent pertaining to transfer of the appellant as OSD, stoppage of his salary for about 10 months on the same date of alleged occurrence may kindly be declared as a punishment before trial hence malafide.

Any other relief not specifically prayed for and which this worthy tribunal deem fit and appropriate in the facts and circumstances of the instant case may also kindly be granted for the end of justice.

Dated: 12/9/2019

  
Appellant

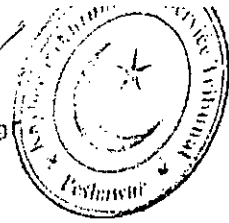
Through 

Mushtaq Ahmad Khan Alizai  
Advocate, office district court  
Buner. cell No 03469014199.

ATTESTED



10 Annex B



Before the service tribunal khyber pukhtoonkhwa Peshawar  
Service appeal No. 1155/2019

1. Hidayatullah s/o Inayatullah presently serving as principle GHSS Batara  
tehsile Dargar district Buner ..... Appellant

vs

Khyber Pakhtoonkhwa  
Service Tribunal

Duty No. 12-61  
Dated 17-9-2019

1. Director E & SE khyber pukhtoonkhwa at Peshawar.  
2. Secretary E & SE khyber pukhtoonkhwa at Peshawar.  
3. Chief Minister Khyber pukhtoon khwa at Peshawar  
4. Govt of K.P.K through secretary E & SE Khyber pukhtoonkhwa at  
Peshawar ..... Respondents

Service Appeal against the impugned appellate order dated 27/8/2019 whereby  
the respondent No 3 rejected the appeal of the appellant against the impugned  
original order dated 22/5/2019 whereby penalty of "withholding of two annual  
increments for two years" was imposed upon the appellant.

The appellant submits as follows:

1. That while serving as Additional director BS 19 (TPD) Director of curriculum  
and teacher Education Khyber pukhtunkhwa Abbottabad, the appellant,  
beside other duties, was also assigned the duties of chairman  
implementation and Monitoring committee by the director (DCTE)  
Abbottabad for the project in the name "English language  
Training for primary school teachers" being launched and executed in  
collaboration with the British council.

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egistrar

19/19

2. That in connection with the afore said project a meeting was held on  
21/3/2018 in the office of the director DCTE wherein the appellant was  
going to finalize the presentation for the steering committee of the said  
project when in the mean while the director DCTE namely Gohar Ali khan  
started undue interference and passed ridiculous remarks on the  
presentation of the appellant where after the appellant tried to pacify him  
and requested him for patient hearing for the proper understanding of the  
presentation but he started abusing the appellant and attacked him which  
resulted into a scuffle.

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KAMRAN  
Khyber Pakhtoonkhwa  
Service Tribunal  
Peshawar

3. That on the same date mentioned in the preceding para, the appellant was  
relieved/transferred by the director DCTE from his duties and on the same  
date the services of the appellant was placed at the disposal of the  
directorate of E & SE Khyber pukhtunkhwa vide notification dated  
21/3/2018 and on the same date his salary was stopped with effect from

Attested

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11



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT SWAT

Service Appeal No. 1155/2019

Date of Institution ... 17.09.2019

Date of Decision ... 02/03/2021

Hidayat Ullah S/o Inayat Ullah presently serving as Principal GHSS Batara Tehsil Daggar, District Buner. ... (Appellant)

VERSUS

The Director Elementary and Secondary Education, Khyber Pakhtunkhwa Peshawar and three others. ... (Respondents)

MR. MUSHTAQ AHMAD KHAN ALIZAI,  
Advocate

For appellant.

MR. M. RIAZ KHAN PAINDAKHEL,  
Assistant Advocate General

For respondents

MIAN MUHAMMAD  
ROZINA REHMAN

MEMBER (Executive)  
MEMBER (Judicial)

JUDGEMENT

MIAN MUHAMMAD, MEMBER:- The appellant has come to the Service Tribunal against impugned order dated 22.05.2019 and impugned appellate order dated 27.08.2019. The same have been assailed in the service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

**ATTESTED**

*[Signature]*  
Member  
Khyber Pakhtunkhwa  
Service Tribunal

FACTS.

Brief facts of the case are that while the appellant was posted as Additional Director (BS-19) (TPD) in the Directorate of Curriculum and Teachers Education (DCTE), Abbottabad an unpleasant episode of scuffle between the appellant and Director took place on 21.03.2018 when a power point presentation was being finalized for steering committee of the project "English Language Training for

**ATTESTED**

*[Signature]*

12

Primary School Teachers". The appellant was directed on the same date i.e. 21.03.2018 to report to the Directorate of Elementary and Secondary Education Peshawar. He was issued charge sheet, statement of allegations and an enquiry committee constituted on 18.04.2018 for the purpose of conducting formal enquiry against the appellant. Consequently upon submission of the enquiry report dated 02.11.2018, the competent authority issued the impugned order dated 22.05.2019, whereunder the minor penalty of "withholding of two annual increments for two years" was awarded to the appellant. The appellant preferred Review petition under rule 17 (1) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 which was rejected and communicated to the appellant on 27.08.2019 hence the present service appeal submitted in Service Tribunal on 17.09.2019.

63. We have heard arguments of the parties and gone through the case file with the assistance of learned counsels for the parties thoroughly and in details.

*[Handwritten signature]*

ARGUMENTS.

64. Learned counsel for the appellant at the outset of addressing his arguments contended that the ends of justice have not been met and the appellant has been discriminated on the ground that the co-accused (Director, DCTE) was not charge sheeted because the scuffle and unpleasant event had taken place between them. But only the appellant has been targeted and subjected to disciplinary proceedings whereas the other party i.e Director, DCTE has been set free without putting him under disciplinary proceedings for the principles of justice, equity and fair play. He while referring to the conclusion of the report of enquiry committee argued that a departmental enquiry was not initiated for the purpose of fixing responsibility and the formal enquiry was initiated against the appellant in an impulsive and hasty

**ATTESTED**  
*[Signature]*  
CHIEF CLERK  
Service Tribunal  
Peshawar

**ATTESTED**  
*[Signature]*

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number. Moreover, statement of the witnesses were not recorded or provided to the appellant with enquiry report. It was vehemently contended that no opportunity of cross examination has been provided to the appellant as well as no opportunity of personal hearing afforded by the competent authority before passing the impugned order irrespective of the fact that it has been claimed in the impugned order dated 22.05.2019. In support of his arguments, he drew strength from and relied on 1984 PC (CS) 560, 1999, PLC (CS) 1332, 2005 PLC (CS) 256, 2005 SCMR 1814, 2006 PLC (CS) 1352 and 2009 PLC (CS) 280.

*[Handwritten signature]*

05. Learned Assistant Advocate General on the other hand contradicted plea of learned counsel for the appellant and argued that the appellant has been a patient of hypertension and this has been the cause for incident took place on 21.03.2018. The fact has been admitted by the appellant in his recorded statement. He rebutted objection of learned counsel for the appellant that statement of the witnesses have not been recorded or at least not provided to the appellant. He categorically stated that statements of the relevant witnesses have been recorded and the same is part of the enquiry report. He contended that opportunity of personal hearing has been provided to the appellant and the impugned orders passed after fulfillment of all codal formalities according to the law and rules applicable to the appellant. The appeal is therefore without merits, may be dismissed.

**ATTESTED**  
*[Signature]*  
S. S. S. S. S.  
S. S. S. S. S.  
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CONCLUSION.

06. It is evident that an unpleasant incident took place on 21.03.2018 between the appellant and his Director (DCTE) and the department was required to have conducted an initial departmental/fact finding enquiry to have determined and fixed responsibility on the delinquent official where-after a formal enquiry under the


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Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 would have been initiated. In the absence of such fact finding enquiry, the charge framed against the appellant was "you have abused and attacked the Director DCTE in an official matter and have violated the official decorum" which seems one sided on the ground that only the appellant was gilled and subjected to disciplinary proceedings. It was incumbent upon the respondent department to have proceeded against both the officials by issuing them charge sheet/statement of allegations.

07. On submission of the enquiry report by the enquiry committee, show cause notice was required to have been issued to the appellant under Rule-14(4) of the Khyber Pakhtunkhwa Governments Servants (Efficiency and Discipline) Rules 2011 and opportunity of personal hearing was required to have been given to the appellant by the competent authority but it does not seem to have taken place as is evident from the letter of respondent No.2 (Secretary, Elementary and Secondary Education) dated 20.02.2019. Under the said letter, a show cause notice was communicated to the appellant whereas in the impugned order dated 22.05.2019 it is mentioned that "personal hearing granted to him by the Secretary Finance (FATA) on behalf of the Chief Minister, Khyber Pakhtunkhwa on 04.10.2018". This illegality on part of respondents is manifested from the report of enquiry committee which held its proceedings on 04.10.2018 and 08.10.2018 and the impression has been given that the opportunity of personal hearing was afforded to the appellant on behalf of the Chief Minister, Khyber Pakhtunkhwa being competent authority but actually it was at the stage of enquiry proceedings when the appellant and other eye witnesses were examined and heard by the enquiry committee. An opportunity of personal hearing was therefore mandatory to have been afforded to the appellant subsequent to show cause notice under Rule-14(4) of

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MEMBER  
Khyber Pakhtunkhwa  
Tribunal  
Rawalpindi



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the Khyber Pakhtunkhwa Government's Servants (Efficiency and Discipline) Rules 2011.

08. As a sequel to the above, and keeping in view the illegality and inner defects in the disciplinary proceedings identified in the preceding paras, the ends of justice have not been met. The service appeal having merits is therefore, allowed. The impugned order dated 22.05.2019 and impugned appellate order dated 27.08.2019 are therefore set aside consequent upon which the minor penalty of the appellant "withholding of two annual increments for two years" stands quashed away. Parties are left to bear their respective costs. File be consigned to the record room.

ANNOUNCED  
03.03.2021

(MIAN MUIHAMMAD)  
Member(E)  
Camp Court Swat

ATTESTED

(ROZINA REHMAN)  
MEMBER(J)

Certified to be true copy

Khyber Pakhtunkhwa  
Camp Court Swat

Date of Presentation of Application 15/3/21  
Number of Words 2400  
Copying Fee 26/-  
Teghat 4/-  
Total 30/-  
Date of Application of Copy 15/3/21  
Date of Delivery of Copy 15/3/21

مخدمت جناب ڈائریکٹر ایگزیکیوٹو ایئر سیکورٹی ایجوکیشن و ٹریننگ سیکشن

درخواست بھرا د عمل درآمد فیصلہ مورخہ 3-3-2021  
فیروز خانخواہ سروس ٹریڈیو بیٹل ریشاور

جناب عالی! درخواست حسب ذیل ہے

1۔ یہ کہ سائل نے اب صاحبان کی طرف سے سائل کا 2 سال  
انٹرنیٹ روکنے کی سزا کو بحسنور سروس ٹریڈیو بیٹل  
جیلنگ کیا تھا چونکہ سائل کا حق میں مورخہ 2-3-3 کو  
فیصلہ شدہ ہے۔ (فیصلہ نو ہے)

2۔ یہ کہ سائل کی سروس ریکارڈ سے مذکورہ سزا اخصفا  
وقف کرنا انتہائی ضروری ہے کیونکہ سائل ان ایبل عسکار  
مدالت نے ضم ہے۔

کہتا ہے کہ سائل کا درخواست  
تک تصدیق رکھنا اس کی سروس ریکارڈ  
سے سزا مذکورہ ختم و حفظ کیا گیا

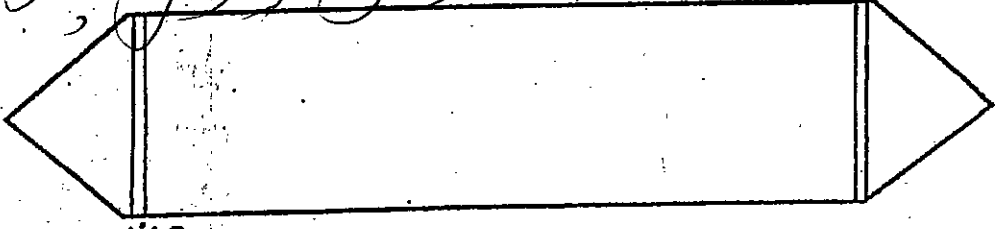
ATTEN  
M

ایکٹالہ رمضان بدین اللہ ولد صاحب اللہ  
سرٹیفیکیشن GHSS بنارہ پور سیر

مورخہ 7-3-2021



بعد الت جنان سرور سٹریٹ منس وورکی



2 منجانب  
بنام

موزخہ  
مقدمہ  
دعوی  
جرم

بالت اللہ ولد عنایت اللہ  
سنم و سولیک

باعث تحریر آنکھ

اس کو منس

آن مقام سٹارٹ کیلئے منس جج اعوان  
مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعوی اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعوی اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوقی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
پر داخلہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہر چاہنا التوائے مقدمہ کے سبب سے وہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا اذکالت نامہ لکھ دیا کہ سند ہے۔

الرقوم 20

ATTACHED

کے لئے منظور ہے۔

noted and accepted

بمقام



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT**

Dated Peshawar the February 22, 2022

**NOTIFICATION**

**NO.SO(SM)E&SED/4-14/2018/ Mr Hidayat Ullah : WHEREAS** Mr. Hidayat Ullah, Ex-Principal (BPS-19) GHSS Battara District Buner was proceeded under Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.

2. **AND WHEREAS** the Competent Authority (Chief Minister Khyber Pakhtunkhwa) had imposed minor penalty of **"Withholding of two annual increments for two years"** upon Mr. Hidayat Ullah, Ex-Principal (BPS-19) GHSS Battara District Buner vide this Department Notification NO. SO(SM)/E&SED/4-14/2018/ Hidayatullah Add Dir DCTE dated 22.05.2019.

2. **AND WHEREAS** he filed a service appeal No. 1155/2019 before the Service Tribunal Khyber Pakhtunkhwa Peshawar.

3. **AND WHEREAS** he filed an implementation/COC No. 108/2021 in service appeal No. 1155/2019 before the Khyber Pakhtunkhwa Service Tribunal. The Service Tribunal vide its order dated 05.01.2022, has directed to implement the judgment conditionally subject to the outcome of CPLA.

4. **NOW, THEREFORE**, In exercise of the powers conferred under section-4 (1) (a) of the Khyber Pakhtunkhwa Govt. Servants (Appointment, Promotion & Transfer) Rules 1989, the Competent Authority (Chief Minister Khyber Pakhtunkhwa) is pleased to restore **"two annual increments for two years"** w.e.f 22.05.2019, subject to the outcome of CPLA in the Supreme Court of Pakistan.

**SECRETARY TO GOVT OF KHYBER AKTHUNKHWA  
E&SE DEPARTMENT**

**Endst: of even No. & Date**

Copy forwarded to the:

- 1- Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
- 2- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 3- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 4- District Education Officer (Male), Buner
- 5- District Accounts Officer, Buner.
- 6- PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 7- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 8- Mr. Mr. Hidayat Ullah, Ex-Principal (BPS-19) GHSS Battara District Buner
- 9- Section Officer (Lit-II), E&SE Department, Khyber Pakhtunkhwa
- 10- Office order file.

*EDM*  
*22-2-2022*  
*R*  
*22/2*

*faizab*  
*at*  
*22-02*  
**(SYEDA ZAINAB NAQVI)  
SECTION OFFICER (SCHOOLS MALE)**