


01.08.2022

Learned counsel for the petitioner present. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Syed Naseer Ud Din Shah, SO-II for respondents present.

2. Learned counsel for the petitioner submitted an application for withdrawal of the instant Petition No. 88/2020, wherein he stated that the grievance of the petitioner has been redressed and hence, he wants to withdraw the instant petition. Application is placed on file. Dismissed accordingly. Consign.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 1st day of August, 2022.*


(Faheeha Paul)
Member (E)

Before The Service Tribunal KPK
Peshawar

Sarfraz vs Education

Application for withdrawal of
Execution Petition

R/S

i) That the above mentioned execution
Petition is pending before this court
which is fixed for today the 1⁸/₂₂

ii) That I want to ~~it~~ withdraw
the instant Petition as all
the grounds is answered by the
petitioner.

It is humbly
prayed that on acceptance of this
application the above mentioned
Petition may kindly be withdrawn

Petitioner

Dated,

1⁸/₂₂


Witness

→
Humayun Hussain
Adl

24.03.2022

None for the petitioner present. Mr. Kabirullah Khattak, Addl:
AG for respondents present.

The case was adjourned on reader note, therefore, notices
be issued to the parties. Adjourned. To come up for
implementation report on 21.06.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER(E)

21.06.2022

Nemo for the petitioner. Mr. Kabirullah Khattak, Additional
Advocate. General alongwith Mr. Naseer-ud-Din Shah, Assistant for the
respondents present.

Departmental representative as well as learned Additional Advocate
General relying on Notification dated 11.10.2021 already placed on file
vide order sheet dated 12.10.2021 whereby the date of his reinstatement
was mentioned 27.07.2020 instead of 13.02.2020 i.e. the date of judgement.
This anomaly was pointed out to the respondents. Now the said Notification
has been substituted "for the same No. & Date" and the reinstatement date
of the petitioner into service rectified accordingly. Notices be issued to the
petitioner as well as his learned counsel to appear in person and apprise the
court of the current status of the case. Adjourned. To come up for further
proceedings on 01.08.2022 before D.B.



(Mian Muhammad)
Member (E)

12.10.2021

None for the petitioner present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Syed Naseer Ud Din Shah, Assistant for respondents present.

Representative of the respondent-department submitted notification dated 11.10.2021 which is placed on file. Adjourned. To come up for further proceedings before the S.B on 14.12.2021.


(MIAN MUHAMMAD)
MEMBER (E)

14.12.2021

Petitioner in person present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Naseer Ud Din Shah, Assistant for respondents present.

Learned AAG insisted and reiterated that in pursuance of judgement of the Service Tribunal dated 13.02.2021, notification of the respondent-department dated 11.10.2021 ^{is in the field} whereby the petitioner has been reinstated in service w.e.f 13.02.2020 instead of 27.07.2020. To come up for further proceedings on 03.02.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

03.02.2022

The Tribunal is non-functional, therefore, the case is adjourned to 24.03.2022 before S.B for the same.


Reader

04.08.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. A.G alongwith Saleem Khan, S.O for the respondents present.

Representative of the respondents states that implementation of the judgment is in process and requests for adjournment. Case to come up on 08.09.2021 before S.B.


Chairman

08.09.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned AAG seeks adjournment to contact the respondents and facilitate submission of implementation report on next date. Case to come up for implementation report on 13.10.2021 before S.B.


Chairman

22.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 21.04.2021.


Reader

21.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 15.06.2021 for the same as before.


Reader

15.06.2021

Junior to counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Saleem Khan, S.O (Litigation) for the respondents present.

The record of denovo enquiry with consequent order has been produced by the representative of respondents which is placed on file. Compliance of order dated 07.01.2021 is still awaited. Respondents are directed to submit report in compliance of the said order on next date positively.

Adjourned to 04.08.2021 before S.B.


Chairman

E.P. No. 88/2020
Sarfraz Khan vs Govt

07.01.2021

Petitioner is present alongwith his counsel Mr. Hamad Hussain, Advocate. Mr. Noor Zaman Khattak, District Attorney and Mr. Fazal Wadood, Section Officer, for the respondents, are also present.

The crux of the matter for resolution of the point involved is that a claim for payment of arrears regarding the period right from the announcement of judgment on 13.02.2020 till his reinstatement in service on 27.07.2020.

Respondents were unable to plausibly controvert the plea so taken nor they advanced any valid reasons in the presence of which petitioner could be precluded from the receipt of the arrears.

The respondents were under legal obligations to have given effect to the judgment of this Tribunal with effect from the date when it was announced on 13.02.2020 however, they have given effect to the judgment passed on 27.07.2020 holding to be efficacious instantaneously which is a clear derogation from the mandate rather violation of the judgment. The moment petitioner was reinstated into service by the Service Tribunal and when he arrived at the relevant office for assuming the charge he is deemed to have performed his duties irrespective of the fact that no order of his reinstatement by then was passed, therefore, he is entitled to receive arrears of back benefits for the subject period, therefore, respondents are directed to make arrangement for payment of the accruing arrears by submitting complete implementation report on 22.02.2021 before S.B.

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

23.12.2020

Petitioner with counsel present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Rehman Ullah Assistant for respondents present.

The claim of present petitioner is in respect of back benefits from the date of his reinstatement till the date of his dismissal i.e. six or seven months. The Department is ready to make payment but sought time. Last chance is given. To come up for proper implementation report in respect of payment of salary for six/seven months, on 01.01.2021 before S.B.



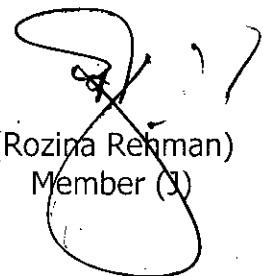
(Rozina Rehman)
Member (J)

01.01.2021

Petitioner with counsel present.

Noor Zaman Khattak learned District Attorney alongwith Zafar Ullah Assistant for respondents present.

On the preceding date, adjournment was sought in order to make payment to the petitioner but till today, no progress was shown, therefore, this Tribunal is left with no option but to issue direction to respondents to make sure the presence of Rehman Ullah Assistant alongwith an officer of Grade-17 or above with proper implementation report in respect of payment of salary to the petitioner. In default, both the respondents will personally appear before the Tribunal with progress report. To come up for proper implementation report on 07.01.2021 before S.B.



(Rozina Rehman)
Member (J)

21.09.2020

Petitioner with counsel and Addl. AG for the respondents present.

Learned counsel for the petitioner has submitted objection regarding implementation report/reinstatement notification which is made part of the record with a copy handed over to learned AAG.

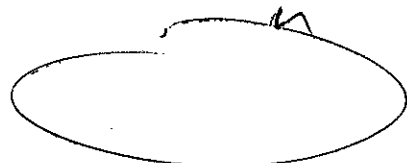
To come up for arguments on 04.11.2020 before S.B.


Chairman

04.11.2020

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

Since the Members of the High Court as well as of the District Bar Association, Peshawar, are observing strike today, therefore, learned senior counsel for petitioner is not available today. Adjourned to 23.12.2020 on which date to come up for arguments before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

05.08.2020

Mr. Hamad Hussain, Advocate for the petitioner, is present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. representative of the department Mr. Zafarullah, Assistant are also present.

Learned counsel for the petitioner submitted that this august Service Tribunal passed the judgment in favour of his client on 13.02.2020, that infact reinstated the petitioner for the purpose of de-novo inquiry. That respondents were directed to complete the de-novo proceedings within a period of sixty days by withholding the decision regarding the question of back benefits to the result of de-novo inquiry. Learned counsel for the petitioner submitted that the inquiry has not been completed within the stipulated period of time and does not allow the petitioner to be proceeded under Government Servants (Efficiency & Discipline) Rules, 2011, and referred to notification dated 13th June 2017 and the judgment of the hon'ble apex court reported in 2002 SCMR 71.

On the contrary, learned Additional AG submitted implementation report dated 27th July 2020 alongwith notification of constituting inquiry committee for the purpose of conducting de-novo inquiry bearing the same date. The learned Additional AG referred to unreported judgment of the hon'ble apex court captioned Secretary Elementary & Secondary Education Versus Syed Shaheen Shah decided on 16.02.2019 whereby it has been provided that if the de-novo inquiry is not conducted within the stipulated period of time it can be conducted at any time.

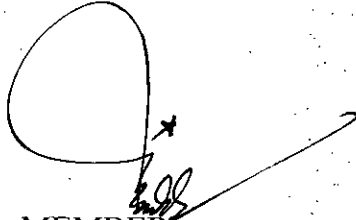
Learned counsel for the petitioner is seeking time for submission of reply. Time is given. File to come up for reply and arguments on 21.09.2020 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER

03.07.2020

Counsel for the petitioner and Addl. AG for respondents present. Implementation report not submitted. Learned AAG seeks time to submit the same on the next date.

Adjourned to 08.07.2020 before S.B.



MEMBER

28.07.2020

Petitioner alongwith counsel and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Fazal Subhan S.O for the respondents present.

The representative of the respondents states that the requisite implementation report has though been prepared but due to some typographical error cannot be submitted today. He requests for a short adjournment.

Adjourned to 05.08.2020 before S.B.

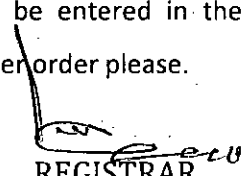




Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 88 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	13.05.2020	<p>The execution petition of Mr. Sarfaraz Khan submitted today by Mr. Hamad Hussain 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-		<p>This execution petition be put up before S. Bench on <u>05/06/2020</u>.</p> <p style="text-align: right;"> MEMBER</p>
05.06.2020		<p>Counsel for the petitioner present. Notices be issued to respondents for implementation report for 03.07.2020 before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition No 88 /2020

In

Service Appeal No 136/2019

Date of decision 13/02/2020

Sarfaraz Khan EX SDEO (Male) Peshawar R/o Village and P/o Aza
khel District Peshawar

...Petitioner

Versus

The Secretary to Govt of Khyber Pakhtunkhwa Elementary and
Secondary Education Department Peshawar and another.

..... Respondents

INDEX

S.No.	Description of Documents	Annex	Pages
1.	Memo of execution petitioner		1-4
2.	Judgment of this Tribunal dated 13/02/2020	"A"	5-11
3.	Application for implementation submitted to respondent dated 13/02/2020 <i>along with annual Report</i>	"Bb"	12-13
4.	Power of Attorney	D	14

Sarfaraz Khan
Petitioner

Through

Date: 13/2/2020

(Hamad Hussain)
(HAMAD HUSSAIN)
Advocate High Court Peshawar
03120952763

1

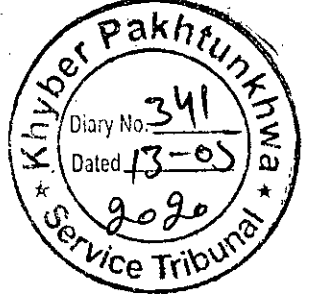
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Execution Petition No 88 /2020

In

Service Appeal No 136/2019

Date of Decision 13/02/2020



Sarfaraz Khan EX SDEO (Male) Peshawar r/o Village and P/o
Aza khel District Peshawar. **...Petitioner**

Versus

1. The Chief Secretary, Government of Khyber Pakhtunkhwa
Peshawar
2. The Secretary to Govt of Khyber Pakhtunkhwa Elementary and
Secondary Education Department Peshawar..... **Respondents**

**EXECUTION PETITION FOR IMPLEMENTATION OF
JUDGMENT DATED 13/02/2020 OF THIS HONOURABLE
TRIBUNAL IN THE ABOVE MENTIONED SERVICE APPEAL.**

RESPECTFULLY SHEWETH:-

1. That the petitioner was serving as SDEO (BPS-17) Male
Peshawar whereas he was dismissed from service by
respondents departments on 09/10/2018.
2. That against the impugned order dated 09/10/201/8 the
petitioner had filed Service Appeal No 136/2019 before this
Honourable Tribunal which was allowed vide judgment dated
13/02/2020 [copy of judgment dated 13/02/2020 is
attached as Annexure - A].

3. That the petitioner submitted judgment of this Honourable Tribunal dated 13/02/2020 to the respondents No. 2 i.e. Secretary, Elementary and Secondary Education on 13/03/2020 for implementation but no implementation has been taken and still pending **(copy of application for implementation as Annexure-B)**.
4. That the petitioner visited to the office of respondent No. 2 time and again for implementation for the purpose of reinstatement to the petitioner but no steps has been taken by the respondent for implementation of the judgment dated 13/02/2020 of this Honourable Tribunal.
5. That now the petitioner has got no other adequate remedy except to file this execution petition for immediate proceedings in accordance with law, equity and justice on with following grounds:-

Grounds:-

- A. That the respondents are wilfully reluctant not to implement judgment dated 13/02/2020 of this Honourable Tribunal and the respondents are wilfully delaying the matters for ulterior motives, which amount to abuse of authority.
- B. That the respondents have flouted judgment of this Honourable and no appropriate action has been taken in spite of directions of this Honourable Tribunal, which amounts to contempt of this Honourable Tribunal.
- C. That this Honourable Tribunal directed the respondents vide judgment dated 13/02/2020 contained in Para No. 7 *"that we are of the view to partially accept the instant appeal and to reinstate the appellant for the purpose of de-novo inquiry. The respondents are directed to complete de-novo inquiry within a period of (60) days"*. But

the stipulated period for conducting of de-novo inquiry has also been expired and the petitioner has not been reinstated in service by the respondent department despite directions of this Honourable Tribunal which amounts to contempt of this Honourable Tribunal.

- D. That act of the respondents department for reinstatement into service the petitioner is against the law and judgments of supra court relied upon the relevant para of judgment of the Supreme Court of Pakistan 1996 SCMR 1185 titled Hameed Akhtar Niazi VS The Secretary Establishment Division, Government of Pakistan "If the Service Tribunal or Supreme Court decides a point of law relating to the terms of Service of a Civil Servant which covers not only the case of civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates and rule of good governance demand that the benefit of such judgment by Service Tribunal/ Supreme Court be extended to other civil servants, who may not be parties to the litigation instead of compelling them to approach the Service Tribunal or any other forum".
- E. That the respondents are clearly violate the judgments of supra Court in another case reported as PLD 2013 SC 195 titled as Syed Mahmood Akhtar Naqvi and others VS Federation of Pakistan and others hold that "if Decision given by the Supreme Court on a point of law would be binding on concerned departmental functionaries who would be obliged to apply such level principle in other similar cases regardless of whether or not a civil servant had litigated the matter in his own case.... In view of Art. 189 and 190 of the Constitution, a civil servant would be entitled to make a departmental representation or initiate legal proceedings before a competent forum to enforce a legal principle enunciated by the Supreme Court Failure of a state functionary to apply a legal principle which was

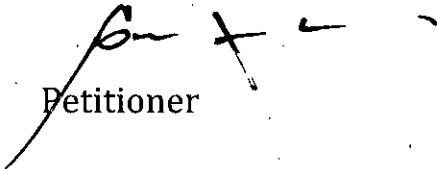
4

clearly and unambiguously attracted to a case might expose him to proceedings under Art. 204 (2) (a) of the Constitution”.

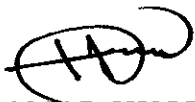
F. That the respondents / contemnors are duty bound to implement the judgment of this Honourable Tribunal dated 13/02/2020 and if the respondents not implement judgment of this Honourable Tribunal, and contempt of Court proceeding under Art. 204 (2) (a) section 3 and 4 of the contempt act of the contempt of court for proceeding of the Constitution may kindly be initiated against the respondents.

G. Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioners.

It is therefore, most humbly prayed that the respondents may very kindly be directed to implement the judgment dated 13/02/2020 in letter and spirit and the petitioner may be reinstated into service with all back benefits.

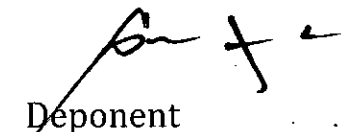

Petitioner

Through

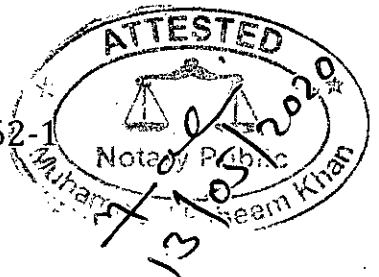

(HAMAD HUSSAIN)
Advocate High Court Peshawar
03120952763

AFFIDAVIT

I, Sarfaraz Khan EX SDEO (Male) Peshawar, hereby solemnly affirm and declare that all the contents of the instant Execution Petition are true and correct to the best and belief of my knowledge and nothing has been concealed from this Honourable Tribunal.


Deponent

CNIC # 17301-3485762-1

ATTESTED

Notary Public
Muhammad Azeem Khan
13/02/2020

(5)

BEFORE THE HON'BLE CHIEF JUSTICE
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 136 /2019



Khyber Pakhtunkhwa
Service Tribunal
No. 129
29/11/2019

1. Sarfaraz Khan (Ex-SDEO) s/o Fazal Raheem, Village P.O Azakhel, Tehsil & District Peshawar.

APPELLANT

VERSUS

1. The Chief Minister, Khyber Pakhtunkhwa through Principal Secretary.
2. The Chief Secretary, Khyber Pakhtunkhwa Province, Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary education, Department Peshawar.
4. The Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED ORDER DATED 09/10/2018
PASSED BY THE CHIEF SECRETARY
KHYBER PAKHTUNKHWA PROVINCE
WHEREBY THE APPELLANT WAS
AWARDED HARSH AND EXTREME
PENALTY OF REMOVAL FROM SERVICE IN
UTTER VIOLATION OF LAW. A
DEPARTMENTAL APPEAL WAS FILED
WITH THE RESPONDENT NO. 1 ON
24-10-2018 BUT THE SAME WAS NOT
RESPONDED WITHIN THE STATUTORY
PERIOD OF LAW.

Registrar
29/11/19

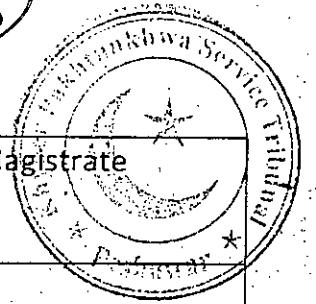
ATTESTED

CHIEF MINISTER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

Service Tribunal
Letter No
987 dt 20/03/2020
addressed to
chief secetary
by Reged cover.

6



No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
-1	2	3
	<p>13.02.2020</p>	<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p align="center"><u>Appeal No. 136/2019</u></p> <p>Date of Institution ... 29.01.2019 Date of Decision ... 13.02.2020</p> <p align="center">-----</p> <p>Sarfaraz Khan (Ex-SDEO) s/o Fazal Raheem, Village P.O Azakhel, Tehsil District Peshawar. -----Appellant</p> <p align="center"><u>Versus</u></p> <p>The Chief Minister, Khyber Pakhtunkhwa through Principal Secretary and others -----Respondents</p> <p>Muhammad Amin Khan Kundi.....Member(J) Mr. Hussain ShahMember (E)</p> <p><u>JUDGMENT</u></p> <p><u>Mr. HUSSAIN SHAH</u>:-Learned counsel for the appellant and Riaz Paindakhel learned Assistant Advocate General for the respondents present.</p> <p>In the instant service appeal the appeal as prayed that on acceptance of the appeal the impugned order dated 09.10.2018 past by the respondents No.2 may be set aside and the appellant may be reinstated in service with full back wages and benefits and any relief deemed appropriate in the circumstances of the case.</p> <p>3. The learned counsel for the appellant contended that the appellant has been subjected to adverse action and departmental proceedings on the behest of his successor SDEO Peshawar on personal grudges, having a dispute with the appellant. On the litigation case with the appellant at this Tribunal level. Further contended that on the complaint of his successor the respondent No.4 directed another officer of the Education department i.e. DEO Charsadda to conduct a fact finding inquiry. In the said fact find inquiry the inquiry officer did not associate the appellant and based his recommendation on one sided story without giving the opportunity of</p>

ATTESTED

MEMBER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

ATTESTED

leaving/defense to the appellant which is constitutionally a mandatory provision in any sorts of proceeding which may result in any adverse outcome against anyone under such proceedings. Further contended that on this legally defective fact finding inquiry and its conclusion a charge sheet and a statement of allegation were issued by the respondent No.2 against the appellant where the appellant was held accused for appointment of Class-IV without calling DSC meeting who were neither included in the working paper nor in the minutes of the meeting held on 20.12.2013. Further contended that Mr. Askar Khan, Deputy Director PDMA was appointed as inquiry officer to conduct formal inquiry under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in the charge and allegation leveled against the appellant. The learned counsel for the appellant raised objection on the point that why only the appellant was issued charge sheet and statement of allegation being held solely responsible for the action taken by the DSC and leaving the other members. Further contended that the inquiry officer mainly relied upon the written statements of the other members of the DSC and did not allow the opportunity to the appellant to confront them which is mandatory under the law that any witness against the accused in a proceeding shall be cross examined by the accused. Moreover the inquiry officer recorded in his inquiry report that the departmental representative stated that the record supposed to be maintained in the office of SDEO (M) Peshawar was not available. Contrary to this fact the appellant has noted in his reply to the show cause notice that on his transfer on SDEO (M) Peshawar he handed over all the relevant record to Mr. Javed Abbas (Superintendent of the SDEO (M) Peshawar. Further contended that the other members of the DSC admitted that selection of twenty eight (28) candidates are correct and denied the remaining

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ATTESTED

ATTESTED

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 ELDER LAWYER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

selection of the candidates in order to absolve themselves from liabilities despite the fact that their signatures were dully available on the working paper/selection sheet and minutes of the meeting of DSC. In such circumstance the authenticity of their signatures were required to be sent to FSL for forensic examination. The inquiry officer failed to include this scientific method of verification to reach to a judicious conclusion. Further argued contended that both the inquiries were conducted in the violation of Article 10 (A) of the constitution, against the law laid down by august Supreme Court of Pakistan reported as in 1997 SCMR 1073 (Citation-a) and also against Rule 11 (1) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. He further contended that the competent authority was required to examine the case of the appellant in true perspective and to insure that whether the inquiry officers has correctly reached to the conclusion without any shadow of doubt or not. He further added that competent authority did not take the notice of the points raised by the appellant in his reply to the show cause notice. Further contended that appellate authority (Respondent No.1) was under statutory obligation to disposed of the departmental appeal of the appellant after application of mind with cogent reasons within reasonable time as provided in the Supreme Court of Pakistan judgment in 2011-SCMR-Page-1 wherein the august Supreme Court of Pakistan held that "Public functionaries are bound to decide the case of their subordinates after application of mind with cogent reasons within reasonable time". The learned counsel for the appellant further contended that as the impugned order is suffering from illegal infirmities as such against the law/facts of the case and norms of justice hence the appeal may be accepted and the impugned order may be set aside as per prayed in the appeal.

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 ATTESTED

ATTESTED

[Handwritten signature]
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

The learned Assistant Advocate General contested the facts grounds of the appeal and the arguments of the learned counsel for the appellant on the basis of Part-wise comments/replies on behalf of the respondent and contended that the whole proceedings against the appellant were processed in accordance with the law and relevant rules at each stage. As regarding the fact finding inquiry it was contended that its scope was only limited to fix out as to whether any illegality, misconduct or any inefficiency would be established against the appellant. Further contended that such inquiry is being held under the executive order and is necessary as an administrative action to look into the case in detail. Further contended that after insuring that gross misconduct or inefficiency and violation of the relevant criteria for selection and procedure for appointment of the Class-IV employees in the schools of the area of jurisdiction of the appellant when he served as SDEO (M) Peshawar. Then charge sheet/statement of allegation was issued and an inquiry officer was appointed to proceed further under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. The appellant was given opportunity to defend himself against the charge but he failed in his defense and thereafter the competent authority issued him notice to show cause why penalty of dismissal may not be imposed upon him. The appellant was also provided with the copy of the inquiry report and which he replied accordingly. He was given the opportunity of personal hearing at the level of the Special Secretary of F&A Department on behalf of the Chief Minister on 17.09.2018 and who found the appellant could not present any evidence or convincing arguments and found him guilty of the charge leveled against him. Hence the competent authority imposed upon him the penalty of removal from service. He further contended that no injustice or any illegal action is

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ATTESTED

ATTESTED
 Peshawar
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being taken against him. All the codal formalities as provided in the law were completed hence the appeal may be dismissed with cost in favor of respondents.

5. Arguments heard. File perused.

6. This Tribunal after hearing the arguments of the learned counsel for the appellant, perusal of record and the counter arguments of the learned Assistant Advocate General and the Para-wise comments of the respondent has noted that the inquiry officer failed to provide the opportunity of cross examining the other members of the DSC by the appellant which is a mandatory provision in the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Moreover it is also noted that in the reply to the show cause notice the appellant has stated that at the time of leaving the charge of the SDEO (M) Peshawar he handed over the record of the case to superintendent Mr. Javed Abbas who was also the member of the DSC. Moreover it is also worth notice that the inquiry officer has noted in Page-2 of his report the statement of the departmental representative who stated that the record of the recruitment process was supported to be maintained in the office of SDEO (M) Peshawar was not available. This shows that the inquiry officers did not have all the record at his disposal to reach to conclusion in proving the charge against the appellant. It is also noted that the inquiry officer also did not examined the other members of the DSC and relied only upon their unanimous written statement.

7. In view of the above discussion we are of the view to partially accept the instant appeal and to reinstate the appellant for the purpose of de-novo inquiry. The respondents are directed to complete the de-novo proceedings within a period of sixty (60) days. The issue of back benefits will be subject to the outcome of de-novo inquiry. The present service

[Handwritten signature]

ATTESTED

ATTESTED

[Handwritten signature]
 MEMBER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

Muhammad Amin
(Muhammad Amin Khan Kundi)
Member

Hussain Shah
(Hussain Shah)
Member

ANNOUNCED
13.02.2020

Certificate to be true copy
[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of _____ *14-02-2020*
Number of Papers _____ *2400*
Copying Fee _____ *26-00*
Urgent _____
Total _____ *26-00*
Name of Copy _____
Date of Completion of _____ *11-03-2020*
Date of Delivery of _____ *11-03-2020*

[Signature]
ATTESTED

12

To,

The Secretary to Government of Khyber Pakhtunkhwa
Elementary & Secondary Education
Peshawar.

Subject: APPLICATION FOR IMPLEMENTATION UPON JUDGMENT
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL IN S.A
136/2019 SARFARZ KHAN EX SDEO MALE PESHAWAR VS
EDUCATION DEPARTMENT ETC.

Dear Sir,

It is humbly submitted that the applicant served in Education Department for 41 years and was posted as SDEO Male Peshawar, wherein the applicant was removed from service vide impugned order dated 09/10/2018 by the Secretary Elementary and Secondary Education Department Govt. of Khyber Pakhtunkhwa.

That the applicant filed departmental appeal which was not decided in the stipulated period and then the applicant approached before the Honorable Khyber Pakhtunkhwa Service Tribunal and filed Service Appeal No. 136/2019 against the respondents department.

That on 13/02/2020 appeal of the applicant decided by the Honorable Khyber Pakhtunkhwa Service Tribunal, wherein the impugned order of removal from service of the applicant dated 09/10/2018 set aside & the applicant reinstated into service.

It is, therefore, humbly requested that the applicant may graciously be reinstated into service in the light of judgment dated 13/02/2020 by the Honorable Khyber Pakhtunkhwa Service Tribunal in letter and spirit please. Copy of Judgment dated 13/02/2020 is attached for ready reference please.

Dated 13/03/2020

Sarfraz Khan

S/o Fazal Rahim Village & P/O Azakhel
Mattani District Peshawar
EX SDEO Male Peshawar
Mobile 03083387264

1269
Date: 13/3

ATTESTED

13

To,

The Secretary to Government of Khyber Pakhtunkhwa
Elementary & Secondary Education
Peshawar.

Subject **ARRIVAL REPORT**

It is humbly submitted that the applicant was removed from Service on 09/10/2018.

That the applicant approached before the Honorable Khyber Pakhtunkhwa Service Tribunal and filed Service Appeal No. 136/2019 against the respondents department.

That as per judgment dated 13/02/2020 of Khyber Pakhtunkhwa Service Tribunal the applicant is hereby submitted arrival report on 12/03/2020 F.N for further posting please.

Dated 13/3/2020

Sarfaraz Khan
S/o Fazal Rahim Village & P/O Azakhel
Mattani District Peshawar
EX SDEO Male Peshawar
Mobile 03083387264

13/03/2020


ATTESTED

وکالت نامہ

بعدالت خرید بختوانگہ سروسز سرٹیفکٹ شمار
 سرفراز خان نام ایجوکیشن
 منجانب: سائل تاریخ: 2020-2-13
 علت نمبر: مورخ: حرم: ہتان:

باعث تحریر آئندہ

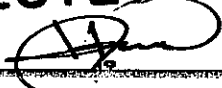
مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام تسلیم کے لیے ہے۔

حماد حسین ایڈوکیٹ ہائی کورٹ

کوہدیں شرط و کیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رو بروئے عدالت حاضر ہوتا رہوں گا اور ہونگی اور بوقت پکارے جانے مقدمہ و کیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کرونگا اگر پیشی پر من مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے کسی اور جگہ سماعت ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختیار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرواختہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد ثانی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم اتناعی یا قرقی یا گرفتاری قبل اجراء ڈگری بھی موصوف کو بشرط ادا ایگی علیحدہ مختیار نامہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں نیز ایسے مشیر قانون کو ہر امر میں وہی اور ایسے ہی اختیارات حاصل ہوں گے جیسے کہ صاحب موصوف کو حاصل ہیں اور پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا یہ مختیار نامہ لکھ دیا تاکہ سند رہے۔ مورخہ 2020-2-13 مضمون مختیار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

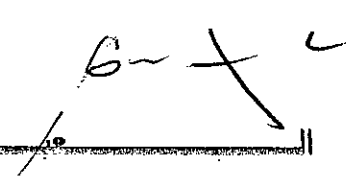
ATTESTED & ACCEPTED

ATTESTED



حماد حسین ایڈوکیٹ پشاور ہائی کورٹ پشاور

03120952763



سرفراز خان

13-2-20

REGISTERED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the July 27, 2020

NOTIFICATION

NO.SO(SM)E&SED/4-3/2018/Sarfraz Khan: In pursuance of the judgement of Khyber Pakhtunkhwa Service Tribunal Peshawar dated 13.02.2020, the Competent Authority is pleased to reinstate Mr. Sarfaraz Khan, Ex SDEO, (M) BS-17 into service with immediate effect.

SECRETARY
E&SE Department

List of even No. & Date :-

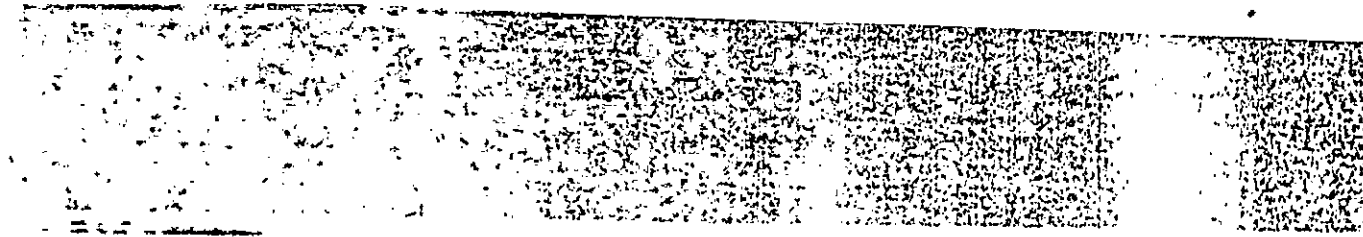
- Copy forwarded to the:
- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- Director, E&SE Khyber Pakhtunkhwa, Peshawar.
- District Education Officer Peshawar
- PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
- PS to Special Secretary E&SE Department, Khyber Pakhtunkhwa.
- Incharge EMIS E&SE Department.
- Office order file.

(MUHAMMAD ARIF)
SECTION OFFICER (SCHOOLS MALE)

Received

28/07/2020

318





GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the July 27, 2020

NOTIFICATION

NO.SO(SM)E&SED/4-3/2018/SarfarazKhan: The Competent Authority is pleased to constitute enquiry committee comprising the following officers to conduct denov enquiry against Mr: Sarfaraz Khan, Ex-SDEO (M) BS-17, Town-III Peshawar for charge mention in the charge sheet and statement of allegation with immediate effect.

- received 27/7/2020.*
- 1, Mr. Kashif Iqbal Jilani (BS-18), (PMS BS-18) Deputy Director, PMRU
 2. Mr. Gohar Ali Khan (MC BS-20), Director DCTE KP Abbottabad

2. The inquiry committee shall submit recommendation/ report to the competent authority on priority.

**SECRETARY
E&SE Department**

Endst: of even No. & Date: -

Copy forwarded to the:

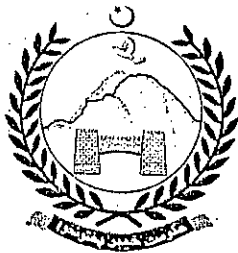
- 1, Mr. Gohar Ali Khan, Director DCTE (MC BS-20) Abbottabad (Copy of charge sheet & Statement of allegation are enclosed).
- 2, Mr. Kashif Iqbal Jilani (PMS BS-18) Deputy Director PMRU (Copy of charge sheet & Statement of allegation are enclosed).
- 3 Director, E&SE Khyber Pakhtunkhwa.
4. Sarfaraz Khan, Ex-SDEO(M) Town-III, Peshawar, (Copy of charge sheet & Statement of allegation are enclosed), with the direction to submit your reply to the enquiry committee in the stipulated period of (07) days positively.
- 5 Section Officer (School Male) E&SED is nominated as Departmental representative to assist the enquiry officer/ Committee.
6. PS to Secretary E&SED.
- 7 Office file.

*6-7
28/07
2020*

(MUHAMMAD ARIF)
SECTION OFFICER (SCHOOLS MALE)

3/18

o/c



5

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

Dated Peshawar the June 13th, 2017

NOTIFICATION

NO. SO(S/F)E&SED/4-17/2015/Mst. Shahida Parveen/SDEO(F): WHEREAS Mst. Shahida Parveen (BS-17) Ex-SDEO (F) Tank now SDEO (F) Parova D.I.Khan was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges leveled against her in charge sheet and statement of allegations.

2. **AND WHEREAS** Mst. Syeda Tanzeela Sabahat (PMS-BS-18) Chief of Section P&D conducted formal inquiry against the accused for the charges leveled against her in accordance with the rules.

3. **AND WHEREAS** the inquiry officer after having examined the charges, evidence on record, submitted the report.

4. **AND WHEREAS** the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) is of the view that the report has not completed in stipulated period of two months as directed by the Khyber Pakhtunkhwa Service Tribunal vide judgment dated 27.10.2016 and has no legal footing.

5. **NOW, THEREFORE**, in exercise of the powers conferred under Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) is pleased to withdraw de-novo inquiry order, charge sheet/ statement of allegations and show cause notice against Mst. Shahida Parveen (BS-17) Ex-SDEO (F) Tank now SDEO (F) Parova D.I.Khan.

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the: -

- i. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- ii. Director E&SE Khyber Pakhtunkhwa Peshawar.
- iii. District Education Officers (Female) Tank & D.I.Khan.
- iv. District Accounts Officers Tank & D.I.Khan.
- v. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- vi. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
- vii. Mst. Shahida Parveen (BS-17) Ex-SDEO (F) Tank now SDEO (F) Parova D.I.Khan.
- viii. Office order file.

**(LAL SAEED KHATTAK)
SECTION OFFICER (SCHOOLS/FEMALE).**

To

The Worthy Chief Secretary,
Khyber Pakhtunkhwa, Province,
Peshawar.

Subject: - APPLICATION TO WITHDRAW
DEPARTMENTAL INQUIRY WHICH WAS
NOT CONCLUDED WITHIN THE
STIPULATED PERIOD OF 60 DAYS
PRESCRIBED BY THE HON'BLE KHYBER
PAKHTUNKHWA, SERVICES TRIBUNAL
VIDE ORDER DATED 13-02-2020. IN
SIMILAR CASE, ONE MST. SHAHIDA
PERVEN (BPS-17) EX-SDEO (FEMALE)
TANK WAS AWARDED MAJOR PENALTY
OF REMOVAL FROM SERVICE IN UTTER
VIOLATION OF LAW. SHE AFTER
EXHAUSTING DEPARTMENTAL REMEDY,
INVOKED THE JURISDICTION OF
KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL. HER APPEAL WAS ACCEPTED
HOWEVER, THE RESPONDENTS WERE
ALLOWED TO CONDUCT DE-NOVO
INQUIRY WITHIN A PERIOD OF
TWO (02) MONTHS VIDE JUDGMENT
DATED 27-10-2016. BUT THE ABOVE
INQUIRY WAS NOT CONCLUDED WITHIN
THE PRESCRIBED TIME AS GIVEN BY THE
SERVICE TRIBUNAL. THEREFORE, THE
COMPETENT AUTHORITY (THE CHIEF
SECRETARY) WAS PLEASSED TO ORDER

THAT THE REPORT HAS NOT COMPLETED IN STIPULATED PERIOD OF TWO MONTHS AS DIRECTED BY THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL VIDE JUDGMENT DATED 27-10-2016. THEREFORE, I BEING THE COMPETENT AUTHORITY TO WITHDRAW THE DE-NOVO INQUIRY, CHARGE SHEET/STATEMENT OF ALLEGATIONS AND SHOW CAUSE NOTICE AGAINST MST. SHAHIDA PARVEEN (B-17) EX-SDEO VIDE NOTIFICATION DATED 13-06-2017. THE CASE OF SARFARAZ KHAN APPLICANT IS EXACTLY ONE AND THE SAME. HE IS ALSO REQUIRED TO BE TREATED QUA SIMILARLY PLACED EMPLOYEE BY VIRTUE OF ARTICLE 25 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.

Prayer in application

By acceptance of this application, the De-novo inquiry which was not concluded within the period of 60 days as ordered by the Hon'ble Khyber Pakhtunkhwa, Services Tribunal vide order dated 13-02-2020 may graciously be withdrawn in view of Notification dated 13-06-2017 notified in case of Mst. Shahida Parven (B-17) SDEO (Female) and he may kindly be treated qua similarly placed employee as referred to above by virtue of Article 25 of the

**Constitution of Islamic Republic of Pakistan,
1973 so as to secure the ends of justice.**

Respected Sir,

**The applicant submits the instant application inter-alia on
the following factual and legal grounds: -**

FACTS

1. That the applicant was awarded major penalty of removal from service in utter violation of law. He after exhausting departmental remedy, invoked the jurisdiction of Hon'ble Khyber Pakhtunkhwa, Services Tribunal for re-instatement in service with full back wages and benefits. His appeal was accepted and he was reinstated in service. However, the respondents were allowed to conduct De-novo inquiry within a period of sixty (60) days vide judgment dated 13- 2-2020.
 2. The applicant after obtaining the certified copy of judgment of Khyber Pakhtunkhwa, Service Tribunal on 11-03-2020 moved an application supported by judgment of Hon'ble Service Tribunal to the Secretary (E&S) Education for compliance on 13-03-2020. This application was duly received on the same day vide diary No. 1269 dated 13-03-2020.
- (Judgment of Tribunal and
application are appended
as Annex-A and B
respectively)**
3. The respondents were bound to conclude the De-novo inquiry within 60 days as ordered by Hon'ble Tribunal vide judgment dated 13-02-2020. But the same was not finalized within

stipulated time frame i.e. by 13-05-2020 after receipt of the copy of judgment. Thus, the order of Hon'ble Tribunal was not implemented in letter and spirit.

4. It is worthwhile to mention here that one Mst. Shahida Parven (BPS-17) Ex-SDEO (Female) was also awarded major penalty of removal from service in utter violation of law. She after availing Departmental remedy, invoked the jurisdiction of Khyber Pakhtunkhwa, Service Tribunal for reinstatement in service with full back wages and benefits. Her appeal was accepted. However, the respondents were allowed to conduct De-novo inquiry within two (2) months vide judgment dated 27-10-2016. However, the above inquiry was not concluded within the prescribed time as given by Hon'ble Khyber Pakhtunkhwa, Service Tribunal. Therefore, the Competent Authority (the worthy Chief Secretary) was pleased to order that since report has not been completed within the stipulated period of two months as directed by the Hon'ble Khyber Pakhtunkhwa, Services Tribunal vide order dated 27-10-2016 therefore, I being the Competent Authority, to withdraw the De-novo inquiry, charge sheet, statement of allegations and show cause notice against Mst. Shahida Parven (B-17) Ex-SDEO vide notification dated 13-06-2017. Now, the case of Sarfaraz Khan applicant is exactly on the same footings as, his De-novo inquiry was also not conducted within the prescribed period as ordered by the Hon'ble Tribunal. Therefore, he is also required to be treated qua similarly placed employee (Shahida Parven) by virtue of Article 25 of the Constitution of Islamic Republic of Pakistan, 1973.

(Copy of Notification in
appended as Annex-C)

5. It is pertinent to mention here that case of the applicant may also be considered in line with and analogous to Notification dated 13-06-2017 otherwise, it would be sheer violation of **Article 25 of the Constitution of Islamic Republic of Pakistan, 1973** which has unequivocally laid down that all citizens placed in similar circumstances are entitled to equal treatment and protection of law. The Hon'ble Supreme Court of Pakistan through various judgments has maintained that equal treatment is the fundamental right of every citizen. Reliance can be placed on **2002-SCMR-71, 2002-SCMR-82 & 2007-SCMR-410(d)**. The relevant citation are reproduced herein for facility of reference:-

2002-SCMR-71 ✓
(citation-c)

---Art. 25---Equality of citizens---Two groups of persons similarly placed could not be treated differently---Dictates of law, justice and equity required exercise of power by all concerned to advance the cause of justice and not to thwart it.

2002 SCMR 82
(a) Constitution of Pakistan (1973)---

---Art.25---Equality before law---Employer could not mete out different treatment to two groups of its employees, as dictates of law, justice and equity required exercise of power by all concerned to advance the cause of justice and not to thwart it.

2007-SCMR-410(d)
(citation-d)

---Art. 25---Equal protection of law---Principles---Concept of equal protection of law envisages that a person or class of persons should not be denied the rights,

which are enjoyed by other persons in the same situation.

It is well settled law that that the decision of august Supreme Court of Pakistan is binding on each and every organ of the state by virtue of **Article 189 & 190 of the Constitution of Islamic Republic of Pakistan, 1973**. Reliance can be placed on the judgment of Apex court of country reported in **1996-SCMR-284 (citation-c)**. The relevant citation is mentioned below: -

1996-SCMR-284
(citation-c)

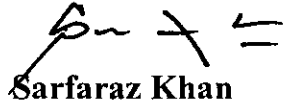
---Arts. 189 & 190---Decision of Supreme Court---Binding, effect of--Extent--Law declared by Supreme Court would bind all Courts, Tribunals and bureaucratic set-up in Pakistan.

It is expected that the Competent Authority (The Worthy Chief Secretary) will honour the above dictums of august Supreme Court by considering the case of the applicant qua similarly placed employee as referred to above in the best interest of justice and equality. It is evenly important to highlight that the applicant will retire from service w.e.f. 27-08-2020 after attaining the age of superannuation of sixty years. Therefore, he deserves for leniency and kindness.

In view of the above narrated facts, it is requested that De-novo inquiry which was not concluded within the period of 60 days as ordered by the Hon'ble Khyber Pakhtunkhwa, Services Tribunal, may very graciously be

withdrawn in view of Notification dated 13-06-2017 notified in case of Mst. Shaida Parven and he may also be treated qua similarly placed employee referred to above so as to secure the ends of justice from defeat.

Yours obedient servant



Sarfaraz Khan

(Ex-SDEO) s/o Fazal Raheem
village and Post office Azakhel,
Tehsil and District, Peshawar

29-06-2020

(Ex SDEO(M) Peshawar

03083387264

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C.M NO./2020

IN

Execution Petition No. 88/2020

In

Service Appeal No 136/2019

Date of Decision 13/02/2020

Sarfaraz Khan EX SDEO (Male) Peshawar r/o Village and P/o
Azakhel District Peshawar. **...Petitioner**

Versus

1. The Chief Secretary, Government of Khyber Pakhtunkhwa
Peshawar.
2. The Secretary to Govt of Khyber Pakhtunkhwa Elementary and
Secondary Education Department Peshawar..... **Respondents**

**OBJECTION ON REINSTATEMENT NOTIFICATION OF THE
PETITIONER ISSUED BY SECRETARY ES&E DEPARTMENT ON
27/07/2020 WITH IMMEDIATE EFFECT INSTEAD OF FROM THE
DATE OF JUDGMENT [13/02/2020] WHICH IS NOT IMPLEMENTED
IN LETTER AND SPIRIT AS PER JUDGMENT DAED 13/02/2020
OF THIS HONOURABLE TRIBUNAL.**

RESPECTFULLY SHEWETH:-

1. That Respondent No. 2 reinstated the petitioner vide Notification
No. SO(SM)E&SED/4-3/2018/ sarfaraz khan dated 27/07/2020
which is against the judgment dated 13/02/2020 of this
Honourable Tribunal [**copy notification as Annexure -A**].
2. That as per directions of this Honourable Tribunal vide judgment
dated 13/02/2020 the respondent department should implement
the judgment in letter and spirit from dated 13/02/2020
instead of the immediate effect, wherein Secretary Elementary and
Secondary Education Department reinstated the petitioner on
27/07/2020 with immediate which is against the judgment of this
Honourable Tribunal and also against the law and rules.
3. That the respondent department should implement judgment
from the dated of decision i.e. 13/02/2020 thus the respondent

should also issue monthly salaries of the petitioner from the date of issuance of judgment of this Honourable Tribunal but the department have not implemented judgment dated 13/02/2020 in letter in spirit.

4. That the respondent department maliciously kept pending judgment of this Honourable for long period and on 27/07/2020 the ES&E Department reinstated the petitioner and started de-novo inquiry proceedings against the petitioner which result the respondent ordered compulsory retirement of the petitioner on 26/08/2020 prior to one day ago from the retirement of the petitioner on superannuation of 60 years age.
5. That this Honourable Tribunal was directed the respondents vide judgment dated 13/02/2020 contained in Para No. 7 *“that we are of the view to partially accept the instant appeal and to reinstate the appellant for the purpose of de-novo inquiry. The respondents are directed to complete de-novo inquiry within period of (60) days”*. But the stipulated period for conducting of de-novo inquiry has also been expired and the petitioner has not been reinstated in service by the respondent department despite directions of this Honourable Tribunal which amounts to contempt of this Honourable Tribunal.
6. That the respondents violated various judgments of the august Supreme Court of Pakistan reported as 2007 PLC [CS] 959 Zahoor ud Din vs Pakistan Atomic Energy , 2010 PLC [CS] 608 National Banks and others vs Shamoon khan etc and 2020 PLC [CS] 918.
7. That on the implementation of judgment reported as 2020 PLC [CS] 918 Athar Rahim vs Govt KPK and others this Honourable Tribunal has also issued directions in the Execution Petition of Athar Rahim vs Local Government for implementation which is pending before this Honourable Tribunal for implementation.
8. That the august Supreme Court of Pakistan vide judgment reported as 2018 SMCR 380 that *“ Similarly placed employees Entitlement of same relief where such point of law covered not only the case of the civil servants who litigated, but also of other civil servants , who may have no taken any legal proceedings , the dictates of justice and rule of good governance demanded that the benefit of the other civil servants, who may not be parties to the litigation instead of compelling them to approach the Tribunal or any other legal forum”*.

It is therefore, most humbly prayed that on acceptance of this objection application the respondent department may kindly be directed to implement the judgment dated 13/02/2020 in letter and spirit and monthly salaries may be released to the petitioner from the dated of decision i.e. 13/02/2020. That this Honourable Tribunal may also be exonerated from de-novo inquiry being time barred and he may also be reinstated into service with all back benefits.

Petitioner

Through

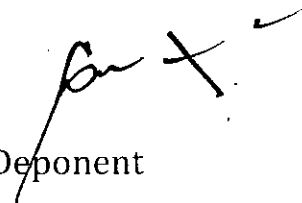
21/09/2020



(HAMAD HUSSAIN)
Advocate High Court Peshawar
03120952763

AFFIDAVIT

I, Sarfaraz Khan EX SDEO (Male) Peshawar, hereby solemnly affirm and declare that all the contents of the instant application in Execution Petition are true and correct to the best and belief of my knowledge and nothing has been concealed from this Honourable Tribunal.



Deponent

REGISTERED



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

Dated Peshawar the July 27, 2020 ✓

NOTIFICATION

NO.SO(SM)E&SED/4-3/2018/Sarfraz Khan: In pursuance of the judgement of Khyber Pakhtunkhwa Service Tribunal Peshawar dated 13.02.2020, the Competent Authority is pleased to reinstate Mr. Sarfaraz Khan, Ex SDEO, (M) BS-17 into service with immediate effect.

**SECRETARY
E&SE Department**

Endst: of even No. & Date :-

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa. Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa. Peshawar.
3. District Education Officer Peshawar
4. PS to Secretary E&SE Department. Khyber Pakhtunkhwa.
5. PS to Special Secretary E&SE Department, Khyber Pakhtunkhwa.
6. Incharge EMIS E&SE Department.
7. Office order file.

**(MUHAMMAD ARIF)
SECTION OFFICER (SCHOOLS MALE)**

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 21-22/ST

Dated 06/01/2021


To

1. The Chief Secretary,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. Secretary E&SE,
Government of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: - **ORDER IN EXECUTION PETITION NO. 88/2020, MR. SARFARAZ KHAN.**

I am directed to forward herewith a certified copy of order dated 01.01.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

o/c



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

No.SOSM/ E&SE/11-1/2020/complaint/sarfaraz
Dated Peshawar the December 21, 2020


To

The Section Officer (Lit-II)
E&SE Department

Subject: - **SERVICE APPEAL NO. 1180/2020 TITLE SARFARAZ KHAN**

I am directed to refer to your letter dated 17.12.2020 on the subject noted above and to enclose herewith a copy of approved note of Chief Secretary and De-novo inquiry report for further necessary action.

DA/AS above


(MUJEEB UR RAHMAN)
SECTION OFFICER (SCHOOLS MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to the: -

P.S to Secretary E&SED.

SECTION OFFICER (SCHOOLS MALE)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

NOTE FOR CHIEF SECRETARY

Subject:- APPLICATION FOR IMPLEMENTATION UPON JUDGEMENT
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL IN S.A 136/2019
SARFARAZ KHAN EX SDEO MALE PESHAWAR VS EDUCATION
DEPARTMENT ETC

ESE-4626

Mr. Sarfaraz Khan (BS-17) Ex-SDEO (M) Peshawar was removed from service vide this Department notification dated 09-10-2018 (F/A).

2. Now he has submitted an application alongwith Hon'ble Service Tribunal Judgement dated 13-02-2020, wherein he has requested for reinstatement in light of Service Tribunal Judgement (F/B). The Service Tribunal decided the case on 13-02-2020, wherein the impugned order of removal from service of the appellant set aside and the appellant reinstated into service. The operative part of the judgment is reproduced as under: -

"In view of the above discussion we are of the view to partially accept the instant appeal and to reinstate the appellant for the purpose of de-novo inquiry. The respondents are directed to complete the de-novo proceedings within a period sixty (60) days. The issue of back benefits will be subject to the outcome of de-novo inquiry. The present service appeal is disposed of in the above terms."

3. This Department is of the view that Mr. Sarfaraz Khan Ex-SDEO (M) Peshawar may be re-instated into service with immediate effect and an inquiry be conducted against him denovo in accordance with the judgment of Khyber Pakhtunkhwa Service Tribunal dated 13-02-2020 under the rules ibid.

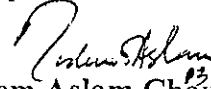
4. The Chief Secretary being Competent Authority is requested to: -

- i. Allow reinstatement of Mr. Sarfaraz Khan Ex-SDEO (M) Peshawar with immediate effect.
- ii. Allow conduct of denove inquiry against Mr. Sarfaraz Khan Ex-SDEO (M) Peshawar and appoint an inquiry officer/committee from the panel given below;

- i. Mr. Gohar Ali, Director, DCTE, Abbottabad.
- ii. Mr. Tashfeen Haider, Managing Director, PSRA.
- iii. Mr. Zia-ul-Haq, Project Director IMU, Peshawar.

(iii) Sign the Charge Sheet and Statement of Allegations at (F/C & D) and also insert the name of the inquiry officer/committee in the Statement of Allegations at (F/D).

5. The Chief Secretary may kindly approve proposal at para 4/ ante.

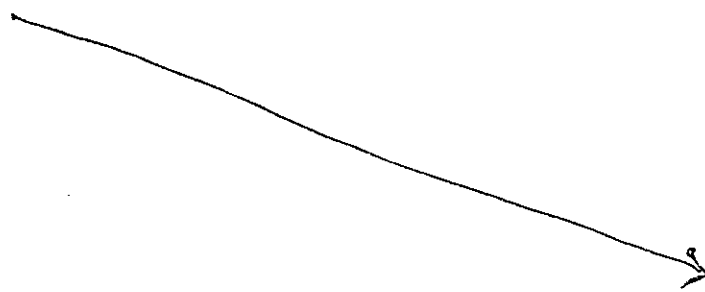

(Nadeem Aslam Chaudhary)
Secretary E&SED

PS/Secy-E&AD-KP

Diary No. 1466

FTS No. 14-7-20

Date. 14-7-20



SECRETARY ESTABLISHMENT DEPARTMENT

CHIEF SECRETARY KHYBER PAKHTUNKHWA

797
13/07/2024

N. P. J

6- Summary for Chief Minister, Khyber Pakhtunkhwa moved by E&SE Department regarding application for implementation upon judgment of Khyber Pakhtunkhwa Service Tribunal in S.A. 136/2019 **Sarfaraz Khan** Ex-SDEO Male Peshawar Vs Education Department etc. in respect of Mr. **Sarfaraz Khan (BS-17) Ex-SDEO (M) Peshawar** (now SDEO Male Town-III Peshawar) has been examined and observed that the Khyber Pakhtunkhwa Service Tribunal has decided the case on 13.02.2020 with the direction to complete the de-novo proceedings within a period of sixty (60) days. In the meanwhile Mr. **Sarfaraz Khan** had also submitted his application on 13.02.2020 for reinstatement in service in light of direction of Khyber Pakhtunkhwa Service Tribunal. Whereas the department has submitted the case to the competent authority on 13.07.2020 i.e. after a lapse of almost five (05) months, without forwarding any reasons for such a delay. It is also worth mentioning that the applicant would be retiring from service upon reaching the age of superannuation i.e. 60 years on 27.08.2020. This means that the officer is likely to retire from service before completion of the de-novo inquiry and in accordance with Rule-1.8 of Pension Rules read with Establishment Department Instructions and provision of F.R. 54A wherein the inquiry against the Govt. servant shall be abated after his retirement (F/E). Moreover, the Note is silent as to whether CPLA against the judgment of Khyber Pakhtunkhwa Service Tribunal dated 13.02.2020 has been filed in the Apex Court or otherwise.

7- Foregoing in view, the proposal of the Department contained at Para-3 & 4 of the Note read with detail facts at Para-6 thereof are submitted for orders of the Chief Secretary, Khyber Pakhtunkhwa. The Chief Secretary, Khyber Pakhtunkhwa being competent authority may like to sign Charge Sheet and Statement of Allegations at (F/C & D) and appoint an Inquiry officer/Inquiry committee from the following panel by indicating the name (s) in the space left blank in the Statement of Allegations (F/D).

Panel of PMS

- i. Mr. Muhammad Sher (PMS BS-18),
Deputy Secretary, ST & IT Department
- ii. Mr. Javed Ali Orakzai (PMS BS-18),
Deputy Secretary Labor Department

Panel of Technical Officers

- ✓ i. Mr. Gohar Ali, Director,
DCTE Abbottabad
- ii. Mr. Tashfeen Haider, Managing Director,
PSRA, Peshawar
- iii. Mr. Zia-ul-Haq, Project Director,
IMU Peshawar

(Syed Jamal-ud-Din Shah)
Secretary Establishment

July 20, 2020

Chief Secretary, Khyber Pakhtunkhwa

8. Mr Kashif Iqbal (B.18 PMS) and Mr Gohar Ali

(P.T.O)



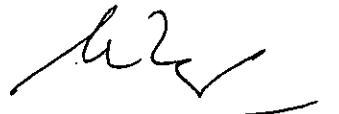


GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

NOTE FOR CHIEF SECRETARY

Subject- APPLICATION FOR IMPLEMENTATION UPON JUDGEMENT
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL IN S.A 136/2019
SARFARAZ KHAN EX SDEO MALE PESHAWAR VS EDUCATION
DEPARTMENT ETC

The enquiry has to be finalized in 3 weeks.
Sery E i SE to separately examine the
reasons for narration in para 6/N and
fix responsibility. This is a blatant case of
violation of rules to benefit the accused.
Must fix your own house.


26/7

Sery E i SE

①

p.p.

ese-4626



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480, Fax # 091-9211419

NOTE FOR CHIEF SECRETARY KHYBER PAKHTUNKHWA

SUBJECT: - APPLICATION FOR IMPLEMENTATION UPON JUDGEMENT OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL IN S.A 136/219 SARFARAZ KHAN EX-SDEO MALE PESHAWAR VS EDUCATION DEPARTMENT ETC

9. Reference para 08 ante.

10 The accused Mr Sarfaraz Khan Ex-SDEO (Male) Peshawar, on approval of the constitution of the Inquiry Committee vide para 8 ante, was reinstated in service (F/F) to hold an inquiry denovo against him under E&D Rules 2011 on the following charge:

"He has appointed 20 Class- IV without calling DSC meeting who were neither included in the working paper nor in the minutes of the meeting held on 20.12.2013."

The inquiry committee in its report (F/G) has held Mr Sarfaraz Khan Ex-SDEO (Male) Peshawar guilty of the charge.

11 The Department agrees with the aforementioned findings of the Inquiry Committee. The Department on considering the fact that the accused has served the Department for over 29 years and is to retire on 27.08.2020 recommends that he may be compulsorily retired from service and the period he remained out of service on account of his removal that is from 09.10.2018 to 27. 07.2020 may be treated as leave without pay.

12 Show Cause Notice has been drafted and placed on board (F/H).

13. The Department is holding a fact finding inquiry to ascertain reasons and fix responsibility for delay in putting up the instant case. The Department shall also take action against other officers who have been found guilty of misconduct in the inquiry report. These reports shall be submitted separately as soon as finalized.

14. The Department proposes that the Chief Secretary being the Competent Authority under Rule-4 (1) (b) of the APT Rules, 1989 may kindly sign the Show Cause Notice placed at F/H and incorporate penalty/penalties therein from the list of penalties at F/I.

15. Submitted.

Nadeem Aslam
13/8/2020
(NADEEM ASLAM CHAUDHARY)
SECRETARY

CHIEF SECRETARY, KHYBER PAKHTUNKHWA

9128
Date: 17.8.2020
850
13/8/2020

Sarfraz SE
SS/ASB / DSA / SOF
Nadeem
13/8/2020

Wg
Chief Secretary
Govt. of Khyber Pakhtunkhwa



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

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A", Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480, Fax # 091-9211419

NOTE FOR CHIEF SECRETARY KHYBER PAKHTUNKHWA

**SUBJECT: - APPLICATION FOR IMPLEMENTATION UPON JUDGEMENT OF
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL IN S.A 136/219
SARFARAZ KHAN EX-SDEO MALE PESHAWAR VS EDUCATION
DEPARTMENT ETC.**

17. Reference para 16 ante.

18. This Department served a Show Cause notice upon Mr. Sarfaraz Khan, Ex-SDEO (M) Peshawar, vide letter dated 18.08.2020. The accused officer has submitted his reply to the Show Cause notice (F/J). This Department is of the opinion that the reply to the Show Cause Notice is more or less repetition of accused's statement submitted to the enquiry committee and does not merit modification in the penalty mentioned in the Show Cause Notice.

19. The Department therefore proposes that the penalty of "Compulsory Retirement" tentatively imposed upon the said accused may be confirmed and the period he remained out of service on account of his removal that is from 09.10.2018 to 27.07.2020 may be treated as leave without pay after affording him an opportunity of personal hearing.

20. Submitted.

Nadeem Aslam
24/8/2020

(Nadeem Aslam Chaudhary)
Secretary E&SED

861
24/8/2020
Diary No.
Date

CHIEF SECRETARY, KHYBER PAKHTUNKHWA

21.

AS(Admin)

pl conduct hearing on my behalf.

N. P. P

W. S. J.
Chief Secretary
Govt. of Khyber Pakhtunkhwa

Refer Para 21 of the Note.

22. The undersign was authorized to afford personal hearing to the accused officer Mr. Sarfaraz Khan Ex-SDEO(M), Peshawar in disciplinary case regarding illegal recruitment of Class-IV employees, without Departmental Selection Committee (DSC).

23. The accused officer was called for personal hearing on 25.08.2020 at 1400 hrs, which was attended by the accused in person alongwith the representative of Elementary and Secondary Education Department (F/K). The accused officer was heard in person. The accused officer re-iterated his old stance he took before the inquiry committee.

24. After having heard the accused in person, examining the record provided by the department and denovo-inquiry report, it is concluded that the accused has not added anything new in his defence.

25. In view of the above, it is therefore, recommended that the competent authority may confirm the major penalty, "Compulsory Retirement from Service" tentatively imposed upon the accused officer.

Shahid Sohail Khan
25.08.2020.

(Shahid Sohail Khan)
Additional Secretary (Admn-I)
Establishment & Administration Department

Chief Secretary

Para 19/N read with para 25/N is approved.

Senj/E & SE

Senj
26/8

Chief Secretary
Govt. of Khyber Pakhtunkhwa

SS/ASE

Senj
26/8/2020

No. *712*
Date *26.8.2020*

INQUIRY REPORT

The L&SE Department vide Notification No. SO (SM) E&SED/4-3/2018/Sarfaraz Khan, dated July 27, 2020 has constituted inquiry committee to conduct de-novo Inquiry against Sarfaraz Khan, (BS-17) Ex-SDEO (M), Town-III Peshawar in to the charge mentioned in the charge sheet and statement of allegations and submit the enquiry report on priority basis

per charge sheet and statement of allegations: "You have appointed (20) class-IV without calling DSC Meeting who were neither included in the working paper nor in the minutes of the meeting held on 20-12-2013" (F/B)

BACKGROUND OF THE CASE:

The instant case initiated with a letter wrote by Mr. Irfan Ali ex-SDEO Peshawar, after assuming the same post held by the accused on 28.06.2014 (F/C).

Mr. Irfan Ali in his letter address to District Education officer, Peshawar highlighted some of the irregularities, made during the recruitment process;

DSC was arranged and 28 class-iv were recommended for appointment and orders were issued but against 28 eligible class-iv, seventeen still deprived of their right of salaries.

Twenty-three candidates were appointed as class-iv in anticipation of approval of DSC and accordingly only 17 have been drawing their salaries.

Consequently the competent authority appoint ex-DEO Charssadda Mr. Siraj recommended to conducted fact finding inquiry in the instant case (F/D); wherein the report concluded that "from the perusal of the available record I reached to the conclusion that the ex-DEO has made appointments of the enlisted 20 class-iv in violation of rules and regulation and as such these appointments are legally null and void. This is a clerical mistake to be taken slightly".

The inquiry officer while concluding the fact finding inquiry recommended the following:

1. Salary of the remaining class-IV approved by the DSC be released.

2. The issue of 10 concerned chowkidars needs to be resolved departmentally to release their salaries unless a clear decision of the competent authority regarding the fate of their services is taken place.

M. A. Khan *IC/IV*

These obvious irregularities committed by the ex-DDO in appointment of class-iv in his short tenure on one hand is a question mark on his performance to regain administration seat in future and on other hand he stands deserve to disciplinary action under E&D rules, 2011 as well.

Consequently, the competent authority ordered formal inquiry against the accused officer and appointed Mr. Askar Khan (OMG BS-18) Deputy Director, PDMA; the inquiry officer concluded that, "forgoing in view, it is crystal clear that the allegation against the accused stands proved" (F/E).

Upon the recommendation of the inquiry officer the Competent Authority issued show cause notice with tentative penalty of "Dismissal from Service".

During affording opportunity of personal hearing to the accused officer, the competent Authority finally imposed major penalty of "Removal from Service" upon the accused.

Aggrieved from the order the accused officer filed appeal in Services Tribunal; the Services Tribunal vide its judgment dated 13.02.2020 passed the following order;

"In view of the above discussion we are of the view to partially accept the instant appeal and to reinstate the appellant for the purpose of de-novo inquiry. The respondents are directed to complete the de-novo proceedings within a period of sixty days. The issue of back benefits will be subject to the outcome of the de-novo inquiry. The present service appeal is disposed of in the above terms" (F/F).

Accordingly, the competent authority has re-instated the accused officer in Service vide order dated 27.07.2020 (F/G) and order de-novo inquiry and appointed Mr. Kashif Iqbal Jilani (PMS BS-18) and Mr. Gohar Ali Khan (MC BS-20) Director DCTE KP, Abbottabad as inquiry committee vide notification dated 27.07.2020 (F/A)

PROCEEDINGS

Elementary & Secondary Education Department notified this inquiry committee to conduct de-novo inquiry in the instant case and complete the proceedings on priority basis being court mater. Therefore the inquiry committee hold proceedings on daily basis.

The accused officer Mr. Sarfaraz was called to appear before the inquiry committee on 29.07.2020, he attended the proceedings, wherein he committed that as per the charge sheet he will submit his written reply till Tuesday, 4th July, 2020. A reminder was also issued to the accused officer for timely submission of his written statement (F/H). Instead of submitting his written reply, the accused officer forwarded Medical report, with 3 days bed rest (F/I). However the accused appeared before the inquiry committee on 10.08.2020 (F/K). he attended the proceeding and submitted his written

M. Sarfaraz *A. C. 15*

statement to inquiry committee on 11.08.2020 after the due date/period specified in the charge sheet (F/J-1).

2. It is worth perusal that the accused officer Mr. Sarfaraz Khan also submitted a written statement to the Secretary E&SED with a copy to the members of the Inquiry Committee raising objection that the service tribunal has directed the completion of De-Novo inquiry within (60) days in Service Appeal No. 136/2019, but the E&SED unable to complete the enquiry proceedings and the stipulated period of (60) days has been expired (F/J-2).
3. The committee ask DEO Male, Peshawar, SDEO Male, Peshawar and SO (School/Male) to appear in person along with relevant record. All concerned attended the proceedings on 29.07.2020 (F/R).
4. The three members of Departmental Selection Committee, Mr. Atta Ullah Assistant Director (Audit/F&A) Directorate of E&SE, KP Peshawar, Mr. Javed Abbas Superintendent SDEO (male) Office Peshawar and Mr. Muhammad Ishtiaq ASDEO (Male) Mattani Circle Peshawar have attended the proceedings on 30.07.2020 (F/R). The committee asked them to submit written statement regarding the recruitment made in the DSC meeting dated 20.12.2013, accordingly they have submitted their written statements on 03.08.2020 (F/L 1 to 3).
5. After examination of the written statements of the three DSC members, the committee prepared questionnaire for all the three members and served upon them on 06.08.2020 (F/M-1), replies to the questionnaire were submitted to the committee on 10.08.2020 (F/M-2).
6. After examining the record provided by the DEO Male, Peshawar office, the committee prepared a questionnaire for further clarity of some questions related to the instant inquiry (F/M-1), accordingly the DEO Male, Peshawar submitted his written reply on 11.08.2020 (F/N).
7. The inquiry committee hold proceeding on daily basis, and called the concern officers to appear before the committee, as evident from the attendance sheets (F/O & F/R).

FACTS

1. Director E&SE through order dated 12.12.2013 (F/P) delegated the power of class-iv employees' appointment to SDEOs in their jurisdiction across the province; while the said order was withdrawn vide order dated 24.02.2020 (F/Q). Therefore the appointments made by SDEOs during the period from 12.12.2013 to 24.02.2014 are in light of the authorization order issued by the Director E&SE.

[Handwritten signature]

[Handwritten initials]

The accused officer Mr. Sarfaraz Khan ex- SDEO male, Peshawar arranged a Departmental Selection Committee meeting on 20.12.2013 for filling the vacant posts of Chowkidars in various primary schools in District Peshawar, the Departmental Selection Committee was attended by the following as per their statements (F/R);

- i. Mr. Sarfaraz Khan Ex-SDEO Male, Peshawar as Chairman.
- ii. Mr. Atta Ullah Assistant Director (Audit/F&A), Directorate of E&SE, KP Peshawar as representative of Director E&SE.
- iii. Mr. Javed Abbas Superintendent o/o the SDEO (M) Peshawar as nominee of the chairman.
- iv. Mr. Muhammad Ishtiaq ASDEO (Male) Mattani Circle Peshawar as nominee of the Chairman.

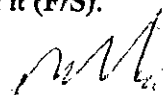
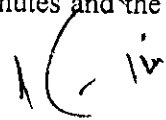
It is pertinent to mention that the letter of Directorate dated 12.12.2013 was silent regarding the composition of the DSC members apart from the chairmanship. Two members were nominated by the chairman, from amongst his subordinates. Directorate letter dated 12.12.2013 is also not clear regarding DSC constitution, number of members and nomination of members (F/P & F/Q).

As per statements and record it is clear that the DSC considered those candidates who submitted applications to DEO or SDEO office for appointment in the following four categories;

- i. 100% deceased son's quota.
- ii. 25% retired son's quota
- iii. Land donor and
- iv. Fresh candidates.

As per statement of the DSC members there were 28 vacant posts against which appointments were made in the above mentioned four categories, while as per the statement of the accused there were 54 posts available, While, the accused officer obtained NOC from Deputy Commissioner office Peshawar for 49 vacant posts of chowkidars against which appointment of 49 candidates were made by the DSC. The three members of the DSC denied the recommendations in respect of 21 candidates being not part of the minutes of the DSC dated 20.12.2013 (F/S).

The three members of the DSC whose names are mentioned in para (2) above denying the recommendations of the (21) chowkidars whose names are separately mentioned in the separate list with the arguments that they have not signed the minutes and the accused officer has scanned their signatures on it (F/S).

The accused officer in his statement says that he has activated the salaries of all the (49) chowkidars before relinquish the charge of the office of the SDEO (M) Peshawar on 07-06-2014.

Mr. Irfan Ali Ex-SDEO (M) Peshawar successor of the accused officer in his response submitted that he has reported the case of (21) chowkidars to the DEO (M) Peshawar, who were appointed without the recommendations of the DSC. He further stated that he has also stopped salaries of these employees.

STATEMENTS MR. SARFARAZ KHAN EX-SDEO MALE, PESHAWAR (F/J).

The accused officer appeared in person three times before the inquiry committee, two times the committee give him full opportunity to explain each and every minute detail of the case, furthermore, he was given more than three hours for recording his stance before the committee. During the proceedings he was time and again ask if you want to produce witnesses or want to cross question/examine the other related persons who recorded their statements or provide record in the instant inquiry. In response he denied the same.

Moreover, the committee informed the accused regarding the stance of other members of DSC, in order to provide full opportunity to the accused to defend himself.

The accused officer in his statements stated that he was posted as SDEO (M) Peshawar vide letter dated 27-08-2013 by the E&SE Department and remained as SDEO till 07-06-2014. He further stated that the Director E&SE KP Peshawar has authorized him for appointment of Class-IV vide letter of dated 12-12-2013 (F/P). Accordingly he called meeting of the DSC after completing the requisite formalities and the DSC in its meeting held on 20-12-2013 (F/K) has recommended (49) Chowkidars for appointments unanimously and the appointments orders were issued to the recommended candidates. The information regarding vacant posts were obtained from concerned ASDEO circles & NOC from DC Office Peshawar information regarding surplus employees were also obtained. He further stated that appointment orders in r/o (28) candidates were issued in 1st phase and those of (21) in 2nd phase. The salaries of all these (49) Chowkidars were activated from A.G office. Mr. Irfan Ali his successor reported to his higher ups that the said appointments are in

MM *10-12*

violation of rules and regulations, which become the base for initiation of disciplinary action against the accused officer.

That the enquiry officer has miserably failed to take into consideration all the facts, notification & even circumstances of the case prior to the submissions of the enquiry report against the undersigned, both the inquiry were not conducted in accordance with the mandated of Article 10-A of the Constitutional of Islamic Republic Pakistan 1973 as well as laid down by the august Supreme Court of Pakistan reported in 1997 SCMR 1073 (citation -a) and also Rule 11(1) of the Khyber Pakhtunkhwa Governments Servants (Efficiency and Discipline) Rules, 2011, therefore the inquiry proceeding is not warranted under the law.

That the then SDEO Male Peshawar namely Irfan Ali is not competent to recommend departmental action against the undersigned being a junior officer. Further Mr. Irfan Ali is also involved in issuance of fake appointment as chowkidar of Mr. Manzoor Hussain s/o Aman Ullah r/o Dolat Pura District Charsadda as the said appointment made in GPS Garhi Baloch, Peshawar with fake signatures of the undersigned and also issued the same appointment order in back date i.e. 27/01/2014. Beside, Mr. Manzoor Hussain was already working as sweeper in the Directorate of Transport and drawn his salaries till 30/06/2015. He draw salary as chowkidar from E&SE Department w.e.f. 27/01/2014. That one Majid Ali s/o Zar Khan r/o Tuktabad Awal Daudzai District Peshawar had also been appointed as Chowkidar at GPS Nakshal No. 1 Peshawar on 08/02/2014 with fake signatures of the undersigned.

That constitutional & legal rights have been violated in the instant case as guaranteed under the constitution of Islamic Republic of Pakistan 1973, as similarly nature case of one Mst Shahida Parveen [BPS-17] Ex-SDEO Female District Tank was allowed by the Honorable Service Tribunal vide judgment date 27/10/2016 with the directions to conduct de-novo inquiry within (60 days, but the same has not been completed within stipulated period, wherein the worthy Chief Secretary being Competent Authority was pleased to withdraw the De-novo inquiry on the findings of inquiry officer, and she was reinstated into service on 13/06/2017.

STATEMENTS MR. ATTA ULLAH ASSISTANT DIRECTOR (AUDIT/F&A)

DIRECTORATE OF E&SE, KP PESHAWAR (F/L 1 to 3).

Atta Ullah

10-10

Committee asked Mr. Attaullah AD Directorate of E&SE to submit written statement in instant inquiry; accordingly, he submitted his statement in the following words;

A meeting of the DSC committee regarding the appointment of Class-IV employees was held on 20-12-2013 under the Chairmanship of Mr. Sarfaraz Khan Ex-SDEO (M) Peshawar appointing authority.

The undersigned attended the said DSC meeting as a representative of Director E&SE Khyber Pakhtunkhwa Peshawar.

I signed the minutes of the meeting in which just (28) candidates were unanimously recommended by the DSC for appointment against Class-IV candidates as evident from the minutes of the DSC meeting (Copy attached) for ready reference.

I was just a member of DSC. The final decision/approval is granted by the Chairman DSC being appointing authority.

I just owned the 28 candidates which were unanimously/jointly recommended by the DSC as per attached minutes.

After examining the statement, available record in the instant case, the committee prepared the following questionnaire and served to the officer for submission of his reply. The officer replied in the following manner (F/M-1 & M-2),

Questions	Response		
Name of Respondent	Attaullah Jan		
Designation	Assistant Director (Audit)		
Date of Joining	21-12-1992		
Post held during the period	Position	From	To
	Assistant	1992	2009
	Supdt	2009	2017
	AD (Audit)	2017	Till dated
Pay Scale	BS-17		
Service Group	Provincial		
Present Posting with BPS.	AD (Audit) BS-17		
Provide DSC meeting notice and authorization/nomination order of competent authority?	DSC meeting notice and authorization/nomination order of competent authority must be available in master file/record of SDEO (M) office Peshawar being custodian of the		

Attaullah Jan

10-11

record. It is regretted that being an old case the same are not readily available with the undersigned.
Provide copy of working paper of the DSC meeting dated 20-12-2013?
As against Q.No. 8
Whether the applications were invited through Advertisement or through Employment Exchange? please provide copy of the relevant document.
Under rule-10 proviso 42 of the APT Rules -1989 initial appointment in BPS-1 to 4 shall be made on the recommendations of DSC through the District Employment Exchange concerned. Relevant record can be had from the SDEO Peshawar being Chairman DSC/custodian of the record.
How many applications were placed before the DSC, and have you examined all these applications and mark your signature accordingly?
It is hard and fast practice in E&SED in general and in its line offices in particular that the applications for any kind of appointment / promotion of teaching/non-teaching staff/candidates are always scrutinized/signed by the scrutiny committee OR concerned dealing hands and not by DSC. The DSC only considers the working paper placed before it duly scrutinized by the Scrutiny Committee/concerned dealing hands.
Have you checked the list of vacant posts? How many posts of class-IV were vacant?
So far as I remember the DSC in question was held on the basis of 28 vacant posts of Class-IV.
Have you calculated number of allocated seats to each quota i.e Employee' son, deceased son etc?
Usually, before commencement of DSC formally, the task of scrutiny of applications, allocation of seats to different quota, seniority and other formalities are carried out/fulfilled by the Scrutiny Committee specifically constituted for the purpose by the DEO/SDEO being Chairman DSC. Hence, the SDEO/Chairman OR Scrutiny Committee will be in better position to respond.
Were there any seniority exists, and have you checked the seniority list maintained for each quota maintained by the SDEO office? Are the recommendation made on the basis of these seniority lists?
As against Q.No.13
You made recommendations subject to availability of post and too in the deceased son quota for which 100% quota is reserved under the rules? Can such recommendations in anticipation posts?
It is an admitted fact that in recruitment process, the ultimate decision is taken by the Chairman DSC being appointing authority keeping in view number of available vacancies and share in each quota in the light of relevant rules before the issue of appointment order. The undersigned had recommended only 28 candidates against existing vacancies and not in anticipation posts. The SDEO concerned is responsible for appointment of over and above 28 candidates being appointing authority.
According to the rules there is no quota reserved for land donor, rather the Government of

M

10.12

Q	KP discontinued appointment in leu of land donor. Minutes dated 20-12-2013 reveals that you have recommended 8 candidates for appointment in leu of land donations please justify?
A	As against Q.No. 15
Q	What criteria was adopted for appointment of fresh candidates, please add documentary proof?
A	According to Government of Khyber Pakhtunkhwa Civil Servants APT Rules-1989, "There is no special criterion for post in BPS 1 to 4. The committee shall adopt its own method and procedure for selection"

STATEMENTS MR. JAVED ABBAS SUPERINTENDENT O/O THE SDEO (M)
PESHAWAR (F/L 1 to 3).

Officer stated in his written statement that District Selection Committee (DSC) meeting was held under the chairman ship of Mr. Sarfaraz Khan Ex-SDEO (M) Peshawar in his office on 20-12-2013. The undersigned has attended the meeting as a member. I signed the minutes of the meeting in which 28 candidates were unanimously recommended by the DSC for appointment against the vacant positions of Class-IV as evident from the minutes of the DSC meeting (Copy Attached). I just own the nomination of 28 candidates which were jointly recommended by the DSC. Furthermore my signature of the 2nd list regarding appointment of 28 candidates were scanned and pasted which the undersigned do not own.

It is further stated that the relevant record of appointment has not been handed over to the officer concerned and also, I don't know how he produced acknowledgment form my end.

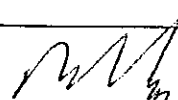
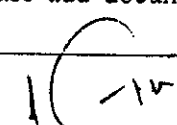
After examining the statement, available record in the instant case, the committee prepared the following questionnaire and served to the officer for submission of his reply. The officer replied in the following manner (F/M-1 & M-2),

Question	Response		
Name of Respondent	Javed Abbas		
Designation	Superintendent		
Date of Joining	21-12-1992		
Post held during the period	Position	From	To
	Supdt:	2009	Till Date
Pay Scale	17		
Service Group	Ministerial		

Javed Abbas

10-12

Present Posting with BPS.	Superintendent BPS-17
Q	Provide DSC meeting notice and authorization/nomination order of competent authority?
A	The question relates to the then SDEO/Chairman DSC. He may give better answer. I attended the meeting and I have no such available written record.
Q	Provide copy of working paper of the DSC meeting dated 20-12-2013?
A	Working paper was a part of file/official document which was in the custody of the then SDEO/Chairman DSC.
Q	Whether the applications were invited through Advertisement or through Employment Exchange? please provide copy of the relevant document.
A	The applications were supported by a card issued by the Employment Exchange. All relevant documents were part of file /official document which was in the custody of the Chairman DSC.
Q	How many applications were placed before the DSC, and have you examined all these applications and mark your signature accordingly?
A	The provided applications presented by the Chairman DSC/the then SDEO has been examined thoroughly and marked accordingly. After a laps of about 6 years, I may not be in position to answer correctly.
Q	Have you checked the list of vacant posts? How many posts of class-IV were vacant?
A	Yes, the working paper already prepared by chairman was thoroughly checked at the time of DSC meeting. 28 vacant posts were meritoriously approved.
Q	Have you calculated number of allocated seats to each quota i.e Employee' son, deceased son etc?
A	Yes, the committee calculated number of allocated seats to each quota at that time.
Q	Were there any seniority exists, and have you checked the seniority list maintained for each quota maintained by the SDEO office? Are the recommendation made on the basis of these seniority lists?
A	Yes
Q	You made recommendations subject to availability of post and too in the deceased son quota for which 100% quota is reserved under the rules? Can such recommendations in anticipation posts?
A	Deceased quota were 100% observed at that time and the remaining vacant posts were filled after discussion as per criteria.
Q	According to the rules there is no quota reserved for land donor, rather the Government of KP discontinued appointment in leu of land donor. Minutes dated 20-12-2013 reveals that you have recommended 8 candidates for appointment in leu of land donations please justify?
A	The Ex-SDEO (Chairman DSC) will be in better position to respond.
Q	What criteria was adopted for appointment of fresh candidates, please add documentary proof?

A	After observing all quotas, the applications of the fresh candidates duly supported with EEC received/produced by the Chairman DSC were thoroughly examined and recommended by the committee as mentioned in the working paper. There are no special criteria for the post BPS 1-4. The committee adopt his own method and procedure for selection i.e. local domicile, ID card, local address etc.:
Q	Your tenure in the office of SDEO office?
A	2011 to 2014 (About 4 years in the office of SDEO (Male) Peshawar.
Q	Whether you brought in the notice of your higher ups regarding fake minutes (as per your written statement) of 21 candidates and subsequent issuance of appointment orders?
A	No fake minutes were in my notice at that time.

STATEMENTS MR. MUHAMMAD ISHTIAQ ASDEO (MALE) MATTANI CIRCLE PESHAWAR (F/L 1 to 3).

1. Officer in his statement stated that;

District Selection Committee (DSC) meeting was held under the chairman ship of Mr. Sarfaraz Khan Ex-SDEO (M) Peshawar in his office on 20-12-2013.

2. The undersigned has attended the meeting as a member.

3. I signed the minutes of meeting in which 28 candidates were unanimously recommended by the DSC for appointment against the vacant positions of Class-IV as evident from the minutes of the DSC meeting (Copy Attached).

4. I was just a member of District Selection Committee and the final decision/ approval was granted by the chairman DSC being appointing authority.

5. I must own the nomination of 28 candidates which were jointly recommended by the DSC as per attached minutes.

6. I signed scanned and pasted on latter on submitted DSC meeting minutes and I shown it as I neither signed it.

7. On examining the available record statement of the accused and other members of the committee prepared the following questionnaire which was replied by the accused as follows (F/M-1 & M-2);

Question	Response
Name of Respondent	Muhammad Ishtiaq
Designation	ASDEO (M)
Date of Joining	06-05-2011

M. Ishtiaq 10-12

Post held during the period	Position	From	To
	ASDEO	06-05-2011	Till date.
Pay Scale	16		
Service Group	Management Cadre		
Present Posting with BPS.	ASDEO (M) Circle Mattani. BPS-16		
Q	Provide DSC meeting notice and authorization/nomination order of competent authority?		
A	<i>As per Telephonic direction of the then SDEO Mr. Sarfarz Khan, I attended the meeting and I have no such available written record.</i>		
Q	Provide copy of working paper of the DSC meeting dated 20-12-2013?		
A	<i>Working paper was a part of file/official document which was in the custody of Chairman DSC.</i>		
Q	Whether the applications were invited through Advertisement or through Employment Exchange? Please provide copy of the relevant document.		
A	<i>The Question pertains to the Ex-SDEO. He may give better answer.</i>		
Q	How many applications were placed before the DSC, and have you examined all these applications and mark your signature accordingly?		
A	<i>After a lapse of 06 years, I may not be in position to answer correctly. Although the record was in the custody of Ex-SDEO (Sarfarz Khan).</i>		
Q	Have you checked the list of vacant posts? How many posts of class-IV were vacant?		
A	<i>Yes, the working paper already prepared by chairman was thoroughly checked at the time of DSC meeting. 28 vacant posts were meritoriously approved.</i>		
Q	Have you calculated number of allocated seats to each quota i.e. Employee' son, deceased son etc.?		
A	<i>Yes, the committee calculated number of allocated seats to each quota at that time.</i>		
Q	Were there any seniority exists, and have you checked the seniority list maintained for each quota maintained by the SDEO office? Are the recommendation made on the basis of these seniority lists?		
A	<i>Yes.</i>		
Q	You made recommendations subject to availability of post and too in the deceased son quota for which 100% quota is reserved under the rules? Can such recommendations in anticipation posts?		
A	<i>Deceased quota were 100% observed at that time and the remaining vacant posts were filled after discussion as per criteria.</i>		
Q	According to the rules there is no quota reserved for land donor, rather the Government of KP discontinued appointment in lieu of land donor. Minutes dated 20-12-2013 reveals that you have recommended 8 candidates for appointment in lieu of land donations please justify?		
A	<i>The Ex-SDEO (Chairman) will be in better position to respond.</i>		
Q	What criteria was adopted for appointment of fresh candidates, please add documentary		

M.A. Khan 10-04

	proof?
A	<i>After observing all quotas, the committee recommended fresh candidates mentioned in the working paper.</i>
Q	Your tenure in the office of SDEO office or DEO (male) Peshawar office?
A	<i>31-10-2013 (About 7 years as ASDEO.</i>
Q	Whether you brought in the notice of your higher ups regarding fake minutes (as per your written statement) of 21 candidates and subsequent issuance of appointment orders?
A	<i>There were no fake minutes in my notice at that time.</i>

MR. IRFAN ALI DDEO, WITH ADDITIONAL CHARGE OF DEO (M) PESHAWAR

The committee prepared list of information and record required for completion of the inquiry report. The accused officer, Mr. Irfan Ali the DDEO Peshawar was asked to provide the relevant record related to the instant case on prescribed format (F/Y); beside the general statement of all the officer that if the record related to the instant case has been in custody of the accused officer, the inquiry committee shall offer other option to design such proforma for provision of record that was based on the information available today.

- To ascertain that whether those employees who were appointed by the accused getting their salaries or otherwise, the committee ask the Mr. Irfan Ali the DDEO Peshawar to provide list of all the chowkidars who are getting salaries.
- Provide details of those employees whose salaries were stopped by the then Ex-SDEO (M) Peshawar, now DDEO Peshawar with additional charge of DEO.

Mr. Irfan Ali DDEO Peshawar provided the requisite information/list (F/N) which contains details of Chowkidars working in the Primary Schools of District Peshawar duly attested by him. However the names of Chowkidars from S. No 561 to S. No 611 of the list provided (F/T page 1 to 13) pertains to the instant case hence reproduced in the following table;

(Table "A")

3	4	5	6	8
P. No	Name	Designation	D.O. 1st App:	Remarks given by DEO (M) Peshawar

M.A.

10-12

711338	Qaisar Shah	Chowkidar	11/11/2013	App: W/O DSC by Ex-SDEO/Sal: Stop: let: No.969, dated 14.10.2014/Sal: activated with App.: of DEO(M) Pesh:
711592	Alamgir Khan	Chowkidar	18/11/2013	App: W/O DSC by Ex-SDEO/Sal: Stop: let: No.969, dated 14.10.2014/Sal: activated with App.: of DEO(M) Pesh:
709910	Khurshid Alam	Chowkidar	1/1/2014	
710587	Adnan Khan	Chowkidar	1/1/2014	Appointed With DSC by Ex-SDEO
710593	Nafees Ullah	Chowkidar	1/1/2014	Appointed With DSC by Ex-SDEO
711332	Naimat Ullah	Chowkidar	1/1/2014	Appointed With DSC by Ex-SDEO
711473	Naveed Khan	Chowkidar	1/1/2014	Appointed With DSC by Ex-SDEO
711604	Awais Khan	Chowkidar	1/1/2014	Appointed With DSC by Ex-SDEO
711607	Meera Jan	Chowkidar	1/1/2014	Appointed With DSC by Ex-SDEO
712248	Amaad Ali	Chowkidar	1/1/2014	Appointed With DSC by Ex-SDEO
712249	Inam Ullah	Chowkidar	1/1/2014	Appointed With DSC by Ex-SDEO (P. No 705463) in 2 nd list
711732	Masood Khan	Chowkidar	1/4/2014	Appointed With DSC by Ex-SDEO
711751	Nauman Haider	Chowkidar	1/4/2014	Appointed With DSC by Ex-SDEO
713934	Abdullah	Chowkidar	1/4/2014	Appointed With DSC by Ex-SDEO
711328	Khalid	Chowkidar	1/6/2014	Appointed With DSC by Ex-SDEO
711606	Shakeel Ahmad	Chowkidar	1/6/2014	Appointed With DSC by Ex-SDEO
714065	Ibrahim	Chowkidar	1/8/2014	Appointed With DSC by Ex-SDEO
711337	Shahbaz Ali	Chowkidar	1/13/2014	Appointed With DSC by Ex-SDEO
711334	Muhammad Akbar	Chowkidar	1/25/2014	Appointed With DSC by Ex-SDEO
711331	Niaz Wali Gul	Chowkidar	1/27/2014	Appointed With DSC by Ex-SDEO
711750	Suhail Khan	Chowkidar	2/1/2014	App: W/O DSC by Ex-SDEO/Sal: activated with App.: of DEO (M)
712247	Irshad Khan	Chowkidar	2/1/2014	App: W/O DSC by Ex-SDEO/Sal: activated with App.: of DEO (M).
714996	Ibrar Khan	Chowkidar	2/1/2014	Appointed With DSC by Ex-SDEO
711601	Waqar Khan	Chowkidar	3/1/2014	Appointed With DSC by Ex-SDEO
711602	Zia Ullah	Chowkidar	3/1/2014	Appointed With DSC by Ex-SDEO

M.M. *10-12*

71609	Siraj Ud Din	Chowkidar	3/1/2014	Appointed With DSC by Ex-SDEO
713933	Kamran Ahmad	Chowkidar	4/1/2014	Appointed With DSC by Ex-SDEO
790156	Hasham Ullah	Chowkidar	5/15/2014	
717463	Nauman Khan	Chowkidar	5/21/2014	
717541	Waleed Bin Fareed	Chowkidar	5/21/2014	
712075	Naseem Ullah	Chowkidar	5/12/2015	App: W/O DSC by Ex-SDEO/Sal: activated with App.: of DEO(M) Pesh:
710589	Shams Uz Zaman	Chowkidar	6/16/2017	Appointed without DSC later on regularized by honorable Court
712251	Kashif Ullah	Chowkidar	6/16/2017	Appointed without DSC later on regularized by honorable Court
711605	Azmat Ali	Chowkidar	11/27/2017	Appointed without DSC later on regularized by honorable Court
718387	Sifat Ullah	Chowkidar	00/00/0000	
711776	Abdul Jabbar Khan	Chowkidar	00/00/0000	
712077	Abbas Khan	Chowkidar	00/00/0000	App: W/O DSC by Ex-SDEO/Sal: activated with App.: of DEO (M)
711333	Sarbiland Khan	Chowkidar	00/00/0000	Salary Stopped vide SDEO Office Letter No.969, dated 14.10.2014 and till date not started.
712250	Ismail	Chowkidar	00/00/0000	appointed without DSC by Ex-SDEO/Sal: activated with the app.: by DEO (M) Pesh
717577	Ikram Ullah	Chowkidar	00/00/0000	appointed without DSC by Ex-SDEO/Sal: activated with the appr: by DEO (M) Pesh
709910	Khurshid Alam	Chowkidar	00/00/0000	Salary Stop: by SDEO Office letter No.969, dated 14.10.2014 and till date not started
711599	Muhammad Rizwan	Chowkidar	00/00/0000	Salary Stop: by SDEO Office letter No.969, dated 14.10.2014 and till date not started
711336	Aziz Ahmad	Chowkidar	00/00/0000	Salary Stop: by SDEO Office letter No.969, dated 14.10.2014 and till date not started
717573	Gulzar Khan	Chowkidar	00/00/0000	Salary Stop: by SDEO Office letter No.969, dated 14.10.2014 and till date not started

714586	Sana Ullah Jan	Chowkidar	00/00/0000	Salary Stop: by SDEO Office letter No.969, dated 14.10.2014 and till date not started
738467	Mir Tawas Khan	Chowkidar	00/00/0000	Appointed With DSC by Ex-SDEO
712249	Inam Ullah	Chowkidar	00/00/0000	Appointed With DSC by Ex-SDEO
731373	Ansar Naeem	Chowkidar	00/00/0000	Appointed With DSC by Ex-SDEO
	Hazrat Bilal	Chowkidar	00/00/0000	App: W/O DSC by Ex-SDEO/Sal: activated with Appr: of DEO(M) Pesh:
	Zahid Ali	Chowkidar	00/00/0000	App: W/O DSC by Ex-SDEO/Sal: activated with App: of DEO(M) Pesh:
	Muhammad Javed	Chowkidar	00/00/0000	App: W/O DSC by Ex-SDEO/Sal: activated with App: of DEO(M) Pesh:
Summary of appointments who's salary started :-				
No. of App: by Ex-SDEO With DSC			24/28	
No. of Appoi: by Ex-SDEO W/O DSC			14	
Summary of appoi: who's sal: started but later on stopped:				
No. Stopped by SDEO Office			6	
			44	

The DEO Peshawar provided the relevant record, but major questions still remain un-attended, therefore, the committee prepared the following proforma for provision of additional information; Mr. Irfan Ali submitted the his reply in the following words (F/M-1 & M-2);

Question	Response		
Name of Respondent	Mr. Irfan Ali		
Designation	DDEO (M)		
Date of Joining	01-11-2019		
Period of Posting as SDEO (M) Peshawar	Position	From	To
	SDEO	01-07-2014	01-10-2016
Dy: DEO (M) Peshawar			
With Additional Charge of DEO (M) Peshawar	31-12-2019		
Pay Scale	18		
Service Group	PCS		
Present Posting with BPS.	Incharge DEO		

Irfan Ali

IC-10

Q	The list provided by you reveals that the salary of candidate at S. No 561 Mr. Qaiser Shah and S. No 562 Mr. Alamgir Khan has been activated w.e.f 11-11-2013, while the DSC meetings under discussions were held on 20-12-2013? Please elaborate? Further you stated that these candidates were regularized by DEO on 12-02-2015, then what about their salary w.e.f 11-11-2013 to 11-02-2015?
A	It is provided that the period under reference in r/o Mr. Qaiser Shah and Mr. Alamgir Khan related to my predecessor, he may in better position to respond however being successor the salaries of both the official were stopped from 01.10.2014. They were regularized from 12.12.2015 and they both received their arrear since stoppage of pay.
Q	You mentioned a total of (11) candidate at S. No. 563, 588, 589, 590, 595, 596, 598, 606, 609, 610 and 611, that these are appointed by Mr. Sarfaraz Khan Ex-SDEO, but the name of these candidates are neither reflected in the list of agreed minutes of the DSC of dated 20-12-2013, nor in the disputed minutes of the DSC of dated 20-12-2013. Please Justify?
A	The candidates at S.No. 563, 606, 609, 610, and 611 were appointed by my predecessor and no legal documentary evidence were provided later on they were regularized by DEO (M) Pesh, 595, and 596 were appointed before the tenure of Ex-SDEO and at serial 598 salary has been stopped and not started till dated however candidates at serial no 588, 589, 590 were appointed by the office of DEO (M) Peshawar in 2014.
Q	You stated in your statement in the remarks column that Ex-DEO (M) Mr. Jaddi Khan Khalil has regularized the C-IV employee namely Mr. Shams-Uz- Zaman (S. No 592), Mr. Kashif Ullah (S. No 593) and Mr. Azmat Ali (S. No 594) in light of court decision. Please provide appointment order of Mr. Mr. Azmat Ali? Further it is mentioned in the above reinstatement orders that a De-Novo inquiry will be conducted to determine the merit of the cases. Please provide report of the De-Novo inquiries in all the three cases along with service books?
A	Appointment order of Mr. Azmat Ali is attached here with. It is worth mentioning that my predecessor Ex-SDEO (M) Peshawar vide his written application (Copy attached) requested for impartial inquiry and inquiry at Secretariat level and copy/report thereof can be obtain form high ups.
Q	The agreed DSC list of the meeting of dated 20-12-2013 provided by you contains the following names, 1. Fazli Subhan, 2. Awais Khan there is two in the list with this name 3. Saeed Ullah 4. Younas Jan, 5. Tariq Nawaz, 6. Imtiaz Ali, 7. Ijaz Ali. But the list provided by you do not contains these names. Please justify?
A	The authentic list provided to the inquiry officer by Ex-SDEO may be considered because he was the authoritarian and custodian of the record.
Q	The disputed DSC list of the meeting of dated 20-12-2013 provided by you contains the following Name 1. Abdul Hameed 2. Israr Biland 3. Hameed Ullah 4. Noor Ullah 5. Tariq Nawaz. But the list provided by you do not contain these names. Please justify?
A	As per reply in question no .11

Q	The list provided by you reveals that the dates of release of salary of candidate from S. No 595 to 611 i.e. total (17) are missing. Whether they have not applied for activation of their salaries? Or they left the job after some time? or Are they in service at present?
A	
Q	In the remarks column, remarks in respect of the candidates at S. No 563, 578, 588, 589, 590, 595, 596, are missing, please provide remarks?
A	As per question No. 09 Reply.
Q	During the meeting at your office on 08-08-2020 with the inquiry committee you stated that some Chowkidar are performing their duties at DEO office, Directorate of E&SE and E&SE Department instead of their respective schools. As the local inhabitants are not allowing them. Please mentioned their names along with their schools?
A	Some Chowkidars are performing duties at office but their appointment is not related to the instant case.
Q	Please clarify the status of the following candidates regularized by Mr. Jaddi Khan Ex-DEO (M) Peshawar; 1. Sabir Shah 2. Ikram Ullah and 3. Azmat Ali. Please provide their appointment orders and court decisions. Please also provide report of the De-Novo inquiries in all the three cases along with their service books?
A	There were appointed / regularized by my predecessor which was already provided in the meeting however it is reattached.

FINDINGS:

On examination of the available record the enquiry committee reached to the following findings:

The meeting of the District selection committee was held on 20-12-2013 in which according to the report of the members of the DSC a total of (28) candidates were recommended for appointment and Mr. Sarfaraz Ex-SDEO (M) has appointed (21) class-IV in addition to that (28) recommended by the DSC. By this way total Numbers of appointees becomes (49).

The sitting Deputy DEO (M) Mr. Irfan Ali with Additional charge of DEO (M) Peshawar vide table (A) and (F/T) submitted that salary of (51) numbers of class-IV employees was activated as per column (6) of Table (A) out of which a total of (34) Class-IV employees are presently drawing their salaries.

According to the list provided by Mr. Irfan Ali Dy; DEO (M) Peshawar (F/T) reflected in table (A) above. Out of (28) class-IV candidates recommended by DSC in its meeting of dated 20-12-2013 a total of (22) Chowkidars drawing their salaries, i.e. from S. No 5 to 10 (06), 12 to 20 (09), 23 to 27 (05) and 47 & 48 (02) since January 2014 regularly.

Mr. Saarif Gul. Ex-DEO (M) Peshawar has activated salaries of two candidates Mr. Suhail Khan and Mr. Irfan Khan at S. No. 21 & 22 w.e.f 01-02-2014 out of (21) class-IV candidates of the nominees of the disputed DSC of dated 20-12-2013. In addition of the above two candidates, Mr. Saarif Gul Ex- DEO (M) Peshawar regularized (10) Numbers of Class-IV candidates out of the list of appointments made by the accused officer vide different Endst: No & dates in 2015 (F/U 1-7) i.e. after two good years with the word "regularization", while no such provision exists in the rules for regularization that authorize DEO. They are at S. No. 2/562, 21/581, 22/582, 31/591, 37/597, 49, 50/610, 51/611 (08). Mr. Irfan Ali Ex-SDEO, now Dy; DEO with Additional charge of DEO activated the salaries of these employees (12 out of 21) mentioned above.

A total of (11) Candidate at S. No. (03/563), (28/588), (29/589), (30/590), (35/595), (36/596), (37-8), (46/606), (49/609), (50/610) and (51/611) are mentioned by Mr. Irfan Ali Dy; DEO (M) with additional charge of DEO (M) Peshawar in his list (F/T), but the names of these candidates are neither reflected in the list of agreed minutes of the DSC of dated 20-12-2013, nor in the disputed minutes of the DSC of dated 20-12-2013.

Mr. Jaddi Khan Khalil Ex-DEO (M) Peshawar has regularized (F/V1 to 12) six (06) Chowkidars out of the disputed appointment list (F/S) of DSC in 2017, which is reflected in table (A) the C-IV employee namely Ikram Ullah, Mr. Shams-Uz- Zaman, Mr. Kashif Ullah, Sabir Shah, Shahbaz Ali and Mr. Abdul Hameed in light of court decision. The court decision has been wrongly interpreted, as Peshawar High Court decisions passed in W/P No. 4345-P/2015 & 1560-P/2016 (F/V 1 to 12) reveals that "the court has disposed of both the W/Petitions without commenting upon merits of the case and the directions to release the salary and may proceed with the matter by passing final order." Hence Mr. Jaddi Khan Khalil Ex-DEO (M) Peshawar has regularized the petitioners without merit as directed by the court. Further no DE-Novo inquiry was conducted.

There are serious anomalies on the part of other three members of the DSC who attended the meeting dated 20-12-2013 even on the recommendations of the (28) appointments. Mr. Atta Ullah Assistant Director (Audit/F&A) Directorate of E&SE, KP Peshawar, who was representing the Director E&SE of Peshawar was duty bound to brief the forum regarding the legal aspects and proceedings of the meeting being representative of the Directorate. But he did not perform his duty, as no invitation letters were issued to the members of the DSC and also to the candidates, no advertisement was made, most of candidates were called from employment exchange as was mandatory under the APT Rule, the candidates were selected in land owner categories against the legal provision available in the rules.

Mr. Iqbal Abbas Superintendent o/o the SDEO (M) Peshawar, who was the nominee of the Chairman SDEO (M) and office superintendent of the same office has not properly conducted the DSC on one hand and on the other had not maintain the record. When the committee asked for provision of record,

MA *10-12*

set forth the arguments that the record was with Mr. Sarfaraz Khan Ex-SDEO (M), which is not correct and acceptable. Being member of the DSC and dealing superintendent of the office he was supposed to maintain the record. He stated that, he was unaware of the illegal appointments is not correct as all the cases for activation of salary was supposed to rout through him under the rules.

Mr. Irfan Abbas stated in his statement that the (21) numbers appointments are illegal, if this was the case then he was supposed to bring it into the notice of the high ups timely, but nothing has been done in this regard by him.

The committee time and again asked Mr. Irfan Ali sitting Dy; DEO with additional charge of DEO Peshawar, who is also Ex-SDEO (M) Peshawar for provision of record, but he unable to provide the same and just makes excuses with the arguments that the record was with Mr. Sarfaraz Khan Ex-SDEO (M). It is pertinent to mention here that Mr. Irfan Ali has reported the case to the DEO regarding illegality of these (21) Chowkidars and also informed the authorities that he has stopped the salaries of all those appointees illegally appointed by his predecessor. In the circumstances mentioned, the stance that the record is with Ex-SDEO is not acceptable:

The DSC dated 20.12.2020 has made recommendations in four categories, some of the appointments mentioned against each candidates in the minutes were recommended subject to availability of post drawing in the category of 100% deceased son quota. This again contrary to the statement of the deceased and three DSC members that appointment are made against vacant posts.

The inquiry committee unable to determine the validity of chowkidars appointed against deceased and deceased's son's quota due to non-provision of record by DEO (M) Peshawar and its availability. Further appointments are made in lieu of land, while this policy has been discontinued by the government in light of the decision of the Supreme Court of Pakistan, literally appointments in lieu of land is also irregular/illegal for which all members of the DSC are responsible.

Mr. Muhammad Ishtiaq Ex-ASDEO Mattani Circle, Mr. Attaullah AD Directorate of E&SE, Mr. Irfan Abbas Suptd. SDEO (Male) office are equally responsible for the irregularities mentioned above in the Departmental Selection Committee for appointment of 28 Chowkidars.

The list provided by the DEO Peshawar, the 11 employees drawing salaries from Accountant General Office, are not included in any list of DSC held on 20.12.2013 and 21.04.2014 respectively.

Mr. Irfan Ali the setting DEO. Peshawar failed to clarify appointments of these employees (F/T).

MM *IC-10*

FINDINGS REGARDING MR. SARFARZ EX-DEO (MALE) PESHAWAR

Sarfraz Khan Ex-SDEO (M) Peshawar accept appointment of (49) Chowkidars in two phases. In phase 1st (28) Chowkidars were appointed on the recommendations of the DSC in its meeting held on 12-12-2013, and in phase 2nd (21) Chowkidars were appointed. However, all the other (03) members do not own minutes of the DSC meeting through which these (21) Chowkidars were recommended. Hence the irregular appointments in violation of rules of 28 (Phase-I) and 21 (Phase-II) made by the accused officer being chairman of the committee.

The accused being chairman of the committee neither advertised the posts of chowkidars nor list was obtained from Employment Exchange Commission as per rule 10 of the Khyber Pakhtunkhwa Rules, 1989.

Seniority list in r/o deceased son's quota & employee son quota, disable quota and seniority quota has been maintained.

RECOMMENDATIONS;

The E&SE Department may initiate disciplinary proceeding against Mr. Attaullah AD, Director of E&SE, Mr. Javed Abbas, Suptd. SDEO office, Peshawar, Mr. Muhammad Asif ASDEO, Peshawar. Mr. Irfan Ali Deputy DEO, Peshawar, Mr. Jaddi Khan Ex-DEO Peshawar and Mr. Sharif Gul Ex-DEO Peshawar for the irregularities committed by them as mentioned in the findings above.

Appropriate formations may be directed to avoid attending DSCs or DPCs meeting without proper invitations and proper nominations by the competent authority. Moreover, instructions may be issued regarding circulation of working paper seven days prior to the meeting scheduled date.

The DEO may be directed to maintain lists of deceased employees and retired employees and widely circulate the same through official website at district level, so that every applicant may know his position of merit.

The Government Department to strictly ensure tenure policy of the government, and formulate a policy for those employees who are serving in same station for long periods.

Gohar Ali Khan
Director DCTE (MC BS-20)
Abbottabad.

Kashif Iqbal Jilani
Deputy Director (PMRU)
Office of Chief Secretary

13/8/2020.



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the August 26, 2020

NOTIFICATION

NO.SO(SM)E&SED/4-3/2018/Sarfaraz Khan: WHEREAS Mr. Sarfaraz Khan, BPS-17, Ex-SDO (M) Peshawar/ Headmaster (BPS-17) was removed from service vide this Department Notification dated 09.10.2018.

2. WHEREAS he filed a service appeal before the Khyber Pakhtunkhwa Service Tribunal. The Service Tribunal vide its judgment dated 13.02.2020, set aside the impugned order of removal from service and re-instated him for the purpose of denove enquiry.

3. WHEREAS the inquiry committee comprising the following officers was constituted to conduct denove inquiry against the accused officer, for the charges leveled against him in accordance with the rules.

- i. Mr. Kashif Iqbal Jilani (PMS) BPS-18, Deputy Director (PMRU).
- ii. Mr. Gohar Ali, Director DCTE Abbottabad.

4. WHEREAS the inquiry committee submitted its report and recommended that major penalty of "Compulsory Retirement" may be imposed upon the accused officer.

5. WHEREAS the Show Cause Notice was served upon him to which he replied.

6. WHEREAS he was afforded an opportunity of personal hearing in response to his reply to the Show Cause Notice.

7. AND WHEREAS the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, explanation of the accused in response to the show cause notice and personal hearing granted to him by the Additional Secretary-1, Administration Department on behalf of the Competent Authority on 25-08-2020 is of the view that charges against the accused have been proved.

8. NOW, THEREFORE, in exercise of the powers conferred upon him under Rules-14 (5)(ii) of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) is pleased to impose/confirm major penalty of "Compulsory Retirement" upon Mr. Sarfaraz Khan, Ex-SDO (M) Peshawar/ Headmaster (BPS-17) with immediate effect. The period he remained out of service on account of his removal i.e from 09.10.2018 to 27.07.2020 shall be treated as leave without pay.

SECRETARY

Endst: of even No. & Date

Copy forwarded to the:

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3- District Education Officer (Male), Peshawar.
- 4- District Accounts Officer, Peshawar.
- 5- Mr. Sarfaraz Khan, Ex-SDO (M) Peshawar/ Headmaster
- 6- PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 7- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 8- Section Officer (Lit-II), E&SE Department, Khyber Pakhtunkhwa.
- 9- Office order file.

26/8/2020

(MUJEEB UR REHMAN)
SECTION OFFICER (SCHOOLS MALE)

REGISTERED



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

Dated Peshawar the July 27, 2020

NOTIFICATION

NO.SO(SM)E&SED/4-3/2018/Sarfaraz Khan: In pursuance of the judgement of Khyber Pakhtunkhwa Service Tribunal Peshawar dated 13.02.2020, the Competent Authority is pleased to reinstate Mr. Sarfaraz Khan, Ex SDEO. (M) BS-17 into service with immediate effect.

**SECRETARY
E&SE Department**

Endst: of even No. & Date :-

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer Peshawar
4. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
5. PS to Special Secretary E&SE Department, Khyber Pakhtunkhwa.
6. Incharge EMIS E&SE Department.
7. Office order file.

**(MUHAMMAD ARIF)
SECTION OFFICER (SCHOOLS MALE)**

①

**ENQUIRY REPORT IN R/O MR, AZIMULLAH J/C GHS PAGORAI
DISTRICT SHANGLA**

Enquiry constituted by	Enquiry constituted by Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar vide Endst No 6459-61/A-23/MS/Appeal/Azimullah JC Dated 30/03/2018
Enquiry officer	Dr, Muhammad Inayat Ur Rahaman (B-18) V/P-GHS No 1 Havelian- Abbottabad.
Enquiry against	Mr, Azimullah J/C GHS Pagorai District Shangla.
Period of enquiry	April & May 2018

Nature of Enquiry:-

The genesis of enquiry was re Instatement of Mr, Azimullah J/C in pursuance of judgment of Khyber Pakhtunkhwa service tribunal Peshawar announced on 26/04/2017.

History of Enquiry:-

Mr, Azeem Ullah was appointed as J/C at GHS Puran District shangla on 2/5/1995. He has applied for leave WFF 10/9/2002 to 9/9/2003 (365) days on average half pay.

According to his statement on expiry of leave he submitted arrival report and applications to department for adjustment time and again duly forwarded by principals which are self- explanatory.(Annexure -A I,II)

He submitted an application to DEO (M) Shangla for adjustment, which was rejected vide No 5254 dated 13/6/2012, then he submitted an appeal to DCO shangla on 02/07/2012 is self explanatory which was rejected by DCO vide order No 7470 Dated 06/09/2012 (Annexure- B I,II)

Mr, Azimullah filed an appeal in Khyber Pakhtankhawa Service Tribunal for set aside the impugned order dated 06/09/2012. The learned court accepted his appeal No 1047/2012 for hearing. (Annexure-C)

The learned Court announced its Judgment on 24/04/2017 with the remarks "In the view of the above we accept the present appeal, set aside the impugned order and as a consequence there of re-instate the applicant in service by placing the respondents at liberty to conduct proper enquiry in accordance with rules within two months from the date of receipt of this judgment and there after pass orders deemed appropriate." (Annexure- D)

DEO (M) Shangla re-instated services of Mr. Azimullah as J/C at GHS Pagorai vide Endst No 366-73 dated 12/05/2017 (Annexure-E)

DEO (M) Shangla Constituted an enquiry committee vide No 524 Dated 19/05/2017 to Inquire into objections/ Observation made by Mr. Azeem Ullah J/C. (Annexure- F)

Enquiry committee submitted enquiry report which is self explanatory They recommend that the absence period WEF 10/09/2003 to 11/05/2017 may be converted into leave without pay and this period may reckoned in his service. Also recommend that warning may be issued to Establishment branch of DEO (M) office due to their negligence and missing of such sensitive files/documents. (Annexure-G).

In the light of judgment of learned court District Education Office Shangla constituted a denovo enquiry committee comprised Mr, Iftikhar Ali Principal GHS Shahpur and Muhammad Siraj SS GHS Butyal vide order Endst No 15-18 dated 14/11/2017 to probe into matter and Submit/ Suggest recommendations. Enquiry committee submits their recommendations which are self explanatory (Annexure- H I,II)

The main issue was absence period of Mr Azeem Ullah J/C WEF 10/09/2003 to 26/04/2017 the enquiry committee recommend that the so called absence period may be converted partially without pay leave and partially leave with half pay and service benefits may be release WEF 12/05/2017. Azeem Ullah J/C replied for charge sheet to DEO(M) Shangla (Annexure- I). DEO (M) Shangla submitted a letter to Director Elementary & Secodnary Education Khyber Pakhtun Khwa Peshawar for guidance to regularize absence period of Mr Azeem Ullah J/C. (Annexure- J)

PROCEDURE OF ENQUERY:-

On receiving the letter from Directorate of Elementary & Secondary Education Khyber Pakhtwankhwa Peshawar (Annexure- K). The undersigned informed DEO (M) Shangla and Mr, Azimullah J/C through regd letters and also contacted them telephonically (Annexure-L I, II).

Further DEO (M) Shangla inform through Email address and Mr Azeem Ullah J/C through message on 30/04/2018, that I will be visit DEO office on 02/05/18 in Connation with recording statements and record/documents (Annexure- M)

I have visited DEO (M) office and aggrieved official personally for recording their statements on 02/05/2018. DEO (M) Shangla requested for space to record his comments in consultation with the concerned staff and Perusal of record. Mr Azeem Ullah J/C has not been arrived on scheduled date as he was already informed. (Annexure-N)

Once again on 06/05/2018 and 07/05/2018 Mr Azeem Ullah J/C and DEO (M) through Mr Iqbal Clerk was informed for submission of statements/comments. The undersigned Email a letter to DEO (M) Shangla on 13/05/2018, requesting for the comments as required in connection with enquiry (Annexure- O)

From the perusal of relevant record/documents following findings were concluded;

- The enquiry committees constituted by DEO (M) Shangla vide No 524 dated 19/05/2017 & No 15-18 dated 14/11/2017, they blamed/fix responsibilities on Establishment of DEO office, and recommend the Intervening period to be converted into leave without pay.
- DEO(M) Shangla has rejected application of Mr. Azimullah vide No 5254 dated 13/06/12 due to his long absence already annexed B I
- District coordination officer Shangla has rejected appeal of Mr, Azimallah J/C vide order No 7470 dated 06/09/2012. already annexed B II
- District Education Officer Shangla in pursuance of Judgment of Khyber Pakhtunkhwa Service Tribunal Peshawar re-instated service of Mr, Azimullah as J/C at GHS Pagorai Shangla vide Endst No 366-73 dated 12/04/2017.
- DEO (M) Shangla submitted letter bearing No 1601/DEO (M) Shangla dated 04/01/2018 to Director E & SE KPK for guidance of Intervening period WEF 10/09/2003 to 26/04/2017 is in question, that how to Deal with this period for regularization service of appellant already annexed J
- Director E & SE KPK Peshawar vide letter Endst No 6459-61/A-23/MS/appeal/Azeem Ullah J/C dated 30/03/2018, Squashed the enquiry report submitted by Mr Iftikhar Ali and Muhammad Siraj and constituted an enquiry with the appointment of the undersigned as enquiry officer to probe with fact finding and recommend suggestions for further necessary action into the matter. already annexed K
- DEO (M) Shangla submitted his comments vide letter No 9341 dated 14/05/2018 received on 19/05/2018 at S No 3 in which he denied for the claim of Mr Azeem Ullah J/C *"He did not report to this department after termination of his leave period and it was due to his prolonged continues absence for more than five years that his application for adjustment was disposed off and turned down vide this office order No 5254 dated 13/06/2012"* (Annexure-P) while Mr Azeem Ullah J/C submitted photocopies of applications for adjustment duly forwarded by principals already annexed as Annexure A, but he has failed to submit his statement upto 19/05/2018, on requesting time and again.

Recommendations

After concluding the above findings/facts the following recommendations are suggested for favorable consideration.

- As a serious issue was raised that one Mr. Azeem Ullah J/C has been re instated in service by Service Tribunal Khyber Pakhtun Khawa and he is taken over charge and

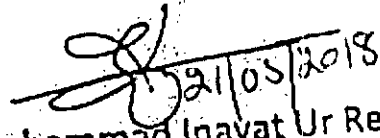
performing his duties.WEF 13/05/2017 to update. A long period of absence 10/09/2017 to 12/05/2017 is in question.

Reference to Khyber Pakhtun Khawa Govt Servants Rules 2011 in term cases seeking advice of E & AD at Para No 2, "I am directed to request once again Than in future only those cases may please be referred to S & GAD for advice, where no clear rules/instruction/clarification are available and case cannot be decided without advice of this department" (Annexure-4)

Maximum leave admissible to a civil servant have less than ten years service is two years to be granted on the discretion of sanction authority. The leave can be granted irrespective of the fact that the Govt Servant is permanent or temporary, if exceed the ambits of revised leave rules 1981 It is prerogative of the Finance Department to relax the maximum terms of the leave FR-18 has since been deleted and FR-12 is required to be relaxed by Finance Department.

In nutshell, in the light of the above quoted rules it is suggested that the case may se be pursue to Finance Department or Establishment Department for further guidance necessary action with the request that the official has already been re-instated in office by learned court but to regularize the absence period and to resolve issue.

Enquiry was conducted in the best interest of public


Dr Muhammad Inayat Ur Rehman
(Enquiry Officer)
VP GHS No 1 Havelian Abbottabad

REGISTERED



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

Dated Peshawar the October 11, 2021

NOTIFICATION

NO.SO(SM)E&SED/4-3/2018/Sarfaraz Khan: In continuation to this department notification of even number dated 27.07.2020 and in light of the judgment of the Khyber Pakhtunkhwa service Tribunal Peshawar dated 13.02.2021, in Service Appeal No. 136/2019 read with the judgment passed on 07.01.2021 by the Hon'able Tribunal in the Execution Petition No. 88/2020, the Competent Authority is pleased to reinstate Mr. Sarfaraz Khan, Ex SDEO (M) BS-17 into service with effect from 13.02.2020 instead of 27.07.2020 for the purpose of pay and allowances only.

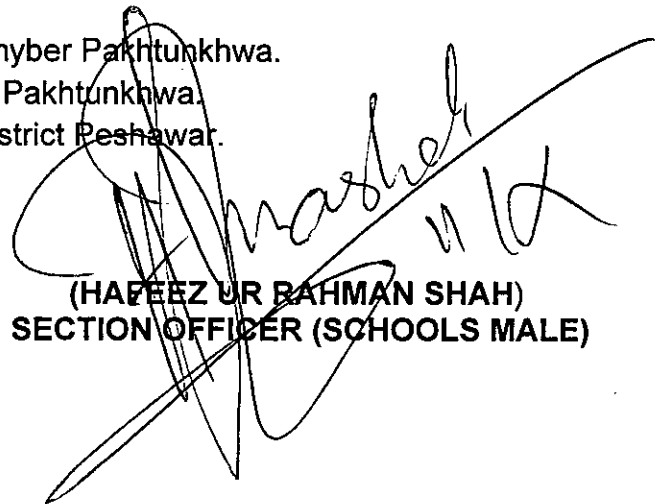
2. Consequent upon the above, this department's notification of even number dated 26.08.2020 regarding compulsory retirement of the officer from the government service, is hereby intact.

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

Endst: of even No. & Date :-

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar w.r.to the judgment quoted above.
3. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
4. Director EMIS E&SE Department.
5. District Education Officer Peshawar.
6. District Account Officer concerned.
7. Section Officer (Lit-II) E&SE Department, Khyber Pakhtunkhwa.
8. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
9. Mr. Sarfaraz Khan, Ex SDEO, (M) BS-17 District Peshawar.
10. Office order file.


(HAFEEZ UR RAHMAN SHAH)
SECTION OFFICER (SCHOOLS MALE)

TO BE SUBSTITUTED BEARING THE SAME NO. & DATE



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

Dated Peshawar the October 11, 2021

NOTIFICATION

NO.SO(SM)E&SED/4-3/2018/Sarfaraz Khan: In continuation to this department notification of even number dated 27.07.2020 and in light of the judgment of the Khyber Pakhtunkhwa service Tribunal Peshawar dated 13.02.2020, in Service Appeal No. 136/2019 read with the judgment passed on 07.01.2021 by the Hon'able Tribunal in the Execution Petition No. 88/2020, the Competent Authority is pleased to reinstate Mr. Sarfaraz Khan, Ex SDEO (M) BS-17 into service with effect from 13.02.2020 instead of 27.07.2020 for the purpose of pay and allowances only.

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

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8. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
9. Mr. Sarfaraz Khan, Ex SDEO, (M) BS-17 District Peshawar.
10. Office order file. ✓


**(HAFEEZ UR RAHMAN SHAH)
SECTION OFFICER (SCHOOLS MALE)**