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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

Appeal No.....7951/2021.

AbdurRauf..... Appellant.

Versus

Education Deptt.....Respondents.

**Comments on behalf of Respondents No. 2 & 3**

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Dated \_\_\_\_\_/\_\_\_\_\_/2022

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**Comments on behalf of Respondents No. 2 &3**

Khyber Pakhtunkhwa  
Service Tribunal

Respectfully Sheweth;

Diary No. 2463

**Preliminary objections**

Dated 23/12/22

- That the Petitioner has got no cause of action, Locus Standi to file the instant Petition
- That the Petitioner has not come to this Court with clean hands
- That the petitioner has concealed material facts from the Honorable court.
- That the appellant is stopped by her own to bring the present appeal

**ON FACTS**

1. Pertained to record.
2. Incorrect, hence denied. The respondent department conducted an inquiry against the appellant, hence denied. The respondent department conducted an inquiry against the appellant, as after inquiry, it come evident that the appellant was simultaneously receiving pension as Chowkidar as well as salary being posted as PST in GMS ChappriJamrud Khyber. On conclusion of inquiry the competent authority removed him from service vide notification bearing Endst No.829-40 dated 27-08-2017 (Anx-A)
3. Incorrect. Hence denied. Respondent constituted an inquiry committee and the inquiry committee recommended to maintained the removal order of the appellant (Anx-B).
4. Incorrect. Hence denied. In view of the recommendation of the inquiry committee departmental appeal was rejected.

**On Grounds:**

- A. Incorrect. Hence denied. As elucidated in above facts, the respondent being bound by law, acts in accordance with law and while doing so no law has been violated.
- B. Incorrect. Hence denied. The appellant has been treated as per law and policy and while doing so no provision any law has been violated.
- C. Incorrect. Hence denied. After fulfillment of all codal formalities required for De-Nove inquiry respondent department retained the removal order.
- D. Incorrect. Hence denied. After fulfillment of all codal formalities respondent department issue the said order.
- E. Incorrect. Hence denied. The appellant has been treated as per law and policy.

- F. Incorrect. Hence denied. The appellant has been treated as per law and policy and while doing so no law has been violated.
- G. Incorrect. Hence denied. The appellant has been treated as per law and policy.
- H. That with the kind permission of the Honorable Tribunal respondent will take other grounds at the time of arguments of the instant petition.


**Pray**

In light of the above stated facts and legal position, it is humbly requested that the case of the appellant may kindly be dismissed with cost.

**Respondent No. 2**

  
**Director E & SE**  
**Khyber Pakhtunkhwa**

**Respondent No. 3**

  
**District Education Officer**  
**District Khyber**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

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Appeal No.....7951/2021

AbdurRauf..... Appellant.

**Versus**

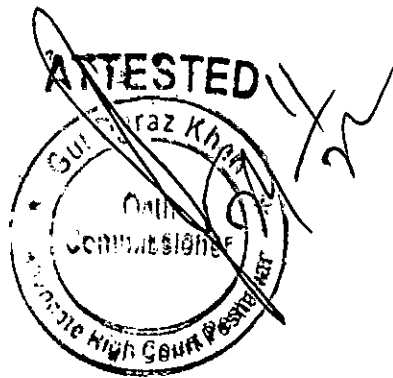
**Education Deptt.....Respondents.**

**Affidavit**

I the undersign do hereby solemnly affirm and declare that the contents of the accompanying para wise comments submitted by the respondents is correct to the best of my knowledge and belief and nothing has been concealed from this honorable court:



District Education Officer  
District Khyber



**Authority Letter**

Mr. Munawar Khan, ADEO Litigation at District Education Officer District Khyber is hereby authorized to submit parawise comments on the behalf of undersign.



District Education Officer  
District Khyber

OFFICE OF THE DISTRICT EDUCATION OFFICER DISTRICT KHYBER.

Anex = A

NOTIFICATION.

1 Whereas, the appellant namely Abdur Rauf was appointed against the PST post vide order bearing Endst: No. 3748-53 dated 30-05-2007 at GPS Chapari District Khyber issued by the then Agency Education officer Khyber and he was removed from service vide Endst No. 829-40 dated 24-08-2017 issued by the then Agency Education Officer Khyber on account of double beneficiary for receiving pension against the Chowkidar post as well as salary against the PST post for having dual CNICs.

2 And whereas, aggrieved from the order dated 24-08-2017, the appellant has filed a Departmental Appeal to the then Director Education (FATA) which was ~~regraded~~ vide Endst No. 8360-63 dated 05-06-2018. He then ~~filed~~ the service appeal No.931/2018 dated 20-07-2018 before the Honorable Khyber Pakhtunkhwa Service Tribunal. regretted

3 And whereas, the service appeal of the appellant was decided vide Judgment dated 09-06-2021 by Honorable Khyber Pakhtunkhwa Service Tribunal. The operative part of the Judgment is re-produced as under:-

*"The appeal in hand is allowed by setting aside the penalty imposed upon the appellant. The appellant is reinstated in service and respondent are directed to conduct de-novo inquiry into the matter, strictly in accordance with law within a period of ninety days of receipt of copy of this judgment. In case the respondents failed to conduct inquiry within the time as given by this tribunal, the appellant will be entitled to all back benefits."*

4 And whereas, in compliance of the Judgment dated 09-06-2021, the appellant has been reinstated against the PST post vide order dated 16-07-2021 for the purpose of DE-NOVO inquiry for which the inquiry committee was constituted by the Respondent No.7/District Education Officer Khyber, to probe into the matter & the inquiry committee has submitted inquiry report to the Respondent Department wherein it was recommended that the "removal order issued vide Endst No. 829-40 dated 24-08-2017 in R/O Mr. Abdur Rauf Ex-PST by the then Agency Education Officer Khyber be maintained".

Now therefore, in compliance of the judgment dated 09-06-2021 of the Honorable Service Tribunal & having gone through the whole case record along with consulting the relevant provision of E & D Rules 2011 & in Exercise of the Powers conferred upon the undersigned under U/S-21 of General Clauses Act 1897 as amended in 1956 & in a capacity of an competent authority in the instant case, the Order issued vide Endst No.5737-44 dated 16-07-2021 is hereby withdrawn & the impugned removal order issued vide Endst No. 829-40 dated 24-08-2017 by the then Agency Education Officer Khyber is hereby maintained in the interest of public service.

  
District Education Officer  
District Khyber.

Endst: No: 6838-43 /DEO Khyber Mr. Abdur Rauf Ex-PST Dated Peshawar the: 06/9/2021

Copy forwarded for information & n/action to the:-

- 1 Registrar Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
- 2 Additional Advocate General Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
- 3 Director E&SE Department Khyber Pakhtunkhwa Peshawar.
- 4 Deputy Director (Legal) E&SE Department Khyber Pakhtunkhwa Peshawar.
- 5 Official concerned.
- 6 Master file.

  
District Education Officer  
District Khyber.

**ATTESTED**

To

The District Education Officer  
Tribal District Khyber.

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Annex = B

**Subject: Inquiry in respect of Mr. Abdur Rauf Ex-PST of  
GMS/GPS Chapari**

Memo,

Reference to the Endst: 5934-41 Dated. 30/07/2021 the case of the above employee named **Abdur Rauf PST of GMS/GPS Chapari** Jamrud was given to the undersigned inquiry committee Muhammad Abid (Chairman) Principal GHS Jaffar Khan Bara & Wajid Khan (Member) SST-IT GHSS Spin Dhand Bara ) to probe the matter through personal hearing and to dig out the real situation in respect of the mentioned employee.

**Background information**

Mr. Abdur Rauf Ex-PST GMS/GPS Chapari appointed in Education Department Khyber under Endstt: No. 3748-53 Dated 30-5-2007 and placed at GMS Chapari (**Flag-A**). Later on he was reported Agency Accounts Officer Khyber at Jamrud vide Endstt.No: Pension/AAO/KHY/2016-17/359 Dated 27/04/2017(**Flag-B**) and declared double beneficiary of receiving pension and Salary under same CNIC No: 21201-8217546-3 while conversion of manual system to DCS(Direct Credit System). Then Agency Education Officer Khyber Constituted an inquiry under Endst No: 1766 dated 24/03/2017 and nominated Saleem Khan Wazir Principal GHS Sur Kamar Jamrud to dig out the actual facts. AEO Khyber charge sheeted Mr. Abdur Rauf Ex-PST and nominated another inquiry committee consisting of Mr. Gohar Khan (Chairman) Principal GHS No.2 Jamrud and Saleem Khan Wazir (Member) Principal GHS Sur Kamar under Endst.No: 3028-34 dated 13/06/2017 to dig out the actual facts in the light of Charge sheet. (**Flag-C-i**).Then AEO Khyber imposed major penalty i.e Removal from services vide Endst No. 829-40 Dated 24/08/2017(**Flag-C-ii**).

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**ATTESTED**

*ES*  
*Jahid*  
9/8/21  
No 1829  
4/9/21  
*[Signature]*  
09/8/21

He submitted departmental appeal to The Director Education FATA and in the light of available record his application in respect of reinstatement was regretted vide Endst No. 8360-63 dated 05/06/2018(Flag-D).

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Mr. Abdur Rauf Ex-PST GMS Chapari filed appeal to Khyber Pakhtunkhwa Services Tribunal Peshawar under Appeal No. 931 /2018 dated 20/07/2018. The honorable Khyber Pakhtunkhwa Services tribunal Peshawar decided the case on 09.06.2021 with the directions that the appeal in hand is allowed by setting-aside the penalty imposed upon the appellant. The appellant is reinstated in services and respondents are directed to conduct de-novo inquiry into the matter, strictly in accordance with law within a period of 90 days of receipt of copy of this judgment (Flag-E).

### Procedure adopted

Mr. Abdur Rauf Ex-PST GPS Chapari Jamrud was called upon for personal hearing to ADEO office Bara Male on 12/08/2021. He attended the office accordingly and submitted a list of questioners in the response of questions to the inquiry committee (Flag-F) furthermore he also provided all the relevant documents.

1. Medical Certificate (Flag-G i)
2. CNIC (Flag-G ii)

### Findings

After personal hearing and available records the inquiry committee concluded the overall inquiry process in the lines below.

1. Mr. Abdur Rauf Ex-PST GMS/GPS Chapari Jamrud bearing personal No. 411943 and having CNIC No. 21202-8217546-3 has received his monthly pension through PPO.No:P/KHY/1660-N by National Bank Of Pakistan Jamrud Branch w.e.f 01/07/2001 upto 30.06.2016 and later on stopped through DCS and at the same time he has drawn his monthly salaries against the post of PST w.e.f 01.06.2007 upto 30.06.2016. Furthermore he had been recruited against the post of Chowkidar at GGPS Gulabad Jamrud on 03/12/1975 before his birth

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ATTACHED



( DOB as per CNIC is 08/07/1977) while he had received double financial benefits w.e.f 01.06.2007 upto 30.06.2016 as per record provided by District accounts office Khyber at Jamrud (Flag-H).

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Annex = B


2. Moreover the Bank Account at NBP Jamrud through which pension is received belongs to Abdur Rauf s/o Abdul Qudus CNIC No. 21202-8217546-3(Flag-I). The CNIC No. 21202-8217546-3, File Picture and other relevant documents are also present in pension file submitted for pension at District Accounts Office Khyber also belongs to Mr. Abdur Rauf s/o Abdul Qudus. (Flag-J)
3. The accused misled the offices of DEO Khyber , DAO Khyber and NBP Jamrud by concealment of facts that the accused had double CNICs. Two NIC were present in DAO Khyber showing different Date of Birth in respect of Mr. Abdur Rauf s/o Abdul Qudus , One NIC No is 140-47-184573 and DOB is 06.12.1947(Flag-K) and another CNIC No is 21202-8217546-3 and DOB is 08.07.1977(Flag-L)

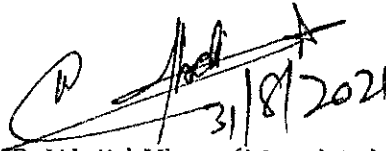
**Recommendations.**

After thoroughly investigation and documental proof the following recommendations are hereby submitted:

1. Removal order issued vide Endst. No 829-40 Dated 24/08/2017 in r/o Mr. Abdur Rauf Ex-PST by the AEO Khyber be maintained.
2. Service benefits in the shape of salaries , commutation and monthly pension drawn from national exchequer against the post of Chowkidar be recovered from the said accused i.e Mr. Abur Rauf Ex.PST.

**Inquiry Committee**

  
31/8/2021  
1. Muhammad Abid (Chairman)  
GHS Jaffar Khan Bara

  
31/8/2021  
2. Wajid Khan (Member)  
SST-IT  
GHSS Spin Dhand Bara

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