

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER**  
**PAKHTHOONKHAWA PESHAWAR**

APPEAL NO. 1379/2019

Ghufran S/O Lajeel

.....Appellant

**VERSUS**

Government of KPK& Others

.....Respondent

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**BEFORE THE HONOURABLE SERVICE TRIBUNAL**  
**KHYBERPUTHOONKHAWA PESHAWAR**

APPEAL NO. 1379/2019

Ghufran S/o Lajeel Chowkidar Govt Primary School Waliabad District Kohistan

.....Appellant

**VERSUS**

- 1) Government of Khyber pakhtunkhawa through secretary education.
- 2) Director Elementary and Secondary Education Khyber Pakhtunkhawa, Peshawar.
- 3) District Education Officer (Male) Kolai Palas District Kohistan.

....Respondents

Joint Para-wise comments on behalf of respondents

**Respectfully Sheweth:**


**Preliminary objections**

- 1) That the appellant has no cause of action/locus standi to file the instant appeal.
- 2) That the appellant has concealed the material facts from the honorable tribunal.
- 3) That the appellant has not come to this honorable tribunal with clean hands.
- 4) That the appellant has filed the instant appeal on mala fide grounds.
- 5) That the appeal is against the prevailing law and rule.
- 6) That the appellant is estopped by his own conduct to file instant appeal.
- 7) That the claim of the appellant is unlawful, hence the appeal is liable to dismissed.
- 8) That the act of the respondent is within law and rules. Order dated 27.06.2019 was issued after fulfillment of the codal formalities hence appeal is liable to be dismissed.

**FACTUAL OBJECTIONS:**

- 1) Para No.1 of the appeal relates to appellant's service record, hence no comment.
- 2) Para No.2 is incorrect hence denied appellant was found negligent and inefficient so department removed him from service.
- 3) Para No.3 is incorrect hence denied as the appellant has not submitted valid application for leave purpose and the medical reports attached with service appeal is manipulated/bogus therefore the illness is a pretext for saving his skin. Statement of the appellant regarding FIR and detention in jail period is not clear as no such order sheet and bail order was presented by the appellant with appeal.

**Self made medical reports are annexed as "A1"& "A2"**


- 4) Para No.4 is incorrect hence denied as reply is given in above para regarding illness and medical advise.
- 5) Para No.5 is incorrect hence denied as appellant remained wilful absent from duty w.e.f 14/04/2015 to 28/05/2019 and made the illness as pretext. All the medical documents produced by the appellant are fake and bogus. 
- 6) Para No.6 is incorrect hence denied as the appellant has not approached department for any kind of medical leave and all the medical record as well as application produced by the appellant is self made.
- 7) Para No.7 is incorrect hence denied as the appellant was charged in FIR on 01/05/1998 as per his own statement and acquitted from the same on 01/1/2019, with out producing any acquittal order and court proceedings while on other hand he produced his bogus and fake medical certificates of year 2017 which shows clearly that he remained wilful absent.
- 8) Para No.8 is incorrect hence denied as the appellant was reported wilfully absent from duties w.e.f 14/04/2015 to 28/05/2019 by ASDEO concerned. Keeping in view of ASDEO report SDEO Palas probed the matter of wilful absence wherein he found the report based on facts and recommended appellant for removal from service. On SDEOs recommendation the competent authority served upon him final Show cause /allegation sheet but the appellant failed to satisfy the competent authority. Therefore after fulfilling all the Codal formalities competent authority issued order of removal from service.

**Removal from service order is annexed as "B"**

- 9) Para No.9 is incorrect hence denied as the reply is given in above para.08 of facts.
- 10) Para No.10 is incorrect hence denied as the appellant has not preferred departmental appeal before the appellate authority. The appeal produced by the appellant with this service Appeal is not valid as there is not any evidence of its proper Recieving and diary number and date. So the appellant has not availed opportunity of departmental appeal to next higher authority. Therefore appellant is not an aggrieved person as he has no cause of action as he already lost the opportunity of filing departmental appeal.

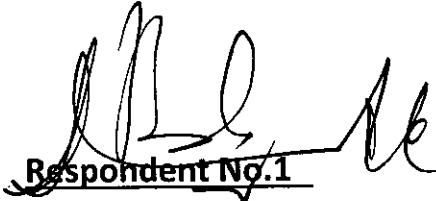
**Self made departmental appeal is annexed as "C"**

**GROUNDS:-**

- a) Para of the ground 'A' is incorrect, hence denied as the appellant has been treated as per rule and law as replied in para No.8 of facts.
- b) Para of ground 'B' is incorrect as the replied in para No.8 of facts. 
- c) Para of ground C is incorrect, Appellant was properly proceeded according to E&D rules.
- d) Para of ground D is incorrect as impugned act of respondent is according to the laid down procedure and was in the best interest of public service.
- e) Para of ground E is incorrect as the appellant was reported absent by DCMA(IMU) and ASDEO on visiting the school properly and treated accordance with law. Enmity is just pretext for saving his skin.
- f) Para of ground F is incorrect hence denied as the reply regarding illness and medical documents has already been given in above para's.
- g) Para of ground G is incorrect hence denied as replied in para No.8 of facts.
- h) Respondents seek permission of this Honorable court to raise additional grounds at the time of arguments.
- i) Para of ground I is incorrect hence denied as Remedy of departmental appeal was not timely availed by the appellant.

## Prayers

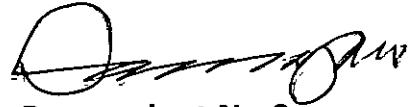
It is therefore humbly prayed that in the light of forgoing comments the appeal may graciously be dismissed with cost throughout.



Respondent No.1

Secretary E&SE KPK

Peshawar



Respondent No.2

Director E&SE

KPK, Peshawar



Respondent No.3

District Education Officer

Male KP Kohistan

APPEAL NO. 1379/2019

Ghufran S/o Lajeel

Appellant

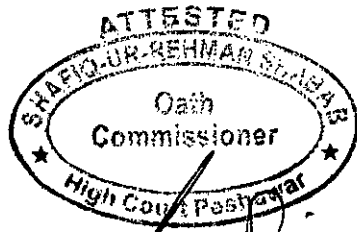
VERSUS

Government of KPK&amp; Others

Respondents

**AFFIDAVIT**

I Muhammad Idrees legal representative of District Education Officer (M) Kolai palas kohistan do hereby affirm do and declare of oath that contents of Para wise comments are true and correct to the best of my knowledge and believe that no thing has been concealed from this honorable court.

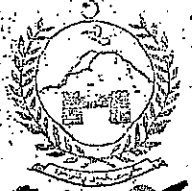


*Idrees*

08/02/23

*Idrees*  
legal representative District  
Education Officer  
Kolai Pallas Kohistan

AYUB TEACHING HOSPITAL  
ABBOTTABAD



FILTER OUT PATIENT DEPARTMENT

ANNEXURE 'A', 6

E.Code No:	S.No:	Book No:	K0460000002230
Patient Name:	GHUFRAN	M.R No:	
Patient Sex:	Male	Patient Yearly No:	04-07-2017 15:51:45
Patient Age:	48 Year(s)	Date & Time:	EVENING OPD - OPD
Address:		O.P.D.:	K0460000002230
Amount:	10.00	Computer Operator:	

S/C:

- High grade Fever & rigors & chills
- Joint pain
- Pain epigastrium
- Distended abdomen.

O/E:

B.P = 130/90 mmHg  
Pulse = 100 bpm  
Temp = 104°F

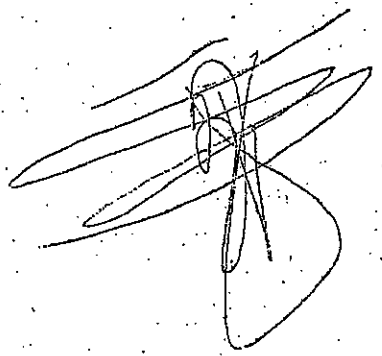
- ADU
- Dengue serology
  - CBC
  - LFTs
  - RFTs
  - Thyroid
  - Check dengue serology

Rx

Inj Rieck 4mg IV Stat in room  
Inj Fludex  
Inj Ceftriaxone 1gm IV  
Inj 500ml N/saline  
Inj Bufalgin 100cc IV Stat  
Inj Tylenol / Metomide  
Complete bed rest  
For 4 weeks and  
then visit again  
to ATH OPD

Medical Officer  
Ayub Teaching Hospital  
4/07/2017

Handwritten text in the top right corner, possibly a signature or date.



Handwritten text in the middle right section, including the words 'Bump Hammer' and a question mark.

Handwritten text in the lower middle section, including 'Tab Letter' and '171'.

Handwritten text in the bottom right section, including 'Tab Rock' and '10'.



AYUB TEACHING HOSPITAL  
ABBOTTABAD



OUTPATIENT DEPARTMENT

ANNEXURE AL 18

B. Code No:	S. No:	Book No:
Patient Name: GHUFRAN	M.R. No:	
Patient Sex: Male	Patient Yearly No:	04-10-2017 10:45:45
Patient Age: 48 Year(s)	Date & Time:	EVENING OPD - OPD
Address:	O.P.D. No:	K046000CC02230
Amount: 10.00	Computer Operator:	

✓ Distended Abdomen  
 ✓ Melena  
 ✓ Epistaxis

Rx  
 - inj tranexamsic Acid 1/0 5ml  
 - Cap Xeph  
 - Cap Caricef 400mg  
 - @ @ @ @ @ @ @ @ @ @  
 Complete Bed Rest  
 for 1 month

Adv  
 ✓ CT, BT, PT, INR, APTT  
 ✓ CBC

Medical Officer  
 Ayub Teaching Hospital  
 Abbottabad  
 4/10/2017



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOLAI  
PALLAS KOHISTAN.

ANNEXURE "B" 8

NOTIFICATION.

1. Whereas Mr. Ghufuran Chokidar GPS Wali Abad Pals Kohistan, was proceeded against the Khyber Pakhtunkhwa Government servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the show cause notice.
- 2- Whereas per DCMA/IMU report, you have been willful absent from your duty on 11/3/2017, 18-4-2017, 06-5-2017, 16-6-2017, 07-8-2017, 21-9-2017, 13-10-2017, 13-12-2017, 26-3-2018, 26-4-2018, 11-5-2018, 27-6-2018, 04-9-2018, 12-11-2018, 17-10-2018, and 04-5-2019 with out proper permission of the competent authority.
- 3- Whereas you have been reported by ASDEO Circle to be willfully absent wef 14-4-2015 to 28-5-2019 without any permission from competent authority.
- 4- Whereas, on the basis of ASDEO Circle report, the Sub Divisional Education Officer (M) Palas Kohistan vide No. Nill/SDEO(M) Pallas Kohistan dated 29.05.2019 where in he has proved the accused as "negligent and irregular" and recommended you for major penalty of Removal from service.
- 5- Whereas he was issued a show cause notice vide No 1531-37 dated 16/05/2019, but you failed to reply.
- 6- Whereas the District Education Officer (M) Palas Kohistan being competent authority after having considered the charges and evidences on record against you as proved long and will full absence from your duty,
- 7- Now, Therefore I Nawab Ali District Education Officer (M) Palas Kohistan being competent authority under E & D rules 2011 do hereby impose upon you " the major penalty of **"REMOVAL FROM SERVICE"** under 4 (b) (iii) of the ibid rules with effect from the date of absence from duty in the interest of public service.

(NAWAB ALI)  
COMPETENT AUTHORITY  
DISTRICT EDUCATION OFFICER (M) KOLAI  
PALLAS KOHISTAN.

Endst: No 2965-71

Dated: 27/6/2019

Copy for information and necessary action to: -

- 1- The Director Elementary & Secondary Edu; KPK Peshawar.
- 2- Deputy Commissioner Kolai Pallas Kohistan
- 3- The DDEO (M) Palas Kohistan,
- 4- The SDEO(M) Palas Kohistan.
- 5- The Official concerned.
- 6- The PA to local Office.

DISTRICT EDUCATION OFFICER (M)  
KOLAI PALLAS KOHISTAN

بخدمت جناب ڈائریکٹر صاحب ایلیمنٹری ایجوکیشن صوبہ خیبر پختونخوا، پشاور

عنوان: حکمانہ اپیل برخلاف برطرفی آرڈر نمبر 71-2965 مورخہ 27/06/2019 جاری کردہ

ڈسٹرکٹ ایجوکیشن آفسر (مردانہ) کوئٹہ پالس، ضلع کوہستان۔

جناب عالی! موجدات اپیل ذیل ہیں:-

1- یہ کہ سائل محکمہ تعلیم میں مورخہ 25/04/1996 کو بطور ”چوکیدار“ بھرتی ہوا۔ چونکہ اس وقت سائل کے والد نے 2- کنال اراضی بحق محکمہ تعلیم منتقل کی تھی۔

2- یہ کہ سائل نے محکمہ تعلیم میں بطور ”چوکیدار“ بھرتی ہونے کے بعد اپنے فرائض منصبی بطریق احسن سرانجام دیئے اور سائل کی ملازمت کے عرصہ 23 سال کے دوران کبھی کسی بھی افسران بالا کو سائل سے کوئی شکایت نہیں ہوئی۔

3- یہ کہ سائل کی تعیناتی ”گورنمنٹ ہوائی پرائمری سکول دلی آباد“ میں ہوئی جس اس وقت کے قانون کے مطابق سائل کے والد نے سائل کو بھرتی کرنے کی شرط پر اپنی ذاتی اراضی تعدادی 2 کنال بحق صوبائی حکومت محکمہ تعلیم منتقل کی تھی۔

4- یہ کہ ہیڈ ٹیچر محمد اکبر ولد سردار تھی وغیرہ، جو کہ مقامی ٹیچر ہیں اور اسی سکول میں تعینات ہیں، کو سائل کے اس سکول میں بھرتی ہونے پر سخت رنجش تھی جس کا اظہار انہوں نے سائل کے خلاف ایک جھوٹی FIR عدالت نمبر 6 مجرم 302/34 مورخہ 01/05/1998 کو تھانہ پالس میں درج کروا کر سائل کو جھوٹے مقدمہ میں ملوث کر دیا جو کہ جرم ثابت نہ ہونے پر سائل کو مورخہ 01/11/1999 کو اس مقدمہ سے باعزت بری کر دیا گیا۔

5- یہ کہ سائل کے مذکورہ جھوٹے مقدمہ سے باعزت بری ہونے پر مذکوران کو سخت صدمہ ہوا، اور اسی رنجش کی بناء پر مذکورہ ہیڈ ٹیچر ASDEO سرکل کو سائل کی غیر حاضری کی جعلی و فرضی رپورٹیں کرتے رہے۔ چونکہ سرکل ASDEO بھی مذکورہ ہیڈ ٹیچر کا قریبی رشتہ ہے جس نے ہیڈ ٹیچر کی جعلی و فرضی غیر حاضری رپورٹوں کی بناء پر سائل کو بغیر کسی انکوائری کے ملازمت سے Remove کر دیا جو کہ سراسر نا انصافی اور غیر قانونی اور فطری انصاف کے تقاضوں کے خلاف فعل ہے۔ بدین وجہ مذکورہ Removal آرڈر یا طلل و کالعدم ہونے کی بناء پر قابل منسوخی ہے۔

6- یہ کہ سائل نے اب تک اپنی ملازمت کے تقریباً 23 سال مکمل کر لئے ہیں اور سائل اپنی ریٹائرمنٹ کے قریب ہے۔ سائل کے چار بیٹے اور چار بیٹیاں ہیں اور اسی طرح سائل کے والدین بھی زندہ حیات جو کہ دونوں اکثر بیمار

بخدمت جناب ڈائریکٹر صاحب ایلیمنٹری اینڈ سیکنڈری ایجوکیشن صوبہ خیبر پختونخوا،

پشاور

عنوان: Reminder بابت حکمانہ اپیل برخلاف برطرفی آرڈر نمبر 71-2965 مورخہ 27/06/2019 جاری

کردہ ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ) کوئی ہالس، ضلع کوہستان۔

جناب عالی! Reminder بابت حکمانہ اپیل عنوان ذیل ہیں:-

- 1- یہ کہ سائل نے مورخہ 08/07/2019 کو ملازمت سے برطرفی آرڈر نمبر 71-2965 کے خلاف محکمہ اپیل آنجناب کو ارسال کی تھی جس پر تاحال سائل کی کوئی شنوائی نہیں ہوئی اور نہ ہی سائل کو اپیل کی منظوری یا خراجگی کی بابت کوئی اطلاع دی گئی۔ (نقل اپیل ہمراہ لف ہے)
  - 2- یہ کہ سائل کے برطرفی آرڈر کی وجہ سے سائل کا پورا خاندان معاشی طور پر مفلوج ہو چکا ہے اور سخت معاشی بحران کا شکار ہے اور ساتھ ہی سائل بھی شدید ذہنی کوفت میں مبتلا ہے کیونکہ سائل کے چھوٹے چھوٹے بچے اور بوڑھے والدین ہیں جن کا واحد سہارا سائل کی ملازمت ہی ہے دیگر کوئی ذریعہ آمدن نہ ہے۔ اس طرح سائل کی حکمانہ اپیل پر جلد از جلد فیصلہ ہونا ضروری ہے تاکہ سائل کی حکمانہ اپیل پر جو بھی فیصلہ ہو سائل اس کے مطابق آئندہ کی کوئی قانونی چارہ جوئی کر سکے۔
  - 3- یہ کہ سائل ایک غریب آدمی ہے اور اپنی زندگی کے عرصہ 23 سال محکمہ میں بطور ”چوکیدار“ خدمات سرانجام دیتے ہوئے گزار چکا ہوں۔ اب سائل ریٹائرمنٹ کے قریب ہے کہ سائل کو بدنیاتی کی بنیاد پر ملازمت سے برطرف کر دیا گیا ہے جو کہ قانون و انصاف کے تقاضوں کے سراسر منافی ہے۔
- لہذا استدعا ہے کہ Reminder ہذا کی روشنی میں سائل کی حکمانہ اپیل پر ہمدردانہ غور فرماتے ہوئے جلد از جلد کوئی فیصلہ صادر فرمایا جا کر سائل کو مطلع کیا جائے اور انصاف و قانون کے تقاضے پورے کئے جائیں۔

المرقوم؛ 26/09/2019

سائل / اپیلانٹ:

غفران ولد کجیل (چوکیدار)

گورنمنٹ یونٹ پر انجمنی سکول ولی آباد، ضلع کوہستان



محمد