

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 595/2019

Date of Institution ... 08.05.2019

Date of Decision ... 06.07.2021

Muhammad Rehman S/o Amroz Khan (Ex-Laboratory Assistant at Government Degree College, Agra Malakand) R/o Faiz Abad Tehsil al Puri District Shangla.
... (Appellant)

VERSUS

Secretary, Higher Education Department to Government of Khyber Pakhtunkhwa, Peshawar and one other.
... (Respondents)

APPELLANT ... In Person

MUHAMMAD RIAZ AHMED PAINDAKHEIL
Assistant Advocate General ... For Respondents

MR. SALAH-U-DIN ... **MEMBER (JUDICIAL)**
MR. ATIQ UR REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

Mr. ATIQ UR REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant, while serving as Laboratory Assistant in a Government Degree College was proceeded against on the charges of embezzlement and absence, who ultimately was removed from service vide order dated 03-08-2016. Feeling aggrieved, the appellant filed Service Appeal No. 1230/2015 in this tribunal which was decided on 08-03-2018, re-instating the appellant with directions to the respondents to conduct de-novo proceedings within a period of 120 days. Since the respondents failed to complete the proceedings within the stipulated time period, hence the appellant filed Execution Petition No. 234/2018,

which reached its logical conclusion, when, as a result of de-novo proceedings, major penalty of removal from service along with recovery of Rupees 41,68,355/ was imposed upon the appellant, against which appellant filed departmental appeal dated 26-12-2018, which was not responded to within the statutory period, hence the instant service appeal with prayers that the impugned order dated 19-12-2018 may be set aside and the appellant may be re-instated in service with all back benefits..

02. Written reply/comments were submitted by respondents.

03. Arguments heard and record perused.

04. The appellant Pro se argued the case and has contended that respondents deliberately delayed the de-novo proceedings, which compelled the appellant to file execution petition before this Tribunal with prayers that neither re-instatement order was issued in his favor nor he was provided opportunity to participate in the de-novo proceedings; that it was due to filing of the execution petition that the respondents issued his re-instatement order in back date, copy of which was not delivered to him; that the whole de-novo proceedings were undertaken secretly and at his back and he was never informed of such proceedings; that the whole disciplinary proceedings are fake, factitious and are engineered, as neither he was issued any charge sheet/statement of allegation, nor any show cause notice was served upon the appellant. Needless to mention of the personal hearing and opportunity of cross-examination. The appellant argued that the respondents failed to produce a single piece of evidence to show that any correspondence was made by the respondents with the appellant with regard to de-novo proceedings. The appellant added that since the proceedings were not completed within stipulated timeframe, hence such proceedings after expiry of said prescribed period of four months, were void, non-existent and of no

legal value; that actions of the respondents are based on malafide and the appellant was not treated in accordance with law; that fake record is being generated by two employees of the College namely Mr. Bashir Khan, Deputy Director (Establishment) and Muhammad Iftikhar, Deputy Director (Academic), having personal grudge with the appellant; that such fraudulent act is evident from the fact that no date is affixed on any of the documents, which are purported to be genuine; that such documents were made factitiously only for submission in this Tribunal and no document whatsoever, has been handed over to the appellant nor sent to the appellant via registered mail; that the appellant has already submitted an application to this Tribunal to summon the above mentioned two officials and to take punitive action against them for their fraudulent actions and submission of fake documents in this Court; that these two individuals having personal grudge with the appellant are trying their best to keep him away from his job. The appellant prayed that action of the respondents and particularly the two officials mentioned above are based on malafide and the appellant was not treated in accordance with law and the impugned order having no value in the eyes of law, may be set aside, the appellant may be re-instated in service with all back benefits and recovery of the amount may be set at naught.

05. Learned Assistant Advocate General appearing on behalf of respondents has contended that in pursuance of judgment dated 08-03-2018 of this Tribunal, the appellant was re-instated in service vide order dated 11-05-2018 and an inquiry committee was constituted. Learned Assistant Advocate General contended that the inquiry committee tried its level best to contact the appellant via telephone contact/SMS, but the appellant did not turn up. Learned Assistant Advocate General further contended that the competent authority prepared proper charge sheet/statement of allegation to be served upon the appellant, but the appellant never joined the de-novo proceedings, thus the

inquiry committee was left with no option but to proceed the appellant ex-parte. Learned Assistant Advocate General explained that the inquiry committee concluded its proceedings on 30-08-2018 and report was submitted to the competent authority and the competent authority imposed major penalty of removal from service along with recovery of Rs. 41,68,355/ upon the appellant vide order dated 19-12-2018. Learned Assistant Advocate General added that the appellant committed financial embezzlement and FIR No. 3 dated 08-09-2011 u/s 409/419/420/468/471/201/5(2) of PCA has been registered in police station anti-corruption, which is still pending adjudication; that successive inquiries including the instant inquiry held the appellant responsible for embezzlement in collusion with some other officers/officials; that the appellant was rightly proceeded against and the penalty imposed does commensurate with the guilt of the appellant, therefore the appellant does not deserve any mercy, hence his appeal being devoid of merit may be dismissed.

06. We have heard learned counsel for the parties and perused the record. We have observed that this Tribunal vide its earlier judgment announced on 08-03-2018 in the previous appeal filed by the appellant has observed that the respondents did not adhere to all the procedural steps in the disciplinary proceedings, which were mandatory as per law and rules. It was further observed that the impugned order of removal from service in respect of the appellant was made only on the ground of absence and there was no findings regarding the charge of embezzlement. With such observations, the appellant was re-instated in service with direction to the respondents to conduct de-novo proceedings regarding both the charges (absence and embezzlement) within a period of 120 days in accordance with law, which clearly manifests that the respondents had not charged the appellant on the issue of embezzlement in the initial proceedings, which point is meaningful. As is evident from the execution petition filed by the

appellant on 17-07-2018, the respondents failed to comply with the orders of this Tribunal to complete de-novo proceedings until filing of the execution petition by the appellant with prayers that neither the appellant was re-instated in service till date nor he was associated with the de-novo proceedings. File pertaining to the execution petition in respect of the appellant reveals that implementation report, containing the impugned order dated 19-12-2018 surfaced vide order sheet dated 02-04-2019, much later than expiry of the stipulated timeframe, which creates doubts about credibility of his re-instatement order purportedly issued on 11-05-2018, which too was not made in an official format. We have also found two copies of re-instatement order, one submitted by the appellant and another by respondents. The former without signature and the later signed by deputy director (academic), which have made the issue more suspicious. Annexed thereto was copy of charge sheet/statement of allegation and copy of an inquiry report. The charge sheet/statement of allegation issued so far, are without any date, whereas the inquiry report is shown as finalized on 31-08-2018, later than the stipulated timeframe fixed by this Tribunal, but no show cause notice was found annexed with the implementation report. To this effect the apex court vide its judgment reported in 2007 PLC (CS) 959 has held that non implementation of judgment of Service Tribunal within the stipulated timeframe and its implementation after expiry of the timeframe would be void, non-existent and of no legal value. Needless to mention that the inquiry so conducted is replete with deficiencies as previous stories of departmental inquiries have been repeated. The inquiry report is re-composition of the earlier inquiries conducted by Anti-corruption establishment and another inquiry conducted by an inquiry committee headed by Prof Munsif Khan. Such reliance on previous inquiries is stated to be made due to the reason that record pertaining to account office, college record and bank record was not made available to the committee and the committee

was obligated to rely on the available record in shape of inquiry reports, which shows that the inquiry committee had not unfold the real story, rather made a copy paste option only to the extent of generating a report for the eye wash of high-ups. Contents of the inquiry report reveals that the appellant was contacted on phone and SMS and to this effect, two letters dated 04-07-2018 and 20-07-2018 are also available on record, addressed to the appellant at his college address, knowing the fact that the appellant was no more on the college roll, which however was required to be sent to the appellant at his home address via registered acknowledgment mail. We have noted that the inquiry officer failed to prove the allegations with cogent reasons and to substantiate his findings with solid evidence, needless to mention that the appellant was kept deprived of personal hearing and opportunity to cross examine witnesses, rather the inquiry committee mainly relied on previous inquiries. Recommendation part of the inquiry report is reproduced as under:

"On the basis of above, it is recommended that since the charges against Mr. Muhammad Rehman have been proved in different independent inquiries, so competent authority may impose major penalty. It is further recommended that the losses accrued to the government exchequer/employees of the college and GDC Agra etc after 2004 till date due to Muhammad Rehman may be recovered from him along with interest and the recommendations of Prof Munsif Khan inquiry be implemented."

Report of the inquiry committee headed by Prof Munsif Khan was also perused, which committee was constituted on the request of Prof Fazli Wahid Ex-Principal for release of his commutation and pension, which were withheld due to initiation of disciplinary proceedings against him, as he was also a co-accused in this case. The committee recommended release of his pension and commutation as well as recommended recovery of the embezzled amount from almost eleven officers/official including the appellant. Record also reveals that recoveries has been affected to the tune of Rs. 1,480,170/ from Prof Fazli Wahid Ex-Principal, Prof. Zia ul Haq, Ex-Principal and Prof. Fazli Ghafoor Ex-Principal, who were also

accused in this case. It is worth to mention that since the inquiry committee was under obligation due to judgment of this Tribunal to probe into the issue of embezzlement in respect of the appellant, hence the committee was required to investigate the issue on scientific lines, as alleged impersonated signature of the appellant can only be verified by Forensic Science Laboratory, which however was not done by the inquiry committee. The respondents also failed to establish as to how the appellant being a Laboratory Assistant was entrusted with the job of Account Clerk. We did not find any order in written to show that such responsibility was assigned to the appellant. Needless to mention that the appellant was neither drawing & disbursing officer, nor was supposed to perform duty as an account clerk. It was also noted that recoveries have been affected from Ex-Principals of the college, who were actually drawing & disbursing officers and mainly responsible for monitory dispensation, hence making the appellant solely responsible for embezzlement and making recoveries from the Ex-DDOs are contradictory and which have made the whole proceedings dubious.

07. Presumably, if stance of the inquiry officer is acknowledged that the appellant after re-instatement remained absent and did not participate in the de-novo proceedings, in that case, the respondent were required to initiate proceedings against the appellant under Rule 9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, but which was not done and the respondents continued its proceedings under Rule 11 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, and after submission of the inquiry report to the competent authority, the competent authority skipped rule 14(4) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, and directly issued his removal from service order. Record also reveals that an FIR dated 08-09-2011 was also registered against the appellant in Police Station Anti-corruption establishment, which is still

pending adjudication. It was also noted that the respondents submitted piecemeal documents from time to time to this Tribunal and to this effect, show cause notice undated in respect of the appellant, which was not submitted with the implementation report in execution petition, was submitted at a very belated stage, which strengthen the contention of the appellant, that the respondents prepare fake orders and submit to the Tribunal from time to time. The question of recovery of embezzled amount was thoroughly examined, but the inquiry report substantiated its stance with findings of the previous inquiries and did not offer a solid evidence to this effect.

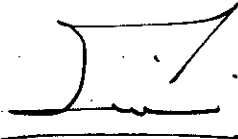
08. Stance of the appellant, on the other hand is also worth consideration, as if the respondents had issued his re-instatement order well within time and if he was proceeded against within the statutory period, he would have not filed execution petition before this Tribunal after expiry of the statutory period. It is crystal clear that copies of such proceedings were presented before this Court after lapse of almost one year.

09. In view of the foregoing, we are of the considered opinion that the appellant was proceeded against twice, but was not treated in accordance with law. We smacks malafide on part of the respondents to the effect that the appellant was kept ignorant of the de-novo proceedings so much so that his re-instatement order for the purpose of de-novo inquiry was presented to this Tribunal with delay of nine month after expiry of the timeframe fixed for de-novo proceedings. The proceedings so conducted are replete with deficiencies having no value in the eyes of law and are liable to be struck down.

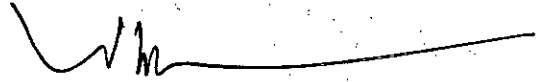
10. In the light of the above discussion, the instant appeal is accepted and the appellant is re-instated in service with all back benefits. The respondents shall, however be at liberty to conduct de-novo inquiry into the matter regarding

the alleged embezzlement, if they so desires. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
06.07.2021



(SALAH-U-DIN)
MEMBER (JUDICIAL)

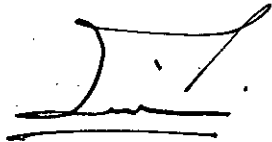


(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)

06.07.2021 Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted and the appellant is re-instated in service with all back benefits. The respondents shall, however be at liberty to conduct de-novo inquiry into the matter regarding the alleged embezzlement, if they so desires. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
06.07.2021



(SALAH-U-DIN)
MEMBER (JUDICIAL)



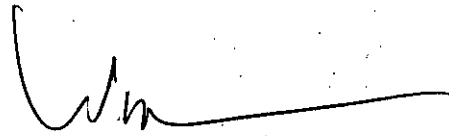
(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)

02.04.2021

Appellant in person present.

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Former made a request for adjournment; granted. To come up for arguments on 28/04/2021 before D.B.




(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

28.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 14.07.2021 for the same as before.



Reader

24.06.2021

Appellant in person present. Mr. Jehanzeb, Superintendent alongwith Mr. Kabirullah Khattak, Additional Advocate General, for the respondents present.

The instant appeal was fixed for 14.07.2021, however upon submission of application by the appellant, worthy Chairman ordered that the appeal be fixed in the month of June 2021, therefore, the same was fixed for today.

Appellant requested that he will personally argue the instant appeal, therefore, time may be granted to him for proper preparation. Adjourned. To come up for arguments before the D.B on 06.07.2021. Record of Execution Petition No. 234/2018 also be requisitioned for the date fixed.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

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

Khyber Pakhtunkhwa
Service Tribunal

Registry No. 723

Dated 2/5/2019

Service Appeal No. 595/2019

Muhammad Rehman S/o Amroz Khan (Ex-
Laboratory Assistant at Government Degree college
Agra Malakand) R/o Faiz Abad Tehsil Al Puri District
Shangla **Appellant**

VERSUS

1. Secretary Higher Education Department Government
of Khyber Pakhtunkhwa, Peshawar
2. Director Higher Education Department, Khyber
Pakhtunkhwa Directorate at Peshawar.
..... **Respondents**

**APPEAL U/S 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974, AGAINST THE ORDER DATED
19/12/2018 OF RESPONDENT NO. 2 VIDE
WHICH THE SERVICES OF THE
APPELLANT WAS TERMINATED,
REMOVED WITH FURTHER ORDER OF
RECOVERY OF RS. 4168355/-.**

Filed to-day

Registrar
8/5/19

Prayer:-

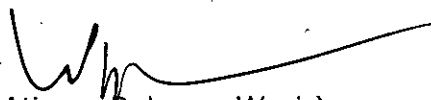
*On acceptance of the appeal; the impugned
office order dated 19/12/2018 whereof by
imposing major penalty to the appellant,
his services was removed with order of*

10.02.2021

Appellant in person and Asstt. AG alongwith Miss Lubna Salma, ADO and Jehanzaib, Superintendent for the respondents present.

The appellant has submitted some additional documents alongwith an application. Placed on record. He further requests for adjournment in order to go through the documents submitted by the other side.

The representative of respondents has submitted documents pertaining to the enquiry against the appellant and also other documents relevant to the case. Placed on record. Adjourned for arguments to 23.02.2021. The restraint order dated 18.12.2020 shall remain operative till next date.



(Atiq-ur-Rehman Wazir)
Member(E)


Chairman

23.02.2021

Appellant in person and Addl. AG alongwith Jehanzeb, Superintendent for the respondents present.

It is already past 03.30 PM, therefore, due to paucity of time instant matter is adjourned to 02.04.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)


Chairman

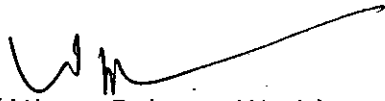
595/19

07.01.2021

Appellant in person and Assistant A.G alongwith Jehanzaib, Superintendent for the respondents present.

Appellant, during the course of arguments, relied on certain documents which are not part of the record and are being introduced today. He is, therefore, required to submit all the documents alongwith a proper application before next date of hearing which shall be subject to legal as well as factual objections by the other side. Learned AAG is accordingly required to provide a legible copy of the enquiry report dated 30.08.2018. He may submit any other documents relevant with the appeal in hand which shall also be subject to all just exceptions.

Adjourned to 10.02.2021 for hearing before the D.B.


(Atiq-ur-Rehman Wazir)


Chairman

10.02.2021

Appellant in person and Asstt. AG alongwith Miss Lubna Salma, ADO and Jehanzaib, Superintendent for the respondents present.

The appellant has submitted some additional documents alongwith an application. Placed on record. He further requests for adjournment in order to go through the documents submitted by the other side.

The representative of respondents has submitted documents pertaining to the enquiry against the appellant and also other documents relevant to the case. Placed on record. Adjourned for arguments to 23.02.2021. The restraint order dated 18.12.2020 shall remain operative till next date.

(Atiq-ur-Rehman Wazir)
Member(E)

Chairman

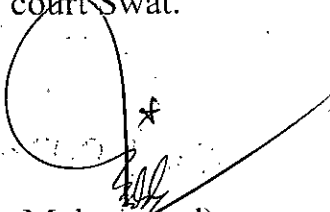
*Def reviewed
on back page*


06.10.2020

Neither the appellant nor her counsel is present. Mr. Usman Ghani, District Attorney for respondents present.

Arguments could not be heard due to strike of the District Bar Association, Swat.

Adjourned to 03.11.2020 for arguments before D.B at camp court Swat.


(Mian Muhammad)
Member(E)

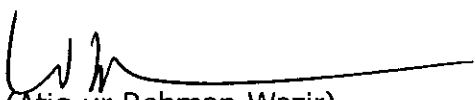

(Muhammad Jamal Khan)
Member
Camp Court Swat


03.11.2020

Appellant in person present.

Muhammad Jan learned Deputy District Attorney for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 09.12.2020 before DB at Camp Court, Swat.


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat


(Rozina Rehman)
Member (J)
Camp Court, Swat


04.03.2020

Appellant in person present. Mr. Usman Ghani learned District Attorney for the respondents present. Appellant requested for adjournment on the ground that he is not feeling well. Adjourn. To come up for further proceedings/arguments on 08.04.2020 before D.B. at Camp Court Swat.


Member

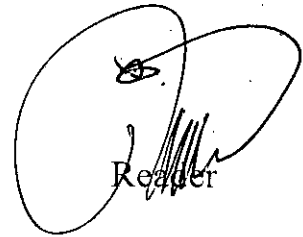

Member
Camp Court Swat

Due to corona virus
four to camp court swat
has been cancelled. To come
up for the same on -
03/06/20


Reader

03.06.2020

Due to Covid-19, the case is adjourned. To come up for the same on 06.08.2020, at camp court Swat.


Reader

27.12.2019

Counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 23.01.2020 before D.B.


Member


Member

23.01.2020


Due to general strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 16.03.2020 for arguments before D.B.



(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

04.02.2020

Mr. Bahre Karam present on behalf of the appellant. Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Lawyers are not attending the courts today on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 04.03.2020 before D.B. at Camp Court Swat.


Member


Member
at Camp Court Swat

02.09.2019


Appellant in person present. Written reply not submitted. Qazi Ayaz Litigation Officer representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 08.10.2019 before S.B at Camp Court, Swat.



Member
Camp Court, Swat.

08.10.2019

Appellant in person and Mian Ameer Qadir, Deputy District Attorney alongwith Mr. Khushi Muhammad, Section Officer for the respondents present. Representative of respondents submitted para-wise comments on behalf of respondents No. 1 & 2 which is placed on record. Case to come up for rejoinder and arguments on 05.11.2019 before D.B at Camp Court Swat.



(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

05.11.2019

Appellant in person and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Fazal Hadi, Associate Professor for the respondents present. Appellant seeks adjournment on the ground that his counsel has gone to Hon'ble Peshawar High Court, Peshawar and cannot attend the Tribunal today. Adjourned to 07.01.2020 for rejoinder and arguments before D.B at Camp Court Swat.



(Hussain Shah)
Member
Camp Court Swat



(M. Amin Khan Kundi)
Member
Camp Court Swat

12.06.2019

Appellant in person present. Preliminary arguments heard.

The appellant (Ex-Lab Assistant) has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the office order dated 19.12.2018 regarding imposition of major penalty of removal from service alongwith recovery of Rs.41,68,255/- upon him.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for reply/comments. To come up for written reply/comments on 01.07.2019 before S.B at Camp Court, Swat.

Appellant Deposited
Security & Process Fee

18/6/19

Member
Camp Court, Swat.

01.07.2019



Appellant in person present. Written reply not submitted. Muhammad Irfan AD (for respondent No.2) absent. Respondents as well as absent representative be put to notice for submission of written reply/comments. Adjourn. To come up for written reply/comments on 02.09.2019 before S.B at Camp Court, Swat.

Member
Camp Court, Swat.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 595/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/05/2019	<p>The appeal of Mr. Muhammad Rehman presented today by him may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 8/5/19</p>
2-	10-5-19	<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>12-06-19</u></p> <p> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 595 /2019


Muhammad RehmanAppellant

VERSUS

Secretary Higher Education Department & others
.....Respondents

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service Appeal		1-8
2.	Affidavit		9
3.	Addresses of Parties		10
4.	Copy of the contents of appeal while reading as an integral part of this appeal too, alongwith order dated 08/03/2018 passed by this Hon'ble tribunal,	A & B	11-17 18-21
5.	Copy of the contents of contempt court proceeding petition	C	22-28
6.	Copy of the impugned order passed by respondent No. 2	D	29
7.	Copy of the departmental appeal	E	30-32
8.	Wakalat Nama		


Appellant (in person)

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

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 595/2019

Diary No. 723

Dated 8/5/2019

Muhammad Rehman S/o Amroz Khan (Ex-Laboratory Assistant at Government Degree college Agra Malakand) R/o Faiz Abad Tehsil Al Puri District Shangla **Appellant**

VERSUS

1. Secretary Higher Education Department Government of Khyber Pakhtunkhwa, Peshawar
2. Director Higher Education Department, Khyber Pakhtunkhwa Directorate at Peshawar.

..... **Respondents**

**APPEAL U/S 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974, AGAINST THE ORDER DATED
19/12/2018 OF RESPONDENT NO. 2 VIDE
WHICH THE SERVICES OF THE
APPELLANT WAS TERMINATED,
REMOVED WITH FURTHER ORDER OF
RECOVERY OF RS. 4168355/-.**

Filed to-day

↓
Registrar
8/5/19

Prayer:-

On acceptance of the appeal, the impugned office order dated 19/12/2018 whereof by imposing major penalty to the appellant, his services was removed with order of

recovery of amount Rs. 4168355/- with immediate effect, may be set aside and the appellant may be reinstated on his post with all back benefits w.e.f. 01/05/2011.

Respectfully Sheweth:-

1. This is the astonished fact that it is the circulation of such litigation, whereof the appellant is surviving with his legal rights of re-instatement on his post, which have been previously too the respondent by their illegal, unlawful act, removed, against which certain earlier filed appeal remained under adjudication before this Hon'ble tribunal and lastly decided in favour of the appellant with the observations of this Hon'ble tribunal, reproduced:

“Consequently, the impugned order is set aside. The appellant is reinstated in service. The department is directed to issue proper charge sheet coupled with statement of allegations regarding both the charges and to complete the enquiry proceeding with a period of 120 days from the date of receipt of this judgment.”

(Copy of the contents of appeal while reading as an integral part of this appeal too, alongwith order dated 08/03/2018 passed by this Hon'ble tribunal, are appended jointly as annexure A & B Respectively)

2. That the appellant was not accommodated to the extent of his reinstatement on the strength of order of this Hon'ble tribunal dated 08/03/2018, however in addition with that, the rest of other requisitions as directed by this Hon'ble tribunal, did also not fulfilled pertains to the initiating inquiry proceeding within the stipulated time of 120 days, **AGAINST WHICH**, appellant contempt of court petition before this tribunal, asked therein about initiating contempt proceeding against the respondent for committing gross negligence on their part. **(Copy of the contents of contempt court proceeding petition is also annexed herewith as annexure C)**
3. It is the matter of the fact that the preferred contempt of court petition against the respondent is still lying under adjudication before this Hon'ble tribunal and further fixed for its hearing on 07/05/2019.

4. That mean while despite of the fact that the respondent completely failed to initiate investigation under the stipulated time of 120 days given by this Hon'ble tribunal, but even after that on the alleged inquiry so shown to be initiated against the appellant, a baseless, illegal, unlawful order of removal of the appellant from his services with ^{Recovery} of Rs. 4168355/- was passed. **(Copy of the impugned order passed by respondent No. 2 is also the part of this petition and existed as annexure D)**

5. That aggrieved with the surprising order of respondent No. 2 passed in ambiguous illegal, unlawful manner against the appellant whereof the services of the appellant was removed with the above recovery amount, appellant is hereby invoking absolute jurisdiction of this Hon'ble tribunal U/s 4 of KPK service Act, inter alia on the following ground amongst other:

GRUNDS:-

A. That the impugned order is arbitrary and bared on non cogent grounds, hence needs to be withdrawn.

- B. That it is the settled practice, code, enactment, precedent duly upheld by the superior courts in the service such like matter, that no inquiry can be initiated in the matter, whereof particularly one of the nominated alleged accused therein, if otherwise retired from his services or departure to skies, but in the case of the appellant since the other alleged accused i.e. Ex-Principal Government Degree College Agra Malakand, namely Fazli Wahid not only became retired from his service during the course of the adjudication matter, rather he was also later on during the same era died and being the corroborative alleged role of the deceased principle, the inquiry thereby was required to conduct and conclude even in presence of the above collaborative character of above deceased principle but respondent failed to initiate inquiry deliberately and knowing.
- C. That actually it was the then above deceased principle of degree college Agra Malakand, who maliciously prosecuted the appellant under his personal or whatsoever grudge, and tried to be divert the case of the appellant into the embezzlement nature, however he was too enrobed in his own dig and faced interrogation thereof, but this time after his retirement and thereafter when he died.

- D. That gross illegality, irregularity, exploitation, discrimination on the part of the respondent department was accrued, when they failed to initiate inquiry against the appellant under the given stipulated time of 120 days and in this respect a speaking precedent of Hon'ble Supreme court of Pakistan is intervening while observing that if once inquiry could not be initiated within a time framed, it cannot be held in any case thereafter thereof. Hence additionally this score too, the findings of the inquiry committee which further sustain, while issuing removing order of the appellant, has no legal force at all.
- E. That the inquiry was also conducted against the appellant quite in a ambiguous, unfair, unusual, un just, un fair, discriminative manner, whereof no required legal formalities was also fulfilled to meets. Hence the conclusion of the same is not reliable.
- F. That no personal hearing before any forum was preferred to the appellant even on behalf of the so called inquiry committee, therefore their findings and conclusion to the extent of order of removing of the appellant from his services and recovery of the above amount is strange in nature,

unwarranted, unsustainable, un precedented in the eye of the law.

G. That the respondent was required rather under legal obligation to recruit the ~~applicant~~^{appellant} on the strength of the earlier order passed by this Hon'ble tribunal dated 08/03/2018, according to which it was specifically directed to the respondent to reinstate the appellant and thereafter initiate inquiry thereby, BUT neither appellant was reinstated on his post nor the inquiry was interested to initiate against the appellant under the given stipulated time of 120 days as codified in the earlier order of this Hon'ble tribunal, so it cannot be said that the removal order which is certainly impugned herein, is legal in sense.


H. That appellant approached to the respondent No. 1 by preferring his representation/service appeal, sought therein about his reinstatement on 09/01/2019 but no specific order was passed by the respondent No. 1, hence this service appeal. **(Copy of the departmental appeal is attached herewith as annexure E)**

I. That the treatment of the respondents with the appellant has no legal footing to stand on.

- J. That any other ground may be raised at the time of arguments, with the kind permission of this Honourable Tribunal, if needed so.

It is, therefore, most humbly prayed that on acceptance of instant appeal, the impugned office order dated 19/12/2018 whereof by imposing major penalty to the appellant, his services was removed with order of recovery of amount Rs. 4168355/- with immediate effect, may be set aside and the appellant may be reinstated on his post with all back benefits w.e.f. 01/05/2011

Any other relief available in the circumstances of the case, not specifically asked for, may also be granted to the appellant.


Appellant (in person)



BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2019

Muhammad Rehman

.....**Appellant**

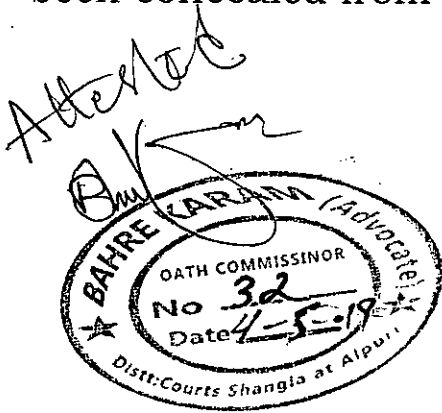
VERSUS

Secretary Higher Education Department & others

.....**Respondents**

A F F I D A V I T

I, Muhammad Rehman S/o Amroz Khan R/o Faiz Abad Tehsil Al Puri District Shangla, do hereby solemnly affirm and declare that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



MA am
DEPONENT
MUHAMMAD RAHMAN
15501-6325267-9

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2019

Muhammad Rehman **Appellant**

VERSUS

Secretary Higher Education Department & others
 **Respondents**


ADDRESSES OF PARTIES

APPELLANT

Muhammad Rehman S/o Amroz Khan (Ex-Laboratory Assistant at Government Degree college Agra Malakand) R/o Faiz Abad Tehsil Al Puri District Shangla

RESPONDENTS

1. Secretary Higher Education Department Government of Khyber Pakhtunkhwa, Peshawar
2. Director Higher Education Department, Khyber Pakhtunkhwa Directorate at Peshawar.


 Appellant (in person)



(11)



THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

Service Appeal No _____ -M of 2016

Mohammad Rahman S/o Amroz Khan (Ex-Laboratory
Assistant at Govt. Degree College Agra, Malakand)
Resident of Faiz Abad, Tehsil Alpuri, District
Shangla.

.....Appellant

VERSUS

1. The Secretary Higher Education Department Govt. of
Khyber Pakhtunkhwa at Peshawar.
2. The Director Higher Education Directate KPK at Peshawar.
3. The Principal Govt. Degree College Agra, Malakand.?
4. The District Account Officer, Malakand. ?

.....Respondents

SERVICE APPEAL UNDER SECTION 4, OF
THE KPK SERVICE TRIBUNAL ACT, 1974,
AGAINST THE ORDER DATED 03-08-2016,
WHEREBY the appellant has been removed
from service and for not taking an action on

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M.A. en*

(12)

039

the Department Appeal filed by the appellant on 30-08-2016 before the Respondent No. 1.

PRAYER IN APPEAL

On acceptance of this appeal the order passed by Respondent No. 2 be declared as illegal, against law, void ab-initio by setting aside the same and the appellant may be reinstated on service with all back benefits.

Any other relief which are proper in the instant circumstances of the may also be granted.

Respectfully Sheweth,

- 1) That the appellant was appointed as Libotoray assistant by respondents on 06-12-1994. (Copy of appointment order is attached as annexure "A")
- 2) That the appellant was performing his duties honestly, devotedly up to the entire satisfaction of the higher throughout his career.

Attorney
M. J. C.



- 3) That on 11-11-2003, the appellant was transferred to Govt. Degree College Agra Malakand wherein the appellant was performing his duties up to the entire satisfaction and no complaint has been made against the appellant.

- 4) That all of a sudden without any explanation letter, show cause notice, any inquiry, and without fulfilling the codal formalities the pay of the appellant was stopped in May, 2011, and letter on an FIR bearing No. 3 Police Station A.C.E Malakand under sections 409, 419, 420, 468, 471, 201 PPC and 5 (ii) PC Act was lodged against the appellant on 08-09-2011. (Copy of FIR is attached as annexure "B")

- 5) That as such another FIR bearing No. 12 of Police Station Agra was lodged on 05-12-2013 under sections 381-PPC by Professor Abdul Hadi Inacharge Principal Degree College Agra, Malakand. (Copy of FIR is attached as annexure "C")

Attended
M. J. or

(14)



- 6) That on 13-09-2011 the respondent No. 2 suspended the appellant with effect from 09-06-2011. (Copy of suspension order is attached as annexure "D")
- 7) That inquiry committee was constituted as such inquiry committee submitted its report on 18-03-2014.
- 8) That on 03-08-2016, the respondent No. 2 removed the appellant from service illegally, against the law, hence the appellant filed Department appeal before respondent No.1 on 30-08-2016. (Copies of impugned office order of removal from service is attached as annexure "E")
- 9) That the respondent did not decide the departmental appeal within a instituted period, hence the appellant is approaching this Honorable Tribunal for the redressal of his grievances against the action and inaction of the respondents on the following ground inter alia. (Copy of departmental appeal is attached as annexure "F")

GROUNDS:-

- a. That the impugned order is illegal, against the law, void ab-initio, without lawful authority.

*Attorneys
M.A. Khan*

b. That the impugned order is the result of mis-reading & non-reading of material present on case file.

c. That the inaction of respondent No. 1 of the departmental appeal within statutory period is against the law, rules.

d. That the inquiry so conducted against the appellant is illegal and against the law, and no rules have been followed.

e. That the appellant has not been given opportunity of hearing as per law and rules.

f. That the appellant has not been afforded opportunity to appear inquiry and to cross examine the witnesses.

g. That no show cause notice has been given to the appellant.

h. That the appellant has not been given opportunity a personal hearing before passing the impugned office order.

Atenu...
M.A. ...



- i. That the mala-fide of the respondents can be ascertained from the fact that the appellant has not been given salary during the period of suspension for which he has legally been entitled.
- j. That the action and inaction of the respondents is mockery with law and justice.
- k. That the impugned office order is arbitrary, unilateral, and whimsical.
- l. That the respondent No. 2 did not wait for the decision of Anti Corruption Court in the subject matter and has illegally removed the appellant from service.
- m. That some grounds may be argued at the time of arguments with the prior permission of this Honorable Tribunal.

*Attorney
M. J. S.*

Therefore in view of the above submissions, it is most humbly prayed that on acceptance of this appeal the order passed by Respondent

SHOW CAUSE NOTICE

I, Dr. Subhan Ullah Shah, Director Higher Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Rehman, Lab. Assistant Govt. Degree College Agra (Malakand), as follows:-

- (i) That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing.
- (ii) On going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said inquiry Committee.

I am satisfied that you have committed the following acts/omissions specified in Rule, 3 of the said rules:

- c) Mis-conduct.
- d) Inefficiency.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of Removal from Service under rule 4 of the said Rules. *along with Recovery of Rs. 4,68,355,*
3. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
5. A copy of the findings of the inquiry Officer is enclosed.

(DR. SUBHAN ULLAH SHAH)
DIRECTOR HIGHER EDUCATION

Muhammad Rahman ex-Lab Asst GDC Agra

For information No 261 Dated 22nd 11/2018.

Sucess
29/11/2018
PRINCIPAL
Govt. Degree College
Agra MKII Agency

SHOW CAUSE NOTICE

I, Dr. Subhan Ullah Shah, Director Higher Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Rehman, Lab. Assistant Govt. Degree College Agra (Malakand), as follows:-

- (i) That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing.
- (ii) On going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said inquiry Committee.

I am satisfied that you have committed the following acts/omissions specified in Rule, 3 of the said rules:

- c) Mis-conduct.
- d) In-Efficiency.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of Removal from Service alongwith recovery of Rs. 4168355/- under rule 4 of the said Rules.
3. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
5. A copy of the findings of the inquiry Officer is enclosed.

ATTESTED

Supervisor
Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar

(DR. SUBHAN ULLAH SHAH)
DIRECTOR HIGHER EDUCATION



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
RANO GHARI NEAR CHAMKANI MOR, PESHAWAR**

R
E

E-mail: dhakppesh@gmail.com, Facebook.com/dhakppeshawar Twitter.com/dhakppeshawar1

No. _____ / CA-VII/Estt: Branch/A-167/ GDC Agra Dated Peshawar the 8 / 8 / 2020

To

The Additional Deputy Commissioner,
Malakand.

Subject: - OFFICE ORDER

Respected Sir, السلام عليكم

I am directed to refer to your letter No. 9609/X/30/AG-I dated 10-07-2020 on the subject noted above and to endorse your view that the delinquent Ex-official, Muhammad Rehman has been dismissed from service in 2015; however, keeping in view the huge loss caused to the public exchequer by him, this office deems it imperative that measures should be taken to apprehend the guilty official and recover the amount outstanding against him.

Foregoing in view, your good office is hereby requested to utilize the resources at your disposal i.e. law enforcement agencies, revenue and estate department to recover the embezzled amount Rs. 4,489,535/- from Mr. Muhammad Rehman, Ex-Lab Assistant, Govt: Degree College, Agra (Malakand) under intimation to this office, please.

[Handwritten signature]

[Handwritten signature]
(Muhammad Iftikhar)
DEPUTY DIRECTOR

Endst. No. _____ / GDC Agra

[Handwritten signature]
10/08/20

Copy of the above is forwarded to the

1. Principal, Govt: Degree College, Agra (Malakand)
2. Assistant Director (Litigation), Local Directorate.
3. Deputy Director (IT), Local Directorate with the remarks to circulate the same electronically:

(Muhammad Iftikhar)
DEPUTY DIRECTOR

4977
11-08-2020

(17)



No. 2 be declared as illegal, against law, void ab-initio by setting aside the same and the appellant may be reinstated on service with all back benefits.. Any other relief which are proper in the instant circumstances of the may also be granted.

Appellant
Through Counsel

FARIDULLAH KHAN
Advocate, High Court

CERTIFICATE:

(As per directions of my client) No such like Appeal earlier has been filed by the appellants on the subject matter before this Honorable Court.

ADVOCATE

Attended
M. J. J.

(18)

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No. 1230/2016

Date of Institution... 13.12.2016

Date of decision... 08.03.2018



Muhammad Rahman son of Amroz Khan (Ex-Laboratory Assistant at Government Degree College Agra, Malakand) resident of Faiz Abad, Tehsil Alpuri, District Shangla. ... (Appellant)

Versus

1. The Secretary Higher Education Department, Government of Khyber Pakhtunkhwa, Peshawar and three others. ... (Respondents)

Barrister Adnan Khan & Yousaf Khan,
Advocates

... For appellant.

MR. Usman Ghani,
Deputy District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN,

... CHAIRMAN
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was removed from service on 03.08.2016 for the dual charges of embezzlement and absence. Against which he filed departmental appeal on 31.08.2016 which was not responded to and thereafter, he filed the present service appeal on 13.12.2016.

ATTESTED

Adnan Khan
MA

[Signature]



(19)

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ARGUMENTS

3. The learned counsel for the appellant argued that the alleged embezzlement was reported through an FIR and the trial was yet to be concluded in the court of law. That simultaneously departmental proceedings were also initiated against the appellant on 09.6.2011 and the enquiry was concluded on 3.2.2014. That the authority passed the order after two and half years on 3.8.2016. He argued that the proceedings were delayed on two stages first at the stage of enquiry and secondly at the stage of passing of the order of penalty. That for the first stage, the period of 30 days was provided under the rules whereas for the second stage 15 days were provided. That the delay had caused prejudice to the appellant. That no explanation of delay was given by the department for both the stages. That the delay would amount to abuse of process of law and would be fatal for the disciplinary proceedings. He further argued that no show cause notice was issued to the appellant nor any copy of the enquiry report was supplied to him and similarly no personal hearing was afforded to the appellant.

4. On the other hand the learned District Attorney argued that all the codal formalities of due process were fulfilled. That the enquiry committee had elaborately dealt with each and every aspect of the case and had found the appellant guilty. That the enquiry committee had also calculated the proportionate financial liabilities over the appellant alongwith others involved in the embezzlement. That the recovery had also been effected from others except the appellant as per report of the enquiry committee. That though no show cause notice was given to the appellant but some explanations were called on 12.10.2015 before the order of removal. That there was no delay in the enquiry as there were

ATTESTED

M. J. [Signature]

[Signature]



two enquiry reports and the first enquiry report was submitted within time. That the second enquiry committee was constituted on the application of the appellant.

CONCLUSION

5. Without discussing the points of delay in submitting enquiry reports and the delay at second stage, this Tribunal is to see whether other mandatory procedural due processes were fulfilled. No charge sheet coupled with the statement of allegations were issued to the appellant. No show cause notice was issued to the appellant after the conclusion of the enquiry. No copy of the enquiry report was supplied to the appellant. Rather the enquiry report which was produced before the Tribunal was a fact finding enquiry report. The appellant was awarded penalty on the basis of this fact finding enquiry report without adhering to the mandatory procedural due process as mentioned above. So much so that the impugned order of removal was made only on the ground of absence of the appellant and there is no finding regarding the charge of embezzlement as appears from the fact finding enquiry. It means that the authority had not discharged his duty to initiate proper departmental proceedings regarding embezzlement. It was incumbent upon the authority to have had initiated departmental proceedings on the basis of fact finding enquiry report by issuing proper charge sheet and other due processes as mentioned above. The authority had also not ordered the recovery of proportionate share of the appellant because he had not initiated the departmental proceedings against the appellant. It appears that the impugned order was passed only on the charge of absence of the appellant. Had the same been passed on the charge of embezzlement the same would have been dismissal from

*Attested
MA*

ATTESTED

[Signature]
EXAMINER

service and not removal from service. Furthermore the context of final order reveals that this penalty was for absence only.

6. Now this Tribunal is to see whether the impugned order which was passed on the basis of absence was passed properly. As observed above for absence the department had two options under the rules, one was to proceed the appellant under Rule 9 and second to proceed under provisions regarding regular enquiry under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. The department had opted for the second option but as observed above for the second option the department was required to adhere to all the procedural steps starting from issuance of charge sheet which had not been done.

7. Consequently, the impugned order is set aside. The appellant is reinstated in service. The department is directed to issue proper charge sheet coupled with statement of allegations regarding both the charges and to complete the enquiry proceedings within a period of 120 days from the date of receipt of this judgment. The issue of back benefits shall be subject to the final outcome of denovo proceedings and rules on the subject. Parties are left to bear their own costs. File be consigned to the record room.

Announced
08-03-2018

Self-Niaz Muhammad Khan
Chairman
Cant Court Swat

Self-Ahmad Hassan
Member

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Attorney
ML

Date of Presentation of Application 20-02-18
Number of Words 1600
Copying Fee 10.00
Urgent 2.00
Total 12.00
Name of Copyist [Signature]
20-02-18

Case No. 791
17/7/18

(22) (22)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT AT SWAT.**

Execution Petition/
C.O.C. No. 234/2018
In
Service Appeal No. 1230 of 2016.

Muhammad Rahman(Petitioner)

VERSUS

Secretary Higher Education and other.....(Respondents/Contemnors)

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**Petitioner
Through Counsel**

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BAHRE KARAM ADVOCATE
High Court.
District Courts Shangla.
Cell: 03454612812

(1) (23)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT AT SWAT.

Execution Petition/
C.O.C. No. 934/2018
In
Service Appeal No. 1230 /2016.

Muhammad Rahman S/o Amroz Khan (Ex- Laboratory Assistant at Govt;
Degree Collage Agra Malakand Agency), R/o Faiz Abad, Alpuri Tehsil
Alpuri District Shangla.(Petitioner)

VERSUS

- (1) Secretary, Higher Education Department, Govt: of Khyber Pakhtunkhwa, Peshawar.
- (2) Director, Higher Education Department, Govt: of Khyber Pakhtunkhwa, Peshawar. (Respondents)

APPLICATION TO,

1) Execute/implement order dated 08.03.2018 in the above mentioned title case whereby the service appeal of the petitioner was accepted and the order of the respondent/department was set aside. Accordingly, the appellant is reinstated in service and the Department is directed to issue proper charge sheet coupled with statement of allegations regarding both the charges and to complete the enquiry within a period of 120 days from the receipt of the judgment. (Copy of judgment Order is attached as annexure "A").

2). Initiate contempt proceedings under article 204 of the constitution of the Islamic Republic of Pakistan 1973 read with contempt Act 1974 amended act 2005/2003 for initiating contempt proceedings against respondent /contemnors for not complying the orders/ directions of

Alpuri
MA

(3) (25)

in any college other than Government Degree College Agra, due to security.

(Copy of application is attached as annexure "E")

6. That according to the decision of this Honorable court/Chairman Service Tribunal the respondents received the attested copies of the said order and were bound to comply the said order but the respondents/contemnors have not made any compliance till now, hence the acts of respondents fall with the ambit of contempt of court and is liable to be proceeded legally.
6. That respondents/contemnors were asked/requested again & again to comply the orders/directions of this honorable court in its true letter and spirit but all in van.
7. That this Honorable court/Chairman Service Tribunal has the power and authority to implement its order by proceeding legally by executing the said order.
8. The acts of the respondents/contemnors fall within the ambit of contempt of court of this Honorable court/Chairman Service Tribunal and is able to penalized in an exemplary manner so as to maintain the supremacy of law, justice and honor of the courts of the country.

It is therefore, most humbly prayed that by accepting this application the; -

1. **The respondents must be directed to obey the order of this Honorable Court/Chairman Service Tribunal to reinstate petitioner.**
2. **Respondents/contemnors may graciously be preceded under the law for his deliberate, illegal and unlawful act by initiating contempt of court proceeding against him and shall be convicted in an exemplary way so that such government**

*Attorney
M. A. Khan*

(4) (26)

official should be taken into task and supremacy of law, justice and respect of this Honorable court/Chairman Service Tribunal shall be maintained.

3. Any other order/direction/ relief which this August court may deem fit according to the original service appeal may also be granted.

Petitioner
Through Counsel



BAHRE KARAM ADVOCATE
High Court.
District Shangla Courts
Cell: 03454612812.

CERTIFICATE

As per instructions of my client, it is certified that no such like contempt of court petition has earlier been filed by the petitioners before this Honorable Court.



Advocate
Bahre Karam



(5) (27)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT AT SWAT.

Execution Petition/
C.O.C: No. 234/2018
In
Service Appeal No. 1230 /2016.

Muhammad Rahman(Petitioner)

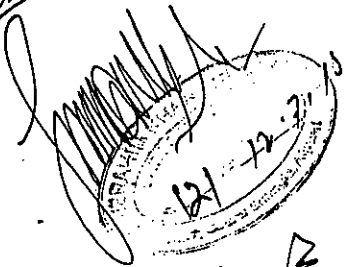
VERSUS

Secretary Higher Education and other.....(Respondents/Contemnors)

AFFIDAVIT

I **Mr. Muhammad Rahman S/o Amroz Khan R/o Faiz Abad Alpuri Tehsil Alpuri District Shangle** do hereby solemnly affirm and declare on oath that contents of the application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hounourable Court.

Attested



M. A. Rahman
DEPONENT

Muhammad Rahman Petitioner.
CNIC No. 15501-6325267-9

(6) (28)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT AT SWAT.

Execution Petition/
C.O.C. No. 934/2018
In
Service Appeal No. 1230 of 2016.

Muhammad Rahman(Petitioner)

VERSUS

Secretary Higher Education and other.....(Respondents/Contemnors)

ADDRESSES OF THE PARTIES

APPELLANT

Muhammad Rahman S/o Amroz Khan (Ex- Laboratory Assistant at Govt; Degree Collage Agra Malakand Agency), R/o Faiz Abad, Alpuri Tehsil Alpuri District Shangla.

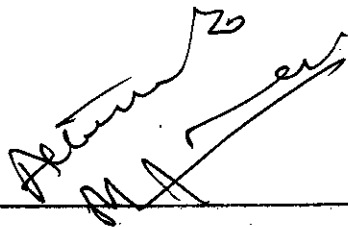
Respondents

- (1) Secretary, Higher Education Department, Govt: of Khyber Pakhtunkhwa, Peshawar.
- (2) Director, Higher Education Department, Govt: of Khyber Pakhtunkhwa, Peshawar.

Petitioner
Through Counsel



BAHRE KARAM ADVOCATE
High Court.
District Courts Shangla.





(29)

**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
KHYBER ROAD, PESHAWAR**

Tel # 091-9210242 / 9211025 Fax # 091-9211803
E-mail:- dhekpkesha@gmail.com Facebook.com/dhekpkesha Twitter.com/dhekpkesha1

Dated Peshawar the 19/12/2018

OFFICE ORDER

No.CA-VII/Estt: Branch/A-167/Mr. Muhammad Rehman/GDC, Agra. WHEREAS Mr. Muhammad Rehman, Lab. Assistant, Govt. Degree College, Agra (Malakand) was proceeded under the Khyber Pakhtunkhwa Government Servants (*Efficiency & Discipline*) Rules 2011, for the charges mentioned in the Charge Sheet and Statement of Allegations.

S#	Name & Designation	Penalty Imposed
1	Mr. Muhammad Rehman, Lab. Assistant, Govt. Degree College, Agra (Malakand)	"Removal from Service alongwith recovery of Rs. 41,68,355/-"

2. **AND WHEREAS** show cause was served to the accused officer.
3. **AND WHEREAS** the inquiry officer after having examined the charges, evidence on record and explanation of accused official submitted report.
4. **NOW THEREFORE**, the Director, Higher Education, Khyber Pakhtunkhwa being Competent Authority afforded an opportunity of personal hearing to the accused official, while exercising the powers conferred upon him under **Rule-04 in sub-Rule (b)(2)** of the Khyber Pakhtunkhwa, Government Servants (*Efficiency & Discipline*) Rules 2011, but he did not turn up within the stipulated time and now the Competent Authority has been pleased to imposed major penalty of "**Removal from Service alongwith recovery of Rs. 41,68,355/-**" upon the accused with immediate effect.

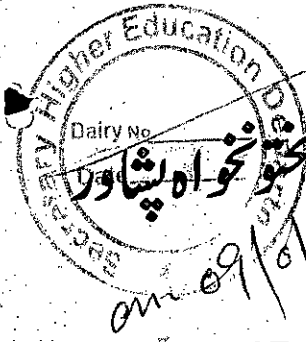
**(DR. SUBHAN ULLAH SHAH)
DIRECTOR, HIGHER EDUCATION
KHYBER PAKHTUNKHWA**

Endst;No. 31287-87 /GDC, Agra

Copy of the above is forwarded to the:-

1. Principal GDC, Agra(MKD Agency) with the remarks that as per recommendation of the inquiry committee a sum of Rs.41,68,355/- on account of embezzled amount of drawl of GP fund of the staff of GDC, Agra (MKD) is outstanding against the above mentioned official which may be recovered from him through District Administration.
2. Agency Accounts Officer, Malakand.
3. Mr. Muhammad Rehman, Ex-Lab. Assistant, GDC, Agra (MKD Agency).

9/12/18
DY: DIRECTOR (ESTABLISHMENT)



محکمانہ اپیل برخلاف ریموول آرڈر نمبر 89-34287 مورخہ

19/12/2018 مجاریہ ڈائریکٹر ہائر ایجوکیشن صوبہ

خیبر پختونخواہ پشاور

عنوان: —

جناب عالی! محکمانہ اپیل برخلاف آرڈر متذکرہ بالا حسب ذیل عرض ہے۔

۱۔ یہ کہ من اپیلانٹ نے مورخہ 13/12/2016 کو سروس اپیل نمبر 1230 سال 2016 عدالت سروس ٹریبونل صوبہ خیبر پختونخواہ پشاور میں دائر کیا تھا۔ جس کی معزز عدالت سروس ٹریبونل صوبہ خیبر پختونخواہ بمقام کمپ کورٹ سوات نے مورخہ 08/03/2018 کو منظور کرتے ہوئے اپیلانٹ کو سروس پر بحال کرنے کے احکامات جاری کر دیئے اور ساتھ ہی 120 دن میں محکمہ کو انکوائری کرنے کی ہدایت کی۔ (نقل حکم و فیصلہ محررہ مورخہ 08/03/2018 لف ہے)۔

۲۔ یہ کہ من اپیلانٹ نے کورٹ سروس ٹریبونل خیبر پختونخواہ پشاور کمپ کورٹ سوات کے حکم مورخہ 08/03/2018 کے مطابق بحالی ملازمت کے سلسلے میں مورخہ 20/03/2018 کو ڈائریکٹر ہائر ایجوکیشن خیبر پختونخواہ پشاور کے آفس میں درخواست دائر کی۔ (نقل درخواست لف ہے)۔

۳۔ یہ کہ جب محکمہ نے عدالتی حکم کے مطابق 120 دن میں من اپیلانٹ کو سروس پر بحال نہیں کیا اور 120 دن میں انکوائری بھی نہیں کی تو من اپیلانٹ نے COC نمبر 234 سال 2018 مورخہ 17/07/2018 کو سروس ٹریبونل صوبہ خیبر پختونخواہ پشاور میں دائر کیا۔

۴۔ یہ کہ سروس ٹریبونل صوبہ خیبر پختونخواہ بمقام کمپ کورٹ سوات نے مورخہ 18/10/2018 کو محکمہ کے نام نوٹس جاری کیا۔ (نقل نوٹس لف ہے)۔

مستند
M. J.

۵۔ یہ کہ COC پر کارروائی معزز عدالت سروس ٹریبونل صوبہ خیبر پختونخواہ پشاور کمپ کورٹ سوات میں جاری ہے۔ کہ اسی دوران مورخہ 24/12/2018 کو ڈائریکٹر ہائر ایجوکیشن خیبر پختونخواہ پشاور کی طرف سے غیر قانونی و بلا جواز من اپیلانٹ کو سروس سے برخاستگی کا آرڈر بذریعہ رجسٹری نمبر RGL19371424 مورخہ 24/12/2018 موصول ہوا تو ڈائریکٹر نے یہ مذکورہ بالا آرڈر اپنے آپ کو COC سے بچانے کیلئے کیا ہے۔ (نقل لغافہ، نقل آرڈر برخاستگی ہمراہ لف ہے)۔

۶۔ یہ کہ من اپیلانٹ کے خلاف سروس سے برخاستگی کا آرڈر مذکورہ بالا غیر قانونی، غیر شرعی، غیر اخلاقی، غیر اسلامی اور بلا جواز ہے جو کہ قابل منسوخی ہے اور ہرگز قابل بحالی نہ ہے۔

۷۔ یہ کہ آرڈر مذکورہ بالا میں E & D Rules 2011 کے رول 04 سب رول (B) (2) کا حوالہ دیا گیا ہے اور ساتھ ہی انکوائری کا ذکر بھی کیا گیا ہے۔ جو کہ غیر قانونی و بلا جواز ہے کیونکہ من اپیلانٹ کے خلاف E & D Rules 2011 کے تحت کسی قسم کی انکوائری نہیں کی گئی ہے۔ اور نڈاس بارے میں قانون اور E & D Rules 2011 کے مطابق من اپیلانٹ کے ساتھ کوئی خط و کتابت (Correspondence) کی گئی ہے۔

۸۔ یہ کہ اگر محکمے نے سروس ٹریبونل خیبر پختونخواہ پشاور کمپ کورٹ سوات کے فیصلے کے مطابق من اپیلانٹ کے خلاف محکمہ کوئی انکوائری کرتی اور من اپیلانٹ کو سروس پر بحال کرتا تو من اپیلانٹ کیوں معزز عدالت سروس ٹریبونل میں CoC دائر کرتا۔

۹۔ یہ کہ من اپیلانٹ کے خلاف E & D Rules 2011 کے تحت نہ کوئی انکوائری کی گئی ہے۔ نہ من اپیلانٹ کو چارج شیٹ کیا گیا ہے۔ اور نہ من اپیلانٹ کے خلاف کوئی شوکاڈا لیشو کیا گیا ہے۔ بدیں وجہ آرڈر مذکورہ بالا غیر قانونی و بلا جواز ہے، قابل منسوخی ہے اور ہرگز قابل بحالی نہ ہے۔

۱۰۔ یہ کہ محکمہ کو چاہیے تھا کہ معزز عدالت سروس ٹریبونل صوبہ خیبر پختونخواہ پشاور کمپ کورٹ سوات کے

مسعود
الحکیم

(32)

فیصلہ برائے اپیل نمبر 1230/16 مورخہ 13/12/2016 کے تحت من اپیلانٹ کو سروس پر بحالی کے احکامات جاری کرتے اور ساتھ ہی مقرر شدہ (prescribed manner) کے تحت مقررہ مدت 120 دن میں انکوائری مکمل کرتا تو معزز عدالت کے فیصلے پر عمل درآمد ہوتا لیکن محکمہ نے ایسا نہ کر کے سخت قانونی غلطی کی ہے۔ اس وجہ سے آرڈر مذکورہ بالا قابل منسوخی ہے اور ہرگز قابل بحالی نہ ہے۔

اسلئے بوجوہات بالا استدعا کی جاتی ہے کہ بمنظوری اپیل ہذا آرڈر مذکورہ بالا کو کالعدم اور منسوخ کر کے من اپیلانٹ کو مورخہ 01/05/2011 سے بشمول تمام مراعات سروس پر بحالی کے احکامات صادر فرمائی جاوے۔

محمد رحمان سابقہ لیبارٹری اسٹنٹ

گورنمنٹ ڈگری کالج آگرہ، ملاکنڈ ایجنسی
حال: فیض آباد/الپوری ضلع شانگلہ
رابطہ نمبر: 0300-5611176

بیان حلف:

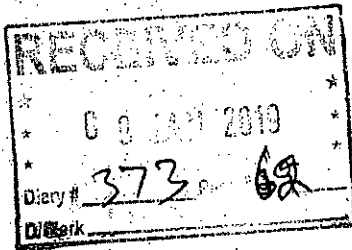
حلفاً بیانی ہوں کہ جملہ مراتب درخواست ہذا تا حد میرے علم و یقین درست و صحیح ہیں۔

محمد رحمان
MA

العبد

کاپی برائے اطلاع:

- ۱۔ ڈائریکٹر ہائر ایجوکیشن صوبہ خیبر پختونخواہ پشاور
- ۲۔ پرنسپل گورنمنٹ ڈگری کالج آگرہ، ملاکنڈ ایجنسی





LABORATORY

DISTRICT HEAD QUARTER HOSPITAL

Shangla Alpural Ph: 0996-850041 / 0946-651101 / 0996-4199387

Name: JCB Date 3/3 Receipt No: _____

Exam. Required: _____

OPD NO: _____

HEMATOLOGY		DLC	
Hb%.....Gm%	M: 13-18gm% F:11 - 16gm%	Neutrophils.....	40%-70%
TLC...../cmm	4000-11000-cmm	Lymphocytes.....	25%-45%
ESR...../st	2-15mm/hr	Monocytes.....	2%-6%
B. T.....Min.....Sec	3-5 min	Eosinophil.....	1%-3%
C.T.....Min.....Sec	3-9min	Basophil.....	0%-1%
Plateles Count...../cmm	150000-450000/cmm		

BIO CHEMISTRY	
Glucose (Fasting) _____	55-115mg/dl
Glucose (Random) _____	Upto 170mg/dl
Blood Urea _____	10-50mg/dl
S. Cholesterol _____	Upto 200 mg/dl
S. Bilirubin (Total) _____	Upto 1.0 mg/dl
S. Uric Acid _____	3.5-7.0mg/dl
SGPT / ALT _____	Upto 40 U/L
S. Creatnine _____	Upto 0.6-1.67/dl
Triglycerides _____	200 mg/dl

SEROLOGY						
WIDAL	Dilution	1/20	1/40	1/80	1/60	1/320
	To					
	TH					
	AH					
	BH					

BRUCELLA	Dilution	1/20	1/40	1/80	1/60	1/320
	Abortus					
	Melitinsis					

Toxoplasmosis _____
V.D.R.L _____
Pregnancy _____
Hbs Ag _____
HCV _____
R.A Factor _____
ASO Titre _____
HIV _____

Blood Group _____
RH Factor _____
MP _____
H. Pyicri _____
I.C.T. Tuberculosis _____
I.C.T. MF _____
TYPHIDOT <u>Positive</u> 1gG <u>neg</u> 1gM <u>Positive</u>

URINE ANALYSIS	
Colour <u>Yellow</u>	S.P Gravity <u>0.905</u>
Reaction <u>Acidic</u>	PH <u>6.0</u>
Albumin <u>nil</u>	Sugar <u>nil</u>
Bile Salt <u>1</u>	Bile Pigment _____

MICROSCOPIC EXAMINATION	
Pus Cells <u>02-04</u>	/HPF
RBCs <u>01-02</u>	/HPF
Epith Cells _____	/HPF
Others <u>WBC</u>	/HPF

Sign Lab Technician _____

DISTRICT HEAD QUARTER HOSPITAL

57 District Shangla Alpurai
Out Door Patient Ticket



Sent To: _____ CRP No: 766

Name: Mohd Raza Age: 44y Sex: M

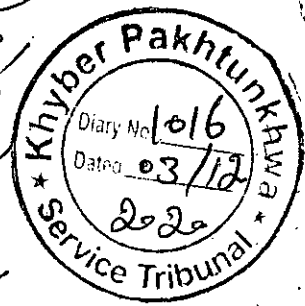
Father's/Husband's Name: _____

Monthly OPD Serial No: (96)

Provisional Diagnosis: _____

Date	Clinical Findings / Investigations / Treatment / Referred / Test Findings
11 3 MAR 2020	<p>Burning mchwahy fume</p> <p>- Gampro 500 - - 2/0 1 + 1 - Tas Neerborf - - Tas Famo 40 - - 020 Eyes muid 3 days Rest Home Adv</p>
Admstr - Typhidot - urin RE	

ادالت صواب جیسے صواب کروں گا اور جیٹل فیئر کنٹریکٹ خواہ
 عنوان :- اپیل نمبر 595/19 - محمد رحمان بنام سکرٹری ٹیکس اور ایئر ایجوکیشن
 کنٹریکٹ خواہ شہزادہ میں ٹوگس کار واپس کی تحقیقات
 کرنے کے لیے آج صابان کو اپیل خود نے ہی اور فیصلہ
 سوات سے سوات اور کو آج صابان کی سٹیٹ
 ریفرنس کرنے کا استدعا ہے۔



صا - عالی

Put up to the court with relevant appeal.

خود با ذرا رش ہے۔ کہ سائل آج صابان کے
 صرف میں دسم ذیل عرض رساں ہے -
 میں نے سائل کا اپیل نمبر 595/19 بجب کورٹ سوات
 میں زیر سماعت ہے

Let the appeal be heard at Peshawar in 1st week of January 2021. Notice: 07-01-2021

17/12/20

فیئر کنٹریکٹ خواہ میں محمد باہر ایجوکیشن
 کے ٹوگس کار واپس اور ایک فرد و امرت اسناد قانع
 سکرٹری ٹیکس اور ایئر ایجوکیشن میں محمد باہر ایجوکیشن
 کے ٹوگس کار واپس اور ایک فرد و امرت اسناد قانع
 کی طلاق صرف سکرٹری ٹیکس اور ایئر ایجوکیشن
 کو سکرٹری ٹیکس اور ایئر ایجوکیشن کے ذریعے کیسٹنٹ ہے -
 فیئر کنٹریکٹ خواہ صابان نے محمد باہر ایجوکیشن
 کو محمد باہر ایجوکیشن سے جو اب طلب رہا ہے
 کے آسان جواب دیا ہے -

کرساں کارپیل غیر مختونخواہ کی طرف سے شہر میں
نہا کا سب سے - تو سرور کا طریقہ سائل کا مسئلہ
حل رک تھا - تو یہ بات عدویہ - کر ایسٹل کا فیصلہ
تو سرور کا طریقہ فرور لگے سے تھا - سائل
سائل نے پوسٹ کا کارورڈنگ کی محنت کرتے کا
استدعا کیا ہے - اور پوسٹ کارورڈنگ اب بھی جاری ہے -

تو سائل کا ایسٹل اب - خاص نوعیت کے لیے - اور سائل
کا قایل ہے - اس عام ایسٹل نہیں ہے - تو سائل اسکی
اد کے سرور کا ایسٹل کو رٹ سورا ہے -
سائل اور کو رٹ ایسٹل کرتے کا رستہ کارورڈنگ

کرتے ہیں خاصان کی خدمت میں عرض کرتا ہے
سورت سے ایسٹل سائل کا ایسٹل کو رٹ کرتے
کرتے کارورڈنگ ایسٹل اور کو رٹ کرتے
یہاں کارورڈنگ ایسٹل اور کو رٹ کرتے
کرتے - تو سائل ایسٹل کا ایسٹل کرتے
اور خاصان سے ایسٹل کا ایسٹل کرتے
الکاحی

MA 9
25/11/2020

محمد رفیق ولد نور محمد خان
سید عتیق احمد، ایسٹل

بخدمت جناب چیف سیکرٹری صاحب خیبر پختونخواہ پشاور

بخدمت جناب سیکرٹری صاحب ہائیر ایجوکیشن خیبر پختونخواہ پشاور

بخدمت جناب ڈائریکٹر صاحب ہائیر ایجوکیشن خیبر پختونخواہ پشاور

عنوان: درخواست برائے انصاف، غیر قانونی اور رولز کے خلاف اور ذاتیات کے بنیاد پر فرد واحد کے ذاتی مقصد پر کیے ہوئی کارروائی اور بوس انکوائری کی تحقیقات کرنے کی استدعا

جناب عالی!

گزارش کیجاتی ہے کہ سائل آپ حضور کے خدمت میں درج ذیل عرض رساں ہے۔

(۱) یہ کہ سائل کے خلاف ڈائریکٹریٹ آف ہائیر ایجوکیشن کے ایک فرد واحد نے ذاتیات کے بنیاد پر قانون اور رولز کے خلاف کارروائی کر کے سائل کو سروس سے برطرف کر دیا تھا اور ساتھ ہی سائل کے اوپر بے بنیاد اور بوس ریکوری بھی ڈالی گئی (ارڈر کی فوٹوکاپی لف ہے)۔

(۲) یہ کہ سائل نے پھر اس ارڈر کے خلاف سروس ٹریبونل خیبر پختونخواہ پشاور میں اپیل دائر کیا اور سروس ٹریبونل خیبر پختونخواہ پشاور نے سائل کے خلاف 03/08/2016 کی برطنی ارڈر غیر قانونی اور رولز کے خلاف قرار دے کر سائل کو سروس پر بحال کرنے اور ساتھ ہی 120 دن میں DENOVO INQUIRY کے احکامات جاری کی (فوٹوکاپی لف ہے)۔

(۳) یہ کہ سائل نے پھر سروس ٹریبونل خیبر پختونخواہ پشاور کے حکم 08/03/2018 کے تحت ڈائریکٹریٹ آف ہائیر ایجوکیشن خیبر پختونخواہ پشاور کو سروس پر بحال کرنے کیلئے درخواست دیا تھا (فوٹوکاپی لف ہے)۔

(۴) یہ کہ سائل کو ڈائریکٹریٹ آف ہائیر ایجوکیشن خیبر پختونخواہ نے سروس ٹریبونل کے حکم کے مطابق بحال نہیں کیا تو سائل نے پھر سروس ٹریبونل خیبر پختونخواہ پشاور کمپ کورٹ سوات میں توہین عدالت کیس دائر کر دیا جو ابھی تک چل رہا ہے۔

(۵) یہ کہ سائل نے توہین عدالت کیس داخل کی تو ڈائریکٹریٹ آف ہائیر ایجوکیشن کے فرد واحد کو معلوم ہوا تو اس نے پھر اپنی دفاع کیلئے پہلے کی طرح قانون اور رولز کے خلاف اپنی مرضی کے مطابق بوس کارروائی کی اور پھر وہی بوس کارروائی کارپورٹ سروس ٹریبونل خیبر پختونخواہ پشاور میں جمع کیا۔ جو بوس کارروائی، قانون اور رولز کے خلاف اور ذاتیات کے بنیاد پر فرد واحد نے کی ہوئی ہے۔ میرے خلاف فرد واحد نے جو کچھ کیا ہے اس کے سارے ثبوت میرے پاس موجود ہے کہ اس نے وہ سارا کچھ ذاتیات کے بنیاد پر کی ہے اگر آپ صاحبان سائل کو

ن کر کے انکواری مقرر کر لیتے ہیں تو یہ کیس بہت ہی آسانی سے حل ہو سکتا ہے جو کہ میرے پاس ٹھوس شواہد موجود ہے۔ سائل کے خلاف کیس کا سارا انحصار درج ذیل 5 باتوں پر ہیں جو کہ فرد واحد نے بوگس کی ہیں تو سائل اس کی تحقیقات انکواری کرنے کا استدعا کرتا ہے۔

(۱) 4168355 روپے کی ریکوری کی تحقیقات کرنا جو کہ بوگس ہے۔

(۲) بجالی ارڈر کی تحقیق کرنا جو کہ بوگس ہے۔

(۳) چارج شیٹ اور سٹیٹمنٹ اف اپیلیکیشن کی تحقیق کرنا جو کہ بوگس ہیں۔

(۴) انکواری رپورٹ کی تحقیق کرنا جو کہ بوگس ہے۔

(۵) ریمول ارڈر کی تحقیق کرنا جو کہ بوگس ہے۔

لہذا سائل آپ صاحبان کی خدمت میں عرض کرتا ہے کہ ابھی تک فرد واحد نے سائل کے ساتھ جو زیادتی کی ہے وہ سائل نے برداشت کی لیکن اب آپ صاحبان نے ہر حال پر اس کیس میں انکواری مقرر کر کے یا سائل کو سن کر سائل کے اس کیس کو انجام تک پہنچانا ہے کیونکہ اب سائل مزید ظلم نہیں برداشت کر سکتا۔ تو سائل اور سائل کا سارا خاندان آپ کی خدمت میں تاحیات دعا گور ہے گا۔

کاپی برائے ضروری کارروائی:

(۱) ڈائریکٹر انٹی کرپشن خیبر پختونخواہ پشاور

شکریہ

العارض
M. P. 10/12/2019
محمد رحمان

سابق لیبارٹری اسٹنٹ

گورنمنٹ ڈگری کالج اگرہ مالاکنڈ ایجنسی

فون: 0333-3053335

COMPLAINT HISTORY

COMPLAINT CODE
شکایت کا نمبر
KP180320-7258733

2020-03-18 17:54:35

STATUS
Closed - Relief cannot be granted.

COMPLAINT HISTORY

COMPLAINT CODE
شکایت کا نمبر
KP260520-8430662

2020-05-26 22:38:30

STATUS
Closed - Partial relief granted.

Complaint History

2020

SEPT 4 2020 FROM Directorate of Anti-Corruption

STATUS
Closed - Relief cannot be granted

REMARKS
Dear Citizen. Your request was processed at appropriate level, it has been reported that case against you is trial in the Court of Special Judge, Anti-Corruption, Camped at Swat, and next date of hearing is fixed for 3.10.2020. Hence you may seek remedy from the said court please.

AUG 4 FROM

FEEDBACK

Complaint History

2020

JULY 22 2020 FROM Directorate of Higher Education

STATUS
Closed - Partial relief granted

REMARKS
dear citizen as you have file a writ in camp court Swat, so the case is sub judice.thanks

JUN 23 2020 FROM Directorate of Higher Education

STATUS
Commented

FEEDBACK

COMPLAINT HISTORY

Complaint History

2020

JULY 17 2020 FROM Directorate of Higher Education

STATUS
Closed - Relief cannot be granted

REMARKS
Dear Citizen, Thank you for taking the time to communicate to us. We have every desire to address your grievance and provide the best solution available to resolve your issue as soon as possible. As per your Complaint, reply submitted by the concerned Section is as under, "as the complainant Muhammad Rahman. Filed another service appeal before tribunal Camp Court Swat against his removal from service hence the matter is Subjudiced." It's our goal to retain you as a satisfied citizen. We highly appreciate your feedback as it will assist us in becoming better at what we do. Thank You.

FEEDBACK

COMPLAINT HISTORY

Complaint History

2020

COMPLAINT CODE
شکایت کا نمبر
KP260520-8430538

2020-05-26 22:32:54

STATUS
Closed - Relief cannot be granted

2020

JULY 17 2020 FROM Directorate of Higher Education

STATUS
Closed - Relief cannot be granted

REMARKS
Dear Citizen, Thank you for taking the time to communicate to us. We have every desire to address your grievance and provide the best solution available to resolve your issue as soon as possible. As per your Complaint, reply submitted by the concerned Section is as under,

FEEDBACK

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 4/27-28/ST

Dated 28 / 12 / 2020


To

1. The Director Higher Education Department,
Government of Khyber Pakhtunkhwa,
Peshawar.
2. Secretary Higher Education Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: - ORDER IN APPEAL NO. 595/2019, MR. MUHAMMAD REHMAN.

I am directed to forward herewith a certified copy of order dated 18.12.2020 passed by this Tribunal on the above subject for strict compliance.

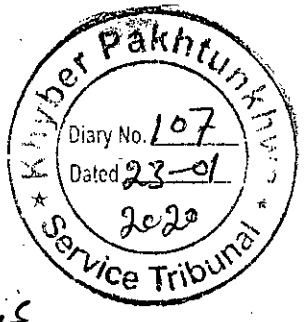
Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

اعدالت ضابطہ جیسر میں صاحب سروکس ٹریڈیونل ضابطہ جیسر کو خواہشمند

محمد حسن بنا اسکیئر ٹریڈیونل بائیر ایجوکیشن

اپیل 19/595



عنوان: درخواست لڑنے ٹریڈیونل بائیر ایجوکیشن فزورہ بالا

شہادت سے شہادت تک کورٹ کو لڑنے کا استدعا

ضابطہ عالی

put up to the court with relevant appeal

23/1/2020

Deedw

Be fixed at Camp Court Swat in next town

22/1

04/02

B

موردہ نہ گزارا گیا ہے۔ کہ سال آپ حضور کے خدمت میں درج ذیل طرح ارسال ہے۔ (۱) یہ سال کے فزورہ بالا اپیل آپ حضور کے عدالت سٹیٹ اور میں زیر سماعت اور ٹائمن بکٹ میں ہے۔ اور آج بھی 2020/01/23 تاریخ یہی فیصلہ قرار ہے۔

(۲) یہ کہ سال کی وسیلہ ضابطہ شہادت سے تعلق رکھتا ہے۔ اور وہ سال کی اس سے شہادت کو آنے سے تیار نہیں ہے۔ (۳) سال کا میں یہی ہے کہ بہت سی چیزیں اور اب فریڈرلٹی سٹیٹ ہے۔

(۴) یہ کہ سال کی میں وسیلہ میں تہ ہونے / سال کا میں فریڈرلٹی سٹیٹ ہے اور اس کے وہ کہ سال کو سمجھنا سہولت ہے

تو سائل کی دلیل کو سچا و درکے مدار میں بیٹھیں

نہ بیٹھیں نہ رہیں یا اس سچا و درکے یکساں کورٹ

سورت کو ٹرینفو کرنا چاہیے - اور ساتھ
ہی بیٹھ سٹارٹ تاریخ میں بیٹھیں حقرا کرنا چاہیے

لکھنا - سائل اب حقرا کے خدمت میں عرض
کرنا ہے کہ اب صاحبان سائل کی اس مجبوری

کو مد نظر رکھ کر سائل کی مذکورہ بالا اپیل
سورت سے سورت یکساں کورٹ کو ٹرینفو

رہنے کا اہتمام جاری کریں - اور ساتھ
ہی سٹارٹ تاریخ میں حقرا کرنے کا

بھی اہتمام جاری کریں - تو سائل
اور سائل کا سارا خاندان اب صاحبان

بیکے تاحیات دیا ٹور ہے گا -

العارضی

مصباح

2020/01/20

محمد رحمن ولد امرو ز خان الہور کا قلم

ساتھ لیکچرار سٹارٹ کورٹ

ڈاکٹر کا نام آکرہ مار اللہ رحیمیں -

لعدالت اصحاب جسیر حسین صاحب سروس ٹریبونل ضلع کھٹوخواہ شیوار

اجرا نمبر 934/18 مورخ 17.7.18
اپیل نمبر 595/19 مورخ 8.5.19
Put up to the Honble chair-man
with reluctant partition.

عنوان :- درخواست برائے ٹرانسفر آف اجراء اپیل نمبر 595/19 مورخ 8.5.19
کوئیمیا کورٹ سوات سے پرنسپل سیٹ شیوار کورٹ
کا استدعا۔



صبا - عالی

مودبانہ گزارش ہے کہ سائل آپ صفور کے صورت
میں درج ذیل عرض رسا ہے۔

(1) یہ کہ سائل کا اجراء اپیل نمبر 934/18 مورخ 17.7.18

اور اپیل نمبر 595/19 مورخ 8.5.19 سروس
ٹریبونل ضلع کھٹوخواہ شیوار کورٹ

سوات میں زیر سماعت ہے۔ اور اس میں
مورخ 7-1-2019 تاریخ پیشی مقرر ہے۔

(2) یہ کہ سائل کا ان دونوں کیوں میں مو علیہم
شیوار سے تعلق رکھتا ہے۔ اور سائل کا دونوں

میں کیمیا کورٹ سوات میں بہت سیٹ سیریا
تو اس وجہ سے سائل کو سوات مشکلات پیدا ہو رہی ہے

(3) یہ کہ سائل کے دونوں کیوں گا مو علیہم شیوار
میں سیرنے کا وجہ سے سائل کو اس بہت سیٹ

کیوں گا اندر یہیہ نظام سیر رہا ہے۔
یہ کہ سائل اپنا دونوں کیوں کو سوات میں

پرنسپل سیٹ کے لئے درخواستیں کرنا چاہتا ہے۔
تاکہ سائل کو طلبہ از طلبہ اسفا فامل چارے

تو سائل اپنا دونوں کیوں کو سوات کیمیا کورٹ
سوات سے پرنسپل سیٹ شیوار کورٹ میں

پرنسپل سیٹ کے لئے درخواستیں کرنا چاہتا ہے۔

Be transferred and fixed
at Principal seat on a
date in December, 2019.
Notice to all concerned.

12/11/19

27-12-19

کما آد صغور سے استدر کا کرتا ہے۔ اور سا تمہا ہی محنت
تا مچ دینے کا بھی استدر کا کرتا ہے۔

لہذا:۔۔۔ ساں آد صغور کے خدمت میں عرض کرتا ہے۔
کہ ساں کے مشعلات کے پیش نظر ساں کو ماکا
دونوں کیوں کو بیجا کو رٹ سورت سے برہنہ
سیٹ سچا اور کو رٹ استدر کرنے اور سا تمہا ہی
محنت تاریخ دینے کا امکانات چاہی کرتا ہے۔
تا کہ ساں کو حلد از حلد استغاف مل سکے
تو ساں اور ساں کا ساں خانہ
آد صغور سے تا صیات دعا گو رہے گا

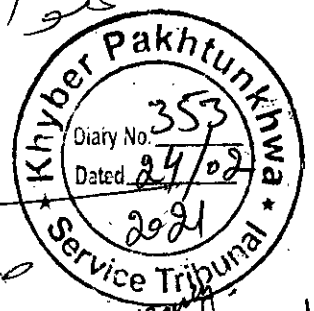
العاصی

صفحہ ۸۱
سائل فوج محمد رحمن ولد امیر عوزقان
سائنس ایس آر ایس
گورنمنٹ ڈگری کالج آڑہ ماہانہ اچھی

عدالت خا۔ صیریں صاحبہ سرور کی ٹریبونل میں درخواستیں خواہ تیار
ہیں نیز 19/02/21 کو درخواستیں سے ہمیں ایک لکڑی لگا کر تیار

کیوں کہ درخواست برائے سٹارٹ تاریخ پیشی ہو

گرنے کا راستہ کا۔ Put up to the court with relevant appeal.



24/2/2021

موردہ درخواستیں ہے۔ کہ سائل ایک مقدمات فرسٹ
میں دفعہ ذیل فرسٹ ارسال ہے۔

No pressing necessary
We are already
in the month of March 2021
shall be posted for hearing
on the date above to be held
ie. 2/4/21.

(1) یہ درخواستیں کا ایسے مذکورہ بار ایک صفحہ
عدالت میں ارسال کرتے ہیں۔ اور اس میں
2021-4-2 تاریخ پیشی ہو رہی ہے۔

(2) یہ درخواستیں نے اس ایسے میں ایک
جمع کیا ہے۔ اور دو نوٹوں کے حقائق
دیا ہے۔ فورس کو نوٹوں کے حقائق
کے خلاف کارروائی کرنا ہے۔ اور اس
(اس کے ساتھ ساتھ) درخواست

(3) یہ درخواستیں اکٹوم لیا گیا ہے۔ 4-2-21
کوئی رٹ کے لئے اس کے لئے ایک

سائل ایک مقدمات فرسٹ میں دفعہ ذیل
کے سائل کی 4-2-21 تاریخ پیشی کوئی
رٹ کا حکم جاری ہے۔

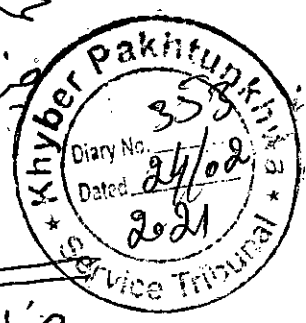
القاری

24/2/21

م. نم. 5616667-5315-0315
سالن بیارٹری اسٹیشن 50

عدالت صبا۔ چیئر مین صاحب سر وکالہ ٹریبونل ضلع کھٹوکخواہ سوات اور
عنوان!۔ درخواست برائے نیاعدالت حضور قانون، رولز چیئر کھٹوکخواہ
اور ایسین پاکستان کے ماتحت کام کرنا ہے۔

محمد یار ایجوکیشن چیئر کھٹوکخواہ کے طرح ایسا فرم قانون، رولز
ضلع کھٹوکخواہ اور ایسین پاکستان کے خلاف کام کرنا ہے۔
سائل کا یہ استدعا ہے۔



صبا عالی!

موردیام تراہی ہے۔ کہ سائل اور حضور کے خدمت میں
درج ذیل بعض مسائل ہیں۔

1۔ یہ کہ سائل کا ایپل نمبر 595/11 محمد یار ایجوکیشن کے
خلاف عدالت حضور میں زیر سماعت ہے۔

2۔ یہ کہ سائل نے اس ایپل کی خلاف محمد یار ایجوکیشن
کے دو لوگوں سے ٹوکس اور غیر قانونی اور رولز کے خلاف
سخت ذاتیات کی بنیاد پر ایسی ٹوکس رپورٹ تیار
کر کے اور کچھ وہی ٹوکس رپورٹ عدالت حضور میں
جمع کیے۔ اور عدالت حضور کو دھوا کر دیا ہے۔

3۔ سائل نے اس ٹوکس کا ادائیگی کے بارے میں صرف
ٹیکسٹ کی چیئر کھٹوکخواہ کو بھی درخواست دیا ہے جس
کی جواب میں سائل کو سپرد کیا گیا ہے۔

4۔ سر وکالہ ٹریبونل میں ہے۔ اور اس کے بارے میں
ٹریبونل مل کر رہے ہیں۔ اور اس کے بارے میں
3۔ یہ کہ سائل کے خلاف ٹوکس کا ادائیگی کرنے کے
لوگے آسٹریٹھان ڈیویڈ اور دیگر ایسٹریٹھان
دوسرا ایسٹریٹھان ڈیویڈ اور دیگر ایسٹریٹھان
ایسٹریٹھان ہے۔

محمد افتخار ہے۔
ڈیویڈ اور دیگر ایسٹریٹھان

سیر قان ڈاکٹر بکٹر اسٹینٹ (2) کے نام سے جو لوگس کا راز لیا گیا ہے

کارپول اڈر 1911ء 12ء 13ء پر کیا ہے۔ وہ بالکل جوگس اور بڑے قانونی ہے
اس میں تاریخ سے بہت کچھ لکھا گیا ہے۔ وہ کوئٹہ کا رہنے والا ہے۔

دوسرا انٹوائزنگ سفارت کا ذکر کیا ہے۔ وہ کوئٹہ انٹوائزنگ
اور سال کے خلاف اسٹارٹ اپ کا ذکر کیا ہے۔ اڈر میں جوگس کا ذکر نہیں ہے
کا وہ کوئٹہ انٹوائزنگ کی سفارت سے ہے۔ اس کا پتہ 1683 ہے۔

یہ سب جوگس کے نام سے ہے۔ وہ کوئٹہ انٹوائزنگ میں ہے۔
جوگس کے نام سے ہے۔ اس کا پتہ 1683 ہے۔

کوئٹہ قان ڈاکٹر بکٹر اسٹینٹ (2) کے نام سے جو لوگس کا راز لیا گیا ہے
18/11/31 والا اڈر عدالت صوبہ کے خلاف قانونی کارروائی ہے۔
تو اس کا اڈر کا کوئی قانونی جیت نہیں ہے۔

(2) افتخار خان و طبی ڈاکٹر بکٹر اسٹینٹ (2) کے نام سے جو لوگس کا راز لیا گیا ہے
وہ جاری ہے۔ یہ سب کاموں کی جوگس کا راز لیا گیا ہے۔
جوگس کا راز لیا گیا ہے۔

کوئٹہ قان ڈاکٹر بکٹر اسٹینٹ (2) کے نام سے جو لوگس کا راز لیا گیا ہے
اور ان کے نام سے جو لوگس کا راز لیا گیا ہے۔
اور ان کے نام سے جو لوگس کا راز لیا گیا ہے۔

خارج دیات ہے۔ تو سائل ممالکی کا ڈر آمان اللہ کی طرح قانون کے مطابق

کیوں ہیں کرنا۔ کہ سائل نیلے رنگ قانون ہے اور آمان اللہ نیلے
رنگ قانون ہے۔ اس کی کیفیت کرنا چاہیے۔ تو اس سے ذمہ داری
وہ بھی نفی و سقوط ہے۔ اور ممالکی کا جو ڈر سائل کا ہو گیا ہے۔
مطابق درجہ اول ہے۔ جب سائل نے 2/2/10 اور 1/1/10 کی
کے ساتھ 10/2/21 جمع کیا ہے۔ تو اس اور ممالکی کا ڈر دستخط
را جمع کیا ہے۔ تو یہ سارے پورٹس کے
(دونوں ڈر کی فوٹو ممالکی ہے)

جاز آفر یعنی ڈائریکٹ سے بھی کیفیت کرنا چاہیے کہ خارج
سٹیٹ سٹیٹ آف ایلارمات اور ابھی ابھی اس کا اسٹورڈ کارڈ
نوٹس جو پورٹیشن ہے جمع کیا ہے۔ اس کا کوئی قانونی حثیت نہیں ہے
نہیں اس سٹیٹوٹ اور دستخط ہو گیا ہے۔ اس سے اس کے حثیت نہیں ہے۔
یہ سب سارے ہو گیا ہے۔ اور انڈیا کی رپورٹ، حال کا ڈر اور ممالکی
کا ڈر بھی ہو گیا ہے۔ اس کی خلاف ممالکی حثیت ہے۔ فروری 2010
کہ جس نے کیا ہے۔ اس کی خلاف ممالکی حثیت ہے۔ فروری 2010

(4) یہ سائل ہے آ۔ ممالکی کے حکم 2/2/10 کے تحت وہی ہو گیا ہے۔
کی خلاف درخواست جمع کیا ہے۔ اسے ساری کارروائی ہو گئی اور ممالکی
اور سائل کے خلاف ذمہ داری کے مبادیہ میں ہے۔
اس میں کوئی حثیت نہیں ہے۔ اس سے اس کے خلاف ممالکی حثیت نہیں ہے۔
میں تھا۔ تو یہ ممالکی کا قانون اور اس کے حثیت نہیں ہے۔
محتاج کرنا۔ جس کا کوئی ممالکی حثیت نہیں ہے۔

(۶) یہ کہ مسائل کی اس درخوست دینے کا بعد محکمہ یا پیر ایجوکیشن نے
۱۹۸۱ء اور ۱۹۸۲ء اور یوگسٹ ۱۹۸۱ء کا آرڈر اور سٹیو گارڈنوسکی کے خلاف
صن گئے آج بھی کوئی قانونی میت نہیں ہے۔ اور یہ دونوں یوگسکی کے
(صن گئے قانونی میت نہیں ہے)

(۷) یہ کہ مسائل کے خلاف محکمہ یا پیر ایجوکیشن کا سارا کارروائی یوگسکی
اور قانون، رولز اور ریگولیشنز اور ایسٹن پاکستان کے خلاف
اور ریاستہائے متحدہ کیس اور ریڈ آرڈر اور ایسٹن پاکستان کے خلاف
یوگسکی کا کوئی قانونی میت نہیں ہے۔

(۸) یہ کہ مسائل کے خلاف ایسی اہمیت پر مبنی معاہدے کو بعد محکمہ یا پیر
ایجوکیشن قانون، رولز اور ریگولیشنز اور ایسٹن پاکستان کے
میت کاغذ کرنا اور کارروائی کرنا تھا۔ پیر یوگسکی کا رولز اور ایسٹن
یوگسکی کے خلاف۔ صحت کاغذ کرنا اور کارروائی کرنا تھا۔

(۹) یہ کہ مسائل عدالت صدر سے درخواست کرنا ہے۔ تو مسائل عدالت صدر
۱۹۸۱ء سے نا انصافی ہو رہی ہے۔ جو ظالم کا انتہا ہے۔ تو مسائل عدالت صدر
سے یہ سوال کرنا ہے۔ تو عدالت صدر سے درخواست کرنا ہے۔ تو مسائل عدالت صدر

اور ایسٹن پاکستان کے میت کاغذ کرنا ہے۔ یا محکمہ یا پیر ایجوکیشن کے
رولز اور ریگولیشنز اور ایسٹن پاکستان کے میت کاغذ کرنا ہے۔ یا
رولز اور ایسٹن پاکستان کے میت کاغذ کرنا ہے۔ یا محکمہ یا پیر ایجوکیشن کے
میت کاغذ کرنا ہے۔ یا عدالت صدر سے درخواست کرنا ہے۔ یا عدالت صدر سے
میت کاغذ کرنا ہے۔ یا عدالت صدر سے درخواست کرنا ہے۔ یا عدالت صدر سے

(5)

سندھ سائل عدالت صغور کے خدمت میں عرض رکھ کر قانون

اور لڑنے کے تحت سالانہ ڈیوٹی اور اس کے تحت سائل کو
813118 کے سرورک ٹریبونل کے قلم پر کال جمع تھا اور اسے لڑیں۔

اور ساتھ ہی محکمہ باہر الجھڑی کے ان دو ٹوٹوں کے خلاف قانون

کی افصاحات جاری کریں۔ اور ساتھ ہی کارروائی کرتے
ہوئے سائل کے بار بار اس قانون اور لڑنے اور اس
سے بالآخر صحیح طرح سے سائل کے بار بار اس قانون
میں اس میں 2010 اور 2011 کے تاریخ پر اس کے خلاف اس کے
تحت کارروائی کے تحت سائل کے بار بار اس کے خلاف اس کے

تحت کارروائی کے تحت سائل کے بار بار اس کے خلاف اس کے
تحت کارروائی کے تحت سائل کے بار بار اس کے خلاف اس کے
تحت کارروائی کے تحت سائل کے بار بار اس کے خلاف اس کے
تحت کارروائی کے تحت سائل کے بار بار اس کے خلاف اس کے

صالح علی

2010/2011
ممبر عدالت صغور

سابقہ ایڈووکیٹ ٹریبونل
ڈیڑھ گھنٹہ کے گرافک لنگوائجسٹی -

M. No - 0345-5616667

بخدمت جناب چیف سیکرٹری صاحب خیبر پختونخواہ پشاور

بخدمت جناب سیکرٹری صاحب ہائیر ایجوکیشن خیبر پختونخواہ پشاور

بخدمت جناب ڈائریکٹر صاحب ہائیر ایجوکیشن خیبر پختونخواہ پشاور

درخواست برائے انصاف، غیر قانونی اور رولز کے خلاف اور ذاتیات کے بنیاد پر فرد
واحد کے ذاتی مقصد پر کیے ہوئی کارروائی اور بوس اعلیٰ کی تحقیقات کرنے کی استدعا

جناب عالی!

گزارش کی جاتی ہے کہ سائل آپ حضور کے خدمت میں درج ذیل عرض رساں ہے۔

(۱) یہ کہ سائل کے خلاف ڈائریکٹریٹ آف ہائیر ایجوکیشن کے ایک فرد واحد نے ذاتیات کے بنیاد پر قانون اور رولز کے خلاف کارروائی کر کے سائل کو سروس سے برطرف کر دیا تھا اور ساتھ ہی سائل کے اوپر بے بنیاد اور بوس ریکوری بھی ڈالی گئی (ارڈر کی فوٹو کاپی لف ہے)۔

(۲) یہ کہ سائل نے پھر اس ارڈر کے خلاف سروس ٹریبونل خیبر پختونخواہ پشاور میں اپیل دائر کیا اور سروس ٹریبونل خیبر پختونخواہ پشاور نے سائل کے خلاف 03/08/2016 کی برطرفی ارڈر غیر قانونی اور رولز کے خلاف قرار دے کر سائل کو سروس پر بحال کرنے اور ساتھ ہی 120 دن میں DENOVO INQUIRY کے احکامات جاری کی (فوٹو کاپی لف ہے)۔

(۳) یہ کہ سائل نے پھر سروس ٹریبونل خیبر پختونخواہ پشاور کے حکم 08/03/2018 کے تحت ڈائریکٹر ہائیر ایجوکیشن خیبر پختونخواہ پشاور کے سروس پر بحال کرنے کیلئے درخواست دیا تھا (فوٹو کاپی لف ہے)۔

(۴) یہ کہ سائل کو ڈائریکٹر ہائیر ایجوکیشن خیبر پختونخواہ نے سروس ٹریبونل کے حکم کے مطابق بحال نہیں کیا تو سائل نے پھر سروس ٹریبونل خیبر پختونخواہ پشاور کمپ کورٹ سوات میں توہین عدالت کیس دائر کر دیا جو ابھی تک چل رہا ہے۔

(۵) یہ کہ سائل نے توہین عدالت کیس داخل کی تو ڈائریکٹریٹ آف ہائیر ایجوکیشن کے فرد واحد کو معلوم ہوا تو اس نے پھر اپنی ذمہ داری کیلئے پہلے کی طرح قانون اور رولز کے خلاف اپنی مرضی کے مطابق بوس کارروائی کی اور پھر وہی بوس کارروائی کارپورٹ سروس ٹریبونل خیبر پختونخواہ پشاور میں جمع کیا۔ جو بوس کارروائی، قانون اور رولز کے خلاف اور ذاتیات کے بنیاد پر فرد واحد نے کی ہوئی ہے۔ میرے خلاف فرد نے جو کچھ کیا ہے اس کے سارے ثبوت میرے پاس موجود ہے کہ اس نے وہ سارا کچھ ذاتیات کے بنیاد پر کی ہے اگر آپ صاحبان ساگر

بجائ کر کے انکو آڑی مقرر کر لیتے ہیں تو یہ کیس بہت ہی آسانی سے حل ہو سکتا ہے جو کہ میرے پاس ٹھوس شواہد موجود ہے۔ سائل کے لئے ان کیس کا سارا انحصار درجہ ذیل 5 باتوں پر ہیں جو کہ فرد واحد نے بوگس کی ہیں تو سائل اس کی تحقیقات / انکو آڑی کرنے کا استدعا کرتا ہے۔

(۱) 4168355 روپے کی ریکوری کی تحقیقات کرنا جو کہ بوگس ہے۔

(۲) بجالی آرڈر کی تحقیق کرنا جو کہ بوگس ہے۔

(۳) چارج شیٹ اور سٹیٹمنٹ اف ایلیگیشن کی تحقیق کرنا جو کہ بوگس ہیں۔

(۴) انکو آڑی رپورٹ کی تحقیق کرنا جو کہ بوگس ہے۔

(۵) ریمول آرڈر کی تحقیق کرنا جو کہ بوگس ہے۔

لہذا سائل آپ صاحبان کی خدمت میں عرض کرتا ہے کہ ابھی تک فرد واحد نے سائل کے ساتھ جو زیادتی کی ہے وہ سائل نے برداشت کی لیکن اب آپ صاحبان نے ہر حال پر اس کیس میں انکو آڑی مقرر کر کے یا سائل کو سن کر سائل کے اس کیس کو انجام تک پہنچانا ہے کیونکہ اب سائل مزید ظلم نہیں برداشت کر سکتا۔ تو سائل اور سائل کا سارا خاندان آپ کی خدمت میں تاحیات دعا گو رہے گا۔

کاپی برائے ضروری کارروائی:

(۱) ڈائریکٹرانٹی کرپشن خیبر پختونخواہ پشاور

شکریہ

سید العارض
M. K.
۱۵/۱۲/۱۹

سابق لیبارٹری اسٹنٹ

گورنمنٹ ڈگری کالج اگرہ مالاکنڈ ایجنسی

فون: 0333-3053335

COMPLAINT HISTORY



Complaint History

SEPT 4 2020 FROM Directorate of Anti-Corruption

STATUS Closed - Partially granted

REMARKS Dear Citizen, your request was processed at appropriate level, it has been reported that case against you is trial in the Court of Special Judge, Anti-Corruption, Camped at Swat and next date of hearing is fixed for 11/09/2020. Hence you may seek remedy from the said court please.

AUG 4 FROM



COMPLAINT HISTORY



Complaint History

2020 JULY 22 2020 FROM Directorate of Higher Education

STATUS Closed - Partially granted

REMARKS dear citizen as you have file a writ in camp court Swat, so the case is sub judice. thanks

JUN 23 2020 FROM Directorate of Higher Education

STATUS Closed - Partially granted



COMPLAINT HISTORY

Complaint History

2020 JULY 27 2020 FROM Directorate of Higher Education

STATUS Closed - Partially granted

REMARKS Dear Citizen, Thank you for taking the time to communicate to us. We have every desire to address your grievance and provide the best solution available to resolve your issue as soon as possible. As per your Complaint, reply submitted by the concerned Section is as under; "as the complainant Muhammad Ashman. Filed another service appeal before tribunal Camp Court Swat against his removal from service hence the matter is sub judice." It is our goal to retain you as a satisfied citizen. We highly appreciate your feedback as it will assist us in becoming better at what we do. Thank You.



COMPLAINT HISTORY



Complaint History

2020 JULY 17 2020 FROM Directorate of Higher Education

STATUS Closed - Partially granted

REMARKS Dear Citizen, Thank you for taking the time to communicate to us. We have every desire to address your grievance and provide the best solution available to resolve your issue as soon as possible. As per your Complaint, reply submitted by the concerned Section is as under;





DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
KHYBER ROAD, PESHAWAR

Tel # 091-9210242 / 9211025 Fax # 051-9211803
E-mail:- dhe@kpkesh@gmail.com Facebook.com/dhekpeshawar Twitter.com/dhekpeshawar1

Dated Peshawar the 19/12/2018

OFFICE ORDER

No. GS/HR/Estt: Branch/AG/57/Mr. Muhammad Rehman/GDC, Agra. WHEREAS Mr. Muhammad Rehman, Lab. Assistant, Govt. Degree College, Agra (Malakand) was proceeded under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheet and Statement of Allegations.

S#	Name & Designation	Penalty Imposed
1	Mr. Muhammad Rehman, Lab. Assistant, Govt. Degree College, Agra (Malakand)	"Removal from Service alongwith recovery of Rs. 41,68,355/-"

- AND WHEREAS show cause was served to the accused officer.
- AND WHEREAS the inquiry officer after having examined the charges, evidence on record and explanation of accused official submitted report.
- NOW THEREFORE, the Director, Higher Education, Khyber Pakhtunkhwa being Competent Authority afforded an opportunity of personal hearing to the accused official, while exercising the powers conferred upon him under Rule-04 in sub-Rule (b)(2) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, but he did not turn up within the stipulated time and now the Competent Authority has been pleased to imposed major penalty of "Removal from service alongwith recovery of Rs. 41,68,355/-" upon the accused with immediate effect.

(DR. SUBHAN ULLAH SHAH)
DIRECTOR, HIGHER EDUCATION
KHYBER PAKHTUNKHWA

Dist; No. 31287-89 /GDC, Agra

Copy of the above is forwarded to the:-

- Principal, GDC, Agra(MKD Agency) with the remarks that as per recommendation of the inquiry committee a sum of Rs.41,68,355/- on account of embezzled amount of drawl of GP fund of the staff of GDC, Agra (MKD) is outstanding against the above mentioned official which may be recovered from him through District Administration.
- Agency Accounts Officer, Malakand.
- Mr. Muhammad Rehman, Ex-Lab. Assistant, GDC, Agra (MKD Agency).

5/12/18
DY: DIRECTOR (ESTABLISHMENT)



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR**
Phone # 091-9210242, 9211025/Fax # 9210215

Dated Pesh the 03/8/2016

OFFICE ORDER

Whereas, Muhammad Rehman, Lab. Assistant, GDC, Arga(MKD Agency), was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for his involvement in embezzlement and his willful absence from duty w.e.f 23.08.2010.

2. **AND Whereas**, Prof. Dr. Fazal Subhani, Principal GPGC, Dargai(MKD Agency), Prof. Munsif Khan, Principal, GPGC No.1, Abbottabad, Prof. Ajmal Shah, Principal GDC, Khairabad(Mardan) and Prof. Qutbudin, Principal GDC, Swabi were appointed as Inquiry Committee to conduct inquiry against the accused official, for the charges levelled against him in accordance with the rules.

3. **AND Whereas**, the Inquiry Committee after having examined the charges evidence on record of the accused official has submitted the report, wherein the committee recommended to recover the embezzled amount of Rs.41,68,355/- from him, but instead of depositing the amount in question, he remained willfully absent from duty w.e.f 23.08.2010 till date.

4. **AND Whereas**, the Director, Higher Education, Khyber Pakhtunkhwa after having considered the charges, evidence on record found him guilty for willful absence from duty.

5. **NOW, THEREFORE**, in exercise of the powers conferred under Rules-4 of Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011, The Director, Higher Education, Khyber Pakhtunkhwa is pleased to impose major penalty of "Removal from service" upon Mr. Muhammad Rehman Ex-Lab. Assistant, GDC, Arga(MKD Agency) of the charges levelled against him.

Endst. No 20612-14 / CA-VII/Estt. Branch

**DIRECTOR, HIGHER EDUCATION
KHYBER PAKHTUNKHWA**

Copy of the above is forwarded to the:-

- 1) Principal GDC, Arga(MKD Agency) w/r to his letter No.509 dated 13.06.2016 with the remarks that as per recommendation of the inquiry committee a sum of Rs.41,68,355/- on account of embezzled amount of drawl of GP fund of the staff of GDC, Arga(MKD) is outstanding against the above mentioned official which may be recovered from him through District Administration.
- 2) District Accounts Officer Malakand.
- 3) Mr. Muhammad Rehman, Ex-Lab. Assistant, GDC, Arga(MKD Agency).

3. Bashi
DY: DIRECTOR (ESTABLISHMENT)

بعدالت جناب چیئرمین صاحب سروس ٹرانسپورٹل خیبر پختونخواہ، پشاور

اپیل نمبر 595 سال 2019

سیکرٹری ہائر ایجوکیشن وغیرہ

بنام

محمد رحمن

درخواست حسب الحکم عدالت حضور مورخہ 07/01/2021

عنوان:

جناب عالی! مؤدبانہ گزارش ہے کہ سائل آپ حضور کی خدمت میں درج ذیل عرض رساں ہے۔

۱۔ یہ کہ سائل کی اپیل مذکورہ بالا عدالت حضور میں زیر سماعت ہے۔ جس میں آج مورخہ 10/02/2021 تاریخ پیشی مقرر ہے۔

۲۔ یہ کہ عدالت حضور نے سائل کو سروس اپیل نمبر 1230/2016 پر مورخہ 08/03/2018 پر بحال کرنے کا حکم محکمہ ہائر ایجوکیشن کو جاری کیا ہے۔ (نقل فیصلہ لف ہے)۔

۳۔ یہ کہ سائل نے مورخہ 20/03/2018 کو محکمہ ہائر ایجوکیشن کو ایک درخواست دی ہے کہ سائل کو عدالت حضور کے حکم مورخہ 08/03/2018 کے تحت سروس پر بحال کرنے کے احکامات جاری کرے جس پر محکمہ ہائر ایجوکیشن نے کوئی کارروائی نہیں کی۔ جس کی فوٹو کاپی ہمراہ لف ہے۔

۴۔ یہ کہ محکمہ ہائر ایجوکیشن نے سائل کی مذکورہ بالا اپیل کے جواب میں اپنے دفاع کیلئے بوس کارروائی کی اور پھر وہی بوس کارروائی کی رپورٹ عدالت حضور میں جمع کی ہے۔ تو اس بوس کاغذات کے ساتھ ایک غیر قانونی اور بغیر دستخط اور بغیر مجاز آفیسر کے حکم سے ایک بوس بحالی کا آرڈر بھی جمع کیا ہے۔ تو یہ محکمہ ہائر ایجوکیشن نے عدالت حضور کو دھوکے میں رکھ کر سائل کے خلاف کارروائی کی ہے۔

۵۔ یہ کہ سائل نے اس بوس کارروائی کے خلاف چیف سیکرٹری خیبر پختونخواہ پشاور کو ایک درخواست Citizen portal کے ذریعے بھی دیا ہے۔ (جس کی فوٹو کاپی ہمراہ لف ہے) کہ یہ ساری بوس کارروائی سائل کے خلاف ذاتیات اور ایک فرد واحد نے کیا ہے۔

۶۔ یہ کہ آرٹیکل 25 کے تحت پاکستان کی ہر شہری قانون اور روٹ کی نظر میں برابر ہے اور آرٹیکل 5 اور 11 کے تحت کسی کو یہ اختیار حاصل نہیں ہے کہ وہ قانون سے بالاتر کام کرے۔ خواہ وہ پاکستان کا وزیراعظم ہو۔

۷۔ یہ کہ محکمہ ہائیر ایجوکیشن نے سائل کے کیس کی طرح عدالت حضور کے حکم پر اپیل نمبر 439/2017 مورخہ 09/01/2019 پر امان اللہ خان سینئر کلرک کو قانون و رولز کے مطابق اور صحیح طریقے سے سروس پر بحال کر دیا ہے۔ جس کی فوٹو کاپی ہمراہ لف ہے۔ اور سائل کی بحالی کا آرڈر کی کوئی قانونی حیثیت نہیں ہے۔

۸۔ یہ کہ محکمہ ہائیر ایجوکیشن کا ہر ایک کیلئے الگ الگ قانون ہے یا ایک ہی قانون ہے۔ اگر ایک ہی قانون ہے تو پھر سائل کی بحالی کا آرڈر اور امان اللہ کی بحالی کا آرڈر دیکھ کر اس سے سائل کے ساتھ زیادتی اور یہ بنیاد کارروائی کا واضح ثبوت ہے۔

۹۔ یہ کہ محکمہ ہائیر ایجوکیشن کے اس غیر قانونی اور رولز کے خلاف کارروائی کا واضح ثبوت یہ ہے کہ سائل کے خلاف کیس بے بنیاد اور ذاتیات اور قیاس آرائیوں پر مبنی ہے کیونکہ اگر سائل کے خلاف کیس حقیقت پر مبنی ہے تو پھر محکمہ ہائیر ایجوکیشن قانون اور رولز 2011ء کے تحت اور عدالت حضور کے حکم پر عمل کیوں نہ کرتی ہے۔ اور اپڑ مرضی کے مطابق کارروائی کیوں کرتے ہیں تو محکمہ ہائیر ایجوکیشن نے سائل کی زندگی کو ایک ٹھیل بنا رکھا ہے۔ اور یہ ساری کارروائی ایک فرد واحد سائل کے خلاف ذاتیات پر کر رہا ہے۔

لہذا سائل آپ حضور کی خدمت میں استدعا کرتا ہے کہ آپ صاحبان سائل کی اس درخواست کو منظور کر کے اور سائل کے خلاف محکمہ ہائیر ایجوکیشن کے ذاتیات اور قیاس آرائیوں پر مبنی کارروائی کو ختم کرنے اور سائل کی زندگی کو تحفظ دینے اور ساتھ ہی سائل کو سروس پر بحال بمعہ تمام مراعات کرنے کے احکامات بھی جاری کریں تاکہ قانون اور رولز کی پاسداری قائم ہو جائے۔ تو سائل اور سائل کا سارا خاندان آپ صاحبان کی تاحیات دعا گو رہے گا۔

المترجم:- 10/02/2021

محمد رحمن ولد امروز خان سکند فیض آباد اپوری ضلع شانگلہ

موبائل نمبر 3053335-0333

**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR
KHYBER ROAD, PESHAWAR**

Phone # 091-9211025, 9210217, 9210242/Fax # 9210215

Email: dhckpkpesh@gmail.com

Dated: 11/5/2018

OFFICE ORDER:

Consequent upon the decision of Khyber Pakhtunkhwa, Service Tribunal Camp Court Swat dated 08.03.2018, Mr. Muhammad Rehman, Lab; Assistant GDC, Agra (Malakand Agency) is hereby re-instated in service with immediate effect for the purpose of de-novo inquiry, however he shall not be entitled for any financial benefits.

DIRECTOR, HIGHER EDUCATION

Endst.No. 1644/1

Copy of the above is forwarded to the:-

1. Principal, Govt. Degree College, Agra (Malakand)
2. Agency Account Officer Malakand Agency.
3. Official Concerned.
4. CA-VII Establishment, local Directorate.

DY: DIRECTOR (ACADEMIC)



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
KHYBER ROAD, PESHAWAR**

Tel # 091-9210242 / 9211025

Fax # 091-9211803

E-mail:- dhekpkesh@gmail.com

Facebook.com/dhekpshawar Twitter.com/dhekpshawar1

Dated Peshawar the 6 / 6 / 2019

REINSTATEMENT ORDER:

In pursuance of the judgment passed by Khyber Pakhtunkhwa, Service Tribunal, Peshawar on 09-01-2019 in Service Appeal No. 439/2017, the Competent Authority is pleased to reinstate Mr. Aman Ullah, Senior Clerk, Govt; Degree College, Kabal, District Swat, at Government Degree College, Palai against the vacant post with immediate effect. However financial benefits shall be subject to the outcome of the formal enquiry as per the direction of the Honorable Service Tribunal.

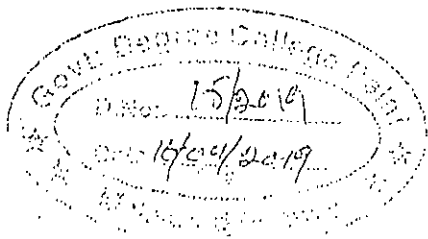
DIRECTOR HIGHER EDUCATION

Endst. No. 6005-12/AD (Lit)/HED/SA (439/2017)

Copy of the above is forwarded for information/necessary action to the:-

1. Registrar, Khyber Pakhtunkhwa, Service Tribunal, Camp Court Swat.
2. Principal, Govt; Degree College Kabal, Swat
- ✓ 3. Principal, Govt; Degree College Palai, Malakand.
4. Section Officer (Litigation), Higher Education Department, Khyber Pakhtunkhwa Peshawar.
5. District Account Officer, Malakand.
6. District Account Officer; Swat
7. PA to Director Higher Education Khyber Pakhtunkhwa Peshawar.
8. Official concerned.

*Mr. Najat Jilani
file this order
in #/file of Mr. Aman Ullah
of desk*



M. J. Khan
(Abdusamman Jibhan)
DEPUTY DIRECTOR



11/11/18 - A

216
(A)

**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA,
KHYBER ROAD PESHAWAR**

Phone # 091-9211025, 9210217, 9210242/Fax # 9210215

Email: dhekpkesh@gmail.com

Dated: 11/11/2018

OFFICE ORDER:

Consequent upon the decision of Khyber Pakhtunkhwa, Service Tribunal Camp Court Swat dated 08.03.2018, Mr. Muhammad Rehman, Lab; Assistant GDC, Agra (Malakand Agency) is hereby re-instated in service with immediate effect for the purpose of de-novo inquiry, however he shall not be entitled for any financial benefits.

DIRECTOR, HIGHER EDUCATION

Endst.No. 11/11/18

Copy of the above is forwarded to the:-

1. Principal, Govt. Degree College, Agra (Malakand)
2. Agency Account Officer Malakand Agency.
3. Official Concerned.
4. CA-VII Establishment, local Directorate.

ATTESTED

[Signature]
Superintendent
Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar

[Signature]
DY: DIRECTOR (ACADEMIC)

SHOW CAUSE NOTICE

233
20

I, Dr. Subhan Ullah Shah, Director Higher Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Rehman, Lab. Assistant Govt. Degree College Agra (Malakand), as follows:-

- (i) That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing.
- (ii) On going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said inquiry Committee.

I am satisfied that you have committed the following acts/omissions specified in Rule, 3 of the said rules:

c) Mis-conduct.

d) In-Efficiency.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of Removal from Service alongwith recovery of Rs. 4168355/- under rule 4 of the said Rules.
3. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
5. A copy of the findings of the inquiry Officer is enclosed.

RECEIVED

Director Higher Education
Khyber Pakhtunkhwa Peshawar

(DR. SUBHAN ULLAH SHAH)
DIRECTOR HIGHER EDUCATION

Application in S.A No. 595/2019

ORDER

27.05.2021

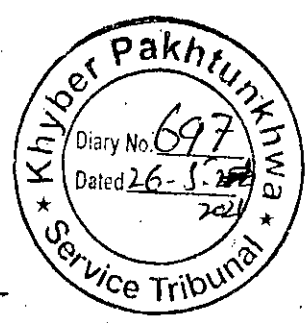
Instant application has been submitted by the Reader alongwith the appeal.

As the tour programme to Camp Court, Swat for the month of June, 2021 has been cancelled, therefore, office is directed to fix this appeal before an appropriate D.B in the month of June, 2021 at Peshawar, *subject to notice to respondents -*


Chairman

لعدالت ضاب احمد سلطان خان ٹرین صاحب چیرمین حسین کرکائی ٹرینوں
چیرمین خواہ سجاد

عنوان :- درخواست لڑنے کے لئے اسٹنڈ آف اپیل نمبر 5957/19
خمد علی بنام سیکریٹری بارہراچو جسٹس چیرمین خواہ سجاد روبرو
سیکریٹری سوات ٹریبونل کورٹ کوڑی



استدعا -
Put up to the Hon'ble Chairman
خواہ سجاد

خودمانہ گزارا گیا ہے۔ کم سال 1 - صفورا کے طرف سے
درج ذیل عرض رساں ہے -
1) کم سال کا مذکورہ بالا اپیل آج - صفورا کے
عدالت میں زیر سماعت ہے۔ اور اس میں 14/7/21
تاریخ پیشگی قرار ہے۔

2) کم سال کا مذکورہ بالا اپیل پہلے سوات ٹریبونل
میں زیر سماعت تھا۔ جس میں کم سال کا اپیل
سٹسٹ سٹیٹ پیوریا گیا۔ تو سوات نے طلبہ از طلبہ
ضلع کوڑی کے لئے سوات سے سجاد کو سٹنڈ آف
ڈیٹ کیا تھا۔ جس میں کم سال کا اپیل سجاد میں بھی
سٹسٹ سٹیٹ پیوریا گیا ہے۔ اور اس میں کوڑی سٹسٹ
مشکلات درپیش ہے۔

3) کم سال اپنا اپیل فریڈ سجاد میں سماعت
کرنے سے قاصر ہے۔ چونکہ مسائل ضلع
سے تعلق رکھتے ہیں۔ اور اس میں کوڑی سٹسٹ
درپیش ہے۔

Order of worthy
Chairman of
fresh page.

یہ کہ سال چار میں اینا اپیل کو صحت کرنے کا
کاقت نہیں لگتا ہے۔ تو اس وقت پر سال اینا اپیل
نمبر ۱۹/۱۹۵۵ چار سے سورت یٹھ کورٹ کو واپس
کرنے کا استدعا کرتا ہے۔ اور اس کو وہی سارٹ
تاریخ دینے کا بھی استدعا کرتا ہے۔

لکھنؤ۔ سال آ۔ حضور کے خدمت میں عرض کرتا ہے۔
کہ سال کا حضور کو منظور کر کے سال کی اپیل
نمبر ۱۹/۱۹۵۵ چار سے سورت یٹھ کورٹ
رٹ منظور کرنے کا حکامات چار کا کرنے۔ تاکہ قانون
اور رولز کے تحت سال کو انصاف مل جائے۔
تو سال اور سال کا سال قانون آ۔ حضور
میںے ناچا۔ دعا کی رہے گا۔

بھگت سنگھ

M.A. 25/5/21

محمد رحیم ولد امروزی خان
سیدہ صفین آباد الہورگی
ضلع سوات

M. No. 03455616667

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1447 /ST

Dated 29/07 /2021


To

The Director Higher Education,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - JUDGMENT IN APPEAL NO. 595/2019, MR. MUHAMMAD REHMAN.

I am directed to forward herewith a certified copy of Judgement dated 06.07.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP COURT SWAT

SA No. 595/2019

Muhammad Rehman.....Appellant

VS

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

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Section Officer (Litigation)

Higher Education Department Khyber
Pakhtunkhwa Peshawar

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

S.A.No.595/2019
Mr. Muhammad Rahman.....Appellant

Versus

Secretary, Higher Education Peshawar.....Respondents

SUBJECT: - PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 & 2

Respectfully Sheweth:-

Preliminary Objections:-

1. That the appellant has got no locus standi/ cause of action to file the instant appeal.
2. That the appellant has not come to this honourable Tribunal with clean hands and is trying to conceal material facts.
3. That the instant service appeal is badly time-barred.
4. That this honourable Tribunal lacks jurisdiction to entertain the present appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the instant service appeal is hit by doctrine of Res-Judicata.

Facts:-

1) Correct to the extent that the Hon'able Service Tribunal accepted the Service Appeal No. 1230/2016 with the directions to reinstate the appellant and to conduct de-novo enquiry by issuance of proper charge sheet coupled with statement of allegations regarding both the charges and to complete the inquiry within 120 days. In pursuance to the Judgment of Provincial Service Tribunal Camp Court Swat, the incumbent was re-instated vide order dated: 11-05-2018 (**Annex-A**). An enquiry committee was constituted and proper charge sheet along with statement of allegations were framed and served upon the incumbent (Copy of charge sheet & statement of allegations are annexed as **Annex-B & C**). The enquiry committee tried their level best and used all possible means of communications i.e. in black and white intimation through concerned quarters i.e. Principal Govt: Degree College, Agra and even through SMS and cell phone calls. Despite of all out efforts the incumbent did not turn up. Thus, the inquiry officer left with the sole option to proceed him Ex-parte. The Ex-parte proceedings concluded within stipulated time frame set by the Provincial Service Tribunal, and findings thereto were sent to the competent authority (Copy of Inquiry report is attached as **Annex-D**). The competent

(2)

authority thereupon imposed the penalty of Removal from Service along with recovery of Rs. 41,68,355/- vide order dated 19-12-2018 (**Annex-E**).

- 2) Incorrect. That the appellant was reinstated into service for the purpose of conducting de-novo inquiry vide order dated 11-05-2018 in compliance with the court's directions in letter and spirit.
- 3) Correct to the extent that the COC petition against the respondent is pending for adjudication before this Hon'able Tribunal. It is worth to mention here that a detailed implementation report is submitted in the Hon'able Tribunal in this regard (copy of implementation report is annexed as **Annex-F**).
- 4) Incorrect it is worth to mention that the appellant committed financial embezzlement and FIR No. 3 dated: 08-09-2011 under section 409/419/420/468/471/201/5(2) of PCA has been registered in Police Station anti corruption, perpetual warrant of arrest under section 204 Crpc has been issued by Senior Civil Judge, Malakand (**Annex-G**). The respondent department conducted departmental enquiry to probe into the matter and the enquiry committee held the appellant responsible for the embezzlement along with some others officers/officials. (Copy of Inquiry is attached as **Annex-H**). Consequently the appellant was removed from service along with recovery of embezzled amount. But later on, the appellant approached to the Hon'able Service Tribunal for his reinstatement, wherein the Hon'able Service Tribunal accepted the Service appeal and directed to reinstate the appellant and also conduct de-novo inquiry coupled with charge sheet and statement of allegations. In pursuance of the Judgement of Hon'able Tribunal, the respondent department reinstated the appellant into service and also constituted de-novo inquiry. The enquiry committee tried their best to contact the appellant but the appellant denied to extend cooperation to enquiry committee. Resultantly the enquiry committee concluded enquiry and submitted report, wherein the appellant was again held responsible for the financial embezzlement.
- 5) Incorrect as already explained in the preceding paras.

Grounds:-

- a. Incorrect as already explained in the preceding paras of facts.
- b. Needs no comments.
- c. Needs no comments.
- d. Incorrect as already explained in the preceding paras of facts.
- e. Incorrect as already explained in the preceding paras of facts.
- f. Incorrect as already explained in the preceding paras of facts.
- g. Incorrect as already explained in the preceding paras of facts.
- h. Incorrect. That the appellant was advised by the Hon'able Service Tribunal that if he has any grievance after his removal he may adopt proper course of action in accordance with law and he has submitted departmental appeal against the

decision dated 19-12-2018. It is worth mentioning here that the appellant also agitated the said issue through writ petition No. 360-M/2016 that was dismissed by Hon'able Peshawar High Court, Mingora Bench on 22-01-2019 (Annex-I).

- i. Incorrect as already explained in the preceding paras of facts
- j. That the respondents may also be allowed to raise additional grounds at the time of arguments.

Prayers:-

It is therefore, most humbly prayed that the instant service appeal is devoid of merit and based on misstatement/misconception and hence, may graciously be dismissed with cost.



Secretary,
Higher Education Department
Respondent No. 01



Director,
Higher Education Department
Respondent No. 02

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP COURT SWAT

SA No. 595/2019

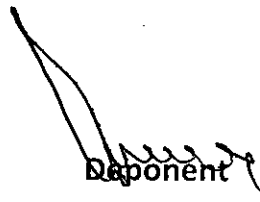
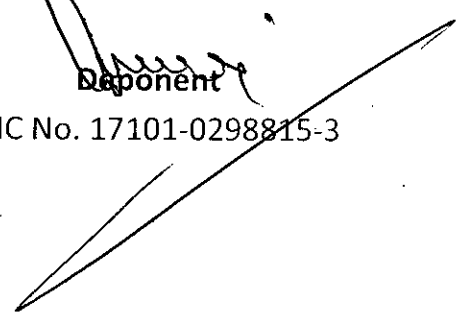
Muhammad Rehman.....Appellant

VS

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

AFFIDAVIT

I, Khush Muhammad Khan, Section Officer (Litigation), Higher Education, Archives & Libraries Department, Government of Khyber Pakhtunkhwa, do hereby declare and affirm on oath, that the contents of the Parawise Comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.


Deponent


CNIC No. 17101-0298815-3



Annex A
DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
KHYBER ROAD, PESHAWAR

Phone # 091-9211025, 9210217, 9210242/Fax # 9210215

Email: dhekpakesh@gmail.com

Dated: 11/5/2018

OFFICE ORDER:

Consequent upon the decision of Khyber Pakhtunkhwa, Service Tribunal Camp Court Swat dated 08.03.2018, Mr. Muhammad Rehman, Lab; Assistant GDC, Agra (Malakand Agency) is hereby re-instated in service with immediate effect for the purpose of de-novo inquiry, however he shall not be entitled for any financial benefits.

DIRECTOR, HIGHER EDUCATION

Endst.No. 1160-6/1

Copy of the above is forwarded to the:-

1. Principal, Govt. Degree College, Agra (Malakand)
2. Agency Account Officer Malakand Agency.
3. Official Concerned.
4. CA-VII Establishment, local Directorate.

DY: DIRECTOR (ACADEMIC)

CHARGE SHEET

I, Prof; Dr. Subhanullah Shah, Director ; Higher Education, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Muhammad Rehman, Lab; Assistant, GDC, Agra (Malakand Agency) as follows.

That you, while posted as Lab; Assistant, GDC, Agra (Malakand Agency) committed the following irregularities:-

- i. That you were transferred from GC, Alpuri (Shangla) to GDC, Agra (Malakand) on 11.11.2003 and you were the official to deal with the accounts matters.
 - ii. That a mega financial corruption and stealth case happened at GDC, Agra (Malakand) and you allegedly took away the college record of the tenure of Prof; Fazli Ghafoor, the then Principal.
 - iii. That while dealing with the accounts matters, you gradually started misdeeds with the consent of the Principal and got yourself involved in different misappropriation, embezzlement and corruption which caused a great financial loss to the college and the Govt; exchequer.
 - iv. That an inquiry comprising Prof; Munsef Khan, Principal, GPGC, No.1 Abbottabad alongwith two other Principals was conducted and the allegations of misappropriation in various heads of account and stealth of record were found proved against you.
2. By reason of the above, you appear to be guilty of misconduct under rule 03 of the Khyber Pakhtunkhwa, Govt; Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any penalties specified in rule 04 of the Rule ibid.
 3. You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the inquiry officer, as the case may be.
 4. Your written defence, if any, should reach the inquiry officer/committee within the specific period, failing which it shall be presumed that you have no defense to put in and you shall be proceeded exparte.
 5. Intimate whether you desire to be heard in person.
 6. A statement of allegations is enclosed.

(PROF; DR. SUBHANULLAH SHAH)
DIRECTOR, HIGHER EDUCATION
KHYBER PAKHTUNKHWA

Annex C

Annex

DISCIPLINARY ACTION

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I, Prof: Dr. Subhanullah Shah, Director, Higher Education, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Muhammad Rehman, Lab; Assistant, GDC, Agra (Malakand) has rendered himself liable to be proceeded against, as they committed the following acts/omissions, within the meaning/Specified in Section-03 of the Government Servant (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS.

- i. That he was transferred from GC, Alpuri (Shangla) to GDC, Agra (Malakand) on 11.11.2003 and he was the sole official to deal with the accounts matters.
 - ii. That a mega financial corruption and stealth case happened at GDC, Agra (Malakand) and he allegedly took away the college record of the tenure of Prof; Fazli Ghafoor, the then Principal.
 - iii. That while dealing with accounts matters, he gradually started misdeeds with the consent of the Principal and got himself involved in different mis-appropriation, embezzlement and corruption, which caused a great financial loss to the college and the Government exchequer.
 - iv. That an inquiry comprising Prof; Munsef Khan, Principal, GPGC, No.1, Abbottabad, alongwith two other Principals, was conducted and the allegations of misappropriation in various heads of account and stealth of record were found proved against him.
2. For the purpose of Inquiry against the said accused with reference to the above allegations, an inquiry committee consisting of the following, is constituted under rule 10(1)(a) of the ibid rules.
- a. Prof Mohd Naveez, Principal GDC Khanpur (Hainpur)
 - b. Prof Isfahan, GDC, Dargan.
3. The inquiry officer/Inquiry Committee shall, in accordance with the provisions of the Rules, ibid provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/inquiry committee.

(PROF; DR. SUBHANULLAH SHAH)
DIRECTOR, HIGHER EDUCATION
KHYBER PAKHTUNKHWA

Annex D

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The Director,
Higher Education, KP, Peshawar.

Subject: DISCIPLINARY PROCEEDINGS AGAINST MR. MUHAMMAD REHMAN,
LABORATORY ASSISTANT GOVT; DEGREE COLLEGE, AGRA(MALAKAND)

Inquiry Officers: 1. Prof: Muhammad Nawaz, Principal GDC, Khanpur, (Haripu
2. Prof: Irfan Ullah, Govt; Degree College, Dagger (Bunner)

Procedure: Interviews of the Staff and cross examination of the available record of
previous Inquiries already conducted by Prof: Fazali Subhani, Prof:
Munsif Khan and the record available in the college as well as in
Directorate of Higher Education.

Proceedings:

As per directives of the Director Higher Education Khyber Pakhtunkhwa Peshawar vide No
14649-50/CA-VII/Estt: Branch/A - 167 dated: 11/05/2018, received on 23/05/2018 the
undersigned proceeded to find out the factual position.

On 25th May 2018 the Inquiry Committee telephonically informed the sitting principal, staff
of the college and Mr. Muhammad Rehman to remain present in the college on 29th May
2018 at 10.00AM for the purpose of Inquiry in hand. The contents of Inquiry were explained
to all concerned.

Accordingly, we, the committee members managed to reach at GDC Agra at the time and
date fixed for inquiry. Some of the staff members along with the Incharge Principal Mr.
Abdul Hadi and C- IV employees except Mr. Muhammad Rehman were present in the
college. The information regarding the prevailing situation during 2004 to 2011 and
afterwards was obtained from them one by one as well as collectively. Similarly, the transfer
of Mr. Muhammad Rehman from GDC Alpuri to GDC Agra was discussed. The working of
Mr. Muhammad Rehman in the college, his attendance as well as the attendance of other staff
was also discussed.

According to them the college is situated in a far flung hilly area where approachability is
so much difficult because the transport facility is generally not available. The
communication facility is also normally not available. So the non-local staff members usually
stay on the college premises for 3-4 days a week during the teaching session. The teaching
session starts in August and ends in December of each year. In this way, the regular presence
of teaching staff as well as the Principal and others was observed for only about five months
while for the rest of the year the staff remained out of college and casually attend the college.
Same was the practice of the Principal and of other staff, especially when the Principal is out
of the college; no one cares for his attendance in the college. It has been the general practice
that the non-teaching staff whenever attended the college he made himself present in the
college by signing the attendance register for previous days. Since the Principals had a casual
behavior of their attendance so it can be assumed that this practice of attendance was being
followed with the consent of Principal

30/8/2018

According to the staff present at the time of visit of Inquiry Committee, Mr. Muhammad Rehman was so tactful that he had been able to build trust of the sitting Principal very soon, as he did all types of official/financial activities relating to Directorate, Account Office and the Bank. He had developed relations with all the concerned quarters and became able to do his job very easily and tactfully. In this way he got full control of whole the official business. Due to casual behavior of attendance in the college of the staff as a whole he was successful in taking whole the financial records and the computer set to his home on the plea that he has to prepare the bills and other documents for account office and other official business, etc. According to Faqir Shahzada, chokidar of the college: on 27/12/2005 at 10.00am Mr. Muhammad Rehman took out the college record comprising registers, files, and other items along with computer set with him at home or elsewhere with the permission of the Principal, Prof. Fazali Ghafoor.

The fuss of mega corruption crept out during 2008 -- 10 when there was no regularity of staff as well as the Principal. Furthermore, during this period there was disturbance in the whole area, the educational activities were practically closed and all the official activities were being handled at home. Similarly, Prof. Zia ul Haq (01/05/2007 to 28/02/2009) did not take any interest in the college affairs during his period. According to him, "he never saw/signed any type of bill or official document. All the official activities were being handled by Mr. Muhammad Rehman himself, he used to prepare all types of documents, make correspondence with the higher authorities and sign the letters etc. with forged signatures of the sitting principals as well as of himself".

On 29th May 2018, we waited for Mr. Muhammad Rehman but he did not turn up. Then we tried to have a telephonic contact. At first instance he did not pick up our telephone, however, when called from a different number (of a staff member) he picked up the call. He was again informed about our visit and his reinstatement by that staff member. As I (Muhammad Nawaz) talked with him and introduced myself as Inquiry Officer for the Inquiry being conducted against him he cut off the call and switched off his Mobile. After wards we tried again and again on the same day and the next day also to have a contact with him through message as well as call but in vein. So we wrote him on his home address and a copy through the Principal with the direction to appear in person before the Inquiry Committee at GDC Khanpur, Haripur on 06/06/2018 (annex -1). On this date he did not come to the specified college. However, after 06/06/2018 up to 22/07/2018 he instead of appearing in GDC Khanpur, started messaging with different excuses, pretexts and threats (copy of the conversation made with him on different dates is attached herewith as annex - 2).

On 30th May we visited the Account Office Malakand and the National Bank of Pakistan Malakand to get information about the AC Bills, etc; for the period under consideration and the payments made there off. We requested Accounts Officer in writing to provide the details (annex - 3). The National Bank Authorities was also requested to provide the detail of payments. After a few days the dealing person of NBP Malakand sent the record of deposits/withdrawals by e-mail with effect from 01/01/2004 to 23/06/2014. The same is reproduced as annex - 4. However, the Account Office did not co-operate on the plea that after getting permission from AG Office Peshawar, they will provide the requisite information which could not be materialized till date. The Account Officer wrote to AG Office vide No. DAO/ADMN/627-29/1324-26 dated 11/06/2018 (copy sent to me for information) seeking permission to provide the record (annex - 5). Whenever asked for permission from AG Office, the answer of Account Officer was in negative.

On 04th July 2018, vide No. 488/Misc, a reminder was written to Mr. Muhammad Rehman, Lab Asstt. for appearance before the Inquiry Committee on 10th July 2018 so as to defend himself but for this time also he did not appear (annex - 6). Then, on 19th July he was informed through message by myself and the next day through office Order endstt. No. 178-79 dated: 20/07/2018 of GDC Agra, the

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ing Principal on my request sent him the said order for appearance before the Inquiry Committee in GDC Agra on 23rd July at 11.00 AM (annex - 7). On the said date the Committee again visited GDC Agra for the same purpose. Prior to this visit, on 19th July We again informed all the related persons as well as the Accounts Office (by this time again the accounts officer excused to provide any document without prior approval of AG office Peshawar which is still awaited).

On this date again Mr. Muhammad Rehman did not appear nor attended the mobile number at which he had been on contact through SMS's for about one and a half month. This time again, he attended the call of a staff member rather than the numbers of the Inquiry Officers. Having a contact telephonically, Prof. Irfan Ullah informed him about the purpose of visit, in response he made vague reasoning's and said that this Inquiry was illegal and the appointment letters were also fake and illegal as the same were not signed by Director himself. Similarly, his reinstatement was signed by the Deputy Director, so it is illegal. He was informed that it is an official procedure that after approval of a case on file of competent authority the Deputy Director signs the letters (he seemed to be denying the facts deliberately). He was directed to attend the college and produce any of the documents as evidence in support of his defense But, he flatly refused to appear before the Committee he further added that he will never appear before any committee (after this he never contacted again through SMS or call).

Due to non-appearance of Mr. Muhammad Rehman and non-availability of the original record of the embezzlement period the committee was bound to rely on the available material in the office of GDC Agra, the record available in the Directorate office and the Inquiries conducted previously.

Mr. Muhammad Rehman had a casual behavior of attending the college as is confirmed from the statement of Prof. Fazal Wahid (retired on 10/05/2011), given to Prof. Fazali Subhani on 20/06/2011 during his Inquiry. According to him, "he never saw Mr. Muhammad Rehman in the college prior to his taking over charge as DDO and was unaware of his character" Mr. Muhammad Rehman Lab Assistant of the College was at first appointed at GDC Chakesar on 08/12/1994 then transferred to GDC Alpuri. It has been informed that at GDC Alpuri he was assigned some additional duties like distribution of Mora Scholarships etc; there he was involved in financial corruption which was reported to Director of Higher Education. An Inquiry was conducted and as a result on 11/11/2003 he was transferred to GDC Agra under report. He took charge at new station on 01/03/2004. The detail of principals with whom Mr. Muhammad Rehman had worked at GDC Agra is as follows:

- a) Prof. Fazali Karim Khan was acting as the regular Principal with full powers of DDO. He worked as Principal with effect from 20/05/2000 to 11/11/2004 (till his retirement on superannuation basis). He for the first time involved Mr. Muhammad Rehman Lab. Asstt. in the accounts matters in the college due to illness of Mr. Pervez Khan Junior Clerk at that time.
- b) Mr. Fazali Wahid appointed as Incharge Principal/DDO on the recommendation of Mr. Fazali Karim Khan who worked against above position with effect from 25/11/2004 to 02/08/2005 (in his first tenure) He allowed Mr. Muhammad Rehman to continue his assignment with account matters as per practice in vogue.
- c) Mr. Fazali Ghattoor took over the charge as a regular Principal/DDO on 03/08/2005 and worked against this post up to 23/04/2007 (i.e.; up to the date of retirement). He was inspired by Mr. Muhammad Rehman and reposed in him his full confidence and went to the extent that he wrote recommendation letter vide no. 245 dated 30/12/2006 to the DHE for permanent adjustment as Senior Clerk by conversion of his post as Lab. Asstt. The Audit was conducted

for the period 2004 to 2007 but the audit party did not object on the handling of accounts by Mr. Muhammad Rehman. Had the audit party objected over this procedure and issued instructions to follow the orders in the light of notification No. 20315-417/CA-VII/Estt: Branch dated 19/08/2003; this mega monetary corruption and the stealth of financial record of the college had not happened. It was reported that the college financial record was taken away by Mr. Muhammad Rehman during the period of Prof: Fazali Ghafoor and at the time of audit it was brought back from an unknown place and taken away by Mr. Muhammad Rehman after audit as these documents were never seen in the college nor any of the successor Principals/DDOs ever signed the necessary documents at the time of handing/taking over of charge as Principal/DDO.

- d) Mr. Zia ul Haq successor Principal/DDO (01/05/2007 to 28/02/2009) after Prof: Fazali Ghafoor. No formal handing/taking over of charge took place. According to Prof: Zia ul Haq, he never signed any type of document during whole period of his DDO'ship nor he signed any type of bill, cash book, cheque, etc. Furthermore, Mr. Muhammad Rehman never put up any type of document to him for signatures. All the activities were being performed by Mr. Muhammad Rehman himself throughout his (Prof: Zia ul Haq) period. Mr. Muhammad Rehman always forged the signs of Prof: Zia ul Haq over all types of documents throughout whole of his period.
- e) Mr. Hidayat Ullah succeeded Mr. Zia ul Haq and remained DDO/Principal wef; 01/03/2009 to 31/03/2009. Here again no formal handing/taking over of charges took place. No one signed any of the financial documents.
- f) Mr. Fazali Wahid took over as Principal/DDO on 01/04/2009 and remained on same position up to 10/05/2011 (date of retirement). Here again no formal handing/taking over of charge took place. No financial documents shown to him or signed by him. In April 2009 Military Operation started to curb down the Insurgency in Malakand Agency. During this period the college was practically closed. The normalcy was restored in March 2010. During this period all the financial activities were handled by Mr. Muhammad Rehman. After reopening of college Prof: Fazali Wahid tried to have a control over the college affairs. For the financial year 2009-10 special grants for the purchase of Library Books, Lab Equipments, Furniture, etc; amounting to Rs. 1,60,000/- were provided to the college. Accordingly, supply orders issued and the payments to the contractors were on the way (in the official record payments had been but no supply received). Prof: Fazali Wahid directed/ordered again and again to produce the relevant documents and in response, Mr. Muhammad Rehman did not do the needful, this was the time when Prof: Fazali Wahid felt that there was something wrong in the bottom. On repeated orders Mr. Muhammad Rehman instead of following/obeying orders went on absenting himself from the college and after 20th August 2010 he did never attend the college (copy of attendance register as annex - 8). This was the time when the embezzlement of Mr. Muhammad Rehman was coming on screen and the general public was gossiping about the college affairs. Prof: Fazali Wahid wrote a number of letters and explanations for the production of financial record of the college, he also informed the Director Higher Education the helm of affairs. The Director of Higher Education also wrote to Mr. Muhammad Rehman to bring the College record back but in vein. A number of explanations on account of willful absence after 23/08/2010 and production of college financial record were issued him by the principal as well as the Director (annex 9-16). The Principal tried to stop the salary through a letter to the Accounts Officer wef. 01/12/2010 and then through source form wef. 01/01/2011, he also cancelled his authority but Mr. Muhammad Rehman was so clever that on 16th March he prepared a fake authority with forged signatures of the Principal and drew the salary up to 30th April 2011 (Annex 17 -20).

g) Mr. Hidayat Ullah Khan took over as DDO on 11/05/2011 and retained the position up to 24/07/2011. Here again no regular handing/taking over of charge was made. During this period the news of embezzlement of funds, drawing of GPF advances of college employees broke up on the deduction of drawn out GPFs in installments after a period of about more than two years. At this stage the people of the area and the employees of the college got awareness of the immoral and illegal activities of Mr. Muhammad Rehman. The affected persons as well as the sitting principal started to make efforts for the recovery of the college record, GP fund advances drawn fraudulently and the embezzled amounts. The Principal tried to get help from the Higher Authorities as well as from the Law enforcing agencies but still no fruitful results obtained (annex 21 - 40).

On the request of the affected employees (who got information on installment deductions by DAO Malakand) to Anti-Corruption, the preliminary investigation was made by ACE, Malakand who, submitted his report on GP fund advances and other embezzlements on 08/05/2011. The anticorruption inquiry team vide endst. No. 305-8 dated 12/9/2011 confirmed that Mr. Muhammad Rehman was himself involved in misappropriation and embezzlement case (Annex- 35).

The Director of Higher Education on the request of the employees of the college whose GP funds were drawn by Mr. Muhammad Rehman constituted an Inquiry Committee to probe the case of GP fund advances of the Government Employees fraudulently. The committee consisted of the following members: (a) Mr. Shafi Asstt. Accounts Officer, (b) Mr. Sahibzada Shehryar, Senior Auditor and (c) Mr. Essa Khan, Senior Auditor. This committee submitted its report on 08/08/2011.

On the letter of public representatives to the Higher Authorities about the functioning of college and the embezzlements made by Mr. Muhammad Rehman in the college, the Director Higher Education vide No. 16232/CA-VII/Estt:Branch dated the Peshawar 20/06/2011 constituted a fact finding inquiry committee consisting of (a) Prof. Dr. Fazali Subahani, Principal GPGC Dargai, Malakand, (b) Mr. Muhammad Hussain, Asstt. Prof: of English (c) Mr. Zahoor Khan Accountant GPGC Dargai. This committee conducted a preliminary fact finding inquiry and probed out the root causes and the prevailing situation of the college and submitted its report on 13/08/2011. The Committee also served the questionnaires to the related persons including Mr. Muhammad Rehman and called them for interviews. The Committee members wrote to Mr. Muhammad Rehman on 08/07/2011 vide No.366 for appearance before the inquiry Committee on 22/7/2011 to defend the charges of embezzlement against him.

On non appearance on the specified date he was also called up telephonically to defend himself in person but he did not appear before this committee at any time. The recommendations of this committee are attached as annex - 41.

Prof. Fazali Wahid appealed for Release of Commutation and Pension so an other Inquiry Committee vide No. 18308-10/CA-II/Estt:Branch/A-12/General Misc/Proposal dated 31/08/2012 was constituted. It was composed on (a) Prof. Musif Khan, GPGC No. 1 Abbottabad (Chairman) (b) Prof. Ajmal Shah, Principal GDC Khair abad, Mardan (Member) and (c) Prof. Qutbud Din, Principal GDC Lahore, Swabi (Member). This committee conducted a detailed inquiry covering almost all the aspects to ascertain the losses accrued to the Government exchequer, the college Pupils Funds and the employee of the College as well as the outsiders. This committee also probed out the the main character behind this mega corruption and the other involved persons along with their role. This committee gave its recommendations for recoveries by fixing the responsibilities to almost all the involved persons. It also recommended that the recovery of

official record of college and the embezzled amounts from Mr. Muhammad Rehman should be made through Law Enforcing Agencies. It is worth mentioning that Mr. Muhammad Rehman appeared before this committee for a single time when the questionnaire was handed over to him. He returned the questionnaire on 17/4/13 served to him by Prof. Munsif Khan on 27/3/2013. This reply was given after the reminder but he never turned up for cross questioning/defending himself before the Inquiry Committee. The Questionnaire served to Mr. Muhammad Rehman, his replies and also the findings and recommendations, etc; are attached as annex 42 - 59 .

In all the above independent inquiries Mr. Muhammad Rehman had been confirmed as the main culprit who had involved others to achieve his ill intentions by deceiving the weak Principals.

In a written statement of confession, on 05/06/2011, Mr. Muhammad Rehman himself accepted that the amount of GP Fund drawn of the college staff by him will be paid back as a whole up to 30th June-2011. It clearly indicates that the GPF advances of the college staff were actually drawn by Mr. Muhammad Rehman so he should have to pay back the amounts along with the interests accrued as the affectees are still demanding, their statement are attached as annex 60 - 68. Similarly at another stage he accepted that he will pay back the embezzled amount as demanded by the department. The statements of Prof. Zia ul Haq(Ret'd) and Prof. Abdul Hadi are also attached (annex A, B)

According to the available record, till now recoveries from only three retired professors have been made:

- 1) Prof. Fazali Wahid Ex-Principal(late) GDC Agra MKD Agency =Rs. 321180/- from his pension
- 2) Prof. Zia ul Haq Ex-Principal, GDC Agra MKD Agency =Rs. 579495/-from his pension
- 3) Prof. Fazli Ghafoor, Ex-Principal, GDC Agra MKD Agency =Rs. 579495/- dt. 24/2/16 through cheque (of which Rs. 516630/- deposited in Govt. Treasury and Rs. 62865/- in Pupils Fund)

The present Inquiry is being conducted to probe the reality of the appeal filed in the Service Tribunal by Mr. Muhammad Rehman Lab Assu. of the college on 01/04/2014 which was accepted by the court. In the appeal it was pointed out that:

- i) The appellant has not been given opportunity of hearing as per law and rule.
- ii) The appellant has not been afforded opportunity to appear in inquiry and to cross examine the witnesses.
- iii) The appellant has not been given opportunity a personal hearing before passing the impugned office order.

Consequent upon the decision of Khyber Pakhtunkhwa, Service Tribunal Camp Court Swat dated 08.03.2018, Mr. Muhammad Rehman was reinstated in service so as to fulfill the legal requirements, pointed out in the appeal.

From the available record in the college and in the inquiry reports available in the Directorate Office it has been found that all the possible efforts were made for a number of times to make him (Muhammad Rehman) present in the college as well as to appear before the inquiry committees but the culprit always tried to escape himself and tried to detract the authorities as well as the esteemed courts.

The foremost effort was made by Prof. Fazali Wahid in May-June 2010. For the year 2009-10 an amount of Rs. 1,60,000/- was accorded to this college for the purchases of Lab Equipments,

Attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
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Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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Library Books, Furniture, etc: so to materialize the purchases, Prof: Fazali Wahid started to exert pressure over Mr. Muhammad Rehman to bring the official documents to the college but he tried to remain absent from the college. According to the employees present in the college Mr. Muhammad Rehman attended the college for the last time on 20/08/2010, signed the attendance register as per practice for the previous days of his absence and never attended the college afterwards. For the attendance in the college and recovery of the college records the sitting Principal, Prof: Fazali Wahid wrote letters and explanations to Mr. Muhammad Rehman. He also wrote to the Director Higher Education and tried to make the Higher Authorities aware of the prevailing situations and his (Mr. Muhammad Rehman) wrong doings known up to that time. On non-compliance of orders of the Principal as well as the Director Higher Education the Principal stopped the salary, cancelled the authority to deal with the Account office, Bank and Directorate on behalf of the college Principal vide no.268 dated 1/12/2010. The Principal also made inactive his salary with effect from 1/1/2011 (by sending the source form to DAO) due to absence from duty wef. 23/8/2010.

However, Mr. Muhammad Rehman re-activated his salary by preparing a bogus Authority letter (seen in file bearing no. 316(changed from 318 with endst no 317) dated 16/3/2011 and another of 19/3/2011 with same text). The Account Office accepted that authority and released his salary wef. 01/01/2011 and continued upto 30/04/2011. His salary was stopped by new Principal, Prof: Hidayat Ullah when he assumed the charge after retirement of Prof: Fazali Wahid on 10/05/2011 because Mr. Muhammad Rehman had been absent from the college after 20th Aug 2010.

On 10/12/2012 Mr. Muhammad Rehman through letter endst. no. 31403-5/A-167/CA-VII/bsst: was again directed to give attention to a series of correspondence made by the Principal GDC Agra as well as Telephonic talks by Prof: Fazali Subhani Principal GPGC Dargai(Inquiry Officer) as well as the Officer/Official of Directorate of Higher Education on accounts of production of complete record of GDC Agra which is in his custody. But he did not give any heed to this letter also.

The Inquiry Committees constituted from time to time wrote letters/called up telephonically for his personal appearance but he never turned up as is obvious from above details.

From 02/04/2015 to 09/09/2016 some more efforts were made for the recovery of college record, embezzled amount and his attendance in the college by serving him explanations, letters of recoveries, etc: but still these efforts could not be succeeded. The culprit is saving himself in one or other way (annex 69 - 84). It can be observed from the following letters.

On 2/10/2015 the Principal GDC Agra vide no. 272-273 served an explanation on his willful absence from his duties wef. 23/8/2010 and directed him to attend the college within seven days and warned about initiation of disciplinary action on non attendance of college.

On 12/10/2015 in continuation with the above he was once again served an explanation directing him to appear in college and explain his position and informed him about the rule of willful absence for more than five years.

On 19/10/2015 Mr. Muhammad Rehman replied to the above explanation but without attending the college he requested to start his pay and then he will join duty. He also gave an answer to above explanation that the ex-principal Prof. Fazali Wahid had signed his service book on 31/12/2010 (this verification was proved to be bogus) similarly, he wrote that on 19/3/2011 the ex-principal issued him an authority letter to deal with Accounts Office and Bank, etc, (it was also proved to be bogus). On the basis of these he claimed to be present in the college. This answer to above explanation was found

Case No. While making any correspondence.

are the same that of the High Court except Sunday and Gazetted Holidays.

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Peshawar.

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to be unsatisfactory and rejected on the basis that (i) there is no record of authority letter of 16 or 19/3/2011, it is self-generated one, (ii) the service book is a personal document and it was lying with him for the last many years. So, his case was sent to the higher authorities for further necessary action. Same was communicated to him vide no. 305 dated 03/11/2015.

On 03/8/2016 vide office order Endstt. No. 20612-14, the Director being competent authority after having considered the charges, evidence on record found him guilty of willful absence and large scale embezzlement and gross violation of service rules imposed major penalty of "Removal from Service" upon Mr. Muhammad Rehman Ex Lab Asstt, GDC Agra of the charges leveled against him. The Competent Authority also decided to launch an FIR against Mr. Muhammad Rehman as recommended by the Inquiry Committee so that the embezzled amount and College Record could be recovered through local administration.

After this decision the accused again approached to the Service Tribunal that he was not given a chance of personal hearing which is not based on facts. However, following the instructions of the Honourable Court, Mr. Muhammad Rehman, Lab. Asstt. was informed by the directorate as well as the present Inquiry Committee about his reinstatement and directed him to appear in the college as well as before the Inquiry Committee. He did not follow any order/instruction till date. He is still absent from the college and inspite written, oral as well as mobile messages, he never appeared before the Inquiry Committee for personal hearing/defense of the charges leveled over him till date inspite that he himself requested in court. He instead of following the instructions objected over his own reinstatement order and on the formation of inquiry committee. He in his messages sometimes committed to appear before the Inquiry Committee and on other occasions threatened the inquiry committee (as is evident from the copy of messages). In this way he took about two months. At last he flatly refused to appear before any of the Inquiry Committee which proves that the accused is actually guilty and he has no sound proofs/documents in his defense. All the appeals made by him were just to kill the time and engage the authorities in different ways. This again counts for the wastage of time, money, physical as well as material and human resources. Due to his embezzlements a great loss had been accrued to the Govt Ex-chequer, the college, the Employees of the college and the outsiders from whom he had taken bribes.

On the basis of above it is recommended that since he of appeals against him with Mr. Rehman have been proved in different independent inquiries to be incompetent and dishonest. It is further recommended that the losses accrued to the Government exchequer, employees of the College and GDC Agra, etc. after 2004 to till date due to Mr. Muhammad Rehman should be recovered from him along with the interest and the recommendations of Prof. Munsif Khan's minutes be implemented.

A letter on non appearance of Mr. Muhammad Rehman was also sent to your office seeking guidance on this effect, the copy of same is attached herewith.

INQUIRY COMMITTEE

1. Prof. Muhammad Nawaz, Principal GDC Khanpur, Haripur.
2. Prof. Irfan Ullah, GPGC Daggar.

Handwritten signature and date: 30/8/16

DD (Acad)
RECEIVED ON
30 AUG 2016
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Farukhwa Service Tribunal,
Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.



Annex E
DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA
KHYBER ROAD, PESHAWAR

Tel.# 091-92110242 / 9211025 Fax# 091-9211803
E-mail:- dhkpkpesh@gmail.com Facebook.com/dhkppeshawar Twitter.com/dhkppeshawar1

Dated Peshawar the 19/11/2018

OFFICE ORDER

No. CA-VII/Estt: Branch/A-167/Mr. Muhammad Rehman/GDC, Agra. WHEREAS Mr. Muhammad Rehman, Lab. Assistant, Govt. Degree College, Agra (Malakand) was proceeded under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheet and Statement of Allegations.

S#	Name & Designation	Penalty Imposed
1	Mr. Muhammad Rehman, Lab. Assistant, Govt. Degree College, Agra (Malakand)	"Removal from Service alongwith recovery of Rs. 41,68,355/-"

2. AND WHEREAS show cause was served to the accused officer.
3. AND WHEREAS the inquiry officer after having examined the charges, evidence of record and explanation of accused official submitted report.
4. NOW THEREFORE, the Director, Higher Education, Khyber Pakhtunkhwa being Competent Authority afforded an opportunity of personal hearing to the accused official, while exercising the powers conferred upon him under Rule-04 in sub-Rule (b)(2) of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules 2011, but he did not turn up within the stipulated time and now the Competent Authority has been pleased to imposed major penalty of "Removal from Service alongwith recovery of Rs. 41,68,355/-" upon the accused with immediate effect.

(DR. SUBHAN ULLAH SHAH)
DIRECTOR, HIGHER EDUCATION
KHYBER PAKHTUNKHWA

Endst; No. 31287-87 / GDC, Agra

Copy of the above is forwarded to the:-

1. Principal GDC, Agra(MKD Agency) with the remarks that as per recommendation of the inquiry committee a sum of Rs.41,68,355/- on account of embezzled amount of drawl of GP fund of the staff of GDC, Agra (MKD) is outstanding against the above mentioned official which may be recovered from him through District Administration.
2. Agency Accounts Officer, Malakand.
3. Mr. Muhammad Rehman, Ex-Lab. Assistant, GDC, Agra (MKD Agency).

19/12/18
DY: DIRECTOR (ESTABLISHMENT)

Removal from Service/ Compulsorily Retirement

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT, SWAT.**

EP # 234/2018
in
S.A # 1230/2016

Muhammad Rahman.....Petitioner.

Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary Higher Education
and others.....Respondents.

SUBJECT: IMPLEMENTATION REPORT ON BEHALF OF RESPONDENTS NO. 1 & 2.

Respectfully Sheweth: -

Facts: -

- 1) Correct.
- 2) (i) Correct to the extent that this Honourable Tribunal accepted the service appeal with the directions to reinstate the petitioner and conduct denovo enquiry by issuance of proper charge sheet coupled with statement of allegations regarding both the Charges and to complete the inquiry within 120 days. Pursuant to Provincial Service Tribunal directions, the incumbent was re-instated vide Order dated 11-05-2018 (**Annex-A**). Inquiry Committee was appointed, proper charge sheet alongwith statement of allegations were framed and served upon the incumbent (**Copy of statement of allegations & Charge Sheet are annexed as B & C**). The inquiry committee tried their level best and used all possible means of communications i.e. in black & white (**Annex-D**), intimation through concerned quarters i.e. the Principal GDC, Agra (**Annex-E**) and even through SMS services and Cell Phone Calls/dialogues (**Annex-F**). Despite of all out efforts the incumbant did not turn-up. Thus the inquiry officer left with the sole option to proceed him Ex-parte. The Ex-parte proceedings concluded within stipulated time frame work set by the Provincial Service Tribunal findings thereto were sent to the competent authority. The competent authority, thereupon imposed the penalty of removal from service alongwith recovery of Rs. 41,68,355/- vide Order dated 19-12-2018 (**Annex-G**).
- (ii) The learned Service Tribunal on previous hearing also advised the applicant that if he has any grievance after his removal, he may adopt proper course action in accordance with law and he has submitted departmental appeal against the decision dated 19-12-2018. It is worth mentioning here that incumbent also agitated the said issue through WP No. 360-M/2016 - Muhammad Rehman that was dismissed by Hon'ble PHC, Mingora Bench dismissal on 22-01-2019.

- 3) Incorrect. In compliance of the judgment dated 08-03-2018. The respondent department has re-instated the applicant accordingly as elaborated in para-2(i) above.
- 4) As elaborated in para-2 (i) & (ii).
- 5) As elaborated in para-2 (i) & (ii).
- 6) Already explained in the preceding paras.

Prayers: -

It is, therefore, humbly prayed that the instant service appeal is based on misconception/mis-statement, hence may graciously be dismissed with appropriate costs.

Secretary
Higher Education Department

Respondent No. 01

Director
Higher Education Department

Respondent No. 02

197

وارنٹ گرفتاری زیر دفعہ 204 ص

بعدالت جناب نذیر محمد / صدر عدالت / ضلع لاہور / لاہور / پاکستان

مقدمہ عدالت نمبر 3 مورثہ 7 CS 9 قاتلہ والا لہور 407/419/420/471

468/2011 PC 2011

سرکار ہنام :- صدر عدالت لاہور / ضلع لاہور / لاہور / پاکستان

س-ج، PC Act ACE SHO

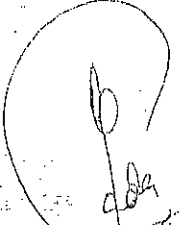
ہر گاہ ہمارے نوٹس میں آتی ہے۔ ملزم بالانے جرم بالا کا ارتکاب کر کے ویدہ دانستان

گرفتاری سے گریز کرتا ہے۔ لہذا تمہیں حکم دیا جاتا ہے کہ ملزم جہاں کہیں ملیں

بذریعہ وارنٹ ہذا گرفتار کر کے عدالت ہذا کے رو برو پیش کریں۔

آج میرے دستخط اور مہر عدالت سے جاری ہوا۔

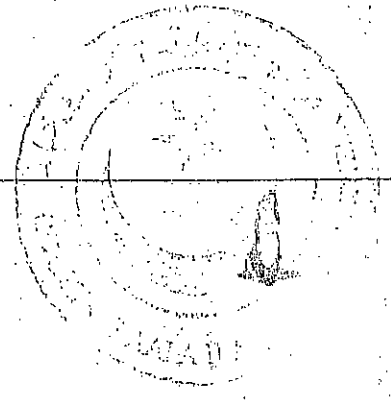
تاریخ 14/03/2012



Senior Civil Judge
MULLA ILLAQA UAZI
Magistrate at Ghalib

حسین خان FC

صدر عدالت لاہور



CO. ACE MKD

15/3/2012

مستحقان میں اس شہر کے رہنے والوں کو ملنا چاہیے
 یہ ہے محمد علی ولد احمد و زخان سائل سیدہ خان ابوری نے کافی
 غیر منصفانہ طریقہ خود سے نثر سکونت کر کے پھر یہاں سکونت
 کر کے مسلم مقام دیانت اختیار کی ہے وہ یہ خود سے موجود
 ہے جس سے عدم موجودگی سے ہم دونوں کو لگتا ہے

محمد علی ولد سیدہ خان صاحبہ
 صاحبہ
 ابوری

محمد علی ولد سیدہ خان صاحبہ
 ابوری
 15551-2-187-5

خاتون

مستحقان محمد علی ولد سیدہ خان صاحبہ
 دیگر اس میں سے میں سکونت کر کے یہ
 خود سے سکونت کر کے یہ سکونت کر کے یہ
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محمد علی ولد سیدہ خان صاحبہ
 ابوری
 19/3/2012

Annex H

GOVT. POSTGRADUATE COLLEGE NO. 1 ABBOTTABAD

No. 284

Date: 01/04/2013-2014

26

The Director of Higher Education
Khyber Pakhtunkhwa, Peshawar.

SUBJECT: INQUIRY REPORT/ APPEAL FOR RELEASE OF COMMUTATION AND PENSION IN RESPECT OF MR. FAZAL WAHID EX PRINCIPAL AGRA MALAKAND AGENCY.

Dear Sir,

REFERENCE

This is with reference to your office memo Nos. 18308-10/CA-I/Estt:Branch/ A-12/General Misc/ Proposal, No.29038-40/CA-I/ Estt: Branch/A-12/ General Misc/ Proposal, No.5631/30 /CA-I/Estt:Branch/ A-12/General Misc/ Proposal and 23400-02/CA-12/Estt:Branch/A-12/General Misc/Proposal; dated Peshawar the 31-08-2012, 21-12-2012, 06-03-2013 and 22-11-2013 whereby I as the chairman along with two other worthy members were appointed as inquiry committee to probe in the subject matter by conducting fact finding inquiry aiming at formulating cogent recommendations to be submitted to your good office for perusal and further necessary action, please.

*Phone search
Not up. 3/12*

PROCEDURE

With objective to reach the cogent conclusion, the early inquiry reports, Audit records and other relevant documents were requisitioned and studied, also all the concerned Officers/Officials were served with questionnaires to be filled with supportive documents, heard in person and were asked to give the statement in writing. The aggrieved Officers/Officials whose amount of GPF Advances drawn were asked to file applications. The college administration was repeatedly asked to engage the relevant Govt. Agency to recover the missing college official record so that necessary assessment of the financial loss to the college/Govt. Exchequer may be made. The ACE, Malakand was also requested to give the update with regard to the progress in the registered embezzlement complaint/case. No response is received from the ACE, Malakand and no missing record has so far been recovered that really caused delay in the completion of the inquiry process.

With regard to different questionnaires served to and the correspondance made with various persons, Officers, Officials and Agencies; the following documents were obtained which are indexed accordingly. Mr. Fazal Wahid, the Principal retired, appellant for the release of his commutation and pension, filed reply to the questionnaire served to him along with its enclosure comprising 100 pages marked as (A-1 to A-86.3). Mr. Muhammad Rehman, Lab Asstt: GDC Agra, Malakand Agency, the accused, filed his written reply consisting of 22 pages marked (B-1 to B-11) in response to questionnaire served to him. Mr. Zia ul Haq, Ex Principal of GDC Agra and now the Principal of GDC Timergara, was also served with questionnaire whose reply along with enclosure containing 9 pages marked as C-1 to C-8 are taken into account. Some other related documents are collected by the Inquiry Committee itself e.g. (i) on its own, (ii) from the concerned college administration, (iii) from the office of directorate of higher education and the CPO, etc., (iv) pertinent findings from the already conducted inquiries and (v) previously carried out Audit reports. These documents are categorized and indexed as D-1 to D-9; E-1 to E-23; F-1 to F-9 and G-1 to G-10

RECEIVED ON 1/4/13

Handwritten initials and marks

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History of Mr. Muhammad Rehman's involvement in monetary management (dealing A/Cs etc.) during the tenures of respective DDOs in chronological order

1. Mr. Muhammad Rehman, Lab Assistant, was transferred from Govt. College Alpur, District Shungla to Govt. Degree College Agra, Malakand Agency vide Notification No. SO (Colleges) III-3/2003 dated Peshawar the 11/11/2003 (Annexure F-3). The Principal/DDO at that time was Mr. Fazli Karim Khan.
2. Mr. Fazli Karim Khan, Regular Principal with DDO powers from 20-05-2000 to 11-11-2004, retired on 11-11-2004 (A.N). Audit was conducted on his retirement. He, for the first time, inducted Mr. Muhammad Rehman, Laboratory Assistant of Chemistry in accounts matters in place of accountant clerk.
3. Mr. Fazal Wahid, incharge Principal/DDO on the recommendations of Mr. Fazli Karim Khan from 25-11-2004 to 02-08-2005, in his first tenure of office, upheld the tradition and allowed Mr. Muhammad Rehman to continue his assignments among other dealing with account matters as per practice in vogue thereat.
4. Mr. Fazal Ghafoor took over the charge as a regular Principal/DDO from 03-08-2005 to 23-04-2007 after Mr. Fazal Wahid who (Mr. Fazal Ghafoor retired on 23-04-2007 (A.N). He was inspired by Mr. Muhammad Rehman and reposed in him his full confidence and went to the extent that he wrote recommendation letter vide No. 245 dated 30-12-2006 (Annexure F-2) requesting the Director Higher Education for permanent adjustment of Mr. Muhammad Rehman as senior clerk by conversion of his post of Laboratory assistant to senior clerk to act as college accountant. Internal audit by the Directorate of Higher Education was done of the period from 13-11-2004 to 23-04-2007 on 25/26-04-2007 covering the period of Fazal Wahid and Fazal Ghafoor. The audit team did not raise audit objection on dealing accounts matter by a laboratory assistant of chemistry, Mr. Muhammad Rehman in the light of notification by the Directorate of Higher Education NWFP Peshawar vide No. 20315-117/CA-VII/Estt.Branch dated 19-08-2003 (Annexure F-7). Had the audit team, at that time, asked to follow the directive of the Director of Higher Education, contained in (Annexure F-7), precluding a Lab. Asstt. to deal with account matters, this mega monetary corruption and the stealth of whole college record in the history of the colleges would not have taken place. All the college financial records were taken away by Mr. Muhammad Rehman in the tenure period of Mr. Fazal Ghafoor supposedly with the consent of the then incumbent Mr. Fazal Ghafoor. The whole record of the college was perceivably brought from an unknown place to the college or the house of Fazal Ghafoor for audit purpose and never brought back to the college after then. Reports of the college chokidar, senior clerk and different Principals are annexed as (Annexures A-39; D-1; D-2; D-3; D-4 & D-5).
5. Mr. Zia-ul-Haq 01-05-2007 to 28-02-2009 (about 1 year, 10 months), succeeded Fazal Ghafoor. He did not take the charge of the office as principal/DDO in proper way, i.e., No formal handing/taking over on the official documents took place which was mandatory provision on the eve of relieving the outgoing officer. Documents to be signed during handing over and taking over from one DDO to the other DDO amongst other are 1. cash book, 2. Classified registers, i. Govt. fee, ii. Private Fund, 3. Stock registers i. science sport, etc. ii. General stock 4. Banks transactions i. pass book, ii. Last day banks

statements 5. Hostels i. cash book ii. Last day Banks statements, etc. etc. Even after assuming the charge of the office, he adopted criminal silence and did not take timely affective remedial actions needed to recover the missing record of the college. The college virtually remained in the state of abeyance, as far as monetary transactions were concerned, due to missing of the college official record. The office record remained missing all along his tenure of Principalship/DDOship.

6. Mr. Hidayatullah Khan A.P of Islamiyat from 01-03-2009 to 31-03-2009 (1 month only), relieved Mr. Zia ul Haq and took over the charge from him (Mr. Zia-ul-Haq) while he (Mr. Zia-ul-Haq) was transferred from GDC Agra to GDC Thana, on simple charge report sheet/Performa. No obligatory formal handing over and taking over took place by signing i.e., putting signatures of the relieved and relieving Govt. Servants on necessary official documents because of the absence of official record in the college. Whereas the relevant record was remained missing. Solemn declaration, affidavit (F-1) is referred.

7. Mr. Fazal Wahid 01-04-2009 to 10-05-2011, again took over the charge of DDO ship in 2009, in his second term of office. From April, 2009 to March, 2010, one year period Military operation started to curb down insurgency in Malakand Agency for that reason local population were displaced rather evacuated and sent to tents installed at Mardan, Peshawar and Hazara. The normalcy was restored in March, 2010. During this period the area was in *disorder*. With the exception of two receipts annexed as annexure (B-4; B-5 or A-42; A-41) nothing is available against Mr. Fazal Wahid in corruption/embezzlement case of GDC Agra. No report from the college authority or any other Govt. Agency is found against Mr. Fazal Wahid. All the initial reports and preliminary investigations held Muhammad Rehman solely responsible for the grave offence. An FIR No:3 Dated 8/9/2011 was exclusively registered with P.S.ACE Malakand. w/s complaint of Prof. Abdul Hadi, the then Principal, GDC. Agra vide his letter No.360 Dated 9/6/2011 (Annexure A-62 & A-63). Arrest warrant U/S 204 Cr.P.C., on the basis of FIR lodged against Mr. Muhammad Rehman, was issued by the worthy Civil Judge Bakkhala, (Annexure D-6; D-7 & D-8). However, no arrest has yet been materialized and the accused is still absconder. The accused is ordered by the worthy court of law to appear before the court under section 87 Cr.P.C, (annexure A-59); the news to this effect was published in the daily AAJ Peshawar dated 18/07/2013, news clipping annexed as (Annexure D-9).

8. Mr. Hidayatullah Khan 11-05-2011 to 24-07-2011 (1 month 20 days), again acted as Incharge principal/DDO. He as a matter of fact sandwiched the 2nd term of office of Mr. Fazal Wahid (01/04/2009-10/05/2011). He neither handed over the monetary documents to Fazal Wahid on 01/04/2009 nor taken over the lost documents from Mr. Fazal Wahid on 10/05/2011. This is clear and lucid proof of the fact that the college record had never come in the custody of either Mr. Hidayatullah Khan or Mr. Fazal Wahid. The status-quo of objectionable silence was maintained from Mr. Zia ul Haq to Mr. Hidayatullah Khan, via Mr. Fazal Wahid. The documents once taken away in the tenure of Mr. Fazal Wahid, by Mr. Muhammad Rehman remained stolen, allegedly taken away by him (Mr. Muhammad Rehman) once these were allegedly taken away by Mr. Muhammad Rehman, Lab. Assistant of chemistry of the college. Affidavit (F-1) referred again.

(23) 19/20

TABLE FOR GPF ADVANCES ALLEGEDLY WITHDRAWN FRAUDULENTLY

S.No.	Bill Passed vide Token No. & date	Name of (Officer/Official)/ Subscriber	GPF Account No.	Amount withdrawn	Incumbent Principal/DDO
1.	953. Date: 17.01.2008	Mr. Shahab-ud-Din, Asstt; Prof. of Economics	IV/Edu/Di/3789/CSS	Rs.60,000/-	Mr. Zia-ul-Haq
2.	6125. Date: 02.04.2008	Mr. Fazl Wahid, Asstt; Prof. of Chemistry	IV/CI-I/Di/2237/CSS	Rs.204000/-	Mr. Zia-ul-Haq
3.	7538. Date: 28.08.2008	Mr. Sher Muhammad, Chokidar	IV/Edu/MKD/3332/CSS	Rs.25500/-	Mr. Zia-ul-Haq
4.	21303. Date: 28.10.2008	Mr. Pervez Khan, Senior Clerk	IV/Edu/MKD/2276/CSS	Rs.84600/-	Mr. Zia-ul-Haq
The Total amount of GPF Advance drawn during Mr Zia ul Haq Period comes out to be Rs: 374100/-					
5.	9335. Date: 11.05.2009	Mr. Hidayatullah, Asstt; Prof. of Islamiyat	V/Edu/MKD/556/CSS	Rs.308000/-	Mr. Fazl Wahid
6.	85. Date: 16.09.2009	Mr. Shahab-ud-Din, Asstt; Prof. of Economics	IV/Edu/Di/3789/CSS	Rs.527000/-	Mr. Fazl Wahid
7.	25189. Date: 01.10.2009	Zainabi, Naib Qasid	IV/Edu/MKD/2277/CSS	Rs.40,000/-	Mr. Fazl Wahid
8.	23179 Date: 19.10.2009	Faqir Shahzada, Mali	IV/Edu/MKD/2277/CSS	Rs.25,809/-	Mr. Fazl Wahid
9.	29578. Date: 24.10.2009	Hakim Zada, Mali	IV/Edu/MKD/4612/CSS	Rs.20,000/-	Mr. Fazl Wahid
10.	80. Date: 07.11.2009	Mr. Bahram Khan, Asstt; Prof. of Pashto	IV/CI-I/BU/366/CSS	Rs.213600/-	Mr. Fazl Wahid
The Total amount of GPF Advance drawn during Mr Fazal Wahid Period comes out to be Rs: 1134400/-					

In this way Muhammad Rehman was given a free hand in accounts matters and he became all and all in financial management. He started his misdeeds gradually. Muhammad Rehman took advantage of connivance and tacit consent of Mr. Fazal Chaffoor, criminal negligence and purposeful silence of Mr. Zia ul Haq, blind faith and carelessness of Mr. Fazal Wahid and unconcerned posture and indifferent attitude of Mr. Hidayatullah Khan to move forward towards his corruption and evil designs. He also got cooperation from Accounts Office and National Bank and some officials of the Directorate of Higher Education. Thus he committed gross financial irregularities with impunity. Mr. Muhammad Rehman's clever moves to bring wild accusations of receiving illegal gratifications (bribes) against some officials of the Directorate of Higher Education and others from him (Annexures B-7, B-8 and B-9) on one hand placed the alleged accused (officials/officers) to defense and on the other hand confirmed the confession of sole involvement in the offence of financial misappropriation, embezzlement and corruption. It also confirms his total and individual responsibility in all financial damages.

The case should be handed over to FIA or ACE and all the college record should be retrieved from him. So that all the financial losses to the college/Govt. Exchequer during the period w.e.f. 24-04-2007 to 30-06-2011 (04 years, 02 months and 06 days) can be assessed/estimated and recovered from him in due proportion.

- annexure with the... (Mr. ... at such
- (24) 20
29 (19)
- 5
- a) [From 17/01/2008 to 28/10/2008 it was the tenure of Mr. Zia ul Haq during which the GPF Advance from S.No.1 to S.No.4 was drawn fraudulently.]
 - b) [From 11/5/2009 to 07/11/2009, the tenure of Mr. Fazal Wahid, it was the turbulent period due to military operation in the area resultantly nothing was in place. All the G.P.Fund Advances from S.No.5 to S.No.10 was drawn during this disturbed period].
 - c) [The audit of the period placed in block from 24/04/2007 to 30/06/2011 is not carried out due to the non-availability of the auditable record in the college which had been taken away by and is still in the custody of Mr. Muhammad Rehman.]

9. Mr. Abdul Hadi 27-07-2011 to 09-01-2012 (6 months), did marvelous job of starting new documentation on the basis of which the monetary record was initiated and started to be maintained. He lodged complaint of corruption with the anticorruption department against Muhammad Rehman, Lab Assistant of the college about his embezzlement and corruption.

10. Mr. Noor Zaman 10-01-2012 to 13-07-2013, made all his monetary matters on the record maintained by Mr. Abdul Hadi.

Audit of the period from 01/07/2011 to 31/07/2013 has been conducted by the audit party of the Directorate of Higher Education, Peshawar covering the period of Mr. Abdul Hadi and Mr. Noor Zaman and the audit report is submitted to the Director Higher Education for information and necessary action. The names of the audit team were Mr. Fazli Rehman, AD (A) and Mr. Fazli Subhan, Assistant.

Issue of two Receipts produced by Muhammad Rehman and the same by Mr. Fazal Wahid along with their reply of Questionnaires served to them.

Mr. Muhammad Rehman produced two receipts of payment viz (B-4 and B-5) one of the amount Rs. 1893000/= signed by Ex-Principal, Mr. Fazal Wahid and allegedly paid to him (Fazal Wahid). Second receipt of the amount Rs. 865000/= allegedly paid to Mr. Parvez Khan, senior clerk and attested by Mr. Fazal Wahid. Mr. Fazal Wahid produced the same two receipts annexed as (A-42 and A-41) with the claim that the receipts are bogus, the amount recorded on the receipts is fake and only the signatures are genuine which had been obtained on blank papers for the purposes to be used in connection with his commutation and pension purposes, where the need be.

Mr. Fazal Wahid submitted one solemn statement (Annexure (A-84) and one affidavit on judicial stamp paper in support of his claim (Annexure A-85) stating and affirming his signatures on the receipts to be genuine (only the signatures) but the statement was false as it was written afterwards. Similarly the dates and the phrase (payment attested) were also fake and not written by him. According to Mr. Fazal Wahid, Mr. Muhammad Rehman came to his house and got blank papers signed for L.P.R and other uses as the college is at a remote area and due to problems of transport and communication, this practice was in vogue. Mr. Parvez Khan also declared the receipt and his signature as forged and fakes (Annexure (F-2.1 and F-2.2))

It is indeed surprising that the whole amount of money Rs. 865000/= of Zia ul Haq's tenure kept with Mr. Muhammad Rehman, as this amount was neither given by Mr. Zia ul Haq to Mr. Hidayatullah at the time of transfer of charge nor was deposited in the college Account or disbursed the due amount among the college staff accordingly. It was afterwards given to Mr. Parvez Khan on 10.05.2011 which is the superannuation date of Mr. Fazal Wahid. If Mr. Muhammad Rehman could pay Rs. 1893000/= to Mr. Fazal Wahid, then why did he not pay Rs. 865000/= to the same person say Mr. Fazal Wahid or the portion amount of GPF Advances to the real owners (Officers and Officials) whose GPF Advances had been drawn by him (Mr.

(28) 21/19

6

hammad Rehman). The timings and facts are not in consonance with the events. Even if these receipts are supposed to be correct, the keeping of entrusted money with him (Mr. Muhammad Rehman) for such a long time is itself embezzlement & obtaining these kinds of receipts at such time itself tantamount to fraud. Had Mr. Fazal Wahid involved in such type of embezzlement and corruption, there would have been no need of giving receipts or attesting the payment to any person for other's amount say Rs. \$65000/.

Therefore, the committee can safely declare the receipts contents to be bogus except signatures of Mr. Fazal Wahid which have been obtained fraudulently on the pretext of using for some other genuine purposes for which they were obtained. Hence Mr. Fazal Wahid and Mr. Parvez Khan may be absolved from burden and liability of both the receipts in question, being discreditable.

The period during which the college record including the college computer was taken away/ stolen and by whom criminal activities unleashed.

As per solemn statement of the college Chowkidar, Mr. Faqir Shahzada, verified by the other Class-IV servants, namely M/S Zair Nabi, Abid Hussain, Muslim Khan, Zakir Hussain, Hakim Zada, Sahib Gul, Sadiq Khan and Mr. Parvez Khan, senior clerk, attested by Mr. Abdul Hadi, former principal and now a staff member and endorsed by the then Principal of the college Mr. Noor Aman, the whole office record of the college and one computer, presumably containing the college record data in its memory, (A-78; D-3) was taken away out of the college by Mr. Muhammad Rehman Lab Asstt. of the college in a private vehicle. According to the chowkidar (Faqir Shahzada) he forbade him (Muhammad Rehman) by dissuading him (Muhammad Rehman) objecting as to why he was taking away the college record; he (Muhammad Rehman) replied that the then Principal Mr. Fazal Ghafoor had allowed him to do the same. As he (the then Principal) was not present in the college at that time, but when after a few days he came to the college, the matter was reported to him in the presence of above mentioned Class-IV employees and the senior clerk and that he had not returned the same to the college, but to no avail.

Also Mr. Parvez Khan, Senior Clerk of the college submitted his report to the then Principal of the college, to the effect that the college official record had been taken away by Mr. Muhammad Rehman out of the college. According to him, the detail of the office record taken away out of college premises by Muhammad Rehman is given therein, placed at (Annexure A-39 & D-2) which are reproduced as follows: 1. Cash Book; 2. Contingency Register; 3. Private Fund Register; 4. Stationery Register; 5. Stationery Stock Register; 6. Bank Pass Book and Cheque Book; 7. Receipt Statement; 8. Reconciliation Record; 9. Budget Record; 10. M.R.C Record; 11. Charcoal Register; 12. Staff Statement; 13. Private Statement Record; 14. The office record maintained in the college about GPF Advance of the class IV-Employees, etc. It is all the more surprising to note that the office record of the GPF Advance affectees in the GPF branch of the Directorate of Higher Education is also manipulated and tampered. There is no record of the applications forwarded by the concerned Principals to the Directorate of Higher Education on the basis of which GPF Advance sanctions were granted by the Director of Higher Education. This criminal act was aimed at vanishing the proofs to reach the actual person who forwarded the applications for the grant of GPF Advance to the Director of Higher Education, Peshawar. Convincingly the applications had been fraudulently forwarded on the forged signatures of the Principals of that time, when once the sanctions had been granted; the applications were removed from the GPF Advance file to destroy the foot prints of the root cause. In this context some of the copies of applications and copies of the sanctions (F-3.1; F-4.1; F-5.1 & F-5.2) were obtained by the Inquiry Committee bearing the signatures of Mr. Zia-Ul-Haq during his tenure of the Principalship/DDOship. When he (Mr. Zia-Ul-Haq) was asked to comment on the endorsements of the applications allegedly forward by him, he flatly refused to own the signature put on them terming them forged and recorded his remarks note on the photo states of the annexed allegedly forwarded by him to the Director of Education for the grant of PGF Advances. (The matter regarding such serious type of lapse in the GPF branch of the Directorate of Higher Education office

referred to the Director of Higher Education for thorough probe and remedial measures for future reference) Mr. Abdul Hadi in his tenure as Principal lodged formal complaint against Muhammad Rehman about the stealth of college records & gave the detail of documents taken away by him (D-5). Noor Zaman, the then Principal also gave his hand written statement endorsed by his predecessor Principal Mr. Abdul Hadi, stating that he took over the charge as the Principal of the college on 01/07/2012 and found the whole college record prior to 01/07/2011 missing and reported to have been taken away by one Muhammad Rehman and himself was continuously absent ever since he had taken over the charge (D-4). An FIR to this effect had been lodged by the then Principal. The case is pending in the court of law in which he is reportedly at large being absconder. (A-59; A-60; A-61; A-62; A-63; D-6; D-7; D-8 & D-9). Recently the sitting Principal has also tried to get registered a fresh FIR against Muhammad Rehman, Lab Asstt: in Post Commander, Levies Post Agra, demanding the recovery of college official record mentioned in the application Vide No 354 dated 11/2013. (D-1 & D-2).

The whole of the information sources to whom we consulted, unanimously and consistently, with all honesty and beyond reasonable doubt, confirm that the college official record had definitely been taken away by Muhammad Rehman, Lab Asstt: of chemistry of the college and that he is continuously absent from his duties.

The detailed estimate of embezzled money in various heads including GPF Advance, as collected from all available sources of information

The detail of the GPF, Advance amount as fraudulently drawn and embezzled pointed out by various inquiries conducted so far is specified as follows:

1. On the basis of initial report submitted to the Anti-Corruption Establishment Malakand and preliminary investigation made by the ACE, Malakand on 08/05/2011, the amount embezzled viz GPF Advance is Rs. 767900/= and that of other embezzlements Rs. 420500/= collectively Rs. 1188500/= was shown. Copies of the FIR and investigation report are placed at annexure (A-62 and A-63)
2. After going through the fact finding inquiry report compiled by Mr. Fazli Subhani, Principal, GPCC Dargai, Malakand, the committee got the information about amount embezzled by Mr. Muhammad Rehman is as follows. In GPF Advance Rs. 1332400/= and in other heads \$11600/= accumulatively Rs. 2144000/= (inquiry report is available in the office of DHE).
3. Inquiry report prepared on 08/08/2011 by Mr. Shafi, Assistant Accounts Officer, Mr. Sahibzada Shehryar, Senior Auditor and Mr. Essa Khan, Senior Auditor regarding GPF Advance embezzlement/fraud in DAO Malakand and found the amount embezzled in GPF Advance only is Rs. 1508500/= and the report is silent about rest of the embezzlements. This report gives no reference of the other amount under different relevant heads (Report is available in the office of DHE).
4. Mr. Muhammad Rehman and Ex-Principal, Mr. Fazal Wahid, both have produced two number of receipts, (exhibited as B-4 and B-5; A-42 and A-41) by former for certification of payment, and by later for rebuttal/denial of receipts terming them being fake respectively. The amount shown therein is Rs. 1893000/= signed by the Ex-Principal Mr. Fazal Wahid and Rs. 865000/= by Mr. Pervez Khan senior clerk and attested by Mr. Fazal Wahid, thus making gross total amounting to Rs. 2758000/=.
5. As far as GPF Advances are concerned the net amount assessed on the basis of written applications filed by the affectedes and forwarded by the principal under his endorsement No. 136 dated 08/04/2013 along with enclosure as annexed as annexure G-1 to G-10 to be Rs. 1535900/= and rest of the amount cannot be credibly ascertained due to the non availability of the authentic record.

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After examining the different available audit reports, the monetary part of which are placed as above, all give the different accounts of amounts so embezzled by Mr. Muhammad Rehman, Lab Assistant of Chemistry at GDC Agra, Malakand Agency.

There is no match in these amounts however, the two receipts produced by Mr. Muhammad Rehman and claimed to have been paid to Mr. Fazal Wahid Ex-Principal and Mr. Yez Khan, senior clerk, may be seen as a sort of self confessional amount on the part of Mr. Muhammad Rehman which is somewhat close to the tune of actual embezzlements amount. There is no office record of any transaction made during the period from 24/04/2007 to 30/06/2011. This is also reflected in audit report dated 10-12 September, 2013 submitted by Mr. Muhammad Rehman, Assistant Director Audit, and Assistant Auditor Mr. Fazali Subhan, Directorate of Higher Education Peshawar. (Audit report is available in the office of DME).

The above mentioned amounts vary therefore irreconcilable and none of them can be satisfactorily proved authentic or otherwise in the absence of authentic relevant record. Moreover, the above amounts partially indicate the detail of MRCs, A.C bills claimed and drawn plus the amount of TA/DA and charcoal allowance besides GPF Advances. So it becomes imperative first to recover the record from Mr. Muhammad Rehman, Lab, Asstt: through law enforcing agencies and thereafter authenticate the record, estimate the amount in question and take into account the views of experts in the field of Budget, Audit and Accounts of the Directorate of Higher Education for recovery purposes.

During the period w.e. from 24/04/2007 to 30/06/2011, five regular annual fiscal budgets and special grants, viz

1. 01-07-2006 to 30-06-2007 (from 24-04-2007 to 30-06-2007)
2. 01-07-2007 to 30-06-2008
3. 01-07-2008 to 30-06-2009 whole period of four financial years
4. 01-07-2009 to 30-06-2010
5. 01-07-2010 to 30-06-2011

were allocated and released to G.D.C Agra Malakand agency which have/had been supposedly utilized by the various incumbents, and no order ^{audit} was carried out for the above period.

The regular annual budget and the special grants for the financial year 2006-07 was spent by Mr. Fazali Chafoor as the Principal/DDO. The departmental audit was conducted up to 23-04-2007, the date of his retirement. Further audit from 24-04-2007 to 30-06-2011 could not be conducted for various reasons. During this period the regular budgets and special grants were utilized or supposed to be utilized by the concerned DDOs or in charge Principals whose detail is given below:

Mr. Zia-Ul-Haq

1. From 24-04-2007 to 30-06-2007; 2 months and 6 days from the remaining budget/ special grants allocated for the year 2006-07.
2. Full budget and special grants allocation for the year 2007-08.
3. From 1-7-2008 to 28-02-2009; 8 months out of the regular budget and special grants for the year 2008-2009.

Mr. Hidayatullah Khan

From 01/03/2009 to 31/03/2009, one month the college remains under the control ^{of} Mr. Hidayatullah, therefore one month expenditure out of 2008-09 regular budget and ^{special grants} was supposed to be supervised by Mr. Hidayatullah Khan.

Mr. Fazal Wahid

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1. 4, 5 and 6 three months of 2009 were utilized out of 2008-09 budget and special grants allocation by Mr. Fazal Wahid.
2. 2009-10 the whole regular budget and special grant was utilized by Mr. Fazal Wahid.
3. 2010-11 budget and special grant upto 10/05/2011 was utilized by Mr. Fazal Wahid and retired on 10/05/2011 (A.N).

r. Hidayatullah Khan

From 11/05/2011 to 30/06/2011 the expenditures were again made by Mr. Hidayatullah Khan out of 2010-11 regular budget and special grants.

Hence, in the absence of authentic record, no definite and categorically just and final position can be delivered about the actual and factual amount embezzled during the period mentioned above. However, as a matter of fact during this period corruption was rampant and a large amount has been embezzled and lot of corruption took place in the college.

The committee recommends that the regular budget and the special grants allocated to DC, Agri w.e.f. 24/04/2007 to 30/06/2011 for the non-audited period (salary, non-salary and special grants) may be reconciled from the DAO, Malakand by the experts in the field of budget and account branch and audit branch of the office of Directorate of Higher Education and the amount not qualified thus not justified by the audit party may be treated as embezzled and be recovered from the officers/officials as per percentage given against each as recorded in the recommendations.

As far as pupils fund and Govt. fee collected by the admitted students, all kinds of scholarships, donations and endowments, etc. during the period not audited from 24-04-2007 to 30-06-2011 are concerned, it cannot be calculated without the availability of the credible official record which has allegedly been taken away by Mr. Muhammad Rehman, Lab. Assistant of the college.

the role of the District Accounts Office Malakand and that of the related Bank Branches in the embezzlement by Mr. Muhammad Rehman

The committee started to discover how the cheques issued to various Officers/officials could be encashed for GPF advances amount from the bank unless they were opened by the accounts Officer and verified by the dealing employees of the bank, who processed the cheques. Processed Cheques were opened which made withdrawal possible. Had the cheques not opened, there were least chances of amount could have been drawn. It means the District Accounts Officer, Malakand was in league with Mr. Muhammad Rehman and to certain extent, the dealing employees, through whom, the cheques were processed and the related Bank officers and officials specially the Cashier who finally made payment seem accomplice.

The ugly business of GPF Advances extraction of the following officers/officials started during the tenure of Mr. Zia ul Haq's Principal ship/DDOship.

- 1) Prof. Shahab ud Din, initially Rs. 60000/=.
- 2) Prof. Fazal Wahid who later on became principal and now retired Rs. 204000/=.
- 3) Mr. Sher Muhammad, College Chekidar Rs. 25500/= or Rs. 30000/=.
- 4) Mr. Parvez Khan Senior clerk Rs. 84600/= or Rs. 88600/= which were taken out/drawn in January, April, August and October of 2008 by fraud.

The Accounts officer Malakand should have acted according to the rules of GPF Advance and should have started necessary deduction/recovery of GPF installments just in the following months and should have issued balance sheets on time. In that case, concerned people and

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People in general would have come to know about it and the money loss would have been avoided. The money drawn would have been made to pay to the real owners. And this ugly business would have come to a stop. People would have become conscious and careful. Similarly, extraction of GPF Advances of others by fraud and engulf would not have been possible. In this way the College and the Government Ex-chequer would have been saved from losses. So the Accounts Officer by not starting deduction of the due installments and no issuance of balance sheets at right time kept the concerned subscribers in dark of withdrawal of their GPF Advances. Consequently the fraud continued without check, and entered in the tenure period of Mr. Fazal Wahid via Mr. Hadayatullah who also remained unaware of his own GPF advance and all other ugly business going on all along and all around his tenure, though his was turbulent period due to Swat Military Operation against insurgency. In this way the accounts officer not only showed negligence from his official duty but also became part of the ugly business indirectly. Bank Officers/Officials also showed carelessness which tantamount to neglect of duty. This fraud did not face any resistance at any step. In this regard SMSs and applications of Mr. Muhammad Rehman were worth noticing, which form weighty nexus. Therefore this committee considers the Accounts Officer and his GPF related staff equally responsible and can be held accountable and also shows its regret at related Bank Officers/Officials.

It is very astonishing for the Inquiry Committee to observe that the fraudulent draws of GPF advance started w.e.f January, 2008 and continued unabated to November 2009. Neither the deductions of the necessary installments from the salaries of the concerned subscribers were made nor were the Balance Sheets of their GPF ever issued in due course of time. But the sooner in the leakage of information about the embezzlement and corruption, the Director Higher Education appointed Mr. Fazli Subhani, the Principal GPGC, Dargai, Malakand Agency for the inquiry of the matter on 20/06/2011 vide No. 16232/CA-VII/Estt;Branch dated Peshawar the 20/06/2011, the very next day, i.e., on 21/06/2011, the corresponding process was initiated/activated by the DAO, Malakand by issuing a letter No. DAO/Mkd/Fund/2010-11/2445 dated 21/06/2011 to the Principal GDC Agra, Malakand Agency (Copy not traceable) about the matter in question, followed by two more such letters No. DAO/MKD/FUND/2010-11/3534-35 dated 12/07/2011 (annexure-E2) and No. DAO/MD/G.4/2011-12/3552-65 dated 16/07/2011, annexure-E-3) vividly in quick succession in response to a joint application moved by i. Mr. Iqbal Zada Mati, ii. Mr. Zair Nabi Naib Qasid and iii. Mr. Pervez Khan, Senior Clerk requesting for the stoppage of GPF Advance recoveries' installments (Annexure E-1) which indicates close and live co-ordination of network amongst various axes operating at different stations/corners. One can think how strong is the vicious circle against a poor principal/DDO rendering him (Principal) ignorant and helpless.

CONCLUSION

Mr. Muhammad Rehman had been working from 2004 to 2011 as accounts clerk instead of Lab. Assistant. He has been too clever and crafty person. To control such person requires bold, shrewd and extremely vigilant DDO. The officers of the education department are normally of compromising attitude and repose trust in their sub-ordinates and do not harbor bad opinion about them. The clever and crafty take undue advantages of their simple nature. What should a principal/DDO do when accounts office and other relevant offices and the bank management help such a crafty man against the DDO. Taliban unrest in the area also facilitated the crafty characters to take undue advantages. Mr. Rehman's indulgence in corrupt practices is also evident from his receipt, SMS's records produced by Mr. Fazal Wahid and cheques issued to some officers/officials and forged entry of Fazal Hayat (Annexures A-43, A-44, A-45, B-19, B-21, A-46, A-47, A-86.1, A-86.2, A-86.3 and A-48). The cross cheques were deliberately and

of Higher Education about the ... to save ... with D.A. for return ... kept with ... the joint

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purposefully opened which resulted in withdrawal GPF advances, Govt. grants from the treasury and the banks. In this way account officer Malakand not only went against the call of his duty relating him to follows rules and regulation but became part of fraud. The bank officials and officers also acted without cautions and prudence. This also amount to neglect of duty. The ugly business did not face any obstacle at any point. Therefore this committee regards the account officers and the concerned officials as partner in the crimes and also shows utter regrets at the responsible behavior of the bank officers and officials

All the college financial documentary record was taken away from the college by Muhammad Rehman in the tenure of Mr. Fazal Ghafoor with presumably collusion and consent of the incumbent, Mr. Fazal Ghafoor. He connived with Muhammad Rehman and did not take prompt steps to recover the lost record by evolving right strategy necessary for the safe return of record back to the college. He, as a matter of fact, laid the foundation of fearless corruption.

Mr. Zia ul Haq showed criminal silence and put curtain on crimes committed by Mr. Muhammad Rehman. He did not take prompt action to force Muhammad Rehman to bring back stolen monetary documentary record. His timely action would have saved the whole debacle. This ugly business would have been stopped at early stages. He could have chained the main character Muhammad Rehman and other abettors viz officers/officials of accounts office, Directorate of Higher Education, and the banks. In this way the college and the public Ex-checker would have been saved from further damages.

Mr. Hidayatullah Khan had responsibilities of taking the charge twice. He also remained part of the senior staff members for a long time. He deliberately did not play his due role as a Govt. officer for the stoppage of the ongoing crimes. He played the role of a silent spectator which amounts to the betrayal of the responsibilities of a Govt. officer, the infringement of Govt. trust, which the Govt. reposes in its gazetted officer as employer.

The committee agrees with the contents of the applications of the notables of the area, namely Haji Noor Zamin Khan CNIC No. 15402-1425385-9, Haji Bahri Karam CNIC No. 5402-8983435-5 and Haji Raidad Gul CNIC No. 15402-9541134-5 (Annexures E-4.0 and E-4.1) also (Page No. 31 and 45 and 48-50; of Mr. Subhani's Report) filed with Mr. Fazli Subhani, the Principal GPGC Dargai, Malakand Agency that Mr. Fazal Wahid is a simple, pious and an innocent man. He is as well not involved in the embezzlement/corruption but is tactfully trapped in the corruption scandal- a drama staged by the real characters/perpetrators. Some references are of paramount importance (Annexures A-04, E-5, E-6, E-7, E-8, E-9, E-10, E-11, E-12, E-13 and E-14). The irony of fate/circumstances is given him enough punishment in the form of suspension of release of commutation and pension for such a long time. His misfortune that despite several attempts he could not get transferred to the Govt. Postgraduate, Jahanzeb College, Saidu Sharif, Swat (Annexures A-15, A-16, A-18 and A-19) and had to retire from the same very college after reaching the superannuation. There were extraneous circumstances for his failure to effectively control the management, such as, the sooner he assumed the charge of Principal/DDO, army operations started and continued for about one year in his tenure. Also during his tenure he met different fatal accidents due to that his health broke down and he became physically handicapped thus inactive. The college lies at a remote mountainous terrain with difficult approachability and not easily commutable. Consequently it became not possible for him to travel all along to different offices and keep himself abreast with routine development. The letters he used to write to the Director of Higher education were not allowed to reach their destination because of erecting a strong wall around him. This wall developed news blackout due to the creation of communication gap between the college and the Directorate of Higher Education. Once he himself visited D.H.E, Peshawar with (19) pages written report/documents intended to submit directly and discuss verbally in detail with the Director of Higher Education.

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an unfortunately could not meet the Director of Higher Education as he had gone to Kohat on official visit. When Fazal Wahid came to know about the mismanagement of the money, corresponding are found on the record that he did struggle to save the system from further deterioration. Authorities once issued to Muhammad Rehman to deal with D.A.O, Banks and the treasure were cancelled and Muhammad Rehman was issued many letter for return of official document in his custody and the money he had drawn fraudulently and illegally kept with him. Fazal Wahid tried to intimate the higher authority for the state of affair and solicited for the joint strategy to be evolved to curb menace. The letters written to DAO Malakand and the related bank were proved ineffective (Annexures A-5, A-12, A-21, A-22, A-23, A-24, A-25, A-26, A-27, A-40, A-69, A-74, A-76, A-77, A-78; B-3, E-19, E-20, E-21, E-22, E-23, E-24, E-25 and E-16). Those were the reason for his weak grip on the already withered affairs of the college. His effort to introduce a ameliorative reforms were baffled by the unscrupulous lobby of joint venture. This committee therefore recommends that his application A-4, E-15, E-16 and E-17 may be accepted and he may be issued NDC for the release of his commutation and pension according to spirit of FR-54A (Annexures A-6, E-18.1, E-18.2 and E-18.3). However, an affidavit on a judicial stamped paper be taken from him that if after any new minute scrutiny in future, any monetary misappropriation is found against him, recovery be made from him. In the instant case some penalties should befall him also.

RECOMMENDATIONS

In the light of above points, the committee recommends the following.

- i. Muhammad Rehman, Lab. Assistant stands the mega culprit. He may be got arrested for the recovery of the office record.
- ii. The Principal Fazal Wahid may be allowed commutation and pension benefit and an affidavit on judicial stamped paper offering the payment of any amount pointed out by the minute detail audit in future after the recovery of credible official record.
- iii. The concerned Accounts officer who dared to open the crossed cheques causing all this corruption may be penalized and inquiry to this effect be initiated against him.

Part A. GPF-Advance

The committee unanimously declares the amount viz, Rs. 1508500/= as reported by the Inquiry Committee comprising Mr. Muhammad Shafi, AAO, Sahibzada, Senior Auditor and Mr. Essa Khan, Senior Auditor to be the actual amount. The recovery of the said amount along with interest accrued therein may be materialized as per detail given below:-

- i. Mr. Muhammad Rehman, Lab. Assistant-----50%
- ii. The Dist. Accounts Officer, Malakand-----40%
(during the period from 2008 and 2009)
- iii. The Bank officer/official-----05%
(during the period from 2008 and 2009)
- iv. Mr. Muhammad Khalid, dealing clerk Directorate of Higher Education-----05%

Part B Budget and special grants

The committee had gone through the embezzlement amount from Budget and special grants, etc., and recommends that:-

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Budget and Accounts Branch of the Directorate may be directed to calculate the total amount of budget and special grant allocated to GC, Agra from the period (2006-2011). And the Branch to find the embezzlement out of this. The amount so calculated may be recovered as per following detail:-

i. Mr. Fazal-i-Ghafoor,	Ex-Principal-----10%
ii. Mr. Zia ul Haq	Ex-Principal-----10%
iii. Mr. Hidayatullah Khan	Ex-Principal-----05%
iv. Mr. Fazal Wahid	Ex-Principal-----05%
v. Mr. Fida Muhammad	Accounts officer-----05%
vi. Mr. Pervez Khan	Senior Clerk-----05%
vii. Mr. Muhammad Rehman,	Lab. Asstt.-----00%

Part C. Pupils fund and Tuition/Admission/ Hostel Fee

In order to estimate realization of pupils fund and Govt. fee, the experts from Budget, Accounts and the Audit Branches of the Directorate of Higher Education may be directed to form joint venture and visit GDC, Agra to search for exact strength of students duly admitted from 1st-Year to 4th-Year during the academic sessions starting from 2006 to 2011. This combined team should need members of admission committees constituted during different academic sessions, incharge students' affairs, bursar of the college, warden of the hostel and other members of the college administration during the unaudited period. The committee may also be directed to visit concerned BISE and the university to find out the exact numbers of students registered for that period and took exams. Result gazettes from 2006 to 2011 be consulted for cross checking of actual number of students admitted in the said period. The total amount so estimated may be added 10% extra for struck off students and for those who did not take exam for other reasons.

The difference between the genuine amount so estimated and that of Govt. fee deposited in Govt. treasury and pupils fund in the college account maintained in the bank may be reconciled respectively. All the money estimated should be subjected to audit for expenditure made in the period 24-04-2006 to 30-06-2011. The doubtful amount not satisfying the team may be declared as amount embezzled and be recovered from the following offers/officials as per percentage ratio given against each.

i. Mr. Fazal-i-Ghafoor,	Ex-Principal-----10%
ii. Mr. Zia ul Haq	Ex-Principal-----10%
iii. Mr. Hidayatullah	Ex-Principal-----10%
iv. Mr. Fazal Wahid	Ex-Principal-----10%
v. Mr. Pervez Khan	Senior Clerk-----10%
vi. Mr. Muhammad Rehman,	Lab. Asstt.-----50%

The report is submitted for perusal and necessary action please.

Committee:-

1. Prof. Munsif Khan,
Principal, GPGC, No.1 Aja. (Chairman)
2. Prof. Ajmal Shah
Principal, GDC, Khairabad (Mardan) (Member)
3. Prof. Qutbud Din
Principal, GDC, Lahor (Swabi) (Member)

33

**BEFORE THE PESHAWAR HIGH COURT BENCH/ DAR UL QAZA
SWAT AT MANGORA**

WRIT PETITION NO. 360-y/2016

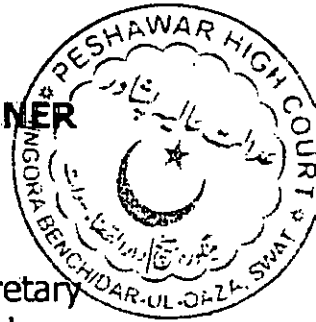
Mr. Muhammad Rehman, Laboratory Assistant,
Government Degree College Agra, District Malakand.

..... **PETITIONER**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Accountant General Khyber Pakhtunkhwa, Peshawar.
- 4- The Principal GDC Agra, District Malakand.
- 5- The District Account Officer, District Malakand.

..... **RESPONDENTS**



**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF THE ISLAMIC REPUBLIC OF
PAKISTAN 1973 AS AMENDED UP TO DATE**

R/SHEWETH:
ON FACTS:

ATTESTED

Examiner
Peshawar High Court Bench
Mingora Der-ul-Qaza, Swat.

Brief facts giving rise to the present writ petition are as under:

- 1- That petitioner was appointed as Laboratory Assistant in the respondent Department vide order dated 06-12-1994 on the proper recommendation of Departmental selection committee and after proper advertisement issued in the leading news paper. That in response the petitioner submitted his charge report and started performing his duty at the concern station quite efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure **A.**
- 2- That petitioner was transferred to Government Degree College Agra, District Malakand vide order dated 11-11-2003 wherein the petitioner submitted his charge report and started his duty as Laboratory Assistant. That all of sudden with out prior notice and fulfillment of codal formalities the respondent No.2 directed the respondent No.4 through letter dated 26.7.2011 to stop the salary of the petitioner till further order. That feeling aggrieved the petitioner filed Departmental Appeal to respondent No.2 but no reply was

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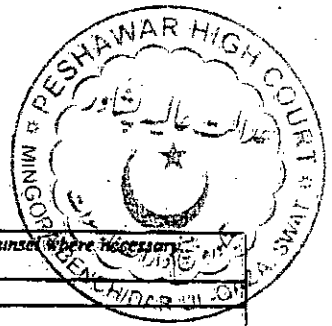
FILED TODAY
17 MAY 2016

34

PESHAWAR HIGH COURT, MINGORA BENCH
(DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

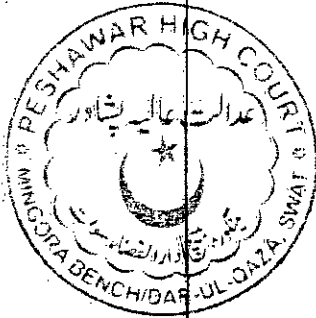
Court of
Case No..... of



Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary
1	2	3
	22.01.2019	<p><u>W.P No. 360-M/2016</u></p> <p>Present: Mr.Asghar Ali, Advocate for the Petitioner.</p> <p>Mr. Wilayat Ali Khan, Advocate for the Respondents.</p> <p>***</p> <p><u>MUHAMMAD GHAZANFAR KHAN, J.</u>- Through the instant Constitutional petition, the petitioner has prayed that:</p> <p>“on acceptance of this writ petition the inaction of the respondents by not allowing/releasing the salaries w.e.f 26.07.2011 till date may be declared as illegal, unconstitutional and ineffective upon the rights of the petitioner. That the respondents may further please be directed to withdraw the suspension order dated 13.09.2011 against the petitioner. Any other remedy which this august Court deems fit that may also be awarded in favour of the petitioner”.</p> <p>2. The petitioner was appointed as Laboratory Assistant in Education Department vide order dated 06.12.1994. After severing the department for several years, he was transferred to Govt. Degree College Agra,</p>

ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.



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ATTESTED

Examiner

Peshawar High Court Bench
Dar-ul-Qaza, Swat.

District Malakand vide order dated 11.11.2003. During service of the petitioner in the said college, Director Higher Education Commission (Respondent No.2) vide letter dated 26.07.2011 directed the Principal G.D.C, Agra District Malakand (Respondent No.4) to stop monthly salary of the petitioner against which he filed departmental appeal but the same was not answered as per his contention. Afterwards on the written report of Respondent No.4, a criminal case vide F.I.R No. 3 dated 08.09.2011 was registered against the petitioner under sections 409/419/420/468/471 P.P.C read with Section 5 (2) of the Prevention of Corruption Act, 1947 at police Station ACE, Malakand, hence, he was suspended by the competent authority w.e.f 09.06.2011 vide order dated 13.09.2011. Thereafter, another F.I.R dated 05.12.2013 under section 381 P.P.C was also lodged against the petitioner at P.S Agra on the report of Respondent No.4, however, he was released on bail in both the cases by this Court. Grievance of the petitioner is that inquiry report has been issued but no action has been taken on the basis of inquiry report rather he has been kept by respondents in suspended position without any legal justification, hence, the instant writ petition.

3. On the directions of this Court, the respondents

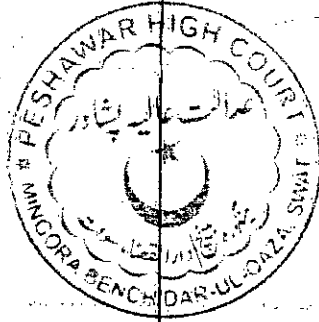
No.4 & 5 furnished their comments, wherein they have denied the claim of the petitioner.

4. Learned counsel for the petitioner argued that the impugned order of suspension and stoppage of salary is illegal, void ab-initio, and having no legal effect. He solicited for acceptance of this writ petition by declaring the order dated 26.7.2011 as illegal, unconstitutional and ineffective upon the right of the petitioner.

5. Conversely, the learned A.A.G contended that the matter squarely falls within the jurisdiction of the Khyber Pakhtunkhwa Service Tribunal as the petitioner is admittedly a civil servant, so, his termination, suspension and stoppage of salary relate to the terms and conditions of service, therefore, under the relevant provision of law and in light of the clear-cut bar created by law i.e. Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, this Court cannot adjudicate the matter in hand. He stated that the instant petition is not maintainable may be dismissed.

6. Arguments heard and record perused.

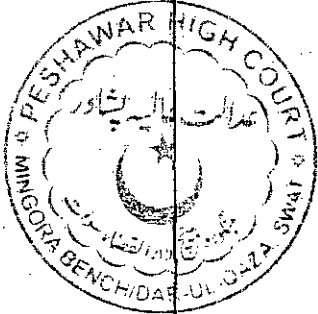
7. During the course of arguments, the learned



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Examiner
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Mingora, Dar-ul-Qaza, Swat.



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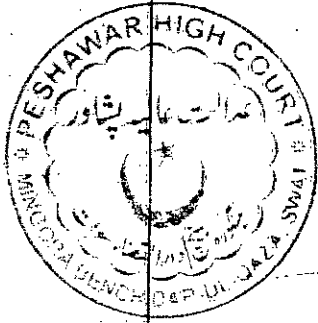
A.A.G produced a copy of the order dated 08.3.2018 passed by the Khyber Pakhtunkhwa Service Tribunal, Camp Court, Swat in the appeal filed by the present petitioner against his removal, whereby the appeal was allowed and the case was remanded back to the authority with the directions to issue proper charge sheet coupled with the statement of allegations regarding both the charges and complete the inquiry proceedings within a period of 120 days from the date of receipt of the order. In light of the said order, an inquiry committee was constituted and the petitioner was charge sheeted. The learned A.A.G also referred to plethora of the record in which the present petitioner was time and again asked to appear before the inquiry committee but he failed to appear before the committee on one pretext or the other. Since, the inquiry has been completed, so, if the petitioner feels himself aggrieved of the decision of the inquiry conducted by the department on the directions of the order of the Khyber Pakhtunkhwa Service Tribunal, he can avail his remedy under the law and instant writ petition before this Court is misconceived besides in view of the bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 it is not maintainable.

8. In light of the above, this writ petition being

misconceived is dismissed accordingly.

Announced
22.01.2019

~~JUDGE~~



Certified to be true copy

JUDGE

19-2-19
EXAMINER

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat.
Authorized Under Article 87 of Qanun-e-Shahadat Order 1984.

S.No..... *34*
Name of Applicant..... *Fazal Haq*
Date of Presentation of Applicant..... *19-2-19*
Date of Completion of Copies..... *19-2-19*
No of Copies..... *6-P*
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