

BEFORE THE HONORABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3618

Service Appeal No. 1341/2022

Dated 16/2/23

Mr. Sultan Rehman, (Ex-PST BPS-07) GPS Miana Doag No.1
Dir Upper.


Versus

1. Secretary to Govt of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Civil Secretariat, Peshawar.
2. Director, Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Coordination Officer, Dir Upper
4. -----
5. District Education Officer (Male) Dir Upper

..... Respondents

Index:

S.No	Description	Annexure	Page
1	Para Wise Reply		2-5
2	Affidavit		6
3	Authority letter		7
4	Copy of the removal order dated 23-01-2010	"A"	8
5	Copy of the notification dated, 16-08-2022	"B"	9


District Education Officer (M)

Dir Upper

Respondent No.5

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

Reply

In

Service Appeal No. 1341/2022

**Mr. Sultan Rehman, (Ex-PST BPS-07) GPS Miana Doag No.1
Dir Upper.**

Versus

1. Secretary to Govt of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Civil Secretariat, Peshawar.
2. Director, Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Coordination Officer, Dir Upper
4. -----
5. District Education Officer (Male) Dir Upper

..... Respondents

**PARA WISE REPLY ON & FOR BEHALF OF
RESPONDENTS, No.1, 2, 3 and 5.**

Respectfully sheweth:-

PRELIMINARY OBJECTIONS.

1. That the Appellant is not the "aggrieved" person with the meaning of Article 212 of the Constitution of the Islamic Republic of Pakistan 1973.
2. That the Appellant has got no cause of action /locus standi.
3. That the Appellant has not come to this Honorable court with clean hands.
4. That the Appellant is estopped by his own conduct.
5. That the instant service appeal suffers from laches hence, not maintainable in the present form.
6. That the instant appeal is liable to be dismissed for mis-joinder of unnecessary and non-joinder of necessary parties.
7. That the impugned orders dated 23/01/2010 & 16/08/2022 are legally competent and liable to maintain being the outcome of due process of law and procedure.

ON FACTS.

- 1) Para-1 of the facts pertains to Appellant service records hence needs no comments.
- 2) Para-2 of the facts pertains to record hence needs no comments.
- 3) Para-3 of the facts also pertains to record, needs no comments.
- 4) Para- 4 of the facts is incorrect, and further stated that the Appellant was involved in anti-state activities and in this regard proper inquiry was also conducted, and after filing of a F.I.R, the Appellant was put behind the bar as well as a major penalty of “removal from service” was also imposed upon him by respondent No.4.

(Copy of the removal order dated 23-01-2010 is attached as “A”)

- 5) Para-5 of the facts is correct that during the period of war against terror in Khyber Pakhtunkhwa, “between” 2008 to 2013 all those employees who were involved in anti-state activities, were removed from service as per law and rules. So far to the extent of the Appellant, a complaint was filed against him, in which a proper inquiry was conducted and after proving the said allegation the Appellant was removed from service, under the charge of involvement in anti-state activities.
- 6) Para-6 of the facts is correct, but further stated that the appellant was acquitted by giving benefit of doubt.
- 7) Para-7 also needs no comments. Details have been submitted in the facts above.
- 8) **Para-8** correct to the extent of inquiry dated 23/01/2010 by the Deputy Commissioner Dir Upper against the appellant whereas he was found guilty of anti-state activities and the appellant was absent from his duty.
- 9) Para-9 pertains to record. Hence, needs no comments.
- 10) Para-10 pertains to record. Hence, needs no comments.
- 11) Para-11 is correct to the extent of the departmental appeal dated 22-06-2022, however it is stated that the a complaint was filed against the appellant with the claim of involvement in anti-state activities, a proper inquiry was conducted , and a F.I.R was also filed against him, after arrest, he was put behind the bar and remained absent from his duty since long , so on the basis of charges leveled against him, the Appellant was removed from service, after acquittal (although benefits of doubt has been given) ,

a time barred departmental appeal before the competent authority, showing leniency on the past service of the appellant, the major penalty “ removal from service” was converted into “ Compulsory retirement from government service” vide notification dated 16-08-2022.

(Copy of the notification dated, 16-08-2022 is attached as “B”)

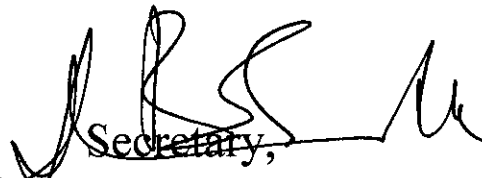
- 12) Para-12 of the facts pertains to record, needs no comments.
- 13) Para-13 of the facts needs no comments.


GROUNDS


- A. Incorrect, hence denied. The department always follows rules and polices in letter and spirit. The notification dated 16-08-2022 is issued as per law, rules and policies and the appellant has been treated as per Article 4 of the Constitution of Islamic republic of Pakistan.
- B. Incorrect, the act of the department is in accordance to the provision of Articles 24-A of constitution of Pakistan 1973.
- C. Incorrect, the plea of the appellant is against the law and rules.
- D. Incorrect, hence denied the appellant has not been acquitted with honor, he has been given benefits of doubt.
- E. Incorrect, due process of law and procedure has been followed by the department.
- F. Incorrect, formal inquiry has been conducted against the charges leveled upon the appellant by the Deputy coordinator officer (DCO) concerned. Which was proven and on the basis of such charges, he was arrested.
- G. Incorrect, the act of the department is legal hence, liable to be maintained.
- H. Incorrect, need no comments. Details have been submitted in the facts above.
- I. Pertains to record, needs no comments.
- J. Pertains to record, needs no comments.


K. Legal; however, the official respondents also seek permission for additional grounds during arguments.

It is, therefore, humbly prayed that on acceptance of the above submission, the instant Service Appeal may very graciously be dismissed in favor of the answering respondents with cost.


Secretary,
E&SE Peshawar
Respondent No.1


Director,
E&SE Peshawar
Respondent No.2


District Education officer
Dir Upper
Respondent No.4&5


DCO/DC
Dir Upper
Respondent No.3

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

Reply

In

Service Appeal No. 1341/2022

**Mr. Sultan Rehman, (Ex-PST BPS-07) GPS Miana Doag No.1
Dir Upper.**

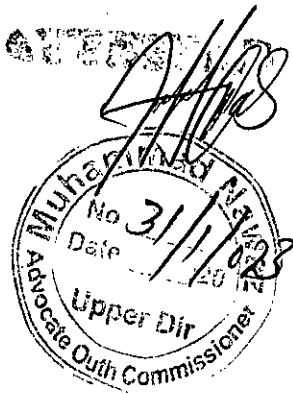
Versus

- 1. Secretary to Govt of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Civil Secretariat, Peshawar.**
- 2. Director, Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.**
- 3. District Coordination Officer, Dir Upper**
- 4. -----**
- 5. District Education Officer (Male) Dir Upper**

..... Respondents

Affidavit

I, Syed Alam Zeb Shah, office of the DEO (M) Dir upper, do hereby solemnly affirm and state on oath that the whole contents of this reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this August court.



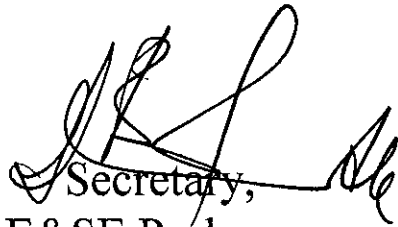
**Deponent
Syed Alam Zeb Shah**


Authority Letter


Mr. Syed Alam Zeb Shah, IT Teacher Designate as Legal adviser by the Office of the District Education officer Male Dir upper is hereby authorized to submit the reply in the

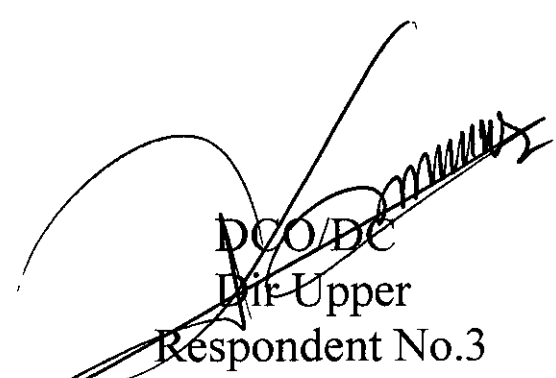
Service appeal No.1341-2022

Titled; Sultan Rehman Vs Government of KP and others on and for behalf of the under signed.


Secretary,
E&SE Peshawar
Respondent No.1


Director,
E&SE Peshawar
Respondent No.2


District Education officer
Dir Upper
Respondent No.4&5


DCO/DC
Dir Upper
Respondent No.3



(B) 25

Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

NOTIFICATION

1. WHEREAS, Mr. Sultan Rahman Ex-PST GPS Miāna Doag No.1 Resident of Shat Kass District Dir Upper was appointed as PST on 12-05-1987, performed his duty till 05-05-2009 and he was proceeded under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, on account of charges of involvement in Anti-State activity being remained absent.
2. AND WHEREAS, The District Education Officer (Male) Dir Upper Imposed major penalty of "Removal from Service" upon Mr. Sultan Rahman Ex-PST GPS Miāna Doag No.1 Resident of Shat Kass District Dir Upper vide No. 489-92 Dated: 23-10-2010.
3. NOW THEREFORE, In exercise of power conferred upon by the Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar, being appellate authority after having examined the evidences on record is pleased to accept the appeal under Rules (17)(2)(C) of E&D 2011, and convert the major penalty into "Compulsory Retirement from Government Service" upon Mr. Sultan Rahman Ex-PST GPS Miāna Doag No.1 Resident of Shat Kass District Dir Upper under Chapter-III Rule (5)(b) under clause (a) of Section 13 of Civil Servants Act-1973 as mentioned in Khyber Pakhtunkhwa Civil Servants Pension Rules-2021, in the best interest of public.

(Dr. Hafiz Muhammad Ibrahim)

DIRECTOR

Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Dated Pesh: the 16/08/2022.

Endst:No: 6209-12 /PF: Appeal for Re-Instatement in Servicet/Estab (M-1)

Copy forwarded for information to the:-

1. District Education Officer (Male) Dir Upper.
2. District Accounts Officer Dir Upper.
3. Mr. Sultan Rahman Ex-PST GPS Miāna Doag No.1 Resident of Shat Kass District Dir Upper.
4. P.A, to Director Elementary & Secondary Education, Local Directorate, Peshawar.
5. Master File.

16/8/22
Assistant Director (Estab-1)

Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar