BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

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Service Appeal No. 1341/2022

Dated 16/2/23

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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 Deportment, 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

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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.

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- 1. Secretary to Govt of Khyber Pakhtunkhwa, Elementary and Secondary Education Deportment, Civil Secretariat, Peshawar.
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..... Respondents

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

Respectfully sheweth:-

PRELIMNARY 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.

E&SE Peshawar Respondent No.1 Director, E&SE Peshawar Respondent No.2

District Education officer
Dir Upper
Respondent No.4&5

Dir Upper Respondent No.3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Re	pl	y
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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 Deportment, 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.

Dolo Upper Div de Commission

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

Respondent No.3

ANEX- #

OFFICE ORDER.

Whereas I Munammad Javen Marwal District Coordination Officer Upper Din as competent authority under Section 7(a) and 3 of Murth West Frontier Previous Removal from Service (Special Powers) Ordinance 2000 as amended from time to time, and of the opinion that the following officials of Elementary & Secondary Education Department Upper Dir nave rendered themselves liable to be proceeded against as they committee the following acts of omissions/commission within the meaning of section 3(b) and 2 (i) of the North West Frontier Province Removaline Service (Special Powers) Ordinance 2000 as amended vide NWSP Removal from Service (Special Powers) Amendment Ordinance 2009

- 1. Mr. WalfullahiCT GHS Misons Joaq are Ismail do Shat Kas. In a Bir.
- 2. Mr.Latifullab Cit GPS Wars Coag s/o Sacre Gul tio Short Assaulpher Director
- 3. Mr. Shakirullah PST GPS Vilani Borg sio Azizuli ibi ric Sout Kass Upper
- 4 Mr. Suttan References South Services Board South State Control Doug

"High they are inveryor or entilliate activities will are militarial assignitation for my report received from Provincial conventment through the office of Commissioner Matakand I vision vision when Memo Noi39-45/53/C dated 69-61-2018. This is on the part of the officel concerned against the office discipling of mounts of numbers of any appropriate.

And whereas for the purpose of scrutinizing, the anount of the above accused officials with reference to be above allegations an initially committee donessing of the inflowing officials was constituted to be southed 5 of the Ordinance of recommendation of Executive Mistrict-Orace Clampitary a Secondary Education appear for the No. 733? dated to 34.2016 to or much inquiry in respect of orligials at S No. 3. So far the official at S No.4 is concerned; the EDC E&SE was authorized to conduct incurry against himsand as such the FDC vide order No. 7195-98/F-26/EDC/ADO(Set) dated 5, 2019 rotined the inquiry committee against him.

a) Mit (wonernmed Fang-Principal OrtS Samser a) Transpal Ram missa wastur SatS Rehankot (

- 3 And whereas in order to assist the inquiry Committee, the FDO incommittee with the undersigned included the following officers in the inquiry committee as well
 - a. Qaşim'Uzn HM DDO(M)Dir.
 - h. Taj Bagir ADC (S) Dir.
 - ic. Sadio Jan ADO Circle ອີເກະ 1
 - d. Mohamman Allen St. SMS Codg P
- And whereas Stronger of allegation and Charge Strong Page to the accused officials.





Directorate of Elementary and Secondary Education

Khyber Pakhtunkhwa Peshawar

NOTIFICATION

- 1. WHEREAS, Mr. Sultan Rahman Ex-PST GPS Miana 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 GRS Miano 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 Miana 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 6209-13 Dated Pesh: the 16 0 72022. F: 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.
- B. Mr. Sultan Rahman Ex-PST GPS Mlana Doag No.1 Resident of Shat Kass District
- 4. P.A, to Director Elementary & Secondary Eduçation, Local Directorate, Peshawar.
- 5. Master File.

sistant Director (Estab-1)

Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar