

BEFORE THE KHYBERPAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No 1375 of 2022

Mr Muhammad Kabeer Ex Chowkidar (BPS-01) GGPS Karang

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3931

Dated 28/2/2023

Appellant

VERSUS

1. The Secretary, Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
3. The District Education Officer (F), District Kohistan, Khyber Pakhtunkhwa, Peshawar.



Respondents

JOINT PARAWISE COMMENTS FOR & ON BEHALD RESPONDENT NO. 1,2, & 3

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Dated: 20-02-2023


Respondents No.03

District Education Officer,
(Female) Kohistan Upper

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Respondents

JOINT PARAWISE COMMENTS FOR & ON BEHALD RESPONDENT NO. 1,2, & 3

Respectfully Sheweth:

PRI LIMINARY OBJECTIONS:

- I. That the appellant has no cause of action / locus stand to file the instant appeal.
- II. That the appellant has concealed the material facts from the honorable tribunal.
- III. That the appellant has not come to his honorable tribunal with clean hands.
- IV. That the appellant has filed the instant appeal on malafide grounds.
- V. That the appeal is against the prevailing law and rule.
- VI. That the appellant is stopped by his own conduct to file instant appeal.
- VII. That the claim of the appellant is unlawful, hence the appeal is liable to be dismissed.

Factual Objections:

1. Para No. 1 of the appeal relates to appellant's service record, hence no comment.
2. Para No. 2 of the appeal relates to appellant's service record, hence no comment.

3. Para No. 3 is incorrect hence denied further stated that as per visit report of SDEO/ASDEO the appellant remained willfully absent without prior permission of competent authority.
4. Para No 04 is incorrect hence denied as the appellant has be treated as per rule and law that the appellant was found absent repeatedly by the ASDEO circle. Show cause notice was served to the appellant, but the appellant neither joined his duty nor submitted convincing replies within a stipulated time period. That after fulfillment of all Codal formalities the respondent issued his compulsory retirement order on 09-09-2021.

(Copy of ASDEO report is attached as Annexure "A", Show cause notice as Annexure "B" compulsory retirement order as "C" and rejection of appeal as "D")

5. Para No. 5 is incorrect, hence denied as the appellant did not submit appeal before the appellant authority in time. His appeal is badly time barred and the authority rejected his appeal.

Copy of appeal rejection by the authority is annexed as "annexure D")


6. Para No. 6 that the appellant is not aggrieved one, his appeal is badly time barred, and the appellant did not come to this tribunal with clean hands, hence liable to be dismissed with cost.

GROUND

- A). Para 'A' of the ground is incorrect, hence denied as the appellant has been treated as per rule and law. A detail reply has been given in Para No. 4 & 5 of factual objection.
- B). Para 'B' of ground is incorrect hence denied. The answering respondents has not violated any article of the constitution of republic of Pakistan 1973. The appellant has been treated as per rule and law.
- C) Para 'C' of the ground is incorrect hence denied detail reply is given in Para No. 4 and 5 of factual objections.
- D) Para 'D' of the ground is incorrect hence denied as the reply is given in above Para No. 4 of factual objections.
- E) Para 'E' of the ground is incorrect the ASDEO/SDO visited duty station of appellant on 14-06-2021 and reported him absent from his official duty.
- F) Para 'F' of the ground is incorrect. The act of the answering of the respondent is as per rule and law
- G) Para 'G' of the ground is incorrect hence denied as stated above Para No.4 & 5 of factual objections.

H) That the respondents seek permission to advance other grounds and proofs at the time of hearing.

It is therefore, in the light of above stated facts and circumstances, it is very humbly prayed that appeal being time barred and devoid of merit may please be dismissed with cost.



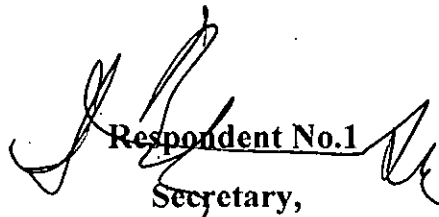
Respondent No. 3

**District Education Officer,
(Female) Kohistan Upper**



Respondent No.2

**DIRECTOR
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar**



Respondent No.1

Secretary,

**Elementary and Secondary Education
Khyber Pakhtukhwa Peshawar**



(5)

6 A,

144

**OFFICE OF THE ASSISTANT SUB DIVISIONAL EDUCATION OFFICE (F) KANDIA
KOHISTAN UPPER**

No. _____ /ASDEO (F) KH Dated Dassu the _____ /2021

To

The Sub Divisional Education Officer
(Female) Dassu Kohistan.

Subject: - Visit Report of ASDEO (F) Circle Seo Kandia for the month of 06/2021

S/No	Dated	Name of School	Observation	Remarks
1	02-06-2021	GGPS Seglo	<p>I have paid a surprise visit the said school was closed again and again closed. There are no teaching staff and nor the class IV. My last surprise visit the said school was also found closed dated on 28-04-2021, 26-05-2021 but not take action against the said staff. Detail of the said school are as under.</p> <ol style="list-style-type: none"> 1. Mst: Fazilat Begum PST (749200) (Absent) ✓ 2. Mst: Kalsoom Bibi PST (729517) (A) ✓ 3. Mst: Musrat Gul PST (331980) (A) ✓ 4. Mr. Muhammad Nabi Class IV (439761) were found absent from their duties without intimation of the office. And reports are already submitted for your perusal and necessary action. <p>Note: Musrat Gul PST applied for retirement and case was under process in DEO Office female</p>	✓
2	02-06-2021	GGPS Tayab Abad	<p>During my surprise visit the Class IV Mr Imran Khan was present in the school while the teaching staff namely Mst Kalsoom Bibi PST (729524), Mst Asma Saif PST (499186) were again and again absent without intimation of the office. It is communicated with community that the teachers were appointed in this school but she performing regularly duties due to this our female children's were deprived of proper education. I submitted the school reported several times dated on 01-04-2021, 28-04-2021, 26-05-2021 and now but not take action about this school staff.</p>	Surprise Visit ✓ Absence S/C
3	07-06-2021	GGPS Thooti	<p>During my surprise visit the said school was again found closed there were no teaching staff and nor class IV My last surprise Visit the said school was also found closed dated on 04 May 2021 but not take against the said staff are as under</p> <ol style="list-style-type: none"> 1. Mst Gul Nar PST (388474) Absent ✓ 2. Mst Gul Taj PST (388934) Absent Removal ✓ 3. Mr Ajab Khan Class IV (537285) Absent ✓ <p>Showcase noticed already issued dated on 3 feb 2021 but not interested and serious to given reply up till now it is humbly requested to take strict action against the said school staff.</p>	✓
4	07-06-2021	GGPS Karang	<p>The undersigned visit of said school was found again closed. There were no teaching staff and nor the non-teaching staff. All school staff were found again absent from their duties. My last SQMI Visit the said school was also found closed dated on 13-04-2021 but not take action these staff. Local community verbally and written statement that the all school staff permanently absent many year. Local community are again requested higher authorities to pleas took into this matter and take action against these teachers. So the female's students can get proper education. The monitoring team is not reported about school staff. My last report already submitted for your perusal and necessary action. The detail of the said school staff are as under:</p> <ol style="list-style-type: none"> 1. Mst: Asmat Bibi PST (332266) (Absent) ✓ 2. Mst: Shabnam Afiyat PST (499172) (A) ✓ 3. Mr: Muhammad Kabir Class IV (331749) (Absent) ✓ <p>Therefore, it is humbly requested to take strict action above mentioned staff under the E&D rule 2011.</p>	Surprise Visit ✓
5	10-06-2021	GGPS KhehGabrial	<p>At the time of my surprise visit the said school was found again closed. All school staff were absent from their duties since long time without intimation of the office and also school record was missing physically school building was found worst in condition. My last SQMI visit the said school was also found closed dated on 14-04-2021 but not take action against the said absent staff. Local community verbally and written statement that the all school staff parentally absent many years. And further reported our female children's illiterate generation to generation and also remained without getting education local community again requested to higher authorities to please look into this matter and take action against these staff. So the female students can get proper education. Monitoring team is not visit our school and nor education department. The detail of the school staff are as under.</p> <ol style="list-style-type: none"> 1. Mst: Nasreen Bibi PST (436446) Absent ✓ 2. Mst: Musrat Nadir PST (334845) (A) ✓ 3. Mst: Abida Ishaq PST (499179) (A) ✓ 4. Mr. Muhammad Dawood Class IV (Present) ✓ <p>Therefore it is humbly requested to take strict action about the absent staff under the E&D rule 2011. My last reports already submitted for perusal and necessary action.</p>	Surprise Visit ✓

ASDEO (F)
Circle Seo Kandia
14/06/21



(6) 'B, (95)

OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE KOHISTAN UPPER

Email: Dofemalekohistanupper@gmail.com- 0998407225

Show Cause Notice:

I, Muhammad Amin District Education officer (F) Kohistan Upper, the Competent Authority under the Khyber-Pakhtunkhwa Government Servant Efficiency & Disciplinary, Rules 2011, do hereby serve upon you, Mr. Muhammad Kabir Chowkidar GGPS Karang for the following charges;

1. As per report of SDEO/ ASDEO Circle Seo Kandia on 07-06-2021 and 13-04-2021 you willfully remained absent from your duty and school was found closed without proper permission/intimation or leave .
2. Therefore, you are directed to resume your duty immediately and show cause of your absent period with solid reasons.
3. Thus you proved negligent and subvert government official and you have committed the gross act/omissions of misconduct, inefficiency, subversion, specified in Rule 3 of the mentioned rules.

As a result, thereof, I as the Competent Authority, have tentatively decided to impose upon you, the major penalty of removal from service and recovery of illegal pay of your absent period, mentioned in Rule 4(1), (a) and (b), of the ibid Rules.

You are, therefore, required to show cause as to why one are more penalties in sub rule No.4(a) and 4(b) provided in the aforesaid Rules should not be imposed upon you and also intimate whether you desire to be heard in person.

If no reply on your behalf to this effect is received, to this office, within 07 days of delivery of this show cause, it shall be presumed that you have no defense to put in and, in that case, Ex-parte action will be taken against you.

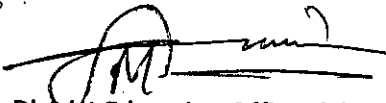
(Muhammad Amin)
District Education Officer (F)
Kohistan Upper.

Endorsement No. 4482-87

Dated: 02/08 //2021.

Copies for information and necessary action forwarded to the:

1. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner Kohistan Upper.
3. The PA to District Education Officer (F) Kohistan Upper.
4. The Deputy District Education Officer (F) Dasso, Kohistan Upper.
5. Mr. Muhammad Kabir Chowkidar GGPS Karang .
6. Copy to Master File for record.


District Education Officer (F)
Kohistan Upper.

Acknowledgment: I _____ received my copy.

Signature: _____ Date: _____

(7) 'C' (178)

OFFICE OF DISTRICT EDUCATION OFFICER (FEMALE)
KOHISTAN

OFFICE ORDER/ COMPULSORY RETIREMENT

01. **WHEREAS** as per the numerus complaints received to the undersigned through various means the following Chowkidars remained absent from their duties without any prior permission or leave for several years.
02. **WHEREAS** their schools remained closed/Non-functional during the repeated visits of EMA.
03. **WHEREAS** they were reported absent by EMA time and again during the visits of the concerned DCMAs.
04. **WHEREAS** they put their fake attendance in the school registers at their home.
05. **WHEREAS** the concerned ASDEOs were directed to verify their absenteeism.
06. **WHEREAS** the concerned ASDEOs confirmed/verified their absenteeism as per their report.
07. **WHEREAS** show cause notices were issued to them vide the references made against their names.
08. **WHEREAS** they failed to reply their show causes/inconvincible reply within the stipulated period.
09. **WHEREAS** they failed to avail the chance of personal hearing.

Therefore the undersigned being the competent authority, do hereby impose **Major Penalty of Compulsory Retirement**, upon the following Chowkidars under Rule 4(b) ii of E&D Rules 2011, with immediate effect, in the interest of public service.

S.No	Name of Teacher with designation	Name of School	Show cause reference	Remarks
01	Muhammad Nabi Chow	GGPS Sigloo	No.4152-57 dated:02/08/2021	
02	Ajab Khan Chow	GGPS Thooti	No.4164-69 dated:02/08/2021	
03	Muhammad Kabir Chow	GGPS Karang	No.4182-87 dated:02/08/2021	
04	Imran Khan Chow	GGPS Tayyab Abad	No.4217-22 dated:02/08/2021	

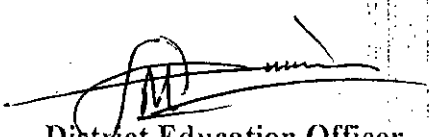
9/13/21

MUHAMMAD AMN
District Education Officer
(Female) Kohistan

Endstt; No. 4597-4606/DEO (F) KH Dated: 09/09/2021

Copy of the above forwarded to the:-

01. PS to Secretary Elementary & Secondary Education Department KPK Peshawar.
02. PA to Director Elementary & Secondary Education KPK Peshawar.
03. Deputy Commissioner Kohistan Upper.
04. District Monitoring officer Kohistan Upper.
05. District Accounts Officer Kohistan Upper.
06. SDEO/DDO (F) concerned with the directions to stop their pay and make necessary entries in the service books.
07. ASDEO Circle concerned.
08. PA to DEO (F) local office.
09. Teachers concerned.
10. Office File.


District Education Officer
(Female) Kohistan

09/09/2021



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

No. 1264 /F.No.291 /A-20/C-IV/Kohistan Ver. 2022

Dated Peshawar the 27/1/22

Phone: 091-9225344

Email: ddadmn.es@p.gov.pk

To

The District Education Officer,
(Female) Kohistan. Upper

Subject: **APPEAL FOR RE-INSTATMENT.**

Memo:

I am directed to refer to the subject cited above and to state that the appeals in r/o Muhammad Nabi S/o Jamdad Ex-Chowkidar GGPS Saglo Kohistan Upper Mr.Imran Khan S/o Khusra Ex-Chowkidar GGPS Tayyab Abad Kohistan and Hajab Khan S/o Khan Badshah Ex-Chowkidar GGPS Thooti Kohistan & Muhammad Kabir Chowkidar has been examined/analyzed by this office Hence inform the appellant concerned that their appeals have been rejected by the appellate authority.

Assistant Director (Admn)

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst; No. _____
Copy forwarded to the: -

1. Muhammad Nabi S/o Jamdad Ex-Chowkidar GGPS Saglo Upper, Mr.Imran Khan S/o Khusra Ex-Chowkidar GGPS Tayyab Abad and Hajab Khan S/o Khan Badshah Ex-Chowkidar GGPS Thooti Kohistan Muhammad Kabir Chowkidar PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Master File.

ADEO E-Prj

Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

DEO
27/1/22

(D)

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR**

No. _____/F.No.291/A-20/C-IV/Kohistan/Vol-5-6

Dated Peshawar the 05/09/2022

To,

The District Education Officer,
(Female) Kohistan.

Subject: **APPEAL FOR RE-INSTATEMENT.**

Memo:

I am directed to refer to the subject cited above and to state that the appeal in r/o Muhammad Naboi S/o Jamdad Ex-Chowkidar GGPS Saglo Kohistan Upper, Mr. Imran Khan S/o Khusra Ex-Chowkidar GGPS Tayyab abad Kohistan and Ajab Khan S/o Khan Badshah Ex-Chowkidar GGPS Thooti Kohistan & Muhammad Kabir Chowkidar has been examined/analyzed by this office. Hence inform the appellant concerned that their appeals have been rejected by the appellate authority.

Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 1265-66/