Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
		BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL Appeal No. 136/2019 Date of Institution ... 29.01.2019 Date of Decision ... 13.02.2020 ---------- Sarfaraz Khan (Ex-SDEO) s/o Fazal Raheem, Village P.O Azakhel, Tehsil District Peshawar. ----------**Appellant** **Versus** The Chief Minister, Khyber Pakhtunkhwa through Principal Secretary and others ----------**Respondents** **Muhammad Amin Khan Kundi.....Member(J)** **Mr. Hussain Shah .....Member (E)**
	13.02.2020	JUDGMENT Mr. HUSSAIN SHAH:-Learned counsel for the appellant and Riaz Paindakhel learned Assistant Advocate General for the respondents present. 2. In the instant service appeal the appeal as prayed that on acceptance of the appeal the impugned order dated 09.10.2018 past by the respondents No.2 may be set aside and the appellant may be reinstated in service with full back wages and benefits and any relief deemed appropriate in the circumstances of the case. 3. The learned counsel for the appellant contended that the appellant has been subjected to adverse action and departmental proceedings on the behest of his successor SDEO Peshawar on personal grudges, having a dispute with the appellant. On the litigation case with the appellant at this Tribunal level. Further contended that on the complaint of his successor the respondent No.4 directed another officer of the Education department i.e. DEO Charsadda to conduct a fact finding inquiry. In the said fact find inquiry the inquiry officer did not associate the appellant and based his recommendation on one sided story without giving the opportunity of

leaving/defense to the appellant which is constitutionally a mandatory provision in any sorts of proceeding which may result in any adverse outcome against anyone under such proceedings. Further contended that on this legally defective fact finding inquiry and its conclusion a charge sheet and a statement of allegation were issued by the respondent No.2 against the appellant where the appellant was held accused for appointment of Class-IV without calling DSC meeting who were neither included in the working paper nor in the minutes of the meeting held on 20.12.2013. Further contended that Mr. Askar Khan, Deputy Director PDMA was appointed as inquiry officer to conduct formal inquiry under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in the charge and allegation leveled against the appellant. The learned counsel for the appellant raised objection on the point that why only the appellant was issued charge sheet and statement of allegation being held solely responsible for the action taken by the DSC and leaving the other members. Further contended that the inquiry officer mainly relied upon the written statements of the other members of the DSC and did not allow the opportunity to the appellant to confront them which is mandatory under the law that any witness against the accused in a proceeding shall be cross examined by the accused. Moreover the inquiry officer recorded in his inquiry report that the departmental representative stated that the record supposed to be maintained in the office of SDEO (M) Peshawar was not available. Contrary to this fact the appellant has noted in his reply to the show cause notice that on his transfer on SDEO (M) Peshawar he handed over all the relevant record to Mr. Javed Abbas (Superintendent of the SDEO (M) Peshawar. Further contended that the other members of the DSC admitted that selection of twenty eight (28) candidates are correct and denied the remaining

		selection of the candidates in order to absolve themselves from liabilities despite the fact that their signatures were dully available on the working paper/selection sheet and minutes of the meeting of DSC. In such circumstance the authenticity of their signatures were required to be sent to FSL for forensic examination. The inquiry officer failed to include this scientific method of verification to reach to a judicious conclusion. Further argued contended that both the inquiries were conducted in the violation of Article 10 (A) of the constitution, against the law laid down by august Supreme Court of Pakistan reported as in 1997 SCMR 1073 (Citation-a) and also against Rule 11 (1) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. He further contended that the competent authority was required to examine the case of the appellant in true perspective and to insure that whether the inquiry officers has correctly reached to the conclusion without any shadow of doubt or not. He further added that competent authority did not take the notice of the points raised by the appellant in his reply to the show cause notice. Further contended that appellate authority (Respondent No.1) was under statutory obligation to disposed of the departmental appeal of the appellant after application of mind with cogent reasons within reasonable time as provided in the Supreme Court of Pakistan judgment in 2011-SCMR-Page-1 wherein the august Supreme Court of Pakistan held that "Public functionaries are bound to decide the case of their subordinates after application of mind with cogent reasons within reasonable time". The learned counsel for the appellant further contended that as the impugned order is suffering from illegal infirmities as such against the law/facts of the case and norms of justice hence the appeal may be accepted and the impugned order may be set aside as per prayed in the appeal.

4. The learned Assistant Advocate General contested the facts, grounds of the appeal and the arguments of the learned counsel for the appellant on the basis of Para-wise comments/replies on behalf of the respondent and contended that the whole proceedings against the appellant were processed in accordance with the law and relevant rules at each stage. As regarding the fact finding inquiry it was contended that its scope was only limited to fix out as to whether any illegality, misconduct or any inefficiency would be established against the appellant. Further contended that such inquiry is being held under the executive order and is necessary as an administrative action to look into the case in detail. Further contended that after insuring that gross mis-conduct of inefficiency and violation of the relevant criteria for selection and procedure for appointment of the Class-IV employees in the schools of the area of jurisdiction of the appellant when he served as SDEO (M) Peshawar. Then charge sheet/statement of allegation was issued and an inquiry officer was appointed to proceed further under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. The appellant was given opportunity to defend himself against the charge but he failed in his defense and thereafter the competent authority issued him notice to show cause why penalty of dismissal may not be imposed upon him. The appellant was also provided with the copy of the inquiry report and which he replied accordingly. He was given the opportunity of personal hearing at the level of the Special Secretary of E&A Department on behalf of the Chief Minister on 17.09.2018 and who found the appellant could not present any evidence or convincing arguments and found him guilty of the charge leveled against him. Hence the competent authority imposed upon him the penalty of removal from service. He further contended that no injustice or any illegal action is

being taken against him. All the codal formalities as provided in the law were completed hence the appeal may be dismissed with cost in favor of respondents.

5. Arguments heard. File perused.

6. This Tribunal after hearing the arguments of the learned counsel for the appellant, perusal of record and the counter arguments of the learned Assistant Advocate General and the Para-wise comments of the respondent has noted that the inquiry officer failed to provide the opportunity of cross examining the other members of the DSC by the appellant which is a mandatory provision in the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Moreover it is also noted that in the reply to the show cause notice the appellant has stated that at the time of leaving the charge of the SDEO (M) Peshawar he handed over the record of the case to superintendent Mr. Javed Abbas who was also the member of the DSC. Moreover it is also worth notice that the inquiry officer has noted in Page-2 of his report the statement of the departmental representative who stated that the record of the recruitment process was supported to be maintained in the office of SDEO (M) Peshawar was not available. This shows that the inquiry officers did not have all the record at his disposal to reach to conclusion in proving the charge against the appellant. It is also noted that the inquiry officer also did not examined the other members of the DSC and relied only upon their unanimous written statement.

7. In view of the above discussion we are of the view to partially accept the instant appeal and to reinstate the appellant for the purpose of de-novo inquiry. The respondents are directed to complete the de-novo proceedings within a period of sixty (60) days. The issue of back benefits will be subject to the outcome of de-novo inquiry. The present service

appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

(Muhammad Amin Khan Kundi)
Member

(Hussain Shah)
Member

ANNOUNCED
13.02.2020

16.01.2020 Due to general strike on the call 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 13.02.2020 for record as per order sheet dated 01.11.2019 and arguments before D.B.

(Ahmad Hassan)
Member

(M. Amin Khan Kundi)
Member

13.02.2020 Learned counsel for the appellant and Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Vide our detail judgment of today of this Tribunal placed on file, we are of the view to partially accept the instant appeal and to reinstate the appellant for the purpose of de-novo inquiry. The respondents are directed to complete the de-novo proceedings within a period of sixty (60) days. The issue of back benefits will be subject to the outcome of de-novo inquiry. The present service appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

(Muhammad Amin Khan Kundi)
Member

(Hussain Shah)
Member

ANNOUNCED
13.02.2020

30.09.2019 Appellant present and submitted rejoinder. Due to general strike of the Khyber Pakhtunkhwa Bar Council, learned adjourned to 01.10.2019 before D.B available, therefore the case is adjourned to 01.10.2019 before D.B.

Member Member

01.11.2019 Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Fazle Subhan, Section Officer for the respondents present. Inquiry record and statement of witnesses is not available on case file. Representative of the department is directed to produce inquiry record alongwith statement of witnesses on the next date positively. Adjourned to 11.12.2019 for record and arguments before D.B.

(Hussain Shah)
Member

(M. Amin Khan Kundi)
Member

11.12.2019 Clerk to counsel for the appellant present. Addl: AG for respondents present. Clerk to counsel for the appellant seeks adjournment due to general strike of the Bar. Adjourned. To come up for arguments on 16.01.2020 before D.B.

Member Member

06.05.2019 Appellant with counsel and Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present. Written reply not submitted. Learned Additional AG requested for further adjournment. Adjourned to 26.06.2019 for written reply/comments before S.B.

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

26.06.2019 Learned counsel for the appellant present. Written reply not submitted. Shakeel Ahmad Superintendent (for respondent No.3) 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 21.08.2019 before S.B.

Member

21.08.2019 Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Shakeel Superintendent for the respondent present and submitted written reply/comments. Adjourned. To come up for rejoinder/arguments on 30.09.2019 before D.B.

(Hussain Shah)
Member

18.03.2019 Counsel for the appellant present.

Contends, inter-alia, that during the enquiry against the appellant witnesses were examined in the absence of appellant, whereby, the right of his cross-examination was denied. Further the appellant was never provided any opportunity to bring-forth his defence during the enquiry proceedings.

The departmental appeal of appellant submitted on 24.10.2018 was not responded to, therefore, for all intents and purposes instant appeal is the first against the impugned order of removal from service. It is, therefore, admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 06.05.2019 before the S.B.

Appellant Deposited
Security & Process Fee

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 136/**2019**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/1/2019	The appeal of Mr. Sarfaraz Khan presented today by Mr. Rizwanullah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR 29/1/19
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 14-2-19. CHAIRMAN
	14.02.2019	Appellant in person present. Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 18.03.2019 before S.B. Member

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 136 /2019

1. Sarfaraz Khan (Ex-SDEO) s/o Fazal Raheem, Village P.O Azakhel, Tehsil District Peshawar.

APPELLANT

VERSUS

1. The Chief Minister, Khyber Pakhtunkhwa through Principal Secretary and others.

RESPONDENTS

I N D E X

S.No	Particulars	Annexure	Pages #
1	Service Appeal	_	1-10
2	Affidavit	_	11
3	Copy of complaint filed against appellant	"A "	12-13
4	Copy of Judgment dated 02/07/2015	"B"	14-17
5	Copy of Report of preliminary enquiry	"C"	18-19
6	Copy of Charge sheet and statement of allegations	"D"	20-21
7	Copy of reply	"E"	22-26
8	Copy of working paper	"F"	27-36
9	Copy of minutes of the meeting of DSC	"G"	37-42
10	Copy of enquiry report dated 27-03-2018	"H"	43-49
11	Copy of show cause notice dated 13/06/2018	"I"	50-51
12	Copy of reply to the show cause notice	"J"	52-53
13	Copy of impugned order dated 09-10-2018	"K"	54
14	Copy of Departmental Appeal dated 24-10-2018	"L"	55-62
14	Wakalatnama	—	—

Appellant

Through

Dated: 28-01-2019

Rizwanullah
Advocate High Court, Peshawar.

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 136 /2019

1. Sarfaraz Khan (Ex-SDEO) s/o Fazal Raheem, Village P.O Azakhel, Tehsil & District Peshawar.

APPELLANT

VERSUS

1. The Chief Minister, Khyber Pakhtunkhwa through Principal Secretary.
2. The Chief Secretary, Khyber Pakhtunkhwa Province, Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary education, Department Peshawar.
4. The Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 09/10/2018 PASSED BY THE CHIEF SECRETARY KHYBER PAKHTUNKHWA PROVINCE WHEREBY THE APPELLANT WAS AWARDED HARSH AND EXTREME PENALTY OF REMOVAL FROM SERVICE IN UTTER VIOLATION OF LAW. A DEPARTMENTAL APPEAL WAS FILED WITH THE RESPONDENT NO. 1 ON 24-10-2018 BUT THE SAME WAS NOT RESPONDED WITHIN THE STATUTORY PERIOD OF LAW.

Prayer in Appeal

By accepting this appeal, the impugned order dated 09/10/2018 passed by the Chief Secretary Khyber Pakhtunkhwa province may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

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

Respectfully Sheweth,

Short facts giving rise to the present appeal are as under:-

1. That the appellant joined the services of respondents department in capacity as Primary School Teacher (BPS-7) on 03/03/1979. He rose up to the post of Sub-Divisional Education Officer (BPS-17) on account of dedication, devotion and sincerity to his job. He had 40 years unblemished service record to his credit.

2. That the appellant performed his duty as Sub-Divisional Education Officer (Male) Peshawar justly, fairly, honestly and also in accordance with law. But after his transfer from the said post, his successor namely Irfan Ali SDEO (Male) Peshawar submitted a complaint to the District Education Officer (Male) Peshawar against the appellant alleging therein that the latter has made illegal appointments of various Class-IV employees without observing the relevant rules. This was a frivolous and baseless complaint and the same was only made in order to take revenge from the appellant as in the past, the former (Irfan Ali) prevailed over the Competent Authority through illegal means to dislodge the appellant from his post as Sub-Divisional Education Officer (Male) Peshawar and succeeded accordingly. But the appellant felt aggrieved by the said order, invoked the jurisdiction of Khyber Pakhtunkhwa Service Tribunal, Peshawar by way of filing service appeal

No. 970/2014 titled ***"Sarfaraz Khan VS Chief Secretary & other"*** which was accepted and the impugned order of transfer was set aside and the Competent Authority was directed to act in accordance with law vide judgment dated 02/07/2015. Thus, it is abundantly clear that Irfan Ali Sub-Divisional Education Officer (Male) Peshawar had a **"personal grudge"** with the appellant who tried to rope and involve him in a false case like above.

(Copies of complaint and judgment are appended as Annex-A & B)

3. That on the basis of above complaint, the Director Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar vide letter No. 2372 dated 25/08/2014 nominated Siraj Khan, District Education Officer (Male) Charsadda as Inquiry Officer to conduct preliminary inquiry in the matter. The said officer conducted inquiry in absence of appellant and no opportunity whatsoever was given to him to explain his position regarding the allegations contained in the so-called complaint and as such fair trial and due process of law both were denied to him. Resultantly, the Inquiry Officer arrived at the following illegal conclusion and recommendations:-

CONCLUSION

From the perusal of the available record I reached to the conclusion that the Ex-DDO has made appointments of the enlisted 20 Class-IV in violation of rules and regulation as such these appointments are legally null and void. This is not a clerical mistake to be taken slightly.

RECOMMENDATIONS

1. **Salary of the remaining Class-IV approved by the DSC be released.**

2. **The issue of 10 concerned Chowkidars needs to be resolved departmentally to release their salaries unless a clear decision of the competent authority regarding the fate of their service is taken place.**

3. **These obvious irregularities committed by the Ex-DDO in appointment of Class-IV in his short tenure on one hand is a question mark on this performance to regain administration seat in future and on the other hand he stands deserve to disciplinary action under E&D, rules 2011 as well.**

(Copy of report is appended as Annex-C)

4. That in the light of above inquiry report, the appellant was served with a charge sheet alongwith statement of allegations and that Askar Khan, Deputy Director PDMA was nominated to conduct regular inquiry in the matter. It would be advantageous to reproduce herein the allegations so as to know the legal and factual aspect of the case:

> **"you have appointed 20 Class-IV without calling DSC meeting who were neither included in the working paper nor in the minutes of the meeting held on 20/12/2013"**

(Copy of charge sheet alongwith statement of allegations is appended as Annex-D)

5. That the appellant submitted elaborate and exhaustive reply, denied the allegations and also termed it as fallacious, malicious and misconceived. He added that he had acted in consonance with law. He further clarified that working paper for 114 candidates was duly prepared, fair and transparent selection of 49 candidates was made so as to appoint them as Class-IV employees on various posts and minutes of the meeting of DSC were also prepared. All these important documents were signed by the appellant and 3 other members of the Departmental Selection Committee. Thereafter, appointment orders/letters of eligible and deserved candidates were issued. Their service books were prepared accordingly. The appellant further clarified that the original record pertaining to the above selection/appointment was intentionally misplaced by Irfan Ali Sub-Divisional Education Officer (Male) Peshawar so as to damage the spotless service career of appellant on account of his previous litigation as enumerated above. Lastly, the appellant provided all the required documents consisting of working paper and minutes of the meeting of DSC in order to justify his stance and prayed that he may graciously be exonerated of the allegations levelled against him in the charge sheet.

(Copy of reply, working paper and Minutes are appended as Annex-E, F and G)

6. That the above reply was not found satisfactory and the inquiry was conducted in utter violation of law and the appellant alone was found guilty of the allegations vide report dated 27/03/2018.

(Copy of inquiry report is appended as Annex-H)

7. That the appellant was served with a show cause notice on 13/06/2018. He submitted reply and took the same stance as enumerated in the reply to the charge sheet. But this reply too was not deemed satisfactory and the appellant was awarded harsh and extreme penalty of removal from service on 09/10/2018.

(Copies of show cause notice, reply and impugned order are appended as Annex- I, J & K)

8. That the appellant felt aggrieved by the said order, filed a departmental appeal with the respondent No. 1 on 24/10/2018 but the same was not responded within the statutory period of law.

(Copy of departmental appeal is appended as Annex-L)

9. That the appellant is jobless since his removal from service.

10. That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds within the statutory period of law.

GROUNDS OF APPEAL

A. That the Competent Authority has not treated appellant in accordance with law, rules and policy on the subject and acted in violation of **Article 4 of the Constitution of Islamic Republic of Pakistan, 1973.** Therefore, the impugned order is not sustainable in the eye of law.

B. That the preliminary inquiry was conducted in utter violation of law as neither the appellant was associated with the said

inquiry nor any witness was examined in his presence. He was also not provided any chance of cross-examination. Similarly, he was not provided any opportunity to produce his defence in support of his version. The above defect in enquiry proceeding is sufficient to declare entire process as sham and distrustful. Right of fair trial is a fundamental right by dint of which a person is entitled to a fair trial and due process of law. The appellant has been deprived of his indispensable fundamental right of fair trial as enshrined in **Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973.** Besides, the constitution of such inquiry was illegal and without lawful authority as the same was constituted by incompetent authority. The Director Elementary & Secondary Education KPK (respondent No. 4) was not competent under the law to do so and the Chief Secretary Khyber Pakhtunkhwa, Peshawar was alone competent to constitute such inquiry against officer (BPS-17). It is well settled law that when initial order or act relating to initiation of proceeding is illegal and without lawful authority then all subsequent proceedings and actions taken thereon would fall on the ground automatically. Reliance can be placed on the judgment of august Supreme Court of Pakistan reported in **2009-SCMR-339.** Akin, regular inquiry was also not conducted in a manner prescribed by law as the Inquiry Officer examined the members of the Departmental Selection Committee as well as representative of the department in absence of appellant and no opportunity whatsoever was given to him to cross-examine them in order to impeach the credibility of the testifying witnesses to lessen the weight of unfavorable testimony so as to fulfil the requirement of fair trial and due process of law as enumerated earlier and as such the Inquiry Officer has committed gross illegality by not adhering the mandatory provision of Constitution and law laid down by august Supreme Court of Pakistan in various judgments. Thus, the findings of the Inquiry Officer are based on conjectures, surmises and

suppositions. Therefore, such findings are perverse and are not sustainable in the eye of law. Hence, the impugned order passed on the basis of such findings is against the spirit of administration of justice.

C. That when the members of Departmental Selection Committee candidly admitted the selection of 28 candidates as correct and denied the remaining selection/appointment of candidates in order to absolve themselves from liability despite the fact that their signatures were duly available on the working paper/selection sheet and minutes of the meeting of DSC then the Inquiry Officer was legally bound to have taken their fresh signatures and sent it to Forensic Science Laboratory (FSL) alongwith their disputed signatures available on the above documents for comparison and verification so as to secure the ends of justice and after the receipt of such report of FSL, the findings were required to be passed. But no efforts were made in this respect. The Inquiry Officer, in haphazard and hasty manner, finalized the inquiry report and found the appellant guilty of allegations illegally. Thus, both the inquiries were not conducted in accordance with the mandate of **Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973** as well as law laid down by august Supreme Court of Pakistan reported in **1997-SCMR-1073 (citation-a)** and also **Rule 11(1) of the KPK Government Servants (Efficiency & Discipline) Rules,2011.** Therefore, the impugned order is not warranted under the law.

D. That the Competent Authority (respondent No. 2) was under statutory obligation to have considered the case of appellant in its true perspective and also in accordance with law and to see whether the preliminary inquiry and regular inquiry were conducted in consonance with law and that the allegations thereof were proved against the appellant without any shadow of doubt or otherwise. But he has overlooked this important

aspect of the case without any cogent and valid reasons and awarded harsh and extreme penalty of removal from service to the appellant. Thus, the impugned order is liable to be set aside on this count alone.

E. That the Appellate Authority (respondent No. 1) was under statutory obligation to have decided the departmental appeal filed by the appellant after application of mind with cogent reasons within reasonable time as per law laid down by august Supreme Court of Pakistan reported in 2011-SCMR-page-1. It would be advantageous to reproduce herein the relevant citation for facility of reference: -

2011-SCMR-page-1

Citation-b

S. 24-A---Speaking order-Public functionaries are bound to decide cases of their subordinates after application of mind with cogent reasons within reasonable time.

It is also well settled law that the decision of august Supreme Court of Pakistan is binding on each and every organ of the state by virtue of **Article 189 & 190 of the Constitution of Islamic Republic of Pakistan, 1973**. Reliance can be placed on the judgment of august Supreme Court of the country reported in **1996-SCMR-284 (citation-c).** The relevant citation is mentioned below.

1996-SCMR-284
(citation-c)

----Arts. 189 & 190---Decision of Supreme Court---Binding, effect of--Extent--Law declared by Supreme Court would bind all Courts, Tribunals and bureaucratic set-up in Pakistan.

But the Appellate Authority (respondent No. 1) has blatantly violated the above dictum of Apex Court of country by not disposing of the departmental appeal within the statutory period of law. Therefore, the impugned order is liable to be set aside on this count alone.

F. That the impugned order is suffering from legal infirmities and as such caused grave miscarriage of justice to the appellant.

G. That the impugned order is against law, facts of the case and norms of natural justice. Therefore, the same is not tenable under the law.

H. That the appellant would like to seek the permission of this Hon'ble Tribunal to advance some more grounds at the time of arguments.

In view of the above narrated facts and grounds, the impugned order dated **09/10/2018** passed by the Chief Secretary Khyber Pakhtunkhwa Province, may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

Any other relief deemed proper and just in the circumstances of the case, may also be granted.

Appellant

Through

Dated: 28-01-2019

Rizwanullah
M.A. LL.B
Advocate High Court, Peshawar.

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No._____/2019

1. Sarfaraz Khan (Ex-SDEO) s/o Fazal Raheem, Village P.O Azakhel, Tehsil District Peshawar.

APPELLANT

VERSUS

1. The Chief Minister, Khyber Pakhtunkhwa through Principal Secretary and others.

RESPONDENTS

AFFIDAVIT

I, Sarfaraz Khan (Ex-SDEO) s/o Fazal Raheem, Village P.O Azakhel, Tehsil District Peshawar, do hereby solemnly affirm and declare that the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

ATTESTED

JAVED MOHAMMAD NOTARY Regd No: Date: Advocate High Court Dist. & Session Courts Peshawar

29 JAN 2019

DEPONENT

(12)

(42)

Annexure "A" 91

02 Pages

Office of the Sub Divisional Education Officer (M) Peshawar

No. 138 / Dated Peshawar the 12/08 /2014

ADDE Please discuss very important. 20/8/2014

To

The District Education Officer,

(Male) Peshawar

Subject **IRREGULARITES IN RECRUITMENTS OF CLASS IV/MIS-MANAGEMENT IN DRAWL OF SALARIES THEREOF.**

Memo

Finish Letter for issuing As discussed 22/8/14

Reference subject cited above and to state that after assumption of my charge as SDEO (M) on 28-06-2014, the following irregularities committed during the tenure of my predecessor, have come to surface.

A. DSC was arranged and 28 class 1V were recommended for appointment and orders were issued but against 28 eligible class 1V, Seventeen (17) still stand deprived of their right of salaries.

B. Thirty-three (33) candidates were appointed as class 1V in anticipation of approval of DSC and accordingly only 17 have been drawing their salaries.

C. The services of ten (10) class 1V, having sufficient service at their credit were placed at your disposal and their salaries were stopped by Ex-DDO/SDEO and it is learnt that all these class 1V have knocked at the door of law and their case is therefore subjudice. The department, will have to adjust them if ordered by the learned court.

D. Apart from aforementioned petitioners, salaries of seventeen (17) class 1V will have to be arranged who are land donors and on reopening of schools after summer vacations on 1-09-2014, they will demand for salaries and it will be beyond shadow of doubt that they will close the schools and as a result not only the innocent kids will deprive of their fundamental right of education but law and order situation will also be created.

E. Another irregularity which has been noticed is that the relevant pages containing issue number and dates of the appointment orders have been removed from the issue register.

F There may be similar other irregularities which is likely to be pointed out in future.

G It is pointed out that the Director E&SE KPK has ordered for enquiry and the enquiry report might have been received in your office. It will be appreciated if positive action Is taken towards the resolvement of this issue.

Attested

Appellant

In view of the factual position narrated above I am to request that the undersigned may be guided as to what remedial step is to be taken to resolve this chronic issue, transferred to the undersigned from the predecessor.

Sub Divisional Edu. Officer
(Male) Peshawar

Endst.No. 139-40

Copy forwarded for information and necessary action to:

1, PS to Secretary, Elementary and Secondary Education, Peshawar.
2, PA to Director, Elementary and Secondary Education, Peshawar.

Attested

Appellant

Sub Divisional Edu. Officer
(Male) Peshawar

(14)

Annex-B (1)
04 pages

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 970 /2014

Khan
Mr. Sarfaraz, OSD,
Directorate of Education (E&SE)
Peshawar.....Appellant.

VERSUS

1- The Chief Secretary KPK Peshawar.
2- The Secretary Education (E&SE) Peshawar.
3- The Director of Education (E&SE) Peshawar.....Respondents.
4- Irfan Ali SDEO Peshawar.

Vide order sheet dated 27-10-2014 Respondent NO 4 is impleaded.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT 1974 AGAINST THE PREMATURE POLITICALLY MOTIVATED ORDER DATED. 6.6.2014 AND AGAINST THE REJECTION ORDER DATED. 2.7.2014 WHEREBY THE APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

02.7.15

Appellant with counsel (Mr. Muhammad Asif Yousafzai, Advocate) and Government Pleader (Mr. Muhammad Jan) for the official respondents present. Arguments heard and record perused. Vide our detailed judgment of to-day which is placed on file, the case is remitted to respondent No. 2 to decide the issue within one month of the receipt of this judgment, failing which the impugned order dated 06.6.2014 shall also be deemed to have been set aside. Since rights of private respondent No. 4 are not being infringed by judgment of to-day, therefore, the Tribunal does not deem it necessary to issue any fresh notice to him or to adjourn the case. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
02.07.2015

Sd/- Member

Sd/- Member

Attested

Appellant

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 970/2014

Sarfaraz Khan Versus the Chief Secretary, Khyber Pakhtunkhwa Peshawar etc.

JUDGMENT

02.07.2015

PIR BAKHSH SHAH, MEMBER:- Appellant with counsel (Mr. Muhammad Asif Yousafzai, Advocate) and Government Pleader (Mr. Muhammad Jan) for the official respondents present.

2. Appellant Sarfaraz Khan was posted as SDEO Peshawar vide order dated 21.1.2014 and after a period of about five months, he was made OSD vide impugned order dated 06.06.2014. His departmental appeal dated 07.6.2014 was also rejected vide order dated 02.7.2017, hence this appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

3. Arguments heard and record perused.

4. The learned counsel for the appellant while referring to clauses i , ii & iv of the posting/transfer policy dated 27.2.2013, stressed that the appellant had been made OSD only on political interference in which respect clipping of the daily "Mashriq" dated 07.6.2014, copy of which available on file, was cited. He further submitted that the impugned order also against the august Supreme Court judgment in the case of

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Anita Turab Versus Federation of Pakistan. He further submitted that no reason whatsoever had been given by the competent authority and also by the appellate authority in their impugned orders which were passed in violation of provision of Section-24-A of General Clauses Act, 1897. He requested that the impugned orders dated 06.06.2014 and 02.7.2014 both may be set aside and the appellant may be posted as SDEO, Peshawar.

5. This appeal was resisted by the learned Government Pleader by arguing that the appellant belonged to teaching cadre and he could not claim the vested right against the management cadre post. He defended the impugned order also on the ground that the same was made in the public interest. He requested that the appeal may be dismissed.

6. During the course of arguments, it transpired that one Irfan Ali, private respondent No. 4 was subsequently appointed as SDEO Peshawar in place of the appellant and further that the appellant had also been sent back to the teaching cadre and posted as Headmaster, GHS Maryamzai, Peshawar vide order dated 02.07.2014 who had also taken charge accordingly. From perusal of the record, it was not convincingly conveyed on behalf of the respondents department that the impugned orders were not the result of political pressure but made only in public interest. By way of the amendment in the Service Recruitment Rules for the management cadre dated 10.4.2012, the appellant could be posted against the management cadre post. The said position of

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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the case in view, the Tribunal is of the considered opinion that as the appellate authority has not given any reason for rejection of appeal of appellant as contemplated in Section-24-A of General Clauses Act, therefore, this order cannot be maintained, the same is set aside. As for maintaining or striking down of the original impugned order dated 06.06.2014 is concerned, so in view of fresh developments in shape of posting of the appellant as Headmaster and filling of the post of SDEO by respondent No. 4 (Irfan Ali), we in order to avoid further impending complications for the parties due to any interference by this Tribunal, would like to refrain from the same for the time-being. The appellate authority is directed to revisit the case, give opportunity of personal hearing to the appellant as well as to private respondent No. 4 and to decide the matter within a period of one month of the receipt of this judgment, strictly in accordance with law, judgments of apex courts, rules and policy on the subject and without succumbing to any political pressure. In case the appellate authority failed to decide the issue in the stipulated period, then the impugned order dated 6.6.2014 shall also be deemed to have been set aside. Office is directed to send a certified copy of judgment to the respondent-department. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
02.7.2015.

Certified to be ture copy

Service Tribunal
Peshawar

(4D)

ENQUIRY REPORT REGARDING CLASS-IV APPOINTMENT MADE BY EX-DDO (MALE) PESHAWAR IN HIS TENURE

Annexure-"C"

1. Name of enquiry Officer — Siraj Muahmmad DEO (M) Charsadda
2. Date of previous enquiry — 22/05/2014
3. Date of existing enquiry — 11/10/2014
4. Place of enquiry — O/O SDEO (M) Peshawar.

INTRODUCTORY

The Director E & SE KPK, has directed me vide letter No. 2372 da 25/08/2014, to make a fresh enquiry in the allegation leveled against Mr. Srafaraz Khan Ex-EDO, Peshawar, by the SDEO (M) Peshawar on chair, in his letter to DEO (M) Peshawar bearing issued No, 138 dated; 12/08/2014 copy enclosed as Anex-A.

HISTORY.

The undersigned has conducted an enquiry regarding appointments of class-IV made by Ex-SDEO (M) Peshawar and the stoppage of salary of 10 Chowkidars by him allegedly illegal, incompliance with the Notification of Director E & SE, KPK, No 12286-90 dated 15/04/2014, and report thereof submitted to Director E & SE, KPK Peshawar under Endst No, 4706 dated 28/05/2014.

The present enquiry is embracing the irregularities as pointed out by SDEO in his above mentioned letter.

PROCEEDINGS.

In order to investigate all the allegations one by one, the SDEO (M) Peshawar was directed to produce documentary proofs in support of illegal appointments of Class-IV, made in anticipation by the accused officer, but he told that he had left nothing to be produced for checking. However he provided a list of 20 newly Class-IV, showing their personal numbers and exact date of starting salary by computer in AG, office copy enclosed as Anex-B. It was also confirmed from the record that salaries of 10 class-Iv stopped by the EX-SDEO, have not been released by him on the recommendation of both former enquiry committees. It was also noted that salary of the concerned 28 Class-Iv recommended by Departmental Selection Committee, for appointment in its meeting held on 20/12/2013 have been partially released and the genuine land donor appointees approved in DSC are still deprived from their salaries. The relevant papers of the issue register showing issue No & date of the appointment orders made by EX-SDEO were found missing in the issue register which also strengthrin the presumption of mala fide intension on the part of Ex-SDEO.

Attested

Appellant

INGS.

1. It was clearly disclosed that the concerned 20 enlisted Class-IV were neither included in the working paper nor in the minutes of meeting held on 20/12/2013. Am. C
2. The dates of releasing pay as mentioned in the list provided by SDEO (M) Peshawar obviously shows that appointments of the concerned 20 Class-IV have been made with out calling DSC meeting which is clear violation of the rules.
3. It was also noted that the number of clear vacancies shown as 28 in the previous enquiry was not correct. It was actually 18 vacancies but shown 28 including the disputed vacancies of 10 Class-IV whose salary were stopped by him.
4. Salary of 11 Class-IV have been released by the Ex-SDEO out of 28 Class-IV appointed on the recommendation of DSC while salary of the concerned 20 disputed appointees have been started against the remaining clear vacancies/10 disputed vacancies occurred by stopping of salary of 10 Class-IV and absentia vacancies.
5. Since the concerned 10 Chowkidar have not yet terminated properly from service by the competent authority, hence appointment against them is not lawful.
6. Payment of salary to the concerned 20 Class-IV appointed in violation of rules is illegal and incorrect from Audit point of view.

CONCLUSION

From the perusal of the available record I reached to the conclusion that the Ex-DDO has made appointments of the enlisted 20 Class-Iv in violation of rules and regulation and as such these appointments are legally null and void. This is not a clerical mistake to be taken slightly.

RECOMENDATION

1. Salary of the remaining Class-IV approved by the DSC be released .
2. The issue of 10 concerned Chowkidar needs to be resolved departmentally to release their salaries unless a clear decision of the competent authority regarding the fate of their service is taken place.
3. These obvious irregularities committed by the Ex-DDO in appointment of Class-IV in his short tenure on one hand is a question mark on his performance to regain administration seat in future and on the other hand he stands deserve to disciplinary action under E & D, rules 2011 as well.

(SIRAJ MUHAMMAD)
DISTRICT EDUCATION OFFICER (M) CHARSADDA
ENQUIRY OFFICER

Endst; No. 10022 / dated 14/10 /2014

Copy forwarded to the:-

1. Director E&SE, Khyber Pakhtunkhwa Peshawar.

14/10/2014

DISTRICT EDUCATION OFFICER

Attested

Appellant

(59)

(20)

Annexure "D"

CHARGE SHEET

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Sarfaraz Khan Ex-SDEO Male (BS-17) Peshawar (Now SDEO Male Town-III) Peshawar as follows:-

That you, while posted as SDEO (Male) Peshawar committed the following irregularities:

> **"You have appointed 20 Class-IV without calling DSC meeting who were neither included in the working paper nor in the minutes of the meeting held on 20.12.2013"**

2- By reason of the above, you appear to be guilty of inefficiency and misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules 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/ inquiry committee, as the case may be.

4- Your written defence, if any, should reach the inquiry officer/ inquiry committee within specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5- Intimate whether you desire to be heard in person.

6- A Statement of Allegations is enclosed.

(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Sarfaraz Khan Ex-SDEO Male (BS-17) Peshawar.
(Now SDEO Male Town-III) Peshawar.

Attested

Appellant

officers in

(MUSHTAQ HUSSAIN)
Deputy Secretary (Policies)

(58)

(21)

DISCIPLINARY ACTION

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Sarfaraz Khan Ex-SDEO Male (BS-17) Peshawar (Now SDEO Male Town-III) Peshawar has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

"He has appointed 20 Class-IV without calling DSC meeting who were neither included in the working paper nor in the minutes of the meeting held on 20.12.2013"

2- For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/ inquiry committee, consisting of the following, is constituted under Rule 10(1)(a) of the ibid Rules:

i. Mr. Asrar Khan (OMG BS-18) DS Peshawar

ii. _____

iii. _____

3- The inquiry officer/ inquiry committee shall, in accordance with the provisions of the ibid Rules, 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.

(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Sarfaraz Khan Ex-SDEO Male (BS-17) Peshawar.
(Now SDEO Male Town-III) Peshawar.

Attested

Appellant

Annexure-"E" (22)

OFFICE OF THE SDEO (MALE) TOWN III, PESHAWAR

From:

No: 575
Dated: 26/02/2018

SARFARAZ KHAN
SDEO (MALE)
MALE TOWN III PESHAWAR CANNT

TO,

Mr. Askar Khan
Worthy Deputy Director,
(M&E) Enquiry Officer,
PDMA Govt of Khyber Pakhtunkhwa Peshawar.

SUBJECT: REPLY TO THE STATEMENT OF ALLEGATIONS ON BEHALF OF SARFARAZ KHAN SDEO (M) TOWN-III PESHAWAR IN VIEW OF MEMO NO. DD (M&E) PDMA 1- 1/2017/18 DATED 16/2/2018.

Respected Sir,

I am directed & to refer your Memo No. DD (M&E) PDMA /1-1/2017-18 Dated 16/2/2018 on the subject cited above & to state:-.

ON FACTS

1) That the undersigned was posted against the Sub Divisional Education Officer (Male) Peshawar vide Notification Dated 23/8/2013 issued by the competent authority (copy of the said Notification is (Annexure-A). Undersigned was transfer on this post on 06/06/2014 (Annexure-B).

2) That while serving the E&SE Department against the said post, a Notification No. F.No:A-23/MS/District/DPC Meeting/2013/DD(F& A) Dated 12/12/2013 was issued by the Directorate of E&SE Department KPK Peshawar in view of the Notification No. SO(E-1) E&AD/4-9/2012 Dated:27/12/2016 of the Administration Department Govt: of KPK in response to the Notification as Notified vide Notification No SOR.1(S&GAD/4-45/78 dated 12/6/1979 and No SOR-1(S&GAD)1-20/98 dated 7/9/1998, the competent authority has been pleased to delegate powers regarding appointments against the Class-IV posts under their respective official jurisdiction. (Copy of the said Notification is Annexure-C)

Attested

Appellant

(71)

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3) That in view of the above cited Notification as well as upon the reports regarding Vacant Posts of Class-IV in the Jurisdiction of undersigned submitted by the 08 circle ASDEOs Male Peshawar.(Annexure-D). Being the schools situated in remote areas, there was great challenge for the Department to run the school because of unexpected attacks by the terrorists. Moreover the local MPA's used to stress upon to arrange class-IV's for these schools, and to issue alarming posting of class-IVs in order to protect Govt: property i.e school buildings as well as to secure sacred lives of innocent kids. Under the circumstances explained there was no remedy for the responsible officer to tackle these situation and to provide class-IV's to these schools on war basis. The under signed as Prepared working papers for the purpose of DSC Meeting with submission to the Director E&SE Department KPK Peshawar for the grant of a Representative in the appointments of Class-IVs posts in view of the reports submitted by the ASDEOS concerned which was allowed accordingly & Mr. Atta Ullah Jan Superintendent BPS 16 of the Directorate of E&SE Department KPK Peshawar was deputed by the Director (E&SE) KPK to attend the said DSC Meeting under the heading of the undersigned held on 20/12/2013.(copies of the working papers & Minutes of the DSC Meeting along with the attendance sheet of the members are attached as Annexure-E,F&G).

4) That it is further submitted that to make the process of appointments relating to Class-IVs the undersigned has also sought NOC from the worthy Deputy Commissioner Peshawar (Copy of the same Annexure -H).

5) That Consequent upon the observing all the codal formalities, the undersigned has issued the Appointments orders relating to the Class-IVs posts from the reserved quotas of land owners, deceased sons, & retired Sons.

6) That the cases of the eligible Class-IVs were submitted to the office of the Accountant General KPK Peshawar for the release of their respective monthly salaries which were released accordingly by the Accountant General KPK Peshawar meaning there by that the appointments orders of the said Class-IVs were within legal sphere from all angles.

Attested

Appellant

(42) (24)

7) That after the transfer of the under signed, Mr. Irfan Ali was posted against the SDEO (Male) post Peshawar vide his office letter No. 138 dated: 12/8/2014 addressed to the DEO (Male) Peshawar. For the grant advice regarding the status of the above mentioned Class-IVs appointed by the undersigned under the rules & powers delegations vide letter dated: 12/12/2013 of the competent authority.(Copy of the said letter is Annexure-I).

8) That the case was reported vide letter No. 2372 by the DEO (Male) Peshawar to the Director E&SE KPK Peshawar who has conducted enquiry into the matter through Mr.Siraj Mohammad, DEO (Male) Charsadda who submitted his enquiry report vide his letter No. 10022 dated: 14/10/2014 with the recommendations that the EX-DDO /SDEO Male Peshawar has made the appointments of the 20 Class IVs in violation of the rules and regulations & as such these appointments are legally null & void. Copy of the enquiry report is Annexure-J).

9) That upon the same enquiry report, the undersigned has been issued a charge sheet & statement of allegations to the extent of appointments of 20 Class-IV without calling DSC meeting who were neither included in the working paper nor in the minutes of the meeting held on 20/12/2013. Hence, instant reply to the said statement of allegation & show cause Notice on the following grounds inter alia:-

GROUNDS

A) That no chance of personal hearing has been afforded to the undersigned while submitting the ex-party enquiry report by the enquiry officer which is not only illegal but is also against the provisions of law, rules & criteria, hence, liable to be struck down in favour of the undersigned.

Attested

B) That law does not allow an enquiry officer to condemn unheard the under signed in support of his recommendation in his enquiry report.

Applicant

C) That the allegations as leveled against the undersigned are baseless & without any cogent reason and proof regarding mentioning the names & particulars of those Class-IVs appointed by the undersigned without the prescribed rules & criteria. Hence the show cause Notice & statement of allegation are not sustainable in the eyes of law.

D) That the undersigned has an outstanding service record in the Department & such like allegations are only based on malefide intentions just to be frame & obscured services rendered by the undersigned in the Department.

E) That the enquiry officer has miserably failed to take in to consideration all the facts, notifications & even circumstances of the case prior to the submissions of his enquiry report against the undersigned.

F) That the then SDEO Male Peshawar namely Irfan Ali is not competent to recommend departmental action against the undersigned being a junior officer against the SDEO Male Peshawar Post from management cadre having no updated experience regarding serving an administration.

G) That constitutional & legal rights have been violated in the instant case as guaranteed under the constitution of 1973 constitution of Islamic Republic of Pakistan.

PRAYER:

In view of the above made submissions, it is most humbly prayed that on the acceptance of this reply to the above mentioned statement of allegation & show cause Notice may very graciously be set aside in favour of the undersigned by exonerating him from the above leveled/mention charge in the interest of justice & equity please.

Dated 26/02/2018

Attested

Appellant

SARFARAZ KHAN
SDEO (MALE)
TOWN-III PESHAWAR CANTT
MOB: 0308-3387264

(26)

OFFICE OF THE SDEO (MALE) TOWN III, PESHAWAR

NO: 588 / Dated: 03/03/2018

To,

Mr. Askar Khan (Enquiry officer)
Worthy Deputy Director (M&E) PDMA
Government of Khyber Pakhtunkhwa Peshawar

Subject: **INQUIRY REGARDING IRREGULARITIES COMMITTED IN APPOINTMENTS OF CLASS-IV EMPLOYEES**

Respected Sir,

My reply to the statement of allegation/charge sheet is as under

1) That the minutes of Departmental Selection Committee dated: 20-12-2013 would show that the said meeting was solely held to discuss the recruitment of class-IV fresh candidates/ retired employees ' sons candidates/ deceased employees' sons/ land owners and disabled candidates. The minutes of the meeting would further show that departmental selection committee recorded each and every issue in minute's details and reduced the same into writing.
2) The working paper were scrutinized and fit and eligible candidates were picked in the prescribed manner and no picked and choose or favoritism was made and as such the whole process of recruitment was carried out in honest and faithful manner.
   The said meeting dated 20/12/2013 was also attended by other three members but only undersigned has been charge sheeted which show that he has been victimized due to malafide and ulterior motives of the quarter concerned.
3) That no illegality or irregularity could be established in the recruitment process therefore, the charge sheet as well as statement of allegation having no substance.

It is, therefore, requested that keeping in view the above reply, the undersigned may please be absolved from the allegations leveled against him.

(SARFARAZ KHAN)

SUB DIVISIONAL EDUCATION OFFICER
(MALE) TOWN III PESHAWAR

Attested

Appellant

(21)

Annexure "E"

OFFICE OF THE SDEO (M) PESHAWAR

WORKING PAPER FOR APPOINTMENT OF CLASS-IV SERVANT OUT OF DECEASED SON QOUTA

S.No	Name of Applicant	Father's Name	D.o.B	UC	Schools applied for GPS	PK	Relt:	Date of Death/Vacant	Quali:	Home Address	Remarks/ Deficiency	recomm:	Status	Recomm: of Committee
1	Kamran Ahmad	Izhar Ahmad	6/1/1990	-	Maryamzai No.3	10	Son	19/04/99	FA/PTC	Bar Ghali Maryamzai	His Farther was PST at GPS and he is also done PTC course	-	Deceases	-
2	Shahbaz Ali	Akhtar Ali	27/11/90	19	haider Colony	2	Son	26/01/05	-	Moh:Fazal H.No.1672 Pesh: City	-	-	Deceased	- Recommended for appointment
3	Kamran Ahmad	Jabir Khan	1/1/1991	-	Swati gate	4	Son	6/2/2013		Swati Pathak Landi Arbab Road	Unemployment Card	Mr.Arif Yousaf MPA-04	Deceased	- Recommended for appointment
4	Fazle Subhan	Said Khan	2/1/1985	-	Shahab Khel	11	Brother	14/01/13	-	Shahab Khail Badaber	Grand Father donated the land stamp paper , death order of imtiaz required	Mr.gulzar Khan MNA-04	Deceased	- Recommended for appointment
5	Akmal Shah	Ajmal Shah	25/02/94	-	Peran Dara		Son	28/06/9	-	-	Stamp Paper	-	Deceased	-
6	Abdullah	Faiz Ullah	1/1/1989	-	Melogan	8	Son	12/7/2013	-	Darul us Salam Melogan Daudzai	Death Notification,EEC /Stamp Paper	Mr.Arbab Akbar Hayat MPA	Deceased	- Recommended for appointment
7	Intikhab Alam	awal Khan	11/1/1990	-	Aqrab Daag	-	Son	12/7/2012	-	-	Domicile	-	-	-

Mr. Attaullah
Member Committee 1
Suprintendent/Representative
Directorate of (E&SE) Khyber Pukhtunkhwa

Mr. Muhammad Ishtiaq
Member Committee 2
ASDEO (Male) Circle Mattani

Mr. Javed Abbas
Member Committee 2
Suprintendent/Office of the
Sub-Divisional Education Officer (M) Peshawar

Mr. Sarfaraz Khan
Chairman Committee
SDEO (Male) Peshawar

Attested

Appellant

(22)

OFFICE OF THE SDEO (M) PESHAWAR

WORKING PAPER FOR APPOINTMENT OF CLASS-IV SERVANT OUT OF RETIRMENT/LAND DOUNR QOUTA

S.No	Name of Applicant	Father's Name	D.o.B	UC	Schools applied for GPS	PK	Relt:	Date of Death/Vacant	Quali:	Home Address	Remarks/ Deficiency	recomm:	Status	Recomm: of Committee
1	Mohammad Ayaz	Ziarat Gul	1977	-	Dalazak No.1 Pakha Ghulam	-	Son	20/10/05	-	p.O Gulozai Vill Dalazak	Ret: order /EEC/Applicatio n/Domicile		RTD	-
2	Shafaqat Ali	Shoukat Ali	3/1/1973	-	Kochian	-	Son	27/10/05	-	Kochian P/O Gulbela	EEC/Court Orders	-	RTD	-
3	Ikramullah	M.Ashraf	2/12/1984	-	No.1 Hazar Khawani	-	Son	13/03/08	Middle	P.O Hazar Khawnai China Dag Peshawar	EEC/Domicile/St amp Paper/F.CNIC	Ex-MPA Zahir Shah	RTD	-
4	Sabz Ali	Badshah Khan	20/04/82	-	Shahi Bala	-	Son	10/7/2008	-	Asahab Baba Chaghar Matt8iu	Ret:order /EEC/Father CNIC/Domicile	Kiramtullah Ex-Speaker	RTD	-
5	Inayat Ullah	Janat Gul	6/8/1989	-	Bela Mohmandan	-	Son	30/10/08	-	Bela Mohmandan P.O Zarif Koroona Peshawar	Father CNIC/Mutatuion Deed/Stamp Paper	Ex-MPA Malik Tamsh	RTD	-
6	Farmanullah	Saleem Jan	25/5/1905	-	no.1 Civil Quarters	-	Son	24/01/09	-	Moh: Khattak Colony Civil Quarters Peshawar	Court Case/Domicile/F ather CNIC	Complain: Cell SO CM Sectt:	RTD	-
7	Sadiq Hussain	Amir Nawaz	1/1/1989	-	Khazana	-	Son	5/2/2010	-	Khazana Payan Peshawar	Stamp Paper/Domicile/ EEC	-	RTD	-
8	Meera Jan	Abdullah Jan	1/2/1990	-	Shindrang	11	Son	14/10/10	-	Moh: Shindrang Zangali Neher Mashogagar	Stamp Paper/EEC	Mr.Saqibuil ah Chamkani	L &D	- Recommended for appointment

Mr. Attaullah
Member Committee 1
Suprintendent/Representative
Directorate of (E&SE) Khyber Pukhtunkhwa

Mr. Muhammad Ishtiaq
Member Committee 2
ASDEO (Male) Circle Mattani

Mr. Javed Abbas
Member Committee 2
Suprintendent/Office of the
Sub-Divisional Education Officer (M) Peshawar

Mr. Sarfaraz Khan
Chairman Committee
SDEO (Male) Peshawar

Attested

Appellant

9	Zia Ullah	Zakirullah	23/12/89	-	Pishtakhara Payan	6	Son	2/7/2011	-	Moh: Ghazi Khail Pishtakhara Payan	Court Case/Father CNIC	Ex-MPA	RTD	- Recomended for appointment
10	Nematullah	Muqadar Khan	30/04/88	-	Garanga Bala	7	Son	14/10/11	-	Garanga Bala Chagar Matti Peshawar	Father CNIC/Mutatuion Deed	Mr.Mehmood Jan MPA-07	L & D	- Recomended for appointment
11	Naveed Khan	Hayat Khan	20/06/95	-	No.3 Hurizai B/ber	10	Son	4/10/2012	-	Hurizai badaber Peshawar	EEC	Minister Information	L & D	- Recomended for appointment
12	Subhan Ullah	Noushad Khan	20/04/83	-	Sheikhan Payan	-	Son	16/06/12	Matric	V&PO Sheikhan payan	EEC/Domicile/Ret: Order & Stamp Paper	MPA PK-11	RTD	-
13	Nouman Haider	Haider Ali	4/10/1993	-	Shna Ghundai	8	Son	30/06/12	-	Zarif Khan Koroona machani	-	Ex-MPA Mr.Malik Tamash	L & D	- Recomended for appointment
14	owais Khan	Sardar Khan	1/1/1992	-	No.1 Kaga Wala	11	Son	7/1/2012	-	Moh: Utmanzai Kagawala	Domicile Retiment /U/Processes	-	L & D	- Recomended for appointment
15	Farooq Khan	Khan Ali	30/06/92	-	no.1 Sheikhan	11	Son	23/10/12	-	Moh: Hindky Shelkhan	Father CNIC/EEC/Stamp Paper/Domicile	S.M Ishtiaq MPA	RTD	-
16	Awais Khan	Sahib Zada	15/10/94	-	Gul Abad	7	Son	26/10/12	-	Sahibzada PO Charpariza Peshawar	Stamp Paper/Domicile	Minister Education	L & D	- Recomended for appointment
17	Farman Ali	Gul Khan	2/2/1986	-	kandey Kalu khal	-	Son	27/10/12	-	Kandi Kalu Khail P.O Masma	Father CNIC/Stamp Paper	-	RTD	-
18	Saeedullah	Noor Muhammad	18/04/88	-	Garhi Aarsala khan	10	Son	1/7/2013	-	Garhi Izzat Khan mera Kachori	Rtd: Order	Minister Information	L & D	- Recomended for appointment

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Mr. Javed Abbas
Member Committee 2
Suprintendent/Office of the
Sub-Divisional Education Officer (M) Peshawar

Mr. Sarfaraz Khan
Chairman Committee
SDEO (Male) Peshawar

Attested

Appellant

19	Niaz Wali Gul	Kahisata Gul	1/5/1981	-	Kattar	9	Son	14/01/13	-	VPO Kattar Charsadda Road	Stamp paper	Mr.Arbab Jehandad MPA	L & D	-
20	Shahibzada Anawar Hussain	Sahibzada Abdur Rehman	6/7/1977	-	Mashai	-	Son	16/02/13	F.A	Mashai Sahrif PO Gulbela	O.K	Mr.Arbab Jehandad MPA	L & D	-
21	Siraj ud Din	Mohabbat Khan	6/6/1905	-	Shagi Payan	8	Son	21/04/13	-	Shagi Payan Dauzao	Domicile	-	L & D	- Recommended for appointment.
22	Azmat Ali	Mazhar Ali	15/05/95	-	No.2 Mushtarzai	11	New phew	18/05/13	-	Vil: Mushtarzai	Stamp Paper Retirment Order	-	L & D	- Recommended for appointment.
23	Abdul Hameed	Mahmood Shah	25/12/90	-	Garhi Chandan Bala	10	Son	9/2/2013	-	Moh: Garhi Chandan Shamshatu Phandu Road	Mutation Deed/Father CNIC & Stamp Paper	Minister Information	L & D	- Recommended for appointment
24	Akbar Khan	Abdur Rashid	-	-	no.2 Kakshal	-	Son	14/09/13	-	-	No Documents except Rtd	-	RTD	-
25	Zeeshan Latif	Abdul Latif	20/07/93	-	Kotla Felbanan	-	Son	15/09/13	-	Pakha Ghulam Moh: Amir	EEC/Stamp Paper	-	RTD	-
26	Ijaz Ali	Mumtaz Ali	1/1/1988	-	landi Daudzai	-	Son	10/2/2013	-	PO Mian Gujar Landi Dauzai	Stamp paper	Arbab Jehandad Khan	RTD	-
27	Saribiland Khan	Aziz ur Rehman	30/09/84	-	landi Daudzai	9	-	10/2/2013	-	Moh:Sheikh Abad Landi Daduzai	-	Arbab Jehandad Khan	L&D/Fresh	- Recommended for appointment.
28	halder Ali	Ghulam Nabi	-	-	no.1 Malakandher	-	Son	10/12/2013	-	Malakandher	EEC/Stamp paper	-	RTD	-
29	Lal Muhammad	Pir Muhammad	3/10/1982	-	Mera Mama khal	-	Son	25/10/13	Matric	mama khal bala Badber	Stamp paper/Father CNIC	Shah Farman	RTD	-

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SDEO (Male) Peshawar

Attested

30	Saeedullah	Amanat Gul	-	-	No.2 Chamkani	-	Son	27/10/13	-	Chamkani	No Documents	Ex-MPA Mr.Saqib Ullah Khan Chamkani	RTD	-
31	Masaud Khan	Sadat Khan	20/04/85	Pesh	Kharaka Daudzai	9	-	28/10/13	Middle	kharaka Dauzai nahaqi	Mutation Deed	Arbab Jehandad Khan	L & D	- Recommended appointment
32	Basit Ali	Maqbali Khan	14/11/94	-	no.1 Marozai	-	Son	31/10/13	-	Schem Chowk Peshawar Ahmad Khail	Stamp paper/Domicile	Fazal Elahi MPA	RTD	-
33	Abdur Rehman	Maqbali Khan	13/3/89	-	garhi Hashim	-	Son	6/11/2013	-	Moh: toti Khail badaber Maryamzai	EEC/Rtd: Order/Domicile	Shah Farman MPA	RTD	-
34	Mohammad Rizwan	Fazal mohammad	1974	-	Garhi Mian sabir Shah	10	Son	11/11/2013	-	Moh: Nukra Khail Surizai Payan	-	Minister Information	L &D	- Recommended appointmen
35	Ansar Naeem	S.naeem Jan	20/06/93	-	Garhi Badshah Gul	5	-	-	-	Garhi Badshah gul regi Peshawar	Rtd: Order	Mr.Sajid Nawaz MNA	L & D	- Recommended appointmen
36	Hameed Ullah	Abdullah Jan	5/2/1980	-	No.2 masho gagagr	11	-	-	-	Moh: mama Khail masho gaggar	Rtd: Order/CNIC	Discus	L & D	- Recommended appointmen
37	Sanaullah Jan	Inayat Ullah	4/12/1993		Terai oPayan	7	Son	-	-	Terai Payan	-	Mohamod jan MPA	L & D	- Recommended appointmend
38	Khurshed Alam	Wazeer Mohammad	00/00/190	-	-	3	Son	-	-	Wazeer Bagh	-	Ghulam Ahmad Bilour/Javeed Naeem MPA	-	- Recommended appointmend
39	Noor Ullah	Tawoos	00/00/81	-	-	8	-	-	Middle	Niami Nahaki Peshawar	-	Akber Hayat MPA	L & D	- Recommended appointmen
40	Qasir Shah	Abdul Qadeer	20/4/1981	-	-	1	-	-	SSC	Latif Abad	-	Akber Hayat MPA	L & D	- Recommended appointmen

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Chairman Committee
SDEO (Male) Peshawar

Attested

OFFICE OF THE SDEO (M) PESHAWAR

(26)

WORKING PAPER FOR APPOINTMENT OF CLASS-IV FRESH and Land Doner APPLIED

S.No	Name of Applicant	Father's Name	D.o.B	UC	Schools applied for GPS	PK	Relt:	Date of Death/Vacant	Quali:	Home Address	Remarks/ Deficiency	recomm:	Status	Recomm: of Committee
1	Mukhtar Ahmad	Naseer Khan	-	-	-	-	-	-	-	Garanga Bala P oCharger matti	-	-	fresh	-
2	Adnan Khan	Asfand yar khan	20/11/95	Pesh	Kochian	10	Son	27/10/05	Middle	Moha.Mamu kheil Azakhel mattani	-	Shah Farman Minister for Information	Fresh	- Recommended for appointment
3	Ahmad Ali	Muhammad Anwar	4/1/1987	-	No.1 Hazar Khawani	2	Son	13/03/08	Middle	H.No 1754 Chowk Naser Khan	Domicile	-	Fresh	- Recommended for appointment.
4	Muhammad Akbar	Dost Muhammad	20/01/96	-		-	-	-	Matric	Lalazar colony Dheri Bagbanan Koht Road	NIC/Domicile	-	fresh	- Recommended for appointment
5	Mujeebur Rahman	Faqir ur Rahman	1/12/1979	Pesh		-	-	-	Middle	Moh.yaseen Khil Chamkani	EEC	-	Fresh	-
6	Imran Fareed	Fareed Gul	1/1/1990	-	-	-	-	-	Primary	Sirbiland Pura Peshawar	Domicile	Ziaullah Afridi	Fresh	-
7	Muhammad tariq	Abdur Rahman	15/04/78	-	-	8	-	-	Matric	Muslim Abad R.K Bakhshu Pull	Domicile/EEC	-	Fresh	-
8	Touseef	Muhammad Hanif	14/08/90	Pesh	-	4	-	-	Matric	Talab Road Notia Qadeem	-	-	Fresh	-
9	Hidayatullah	hamidullah	5/12/1980	Pesh	-	-	-	-	F.A	Moha.Kingria n Urmur Miana	EEC	-	fresh	-

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Attested

Appellant

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10	Usman Khan	Nawaz khan	15/9/89	-	-	4	-	-	Matric	Civil Quarter Peshawar Cantt	EEC/Domicile	-	fresh	-
11	Sadaqat Khan	Mahabat khan	1/10/1987	Pesh	-	-	-	-	Middle	Moh.hathikheil mashukheil	-	So-1 CM Sett	fresh	-
12	Irfannullah	Ajmal Khan	15/04/93	Pesh	-	-	-	-	Matric	Muhammad Zai Dalazak Road	-	-	fresh	-
13	Ihsan ullah	Mouhamma d Sher	3/3/1987	Pesh	-	-	-	-	B.A/C.T/ PTC/B.E D	Mashokheil hati kheil Peshawar	-	-	fresh	-
14	Sajid Ur Rahman	Noor rahman	15/12/76	-	-	-	-	-	Primary	Kaptin Zahir Khan Sherkira	Domicile	-	fresh	-
15	Abdul Qadir	Mohammad Amin	-	-	-	-	-	-	Middle	hazzar Khuni	Application Missing	-	fresh	-
16	Shamsu zaman	Khusdill Khan	1/1/1977	Pesh	-	10	-	-	-	Gari Malak Khail bahadur Sherkera	Doucement Not completed	-	fresh	- Recommended for appointment
17	Gulraz Khan	Momin khan	1/11/1980	Pesh	-	8	-	-	Matric	vill.piari Payan P.o Shaghali Bala	-	Arbab Akber Hayat MPA	fresh	- Recommended for appointment
18	Akhter Zaib	Saba Sher	4/3/1991	Pesh	-	8	-	-	Matric	mera sufad Sang	-	Mehmood jan MPA	fresh	-
19	Irshad	Balqas Khan	1/5/1987	Pesh	-	10	-	-	Matric	banda Bazi Kheil Matani	-	Shahfarman	fresh	- Recommended for appointment
20	Wajid Ali	Mohammad Anwar	1/1/1990	pesh	-	-	-	-	-	Gulbela Charsada Road	-	Arbab Jandad Khan	fresh	-
21	Amjid Khan	taj Mohammad	3/8/1983	pesh	-	9	-	-	Primary	Lala Khhle Peshawar	EEC	Arbab Jandad Khan	fresh	-
22	Naseem Ullah	Tahseen Ullah	1/1/1988	pesh	-	9	-	-	Middle	landi Daood Zai	-	-	fresh	- Recommended for appointment

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Attested

23	Shamsul Kamar	M.Ashraf khan	2/5/1988	pesh	-	10	-	-	Primary	Gali Kheil Mashu Gagar	With out application	-	fresh	-
24	Yousaf Khan	Noshad Khan	4/6/1990	pesh	-	10	-	-	Matric	Moh Tableg Abad Mashugaer	With out application	-	fresh	-
25	Mohammad Ijaz	Mohammad Anwar	3/2/1980	pesh	-	-	-	-	Matric	Shekhan Payan Peshawar	With out application	-	fresh	-
26	M.Nijat Khan	Raz Mohammad	4/1/1991	pesh	-	-	-	-	Matric	Sultan Kheil Mushtarzai	With out application	-	fresh	-
27	Abdul Qader	M.Amin Khan	4/12/1990	pesh	-	6	-	-	Primary	Mosha Zai	With out application	Fazal Elahi MPA	fresh	-
28	Shakel Ahmad	Mir Akbar	1/2/1989	pesh	-	6	-	-	-	Moshazai	application EEC	Fazal Elahi MPA	fresh	- Recommended for appointment.
29	Liakat Ali	Akram Khan	8/4/1977	pesh	-	6	-	-	-	Mosazai	Application Missing	Fazal Elahi MPA	fresh	-
30	M.Bilal	Olsas khan	11/7/1976	pesh	-	6	-	-	-	Mosazai	EEC	Fazal Elahi MPA	fresh	-
31	M.Shoeb	Mukhtair Khan	3/3/1993	Pesh	-	6	-	-	-	Mosazai	EEC	Fazal Elahi MPA	fresh	-
32	Tariq Jamal	Ghafoor gul	3/10/1995	Pesh	-	-	-	-	Matric	Sader Colony	EEC	Ziaullah Afridi	fresh	-
33	Mohammad usman	Nimat ullah Khan	1/1/1990	Pesh	-	5	-	-	-	Moha.Charda tahkal payan		yaseen Kahlil	fresh	-
34	Bilal Ahmad	basher Ahmad	20/7/90	Pesh	-	5	-	-	Primary	Moh.Kochia Chamkani	-	-	fresh	-
35	Zuklfikar Khan	Aurangzeb Khan	20/2/80	Pesh	-	5	-	-	Primary	Gareb abad	-	-	fresh	-
36	Amjid Khan	Amdad khan		Pesh	-	5	-	-	Middle	Daood Zai	-	yaseen Kahlil	fresh	-
37	Anam ullah	Sher Afzal Khan	9/2/1987	Pesh	-	5	-	-	Middle	Moh Mughal zai	-	yaseen Kahlil	fresh	- Recommended for appointment.
38	kashif Ullah	Fanus Khan	28/1/91	Pesh	-	10	-	-	-	Moha.Khalid Zaib talaband	EEC	Gulzar Khan	Fresh	- Recommended for appointment.
39	Fazal Kareem	Sherr Alam	25/3/80	Pesh	-	6	-	-	Matric	Moh.Sadan	EEC	Fazal Elahi	Fresh	-

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Chairman Committee
SDEO (Male) Peshawar

Attested

40	Fareed Khan	Qader Khan	14/10/85	SWAB I		-	-	-	FSC PTC	badaber Peshawar	CNIC/Domicile	-	fresh	-	
41	Shazaib	Sakhi jan	3/10/1985	Pesh		6	-	-	Middle	Sangu Mandi bala	Application /EEC	Ex MPA Alam geer	Fresh	-	
42	Marifat Shah	Nawab Shah	23/12/86	-	-	6	-	-	Primary	Sangu Mandi bala	Domicile	Ziaullah Afridi	Fresh	-	
43	Nafees Ullhh	Majeed Gul	28/12/1980	Pesh	-	10	-	-	F.A	Suri Zai bala	-	-	Fresh	-	Recommended for appointment
44	Khalid Khan	Sher Zada	00/00/83	Pesh	-	-	-	-	-	Vill.Kat Kale P.O.peshawar	-	-	Fresh	-	Recommended for appointment
45	Farhad Ali	Mohammad Asharaf	1/1/1974	Pesh	-	7	-	-	Primary	Pakha Gulam	-	Sajid Nawaz MNA	fresh	-	
46	Ihsan Baloch	Nisar Ahmad Baloch	29/1/94	Pesh	-	2	-	-	Middle	Lahori Gate	-	-	fresh	-	
47	Ikram Ullah	Rifakat Khan	2/5/1981	Pesh	-	10	-	-	-	Balokhel Badaber	Motation Deed /Stamp Paper	-	fresh L / D	-	Recommended for appointment
48	hameed ullah	Niqab ud Din	4/3/1982	Pesh	-	-	-	-	Matric	Saeed Abad	EEC	manister Helth	fresh	-	
49	Farman ullah	Mohammad Shaeer	27/1/82	Pesh	-	10	-	-	Matric	Mashokheil	-	-	fresh	-	
50	Abi Waqas	Fazal Qader	20/4/88	Pesh	-	2	-	-	-	Kareeb Pura Doona Pati	-	-	fresh	-	
51	Wajahat Hussal	Ghulam Husssain	3/5/1983	Pesh	-	9	-	-	Matric	Rano Gari Wadh pagha		Arbab Jandad Khan	fresh	-	
52	Sohail Khan	Hayat Khan	5/8/1983	Pesh	-	9	-	-	-	Sardar Gari tarnab faram	-	Arbab Jandad Khan	fresh	-	Recommended for appointment
53	Rahat Ullah	Mohammad Tahir	00/00/83	Pesh	-	7	-	-	Middle	Karaki Daood Zai	-	Arbab Jandad Khan	fresh	-	
54	Mohammad tahir Khan	Sheer Ali Khan	4/1/1980	Pesh	-	3	-	-	-	Ramdas bazar	-	-	fresh	-	Recommended for appointment
55	Sajjad Ahmad	Bakhas Elahi	4/4/1995	Pesh	-	-	-	-	-	Villa.matra	EEC/Ret Order/	-	fresh	-	

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Attested

56	Abass khan	Essa kham	-	pesh	-	9	-	-	-	lala Kahle	-	Arbab Jandad Khan	fresh	-	Recommended for appointment.
57	Tariq Mehmood	Shah Mehmood	-	-	-	10		-	-	badaber Peshawar	-	Shah Farman Minister for Information	fresh	-	Recommended for appointment.
58	Arif Ullah	Rahman Gul		pesh	-	4	-	-	-	Gul Barg	-	Arif Yousaf	fresh	-	Recommended for appointment.
59	Alam Geer	Sher Bahadur	-	pesh	-	11	-	-	-	Sheik Mohammadi	-	Ishtiak Urmar MPA	fresh	-	Recommended for appointment.
60	Tariq nawaz	Rab Nawaz	-	pesh	-	-	-	-	-	-	EEC/CNIC?app	Arbab Akbaer Hayat MPA	fresh	-	Recommended for appointment.
61	Aziz Ahmad	Mohammad Yousaf	30/3/84	pesh	-	10	-	-	-	-	-	-	fresh	-	Recommended for appointment.
62	Waqar Kahn	Raza Khan	1/1/1986	pesh	-	-	-	-	-	Mohamad Zai	-	Fazal Elahi MPA	fresh	-	Recommended for appointment.
63	Mohammad Riaz	Faral raheem	231/12/88	pesh	-	3	-	-	-	Oandu Road hastnager	With out application	Javeed Naeem MPA	fresh	-	
64	jansheer	Khan Shaer Ali	30/1/89	pesh	-	-	-	-	-	Mohala Hoti khel Noweh	application	Ziaullah Afridi	fresh	-	
65	Abrahim	Mohammad Ali	17/1/92	pesh	-	-	-	-	-	Wazir Bagh Road Tohid Abd		Javeed Naeem MPA	fresh	-	Recommended for appointment.
66	S.Younas Jan	S.Afzal Ahmad Shah	1/1/1985	pesh	-	-	-	-	-	Taktabad nahaki	-	Arbab Akber Hayat MPA	fresh	-	Recommended for appointment.
67	Ibra Khan	Nimat ullah Khan	4/3/1989	Pesh	-	6	-	-	-	hazar khani Peshawar	-	Fazal Elahi MPA	fresh	-	Recommended for appointment.

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Chairman Committee
SDEO (Male) Peshawar

Attested

(37) Annexure-"G"

(37)

MINUTES OF THE MEETING OF DISTRICT SELECTION COMMITTEE REGARDING RECRUITMENT OF C-IV FRESH CANDIDATES / RETIRED CANDIDATES / DECEACED SONS / LAND DONORS/ DISABLE HELD ON 20-12-2013 AT THE OFFICE OF SUB DIVISIONAL EDUCATION OFFICER (Male) PESHAWAR

The meeting of District Selection Committee regarding recruitment of C-IV candidates was held on 20/12/2013 at 9.00 AM in office of the Sub-Divisional Education Officer (Male) Peshawar under the Chairman Ship of the SDEO (Male) Peshawar.

The following attended the meeting.

S#	Name & Designation	Capacity
1	Sarfaraz Khan S.D.E.O. (Male) Peshawar	Chairman
2	Attaullah Khan (Representative) Superintendent Office of the Director (E & S E) Khyber Pukhtunkhwa	Members
3	Muhammad Ishtiaq ASDEO (Male) Circle Mattani	Members
4	Javed Abbas Superintendent Office of the SDEO (Male) Peshawar	Member

The meeting was started with the recitation a verse from Holy Quran by Mr. Muhammad Ishtiaq ASDEO (M) Circle Mattani Peshawar.

The criteria regarding recruitment of C-IV are given as under:-

1. Deceased Son Quota 100%.
2. Retired Employees Son Quota 25%
3. Disable 02%.
5. Fresh Candidates Precedent

Working papers for recruitment of C-IV fresh / deceased son / retired son / land donors / disable were placed before the DSC.

In view of the above working papers the following decision were made by the DSC committee are as under:-

1. All the deceased sons / retired employees son / fresh candidates who are recommended by the DSC committee to be appointed as per given criteria.

After thorough examination & manual checking of the relevant documents the following

Candidates were selected for recruitment as given below:-

Attested

Appellant

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MEETING OF DISTRICT STEERING COMMITTEE OF DISTRICT PESHAWAR.

ATTENDANC SHEET Date.20/12/2013

S.NO	NAME OF OFFICER	DESIGNATION	CONTACT NO	SIGNATURE
1	Sarfaraz Khan	S.D.E.O (M) Prim: Peshawar	0308-3387264	
2	Attaullah Khan	Suptt: O/O the Director (E&SE)	0321-9073994	
3	Muhammad Ishtiaq	ASDEO (M) Circle Mattani	0301-8822645	
4	Javed Abbas	Suptt: O/O the SDEO (M) Prim:	0346-7875310	

Attested

Advocate

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APPROVED CANDIDATES FOR DECEASED / RETIRED EMPLOYEES SONS / LAND OWNER /FRESH APPOINTMENT AS C-IV

S#	Name	Father Name	DOB	Domicile	Remarks
DECEASED SON QUOTA 100%					
1	Kamran Ahmad	Jabir Khan	01-01-1991	Peshawar	Recommended for appointment subject to condition the availability of post/E.E.C.
2	Fazle Subhan	Malak Said Khan	01-02-1985	Peshawar	Recommended subject to condition to obtain the affidavit from Grand Father who is the real land donor
3	Abdullah	Faizullah Khan	01-01-1989	Peshawar	Recommended for appointment subject to condition to provide affidavit on Stamp Paper/EEC
4	Shahbaz Ali	Akhta Ali	27-11-1990	Peshawar	Recommended for appointment subject to the condition of availability of post
RETIRED SON QUOTA 25 %					
1	Meera Jan	Abdullah Jan	02-01-1990	Peshawar	Recommended for appointment
2	Ziaullah	Zakirullah	23-12-89	Peshawar	Recommended for appointment
3	Nematullah	Muqaddar Khan	30-04-88	Peshawar	Recommended for appointment
4	Naveed Khan	Hayat Khan	20-06-1995	Peshawar	Recommended for appointment
5	Noman Haider	Haider Ali	10-04-93	Peshawar	Recommended for appointment.
Land Donor					
1	Awais Khan	Sardar Khan	01-01-1992	Peshawar	Recommended for appointment
2	Tariq Nawaz	Rab Nawaz		Peshawar	Recommended for appointment subject to condition to provide the domicile.
3	Saeedullah	Noor Muhammad	18-04-88	Peshawar	Recommended for appointment subject to the condition to provide the retirement order.
4	Imtiaz	Khaista Gul		Peshawar	Recommended for appointment subject to condition to provide the document
5	Sirajud Deen	Mahabat KHan	1984	Peshawar	Recommended for appointment

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Attested

Appellant

(27) (40)

6	Ijaz Ali	Mumtaz Ali	01-01-1988	Peshawar	Recommended for appointment
7	Masaud Khan	Sadat Khan	20-04-1985	Peshawar	Recommended for appointment
8	Ansar Naeem	S. Naeem Jan	20-06-1993	Peshawar	Recommended for appointment
Fresh					
1	Khalid Khan	Shehzada	1983	Peshawar	Recommended for appointment
2	Adnan Khan	Asfandyar Khan	20-11-1995	Peshawar	Recommended for appointment
3	Ammad Ali	Muhammad Anwar	01-04-1987	Peshawar	Recommended for appointment
4	Muhammad Akbar	Dost Muhammad	20-01-1996	Peshawar	Recommended for appointment
5	Nafees Ullah	Majeed Gul	28-12-1980	Peshawar	Recommended for appointment subject to condition to provide age relaxation
6	Wiqar Khan	Raza Khan	01-01-1986	Peshawar	Recommended for appointment
7	Shakil Ahmad	Mir Akbar	02-01-1989	Peshawar	Recommended for appointment
8	Ibrar	Naimatullah	03-04-1989	Peshawar	Recommended for appointment
9	Inamullah	Sher Afzal Khan	01-09-1987	Peshawar	Recommended for appointment
10	Ibrahim	Muhammad Ali	17-01-1992	Peshawar	Recommended for appointment
11	S. Younas Jan	S. Afzal Ahmad Shah	01-01-1985	Peshawar	Recommended for appointment

MR Attaullah Khan (Member)
Representative Director E&S Edu :
Khyber Pkhtunkhwa

Mr. Javed Abbas (Member)
Supdt: Office of SDEO (M)
Primary Peshawar

20/12/13

Mr. Muhammad Ishtiaq (Member)
ASDEO (M) Circle Mattani

20/12/2013

Mr. Sarfaraz Khan (Chairman)
Sub-Divisional Education Officer
(Male) Primary Peshawar

(14)

Attested

Applicant

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APPROVED CANDIDATES FOR DECEASED/RETIRED EMPLOYEES SONS/LAND OWNER/FRESH APPOINTMENT AS C-IV

S#	Name	Father Name	DOB	Domicile	Remarks
LAND DONOR					
1	AZMAT ALI	MAZHAR ALI	15-05-1996	PESHAWAAR	RECOMMENDED FOR APPOINTMENT
2	ABDUL HAMEED	MEHMOOD SHAH	25-12-1990	PESHAWAR	RECOMMENDED FOR APPOINTMENT
3	SAR BILAND KHAN	AZIZ UR RAHMAN	30-09-1984	PESHAWAR	RECOMMENDED FOR APPOINTMENT
4	MOHAMMAD RIZWAN	FAZAL MOHAMMAD	00-00-1974	PESHAWAR	RECOMMENDED FOR APPOINTMENT
5	AZIZ AHMAD	MMOHAMMAD YOUSAF	30-03-1984	PESHAWAR	RECOMMENDED FOR APPOINTMENT
RETIRED SONS 25%					
6	HAMEED ULAH	ABDULLAH JAN	05/12/1980	PESHAWAR	RECOMMENDED FOR APPOINTMENT
7	SANA ULLAH	INAYAT ULLAH	04/12/1993	PESHAWAR	RECOMMENDED FOR APPOINTMENT
8	ALAMGIR KHAN	SHER BAHADER	1985	PESHAWAR	RECOMMENDED FOR APPOINTMENT
9	IKRAM ULLAH	RIFAQAT KHAN	02/05/1981	PESHAWAR	RECOMMENDED FOR APPOINTMENT
10	ABBAS KHAN	ESSA KHAN	1990	PESHAWAR	RECOMMENDED FOR APPOINTMENT
11	ISMAIL	AKHTAR GUL	10/04/1983	PESHAWAR	RECOMMENDED FOR APPOINTMENT
12	GULZAR KHAN	MOMIN KHAN	01/11/1980	PESHAWAR	RECOMMENDED FOR APPOINTMENT
FRESH					
13	NOOR ULLAH	TAWAS KHAN	1981	PESHAWAR	RECOMMENDED FOR APPOINTMENT
14	SHAMSUZAMAN	KHUSH DIL KHAN	01/01/1977	PESHAWAR	RECOMMENDED FOR APPOINTMENT
15	TARIQ NAWAZ	RAB NAWAZ	00/00/1985	PESHAWAR	RECOMMENDED FOR APPOINTMENT
16	QASIR SHAH	ABDUL QADEER	20/04/1981	PESHAWAR	RECOMMENDED FOR APPOINTMENT
17	KHURSHEED ALAM	MOHAMMAD YOUSAF	30/03/1984	PESHAWAR	RECOMMENDED FOR APPOINTMENT
18	NASEEM ULLAH	TAHSEEN ULLAH	01/01/1988	PESHAWAR	RECOMMENDED FOR APPOINTMENT

Attested

Appellant

19	IRSHAD	BALQYES KHAN	01/05/1987	PESHAWAR	RECOMMENDED FOR APPOINTMENT
20	SOHAIL KHAN	HAYAT KHAN	05/08/1983	PESHAWAR	RECOMMENDED FOR APPOINTMENT
21	KASHIF ULLAH	FANOOS KHAN	28/01/1991	PESHAWAR	RECOMMENDED FOR APPOINTMENT

Mr. Attaullah Khan (Member)
Representative Directors A&S Edu:
Khyber Pakhtunkhwa

Mr. Javed Abbas (Member)
Supdtt: Office of SDEO (M)
Primary Peshawar

20/12/13
Mr. Muhammad Ishtiaq (Member)
ASDEO (M) Circle Matani

20/12/2013
Mr. Sarfaraz Khan (Chairman)
Sub-Divisional Education Officer
(Male) Primary Peshawar

Attested

Appellant

"H"

Annexure "F"

43

INQUIRY AGAINST MR. SARFARAZ KHAN, EX-SDEO (M), NOW SDEO (M) TOWN-III PESHAWAR.

Order of Inquiry:-

The undersigned was appointed as an inquiry officer in the captioned Inquiry vide E&SE Department's Notification No.SO(SM)E&SED/4-3/2018/Sarfaraz Khan SDEO(M) Peshawar dated 02/06/2018 to inquire into following allegation (F/A):-

> ***"He has appointed 20 Class-IV without calling DSC meeting who were neither included in the working paper nor in the minutes of the meeting held on 20.12.2013".***

Inquiry Proceedings:-

The undersigned, upon receiving the afore-cited inquiry notification on 15/02/2018, issued a letter dated 16/02/2018 to the accused directing him to appear alongwith his written defense on 20/02/2018 and the same was also endorsed to Secretary E&SE Department for deputing a well-conversant officer to attend (alongwith all relevant record) the inquiry proceedings on the afore-said date (F/B). However, nobody turned up on the said date, therefore, another latter dated 20/20/2018 was issued to both the accused as well as to the Department concerned intimating 22/02/2018, the date re-fixed for appearing and submitting written defense and other relevant documents (F/C). The accused and Departmental representative Mr. M. Ilyas, AD(Estt) E&SED (F/D), appeared and apprised that both had received the intimation, as referred to above, at a belated stage, hence, could not prepare/ produce anything and requested for rescheduling the deadline as already conveyed for submission of the written defense and other relevant documents which was acceded to and the deadline was accordingly rescheduled as 27/02/2018 with the direction to the departmental representative to produce the following(F/E):-

1. Advertisement of the posts in question.
2. Applications received against the said posts.
3. Working paper of the DSC meeting dated 20/12/2013.
4. Attendance sheet of the candidates appeared before the said DSC.
5. Approved/signed/attested minutes of the said DSC.
6. Appointment letters issued (both in the wake of the said DSC & during the entire tenure of the accused.

Accordingly, the accused submitted his written defense (F/G) crux of which is produced below:-

> *"He was posted as SDEO (M) Peshawar on 23/08/2013. SDEOs were made appointing authority for appointment against Class-IV posts falling in their respective jurisdiction. Keeping in view pressing demand and dire need of filling vacant posts of*

Attested

Appellant

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Class-IV, working paper was circulated and [illegible] on 20/12/2013 accordingly. Prior NOC was also sought from DC Peshawar. Appointment letters were issued after observing all codal formalities. Mr. [illegible] replacing the accused as SDEO (M) Peshawar sought advice of the Department regarding Class-IV appointments being made by the accused. Resultantly, the Department ordered an inquiry dated 25/08/2014 and the Inquiry Officer in his enquiry report concluded that the accused had appointed 20 Class-IVs in violation of rules However, it has been inferred without he (the accused) being heard. Moreover, the allegation is baseless since no proof regarding those being appointed without DSC has been provided".

The Departmental representative had also joined the proceedings on 27/02/2018 and informed that the record supposed to be maintained in the office of the SDEO(M) Peshawar was not available(F/H), however, produced the following documents they had in the Department (F/I) -

1. Copy of enquiry report dated 22/05/2014.
2. Copy of enquiry report dated 11/10/2014.
3. Minutes of the DSC meeting held on 20/12/2013.
4. SDEO(M) Peshawar letter dated 12/08/2014 addressed to DEO(M) Peshawar.
5. List of 20 Class-IVs appointed without DSC.

Besides, the other three following members of the DSC were also directed to appear and submit their respective written statements to the undersigned on 1st March, 2018 (F/J):-

I. Mr. Javed Abbas, Suptd (Office of SDEO(F) Town-I Peshawar):- The official, in his statement, apprised that he as a member attended the DSC meeting dated 20/12/2013 wherein 28 candidates in total were unanimously recommended for appointment as Class-IV(F/K).

II. Mr. M.Ishtiaq, Asstt SDEO(M) Circle Mattani, Town-IV Peshawar:- The official stated that he too owns only those 28 candidates recommended for appointment as Class-IV in the DSC meeting held on 20/12/2013 (F/L).

III. Mr. Attaullah Jan, A.D (Audit/F&A), Directorate E&SED:- The officer had a stance similar to that of afore-quoted members of the then DSC i.e he as a member attended the DSC meeting dated 20/12/2013 and recommended 28 candidates in different categories, as mentioned in the minutes of the said DSC, for appointment as Class-IV (F/M).

Attested

Appellant

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After thorough deliberation, the departmental representative was asked to confirm and obtain the following from the AG office (KP) to help reach a logical and convincing conclusion (F/N):-

1. Seniority/merit list produced in the DSC meeting dated 20/12/2013.
2. Payroll alongwith other relevant documents pertaining to Class-IV being appointed in the wake of the said DSC meeting.
3. Updated status of all Class-IVs being appointed during the tenure of the accused working as SDEO(M) Peshawar, especially in the light of inquiry report dated 11/10/2014.

To conclude with the inquiry proceedings, the representative of the Department concerned, after putting his best, submitted his following final statement carrying status/ remarks pertaining to the requisite documents he was asked to find, retrieve (from the office of AG KP) and produce, as referred to above (F/O):-

S#	Standard Process	Status as per actual	Remarks
01.	Registration through Employment Exchange.	No record is available in both AG office and in SDEO office concerned as well.	Rule at Annex-I
02.	Applications record.	Record not traced.	
03.	Merit lists prepared & maintained for all quotas.	Record not traced.	
04.	Notification of DSC.	Record not traced.	
05.	Interview notices.	Record not traced.	
06.	Interview attendance record.	Record not traced.	
07.	DSC working paper & its minutes.	Contradiction is DSC's working paper & its minutes.	
08.	Appointment Notifications issued with or without DSC meeting during the tenure of the accused.	Record not available in DEO/SDEO office	Appointment Notifications issued with DSC meeting at Annex-II and without DSC are at Annex-III.

Observations:-

After thorough scrutiny of the available record/documents coupled with detailed discussions and proper examination of written statements, observations are recorded as under:-

Attested

Appellant

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(46)

1) It has been pointed out even in the Departmental earlier (preliminary) inquiry dated 11/10/2014 that the accused appointed [illegible] Class-IVs without calling DSC, hence, violation of rules (read findings part of the said inquiry already placed at F/O).

2) It is further observed that one of the reasons for the record not being properly maintained at the SDEO office concerned could be to tacitly help cover the illegal appointments being made by the accused; but its only an observation and there is nothing substantial to prove as whether it has been done with ulterior motives or it's a mere coincidence.

3) The accused time & again orally reiterated (in the presence of the departmental representative and others asked to appear in connection with the instant inquiry) that he had appointed 49 candidates as Class-IV and tried to justify it with the help of ambiguous working paper prepared for the DSC dated 20/12/2013 which was partly typed and partly hand written. However, he couldn't produce either minutes of the DSC nor had any logical & plausible explanation for the appointment other than those 28 recommended by the DSC dated 20/12/2013.

4) It has been observed that serious negligence had been demonstrated even in those 28 appointed on the recommendation of the DSC dated 20/12/2013. For instance, the accused orally confirmed that he was not supposed to write to Employment Exchange for provision of list of unemployed persons rather those applying were to produce their respective registration cards. However, this is wrong and he had to write to Employment Exchange if available in the Division concerned. The other mistake is that there was 100% quote reserved for the deceased's son; but they surprisingly picked some and left out others. When asked as why they had done so, the accused tried to justify it by saying that those left out were "over-age" Even if his statement is considered to be true, over-age cases in such instances cant be simply turned down rather age relaxation case(s) to be moved or should have been moved in the instant case for the competent authority.

5) It has been observed that it was an open secret among those somehow associated with the accused or with the instant case that he had appointed Class-IVs in contravention of rules i.e without calling DSC meeting etc. (other than those 28 recommended by the DSC dated 20/12/2013 are referred to here).

Attested

Appellant

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6) It has been further observed that the accused had done everything at his own and nobody appears to have had direct involvement in those illegal and unlawful appointments made by him.

7) Another observation is that appointment orders have not been issued on the same day or date. Surprisingly, appointment orders of even those 28 recommended by the DSC dated 20/12/2014 have not been issued on the same date, let alone those appointment orders issued without calling DSC. To prove it, the following table is added here:-

S#	Appointee Name	Appointed by	Appointment date	Remarks
01.	Sarbiland Khan	Sarfaraz khan, the accused.	31/01/2014	Without DSC
02.	Alamgir Khan	-Do-	11/11/2013	-Do- (even before the DSC dated 20/12/2013)
03.	Azmat Ali	-Do-	24/01/2014	Without DSC
04.	Naseem ullah	-Do-	31/12/2013	-Do-
05.	Ammad Ali	-Do-	-Do-	With DSC dated 20/12/2013
06.	Awais Khan	-Do-	22/01/2014	-Do-

8) Last but not the least, the representative of Department concerned earnestly and diligently

worked to help the undersigned in all possible ways & means reach & establish truth. He in person visited the AG office as there was no other source relevant documents could be retrieved from. For his commitment and cooperation, he deserves all appreciation & praise.

Findings:-

On the basis of observations, findings of the undersigned are as under:-

1. The accused has appointed Class-IVs without observing codal formalities like calling DSC meeting etc but its really difficult to find out the exact number of such unlawful appointments made by him i.e they could be more or less than 20.

Attested

Appellant

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2. To prove that the accused has appointed Class-IVs in violation of rules, the following table in respect of those 20, as mentioned in the charge-sheet & statement of allegation, is added:-

S#	Name	Personal #	Appointed on/ salary activated on	Present status	Remarks
01.	Khurshid Alam s/o Wazir Muhammad	709910	01/01/2014	Active	Appointment order not traceable, however appointed during the tenure of the accused.
02.	Sarbiland Khan s/o Aziz Ur Rehman	711333	31/01/2014	Active	Appointment order issued by the accused at p-2 of Annex-III.
03.	Qaisar Shah s/o Abdul Qadeer	711338	01/01/2014	Active	Appointment order not traceable, however appointed during the tenure of the accused.
04.	Alamgir Khan s/o Sher Bahadur	711592	11/11/2013	Active	Appointment order issued by the accused at p-4 of Annex-III.
05.	M. Rizwan s/o Fazal Muhammad	711599	01/03/2014	Left	Appointment order not traceable, however appointed during the tenure of the accused
06.	Azmat Ali s/o Mazhar Ali	711605	24/01/2014	Left	Appointment order issued by the accused at p-6 of Annex-III.
07.	Sohail Khan s/o Hayat Khan	711750	31/01/2014	Active	Appointment order issued by the accused at p-7 of Annex-III.
08.	Naseem Ullah s/o Tehseen Ullah	712075	31/12/2013	Active	Appointment order issued by the accused at p-8 of annex-III.
09.	Abbas Khan s/o Esa Khan	712077	11/11/2013	Active	Appointment order issued by the accused at p-9 of annex-III.
10.	Irshad Khan s/o Balqais Khan	712247	31/01/2014	Active	Appointment order issued by the accused at p-10 of Annex-III.
11.	Ismail s/o Akhtar Gul	712250	27/01/2014	Active	Appointment order issued by the accused at p-11 of Annex-III.
12	Noor Ullah s/o Tawas Khan	712611	31/12/2013	Active	Appointment order issued by the accused at p-12 of annex-III.
13.	Aziz Ahmad s/o Muhammad Yousaf	711336	01/02/2014	Left	Appointment order not traceable, however appointed during the tenure of the accused
14.	Sana Ullah Jan s/o Inayat Ullah	714586	27/01/2014		Appointment order issued by the accused at p-14 of annex-III, however, his case is subjudice in the KP Service Tribunal.
15.	Numan Khan s/o Ghulam Muhammad	717463	20/05/2014	Active	He has not been appointed by the accused.
16.	Waleed s/o Ghulam Farid	717541	20/05/2014	Active	He has not been appointed by the accused.
17.	Gulrez Khan s/o Momin Khan	717573	31/12/2013	Active	Appointed by the accused at p-17 of Annex-III.
18.	Ikramullah s/o Rifaqat Khan	717577	29/01/2014	Active	Initially appointed by the accused at p-18 of Annex-III, however, his salary released in the light of Court's judgment.

Attested

Appellant

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19.	Kashifullah s/o Fanoos Khan	712251	10/02/2014	Active	Initially appointed by the accused(p-19 of annex-III), however, his salary released in the light of Court's judgment.
20.	Sham Uz Zaman s/o Khushal Khan	726603	10/02/2014	Active	Initially appointed by the accused (his original appointment order is not traceable, however, a reference to his appointment by the accused has been made in his adjustment order issued in the light of Court's judgment (p-20 of Annex-III).

Forgoing in view, it is crystal clear that the allegation leveled against the accused stands proved.

Attested

27/03/2018

ASKAR KHAN (OMG,BS-18)
Deputy Director, PDMA
(Inquiry Officer)

Appellant

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REGISTERED

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Annexure - "I"

No.SO(SM)E&SED/4-3/2018/Sarafaraz Khan, SDEO Male Peshawar
Dated Peshawar the June 13, 2018

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To

Mr. Sarfaraz Khan,
Ex-SDEO (Male) Peshawar now SDEO Male Town-III Peshawar.

Subject:- **SHOW CAUSE NOTICE.**

I am directed to refer to the subject noted above and to enclose herewith a copy of Show Cause Notice wherein the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) has tentatively decided to impose upon you the major penalty of **"Dismissal from service"** under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charges leveled against you.

2. You are therefore directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty should not be imposed upon you and **also intimate whether you desire to be heard in person.**

3. Your reply should reach this Department **within Seven (07) days** of the delivery of this letter otherwise ex-parte action shall be taken against you.

(ANEELA FAHIM)
SECTION OFFICER (SCHOOLS MALE)

Encl: As Above:

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

1. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Peshawar with the direction to ensure delivery of show cause notice to the accused.
4. PS to Secretary E&SE Khyber Pakhtunkhwa, Peshawar.

Attested

SECTION OFFICER (SCHOOLS MALE)

Appellant

(122)

SHOW CAUSE NOTICE

(51)

I, Muhammad Azam Khan, Chief Secretary Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Sarfaraz Khan Ex-SDEO(Male) Peshawar (now SDEO Male Town-III Peshawar) as follows:-

1. i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you submitted your written defense before the inquiry officer vide communication dated 26.02.2018; and

   ii. On going through the findings and recommendation of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer:-

2. I am satisfied that you have committed the following act/omissions specified in Rule-3 of the said rules:

   (a) Inefficiency

3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Dismissal from Service under Rule-4 of the said rules.

4. You are, thereof, 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.

5. 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.

6. A copy of the findings of the inquiry officer is enclosed.

(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Attested

Appellant

Annex-J (52)

D.No 3095

Annexure-"J"

27/6/18

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The Secretary to Govt,
Of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.

Subject: **SHOW CAUSE NOTICE.**

Sir,

Reference your letter no.SO(SM)E&SED/4-3/2018/Safraz Khan, SDEO (Male) Peshawar dated the June, 13 2018 addressed to the undersigned which has not been received to me so far.

It is stated that I am in receipt of show cause notice on 26-06-2018 vide DEO(M) Peshawar Endstt: No.14511-13 dated 21-06-2018.

My reply to Show Cause Notice is submitted as under:-

In order to fill up 49 vacant posts of Chowkidar in BPS-01, DSC was held on 20-12-2013 and minutes of DSC are attached herewith with clearly show that the members after through discussion have signed it.

It is further submitted that 114 candidates applied for appointment against the vacant posts and their particulars were reflected in the working papers. Correspondence were made with the Deputy Commissioner Peshawar earlier for intimating the names of employees from the surplus pool to be adjusted first against the vacant posts. The Deputy Commissioner Peshawar allowed the SDEO (M) Peshawar for selection to be made after observing all codal formalities / procedures and selection by the DSC for 49 posts.

After observing all the codal formalities the DSC recommended 49 candidates for appointment out of 114 candidates.

All the 49 candidates were appointed for which I was authorized to appoint these candidates.

The working papers / minutes have properly been signed by the members of DSC and their statement restricting the appointment of 28 candidates

Attested

Appellant

~~86~~

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instead of 49 candidates are not correct. Their signature put on the working papers/ minutes can be verified and their denial is clear cut violation of the rules.

It is further submitted that the minutes of Departmental Selection Committee dated 20-12-2013 would show that the said meeting was solely held to discuss the recruitment of class-iv fresh candidates / retired employee "sons" candidates/ deceased employee sons/ land owners and disabled candidates. The minutes of meeting would further show that departmental selection committee recorded each and every issue in minutes details and reduced the same into writing. The working papers were scrutinized and fit and eligible candidates were picked in the prescribed manner and did not pick and choose or favoritism was made and as such the whole process of recruitment was carried out in honest and faithful manners. The said meeting dated 20-12-2013 was also attended by other three members but only undersigned has been charge sheeted which show that the has been victimized due to malafide and ulterior motives of the quarter concerned.

That no illegality or irregularity could be established in the recruitment process therefore, the charge sheet as well as statement of allegation having no substance.

I was transferred from SDEO (M) Peshawar and relived on 07-06-2014 and all the relevant record were handed over to Mr. Javed Abbas (Superintendant) of SDEO(M) Peshawar.

It is therefore, requested that keeping in view the above reply, the undersigned may please be absolved from the allegation leveled against me.

I desire to be heard in person please.

27/06/2018

(SARFARAZ KHAN)
SDEO(Male) Town-III
Peshawar
Mob No.0308-3387264

Attested

Appellant

Annexure - K

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

54

NOTIFICATION

Dated Peshawar the October 09, 2018

NO.SO(SM)E&SED/4-3/2018/Sarfaraz Khan SDEO(M) Peshawar:

WHEREAS Mr. Sarfaraz Khan Ex-SDEO(M) Peshawar (Now SDEO Male Town-III Peshawar), basically Headmaster (BS-17) was proceeded against under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. **AND WHEREAS** Mr. Askar Khan (OMG BS-18) Deputy Secretary Food Department was appointed as inquiry officer to conduct formal inquiry against the accused for the charges levelled against him in accordance with rules.

3. **AND WHEREAS** a Show Cause Notice for "Dismissal from Service" was served upon the accused on 13-07-2018.

4. **AND WHEREAS** the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, explanation of the accused in response to the show cause notice and personal hearing granted to him by the Special Secretary Establishment Department on behalf of the Competent Authority on 17-09-2018, is of the view that charges against the accused have been proved.

5. **AND WHEREAS** the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) in exercise of the powers conferred upon him under Section-14 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 has been pleased to impose major penalty of **"Removal from Service"** upon Mr. Sarfaraz Khan Ex-SDEO(M) Peshawar (Now SDEO Male Town-III Peshawar), basically Headmaster (BS-17).

Endst: of even No. & Date

SECRETARY

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Peshawar.
4. Mr. Sarfaraz Khan Ex-SDEO(M) Peshawar (Now SDEO(M), Town-III Peshawar)
5. PS to Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar.
6. PS to Secretary E&SE Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
7. Incharge EMIS E&SE Department Govt. of Khyber Pakhtunkhwa, Peshawar
8. Office order file.

Attested

Advocate

(MIAN HUSSAIN DIN)
SECTION OFFICER (SCHOOLS MALE)

Annex-"L" (8 pages)

PSRMD No 1802 Dated 24/x/18

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To

The Worthy Chief Minister,
Khyber Pakhtunkhwa Province,
Peshawar.

Subject: **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 09/10/2018 PASSED BY THE CHIEF SECRETARY KHYBER PAKHTUNKHWA PROVINCE, PESHAWAR WHEREBY THE APPELLANT WAS AWARDED HARSH AND EXTREME PENALTY OF REMOVAL FROM SERVICE IN UTTER VIOLATION OF LAW.**

Prayer in Appeal

By accepting this appeal, the impugned order dated 09/10/2018 passed by the Chief Secretary Khyber Pakhtunkhwa Province, Peshawar may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

RESPECTED SIR,

The appellant respectfully submits the departmental appeal inter-alia on the following factual and legal grounds:

FACTS

1. That the appellant joined the services of respondents department in capacity as Primary School Teacher (BPS-7) on 03/03/1979. He rose up to the post of Sub-Divisional Education Officer (BPS-17) on account of dedication, devotion and sincerity to his job. He had 40 years unblemished service record to his credit.

Attested

Appellant

2. That the appellant performed his duty as Sub-Divisional Education Officer (Male) Peshawar justly, fairly, honestly and

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also in accordance with law. But after his transfer from the said post, his successor namely Irfan Ali SDEO (Male) Peshawar submitted a complaint to the District Education Officer (Male) Peshawar against the appellant alleging therein that the latter has made illegal appointments of various Class-IV employees without observing the relevant rules. This was a frivolous and baseless complaint and the same was only made in order to take revenge from the appellant as in the past, the former (Irfan Ali) prevailed over the Competent Authority through illegal means to dislodge the appellant from his post as Sub-Divisional Education Officer (Male) Peshawar and succeeded accordingly. But the appellant felt aggrieved by the said order, invoked the jurisdiction of Khyber Pakhtunkhwa Service Tribunal, Peshawar by way of filing service appeal No. 970/2014 titled ***"Sarfaraz Khan VS Chief Secretary & other"*** which was accepted and the impugned order of transfer was set aside and the Competent Authority was directed to act in accordance with law vide judgment dated 02/07/2015. Thus, it is abundantly clear that Irfan Ali Sub-Divisional Education Officer (Male) Peshawar had a **"personal grudge"** with the appellant who tried to rope and involve him in a false case like above.

(Copies of complaint and judgment are appended as Annex-A & B)

3. That on the basis of above complaint, the Director Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar vide letter No. 2372 dated 25/08/2014 nominated Siraj Khan, District Education Officer (Male) Charsadda as Inquiry Officer to conduct preliminary inquiry in the matter. The said officer conducted inquiry in absence of appellant and no opportunity whatsoever was given to him to explain his position regarding the allegations contained in the so-called complaint and as such fair trial and due process of law both were denied to him.

Attested

Appellant

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Resultantly, the Inquiry Officer arrived at the following illegal conclusion and recommendations:-

CONCLUSION

From the perusal of the available record I reached to the conclusion that the Ex-DDO has made appointments of the enlisted 20 Class-IV in violation of rules and regulation as such these appointments are legally null and void. This is not a clerical mistake to be taken slightly.

RECOMMENDATIONS

1. **Salary of the remaining Class-IV approved by the DSC be released.**

2. **The issue of 10 concerned Chowkidars needs to be resolved departmentally to release their salaries unless a clear decision of the competent authority regarding the fate of their service is taken place.**

3. **These obvious irregularities committed by the Ex-DDO in appointment of Class-IV in his short tenure on one hand is a question mark on this performance to regain administration seat in future and on the other hand he stands deserve to disciplinary action under E&D, rules 2011 as well.**

(Copy of Inquiry Report is appended as Annex-C)

Attested

Appellant

4. That in the light of above inquiry report, the appellant was served with a charge sheet alongwith statement of allegations and that Askar Khan, Deputy Director PDMA was nominated

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to conduct regular inquiry in the matter. It would be advantageous to reproduce herein the allegations so as to know the legal and factual aspect of the case:

> **"you have appointed 20 Class-IV without calling DSC meeting who were neither included in the working paper nor in the minutes of the meeting held on 20/12/2013"**
>
> **(Copy of charge sheet alongwith statement of allegations is appended as Annex-D)**

5. That the appellant submitted elaborate and exhaustive reply, denied the allegations and also termed it as fallacious, malicious and misconceived. He added that he had acted in consonance with law. He further clarified that working paper for 114 candidates was duly prepared, fair and transparent selection of 49 candidates was made so as to appoint them as Class-IV employees on various posts and minutes of the meeting of DSC were also prepared. All these important documents were signed by the appellant and 3 other members of the Departmental Selection Committee. Thereafter, appointment orders/letters of eligible and deserved candidates were issued. Their service books were prepared accordingly. The appellant further clarified that the original record pertaining to the above selection/appointment was intentionally misplaced by Irfan Ali Sub-Divisional Education Officer (Male) Peshawar so as to damage the spotless service career of appellant on account of his previous litigation as enumerated above. Lastly, the appellant provided all the required documents consisting of working paper and minutes of the meeting of DSC in order to justify his stance and prayed that he may graciously be exonerated of the allegations levelled

Attested

Appellant

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against him in the charge sheet.

(Copy of reply, working paper and Minutes are appended as Annex-E, F and G)

6. That the above reply was not found satisfactory and the inquiry was conducted in utter violation of law and the appellant alone was found guilty of the allegations vide report dated 27/03/2018.

(Copy of inquiry report is appended as Annex-H)

7. That the appellant was served with a show cause notice on 13/06/2018. He submitted reply and took the same stance as enumerated in the reply to the charge sheet. But this reply too was not deemed satisfactory and the appellant was awarded harsh and extreme penalty of removal from service on 09/10/2018.

(Copies of show cause notice, reply and impugned order are appended as Annex- I, J & K)

GROUNDS OF APPEAL

A. That the Competent Authority has not treated appellant in accordance with law, rules and policy on the subject and acted in violation of **Article 4 of the Constitution of Islamic Republic of Pakistan, 1973.** Therefore, the impugned order is not sustainable in the eye of law.

Attested

Appellant

B. That the preliminary inquiry was conducted in utter violation of law as neither the appellant was associated with the said

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inquiry nor any witness was examined in his presence. He was also not provided any chance of cross-examination. Similarly, he was not provided any opportunity to produce his defence in support of his version. The above defect in enquiry proceeding is sufficient to declare entire process as sham and distrustful. Right of fair trial is a fundamental right by dint of which a person is entitled to a fair trial and due process of law. The appellant has been deprived of his indispensable fundamental right of fair trial as enshrined in **Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973.** Besides, the constitution of such inquiry was illegal and without lawful authority as the same was constituted by incompetent authority. The Director Elementary & Secondary Education was not competent under the law to do so and the Chief Secretary Khyber Pakhtunkhwa, Peshawar was alone competent to constitute such inquiry against officer (BPS-17). It is well settled law that when initial order or act relating to initiation of proceeding is illegal and without lawful authority then all subsequent proceedings and actions taken thereon would fall on the ground automatically. Reliance can be placed on the judgment of august Supreme Court of Pakistan reported in **2009-SCMR-339.** Akin, regular inquiry was also not conducted in a manner prescribed by law as the Inquiry Officer examined the members of the Departmental Selection Committee as well as representative of the department in absence of appellant and no opportunity whatsoever was given to him to cross-examine them in order to impeach the credibility of the testifying witnesses to lessen the weight of unfavorable testimony so as to fulfil the requirement of fair trial and due process of law as enumerated earlier and as such the Inquiry Officer has committed gross illegality by not adhering the mandatory provision of Constitution and law laid down by august Supreme Court of Pakistan in various judgments. Thus, the findings of the Inquiry Officer are based on conjectures, surmises and suppositions. Therefore, such

Attested

Appellant

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findings are perverse and are not sustainable in the eye of law. Hence, the impugned order passed on the basis of such findings is against the spirit of administration of justice.

C. That when the members of Departmental Selection Committee candidly admitted the selection of 28 candidates as correct and denied the remaining selection/appointment of candidates in order to absolve themselves from liability despite the fact that their signatures were duly available on the working paper/selection sheet and minutes of the meeting of DSC then the Inquiry Officer was legally bound to have taken their fresh signatures and sent it to Forensic Science Laboratory (FSL) alongwith their disputed signatures available on the above documents for comparison and verification so as to secure the ends of justice and after the receipt of such report of FSL, the findings were required to be passed. But no efforts were made in this respect. The Inquiry Officer, in haphazard and hasty manner, finalized the inquiry report and found the appellant guilty of allegations illegally. Thus, both the inquiries were not conducted in accordance with the mandate of **Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973** as well as law laid down by august Supreme Court of Pakistan reported in **1997-SCMR-1073 (citation-a)** and also **Rule 11(1) of the KPK Government Servants (Efficiency & Discipline) Rules,2011.** Therefore, the impugned order is not warranted under the law.

D. That the Competent Authority was under statutory obligation to have considered the case of appellant in its true perspective and also in accordance with law and to see whether the preliminary inquiry and regular inquiry were conducted in consonance with law and the allegations thereof were proved against the appellant without any shadow of doubt or otherwise. But he has overlooked this important aspect of the case without any cogent and valid reasons and awarded harsh

Attested

Appellant

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and extreme penalty of removal from service to the appellant. Thus, the impugned order is liable to be set aside on this count alone.

E. That the impugned order is suffering from legal infirmities and as such caused grave miscarriage of justice to the appellant.

F. That the impugned order is against law, facts of the case and norms of natural justice. Therefore, the same is not tenable under the law.

In view of the above narrated facts and grounds, the impugned order dated 09/10/2018 passed by the Chief Secretary Khyber Pakhtunkhwa Province, Peshawar may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

APPELLANT

Dated: 21/10/2018

Sarfaraz Khan (Ex-SDEO)
s/o Fazal Raheem, Village P.O
Azakhel, Tehsil & District Peshawar

Attested

Appellant

Before the Honible Service Tribunal KPK, Peshawar

بعدالت

2019ء منجانب اپیلانٹ

بنام

موزخہ

مقدمہ

دعویٰ

جرم

Sarfaraz Khan

VS

The Chief Minister & others

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ آن مقام Rizwanullah Adv کیلئے Peshawar مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے وتقرر ثالث و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک وروپیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظرثانی وپیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ وہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند رہے۔

المرقوم 28 ماہ جنوری 2019ء

العبد گواہ العبد

Attested & accepted

بمقام Peshawar only کے لئے منظور ہے۔

Adv

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR .

S.A.# 136/2019.

Mr. Sarfaraz Khan.....**Appellant.**

VERSUS

Secretary E&SE, Govt: of Khyber Pakhtunkhwa & others..... **Respondents.**

PARAWISE COMMENTS FOR & ON BEHALF OF THE RESPONDENTS NO.1-4.

Respectfully Sheweth,

Joint Parawise Comments on behalf of Respondents No. 1, 2, 3 & 4 are as under:-

Preliminary Objections

1. That the appellant has got no cause of action/locus standi.
2. That the instant appeal is badly time barred.
3. That the appellant has concealed the material facts from this Hon'able Tribunal, hence is liable to be dismissed on this score.
4. That the appellant has not come to this Hon'albe Tribunal with clean hands.
5. That the appellant has filed the instant appeal with malafide intension just to pressurize the Respondent for gaining illegal service benefits.
6. That the present appeal is liable to be dismissed fro mis-joinder & non joinder of necessary parties.
7. That the instant appeal is against the prevailing law & rules.
8. That the appellant is estopped by his own conduct to file the instant appeal.
9. That the instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
10. That the Notification dated 09-10-2018 is legally competent.
11. That the instant Appeal is not maintainable in its present forum.

FACTS.

1. That Para-1 is relates to the Service record of the appellant.
2. Incorrect and not admitted. That after transfer of the appellant, his successor sought guidance from DEO(M), Peshawar, whereby he stated that the appellant committed irregularities in appointment of Class-IV and mismanagement in drawl of salaries. He further added that all these irregular appointees have knocked at the door of law (appeal, are annexed as **Annexure – A**).
3. As admitted by the appellant that a preliminary inquiry was conducted in the matter, the Inquiry Officer recommended that;

> These obvious irregularities committed by the Ex-DDO in appointment of Class-IV in his short tenure on one hand is a question mark on his performance to regain administrative seat in future and on other hand he

stands deserve to disciplinary action under E&D rules 2011 as well. (The enquiry report Annexed with Service Appeal as **Annexure-C** at Page-18).

4. Correct to the extent that on recommendation of Inquiry Officer, the appellant has been proceeded under the E&D Rules, 2011, for the charges mentioned in the charge sheet and statement of allegations to the extent of committing irregularities in the appointment of Class-IV while holding charge of SDEO(M), Peshawar.
5. That Para-5 correct to the extent that the appellant replied to show cause, but the same was unsatisfactory way, hence formal inquiry was conducted against the appellant.
6. That Para-6 is correct to the extent that an inquiry was conducted against the accused/appellant through Mr. Asghar Khan (OMG BS-18)), who submitted his respective inquiry report to the competent authority wherein the accused has been found guilty of mis-conduct and inefficiency, hence a show cause notice was served upon the Appellant, duly replied by the Appellant in an unsatisfactory and evasive form. Hence the Competent Authority after having considered the charges and evidence on record, inquiry report, explanation of the accused officer in response to the show cause notice and personal hearing granted to him by the Special Secretary Establishment Govt: of KPK on behalf of Chief Minister on 17-09-2018 was of the view that the charges leveled against the accused have been proved without any doubt of shadow, hence he has been proceeded against the E&D Rules, 2011 by imposing upon him the major penalty of removal from service, upon the Appellant vide Notification dated 09-10-2018 by the Respondent Department in the light of the facts and circumstance of the case (Copies of the statement of allegations, charge sheet, show cause notice, reply to the show cause notice, inquiry report and rejection of review petition against the impugned notification are attached as (Annex-B,C,D,E,F & G).
7. That Para-7 is incorrect and denied, detailed reply of this para has been given in Para-6, hence needs no further comments.
8. That major penalty of removal from service vide Notification dated 09-10-2018 has been imposed upon the Appellant against which he has filed a review petition which was duly processed and had been rejected by the Competent Authority.
9. As already explained in foregoing Paras.
10. That Para-10 incorrect and denied the impugned Notification dated 09-10-2018 is legally competent and are liable to be maintained on the following grounds inter-alia.

Grounds

a. Incorrect and denied. The appellant has been treated as per Law, Rules and Procedure prior to the issuance of impugned Notification dated 09-10-2018 which is not only legally competent but is also liable to be maintained in the interest of justice because the Appellant has been found guilty of irregularities in the appointment orders.

b. Incorrect and denied. The statement of the appellant is against the facts and circumstances of the case as stated in para-3 of the instant reply, that preliminary enquiry was conducted against appellant and found guilty of misconduct by the Respondent after observing the codal formalities.

c. Incorrect and denied, the appellant has been found guilty by the inquiry officer and has thus resultantly impugned Notification dated 09-10-2018 issued in the light of the material available on record.

d. Incorrect and denied. Detailed reply of this ground has been given in the foregoing paras, hence no further comments.

e. Incorrect and denied. The Appellant has been found guilty of misconduct, inefficiency, and committing serious irregularities in the recruitment process in District Peshawar, hence, he has been proceeded against the E&D Rules 2011 vide the impugned Notification dated 09-10-2018 issued by the Respondent in the interest of justice.

f. Incorrect and denied. Proper statement of allegation, charge sheet, show cause notice and opportunity of personal hearing have been granted to the accused/appellant prior to the issuance of impugned Notification dated 09-10-2018 by the Respondent against the Appellant which is not only legal but is also liable to be maintained.

g. As already explained.

h. The Respondents also seek leave of this Hon'able Tribunal to submit additional ground and case law at the time of arguments on the concerned date fixed before this Hon'able Bench.

In view of the above made submissions, it is, therefore, most humbly prayed that this Honourable Tribunal may very graciously be pleased to dismiss the appeal with cost in favour of the Respondents.

Secretary
Elementary& Secondary Education Department
(Respondents No. 1 to 4)

A

1 A

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Annexure "A"

02 Pages

Office of the Sub Divisional Education Officer (M) Peshawar

No. 138 / Dated Peshawar the 12/08 /2014

ADDE Please discuss very important. 29/8/2014

To

The District Education Officer,

(Male) Peshawar

Subject **IRREGULARITES IN RECRUITMENTS OF CLASS IV/MIS-MANAGEMENT IN DRAWL OF SALARIES THEREOF.**

Memo

Reference subject cited above and to state that after assumption of my charge as SDEO (M) on 28-06-2014, the following irregularities committed during the tenure of my predecessor, have come to surface.

A. DSC was arranged and 28 class 1V were recommended for appointment and orders were issued but against 28 eligible class 1V, Seventeen (17) still stand deprived of their right of salaries.

B. Thirty-three (33) candidates were appointed as class 1V in anticipation of approval of DSC and accordingly only 17 have been drawing their salaries.

C. The services of ten (10) class 1V, having sufficient service at their credit were placed at your disposal and their salaries were stopped by Ex-DDO/SDEO and it is learnt that all these class 1V have knocked at the door of law and their case is therefore subjudice. The department, will have to adjust them if ordered by the learned court.

D. Apart from aforementioned petitioners, salaries of seventeen (17) class 1V will have to be arranged who are land donors and on reopening of schools after summer vacations on 1-09-2014, they will demand for salaries and it will be beyond shadow of doubt that they will close the schools and as a result not only the innocent kids will deprive of their fundamental right of education but law and order situation will also be created.

E. Another irregularity which has been noticed is that the relevant pages containing issue number and dates of the appointment orders have been removed from the issue register.

F. There may be similar other irregularities which is likely to be pointed out in future.

G. It is pointed out that the Director E&SE KPK has ordered for enquiry and the enquiry report might have been received in your office. It will be appreciated if positive action is taken towards the resolvement of this issue.

Attested

Appellant

(13)

In view of the factual position narrated above I am to request that the undersigned may be guided as to what remedial step is to be taken to resolve this chronic issue, transferred to the undersigned from the predecessor.

Sub Divisional Edu. Officer
(Male) Peshawar

Endst.No. 139-40

Copy forwarded for information and necessary action to:

1, PS to Secretary, Elementary and Secondary Education, Peshawar.
2, PA to Director, Elementary and Secondary Education, Peshawar.

Attested

Appellant

Sub Divisional Edu. Officer
(Male) Peshawar

BEFORE PESHAWAR HIGH COURT , PESHAWAR

Writ Petition No. 4398-P /2015

SEAL OF HIGH COURT PESHAWAR عدالت عالیہ پشاور

Kashif Ullah S/o Fanoos Khan
R/o Mohallah Guhalibkhel, Village Azakhel, Tehsil & District Peshawar .

.....Petitioner

Versus

1. Govt. of K.P.K., through Secretary Elementary & Secondary Education, Civil Secretariat Peshawar.
2. Director Elementary & Secondary Education K.P.K., Dabgari Garden Peshawar.
3. District Education Officer (male) (Elementary & Secondary Education, District Peshawar, Hashtnagri Peshawar.
4. Deputy District Officer (F) Primary (E & SE) Peshawar, HASHTNAGRI, Peshawar
5. Sub Divisional Education Officer (E & SE) Peshawar, HASHTNAGRI, Peshawar

.....Respondents

UNDER ARTICLE 199 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN 1973

Respectfully Sheweth!

The Petitioner humbly submits as under:-

Brief facts:

1. That the petitioners are law abiding citizens and bona fide residents of the country.

ATTESTED
EXAMINER
Peshawar High Court
05 JAN 2017

FILED TODAY
Deputy Registrar
15 NOV 2016

BEFORE PESHAWAR HIGH COURT, PESHAWAR.

WP No. 1560-P/2016

Shams-u-Zaman.....Petitioner

Versus

Govt. KPK & Others.....Respondents

ADDRESSES OF THE PARTIES

Petitioner:

Shams-u-Zaman S/o Khusdil Khan

R/o Mohallah Garhi Malak Sher Bahadur, Village Sherkina Tehsil & District Peshawar

Respondents:

1. Govt. of K.P.K., through Secretary Elementary & Secondary Education, Civil Secretariat Peshawar.
2. Director Elementary & Secondary Education K.P.K., Dabgari Garden Peshawar.
3. District Education Officer (male) (Elementary & Secondary Education, District Peshawar.
4. Deputy District Officer (F) Primary (E & SE) Peshawar.
5. Sub Divisional Education Officer (E & SE) Peshawar.

PETITIONER

Through

Asif Ali Shah

&

Bilal Khan Kalil

Haseen Ullah Gamaryani
Advocates High Court,
Peshawar

Dated:

FILED TODAY
Deputy Registrar
25 APR 2016

ATTESTED
EXAMINER
Peshawar High Court
02 JAN 2017

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 994 /2016

Sanaullah, Chowkidar, Government Primary School,
Terai Payan Peshawar.

(Appellant)

VERSUS

1. The Secretary Education, (E&SE), KPK, Peshawar.
2. The Director Education (E&SE) KPK, Peshawar.
3. The Sub Divisional Education Officer (Male), Peshawar.
4. The District Education Officer (Male), Peshawar
5. The Secretary Finance, KPK, Peshawar.
6. The Headmaster GPS Terai Payan Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 FOR DIRECTING THE RESPONDENTS TO PAY THE SALARIES TO THE APPELLANT FROM SEPTEMBER, 2014 TILL DATE & ONWARDS AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

17.07.2019 Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned Assistant AG requested for adjournment on the ground that representative of the department is not available and the inquiry report initiated against the appellant is also not available on the record. Therefore, respondent-department is strictly directed to direct the representative to attend the court on the next date and also furnish all the relevant record including the inquiry report. Adjourned to 25.07.2019 for record and arguments before D.B.

(HUSSAIN SHAH)
MEMBER

(M. AMIN KHAN KUNDI)
MEMBER

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtukhwa Service Tribunal
Diary No. 742
Dated 21-7-2016

Service Appeal No. 749 /2016

Fazal Subhan
Chowkidar GPS Shahab Khel, Badabher Peshawar

Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Education, Peshawar.
2. Director Education (Male), Government of Khyber Pakhtunkhwa
3. District Education Officer (Male), Primary Peshawar
4. Accountant General, Khyber Pakhtunkhwa

Respondents

==========

SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE RESPONDENT DEPARTMENT WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT DATED 14-04-2016 FOR THE RELEASE OF HIS SALARY WITH EFFECT FROM 01-01-2014 WAS NOT DECIDED (COPY ANNEX "A")

Prayer:

(i) **By accepting this appeal, directing the respondents to release the appellant's pay as Chowkider (BPS-1) with effect from date of his initial appointment i.e. 01-01-2014.**

(ii) **Any other relief deemed appropriate may also be granted.**

RESPECTFULLY SHEWETH,

1. That the appellant being a land owner was appointed as Chowkidar on regular basis on a vacant post at GPS Shahab Khel, Badabher Peshawar, in BPS-01 vide order dated 31-12-2013. The appellant assumed the charge of his duties on 01-01-2014. **(Copy annexed marked "B")**

Filedto-day
Registrar
21/7/16

ATTESTED

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

C.O.C. No. 167-P/2018
In
C.O.C. No. 556-P/2017
In
W.P. No. 2203-P/2016

Azmat Ali S/o Mazhar Ali R/o Village Mushtarzai, Tehsil and District Peshawar.....(Petitioner)

VERSUS

Jadi Khan Khalil District Education Officer (Male), Near City No. 1 School, Hashtnagri, G.T. Road Peshawar.....(Contemnor/Respondent)

APPLICATION UNDER ARTICLE 204 OF THE CONSTITUTION R/W S. 3, 4, 5 OF THE CONTEMPT OF COURT ORDINANCE 2003 WITH ALL ENABLING PROVISIONS FOR INITIATING CONTEMPT OF COURT PROCEEDING AGAINST THE RESPONDENT AS WELL AS FOR THE IMPLEMENTATION OF THE ORDER OF THIS HON'BLE COURT DATED 16/11/2017 IN C.O.C NO. 556-P/2017 AS WELL AS ORDER DATED 22/06/2017 IN WRIT PETITION No. 2203-P/2016.

FILED TODAY
Deputy Registrar
26 FEB 2018

ATTESTED
EXAMINER
Peshawar High Court

PROVINCIAL OMBUDSMAN (صوبائی محتسب) SECRETARIAT, KHYBER PAKHTUNKHWA

1st Reminder
MOST IMMEDIATE:

NOTICE OF HEARING
FIXED FOR: 22/05/2017 AT 11.00 AM

P.O/Complaint No. 381/04/2016/4807 Dated Peshawar the, 15.05.2017

To,

The District Education Officer (Male),
Peshawar.

PAKISTAN PO
UMS53233793

Subject: **APPEAL FOR RELEASE OF SALARIES**

Memo:

In exercise of the power vested under Regulation 12 of the Khyber Pakhtunkhwa Provincial Ombudsman Office (Registration, Investigation and Disposal of Complaints) Regulation, 2011, the hearing/discussion in the above mentioned case is scheduled on above mentioned date.

1. The Agency is therefore, requested to:

   (a) Depute an officer preferably in BPS-17 or above, who is well-conversant with this case, and competent to make a commitment on behalf of the Agency and;
   (b) Produce the original file and the complete record of this case **along with District Selection Committee Notification for recruitment of Class-Iv.**

2. It may please be noted that if the Agency fails to attend the hearing or does not comply with the instructions enunciated in Para No. 1 above, the case will be decided without any further hearing/proceeding.

12/5/17

REGISTRAR,
Provincial Ombudsman Secretariat,
Khyber Pakhtunkhwa.

AEO (Sports)
17/5/17

Dairy No. 940
Date 17-5-2017
Signature

Overseas Pakistanis Foundation Building, Phase -V,Hayatabad, Peshawar.
Office Phone # 091-9219531-32, Office Fax # 091-9219526
Website: www.ombudsmankp.gov.pk
Email: provincialombudsman@gmail.com

B

(21)

(58)

DISCIPLINARY ACTION

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Sarfaraz Khan Ex-SDEO Male (BS-17) Peshawar (Now SDEO Male Town-III) Peshawar has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

"He has appointed 20 Class-IV without calling DSC meeting who were neither included in the working paper nor in the minutes of the meeting held on 20.12.2013"

2- For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/ inquiry committee, consisting of the following, is constituted under Rule 10(1)(a) of the ibid Rules:

i. Mr. Asrar Khan (OMG BS-18) DS Food

ii. _____

iii. _____

3- The inquiry officer/ inquiry committee shall, in accordance with the provisions of the ibid Rules, 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.

(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Sarfaraz Khan Ex-SDEO Male (BS-17) Peshawar.
(Now SDEO Male Town-III) Peshawar.

Attested

Appellant

(59) Annexure C

CHARGE SHEET

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Sarfaraz Khan Ex-SDEO Male (BS-17) Peshawar (Now SDEO Male Town-III) Peshawar as follows:-

That you, while posted as SDEO (Male) Peshawar committed the following irregularities:

"You have appointed 20 Class-IV without calling DSC meeting who were neither included in the working paper nor in the minutes of the meeting held on 20.12.2013"

2- By reason of the above, you appear to be guilty of inefficiency and misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules 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/ inquiry committee, as the case may be.

4- Your written defence, if any, should reach the inquiry officer/ inquiry committee within specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5- Intimate whether you desire to be heard in person.

6- A Statement of Allegations is enclosed.

(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Sarfaraz Khan Ex-SDEO Male (BS-17) Peshawar.
(Now SDEO Male Town-III) Peshawar.

Attested

Appellant

officers in

(MUSHTAQ HUSSAIN)
Deputy Secretary (Policies)

D

(122)

SHOW CAUSE NOTICE

(51)

I, Muhammad Azam Khan, Chief Secretary Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Sarfaraz Khan Ex-SDEO(Male) Peshawar (now SDEO Male Town-III Peshawar) as follows:-

1. i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you submitted your written defense before the inquiry officer vide communication dated 26.02.2018; and

   ii. On going through the findings and recommendation of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer:-

2. I am satisfied that you have committed the following act/omissions specified in Rule-3 of the said rules:

   (a) Inefficiency

3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Dismissal from Service under Rule-4 of the said rules.

4. You are, thereof, 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.

5. 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.

6. A copy of the findings of the inquiry officer is enclosed.

(MUHAMMAD AZAM KHAN)
CHIEF SECRETARY KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Attested

1-2

D.No 3095
Annexure - "J"
27/6/18
52

The Secretary to Govt,
Of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.

Subject: **SHOW CAUSE NOTICE.**

Sir,

Reference your letter no.SO(SM)E&SED/4-3/2018/Safraz Khan, SDEO (Male) Peshawar dated the June, 13 2018 addressed to the undersigned which has not been received to me so far.

It is stated that I am in receipt of show cause notice on 26-06-2018 vide DEO(M) Peshawar Endstt: No.14511-13 dated 21-06-2018.

My reply to Show Cause Notice is submitted as under:-

In order to fill up 49 vacant posts of Chowkidar in BPS-01, DSC was held on 20-12-2013 and minutes of DSC are attached herewith with clearly show that the members after through discussion have signed it.

It is further submitted that 114 candidates applied for appointment against the vacant posts and their particulars were reflected in the working papers. Correspondence were made with the Deputy Commissioner Peshawar earlier for intimating the names of employees from the surplus pool to be adjusted first against the vacant posts. The Deputy Commissioner Peshawar allowed the SDEO (M) Peshawar for selection to be made after observing all codal formalities / procedures and selection by the DSC for 49 posts.

After observing all the codal formalities the DSC recommended 49 candidates for appointment out of 114 candidates.

All the 49 candidates were appointed for which I was authorized to appoint these candidates.

The working papers / minutes have properly been signed by the members of DSC and their statement restricting the appointment of 28 candidates

Attested

Appellant

E

~~86~~

53

instead of 49 candidates are not correct. Their signature put on the working papers/ minutes can be verified and their denial is clear cut violation of the rules.

It is further submitted that the minutes of Departmental Selection Committee dated 20-12-2013 would show that the said meeting was solely held to discuss the recruitment of class-iv fresh candidates / retired employee "sons" candidates/ deceased employee sons/ land owners and disabled candidates. The minutes of meeting would further show that departmental selection committee recorded each and every issue in minutes details and reduced the same into writing. The working papers were scrutinized and fit and eligible candidates were picked in the prescribed manner and did not pick and choose or favoritism was made and as such the whole process of recruitment was carried out in honest and faithful manners. The said meeting dated 20-12-2013 was also attended by other three members but only undersigned has been charge sheeted which show that the has been victimized due to malafide and ulterior motives of the quarter concerned.

That no illegality or irregularity could be established in the recruitment process therefore, the charge sheet as well as statement of allegation having no substance.

I was transferred from SDEO (M) Peshawar and relived on 07-06-2014 and all the relevant record were handed over to Mr. Javed Abbas (Superintendant) of SDEO(M) Peshawar.

It is therefore, requested that keeping in view the above reply, the undersigned may please be absolved from the allegation leveled against me.

I desire to be heard in person please.

27/06/2018

Attested

Approved

(SARFARAZ KHAN)
SDEO(Male) Town-III
Peshawar
Mob No.0308-3387264

F

1-2

(18)

(49)

ENQUIRY REPORT REGARDING CLASS-IV APPOINTMENT MADE BY EX-DDO (MALE) PESHAWAR IN HIS TENURE

Annexure-"C"

1. Name of enquiry Officer — Siraj Muahmmad DEO (M) Charsadda
2. Date of previous enquiry — 22/05/2014
3. Date of existing enquiry — 11/10/2014
4. Place of enquiry — O/O SDEO (M) Peshawar.

INTRODUCTORY

The Director E & SE KPK, has directed me vide letter No. 2372 da 25/08/2014, to make a fresh enquiry in the allegation leveled against Mr. Srafaraz Khan Ex-EDO, Peshawar, by the SDEO (M) Peshawar on chair, in his letter to DEO (M) Peshawar bearing issued No, 138 dated; 12/08/2014 copy enclosed as Anex-A.

HISTORY

The undersigned has conducted an enquiry regarding appointments of class-IV made by Ex-SDEO (M) Peshawar and the stoppage of salary of 10 Chowkidars by him allegedly illegal, incompliance with the Notification of Director E & SE, KPK, No 12286-90 dated 15/04/2014, and report thereof submitted to Director E & SE, KPK Peshawar under Endst No, 4706 dated 28/05/2014.

The present enquiry is embracing the irregularities as pointed out by SDEO in his above mentioned letter.

PROCEEDINGS.

In order to investigate all the allegations one by one, the SDEO (M) Peshawar was directed to produce documentary proofs in support of illegal appointments of Class-IV, made in anticipation by the accused officer, but he told that he had left nothing to be produced for checking. However he provided a list of 20 newly Class-IV, showing their personal numbers and exact date of starting salary by computer in AG, office copy enclosed as Anex-B. It was also confirmed from the record that salaries of 10 class-Iv stopped by the EX-SDEO, have not been released by him on the recommendation of both former enquiry committees. It was also noted that salary of the concerned 28 Class-Iv recommended by Departmental Selection Committee, for appointment in its meeting held on 20/12/2013 have been partially released and the genuine land donor appointees approved in DSC are still deprived from their salaries. The relevant papers of the issue register showing issue No & date of the appointment orders made by EX-SDEO were found missing in the issue register which also strengthrin the presumption of mala fide intension on the part of Ex-SDEO.

Attested

Appellant

FINDINGS

1. It was clearly disclosed that the concerned 20 enlisted Class-IV were neither included in the working paper nor in the minutes of meeting held on 20/12/2013.
2. The dates of releasing pay as mentioned in the list provided by SDEO (M) Peshawar obviously shows that appointments of the concerned 20 Class-IV have been made with out calling DSC meeting which is clear violation of the rules.
3. It was also noted that the number of clear vacancies shown as 28 in the previous enquiry was not correct. It was actually 18 vacancies but shown 28 including the disputed vacancies of 10 Class-IV whose salary were stopped by him.
4. Salary of 11 Class-IV have been released by the Ex-SDEO out of 28 Class-IV appointed on the recommendation of DSC while salary of the concerned 20 disputed appointees have been started against the remaining clear vacancies/ 10 disputed vacancies occurred by stopping of salary of 10 Class-IV and absents vacancies.
5. Since the concerned 10 Chowkidar have not yet terminated properly from service by the competent authority, hence appointment against them is not lawful.
6. Payment of salary to the concerned 20 Class-IV appointed in violation of rules is illegal and incorrect from audit point of view.

CONCLUSION

From the perusal of the available record I reached to the conclusion that the Ex-DDO has made appointments of the enlisted 20 Class-Iv in violation of rules and regulation and as such these appointments are legally null and void. This is not a clerical mistake to be taken slightly.

RECOMMENDATION

1. Salary of the remaining Class-IV approved by the DSC be released.
2. The issue of 10 concerned Chowkidar needs to be resolved departmentally to release their salaries unless a clear decision of the competent authority regarding the fate of their service is taken place.
3. These obvious irregularities committed by the Ex-DDO in appointment of Class-IV in his short tenure on one hand is a question mark on his performance to regain administration seat in future and on the other hand he stands deserve to disciplinary action under E & D, rules 2011 as well.

(SIRAJ MUHAMMAD)
DISTRICT EDUCATION OFFICER (M) CHARSADDA
ENQUIRY OFFICER

Endst No. 1862-72 / dated 14/4/2014

Copy forwarded to the:-
Director E&SE, Khyber Pakhtunkhwa Peshawar.

DISTRICT EDUCATION OFFICER

Attested

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

No.SO(SM)E&SED/4-3/2018/Sarfaraz KhanSDEO(M)/Peshawar
Dated Peshawar the April 15, 2019

To

The Section Officer-I
Chief Minister's Secretariat, Khyber Pakhtunkhwa
Peshawar.

Subject:- **DEPARTMENTAL APPEAL AGAINST THE ORDEER DATED 09.10.2018 PASSED BY THE CHIEF SECRETARY KHYBER PAKHTUNKHWA PESHAWAR WHEREBY THE APPELANT WAS AWAREDED HARSH AND EXTREME PENALTY OF REMOVAL FROM SERVICE IN UTER VIOLATION OF LAW.**

I am directed to refer to your letter No.SO-1/CMS/KPK/3-15/2018/20459 dated 29-10-2018 on the subject cited above and to state that the Competent Authoristy has regretted the appeal of Sarfaraz Khan Ex-SDEO S/o Fazal Rehman

(MUHAMMAD SHOAIB)
SECTION OFFICER (SCHOOLS MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

1. PS to Secretary E&SE Khyber Pakhtunkhwa, Peshawar.
2. Mr. Sarfarz Khan S/o Fazal Rehman, Village & P/O Azakhel Tehsil & District Peshawar

SECTION OFFICER (SCHOOLS MALE)

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No._____/2019

1. Sarfaraz Khan (Ex-SDEO) s/o Fazal Raheem, Village P.O Azakhel, Tehsil & District Peshawar.

APPELLANT

VERSUS

1. The Chief Minister, Khyber Pakhtunkhwa through Principal Secretary.
2. The Chief Secretary, Khyber Pakhtunkhwa Province, Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary education, Department Peshawar.
4. The Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

REJOINDER ON BEHALF OF APPELLANT IN THE ABOVE CAPTIONED APPEAL

RESPECTFULLY SHEWETH,

PRELIMINARY OBJECTIONS

1-11. All the preliminary objections raised by the respondents are incorrect, baseless and not in accordance with law and

rules rather the respondents are estopped by their own conduct to raise any objection.

ON FACTS

1. Para-1 is incorrect as the respondents were legally bound to have scanned the relevant record and confirmed the real position of appellant. But they failed to do so and "**beat around the bush**" hence, para is deemed as admitted by the respondents.

2. Para No. 2 is incorrect and that of appeal is correct.

3. In response to Para No.3 it is stated that preliminary inquiry was not conducted in a manner prescribed by law as neither the appellant was associated with the said inquiry nor any witness was examined in his presence. He was also not provided any chance of cross-examination. Similarly, he was not provided any opportunity to produce his defence in support of his stance. Thus, the appellant was deprived of his indispensable fundamental right of fair trial and due process of law as envisaged in **Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973**. Moreover, the basis of such inquiry was illegal as it was constituted by incompetent Authority.

4. No rejoinder is offered as Para is admitted as correct by the respondents. Moreover, the appellant was falsely roped and implicated in the so-called misconduct.

5. Same reply as offered in Para-4 above.

6. Para-6 is incorrect, misconceived and hence, denied as regular inquiry was also not conducted in consonance with law as the Inquiry Officer examined the members of the Departmental Selection Committee as well as representative of the department in absence of appellant and no opportunity whatsoever was given to him to cross-examine them in order to impeach the credibility of the testifying witnesses to lessen the weight of unfavorable testimony so as to fulfil the requirement of fair trial and due process of law as enumerated earlier in Para-3 and as such the Inquiry Officer has committed gross illegality by not adhering the mandatory provision of Constitution and law laid down by august Supreme Court of Pakistan in various judgments. Thus, the findings of the Inquiry Officer are based on conjectures, surmises and suppositions. Therefore, such findings are perverse and are not sustainable in the eye of law. Hence, the impugned Notification passed on the basis of such findings is against the spirit of administration of justice.

7. Para-7 is incorrect and that of appeal is correct.

8. Para-8 is also incorrect and that of appeal is correct.

9. Para-9 is incorrect as it was incumbent upon the respondents to have inquired about the job/employment of appellant during interregnum period. But they failed to do so. Hence, para is deemed as admitted by them.

10. Para-10 is incorrect as the impugned Notification was passed in utter disregard of law.

ON GROUNDS

A. Para-A is incorrect and that of appeal is correct.

B. Para-B is incorrect and detail reply offered in Para-3 and 6 of the facts above.

C. Para-C is incorrect, misconceived and hence, denied as the appellant was illegally found guilty of the allegations and Notification thereof was also not issued in accordance with law.

D. Para-D is incorrect and that of appeal is correct.

E. Same reply as offered in Para-D above.

F. Para-F is incorrect and that of appeal is correct.

G. Para-G is also incorrect and that of appeal is correct.

H. Arguments are restricted to the positions taken in the pleadings.

It is therefore, respectfully prayed that while considering the above rejoinder, the appeal may kindly be accepted with special costs.

Appellant

Through

Dated: 30-09-2019

Rizwanullah
M.A. LL.B
Advocate High Court, Peshawar.

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No._____/2019

1. Sarfaraz Khan (Ex-SDEO) s/o Fazal Raheem, Village P.O Azakhel, Tehsil & District Peshawar.

APPELLANT

VERSUS

1. The Chief Minister, Khyber Pakhtunkhwa through Principal Secretary and others

RESPONDENTS

AFFIDAVIT

I, Sarfaraz Khan (Ex-SDEO) s/o Fazal Raheem, Village P.O Azakhel, Tehsil & District Peshawar do hereby solemnly affirm and declare that the contents of the accompanied rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

ATTESTED
SAJID MOHAMMAD
Advocate High Court
& Sessions Courts Peshawar
30 SEP 2019

DEPONENT

Serfaraz Vs Government

In the instant service appeal the appeant as prayed that on the acceptance of the appeal the impugned order dated 9-10-2018 past by the respondent number 2 maybe set aside and the appealant maybe reinstated in service with full back wages and benifits and any relif deemed appropiate in the circumstances of the case

The learned council of the appealent contended that the appealant hes been subjected to adverse action and departmental procedings on the behest of his succesor ~~acted as~~ SDEO Peshawar on personal grudges, having a dispute with the appealant. on the litigation case with the appealant at this tibuned level.

further contended that on the complaint of his succesor the respondent no. 4 directed another offier of the Education department i-e DEO

Charsadda to conduct a fact finding inquiry. In the said fact finding inquiry the inquiry officer did not associate the appelant and based his recommendation on one sided story without giving the opportunity of hearing / defence to the appellant which is constitutionally a mandatory provision in any sorts of proceding which may result in any adverse outcome against any one under such proceedings. Further contended that on this legally defective fact finding inquiry and its conclusion a charge sheet and a statement of allegation were issued by the respondent no. 2 ~~to the ap~~ against the appellant where the appealant was held accused for appointment of 20 Class-IV without calling DSC meeting who were neither included in the working paper nor in the minutes of the meeting held on 20-12-2013.

Further contended that Mr. Askar Khan Deputy Director PDMA was

appointed as an inquiry officer to conduct formal inquiry under KPK E&D rules 2011 in the charge and allegation leveled against the appealant.

The learned council for the appellant raised objection on the point that why only the appellant was issued charge sheet and statement of allegation being held solely responsible for the action taken by the DSC and leaving the other members. ~~at~~ ~~least~~.

Further contended that the inquiry officer mainly relied upon the written statements of the other members of the DSC and didnot allow the opportunity ~~of~~ to the appellant to confront them which is mandatory under the law that any witness against the accused in a proceeding shall ~~may~~ be cross examined by the accused. More over the inquiry officer

recorded in his inquiry report that the departmental representative stated that all the record supposed to be maintained in the office of SDEO(M) Peshawar was not available. Contrary to this fact the appellant has noted in his reply to the show cause notice that on his transfer on SDEO(M) Peshawar he handed over all the relevent record to MR. Javed Abbas (Superintendent of the SDEO(M) Peshawar).

Further contended that the other members of the DSC admitted that selection of 28 candidates are correct and denied the remaining selection of the candidates in order to absolve themself from liability despite the fact that their signatures were dully available on the working papers/ Selection sheet and minutes of the meeting of DSC. In such circumstances the authenticity of their signatures

were required to be sent to FSL for forensic examination. The inquiry officer failed to include this scientific method of verification to reach to a judicious ~~conclud~~ conclusion. He further contended that both the inquires were conducted in the violation of Article 10(A) of the constitution, against the law laid down by Hagust S.C of Pakistan reported as in 1997-SCMR-1073 (citation-a) and also against Rule 11(1) of the KPK Government Servants (Efficiency and Discipline) Rule-2011. He further contended that the competant authority was required to examine the case of the appellant in true perspective and to insure that whether the inquiry officer has correctly reached to the conclusion without any shadow of doubt or not. He further added that the competant authority did not take the

notice of the points raised by the appellant in his reply to the show cause notice. ~~Hence Fed~~ Further contended that appellant authority (Respondent no.1) was under statutory obligation to dispose of the departmental appeal of the appellant after application of mind with cogent reasons within reasonable time as provided in the Supreme court of Pakistan Judgement in 2011-SCMR-page-1. Where in the apex SC held that ~~speaking order~~ "public functionaries are bound to decide the cases of their subordinates after application of mind with cogent reasons with in reasonable time".

The learned counsel of the appellant further contended the impugned order is suffering from illegal infirmaties as such against the laws/facts of the case and norms of Justice. hence the appeal may be accepted and the impugned order may be set aside

as per prayer in the appeal.

The DDA contested the appeal and the arguements of the learned council of the appellant on the basis of para wise comments/replies on behalf of the respondent and contended that the whole proceedings against the appellant were processed in accordance with the law and relevent rules at each stage. As regarding the fact finding inquiry it was contended that its scope was limited only to find out as to whether any illegality, misconduct or any inefficiency could be established against the appellant. Further contended that such an inquiry is being held under the executive order and ~~as it~~ is necessary as an administrative action to look into the case in detail. Further contended that after insuing that gross misconduct

had signed the working paper/list of the selected candidates and minutes of the DSC candidates but the enquiry officer ~~could not~~ did not find it necessary to get verified their signatures from the FSL.

In view of the above discussion we are of the view to partially accept the instant appeal and to reinstate the appellant for the purpose of denovo ~~@ inquiry. hence~~ inquiry.

The appeal is disposed of in the above term without cost.

of inefficiency and violation of the relevant criteria for selection and procedure for appointment of the Class-IV employees in the schools of the area of jurisdiction of the appellant when he served as SDEO(M) Peshawar. Then charge sheet / statement of allegation was issued and an inquiry officer was appointed to proceed further under the Kpk Government Servent (E&D) rules, 2011. The appellant was given opportunity to defend himself against the charges but he failed in his defence and there after the competent authority issued him notice to show the cause why penalty of dismissal may not be inpored upon him. The appellant was also provided with the copy of the inquiry report and which he replied accordingly. He was given the opportunity of personal hearing

at the level of the special Secretary of E&A Department on behalf of the chief Minister on 17-9-2018 and who found the appellant could not present any evidence or convencing arguement and found him guilty of the charge leveled against him. Hence the competent authority. ~~He should~~ inposed upon him the penalty of removal of sewice upon him. ~~and~~ He further contended that no injustice or any illegal action is being taken against him, All the formalities as provided in the law were completed hence the appeal ~~does not stand~~ may be dismissed with cost in favour of the respondents

Arguement heard

File and record persued

This Tribunal after hearing the arguements of the council for the appellant, persuesal of record

and the counter arguements of the learned DDA and the para wise comments of the respondent has noted that the inquiry officer failed to provide the opportunity of the cross examining the other members of the DSC by the appellant which is a mandatory provision in the KPK Government Servants (E&D) rules 2011. Moreover it is also noted that in the reply to the show cause notice the appellant has stated that at the time of leaving the charge of the SDEO (M) Peshawar he handed over the record of the case to the Superintendent MR Javed Abbas who was also the member of the DSC. Moreover it is also worth notice that the inquiry officer is noted in Page-2 of his report the statement of the departmental representative who stated that the record of the

recruetment process was supposed to be maintained in the office of SDEO (M) Peshawar was not available. This shows that the inquiry officer did not had all the record at his disposal to reach to conclusion in proving the charge against the appellant. It is also noted that the inquiry officer also did not examined the other members of the DSC and relied only upon their unanimous written statement. It is also noted that in such like circumstances the member of DSC are also needed to be included in the proceedings and charge sheet should have also been issued to them so as this collective process could have been judiciously proceeded to fullfil the demand of justice. Moreover the appellant insisted that the rest of the members of the DSC

had signed the working paper/list of the selected candidates and minutes of the DSC candidates but the enquiry officer could not did not find it necessary to get verified their signatures from the FSL.

In view of the above discussion we are of the view to partially accept the instant appeal and to reinstate the appellant for the purpose of denovo ~~@ inquiry.~~ ~~hearing~~

The appeal is disposed of in the above term without cost.