

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

Service Appeal No. 1125/2019

Date of Institution ... 04.09.2019

Date of Decision ... 08.10.2021

Muhammad Riaz (PST) R/O Village Marado District Bunir.

... (Appellant)

VERSUS

District Education Officer (Male) Bunir and another.

... (Respondents)

MR. SHAMS-UL HADI
Advocate

... For Appellant

MR. RIAZ KHAN PAINDAKHEIL,
Assistant Advocate General

... For Respondents

ROZINA REHMAN ...
ATIQ-UR-REHMAN WAZIR ...

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the case are

that the appellant joined education department as primary school teacher on 04-07-1993. The appellant requested for grant of extra ordinary leave, which was granted by the competent authority with effect from 01-05-2015 to 30-12-2015 vide order dated 22-10-2015. On expiry of leave, the appellant again requested for extension in his leave for a period of another year and the appellant was verbally assured that his leave request has been accepted and after expiry of one year, the appellant approached the concerned authority for joining his duty, but he was handed over his removal from service order dated 17-03-2017. Feeling aggrieved, the appellant filed departmental appeal dated 02-05-2019, but the same was not decided within the

statutory period, hence the instant service appeal with prayers that impugned order dated 17-03-2017 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law and rule, thus acted in violation of the relevant laws laid down for the purpose; that departmental proceedings were conducted on the back of the appellant and no opportunity of defense was afforded to the appellant; that no chance of personal hearing was afforded to the appellant and the appellant was condemned unheard; that the whole departmental proceedings against the appellant was based on personal ill will and the penalty so imposed is harsh, which does not commensurate with guilt of the appellant.

03. Learned Assistant Advocate General for the respondents has contended that after expiry of his leave, the appellant did not assume his duty and remained absent from his lawful duty; that three notices dated 06-01-2017, 21-01-2017 and 06-02-2017 were issued but the appellant did not respond, after which the same showcause notice was published in newspaper dated 02-03-2017, but again the appellant did not turn up, thereafter, major penalty of removal from service was imposed upon the appellant vide order dated 17-03-2017; that the appellant has been treated in accordance with law and no ill will or mala fide is involved on part of the respondents.

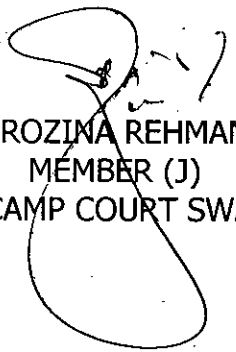
04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was proceeded against in absentia and was not afforded opportunity to defend his cause. As per stance of the appellant, he was orally assured that his leave has been approved, upon which he proceeded on leave but on expiry of one year, he was handed over his removal from service order; that oral order of superior in relation to official business would be as good order as in


writing. Reliance is placed on 2008 PLC (CS) 428. It otherwise is a well settled legal proposition that regular inquiry is must before awarding major punishment. The respondents however proceeded the appellant under Rule-9 of E&D Rules, 2011, but the notice was published in only one newspaper, as well as it cannot be ascertained from record that such notices were served upon the appellant. in view of the incomplete proceedings, the penalty so awarded appears to be harsh, particularly looking into his more than 22 years of service.

06. In view of the foregoing discussion, the penalty of removal from service is converted into compulsory retirement. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
08.10.2021



(ROZINA REHMAN)
MEMBER (J)
CAMP COURT SWAT



(ATIQ UR REHMAN WAZIR)
MEMBER (E)
CAMP COURT SWAT

ORDER

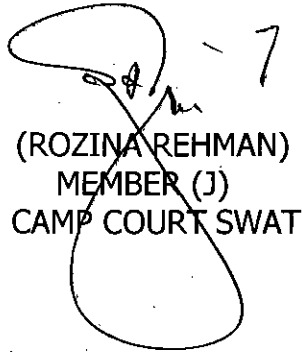
08.10.2021

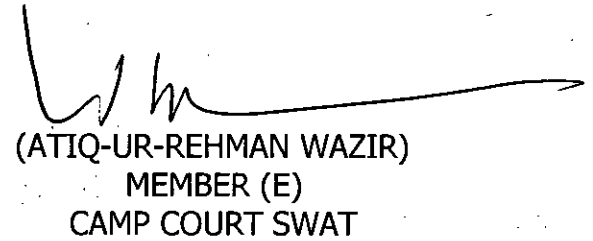
Appellant alongwith his counsel Mr. Shams-Ul-Hadi, Advocate present. Mr. Riaz Khan Paindakheil, Assistant Advocate General alongwith Mr. Obaid-Ur-Rehman ADO (Litigation) for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the penalty of removal from service is converted into compulsory retirement. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

08.10.2021

 - 7
(ROZINA REHMAN)
MEMBER (J)
CAMP COURT SWAT


(ATIQU-UR-REHMAN WAZIR)
MEMBER (E)
CAMP COURT SWAT

06/04/2021


Due to COVID-19, the case is adjourned to

08/06/2021 for the same.


READER

08/06/2021

Due to COVID-19, the case
is adjourned to 8/10/2021 for the same.

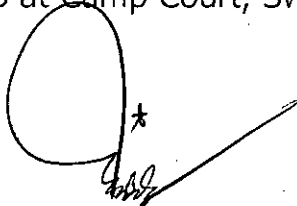

Reader

02.02.2021

Appellant present through counsel.

Muhammad Raiz Khan Paindakheil learned Assistant Advocate General for respondents present.

A request for adjournment was made as issue involved in the present case is pending before Larger Bench of this Tribunal. Adjourned. To come up for arguments on 06.04.2021 before D.B at Camp Court, Swat.



(Mian Muhammad)
Member (E)
Camp Court, Swat




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

_____ .2020

Due to COVID19, the case is adjourned to

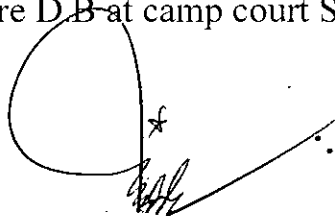
05/10/2020 for the same as before.


Reader

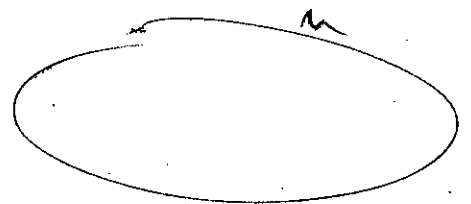
05.10.2020

Appellant in person alongwith his counsel is present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Obaid Ur Rehman, ADEO for respondents present.

While making reference to the impugned order available at page-7, learned counsel for the appellant submitted that retrospective effect has been given by the authority. Since the question of retrospectivity is pending adjudication before the Larger Bench of this Tribunal, therefore, the appeal is adjourned till decision on the issue is passed by the Larger bench and to come up for further proceedings on ~~08/12~~ 2020 before D.B at camp court Swat.




(Mian Muhammad)
Member(E)



(Muhammad Jamal)
Member
Camp Court Swat

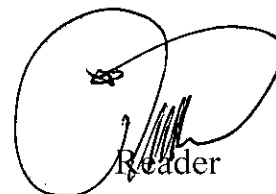
8/12/20

Due to Covid. 19 case is adjourned
to 02-02-2021


Reader

01.06.2020

Due to Covid-19, the case is adjourned. To come up for the same on 05.08.2020, at camp court Swat.

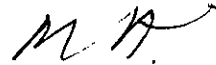


Reader

Service Appeal No. 1125/2019

06.01.2020

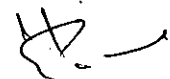
Appellant in person and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Obaid-ur-Rehman, ADO for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for further adjournment. Adjourned to 03.02.2020 for written reply/comments before S.B at Camp Court Swat.



(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

03.02.2020

Learned counsel for the appellant and Mr. Riaz Paindakheil learned Assistant Advocate General alongwith Ubaid ur Rehman ADO present and submitted written reply/comments. Adjourn. To come up for rejoinder if any and arguments on 06.04.2020 before D.B at Camp Court, Swat.



Member
Camp Court, Swat

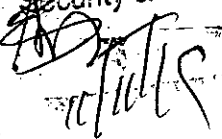
*Due to corona virus town
to Camp Court Swat has been
cancelled - To come up for the
same on - 01-06-2020*


07.11.2019

Counsel for the appellant Muhammad Riaz present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Education Department as Primary School Teacher. He was granted extraordinary leave without pay with effect from 01.05.2015 to 30.12.2015 vide order dated 22.08.2015. It was further contended that after expiry of the said leave, the appellant filed application for further leave and he was under impression that the respondents would have sanctioned further leave. It was further contended that the respondent-department has imposed major penalty of removal from service vide order dated 17.03.2017. It was further contended that the appellant came to home from Karachi in April 2019 and on coming to know about the major penalty of removal from service he immediately filed departmental appeal on 02.05.2019 which was not decided within the statutory period hence, the present service appeal. It was further contended that neither any absence notice was issued to the appellant nor proper inquiry was conducted therefore, the impugned order is illegal and liable to be set-aside.

The contention raised by learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to limitation and all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 06.01.2020 before S.B at Camp Court Swat.

Appellant Deposited
Security & Process Fee

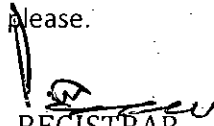
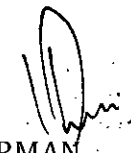
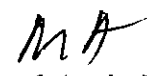



(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1125/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/09/2019	<p>The appeal of Mr. Muhammad Riaz presented today by Mr. Shamsul Hadi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	6-9-19	<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>09-10-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
09.10.2019		<p>Appellant in person present and requested for adjournment on the ground that his counsel is busy before the Hon'ble Dara-ul-Qaza. Adjourned to 0711.2019 for preliminary hearing before S.B at Camp Court Swat.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court Swat</p>

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 1125/2019.

Muhammad Riaz.....Appellant

V E R S U S

District Education Officer (M) Bunir and others....Respondents

INDEX

S.N	Description of Documents	Annex	Pages
1.	Memo of Appeal.		1-3
2.	Affidavit.		4
3.	Addresses of the Parties.		5
4.	Copy of leave granting notification..	A	6
5.	Copy of impugned office order dated:17.03.2017.	B	7
6.	Copy of Departmental Appeal.	C	8
8.	Wakalat Nama		9

Appellant

Through


Shams ul Hadi

Advocate, Peshawar.

Office: Near Al-Falah Mosue,

Hayat Abad Mingora.

Cell No.0347-4773440

Dated: 02/09/2019.

1

BEFORE THE KHYBER PAKHTOON KHWA SERVICES
TRIBUNAL, PESHAWAR

Service Appeal No. 175 /2019.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1728

Dated 04/9/2019

Muhammad Riaz (PST)

R/O Village Marado District Bunir.....Appellant

V E R S U S

1. District Education Officer(male) Bunir.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.....Respondents

APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE IMPUGNED OFFICE
ORDERS DATED:17.03.2017.

PRAYER IN APPEAL:

On acceptance of this appeal the impugned Order dated: 17.03.2017 regarding major penalty i-e Removal from service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

Respectfully Sheweth:

1. That initially the appellant joined the respondent/department since long as P.S.T and as such performed his duties with zeal and zest .

That during his service the appellant requested for Extraordinary leave with written application to respondent No.1 and as such extra ordinary leave without pay with effect from 01.05.2015 to 30.12.2015 was granted/sanctioned to appellant.(Copy of leave sanction notification is annexure-A)

Filed to-day

Registrar

4/9/19
2.

3. That after taking leave from department, due to some domestic problems the petitioner shifted to Karachi as his family members are residing in Karachi so latter on, through written application the petitioner requested for further one year extension of leave period and on personal visit to respondent's office, the appellant was assured that his further leave request has been accepted for the desired period but latter on the application was not properly processed by the respondent's office but as the petitioner was also on leave so he was an impression that his leave extension application has been accepted.
4. That latter on the basis of absence from service, the appellant was removed from service through impugned office order dated:21.11.2017 that too without giving any notice or legal procedure.(Copy of impugned order dated:21.11.2017 is annexure-B)
5. That after completion of further one year leave period when the appellant approached the concerned authority for joining of his duties where the petitioner got knowledge of his removal order so against the impugned illegal order, the appellant filed departmental appeal before the competent authority but the same was not decided within statutory period.(Copies of departmental appeal is annexure-C)

That being aggrieved from the impugned order, the appellant approached this Hon'ble Tribunal on the following grounds amongst other inter alia:

GROUND:

- A. That the impugned office order is against the facts, law and procedure, hence, untenable being unjust and unfair.
- B. That the appellant was not treated in accordance with law and rules, thus acted in violation of the relevant laws laid down for the purpose.
- C. That the whole departmental proceedings against the appellant was based on personal ill will and with ill intention a harsh and illegal penalty was imposed on the appellant.
- D. That no opportunity in shape of personal hearing was afforded to the appellant nor the legal procedure was adopted while removing the appellant from service.

It is, therefore, most humbly prayed that On acceptance of this appeal, impugned Orders dated: 17.03.2017 regarding major penalty i-e Removal from service may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

Or

Any other relief which this Hon'ble Tribunal deems appropriate in circumstances of the case may kindly be awarded to the appellant.

Appellant



Muhammad Riaz (PST)

Through

Shams ul Hadi

Advocate, Peshawar.

Dated: 02/09/2019

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2019.

Muhammad Riaz.....Appellant

V E R S U S

District Education Officer (M) Bunir and others....Respondents

AFFIDAVIT

I, **Shams ul Hadi**, Advocate, Peshawar do hereby as per information conveyed to me by my client solemnly affirm and declare that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



A D V O C A T E



**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2019.

Muhammad Riaz.....Appellant

V E R S U S

District Education Officer (M) Bunir and others....Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Muhammad Riaz (PST)

R/O Village Marado District Bunir

Cell No.

RESPONDENTS:

1. District Education Officer(male) Bunir.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.

Appellant

Through

Shams ul Hadi

Advocate, Peshawar.

Dated: 02/09/2019

"A"

(6)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DISTRICT BUNER.

SANCTION.

As approved by the competent authority sanction is hereby accorded to the grant of Extra Ordinary Leave without pay in R/O Mr. Muhammad Riaz SPST GPS Maradu with effect from 01/05/2015 to 30/12/2015 (254 days) as recommended by the Sub Divisional Education Officer Male primary Buner vide his office No. 1015 Dated 10/10/2015.

Note :-

Necessary entry to this effect should be made in his S/Book accordingly.


(HANIF UR RAHMAN)
DISTRICT EDUCATION OFFICER (M)
BUNER.

Endst; No 8378-80 /

Dated 22/10 /2015.

Copy is forwarded for information to the:-

1. District Accounts Officer Buner at Daggar.
2. Sub Divisional Education Officer (M) Buner.
3. Official concerned.


ASST: DISTRICT EDUCATION OFFICER (M)
PRIMARY BUNER. 22/10/2015


ATTESTED

C.T. C


B

(7) (20)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DISTRICT BUNER.

OFFICE ORDER.

WHEREAS Mr. Muhammad Riaz SPST GPS Maradu was remained absent from his duty w.e.f 30/12/2015 and was proceeded against under the sub rules 9 of Khyber Pukhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011.

2. **AND WHEREAS** three absence notices under Sub Divisional Education Officer(M) Gagra Office Endst;Nos.53 dated 6/1/2017, Endst;No 60 Dated 21/1/2017 and Endst;No.68 dated 6/2/2017 issued to him but he failed to resume his duty.

3. **AND WHEREAS** in absenteesum notice was served upon Mr.Muhammad Riaz SPST GPS Maradu published in Daily Mashriq and Ajj Dated 2/3/2017 but he failed to resume his duty in the stipulated period

4. **AND WHEREAS** the competent authority (D.E.O Male Buner) is satisfied that he is not interested in Govt; duty and is guilty of habitually absenting himself from duty with out approval of leave under sub rules 3(d) of Khyber Pukhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011.

5. **NOW, THEREOF**, in exercise of the powers conferred under sub rule 4 (b) (iii) of Khyber Pukhtunkhwa Govt: Servants (Efficiency & Discipline) Rules 2011, the Competent Authority is pleased to impose Major penalty "**Removal from service with effect from 31/12/2015 (F/N) upon Mr. Muhammad Riaz SPST GPS Maradu**

Note:-

Necessary entry to this effect should be made in his service Book accordingly.

(BAKHT ZADA)
DISTRICT EDUCATION OFFICER (M)
BUNER

Endst; No. 1140-451

Dated 17/3 /2017.

Copy for information to the.

1. Director (E&SE) Khyber Pukhtunkhwa Peshawar.
2. Deputy Commissioner Buner.
3. District Monitoring Officer Buner.
4. Sub Divisional Education Officer (M) Gagra Buner.
5. District Accounts Officer Buner.
6. Official Concerned.

Sun
ATTESTED

DISTRICT EDUCATION OFFICER (M)
BUNER

C.A.-e
[Signature]

خدمت جناب ڈائریکٹر حالت ایلمنٹری اینڈ سیکنڈری ایجوکیشن

257

جیسرہ مخونخواہ پشاور

(8)

10-5-19

عنوان :- اپیل برائے بحالی ملازمت

جناب عالی!

مؤدبانہ گزارش کیجاتی ہے کہ میں آپ کے زیر سایہ حکمہ تعلیم میں بحیثیت PST 4/7/1993 سے ایپل ڈیوٹی سرانجام دے رہا ہوں۔ اس دوران کچھ گھر بلوغت کیوجہ سے میں نے 01/05/2015 تا 30/12/2015 (254 دن) (EOL) چھٹیاں لیں۔ (Sanction) آرڈر درخواست کے ساتھ لٹ ہے (اس دوران میں نے مزید چھٹیاں لینے کیلئے دوسری درخواست دی۔ اس کی منظوری یا تاہم منظور ہونے سے میں غافل رہا کیونکہ میں اس عرصہ گاؤں سے باہر تھا۔ اور غیر حاضری کیوجہ سے میں 17/3/2017 کو ملازمت سے درخواست کیا گیا۔ جب میں گھر پہنچا تو مجھے ایپل برخواستگی کا علم ہوا۔ چونکہ میرے حکمہ کیلئے خدمات میں جو کہ 22 سال پر محیط ہے اور میرے چھوٹے چھوٹے ہیں جبکہ واحد کفیل اور تکرار میں خود ہوں۔ لہذا میری ہمدردانہ اپیل ہے کہ میرے خدمات کو مد نظر رکھ کر راجحاً صلحان میری ملازمت کی بحالی کے احکامات صادر فرمادیں تو تاحیات دعا گو رہوں گا۔

العارض

آپ کا تابع فرما

Mirza

شہباز (PST)

GPS مرادو گاؤں ضلع کوئٹہ

تاریخ: 10 مئی 2019ء

257
10/5/19

ATTESTED

C.A.C

بعدالت سروس ٹریبونل پیشاور ضلع تختونخرا۔

کوریٹ فیس	قیمت ایک روپیہ
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مورخہ
مقدمہ
دعویٰ
جرم

۲ ستمبر
۱۹۲۰ء منجانب
نمر ریاض
بنام ڈی ای راور وغیرہ

باعث تحریر آنکے

مقدمہ مندرجہ بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ آن مقام سروس ٹریبونل پیشاور ضلع تختونخرا کے اہلکار مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زراس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ ڈائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہاگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند ہے

۱۹۲۰

۲ ستمبر

العبد گواہ شہیدہ العبدہ
Attestal Shamsul Haq
Advocate.

کے لئے منظور ہے

original

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL No. 1125/2019.

Muhammad Riaz Village Maradu-----APPELLANT.

VERSUS

SECRETARY E&SE KHYBER PUKHTUNKHWA PESHAWAR & Others

RESPONDENTS.

INDEX

S.No	Description	Annexure	Page No.
1	Para Wise Comments		1-2
2	Affidavit		3
3	Sanction dated 22/10/2015	A	4
4	Absent Notice dated 6/1/2017	B	5
5	Absent Notice dated 21/1/2017	C	6
6	Absent Notice dated 6/02/2017	D	7
7	Advertisement Dated 02/03/2017	E	8
8	Notification Removal from Service Dated 17/03/2017	F	9

[Handwritten signature]

DEFENDENT

CNIC No.15101-0882586-3

(1)

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1125/2019

Muhammad Riaz (Ex-PST) R/O Village Maradu District Buner _____ **Appellant**

Versus

1. District Education Officer Male District Buner _____ **Respondents**

2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar

Written Reply/Para wise Comments for & on behalf of Respondents No. 1 & 2

Respectfully Sheweth

Preliminary Objections.

1. The Appellant has no cause of action/locus standi to file the instant appeal.
2. **The instant appeal is badly time barred.**
3. The Appellant has concealed the material facts from this honourable Tribunal, hence liable to be dismissed.
4. The Appellant has not come to this honourable Tribunal with clean hands.
5. The Appellant has filed the instant appeal just to pressurise the respondents.
6. The appellant has filed the instant appeal on malafide motives.
7. The instant appeal is against the prevailing law and rules.
8. The appellant has been estopped by his conduct to file the appeal.
9. That the present appeal is not maintainable according to the Section 4 of the Service Tribunal Act, 1974.


Facts

1. Pertains to the service record of the appellant, hence needs, No comments.
2. Correct to the extent that the appellant was granted leave 254 days without pay from 01/5/2015 to 30/12/2015 as recommended by the Sub divisional Education Officer (M) Primary Buner. Annexure (A)
3. Incorrect, after the expiry of leave 01/5/2015 to 30/12/2015 neither the appellant requested for further leave nor he approached to the competent authority for grant of leave.
4. Before the removal from service the sub divisional officer Male Gagra Buner issued 03 absence notices in the name of the appellant vide this office memo No 53 dated 06/01/2017, No 60 dated 21/01/2017 and No 68 dated 06/2/2017 to resume his duty but no response received from the official concerned nor the appellant resumed his duty. At last the District Education Officer Male District Buner issued show cause notice in daily Mashriq dated 02/3/2017 and disciplinary action under sub rules 4(b) (III) Khyber Pakhtunkhwa Government servant Efficacy & Discipline rules 2011 and imposed major penalty of removal from service vide notification No. 1140-45 dated 17/03/2017 (Annexure B, C, D, E and F).
5. The appeal of the appellant was not justified in accordance with rules & policy therefore the competent authority was not honour the appeal of the appellant.

Grounds.

- A. Incorrect, before the removal from service competent authority has full filed legal formalities against the appellant.
- B. Incorrect, as per Para No .4 of the Facts.
- C. Incorrect, and denied before the removal from service all codal formalities have been observed by the Department in accordance with law and rules.
- D. Incorrect already explained in Para No. 4 of the Facts.

it is therefore humbly prayed that keeping in view the above said, submission, the service appeal in hand may very graciously be dismissed.


Director (E&SE)
KHYBER PAKHTON KHWA
PESHAWAR


DISTRICT EDUCATION OFFICER
MALE DISTRICT BUNER

Service Appeal No. 1125/2019

Muhammad Riaz -----Appellant.

VERSUS

District Education Officer (Male) Buner & Others -----Respondents.

AFFIDAVIT

I Ubidur Rahman ADEO (litigation) office of the District Education officer (Male) Buner do hereby solemnly affirms & state on oath that the whole contents of the reply are true & correct to the best of my knowledge & belief & nothing has been concealed from this August Court.



DEFONENT

15101-0882586-3

Annexure "A"

(4)

(6)

(6)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DISTRICT BUNER.

SANCTION.

As approved by the competent authority sanction is hereby accorded to the grant of Extra Ordinary Leave without pay in R/O Mr. Muhammad Riaz SPST GPS Maradu with effect from 01/05/2015 to 30/12/2015 (254 days) as recommended by the Sub Divisional Education Officer Male primary Buner vide his office No. 1015 Dated 10/10/2015.

Note :-

Necessary entry to this effect should be made in his S/Book accordingly.

(HANIF UR RAHMAN)

DISTRICT EDUCATION OFFICER (M)
BUNER.

Encls: No. 373-801

Dated 22/10 /2015.

Copy is forwarded for information to the:-

1. District Accounts Officer Buner at Daggar.
2. Sub Divisional Education Officer (M) Buner.
3. Official concerned.

ASST: DISTRICT EDUCATION OFFICER (M)
PRIMARY BUNER.

C.T. C

Amo xne u B "

Dated 06/01/2017

No. 53

5

To

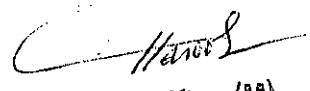
Mr. Muhammad Riaz,
SPST GPS Maradu Chagharzi Buner.

Subject: "Absence notice"

Memo:

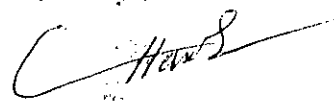
Reference is made to D.E.O (M) Buner letter No.44 dated, 4/1/2017,GMPS Maradu has been merged into GPS Maradu and you have been transferred to GPS Maradu vide DEO (M) Buner order No.4451-59, dated. 13/8/2015, then you have gone on E/leave w.e.f 13/8/2015 to 30/12/2015.

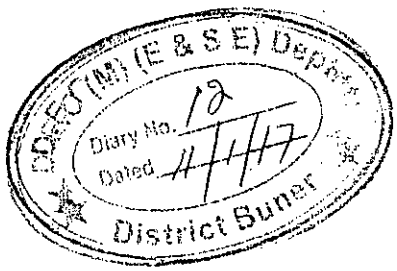
You, Mr. Muhammad Riaz, SPST, GPS Muradu, constantly remained absent from duty w.e.f 30.12.2015 till this date i.e. (7/1/2017) without any permission from the competent authority. Therefore, you are directed to resume your duty and explain your position before the competent authority and the reason of your so long absence from duty within 14 days of the issue of this notice by the office of the undersigned. If you fail to do so then disciplinary action will be initiated against you which would be in shape of dismissal from service under E&D Rules 1973 and sub rules 09 of Khyber Pakhtunkhwa Govt; servants rules E&D 2011.


Sub Divnl. Edu. Officer (M)
Gagra Distt. Buner.
Sub Divnl. Edu. Officer (M)
Gagra, Buner

Copy of the above is forwarded to:

- Mr, Muhammad Riaz S/O Taj Muhammad Khan, vill Maradu, UC, Sorey Chagharzi, Tehsil Gagra, Buner.
- Head Teacher, GPS Maradu, Chagharzi, Buner.
- The D.E.O(M) Buner at Daggar.
- The ASDEO (M) Circle Batara.


Sub Divnl. Edu. Officer (M)
Gagra Distt. Buner.
Sub Divnl. Edu. Officer (M)
Gagra, Buner



ADEO (E&S)

Enquire the matter

After 21.1.2017 possibly by

LC



OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICERS, AGRA

Date: 21/01/2017

6

Annexure "C"

No.60

No: 3

6/2/2017

68

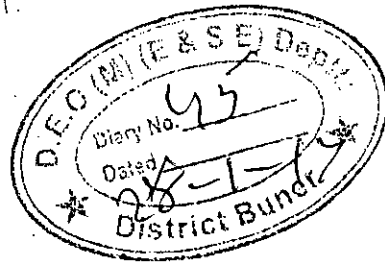
To
Mr. Muhammad Riaz,
SPST GPS Maradu Chagharzi Buner..

Subject: "Absence notice" 0102

Memo:

Reference is made to this office letter No.53 dated. 6/1/2017 that absence notice has been sent to you by registered post through your home address regarding to your continuously absence from duty i.e w.e.f 30/12/2015 to 06/01/2017.

You, Mr. Muhammad Riaz, SPST, GPS Maradu, constantly remained absent from duty w.e.f 30.12.2015 till this date i.e. (21/1/2017) without any permission from the competent authority. Therefore, you are hereby once again directed to resume your duty and explain your position before the competent authority and the reason of your so long absence from duty within 14 days of the issue of this notice by the office of the undersigned. If you fail to do so then disciplinary action will be initiated against you which would be in shape of dismissal from service under E&D Rules 1973 and sub rules 09 of Khyber Pakhtunkhwa Govt: servants-rules E&D 2011.



[Signature]
Sub Divnl. Edu. Officer (M)
Gagra, Buner.
Sub Divnl. Edu. Officer (M)
Gagra Distt: Buner.
21/1/17

- Copy of the above is forwarded to:
- Mr, Muhammad Riaz S/O Taj Muhammad Khan, vill Maradu. UC Sorey Chagharzi, Tehsil Gagra, Buner.
 - Head Teacher, GPS Maradu, Chagharzi, Buner.
 - The D.E.O(M) Buner at Daggar.
 - The ASDEO (M) Circle Batara.

[Signature]
ASDEO (M) Batara
27/1/2017

[Signature]
Sub Divnl. Edu. Officer
Gagra, Buner.
Sub Divnl. Edu. Officer (M)
Gagra Distt: Buner.
21/1/17

OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER GAGRA BUNER AT SWARI.

No. 68

Annexure "D"

7

Dated.06/02/2017

To

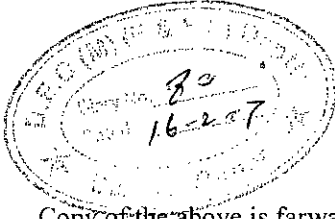
Mr. Muhammad Riaz,
SPST GPS Maradu Chagharzi Buner.

Subject: "Absence notice" No 3

Memo:

Reference is made to this office letter No.53 dated, 6/1/2017 and No.60 dated.21/01/2017 that absence notices have been sent to you about your continuously

Absence from duty w.e.f 30/12/2015 but you have not resumed your duty till now i.e 06/02/2017. Now you, Mr. Muhammad Riaz, SPST, GPS Maradu for 3rd time directed to resume your duty and explain your position before the competent authority and the reason of your so long absence from duty within 14 days of the issue of this notice by the office of the undersigned.. If you fail to do so then disciplinary action will be initiated against you which would be in shape of dismissal or termination from service under E&D Rules 1973 and sub rules 09 of Khyber Pakhtunkhwa Govt; servants rules E&D 2011.



Sub Divnl .Edu. Officer (M)
Gagra, Buner

Copy of the above is forwarded to:

- Mr, Muhammad Riaz S/O Taj Muhammad Khan, vill Maradu, UC Sorey Chagharzi, Tehsil Gagra, Buner.
- Head Teacher, GPS Maradu, Chagharzi, Buner.
- The D.E.O(M) Buner at Daggar.
- The ASDEO (M) Circle Batara.

Sub Divnl .Edu. Officer (M)
Gagra, Buner
Sub Divnl. Edu. Officer (M)
Gagra Dist: Buner.

100 (E&D) Pt
15/2/17

انجمن کارکنان آب و سیرابی

دفعہ 101 کے تحت...

Sl. No.	Name	Address	Phone No.
1
2
3

انجمن کارکنان آب و سیرابی

دفعہ 101 کے تحت...

...

مشرق

...

Swat Irrigation Division Swat

NOTICE INVITING TENDER

...

Name of Work	CCP (Rs. in lakhs)	Est. No.	Contract	Est. No.	Est. No.	Est. No.	Est. No.
...

انجمن کارکنان آب و سیرابی

دفعہ 101 کے تحت...

Sl. No.	Name	Address	Phone No.
1
2
3

انجمن کارکنان آب و سیرابی

دفعہ 101 کے تحت...

Executive Engineer, Swat Irrigation Division, Saidu Sharif Swat.

Phone & Fax # 0946-9240165

...

Government of Khyber Pakhtunkhwa Directorate of Social Welfare, Special Education and Women Empowerment

VACANT POSITIONS

Sl. No.	Name of Post	Age	Qualification	Language	No. of Posts	Sex
1
2

انجمن کارکنان آب و سیرابی

دفعہ 101 کے تحت...

انجمن کارکنان آب و سیرابی

دفعہ 101 کے تحت...

Sl. No.	Name	Address	Phone No.
1
2
3

GOVERNMENT OF KHYBER PAKHTUNKHWA COMMUNICATION & WORKS DEPARTMENT

NOTICE INVITING TENDERS

Name of Work	Quantity	Unit	Rate
...
...

انجمن کارکنان آب و سیرابی

دفعہ 101 کے تحت...

انجمن کارکنان آب و سیرابی

دفعہ 101 کے تحت...

TENDER NOTICE

...

DEPUTY COMMISSIONER SWAT

Annexure " F "

9

SP

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DISTRICT BUNER.

OFFICE ORDER.

WHEREAS Mr. Muhammad Riaz SPST GPS Maradu was remained absent from his duty w.e.f 30/12/2015 and was proceeded against under the sub rules 9 of Khyber Pukhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011.

2. AND WHEREAS three absence notices under Sub Divisional Education Officer(M) Gagra Office Endst;Nos.53 dated 6/1/2017, Endst;No 60 Dated 21/1/2017 and Endst;No.68 dated 6/2/2017 issued to him but he failed to resume his duty.

3. AND WHEREAS in absenteesum notice was served upon Mr.Muhammad Riaz SPST GPS Maradu published in Daily Mashriq and Ajj Dated 2/3/2017 but he failed to resume his duty in the stipulated period

4. AND WHEREAS the competent authority (D.E.O Male Buner) is satisfied that he is not interested in Govt; duty and is guilty of habitually absenting himself from duty with out approval of leave under sub rules 3(d) of Khyber Pukhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011.

5. NOW, THEREOF, in exercise of the powers conferred under sub rule 4 (b) (iii) of Khyber Pukhtunkhwa Govt: Servants (Efficiency & Discipline) Rules 2011, the Competent Authority is pleased to impose Major penalty "Removal from service with effect from 31/12/2015 (F/N) upon Mr. Muhammad Riaz SPST GPS Maradu

Note:-

Necessary entry to this effect should be made in his service Book accordingly.

(BAKHT ZADA)
DISTRICT EDUCATION OFFICER (M)
BUNER

Endst; No. 1140-45

Dated 17/3 /2017.

Copy for information to the.

1. Director (E&SE) Khyber Pukhtunkhwa Peshawar.
2. Deputy Commissioner Buner.
3. District Monitoring Officer Buner.
4. Sub Divisional Education Officer (M) Gagra Buner.
5. District Accounts Officer Buner.
6. Official Concerned.

DISTRICT EDUCATION OFFICER (M)
BUNER



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2193 /ST

Dated: 03/11 /2021

All communications should be
addressed to the Registrar KPK Service
Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
Bunir.

Subject: JUDGMENT IN APPEAL NO. 1125/2018 MR. MUHAMMAD RIAZ.

I am directed to forward herewith a certified copy of Judgement dated
08.10.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR