

28.12.2022

Due to winter vacation, the case is adjourned to
05.04.2023 for the same as before.


Reader

10.10.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Learned counsel for the appellant requests for adjournment in order to further prepare the brief. To come up for arguments on 15.12.2022 before D.B.

P

(Farecha Paul)
Member (E)

(Kalim Arshad Khan)
Chairman

Late Diary
10th Oct, 2022

Noted
14/11/22

Despite direction for fixation of the cases for the shortest possible dates, the office has fixed this case for a longer date. The Reader of the court is warned to be careful in future. The date fixed in this case is accelerated to 15 / 11 / 2022. Notices be issued to the parties and their counsel for the date fixed.

(Farecha Paul)
Member (E)

(Kalim Arshad Khan)
Chairman

15th Nov. 2022

Assistant to learned counsel for the appellant present.

Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Former requested for adjournment due to engagement of learned senior counsel for the appellant before Honourable Peshawar High Court. Being old case of 2019, last chance is given. To come up for arguments on 28.12.2022 before the D.B.

(FAREEHA PAUL)
Member(E)

(ROZINA REHMAN)
Member (J)

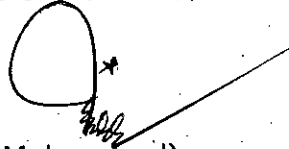
SCANNED
POSTY
Peshawar

1095/19

05.04.2022

Learned counsel for the appellant present. Mr. Kabirullah, Addl. AG for the respondents present.

Former seeks adjournment to properly assist the court. Adjourned. Last opportunity is granted. To come up for arguments on 15.06.2022 before the D.B.



(Mian Muhammad)
Member(E)

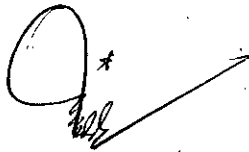


Chairman

15.06.2022

Clerk of learned counsel for the appellant present. Mr. Farhan Ali, Assistant alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant sought adjournment on the ground that learned counsel for the appellant has taken his ailing son to the hospital. Adjourned. Last opportunity given. To come up for arguments on 04.08.2022 before the D.B.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

4-8-2022

Proper DB not available the case is
adjourned to 10-10-2022

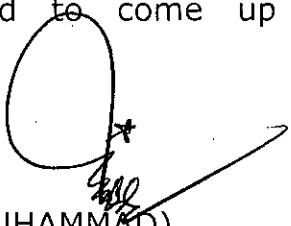



Reader

25.05.2021

None for the appellant present. Mr. Jehanzeb, Superintendent alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Today's date was posted on Note Reader, therefore, notice for prosecution of the appeal be issued to appellant as well as his counsel and to come up for arguments before D.B on 14.09.2021.


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

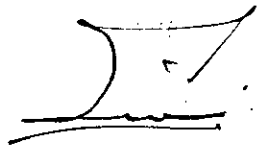

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

14.09.2021

Syed Mudasir Pirzada, Advocate, for the appellant present. Mr. Jehanzeb, Superintendent alongwith Mr. Asif Masood Ali Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested that an opportunity for submission of rejoinder may be granted to him. Adjourned. To come up for submission of rejoinder as well as arguments before the D.B on 21.12.2021.



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

21.12.2021

Clerk of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Jehanzeb Superintendent for respondents present.

Clerk of learned counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 05.04.2022.


(Atiq Ur Rehman Wazir)
Member (E)


Chairman

22.06.2020

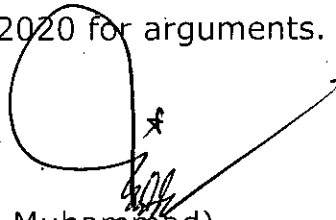
Due to public holiday on account of COVID-19 the case is adjourned for the same on 09.09.2020 before D.B.


Reader


09.09.2020

Appellant is not present. Mr. Usman Ghani, District Attorney alongwith representative of the department Mr. Jehanzeb, Superintendent for the respondents is present.

The bench was informed that the learned counsel representing the appellant namely, Syed Mudasir Pirzada, Advocate, is not available in Peshawar and his clerk who attended the court requested for adjournment. Adjourned for 26.11.2020 for arguments.



(Mian Muhammad)
Member (Executive)

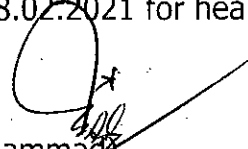


(Muhammad Jamal Khan)
Member (Judicial)

26.11.2020

Mr. Yasir Saleem Advocate for Muddassir Pirzada, Advocate for appellant and Zara Tajwar, DDA alongwith Jehanzaib, Superintendent for the respondents present.

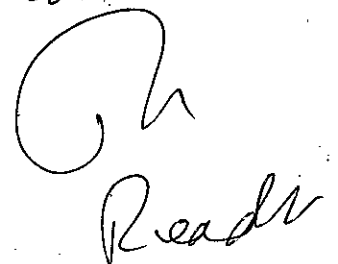
Requests for adjournment as learned counsel for the appellant could not reach from Kohat due to indisposition. Adjourned to 18.02.2021 for hearing before the D.B.



(Mian Muhammad)
Member(E)


Chairman.

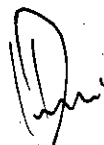
Due to pandemic of Covid-19, the case is adjourned to 25.05.2021


Reader

09.12.2019

Junior to counsel for the appellant and Addl. AG alongwith Abert John, Asstt. and Muzafar Khan, Asstt. for the respondents present.

Representatives of the respondents seek time to furnish reply/comments. Adjourned to 21.01.2020 on which date the requisite reply/comments shall positively be submitted.



Chairman

21.01.2020

Junior to counsel for the appellant and Addl. AG alongwith Qazi Muhammad Ayaz, Litigation Officer and Muzafar Khan, Assistant for the respondents present.

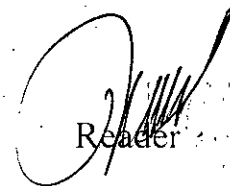
Parawise comments on behalf of respondents have been furnished. The matter is assigned to D.B for arguments on 31.03.2020. The appellant may furnish rejoinder within one month, if so advised.



Chairman

31.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 22.06.2020 before D.B.



Reader

1095/19

09.10.2019

Counsel for the appellant present.

Contends that the appellant was removed from service through order dated 05.12.2018 but with effect from 09.02.2018 on the allegations of theft and damage to the government property. During the criminal trial the appellant was acquitted of the charges levelled against him on 13.04.2019. According to the rules after the registration of criminal case a civil servant was required to be placed under suspension till the decision of the case by the competent court of law. However, in the instant case no such suspension order was made. On the contrary without waiting for the outcome of criminal trial the impugned order was passed which was against the spirit of law besides having retrospective operation. Reliance was placed on judgment reported as 2019-PLC(C.S)255.

In view of the arguments of learned counsel and available record, instant appeal is admitted to regular hearing subject to all legal exceptions including the delay in submission of departmental appeal. 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 09.12.2019 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

09.10.2019

Counsel for the appellant present.

Contends that the appellant was removed from service through order dated 05.12.2018 but with effect from 09.02.2018 on the allegations of theft and damage to the government property. During the criminal trial the appellant was acquitted of the charges levelled against him on 13.04.2019. According to the rules, after the registration of criminal case, a civil servant was required to be placed under suspension till the decision of the case by the competent court of law. However, in the instant case no such suspension order was made. On the contrary, without waiting for the outcome of criminal trial the impugned order was passed which was against the spirit of law besides ^{being with} ~~the~~ ^{the harmis} retrospective operation. Reliance ^{was placed} on judgment reported as 2019-PLC(C.S)255.

In view of the arguments of learned counsel and available record, instant appeal is admitted to regular hearing subject to all legal exceptions including the delay in submission of departmental appeal. 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 09.12.2019 before S.B.



*Correction made
and reported
on page.*

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1095/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/08/2019	<p>The appeal of Mr. Nigar Ali presented today by Syed Mudasir Pirzada 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 27/8/19</p>
2-	28/08/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>09/10/19.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

14.09.2021

Syed Mudasir Pirzada, Advocate, for the appellant present.
Mr. Jehanzeb, Superintendent alongwith Mr. Asif Masood Ali
Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested that an
opportunity for submission of rejoinder may be granted to him.
Adjourned. To come up for submission of rejoinder as well as
arguments before the D.B on 21.12.2021.

(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

09.09.2020

Appellant is not present. Mr. Usman Ghani, District Attorney alongwith representative of the department Mr. Jehanzeb, Superintendent for the respondents is present.

The bench was informed that the learned counsel representing the appellant namely, Syed Mudasir Pirzada, Advocate, is not available in Peshawar and his clerk who attended the court requested for adjournment. Adjourned for 26.11.2020 for arguments.

(Mian Muhammad)
Member (Executive)

(Muhammad Jamal Khan)
Member (Judicial)

26.11.2020

Mr. Yasir Saleem Advocate for Muddassir Pirzada, Advocate for appellant and Zara Tajwar, DDA alongwith Jehanzaib, Superintendent for the respondents present.

Requests for adjournment as learned counsel for the appellant could not reach from Kohat due to indisposition. Adjourned to 18.02.2021 for hearing before the D.B.

(Mian Muhammad)
Member(E)

Chairman

25.05.2021

None for the appellant present. Mr. Jehanzeb, Superintendent alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Today's date was posted on Note Reader, therefore, notice for prosecution of the appeal be issued to appellant as well as his counsel and to come up for arguments before D.B on 14.09.2021.

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

①

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 1095 / 2019.

Nigar Ali S/o Bahar Ali Ex Chowkidar GDC Kohat

(Appellant)

Versus

1:- The Secretary Higher Education KPK Peshawar.

2:- The Director Higher Education KPK Peshawar.

3:- The Principal Govt Degree College KDA Township Kohat.

(Respondents)

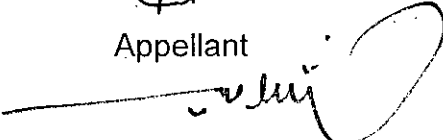
INDEX


S.No	Description of Documents	Annexure	Pages
1.	Memo of Appeal		1-5
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3.	Address of the Parties		7
4.	Copy of impugned order dated 05-12-2018	A	8
5.	Copy of Acquittal Order dated 13-04-2019 order received on 04-05-2019	B	9-10
6.	Copy of Departmental Representation 20-05-2019	C	11-13
7.	WakalatNama		

Dated: 27/8 / 2019


Appellant

Through


Syed Mudasir Pirzada
Advocate PHC
Cell 0345-9645854

Uzma Syed

Advocate HC Peshawar

Service Appeal _____ / 2019.

Nigar Ali S/o Bahar Ali Ex Chowkidar GDC Kohat

(Appellant)

Versus

- 1:- The Secretary Higher Education KPK Peshawar
- 2:- The Director Higher Education KPK Peshawar.
- 3:- The Principal Govt Degree College KDA Township Kohat.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED LETTER /ORDER DATED 05-12-2018 VIDE Endst No 1139-113/P-I IN WHICH THE RESPONDENT NO:- WITHOUT ANY INQUIRY REMOVED FORM SERVICE WITH IMMEDIATE EFFECT DATED 08-09-2018. APPELLANT FEELING AGRIVED FILE DEPARTMENTAL REPRESENTATION DATED 20-05-2019 WHICH WAS NOT ENTERTAIN NOR CONSIDER TILL TO DATE.

Pray:

It is respectfully prayed that on acceptance of instant service appeal the Hon bale Tribunal may direct to respondents above to set a side all illegal or impugned order and the Appellant may graciously be re-instated in service with all back benefits and set a side the impugned order dated 05-12-2018 & blessed with any other remedy in the larger interest of Justice.

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellants on the following grounds:-

FACTS

- 1:- That the appellant was serving as Chowkidar in Govt Degree College KDA Township Kohat with the entire satisfaction of superior from the date of appointment.
- 2:- That due to a fake criminal case the Appellant services were removed by respondent No-3 without any lawful cogent reason as well as without enquiring the allegation directly issued the impugned order (Copy of impugned order annexed as annexure A)

3:-That the appellant was behind the bar and in the absence of the appellant all the departmental impugned proceedings were conducted without the aid of enquiry without issuing the show cause notice, without any charge sheet and award the major punishment of removal from service without any hearing without providing any opportunity of cross examination and without recording the statement of any person in relation to the charges leveled against the appellant.

4:- That after earning acquittal from the court of learned Judicial Magistrate -I Kohat on dated 13-04-2019 order received on 04-05-2019 per departmental representation which was not entertain nor consider till to date by respondent No-02 (Copy of acquittal order annexed as annexure B)

5:-That the there is nothing on record which show that the appellant has committed any offence nor having any criminal history, even no single bad entry is available on record.

6:-That the Appellant moved departmental representation against the impugned order dated ~~05-12-2018~~ but the said was not consider nor entertain. (Copy of application is annexed as annexure C)

9:-That the Appellant is aggrieved from the illegal act of the respondent No-3 and having no alternate remedy except this Honorable, Court for speedy disposal / redressal for infringement of his rights through present service appeal on the following amongst other grounds,

Grounds

1:- That the illegal acts of the respondents No -3 is against to the cannon of law as well as against to the natural justice.

2:-That there no legal cogent reason defined by respondent No-3 for which the present Appellant has been removed from service.

3:-That the impugned order is against to the principal of natural justice and show the bias ness on the part of respondent No-2.

(4)

4:-That the impugned order of the above respondent is illegal and highly condemnable and unlawful in nature .

5:-That the Appellant is a poor and only person to earn the livelihood for his large supported family and the income from his job is a source of spoon feeding for infant children's.

6:-That the bias of the respondent No-2 clearly shows by not entertaining the representation of the appellant , keeping in view the decision of apex court the respondents above were duty bound to record reason of rejection "when departmental appeal was submitted to the competent authority and was duty bound to decide same within reasonable time after application of independent mind ,by giving reason such was a requirement of law as well as of the principal of natural justice "2009 (PLC) (CS) 77.

7:- That the Appellant never ever remains absent nor indulge in any misconduct which earned a bad name or stigma for department .

8:- That it is clearly mention in 2003 PLC CS 1468 that any instruction issued in violation of Rules would be illegal and void.

9:- That some other grounds will be agitated at the time of arguments with the permission of this Honorable court.

PRAYER:-

It is respectfully prayed that on acceptance of instant service appeal the Hon bale Tribunal may direct to respondents above to set a side all illegal or impugned order and the Appellant may graciously be re-instated in service with all back benefits and set a side the impugned order dated 05-12-2018 & blessed with any other remedy in the larger interest of Justice.

Bakal
Appellant

Through

[Signature]
Syed Mudasir Pirzada
Advocate PHC
Cell 0345-9645854

[Signature]
Uzma Syed
Advocate HC Peshawar

③

Certificate:-

~~Appeal~~ Certified that as per instruction received from my client this is the first
~~crit. petition~~ on the subject matter ever moved before this Honorable Court.


ADVOCATE.

LIST OF BOOKS

Constitution of Islamic Republic of Pakistan 1973.

Any other Book according to need.

Service Appeal _____ / 2019.

Nigar Ali S/o Bahar Ali Ex Chowkidar GDC Kohat

(Appellant)

Versus

- 1:- The Secretary Higher Education KPK Peshawar.
- 2:- The Director Higher Education KPK Peshawar.
- 3:- The Principal Govt Degree College KDA Township Kohat.

(Respondents)

AFFIDAVIT

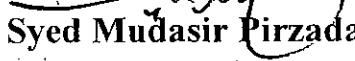
I Mr Nigar Ali S/o Bahar Ali Usterzai Kohat do hereby solemnly affirm and declare that the contents of enclosed appeal are true and correct to the best of my knowledge and belief and nothing has been concealed there form

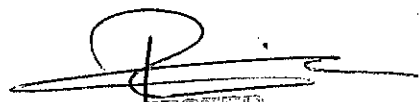
Verification :-

Verified on oath at Kohat that the contents of above affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed there from.


Deponent

Identified By:


Syed Mudasir Pirzada
Advocate


ATTESTED
Pir Qasim Shah Advocate
Oath Commissioner
District Courts Kohat
22/8/19

Service Appeal _____ / 2019.

Nigar Ali S/o Bahar Ali Ex Chowkidar GDC Kohat

(Appellant)

Versus

- 1:- The Secretary Higher Education KPK Peshawar.
- 2:- The Director Higher Education KPK Peshawar.
- 3:- The Principal Govt Degree College KDA Township Kohat.

(Respondents)

ADDRESSES OF THE PARTIES

APPELLANT

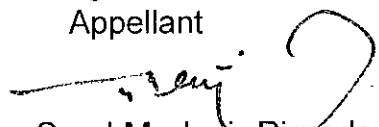
Nigar Ali S/o Bahar Ali Ex Chowkidar GDC Kohat


RESPONDENTS:-

- 1:- The Secretary Higher Education KPK Peshawar.
- 2:- The Director Higher Education KPK Peshawar.
- 3:- The Principal Govt Degree College KDA Township Kohat.


Appellant

Through


Syed Mudassir Pirzada
Advocate PHC
Cell 0345-9645854

Uzma Syed

Advocate HC Peshawar



8



OFFICE OF THE PRINCIPAL
GOVERNMENT DEGREE COLLEGE KDA TOWNSHIP KOHAT

Phone No. 0922-515401 Fax No. 0922-515401 Email Address: degreecollegekdakohat@yahoo.com

OFFICE ORDER

DATED: 05-12-2018

The undersigned as competent authority vide Khyber Pakhtunkhwa Govt. Servant E & D rules 2011 clause 4 (b) ii and on the recommendation of the enquiry Committee the allegation of act of theft, damage to the Govt. property and misconduct are proved against Mr. Nigar Ali S/O Bahar Ali, Chowkidar of this College. After fulfilling the codal formalities Mr. Nigar Ali S/O Bahar Ali, Chowkidar is hereby removed from service w.e.f. 08/09/2018(F.N) i.e the date of occurrence of the incidence on administrative ground in the public interest.

[Signature]
Principal,

Govt. Degree College
KDA Township, Kohat.

Endst.No. 1439-113 /P-1

Dated Kohat the 05/12 /2018.

Copy of the above is forwarded to the:-

1. Director Higher Education Department Khyber Pakhtunkhwa.
2. District Accounts Officer, Kohat.
3. JMC Coordinator Govt. Postgraduate College, Kohat.
4. Official concerned.
5. Office record.

[Signature]
Attest
by Council
[Signature]

[Signature]
Principal,

Govt. Degree College
KDA Township, Kohat.

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Handwritten notes in Urdu at the top of the page, including dates like 13/04/19, 18/10/18, and 22-12-018.

IN THE COURT OF SHEHZAD ALI KHAN JM-I, KOHAT

State Vs Nigar Ali

Handwritten signature and notes on the right side of the court name.

Case F.I.R No.913 dated 10.09.2018 U/S 406 Cr.PC F ngle Khel

Order 13.04.2019 406 Cr.PC 10/9/18 913

Present:

APP for the State. Accused Nigar Ali on bail present.

Arguments U/S 249-A Cr.PC is already heard and record perused.

Brief facts of the case according to F.I.R are that on 08.09.2018 at about 09.16 PM he heard the sound as if someone is breaking something. When he came out of his suite he found that Mr. Nigar Ali, night chowkidar of the college breaking natural cane chairs (meant for staff) and tablet chairs (meant for students) and upon inquiry he found that the accused has taken away the broken chairs/squire pipes from the college being property of Government Degree College and has committed criminal breach of trust, hence, the present case FIR.

After the registration of the FIR, proper investigation was conducted and after completion of the investigation, the instant case was put in Court for trial on 18.10.2018. Provisions of section 241-A Cr.PC was complied with on 12.01.2019 and charge was framed on 22.01.2019. The prosecution was given an opportunity for production of evidence in support of the allegations leveled against the accused facing. Accordingly, PWs were summoned, out of which only one PW was examined as PW1.

PW-1, during his examination in chief supported the prosecution version but while standing the test of cross-examination he frankly admitted the he has not mentioned the date on Exh.PW1/1. He further deposed that he had received a letter which is placed on file on 10.09.2018. He further admitted that occurrence was took place on 08.09.2018. He also admitted that he did not associated any private witnesses in the recovery memo. Further added that no date has been mentioned in the recovery memo.

Perusal of record further shows that there is delay in lodging of FIR. Further, as per record, accused had used the motorcycle in the commission of offence, but the same was not taken into custody through any recovery memo. Further, accused has not confessed his guilt during investigation. Furthermore, there is no criminal history against accused/petitioner placed

Signature of Shehzad Ali Khan, Judicial Magistrate-I, Kohat.

Stamp of the court: SHEHZAD ALI KHAN, JUDGE, COHAT.

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on file which shows that accused is habitual and involved in such like cases. In addition, complainant and other PWs have not attended the court which shows that they are not interested to record their statement or prove the charges against the accused/petitioner.

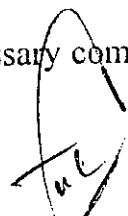
From the above scanning of evidence, particularly, from the statements of the above PW-1 and record prove that the accused Nigar Ali is absolutely innocent, as he himself vividly stated that no recovery has been effected for the accused. Be that as may, even otherwise, the prosecution has absolutely failed to bring even a speck of evidence against the accused facing trial.

In the circumstances, discussed above, I believe that the prosecution has absolutely failed to bring home charges leveled against the accused Nigar Ali and even if they are allowed to proceed with the trial still they will not be able to prove the charges. Thus, I am left with no other option but to accept the instant application submitted by the accused facing trial under section 249-A Cr.PC. Resultantly, the instant application under section 249-A Cr.PC stands allowed and the accused facing trial is acquitted of the charges leveled against him. He is on bail. His sureties stand discharged from the liability of the bail bonds.

Case property be dealt in accordance with law.

File be consigned to the record room after necessary completion and compilation.

Order Announced:
Dated: 13.04.2019


Shehzad Ali Khan,
Judicial Magistrate-I,
Shehzad Ali Khan, Kohat
Judicial Magistrate-I,
Kohat.

RECEIVED TO BE FILED
04 JULY 2019
JUDICIAL MAGISTRATE-I
KOHAT

(11)

BEFORE THE DIRECTOR OF HIGHER EDUCATION DEPARTMENT OF
KPK PESHAWAR.

SUBJECT: APPEAL AGAINST THE IMPUGNED ORDER Enc t No 439-43/P-1
DATED 05-12-2018, UPON THE RECOMMENDATION OF ENQUIRY
COMMITTEE AWARDED PUNISHMENT OF REMOVAL FROM SERVICE
WITH EFFECT FROM 08-09-2018

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellatant on the following grounds:-

Facts:

Briefly facts are that the appellatant while serving as Chowkidar at Govt Degree College KDA Town Ship Kohat and due to criminal case FIR No 913 dated 10-09-2018 U/S 406 PPC.

1. That the appellatant have been acquitted from the above criminal case honorably on dated 13.04.2019 (Copy of judgment is annexed)
2. That according to the rules when any Govt servant is acquitted from any case the on the basis of acquittal he is entitle for service.
3. That again an unjust has been done with the appellatant by not giving ample opportunity of cross examination as well as not heard in person nor properly enquired the allegation. Just on the basis of criminal case appellatant held guilty without following the prescribed rules relating to enquiry proceedings as per.

Attest d
by Council
[Signature]

- 4. That there is nothing on record which connects the appellant with the allegation.
- 5. That nothing has been proved beyond any shadow of doubt that the appellant has committed any misconduct or tarnished the image of department.
- 6. That there are numerous good entries in the service record of the appellant which could be verified but this fact has not been taken in consideration while awarding the major punishment which is against to the canon of justice.
- 7. That the appellant was neither provided an opportunity to cross examine the witnesses nor to produce defense evidence and the enquiry proceedings accordingly defective.
- 8. That the appellant dragged unnecessarily into litigation which is clearly mentioned in 2008 SCMR 725.
- 9. That while awarding the impugned major punishment the enquiry report has not been given to the appellant which is very much necessary as per 1991 PLC CS 706 & PLC 1991 584.

Grounds:

- a. That during enquiry none from the general public was examined in support of the charges leveled against the appellant. No allegation mentioned above are practiced by the appellant nor proved against any cogent reason against the appellant.
- b. That the appellant was neither intimated nor informed by any source of medium regarding enquiry proceedings for any disciplinary action which shows bias on the part of quarter concern.


- c. That the punishment is harsh in nature and the appellant is twice vexed for undone single offence which is against the constitution of Islamic republic of Pakistan 1973.
- d. That the appellant is honest and dedicated one and leave no stone unturned to discharge his duties.
- e. That as per universal declaration of human rights 148 prohibits the arbitral / discretion.
- f. That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law. The same is based on wrong assumption of facts.
- g. That the departmental enquiry was not conducted according to the rules.
- h. That the impugned order is outcome of surmises and conjecture.

Pray:

In the view of above circumstances it is humbly prayed that the impugned order of No 439-43 dated 05/12/2018 t may please be set aside for the end of justice and the appellant may please be graciously reinstated in service with all back benefits.

Date: 20/5/2019.

(Appellant)


Nigar Ali S/o Bahar Ali
Ex-Chowkidar of Govt
Degree College Kohat.

ایڈوکیٹ اور دستخط: _____

بار کونسل اہار ایسوسی ایشن نمبر: 65-09-1969

رابطہ نمبر: 0345-9645854

کوہاٹ بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: _____

دعویٰ: _____	منجانب: ایڈووکیٹ _____
حالت نمبر: _____	نکار علی دلد بہار علی
مورخہ: _____	بنام
تھانہ: _____	ڈائریکٹر یا سسر ایجوکیشن

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام _____ کیلئے _____ کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرنالت و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی 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 اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخنتہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

27/8/19

المرقوم

_____ گواہ شد _____

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SA No.1095/19

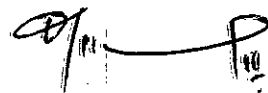
Nagir Ali.....(Appellant)

VERSUS

**Govt. of Khyber Pakhtunkhwa through Secretary, Higher Education Department &
Others..... (Respondents)**

INDEX

S No.	Description of Documents	Annexure	Pages
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Section Officer (Litigation)
Higher Education Department,
Khyber Pakhtunkhwa Peshawar

①

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

S.A # 1095/2019

Nigar Ali.....Appellant

Versus

Govt. of Khyber PakhtunkhwaRespondents

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1,2&3

Respectfully Sheweth: -

Preliminary Objections: -

1. That the Appellant has got neither cause of action nor locus standi to file the instant service appeal.
2. That the Appellant has not come to the Honourable Court with clean hands and is trying to conceal material facts.
3. That the instant service appeal is hit by doctrine of laches.
4. That the Appellant is estopped by his own conduct to file the instant service appeal.
5. That the instant service appeal is not maintainable in the eyes of Law.

Facts: -

- 1- Incorrect. That the appellant has served this department to the utter dissatisfaction of the high ups. Moreover, his services were surrendered from Govt: Girls Postgraduate College, Kohat to Govt: Degree College, KDA Township Kohat on administrative grounds on the recommendations of the inquiry committee as well as Govt: Girls Postgraduate College, Kohat with the remarks that he is not a suitable person for female institution (**Annex-A**). Moreover, he also misbehaved with the Principal and staff members of Govt: Degree College, KDA Township, Kohat, as evident from the statement of incharge Class-IV Mr. Zia Ahmad Assistant Prof. as well as from his own statement (**Annex-B, C**). It is worth to mention here that he remained wilful absent from his duty and also used harsh and inappropriate language with his colleagues. Due to his continuous misconduct he has been served upon many warning letters and last warning was given as recommended in fact finding enquiry conducted against him when he physically assault the tube well operator and undertaking in this regard was also given by him. (**Annex-D, E**).
- 2- Incorrect. The appellant was removed from the service w.e.f 08/09/2018 (**Annex-F**) i.e. the date of incident by respondent No. 03 (while he was caught red handed committing the crime of damaging the Govt: property and an attempt of theft) after fulfilling all codal formalities. He has been given an opportunity of personal hearing vide letter No. 378 dated 23/10/2018 (**Annex-G**) and his statement was recorded but the appellant could not satisfy the competent authority.
- 3- Incorrect. The departmental proceedings were conducted in accordance with law and fulfilling all the codal formalities. An inquiry committee was constituted vide letter dated 09/09/2018 (**Annex-H**) and the appellant was suspended from service vide letter No. 325-26 dated 09/09/2018 (**Annex-I**). The statement of the appellant was recorded by the Inquiry Committee in jail (**Annex-J, K**). A show cause notice and statement of allegations was also served upon him vide letter 321 dated 09/09/2018 (**Annex-L&M**). An opportunity of personal hearing was provided and

statements of all relevant persons were recorded. The allegations were proved against him and the penalty was imposed upon him (**Annex-N**).

- 4- Incorrect. Sufficient record is available which shows that the appellant has a criminal record. Twenty two (22) numbers of bad entries are recorded in his personal file (**Annex-O&P**).
- 5- Incorrect. As already explained in the preceding paras.
- 6- That the respondent may also be allowed to raise additional grounds at the time of arguments.

Grounds: -

- 1. Incorrect as already explained in the preceding paras. Hence the impugned order is legal.
- 2. Incorrect as already explained in the preceding paras.
- 3. Incorrect as already explained in the preceding paras. Hence the impugned order is in accordance with Natural Justice.
- 4. Incorrect as already explained in the preceding paras.
- 5. Needs no comments.
- 6. Incorrect as already explained in the preceding paras.
- 7. Incorrect. The appellant remained wilful absent and was involved in other misconduct and has earned bad name to the department.
- 8. Incorrect each and every case has its own facts.
- 9. That the respondents may be allowed to raise additional grounds at the time of arguments.

Prayers: -

It is, therefore, humbly prayed that the instant Service appeal is based on mis-conception/mis-statement, hence may graciously be dismissed with appropriate costs.

Secretary,

Higher Education Department

Respondent No. 1

Secretary

Govt. Of Khyber Pakhtunkhwa
Higher Education,
Archives & Libraries
Department.

Director,

Higher Education Department

Respondent No. 2

Principal,

Govt. Degree College KDA Township Kohat

Respondent No. 3

Principal

Govt. Degree College
KDA, Township, Kohat

(Annexed A/1)
Annex - A

3

**GOVERNMENT GIRLS
POSTGRADUATE COLLEGE KOHAT**

Phone # 0922-9260062 Fax # 0922-860030 Email# gpgcwkohat@yahoo.com

No. 896 /Acctt/ Personal File/Kt/2016

Dated 30 /04/2016
BY DOK BOOK

To

The Coordinator Principal,
Govt: Postgraduate College,
Kohat

SUBJECT:

**SURRENDER OF SERVICE OF NIGAR ALI
CHOWKIDAR GGPGC KOHAT**

Dear Sir,

It is submitted that services of Mr. Nigar Ali Chowkidar was provided by the District Surplus Pool Kohat Vide order No. 479/DCO/ACO/EA Dated 01.03.2011, now the above official services is hereby surrendered w.e.f. 13.04.2016 (Fore Noon) to your esteemed office for further posting any where, as he is not suitable person for female institution. The following documents are enclosed please.

A suitable substitute to this office may kindly be provided at the earliest in the best interest of female institution please.

01	Original Service Book Nigar Ali Chowkidar	Service Book completed up to 12.04.2016
02	LPC Original	01 No
03	Relieving Slip	01 No

D. No. 107
Dt. 19/5/2016

Jamali Chaudhary
Principal,
Govt. Girls Postgraduate College
Kohat

فہ 17 مارچ 2017 کو لغار علی (جوکیدار) نے مجھے فون اطلاع دی کہ میری بھوپہیں کا شوہر فوت ہو گیا ہے لہذا میں رات کی ڈیوٹی (4 بجے سے 12 بجے) سرانجام دینے سے حاضر ہوں۔ میں نے رخصت ہوائے فوننگی دے دی اور حضور جوکیدار کو رات کی ڈیوٹی کرنے کا حکم صادر کر دیا۔ 18 مارچ 2017 کو میں اتفاقاً رخصت ہر تھا۔ صبح لغار علی نے پھر فون کیا کہ مجھے دو دن مزید رخصت کی ضرورت ہے۔ میں نے کہا کہ آپ کی ڈیوٹی رات کو ہوتی ہے اور دن کو آپ فارغ ہوتے ہیں۔ آپ دن کے وقت اپنے گاؤں کے معمولات سرانجام دے سکتے ہیں۔ لیکن مزکورہ جوکیدار نہ مانا۔ پھر میں نے کہا کہ اپنے جوکیدار کو راہنی کر لو تو آپ دو دن بھیج کر سکتے ہو۔ اس نے فون بند کر دیا۔ اگلے دن جب میں کالج حاضر ہوا تو پتہ چلا کہ مزکورہ جوکیدار نے پرنسپل صاحب اور سنیئر سٹاف ممبرز کے ساتھ بدتمیزی کی ہے۔

شکریہ

مناب احمد خان لاٹالہ C/11

J. M. A.

ڈاکٹر علی جوگیدار گورنمنٹ ڈگری کالج کے ڈی اے کوپاٹ

314

تاریخ: 22/03/2017

17

بنام پرنسپل صاحب گورنمنٹ ڈگری کالج کے ڈی اے کوپاٹ

صوبہ پنجاب - جواب برائے غیر حاضر ہونے کی ڈیڑھی

محترمہ پرنسپل صاحب! میں فقار علی عرض کرنا چاہتا ہوں کہ بروز جمعہ (12 مارچ، 2017) کو میرا خالہ کا شوہر فوت ہو چکا تھا تو رواج

کے مطابق میں تین روزہ ماتم خواتین ہوتی ہے جسلی وجہ سے میری

حجور دلی دستہ داری کے نام سے صبر داری تھا اسلئے میں نے بحالت

عجسوری دو چھٹیاں مزید کی ہے۔ اس دن مجھ سے جو دیگر تعمیری

سہ روزہ ہوتی اس وقت میری ذہنی حالت کھپکھپ کر کام نہیں

کر رہی تھی جسلی وجہ سے میری زبان پھسل گئی اسکا صحیح

آفسوس ہے میں معافی چاہتا ہوں اور آئندہ کیلئے

میں غصا نہیں رکھوں گا اور اپنے ڈیڑھی کو بہتر طرح سے سہرا تمام

دیکھنے کی کوشش کروں گا۔ دراصل ڈیڑھی میں نے نسبتاً کیا ہے

اور نہ کرتا ہوں اور میں التجا کرتا ہوں کہ میری خوشخبری کا

کچھ نہ کرے کیونکہ میرے چھوٹے چھوٹے بچے ہیں اس واسطے

میں آئندہ اپنی ڈیڑھی شرافت سے کروں گا آپکی لبری بہرانی

یادگی

359 sb 1/c
22/3/17
inspection wanted
24/3/17

Nyapali

Inquiry Report dated June 9, 2018 (30)

Introduction:> An inquiry committee comprises the undersigned has been constituted by the Principal GDC KBA Township vide his office order dated May 31, 2018 in regard to scuffling of Mr. Nigar Ali (Chowkidar) with Mr. Zeeshan (Tube well operator).

Scope:

To conduct fact finding inquiry regarding scuffling of Mr. Nigar Ali (Chowkidar) with Mr. Zeeshan (Tube well operator).

Proceeding:> We called both Nigar Ali (Chowkidar) and Mr. Zeeshan (Tube well operator) to the college staff room for conducting proper interview (Annexure A, B) we heard and received the statement of Mr. Nigar Ali (Annexure - C)

We heard and received the statement of Mr. Zeeshan (Annexure - D)

We heard and received the statements of Mr. Hashmatullah and Mr. Rahim (Security Guards) being eye witnesses to the event (Annexure E & F).

Discussion:> We discussed the whole proceeding in much detail in the light of evidences collected through eye witnesses and come to the conclusion stated below:

Conclusion:>

It is evident from the statements of Mr. Hashmat and Mr. Rahim (Guardmen) being eye witness to the event that both complainant and accused are guilty. Mr. Zeeshan (Tube well operator) first instigated Mr. Nigar Ali and then Nigar Ali (Chowkidar) made physical assault on Mr. Zeeshan during duty hours which itself happens to be a major crime in Service law.

Recommendations:> We recommend the following Punishment.

1. Mr. Nigar Ali should be dealt with last warning to mend his behaviour, otherwise strict disciplinary action should be taken against him.

(Annexed D.7.)

(2) (29)

Mr Zeeshan being instigator to the event should be issued first warning to mend his behaviour in future.

3. Both Mr. Nigar and Zeeshan be directed to provide undertaking to the effect that strict disciplinary action whatsoever would be taken against them and they would have no objection to it if they erred in future.

Committed Members

- 1. Prof. Musaraf Gul (chairman) _____
- 2. Asst. Prof. Saida Gul (member) _____
- 3. Asst. Prof. Zia Ahmad Khan (member) _____

Page 22

(6)

(8)

بیان حلفی

میں نگار علی (جو کبیرا) حلفاً اقرار کرتا ہوں کہ
اگر آئندہ میرا رویہ اور فعل سروس فلانین کے
خلاف ہو تو میرے خلاف قانونی کارروائی کی
جائے۔ مجھے اس پر کوئی اعتراض نہیں ہو گا۔

@Rajali

نگار علی جو کبیرا

جس ڈی کے ڈی 4

کوہاٹ

عوارف 12 جون 2018

20/12, 13, 14, 15, 16, 17, 18, 19, 20

Annex - F (Annexed 4/23)

9

70

33

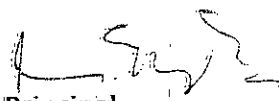


OFFICE OF THE PRINCIPAL
GOVERNMENT DEGREE COLLEGE KDA TOWNSHIP KOHAT
Phone No. 0922-515401 Fax No. 0922-515401 Email Address: degreecollegekdakohat@yahoo.com

OFFICE ORDER

DATED: 05-12-2018

The undersigned as competent authority vide Khyber Pakhtunkhwa Govt. Servant E & ID rules 2011 clause 4 (b) ii and on the recommendation of the enquiry Committee the allegation of act of theft, damage to the Govt. property and misconduct are proved against Mr. Nigar Ali S/O Bahar Ali, Chowkidar of this College. After fulfilling the codal formalities Mr. Nigar Ali S/O Bahar Ali, Chowkidar is hereby removed from service w.e.f. 08/09/2018(F.N) i.e the date of occurrence of the incidence on administrative ground in the public interest.


Principal,

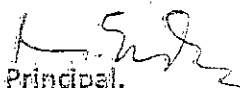
Govt. Degree College
KDA Township, Kohat.

Endst.No. 439-43 /P-I

Dated Kohat the 05/12 /2018.

Copy of the above is forwarded to the:-

1. Director Higher Education Department Khyber Pakhtunkhwa.
2. District Accounts Officer, Kohat.
3. JMC Coordinator Govt. Postgraduate College, Kohat.
4. Official concerned.
5. Office record.


Principal,

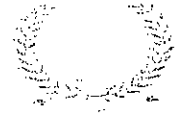
Govt. Degree College
KDA Township, Kohat.

Annex - G

(Annexed F/A)

10

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OFFICE OF THE PRINCIPAL
GOVERNMENT DEGREE COLLEGE KDA TOWNSHIP KOHAT

Phone No. 0922-515401 Fax No. 0922-515401 Email Address: degreecollegekda@khat.com

No. 378 /P-I

Dated Kohat the 23/10 /2018.

To

Mr. Nigar Ali,
Chowkidar, GDC KDA Township, Kohat.

Subject:

Personal Hearing

Memo.

The enquiry Committee vide this office order dated 09/09/2018 constituted against you recommended in enquiry report your removal from service w.e.f 08/09/2018 i.e date of incident. You are hereby directed to appear before the undersigned within 15 days of the issuance of this Notice to produce defense if any you have. In case you fail to appear within the stipulated period, it would be presumed that you have no defense and ex party action will be taken against you.

LWR

Principal,
Govt. Degree College
KDA Township, Kohat.

o/c

Principal
Govt. Degree College
KDA Township, Kohat



Chowkidar

(Annex E/16)

Annex - H

(57)



OFFICE OF THE PRINCIPAL
GOVERNMENT DEGREE COLLEGE KDA TOWNSHIP KOHAT
Phone No. 0922-515401 Fax No. 0922-515401 Email Address: degreecollegekdkohat@yahoo.com

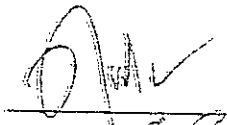
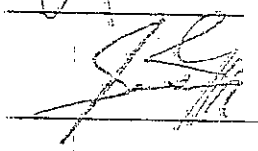


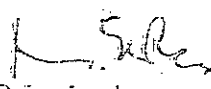
OFFICE ORDER

Dated: 09/09/2018.

The enquiry Committee comprising of the following staff members is hereby constituted to conduct fact finding enquiry along-with recommendations in case of theft and damaging to the property of the College by Mr. Nigar Ali, Chowkidar on 08/09/2018 during the duty hour within a week of the issue of this order.

1. Prof. Musarraf Gul, Professor
2. Mr. Saidan Gul, Asstt: Prof.

Chairman 
Member 


Principal,
Govt. Degree College
KDA Township, Kohat.

Annex E/I
Annex I

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OFFICE OF THE PRINCIPAL
GOVERNMENT DEGREE COLLEGE KDA TOWNSHIP KOHAT
Phone No. 0922-515401 Fax No. 0922-515401 Email Address: degreecollegekda@kohat@yahoo.com

OFFICE ORDER

Dated: 09/09/2018.

Being involved in damaging the property of the College and attempt of theft during duty hours, Mr. Nigar Ali S/O Bahar Ali, Chowkidar BPS-04, is hereby suspended with immediate effect in the public interest.

[Signature]

Principal,
Govt. Degree College
KDA Township, Kohat.

[Signature]

Endst.No. 325-26 /P-I

Dated Kohat the 09/09 /2018.

Copy for information to the:

1. Mr. Nigar Ali with the direction to appear before the enquiry Committee as and when called.
2. Office Assistant to inactivate his salary till the decision of his case.

[Signature]

Principal,
Govt. Degree College
KDA Township, Kohat.

[Signature]

جناب عالی! میں نے آفس آرڈر کی

ایک عدد کاپی وصول کر لی ہے۔

[Signature]



Attested
Off. Superintendent
District Jail Kohat

9-2018 نگار علی ولد بہار علی

حال بندہ جوالاتی ڈسٹرکٹ جیل کوہاٹ

15/9/18



(B)

(Annex E/18)
Annex - 5

B

A
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OFFICE OF THE PRINCIPAL
GOVERNMENT DEGREE COLLEGE KDA TOWNSHIP KOHAT
Phone No. 0922-515401 Fax No. 0922-515401 Email Address: degreecollegekdakohat@yahoo.com

No. 335 /P-I Dated Kohat the 18 /09 /2018.

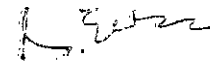
To The Superintendent Jail,
Kohat.

Subject: ADVANCE PERMISSION FOR DEPARTMENTAL ENQUIRY
Memo.

Reference this office letter No.321/P-I Dated 09/09/2018, Mr. Nigar Ali, Chowkidar of this College (under trial) is a prisoner in District Jail under your control. Departmental Committee comprises of the following staff members is hereby framed against the said chowkidar in order to submit enquiry report for further proceed into the matter.


You are therefore requested to allow and facilitate them for conduction of enquiry against the Nigar Ali on 19/09/2018 at 10.00 A.M under intimation to this office.

- | | |
|--|----------|
| 1. Prof. Musarf Gul, | Chairman |
| 2. Mr. Saidan Gul, Assistant Professor | Member |


Principal,
Govt. Degree College
KDA Township, Kohat.

o/c

one copy of the Subject cited letter has been received at this office on 18-9-18. The members of the departmental Committee are required to bring their original national ID cards with them during their visit to this Jail for clearance from army authorities on the Jail main gate.


SUPERINTENDENT
DISTRICT JAIL KOHAT



Annex E (19)

Annex - 1c

19

OFFICE OF THE
SUPERINTENDENT
DISTRICT JAIL KOHAT

16

57

No: _____ dt: 18/09/2018
Phone & Fax-0922554150

To,

The Officer Commanding,
Internment Centre Kohat.

Subject:- ADVANCE PERMISSION FOR DEPARTMENTAL INQUIRY.
Reference to Office of the Principal, Government Degree College KDA
Township Kohat letter No. 335 dated: 18-09-2018 on the subject above.
(Photocopy attached).

R/Sir;

It is submitted that as mentioned in the under reference letter, the below mentioned staff of the Government Degree College KDA Township Kohat will visit this Jail tomorrow on 19-09-2018 at 10:00 AM, for purpose of an Inquiry against accused Nigar Ali confined in this Jail.

S.No	Name	Designation
1.	Mr. Musaraf Gul (Chairman)	Professor
2.	Mr. Saidan Gul (Member)	Assistant Professor

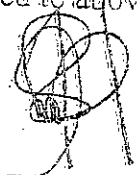
It is, therefore, requested that access to the Jail of the above mentioned Officers may be ensured on arrival to this Jail on the date mentioned above, please.

SUPERINTENDENT
DISTRICT JAIL KOHAT

Endst No: 2737 /1-

Copy of the above is forwarded to the Principal, Government Degree College KDA Township Kohat for information with reference to his letter referred to above, please.

Muzaffar Asstt.
put in concerned file
for record.
H.W. 28/9/2018


SUPERINTENDENT
DISTRICT JAIL KOHAT

max-L

گورنمنٹ ڈگری کالج کے ڈپٹی ایگ کو صاحب

تاریخ: 09/09/2018

321/P-I

شوکارا اظہار وجوہ (نوٹس)

بنام نگار علی چوکیدار کالج ہذا

Amexare-1
(5)

آپ کے خلاف مندرجہ ذیل شکایات درج کی جاتی ہیں۔ آپ کو پندرہ نومبر نوٹس ملاحظہ کیا جاتا ہے کہ آپ نوٹس ہزار کے اشاعت کے پندرہ دن کے اندر اظہار وجوہ/مہمانی پیش کر میں کہ کیوں نا آپ کے خلاف کارکردگی اور نظم و ضبط قانون 1973 کے تحت عمل میں لائی جائے۔ اگر مذکورہ غیر متعلقہ میں اظہار وجوہ پیش نہ کر سکتے تو آپ کے خلاف ایکٹو کارروائی عمل میں لائی جائیگی۔

1۔ یہ کہ مورخہ 08/09/2018 بوقت 9:16 رات کو کالج ہذا کے ایک ٹیکسٹر

اسم سلطان نے ایئر ڈیکلار کیا کہ آپ کالج کے پرنسپل اسٹاف چیمبرز + سٹورٹ چیمبرز کے چھوڑنے میں ملوث تھے۔ اسم سلطان میں نے آپ کو منع کیا لیکن آپ نے ماتھے پر ہاتھ دیا کلام جاری رکھا۔

2۔ یہ کہ میں نے 9:20 رات کو واحد محمود سینئر کلاس میں فوراً اظہار فرم کیا کہ جانر

ڈیکشن نگار علی کیا کر رہا ہے اسے روکو۔ واحد محمود نے رات 9:43 پر مجھے فون کیا کہ نگار علی سکریٹ کو چوری میں بند کیے ہوئے ہوئے سائنٹل پر لاد رہا تھا۔ کہ ہم دوران اپنی واحد محمود اور اسم سلطان نے ان سے سکریٹ چھیننے میں لے لیا۔ پھر اسکا منہ دیا کہ آپ کو چوری کر رہے تھے۔ اظہار ہوا کہ مجھ سے بند نہ سوچ پر ہر وقت سوچ گئے اور آپ کو نوٹس کے جوابے کیا گیا۔

3۔ یہ کہ پرنسپل چیمبرز آپ نے توڑا تھا ان سے سکریٹ یعنی بازوؤں وغیرہ آپ نے کالج بلڈنگ کے اوپر والے چھت پر پھینکے تھے تاکہ کسی کو پتہ نہ چلے جو کہ ہم نے لیا کیا اور چھیننے میں لے لیا۔



نگار علی
نگار علی ولد بہار علی
19/9/2018

پرنسپل
گورنمنٹ ڈگری کالج کے ڈپٹی ایگ کو صاحب

Annex-M

(Annexed-15/14)

P-I L

Annexed



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OFFICE OF THE PRINCIPAL

GOVERNMENT DEGREE COLLEGE KDA TOWNSHIP KOHAT

Phone No. 0922-515401 Fax No. 0922-515401 Email Address: degreecollegekdakohat@yahoo.com

Statement of Allegations against Nigar Ali, Chowkidar GDC KDA Township, Kohat.

On 08/09/2018 while on duty, you were found in commitment of the following activities.

1. As per eye witnesses you was involved in breaking of students/Staff chairs and causes loss to the institution amounting to Rs. 20,000/-.
2. As per eye witnesses you was involved in stealing of scrapes of the broken chairs and committing act of theft.
3. You being custodian of College property it is a gross negligence in your duty.

Dated: 09/09/2018

Principal,
Govt. Degree College
KDA Township, Kohat.

Annex - N
17

M

68



OFFICE OF THE PRINCIPAL
GOVERNMENT DEGREE COLLEGE KDA TOWNSHIP KOHAT
Phone No. 0922-515401 Fax No. 0922-515401 Email Address: degreecollegekdakohat@yahoo.com

ENQUIRY REPORT

Introduction:

We have been appointed as members of enquiry Committee i.e Principal GDC KDA Kohat vide its Office order dated 09/09/2018 (Annexure-A)

Scope of Enquiry:

To conduct facts finding enquiry that whether the allegations leveled against Nigar Ali, chowkidar as per statement of allegations (Annexure-B1,2) are proved or otherwise.

Procedure:

The Principal, was requested to inform the Jail Authorities that the enquiry Committee would visit the district Jail Kohat for conducting enquiry against Nigar Ali accused in District Jail Kohat. The worthy Principal took appointment from the Jail authorities for us on 19/09/2018 vide his office No. 335/P-I dated 18/9/2018 (Annexure-C). We recorded the following statements.

1. Statement of Nigar Ali, Chowkidar presently detailed in District Jail Kohat in the presence of Jail authorities (Annexure-D).
2. Statement of Amir Sultan, Lecturer-(Annexure-E)
3. Statement of Wahid Mehmood, Senior Laboratory Assistant (Annexure-F)
4. Statement of Dr. Said Bad Shah, Assistant Professor Stock in-charge (Annexure-G)

Discussion:-

It is evident from the statement as well as his personal file that the history of his service career is dark and full of violation against Govt. service laws- In the past he has been issued warning Notice by the competent authority for his misbehavior and absence from duty (Annexure-H). Similarly at another occasion he has also been issued last warning for physical assault on College Tube well operator (Annexure-H 1, 2). In the current incident it was evident from the statements of eye witnesses that he has broken the students and staff Natural cane Chairs and was caught red handed while stealing the scrapes of broken chairs on his motor cycle. He was handed over to Police along-with scrapes.

Conclusion:-

From circumstantial evidences and recorded statements the allegations leveled against accused Nigar Ali, Chowkidar has been proved.

Recommendations:

It is recommended that he has to be removed from service with effect from 08/9/2018 i.e the date of incident and the loss cost for Rs. 20,000/- exchequer to Government may recovered from his liabilities after fulfilling the codal formalities.

Musarf Gul,

Chairman

[Signature]
26/9/2018

Assistant Professor

Member

[Signature]
26/9/2018
Agreed with the recommendations of enquiry committee and hearing
26/9/2018

No. 1
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Annex - 0

(Annex 4/2)

(18)

Govt. of
Others:

To

No. _____ /Dt. Kohat the 7/9/2016

- 01 Principal,
Govt. Postgraduate College for (W) Kohat.
- 02 Prof. Iqbal Hussain (Law)
Govt. Postgraduate College Kohat.
- 03 Mr. Mir Rehman Librarian
Govt. Postgraduate College Kohat.

Subject:-

CONDUCT OF ENQUIRY

Memo:-

You are hereby appointed to probe in to the matter of the absence from duty of Mr. Nigar Ali Chowkidar Govt. Postgraduate College for (W) Kohat. The period of absence is 14/04/2016 to 05/06/2016 and 19/6/2016 to 19/8/2016. You, are requested to conduct the said enquiry & report to the undersigned within ten days positively.

Sel
Coordinator (Mr.)

Govt. Postgraduate College Kohat
Kohat

Enclost No 1/2016 dated 7/9 2016.

Copy to the:

1. The Director, Higher Education KP Peshawar.
2. Principal GDC KDA Township Kohat is requested to inform the said servant to appear before the enquiry committee in c/w the enquiry as and when he is directed to do so

M. Anwar
Coordinator (MCI)

Govt. Postgraduate College Kohat
Kohat

*Mr. Bakhtun
Put it in the
personal file
of the concerned
official*

9/9/16

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To Annex - P (Annexed 2/10)

9

The Principal,
GDC KDA Kohat

Sub: Constitution of Inquiry Committee

Sir,

With due respect, it is stated that in the morning dated May 30, 2018 that both Nigar Ali and Zeeshan exchanged hard talk with each other culminating in physical assault on Zeeshan by Nigar Ali. You are, therefore, requested to constitute inquiry committee to disclose the causes of the incident.

THANKS

30.05.0

Yours obediently

Muhammed Zam
Class-IV incharge

Dated: 30-05-2018

Muzaffer Asstt.

Constitute a committee comprising of the following staff members to probe into the matter and submit report within 7 days.
1. Mr. Muzaffer Asstt.
2. Mr. Sardar Gul
3. Mr. Muhammad Zafar

30/5/2018

1. Mr. Nigar Ali
to mend his behaviour

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

WP No. 1095/19

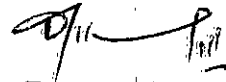
Nagir Ali.....(Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary, Higher Education Department &
Others..... (Respondents)

AFFIDAVIT

I, Qazi Muhammad Ayaz (Litigation Officer), Higher Education, Archives & Libraries Department, Government of Khyber Pakhtunkhwa, on the instructions of respondents do hereby solemnly declare and affirm on oath, that the contents of Joint Parawise Comments are correct to the best of my knowledge and belief and that nothing has been concealed therein from this Hon'ble Court.



Deponent

CNIC No. 17301-7027499-5