

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.

Appeal No.760/2019

E.P No. /2022

COC No.61/2023

Wajih Uddin.....Appellant.

Versus

Education Department Khyber Pakhtunkhwa & Others..... Respondents.

Khyber Pakhtunkhwa
Service Tribunal

Case No. 4899

Dated 17/4/2023

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Dated _____/_____/2023

C12

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.

Appeal No.760/2019

E.P No.569/2022

COC No.61/2023

Wajih Uddin.....Appellant.**Versus****Education Department Khyber Pakhtunkhwa & Others..... Respondents.****Comments on behalf Respondents No.1 - 3.****Preliminary objections.**

- That the appellant has got no cause of action locos standi to file the instant appeal.
- That the appellant has not come to this honorable tribunal with clean hands.
- That appellant concealed material facts from this honorable tribunal.
- That the appellant is estopped by his own to bring the present appeal

Respectfully submitted as;

ON FACTS.

01. Incorrect, hence denied. The appellant was appointed as Chowkidar and posted at GPS Samsi Shalman Landi Kotal District Khyber but he did not take charge of his post. He remained willfully absent from his duty, therefore, the then DEO Khyber stopped his salary, took legal action against him and after proper inquiry dismissed him from government service.
02. Correct. In the direction of the judgment dated 13-01-2022 in Service Appeal No.760/2019 the appellant was re-instated with all back benefits and along with order for conducting regular inquiry in accordance with the Judgment which directed "**Respondents, however, are at liberty to conduct inquiry if they so desire**".
03. In the direction of the judgment dated 13-01-2022 in Service Appeal No.760/2019, the respondents by following the Judgment in letter and spirit reinstated the appellant with all back benefits (Anx-A).
04. Pertained to record. The appellant was duly reinstated in service with all back benefits in accordance with the spirit and meaning of the Judgment.
05. In the direction of the judgment dated 13-01-2022 in Service Appeal No.856/2019, the appellant was re-instated with all back benefits. However, the mentioned judgment itself left the respondents at liberty to conduct inquiry. The respondents, therefore, conducted inquiry and found that the appellant did not perform his duty and remained willful absent from duty from the date of appointment to which the appellant himself confessed during his personal hearing. The inquiry committee recommended for imposition of Major Penalty under E & D Rules. Hence, the competent authority, after providing him full opportunity through serving show cause and personal hearing, ultimately imposed Major Penalty of Compulsory Retirement upon him under rule 4 (ii) of Khyber Pakhtunkhwa Govt; Servants (Efficiency & Disciplinary) Rules, 2011 (Anx-B).

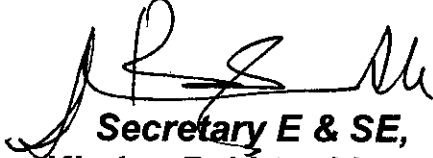
06. Incorrect, the respondent department has duly complied with the Judgment of this Honourable Tribunal in its true letter and spirit. P = 3

Respondents' department also seeks permission of this Honorable Tribunal to advance other grounds at the time of hearing the case.

PRAY:

It is humbly prayed that the COC appeal may please be dismissed with cost.

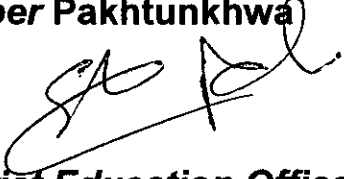
Respondent No. 1


**Secretary E & SE,
Khyber Pakhtunkhwa**

Respondent No. 2


**Director E & SE,
Khyber Pakhtunkhwa**

Respondent No. 3


**District Education Officer
District Khyber**

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Versus

Education Department Khyber Pakhtunkhwa & Others..... Respondents.

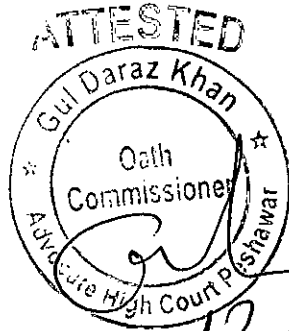
Comments on behalf Respondents No.1-3

Affidavit

I Munawar Khan, Focal Person (litigation) of District Education Khyber, do hereby solemnly affirm and declare that the contents of the accompanying para wise comments submitted by the respondent are correct to the best of their knowledge and belief and nothing has been concealed from this honorable court.

Respondent. 3 :

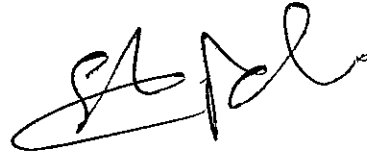
**District Education Officer
District Khyber**



17/6/23

Authority Letter

Mr. Munawar Khan, ADEO (Litigation) District Education Office Khyber is hereby authorized to submit para wise comments in the court on the behalf of respondent.



**District Education Officer
District Khyber**



OFFICE OF THE DISTRICT EDUCATION OFFICER, KHYBER

NO. _____ / EDU DATED _____ 2023

Email: DEOKHYBER7777@gmail.com

Page = A

RE- INSTATEMENT ORDER (CONDITIONALLY)

In compliance with the Judgements of the Khyber Pakhtunkhwa Service Tribunal Peshawar, Service Appeals vide Nos. mentioned below, the following Ex – Class IV are hereby re-instated in service with all back benefits on the condition that an inquiry will be conducted to determine the final status of their services as per direction of Service Tribunal.

S.NO.	Name/Designation	Station	Service Appeal No.	Judgements dates,	Remarks
1	Islan Uddin Chowkidar	SDEO Jamrud	856/2019	13/01/2022	Re-Instated
2	Jamal Uddin Chowkidar	SDEO Bara	759/2019	13/01/2022	Re-Instated
3	Wajih Uddin Chowkidar	SDEO Landi Kotal	760/2019	13/01/2022	Re-Instated

(MUHAMMAD UZAIR ALI)
DISTRICT EDUCATION OFFICER
DISTRICT KHYBER AT JAMRUD
Dated 03/11/2023

Endst: No. 117-25

Copy of the above is forwarded to the:

1. Director Elementary & S E D Khyber Pakhtunkhawa.
2. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar
3. Deputy Commissioner Khyber at Peshawar House.
4. District Accounts Officer Khyber at Jamrud.
5. DMO(EMA) Khyber
6. SDEOs Concerned.
7. ADEO Primary Local Office.
8. Class IVs Concerned.
9. Office Copy


DISTRICT EDUCATION OFFICER
DISTRICT KHYBER AT JAMRUD

Aliestool
CR

**OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
KHYBER**

(Office Phone No.----- Fax No.-----)

Notification:

1. Whereas, Mr. Wajih Ud Din Chowkidar GPS Samsai Shalman Landi Kotal District Khyber was reinstated into service vide office order No.117-25 dated 03-01-2021, in compliance with the judgment of the Khyber Pakhtunkhwa Service Tribunal Peshawar dated 11-01-2022 in service appeal No.760/2019.
2. And whereas, a De Novo inquiry was conducted against him as allowed by the Khyber Pakhtunkhwa Service Tribunal Peshawar vide para-08 of the mentioned judgment.
3. And whereas, the following inquiry committee was constituted for the purpose of the inquiry vide this office order No.272-81 dated 09-01-2023.
 - i. Mr. Akbar Rehman Principal CHS Hashim Abud Jamrud Chairman
 - ii. Mr. Muhammad Usman V. Principal CHSS Pindi Lalma Jamrud..... Member
 - iii. Mr. Sher Zaman Head Master CHS Shinkai Dara..... Member
4. And whereas, the inquiry officer after having examined the charges, evidence on the record including his personal defense, submitted its report on 11-03-2023.
5. And whereas, show cause notice was issued to him vide this office No.26011-17/DEO (M)/Khyber/Estb; Pry/Discp; Act dated 15/03/2023 to finally, show cause as to why the penalty mentioned there in the show cause notice, should not be imposed upon him and also intimate whether he desired to appear before the authority to be heard in person and explain his position/justify his willful absenteeism.
6. And whereas, Wajih Ud Din Chowkidar GPS Samsai Shalman Landi Kotal District Khyber was called for personal hearing vide this office letter No.2708-16 dated; 18/3/2023.
7. And whereas, the authority having considered the charges, evidence on the record as per report of the inquiry committee and giving the opportunity of personal hearing/appearing in person, to the accused Chowkidar, is of the view that the charges leveled against him in the charge sheet and subsequent final show cause notice have been proved.
8. 'Now, to extend the back benefits of the previous service as ordered by the Khyber Pakhtunkhwa Service Tribunal Peshawar vide judgment mentioned above therefore, in exercise of the powers conferred by the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, rule 14, the Competent Authority (District Education Officer (Male) Khyber) is pleased to impose the "The Major Penalty of Compulsory Retirement" under rule 4(ii) of the ibid rules, upon Wajih Ud Din Chowkidar GPS Samsai Shalman Landi Kotal District Khyber w.e.f. 01.11.2017.

(Muhammad Uzair Ali)

District Education Officer (M) Khyber
(Competent Authority)

Endst; No. 2864-72 /DEO (M)/Khyber/Estb; Pry/Discp; Act; Dated; 24 / 03 / 2023

Copy forwarded for information to the:-

1. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. Director E&S Education Khyber Pakhtunkhwa Peshawar.
3. District Monitoring Officer E & SE Khyber.
4. Account Officer District Khyber.
5. SDEO (M) Dara District Khyber.
6. ADEO/Supt; Estab Primary local office.
7. ADEO Litigation local office.
8. Wajih Ud Din Ex-Chowkidar GPS Samsai Shalman Landi Kotal, District Khyber.
9. M/File.

Attested
C/2

District Education Officer (Male)
Khyber