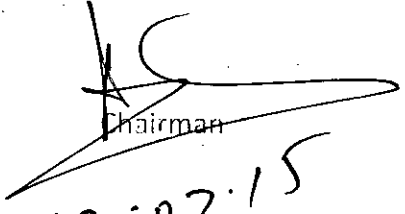


13.07.2015

Appellant with counsel present. Learned counsel for the appellant during the course of arguments very frankly conceded that the appellant is not a civil servant within the meaning of section 2 (b) of the Khyber Pakhtunkhwa Civil Servants Act, 1973. He, therefore, requested for withdrawal of appeal with the permission to seek remedy afresh before the competent forum.

In view of the above, the appeal is dismissed as withdrawn with the permission to the appellant to seek his remedy afresh before the proper forum, if so advised. File be consigned to the record.

ANNOUNCED
13.7.2015


Chairman

13-07-15

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 740/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02.07.2015	<p>The appeal of Mr. Muhammad Irshad Ullah presented today by Mr. Nawabzada Khan Askar Afridi Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 2/7/15</p>
2	10-7-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>13-7-2015</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

BEFORE THE ~~Khyber Pakhtunkhwa Service Tribunal~~ PESHAWAR

Appeal No.740.....2015

M Irshadullah.....Appellant

VERSUS

The Chairman BISE, Peshawar & others.....Respondents

INDEX

S#	Description of the Documents	Annex	Pages
1.	Appeal with Affidavit	*	1-3
2.	Addresses of the parties	*	4
3.	Appointment Oder		5
4.	Masjid Khadim Order		6
5.	F.I.R		7
6.	Peshawar High Court Order		8-10
7.	Compulsorily Retirement Order		-11
8.	Departmental Appeal Order <i>and notice for vacation of official residence</i>		12-15
9.	Wakalat Nama		16

Through

Appellant


Nawabzada Khan Askar Afridi
Advocate High Court, Peshawar.

Dated: 02/07/2015

L

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No...740...2015

**A.W.P. Province
Service Tribunal**

Diary No. 759

Dated 2-7-2015

Muhammad Irshadullah S/O Muhammad Taus Khan R/O Muzafar Abad,
Danish Abad at present Secondary Board Colony,
Peshawar.....Appellant

VERSUS

- 1- Chairman, BISE, Jamrud Road, Peshawar
- 2- Musawir Khan Durrani, Controller Examination, BISE, Jamrud Road,
Peshawar
- 3- Secretary BISE, Jamrud Road,
Peshawar.....Respondents

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT/1974.**

Respectfully Sheweth,

That the appellant submits as under:

- 1- That initially the appellant was appointed against the vacant post of Chowkidar in BISE Peshawar vide Order No. 279 dated: 10-10-1998 (Order Copy is attached).
- 2- Then after that the appellant was adjusted as Masjid Khadim in BISE Peshawar vide Order No. 293 dated: 07-10-2005 (Order Copy is attached).
- 3- That the appellant was rendering his services honestly since the date of his appointment.
- 4- That on dated: 24-07-2014 FIR No. 439 Police Station Tehkal registered a case U/S 457, 380, 427, 411 P.P.C and 14 Islamic Law on the complaint of Musawir Khan Durrani, Controller of Examination, BISE Peshawar against an unknown person (FIR Copy is attached).
- 5- That on dated: 26-10-2014 the local police arrested the appellant and charged him without any evidence in the above mentioned case.
- 6- That on dated: 08-12-2014 the hon'ble Peshawar High Court, Peshawar released the appellant on bail till conclusion of his trial in the competent court of law (High Court Order Copy is attached).
- 7- That on dated: 22-04-2015 the Secretary BISE, Peshawar passed an order of compulsorily retirement against the appellant without adopting proper procedure of law (Order Copy is attached).

Filed to the
2/7/15

- 8- That the proper procedure laid down under the Service Rules is not complied with hence the appellant was condemned un heard.
- 9- That for awarding penalty to a Govt: Employee it needed to conduct proper departmental inquiry duly allowing the appellant a chance to explain his position etc and then could take any necessary action according to law but here no such procedure was adopted thus the appellant was compulsorily retired without assigning any reason.
- 10- That the appellant filed departmental appeal before the Chairman BISE, Peshawar but rejected (**Departmental Appeal Order Copy is attached**).
- 11- That the counsel for the appellant will advance further arguments at the time of hearing.

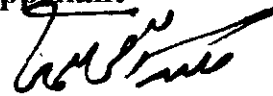
It is therefore very humbly requested that on acceptance of this appeal the impugned order dated: 22-04-2015 may kindly be set aside and the appellant be re instated with all back benefits.

Interim relief:-

By way of interim relief, the respondents may kindly be directed not to execute the order of vacation of official residence of the appellant till the final decision of this appeal.

Through

Appellant

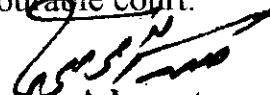


Nawabzada Khan Askar Afridi
Advocate High Court, Peshawar.

Dated: 02/07/2015

CERTIFICATE:

As per instructions of my client it is certified that no such like appeal has earlier been filed on the subject matter before this Honourable court.



Advocate

LAW BOOKS:

- 1- Service Laws.
- 2- Any Law Book as per need.



Advocate

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Appeal No.2015

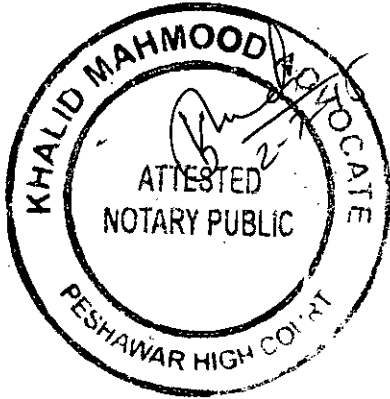
M Irshadullah.....Appellant

VERSUS

The Chairman BISE, Peshawar & others.....Respondents

AFFIDAVIT

I, **Muhammad Irshadullah** do hereby solemnly affirm and declare on oath that all the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



محمد ارشد اللہ
DEPONENT

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Appeal No.2015

M Irshadullah.....Appellant

VERSUS

The Chairman BISE, Peshawar & others.....Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Muhammad Irshadullah S/O Muhammad Taus Khan R/O Muzafar
Abad, Danish Abad at present Secondary Board Colony,
Peshawar.

RESPONDENTS:

- 1- Chairman, BISE, Jamrud Road, Peshawar
- 2- Musawir Khan Durrani, Controller Examination, BISE, Jamrud Road,
Peshawar
- 3- Secretary BISE, Jamrud Road, Peshawar

Through

Appellant



**Nawabzada Khan Askar Afridi
Advocate High Court, Peshawar.**

Dated: 02/07/2015

5

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION, PESHAWAR

OFFICE ORDER NO. 279

Dated. 10/ 10 /1998.

Office Order No. 274 dated 3/10/1998 issued under Endorsement No. 509/Bstt/BISRP, is revised and may be read as under:-

Mr. Muhammad Irshad ulla. S/O Muhammad Taus Khan is appointed against the vacant post of Chowkidar in the office of the Board of Intermediate and Secondary Education, Peshawar in B.S.-1 (Rs. 1245-35-1770) on the initial pay of Rs. 1245/- P.M. plus usual allowances as admissible under the rules, v.e.f. 3-1-1998 (P.N)

He shall remain on probation for a period of one year.

He is directed to report to the Administrative officer for duty.

(PROF: MUHAMMAD AKRAM)
CHAIRMAN.

No. 522 /Bstt/BISRP.

Copy to:-

- 1. The Audit officer.
- 2. A.S.A
- 3. P.S. to Chairman.
- 4. P.A. to Secretary.
- 5. Admn: Officer.
- 6. O.C. file.
- 7. P. file.
- 8. Mr. Muhammad Irshad ulla,
Chowkidar.

Parzana Bagir Searif
(MST: PARZANA BAGIR SEARIF)
SECRETARY.

.....

6.

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION, PESHAWAR.

OFFICE ORDER NO. 273

Dated: 07/11/2006

The Chairman B.I.S.E, Peshawar has been pleased to adjust/appoint Mr Muhammad Irshad Ullah, Chowkidar B.S.E. Peshawar against the vacant post of Khadim B.P.S-3 (Rs. 2275-85-4825) with immediate effect.

His pay last drawn by him shall be protected as admissible under the rules.

Besides, the services rendered by him against the post of chowkidar B.P.S-I shall also be countable towards qualifying service for pension.

He shall remain on probation for a period of one year.

-Sd/-
Lt. Col. (Retd) Alamzeb
Chairman

No. 2376 /EsI/BISEP

Copy to:

1. Audit Officer
2. Assistant Secretary Accounts
3. Office Order File
4. Personal File
5. Mr. Muhammad Irshad Ullah, Khadim.


Secretary

14

in fact even a single word regarding
the involvement ^{of Pellioner} has not been mentioned
in the entire case.

JUDGMENT SHEET

PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT

BA No.1907-P/2014.

Muhammad Irshad Ullah.....Vs,.....The State..

JUDGMENT.

Date of hearing 08-12-2014

Appellant/Petitioner By Mr. Nawabzada Khom Akker Advocate

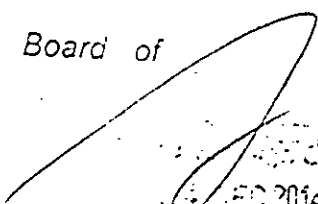
Respondent By Mrs. Shateela Begum for Enforcement
& Mr. Mujahid Ali Khan AAG.

WAQAR AHMAD SETH, J:- :- Having failed

to get the concession of bail from the Courts below, Muhammad Irshad Ullah, accused-petitioner, has now filed the instant application for his release on bail in case FIR No.439 dated 20/07/2014 of Police Station, Tehkal District Peshawar registered under sections 457/380//427/411 PPC read with section 14 Offences Against Property (Enforcement of Hudood) Ordinance, 1979..

2- The allegations against the accused-petitioner as per contents of the FIR are that he at night in between 14-15/02/2014 committed theft of certain computers and hard-disk etc installed in the Computer Cell of Board of

8


DEC 2014

9

18

~~18~~

7/17

Intermediate and Secondary Education, Peshawar and thereby caused huge loss to the said Institution.

2- I have heard the learned counsel for the parties and have also gone through the record of the case.

3- Perusal of the record reveals that the alleged offence has been committed in between the night of 14-15/02/2014 and after inquiry under section 156(3) Cr.P.C. a proper case has been registered vide FIR No.439 on 24/07/2014 but neither in the inquiry nor in the FIR the accused-petitioner has been charged or attributed any role in the commission of offence. The accused-petitioner has been arrested only on the basis of SMS. After his arrest on 26/10/2014 after 8 months of the occurrence nothing has been recovered from his possession. He remained in police custody but he has not confessed his guilt. Further more after the arrest of the accused-petitioner, no proper identification parade in accordance with law has been conducted through the complainant by the Investigating Officer for identification of the accused-petitioner so far. Investigation in the case is complete and the accused-petitioner is no more required for

[Signature]

2/1

further investigation and there is also nothing on record to show that the accused-petitioner is involved in such like offences previously. Thus at present there appears no reasonable grounds for believing that accused-petitioner is connected with the offence charged with but there are grounds for further probe into his guilt which make out his case arguable for the purpose of bail on the ground of further inquiry as envisaged in sub-section (2) of section 497 Cr.P.C. and as such he is entitled to the concession of bail.

5- Resultantly, this bail application is accepted and the accused-petitioner is directed to be released on bail provided he furnishes bail bond in the sum of Rs.4,00,000/- (Rupees four Lac) with two sureties each in the like amount to the satisfaction of the learned Illaqa/Duty Judicial Magistrate. The sureties must be local, reliable and men of means.

The above are the reasons of my short order announced on 08/12/2014.

ANNOUNCED.
Dated: 08/12/2014.

sd/ J. Wasim Ahmad Sethi J.

JUDGE

CERTIFICATE OF THE COURT
JUDGE
08 DEC 2014

Office
17-12-14

announced to be
for court

(11)

**BOARD OF INTERMEDIATE AND SECONDARY
EDUCATION PESHAWAR**



OFFICE ORDER NO. 110

DATED: 22/04/2015

WHEREAS Mr. Muhammad Irshadullah, Khadim, BPS-4, BISE Peshawar was found involved in the Computer Cell theft incident.

1. **AND WHEREAS** an inquiry in the matter was conducted, wherein Mr. Muhammad Irshadullah, Khadim, was given opportunity of personal hearing. He was found guilty of involving himself in subversive activities, by damaging (04) computer sets of greater importance having sensitive data causing a loss of Rs.5,00,000/- (Rupees Five Lac Only) to the Board without any lawful justification. He tried to defame the institution for personnel gains.
2. **AND WHEREAS** the Competent Authority after going through the findings and recommendations of the inquiry committee, the materials on record and other connected papers including his written reply to the show cause notice, come to the conclusion that the incident arose due to his criminal action and subversive activities, to defame the institution.
3. **NOW, THEREFORE**, in exercise of the powers conferred under rule 4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 the Competent Authority of BISE Peshawar is pleased to retire compulsorily Mr. Muhammad Irshadullah, Khadim, BPS-4, BISE Peshawar with immediate effect.


SECRETARY

No. 894-99/Estt/BISEP

Copy to:

1. PS to Chairman, BISE, Peshawar
2. Assistant Secretary Accounts
3. Audit Officer
4. Admin Officer
5. Personal File
6. Official Concerned.


SECRETARY

12

To

The Chairman,
BISE, Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 22/04/2015 PASSED BY SECRETARY BISE, PESHAWAR WHERE BY THE SERVICE OF THE APPELLANT COMPULSORILY RETIRED WITH OUT ANY COGENT REASON AND IGNORING THE LAW IN THIS RESPECT

Respect fully shewel:

The appellant submit as under:

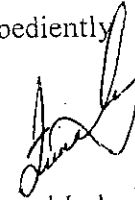
1. That initially the appellant was appointed against the vacant post of Chowkidar in BISE, Peshawar vide order No.279 dated 10/10/1998. (copy attached)
2. That the appellant was adjusted as Masjid Khadim vide order No.293 dated 07/10/2005 in BISE, Peshawar. (copy attached)
3. That the appellant rendered his services honestly since the date of his appointment.
4. That on dated 24/07/2014 FIR No.439 Police Station Tehkal registered a case under section 457,380,14 Islamic law 427/411/ PPC on the complaint of Mussawar Khan Durrani Controller of Examination BISE, Peshawar against un-known person. (FIR copy attached)
5. That on dated 26/10/2014 the local police arrested the appellant and charged him with out any evidence in the above captioned case.
6. That on dated 08/12/2014 the Honourable Peshawar High Court released the appellant on bail till conclusion of his trail in the competent court of law. (copy attached)
7. That on dated 22/04/2015 the Secretary BISE, Peshawar passed on order or compulsorily retirement against the appellant, with out adopting proper procedure of law. (copy attached)

13

8. That the proper procedure laid down under the service rules are not complied with hence the appellant was condemned un heard.
9. That for awarding penalty of a Govt. employee it needed to conduct proper departmental inquiry duly allowing the appellant to explain his position etc and then could take any necessary action according to law, but here no such procedure was followed thus the appellant was compulsorily retired, with out assigning any reason which can not be sustained the law.

On acceptance of this appeal the impugned order dated 22/04/2015 may kindly be set aside and the appellant be reinstated with all back benefits.

Your Obediently



Muhammad Irshad Ullah
(Khadim)
BISE, Peshawar

Dated: 21/05/2015

①/c.

Hashmat

21/5/15

**BOARD OF INTERMEDIATE AND SECONDARY
EDUCATION PESHAWAR**



19

OFFICE ORDER NO. 149

DATED: 5/06/2015

The Competent Authority has been pleased to reject appeal dated 21/05/2015 of Mr. Muhammad Irshadullah, Ex-Khadim against the order of his compulsory retirement issued in light of report of the Inquiry Committee. The order of his compulsory retirement is therefore upheld. He may submit necessary papers for pension etc.

Sd/-
CHAIRMAN

No. 1228-33/Estt/BISEP

Copy to:

1. PS to Chairman, BISE, Peshawar
1. Assistant Secretary Accounts
2. Audit Officer
3. Admin Officer
4. Personal File
5. Mr. Muhammad Irshadullah, Ex-Khadim,
BISE Peshawar.


SECRETARY

13



BOARD OF INTERMEDIATE & SECONDARY EDUCATION, PESHAWAR

No. 1141 / Admin / BISEP

Dated: 06 / 06 / 2015

To

Mr. Irshadullah
Ex-Khadim
BISE, Peshawar

Subject: **NOTICE FOR VACATION OF OFFICIAL RESIDENCE**

Memo:

It is to inform you that you have been enforced to retire from Board Service on 22-04-2015. As per Board calendar you are entitled to retain the official residence upto 21-07-2015.

You are directed to make sure to vacate the official residence upto 21-07-2015.

Administrative Officer
BISE Peshawar

Copy to:

1. PS to Chairman
2. PA to Secretary

Before the Khyber Pakhtunkhwa **بعدالت**

Service Tribunal

2 جناب

بنام جسٹس منور احمد
انجمن تہذیب و تمدن
لشکر و عسکر

محمد ارشد اللہ

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام **مقرر** کیلئے **لشکر و عسکر** مقرر فرمایا گیا ہے۔

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ میٹر وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک اور وپیاء عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

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 بااختیارات حاصل ہوں گے اور اس کا ساختہ

پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 18 ماہ جون 2020ء

محمد ارشد اللہ

وہ کے لئے منظور ہے۔

محمد ارشد اللہ ولد محمد علی ڈوس خان

17361-1459627-3