7.9.2015

Appellant with counsel and Mr. Muhammad Zubair, Sr.G.P for respondents present. Learned counsel for the appellant pressed into service copy of appointment order dated 27.7.2015 and informed the Tribunal that the grievances of the appellant have been redressed. Requested for withdrawal of appeal.

Dismissed as withdrawn. File be consigned to the record.

<u>ÀNNOUNCED</u> 7.9.2015

Chairman Camp Court Swat

pp Court Swat

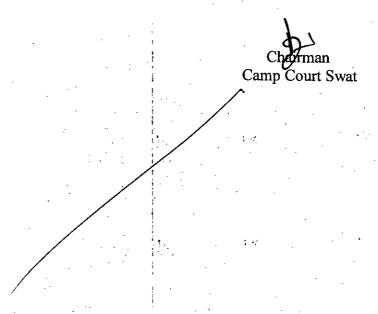
5.5.2015

ppellant Deposited scurity & Process Fee

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as Chowkidar on 1.9.2003 and vide order dated 5.12.2014 he was transferred as Lab Attendant to GHS Ranyal which order was cancelled vide impugned order dated 30.12.2014 without any justification or reason. That the appellant preferred departmental appeal against the said order on 16.01.2015 which was not responded within the statutory period and hence the instant service appeal on 21.4.2015.

That the impugned order dated 30.12.2014 is liable to be set aside being violative of transfer/posting policy.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 6.7.2015 before S.B at Camp Court Swat.



6.7.2015

Appellant with counsel and Mr. Bakht Rawan, ADO alongwith Mr. Muhammad Zubair, Sr. G.P for respondents present. Requested for adjournment. To come up for written reply on 7.9.2015 at camp court Swat.

Charman Camp Court Swat

Form- A FORM OF ORDER SHEET

Court of		
		240/2045
Case No	 	348/2015

	Case No	348/2015
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21.04.2015	The appeal of Mr. Fazal Rabi resubmitted today by Mr. Aziz-ur-Rehman Advocate may be entered in the Institution
		register and put up to the Worthy Chairman for proper order.
		register and partial to the treatmy or an individual proper or activity
		REGISTRAR
	27-4-18-	This case is entrusted to Touring Bench Swat for
. 2		preliminary hearing to be put up thereon
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CONSEQUENCE CANDIDATES ARE HEREBY APPOINTED AS CLASS-IV SERVANTS IN BPS-I AGAINST VACANT POSTS AS PER DETAIL

APPOINTMENT DRUER-

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) Contact no. (0996) 850639. 851108- Fax # 851108



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- 4 IF SOMEONE LEAVES HIS POST, HE WILL SUBMIT RESIGNATION ONE MONTH BEFORE: OTHERWISE, HE WILL HAVE TO REFUND ONE MONTH SALARY TO THE GOVERNMENT TREASURY.
- 5 THEY WILL TAKE OVER CHARGE WITHIN 15 DAYS (FROM THE DATE OF ISSUE): OTHERWISE APPOINTMENT ORDER WILL BE TREATED AS CANCELLED.
- G CHARGE REPORT SHOULD BE SUBMITTED TO ALL CONCERNED. THE DOD CONCERNED WILL FURNISH A CERTIFICATE THAT THE APPOINTEES HAVE TAKEN OVER CHARGE WITHIN THE STIPULATED PERIOD.
- 7 IF SOME ONE HAVE OVER AGE THEN THREE YEARS AGE OF BACK WARDS ARIA AND TWO YEARS AGE From the competent authority (Ded (M) shangla may be relaxed.
- 8 THEY WILL HAVE TO TIBEY THE GOVT: OF KHYBER PAKHTUNKHWA INSTRUCTIONS CONVEYED TO THEM TIME TO TIME.
- 9 THE PROBATION PERIOD WILL BE ONE YEAR.
- ID THE DOD CONCERNÉO IS DIRECTED NOT TO DRAW SALARIES OF THOSE APPOINTEES WHO HAVE NOT PROVIDED COPIES OF MUTATION DEED OR DONATED LESS LAND.
- II NO TAZDA IS ALLOWED.

ENDUST:-NO. 3294 - 3303

(SAEED KHAN) DISTRICT EDUCATION OFFICER (M) DISTRICT SHANGLA DATED: 27/09/2015.

COPY OF THE ABOVE IS FORWARDED FOR INFORMATION TO-

- THE DIRECTOR E & SE EDUCATION KNYBER PAKHTUNKHWA, PESHAWAR.
- 2 THE DEPUTY CEMMISSIONER, SHANGLA.
- 3 THE DISTRICT ACCOUNTS OFFICER SHANGLA.
- 4 THE MEDICAL SUPERINTENDENT DISTRICT HEAD QUARTER HOSPITAL ALPURAL.
- 5 THE SDEOS MALE PRIMARY TUESTA SHAROLA
- 6 THE PRINCIPAL/HEAD MASTERS AND HEAD TEACHERS CONCERNED.
- 7 DEMIS CELL:
- 8 LOCAL ACCOUNTANT.
- 9 PERSONAL FILE.
- IO THE APPOINTEES/CLASS-IV FOR COMPLIANCE ACCORDINGLY.

DISTRICT EDUCATION OF FICER (M)

The appeal of Mr. Fazal Rabi Chowkidar at Government of High School Danakool distt. Shangla received to-day i.e. on 20.04.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Copy of appointment order dated 01.9.2003 mentioned in para-1 of the appeal is not attached with the appeal which may be placed on it. The annexure-A is the copy of arrival report of the appellant and not a appointment order.

No. 576 JS.T,
Dt. 2014 /2015

REGISTRAR

**SERVICE TRIBUNAL

KHYBER PAKHTUNKHWA

PESHAWAR.

Mr. Aziz-ur-Rehman Adv. Swat.

Sir,

9t is submitted that the copy of order

deted 1-9-2003 is missplaced by the appellect,

and the Same will be provided at the Time of

hearing, Now the case my be placed before

hearing, Now the case my be placed before

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The Towns Bench swed.

Appellant

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AT PESHAWAR

•		2/10	
Service Appeal.	No.	348	of 2015

Fazal Rabi Chowkidar at Government High School Danakool,

District Shangla. Appellant

VERSUS

The Government K.P.K through Secretary and Others.

....Respondents

<u>INDEX</u>

S. #	Description of Documents	Annexures	Pages
1.	Service Appeal	••••	1-4
2	Affidavit	••••	5
3	Addresses of parties		6
4	Copy of the order dated 01/09/2003	A	7
5	Copy of the office order dated 05/12/2014	. В	8
6	Copy of the office order dated 30/12/2014	C :	9
7	Copy of the appeal	D	10
. 8	Vakalat Nama		11

Appellant Through Counsel

AZIZ -UR- RAHMAN

Advocate Swat

Office: Gulshan Chowk Khan plaza

Mingora Swat Cell No. 0300-9070671

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 3 48 of 2015

Fazal Rabi Chowkidar at Government High School Danakool, District Shangla.

...Appellant W.F. Province
Service Tribunal
Diary No 366

VERSUS

- 1. The Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar.
- 2. The Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 3. The District Education Officer (Male) District Shangla at Alpuri.

...Respondents

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER ENDST: NO. 4783-85/ DATED 30-12-2014, WHICH IS AGAINST THE LAW, RULES AND POLICY AND IS LIABLE TO BE SET ASIDE, FEELING AGGRIEVED OF WHICH THE APPELLANT PREFERRED A DEPARTMENTAL APPEAL WHICH IS STILL NOT RESPONDED TO DESPITE THE LAPSE OF MANDATORY PERIOD OF

APPEAL UNDER SECTION 4 OF THE

PRAYER:

TIME.

THAT ON ACCEPTANCE OF THIS APPEAL THE ORDER IMPUGNED I.E. ENDST: NO. 4783-85/ DATED 30-12-2014 MAY VERY KINDLY BE SET ASIDE AND THE APPELLANT LET TO COMPLETE HIS TENURE.



(2)

Respectfully Sheweth:

Facts:

- i) That the appellant was initially appointed as Chowkidar vide order dated 01-09-2003 against the 25% reserved quota of children of retired Class IV employees by the respondent No. 3. Copy of the order is enclosed as Annexure "A".
- ii) That subsequently the appellant was transferred against the vacant post of Laboratory Attendant to Government High School Ranyal vide order Endst: No. 4019-23 dated 05-12-2014. Copy of the order is enclosed as Annexure "B".
- iii) That the same order was subsequently cancelled without any reasons vide order Endst: No. 4783-85/ dated 30-12-2014 in violation of the law, rules and Shariah. Copy of the order is enclosed as Annexure "C".
- iv) That feeling aggrieved of the same the appellant preferred a departmental appeal on 16-01-2015, which appeal is still lying pending despite the lapse of statutory period of time, hence this appeal on the following grounds. Copy of the appeal is enclosed as Annexure "D".

Grounds:

a) That the respondents are not abiding by the rules and policy devised by them themselves and are deviating from the same without any reasons at all.

Thus the appellant is not being treated in accordance with the law.

- b) That unlike the appellant an employees is supposed to complete his tenure on a post, as is time and again endorsed by the Apex Supreme Court in plethora of judgments, but the appellant is frequently transferred without completing his tenure without any reason. Moreover there is no exigency of any sort involved.
- c) That the respondents have misused their official authority and has used the same in a very mechanical and colorful manner, which the law never approves of.
- d) That the there is nothing on the part of the appellant due to which reason a premature transfer has been made.
- e) That the appellant has got legitimate expectations regarding the completion of his tenure.

It is, therefore, very respectfully prayed that on acceptance of this appeal the order impugned may very kindly be set aside and the appellant let to complete his tenure.

Any other relief deemed appropriate in the circumstances may also very kindly be granted.

Appellant منفل بي Fazal Rabi

Through Counsels, Aziz-ur-Rahman

Imaad Ullah

Advocates Swat

(4)



<u>BEFORE THE KHYBER PAKHTUNKHWA</u> <u>SERVICE TRIBUNAL, PESHAWAR</u>

Service Appeal No. _____ of 2015

Fazal Rabi Chowkidar at Government High School Danakool, District Shangla.

...<u>Appellant</u>

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar and Others.

. Respondents

Affidavit

It is stated on Oath that all the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has either been misstated or kept concealed thereto.

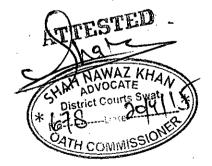
Deponent

فَقَلِّ! **0.** Fazal Rabi

Identified by:

Imdad Ullah

Advocate Swat



6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ of 2015

Fazal Rabi Chowkidar at Government High School Danakool, District Shangla.

...<u>Appellant</u>

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar and Others.

..<u>Respondents</u>

ADDRESSES OF THE PARTIES

<u>Appellant:</u>

Fazal Rabi Chowkidar at Government High School Danakool, District Shangla.

<u>Respondents:</u>

- 1. The Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar.
- 2. The Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 3. The District Education Officer (Male) District Shangla at Alpuri.

Appellant

Through Counsel,

Advocate Swat

GERPO, NOFE -- 1119 PS-- 1000 C CERTIFICATE OF TRANSPER OF CHARGE. T. Certify that we have on the fore/afternoon of this day 0/-09-200 respectively made over and received charge of the Office of the Chaevaldan standard Shangla: Note EDO Schools & Literacy of frice appointment order Endst. 10589-60/2013 Particulars of cash and important secret and confidential documents handed over are noted on the reverse. documents handed over are noted on the reverse: Signature of relieved vacount Government servant. Chawkidar Canyal, Dist & Shangla. Signature of relieving Government servant. Chawkidas Designation Dated: 0//29/2003 (F. Noon) Deo Disti Shangla DEDO Schools d libracy Distir Shangla.

(3) DA-O Distt. Shangle.

(4) Office Concerned Forwarded to the

Attested

Annexure-B

CHICE OF THE DISTRICT EDUCATION OFFICER (M) SHARGA.

CONTACT NO. (0996) 850639, 851108 (c. # 851108

OFFICE ORDER TRANSFER.

As approved by the competent authority in DEO(M). Shangla, Mr. Fazal Rabi Chowkidar is hereby transferred to GHS Ranyal against the vacant post of laboratory Attendant (vacated) by getting lien of his predecessor) with immediate effect in the best interest of public service.

NOTE:

- 1) No TA/DA is allowed.
- 2) Charge report should be submitted to all concerned.

(Saged Khan)
DISTRICT EDUCATION OFFICER (AS)

Endost No. 4/019-23

Date 5 /12 /2014.

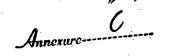
Copy of the above is forwarded for information to the following.

- 1. The District Account Officer Shang's
- 2. The Head Master GHS Ranyal.
- 3. The Head Master GHS Danakol.
- 4. The Official Concerned.

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Attested

MOCATO







OFFICE OF THE DISTRICT EDUCATION OFFICER (M) COLLEGE ROAD ALPURAL DISTRICT SHANGLA. CONTACT NO. (09%6) 350639. 851108- Fax # 851108

OFFICE ORDER/CANCELLATION:-

Transfer order in respect of Mr. Fazal Rabi Lab Attendant issued vide this office order No.4019-23 dated 05/12/2014 from GHS Dandakool (Chakisar) to GHS Ranyal is hereby withdrawn from the date of issue and directed to dontinue his duty at GHS Danakool as chowkidar (on his original post).

(SAEED KHAN)
DISTRICT EDUCATION OFFICER (M)
NSTRICT SHANGEA.

Endost:-No.

U783-85

Dated 3D / / /2014

Copy of the above is forwarded for information to-

- 1 The District Accounts Officer Shangla.
- 2 The Head Master GHS Danakcoi.
- 3 The Head Master GHS Ranyal.
- 4 Mr. Fazal Rabi Chowkidar GHS Danakool for compliance accordingly.

DEPUTY DISTRICT EDIKAZENI OFFICER (IA)

Q. DISTRICT SHANGLA.

Attested

Acvecate

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ال بعد الت ما المراب ال Jily vije 16 باعث خرية تك مقدمه مندرجه عنوان بالاميس الني طرف سے واسطے پيروي وجواب دہي وكل كاروائي متعلقة أن مقام كميس إلى فرسوا كسلا موريز الرحمن والداوالتدايدوكيس مقرر کرے اقر ارکیا جاتا ہے کہ صاحب موصوف کومقدمہ کی کل کا روائی کا کامل اختياط هوگا - نيز وكيل صاحب كوراضي نامه وتقرر ثالث و فيصله برحلف دينے جواب دى اورا قبال دعوى اور درخواست ہرقتم كى تصديق زراوراس پر دستخط كرنے كا اختيار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برامد ہوگی اور منسوخ ندکور کے سل یا جزوی کاروائی کے واسطے اوروکیل یا مختار قانونی کواپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اورصاحب مقرره شده كوبهي جمله مذكوره بالااختيارات حاصل مويكك اوراسكاساخة برواختة منظور وقبول ہوگا۔اور دوران مقدمہ میں جوخر چہو ہرجانہ التوایے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہو نگے۔ نیز بقایا وخرچہ کی وصولی کرتے وقت کابھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہویا صدیے باہر ہوتو وکیل صاحب پابندنه ہوئے کی پیروی مقدمه ندکورلہذا وکالت نامہ لکھ دیا ک سندر ہے aupted by 2) Le Oliver John Company Judes