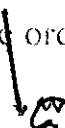


FORM OF ORDER SHEET

Court of _____

Case No:- 975 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1-	2	3
1-	03/05/2023	<p>The appeal of Mr. Gul Badshah presented today by Mr. Asad Zeb Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on-</p> <p>_____</p> <p>By the order of Chairman</p> <p> REGISTRAR,</p>

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No: 975 of 2023

Gul Badshah - VERSUS S.D.E.O (Primary) & others

INDEX

S. No	Description of Documents	Annexures	Pages
1	Amended Appeal along with affidavit		1-5
2	Copy of appointment order	A	6-6A
3	Copy of impugned order of removal dated: 26-05-2012	B	7
4	Copy of departmental appeal	C	8-10
5	Copy of comments of education department on departmental appeal	D	11
6	Copy of service appeal No. 456/2013 along with order dated: 27-10-2021	E	12-16
7	Copy of impugned order dated: 22-08-2022	F	17
8	Copy of implementation application along with order dated: 06-04-2023	G	18-23
9	Wakalat Nama		24

Dated: 03/05/2023

Through

Appellant



ASAD ZEB KHAN

Advocate High Court, Peshawar.

0346-9800565

Email - asadzeb81@gmail.com

B.C 09-1517

CNIL 16202-0889540-3

①

BEFORE KHYBER PAKHTUN KHWA, SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 975 /2023

Gul Badshah S/O Dilawar
R/O Village Qazi Abad, Dir Lower.

Appellant

VERSUS

1. **Sub-Divisional Education Officer (Primary)**
Dir Lower at Timergara.
2. **District Education Officer (Primary),**
Dir Lower at Timergara.
3. **Govt. of KPK**
Through Secretary Education,
Civil Secretariat, Peshawar.
4. **Deputy Commissioner/DCO, Dir Lower.**
5. **Director, Elementary & Secondary Education,**
Khyber Pakhtunkhwa, Peshawar.

Respondents

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED ORDER DATED: 26-05-2012 WHEREBY THE APPELLANT
WAS REMOVED FROM SERVICE AND AGAINST THE IMPUGNED
ORDER DATED: 22-08-2022 VIDE WHICH DEPARTMENTAL APPEAL
WAS DISMISSED BY RESPONDENT No. 5.

Respectfully Sheweth:

FACTS:-

Facts leading to the institution of the instant appeal are as under:-

1. That the appellant was appointed as Chowkidar vide order dated: 05-01-2001, on contract, however, later on, he was regularized on his respective post.
{True copy of appointed order is attached as mark Annex-A}

2

2. That all of a sudden, the appellant was removed from service vide office order dated: 26-05-2012.
{True copy of impugned order dated: 26-05-2012 is attached as mark Annex-B}
3. That feeling aggrieved, the appellant filed departmental appeal before the District Coordination Officer, whereon, no order was passed, so the appellant preferred service appeal No. 456/2013 before the Hon'ble Tribunal for his reinstatement into service. The said appeal was disposed of by this august tribunal vide order dated: 27-10-2021 and directed the respondents to decide the departmental appeal of appellant within 90 days.
{True copy of departmental appeal, comments of department on departmental appeal & service appeal No. 456/2013 along with order are attached as mark Annex-C, D & E}
4. That after passing of the above order, appellant visited the office of respondent No. 5 so many times but no response was made upon departmental appeal and order of this Hon'ble Tribunal.
5. That feeling dissatisfied, the appellant moved implementation application before this Hon'ble Tribunal and during the course of hearing of implementation application, respondents produced before this Hon'ble Tribunal, impugned order dated: 22-08-2022 vide which departmental appeal of the appellant was dismissed. So after producing impugned order, this Hon'ble Tribunal disposed of the implementation application vide order dated: 06-04-2023.
{True copy of impugned order dated: 22-08-2022 & implementation application along with order dated: 06-04-2023 are attached, as mark Annex-F & G}
6. That it would be relevant to mention that during pendency of previous service appeal No. 456/2013, the appellant reached to the age superannuation, therefore, he moved an application for amending the service appeal, which was allowed on 15-01-2021 and the appellant was directed to submit amended appeal, which was duly submitted.
7. That appellant feeling aggrieved from the impugned orders dated: 26-05-2012 & 22-08-2022, is preferring the instant appeal on the following grounds amongst the others:-

GROUND:-

- A. That removal of the appellant from service vide impugned order dated: 26-05-2012 as well as order of dismissal of departmental appeal vide order dated: 22-08-2022 are illegal, without lawful authority, without jurisdiction, void ab initio, malafide and of no legal effect.
- B. That the appellant was removed from service without show cause notice, which renders the impugned order nullity in the eyes of law.

3

- C. That no inquiry whatsoever has been made on the basis of which he was removed from service.
- D. That major penalty was imposed upon the appellant without giving him right of audience, hence the same is not sustainable.
- E. That it is a settled principle of law that any order passed in violation of principle of natural justice is nullity in the eyes of law.
- F. That no charge sheet or statement of allegation was issued by the respondents nor the same ever served upon the appellant.
- G. That it would be noteworthy that the alleged surprise visit has been made by DDAC Chairman who is political figure and not the officer of the department.
- H. That the impugned order offend the provision of Article 4 of the Constitution to enjoy the protection of law and to be treated in accordance with law which is the inalienable right of every citizen, wherever he may be every other person for the time being with in Pakistan.
- I. That the actions and inactions are bad in law.
- J. That the impugned orders are passed without adopting proper criteria and codal requirements by the respondents, which is against the worthy ruling of the Hon'ble Superior Courts of Pakistan and therefore, the same is illegal practice and such practice adversely effects efficiency of incumbents and also reduces their confidence and faith in public, hence the impugned order referred above is liable to be un-held on this score also.
- K. That no chance of personal hearing was given by the respondents while dealing with the rights of the appellant in service and the whole episode was done in a cursory manner, which is alien to the norms of justice.
- L. That no inquiry was conducted by the respondents which is against the norms of justice and service laws.
- M. That the appellant was condemned unheard while imposing penalty upon him, hence the impugned order is against the service laws and rules.
- N. That it is an admitted position that no limitation run against void/ illegal order.
- O. That the appellant had been made victim of discrimination, demerits, partiality and favoritism without any just and reasonable cause thereby offending the fundamental rights of the appellant as provided by the constitution of 1973, hence the impugned order detailed above is liable to be set at naught.
- P. That the appellant was condemned unheard, his departmental appeal was not properly adjudicated in the manner as provided by the law. Further no chance of personal hearing was given to the present appellant in order to redress his grievances which show the malafide of the Respondents, hence needs interference of this Hon'ble Tribunal.

4

- Q. That the Respondents erroneously exercised their powers against judicial principle, and have passed the impugned order and opened a new Pandora box in clear violation of Service law, hence, the impugned order is liable to be set aside.
- R. That the appellant craves for leave to add further grounds at the times of oral arguments highlighting further contravention of the law and constitution.

PRAYER:-

It is therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated: 26-05-2012, whereby the appellant was removed from service and impugned order dated: 22-08-2022 vide which his departmental appeal was dismissed, be declared as illegal, without lawful authority, without jurisdiction, void ab initio and of no legal effect and the same may be laid to rest and thereby the appellant may kindly be retired (on attaining age of superannuation) from service with full pensionary benefits along with back benefits since the date of removal till date.

Dated: 03/05/2023

Through

Appellant


ASAD ZEB KHAN
Advocate High Court, Peshawar.

5

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR


Service Appeal No: _____ of 2023

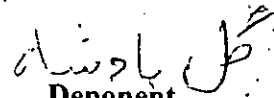
Gul Badshah VERSUS S.D.E.O (Primary) & others

AFFIDAVIT

I, Gul Badshah S/O Dilawar R/O Village Qazi Abad, Dir Lower, do hereby solemnly affirm & declare that the contents of the attached amended appeal are true and correct to the best of my knowledge & belief & nothing has been concealed or withheld from this Honorable Court.

Identified by


ASAD ZEB KHAN
Advocate High Court


Deponent

(6)

(Anzeche) A-2

(9)

OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER (F&P) DIR (LOWER) GARH

OFFICE ORDER

Gul Badshah S/o. Palawar Village Qazi Abad
(Land Owner) is hereby appointed as Contractor Choshidar at Govt. Girls Primary School Qazi Abad (P.H) on the following terms and conditions
e.e. from 1/01/2001

TERMS & CONDITIONS

1. His appointment is purely temporary basis and liable to termination without any notice.
2. If the candidate failed to take over charge within 15 days of the issue of order, his appointment shall be stand cancelled.
3. His age may not be exceed 25 years or below 18 years.
4. The candidate will be produced original Identity Card & other documents along with his appointment.
5. He is directed to fill up contract form issued by the Government. He will provide Health & Age Certificate from the Civil Surgeon District Pimerga.

(KAINUL HAWA),
Sub-Divisional Education Officer (F&P) Primary,
Dir Lower at 2/Gara

Order No: 18-18 Dated: (immediate) 5/10/2001

Copy of the order is forwarded for information to further...
The Accountant: (The Local Office)
The Candidate: (signed)

(Signature)
Sub-Divisional Education Officer (F&P) Primary,
Dir Lower at 2/Gara

(4) (BA) (9)

BETTER COPY

**OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (F) PRY: DIR (L)
AT TIMERGARRA**

OFFICE ORDER

I, Gul Badshah S/o Dilawar, Village Qazi Abad (Land Owner) is hereby appointed as Contract Chowkidar at Govt Girls Primary School Qazi Abad on 2200/- PM fixed on the following terms and conditions w.e.f 01.01.2000.

TERMS & CONDITIONS:

1. His appointment is purely temporary basis and liable to termination without any notice.
2. If the candidate failed to take over charge within 15 days, if the issue of this order, his appointment shall be stand cancelled.
3. His age may not be exceed 45 years or below 18 years.
4. The candidates will be produced original identity card & other documents along with his appointment.
5. He is directed to called up contract from issued by the Government.
6. He will produce Health & age certificate from the civil surgeon Dir at Timergara.

**(Zainul Hawa)
Sub-Divisional Education,
Officer (Female) Primary
Dir Lower at T/Gara.**

7

Amrath "B"

5 9

3

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY EDUCATION DISTRICT DIR (L)

Notification:-

WHEREAS one Mr, Gul Badshah Chowkidar GGPS Qazi Abad Tehsil Balambat District Dir lower, remained absent willfully from duties since long.

AND WHEREAS a team under the Chairmanship of Chairman Distt;Development Advisory committee Dir Lower, surprised the School on 21/4/2012, and chowkidar was also found absent.

AND WHEREAS show cause notice was issued / served upon him through ADD circle but no convincible reply has been received so far.

(M) local office, scrutinize / finalize the cases of absent teachers/officials.

Now, the undersigned, being the competent authority do hereby order the removal from service of Mr, Gul Badshah Chowkidar Govt; Girls Primary School Qazi Abad Tehsil Balambat Dir Lower, under the Khyber Pakhtun Khwa Government Servants (Efficiency & Discipline) Rules 2011, from the date of his absence.

(Molho B. B.)
(SAEED KHAN)
EXECUTIVE DISTT: OFFICER
DISTRICT DIR LOWER

Endst: No. 9898-9901 / Dated Timergara the 26 /05/2012.

Copy to:-

1. The Director (E&SE) Khyber-Pakhtun Khwa Peshawar.
2. The Distt; Coordination officer Dir Lower.
3. The Chairman Distt; Development Advisory Committee Dir Lower
4. The District Accounts Officer Dir lower.
5. The District Officer (F) local office.
6. The Deputy District Officer (F) Timergara
7. A.P DEMIS Cell local office.
8. The accused concerned.

Amrath
28/5/2012

Amrath
EXECUTIVE DISTT: OFFICER
(E&SE) DISTRICT DIR LOWER

مختار خان ڈسٹرکٹ کوآرڈینیٹری آفسر صاحب ضلع درہ نورت
مختار خان

اسیل بر خلاف حکم جاب EDO صاحب ضلع تعلیم
ضلع درہ نورت تمام سیکڑہ 3000 مورخ 26/05/2012
من سائل ایڈمنسٹریٹو ایجوکیشن گورنمنٹ گریڈ 1
سکول قافی آباد کینل لہر میں ضلع درہ نورت کو بلا نامہ
مقلد قانون اسکو روز روز نوکری خود سے بر طرف افقا
کر دیا گیا ہے

مختار خان

26/5/12
26/5/12
26/5/12

استدعا۔ منظور اسیل بر حکم جاب EDO
ضلع تعلیم ضلع درہ نورت مورخ 26/05/2012
وضوح فرمایا جا کر سائل ایڈمنسٹریٹو ایجوکیشن
گورنمنٹ گریڈ 1 میں سکول قافی آباد درہ نورت
کو مقلد قانون اسکو روز روز نوکری خود سے بر طرف افقا
کر دیا گیا ہے

جاب عالی

Naushad
26/5/12

جاب عالی! وجوہ اسیل سے ذیل میں -

1. یہ سائل ایڈمنسٹریٹو ایجوکیشن گورنمنٹ گریڈ 1 کا مستقل سکول
بانتا ہے۔ اور عمر ص 11/12 سال گورنمنٹ گریڈ 1 میں
قافی آباد کینل لہر میں درہ نورت میں سکول قافی آباد
درہ نورت کی کیا کیا انجام دے رہا ہے۔ نیز 24 گھنٹہ سکول
اور اسکی بندوں کو سکول کو تیار نہیں کرتا

(2) یہ کہ سائیل اسٹیٹمنٹ کے انتہائی غریب خاندان سے تعلق رکھتا ہے۔ نیز انتہائی

گناہگاری و دریا نہداری کیا کہ گذشتہ 11/12 سال سے فرمائے انجام دے رہا ہے۔ اور جس قبیلہ روز جنگو سائیل کو خواستے کیا گیا ہے۔ یعنی فروری 21 2012

روز باقاعدہ اسٹیٹمنٹ کے سکول ضرور آکر موجود رہتا اور سائیل اور گھرانہ کی فاضلی

فرتنگی سے تعلق رکھتا ہے۔ یہاں تک کہ اسکول ضرور کی ایک انتہائی جوہر علاقہ

فون کر کے تاکہ سائیل ضرور آئے۔ سائیل اسٹیٹمنٹ کو سرگرمی سے جوہر

حاصل اسٹیٹمنٹ سائیل اسٹیٹمنٹ کے ساتھ ہستیاں سرگرمی غرضی علیہا فعال

گیا۔ کیونکہ ضرور آئے۔ انتہائی غریب آدمی ہے اور محض ایک سا کھ ہستیاں سرگرمی

3 یہ کہ سائیل انتہائی غریب آدمی ہے اور مالک ایسی تکتے سکول

ضرور کی بوج قریبی رشتہ دار سکول ضرور پر 11/12 سال فرمائے انجام دے رہا ہے

نیز سکول ضرور میں زعفران قلمزم کو کیمیا اور نہیں ہے۔ اور سکول ضرور بلکہ کیمیا اور

رہنے سے ایسی فون ہے۔ اور سکول ضرور زمانہ سکول ہے۔ اور بلکہ کیمیا اور

یسی اسٹیٹمنٹ ہے۔ نیز مالک اور فون کے ساتھ رشتہ دار ایسی تکتے سکول

سکول سے ضمانت ملتی سکول کے ساتھ رشتہ دار ایسی تکتے سکول

تشکیل نوکر کو کیمیا اور ہے۔ نیز وہ مکان پر ہے۔ اور دیگر غرض

ہے یہ کہ کوئی نہ کیا کہہ سکے کہ اسٹیٹمنٹ کے ساتھ رشتہ دار ایسی تکتے سکول

محلہ کے پر عالی ضرور اور ذہنی اور فون کے ساتھ رشتہ دار ایسی تکتے سکول

(16)

(8)

9

کتابت نامہ اور دعایہ کے تحت
مکمل ہونے پر

کتابت نامہ اور دعایہ کے تحت
مکمل ہونے پر

اور

تاریخ 26 دسمبر 2012ء

فرمانیہ اسکول ایبٹ آباد

گورنمنٹ کالج ایبٹ آباد

2506
2012

گل ناز شاہ

فرمانیہ اسکول ایبٹ آباد

گورنمنٹ کالج ایبٹ آباد

FUC No. _____

In response to the appeal in respect of Mr, Gul Bad shah Ex Chowkidar GGPS Qazi Abad, requesting therein for re-instatement in service, duly commented upon by the Distt; Coordination Officer Dir Lower, for inquiry and legal redressat.

In this regard it is stated for your kind information that on 21/4/2012, the Deputy Distt; Officer(F) Timergara accompanied with Mohammad Zamin Khan local MPA/Chairman DDAC Dir(L), and Mr, Shah Bakht DDO(M) Timergara, visited GGPS Qazi Abad, and the appellant was found absent from duty. Hence the chawkidar (Appellant) was reported by the Deputy Distt; Officer(F) Timergara vide letter No, 1073-75 dated 21/4/2012.

A show cause notice was served upon the chowkidar, through ADO circle, but no convincing reply received from the chowkidar. After that Mr, Shahid Awar ADC Establishment was deputed to the School on 21/5/2012, to serve another copy upon the chowkidar, but the chowkidar was not present personally in the school, and another person named Alim was working in his place. Later on he confessed that he was involved in impersonation and thus he was removed from service vide this office No, 9898, 9904 dated 26/5/2012.

It is also a fact that the class IV servant concerned is running a shop of Tires punchers in Timergara, and is not devoted to his job & duties.

The report is being submitted for perusal and further order please.

DCO Dir(L)

EDO (EBSE) Dir(L)

22/7/12

311

(12)
Annex A E (1)

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 456 /2013

476
19-2-13

Gul Badshah S/o Dilawar
R/o Village Qazi Abad, Dir Lower.....Appellant

VERSUS

1. Sub-Divisional Education Officer (Primary),
Dir Lower at Timargara
2. District Education Officer (Primary),
Dir Lower
3. Govt of KPK,
through Secretary Education,
Civil Secretariat, Peshawar
4. Deputy Commissioner/ DCO, Lower Dir...Respondents

Service Appeal u/s 4 of the
KPK Service Tribunal Act,
1974 against the order dated
26.05.2012, whereby the
appellant was removed from
service.

Le Sul
19/2/13

Respectfully Sheweth:

Short facts giving to the present appeal are as under:



(7) (13) Annex B

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 456/2013

Date of Institution ... 19.02.2013.

Date of Decision ... 27.10.2021

Gul Badshah S/O Dilawar R/O Village Qazi Abad, Dir Lower.

... (Appellant)

VERSUS

Sub-Divisional Education Officer (Primary), Dir Lower at Timargara
and three others:

... (Respondents)

MR. FIDA MUHAMMAD YOUSAFZAI,
Advocate

--- For appellant.

MR. JAVED ULLAH,
Assistant Advocate General

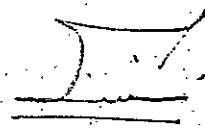
--- For respondents.

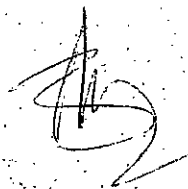
MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGEMENT:

SALAH-UD-DIN, MEMBER:-

 Precise facts forming background of the instant service appeal are that the appellant while serving as Chowkidar in Government Girls Primary School Qazi Abad Tehsil Balambat District Dir Lower had willfully remained absent from duty. On conclusion of the inquiry, the appellant was removed from service vide order dated 26.05.2012, which was challenged by the appellant through filing of departmental appeal before the



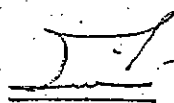


14

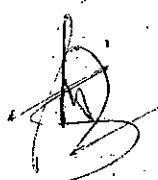
District Coordination Officer District Dir Lower, however the same was not responded, hence the instant service appeal.

2. It is pertinent to mention herein that during the pendency of the service appeal, the appellant reached the age of superannuation, therefore, the appellant sought amendment in the appeal on the ground that as he cannot be reinstated in service, therefore, he may be allowed to file amended appeal. The request was allowed and the appellant submitted amended service appeal, whereby he sought relief of setting-aside of the impugned order dated 26.05.2012 and issuance of directions regarding the retirement of the appellant from service with pensionary benefits alongwith back benefits since the date of his removal from service.

3. Notice was issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in the appeal.

 4. Learned counsel for the appellant has argued that the appellant was present on duty on the relevant date and had also marked his attendance in the register of attendance, however a female teacher was not feeling well, therefore, the appellant accompanied her to the hospital for medical treatment and was thus marked absent during the visit of Monitoring team; that the appellant performed his duty regularly, however whole of the inquiry proceedings were conducted at his back and no opportunity of personal hearing or defense was provided to him; that the appellant was proceeded against on the ground of his alleged willful absence from duty, however the procedure so provided in rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was not complied with, therefore, the entire inquiry proceedings are nullity in the eye of law.

5. On the other hand, learned Assistant Advocate General for the respondents has contended that the appellant used to

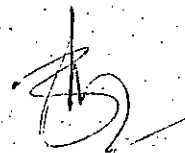
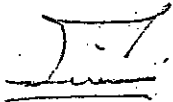


remain absent from duty and he had hired services of some other person for performing duty as Chowkidar in the concerned school; that one Shujaat Begum PSHT has also submitted an affidavit that one Haleem used to perform duty in place of the appellant; that proper departmental inquiry was conducted in the matter by complying all legal and codal formalities and the appellant has rightly been removed from service; that the appeal in hand also is barred by time, hence liable to be dismissed with cost.

6. We have heard the arguments of learned counsel for the appellant as well as learned Assistant Advocate General for the respondents and have perused the record.

7. The appellant was required to have challenged the order of his removal from service by preferring an appeal to the Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar. The appellant, however filed appeal to the District Coordination Officer Lower Dir, who kept the same pending, without adopting the proper legal procedure. The District Coordination Officer Lower Dir was not an appellate Authority in the matter, therefore, in view of Rule-6 of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986, he was required to have withheld the appeal of the appellant and he should have been informed of the fact and reasons for the same. In view of second proviso to Rule-6 of the Rules *ibid*, in case an appeal is so withheld, the same may be resubmitted within 30 days of the date on which the appellant is informed of withholding of the appeal and, if resubmitted properly in accordance with the requirements of the Rules *ibid*, shall be deemed to be an appeal under Rule-3 of the Rules *ibid* and shall be dealt with in accordance with the provision of Rules *ibid*. The provision of Rule-6 of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986, has not been complied with.

8. In view of the foregoing discussion, the departmental appeal of the appellant shall be deemed to be pending before

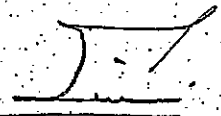


the concerned appellate Authority. Copy of the departmental appeal of the appellant is sent to the concerned appellate Authority with the direction to decide the same strictly in accordance with law/rules within a period of 90 days from receipt of copy of this judgement. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
27.10.2021



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)



17-11-2021

2000
22/-
4/-
26/-

17-11-2021

17-11-2021



(17)

"F"

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT KHYBER PAKHTUNKHWA PESHAWAR

NOTIFICATION

1. Whereas, on the direction of the then chairman District Development Authority Committee (DDAC) District Dir Lower, an Inspection team visited GGPS Qazi Abad District Dir Lower, wherein, the school Chowkidar namely Mr. Gul Badshah was reported as willful absent from his official duty while his duty was being performed by another private person namely Mr. Haleem since long, whereupon, the authority concerned took serious notice & as a result thereof, the chowkidar concerned was removed from service vide office order dated 26/05/2012 after following the due process of law & rules in vogue.
2. And whereas, feeling aggrieved the Chowkidar concerned invoked the constitutional jurisdiction under the Article-212 of the Islamic Republic of Pakistan, 1973 through filing Service Appeal No. 456/2013 before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar, whereby the order dated 26/05/2012 was impugned before the Court which was decided vide judgement dated 27/10/2021.
3. And whereas, vide operative/para-08 of the judgement ibid, the Honorable Court held that "the Departmental Appeal of the appellant shall be deemed to be pending before the concerned appellate Authority with the direction to decide the same strictly in accordance with law/rules within a period of 90 days from the receipt of copy of this judgement".
4. And whereas, in compliance of the judgment ibid, the case of the appellant was referred to the Departmental Appellate Committee Meeting held in the committee room of Directorate E&SE on 09-05-2022 at 10:00 AM under the Chairmanship of Worthy Director E&SE. The committee was apprised by the DEO (F) concerned regarding the pro & contra evidence of the case. It was told to the committee that during pendency of the instant court case, DEO (F) Dir Lower has conducted an inquiry in the matter, wherein, the inquiry committee has found that the appellant has never performed his duty rather he had hired the services of one, Mr. Haleem who used to perform the said duty since long. This fact was further endorsed by the PSHT concerned of the school through an affidavit dated 23-10-2014. Hence, after threadbare discussion, the committee has unanimously decided that the appeal of the appellant may be regretted as he is not entitled to be reinstated in service on the grounds of his illegal & unlawful act of Impersonation.

Now therefore, in pursuance of the judgment dated 27-10-2021 of the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar, after having gone through the whole case record & consulting with the recommendation of Departmental Appellate Committee meeting, discussed herein above, I, Hafiz Dr. Muhammad Ibrahim Director E&SE being appellate authority in instant case, is of the considered view that the appellant namely Mr. Gul Badshah, Chowkidar GGPS Qazi Abad District Dir Lower is not entitled to be reinstated in service & the order dated 26-05-2012 of the EDO/DEO (F) Dir Lower is hereby maintained with immediate effect in the interest of public service.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Endst: No: 349-48

Dated Peshawar the: 12/2/2022

Copy forwarded for information & action to the:-

1. Learned Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. Learned AAG Khyber Pakhtunkhwa Service Tribunal Peshawar
3. PA to Additional Secretary (E&SE) Department Khyber Pakhtunkhwa.
4. District Education Officer DEO (F) Dir Lower.
5. Deputy Director (Legal) E&SE Department Khyber Pakhtunkhwa.
6. Mr. Gul Badshah, Chowkidar GGPS Qazi Abad District Dir Lower.
7. PA to the Director E&SE KPK Peshawar
8. Office copy

DEPUTY DIRECTOR (F&A)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Execution/Implementation Application No. _____/2023
In Service Appeal No: 456 of 2013

GUL BADSHAH

VERSUS

SUB-DIVISIONAL EDUCATION OFFICER (PRIMARY) & OTHERS

INDEX

S.No	Description of documents	Annex	Pages
1	Execution/Implementation Application		1-4
2	Affidavit		5
3	Copy of Service Appeal & order/judgment dated: 27-10-2021	A & B	6-10
4	Wakalat Nama		11

Dated:-10/02/2023

[Signature]
Applicant

Through

[Signature]
ASAD ZEB KHAN
Advocate High Court
Peshawar.
Off: 202, 2nd Floor,
City Gate Plaza,
G.T. Road, Firdos, Peshawar
0346-9800565

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Execution/Implementation Application No. _____/2023
In Service Appeal No: 456 of 2013

Gul Badshah S/O Dilawar, R/O Village Qazi Abad, Dir Lower.

Appellant

VERSUS

- 1. Sub-Divisional Education Officer (Primary)**
Dir Lower At Timargara.
- 2. District Education Officer (Primary)**
Dir Lower.
- 3. Govt. of Khyber Pakhtunkhwa**
Through Secretary Education,
Civil Secretariat, Peshawar.
- 4. Deputy Commissioner**
Dir Lower.
- 5. Director**
Directorate of Elementary & Secondary Education,
Peshawar.

Respondents

**APPLICATION FOR AND ON BEHALF OF
APPLICANT / APPELLANT FOR
IMPLEMENTATION OF ORDER/
JUDGMENT DATED: 27-10-2021 PASSED BY
THIS HON'BLE TRIBUNAL IN SERVICE
APPEAL NO. 456/2013 AND CONTEMPT
PROCEEDINGS MAY KINDLY BE
INITIATED AGAINST RESPONDENTS FOR
WILLFULLY DISREGARDING THE
ORDERS OF THIS HON'BLE AND TO**

**PUNISH THEM IN ACCORDANCE WITH
LAW.**

• **Respectfully Sheweth!**

1. That the applicant / appellant filed above cited Service Appeal No. 456/2013 before this Hon'ble Tribunal, challenging the action and inaction of the respondents to impose penalty of removal from service upon the applicant/appellant.
2. That the said appeal was argued at length before this august Tribunal and the same was disposed of vide order/judgment dated: 27-10-2021. The relevant portion of the judgment is reproduced here-in-below:-

“In view of the foregoing discussion, the departmental appeal of the appellant shall be deemed to be pending before the concerned appellate Authority. Copy of the departmental appeal of the appellant is sent to the concerned appellate Authority with the direction to decide the same strictly in accordance with law/rules within a period of 90 days from receipt of copy of this judgment. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room”.

{True copy of the Service appeal and order/judgment dated: 27-10-2021 are annexed, mark as **Annex-A & B**}

3. That the applicant after passing of the above order, approached to Director, Elementary & Secondary Education, Peshawar and duly informed him about the order dated: 27-10-2021 of this Hon'ble Tribunal containing clear directions by providing attested copy of the judgment on 18-11-2021 which was received by the office through diary No. 835 dated: 29-11-2021, however, no heed was paid thereto. The applicant visited the office of the Director so many times but to no avail. It would be relevant to mention that the order was passed/announced in open court and in presence of respondents' representative. Moreover, departmental appeal of the applicant was also sent by the Hon'ble Tribunal itself.
4. That due to the unturned attitude of the respondents, the applicant is constrained to knock at the door of this Hon'ble Tribunal again for the implementation of the order/judgment dated: 27-10-2021.
5. That the respondents despite of the clear directions, have willfully disobeyed the order of this Hon'ble Tribunal by not deciding the

departmental appeal of the applicant. It would be noteworthy that during this period, neither the applicant was called for personal hearing nor any notice / decision was served upon him in respect of the decision of the departmental appeal, if any.

6. That the respondents have blatantly disregarded the clear directions of this Hon'ble Tribunal and have in fact flouted the process of law by their naked misuse of power.
7. That the above noted contemptuous behavior of the respondents on one side made mockery of the orders of this August Tribunal and on the other side increased the agonies and miseries of the applicant.

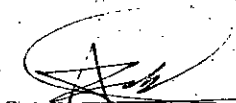
It is, therefore, most respectfully prayed that on acceptance of this application, this Hon'ble Tribunal may be pleased to:-

- I. **Direct** the respondents to implement the order/judgment dated: 27-10-2021 passed in S.A No. 4327/2020 in letter and spirit, forthwith and decide the departmental appeal in accordance with law and rules.
- II. **Initiate** the contempt proceedings against the respondents.
- III. **To Punish** the respondents in accordance with law for failing to comply with the directions of the Hon'ble Tribunal.
- IV. **Any other relief** deemed appropriate in the circumstances of the case may also be granted.


Applicant

Through

Dated: 10.02.2023


ASAD ZEB KHAN
Advocate High Court
Peshawar.

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Execution/Implementation Application No. _____/2023
In Service Appeal No: 456 of 2013

GUL BADSHAH

VERSUS

SUB-DIVISIONAL EDUCATION OFFICER (PRIMARY) & OTHERS

AFFIDAVIT

I, **Gul Badshah** S/O Dilawar R/O Village Qazi Abad, Dir Lower do hereby solemnly affirm and declare upon oath that the contents of the Application are true and correct to the best of my-knowledge & belief and nothing has been concealed or withheld there from.

Deponent

N.I.C No.

[Handwritten signature]
14/2/23

23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
AT CAMP COURT SWAT

Execution Petition No. 73/2023

Date of institution 14.02.2023

Gul Badshah S/O Dilawar, R/O Village Qazi Abad, Dir Lower.

VERSUS

Sub-Divisional Education Officer (Primary) Dir Lower at Timergara.

ORDER

06.04.2023

Petitioner in person present. Mr. Muhammad Usman, ADEO alongwith Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present and produced copy of Notification bearing Endorsement No. 842-48 dated 12.08.2022 wherein it has been held that the appellant is not entitled to be reinstated in service and the order dated 26.05.2012 of the EDO/DEO (F) Dir Lower was maintained with immediate effect.

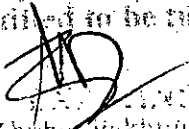
This Tribunal in its judgment dated 27.10.2021 passed in Service Appeal No. 456/2013 held that the departmental appeal of the appellant shall be deemed to be pending before the concerned appellate Authority and copy of the departmental of the appellant was sent to the concerned Authority with the direction to decide the strictly in accordance with law/rules within a period of 90 days from receipt of copy of the judgment.

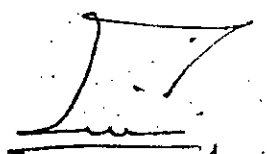
In view of Notification bearing Endorsement No. 842-48 dated 12.08.2022, there is no need for further proceedings in the instant execution petition and the same stands filed. The appellant shall, however be at liberty to seek legal remedy against the Notification dated 12.08.2022 passed by Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, if he so desires. File be consigned to the record room.

Certified to be true copy

ANNOUNCED

06.04.2023


Khyber Pakhtunkhwa
Service Tribunal
Peshawar


(Salah-Ud-Din), Member

قیمت 50 روپے	71681			
ایڈویکٹ: راجدھار فیصل خان مروت		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل/ایسوسی ایشن نمبر: BC-09-1578				
رابطہ نمبر: 0313-9659168				

بعدالت جناب: خیبر پختونخواہ سروسز اسٹیشن (پشاور)

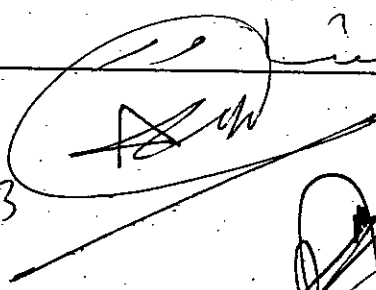
منجانب: ایڈووکیٹ	دعویٰ:
مل سجاد شاہ	علت نمبر:
بنام	مورخہ:
حکومت / SDEO	جرم:
ڈیپٹی	تھانہ:
باعث تحریر آئیکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف 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 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے 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

المرقوم: 3-5-2023
 العباد العباد العباد

مقام کے لیے منظور ہے۔

0313-9659168
 BC-09-1578
 11201-536624-3





0313-9659168
 BC-09-1578
 11201-536624-3

الکلیہ العباد

