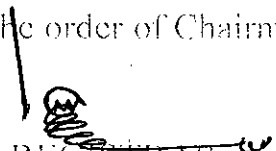


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. - 1055/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/05/2023	<p>The appeal of Mr.Siraj ul Wahaj presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on- <u>15-05-23.</u></p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

APPEAL NO. 1055 /2023

**SIRAJ UL WAHAJ**

**VS**

**EDUCATION DEPTT:**

**INDEX**

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**APPELLANT**

**THROUGH:**



**NOOR MOHAMMAD KHATTAK,  
ADVOCATE SUPREME COURT**

-1-

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

SERVICE APPEAL NO. 1055/2023

Mr. Siraj Ul Wahaj, Ex. Assistant (BPS-16),  
O/O the SDEO Female, Upper Kohistan.

..... APPELLANT

**VERSUS**

- 1- The Secretary E&S Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director E&S Education, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer Female, District Upper Kohistan.

..... RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 25.11.2022 WHEREBY THE MAJOR PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED UPON THE APPELLANT AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

That on acceptance of this appeal, the impugned notification dated 25.11.2022 may very kindly be set aside and the appellant may kindly be reinstated into service with all back benefits and consequential benefits. Any other remedy which this august Tribunal deems fit may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

**Brief facts giving rise to the present appeal are as under:-**

- 1- That while performing his duty as assistant in the office of respondent No.3 the appellant was assigned to perform duty as in charge of the office of the respondent No.3 vide order dated 01.07.2022. Copy of the order dated 01.07.2022 is attached as Annexure .....A.
- 2- That 11 number of teachers had filed an application for release of their pay which was forwarded vide letter dated 10.02.2022 to District Education Officer Kohistan Upper and the same was pending in the

office of respondent No. 3, however on 02.07.2022 the appellant being in charge was asked to sign the order regarding release of pay as the file work was already completed. Copy of the order dated 10.02.2022 and 02.07.2022 are attached as Annexure .....**B & C.**

**3-** That astonishingly the respondent department issued show-cause notice dated 16.11.2022 via whatsapp which was responded by the appellant. Copy of the show cause notice is attached as Annexure.....**D.**

**4-** That surprisingly, just after 8 days of the issuance of show cause notice the appellant was dismissed from service vide the impugned notification dated 25.11.2022 without conducting regular inquiry. Copy of the notification dated 25.11.2022 is attached as Annexure.....**E.**

**5-** That appellant feeling aggrieved from the impugned notification dated 25.11.2022 preferred departmental appeal before the appellate authority which was not decided within the statutory period of ninety days. Copy of the departmental appeal is attached as Annexure ....**F.**

**6-** That appellant having no other efficacious remedy but to file the instant appeal on the following grounds amongst the others.

**GROUND:**

A- That the impugned notification dated 25.11.2022 is against the law, facts, and norms of natural justice and not tenable and liable to be set aside.

B- That the appellant has been condemned unheard and has not been treated according to law and rules in violation of Article 10A of the Constitution of the Islamic Republic of Pakistan, 1973 and in violation of the maxim *Audi alterum partum*.

C- The appellant has not been treated in accordance with the laws and rules by the respondent department on the subject noted above and as such the respondent department violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

D- That no charge sheet and statement of allegation have been served upon the appellant before the issuance of impugned notification.

E- That no right of personal hearing and personal defense has been provided to the appellant.

F- That no regular inquiry has been conducted into the matter to dig out the real issues, in fact vide notification dated 07.12.2022 re-inquiry was ordered which is illegal for the reason that before dismissal inquiry should have been conducted. Copy of the notification is attached as Annexure.....**G.**

G- That the respondents acted in arbitrary and mala fide manner, therefore, the same is not tenable in the eye of law.

H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal may kindly be accepted as prayed for.

Dated 28.04.2023

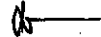


**APPELLANT  
SIRAJ UL WAHAJ**

Through:



**NOOR MOHAMMAD KHATTAK**



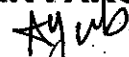
**KAMRAN KHAN**



**WALEED ADNAN**



**UMAR FAROOQ MOMAND**



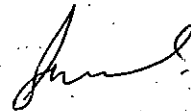
**MUHAMMAD AYUB**



**MUHAMMAD AIZAZ  
ADVOCATES**

**AFFIDAVIT**

I **Siraj Ul Wahaj** S/o Ahmad Alif Syed R/o Nishtar Twon, Mansehra, do hereby solemnly affirm that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



**DEPONENT**

'A'

-4-



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) KOHISTAN

STATION: FAVE

The undersigned is going to chitral for celebration of Eid-ul-Azha. During my absence Mr. Saif-ur-Rahman Assistant to Sub-District Education Officer (Female) Dassi is hereby notified as incharge of this office for back office matters till the arrival of the undersigned.

*[Handwritten signature]*  
District Education Officer  
(Female) Kohistan

Handst. 2450-51 Dated 1-7 2022

Copy of the above is forwarded to the:

1. Deputy Commissioner Kohistan Upper
2. PA to Director E&SE Khyber Pakhtunkhwa Peshawar

*[Handwritten signature]*  
District Education Officer  
(Female) Kohistan

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) KOHISTAN

STATION LEAVE

The undersigned is going to Chithral for celebration of Eid ul Azha. During my absence Mr. Serajul Wahaj Assistant of Sub-Divisional Education Office (Female) Dasso is hereby notified as Incharge of this office for look after the office business till the arrival of the undersigned.

Sd/-  
District Education Officer  
(Female) Kohistan

Endstt: 2450-51                      dated 1-7-2022

Copy of above is forwarded to the:

1. Deputy Commissioner Kohistan Upper
2. PA to Director E&SE Khyber Pakhtunkhwa, Peshawar

Sd/-  
District Education Officer  
(Female) Kohistan

"B" -5-



- 1. PNT GGPS Jalor
- 2. Saati Bibi PNT GGPS Mowga
- 3. Amira Jabeen PNT GGPS Shital
- 4. Aaha Bibi PNT GGPS Goshali
- 5. Tasabi Zoh PNT GGPS Janra
- 6. S. P. PNT GGPS Shal. B. B.

Handwritten signature and date.

Copy of the above is forwarded to the

PA to Director EAST KPN Palupur

2/3

30/5/2022

Assistant Director Female  
EAST Khyber Pakhtunkhwa

SDEO (F) Daska  
Submitted complete report  
above mentioned Teachers DEO

Handwritten signature and date.

District Education Officer

PA to DEO (F) Female Local Office



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR**

No.4058/ No.123/Vol-2/5/Appeal/Kohistan Upper

Dated Peshawar the 10/02/2022

To

The District Education Officer,  
(Female) Kohistan Upper

Subject: **APPEAL FOR RELEASE OF PAY**

Memo

I am directed to refer to the subject cited above and to enclose herewith a copy of appeal in the following teachers District Kohistan upper and to ask your to release of their pay subject of the performance of duty.

1. Somia Gul AT GGMS Jalkot
2. Jan Zari PST GGPS Jalkot
3. Sadaf bibi PST GGPS Moroga
4. Sittara Jabeen PST GGPS Shatial
5. Laiba Bibi PST GGPS Goshali
6. Tayaba Zeb PST GGPS Jamra
7. Saba Bashir PST GGPS Sharo Baik
8. Rafia Rani PST GGPS Shaha
9. Salma Bibi PST GGPS Bari Shaha
10. Hifza Bibi PST GGPS Tafon Vee
11. Faiza.PST. GG Police Station Awal Such

Sd/-

Assistant Director (Female)  
E&SE Khyber Pakhtunkhwa

Endst. No.5/

Copy of the above is forwarded to the

1. PA to Director E&SE KPK Peshawar

Sd/-

Assistant Director (Female)  
E&SE Khyber Pakhtunkhwa

8/3

30/5/202

SDEO (F) Dassu

Submitted complete report

Above mentioned Teachers DEO



**OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) KOHISTAN**

**OFFICE ORDER**

In the reference of the Hon'ble Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar No.4058/F.No.323/Vol-2/F/Appeal/Kohistan Upper Dated 10.02.2022 and SDEO/SDEO Female Dasso Kohistan regarding the adjustment of the following teachers and release of their salaries the following mentioned teacher are hereby adjusted ..... basis function..... the mentioned schools against their names in the best interest of public.

S#	Name of Teacher	Designation	Place of adjusted school	
1	Jan Zari	PST	GGPS Goshali	The non-duty performed period of the teacher up to 1.3.2021 is concerned into EOL without pay
2	Tayab Zeb	PST	GGPS Goshali	The non-duty performed period of the teacher up to 3.4.2021 is concerned into EOL without pay
3	Sadaf Bibi	PST	GGPS Bar Osoi	The non-duty performed period of the teacher up to 11.2.2021 is concerned into EOL without pay
4	Sitral Jabeen	PST	GGPS Jalkot	The non-duty performed period of the teacher up to 14.1.2021 is concerned into EOL without pay
5	Laiba	PST	GGPS Jalkot	The non-duty performed period of the teacher up to 10.01.2021 is concerned into EOL without pay
6	Hifza Bibi	PST	GGPS Jalkot	The non-duty performed period of the teacher up to 12.1.2021 is concerned into EOL without pay
7	Saima Bibi	PST	GGPS Danat	The non-duty performed period of the teacher up to 8.1.2021 is concerned into EOL without pay
8	Rafia Rani	PST	GGPS Jandar kot	The non-duty performed period of the teacher up to 2.2.2021 is concerned into EOL without pay
9	Satra Bashir	PST	GGPS Jandarkot	The non-duty performed period of the teacher up to 20.3.2021 is concerned into EOL without pay
10	Fiaza bibi	PST	GGPS Shikari	The non-duty performed period of the teacher up to 10.4.2021 is concerned into EOL without pay
11	Somia Gul	PST	GGMS Jamra	The non-duty performed period of the teacher up to 1.3.2021 is concerned into EOL without pay

**Note:**

The salaries of the teachers are released w.e.f. the mentioned dates in the column of the remarks and all kind of necessary entries to be made in their service Books.

**Terms & conditions:**

1. NO TA/DA is allowed.
2. Charge report should be submitted of all concerned

Sd/-  
District Education Officers  
(Female) Kohistan

Endstt. No. 3482-90 dated 3/7/2022

Copy of the above is forwarded to the

1. The Deputy Commissioner Kohistan
2. The District Account Officer Kohistan.
3. District Monitoring Officer Kohistan
4. Manager National Bank Dasso
5. PA to Director E&SE Khyber Pakhtunkhwa Peshawar
6. Deputy District Education Officer (Female) Kohistan
7. SDEO/ASDEO concerned.

"D" - 7- C



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR.  
No 9116-20 / A-23/MS/Kohistan/Vol-II  
Dated Peshawar the 16/11/2022  
Phone: 091-9225344 Email: ddadm.esc@gmail.com

To

Mr. Sher Ahmad Assistant BPS-16  
Office of the DEO (F) Kohistan Upper  
(Now at SDEO (F) Kohistan Upper Dassu).

Subject: **SHOW CAUSE NOTICE**

Memo:

I am directed to refer to the subject cited above and to enclose herewith copy of Show Cause Notice served upon you duly counter signed by the competent authority for further necessary action.

Deputy Director (F&A)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Endst; No. 9116-20 /

Copy forwarded to the: -

1. District Education Officer (F) Kohistan Upper.
2. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Master File.

Deputy Director (F&A)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

D:\Admn\Irshad Ali\MS\Show Cause\abdus samad jc.doc

DR. HAFIZ MUHAMMAD IBRAHIM  
DIRECTOR  
Elementary & Secondary Edu:  
Khyber Pakhtunkhwa Peshawar

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR**

No.9116-20/A-23/MS/Kohistan/Vol-UU  
Dated Peshawar the 16/11/2022

To

Mr. Sher Ahmad Assistant BPS-16  
Office of the DEO (F) Kohistan Upper  
(Now at SDEO (F) Kohistan Upper Dassu)

Subject: **SHOW CAUSE NOTICE**

Memo:

I am directed to refer to the subject cited above to enclose herewith copy of Show Cause Notice served upon you duly counter signed by competent authority for further necessary action.

Sd/-

Deputy Director (F&A)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Endst. No. 9116/20/

Copy of forwarded to the:-

1. District Education Officer (F), Kohistan Upper.
2. PA to Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar
3. Master File.

Deputy Director (F&A)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar




DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR  
Phone: 091-9225344 Email: ddadmn.esc@gmail.com

**SHOW CAUSE NOTICE**

I, Dr. Muhammad Hafiz Ibrahim, Director, Elementary & Secondary Education Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve upon you Mr. Sher Ahmad Assistant BPS-16 office of the District Education Officer (Female) Kohistan Upper that you have committed the following fraudulent act.

1. Consequent upon appeal received to the undersigned from Seven Teachers on 24/07/2021 for release of Pay.
2. The undersigned directed DEO (F) Kohistan upper to release their pay subject to the performance of their duties vide this office letter No. 4058/F.No.323/Vol-2/F/Appeal/Kohistan Upper dated 10/02/2022.
3. You misinterpreted the contents of the letter and signed/issued the Re-instatement/Adjustment order of eleven Teachers vide Endsr: No. 2482-90 dated 03/07/2022, which is tantamount to fraudery.
4. It is also pertinent to mention that you were asked vide letter No.1693/F.No.323/Vol-2/Appeal/Kohistan Upper dated 17/10/2022 to attend this Directorate along with complete record (service documents) of the concerned applicants/Teachers, but you failed and did not attend this office deliberately.
5. In light of above fraudulent act and violation of rules/regulations committed by you is completely unlawful.
6. Therefore, I, Dr. Muhammad Hafiz Ibrahim, Director, Elementary & Secondary Education Khyber Pakhtunkhwa as competent authority, have tentatively decided to impose upon you the major penalty of "Dismissal from service" under rule 4(b)(iv) of E&D Rules 2011.
7. You are therefore, required to show cause as to why the aforesaid penalty should not imposed upon you and you are also intimated to be heard in person within seven days of its issuance.
8. If no reply to this notice is received within seven days of its issuance, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

Note: - The inquiry against Mr. Sher Ahmad Assistant BPS-16 office of the District Education Officer (Female) Kohistan Upper is hereby waived off under Rules 5 (1) (a) of E&D Rules 2011.

  
DR. HAFIZ MUHAMMAD IBRAHIM  
DIRECTOR  
Elementary & Secondary Edu:  
Khyber Pakhtunkhwa Peshawar

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR**

**SHOW CAUSE NOTICE**

I, Dr. Muhammad Hafiz Ibrahim, Director, Elementary & Secondary Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Displace) Rules 2011, do hereby serve upon you **Mr. Sher Ahmad Assistant BPS-16 Office of the District Education Officer (Female) Kohistan Upper** that your have committed the following fraudulent act.

1. Consequent upon appeal received to the undersigned from seven Teachers on 24.07.2021 for release of pay.
2. The undersigned directed DEO (F) Kohistan upper to release their pay subject to the performance of their duties vide this office letter No.4058/F.No.323/Vol-2/F/Appeal/Kohistan Upper dated 10.02.2020.
3. You misinterpreted the contents of the letter and signed/issued the Re-statement/Adjustment order of eleven teachers vide Endst. No.2482-80 dated 03.07.2022, which is tantamount to fraudery.
4. It is also pertinent to mention here that you were asked vide letter No.1693/F.No.323/Vol-2/Appeal/Kohistan upper dated 17.10.2022 to attend this Directorate along with completer record (service documents) of the concerned applicant/teachers, but you failed and did not attend this office deliberately.
5. In light of above fraudulent act and violation of rules/regulations committed by you is completely unlawful.
6. Therefore, I Dr. Muhammad Hafiz Ibrahim, Director, Elementary & Secondary Education, Khyber Pakhtunkhwa as competent authority, have tentatively decided to impose upon you the major penalty of "Dismissal from Service" under rule 4 (b) (iv) of E&D Rules 2011.
7. You are therefore, required to show cause as to why the aforesaid penalty should not imposed upon you and you are also intimated to be heard in person within seven days of its issuance.
8. If no reply to this notice is received within seven days of its issuance, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

**Note:** the inquiry against Mr. Sher Ahmad Assistant BPS-16 Office of the District Education Officer (Female) Kohistan Upper is hereby waived off under Rules 5 (1) (a) of E&D Rules 2011

Sd/-

Dr. Hafiz Muhammad Ibrahim  
Director  
Elementary & Secondary Edu.  
Khyber Pakhtunkhwa, Peshawar

"E"

-9-

D



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR.**  
Phone: 091-9225344 Email: ddadma\_esc@gmail.com

**NOTIFICATION**

1. WHEREAS, addressing the appeal of Seven applicants/Teachers (Upper Kohistan), the DEO (F) Kohistan Upper was asked vide this office letter No. 4058/F No. 12/Vol-2/F/Appeal/Kohistan Upper dated 10/02/2022, to release the salaries of Seven Teachers subject to the performance of their duties.
2. WHEREAS, the re-instatement/adjustment order of Eleven Teachers was issued duly signed by you under Fndst No. 3487-90 dated 03/07/2022, contrary to the salaries release appeal submitted by the seven applicants/Teachers.
3. WHEREAS, the re-instatement/adjustment order of seven Teachers signed by you was issued without approval of the competent authority (Director E&SE KP Peshawar).
4. WHEREAS, you were asked vide letter No. 10911/16/23/MS/2 Appeal/KO/Upper dated 11/02/2022 to attend this Directorate along with Dealing Assistant and complete record, reports & contents of the concerned applicants/Teachers and you failed and did not attend this office deliberately.
5. WHEREAS, you have misused the power of the competent authority by issuing office order thereby, misinterpreting the contents of this office letter and issuing the adjustment order with mala fide intentions.
6. WHEREAS, a show cause notice was served upon you vide 9116-20 A 23/MS/Kohistan/Vol II dated 16/11/2022 to submit reply within seven days as to why you should not be dismissed in light of above fraudulent act, but you failed to submit your reply within stipulated period of time.
7. NOW, THEREFORE, the Competent authority in exercise of power conferred upon him under Rules-4 (b) (iv) of Khyber Pakhtunkhwa Government Servant E&D Rules, 2011 is pleased to impose major penalty of "Dismissal from service" upon Sher Ahmad Assistant BPS-16 office of the District Education Officer (Female) Kohistan Upper.

**DIRECTOR**

Directorate E& Secondary Education  
Khyber Pakhtunkhwa Peshawar

Copy of the above is forwarded for information and reaction to the  
1. District Education Officer (F) Kohistan Upper  
2. Sher Ahmad Assistant BPS-16 office of the District Education Officer (Female) Kohistan Upper  
3. District Accounts Officer Concerned  
4. PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.  
5. Master File

*[Signature]*  
Assistant Director (Admin)  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

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20ft trampoline





**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR**

**NOTIFICATION**

1. WHEREAS, addressing the appeal of Seven applicants/Teachers (Upper Kohistan), the DEO (F) Kohistan Upper was asked vide this office letter No. 4058/F No. 323/Vol-2/F/Appeal Kohistan Upper dated 10/02/2022, to release the salaries of Seven Teachers subject to the performance of their duties.
2. WHEREAS, the re-instatement/adjustment order of Eleven Teachers was issued duly signed by you under Endst No 3482-90 dated 03/07/2022, contrary to the salaries release appeal submitted by the seven applicants/Teachers:
3. WHEREAS the re-instatement/adjustment order of eleven Teachers signed by you was issued without approval of the competent authority (Director E&SE KP Peshawar)
4. WHEREAS you were asked side letter No 1693 No 123/Vol-2/Appeal Kohistan Upper dated 1/10/2022 to attend this Directorate along with Dealing Assistant and complete record (service documents) of the concerned applicants Teachers not you failed and did not attend this office deliberately.
5. WHEREAS, you have misused the power of the competent authority by issuing office order thereby. misinterpreting the contents of this office letter and issuing the adjustment order with malafide intensions.
6. WHEREAS, a show cause notice was served upon vide No.9116-20/A/23/MS/ /Kohistan Vol-11 dated 16/11/2022 to submit reply within seven days as to why you should not be dismissed in light of above fraudulent act, but you tried to submit your reply within stipulated period of time.
7. NOW, THEREFORE, the Competent authority in exercise of power conferred upon him under Rules-4 (b) (iv) of Khyber Pakhtunkhwa Government Servant E&D Rules, 2011 is pleased to impose major penalty of "Dismissal from service" upon Sher Ahmad Assistant BPS-16 office of the District Education Officer (Female) Kohistan Upper.

Sd/-

Director

Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Endst. No.2902-5/F.No.A-23/MS/ Kohistan/Vol-II dated 25/\_\_\_\_\_/2022

Copy of the above is forwarded for information and n/action to the

1. District Education Officer (F) Kohistan Upper.
2. Sher Ahmad Assistant BPS-16 office of the District Education Officer (Female) Kohistan Upper
3. District Accounts Officer concerned
4. PA to the Director, E&SE Khyber Pakhtunkhwa, Peshawar
5. Master File.

Sd/-

Director

Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

"F"

To  
The Secretary (Elementary & Secondary Education)  
Govt of Khyber Pakhtunkhwa Peshawar

Through proper channel:

**SUBJECT: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 25.11.2022, WHEREBY THE MAJOR PENALTY OF "DISMISSAL FROM SERVICE" WAS IMPOSED UPON THE UNDERSIGNED.**

02/12/2022

**ON ACCEPTANCE OF THIS DEPARTMENTAL APPEAL THE ORDER DATED 25.11.2022, MAY PLEASE BE SET ASIDE AND THE UNDERSIGNED MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS.**

**RESPECTFULLY SUBMITTED:**

Documents are submitted for your kind and due consideration.

Sd/-

(Signature)

(Signature) dated 02/12/22

The undersigned is aggrieved by the order dated 25/11/2022 which was issued by the Director, Education, Peshawar. The order is hereby appealed against and the undersigned requests for the order dated 25/11/2022 to be set aside and the undersigned to be reinstated into service with all back and consequential benefits. Documents are attached.

The Department directly issued Show cause notice dated 16/11/22 to the appellant regarding Charge Sheet, Statement of allegations and other conditions. Departmental disciplinary proceedings are in progress. The undersigned is aggrieved by the order dated 25/11/2022 which was issued in a proper way but sent to appellant on whatsapp in response to which appellant filed an application on 19/11/2022, in which appellant

To

The Secretary (Elementary & Secondary Education)  
Govt. of Khyber Pakhtunkhwa Peshawar

**Through proper channel:**

SUBJECT: **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 25/11/2022, WHEREBY THE MAJOR PENALTY OF "DISMISSAL FROM SERVICE" WAS IMPOSED UPON THE UNDERSIGNED**

Prayer in appeal:

**ON ACCEPTANCE OF THIS DEPARTMENTAL APPEAL THE ORDER DATED 25/11/2022 MAY PLEASE BE SETASIDE AND THE UNDERSIGNED MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS.**

**RESPECTFULLY SUBMITTED:**

The few lines are submitted for your kind and sympathetic consideration as under:

1. That the appellant was serving as Assistant at SDFO Office female Upper Kohistan Ever since his appointment. Appellant had performed his duties assigned to Him with zeal and devotion and there was no complaint, what so ever regarding his performance.
2. That 11 teachers file appeal for release of pay, which was forwarded through letter dated 10/02/2022 to District Education officer female Kohistan upper. The further report was submitted by the SDEO (t) and ASDEO (F) and the file was just forwarded to the appellant vide order dated 02/07/2022 for sign which was also on proper approval file came to appellant for sign. So the appellant have role only to the extent of sign nothing else. (Documents are attached)
3. That the Department directly issued Show cause notice dated 16/11/2022 to appellant without any Charge Sheet, Statement of allegation and without conducting any Departmental inquiry, on baseless allegations. The said show cause notice was never served upon the appellant in hard form in proper way but sent to appellant on WhatsApp in response to which appellant filed an application on 19/11/2022, in which appellant

demands the copy of show cause notice in hard form for the reason copy sent on whatsapp is illegible one and not readable and also stated that the appellant is severe ill also therefore also requested for extension of time but despite that the respondent without waiting for show case reply and not entertained the application of appellant due to which appellant condemned unheard and directly passed the impugned order dated 25.11.2022 wherein the appellant was dismissed from service in violation of natural justice.

- 4 That therefore now the appellant being aggrieved filing this departmental appeal against the impugned order on the following grounds

**GROUND:**

1) That the order dated 25.11.2022 is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.

2) That the appellant's service has not been heard and has not been treated according to natural justice.

3) That the appellant has been condemned unheard in violation of Article 10-A of the Constitution of Islamic Republic of Pakistan and in violation of maxim "Audi Alteram Partem" and has not been treated according to natural justice. As reported judgment cited as 2019 CLC 1750 and also in the case of V. Sriani Parthasarathy should be read as part and parcel of the every statute. The same principle held in the Superior Court judgment cited as 2016 SCMR 943, 2010 SCMR 1554 and 2020 PLC(cs) 67.

- 1) That the show cause is the demand of natural justice and also necessary for fair trial and also necessary in light of injunction of Quran and Sunnah but show cause was served to the appellant. So, fair trial denied to the appellant which is also violation of Article 10-A of the constitution. Further it is added that according to reported judgment cited as 1997 PLD page 617 stated that every action against natural justice treated to be void and unlawful. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel of every statute according to superior court judgment cited as 2017 PLD 173 and 1990 PLC cs 727.

demands the copy of show cause notice in hard form for the reason copy sent on whatsapp is illegible one and not readable and also stated that the appellant is severe ill also therefore also requested for extension of time but despite that the respondent without waiting for show case reply and not entertained the application of appellant due to which appellant condemned unheard and directly passed the impugned order dated 25/11/2022 wherein the appellant was dismissed from service in violation of natural justice.

4. That therefore now the appellant being aggrieved filling this departmental appeal against the impugned order on the following grounds

**GROUND:**

- A. That the order dated 25-11-2022 is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. That the appellant has been condemned unheard and has not been treated according to law and rules.
- C. That the appellant has been condemned unheard in violation of Article 10-A of the Constitution of Islamic republic of Pakistan and in violation of maxim "Audi Alterum Partum" and has not been treated according to law and rules. That according to reported judgment cited as 2019 CLC 1750 stated that Audi Alterum Partum shall be read as part and parcel of the every statute. The same principle held in the Superior Court judgments cited as 2016 SCMR 943, 2010 SCMR 1554 and 2020 PLC(es) 67.
- D. That the show cause is the demand of natural justice and also necessary for fair trial and also necessary in light of injunction of Quran and Sunnah but show cause was served to the appellant. So, fair trial denied to the appellant which is also violation of Article 10-A of the constitution. Further it is added that according to reported judgment cited as 1997 PLD page 617 stated that every action against natural justice treated to be void and unlawful. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel of every statute according to superior court judgment cited as 2017 PLD 173 and 1990 PLC cs 727.

- D. That the opportunity of personal hearing and personal defense was not provided to the appellant which was violation of Rule 7(d) in case inquiry was not necessary and 1415) of the E&D rules 2011 in case where inquiry is necessary. The same principle held in the Superior Court judgments cited as 2006 SCMR 1641.
- E. That no regular inquiry has been conducted and there is no reason was mentioned in black & white form for dispensing with regular inquiry and without passing an order regarding dispensing with inquiry awarded a major penalty to the appellant which is violation of the express provision of law and dictums laid down by the superior courts.
- F. That the show cause was not held according to law and rules.
- G. That the penalty imposed on the appellant is illegal, unlawful and against law and equity and that the appellant has more than 20 years' service in the government service.
- H. That the appellant has been convicted in a criminal case with bad character and misconduct, which is violation of reported judgments cited as PLC (S) 567.

It is, therefore, humbly prayed that the appeal of the appellant may be accepted as prayed for.

Yours obediently,



Siraj Ul Wahaj  
Ex-Assistant

SDEO Female Office Upper Kohistan

- E. That the opportunity of personal hearing and personal defense was not provided to the appellant which was violation of Rule 7(d) in case inquiry was not necessary and 14(5) of the E&D rules 2011 in case where inquiry is necessary. The same principle held in the Superior Court judgments cited as 2006 SCMR 1641.
- F. That no regular inquiry has been conducted and there is no reason was mentioned in black & white form for dispensing with regular inquiry and without passing an order regarding dispensing with inquiry awarded a major penalty to the appellant which is violation of the express provision of law and dictums laid down by the superior courts.
- G. That the show cause was not issued according to law and rules.
- H. That the penalty imposed upon the appellant is illegal, unlawful and against law and facts and the appellant have more than 20 years service which has not been taken in consideration.
- I. That the appellant have never committed any act or omission with bad or malafide intentions which could be termed as misconduct, albeit the appellant was dismissed from the service. Which is violation of reported judgment cited as 1997 PLC C.S 564.

It is, therefore, humbly prayed that the appeal of the appellant may be accepted as prayed for.

Yours obediently,

/Sd/-

Siraj Ul Wahaj  
Ex-Assistant  
SDEO Female Office Upper Kohistan

"G"

-13-



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block "A" Opposite M.P.W. Hotel, Upper Kohistan  
Peshawar  
Phone No. 3411111

Dated Peshawar (12) December 2022

**NOTIFICATION**

No.SO(PE)/5-1/appeal inquiry/2022:- The Competent Authority is pleased to nominate Mr. Abdul Rehman, District Education Officer Male Dir Upper Kohistan to conduct an inquiry "Dismissal from services" of Sher Ahmed, Assistant (BS-10) of the office of District Education Officer (F) Upper Kohistan.

The Inquiry Officer shall submit inquiry report, recommendation to the competent authority within 30 days positively.

SECRETARY  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Endst. No & Date as above.

Copy forwarded to:-

1. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar
2. District Education Officer Male Dir Upper the relevant documents to be submitted. Please If further required may obtained from the office of DEO(F) Upper Kohistan
3. District Education Officer female Upper Kohistan is requested to coordinate in the matter.
4. The PS to Secretary, Elementary & Secondary Education Department.
5. Mr. Sher Ahmed, Ex-Assistant office of the DEO(F) Upper Kohistan.

(MUIHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY)

7/12/22



**GOVERNMENT OF KHYBER PAKHTUNKHWA**

Elementary & Secondary Education Department  
Block "A" Opposite M PA's Hostel, Civil Secretariat  
Peshawar.

Dated Peshawar the December 7<sup>th</sup>, 2022

**NOTIFICATION**

**No.SO/PE/5-1/ appeal inquiry/2022:** The Competent Authority is pleased to nominate Mr Abdur Rehman, District Education Officer, Male Dir Upper to re inquiry in the matter "Dismissal from services" of Sher Ahmed. Assistant (s-16) of the office of District Education Officer (F) Upper Kohistan.

The Inquiry Officer shall submit inquiry report recommendations to the competent authority within 30 days positively.

SECRETARY  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

**Endst. No & Date as above.**

**Copy forwarded to:-**

1. The Director. Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar
2. District Education Officer Male Dir Upper the relevant documents is mined, please. If further required may obtained from the office of DEC(F) Upper Kohistan
3. District Education Officer female Upper Kohistan is requested to coordinate in the matter
4. The PS to Secretary, Elementary & Secondary Education Department.
5. Mr. Sher Ahmed, Ex-Assistant office of the DEO(F) Upper Kohistan

Sd/-  
(MUHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY)

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

Appeal No          /2023

Siraj ul Wahaj

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Education Deptt

(RESPONDENT)  
(DEFENDANT)

I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated.          /          /2023

  
**CLIENT**

**ACCEPTED**

**NOOR MOHAMMAD KHATTAK  
ADVOCATE SUPREME COURT**

(BC-10-0853)  
(15401-0705985-5)

**KAMRAN KHAN**

**UMAR FAROOQ MOHMAND**

**WALEED ADNAN**

&

**MUHAMMAD AYUB  
ADVOCATES**

**OFFICE:**  
Flat No. (TF) 291-292 3<sup>rd</sup> Floor,  
Deans Trade Centre, Peshawar Cantt.  
(0311-9314232)