

FORM OF ORDER SHEET

Court of _____

Appeal No. 1079 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/05/2023	<p>The appeal of Syed Baidar Hussain Shah presented today by him. It is fixed for preliminary hearing before touring Single Bench at A.Abad on _____</p> <p>By the order of Chairman <i>A. M.</i> For REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT,
ABBOTTABAD

Service Appeal No. 1074/2023

سید بیدار حسین شاہ EX-PSHT

بنام

گورنمنٹ آف خیبر پختونخواہ بذریعہ سیکریٹری ایگزیکٹو ایجوکیشن خیبر پختونخواہ، پشاور وغیرہ

سروس اپیل

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المرقوم: 12/05/2023

سید بیدار حسین شاہ EX-PSHT۔۔۔ اپیلانٹ

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL CAMP COURT,
ABBOTTABAD

Service Appeal No. 1074 /2023

سید بیدار حسین شاہ EX-PSHT گورنمنٹ پرائمری سکول بل کھوہ سرکل حاجیہ گلی، تحصیل حویلیاں ضلع ایبٹ آباد سکندہ
حال گاؤں و ڈاکخانہ نواں شہر محلہ ناڑیاں تحصیل ضلع ایبٹ آباد۔

0318-1593223: موبائل نمبر: Email:syedbidarhussain223@gmail.com

-- اپیلانٹ

بہنام

- (1) گورنمنٹ آف خیبر پختونخواہ بذریعہ سیکریٹری ایلمنٹری اینڈ سیکنڈری ایجوکیشن خیبر پختونخواہ، پشاور۔
- (2) ڈائریکٹر ایلمنٹری اینڈ سیکنڈری ایجوکیشن خیبر پختونخواہ، پشاور۔
- (3) ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ) ایلمنٹری اینڈ سیکنڈری ایجوکیشن ضلع ایبٹ آباد۔

--- ریسپانڈنٹس

APPEAL U/S-4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT- 1974, AGAINST
IMPUGNED ORDER NO.828/S.BAIDAR
HUSSAIN DATED 06.02.2023 ISSUED BY
RESPONDENT NO.3 BY WHICH RESPONDENTS
DID NOT GRANT OF LEAVE ENCASHMENT
(365 DAYS) OF APPELLANT.

جناب عالی! موجبات اپیل ذیل ہیں:

1- یہ کہ اپیلانٹ کی تقرری محکمہ تعلیم ضلع ایبٹ آباد میں بحیثیت PST پوسٹ پر مورخہ 04-12-1982 کو ہوئی اور اپیلانٹ نے مورخہ 06-12-1982 میں اپنا پوسٹ پر چارج سنبھال لیا۔ (سروس بک کے متعلقہ صفحات اپیل ہذا کے ساتھ Annexure "A" لف ہیں)

2- یہ کہ اپیلانٹ PSHT پوسٹ پر گورنمنٹ پرائمری سکول بل کھوہ سرکل حاجیہ گلی، تحصیل حویلیاں ضلع ایبٹ آباد میں اپنے فرائض سرانجام دے رہا تھا کہ رسپانڈنٹ نمبر 3 نے نام نہاد الزام کی بنیاد پر اپیلانٹ کو مورخہ 02-11-2017 کو ملازمت سے جبری ریٹائرڈ کر دیا اور ساتھ ہی اپیلانٹ پر Recovery ڈال دی جو کہ اپیلانٹ کی گریجویٹی سے کاٹ دی گئی۔ (آرڈر مورخہ 02-11-2017 کی کاپی "B" Annexure لف ہے)

3- یہ کہ اپیلانٹ نے آرڈر مورخہ 02-11-2017 کے خلاف سروس ٹریبونل میں اپیل نمبر 1404/2019 جمع کروائی تو سروس ٹریبونل نے مورخہ 28-09-2021 کو اپیلانٹ کی اپیل کو جزوی طور پر منظور کیا۔ اپیلانٹ پر ڈالی گئی Recovery ختم کر دی گئی مگر اپیلانٹ کی جبری ریٹائرمنٹ کو بحال رکھا گیا۔ (کاپی فیصلہ مورخہ 28-09-2021 لف Annexure "C" ہے)

4- یہ کہ سروس ٹریبونل کے فیصلہ کی روشنی میں اپیلانٹ کی گریجویٹی سے کاٹی گئی ریکوری کی رقم 1156928 روپے اپیلانٹ کو ادا کر دیئے گئے۔

5- یہ کہ مورخہ 19-01-2023 کو اپیلانٹ نے رسپانڈنٹ نمبر 3 کو درخواست گزاری کہ وہ اپیلانٹ کی Leave Encashment کی رقم 365 دن کی جاری فرمائیں مگر رسپانڈنٹ نمبر 3 نے مورخہ 06-02-2023 کو اپیلانٹ کی درخواست کو مسترد کرتے ہوئے Leave Encashment کی ادائیگی سے انکار کر دیا۔ اپیلانٹ کو مورخہ 06-02-2023 کے آرڈر کی

کاپی مورخہ 10-05-2023 کو وصول ہوئی۔ (نقل درخواست و آرڈر مورخہ 06-02-2023
کی کاپی لف "D" Annexure ہیں)

GROUNDS

-A یہ کہ ایپلانٹ نے اپنی جملہ سروس میں کوئی چھٹی نہیں لی جس سے ایپلانٹ کی Leave Encashment کی حصولی میں رکاوٹ پیدا ہو۔

-B یہ کہ ایپلانٹ کے اکاؤنٹ میں 408 چھٹیاں موجود ہیں مگر قانون کے مطابق 365 دن کی Leave Encashment جاری کی جاتی ہے۔ رسپانڈنٹس کا ایپلانٹ کو Leave Encashment ادا کرنے میں ٹال مٹول سے کام لینا نہ صرف ایپلانٹ کے بنیادی حقوق کو غصب کرنے کے مترادف ہے بلکہ رسپانڈنٹس کا یہ فعل سراسر غلط، خلاف قانون، خلاف واقعات اور ایپلانٹ کے حقوق پر بے اثر ہے۔

-C یہ کہ رسپانڈنٹس کا رویہ آئین پاکستان 1973ء کی سیکشن 25 کے صریحاً خلاف ہے۔

-D یہ کہ ایپلانٹ کے خلاف E&D رولز 2011ء کی روشنی میں ایسا کوئی آرڈر رسپانڈنٹس نے پاس نہیں کیا ہوا کہ جس کے تحت ایپلانٹ کی سالانہ انکریمنٹ روک دی گئی ہو۔

-E یہ کہ ایپلانٹ نے متعدد دفعہ محکمہ کو درخواستیں دیں اور ایپلانٹ آنے جانے میں بہت سے اخراجات صرف ہوئے اور ایپلانٹ کا قیمتی وقت ضائع ہوا۔

-F یہ رسپانڈنٹس نے ایپلانٹ کو Leave Encashment جاری کرنے میں جان بوجھ کر تاخیری ہر بے استعمال کئے اور ایپلانٹ کو اُسکے جائز حقوق سے متاثر کر کے ذہنی طور پر تار چر کیا جس کا یہ فعل سراسر غلط، خلاف قانون ہے۔

G- یہ کہ اپیل ہذا اندر معیاد ہے۔

استدعا:

لہذا استدعا ہے کہ اپیلانٹ کی اپیل کو منظور فرماتے ہوئے محکمہ اسپانڈنٹس کو ہدایت جاری فرمائی جاوے کہ وہ اپیلانٹ کو 365 دن کی Leave Encashment جاری کریں۔
دیگر جو بھی وادری قرین انصاف ہو جس کی اپیلانٹ حقدار ہو اور وہ نہ مانگی گئی ہو بدانت عدالت ٹریبونل بحق اپیلانٹ بخشی جاوے۔

المرقوم: 12/05/2023

سید بیدار حسین شاہ EX-PSHT۔۔۔۔ اپیلانٹ

بیان حلفی:

حلفاً بیانی ہوں کہ جملہ مراتب اپیل تا حد علم و یقین میرے صحیح و درست ہے نیز کوئی امر ٹریبونل ہذا سے مخفی نہ رکھا گیا ہے۔ اور اپیلانٹ نے ما قبل کسی بھی عدالت یا ٹریبونل سے اس بابت اپیل یا پیشین وادری نہیں کی۔

المرقوم: 12/05/2023

سید بیدار حسین شاہ EX-PSHT۔۔۔۔ اپیلانٹ

5

NIC NO = 340352
A/SR/NO = 8015/CSS

No. 10484
1V - Edu: 8015/CSS

1

Note - The entries in this page should be reviewed or re-attested at least every two years and the signature in lines 9 and 10 should be attested.

13151-6473186-9c

- 1. Name Sayed Baider Hussain Shah
- 2. Race Sayed
- 3. Residence Vil. Nawazshahr (Norian)
tal. Muzaffargarh
- 4. Father's name and residence Syed Afzal Hussain Shah
- 5. Date of birth by Christian era as nearly as can be ascertained First March N.H. 4 Sixty
1-3-1964 - Four
- 6. Exact height by measurement 5'6"
- 7. Personal marks for identification.. A mole on the neck
- 8. Left hand thumb and Finger impression of (non-gazetted) officer

ANNEXURE
A

Little Finger. Ring Finger

Middle Finger. Fore Finger

~~Re-attested~~

Thumb.

Baider

9. Signature of Government servant

M. Yusuf
S.D.O. (M.F.)
Ambarabad

10. Signature and designation of the Head of the Office, or other Attesting Officer.

Prep. by
Mian
ASDEOM

Date

Initial

Signature

3169

22

6

4

2

I.V.
to a
line
sal

AT
S.
AB

1	2	3	4	5	6	7	8
Name of post	Whether substan- tive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional Pay for officiating	Other employment falling under the term "Pay"	Date of appointment	Signature of Government servant
P.T.C APS Savila	temp		315/- P.M. fixed B-6-			6/12/82	Baidya
APS Guli Bannian	do		540/- fixed B-7 RS 560/- fixed			1/10/83	Baidya
- Do -	- do -		560/- fixed			1/2/84	Baidya
APS Akhila	do		560/- fixed			1/10/84	Baidya
<p>State of the Government of Orissa. N.W.P. Division. Pay fixed in the Revised Pay Scale 1987 of Rs. 750/- fixed BPS No. 7 - 750/- 1-7-1987 1-10-1987.</p>							
- Do -	do		Rs. 750/- fixed			1/7/87	Baidya
GMS Nandan Shekh	do		Rs. 750/- fixed 750-31-1370			1/3/88	Baidya
	do		750/- P.M.			1/8/88	Baidya

Sh

m

15/2

new
SDEC

1/87

SDEC

SDEC

UNDERTAKING.

I Mr. S. Baidear Hussain Shah Teacher do hereby undertake to make good any overpayment made to me as a result of incorrect fixation of pay in "Basic pay scales 1988. The same may be recovered from my pay Gratuity/Pension.

ATTESTED

Signature of Government servant

Signature of S.D.E.O (M) ABBOTTABAD.

SIGNATURE OF GOVT. SERVANT.

Designation P.T GMS/GPT. Sali Baidear

68 697 10/10/82

Baidear Baidear Baidear Baidear

Mr. S. Baidear Hussain Shah	9/30/83	Transfer from P.T. Abbottabad	Appointed against newly created post vide S.D.E.O. O.O. No. 20 of 4.12.82	Muzam 6/12/82
Mr. S. Baidear Hussain Shah	31/8/84	Entry into service Abbottabad	Appointed against newly created post vide S.D.E.O. O.O. No. 20 of 4.12.82	Muzam 6/12/82
Mr. S. Baidear Hussain Shah	31/10/84	Transfer from P.T. Abbottabad to District Education Officer (Male) Primary Abbottabad	Appointed against newly created post vide S.D.E.O. O.O. No. 20 of 4.12.82	Muzam 6/12/82
Mr. S. Baidear Hussain Shah	30/6/87	Grade Revised S.D.E.O. (M) Abbottabad	Appointed against newly created post vide S.D.E.O. O.O. No. 20 of 4.12.82	Muzam 6/12/82
Mr. S. Baidear Hussain Shah	29/8/88	Transfer from S.D.E.O. (M) Abbottabad to S.D.E.O. (M) Abbottabad	Appointed against newly created post vide S.D.E.O. O.O. No. 20 of 4.12.82	Muzam 6/12/82
Mr. S. Baidear Hussain Shah	31/7/88	Panel P.T. One in the light of AG MRP	Appointed against newly created post vide S.D.E.O. O.O. No. 20 of 4.12.82	Muzam 6/12/82
Mr. S. Baidear Hussain Shah	30/11/88	Panel P.T. One in the light of AG MRP	Appointed against newly created post vide S.D.E.O. O.O. No. 20 of 4.12.82	Muzam 6/12/82

Pay scales in Basic Pay Scale 1988 of Rs. ... B.C. No. 7

Drawn Arrear of Basic pay scales W.E.F 1-7-83 to 30-9-83 amounting to Rs. 354/- vide P.O No. 718 of 12-8

Services verified from 1-12-82 to 30-11-83 from the Acq. Roll and other office records

Drawn Arrear Pay of Basic Pay Scale From 1-7-83 To 31-2-86 amounting To Rs 58/-

Drawn Arrear Pay of Basic Pay Scale From 1-7-83 To 31-1-84 amounting To Rs 1875/-

Services verified from 1.12.84 to 30.11.85 from the Acq. Roll and other office records

Services verified from 1.12.85 to 30.11.86 from the Acq. Roll and other office records

No. H-24(11) Vol. III con. 1160.63 dated 11.10.1988

(8)

ANNEXURE
B

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) ABBOTTABAD

ORDER

1. WHEREAS, you Syed Baidar Hussain Shah Primary School Head Teacher GPS Balkhu (Hajia Gali) Havelian was proceeded for having committed the following gross irregularities which constitute inefficiency, misconduct, corruption & habitually absence from duty without prior approval of leave under Rule-3 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011.
2. AND WHEREAS Inquiry Committee was constituted vide this Office Notification issued under Endst No. 7525-29 dated 05.7.2017-2017, whereby charge sheet and statement of allegations were served upon you through SDEO(M) Havelian vide this office Memo No. 7543 dated 06.7.2017.
3. AND WHEREAS, Inquiry Committee submitted its report vide No. 896/GPS dated 27.7.2017, whereby opportunity of hearing and chance of self defence as well as cross examination was provided to you. As per findings and recommendations of inquiry report, you have committed the following charges.
4. AND WHEREAS, you remained willful absent from duty on 17.6.2015, 05.11.2015, 06.6.2017 to 10.6.2017 and 22.6.2017 (08 days) without any application/information/prior approval of the Competent Authority.
5. AND WHEREAS. You have embezzld Rs.1148697/- (Rupees Eleven lac forty Eight Thousand six hundred & ninety seven) in PTC funds/conditional grants.
6. AND WHEREAS. Show Cause Notice regarding your corruption, misconduct, inefficiency and willful absence from duty was served upon you through Sub Divisional Education Officer (Male) Havelian vide this office Memo: No.9344 dated 25.8.2017, wherein major penalty of compulsory retirement from service with recovery of Rs.1148697/- was tentatively imposed upon you.
7. AND WHEREAS on receipt of reply of show cause notice dated 29.9.2017, you were summoned for personal hearing on 18.10.2017 vide this office Memo: No.11171 dated 12.10.2017.
8. AND WHEREAS, you appeared for personal hearing on 18.10.2017 and failed to defend the charges levelled against you.
9. And by reason of the above, charges leveled against you have been proved and you are found guilty of *corruption, misconduct, inefficiency & willful absence* yourself from duty without prior approval of leave under Rule-3 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rule, 2011.
10. NOW THEREFORE, the Competent Authority in exercise of the power conferred upon him under Rule-4 of Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rule, 2011 is pleased to impose major penalty of "**COMPLUSORY RETIREMENT FROM SERVICE**" upon Syed Baidar Hussain Shah Primary School Head Teacher GPS Balkhu (Hajia Gali) Havelian with recovery of absent period i.e Rs. 8231/- and embezzld amount of Rs.1148697/- Tota Rs.1156928/- (Rupees Eleven lac fifty six Thousand nine hundred & twenty eight) in PTC funds/conditional grants.

D. S. D.
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Endst No. 12612-17 /PF S.Badair Shah/P&D

Dated 2/11 /2017

Copy for information & necessary action to the:-

Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshaver
District Comptroller of Accounts Abbottabad.

District Monitoring Officer (IMU) Abbottabad.

Sub Divisional Education Officer (M) Havelian with the direction that necessary entry may be recoded in his service book, recovery of absent period be made through pensionary benfits & embezzled amount through cross cheque in the PTC Account.

5. Assistant Programmer EMIS Branch Local Office

6. Syed Baidar Hussain Shah Primary School Head Teacher GPS Balkhu (Hajia Gali) Havelian with the direction to deposit Rs.1148697/- (Rupees Eleven lac forty Eight Thousand six hundred & ninety seven) within fifteen days after the issuance of this letter in the PTC Account, failing which your case will be forwarded to Anti Corruption Department for registration of FIR regarding recovery of the said amount under the relevant Sections of law.

DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

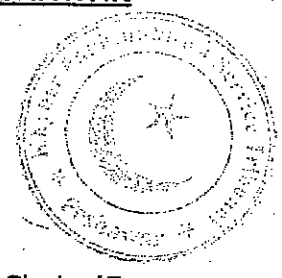
Assistant Sub-Division
Education Officer (Male)
Havelian

9

ALPHABETICALLY
E

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, ABBOTTABAD**

Service Appeal No.1404/2019



Date of Institution 24.10.2019
Date of Decision 28.09.2021

Syed Baidar Hussain Shah S/O Syed Afzal Hussain Shah (Ex-P.S.H.T) Government Primary School Balkhu, Circle Hajia Gali, District Abbottabad, resident of Narian Nawashehr, Tehsil & District Abbottabad.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Peshawar and three others.

... (Respondents)

Sultan Jamshaid,
Advocate

... For appellant.

Muhammad Riaz Khan Paindakheil,
Assistant Advocate General

... For respondents.

AHMAD SULTAN TAREEN
ROZINA REHMAN

... CHAIRMAN
... MEMBER (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The relevant facts leading to filing of instant appeal are that appellant was appointed as P.S.T. He was promoted to P.S.H.T and assumed the charge at G.P.S Balkhu Circle Hajia Gali, District Abbottabad. Fund was provided for the construction of rooms and other maintenance work in the said School, therefore, a contractor was engaged with the approval of P.T.C (Parents Teachers Council). In the meanwhile, he was served with

WITNESSED

charge sheet and statement of allegations and a notification was issued for the constitution of Inquiry Committee and accordingly, the Inquiry Committee submitted report and major penalty of compulsory retirement from service was imposed upon appellant alongwith recovery of Rs.11,56,928. Feeling aggrieved, he filed departmental appeal which was rejected, hence, the present service appeal.

2. We have heard Mr. Sultan Jashaid Advocate for appellant and Mr. Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

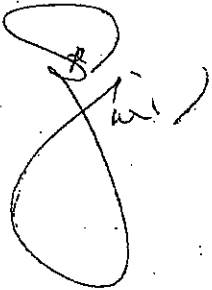
3. Mr. Sultan Jamshaid Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that the impugned orders are illegal, against law and facts as no regular inquiry was conducted against the appellant. He submitted that appellant was Secretary of Parents Teacher Council, a co-signatory with the Chairman of the Council and that the responsibility lies in the Chairman of the Council, whereas, the appellant was responsible to the extent of maintenance of record of the activities of the Council. He submitted that the inquiry proceedings were discriminatory to target the appellant only. He further submitted that the appellant was not given full opportunity of cross-examination and of personal hearing during the whole process. He further submitted that he never remained absent and that no evidence was produced in respect of the alleged absence of the appellant and lastly, he submitted that it was the duty of the Inquiry Committee to have checked the construction work at the spot but


RECEIVED
EXAMINER
Service Tribunal
Punjab

without checking, punishment in respect of recovery was imposed upon appellant.

4. As against that, learned A.A.G submitted that the appellant remained willfully absent from duty for eight days without any application/prior approval of the competent authority. He submitted that the Inquiry Committee provided ample opportunity of cross-examination to the appellant which was availed by him and that he was summoned for personal hearing which is evident from the record. Lastly, he submitted that the appellant violated the prevailing P.T.C rules and hired a contractor on his own risk and cost.

5. Record reveals that appellant was appointed as P.S.T vide order dated 04.12.1982 and he served the Department for almost 37 years. During this period, he served the Department and nothing was produced in respect of his absence or his involvement in corrupt practices which means that he has an unblemished record. During his posting as P.S.H.T at G.P.S Balkhu District Abbottabad, an Inquiry Committee was constituted vide notification dated 05.07.2017 to probe into the issues listed below:

- 
1. Provision & utilization of the following:-
 - a. PTC funds to GPS Balkhu during the year 2014-15 and 2015-16.
 - b. Amount for Boundary wall during the year 2014-15 and 2015-16.
 - c. Amount for water supply during the year 2014-15 and 2015-16.
 - d. Amount of Group latrine during the year 2014-15 and 2015-16.
 - e. Amount for additional class room during the year 2014-15 and 2015-16.
 - f. Amount for electricity during the year 2014-15 and 2015-16.
 2. The accused remained absent from duty on 17.06.2015 and 05.11.2015 without any information/permission of the competent authority as per report of ASDEO Circle Hajia Gali dated 20.06.2015 and 07.11.2015.

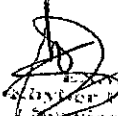


OFFICE OF THE
 DEPARTMENTAL
 SECRETARY
 DISTRICT ABBOTTABAD
 DISTRICT HEADQUARTERS
 ABBOTTABAD

3. Show cause notices were served upon the accused regarding his willful absence from duty vide this office Memo: Nos.5876 dated 25.06.2015 & 9187 dated 21.11.2015.
4. The accused is involved in embezzlement of Rs.1010000/- in PTC funds/conditional grants. Show Cause Notice was served upon him vide this office No.8848 dated 04.11.2015.

6. He was served with charge sheet and statement of allegations and was accordingly proceeded against departmentally. The Inquiry Committee submitted report which is available on file. As per statement of allegations, he was also charged for willful absence from duty on 17.06.2015 and 05.11.2015 i.e. for two days, whereas, the comments submitted by the respondents would reveal that appellant was charged for willful absence from duty on 17.06.2015, 05.11.2015, 06.06.2017 to 10.06.2017 and 22.06.2017 without prior approval of the competent authority. He was charged for absence of two days in the year 2015 and in this regard, charge sheet and statement of allegations were served upon him in the year 2017. No cogent evidence was produced in this regard and the appellant categorically denied his absence. In this regard, no witness was examined by the Inquiry Committee and the appellant was never afforded any opportunity of cross-examination. The second allegation was in respect of embezzlement and for the same, he was punished vide impugned order dated 02.11.2017. As per P.T.C rules, the Principal/Headmaster/Head Teacher of the school shall be the Secretary-cum-Member of the Council and Four elected parents will elect a Chairperson from among them. All the decisions related to general and particularly financial matters shall be taken with majority

ATTESTED


Principal
Government School
[illegible]
[illegible]

vote. The present appellant being Secretary of the Council, was responsible to keep record and safeguard all the documents, to ensure proper invitation to all the members for in time attendance in the meeting, to prepare agenda of the meeting in agreement with Chairperson, to prepare progress report of the P.T.C performance and to prepare details of income and expenditures, share the same with all the members, the present details in the meeting and cause to display the same on the notice board. In the instant case, he was charged for the work and responsibilities which had not been assigned to the Secretary under the P.T.C rules. The inquiry report in shape of questionnaire is available on file, wherein, it is evident from the question put by the Inquiry Committee in respect of the conditional grant, whereby, 50% of the work was admitted to have been completed. Needless to say that it was the proportional responsibility of Chairman, Secretary and other members of P.T.C to check the deficiency in the work for their rectification well in time.

7. As per P.T.C rules, in respect of Financial Management A.S.D.E.O Circle has been assigned the duty to collect and submit quarterly report of all primary schools in the Circle to S.D.E.O. during inquiry proceedings, statements of Chairman and Members were recorded. It is on record that the then A.D.E.O visited the School and chaired a meeting, where-after, services of one Mehboob Alam, Contractor were hired but fiasco.

8. Perusal of inquiry proceedings would reveal that they do not disclose the compliance of the procedure under Rule-11 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules,

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2011. Neither the statements mentioned in the inquiry report are shown to have been recorded in presence of the appellant nor had he been given the opportunity of cross-examination. So, we in view of the foregoing discussion, have no hesitation to hold with the disciplinary proceedings having worked in imposition of ^o major penalty against the appellant were not conducted in accordance with law on the subject. Moreover, selective treatment meted out to the appellant for imposing the penalty excluding others having proportional liability with him as per respective ratio of their responsibility, is unwarranted in the realm of the Constitution of Islamic Republic of Pakistan, 1973.


9. For what has gone above, the appeal in hand is partially accepted. The impugned order of imposing penalty of recovery of Rs.11,56,928/- upon appellant in result of said proceedings is set aside. However, appellant being Secretary, failed to maintain record of P.T.C funds, therefore, punishment of compulsory retirement is maintained. Absence of eight days although was not proved yet appellant admitted leave for few days but with prior permission. The absence is treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
28.09.2021


(Ahmad Sultan Tareen)
Chairman
Camp Court, A/Abad


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

Confidential to be kept secret


Khayr Khawaja
Secretary
Khyber Pakhtunkhwa
Service Tribunal

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

No. 828 /S.Baidar Hussain

Dated 06-02-2023

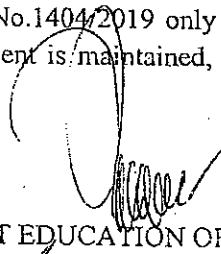
To

Syed Baidar Hussain Shah S/O Syed Afzal Hussain Shah
Ex-PSHT GPS Balkhu Tehsil Havelian
Resident of Narian, Nawanshehr Abbottabad.

Subject: LEAVE ENCASHMENT.

Memo:

With reference to application received vide diary No. 317 dated 19-01-2023 on the subject cited above and to state that as per Notification No. 12612-17 dated 02-11-2017 and in the light of judgment of Khyber Pakhtunkhwa Service Tribunal Peshawar at Camp Court Abbottabad in service appeal No.1404/2019 only recovery of Rs.1156928/- has been set aside but compulsory retirement is maintained, hence leave encashment is not admissible under the rules.


DY: DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD