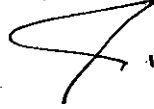


30<sup>th</sup> Mar, 2023

Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Addl: AG for the respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the case. To come up for arguments on 08.06.2023 before D.B. P.P given to the parties.

SCANNED  
Pe



(Salah Ud Din)  
Member (Judicial)




(Kalim Arshad Khan)  
Chairman

3rd Nov. 2022

Appellant present in person. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Appellant seeks adjournment due to engagement of of his learned counsel in Honourable High Court today. Adjourned. To come up for arguments on 02.01.2023 before the D.B.


  
(Fareeha Paul)  
Member (E)

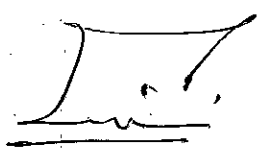
  
(Kalim Arshad Khan)  
Chairman

02.01.2023

Appellant alongwith his counsel present. Mr. Muhammad Faheem, Assistant alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned Additional Advocate General requested that as the respondents have not submitted reply/comments, therefore, an adjournment may be granted. Several opportunities have been given to the respondents for submission of reply/comments, therefore, last chance is given to them for submission of the same. In case the last chance as given is not availed, the next adjournment shall be subject to prior payment of cost of Rs. 5000/-. Adjourned. To come up for submission of reply/comments as well as arguments on 30.03.2023 before the D.B.

  
(Mian Muhammad)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

SCANNED  
KPST  
RES

22.11.2021

Proper D.B is not available, therefore, case is adjourned to 7.2.2022 for the same.

  
READER

7-2-2022

Due to retirement of the Honble Chairman the case is adjourned to come up for the same as before on 31-5-2022

  
Reader.

31.05.2022

Counsel for the appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General present.

Reply on behalf of respondents is still awaited. Notice be issued to respondents for submission of comments within 10 days of the receipt of notice, in office, positively. To come up for arguments on 11.08.2022 before D.B.

Notices issued for 11/08/22

  
(Fareeha Paul)  
Member(E)

  
(Rozina Rehman)  
Member (J)

11.8.2022

Proper DB not available the case is adjourned to 3.11.2022

  
Reader

10008/2020

01.07.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 22.11.2021 before the D.B.

Appellant Deposited  
Security & Process Fee

*[Handwritten signature]*  
12/7/21

*[Handwritten signature]*  
Chairman

24.12.2020

Counsel for the appellant present.

Learned counsel requests for time to submit a fresh Wakalatnama on behalf of the appellant.

Adjourned to 18.03.2021 before S.B.



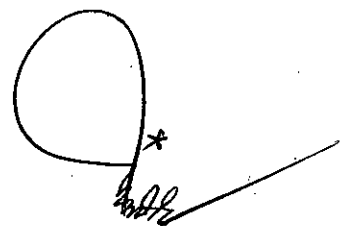
Chairman

18.03.2021

Appellant in person present.

Former requests for adjournment as his counsel is not available today.

Adjourned to 01.07.2021 before S.B.




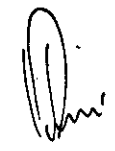
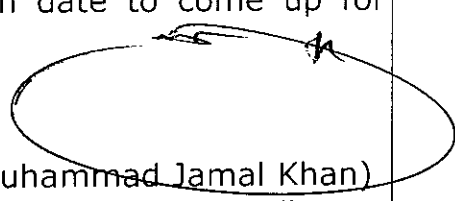
(Mian Muhammad)  
Member (E)

Form- A

FORM OF ORDER SHEET

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

Case No.- 10008 /2020

| S.No.      | Date of order proceedings | Order or other proceedings with signature of judge  |
|------------|---------------------------|---|
| 1          | 2                         | 3   |
| 1-         | 01/09/2020                | <p>The appeal of Mr. Riaz Hussain resubmitted today by Syed Noman Ali Bukhari Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><br/>REGISTRAR</p>  |
| 2-         |                           | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/10/2020</u></p> <p style="text-align: right;"><br/>CHAIRMAN</p>   |
| 19.10.2020 |                           | <p>Appellant is present in person.</p> <p>The legal fraternity is observing strike today, therefore, the case is adjourned to 24.12.2020 on which date to come up for preliminary hearing before S.B.</p> <p style="text-align: right;"><br/>(Muhammad Jamal Khan)<br/>Member (Judicial)</p> |


SCANNED  
KPS  
Peshawar

The appeal of Riaz Hussain received today i.e. 24.04.2020 by Syed Noman Ali Bukhari, Advocate is incomplete on the following score which is returned to his counsel for completion and resubmission within 15 days.

- 1- The appeal not signed by the appellant which me be signed by the appellant.
- 2- Copies of annexures A, B, C, D, E & F mentioned in the memorandum of appeal are not placed which may be placed with the appeal.
- 3- Seven more copies of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1035 /S.T,

Dt. 24-04 /2020

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Syed Noman Ali Bukhari Adv, Peshawar.

Six

objections

remand

file - re-submitted.

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

APPEAL NO. \_\_\_\_\_/2020

Riaz Hussain

VS

Education Deptt.:

**INDEX.**

| S.NO | DOCUMENTS                           | ANNEXURE | PAGE  |
|------|-------------------------------------|----------|-------|
| 1.   | Memo of appeal                      | ---      | 1-6   |
| 2.   | Application of condonation of delay | ----     | 07-08 |
| 3.   | Copy of appointment order           | A        | 09    |
| 4.   | Copy of resignation                 | B        | 10    |
| 5.   | Copy of application for appointment | C        | 11    |
| 6.   | Copy of application                 | D        | 12    |
| 7.   | Copy of impugned order              | E        | 13    |
| 8.   | Copy of order                       | F        | 14    |
| 9.   | Copy of deptt appeal                | G        | 15    |
| 10.  | Copy of judgment                    | H        | 16-18 |
| 11.  | Copy of execution order             | I        | 19-20 |
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| 13.  | Vakalatnama                         | ---      | 22    |

APPELLANT

THROUGH

  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT



23-9-20

1

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

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 10008 /2020

Diary No. 2656

Dated 24/11/2020

Riaz Hussain S/o Ghulam Akbar R/o of House no. 295/B Himat Wala  
Tehsil and district DI. Khan. \*(Presently Tohya Fazil Tehsil And district  
Di.Khan Ex-Chowkidar GGPS Chah Jegu Wala DI Khan.

.....APPELLANT

**VERSUS**

1. The EDO E &SE D.I Khan.
2. The DEO (Male) Department, D.I Khan.
3. The Secretary Education Department, Khyber Pakhtunkhwa, Peshawar.
4. The Director of (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
5. M.Ramzan Naib Qasid GMS Dinpur, Tehsil and District DI Khan now adjusted at GGPS Chah Jaggu wala Tehsil And district DI Khan

.....RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 16.02.2009 AND AGAINST REJECTION ORDER DATED 09.06.2016 RECIVED TO APPELLANT IN EXECUTION PETITION VIDE ORDER SHEET DATED 25.02.2020.**

Registrar  
Filed to-day

**Filed to-day PRAYER:**

Registrar  
24/11/2020

**THAT ON ACCEPTANCE OF THIS APPEAL THE IMPUGNED ORDER DATED 16.02.2009 AND REJECTION ORDER DATED 25.02.2020 MAY KINDLY BE SET AISDE AND THE APPEALANT MAY BE RE-INSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENIFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT THAT MAY ALSO BE AWARDED IN FAVOR OF THE APPELLANT.**

**RESPECTFULLY SHEWETH:**

**FACT**

1. That sub-divisional educational officer(female) D.I.Khan ,appointed the appellant as a chowkidar in GGPS Chahjagu-wala D.I.Khan ,vide her office appointed order bearing endorsement no1794-96 dated 17.1.1996. **the copy of appointment order is enclosed as annexure A.**
  
2. That the appellant performing his duties satisfactorily and to entire satisfaction of his superior since the date of his appointment on 17.1.1996 and has got more than 14 years qualifying service at his credit when on Irfan khan son of shah jehan r/o khairabad colony P.o.karachi Paind khan with the collusion of Zahid khan , a son of aforementioned Haji Feroz khan deceitfully manipulated a forged and fake application on behalf of appellant that he do not want to serve any further and that he tendered his resignation from his service and presented it before the respondent no.1 for acceptance. The said Irfan khan through a separate application requested the respondents no.1 to appoint him in place of the appellant for accepting his so-called resignation . the copy of the alleged resignation and the copy of Irfan khan seeking his appointment against the post of the appellant are enclosed as **annexure B & C RESPECTIVELY.**
  
3. That just after 2/3days of this drama staged by his enemies , the appellant submitted an application dated 18.2.2009 to the Director E&SE KP, Peshawar, with a copy to respondents no.1 and 3, duly endorsed by the headmistress of the concerned school that the application for resignation submitted on behalf of the appellant was a forged one and that the appellant had not submitted any such application requesting for acceptance of his resignation from his service and that it *may not be accepted.* **The copy of the application is enclosed as annexure -D.**
  
4. That the appellant also submitted an application of same nature to the respondents no.1 and made a request that fake and forged resignation tendered on the behalf of appellant may not be accepted. However it was too late because whole drama was completed in one and the same date and the appellant was left with no opportunity to come forward for the redressal of his grievances ,because the Executive District Officer, Elementary and Secondary Education Dera Ismail khan(respondent no.1) just after the receipt of application meant for acceptance of the

3

resignation of the appellant and the application of Irfan Khan for his application in place of appellant which were forwarded to him by deputy director officer(F) Primary Education Officer D.I Khan vide her office indst .no.58 dated 16.2.2009, accepted the alleged resignation of the appellant vide his office order bearing endst .no.1677-79 dated 16.2.2009 on the condition that the appellant one month pay shall stand forfeited which should be deposited into the government treasury. **the copy of order is enclosed as annexure-E.**

5. That, Its however clearly shows malafide on part of respondents no.1 ,being based on collusion and fraud as it was not any haste or respondents no.1 ,to pass such a vague order without taking any report from his office and without affording any opportunity of hearing to the appellant and making any probe into the genuine or otherwise of the submission of resignation by the appellant and the receipt of the application of irfan khan in anticipation of acceptance of the alleged resignation shown to have been tendered by the appellant .
6. That however by the grace of Almighty Allah , the aforesaid miscreant Irfan khan and all his other desperate supporters should not succeed in their nefarious efforts to get him appointed in place of the appellant from his service through deceitful ,forged ,illegal and unjustified mean and the respondent no.1 ,through his separate impugned order bearing endorsement no.1899-1900 dated 24.2 2009 adjusted one Muhammad Ramzan (respondent no.7) in place of the appellant who was already serving as naib qasid in GMS Dinpur tehsil and district D.I Khan and was under transfer to GGHS no.3 D.I.Khan. **The copy of order is enclosed in annexure-F.**
7. That although the appellant had approached the Director E&SE , KP, Peshawar for the redressal of his grievances through an application dated 18.2.2009, yet with no success and after waiting for a period of 90 days appellant filed service appeal bearing no 760/2019. The Hon'able tribunal was kind enough to accept the appeal vide judgment dated 06.04.2016 and direction was given to the respondent to decide the departmental appeal of the appellant within 60 days. **copy of the Departmental appeal and judgment is attached as annexure-G& H.**
8. That the appellant filed execution petition for implementation of judgment dated 06.04.2020 which was implemented by the respondent after several direction of the tribunal and submitted rejection order dated 09.06.2016 on 25.02.2020. so after communication of the

4

rejection order appellant being feeling aggrieved filing this service appeal on the following grounds amongst others. **Copy of rejection order and execution order is attached as annexure- I & J.**

**GROUND:-**

- A. That the impugned order dated 16.02.2019 and 09.06.2016 of the are against facts , law and the material available on record hence liable to be set-aside.
- B. That it stand s established from the material brought on record that the appellant was permanent class class-4 employee of the education department and was serving as chowkidar , GGPS chahjaggu-wala Tehsil and district D.I Khan since his appointment on 17.1. 1996 to the entire satisfaction of his superiors and has got a more than 14 years unblemished record of qualifying service at his credit.
- C. That there was no reasons for the appellant to tender resignation from his service which was the only service of earning his livelihood in these hard days of life , and to left him and his entire family to starvation.
- D. That in case the appellant was so fed up from his service, the appellant would have preferred for premature retirement instead of tendering his resignation from his service. it clearly suggest that the appellant had not tendered any resignation from his service and the so-called application submitted on behalf of the appellant for acceptance of his resignation was a manipulated document and it was never submitted by the appellant. So its needs proper inquiry to dig out the real fact.
- E. That it is an admitted fact that the appellant is an illiterate person and can hardly sign his signatures and was not in a position to write any application for acceptance of his resignation from his service, whereas the said application is not signed by the appellant.
- F. That the perusal of the two application one submitted on behalf of the appellant for acceptance of his resignation from his service and the other submitted by one Irfan Khan for seeking his appointment in case of removal of the appellant from his service are of one and the same handwriting and were written / drafted by one and the same person who staged the entire drama fraudulently. The question arises that in case the appellant was going to tender his resignation how said Irfan Khan learnt about before its, submission to the concerned authorities.

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Obviously it was the result of collusion and fraud. Which needs inquiry and without inquiry appellant cannot be terminated from service.

- G.** That it further transpires that both the above mentioned application were got forwarded /recommended by khalifa Abdul Qayyum , a local MPA on one and the same date viz .9.2.2009 although it was legally not necessary were got recommended by Zahid Khan , the son of the donor of the land for construction of the school about 14 years back, on one and the same date viz 12.2,2009 and were simultaneously submitted to the deputy district officer primary education , D.I Khan on one and the same date viz 16.2.2009 who through two different Endst ,No's 58 &59 dated 16.2.2009 forwarded the same to the respondent No.1. It clearly shows that it was an engineered fraud just to deprive the appellant from his service.
- H.** That the impugned order of the respondent No. 1 just after the receipt of two applications dated 16.2.2009 passed there and then on 16.2.2009 also suggests that it was a pre-planned drama, and the appellant was maltreated with malafide intention .
- I.** That the order No.1677-79 dated 16.2. 2009, issued by the respondent No.1 is of on legal sanctity and void -Ab-initio . The appellant was neither a probationer nor was a temporary employee rather he was a permanent government servant having more than 14 years qualifying service at his credit and in the attending circumstance the respondent No.1, was legally not entitled to order for forfeiture of one month pay of the appellant and to direct him to deposit the same into government Treasury .Thus the impugned order being illegal , bad in law and against the rules and regulations framed by the Government for the purpose is liable to be set aside.
- J.** That on the application of the appellant the remarks of the headmistress was so much important but the department nit considered the same. The deptt not look into actual position of matter but terminated from the service on fake resignation.
- K.** That the tribunal also admitted in his judgment that the matter required inquiry because factual controversy was involved but deptt did not take pain to inquired the same.

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L. That the appellant has been condemned unheard whereas equity and justice demands that no one should be condemned unheard so much so the respondent No.1 before passing the impugned order had neither obtained any report from the office nor had afforded any opportunity of personal hearing to the appellant.

M. That the appellant seeks permission to advance other grounds at time of arguments.

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

*Riaz Husain*  
APPELLANT  
Riaz Husain

THROUGH

*Syed Noman Ali Bukhari*  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT

7

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

Appeal No. \_\_\_\_\_/2020

Riaz Hussain

V/S

Education Deptt.

.....

**APPLICATION FOR CONDONATION  
OF DELAY IF ANY IN THE INSTANT APPEAL**


**RESPECTFULLY SHEWETH:**

1. That the instant appeal is pending before this Honorable Tribunal in which no date has been fixed.
2. That rejection order of the appellant was passed on 09.06.2016 but communicated to the appellant on 25.02.2020 through execution petition. Thereafter covid-19 pandemic issue was raised and the tribunal was closed from 23-03-2020. Further it is added that the supreme court also issued notification in this regard wherein clearly written that no limitation run for fillings appeals from 24 march to 24 April. Thereafter the appellant filed service appeal on 24.04.2020.
3. That the appellant file service appeal within time after the communication of order and opening of courts.
4. That the appeal of the appellant on merit is good enough to be decided on merits.

It is therefore most humbly prayed that the instant appeal may be decided on merit by condoning the delay being the reasons are genuine one to meet the ends of justice.

  
Appellant  
Riaz Hussain

**THROUGH:**

  
**SYED NOMAN ALI BUKHARI  
(ADVOCATE HIGH COURT)**

8

**AFFADAVIT**

it is affirmed by the oath that the content of the application is true and correct and nothing has been concealed from the Hon'able Tribunal.

Deponent



A 9

OFFICE OF THE SUB DIVL. EDUCATION OFFICER (FEMALE) DERA ISMAIL KHAN.

APPOINTMENT:

Under the provision of Govt. of NWFP Service and General Adm. Deptt: SOR(S&GAD) 4-7/86, dated 9/4/1988 read with Govt. of NWFP, Education Department No. SOR/Edu: 6-147/KD/S2, 22-11-1992. The following candidate are hereby appointed as Chowkidar in the school noted against their names against sanctioned post of monthly wages of Rs. 1200/pm (Rupees one thousand and two hundred only) for the period of one year from the date of taking charge, subject to the provision of budget under Sub Head 59600 other paid chawkidar on the following terms and conditions laid down by the Govt of NWFP from to time.

Annex  
(D)  
(15)

| <u>S. No.</u> | <u>Name/Candidate.</u>                               | <u>School.</u>              |
|---------------|--|-----------------------------|
| 1.            | Riaz Hussain S/O Ghulam Akbar<br>Thrya Fazil DIKhan. | GGPS Chah Jagu Wala DIKhan. |
| 2.            | Fazal Rehman S/O Sheru<br>Kach DIKhan.               | GGPS Kach DIKhan.           |

TERMS & CONDITIONS.

- 1- The appointment of the above named chowkidars are purely on temp. basis for the above prescribed period with no assurance of the continuation.
- 2- No pensionary benefits would be available and their services will be liable to terminate at any time without any notice reason.
- 3- The candidate would produce the medical fitness Certificate (Health & Age Certificate) from the DHQ DIKhan.

Attested by  
Qwaz Khan  
Subordinate.

Sub Divl. Education Officer  
(Female) DIKhan.

- Endst. No. 1796-96 /dated DIK. 17/1/96.
- Copy to the above is forwarded to the:-
- 1- District Education Officer (Female) Fry DIKhan.
  - 2-3- ASDEO (Inspection/Accounts) Local Office.
  - 4-5- H/Teachers GGFS: Chah Jagu wala & Kach DIKhan.  
Candidate concerned.

Sub Divl. Education Officer  
(Female) DIKhan

ATTESTED

ذمت حیات انگریز لیٹو ڈسٹرک آفیسر ایجوکیشن ڈسٹرکٹ ایگزیکیوٹو

حیات علی

~~Attested~~

(Signature)

فصل اول استغفار ملازمت

گزارش ہے کہ بندہ گورنر ہیرا پوری سکول جگہ ولا میں لپو  
حقیر کیدار ملازمت کر رہا ہے اور اب کاروبار کے سلسلہ میں  
ملک سے باہر جانا چاہتا ہے اور مزید ملازمت کرنے سے  
قاصر ہے۔

Attested by  
Qwaf Khan  
Advocate

لیڈا التماس ہے کہ بندہ کا استغفار میرا ملازمت

منظور فرمائے شکور فرمائیں

Supta (F)

یا عین حسین کا  
استغفار منظور کیا  
دیا

عین نواز شکر  
12/2/09

put up please  
14/2/09

یا عین حسین ولد علامہ البر

موجود پتہ مکان نمبر 295/3، گل زخم عیت ولا

ڈسٹرکٹ ایگزیکیوٹو

لاہور ایجوکیشن  
Head Office  
G.P.S. Chah Pao  
D.I. Khan

استغفار منظور کیا  
Abdul Qayyum  
9-2-2009

= PTO =

TESTED

خدمت جناب ایگزیکٹو ڈسٹرکٹ ایجوکیشن ڈسٹرکٹ ایگرونی

جناب عالی

Ameer

(17)

مخبروں درخواست برائے تصنیف لٹریچر جو کھدیا

گزارش ہے کہ گریڈ پرائمری سکول جگہ والا کا جو کھدیا ریلوے  
جوڑ کر باہر جانا چاہتا ہے اور اس کی آسامی حالی طور پر ہے

عادل مکان زمین جس پر سکول تعمیر ہوا تھا، وہ بھی صدی  
تصنیف کے معاملہ پر کسی قسم کا اعتراض نہیں کرتا ہے

لہذا التماس ہے کہ مذکورہ بالا آسامی پر تصنیف  
ضرور منظور فرمائیں۔

Attested  
Qwaz K  
Address

عرفان خان ولد شاہ جگہ  
تصنیف لٹریچر جو کھدیا  
پر صدر ایجوکیشن ڈسٹرکٹ  
ایگرونی

عرفان خان

الکامل

عرفان خان ولد شاہ جگہ خان  
خیر آباد کالونی ڈاکھانہ کٹی پانڈھان

تصنیف لٹریچر  
Attested  
9. 2. 2009

ڈسٹرکٹ ایگرونی

= PTO =

ATTESTED

To

D-12

THE DIRECTOR PRIMARY EDUCATION NWF PESHAWAR.

Subject: FORGED APPLICATION FOR RESIGNATION.

Sir,

It is humbly stated that I Mr. Riaz Hussain S/O Ghulam Akbar, working as Chowkidar in G.G.P.S Chah Jagu Wala D.I.Khan since 17.01-1996.

I belong to a very poor family and I have got this Job with great hardships.

I have come to know by chance that some body has submitted a forged application of my resignation to the E.D.O. education in order to usurp my post.

I earnestly request that this application may not be entertained as it is fake and has fraudulently been submitted on my behalf, while I was totally ignorant of it. I am working in G.G.P.S Chah Jagu Wala properly and regularly.

I hope my request will be considered sympathically and my position will be confirmed by a letter from your office to facilitate the matter.

Dated: 18-02-2009

Yours obediently,

Riaz Hussain S/O Ghulam Akbar  
Chowkidar G.G.P.S Chah Jagu Wala D.I.Khan

Copy submitted for information to the:-  
Executive district education officer,

And Dy. Distt: Officer (F) Primary Education

Please

Riaz Hussain S/O Ghulam Akbar  
Chowkidar G.G.P.S Chah Jagu Wala D.I.Khan

The application is based on fact.  
Applicant has not submitted  
any application for his  
resignation.

Nasreen Kausar  
Headmistress  
G.G.P.S Chah Jagu Wala  
D.I. Khan

ATTENDED

OFFICE ORDER/SANCTION.

The resignation from service tendered by Riaz Hussain, Chaukidar Govt: Girls Primary School Jaggu Wala (DIKhan) vide application on dated 12.2.2009 duly recommended by the Halqa M.P.A Khalifa Abdul Qayyum as well as <sup>H</sup>/Teacher of the concerned school & Dy: Distt: Officer (F) E&S Edu: DIKhan is hereby accepted with the condition that applicant concerned/~~abbe~~ named chaukidar will forfeit one month pay into Govt: Treasury as admissible under the existing rules. Necessary entry should be made in his Service Book.

Sd/-  
EXECUTIVE DISTRICT OFFICER,  
ELEMENTARY & SECONDARY EDU: DIKHAN.

Endst: No. 1677-79 Dated DIKhan the 16/2/2009.

Copy to:-

- 1). The District Accounts Officer DIKhan.
- 2). The Deputy District Officer (F) E&S Edu: DIKhan.
- 3). Accountant local office for N/Action.

*[Handwritten Signature]*  
EXECUTIVE DISTRICT OFFICER,  
ELEMENTARY & SECONDARY EDU: DIKHAN.

ATTESTED

Amendment:

Mr. Muhammad Tariq, in-charge of GMS Dimpur and 21 Transfer GMS No. 3 D.I.Khan is hereby adjusted at GMS Chah Jaggu Wala D.I.Khan against vacant post in the interest of Public Service with immediate effect

~~Amex~~  
~~SP~~  
~~SP~~

*Muse J. Hany*

EXECUTIVE DISTRICT OFFICER, SCHOOLS & LITERACY, DIKHAN

Endst No. 1899-1900

Dated Dikhan the 24/02/2009

Copy to the:-

- 1. District Officer (M/F) D.I.Khan for information
- 2. Dy. District Officer (F) D.I.Khan

Attested by

*Muse J. Hany*

EXECUTIVE DISTRICT OFFICER, SCHOOLS & LITERACY, DIKHAN

*Qudus Khan*  
Advocate

The undersigned hereby certifies that the above prescribed period of absence has been duly observed and the continuation of the absence is their responsibility.

ATTESTED

GC-15

The Executive Distt. Education Officer, Dera Ismail Khan.

Subject: Forged application for Resignation

28/02/09  
 Ghulam Akber, humbly stated that I Riaz Hussain s/o  
 Chah Jagu  
 wala Dikhan since 17-01-1996.  
 I belong to a very poor family and I have got this job with  
 great hard ships. I have come to know by chance that  
 some body submitted a forged application of my  
resignation to the E.D.O Education in order to usurp  
my post. I earnestly request that this application may  
 not be entertained as it is fake and fraudulently been  
 submitted on my behalf, while I was totally ignorant  
 of it. I am working in G.C.P.S. Chah Jagu wala properly  
 and regularly.

I hope my request will be considered sympathically &  
 my position will be confirmed by a letter from your  
 office to facilitate the matter.

Yours obediently,

Riaz Hussain s/o Ghulam Akber  
 Chahkidar G.C.P.S. Chah Jagu wala  
 Dikhan.

Attested by  
 Ghulam Akber  
 Adalat

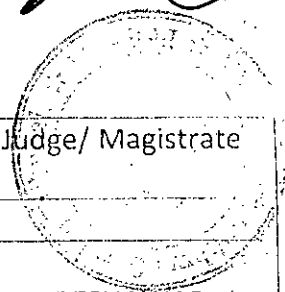
27/02/09

باسم حسین رسول میں ریکورڈ  
 اور اس کے قسم کا استغوا  
 دیا گیا  
 Nazreen Khatun  
 G.C.P.S. Chah Jagu wala

781  
 dated 28-2-09

ATTESTED

H  
16



| S. No. | Date of order/ proceedings | Order or other proceedings with signature of Judge/ Magistrate   |
|--------|----------------------------|--|
| 1      | 2                          | 3  |
|        | 06.04.2016                 | <p align="center"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</u></p> <p align="center">Service Appeal No. 760/2009</p> <p align="center">Mr. Riaz Hussain-vs-Executive District Officer Elementary &amp; Secondary Education, D.I.Khan and 6 others.</p> <p align="center"><u>JUDGMENT</u></p> <p align="center"><u>PIR BAKHSH SHAH, MEMBER:</u> - Appellant with</p> <p>counsel (Mr. Muhammad Rashid Khan, Advocate), M/S Hameed-ur-Rehman, AD (litigation) and Khurshid Khan, SO alongwith Mr. Ziaullah, Government Pleader for official respondents No. 1 to 6 present.</p> <p>2. Admittedly appellant Riaz Hussain was appointed as Chowkidar in GGPS, Chan Jaggu-wala, D.I.Khan vide order dated 17.01.1996. He allegedly submitted resignation on 12.02.2009 which resignation was accepted by Executive District Officer on 16.02.2009. Appellant submitted departmental appeal to Director Education on 18.02.2009 denying that he had ever submitted any resignation, which was not responded. He instituted this service appeal on 20.5.2009 which is within time.</p> <p>3. Arguments heard and record perused.</p> <p>4. Main contention of learned counsel for the appellant is that the appellant is a poor man who never submitted any resignation and it is evident from record that this whole drama was played by one Khalifa Abdul Qayyum, MPA. He submitted that respondent-department did not take action to have verified</p> |

ATTESTED  
  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar

ATTESTED



the factual position as to whether the appellant had resigned or not and it is also evident from record that appellant was performing duties as usual about which even the concerned Headmistress has admitted so. He requested that the impugned order may be set-aside and the appellant may be reinstated with back benefits.

5. Learned Government Pleader resisted this appeal by stating that the appellant never submitted any departmental appeal and the one asserted by him dated 18.02.2009, copy of which is on this file, is forged one. He submitted that appellant had resigned from service which resignation was accepted in accordance with rules.

6. After going through the record and hearing pro & contra arguments it is evident that alleged resignation was submitted on 12.02.2009 which was accepted just after three days on 16.2.2009. The resignation was accepted by Executive District Officer and it is evident that the appellant had submitted application on 18.02.2009 to Director Education complaining therein that he never submitted any resignation and the one shown submitted is fake and fictitious and forged one which was submitted by somebody else with malafide intention. This may be observed that despite this factual controversy, Director Education did not take pains to have inquired as to whether in fact appellant had submitted resignation or his so-called resignation was a concocted drama with malafide intention

ATTESTED

because one irfan Khan immediately applied to be appointed in his place and which application was also recommended by the same MPA. In view of scanty materials on file, this Tribunal is not in a position to safely adjudicate with certainty. Since this service appeal is also within time therefore in the circumstances of the case, this Tribunal direct Director Elementary and secondary Education KPK to decide departmental appeal of the appellant dated 18.02.2009 on priority basis within a period of 60 days after the receipt of this judgment, and if his departmental appeal is not decided within 60 days then it shall be presumed that the contention of the appellant is with substance and this service appeal before the Tribunal be presumed to have been allowed. The matter of back service benefits be also decided by departmental authority. The department has however, at liberty to conduct even inquiry in the case to find out whether the resignation is genuine or forged and factitious one if so desired. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
06.04.2016.

*Sd/- Pir Bakhtish Shah,*  
Member  
*Sd/- Abdul Latif,*  
Member

*[Handwritten signature]*  
Secretary  
KPK

ATTESTED

1600  
10-0  
2-0  
12-0  
*[Signature]*  
20-04-2016  
20-04-2016

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Execution Petition No. 108/2016

Service Appeal No. \_\_\_\_\_ /2016

Service Appeal No. 760 of 2009

Decided on: \_\_\_\_\_

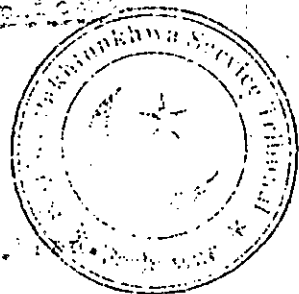
Khyber Pakhtunkhwa Service Tribunal

Diary No. 492

Dated: 22-6-16

Muhammad Aslam s/o Ghulam Akbar,  
District D.I. Khan  
Government Polytechnic Peshawar  
Jaggu-Wala Tehsil and District D.I. Khan....

Applicant



V/S

1. Executive District Officer, Elementary and Secondary Education D.I. Khan.
2. District Officer Education (M/F) D.I. Khan.
3. Deputy District Officer, Female Education D.I. Khan.
4. Director of Education School & Literacy K.F.K. Peshawar.
5. District Co-Ordination Officer (Now Deputy Secretary) D.I. Khan.
6. Govt of K.F.K. through Secretary Education Peshawar.
7. Muhammad Ramzan Naib Qasid GMS Dinpur, Tehsil and District D.I. Khan now adjusted at GGS Chah Jaggu-Wala Tehsil and District D.I. Khan.

21/6/16

Respondent

Application against Respondents for non-compliance / Disobedience of the order dated 06.04.2016 of the Hon'ble Service Tribunal Khyber Pakhtunkhwa passed in Service Appeal titled above.

Certified to be true copy

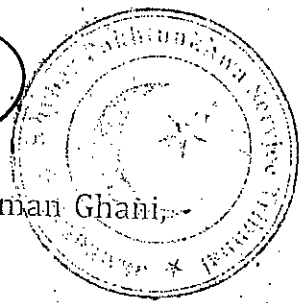
Khyber Pakhtunkhwa Service Tribunal, Peshawar

ATTACHED

E.P No. 108/2016

25.02.2020

20



Petitioner alongwith his counsel and Mr. Usman Ghani,  
District Attorney for the respondents present.

The petitioner had challenged his resignation in service appeal, which was partially accepted and directed the departmental authority i.e Director Elementary \* & Secondary Education Khyber Pakhtunkhwa to decide the departmental appeal of the petitioner dated 18.02.2009 on priority basis within a period of 60 days after receipt of this judgment, and if his departmental appeal was not decided within 60 days then it shall be presumed that the contention of the petitioner was with substance and his service appeal before the Tribunal be presumed to have been allowed. The matter of back service benefits be also decided by departmental authority. The department, however, held at liberty to conduct even inquiry in the case to find out whether the resignation is genuine or forged and fictitious, one if so desired vide judgment dated 06.04.2016. After the said judgment, the petitioner filed the present implementation petition and the respondent-department has submitted order dated 09.06.2016 passed by the departmental authority on the direction of judgment of this Tribunal dated 06.04.2016. Since the direction passed by this Tribunal has been complied with by the departmental authority through rejection order of departmental appeal dated 09.06.2016, therefore, the present implementation petition is disposed of being infructuous. The petitioner is however, at liberty to challenge the departmental authority order dated 09.06.2016 if so, desired subject to all legal objections. File be consigned to the record room.

ANNOUNCED  
25.02.2020

~~TESTED~~

*Muhammad Amin*  
(M. Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

Date of Receipt of Copy of Judgment \_\_\_\_\_  
Number of Words \_\_\_\_\_ 800  
Copying Fee \_\_\_\_\_ 10/-  
Urgent \_\_\_\_\_  
Total \_\_\_\_\_ 10/-  
Name of Copyist \_\_\_\_\_  
Date of Copying of Judgment \_\_\_\_\_ 12-3-2020

Certified to be true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

21

CATION

Whereas, Mr. Riaz Hussain s/o Ghulam Akber, resident of village Thoya Fazal Himat Wala, District D.I.Khan was appointed as Chowkidar at GGPS Chah Jaggu Wala D.I.Khan by then SDEO (F) D.I.Khan vide appointment order No 1794-96, dated 17/01/1996.

And whereas, Mr. Riaz Hussain Ex-Chowkidar GGPS Chah Jaggu Wala D.I.Khan allegedly tendered resignation from service dated 12/02/2009 addressed to the then EDO (E&SE) D.I.Khan which was forwarded to the EDO concerned by the Headmistress GGPS Chah Jaggu Wala D.I.Khan vide Order No: 56 dated 16/9/2009 for appropriate action.

And whereas, the Ex-EDO (E&SE) D.I.Khan accepted the resignation tendered by Mr. Riaz Hussain Ex-Chowkidar GGPS Chah Jaggu Wala D.I.Khan vide Notification No: 1677-79 dated 16/2/2009 being the competent authority.

And whereas, aggrieved from the notification dated 16/2/2009, the Mr. Riaz Hussain Ex-Chowkidar GGPS Chah Jaggu Wala D.I.Khan filed a 'Departmental' Appeal dated 18/2/2009 to the Respondent No: 4 but the same could not be decided within the statutory period of 90-days, hence the appellant has filed the instant Service Appeal No: 760/2009 on 25/5/2009 before the 'Honorable KPK Service Tribunal Peshawar' decided on 06/4/2016 with the directions to the appellate authority decide the pending Departmental Appeal of the appellant within a period of 60-days from the receipt of this judgment.

And whereas, from the perusal of the record of the case it revealed that the appellant had tendered resignation from service on his own will duly forwarded by the Headmistress concerned to the EDO concerned for its acceptance or otherwise. The same was ultimately accepted by the competent authority properly duly notified under intimation to all concerned.

Now, therefore, in exercise of powers conferred upon the appellant authority/Director E&SE Khyber Pakhtunkhwa by the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules 2011, under Section-17 read with rule (2) (a) the Departmental Appeal in respect of Mr. Riaz Hussain Ex-Chowkidar GGPS Chah Jaggu Wala D.I.Khan is hereby rejected and the notification dated 16-02-2009 regarding acceptance of his resignation from service is hereby uphold.

Director (E&SE) Department  
Khyber Pakhtunkhwa, Peshawar

Dated Peshawar the 09-06-/2016

Case No: 53-57/AD(Lit: II) Riaz Hussain Class-IV/ D I Khan

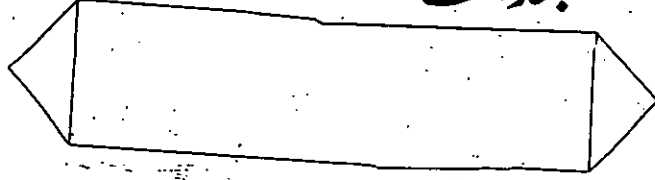
Copy forwarded for information & n/action to the:-

1. Registrar Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
2. Addl: Advocate General Khyber Pakhtunkhwa, Service Tribunal, Peshawar
3. District Education Officer (F) D.I.Khan with the remarks to depute her representative to receive original service book of the appellant concerned and other photostate record from the Litigations Section by hand from this office being no longer required.
4. Appellant concerned.
5. PA to Director local office.

Assistant Director (Admn)  
(E&SE) Department, Khyber  
Pakhtunkhwa, Peshawar.

3.4.16

TESTED



2 مخائب  
بنام

مورخہ

مقدمہ

دعویٰ

جرم

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیر سے کار کا کاروانی متعلقہ

کیلئے

آن مقام

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروانی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر حلف دیئے جواب وہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروانی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

20ء

ماہ

المرقوم

کے لئے منظور ہے۔

مقام



OFFICE OF THE DISTRICT EDUCATION OFFICER DB 1  
(MALE) DERA ISMAIL KHAN

Tell: 09669280128 - 09669280132

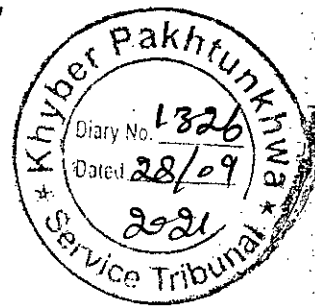
Email: emisdik@gmail.com

D. I. Khan  
Pesh

3 copies

To

22/11



The Registrar,  
KPK Service Tribunal Peshawar,

**Service Appeal No. 10008/ 2021**

**Titled as Riaz Hussain VS EDO (E&SE) DIKhan**

**Previous date. 01/07/2021 next date of hearing 22/11/2021**

**Subject: Service Appeal is waif off up to extent of DEO (M) DIKhan as S.A is related to DEO (Female) DIKhan.**

**Respectfully Sheweth.**

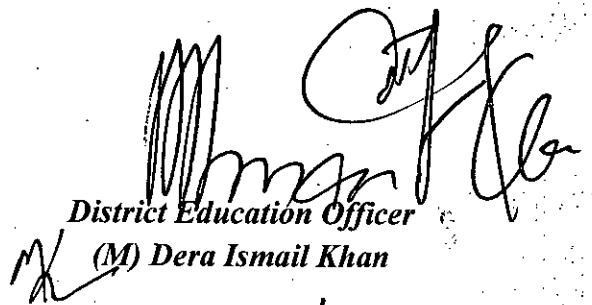
1. With profound regards it is stated that Mr: Riaz Hussain S/O Ghulam Akber was appointed as a chowkidar in Govt: Girls Primary School Chah Jaggu Wala vide endst: order No. 1794-96 dated 17/01/1996 by the orders of Sub Divisional Officer (Female) DIKhan.
2. The appellant has served 14 year service in the Govt: Girls Primary School Chah Jaggu Wala.
3. The Respondent No. 5 Mr: Ramzan was adjusted as a class- IV in the place of appellant in Govt: Girls Primary School Chah Jaggu Wala.
4. The resignation of appellant for forwarded to Depty: Director (Female) primary Education Officer DIKhan vide endst: No.58 dated 16/02/2009.

Put up to the court with  
referent appeal.

28/9/2021.

Reader

5. As appellants Mr: Riaz Hussain and respondent No.5 Mr: Muhammad Ramzan service appeal is related to the Govt: Girls Primary School Chah Jaggu Wala DIKhan.
6. **Prayer** As the service appeal is related to DEO (Female) DIKhan. So service appeal is waived off up to the extent of DEO (M) DIKhan.


  
District Education Officer  
(M) Dera Ismail Khan

Endst No: 19504-08

Dated D.I.Khan the 21 / 9 / 2021

Copy forwarded to the :

1. The Honorable AAG KPK Service Tribunal Peshawar.
2. Syed Noman Ali Bukhari Advocate High Court.
3. The learned judges of KPK Service Tribunal Peshawar.
4. Master File

  
District Education Officer  
(M) Dera Ismail Khan