

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1270/2023

Inyatullah -----Appellant.

SCANNED
KPST
Peshawar

VERSUS

District Education Officer (Male) Buner & Others -----Respondents.

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DEPONENT
CNIC No.15101-0882586-3

①

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1270/2023

Inayat Ullah S/O Muhammad Dildar R/O Village Takhta Band Tehsil Gagra District
Buner

(APPELLANT)

Versus

Khyber Pakhtunkhwa
Service Tribunal

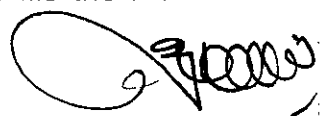
Diary No. 6148

1. District Education Officer Male District Buner
 2. Sub Divisional Educational Officer (M) Tehsil Chagharzi District Buner
 3. Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
 4. Secretary, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
 5. District Account Officer Buner at Daggar.
- Dated 22-06-23

(RESPONDENTS)

Written Reply/Para wise Comments for & on behalf of Respondents No. 1, 2, 3, & 4

Preliminary Objections

1. ***That the instant appeal is infructuous in that a subsequent order of adjustment has been issued in the light of proceedings against the appellant under E&D Rules 2011 and he has been adjusted vide Notification No. 2590-96 dated 31/5/2023 at GPS Bishpur which is union council of his domicile. The facts are that after expiry of his leave, he was adjusted at GPS Gujar Abad vide adjustment order No. 802-05 dated 17/2/2023, however, he did not take over charge and remained absent. Simultaneously, he was also busy in blatant use of social media against the Government and the Respondent No.1. Due to his absence, inefficiency and misconduct, he was proceeded against under the E&D Rules 2011 and was awarded "Major penalty of reduction to lower post and pay scale and consequently adjusted at GPS Bishpur as stated above. Thus the instant appeal against his former adjustment on expiry of leave at GPS Gujar Abad becomes infructuous. It is also averred that the subsequent adjustment has also not been challenged by the appellant. (Speaking order of subsequent adjustment is attached as annexure "A")***
 2. That according to the judgment of the honorable Khyber Pakhtunkhwa Service Tribunal in Service Appeal No. 1678/2022, the instant appeal is not maintainable.
 3. That the appellant has no vested right to continue or hold a particular post at a particular place, thus is liable to be transferred anywhere in exigencies of service, hence the suit is not maintainable.
 4. The Appellant has no cause of action/locus standi to file the instant declaration of right.
- 

5. The Appellant has concealed the material facts from this honorable court, hence liable to be dismissed.
6. That the appeal is wholly incompetent, misconceived and untenable.
7. That the appeal for declaration is wrong, baseless and not maintainable, it shows no strong cause to be taken for adjudication, therefore, the same is liable to be rejected/ dismissed.
8. That the instant appeal is unjustifiable, baseless, false, frivolous and vexatious. Hence the same is liable to be dismissed with the order of special compensatory cost in favor of respondent.
9. That the instant appeal is not maintainable in the present form and also in the present circumstances of the issue.
10. The Appellant has not come to this honorable court with clean hands.
11. The Appellant has filed the instant appeal just to pressurize the respondents.
12. The appellant has filed the instant appeal on mala-fide motives.
13. The instant litigation is against the prevailing law and rules.
14. The appellant has been estopped by his conduct to file the appeal.
15. That every Government servant is bound to perform his duties anywhere in the best interest of public service.

FACTS

1. Pertains to the record.
2. Incorrect and hence denied. The post of SPST, BPS-14, is a district cadre post and not a union council-based post. Under the **Khyber Pakhtunkhwa Appointment, Deputation, Posting and transfer of teachers, Lecturers, Instructors and Doctors Regulatory Act 2011 (KP Act No. XII of 2011)**, only PST, BPS-12, is a union council-based post, which cannot be transferred out from his/ her union council, while SPST BSP-14 and PSHT BPS-15 are district cadre posts. They can be posted anywhere in the district. Thus, the appellant, under the said act, has no right to claim his posting within his own union council. However, the information given at this para of the appeal is five years back history/record of his leave and adjustment which has no relevancy with the instant case, hence, the para is unrelated just added for the purpose to complicate and intricate the case in order to obscure the facts under the shadow of irrelevant history/record.
3. Incorrect and hence denied. The appellant has never ever performed to the satisfaction of the competent authority. He frequently resorts to absence and leave, and the report of the SDEO (M) Gagra regarding his absence on 09-10-2020, report of Educational Monitoring Authority of his absence on 03-06-2021 and the sanction of leave of about 440 days in the span of about 2.5 years speaks volume

about his irresponsible behavior. Thus, the stance of the appellant of performing his duty in an efficient manner is baseless. (Reports regarding absence and sanction of leave of the appellant are attached as Annexure "B, C & D")

- 4. Incorrect and hence denied. As explained in para 2 of the facts, the post of SPST BPS-14, is a district cadre post and not a union council-based post. Under section 3 of the **Khyber Pakhtunkhwa Appointment, Deputation, Posting and transfer of teachers, Lecturers, Instructors and Doctors Regulatory Act 2011 (KP Act No. XII of 2011)**, only PST, BPS-12, is a union council-based post, which cannot be transferred out from his/ her union council. On the other hand, the appellant is an SPST Teacher in BPS-14, which is a district cadre posts. He can be posted anywhere in the district. Thus, the appellant, under the said act, has no right to claim his posting within his own union council.

The adjustment order in respect of the appellant is legal and lawful. As per rules, the competent authority can transfer/adjust a civil servant serving in Elementary & Secondary Education Department anywhere against a vacant post within his cadre, post and district. Civil servant could not stay at a place of his choice unless operation of transfer order stayed, which is not the position in the case. Such view of the issue, according to the Service Tribunal, if affirmed, would give license to every Civil Servant to file a representation against order of transfer and stay at place from which he did not want to move, as such the same would create administrative chaos. **Same is reported in 2006 SCMR 443.** Similarly, Civil Servant could not disobey transfer order. **Same is reported in 2003 PLC (CS)104.** Employees was liable to be transferred anywhere in exigencies of service, having no vested right of his choice for a specific place. **Reliance is placed on 1998 SCMR 293.**

Furthermore, the adjustment order in respect of the appellant has no legal infirmity, and is therefore, complete in all respects. His post is a district cadre post and he is required to serve anywhere in the district where the competent authority adjusts/transfers him in the public interest.

Section-10 of Civil Servants Act, 1973 provides sufficient clearance which reads as follow:

"Posting and transfer: - Every civil servant shall be liable to serve anywhere within or outside Pakistan, in any equivalent or higher post under the Federal Government, or any Provincial Government, or local authority, or a corporation or body set up or established by any such Government."

- 5. Pertains to record.
- 6. Pertains to the record. However, the para is completely irrelevant and has nothing to do with the instant case, just added for making the case intricate for purposeful evasion from facts and real history of the case.

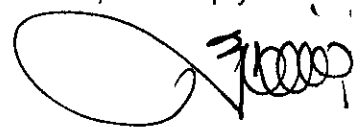
7. Pertains to the record. The appellant was on leave w.e.f 01/3/2022 to 20/12/2022, while he submitted application for transfer on 7/12/2022 during his leave period. As per rules, transfer of an employee can not be made during leave period. It is evident from his application dated 7/12/2016 that leave of the appellant has not yet expired. He was required to submit his arrival report to the Competent Authority for proper adjust against a vacant SPST post, which he didn't and remained absent till he was adjusted at GPS Gujar Abad on the report/letter of SDEO concerned. **(Sanction of E. O. L. without pay, transfer application and SDEO letter are attached as annexures "E", "F", "G")**

8. Incorrect and hence denied. After completion of E. O. L without pay of 9 months and 20 days of the appellant, the appellant neither informed the concerned SDEO nor this office for his adjustment against a vacant post, and remained absent w. e. f 21-12-2022 till the adjustment at GPS Gujar Abad. And, reportedly, he adjusted himself in a certain school without informing the SDEO and proper order/ approval of the Respondent No.1, thereby, exercising the authority of the undersigned, which is utter violation of rules and regulations. In this regard, a show cause was served upon him on 20-02-2023. **(The show cause is attached is Annexure "H")** However, on the report of the concerned SDEO, the respondent department adjusted the appellant at GPS Gujar Abad against a vacant SPST, BPS-14 post. **(The adjustment of the appellant at GPS Gujar Abad is attached as Annexure "I")**

9. Incorrect and hence denied. The appellant has not been transferred to GPS Gujar Abad rather he was adjusted after completion of his E. O. L. The appellant has not only committed non-compliance of official order but also remained absent after his adjustment. Furthermore, it is clarified that he is an SPST teacher in BPS-14, which is a district cadre post and not a union council based, therefore, his claim that he was adjusted out of his union council is the result of speculations and conjectures.

10. Incorrect and hence denied. The adjustment order of the appellant after expiry of his EOL is in accordance with rules and regulations, hence legal and valid.

11. Incorrect and hence denied. The impugned adjustment order has already been communicated to the appellant through dak as well as official WhatsApp groups. However, he did not comply with the adjustment order and wanted to adjust him at the place of his choice, wish and whim. Upon non-compliance, he was served with a show cause notice vide No. 873-77 dated 20/2/023, the reply of which was



submitted by the appellant on 2/3/2023. In the light of his reply to the showcause notice, he was called for personal hearing on 20/3/2023 for which he appeared on the same date before Dy.DEO as authorized officer. During personal hearing he submitted his reply to questions asked by the authorized officer. In the light of above facts, it is without any doubt that he not only received his adjustment order at GPS Gujar Abad but was well aware of his adjustment order, which he accepted in his replies to the questions posed during personal hearing and in showcause notice. Thus the appellants denial of receiving the impugned order is ludicrous and out of place, hence not convincing. **(Replies of both showcause notice and personal hearing are attached as annexure "J" and "K")**

12. Incorrect and hence denied. Already explained at para 8. It is further added that the appellant in violation of rules and without any proper adjustment order after expiry of his leave started going to the school of his choice, wish and whim and remained absent from the school where he was properly adjusted vide proper notification.

13. Incorrect and hence denied. The para is irrelevant, and has been added by the appellant's counsel just to complicate the issue of simple adjustment after expiry of his leave. In the instant case, the appellant had not only refused to obey the order of the competent Authority by not assuming the charge in the new station for quite long time but also presented himself as undisciplined official.

14. Correct that the appellant has submitted reply to the showcause notice, which was about absence, misconduct and non-compliance of adjustment order. After fulfilling all codal formalities, he was awarded major penalty of reduction to lower post and scale. In this para the appellant rebutted his own claim made in para 11 of not receiving adjustment order.

15. Incorrect and hence denied. Appeal against his adjustment order 17/2/2023 is infructuous as the appellant has already been proceeded and penalized after proper proceedings under E&D Rules 2011. Resultantly, he was adjusted at GPS Bishpur which is situated in union council of his domicile

16. Pertains to record.

17. Incorrect and hence denied. His adjustment order has been modified after imposing penalty upon the appellant. Both penalty and subsequent adjustment at GPS Bishpur have got finality. It is further averred that the order of imposing penalty and subsequent adjustment has not been challenged by the appellant.

18. Incorrect and hence denied. Section 3 of The Khyber Pakhtunkhwa Appointment, Deputation, Posting and transfer of teachers, Lecturers, Instructors and Doctors Regulatory Act 2011 (KP Act No. XII of 2011), deals with the post of Primary School Teachers (PST) only, while the appellant is an SPST, BPS-14, hence, the reference given by the appellant is wrong and unlawful. In addition no SPST vacant post is available at GPS Swari and GPS No.2 Rega, hence, the appellant can not be adjusted there. Furthermore, as per rules, an employee does not have vested right to claim for adjustment at a specific school of his choice. He is liable to serve anywhere within his district, post and cadre in the public interest.

19. Incorrect and hence denied. Already explained in the preceding para.

20. Incorrect and hence denied. The appellant is illegally sitting at GPS Alagram after expiry of his leave. It is further submitted that he had been adjusted at GPS Gujar Abad after expiry of his leave, where he did not take over charge and remained absent, being non-compliant with the official order/adjustment. Due to his absence, his salary was stopped and he was issued with a showcause notice, which after proper procedure culminated in his reduction to lower post and scale. Furthermore, the appeal is not justified and accordance with rules and policy, therefore, the instant service appeal may be set aside on the following grounds: **(Final adjustment order is attached as annexure "L")**

GROUND:

A. Incorrect hence strongly denied. The mentioned adjustment order has been made in accordance with the law, rules and policy. There is no legal infirmity. In this regard Section 10 of the Civil Servants Act 1973 provides sufficient clearance which reads as follows:

"Posting and transfer: - Every civil servant shall be liable to serve anywhere within or outside Pakistan, in any equivalent or higher post under the Federal Government, or any Provincial Government, or local authority, or a corporation or body set up or established by any such Government."

His adjustment was lawful, however, the same has already been modified, hence the present appeal is infructuous.

B. Incorrect and hence denied. Section 3 of The Khyber Pakhtunkhwa Appointment, Deputation, Posting and transfer of teachers, Lecturers, Instructors and Doctors Regulatory Act 2011 (KP Act No. XII of 2011), deals

with the post of PST only, while the appellant is an SPST, BPS-14, hence, the reference given by the appellant is wrong and unlawful. His adjustment was lawful, however, the same has already been modified, as explained at para 1 of Preliminary Objections and paras 11, 14 and 15 of the Facts, hence the present appeal is infructuous.

C. Incorrect and hence denied. The Respondent No.1 acts as per rules and policy. No discrimination has been made with the appellant. Rather the appellant has violated the rules regulations and crushed legal official order of his adjustment under his feet, thereby, rendered himself to be guilty of absence, inefficiency and misconduct.

D. Incorrect and hence denied. Already explained at para 8 of the Facts.

E. Incorrect and hence denied. Already explained at para 11 of the Facts.

F. Incorrect and hence denied. The para is irrelevant, and has been added by the appellant's counsel just to complicate the issue of simple adjustment after expiry of his leave. The appellant is narrating story of the past which has no relevance with the instant appeal. In the instant case, the appellant had not only refused to obey the order of the Competent Authority by not assuming the charge at the new school for quite long time but also presented himself as undisciplined official.


G. Incorrect and hence denied. Already explained at para 18 of the Facts.

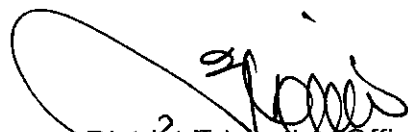
H. Incorrect and hence denied. Already explained at para 20 of the Facts.


I. Incorrect and hence denied. Already explained at para 20 of the Facts.

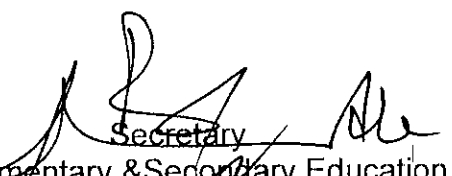
The respondents also seek permission of this Honourable Court to rely on additional grounds at the time of arguments.

In view of the above noted submissions, it is humbly requested that this Honourable Court may very graciously be pleased to dismiss the instant suit with cost in favour of the respondents.


SDEO (M) Chagarzi
Buner


District Education Officer (M)
Buner


Director
Elementary & Secondary Education
Peshawar


Secretary
Elementary & Secondary Education
Peshawar

BEFORE THE KHYBER PAKHTUN KHAWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1270/2023

Inayat Ullah

V/S

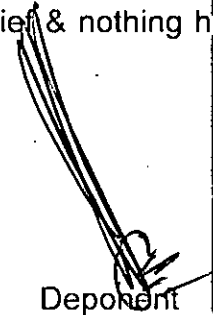
Appellant

District Education Officer Male District Buner & OTHERS

Respondents

AFFIDAVIT

I, Ubaid ur Rahman, Superintendent BPS-17, District Education Office (Male) Buner, do hereby solemnly affirms & state on oath that the whole contents of the comments are true & correct to the best of my knowledge & belief & nothing has been concealed from this Honourable Court.



Deponent

15101-0882586-3



Amdone "A"



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OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-555110
EMAIL: edobuner@gmail.com

226

NOTIFICATION.

1. **WHEREAS**, Mr Inayatullah SPST GPS Algram, under adjustment at GPS Gujjar Abad, was on extra ordinary leave 01/3/2022 to 20/12/2022 which was due to expire on 20/12/2022.
2. **AND WHEREAS**, after the expiry of his leave, he neither reported submitted his arrival to the office of the undersigned nor to the SDEO concerned for further adjustment.
3. **AND WHEREAS**, the SDEO Chagharzi vide his office letter No. 126 dated 13/02/2023 intimated this office regarding the expiry of his E.O.L and requested his further adjustment.
4. **AND WHEREAS**, the DEO, as the Competent Authority, made an order of his adjustment at GPS Gujjar Abad vide this office Endst No. 802-05 dated 17/02/2023.
5. **AND WHEREAS**, he failed to comply with his adjustment order and did not take over charge of his duty at GPS Gujjar Abad and remained absent since then..
6. **AND WHEREAS**, the Competent Authority issued him show cause notice vide this office Endst No. 873-77 Dated 20/02/2023 under rule 7, dispensing with the inquiry for the reasons that the non-compliance, misconduct and absence had sufficient valid and reliable evidence and did not need any further inquiry.
7. **AND WHEREAS**, he submitted reply to the showcause notice which was perused by the Competent Authority, however, his reply to the show cause notice was unsatisfactory and devoid of valid reasons and defense on sound basis.
8. **AND WHEREAS**, the DEO, as the Competent Authority, called him for personal hearing vide this office Endst No. 1089 dated 03/03/2023.
9. **AND WHEREAS**, he appeared before Deputy DEO, as authorized by DEO to afford personal hearing for to him, where he recorded his answers to the questions in black and white on 20/03/2023.
10. **AND WHEREAS**, his reply to the questions during personal hearing was also found unsatisfactory.
11. **AND WHEREAS**, keeping in view allegations in the showcause notice, his reply to the allegation given therein followed by affording personal hearing on dated 10/03/2023, all allegations of absence misconduct and inefficiency have been proved.
12. **NOW, THEREFORE**, in exercise of the powers conferred under rule 4(b)(i) of the Khyber Pakhtunkhwa Govt Servants (Efficiency & Discipline) Rules 2011, as amended vide Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) No.SO(Policies)E&AD/2-6/2021 Peshawar Dated the 31/12/2021, I, Mr. Iftikhar Ul Ghani DEO(M) Buner as the Competent Authority, am pleased to impose major penalty of "Reduction to lower post and pay scale from SPST BPS 14 to PST BPS 12 for maximum period specified in rule 4(b)(i)" upon Mr. Inayatullah SPST GPS Gujjar Abad. The intervening period w.e.f 21/12/2022 to 31/05/2023 is treated as leave without pay.
In consequence of the above, since, as per sub section 3 of section 3 (proviso) of the Khyber Pakhtunkhwa (Appointment & Transfer of the Teachers, Lectures Instructors and Doctors Regulatory Act:2011, PST, BPS -12 is a Union Council based post, , therefore, he is hereby adjusted at GPS Bishpur (U/C Rega, Tehsil Gagra) which is union council of his domicile.

Note: Necessary entry to this effect should be made in his Service Book accordingly.

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

Endst No. 2590-96 Dated 31/5/2023.

Copy is forwarded for information to the;

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa.
2. Deputy Commissioner Buner.
3. District Monitoring Officer Buner.
4. District Accounts Officer.
5. SDEOs(M) concerned.
6. Official concerned.
7. Master File.

DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

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(223) (10)



GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER
MALE KHU DHU KHUEL BUNER
Phone #-03474766597/03412238561 Email: sdeokhudukhel@gmail.com



No-2114 dated 15-04-2023

To

The District Education Officer

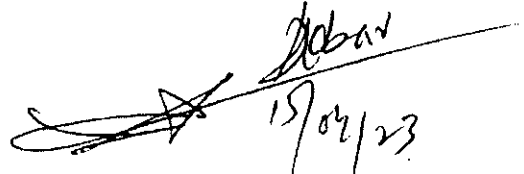
(Male) Buner

Subject: Non-Compliance report in R/O Inayat Ullah SPST GPS Gujar Abad Khudu khel Buner

Memo:

In compliance of your worthy office order no-802-05 dated 17-02-2023, it is reported that Mr. Inayat Ullah SPST has not takenover charge of his duties uptill now i.e., 15-04-2023.

Hence Non-compliance report is submitted for further necessary action please.


15/04/23

SUB DIVISIONAL EDUCATION OFFICER
MALE BUNER

ADEOC B# 2014
15/4/23
Hossein
Ghous



GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER
MALE KHIDU KHEL BUNER

Phone 03474766597/03412238561 Email: sdeokhudukhel@gmail.com



No-2114 dated 15-04-2023

Amend "C"

225

11

To

The District Education Officer

(Male) Buner

Subject: Non-Compliance report in R/O Inayat Ullah SPST GPS Gujar Abad Khudu khel Buner

Memo:

In compliance of your worthy office order no-802-05 dated 17-02-2023, it is reported that Mr. Inayat Ullah SPST has not takenover charge of his duties uptill now i.e., 15-04-2023.

Hence Non-compliance report is submitted for further necessary action please.

[Signature]
15/04/23

SUB DIVISIONAL EDUCATION OFFICER
MALE BUNER

AD EOC BUNER
15/4/23
[Signature]

Amal ID 11

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12



OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-510468
EMAIL: edobuner@gmail.com



SANCTION.

As approved by the competent authority sanction is hereby accorded to the grant of E.O.Leave./Earned leave with effect from 08/05/2019 to 05/10/2019(120 days with full pay and 30 days with out pay), in R/O Inayatullah SPST GPS Sowari under Khyber Pakhtunkhwa revised leave rules 1981 read with District Govt; rules of Business 2001 amendment made vide SO(LG-1)3-196 EM/2005.as recommended by the Sub-Divisional Education Officer (M) Gagra.

Note :-

Necessary entry to this effect should be made in his S/Book accordingly.

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
BUNER.

Endst;No. 3236-38 / Dated 9/5 /2019.

Copy is forwarded for information to the;-

1. District Accounts Officer Buner at Daggar.
2. Sub-Divisional Education Officer (M) Gagra.
3. Official Concerned.

Sher Zada

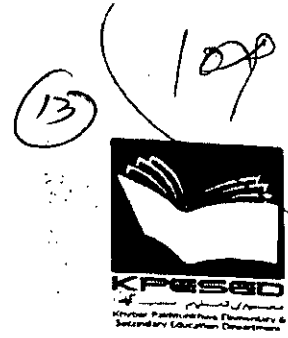
DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER.

[Handwritten signatures]

[Handwritten signature]



Amend me "E"



OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-555110
EMAIL: edobuner@gmail.com

LEAVE SANCTION

The Competent Authority is pleased to grant sanction of Extra Ordinary Leave (E.O.L) in r/o Mr. **Inayatullah SPST GPS Alagram** with effect from **01-03-2022 to 20-12-2022 (9 months & 20 days) without pay** as due and admissible to him under the Khyber Pakhtunkhwa Revised Leave Rules 1981. as recommended by the SDEO(M) Gagra vide his office Endst No.417 dated 21/01/2022.

Note:- 1.Necessary entry should be made in his Service Book accordingly.

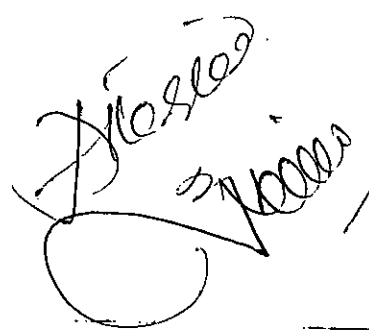
(IFTIKHARUL GHANI)
DISTRICT EDUCATION OFFICER (M)
BUNER.

Endst; No. 43-97 / Dated 01/02 /2022.

- Copy is forwarded for information to the; -
1. District Accounts Officer Buner at Dagger.
 2. Education Monitoring Authority EMA Buner.
 3. SDEO(M) Gagra.
 4. Official concerned.


DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER.

13/22



Handwritten text in Urdu, including the name "سر ایف ڈی بی" (Mr. F.D.B.) and other illegible notes.

جی ڈی ایس الہ گرام میں طلباء کی تعداد 155 جبکہ اساتذہ کی
تعداد بجمولہ 54 ہے۔
EMIS کوڈ 24007

No objection transferred

Handwritten signature and stamp of the Board of Technical Education, Islamabad, dated 14-3-2023.

Handwritten signature of Shauq Ali Khan and a stamp dated 15/3/2023.

Large handwritten signature at the bottom of the page.



Amexce "6"

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OFFICE OF THE SUB DIVISIONAL EDUCATION
(M) CHAGARZI DISTRICT BUNER

No. 126 /

Dated: 13 / 02 / 2023

To

The District Education Office (M)
Buner.

Subject: ADJUSTMENT OF MR. INAYAT ULLAH (SPST) GPS
ALAGRAM.

Memo:

Reference to the subject cited above, it is submitted for your kind information and further necessary action that Mr. Inayat Ullah (SPST) had taken EOL w.e.f 1-3-2022 to 20-12-2022 (9 Months and 20 Days). Now the leave of the official concerned has expired.

Therefore his adjustment may please be made at any school.

SUB DIVISIONAL EDUCATION
OFFICER (M) CHAGARZI BUNER

ADEO (BUNER) P.S.

12782 was adjustment order.

9
14/1/23
Jalal
Green



Amre Khan H

(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-555110
EMAIL: cdobuner@gmail.com

16

SHOW CAUSE NOTICE

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I, Mr. Ifikhar Ul Ghani, District Education officer (M) Buner, as a Competent Authority, under the Khyber Pukhtunkhawa Government Servant (Efficiency & Discipline) Rules 2011, do hereby serve upon you, Mr. Inayatullah SPST, under-adjustment at GPS Gujar Abad tehsil Khado Khel District Buner, this show cause notice as follow:-

1. That on expiry of your Extra Ordinary Leave (without pay) issued vide this office No.483-87 Dated 01/02/2022, you neither informed your concerned SDEO nor this office in order to adjust you against any vacant SPST post and remained absent w.e.f 21/12/2022 till date, however, reportedly, you adjust yourself in a certain school without informing the SDEO and proper order/approval of the undersigned, thereby exercising the authority of the DEO, which is utter violation of rules and regulations.
2. That the SDEO concerned sent a letter to this office requesting therein to adjust you after expiry of your leave. In the light of the aforementioned letter you were adjusted at GPS Gujar Abad Tehsil Khadu Khel vide this office order No. 802-05 dated 17/2/2023, where you have not taken over charge as yet.
3. That after your adjustment, you pressurize the undersigned to adjust you at a nearest station, which was not possible due to available vacancies, owing to which you started blackmailing and defaming the undersigned on social media, which is violation of the Conduct Rules 1987, sub-rules (21), (24), (25) and (34-A sub-rules (1)(2)).
4. That you blatantly defame the undersigned and disseminate perverse comments/information through social media on shaky and flimsy grounds, reprimanding, tongue-lashing and condemning official business of the Government as well as the undersigned just to instigate and instigate teachers fraternity and general public against this office, which is an utter violation of Conduct Rules 1987, sub-rules (21), (24), (25) and (34-A sub-rules (1)(2) of the rules ibid and E&D Rules 2011.
5. That you stigmatize, malign and slag off the character of certain officers of this Department including the undersigned without any proof by posting unauthorized, baseless information through various comments on various posts on facebook.
6. That you are guilty of continuously creating embarrassing situation for the Govt. as well as Elementary and Secondary Education Department by propagating falsification and misrepresentation of facts and figures.
7. That you are guilty of professional dishonesty, abetment, inefficiency and misconduct under Rule-3 (a) (b) of the Khyber Pukhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 read with Conduct Rules 1987, sub-rules (21), (24), (25) and (34-A sub-rules (1)(2) of the rules ibid.
8. That you have ceased to be efficient and are guilty of misconduct and liable to be proceeded under the rules for the charges given hereinabove.

2. In terms of Rule-5 (a) of the Khyber Pukhtunkhwa Government Servants (Efficiency and Discipline) Rules- 2011, I, as a Competent Authority dispense with the inquiry and serve you with a showcause notice under Rule-7 of the ibid rules.

3. By reasons of the above, you appear to be guilty of inefficiency and misconduct under Rules 3 (a) and (b) defined in Rules 2 (I) (i), (ii) (iii) and (v) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, read with rules (21), (24), (25) and (34-A sub-rules (1)(2) of Conduct Rules 1987 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.

4. As a result thereof, I, as the Competent Authority, have tentatively decided to proceed against you under the above mentioned rules. You are, therefore, required to show cause as to why one of the major/minor penalties specified in **Rule 4 of the Khyber Pukhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011**, should not be imposed upon you and also intimate whether you desire to be heard in person. If no reply to this office is received within 07 days of its delivery, it shall be presumed that you have no defense to put in and in that case Ex-parte action will be taken against you, which may culminate in your **removal from service**.

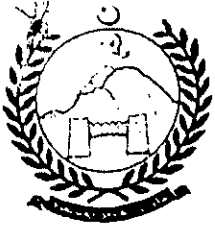
(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
BUNER

Endst: No. 873-17 / Dated 20/2 /2023.

Copy forwarded to:-

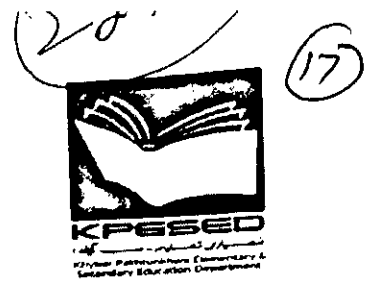
- 1- The Director of Elementary and Secondary Education Khyber pukhtunkhwa, Peshawar.
- 2- SDEO (M) Khadu Khel and Chagharzi.
- 3- DMO, EMA Buner.
- 4- The Official Concerned.
- 5- Master File

DISTRICT EDUCATION OFFICER (M)
BUNER 20/2/23



Amended #11

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-510468
EMAIL: edobuner@gmail.com



OFFICE ORDER.

Consequent upon the expiry of E.O. leave on 20/12/2022, the Competent Authority is pleased to adjust Mr. Inayatullah SPST at Govt: Primary School Gojjar Abad in the best interest of public service.

Note :-

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

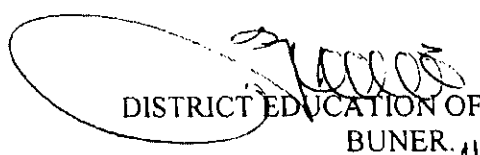
(IFTIKHR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
BUNER.

Endst;No. 802-051

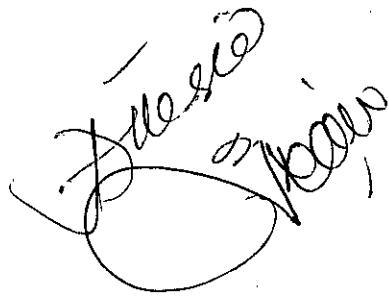
Dated 17/02 2023.

Copy is forwarded for information to the;-

1. District Accounts Officer Buner at Daggar.
2. District Monitoring Officer Buner
3. Sub Divisional Education Officers concerned (M) Buner.
4. Official concerned.


DISTRICT EDUCATION OFFICER (M)
BUNER.

17/2/23



Annexure T

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ADLEO (ESTB = P 04)

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To,

The District Education Officer

Buner at sawari

Subject: Reply of show cause notice by Inayat Ullah SPST presently performing his duty as SPST at GPS Alagram Tehsil Chagharzi Distt" Buner.

Preliminary Objections:

- 1) That the show cause notice Issued by DEO (M) BUNER (Iftikhar UI Ghani) is base on malafide and ill-well of DEO (M) Buner (Iftikhar UI Ghani) and has no effect on me.
- 2) That I Inayat Ullah was posed by education department as SPST at GPS Alagram against the transfer/posting and appointment Act-2011 and I performing my duty at GPS Alagram since 29-10-2019.
- 3) That as per policy and Act, the behavior of DEO (M) Buner (Iftikhar UI Ghani) is discriminatory because I was posed as SPST in GPS Alagram in violation of rules and the posts of SPST were vacant in UC Rega and adjacent UCs.
- 4) That my application for leave the concerned authorities were pleased to grant me 9 months & 20 days leave, and before expiry of leave I made application to DEO (M) Buner (Iftikhar UI Ghani) for transfer and adjustment to nearby schools lying vacant in UC Rega etc which was forwarded to the DEO (M) Buner (Iftikhar UI Ghani) through proper channel (copy attached).
- 5) That on 21-12-2023 I joined my duty in GPS Alagram and charge report was forwarded to concerned authorities copy attached.
- 6) That the behavior of DEO (M) Buner (Iftikhar UI Ghani) is discriminatory with me and DEO (M) Buner (Iftikhar UI Ghani) in violation of rules, regulation and Act issued an illegal order dated 17-02-2023 and adjusted me at GPS Gujjar Abad.
- 7) That the below impugned transfer/adjustment order was neither sent to me nor I was informed by DEO (M) Buner (Iftikhar UI Ghani) etc.
- 8) That the proper procedure was not adopted by DEO (M) Buner (Iftikhar UI Ghani) which indicate the ill-well of DEO (M) Buner (Iftikhar UI Ghani).
- 9) That on 17-02-2023 the impugned order was issued which was not even sent to me but on the next working day DEO (M) Buner (Iftikhar UI Ghani) visited GPS Gujjar Abad and a show cause notice was issued against me which further indicate the ill-well of DEO (M) Buner (Iftikhar UI Ghani).

The parawise reply of show cause notice is as below...

- 1) It is stated that concerned authority provided leave to me which was expired on 20-12-2022 and before expiry of my leave, I filed application for adjustment and transfer to near by schools laying vacant in UC Rega etc. as per transfer and posting Act-2011 on 07-12-2022 the SDEO (M) Chagharzi through proper channel and after expiry of my leave I assumed my duty at GPS Alagram on 21-12-2022 and charge report was maintained and has been sent to officials on 21-12-2022. So no violation was made by me. (Copy of application and charge report is attached as annexer A).
- 2) It is stated that I assumed my charge and duty in GPS Alagram and has already informed concerned authorities in this regard and was not informed by any one regarding illegal order of

ADLEO (ESTB = P 04)
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Sawari

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transfer/adjustment dated 17-12-2023 as the transfer/adjustment order was even not sent to me till now and para 2 of show cause notice is contradiction to para 1.

- 3) The para No.3 of show cause notice is incorrect hence denied as I have not pressurised the DEO (M) Buner (Iftikhar UI Ghani) but according to section 3 of transfer/posting and appointment act-2011 made application to DEO (M) Buner (Iftikhar UI Ghani) through proper channel which was neglected by the DEO (M) Buner (Iftikhar UI Ghani) without any legal cause but in violation of transfer/posting and appointment act-2011 I was illegally transferred to GPS Gujjar Abad which is situated in tehsil khudokhel and post of SPST is laying vacant in GPS Swari UC Rega as I belong to UC rega, so mere allegations were made against me to pressurise me to follow the illegal order transfer/adjustment wich is base on ill-well of DEO (M) Buner (Iftikhar UI Ghani).
- 4) That para No.4 of show cause notice is incorrect hence denied and I have not made any social media comments against DEO (M) Buner (Iftikhar UI Ghani) but DEO (M) Buner (Iftikhar UI Ghani) made baseless allegations against me which is violations & of law, regulations and fundamental right of me and I was tortured by sending the show cause notice and charging me allegations.
- 5) Para No.5 of the show cause notice is incorrect hence denied and I have made no unauthorized ,baselss information through various comments on facebook regarding DEO (M) Buner (Iftikhar UI Ghani), but allegations were made against by this show cause notice.
- 6) That the para No.6 of the show cause notice is incorrect & denied and I have never creating embarrassing situation for the govt as well as E & S E department by propagating falsification and miss representation of facts and figures but serious allegations were made against me by the DEO (M) Buner (Iftikhar UI Ghani).
- 7) That the para No.7 of show cause notice is incorrect hence denied and I have committed no offence and I am honest and a professional teacher and performing my duty efficiently but the DEO (M) Buner (Iftikhar UI Ghani) have charged me with serious allegations without any proof and I was mentally tortured by the baseless allegations of DEO (M) Buner (Iftikhar UI Ghani).

8/1) That I have committed no offence but mere allegations were made against me which is the violations of my fundamental rights and indicated the ill-well of DEO (M) Buner (Iftikhar UI Ghani), who has miss used his power and post which is also the violations of law & regulations.

8/2) That the show cause notice sent to me is the violation of law, rules and regulations as I have committed no mistake but DEO (M) Buner (Iftikhar UI Ghani) on one pretext or other trying to pressurize me through this illegal show cause notice.

8/3) I have committed no offence but an illegal show cause notice has been issued against me which is violation of law, rules & regulations as baseless allegations were made against me in the show cause notice.

8/4) That this show cause notice has been issued against me just to provide illegal cover to illegal order and a action of DEO (M) Buner (Iftikhar UI Ghani) as I have committed no offence and you have charged me with serious allegations without any proofs and I was mentally tortured due to your baseless and serious allegations & I have rights to file damages suit against you in the competent court of law.

So it is most humbly prayed that the show cause notice dated 20-02-2023 issued against me, may please be dropped in the best interest of justice and fairplay.

سوال نمبر 20: سرپرست کے آئی ای ایس کے منتظم ہونے سے پہلے کے دوران
کے دوران منابت اللہ کے لیے کوئی درخواست کیوں نہیں دی گئی؟

جواب: 20 دسمبر 2022 کو میری چھٹی ختم ہونے پر میری تمہیں جبکہ ڈی ای او نے (3) پوزیشن کو میں ایڈمنسٹریٹو ایڈوائز
کیے اور 12/12/2022 کو ایک درخواست آئی تھی جسے ایڈمنسٹریٹو ایڈوائز نے جی ای ایس ای او اور SDEO صاحبان نے
مزید کارروائی کی تھی۔ اور اس درخواست کی نقل میں نے ہی دفتر SDEO میں بھیجا تھا اور PA کو DEO سے اس کی وصولی کی دستخط بھی لی تھی۔ اور یہ نقل 16/12/2022 کو PA کے دفتر میں جمع کیا۔ (نقل نمبر 20)
اور ڈی ای او صاحب نے ٹرانسفر کا خواہشمند اساتذہ سے درخواستیں طلب کی تھیں اور میں درخواست
SDEO جنوری کو ایک سٹاف ممبر کے پاس خود ان تائب فائدہ دہی عمار کو درخواست برائے تبادلہ
جمع کی۔ (نقل نمبر 20)

سوال نمبر 21: چھٹی ختم ہونے کے بعد آپ نے کیا کیا؟
جواب: 20 دسمبر 2022 کو میری چھٹی ختم ہو رہی تھی اور 21 دسمبر 2022 کو میں نے جی ای ایس ای او کے

میں جاری کیا۔ اور اسی دن یعنی 21 دسمبر 2022 کو میں جاری رپورٹ بہت ختم اللہ SPST میں
ایس ای او میرے SDEO کے دفتر میں جمع کیا۔ اور موسم سرما کے چھٹیوں تک جی ای ایس ای او کے
اپنی ڈیوٹی جاری رکھی۔ اور موسم سرما کے چھٹیوں شروع ہوئی۔ اور اور ابھی تک جی ای ایس
ایس ای او میں اپنی ڈیوٹی انجام دے رہا ہوں۔ (نقل نمبر 21)

سوال نمبر 22: جی ای ایس ای او کے تبادلہ کے لیے کیا کیا؟
جواب: آپ نے حکم عدول کی کیا کیا؟

جواب: 1۔ موسم سرما کے چھٹیوں میں یعنی 17/12/2022 کو SDEO نے میری ایڈمنسٹریٹو جی ای ایس ای او کے تبادلہ میں
کردی۔ اور ایک ہفتہ پہلے آفس آؤٹ میں نہیں ملا۔ اور اگلے روز ڈی ای او صاحب نے سہولتوں کے لیے کہا
کہ آپ ابھی تک غیر حاضر ہیں اور آپ نے ابھی تک تبادلہ میں جاری نہیں کیا۔ حالانکہ میں ٹرانسفر ایڈوائز
کیے۔ 12-11-2022 کو درخواست دی تھی کہ جی ای ایس ای او کے تبادلہ میں جی ای ایس ای او کے تبادلہ میں
DM کو درخواست دی جاے تاکہ میری ایڈمنسٹریٹو جی ای ایس ای او کے تبادلہ میں کر دیا۔ اور تبادلہ جی ای ایس ای او کے تبادلہ میں
اور اسے جی ای ایس ای او کے تبادلہ میں کر دیا۔ اور یہ سب میری ایڈمنسٹریٹو جی ای ایس ای او کے تبادلہ میں کر دیا۔

Handwritten signature and notes at the bottom of the page.



Amee Kne " LV



OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-555110
EMAIL: edobuner@gmail.com

NOTIFICATION.

1. **WHEREAS**, Mr Inayatullah SPST GPS Alagram, under adjustment at GPS Gujjar Abad, was on extra ordinary leave 01/3/2022 to 20/12/2022 which was due to expire on 20/12/2022.
2. **AND WHEREAS**, after the expiry of his leave, he neither reported submitted his arrival to the office of the undersigned nor to the SDEO concerned for further adjustment.
3. **AND WHEREAS**, the SDEO Chagharzi vide his office letter No. 126 dated 13/02/2023 intimated this office regarding the expiry of his E.O.L and requested his further adjustment.
4. **AND WHEREAS**, the DEO, as the Competent Authority, made an order of his adjustment at GPS Gujjar Abad vide this office Endst No. 802-05 dated 17/02/2023.
5. **AND WHEREAS**, he failed to comply with his adjustment order and did not take over charge of his duty at GPS Gujjar Abad and remained absent since then..
6. **AND WHEREAS**, the Competent Authority issued him show cause notice vide this office Endst No. 873-77 Dated 20/02/2023 under rule 7, dispensing with the inquiry for the reasons that the non-compliance, misconduct and absence had sufficient valid and reliable evidence and did not need any further inquiry.
7. **AND WHEREAS**, he submitted reply to the showcause notice which was perused by the Competent Authority, however, his reply to the show cause notice was unsatisfactory and devoid of valid reasons and defense on sound basis.
8. **AND WHEREAS**, the DEO, as the Competent Authority, called him for personal hearing vide this office Endst No. 1089 dated 03/03/2023.
9. **AND WHEREAS**, he appeared before Deputy DEO, as authorized by DEO to afford personal hearing for to him, where he recorded his answers to the questions in black and white on 20/03/2023.
10. **AND WHEREAS**, his reply to the questions during personal hearing was also found unsatisfactory.
11. **AND WHEREAS**, keeping in view allegations in the showcause notice, his reply to the allegation given therein followed by affording personal hearing on dated 10/03/2023, all allegations of absence misconduct and inefficiency have been proved.
12. **NOW, THEREFORE**, in exercise of the powers conferred under rule 4(b)(i) of the Khyber Pakhtunkhwa Govt Servants (Efficiency & Discipline) Rules 2011, as amended vide Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) No.SO(Policies)E&AD/2-6/2021 Peshawar Dated the 31/12/2021, I, Mr. Iftikhar Ul Ghani DEO(M) Buner as the Competent Authority, am pleased to impose major penalty of **"Reduction to lower post and pay scale from SPST BPS 14 to PST BPS 12 for maximum period specified in rule 4(b)(i)"** upon Mr. Inayatullah SPST GPS Gujjar Abad. The intervening period w.e.f 21/12/2022 to 31/05/2023 is treated as leave without pay.
In consequence of the above, since, as per sub section 3 of section 3 (proviso) of the Khyber Pakhtunkhwa (Appointment & Transfer of the Teachers, Lectures Instructors and Doctors Regulatory Act:2011, PST, BPS -12 is a Union Council based post, , therefore, he is hereby adjusted at **GPS Bishpur (U/C Rega, Tehsil Gagra) which is union council of his domicile.**

Note: Necessary entry to this effect should be made in his Service Book accordingly.

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

Endst No. 2590-96 Dated 31/5 /2023.

Copy is forwarded for information to the;

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa.
2. Deputy Commissioner Buner.
3. District Monitoring Officer Buner.
4. District Accounts Officer.
5. SDEOs(M) concerned.
6. Official concerned.
7. Master File.


DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

BEFORE THE KHYBER PAKHTUN KHAWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1270/2023

Inayat Ullah

V/S

Appellant

1. District Education Officer Male District Buner & OTHERS

Respondents

AUTHORITY LETTER

Mr. Ubaid Ur Rahman, Superintendent BPS-17, Office of the District Education Officer Elementary & Secondary Education Buner is hereby authorized to submit Para Wise Comments on behalf of the undersigned in connection with service appeal No. 1270/2023 in case titled Inyat Ullah Versus District Education Officer Male Buner and Others in the Honorable Court of Service Tribunal Peshawar Khyber Pakhtun Khawa.



**DISTRICT EDUCATION OFFICER
MALE DISTRICT BUNER**