

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Service appeal No. 976/2023.

Shams Ur Rehman.....Petitioner.

Versus

Secretary E & SE Department & others.....Respondents

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Date of hearing 13, 07, 2023

[Signature]
District Education Officer
(Male) Kurram
(Respondent No.2)

①

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Service appeal No. 976/2023

Shams Ur Rehman.....Petitioner

Member Pakhtunkhwa
Service Tribunal

Diary No. 6356

Versus

Dated 11/7/2023

Director E & SE and other.....Respondents

Comments on behalf of Respondent No. 1 & 2.

Preliminary objections.

- That the appellant has got no cause of action, locus standi to file the instant appeal.
- That the appellant has not come to this Hon'ble Tribunal with clean hands.
- That the appeal is not maintainable in the present form.
- That the appellant is estopped by his own conduct to bring the instant appeal.
- That the appellant has concealed material facts from the Honorable Service Tribunal.
- That the reinstatement/reappointment order in respect of the appellant is based on the recommendations of inquiry committee, as he desired in his departmental appeal, and according to the rules and policy.

ON FACTS

1. That para-1 pertains to record.
2. That para-2 pertains to record.
3. That para-3 is correct, the appellate authority i.e. Director of Education E&SE processed the appeal of the appellant for inquiry according to rules and policy, where after the departmental inquiry he was recommended for reinstatement/ reappointment into service with immediate effects.
(Departmental appeal attached as Annexure.....A)
4. That para- 4 pertains to record.
5. Denied and incorrect, that the appellant was not removed from service, as the salary was not started and he was on probation period, his order was cancelled/withdrawn by the then DEO Kurram.
6. That the respondent department reinstated/reappointed the appellant in light of the inquiry recommendations in true letter and spirit.
7. That the appellant was misleading his Headmaster / in-charge of the School concerned, and produced attendance register as a proof of his presence in the school, so the appellant was found absent during the surprise visit of ADEOs on 10.3.2023 and 11.3.2023 then he was reported to DEO Kurram whereby a show cause notice was served to him but later on the said notice was withdrawn. **(Annexure.....B)**

8. That the appellant appointment order was withdrawn / cancelled and he was making his attendance in school register illegally after receiving the cancellation order of his appointment. The appellant was later on reinstated in true letter and spirit as recommended by the inquiry committee. Moreover the appellant is not entitled for arrear on the principle of "No work no pay".

(Recommendations of the inquiry committee annexed as ANNEXURE.....C)

9. The appellant has got no cause of action to file the instant appeal.

GROUNDS.

A. **Incorrect and denied**, the responded department treated the appellant as he desired in his appeal and according to the Law / Policy.

B. **Incorrect and denied**, the respondent department has acted according to the rules policy, and the respondent has not violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C. **Incorrect and denied**, respondent department has not violated of Section 17 of the Khyber Pakhtunkhwa Civil Servant Act 1973.

D. **Incorrect and denied**, detail reply has already been submitted above under para 7 on facts above.

E. **Incorrect and denied**, detail reply has already been submitted above under para 3 on facts above.

F. **Incorrect and denide**, the respondent have not violated any fundamental right of the appellant.

G. Respondents also seek permission of Honorable Tribunal to raise additional grounds at time of hearing.

Prayer:

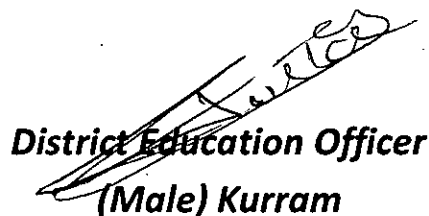
In the light of the above stated facts, it is requested to dismiss the case of the appellant.

Respondent No.1


Director E&SE

Khyber Pakhtunkhwa, Peshawar

Respondent No.2


District Education Officer
(Male) Kurram

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Service appeal No. 976/2023

Shams Ur Rehman.....Petitioner.

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AFFIDAVIT

I Faridullah, District Education Officer (Male) Kurram, the above respondent No.2 do hereby declare and affirm that the above comments are true and correct to the best of my knowledge and thereof noting has been concealed from this Honorable Tribunal. It is further stated that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off./cost.

ATTESTED



6/7/2023

Deponent

Faridullah
Faridullah
DEO (M) Kurram
CNIC- 12101-8999165-1
Contact- 03339953441

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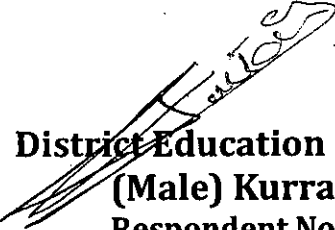
OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) KURRAM



Email: deokurram110@gmail.com

Authority Letter

Mr. Mohammad Shah SCT focal person for Litigation of this office is hereby authorized to submit reply and represent this office in the instant Service appeal No.976/2023 on behalf of the respondent No.2.


District Education Officer
(Male) Kurram
Respondent No.2

درخواست برائے دوبارہ تصدیق (5)

شمس الرحمن ولد گلیا سہیل خان David
سیخا ورجان ولد شہیر راجان Sweper
Gms Malhrani Kurram

صاف بنائی

آرڈر میں ہے کہ سائڈنگ کا آرڈر نمبر 97-8389 صرف 16-7

میں کیسے ثابت ہوا اور سوشل سیکورٹی کا

میں نے ناقاعدہ کا رول لیا اور اسے اپنا کوئی بھی نہیں کرنا

صورت 13-9 اور آرڈر نمبر 27-8722 DEO کرم نے بلاوے

بھارت تصدیق کیں گے جو بھارت ساتھ ساتھ ظہر ہے
میں نے ناقاعدہ آئیڈنٹیفیکیشن کے ٹکٹ میرٹ اور تصدیق ہوئے
اند میں اسے کوئی ناقاعدگی سے مستہ انجام دے رہے ہیں

تصدیق فرمائی گئی ہے۔ بھارت تصدیق کا دوبارہ احکامات جاری ہوئے

عین نور احمد

مدرسہ 23-9-21

AD
DAE
24/9

سائڈنگ 0302-9370878

شمس الرحمن ولد گلیا سہیل خان David
سیخا ورجان ولد شہیر راجان Sweper
Gms Malhrani Kurram

Attested
Asad

25/9
ادیشن 21/9/21

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**OFFICE OF THE DISTRICT EDUCATION OFFICER
KURRAM AT SADDA**

Email Address: dydeolkcksadda@gmail.com

Phone No. 0926-520674



File No. 1159-61,

dated Sadda 15/8/2023

Office Order:

The following show cause notice issued by this office is hereby withdrawn due to wrong reported by ADEO (P&D) ADEO Estab CKand LK and ASDEO Central Kurram are as under:

1. Sajjad sweeper GMS Makhraji central Kurram vide this office no 1015-20 dated 8/4/2023.
2. Shamsu Rehman GMS Makhraji Central Kurram vide this office no 1009-14 dated 8/4/2023

[Signature]
District Education Officer
Kurram at Sadda

Encls: No. _____

Copy to the:

1. Deputy Commissioner, Kurram at Parachinar.
2. PA to Director E&SE, Khyber Pakhtunkhwa, Peshawar

*Attested
[Signature]*

[Signature]
District Education Officer
Kurram at Sadda

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To

The Director Elementary & Secondary Education,
Khyber Pakhtunkhwa Peshawar.

SUBJECT: INQUIRY

As per the letter submitted by the DEO Kurram (M) to the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar vide End: No. 31-34/Edu dated 04/01/2023 regarding appeal for re instatement of two class- IV Mr. Shams ur Rahman and Mr. Sajjad Rahman Ex: class-IV GMS Makhranal district Kurram (letter is attached as ANNEX:7). The undersigned has been nominated as inquiry officer vide office order No:16215-19/FILE/DISTRICT KURRUM Dated 6/02/2023 to dig out the actual position of the subject case. (Nomination Notification is attached as ANNEX:1)

1. Proceedings:

- ❖ In response of the Notification cited above, the undersigned while going through the record prepared a questionnaire for district education officer kurram and was sent to him on his personal whats App No: 03339953441 on February 12, 2023 for reply please. (Questionnaire is Attached as ANNEX:2)
- ❖ The reply to the questionnaire along with record was received on 1/03/2023 through Malik Ameen PA to Additional Director NMDs. (Reply to the Questionnaire is attached as ANNEX: 3)
- ❖ Reply to the questions No.33 to 40 of the questionnaire was also submitted by then DEO Mr. Abbas Khan through separate letter no. Nill dated 27/3/2023 addressed to the present DEO Kurram. (Letter is attached as ANNEX:4)
- ❖ A separate statement of both the complainants Mr. Shams ur Rahman and Mr. Sajjad Rahman Ex: class-IV GMS Makhranal district Kurram was also recorded. (Statement of both complainants is attached as ANNEX: 5)

2. FACTS & FINDINGS:

While going through the reply to each question of the questionnaire and through the record, the following points were noted.

- a. The two class- IV Mr. Shams ur Rahman and Mr. Sajjad Rahman Ex: class-IV GMS Makhranal district Kurram were appointed as N/Qasid and sweeper vide District Education Officer Appointment order No:8389-97 dated 16/7/2021 by fulfilling all the Codal formalities. (Appointment order is attached as ANNEX:6)
- b. A detail report regarding the subject case has already been submitted to the directorate of E&SED by the district education officer vide End: No.31-34/Edu dated 4/1/2023. (Report is attached as ANNEX:7)

Attested
[Signature]

DDC/STAD
[Signature]
4/4/2023

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- c. As per reply submitted to the questions no.33 to 40 of the questionnaire by then DEO Kurrum Mr. Abbas Khan, he confessed that the cancellation order of the complainants were issued by the direction of the worthy director of E&SED Mr. Dr. Hafiz Muhammad Ibrahim through his Whats App Messages.(Whats App message was shown to the undersigned but not handed over)

3. OBSERVATIONS.

During the inquiry the following points have been noted by the undersigned

- a) The appointment order of the two class-iv issued by then district education officer is genuine and valid by fulfilling all the codal formalities.
- b) Why the Director E&SED issued cancellation order of the complainants through whats App. Message.
- c) Why the then DEO obeyed an illegal order of the competent authority with no cogent reason i.e. Director E&SED.

4. CONCLUSIONS.

The undersigned reached to the conclusion that the cancellation of appointment order issued by the Office of the District Education Officer Kurrum vides No.8722-27 dated 13/09/2021 in R/O Mr. Shams ur Rahman and Mr. Sajjad Rahman Ex: class-IV GMS Makhranal district Kurrum may be stand withdrawn.

On the basis of the above facts the undersigned recommends;

5. RECOMMENDATIONS.

- I. Mr. Shams ur Rahman and Mr. Sajjad Rahman Ex: class-IV GMS Makhranal district Kurrum may be freshly reinstated on their post with no back benefits as they have not performed their duty.
- II. Another high level inquiry may be constituted in order to find out the facts that why the Director E&SED issued such an illegal direction through his WhatsApp message and why then DEO kurrum implemented such illegal directions with no cogent reason.

Accepted
[Signature]

[Signature] 3/4/2025
Sheraz Ahmad
Inquiry Officer
/Ex:DEO(M) Mohmand