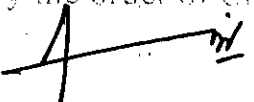


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

1469/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/07/2023	<p>The appeal of Mr. Umair Matloob resubmitted today by Mr. Kabir Ullah Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Umair Matloob Ex-Bahshiti GDC Khanpur Haripur received today i.e. on 10.07.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list is not attached with the appeal.
- 2- Appeal has not been flagged/marked with annexures marks.
- 3- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.

No. 1886 /S.T,


Dt. 11/7 /2023.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Kabirullah Khattak Adv.
High Court Peshawar.

objection No 1 & 2 has
been removed while
in response of objection No 3
It is stated that copy of
charge sheet, statement of allegation
show cause notice and reply
was not kept with appellants
which has properly mention
in para 3 of Facts of appeal


14-7-2023

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

Appeal No. 1469 of 2023

Umair Matloob Ex Bahashiti (BPS-03) Government
Degree College Khanpur District Haripur.

..... Appellant

VERSUS

1. Secretary to Government Higher Education KPK Peshawar.
2. The director Higher Education KPK Peshawar
3. Principal Degree College Khanpur District Haripur.
4. District Account Officer Haripur.

..... Respondents

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Through

Appellant


Kabir Ullah Khattak


Roeda Khan

Advocates, High Court, Peshawar

(1)

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

Appeal No. 1469 of 2023

Umair Matloob Ex Bahashiti (BPS-03) Government
Degree College Khanpur District Haripur.

..... Appellant

VERSUS

1. Secretary to Government Higher Education KPK
Peshawar.
2. The director Higher Education KPK Peshawar
3. Principal Degree College Khanpur District
Haripur.
4. District Account Officer Haripur.

..... Respondents

**APPEAL UNDER SECTION 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974, AGAINST
THE IMPUGNED ORDER DATED
06/02/2023 WHEREBY MAJOR PENALTY
OF REMOVAL FROM SERVICE WAS
IMPOSED TO THE APPELLANT AGAINST
WHICH THE APPELLANT FILED
DEPARTMENTAL APPEAL ON
17-03-2023 WHICH HAS NOT BEEN
DECIDED WITH IN THE STATUTORY
PERIOD OF NINETY DAYS.**

Prayer:

By acceptance of this appeal the impugned
order dated 06.02.2023 may kindly be set aside
and the appellant may kindly be reinstated on his
service along with all back benefits.

(2)

Any other remedy which this august tribunal deems fit that may also be onward granted in favor of appellant.

Respectfully Sheweth:

FACTS

The appellant respectfully submits as under:

- 1) That the appellant has been appointed as Bahashiti (BPS-03) with respondent Department since long time.
- 2) That after appointment the appellant performed his duty regularly with full devotion and hard work and no complaint whatsoever has been made against the appellant.
- 3) That while performing his official duty with respondent Department a charge Sheet and statement of allegation has been issued on 10.01.2023 against the appellant by the respondent department which has been replied by the appellant whereby the appellant properly explained his position by denying the allegation level against the appellant but unlucky copy of charge sheet and reply was not kept with the appellant.

- 3)
- 4) That on 06.02.2023 the impugned order has been issued against the appellant whereby the appellant has been removed from service communicated to the appellant on 10.03.2023. (Copy of impugned order is attached as Annexure-A).
 - 5) That the appellant submitted Departmental Appeal on 17.03.2023 against the impugned order dated 06.02.2023 which has not been decided within the statutory period of ninety days. (Copy of Departmental Appeal is attached as Annexure B).
 - 6) That feeling aggrieved the appellant submitted the instant Service Appeal before this Hon' able Tribunal inter alia on the following grounds.

GROUND

- A). That the impugned orders dated 06/02/2023 is void ab initio orders because it has been passed without fulfilling the codal formalities.
- D) That no show cause notice has been issued to the appellant by the respondent Department.
- E) That it well settled principal of law no one can be condemn unheard because it is against the natural justice of law and this respect the appellant relied upon the Judgment reported on 2008 SCMR Page 678.

(4)

F). That no statement of witness has been recorded and no opportunity of cross examination has been provided to the appellant.

G) That there is no prove and evidence regarding the alleged allegations mention in the impugned order dated 06.02.2023.

H) Any other grounds will be raised at the time of arguments with prior permission of this Hon' able Tribunal.

It is therefore most humbly prayed that on acceptance of this appeal the impugned order dated 06.02.2023 may kindly be set aside and the appellant may kindly be reinstated on his service along with all back benefits.


Any other remedy which this august tribunal deems fit that may also onward granted in favor of appellant.

Dated 10/07/2023

Through

Appellant


Kabir Ullah Khattak


Roeeda Khan

Advocates, High Court, Peshawar



(5)

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

Appeal No. _____ of 2023

Umair Matloob Ex Bahashiti (BPS-03) Government
Degree College Khanpur District Haripur.

..... Appellant

VERSUS

1. Secretary to Government Higher Education KPK
Peshawar.
2. The director Higher Education KPK Peshawar
3. Principal Decree College Khanpur District
Haripur.
4. District Account Officer Haripur.

..... Respondents

ADDRESSES OF THE PARTIES

Appellant

Umair Matloob Ex Bahashiti (BPS-03) Government Degree
College Khanpur District Haripur.

Respondents

1. Secretary to Government Higher Education KPK
Peshawar.
2. The director Higher Education KPK Peshawar
3. Principal Decree College Khanpur District
Haripur.
4. District Account Officer Haripur.

Appellant

Through

Kabir Ullah Khattak

Roeda Khan

Advocates, High Court, Peshawar

(5)

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

Appeal No. _____ of 2023

Umair Matloob Ex Bahashiti (BPS-03) Government
Degree College Khanpur District Haripur.

..... Appellant

VERSUS

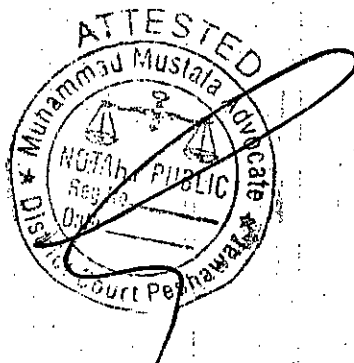
1. Secretary to Government Higher Education KPK Peshawar.
2. The director Higher Education KPK Peshawar
3. Principal Decree College Khanpur District Haripur.
4. District Account Officer Haripur.

..... Respondents

AFFIDAVIT

I, Umair Matloob Ex Bahashiti (BPS-03) Government Degree College Khanpur District Haripur do hereby solemnly affirm and declare on oath that the content of the above application are true and correct to the best of my knowledge and belief and nothing has been kept secret and concealed from this Hon'ble Tribunal.


DEPONENT



(7)

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

Appeal No. _____ of 2023

Umair Matloob Ex Bahashiti (BPS-03) Government
Degree College Khanpur District Haripur.

..... Appellant

VERSUS

1. Secretary to Government Higher Education KPK
Peshawar.
2. The director Higher Education KPK Peshawar
3. Principal Decree College Khanpur District
Haripur.
4. District Account Officer Haripur.

..... Respondents

**APPLICATION FOR CONDINATION OF DELAY
IF ANY.**

Respectfully Sheweth:

Petitioner submits as under:-

1. That the above mentioned appeal is filing before this
Hon' able Court in which no date is fixed for fixed for
hearing so far.
2. That on 06.02.2023 the impugned order has been
issued against the appellant whereby the appellant
has been removed from service communicated to the
appellant on 10.03.2023.

- (8)
3. That there are so many judgment of the Supreme Court of Pakistan that cases should be decided rather than on technology which provides that the cases shall be decided on merits rather than technicalities.
 4. That there are so many judgments of the Supreme Court as well as specific provision of law that limitation has been counted from the date of communication.
 5. That any other grounds will be raised at the time of arguments with the prior permission of this Hon' able court.

It is therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.


Appellant

Through


Kabir Ullah Khattak

&


Roeda Khan

Advocates, High Court, Peshawar



OFFICE OF THE PRINCIPAL
GOVT: DEGREE COLLEGE,
TARNAWA KHANPUR, (HARIPUR).

Telephone #: 0995-354151
email: hr4110gdckhanpur@gmail.com



No. 065-68 / 23

Dated: 06 / 02 / 2023

NOTIFICATION:

No. 23/23, dated January 10, 2023, Mr. Umair Matloob, Bahashiti (BS-03) in Govt: Degree College Khanpur, Haripur was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & discipline) Rules, 2011, for the charges mentioned in the charge sheet and Statement of Allegations.


AND WHEREAS, the Competent Authority appointed Mr. Tariq Naveed Quershi, Associate Professor of Physics (BPS-19), Mr. Sami Ullah Shah, Assistant (BPS-16), Government Degree College Khanpur, Haripur as Fact-Finding Committee to sort out the facts and submit the report on January 7, 2023, which proposed further investigation against the accused.

2. AND WHEREAS, the Competent Authority appointed Mr. Tahir Naseem, Associate Professor Maths (BPS-19), Mr. Tariq Naveed Quershi, Associate Professor of Physics (BPS-19), and Mr. Sajawal Khan, Assistant Professor of English (BPS-18), Government Degree College Khanpur, Haripur as Inquiry Committee to conduct inquiry against the accused for the charges leveled against him in accordance with the Law/Rues.

3. AND WHEREAS, the Inquiry Committee after having examined charges, evidence on record and explanation of the accused, submitted its report on January 25, 2023.

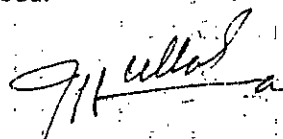
4. AND WHEREAS, the Competent Authority has served the accused with the Show Cause Notice for "Removal from Service".

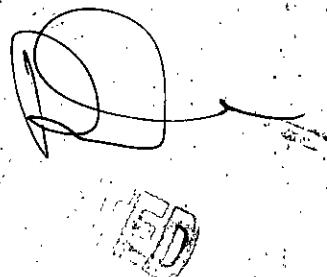
5. NOW THEREFORE, The Competent Authority, After having considered the charges, evidence on record, findings of the inquiry report, the explanation of the accused after affording him personal hearing and in exercise of powers under Rule 14(7) of the Khyber Pakhtunkhwa Government Servants (Efficiency & discipline) Rules, 2011, has been pleased to confirm the major penalty of "Removal from Service" w.e.f February 6, 2023 upon the accused.


PRINCIPAL,
GOVT: DEGREE COLLEGE,
KHANPUR (HARIPUR).

Copy forwarded to the:

1. Director, Higher Education Department, Khyber Pakhtunkhwa, Peshawar
2. District Account Officer, Haripur.
3. Regional Director, Higher Education department, Hazara Division, Abbottabad.
4. Mr. Umair Matloob, Bahashiti (BS-03), GDC Khanpur, Haripur.


PRINCIPAL,
GOVT: DEGREE COLLEGE,
KHANPUR (HARIPUR).



To,

The Director Higher Education
Department, Khyber Pakhtunkhwa,
Peshawar.

Subject

DEPARTMENTAL APPEAL AGAINST THE
ORDER ENDST NO.065-68/23 DATED
06.02.2023 ISSUED BY PRINCIPAL
GOVERNMENT DEGREE COLLEGE
KHAN PURE DISTRICT HARIPUR.

Respected Sir,

The appellant submits as under.

1. That the applicant served as Behishe (BPS-03) in the Government Degree College Khan Pure District Haripur since years with the entire satisfaction of the superiors.
2. That the Principal GDC Khan Pure District Haripur issued charge sheet to the applicant on 10.01.2023 which has been properly replied by the appellant whereby the appellant properly explained the reason, that the respondent department pressurize the appellant for the confession statement and during the said proceeding the committee has mentally torcher the appellant for committing misconduct which is against the law and natural justice.
3. That after the charge sheet the Principal DGC Khan Pure constituted inquiry for the allegations leveled against the applicant.
4. That after recommendation of the inquiry committee the Principal DGC Khan Pure District Haripur removed the applicant from service vide office order 065-68/23 dated 06.02.2023 (Copy of removal order dated 06.02.2023 is attached).

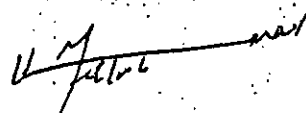
ATTESTED

(10)

5. That the Principal GDC Khan Pure District Haripure violates the procedure and law and proceeded the applicant in wrong section of law as (E&D Rules 1973) instead of (E&D Rules 2011) hence not sustainable in the eye of law.
6. That Likewise, the impugned office order dated 06-02-2023 of the applicant is against the law Rules, illegal, arbitrary and punitive in nature and therefore, in violation of fundamental rights enshrined in Constitution of 1973 and in contravention of Rules and policy, hence, are not sustainable.
7. That the inquiry conducted committee made confession statement of the applicant in pursuance of pressure and during the said proceeding the committee has mentally touchier the applicant for committing misconduct which is against the law and natural of justice.

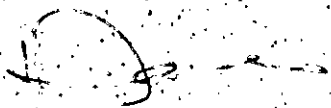
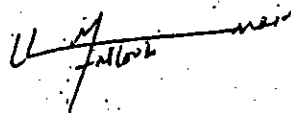
It is, therefore humbly requested that on acceptance of the instant departmental appeal the impugned office order dated 06-02-2023 may very kindly be set aside and the applicant kindly be reinstated in his service alongwith all back benefits.

Date: 17/3/23

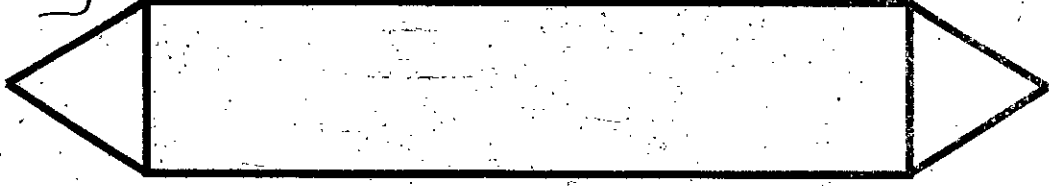


(Umair Matloob)
Behashiti

GDC Khan Pure District Haripure



بعدالت جناب دروسہ اللہ بخلہ بک



2023ء منجانب اسم اللہ

مورثہ

محمد مطلوب بنام الخدیجہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

کیلئے کیوں آئیں گے

آن مقام

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی 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 محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی 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 مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے وہوگا 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 لکھ دیا کہ سندر ہے۔

2023ء

ماہ جون

Accepted By

المقوم

واہ العبد