


FORM OF ORDER SHEET

Court of _____

Appeal No. 1634/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/08/2023	<p>The appeal of Mr. Rooh Ullah presented today by Mr. Amir Khan Chamkani Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <i>11.08.2023</i>.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

SERVICE APPEAL NUMBERED 1634/2023

ROOH ULLAH

Vs

SECRETARY ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA &
OTHERS

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THROUGH,

BARRISTER AMIR KHAN CHAMKANI
ADVOCATE SUPREME COURT OF PAKISTAN

MOBILE No. 0345-1166999
HIDAYAT ULLAH KHAN CHAMKANI LAW CHAMBER
MAIN GT ROAD OPP. NEW CITY HOMES PESHAWAR

DATED:03-08-2023

(1)

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

SERVICE APPEAL NUMBERED 1634/2023

ROOH ULLAH S/O SAIF ULLAH
SENIOR CLERK BPS-14
R/O INQILAB ROAD CHAMKANI

APPELLANT

VERSUS

1. SECRETARY ELEMENTARY & SECONDARY EDUCATION KPK
SAHIBZADA ABDUL QAYUM ROAD, CIVIL SECRETARIAT
PESHAWAR KHYBER PAKHTUNKHWA
2. GOVERNMENT OF KHYBER PAKHTUNKHWA
THROUGH CHIEF SECRETARY
SAHIBZADA ABDUL QAYUM ROAD, CIVIL SECRETARIAT
PESHAWAR KHYBER PAKHTUNKHWA
3. DIRECTOR ELEMENTARY & SECONDARY EDUCATION KPK
MAIN GRAND TRUNK ROAD, NEAR QILA BALA HISAR
PESHAWAR KHYBER PAKHTUNKHWA

RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT 1974
KHYBER PAKHTUNKHWA AGAINST THE IMPUGNED NOTIFICATION DATED 01-03-
2023 TO THE EXTENT OF PLACING THE APPELLANT AT THE BOTTOM OF THE
SENIORITY LIST OF SENIOR CLERKS & ORDER DATED 30-05-2023
COMMUNICATED ON 18-07-2023 WHEREBY THE DEPARTMENTAL APPEAL OF
THE APPELLANT WAS REGRETTEED

2

RESPECTFULLY SHEWETH;

The Appellant most earnestly seeks permission of this Learned Tribunal to submit as under;

BRIEF FACTS

1. That the Appellant was appointed in the elementary and secondary education department on 16-12-1986 and was subsequently promoted to the post of senior clerk on 07-12-2009.

COPY OF APPOINTMENT ORDER IS ANNEX A
COPY OF PROMOTION ORDER IS ANNEX A/1

2. That succinctly put the Appellant was given major penalty of reduction to lower post from Senior Clerk to Junior Clerk on 01-02-2018 by the competent authority on account of ostensible misconduct and malpractice.

COPY OF ORDER DATED 01-02-2018 IS ANNEX B

3. That the legality of the punishment supra was successfully challenged before this learned tribunal vide service appeal numbered 640/2018, by virtue of which the punishment of reduction to lower post was limited to a period of 05 years only.

COPY OF SERVICE APPEAL NUMBERED 640/2018 IS ANNEX C
COPY OF ORDER DATED 03-10-2018 IS ANNEX C/1

4. That upon completion of the time frame supra the Appellant moved an application to the Respondent Numbered 3 for reinstating him to the post of senior clerk in light of the judgement of this learned tribunal, however to the utmost shock and dismay of the Appellant his reinstatement was made conditional to him being placed at the bottom of the seniority list in the list of senior clerks.

COPY OF IMPUGNED NOTIFICATION DATED 01-03-2023 IS ANNEX D

5. That feeling mortally aggrieved the Appellant preferred a departmental appeal before the Respondent Numbered 1 & 2 on 13-03-2023.

COPY OF DEPARTMENTAL APPEALS IS ANNEX E

6. That since filling of the appeal the Appellant has been making visits to the offices of the Respondents for decision(s) on the appeal supra, however no decision was communicated to the Appellant as he was being falsely condoned that the same would be communicated to him in due course.

7. That lastly on 18-07-2023 the Appellant was communicated the order dated 30-05-2023 penned by the office of the Respondents whereby the appeal of the Appellant was ostensibly rejected.

COPY OF ORDER DATED 30-05-2023 IS ANNEX F

8. That feeling unjustified and aggrieved the Appellant now approaches this learned tribunal on the following grounds inter alia;

3

GROUNDS

- A. Because the notification impugned to the extent of placing the Appellant at the bottom of the seniority list is tantamount to double jeopardy in violation of article 13 of the constitution.
- B. Because double punishment for the same offence is alien to services law as such on this score too the impugned order to such effect is liable to be set aside.
- C. Because the impugned notification is perverse, arbitrary and in disregard of law as well as the earlier judgement of this learned court wherein the punishment meted to the Appellant was limited to a period of 05 years only.
- D. Because in effect the punishment meted to the Appellant has once more being given permanence which per the earlier dictum of this learned tribunal is illegal and unconstitutional.
- E. Because the Appellant is hard done by the arbitrary and whimsical order of the Respondents.
- F. Because the amended rules if any are not applicable to the case of the Appellant and in alternate are liable to be set aside as ultra vires of the constitution in terms of the bar contained under article 13 of the constitution.
- G. Because the Appellant entitled to non-discriminatory and equal treatment as such it is in the interests of justice to allow the subject service appeal.
- H. That any other ground may be raised at the time of arguments.

PRAYER

It is, therefore, submitted with profound respect that this Learned Tribunal may very graciously be pleased to;

- i. **Declare** the impugned notification dated 01-03-2023 to the extent of placing the Appellant at the bottom of the seniority list for senior clerks as illegal and ultra vires of the constitution and law.
- ii. **Declare** the order dated 30-05-2023 as communicated on 18-07-2023 as illegal.
- iii. **Declare** that the amended rules dated 16-01-2023 are not applicable to the case of the Appellant
- iv. **Declare** the amended rules dated 16-01-2023 as illegal and unconstitutional being against the spirit of services law.


APPELLANT

THROUGH,

BARRISTER AMIR KHAN CHAMKANI
ADVOCATE SUPREME COURT OF PAKISTAN

4

VERIFICATION

Verified on oath on this 09 Day of August 2023, that the contents of this service appeal including all paragraphs, facts and grounds, prayer and all other figures mentioned therein are correct to our knowledge and beliefs and nothing has been concealed from this Honourable Tribunal either intentionally or otherwise.

AFFIDAVIT

I, **Rooh Ullah** S/o Saif Ullah Senior Clerk BPS-14 R/o Inqilab Road Chamkani, do hereby solemnly swear and affirm on oath that the contents of this service appeal are true and correct to the best of my knowledge and nothing has been concealed from this learned tribunal either intentionally or otherwise.

[Handwritten Signature]

DEPONENT

ROOH ULLAH

CNIC NUMBERED: 17301-1658519-7

ATTESTED
Gul Daraz Khan
Oath
Commissioner
[Handwritten Signature]

5

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

CM NUMBERED _____ /2023

IN

SERVICE APPEAL NUMBERED _____ /2023

ROOH ULLAH

Vs

SECRETARY ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA & OTHERS

APPLICATION FOR CONDONATION OF DELAY IF ANY IN FILLING THE SUBJECT APPEAL

RESPECTFULLY SHEWETH:

1. That the captioned appeal is pending adjudication before this learned tribunal in which no date is fixed.
2. That the contents of this appeal may kindly be read as part and parcel of this application.
3. That the delay if any, has not been caused due to the fault and/or negligence on part of the Appellant as the departmental appeal was communicated on 18-07-2023.
4. That in any case computing of limitation would start from communication of the order impugned as such the subject appeal is not time-barred.
5. That the vigilance of the Appellant can be ascertained from the promptness of filling departmental appeal as such the Appellant couldn't be deemed to have been sleeping over his rights.
6. That law always favours adjudication on merits rather than technicalities.
7. That valuable rights of the Applicant are at stake.
8. That in any case placing of the name at the bottom of the seniority list is a recurring cause of action.
9. That the delay if any is only of a few days as such on this score too, the Applicant deserves leniency of this Learned Tribunal.
10. That any other ground may be raised at the time of arguments.

PRAYER

It is therefore most humbly submitted that on acceptance of this application, the delay if any, in filling the appeal may kindly be condoned in the best interests of justice.

APPLICANT

THROUGH

**BARRISTER AMIR KHAN CHAMKANI
ADVOCATE SUPREME COURT OF PAKISTAN**

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BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

CM NUMBERED _____ /2023

IN

SERVICE APPEAL NUMBERED _____ /2023

ROOH ULLAH

VS

SECRETARY ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA &
OTHERS

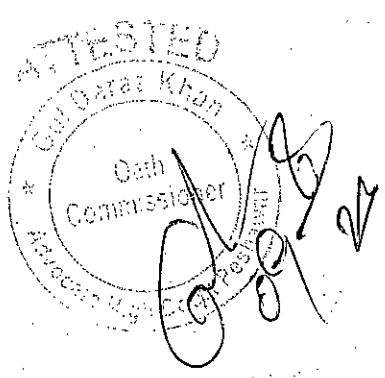
AFFIDAVIT

I, **Rooh Ullah** S/o Saif Ullah Senior Clerk BPS-14 R/o Inqilab Road Chamkani, do hereby solemnly swear and affirm on oath that the contents of this application are true and correct to the best of my knowledge and nothing has been concealed from this learned tribunal either intentionally or otherwise.


DEPONENT

ROOH ULLAH

CNIC NUMBERED:17301-1658519-7

ATTESTED

Oath
Commissioner
Peshawar

(7)

Annex
"A"

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.
APPOINTMENT.

Mr. Roozul-Ullah Matric S/O Saifullah w/o Muzaffar
candidate is hereby appointed as J/Clerk on Rs 520 - /P.M.
in the BPS No. 5 of Rs. 520-18-880 plus usual allowances as
admissible under the Rules with effect from the date of his taking
over charge at G.H.S. Taru Jabba against vacant vice of
Abraham J/C promoted to SV
under the following terms and conditions:-

CONDITIONS:

1. Charge reports in duplicate should be submitted to all concerned.
2. No TA/DA is allowed being first appointment.
3. No joining time is allowed what is absolutely necessary for transit.
4. The appointment is purely on temporary basis and subject to termination at any time without assigning any reasons or prior notice. In case he wishes to leave the post he shall have to submit one month's ~~pay~~ prior notice or in lieu thereof forfeit one month pay and allowances to Govt: His Educational Qualification should be checked before the handing over the charge of the post.
5. He should produce his Health and age certificate from the civil Surgeon concerned within Seven days of reporting arrival for duty as required under the Rules (F.R. 10 S.R. 4).
6. In case the candidate fails to take over charge within 10 days from the date of issue of his letter his appointment will stand cancelled automatically.
7. The verification roll of character and antecedent should be obtained from the candidate concerned on the prescribed form and submit to this office for further verification and record.
8. The candidate should not be handed over charge if his age exceed 25 years OR below 18 years.
9. He should execute necessary security bond in case he is required to handle Govt: Money OR Property.
10. The pay scale and service Rules would be subject to revision in accordance with orders to be passed by the Govt: of N.W.F.P. from time to time.

(MAZROOF SALAM)
DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

Endst: No. 4009-11 Dated Peshawar the 9/12/1986

Copy forwarded for information to the:-

1. Head Master Govt: High School Taru Jabba.
2. Mr. Shulam Saeed Khan Dy: R.E.O. Peshawar.
3. candidate concerned.

Almas/

306
17/12/86

Mazroof Salam
District Education Officer
(Male) Peshawar.
8/12/86

attested
A. J.

8

Annex
A/1

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION
PESHAWAR.

OFFICE ORDER

Consequent upon the approval of the District Selection Committee in their meeting held on 07/12/2009, the following J/Clerks are hereby promoted as a Senior Clerks in BPS-09 with effect from 07/12/2009 and adjusted the post noted to each in the interest of public service.

S.No.	Name of Official	Posted at	Remarks
1	Mr. Shafiqur Rehman J/Clerk	GHSS No.1 Pesh:Cantt:	Against the post of S/C already occupied.
2.	Mr.S.Kamal Shah J/Clerk	GHSS Wadpaga Pesh:	-do-
3.	Mr.Ijaz Akhtar J/C	GGHS Jogiwara Pesh:	-do-
4.	Mr.Roohullah J/Clerk	GHSS Urmer Payan Peshawar.	-do-
5.	Mr.Yamleha J/C	GHSS No.1 Peshawar Cantt:	-do-
6	Mr.Fakhre Alam J/C	GHSS Dagg Peshawar.	-do-

Note:-1. Charge report should be submitted to all concerned .

2. An undertaking to this effect that if any Over payment made to them as a result of incorrect award of Promotion deducted later on will be made from their pay/pension/commutation Should be obtained from the officials concerned and pasted in their S/Books.

(Mr.Iftikhar Ahmad)
Executive District Officer(E&S)
Education Peshawar.

Endst: No. 6912-22 /Prom: Min:Staff/III AE dated 22/12/09.

Copy of the above is forwarded for information & necessary action to the:-

1. Senior district Accounts Officer Peshawar.
2. PA to Director(E&S)Education NWFP, Peshawar.
3. PS to district coordination Officer City District Govt:Peshawar.
4. District Officer (M&F) E&S Education Peshawar local Office.
5. Suptt./AID(O) local Office.
6. Principals concerned.
7. Officials Concerned.

Iftikhar
Executive District Officer(E&S)
Education Peshawar.

9

Annex

B

3

10

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) PESHAWAR

NOTIFICATION

WHEREAS, the Principal GGHS Chamkani, Peshawar has reported involvement of Mr. Rooh Ullah Senior Clerk (BS-14) her school in malpractices and misconduct, Vide her letter NO.3739 dated 1/7/2017

AND WHEREAS, inquiry committee was constituted comprising of the following officers to conduct formal inquiry against the accused official for the charges leveled against him in accordance with the rules


- I. Mr Abdus Saeed Principal GHS NO.3 Cantt Peshawar
- II. Mst Bilqees Qayyum Principal GGHS Surizai Nala Peshawar

AND WHEREAS, the inquiry committee after having examined the charges, evidence on record and explanation of the accused official has submitted report.

AND WHEREAS, a show cause Notice was served upon Mr. Rooh Ullah Senior Clerk GGHS Chamkani Peshawar Vide letter NO. 8297 dated 9/12/2017, which was conveyed to him through the Principal concerned.

AND WHEREAS, the competent authority after having considered the charges and evidence on record, inquiry report explanation of the accused official in response to the show cause notice and personal hearing granted to him on 9/12/2017 is of the view that the charges against the accused official have been proved.

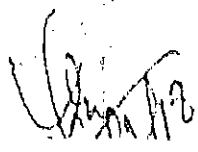
NOW, THEREFORE, in exercise of the powers conferred under Section 4 b (i) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, the Competent Authority is pleased to impose major penalty of "reduction to a lower post" upon Mr. Rooh Ullah Senior Clerk (BS-14) GGHS Chamkani Peshawar besides recovery of Rs. 846936/- under rules 4 (a) (iii) And his services are placed at the disposal of Director (E&SD) Khyber Pakhtunkhwa Peshawar for further adjustment against lower post of J/Clerk on male side with immediate effect.


District Education Officer,
(Female) Peshawar

Endst NO. 449-35 Dated Peshawar the 21/07/2018.

Copy of the above is forwarded for information and n/action to the

1. Director (E&SD) Khyber Pakhtunkhwa Peshawar
2. Accountant General Khyber Pakhtunkhwa Peshawar
3. Principal GGHS Chamkani Peshawar
4. Official concerned with the remarks to report to the Director (E&SD) Khyber Pakhtunkhwa Peshawar for further posting/adjustment.
5. P/Flle
6. M/Flle.



(1) (10)

Khyber Pakhtunkhwa Service Tribunal
Peshawar

Annex
C

BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

In S.A No. 640 /2018

Page No. 668

Dated 28-5-2018

Rooh Ullah Senior Clerk Government Girls High Secondary
School Chamkani Peshawar.

-----*(Appellant)*

VERSUS

1. Secretary Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Female) Peshawar.

-----*(Respondents)*

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED ORDER
DATED 01/02/2018 AGAINST WHICH HIS
DEPARTMENTAL APPEAL DATED:
07/02/2018 HAS NOT BEEN RESPONDED
DESPITE THE EXPIRY OF STATUTORY
PERIOD OF 90 DAYS.

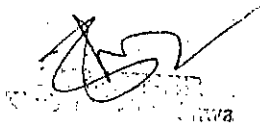
Filed to-day
25/5/18

Re-submitted to-day
and filed.

14/5/18. Prayer:-

ON ACCEPTANCE OF THIS APPEAL
THE IMPUGNED ORDER DATED
01/02/2018 MAY KINDLY BE DECLARED

ATTESTED



(2)

(11)

ILLEGAL VOID ABINITIO AND THE APPELLANT MAY KINDLY BE RESTORED TO HIS ORIGINAL POST OF SENIOR CLERK (BPS-14) AND THE RECOVERY OF RS.8,46,936/- MAY KINDLY BE SET ASIDE WITH FURTHER PRAY THAT THE APPELLANT MAY BE RESTORED AT HIS ORIGINAL PLACE OF POSTING i.e. GHSS CHAMKANI/ PESHAWAR AND TO SET ASIDE SUBSEQUENT TRANSFER ORDERD AS A RESULT OF THE IMPUGNED ORDER.

Respectfully Sheweth:-

Appellant submits as under:-

1. That the appellant was serving as Senior Clerk (BPS-14) GHSS Chamkani Peshawar and during his service the appellant served the Department without any complaint from anyone.
2. That while serving in the said capacity. The appellant was issued a Show Cause Notice which contain no allegation leveled against the

ATTESTED


Secretary
Peshawar

(3)

12

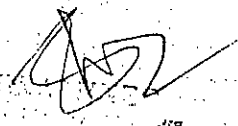
appellant. However the appellant replied the same (Copy of the Show Cause Notice is annexed as "A to ")

3. That the appellant received the impugned order dated 01/02/2018 where by three punishment were imposed upon the appellant without issuing charge Sheet statement of allegation, nor did provided opportunity to defend himself. Hence the impugned order is void abinitio not sustainable in the eye of law. (copy of order is annexed "B")

4. That feeling aggrieved from the impugned illegal order the appellant filed a departmental appeal before Respondent No. 2 however despite the expiry of 90 days the Respondents did not responded the same. (copy of D/A appeal "C")

5. That feeling aggrieved from the impugned order the appellant having no other adequate remedy but to file the instant appeal on the following.

ATTESTED



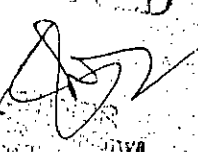
(7)

(13)

Grounds:

- A. That the impugned order is against the law, principle of natural justice and void abinitio hence not tenable in eyes of law.
- B. That the appellant has not been treated in accordance with law and rules as no charge sheet statement of allegation has been issued to the appellant.
- C. That though the appellant was issued show cause Notice by dispensing with the regular inquiry but the show cause Notice does not contain any allegation, thus the Show Cause Notice is against the E & D rules 2011.
- D. That the impugned order is void abinitio against the Constitution of Islamic Republic of Pakistan 1973. As the appellant was subjected to double jeopardy by awarding three different kind of punishments that are Reduction, Recovery, and Transfer, hence on

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(5) (14)
this ground alone the impugned order is liable to be set aside.

E. That the impugned order is in violation of FR 29 as the appellant has been awarded the punishment of reduction without specifying the period.

F. That though no inquiry was conducted however the Respondents mentioned fact finding inquiry in the impugned order but no opportunity of defense or personal hearing has been provided to the appellant nor did the report of the fact finding inquiry has been provided to the appellant.

G. That without providing charges the appellant was awarded punishment of recovery of huge amount which is by itself illegal.

H. That though the appellant was awarded another punishment of transfer from GHSS Chamkani, however this Punishment is not mentioned in the E & D rules 2011.

ATTESTED


Secretary

(6)

(15)

- I. That though regular inquiry was dispense with but in the show cause Notice without containing any charge of embezzlement, recovery, has been order along with other punishments so factual controversy is involved in the matter therefore, the Respondents were bound to conduct regular inquiry instead of dispensing with the inquiry.
- J. That the appellant has not been provided personal hearing or opportunity of defense which is the right of the appellant.
- K. That the appellant has not been provided opportunity of fair trial which has been guaranteed by Article 10-A of the constitution of Islamic Republic of Pakistan 1973.
- L. That the appellant seeks permission of this Hon'ble Tribunal to adduce other grounds during the course of arguments.

It is, therefore, requested that the appeal may kindly be accepted as prayed for in the prayer.

Dated: 08/05/2018

Through *Z. Qureshi*
Appellant -
Naila Jan
Advocate High Court
Peshawar.

NOTE:

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by mc, prior to the instant one, before this Hon'ble Tribunal.

Naila Jan
Advocate.
Certified true copy
K. [Signature]
Peshawar.

16

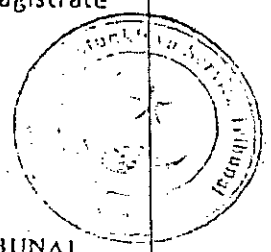
Annex
C/1

Date of
order/
proceeding
s

1 2

Order or other proceedings with signature of Judge or Magistrate

3



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 640/2018

Date of Institution ... 08.05.2018

Date of Decision ... 03.10.2018

Roohullah Senior Clerk Government Girls High Secondary School
Chamkani Peshawar.

-----Appellant

1. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Female) Mardan.

-----Respondent

Mr. Hussain Shah.....Member

Mr. Muhammad Hamid Mughal.....Member

03.10.2018

JUDGMENT

HUSSAIN SHAH: Appellant, learned counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney on behalf of the respondents present.

2. The appellant Roohullah while working as senior clerk (BPS-14) in Elementary and Secondary Education Department and during his posting in GHSS Chamkani Peshawar he was found guilty of fraudulent drawl of funds on medical reimbursement. After a departmental inquiry the show cause notice was issued to him. After his reply to the show cause he was given the opportunity of personal hearing on 09.12.2017. The competent authority imposed the major penalty of reduction to a lower post on 01.02.2018. Moreover it was also decided to recover

ATTESTED

Rs. 846936/- from the appellant. The appellant preferred the departmental appeal on 07.02.2018. As the departmental appeal, being pending hence, the appellant preferred the instant service appeal.

3. The learned counsel for the appellant argued that the impugned order is unlawful because the appellant was not issued any charge sheet/statement of allegation. The show cause notice was issued without conducting regular inquiry proceedings hence the show cause is against the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. He further argued that the impugned order is against the constitution as the appellant has been subjected to double jeopardy. The learned counsel also pointed out that the impugned order is in violation of F.R 29 as the penalty of reduction to lower post, without specifying the period, has been awarded.

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4. The learned counsel for the appellant also argued that the fact findings inquiry is not equivalent to formal inquiry and as such the appellant was deprived of the opportunity to defend himself. It was also pointed out that the copy of inquiry report was not provided to the appellant alongwith show cause so that he could not, properly, defend himself.

5. The responding authorities in the para wise comments contested the facts and grounds of the appellant through the Deputy District Attorney wherein the non issuance of charge sheet/statements of allegation and opting of the issuance of direct show cause notice on the basis of facts finding inquiry has been

ATTTESTED

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[Stamp]

depended on the ground that the appellant was given due opportunity of depending himself at the fact finding inquiry level and the show cause notice level. The learned Deputy District Attorney argued that the inquiry committee found the appellant in fraudulent drawl the medical charges. He further argued that the inquiry committee gave to the appellant the opportunity of depending himself but he failed as he could not provide a single piece of paper in his defense. While on the other side statement of DDC and the record provided by the office of Accountant General testified the fraudulent act of the appellant. About the plea of the appellant and his learned counsel regarding the double jeopardy the learned Deputy District Attorney argued that over and above to the penalty of reduction to lower post the recovery of funds, fraudulently drawn can be recovered. He further argued that the inquiry committee recommended the imposition of the penalty of dismissal from service but the competent authority has taken lenient view and award the penalty of reduction to lower post.

6. Arguments heard. File perused.

7. As regarding the non issuance of the charge sheet/statement of allegations and dispensing with the formal inquiry under I&D rules this tribunal is of the view that if the competent authority feels that the allegation is so obvious and self speaking then the competent authority can opt issuance of show cause notice directly without issuing charge sheet/Statement of allegation and formal inquiry particularly when the ensuing punishment is neither dismissal nor removal from service. It is further came in to the

ATTESTED

notice of tribunal that in his departmental appeal the appellant has admitted the drawl of funds on medical ground though he stated that all the documents were approved by DDO (Female) but he failed to provide any documentary evidence to this effect. Moreover the DDO Mst. Farzana Ial sher in her statement stated that she could not find any entries nor any medical bill/claims approved either by her or the incharge DDO, in the intervening period or processed in the concern registered. She has also stated that when she asked the appellant to provide the complete office record of the said transaction the appellant failed to do so. In the stated facts and circumstance, this tribunal reached to the conclusion that the appellant could not make out the case that he was wrongly punished.

8. However this tribunal has taken notice of the fact that penalty of reduction to the lower post without specifying period is against FR 29 and rules (4) (1) (b) (i) Khyber Pakhtunkhwa Government servant (Efficiency and discipline) rules 2011. In view thereof while considering the facts and circumstances of the case the present service appeal is accepted to the extent that the punishment of reduction to lower post, as mentioned in the impugned order, shall remain effective for a period of five (05) years. Parties are left to bear their own costs. File be consigned to the record room.

Announced ~ Sd/- Hussain Shah
03.10.2018 Alimuddin

Sd/- M. Hamid Ali Khan
Alimuddin

Certificate
True copy
K...
Public...



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

Phone: 091-9225344

Email: ddadmn.ese@gmail.com

Annex

D

NOTIFICATION

20

1. **WHEREAS**, the Principal GGSS Chamkani, Peshawar has reported involvement of Roohullah S/C BS-14 in malpractice and misconduct vide her letter No.3739 dated 1/07/2017.
2. **WHEREAS**, inquiry committee was constituted to conduct inquiry in the light of the charges levelled against him in accordance with rules.
3. **WHEREAS**, the inquiry committee conducted the inquiry and submitted the inquiry report.
4. **WHEREAS**, Showcase notice was served upon Mr. Rooh Ullah S/Clerk GGSS Chamkani Peshawar vide letter No.8297 which was conveyed to him through Principal concerned.
5. **WHEREAS**, the competent authority after having considered the charges and evidence on record, inquiry report explanation of the accused official in response to the show cause notice and personal hearing granted to him on 09/12/2017 of the view that the charges against the accused official have been proved.
6. **AND WHEREAS**, In the exercise of the powers conferred under Section 4(b)(1) of the Khyber Pakhtunkhwa P & D rules 2011, major penalty of reduction to lower post was imposed upon Mr. Rooh Ullah Senior Clerk GGSS Chamkani Peshawar vide DEO female Peshawar Notification issued under Endst: No 1989-95 dated 01/02/2018.
7. **AND WHEREAS**, the applicant filled an appeal No 640/2018 in the Khyber Pakhtunkhwa Service tribunal Peshawar against the order of DEO Female Peshawar issued under Endst: No 1989-95 dated 01/02/2018.
8. **AND WHEREAS**, the Honourable Service Tribunal has announced the judgment on 3/10/2018 that the punishment of reduction to lower post as mentioned in the impugned order shall remain effective for 5 years.
9. **AND WHEREAS**, the government of Khyber Pakhtunkhwa Law Department, after threadbare discussion it was decided with the consensus by the scrutiny committee held on 28/11/2018 that the subject case was not fit for filing CPLA in the supreme Court Of Pakistan.
10. **AND WHEREAS**, Mr. Rooh Ullah Junior Clerk GHSS Chamkani Peshawar has submitted an appeal for adjustment against the post of Senior Clerk w.e.f 1/02/2023 in the light of Court decision due to completion of 5 years punishment.
11. **NOW, THEREFORE**, in exercise of the powers conferred under Section-17 rule (2) (b) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, the Director E&SE/Appellate Authority (Director) has accepted appeal in respect of Mr. Rooh Ullah for his adjustment and adjust him as Senior Clerk BS-14 at GHSS Budhni Peshawar with immediate effect in the light of decision of the Khyber Pakhtunkhwa Service Tribunal Peshawar dated 01/02/2018. However his Seniority will be placed at the bottom of the Seniority list of Senior Clerks issued on 31/12/2022.

(DIRECTOR)
Elementary & Secondary Education
Khyber Pakhtunkhwa

Endst: No. *5157-62* /F.No. /A-23/MS/Mr. Rooh Ullah Dated *01/03/2023*

Copy of the above is forwarded for information and n/action to the:-

- 1- Accountant General Khyber Pakhtunkhwa Peshawar
- 2- District Education Officer (M) Peshawar.
- 3- Principal GHSS Budhni Peshawar with the remarks that necessary entry should be made in his S/Book.
- 4- Appellant concerned.
- 5- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.
- 6- Master File.

J.R. 01/03/2023
Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

F مزید صاحب دائر سیکرٹری انٹرنیشنل ایئر سٹریٹجی ایجوکیشن ڈیپارٹمنٹ کے چیر مین ہونے پر

اصل

صاف بنائی

ترادف ہے۔ کہ فوری حیثیت جو سیکرٹری انٹرنیشنل ایئر سٹریٹجی ایجوکیشن ڈیپارٹمنٹ میں 16-12-1986 کو برقی ہو کر گورنمنٹ کے ہائی سکول نارویج تعلیمات سے لیا بعد ازاں 7-12-2009 کو فوری ترقی پانچویں گریڈ کے ہائی سکول نارویج تعلیمات سے لیا بعد ازاں 7-12-2009 کو فوری ترقی پانچویں گریڈ کے ہائی سکول نارویج تعلیمات سے لیا۔

فوری 2-2-2018 کو فوری کو ڈاؤن گریڈ سے ڈاؤن گریڈ سے دوں دی گئی۔ فوری نو سہ دس ڈیپارٹمنٹ کے تعلیمات و مطابق ڈاؤن گریڈ کو ڈاؤن گریڈ سے 31-01-2023 کو ملنے ہوئے ہیں۔

میں آپ کے حوالے سے دی گئی ہے۔ کہ فوری کو 7-12-2009 سے واپس سٹیٹ ڈیپارٹمنٹ کے تعلیمات سے لیا بعد ازاں 7-12-2009 سے واپس سٹیٹ ڈیپارٹمنٹ کے تعلیمات سے لیا بعد ازاں 7-12-2009 سے واپس سٹیٹ ڈیپارٹمنٹ کے تعلیمات سے لیا۔

فوری تعلیمات سے لیا بعد ازاں 7-12-2009 سے واپس سٹیٹ ڈیپارٹمنٹ کے تعلیمات سے لیا۔

ایک طرف
دوسری طرف
00024766
17301-1658519-7
0335-584 9968.

ATSD/Mangroov
13/3/2023

کلمہ صحابہ سیدتی استغریٰ اندک سندی اکتوبیس ڈیبارمنٹ پیمبرتھون ۱۹۸۰

صحابہ عالی

اسل

گزارش ہے کہ مذوری بحیثیت جونیئر مگر استغریٰ اندک سندی اکتوبیس
ڈیبارمنٹ میں ۱۶-۱۲-۱۹۸۶ کو کبوتری پوکر گورنمنٹ ہائی سکول ناروہیہ
تعیینات ہوا۔ بعد ازاں ۲۰۰۹-۱۲-۰۷ کو مذوری ترقی پائرسٹیٹ مگر
کے پیرے پر گورنمنٹ پائرسٹیٹ سندی سکول ارڈر بیان تعینات ہوا۔
پورہ ۲۰۱۸-۰۲-۰۱ کو مذوری کو ڈاؤن گریڈ کر کے ۵ سال تک

ترقی سے روک دیا گیا۔ مذوری کی سروس ٹریسٹل کے مفید کے مطابق
گریڈنگ کو ۲۰۲۳-۰۱-۳۱ کو مکمل ہو چکے ہیں۔

پیدا اب صحابہ سے دلی التماس ہے کہ مذوری کو ایک سٹو
ڈنٹس نہیں نہ دیں۔ ایک تو میں ۵ سال کے دوران گریڈ کر دیا ہے۔
اور دوسرا پیمبرتھون کو باٹم میں ڈال دیا ہے۔ وہم کی اسل
کی جاتی ہے۔ کم مہ استغریٰ دوبارہ بحال کی جائے اور مذوری کو
۲۰۰۹-۱۲-۰۷ سے واپس شمارتی دلانی جائے۔

مذوری مہاکم ڈیپارٹمنٹ

الغریہ
روفیہ روفیہ روفیہ

۰۰۰۲۴۷۶۶

۱۷۳۰۱-۱۶۵۸۵۱۹-۷

۰۹۳۵-۵۸۴۹۹۶۸



(23) Annex F

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.**

F.No.A-23/MS/Rooh Ullah

Dated Peshawar the 30/5/2023

No 8393

To

Mr. Rooh Ullah
S/Clerk GHSS
Budhni, Peshawar.

Subject: APPEAL

Memo:

I am directed to refer to your appeal for seniority list of 07/12/2009 on the subject cited above and to inform you that according to the amended rules dated 16/01/2023, the penalized government servant shall be placed below the erstwhile juniors promoted to higher post during subsistence of the period of penalty.

28/5/2023

Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst; No. _____/

Copy forwarded to the:-

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. Master File.

Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar



(23)

Annex
F

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

F.No.A-23/MS/Rooh Ullah

Dated Peshawar the 30/5/2023

No 8393

To

Mr. Rooh Ullah
S/Clerk GHSS
Budhni, Peshawar.

Subject: APPEAL

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28/5/2023

Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst; No. _____/

Copy forwarded to the: -

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. Master File.

Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar