### BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE DERA ISMAIL KHAN

#### S.A # 805/2023

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& others......Respondents

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Respondents



#### BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP COURTS DERA ISMAIL KHAN

S.A # 805/2023

Mr. Zahid Muhammad.....Appellant

#### Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary
and Director, Higher Education Peshawar......Respondents

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 to 3

Respectfully Sheweth: -

#### Preliminary Objections:-

- 1. That the appellant has got neither cause of action nor locus standi to file the instant Service Appeal.
- 2. That the appellant has not come to this Tribunal with clean hands.
- 3. That the appellant is estopped by his own conduct to file the instant appeal.

#### Facts: -

- 1) Pertains to record.
- 2) Incorrect. That a complaint regarding embezzlement was received from 14 staff members, against the appellant (Annex-A) On the basis of the said complaint disciplinary proceedings were initiated against the appellant. Dr. Abid Hussain, Associate Professor of Law was nominated as inquiry officer vide latter dated 04/02/2022 (Annex-B). Charge sheet and statement of allegations were served upon the appellant (Annex-C, D), in response the appellant submitted his reply (Annex-E) and the inquiry officer submitted his inquiry report wherein allegation against the appellant has been proved (Annex-F). Show cause was issued to the appellant (Annex-G) but he did not submit his reply within the stipulated period and after fulfilment of all Codal Formalities the competent authority imposed vide officer order dated 16/11/2022 major penalty of compulsory retirement from service alongwith recovery of embezzled amount of Rs. 2800,000 (Annex-H).
- 3) Incorrect. As already explained in preceding Para. It is pertinent to mentioned here the appellant appeared before the inquire officer.
- 4) Pertain to record
- 5) Incorrect. As already explained in preceding paras.

#### Grounds: -

- Incorrect. That the office order dated 16/11/2022 is in accordance with law/rules. I.
- Incorrect. That formal inquiry was conducted as already explained in Para 2 of II. facts.
- Incorrect. That the appellant was given full opportunity to defend himself but he III. failed to do so.
- Incorrect. That the appellant is trying to mislead the Hon'ble Tribunal. As already IV. explained in para 2 of facts, proper charge sheet, statement of allegation, show cause were served upon the appellant and the also appeared before the inquiry officer and also submitted his reply to the inquiry officer.
  - Incorrect. As already explained in preceding paras. V.
- Incorrect. As already explained in preceding paras and documentary evidence is VI. also attached.
- Incorrect. That show cause notice was served upon the appellant but he did not VII. submit reply of the same.
- Incorrect. As replied above. VIII.
  - Incorrect. As already explained in preceding paras. IX.
  - Incorrect. As already explained in preceding paras. Χ.
  - The respondents may be allowed to raise additional grounds at the time of XI. arguments.

#### Prayer:-

It is, therefore, humbly prayed that the instant Service Appeal is based on misconception/misstatements hence may graciously be dismissed.

Higher Department Education Khyber Pakhtunkhwa

Respondent No. 1

vber Pakhtunkhwa Higher Educ lent No. 2

Dy: Director, (Estt;) Higher Education Khyber Pakhtunkhwa Respondent No. 3

(Annex 02)

گورنمنٹ ڈگری کالج لدھا ساوتھ وزیرستان کے سٹاف کا تنخواہ کے مد میں ھونے والے مبینہ غبن کے متعلق مشترکہ تحریری بیان۔

-مسئله:

سورنمنٹ ڈگری کالج لدھاساؤتھ وزیرستان ایجنسی کے 14 شاف مجبرزے 2لاکھ فی کس کے حساب سے 28لا کھرد بے ریکوری شروع ہے۔ بیرقم جنوری 2014 میں شاف کی تنخواہ میں 5801 کوڈ کے تحت شامل کی گئی مگر شاف نے ناہی بیرقم وصول ک شہری اس بارے اُن کوکوئی معلومات ہیں۔ س

حقائق:

مارچ2020 میں ہمیں معلوم ہوا کہ جنوری 2014 میں ہماری تخواہ جواک وقت 40,526 دیے تھی کی بجائے 2لاکھ روپاضا فی جمع ہوکر۔/240526روپ فی کس کے حماب سے DDO کے GDC Ladha SWA بیک اکاؤٹ میں جمع ہوئی ہے۔ جمع ہوکی کے اللہ کا حال کا میں کا میں کے میں کے میں کے میں کے میں کا میں کے میں کا میں کا میں کے میں کا میں کے میں کی جمع ہوئی ہے۔

ایجنسی اکاؤنٹس آفس ساؤتھ وزیرستان کے آؤٹ پیرا کے مطابق پیاضائی رقم قابل والیسی ہے۔ لہذا تمام سٹاف سے متعلقہ رقم اہائة
اقساط میں والیس کی جائے گی۔ اس بابت جب ہم نے ایجنسی اکاؤنٹس آفس کے علمہ صعلوم کیا توانہوں نے کہا کہ جنوری
2014 DDO کے DDO کے DDO کے DDO بینک اکاؤنٹ میں جمع ہو چک ہے۔ جب ہم نے بل کی کائی ما گی تو
ایجنسی اکاؤنٹس آفس والوں نے متعلقہ ریکارڈ دینے سے انکار کر دیا۔ اس کے بعد ہم نے اپنے پرٹسیل تھے۔ ملیمان سے رابطہ کی کوشش ک
گرآج تک رابطہ نہ ہوسکا کائی کے کھڑک زاہد سے معلومات کی تو اول انہوں نے کہا کہ میں سیدسلہ طل کر دونگا گر بعد میں صاف
ازگاری ہوا کہ انھیں اس بار سے میں کوئی معلومات نہیں جب کائی کھڑک زاہد ہے ہم نے بینک اشیشنٹ ، مل کی کائی اور متعلقہ ریکارڈ انگا
تو انہوں نے کہا کہ ریکارڈ ان کے پاس نہیں ہے اور DDO بینک اکاؤنٹ بھی تبدیلی کر چکے ہیں لہذا بینک اشیشنٹ نیس جس جم ہوتی پھر
واضح رہے کہ 2014 میں ایجنسی اکاؤنٹس آفس کا نظام مینول تھا اور تمام طاف کی تخواہیں DDO کے بینک اکاؤنٹ میں جم جم ہوتی پھر
وہاں ہے تمام اسٹاف کو کالی گھڑک زاہد کیش کی صورت ہیں تنخو اور یتا تھا۔ بعد میں جب ایجنسی اکاؤنٹس آفس کا نظام کمپیوٹر اکرڈ وہوا تو
اب تمام اسٹاف کو کالی گھڑک کرک زاہد کیش کی صورت ہیں تنخو اور یتا تھا۔ بعد میں جب ایجنسی اکاؤنٹس آفس کا نظام کمپیوٹر اکرڈ وہوا تو
اب تمام اسٹاف کو کالی گھڑک کو کی زاہد کیش کی صورت ہیں تنخو اور یتا تھا۔ بعد میں جب ایجنسی اکاؤنٹس آفس کا نظام کمپیوٹر اکرڈ وہوا تو

#### ممكنه كاروائي:

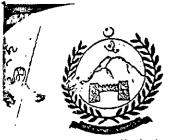
ایجنی اکاؤنٹس آفس ماؤتھ دزیرستان اور GDC Ladha SWA کی انظامیہ کی جانب سے عدم تعاون کے بعد ہم نے 24 جون 2020 کوڈ اگر یکٹر ہائیرا یجو کیشن خیبر پختو ننو او کواس مسئلہ کی بابت درخواست دی اوراس درخواست کی ایک ایک کا پی متعلقہ تھکموں ، جن میں سیکرٹری ہائیرا یجو کیشن کے پی کے ، اکاونڈٹ جزل کے پی کے ،صوبائی ڈائر یکٹر جزل آڈٹ کے پی کے ، ایک متعلقہ تھکموں ، جن میں سیکرٹری ہائیرا یجو کیشن کے پی کے ، اکاونٹس آفیس موئی شنوائی نہیں ہوئی۔ اس کے بعد اکاؤنٹس آفیسر SWA اور پرٹیل GDC Ladha SWA کوئی۔ مگر افسوس کسی جانب سے کوئی شنوائی نہیں ہوئی۔ اس کے بعد

Jan Jan

12 اپریل 2021 کوہم نے JMC کوارڈیٹیٹر ڈیرہ اساعیل خان کواس حوالے سے درخواست دی جوانہوں نے ڈائر یکٹر ہائیر ایجوکیش پٹاورکوفارورڈ کی۔اس کے جواب میں اس کیس کی با قاعدہ انکوائری کے احکامات جاری ہوئے۔

GDC Ladha SWA کے پرنیل محرسلیمان اور کالج کارک زاہدسے انگوائری کی جائے کہ اگر سٹان نے کوئی رقم وصول کی ہے تو ان کے پاس رقم وصولی کی رسیدیں ہیں یانہیں۔اور جوبل اید جشمند کی مدمیں ایجنبی اکا وُنٹس آفس سیاؤتھ وزیر ستان میں جس کیا گیا تھا اُس پر سٹاف کے دستخط موجود ہے کہبیں اگر دستخط ہیں تو اُن کی جائے کی جائے کہ دستخط اصلی ہیں یانفتی ۔ جن سٹاف ممبرز ہے ریکور ی شروع ہے وہ فل فور بند کی جائے اور جوریکوری ہو چکی ہے وہ رقم سٹان کو واپس کی جائے جبکہ بیتمام ریکوری پرنیل محمرسلیمان اور کالج کرک زاہد سے کی جائے جنہوں نے اپنے اختیارات کا ناجائز استعال کرتے ہوئے 7 سال تک 28 لا کھروپے نا جائز طور پر اپنے پاس رکھ کراس کا ناجائز فائدہ اٹھایا اور قانون کی خلاف ورزی کی۔

Amjad Jehangin 1) Inagat Which My like 2) Sher Lehman Hazrat Ali Hussain Dooks A i) Sulemen Shah Muhammad Jaz Jesan ud Din



# DIRECTORATE OF HIGHER EDUCATION KHYBER PAKHTUNKHWA RANO GHARI NEAR CHAMKANI MOR, PESHAWAR

Z)

E-mail:- dhekpkpesh@qmail.com Facebook.com/dhekppeshawar Twitter.com/dhekppeshawar1

No. 2 & 6 / CA-VII/Estt: Branch/A-167/GDC Ladha

Dated Peshawar the 4 / 9 /2022

To

Dr. Abid Hussain, Associate Professor of Law. Government Degree College No. 1, D.I Khan

Subject: -

DISCIPLINARY PROCEEDINGS AGAINST MR. ZAHID ULLAH, SENIOR CLERK, GOVERNMENT DEGREE COLLEGE, LADHA (SOUTH WAZIRISTAN)

Memo: -

I am directed to refer to the subject cited above and to state that the Director Higher Education Khyber Pakhtunkhwa Peshawar has been pleased to appoint you as Inquiry Officer to conduct the formal inquiry against the accused official and submit your findings, recommendations and report in accordance with the provisions of Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 within 15 days, please (a copy of charge sheet & statement of allegation are enclosed).

(Khawaja M. Saqib)
ASSISTANT DIRECTOR (GENERAL)

Endst. No 301-93

Copy of the above is forwarded to

- 1. Principal, Government Degree College, Ladha (South Waziristan) with the remarks that Charge Sheet and Statement of Allegations may be served upon the accused and a copy be returned to this office as a token of receipt at the earliest, please.
- Deputy Director IT, Local Directorate with the request to communicate the charge sheet and statement of allegation electronically to the Principal and Inquiry Officer Concerned.

3. Mr. Nisar Khan, Associate Professor Government Postgraduate College, Bannu will assist the Inquiry officer during the proceeding, please.

ASSISTANT DIRECTOR (GENERAL)

0/0

### Annexure

#### **CHARGE SHEET**

I, Mr. Khurshid Ahmad, Director, Higher Education, Khyber Pakhtunkhwa as mpetent Authority, hereby charge you, Mr. Zahid Ullah, Senior Clerk, Govt: Degree College, Iha (South Waziristan) as follows.

That you, while posted as Junior Clerk, Govt: Degree College, Ladha (South ziristan) committed the following irregularities: -

- i. That you in connivance with Principal, Government Degree College, Ladha imposed a recovery of 200,000/- Rs upon 14 officials of the college despite the fact that the said amount had not been received by any of the officials.
- ii. That you deliberately kept the officials concerned unaware of the said recovery which shows your ulterior motives.
- iii. That a fact-finding inquiry was conducted by Mr. Nisar Khan, Associate Professor, Government Postgraduate College, Bannu and the said allegations stand established against you.
  - 1. By reason of the above, you appear to be guilty of misconduct under rule 03 of the Khyber Pakhtunkhwa, Govt; Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any penalties specified in rule 04 of the Rule ibid.
- 2. You are, therefore, required to submit your written defense within seven days of the receipt of this charge sheet to the inquiry officer/Committee, as the case may be.
- Your written defense, if any, shall reach the inquiry officer/committee within the specific period, failing which it shall be presumed that you have no defense to put in and shall be proceeded exparte.
- 4. Intimate whether you desire to be heard in person.
- A statement of allegations is enclosed.

(KHURSHID AHMAD) 3/1/2023

DIRECTOR, HIGHER EDUCATION KHYBER PAKHTUNKHWA

#### DISCIPLINARY ACTION

I, Mr. Khurshid Ahmad, Director, Higher Education, Khyber Pakhtunkhwa, as competent Authority, am of the opinion that Mr. Zahid Ullah, Senior Clerk, Govt: Degree College, Ladha (South Waziristan) has rendered himself liable to be proceeded against, as he committed the following acts/ omissions, within the meaning of rule 03 of the Khyber Pakhtunkhwa Govt; Servants (Efficiency and Discipline) Rules, 2011.

#### STATEMENT OF ALLEGATIONS.

- i. That he in connivance with Principal, Government Degree College, Ladha imposed a recovery of 200,000/- Rs upon 14 officials of the college despite the fact that the said amount had not been received by any of the officials.
- ii. That he deliberately kept the officials concerned unaware of the said recovery which shows his ulterior motives.
- iii. That a fact-finding inquiry was conducted by Mr. Nisar Khan, Associate Professor, Government Postgraduate College, Bannu and the said allegations stand established against him.
  - 1. For the purpose of Inquiry against the said accused with reference to the above allegations, the following Inquiry Officer is hereby nominated under rule 10(1)(a) of the ibid rules.

### Mr. Abid Hussain, Associate Professor of Law GDC No. 1 DIK

- 2. The Inquiry Officer shall, in accordance with the provisions of the Rules, ibid provide reasonable opportunity of hearing to the accused; record his findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
- 3. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/inquiry committee.

(KHURSHID AHMAD)

DIRECTOR, HIGHER EDUCATION KHYBER PAKHTUNKHWA

## () Enexuve, F

- 2212 of process &

8 مبک مے تنحوامیں میں وصول کر تا تھا۔

ما في كو تنخوا بين مين ديما تا -

چوند گورند گریما کے لرحا العه العسام ۱۹۵۸ ، بوز کبود سے کا بی مناف فی آف برد ل میں مربع ، حیس کی دجہ سے تنخ اہمیں کیرے کے بعالی کو کسے کے چھا کو کسے کو بند آکاوٹ میں درالسوکے معلیہ نے اور مرب کیلے دبان ہر دکھ حالے تھے۔

of Statement civilia er 2 52 (period) 25 0, sin 6

﴿ ١٥٥٤ ميں جب عالات تعلى برئ - او ١٤ كي كيار لرهائي الريان او نئ بلغ نك ديدى گئي .

او ١٤ ٢ ان ١٤ كاف و يال بر نئ فر نبي رز كيرو ترز اور باق فرورى سامان كه ساق و بال و رو العالمات كار بوت كورى سامان كه ساق و بال و رو العالمات كار المري كورى سامان كه ساور ح الكال و با .

امعالمات كار موجه به واليس كار كي د - تو ن تو بيمين فر بني ر حلا - اور نه باتى فرورى سامان .

اور بيب سامان اور باقى كار كي فرورى كار زائة و با و با كالو تعين لا تو بالى الى بوال سي بوال ميس لوث من و بين برون كار نه با يك كورى مي بوال ميس لوث كار بين بوال ميس لوث كي و بين بوال ميس لوث كار و بين بوال ميس لوث كار و بين بوال بين بوال ميس لوث كار و بين بوال بين بوال ميس لوث كار و بين بوال بين بوال ميس لوث كار و بين بولون كار بين بولون كي بولون كي بولون كي بولون كي بولون كي بين بولون كي ب

المين تخوايون كو يك الله عبد ديم ما في الحراي المعين مر المسام مين آنين. المنان معراد مع الول در خواست بمنون . er orginial our Deductionist - ( yr 40, - er 2020 Deduction for or 1 10) - 10,000/ وسي سے -5000/ اور کسی سے بھی بنی رہی ۔ اور کئے واقاعات میں (ناون آمنی تورهان کا سے اور سے Deduelion مری کون کوری ایک اسے اور سے ال سالمعلی سے پسے بہا و ابہ تک میں لیطور کلوک وہاں پر تونینا کے ہوں. Complaint it , 1 & som sen sur on the 250 Gold Routin اللونث أفس معاملات برائه اللونث أفس سنماليًا بون -24/07/2020,000 المرانم 33-1750 Jahred Muhammad Suliver Clark Ladher SWTD





### **Inquiry Report**

uthority

The authority of the formal inquiry is based on letter # 3091-93 dated 04-02-2022 of the Directorate of Higher Education Khyber Pakhtunkhwa, Peshawar.

#### **History of Case**

Some officers/Lecturers submitted an application to the worthy Director Higher Education KPK for misappropriation in their salaries. The Directorate in response to the application ordered the fact finding inquiry on the matter wherein Mr. Zahid Ullah the then junior clerk was found co responsible on the above matter. Keeping in view the formal inquiry report the Director Higher Education as competent authority charged Mr. Zahid Ullah to be proceeded under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and issued him charge sheet.

#### **Proceeding on Charge Sheet**

In light of the Letter # 3091-93 dated 04-02-2022 of the Directorate of Higher Education Khyber Pakhtunkhwa, Peshawar, the undersigned as inquiry officer directed the accused Mr. Zahid Ullah, now Sr. Clerk of the Government Degree College Ladha to appear before the inquiry officer along with his written statement/defense on 19-02-2022 in Government College No.1 Dera Ismail Khan. In this regard I delivered him in advance the charge sheet and statement of allegations. (Annexure A&B).

In response to this he appeared before me on the date fixed whereon he was briefed about the matter. He requested for granting of some time for his written reply. He again personally appeared on 22-02-2022 and submitted letter # 331 as reply of charge sheet and allegations. (Annexure C).

I asked him that his reply is not according to the charge sheet however he stated that his reply is quite clear. In order to further clarify the charges/allegations and to obtain his clear-cut statement, I asked some relevant questions and obtain his written reply on them. (Annexure D).

01/2/2022

Evidence/Discussion

The accused very clearly admitted in his written answer No.3, 4,& 13 that he used to receive the salaries of the staff from bank and disbursed it to them and that he also use to look after the matters of the college with Account Office. Further in answer No.9 he stated that no staff member had ever submitted application/form for Rs.200000. However, when asked whether he gave Rs.200000 each to these staff members, he replied he doesn't remember whether he had given them or not. He was further inquired that whether he maintained any acquittance/receipt for these payments/salaries? He replied that he didn't maintain any such acquittance. He also stated at that time local Account Office has made huge amount of wrong payment which were later on identified by the audit.

#### **Finding**

In light of his failure in producing any document or cogent reason in his defense against charge sheet and admission of receiving salaries from bank and disbursing them to the staff and non-production of any acquittance or receipt from the staff of their receiving alleged amount of Rs.200000 each, I am satisfied that the charges/allegations against the accused are proved.

#### Recommendations

I hereby recommend Imposition of relevant penalty or penalties upon accused under Rule 4 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

Syed Abid Hussain Shah

Inquiry Officer

Associate Professor of Law Vice Principal/DDO, GC No. DIKhan

Ameruve Con

#### SHOW CAUSE NOTICE

1. Professor. Khurshid Ahmed, Director of Higher Education Khyber Pakhtunkhwa as Competent Authority, under the Khyber Pakhtunkhwa Government Sevents (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Zahid (iii ii. mior Clerk, Government Degree College, Ladha (South Waziristan) as follows:

That consequent upon the completion of formal inquiry conducted against you by Mr. Syed Abid Hussain Shah, Associate Professor of Law, Government Degree College No. 1, D.I Khan.

()ngoing through the findings and recommendations of the Inquiry Committee, the material on record and other connected papers before the Inquiry Committee: -

I am satisfied that you have committed the following acts / omissions specified in rule-3 of the said rules.

(a) Guilty of inefficiency.

i:

- (b) Guilty of misconduct.
- As a result, thereof, I as Competent Authority, have tentatively decided to impose upon you the penalty of <u>Compulsory Retirement and Recovery</u> of Rs 2800000/- under rule-4 of the said rules.
- You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
- 4. If no reply to this notice is received within fifteen (15) days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
- 5. A copy of findings of the Inquiry Committee is enclosed.

بخرہ کا کہ گاگر کی DIRECTOR HIGHER EDUCATION

28



# DIRECTORATE OF HIGHER EDUCATION KHYBER PAKHTUNKHWA RANO GHARI NEAR CHAMKANI MOR, PESHAWAR

E 28

🍄 ⊾nail:- dhekpkpesh@gmail.com Facebook.com/dhekppeshawar Twitter.com/dhekppeshawar1

No. \_\_\_\_\_\_/CA-VII/Estt: Branch/A-167/ GDC Ladha (SWT) M 197 (V-1) Dated Peshawar the 16 / 11 /2022

#### OFFICE ORDER

- 1. WHEREAS Mr. Zahid Ullah, Senior Clerk, Government Degree College, Ladha (South Waziristan) was proceeded under the Khyber Pakhtunkhwa Efficiency and Discipline Rules, 2011 for guilty of inefficiency and misconduct.
- AND WHEREAS show cause was served upon the accused.
- 3. AND WHEREAS the respondent did not submit his reply within the stipulated time.
- 4. NOW THEREFORE, the Competent Authority (Director, Higher Education, Khyber Pakhtunkhwa) after having considered the charges, evidence on record, in exercise of powers of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline Rules, 2011), has been pleased to impose the penalty of "Compulsory Retirement and Recovery of Rs. 2800000" upon Mr. Zahid ullah, Senior Clerk, Government Degree College, Ladha (South Waziristan) with immediate effect.

DIRECTOR, HIGHER EDUCATION

Endst. No. 22095-97/ CA-VII/Estt. Branch/GDC Ladha M 197 Vol-01 Copy of the above is forwarded to the:

- 1. Principal Government Degree College, Ladha (South Waziristan) with the remarks to recover the embezzled amount from the official concerned.
- 2. District Accounts Officer, South Waziristan.
- 3. Mr. Zahid Ullah, Senior Clerk, Government Degree College, Ladha (South Waziristan).

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