

Sartaj Ex- Senior Clerk Office of District Education Officer (F) Distt, Mardan
(Appellant)

VERSUS

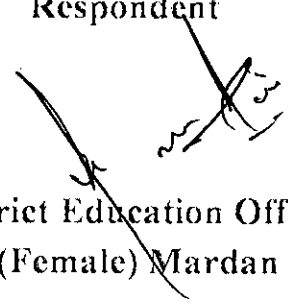
Government of Khyber Pakhtunkhwa Through Chief Secretary (E & SE) &
Others.

(Respondents)

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Respondent


District Education Officer
(Female) Mardan

(2)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6724

Dated 26/07/23

Service Appeal No: 567/2023

Sartaj Ex- Senior Clerk Office of District Education Officer (Female)
Mardan

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa Through Chief Secretary &
Others.

(Respondents)

Para Wise Comments on Behalf of Respondents No 1 to 4.

Respectfully, Sheweth, that the respondents submit as under:

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standi, to file the instant appeal, hence the appeal is liable to be dismissed.
2. That the instant appeal is badly barred by law and limitation.
3. That the appellant has not come to this Honorable Service Tribunal with clean hands.
4. That the appellant has concealed the material facts from this Honorable Service Tribunal, hence the appeal is liable to be dismissed.
5. That the appellant is estopped by his own conduct.
6. That the appellant has been treated as per law & rules.
7. That the case is bad for mis-joinder and non-joinder of the necessary parties.

FACTS:

1. Para No 1 is correct.
2. Para No 2 is **Incorrect, & Not admitted** as the appellant was Compulsory Retired from Service due to his ill performance of duty and the duty of the appellant was not satisfactory under his superiors, hence denied.

3. Para No 3 is Correct.
4. Para No 4 is **Incorrect, & Not admitted** as the respondent department has issued charge Sheet and Statement of allegation against the appellant i-e (i) the appellant did not verify service documents of under Transfer employees before activating their Salaries. (ii) the appellant is responsible for fake appointment of Mst: Asma CT. (iii) the appellant is responsible of induction of fake employee Mst: Sarwat Lab Assistant (iv) the appellant is responsible of induction of fake employee Mr. Immsad Khn Junior clerk DEO (F) Office Mardan. The allegation is not baseless and has fully proved against the appellant, hence denied. (Copies of charge sheet & Statement of allegation are Annexure A)
5. Para No 5 is **Incorrect, & Not admitted** as the charge in respect of the fake appointment of Mst: Asma CT is fully proved against the appellant and the inquiry officers has reported in their Conclusion , “ 02 orders in respect of the Mst: Asma CT. Apparently signed by Mst: Farzana Sardar besides the one issued by Directorate are available on record no remedial step whats so ever have been proposed /taken by he accused which shows connivence /involment in the issue of fake appointments, **Charge Proved.** Hence denied.
(Copy of Inquiry Report Annexure B)
6. Para No 6 is correct.
7. Para No 7 is **Incorrect, & Not admitted** as the appellant was Compulsory Retired from Service dated November 24 , 2022 is legal and the major penalty Compulsory Retirement is accordance with law. (Copy of Compulsory Retirement Order is as Annexure C
8. Para No 8 is correct,
9. Para No 9 that the detail reply of the grounds as under:

GROUND:

- A. Para A is **Incorrect, & Not admitted** as the appellant has been treated in accordance with law and the respondent department has not been violated the Constitution of Islamic Republic of Pakistan, hence denied.

- B. Para B is **Incorrect, & Not admitted** as the respondent department has adopted proper proceeding before the major penalty of compulsory retirement from service which is already mentioned in the preliminary paras, hence denied.
- C. Para C is **Incorrect, & Not admitted** as the inquiry report has communicated to the appellant and the appellant has given answers in questioners which was ask during the inquiry, hence denied.
- D. Para D is **Incorrect, & Not admitted** as the appellant was associated properly with inquiry proceedings and the appellant is responsible for fake appointment of Mst: Asma CT. as well as her illegal salaries of (05) months 19 days amounting to **Rs 162744/=** hence denied.
- E. Para E is **Incorrect, & Not admitted** as the charge has fully proved in respect of fake appointment of Mst: Asma CT. as well as her illegal salaries of (05) months 19 days amounting to **Rs 162744/=** hence denied.
- F. Para F is **Incorrect, & Not admitted** as the charge in respect of the fake appointment of Mst: Asma CT is fully proved against the appellant and the inquiry officers has reported in their Conclusion , " 02 orders in respect of the Mst: Asma CT. Apparently signed by Mst: Farzana Sardar besides the one issued by Directorate are available on record no remedial step whats so ever have been proposed /taken by he accused which shows connivence /involment in the issue of fake appointments. Furthermore most of the files were submitted by the appellant dealing assistant for AT,DM,& Qaria to the DEO (F) Mardan without routing the same through proper channel, hence denied.
- G. Para G is correct to the extent of Mr. Israr J/C and the remaining para is **Incorrect and Not admitted**, as the appellant is responsible for fake appointments, hence denied.
- H. Para H is **Incorrect, & Not admitted** as the impugned order has issued due to the **Misconduct** of the appellant, and the

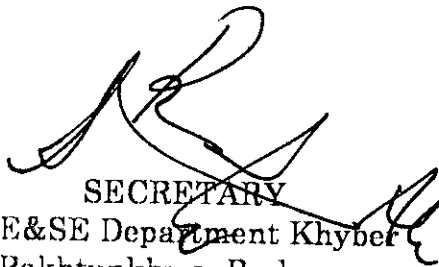
appellant is responsible for fake appointment of Mst: Asma CT. hence denied.


I. Para I is Incorrect, & Not admitted as the appellant is greedy and the appellant has done illegal appointment due to which the penalty imposed upon him, hence denied.


J. Para J, that the respondents also seek permission to raise further points at the time of argument.

Therefore, in view of the above made submissions, it is most humbly prayed that on the acceptance of this reply, the appeal in hand may kindly be dismissed in favor of the Respondent Department in the interest of justice.

~~SECRETARY~~
~~E&SE Department Khyber~~
~~Pakhtunkhwa, Peshawar.~~
~~(Respondents No: 2), I)~~


SECRETARY
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 2), I)


DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 3)


District Education officer
(Female) Mardan
(Respondent No: 4)

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No: 567/2023

Sartaj Ex- Senior Clerk Office of District Education Officer (F) Distt,
Mardan

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa Through Chief Secretary
(E & SE) & Others.

(Respondents)

AFFIDAVIT

I, Mr. Sajid Khan Legal Representative in the Education Department Mardan do hereby solemnly affirm and declare that the contents of Para Wise Comments submitted by Respondents No 1 to 4 are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Court. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off */cost.*



Deponent

Sajid Khan

Sajid Khan

16101-6005318-5



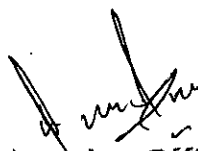
OFFICE OF THE DISTRICT EDUCATION OFFICER
(Female) MARDAN

No- 5074

DATED 14-07-2022

AUTHORITY LETTER

I, District Education Officer (F) Mardan do hereby authorize MR. Sajid Khan,
Litigation Officer of the District Education Office (F) Mardan to deal with the issues
regarding litigation, represent & to attend the Hon, ble Service Tribunal regarding
litigation.


District Education Officer
(Female) Mardan

CHARGE SHEET

Annex "A" (8)

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa as the Competent Authority hereby charge you, Mr. Sariaj Senior clerk DEO(F) office, Mardan as follows: -

That you while posted as S/C at DEO(F) office Mardan committed the following irregularities

1. You did not verify service documents of under transfer employees before activating their salaries.
2. You are responsible for false appointment of Mst. Asma CIT
3. You are responsible for false appointment of Mst. Saeed ul Assistant.
4. You are responsible for inaction of fake employee Mr. Inad Khan Junior Clerk (B) Mardan.

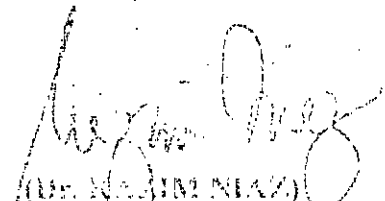
By reasons of the above you appear to be guilty of inefficiency and misconduct in service of the Khyber Pakhtunkhwa (Government Servants (Efficiency and Discipline) Act, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Act.

You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the enquiry officer/enquiry committee, as the case may be.


Your written defence, if any, should reach the enquiry officer/enquiry committee within specified period of time, failing which it shall be presumed that you have no defence to offer and due case/charge action shall be taken against you.

Initiate whether you desired to be heard in person.

A statement of allegations is enclosed.


(Dr. KAZIM NIAZ)
CHIEF SECRETARY
KHYBER PAKHTUNKHWA

Dr. Sariaj
Senior Clerk DEO(F) Office Mardan


District Education Officer
(Female) Mardan


ATTESTED

DISCIPLINARY ACTION

8 9

1. Dr. Kuzaim Naz, Chief Secretary, Khyber Pakhtunkhwa as the Competent Authority, is of the opinion that, Mr. Sartaj Senior Clerk DEO (F) Mardan, has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rules-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

STATEMENT OF ALLEGATIONS

- i. He did not verify service documents of under transfer employees before activating their salaries.
- ii. He is responsible for fake appointment of Mst. Asma C.R.
- iii. He is responsible of induction of fake employee, Mst. Sarva Devi, Mardan.
- iv. He is responsible of induction of fake employee Mr. Inad Khan, Senior Clerk DEO(F) office Mardan.

For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/inquiry committee consisting of the following, is constituted under rule 10(i) (a) of the Rules ibid.

- i. Muhammad Ramzan M.D.
- ii. M.A. Eddu Foundation
- iii. Ms Tasleem Begum Principal B.S. 70

The inquiry officer/inquiry committee shall, in accordance with the provisions of the Rules ibid, provide reasonable opportunity of hearing, to the accused, record its findings and come within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

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.

[Signature]
 (Dr. KUZAIM NAZ)
 CHIEF SECRETARY
 KHYBER PAKHTUNKHWA

Mr. Sartaj
Senior Clerk DEO (F) office Mardan

[Signature]
 District Education Officer
 (Female) Mardan
ATTESTED

(22)

Annexure B - (10)

the source information under P# 952810 CNIC1610305976714. charge partially proved as it was her duty to have a check on expenditure but she failed to check and Mr Aqib Imroz JC was at liberty **CHARGE PARTIALLY PROVED**.

Niqab Reply (Annexure B23) to Questionnaire (Annexure A7)

Mr Niqab was having one charge in his charge sheet

Charge 1/3	You are responsible for fake appointment of Mst Asma CT.
Reply	That I am not responsible for any kind of fake appointment. The appointment order of Mst Asm CT BPS-15 is totally fake in all respect having fake/scanned sign along with bogus dispatch No. which has no record in the office register. It is worth mentioning that this illegal act can also be explained from this illegality that too different appointment orders of Mst Asma CT BPS-15 were made on the same date with different endorsement No. 104/G and 1706/G the said orders also bear two different initials which also shows the illegality. Likewise Mst Asma CT BPS-15 was also shown under transfer from other district GGHSS Khanori Malakand on dated 14.09.2020. vide Endit#3143-35. (Annexure B1, B2)
Conclusion	Asma CT D/O Farman Ali has been inducted in the system on 13.05.2020 as CT with <u>three different appointment orders</u> one issued vide #1704/G (Annexure B2a) and the other vide #1706/G (B2b) and the third appointment was made through transfer from GGHSS Khanori Malakand (Annexure B1, B2) and payment was made to her till 31.10.2020 through P#952808 with CNIC#1610271860676. All this has been done by Mr Israr JC. CHARHE NOT PROVED

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Replies (Annexure B26) in respect of Mr Sartaj SC dealing clerk of AT/TT/Qari/PET only now SC at GGHSS Khwaja Rashaka Mardan.

Charge 1/3	You did not verify the service documents of under transfer employees before activating their salaries.
Reply	That the issue in question is baseless against the fact. That the DEO (F) Office have verified each and every transfer order of other district made

ATTESTED

Syed
District Education Officer
(Female) Mardan

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(Handwritten mark)

	through proper channel from the Directorate of Elementary & Secondary Education Peshawar and from the concerned District from where the teacher have been transferred before the issuance of the pay release of the concerned teachers accordingly as per rule
	Conclusion: Transfer orders placed at (B27- B71) have been verified by the DEO(F) Mardan. However this doesnot exclude the possibility of the non verification of other transfer orders which according to verbal complaints are in hundreds. However the charge could not be proved with documentary evidence.

Charge 2/4	You are responsible for fake appointment of Mst Asma CT.
Reply	That I am not responsible for any kind of fake appointment. The Appointment orders of Mst; Asma CT BPS-15 is totally fake in all respect having fake/scanned sign along with the bogus dispatch No. which has no record in the office register. Her salary was also not drawn. It is worth mentioning that this illegal act can also be explained from this illegality that two different appointment orders of Mst; Asma CT BPS-15 were made on the same date with different Endst No. 1704/G & 1706/G. The said orders also bear two different initial which also shows the illegality. Likewise Mst; Asma CT BPS-15 was also shown under transfer from other district GGHS Khanori Malakand on 14-09-2020 vide Endst No. 31430-35 from the school from where Mr. Israr Junior Clerk transfer is made. (Copies attached as Annex - "A", "B", "C")
Conclusion	02 orders in respect of Asma CT. Apperantly signed by MST Farzana Sardar (C24-C25) besides the one issued by Directorate C-26 are available on record no remedial steps whats so ever have been proposed/taken by he accused which shows his connivence/involment in the issue of fake appointment beyond any shadow of doughts. Charge Proved.

Charge 3/5	You are responsible for induction of fake employee Mst Sarwat Lab Asstt.
Reply	

(Handwritten signature)
ATTESTED

(Handwritten signature)
District Education Officer
(Female) Mardan

GLB

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That I am not involved in any type of fake appointment in my tenure. The appointment orders of the Mst; Sarwat Lab Assistant is totally fake & factitious one having fake/scanned sign with the bogus dispatch Nos. The same have no record in office register. Two different appointment orders have been made on two different dates. The first order Endst No. 5051-56 dated 13-10-2020 is clearly fake one which is evident from the body of the appointment order where in it is written as "against the post of Certified Teacher (Qari) in (BPS-12/Rs. 13320-960-42120)". While the second order is of the Deceased Son's Quota which is also fake with bogus dispatch No. having no record in the office dispatch register. (Copies attached as Annex - "D", "E")

Conclusion

Mst Sarwat recorded her statement that Mr Israr JC prepared two appointment orders for her one as Qaria in GGHS Shamozaai and the other as Lab Asstt in GGHS Kohi Barmol. Latter on both the orders were found fake so both the orders were returned to to Mr Israr JC so Mr Israr JC requested her not to mention his name and mention the name of Mr Fawad. After wards Mr Younas invited me and my father to the Hujra of Malak Shokat, MPA and pressurized us not to mention Mr Israr JC other wise they threatened me to spoil my academic credentials and an FIR will be lodged against me. At this moment Mr Murad SC and Mr Sartaj SC of the DEO office were also present(Annexure C69). However the charge could not be proved with documentary evidence.

Charge 4/6	You are responsible for induction of fake employee Mr Imad Khan JC DEO(F) office Mardan
Reply	<p>That I am not responsible in the induction. However, the fake induction of Mr Israr Junior Clerk was disclosed to the office on his arrest by the law enforcement agencies. During checking the it was found that he was duly transferred from district Malakand and his transferred was also verified Vide Endst No 14120 dated 04/10/2020 from the concerned quarters. (Copy attach ds Annex "F"). I am totally unaware of the appointment of Mr Immad JC</p>
Conclusion	<u>. Charge Not Proved</u>

ATTESTED

Sarwat
District Education Officer
(Female) Mardan

(15)

Annex C

(13)

SHOW CAUSE NOTICE

I, Mahmood Khan, Chief Minister, Khyber Pakhtunkhwa, as Competent Authority, under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011; do hereby serve on you, Mr. Sartaj (Senior Clerk), Office of DEO (Female) Mardan as follows. -

1. (i) That consequent upon the completion of the inquiry conducted against you by the Inquiry Committee for which you presented your written defense before the Inquiry Committee, and
- (ii) While on-going through the findings and recommendations of the Inquiry Officer/Inquiry Committee, the material on record and other connected papers including your defense before the Inquiry Officer/Inquiry Committee

I am satisfied that you have committed the following act/omission, specified in Rule-3(a&b) of the E&D Rules:

"Inefficiency / Misconduct"

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of Compulsory Retirement under Rule 4 of the said rules.

3. You are, therefore, required to show cause as to why the afore-mentioned 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 Seven days or not more than Fifteen 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 the findings of the Inquiry Officer/Inquiry Committee is enclosed.

Mk
(MAHMOOD KHAN)
CHIEF MINISTER, KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Sartaj (Senior Clerk),
Office of DEO (Female) Mardan

ATTESTED

ATTESTED

S. A.
District Education Officer
(Female) Mardan





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Annex "D"
GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the November 24, 2022

NOTIFICATION

No. SO(Inq)ESSED/1-1/2022/Inquiry/DEO (F) Mardan: WHEREAS Mr. Sartaj Khan, Senior Clerk, O/o DEO (F), Mardan was proceeded against under the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. **AND WHEREAS** Muhammad Ramzan (PCS SG BS-20) Managing Director, Merged Area Education Foundation and Mr. Atiq ur Rehman, Principal (BS-19), GHSS No. 1, Peshawar Cantt were nominated as Inquiry Committee to conduct Formal Inquiry under the ibid Rules, against Mr. Sartaj Khan, Senior Clerk, O/o DEO (F), Mardan, for the charges leveled against him.

3. **AND WHEREAS** the Inquiry Committee after having examined the charges, evidence on record and explanation of the accused, has submitted the report.

4. **AND WHEREAS** the Competent Authority (Chief Minister) after having considered the charges and evidence on record, inquiry report, explanation of the accused in response to the show cause notice and personal hearing granted to him by Secretary, Home & Tribal Affairs Department on behalf of the Competent Authority on 10.08.2022 is of the view that charges against the accused have been proved.

5. **NOW, THEREFORE**, in exercise of the powers conferred under section 14 (5) of the ibid Rules, the Competent Authority (Chief Minister), is pleased to impose major penalty of "Compulsory retirement" upon Mr. Sartaj Khan, Senior Clerk, O/o DEO (F), Mardan with immediate effect.

**SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT**

Endst: of even No. & Date:

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) Mardan.
4. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
5. PS to Secretary E&SE Department, Khyber Pakhtunkhwa, Peshawar.
6. Incharge EMIS E&SE Department.
7. Mr. Sartaj Khan, Senior Clerk, O/o DEO (F), Mardan.
8. Office order file.

(Bilal Khan)

Section Officer (Inquiries)

ATTESTED

District Education Officer
(Female) Mardan