


S. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
	08.04.2016 	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</u></p> <p style="text-align: center;">Service Appeal No. 1349/2013</p> <p style="text-align: center;">Mr. Ramdad Khan-vs-Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar and two others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER: -</u> Counsel for the appellant (Mr. Fazal Shah Mohmand, Advocate) and Mr. Ziaullah, Government Pleader for respondents present.</p> <p>2. Mr. Ramdad Khan, has filed the instant service appeal under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 20.6.2013 passed by the respondent No. 1 whereby the departmental appeal of the appellant was partially accepted and the major penalty of dismissal of the appellant was converted into minor penalty of withholding two annual increments of two years with effect from 1.12.2013 subject to the following conditions (i) His absence period from 15.6.2012 to 11.12.2012 is hereby converted into extraordinary leave without pay. (ii) The intervening period with effect from 12. 12. 2012 till 19.6.2013 will be treated as leave without pay. He prayed on acceptance of this appeal the impugned order of the respondent No. 1 dated</p>

20.6.2013 may kindly be set-aside and by restoring the two annual increments the period from 15.6.2012 to 19.6.2013 may kindly be treated as spent on duty.

3. Facts giving rise to the instant appeal are that the appellant has joined the respondent-department as Sweeper on 25.3.1999. That the appellant never committed any misconduct rather obeyed the orders of the superiors and performed his duties and in June 2012 received calls from the terrorists, threatening the appellant not to perform his duties, where-after the son of the appellant used to perform duties in place of appellant. That on 8.10.2012 the appellant reported for duty and performed his duties till 18.12.2012, where-after he was told on 18.12.2012, that he has been dismissed from the service. The appellant obtained the copy of order and submitted departmental appeal before the respondent No. 1. That the appellant then filed Service Appeal No. 652/2013 and during the pendency of that appeal the departmental appeal was partially accepted by the respondent No. 1 and the major penalty was converted into minor penalty. That during the pendency of the service appeal when the departmental appeal was partially accepted then the appellant filed an application for withdrawal of that appeal with the prayer that appellant may kindly allowed to file a fresh appeal which was accepted. That the impugned

A.F.I.

order dated 20.6.2013 of respondent No. 1 is against law, facts and justice.

4. The learned counsel for the appellant argued that the appellant had not been treated in accordance with law and rules and the impugned orders were therefore not maintainable under the law. He further argued that appellant was punished thrice for the same offence which was not sustainable under the law and added further that the punishment being not commensurate to the quantum of guilt of the appellant the same may be set-aside and the appeal may therefore be accepted and period of absence may be treated as spent on duty with all consequential benefits. He further argued that the appellant did not remain gainfully employed during the intervening period the benefits of intervening period could not be denied to the appellant on this count alone in view of various judgments of august Supreme Court of Pakistan. He relied on 2015 SCMR 77 and 2000 PLC (C.S) 304.

5. The learned Government Pleader resisted the appeal and argued that all codal formalities had been fulfilled before imposition of major penalty on the appellant by the relevant departmental authority. He further argued that in the first instance the appellant was dismissed from service and thereafter the said penalty was converted into minor penalty of withholding of 2 increments for 2 years by the relevant appellate

Q.F. I.

authority. He dismissed the stance of the counsel for the appellant that the appellant was penalized thrice for the same offence and added that only one minor penalty in accordance with rules was finally imposed on the appellant whereas his period of absence from duty and the intervening period after his dismissal was treated as extraordinary leave without pay and prayed that the appeal being devoid of merits may be dismissed.

6. Arguments of the learned counsel for the parties heard and record perused.


7. From perusal of the record, it transpired that the appellant was proceeded against for absentsing himself without proper sanction of leave by competent authority. The said proceedings culminated in dismissal from service of the appellant which was subsequently modified by the appellate authority and converted into withholding of 2 increments for a period of 2 years while period of his absence from duty was treated as extraordinary leave without pay. Moreover the intervening period was also treated as extraordinary leave without pay. From perusal of the record, the Tribunal is of the view that the appellant was treated a little bit harshly as both the period of absence and the intervening period were treated extraordinary leave without pay by the appellate authority. In the circumstances, we do not deem proper to interfere with the

DF-1

order of minor penalty of withholding of increments but direct the department to treat the absence period of the official from 15.6.2012 to 12.12.2012 as leave of the kind due. The appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
08.04.2016.


(PIR BAKHSH SHAH)
MEMBER


(ABDUL LATIF)
MEMBER

9. 15.01.2015

Appellant in person and Mr. Yousaf Khan, Deputy DEO Dir Upper on behalf of respondents alongwith Sr. GP present. Rejoinder submitted. To come up for final hearing/arguments before D.B on 02.07.2015.


Chairman

2.07.2015

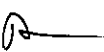
Counsel for the appellant and Ziaullah, GP with Yousaf Khan, Deputy DEO for the respondents present. Since court time is over, therefore, case is adjourned to 22.12.2015 for arguments.


MEMBER


MEMBER

22.12.2015

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 8.4.2016.

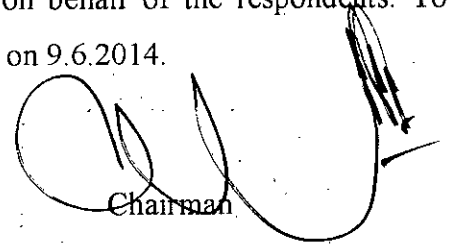

Member


Member

6-

12.3.2014

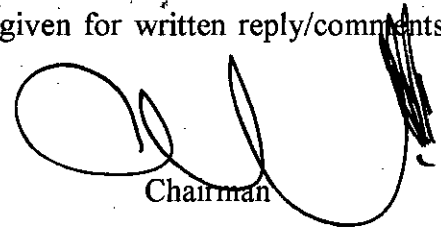
Counsel for the appellant, M/S Javed Ahmad, Supdt. for respondent No. 1 and Khurshid Khan, SO for respondent No. 3 with AAG for the respondents present. Written reply has not been received, and request for further time made on behalf of the respondents. To come up for written reply/comments on 9.6.2014.


Chairman

7-

9.6.2014

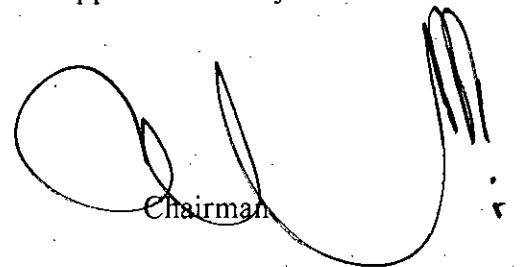
Appellant in person, M/S Muhammad Iqbal, ADEO Dir Upper for respondent No.2 and Khurshid Khan, S.O for respondent No.3 with AAG for the respondents present. Written reply has not been received, and representatives of the respondents requested for further time. Another chance is given for written reply/comments, positively, on 19.9.2014.


Chairman

8-

19.09.2014

Appellant with counsel, M/S Sajjad Rashid, AD for respondent No. 1, Yousaf Khan, DDEO Dir Upper for respondent No. 2 and Khurshid Khan, SO for respondent No. 3 with Mr. Usman Ghani, Sr. GP present. Written reply received on behalf of the respondents, copy whereof is handed over to the learned counsel for the appellant for rejoinder on 15.01.2015.


Chairman

Appeal No. 1349/2013
Mr. Ramداد Khan

13.12.2013

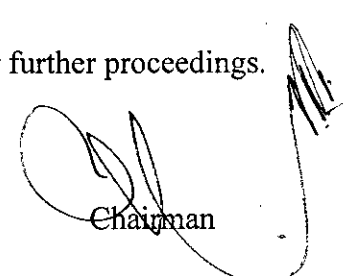
Counsel for the appellant present. Preliminary arguments

heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned the appellate order dated ^{20.06.13} passed by the Director Elementary and Secondary Education, KPK, Peshawar, whereby the major penalty of dismissal from service of the appellant was converted into minor penalty of with-holding two annual increments for two years w.e.f 01.12.2013 with the condition that the absence period from 15.06.2012 to 11.12.2012 converted into extraordinary leave without pay. Similarly, the Service Appeal which is ~~earlier~~ already filed by the appellant was withdrawn by him vide order dated 28.08.2013 with the permission to file fresh one in view of the change scenario. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 12.03.2014.


Member

13.12.2013

This case be put before the Final Bench D for further proceedings.


Chairman

Appellant deposited
Security & process
fee Rs 180/- bank
receipt is attached
with file



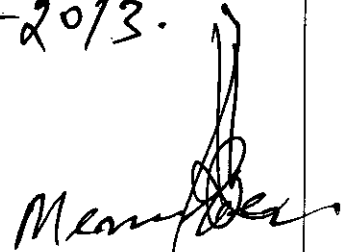


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Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1349/2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18/09/2013	<p>The appeal of Mr. Ramdad Khan resubmitted today by Mr. Abdul Latif Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	20-9-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>27-11-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	27-11-2013	<p>Check of Counsel for the appellant present. Due to strike of Lawyers, Counsel for the appellant is not available. To come up for P.H. on <u>13-12-2013</u>.</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. Ramdad Khan Son of Muhammad Akbar Khan Sweeper received today i.e. on 11/09/2013 is incomplete on the following scores which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Appeal may be got signed by the appellatant.
- 2- Law under which appeal is filed is not mentioned.
- 3- Annexures of the appeal may be attested.
- 4- Appeal may be page marked according to the index of the appeal.
- 5- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1280 /S.T,

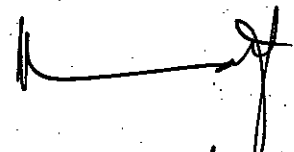
Dt. 12/9 /2013.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Abdul Latif Khan Adv. Pesh. °

Ser,

Resubmitted after completion.


18/9/13

BEFORE THE CHAIRMAN SERVICE TRIBUNAL, K.P.K, PESHAWAR.

In Re: SERVICE APPEAL NO: 1349/2013

Ramdad Khanv/s....Director Elementary and Secondary
Education K.P.K, Peshawar and others.

I N D E X

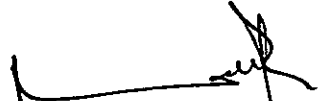
<u>S.No</u>	<u>Particulars</u>	<u>Annexures</u>	<u>Pages</u>
1.	Service Appeal with Affidavit	-	1-5
2.	Addresses of parties	-	6
3.	Copy of order and departmental appeal	A, B	
4.	Copy of order	C	
5.	Copy of service appeal and order	D, E	
6.	Wakalat Nama	-	

رامداد خان
Appellant,

Through:


(FAZAL SHAH MOHMAND)

Dated: 10.9.2013


(ABDUL LATIF KHAN)
Advocates, Peshawar.

1
BEFORE THE CHAIRMAN SERVICE TRIBUNAL, K.P.K, PESHAWAR.

In Re: SERVICE APPEAL NO: 1349/2013

Ramdad Khan son of Muhammad Akbar Khan

Sweeper Govt: Middle School Molavi Dir Upper

1333
11-9-13

.....APPELLANT.

Versus

1. Director Elementary & Secondary
Education K.P.K, Peshawar.
2. Executive District Officer Elementary and
Secondary Education Dir Upper.
3. Secretary Elementary & Secondary Education
K.P.K, Peshawar

.....RESPONDENTS.

Act 1977. under Sec-4 of the K.P.K. Service Tribunal
APPEAL AGAINST THE ORDER DATED 20.6.2013

PASSED BY THE RESPONDENT NO.1 WHEREBY

THE DEPARTMENTAL APPEAL OF THE APPELLANT

WAS PARTIALLY ACCEPTED AND THE MAJOR PENALTY

OF DISMISSAL OF THE APPELLANT WAS CONVERTED

INTO MINOR PENALTY OF WITH-HOLDING TWO

ANNUAL INCREMENTS OF TWO YEARS WITH EFFECT

FROM 1.12.13 SUBJECT TO THE FOLLOWING CONDITIONS:-

- i) His absence period from 15.6.12 to 11.12.12 is
hereby converted into extra-ordinary leave
(without pay)
- ii) The intervening period with effect from

Sub
11/9/13

Re-submitted to ~~409~~
and filed.

18/9/13

12.12.2012 till 19.6.13 will be treated as leave without pay.

PRAYER: On acceptance of this appeal the impugned order of the respondent No.1 dated 20.6.13 may kindly be set aside and by restoring the two Annual increments the period from 15.6.12 to 19.6.2013 may kindly be treated as spent on duty.

RESPECTFULLY SHEWETH:

1. That the appellant joined the respondent department as Sweeper on 25.3.1999.
2. That the appellant never committed any misconduct rather obeyed the orders of the superiors and performed his duties and in June 2012 received calls from the terrorists, threatening the appellant not to perform his duties, whereafter the son of the appellant used to perform duties in place of appellant.
3. That on 8.10.12 the appellant reported for duty and performed his duties till 18.12.12, whereafter he was told on 18.12.12, that he has been dismissed from the service, The appellant obtained the copy of order and submitted departmental appeal before the respondent No.1.
(Copy of order and departmental appeal are annexure A and B)
4. That the appellant then filed Service Appeal No. 652/2013 and during the pendency of that appeal the departmental appeal was partially accepted by the

respondent No.1 and the major penalty was converted into minor penalty. Copy of the order is attached as annexure C.

5. That ~~during~~ the pendency of the ^{Service when} appeal/~~the~~ departmental appeal was partially accepted then the appellant filed an application for withdrawal of that appeal with the prayer that appellant may kindly allowed to file a fresh appeal which was accepted. Copy of Service ~~the~~ appeal and order ~~are~~ annexure D. & E).

6. That the impugned order dated 20.6.13 of respondent No.1 is against law, facts and justice on the following grounds inter-alia :-

GROUNDS:

- A. That the impugned order is illegal and void ab-initio.
- B. That the appellant has not been treated in accordance with law.
- C. That the impugned order is not maintainable because the same is legally incorrect.
- D. That the appellant has been awarded many punishment^s which is against the law and facts constitutional^s & rules on the subject.
- E. That once it is held that the order is illegal then civil servant becomes entitled to the back benefits.

It is therefore, prayed that on acceptance of this appeal the impugned order of respondent No.1 dated 20.6.2013 may kindly be set aside and by restoring the two annual increments the period from 15.6.12 to 19.6.2013 may kindly be treated as spent on duty, with consequential benefits.



Appellant,

Through:



(FAZAL SHAH MOHMAND)

Dated: 07.9.2013



(ABDUL LATIF KHAN)

Advocates, Peshawar.

BEFORE THE SERVICE TRIBUNAL, K.P.K, PESHAWAR.

Ramdad Khanv/s..... Director Elementary & Secondary
Education K.P.K, Peshawar etc.

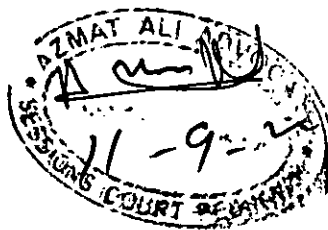
AFFIDAVIT

I, Ramdad Khan son of Muhammad Akbar Khan
Sweeper Govt: Middle School Molavi Dir Upper, do hereby
solemnly affirm and declare on Oath that the contents of the
instant appeal are true and correct to the best of my knowledge
and belief and that nothing has been concealed from this
Hon'able Tribunal.

رامداد خان
DEPONENT.

Identified By:


(ABDUL LATIF KHAN)
Advocate, Peshawar



BEFORE THE SERVICE TRIBUNAL K.P.K, PESHAWAR.

Ramdad Khanv/s.....Director Elementary and Secondary
Education K.P.K, Peshawar etc.

ADDRESSES OF PARTIES

APPELLANT

Ramdad Khan son of Muhammad Akbar Khan, Sweeper Govt: Middle
School Molavi Dir Upper.

v/s

RESPONDENTS

1. Director Elementary & Secondary Education KPK, Peshawar.
2. Executive District Officer Elementary and Secondary
Education Dir Upper.
3. Secretary Elementary and Secondary Education KPK, Peshawar.

رامداد خان
Appellant,

Through:


(ABDUL LATIF KHAN)
Advocate, Peshawar.

"A" B

BETTER COPY

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY EDUCATION DIR UPPER

OFFICER ORDER

Whereas I, Mr. Abdur Rashid Baloch Executive Officer, Elementary & Secondary Education Dir Upper, as competent authority, am of opinion that the following Class-IV have rendered their self hable to be proceeded against as they committed the following act, omissions with the meaning of Rule - 3 the Khyber Pakhtunkhwa Govt servant efficiency and disciplinary rules, 2011.

S.No.	Name & Designation	Father's Name	Name of School	BPS	Period of Absenteeism
1.	Sajjad ur Rehman Lab: Attendant	Khaista Rehman	GGMS, Dir	01	5 May, 2012
2.	Shafi ur Rehman, Naib Qasid	Jehan Badshah	GGMS, Shahikot	01	23 April 2012
3.	Rahmdad Khan Sweeper	Mohd Akber Khan	GMS Molvi	02	15 June, 2012

Statement of Allegations:

That they remained absent from the above mentioned dates without prior sanction of leave their acts are against the office discipline and amounts to misconduct under Rule 3 (b) and (d) of the Khyber Pakhtunkhwa Govt servants efficiency and discipline Rules, 2011.

Whereas 1st Show cause notices were issued to the accused vide this office memo No. Serial No.1 Endst No.3533/F No.36 EDG (E&SE) ESB dated 16/08/2012 S. No.2 Endst No.2976 - 77 /F No.36 (A)EDO (E&SE) ESB dated 16/07/2012 S.No.3 Endst: No.3532 /F No.36-EDG (E&SE) ESB dated 16/08/2012 but that have not resumed their duties within stipulated period.

Whereas 2nd Show cause notices were issued to the accused vide this Office Memo No. S.No Endst: No.3769-70/F No.36 EDO (E&SE) ESB dated 17/09/2012 (2) Endst: No.3604 - F No.36 (A-EDO)(E&SE) ESB dated 31/08/2012 (3) Endst: No.6002 - 3 /E No.36-EDG(E&SE) ESB dated 26/09/2012 but they did not resumed their duties within stipulated period.

Whereas the last show cause notices were issued to them through press which has been published Daily Express dated 26/11/2012 but after the expiry of stipulated period the accused failed to resumed their duties.

Now therefore, I Mr. Abdur Rashid Baloch EDO (E&SE) Dir Upper in the capacity of competent authority am satisfied that the charges against the accused have been proved beyond no doubt. I as a competent authority under the Power conferred upon me under Rule - 3 of Khyber Pakhtunkhwa Govt servant efficiency and discipline Rules 2011 are hereby imposed with penalties of dismissal from service upon the following class - IV w.e.f 10/11/2012.

S.No.	Name & Designation	Name of School
1.	Sajjad ur Rehman Lab: Attendant	GGMS Dir.
2.	Saif Ur Rehman Naib Qasid	GGMS Shahi Kot
3.	Rahmdad Khan Sweeper	GGMS Moulvi

The pay of absent period if paid to them be recovered and be deposit in Govt Treasury.

Sd/-
Executive District Officer
Elementary & Secondary
Education Dir Upper.

No.8819-22/F No.36/EDO(E&SE)/ADO: ESB: Dated Dir Upper 12/12/2012

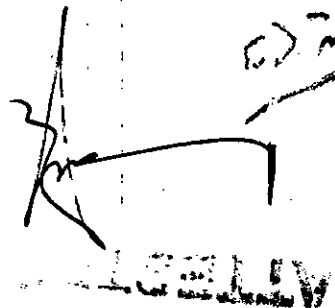
Copy to the:-

- 1) District Coordination Officer, Dir Upper.
- 2) District Accounts Officer, Dir Upper.
- 3) District Officer (M&F) E&SE Dir Upper.
- 4) Accountant Middle Schools (M&F) Local Office, the pay of absent period if paid to them be recovered and be deposit in Government Treasury.
- 5) Officials concerned.

Sd/-

Sd/-
Executive District Officer
Elementary & Secondary
Education Dir Upper.

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5 C "

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KHYBER PAKHTUNKHWA PESHAWAR.

NOTIFICATION

Consequent upon the recommendations of the enquiry officer, the appeal of Mr. Ramdad Khan Ex-Sweeper at GMS Molavi Dir upper is hereby accepted and the major penalty of dismissal from service with effect from 10-11-2012 (imposed upon him by the DEO. (M) Dir upper vide his order Endst: No. 3819-22 dated 12-12-2012) is converted into minor penalty of withholding two annual increments for two years with effect from 1-12-2013 subject to the following conditions:-

- i. His absence period from 15-6-2012 to 11-12-2012 is hereby converted into extra ordinary leave.(without pay).
- ii. The intervening period with effect from 12-12-2012 till 19-6-2013 will be treated as leave without pay.

Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Endst: No. 9304-09 /A-20/Class-IV/Dir upper Dated Peshawar the, 20/06/2013

Copy for information to the:-

1. District Education Officer (M) Dir upper
2. District Accounts Officer Dir upper
3. Sub Divisional Education Officer (Male) Warai Dir Upper.
4. Headmaster GMS Molavi Dir upper
5. Sweeper concerned
6. PA to the Director E&SE Khyber Pakhtunkhwa, Peshawar.

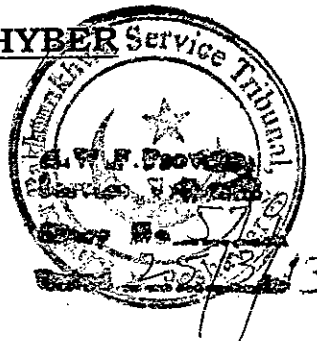
" 20/06/13
Deputy Director (F & A)
D E&SE, Khyber Pakhtunkhwa,
Peshawar.

ATTESTED

MA

"D"

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR



Service Appeal No. 652/2013

Ramdad Khan S/o Muhammad Akbar Khan
Ex. Sweeper Government Middle School Molvi Dir Upper
.....Appellant

VERSUS

- 1. Executive District Officer Elementary and Secondary Education Dir Upper.
- 2. Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 3. District Coordination Officer Dir Upper.
- 4. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.....**Respondents**

Appeal against the order dated 12.12.2012 passed by the respondent No.1 whereby the appellant has been dismissed from service and against which the Departmental appeal of the appellant dated 19.01.2013 has not been responded despite the lapse of statutory period.

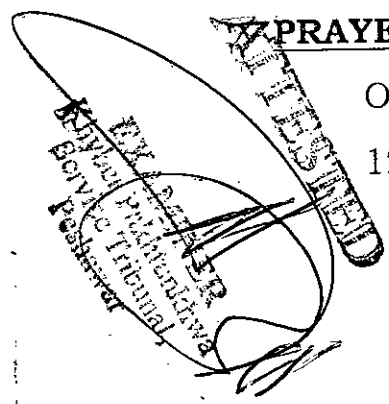
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25/3/13

Re-submitted to Dir and filed

Registered: 11/4/13

PRAYER

On acceptance of this appeal the impugned order dated 12.12.2012 of respondent No.1 may kindly be set aside



BEFORE THE SERVICE TRIBUNAL KHYBER

PAKHTUNKHWA, PESHAWAR

Service Appeal No. 652/2013

Ramdad Khan S/o Muhammad Akbar Khan

Ex. Sweeper Government Middle School Molvi Dir Upper

.....**Appellant**

V E R S U S

1. Executive District Officer Elementary and Secondary Education Dir Upper.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Coordination Officer Dir Upper.
4. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.....**Respondents**

Appeal against the order dated 12.12.2012 passed by the respondent No.1 whereby the appellant has been dismissed from service and against which the Departmental appeal of the appellant dated 19.01.2013 has not been responded despite the lapse of statutory period.

PRAYER

On acceptance of this appeal the impugned order dated 12.12.2012 of respondent No.1 may kindly be set aside

and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Respectfully Sheweth:

1. That the appellant joined the respondent department as Sweeper on 25.03.1999 and since then performed his duties with honesty and full devotion. (Copy of appointment order is enclosed as Annexure A).
2. That the appellant never committed any misconduct rather obeyed the orders of his superiors and performed his duties and in June 2012 received calls from the Terrorists threatening the appellant not to perform his duties, whereafter the son of the appellant used to perform duties in place of appellant.
3. That on 08.10.2012 the appellant reported for duty and performed his duties till 18.12.2012, whereafter he was told on 18.12.2012 that he has been dismissed from service and the same day he received the copy of the impugned order. (Copy of the order is enclosed as Annexure B).
4. That the appellant submitted departmental appeal before Respondent No.3 on 31.12.2012 and on 19.01.2013 before Respondent No.2, which has not be responded so far despite the lapse of statutory

period. (Copy of appeals are enclosed as Annexure C&D).

5. That the impugned order dated 12.12.2012 of respondent No.1 is against the law, facts and principles of justice on grounds inter-alia as follows:-

GROUND S:

- A. That the impugned order is illegal and void ab-initio.
- B. That the appellant has not been treated in accordance with law and mandatory provisions of law have been violated by the respondents.
- C. That the appellant was never issued any charge sheet/ statement of allegations and similarly no show case notice was issued to him.
- D. That no inquiry was conducted in order to find out the true facts and provide the appellant an opportunity to present the side of his case.
- X E. That even the plea of the appellant is supported by the Head Master of the school vide application dated 09.01.2013 which he has addressed to respondent No.3. (Copy of the said application is enclosed as Annexure E).

- F. That no notice was published as per law and expectation has been taken against the appellant, thus condemned unheard.
- G. That even otherwise the absence from duty was not willful and deliberate, rather the same was due to the above mentioned circumstances and even the son of the appellant has performed duties during the mentioned period.
- H. That the appellant has about 13 years of service with unblemished service record.

It is, therefore, most humbly prayed that appeal of the appellant may kindly be accepted as prayed for.

Appellant

Through


Fazal Shah Mohmand

&


Abdul Latif Khan
Advocates, Peshawar

Date:20.03.2013

Appeal No. 652/13



28.8.2013

Counsel for the appellant present and moved application for withdrawal of the appeal, already fixed, after admission for regular hearing, for further proceedings on 29.11.2013. The learned counsel has also attached notification dated 20.6.2013 by the Director, E&SE, KPK, Peshawar (respondent No.2), whereby the major penalty of dismissal from service imposed upon the appellant vide impugned order dated 12.12.2012 has been converted into that of minor penalty of withholding of two annual increments for two years w.e.f 01.12.2013. In view of the said notification, the appellant wants to file a service appeal accordingly.

In view of application for withdrawal of the appeal, the appeal is dismissed as withdrawn, with permission to the appellant to seek legal remedy in view of the changed scenario, with no order as to costs.

ANNOUNCED

28.8.2013

Signature

Certified to be true copy
EX-14/2013
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Admission of Appeal 29-8-2013
Number of Cases 800
Copy 6
Urgency 6
Total 6
Date of Disposal of Cases 2-9-2013
Date of Disposal of Appeal 2-9-2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.1349/2013

Ramdad Khan S/O Mohammad Akbar Khan Sweeper

GMS Mulvi Upper DirAppellant.

Versus.

- 1- The Director Education Peshawar.Respondent.
2- EDO(E&SE)Upper Dir. -do-
3- Secretary (E&SE) Khyber Pakhtunkhwa. -do-

**Written reply on behalf of respondents. 1,2 & 3
Respectfully shewith.**

PRELIMINARY OBJECTIONS.

- 1-That the appellant has no caused of action.
2-That the appellant has not come to the Hon: tribunal with clean hands.
3-That the appellant has been estopped by his own conduct to file the instant appeal.
4-That the appellant has no locus standi.
5-That no departmental appeal has been filed against the impugned order dated 20-6-2013.


OBJECTIONS ON FACTS.

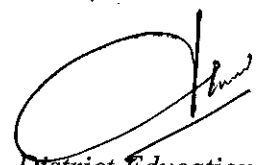
- 1-Pertains to record.
2-Incorrect, the appellant did not inform the department about such terrorist threats, nor he submitted application for leave.
3-This para relates to the post and closed the chapter. His departmental appeal was partially accepted by the competent authority and he was accordingly re-instated vide order dated 20-6-2013
4- Correct
5- Correct.
6- Incorrect, the same order is according to law and justice. Further more the appellant has not preferred a departmental appeal against the impugned order dated 20-6-2013, hence the appeal in hand is liable to be dismissed.


OBJECTIONS ON GROUND.

- A- Incorrect, the impugned order is legal and according to rules and regulation.
B- Incorrect, the appellant was treated in accordance with law.
C- Incorrect, the same order is maintainable because it was done according to rules and regulations
D- Incorrect, such punishment awarded to the appellant was according to facts.
E- Incorrect, it was not mentioned in the notification dated 20-6-2013 that the dismissal of the appellant from service was illegal, but it was stated that the major penalty of dismissal from service is converted into minor penalty of with holding two Annual Increments for 2 years w.e.f. 1-12-2013, against which the appellant has not preferred a departmental appeal.

It is therefore prayed that the appeal of the appellant may kindly be dismissed with cost please.


Director, E&SE
Khyber Pakhtun Khwa Peshawar
Respondent No. 01


District Education Officer
(M) Dir Upper.
Respondent No. 02


Secretary,
Govt: of Khyber Pakhtunkhwa
(E&SE) Deptt: Peshawar.
Respondent No.3

BEFORE THE HON: SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 1349/2013

*Ramdad Khan.S/O Mohammad Akbar KhanAppellant
Sweeper*

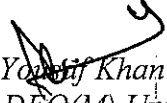
Versus

Secretary Education and othersRespondents.

AFFIDAVIT.

I Mr. Yousaf Khan Dy: District Education Officer Male Upper Dir, do hereby solemnly affirm and declare on oath that the contents of the written reply submitted by respondents No. 1,2 & 3 are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon: Tribunal .

Deponent


*Yousaf Khan
DY:DEO(M) Upper Dir.
NIC No.15602-0277614-5*

19/09/2014

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 610 /ST

Dated 15 / 4 / 2016

To


The Director E&SE,
Peshawar.

Subject: -

JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 8.4.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.