

1st June, 2023

1. Learned counsel for appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.
2. Learned counsel for appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 13.07.2023 before D.B. P.P given to the parties.

SCANNED
Peshawar

Mutazem Shah

(Salah-Ud-Din)
Member (J)

(Kalim Arshad Khan)
Chairman

13th July, 2023

Appellant present in person. Mr. Muhammad Jan, District Attorney for the respondents present.

Former requested for adjournment due to engagement of his learned counsel before the Hon'ble Peshawar High Court, Peshawar. Last opportunity is granted. To come up for arguments on 14.11.2023 before D.B. Parcha Peshi given to the parties.

SCANNED
Peshawar

Fazle Subhan, P.S

(Fareeha Paul)
Member (E)

(Kalim Arshad Khan)
Chairman

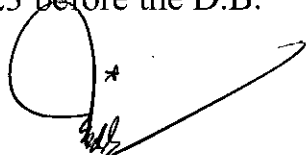
11:01.2023

Appellant in person present. Mr. Muhammad Jan, District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is indisposed today. He further stated that he has also handed over his passport to his counsel. Last opportunity given. To come up for production of passport of the appellant as well as arguments on

SCANNED
KPST
Peshawar

24.03.2023 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

24.03.2023

Junior to counsel for the appellant present. Mr. Fazal Shah Mohmand, Addl. A.G for the respondents present.

The Worthy Chairman is on leave today, the bench is, therefore incomplete. To come up for arguments as last chance on 1.06.2023 before the D.B. Parcha Peshi given to the parties.



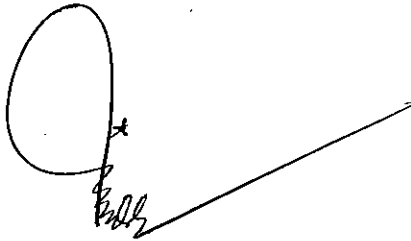
(FAREEHA PAUL)
Member (E)

23.11.2022

Appellant alongwith counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Wisal Ahmad Khan, ADEO for the respondents present.

While going through the record, it was observed that vide order dated 14.06.2021, the appellant was directed to produce his passport on the next date, however thereafter, the appeal was adjourned for one reason or the other. We asked the appellant to produce his passport, however he requested that he will produce the same on the next date. Adjourned. To come up for production of passport of the appellant as well as arguments on 11.01.2023 before D.B.

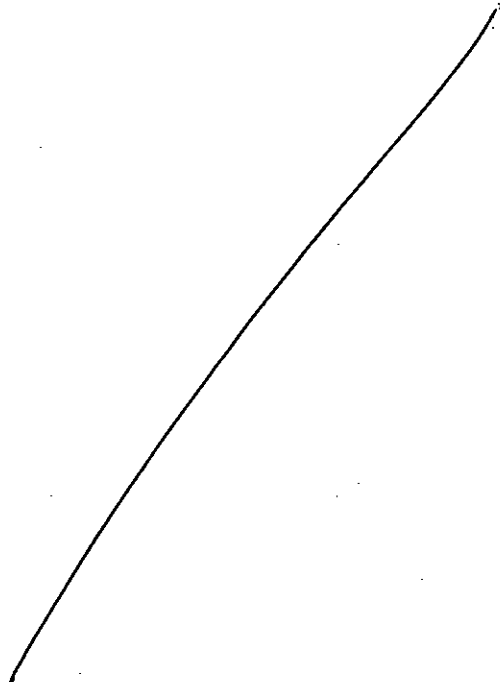
SCANNED
KPST
Peshawar



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)



01.06.2022

Appellant in person present.

Muhammad Adeel Butt learned Additional Advocate General alongwith Wisal Muhammad ADO Legal for respondents present.

Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 22.07.2022 before D.B.



(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

22.07.2022


Appellant alongwith his counsel present.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for respondents present.

Former made a request for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 27.09.2022 before D.B.



(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member (J)

27.09.2022

Junior to counsel for appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Due to general strike of the bar, case is adjourned to 23.11.2022 for hearing before D.B.



(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

01.02.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Due to paucity of time arguments could not be heard. To come up for arguments on ~~30.03~~ 30.03.2022 before the D.B.



(Atiq-Ur-Rehman Wazir)
Member (E)



Chairman

30.03.2022

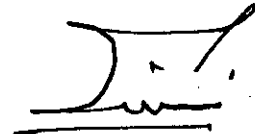
Junior of learned counsel for the appellant present.

Mr. Naseer ud Din Shah learned Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant sought adjournment on the ground that learned counsel for the appellant is busy in courts at Tehsil Tangi District Charsadda. Adjourned. To come up for arguments before the D.B on 01.06.2022.



(Rozina Rehman)
Member (J)




(Salah-Ud-Din)
Member (J)

14.06.2021

Appellant with counsel present.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

There is specific plea in parawise comments of the respondents that travel history of the appellant reveals that he departed on 12.10.2017 and stayed abroad till 12.03.2019. In turn, the plea was extended that appeal No.1309/2015 was disposed of in absence of appellant. There is other plea with reference to travel history of the appellant that execution petition was also filed in absence of the petitioner/appellant and same is the position of main appeal. The production of Passport by the appellant and its perusal is necessary to check the veracity of another plea of the respondents that appellant was reinstated in service for the purpose of inquiry but he never took charge and remained absent and in furtherance of that inquiry, he was removed from service. The appellant is directed to produce his Passport on the next date i.e. 18.10.2021 before D.B.


(Rozina Rehman)


~~Member~~ Member (J)


Chairman

18.10.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Due to general strike of the bar, counsel for the appellant is not in attendance today. To come up for record as per previous order sheet and arguments on 01.02.2022 before the D.B.

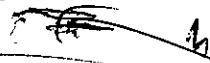

(Salah-ud-Din)
Member(J)


Chairman

11.01.2021

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Written reply on behalf of respondent No. 1 has already been submitted while respondent No. 2 relies on the same. Neither written reply on behalf of respondents No. 3 & 4 submitted nor any representatives on their behalf are present despite last chance given in the preceding order sheet dated 19.11.2020, therefore, the appeal is adjourned to 12.03.2021 for rejoinder and arguments before D.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)


12.03.2021

Appellant with counsel present.

Noor Zaman Khan Khattak learned District Attorney for respondents present.

A request was made for adjournment by the learned counsel for appellant for submission of rejoinder. Last chance is given with direction to submit rejoinder before date and file to come up for rejoinder/arguments on 14/06/2021 before D.B.


(Mian Muhammad)
Member (E)

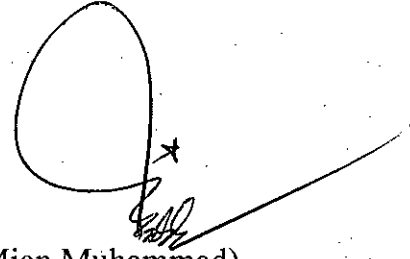

(Rozina-Rehman)
Member (J)

17.08.2020

Appellant in person present. Mr.Ziaullah, DDA for respondents present.

Written reply not submitted. Notices be issued to the respondents for submission of written reply/comments.

Adjourned to 19.10.2020 before S.B.

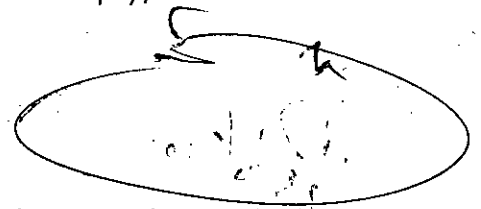


(Mian Muhammad)
Member(E)

19.10.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Wisal, ADEO on behalf of respondent No. 1 are also present.

Representative of respondent No. 1 submitted written reply which is placed on record. Learned Additional AG request for further time to contact respondents No. 2 to 4 and furnish written reply/comments on the next date of hearing. Adjourned to 19.11.2020 on which to come up for written reply/comments on behalf of respondents No. 2 to 4 before S.B.

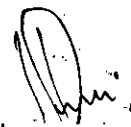


(Muhammad Jamal Khan)
Member (Judicial)

19.11.2020

Appellant in person and Addl; AG alongwith Abdul Wahid Litigation Officer for respondent No.2 present.

Reply/comments on behalf of respondent No. 1 has been already submitted. Representative of respondent No.2 stated at the bar that he relies on the same. Learned AAG is required to contact the respondents and facilitate the submission of reply/comments on 11.01.2021, as last chance.



Chairman

25.06.2020

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant stated that this is the second round of litigation. Previously the appellant was removed from service against which he filed service appeal No. 1309/2015 in this Tribunal and it was decided on 27.07.2018 wherein the appellant was reinstated in service and the respondents were placed at liberty to conduct de-novo enquiry. The respondents again awarded major penalty of removal from service to the appellant vide impugned order dated 11.07.2019. Against the impugned order, the appellant filed departmental appeal on 16.08.2019 which was not responded within the stipulated statutory period, hence the present service appeal on 24.10.2019. Learned counsel for the appellant further argued and contended vehemently that the appellant has not been treated according to law and rules as no regular enquiry has been conducted as such the appellant was condemned unheard which is against the tenants of law and fundamental rights.

Points urged need consideration. Service appeal is admitted subject to all legal objections. Appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 17.08.2020 before S.B.

Appellant Deposited
Security & Process Fee
25/6/20


(MAIN MUHAMMAD)
MEMBER

22.01.2020

Appellant present in person. Addl. AG on pre-admission notice present.

The requisite notices have been issued to the respondents despite no authorized representative is in attendance to represent them today nor their reply received. Learned AAG undertakes to facilitate the appearance of representative of the respondents and submission of requisite reply/record on next date of hearing.

Adjourned to 05.03.2020 at preliminary stage before S.B.

[Handwritten signature]

[Handwritten signature]
Chairman

05.03.2020

Appellant in person and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Irfanullah, Assistant on behalf of respondent No. 2 present. Representative of respondent No. 2 seeks time to file reply. Adjourned to 01.04.2020 for reply before S.B.

[Handwritten signature]
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

01.04.2020

Due to public holiday on account of COVID-19, the case is adjourned for the same on 25.06.2020 before S.B.



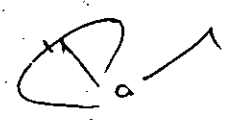
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Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1561/2019


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/11/2019	<p>The appeal of Mr. Saeed Jan resubmitted today by Syed Rifaqat Shah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	24/12/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24/12/19</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Learned counsel for the appellant present. Heard.</p> <p>Let preadmission notice be issued to the respondents for reply. The respondents except respondent No.4 are also directed to furnish IBM/Passport Travel History of the appellant alongwith their reply. Adjourn. To come up for reply and preliminary arguments on 22.01.2020 before S.B.</p> <p style="text-align: right;"> Member</p>

This is an appeal filed by Mr. Saeed Jan today on 24/10/2019 against the order dated 11.07.2019 against which he preferred/made departmental appeal/ representation on 16.08.2019 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 1854/ST,

Dt. 25/10/2019


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Rifaqat Shah Adv. Pesh.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1561 / 2019

Saeed Jan

Vs

D.E.O & others

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Through

Saeed Jan
Appellant

Syed Rifaqat Shah
SYED RIFAQAT SHAH
Advocate High Court
Contact No. 0345-5295547

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ 2019

Saeed Jan s/o Muhammad Yaqoob
Resident of Mirzadher, Tehsil Tangi District Charsadda

.....Appellant

VERSUS

1. District Education Officer (Male) District Charsadda
2. Director of Education (E & SE) Khyber Pakhtunkhwa, Peshawar.
3. Ministry of Education through its Secretary Khyber Pakhtunkhwa, Peshawar
4. Head Master Government High School Mirzadher, Tehsil Tangi District Charsadda

.....Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER/ NOTIFICATION OF REMOVAL FROM SERVICE DATED: 11-07-2019 OF THE APPELLANT AND AGAINST THE ORDER/ ACTION OF RESPONDENT'S NO.1 WHEREBY DEPARTMENTAL APPEAL/ REPRESENTATION DATED: 16-08-2019 OF APPELLANT WAS NOT ACCEPTED/ DECIDED WITHIN THE STATUTORY PERIOD

PRAYER IN APPEAL:

ON ACCEPTANCE THIS APPEAL THE IMPUGNED ORDER OF REMOVAL FROM SERVICE OF THE APPELLANT DATED: 11-07-2019 MAY KINDLY BE SET ASIDE AND THE RESPONDENT'S MAY KINDLY BE DIRECTED TO RE-INSTATE THE APPELLANT IN SERVICE WITH ALL BACK BENEFITS IN THE ENDS OF LAW, FAIRNESS AND JUSTICE WITH ANY OTHER RELIEF OF WHICH THE APPELLANT IS ENTITLED AND WHICH RELIEF HAS NOT BEEN SPECIFICALLY PRAYED FOR MAY ALSO GRACIOUSLY BE GRANTED TO THE APPELLANT

RESPECTFULLY SUBMITTED:

FACTS:

1. That the appellant was appointed as Naib Qasid against the vacant post at G.H.S Tangi No.2 vide office order Endstt: 4563-66 dated: 12-06-2013. **(Copy of appointment order is attached)**
2. That after completion of codel requirement the appellant took the charge & joined his duties in G.H.S Tangi No.2. **(Photo state copy of school attendance register is attached)**
3. That on 16-07-2013 through corrigendum Endstt: 5184-89 the appellant was directed to took the charge in G.P.S Kodai (Shabqadar) which order was complied by the appellant. **(Copy of corrigendum & charge report is attached).**
4. That on 29-09-2013 the appellant submitted an application to the concerned D.D.O for the release of his salary but fruitless due to which the appellant for the release of his salary instituted writ petition No. 186-P/ 2014 which was disposed of with certain directions on 30-10-2014. **(Copy of order of writ petition is attached)**
5. That for the purpose of releasing salary the appellant approached to the respondent's No.1/ D.E.O Charsadda along with an application & order of the worthy Peshawar High Court but fruitless due to which the appellant filed Contempt of Court petition No. 468-P/ 2014 which was disposed of on 21-04-2015 with certain directions. **(Copy of application & C.O.C petition along with order is attached)**

6. That after the order dated: 21-04-2015 of the worthy Peshawar High Court, Peshawar in C.O.C the appellant again approached to the D.E.O Charsadda for release of salary but appellant was informed in the month of June 2015 that he was removed from service on 5-08-2014.
7. That on information of removal from service appellant filed departmental appeal on 27-06-2015 to the D.E.O Charsadda for review on the order of removal from service which was not responded within the stipulated period.
8. That being aggrieved from the order of dismissal from service the appellant filed appeal before this Hon'ble Tribunal Peshawar on 22-10-2015 which was allowed vide order dated: 27-07-2018 and the appellant was re-instated on service, however, the respondent's was given liberty to conduct de-novo inquiry to be completed within three months. **(Copy of appeal & order of Service Tribunal is attached)**
9. That on obtaining attested copy of the judgment dated: 27-07-2018 of re-instatement announced by this Hon'ble Tribunal, the appellant filed applications along with the judgment of this Hon'ble Tribunal on 6-08-2018, 11-08-2018 & 19-03-2019 to the D.E.O Charsadda for his re-instatement on service but was not responded. **(Copy of application are attached)**
10. That for the implementation of the judgment of this Hon'ble Court/ Hon'ble Service Tribunal the appellant filed execution petition before the Hon'ble Service Tribunal during the pendency of which again show cause notice was issued/ given to the appellant by the respondent's

No. 1/ D.E.O Charsadda which was reached to the appellant on 28-03-2019 at 8:00 a.m. (Copy of C.O.C & show cause notice is attached)

11. That the appellant give reply of the show cause notice within the statutory period and denied all the allegation of the show cause notice but without any inquiry & without given the opportunity of hearing the appellant was removed from service vide impugned order/ notification Endst No. 14896-98 dated: 11-07-2019 which was not communicated to the appellant as apparent from the notification and the appellant received the copy of that on 8-08-2019. (Copy of reply to show cause notice & removal order dated: 11-07-2018 is attached)

12. That the appellant filed departmental appeal to the respondent's No.1/ D.E.O Charsadda on 16-08-2019 & to the respondent's No.3 on 2-09-2019 against the order of removal from service dated: 11-07-2019 which was not responded/ not decided within the statutory period. (Copy of departmental appeals is attached)

13. That being aggrieved from the impugned order of removal from service dated: 11-07-2019 & by not deciding/ acceptance the departmental appeal/ representation of the appellant, there is no other alternate remedy available to the appellant, hence this appeal on the following grounds:

GROUND:

A. That the order/ notification of removal from service dated: 11-07-2019 reached & received to appellant on 08-08-2019 at about 11:15 a.m through post is against the law, facts & against the grounds of

allegation leveled in the show cause notice, hence is liable to be set aside.

- B. That no regular enquiry was conducted against the appellant nor the appellant was associated with any enquiry (if any) conducted and as such the appellant was condemned unheard before the imposition of major penalty of removal from service which is against the law, rules & justice.
- C. That no charge sheet was given to appellant before the imposition of major penalty of removal from service which is a mandatory requirement. Further it clearly shows that no enquiry was conducted nor appellant was associated with any enquiry (if any) conducted and as such the appellant was deprived of his right of hearing & defending himself.
- D. That no inquiry officer was appointed nor was any enquiry report (if any) provided to appellant with the show cause notice in order to properly defend the appellant before the imposition of major penalty of removal from service.
- E. That the show cause notice was issued to appellant after the appellant filed second application for his reinstatement in service which clearly shows the malafide conducted in the case of appellant.
- F. That no order of re-instatement of service was issued to the appellant nor communicated/ reached to the appellant and through the show cause notice the appellant got the knowledge of re-instatement order which was mentioned in the show cause notice, hence the whole

proceedings against the appellant was conducted against the law, rules on the subject & against the fundamental rights provided by the Constitution of Islamic Republic of Pakistan, 1973.

- G. That the appellant was removed from service during the pendency of contempt of court proceedings before this Hon'ble Tribunal for implementation of the order dated: 27-07-2018 due to which on the basis of malafide major penalty of removal from service was imposed upon the appellant.
- H. That the allegation in the show cause notice & grounds of removal from service are self contradictory orders which clearly negates the stance of respondent's against the appellant. Further when no order of re-instatement in service was communicated/ reached to the appellant and no information of re-instatement in service was given to the appellant then taken of charge & allegation of absence from duty is baseless, hence the order of removal from service is liable to be set aside.
- I. That the whole proceedings conducting against the appellant are against the law, rules on the subject and are void ab initio, hence the impugned order of removal from service is liable to be set aside.
- J. That the appellant was not heard in person or associated with the enquiry proceedings (if any conducted) and no enquiry report (if any conducted) was provided to the appellant before removal from service which is the mandatory requirement of law before imposition of major penalty.

- K. That the appellant was never travel abroad country/ Saudi Arabia which is very much clear from the regular appearance of appellant in Service Tribunal in perusing his appeal & applications to your office dated: 11-08-2018 & 19-03-2019 for re-instatement in service according to the order of Hon'ble Service Tribunal and the alleged IMB report is a concocted report which is prepared just for the purpose of avoiding implementation & not obeying the lawful order of Hon'ble Service Tribunal.
- L. That before removal from service the mandatory requirement of law of issuing notices & proclamation in newspaper for joining duty were not done by the respondent's, hence the impugned order of removal from service dated: 11-07-2019 of the appellant is liable to be set side & null & void ab-initio on the appellant.
- M. That absence of the appellant from duty was not intentional but was due the fact of no information of reinstatement order and when the appellant got the knowledge of reinstatement order through show cause notice he appeared before the respondent's No. 4 on 28-03-2019 with written application for taking charge of his duty & to the respondent's No. 1 as well but he refused which is very much clear from his letter, hence the impugned order of removal from service of the appellant is against the law which is liable to be set aside. **(Copy of application & letter dated: 10-06-2019 is attached)**
- N. That further points may be raised at the time of arguments at the bar.

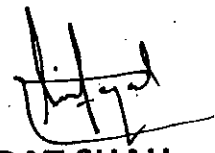
It is, therefore, requested that on acceptance of this appeal the order of removal from service of the appellant dated: 11-07-2019

received by the appellant on 08-08-2019 at about 11:15 am through post may kindly be set aside and the appellant may kindly be re-instated in service with all back benefits in the ends of law, fairness & justice.

It is further requested that any other relief of which the appellant is entitled & which relief has not been specifically prayed for may also kindly be granted to the appellant in the ends of justice.

Through

Saeed Jan
Appellant



SYED RIFAQAT SHAH
Advocate High Court
Contact No. 0345-5295547

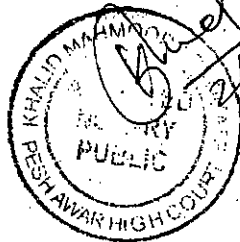
CERTIFICATE:

It is certified as per information furnished by my client that no appeal against the impugned order of removal from service was earlier filed by the appellant before this Hon'ble Tribunal or any other Court of law.

[Signature]
ADVOCATE

AFFIDAVIT

It is solemnly affirm & declared on oath that the contents of this appeal are true & correct to the best of my knowledge & belief and nothing therein has been concealed or misrepresented from this Hon'ble Tribunal...



Saeed Jan
DEPONENT
CINC: 17101-4896372-7

9

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ 2019

Saeed Jan

Vs

D.E.O & others

ADDRESSES OF PARTIES

RESPECTFULLY SUBMITTED:

Addresses of parties for the purpose of this service appeal are as under:

APPELLANT:

Saeed Jan s/o Muhammad Yaqoob
Resident of Mirzadher, Tehsil Tangi District Charsadda

RESPONDENT'S:

1. District Education Officer (Male) District Charsadda
2. Director of Education (E & SE) Khyber Pakhtunkhwa, Peshawar.
3. Ministry of Education through its Secretary Khyber Pakhtunkhwa, Peshawar
4. Head Master Government High School Mirzadher, Tehsil Tangi District Charsadda

Through

Saeed Jan
Appellant

[Signature]
SYED RIFAQAT SHAH

Advocate High Court

Contact No. 0345-5295547

10

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) CHARSADDA

OFFICE ORDER:

Mr. Saeed Jan S/O Muhammad Yaqoob r/o Tangi is hereby appointed as Naib Qasid against the vacant post at GHS Tangi No.2 (BPS-01) Non pensionable plus usual allowances as admissible under the rules in the interest of public service from the date of his taking over charge.

His CNIC is 17101-1896372-7 and date of birth is 20/02/1989.

Terms & Conditions:

1. The appointment has purely been made on temporary basis and liable to termination at any time without asking any reason or notice.
2. The candidate is required to produce Health & age certificate from the authorized medical superintendent before taking over charge. He should not be allowed to take over charge if his age less than 18 years & above 45 years.
3. If charge is not taking over with in 14 days after the receipt of this order will stand with drawn automatically.
4. His service will be on regular basis but non pensionable.
5. Charge report should be submitted to all concerned.

(MOIN UD DIN)
DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA

Endstt: No. 4563-66 / Date 12/6 / 2013

Copy for information to the:

1. District Accounts Officer Charsadda.
2. Principal GHS Tangi No.2
3. Candidate concerned.
4. Office file

verified
[Signature]
By: D.E.O (M)
Charsadda

[Signature]
District Education Officer
(Male) Charsadda

ATTESTED

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) CHARSADDA

Corrigendum:

Please read GPS Kodai instead of GHS Tangi No.2 issued vide order
Indstt: No.4563-66 dated 12/06/2012 with immediate effect.

Note: Charge report should be submitted to all concerned

(MOIN UD DIN)
DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA

Indstt: No. 5184-89, Date 16/07 /2013

Copy for information to the:

1. District Accounts Officer Charsadda
2. The Principal concerned is directed to the above named class-IV, Mr. Saeed Jan relieve immediately under intimation to this office because he is not related from PK-20.
3. Sub-Divisional Education Officer (Male) Charsadda, *resident of*
4. ADO B&A /Supdt: local office
5. Official concerned
6. Office file

Moin Ud Din
Amir

DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA

ATTESTED

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IN THE COURT OF PESHAWAR HIGH COURT PESHAWAR.

WRIT PETITION NO. 186-P/2014

SAEED JAN S/O MUHAMMAD YAQOOB R/O VILLAGE TANGI
DISTRICT CHARSADDA.



----- PETITIONER.

VERSUS

1. GOVERNMENT OF KHYBER PUKHTOONKHWA THROUGH CHIEF SECRETARY.
2. SECRETARY GOVERNMENT OF KHYBER PAKHTUNKHWA E&SE DEPARTMENT PESHAWAR
3. DIRECTOR E & SE KHYBER PAKHTUNKHWA PESHAWAR Distt, Govt Peshawar
4. DISTRICT EDUCATION OFFICER (MALE) CHARSADDA KHYBER PUKHTOONKHWA. MARDAN ROAD, NEAR DPO OFFICE CHARSADDA
5. EXECUTIVE DISTRICT OFFICER E & SE CHARSADDA
6. DEPUTY DISTRICT OFFICER (MALE) CHARSADDA AND TANGI
7. DISTRICT ACCOUNTS OFFICER CHARSADDA.

----- RESPONDENTS.

WRIT PETITION UNDER ARTICLE 199 OF
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN 1973.

RESPECTFULLY SHEWETH; -

Brief facts giving rise to instant writ petition are as under:-

1-1) That the respondents pleased to appoint the petitioner as Naib Qasid against the vacant post at GHS Tangi in BPS-01 vide appointment office order Endst:4563-66 dated 12/6/2013, the petitioner after complying with the requisite direction, submitted the charge and joined his duties, the respondents through corrigendum Endst: No. 5184-89 dated 16/07/2013 transferred the petitioner from GHS Tangi No.2 to GPS Kodai, petitioner joined his duties in GPS Kodai, and since then the petitioner is performing his duties..

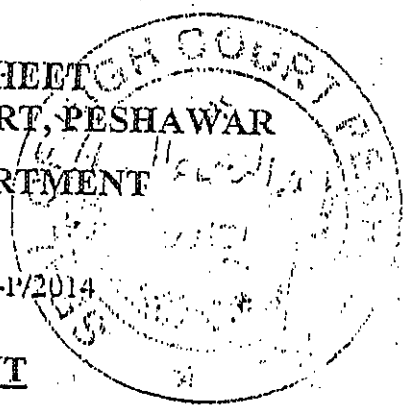
(Copy appointment order is annexure A, copy medical certificate is Annexure B, copy of charge report as Annexure C while copy of attendance register is Annexure D respectively)

ATTESTED

[Signature]
Deputy Registrar
16 JAN 2014

FILED TODAY
Deputy Registrar
16 JAN 2014

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT



Writ Petition No.186-1/2014

JUDGMENT

Date of hearing.....30.10.2014.....

Petitioner(s) by Mr. Kamal, Advocate

Respondent(s) by Mr. Rab Nawaz Khan, Advocate

YAHYA AFIRDI, J.- Saeed Jan, the petitioner, seeks constitutional jurisdiction of this Court praying:

"It is, therefore, most humbly prayed that on acceptance of the instant writ petition, the respondents be directed to release the salaries of the petitioner and the act of respondents by not releasing the salaries to the petitioner or creating hurdles in petitioner service be declared null and void in the interest of justice".

2. Brief and essential facts of the present petition are that the petitioner was appointed as Nuib. Qasid in GHS Tangi No.2 on 12.6.2013 and thereafter transferred to GPS Kodai on 16.7.2013; that numerous application were given to the respondents to release his pay/salaries but in vain. Hence, the instant Writ Petition.

3. At the very outset, Mr. Rab Nawaz Khan, Additional Advocate General, present in Court, states

ATTESTED
ATTESTED

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that he has contacted the concerned District Education Officer, who informed him that petitioner has never submitted any application regarding his grievances.

4. When the learned counsel for the petitioner was confronted with the above situation, he stated at the bar that petitioner has already submitted application to the concerned D.D.O. on 20.9.2013, which is available at page-13 of the instant file.

5. This Court without passing any finding on merits of the case, direct respondent No.4 to consider the grievance of the petitioner strictly in accordance with the law. The petitioner is directed to appear before the District Education Officer (Male) Charsadda, respondent No.4 on 6.11.2014 at 10.00 a.m.

8. In case, the petitioner cannot be granted the relief sought, he shall be provided in writing the reasons for the same. The copy thereof be also sent to the Additional Registrar (Judicial) of this Court.

This writ petition is disposed of accordingly.

Dt.30.10.2014.

sd/ Yahya Abzidi
sd/ Ghoshal Deviser

J
J



ATTESTED

Nawab Shah

5/11/14
7/11/14

CERTIFIED TO BE TRUE COPY
Examinor
Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of Pakistan Order 1984
11 NOV 2014

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحب چارسدہ

درخواست بمراد Release کرنے تنخواہ من مسائل

جناب عالی! مسائل حسب ذیل عرض رساں ہے۔

- (1) یہ کہ من مسائل زیر آنجناب محکمہ تعلیم میں بطور نائب قاصد ملازم ہوں۔
- (2) یہ کہ از اپروائمنٹ تاحال من مسائل کو کوئی تنخواہ نہیں ملی ہے۔
- (3) یہ کہ قبل ازیں بھی من مسائل نے بحضور آنجناب درخواست بمراد release کرنے تنخواہیں گزاری تھی۔
- (4) یہ کہ برائے ریلیز کرنے تنخواہیں من مسائل نے بعد الت جناب پشاور ہائی کورٹ پشاور یہ سینڈ رٹ پٹیشن 186-P/2014 گزاری جس پر فاضل عدالت حضور نے مندرجہ ذیل قائم صادر فرمایا ہے۔

ATTESTED

(5) This court without passing any finding on merit of the case, direct respondent No. 4 to consider the grievance of petitioner strictly in accordance with the law the petitioner is directed to appear before the District Education Officer (Male) Charsadda, respondent No. 4 on 06.11.2014 at 10:00 AM.

In case the petitioner cannot be granted the relief sought, he shall be provided in writing the reasons for the same, the copy there of be also sent to the Additional Registrar (Judicial) of this court.

(6)

(مصدقہ نقل فیصلہ عدالت حضور لفظ درخواست ہذا ہے)

یہ کہ من سائل کو اپنی تنخواہ ادا کرنا عین انصاف ہے۔

(7)

لہذا استدعا ہے کہ بمنظوری درخواست ہذا من سائل کو تنخواہیں ریلیز کرنے کا حکم فی الفور صادر فرمایا جاوے۔

المرقوم: 13.11.2014

عارض

سعید جان ولد محمد یعقوب

سکنہ محلہ بازوان خیل، مرزا ڈھیر، ڈاکخانہ ترناب، تحصیل و ضلع چارسدہ

شناختی کارڈ نمبر: 7-4896372-17101

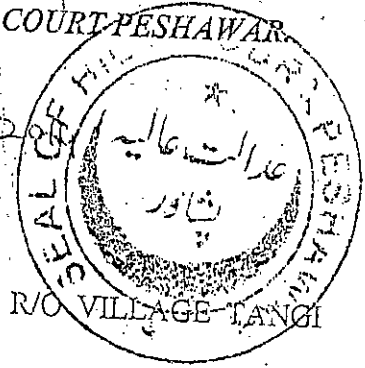
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IN THE COURT OF PESHAWAR HIGH COURT PESHAWAR

CONTEMPT PETITION *168 P / 2014*
IN
WRIT PETITION NO.186/ 2014



SAEED JAN S/O MUHAMMAD YAQOOB R/O VILLAGE TANGI
DISTRICT CHARSADDA.

----- PETITIONER.

*V*ERSUS

1. MUHAMMAD SIRAJ DISTRICT EDUCATION OFFICER (MALE) CHARSADDA KHYBER PUKHTOONKHWA MARDAN ROAD NEAR DPO OFFICE CHARSADDA.
2. GOVERNMENT OF KHYBER PUKHTOONKHWA THROUGH CHIEF SECRETARY.
3. SECRETARY GOVERNMENT OF KHYBER PAKHTUNKHWA E&SE DEPARTMENT PESHAWAR
4. DIRECTOR E & SE KHYBER PAKHTUNKHWA PESHAWAR DISTRICT COURT PESHAWAR.
5. EXECUTIVE DISTRICT OFFICER E & SE CHARSADDA.
6. DEPUTY DISTRICT OFFICER (MALE) CHARSADDA AND TANGI
7. DISTRICT ACCOUNTS OFFICER CHARSADDA.

----- RESPONDENTS.

PETITION UNDER ARTICLE 204 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973 READ WITH SECTION 3-4 OF THE CONTEMPT OF COURT ACT, FOR INITIATING CONTEMPT OF COURT PROCEEDINGS AGAINST THE RESPONDENT NO.1 FOR NOT HONORING THE DECISION DATED 30/10/2014 IN W.P NO. 186-P /2014 DECIDED BY THIS HONORABLE COURT.

ATTESTED

Respectfully Sheweth:-

That the petitioner humbly submit as under:-

ATTESTED
EXAMINER-
Peshawar High Court
25 APR 2015

ADV
186-P
2014

1. That the petitioner has brought the writ petition No.186/2014 against the respondents by praying that "on acceptance of the instant writ petition the Respondents be directed to release the salaries of the petitioner and the act

(21) (2)

of Respondents by not releasing the salaries to the petitioner or creating hurdles in petitioner services be declared null and void in the interest of justice". This Hon,able court pleased to disposed of the writ petition by directing the petitioner to appear before the District Education officer(Male) Charsadda Respondent No.4 on 6/11/2014 at 10.00 a.m vide judgment/order dated 30/10/2014.

(Attested copy of the writ Petition is annexure A while order is attached as Annexure "B")

2. That the petitioner has moved an application before the Respondent No.1, appeared before the Respondent No.1 for release of salary to the petitioner as per order of this Hon,able court, the Respondent No.1 even did not bother to hear the petitioner or to peruse the petitioner application and is reluctant to comply with the decision of this Hon,able court, hence this petition inter alia, on the following grounds:

(Copy of application is attached as Annexure "C")

GROUND:

- A. That non-compliance of the decision rendered in W.P No.186-P/2014 dated 30/10/2014 of this Honorable court by the respondent No.1 is illegal, without lawful authority, without jurisdiction, malafide and void ab-initio.
- B. That every government functionary is under legal obligation to honour the judgment of the court of competent jurisdiction, the respondents by not complying with the decision of this Hon,able court, have not performed their duty in accordance with law.
- C. That from the facts and grounds taken the said writ petition, it has become crystal clear that the respondents have committed contempt of court.
- D. That the petitioner seeks permission of this honorable court to raised additional points of law and facts at the time of arguments.

ATTESTED
EXAMINER
Peshawar High Court
25 APR 2015

FILED TODAY
Deputy Registrar
21 NOV 2014

It is therefore, humbly prayed that on acceptance of this petition/application the contempt of court proceedings may kindly be initiated against respondent No.1 (Muhammad Siraj DEO (Male) Charsadda, he be summoned, proceeded against and be punished in accordance with law and the decision given

ATTESTED

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by this honorable court in W.P. No.186/2014 dated 30/10/2014 may kindly be implemented.

PETITIONER *Abdul Ghaffar*

THROUGH

KANWAR KAMAL

&

Amir
SAWAR KHAN

(ADVOCATE HIGH COURT)

Dated

CERTIFICATE

Priorly no such writ petition has been filed on behalf of the petitioner before this Hon,able court.

Advocate Peshawar *Amir*

List of books:

1. CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN.
2. CASE LAW AND ANY OTHER LAW BOOK ACCORDING TO NEED.

ATTESTED

EXAMINER
Peshawar High Court

25 APR 2015

ATTESTED

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18/10/2014

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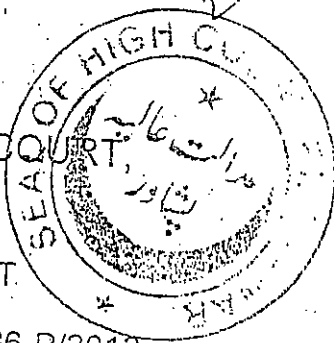
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Judgment Sheet

IN THE PESHAWAR HIGH COURT,
PESHAWAR

JUDICIAL DEPARTMENT

COC.No. 468-P/2014 in WP.No.186-P/2012.



JUDGMENT

Date of hearing... 21.04.2015.....

Petitioner. (Saeed Jan) by Mr. Kamran Kamal, Advocate.

Respondent... by Mr. Muhammad Riaz, Panchayat Nazim, A.G. for State

YAHYA AFRIDI, J.:- Through the instant petition, Saeed Jan, petitioner, sought the contempt proceedings against the respondents for non-compliance of orders of this Court dated 30.10.2014, passed in Writ Petition No. 186-P of 2014.

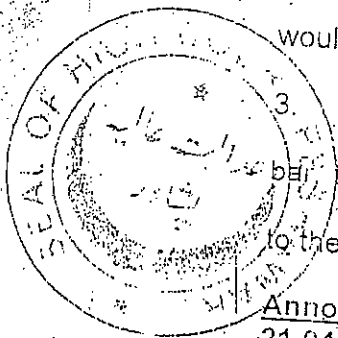
2. Siraj Muhammad, DEO present in Court states that the petitioner has never appeared before him as directed by this Court. He further contended that on 16.04.2015 the petitioner was informed in Court that he should appear on 17.04.2015 and his grievance would be redressed. Despite the same the petitioner has not appeared before him. He further contends that in this regard as and when the

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ATTESTED
EXAMINER
Peshawar High Court
25 APR 2015

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petitioner does appear before the respondent, he would consider his case on that very stage.



In view of the statement rendered at the bar, this petition is disposed of. The notices issued to the respondents are recalled.

Announced:
21.04.2015.

sd/ Yehya Afridi

[Signature]
JUDGE

sd/ Abdul Kadir Khan

[Signature]
JUDGE

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar
Authorized Under Article 194
of the Constitution of Pakistan
25 APR 2015

14/15

No. 20262

Date of Presentation of Application 25/4/15

No of Pages 05-7

Copying fee /

Urgent Fee /

Total 10-00

Date of Preparation of Copy 25/4/15

Date Given For Delivery 25/4/15

Date of Delivery of Copy 25/4/15

Received By [Signature]

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BEFORE THE HON, ABLE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

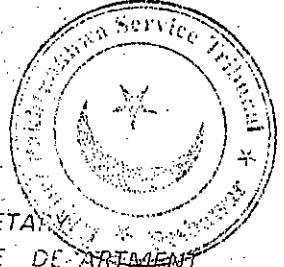
Service Appeal No 1309 /2015

K.P.S. TRIBUNAL Service Tribunal Diary No 1292 Dated 22-10-2015

SAEED JAN S/O MUHAMMAD YAQOOB R/O VILLAGE TANGI DISTRICT CHARSADEA.

----- APPELLANT.

VERSUS



- 1. GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY.
2. SECRETARY GOVERNMENT OF KHYBER PAKHTUNKHWA E&SE DEPARTMENT PESHAWAR
3. DIRECTOR E & SE KHYBER PAKHTUNKHWA PESHAWAR.
4. DISTRICT EDUCATION OFFICER (MALE) CHARSADEA KHYBER PAKHTUNKHWA.
5. EXECUTIVE DISTRICT OFFICER E & SE CHARSADEA.

..... Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT-1974 FOR SETTING ASIDE THE IMPUGNED ORDER OF DISMISSAL FROM SERVICE AND ORDER OF THE LEARNED RESPONDENT NO.4 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT WAS NOT ACCEPTED/REPLIED TILL DATE AN IN ILLEGAL MANNER.

Respectfully Sheweth,

1- That the Appellant is a naturally born citizen of the Islamic Republic of Pakistan and hails from District Charsadda.

ATTESTED

Registrar 10/11

2- That the respondents pleased to appoint the Appellant as Naib Qasid against the vacant post at GHS Tangi in BPS-01 vide appointment office order Endst:4563-66 dated 12/6/2013, the appellant after complying with the requisite

Signature of Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar

cc-submitted to file

Registrar

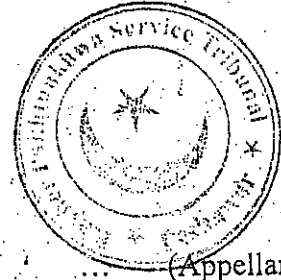
(26)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1309/2015

Date of Institution ... 22.10.2015

Date of Decision ... 27.07.2018



Saeed Jan S/O Muhammad Yaqoob
R/O Village Tangi District Charsadda.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary and 4 others.
(Respondents)

MR. Kanwar Kamal,
Advocate

For appellant.

MR. ZIAULLAH,
Deputy District Attorney

For respondents

MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL

MEMBER (Executive)
MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the appellant was appointed as Naib Qasid in Government High School No. 2 Tangi on 12.06.2013. That through corrigendum dated 16.07.2013 he was transferred/posted in Government Primary School Kodai. After assuming charge he started performing duty regularly. That vide impugned order dated 05.08.2014 major penalty of removal from service was imposed on him. Feeling aggrieved he filed departmental appeal on 27.06.2015 but was not responded within the stipulated period, hence, the instant service appeal.

ARGUMENTS

3. Learned counsel for the appellant argued that after initial appointment his pay/salary was stopped by the respondents without any rhyme and reason. That the

ATTESTED

appellant filed Writ Petition No. 186/2014, in Peshawar High Court and its order dated 30.10.2014 the Peshawar High Court directed respondent No. 4 to consider his grievances in accordance with law. Thereafter he submitted an application dated 13.11.2014 for release of his salary. Astonishingly without observing codal formalities major penalty of removal from service was imposed on him vide order dated 05.08.2014. Impugned order was issued without conducting proper inquiry, show cause notice and opportunity of personal hearing etc, so it is not only against the principles of natural justice but issued in blatant violation of laid down procedure. As such, the same is illegal, unlawful and void ab-initio.

4. Learned Deputy District Attorney at the very outset raised objection that impugned order was passed on 05.08.2014, while departmental appeal was filed on 27.06.2015, so the same was time barred, hence not maintainable. He further argued that as he remained absent from duty so disciplinary proceedings were initiated against him and finally major penalty of removal from service was imposed on him after observance of all codal formalities.

ATTESTED CONCLUSION.

5. On the allegations of absence from duty, departmental proceedings were initiated against the appellant and culminated in imposition of major penalty of removal from service vide order dated 05.08.2014. Feeling aggrieved he filed departmental appeal on 27.06.2015, which according to learned Deputy District Attorney was time barred and as such the present service appeal was not maintainable. It is clarified that cases pertaining to absence from duty are dealt with according to Rule-9 of Efficiency & Disciplinary Rules, 2011. The respondents instead of following the aforementioned procedure conducted fact finding inquiry and thereafter penalty of removal from service was imposed on him. Its merits to mention here that no penalty can be imposed on a civil

EXAMINED
Cyber
Service Tribunal,
Peshawar

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servant on the basis of fact finding inquiry. It can be easily inferred that action taken by the respondents is not backed by law and rules. It is not only against the principles of natural justice but violative of Article-4 & 10-A of the Constitution of Islamic Republic of Pakistan. As the impugned order is illegal, unlawful and void ab-initio, so no limitation runs against a void order.

6. As a sequel to above, the appeal is accepted, the impugned order is set aside and the appellant is reinstated in service. However, the respondents are at liberty to conduct de-novo proceedings against the appellant and conclude the same within a period of three months from the date of receipt of this judgment. The intervening period may be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

M

(AHMAD HASSAN)
MEMBER

(MUHAMMAD HAMID MUGHAL)
MEMBER

ANNOUNCED
27.07.2018

Certified to be true copy

[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation	12-9-18
Number of Pages	1600
Copying Fee	20/-
Urgent	4/-
Total	24/-
Name of Copyist	<i>[Signature]</i>
Date of Completion of Copy	12-9-18
Date of Delivery of Copy	12-9-18

خدمت حساب ڈسٹرکٹ جی ایچ ایس ایف فیکہ مدینہ منورہ

صبا مالا

من میں عید ذیل سرکار کما سوت

کے لیے کہ عید 27.7.2018 کو منی سائل کی سرورس ایبل 1369
2015

لعبہ التھی بے غرضت ماہ خیر قیوناً خواہ سرورس ایبل بھول
سوجھتی ہے۔ (معدہ نقل حکم اصطلحت درو است ہے)

3۔ برآر چونکہ منی سائل ایچ ایچ ایس ایف فیکہ منی سائل
ایچ ایچ ایف

لعبہ دستہ ہے۔ کہ منقلہ (معدہ) کی دستاویز منی سائل
کی دستاویز ملازمت بناتی ہے عید کی عالی کا حکم صادر
طر ملاحظہ

6-8-2018 صرف / Saeed
منی سائل / محمد سعید / محمد یعقوب
سائل / سرزا ڈھیر / نائب قاصد
رسالہ (کوریئٹ) منی سائل / منی سائل

گھنٹوں پہلے والا اس وقت کی ایک لکھن آفیسر ہوا۔ صانع ہوا

درخواست نمبر ۱۰۰۰ کی بحالی کیلئے درخواست

Subject: Re Instated in Service

جناب عالی، گزارش حسب ذیل ہے کہ

میں سٹی سروس میں ملا کر بحالی کی درخواست دیا تھا۔ ۱۶/۱۱/۲۰۱۳

میں نے اس وقت بھی درخواست دی تھی۔ ۱۸/۱۱/۲۰۱۳

میں نے اس وقت بھی درخواست دی تھی۔ ۱۸/۱۱/۲۰۱۳

میں نے اس وقت بھی درخواست دی تھی۔ ۱۸/۱۱/۲۰۱۳

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کے لئے یہ ہے کہ وہ اس کے لئے اس کے لئے اس کے لئے

سید علی

موجودہ حالت میں اس کے لئے اس کے لئے اس کے لئے

تعمیر ہوئی ہے۔ اس کے لئے اس کے لئے اس کے لئے

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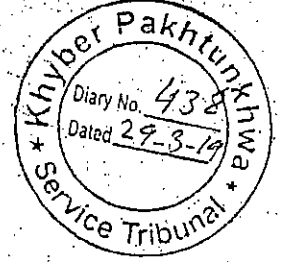
ADD (S) / 19/3/19

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**BEFORE THE COURT OF
SERVICE TRIBUNAL, KP PESHAWAR**



Execution Petition No- 166/2019



Saeed Jan S/o Muhammad Yaqoob

R/o Tangi Mirzadher, District Charsadda

(Appellant)

V E R S U S

Jehangir Khan, District Education Officer (Male)

Charsadda

(Respondent)

Petition Under Article 204 of the Constitution
of Islamic Republic of Pakistan by willfully not
obeying the clear direction, orders of this
hon'ble tribunal passed in Service Appeal No.
1309/2015 dated 27.07.2018.

Respectfully Sheweth,

The Petitioner submits as under.

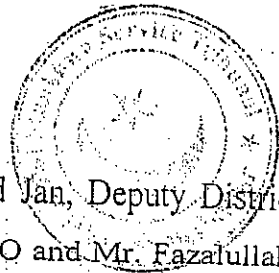
ATTESTED

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

1. That the petitioner was ordered to be reinstated, but by use of colorful use, power the petitioner has not been reinstated, nor have been redressed, if any proceeding are there, the petitioner is not in knowledge any proceeding.

2. That the petitioner moved an application on 06.08.2018 for compliance and submitted attested copy of the verdict of this

33



03.07.2019

Petitioner in person and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Muhammad Wisal, ADO and Mr. Fazalullah, Principal for the respondents present. Representative of the department submitted copy of de-novo proceeding as well as travel history of the petitioner. The same are placed on record. Adjourned to 27.08.2019 for implementation report before S.B.

M A

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

27.08.2019

Petitioner alongwith counsel and Addl. AG alongwith Wisal Muhammad ADO for the respondents present.

The representative of respondents has submitted copy of notification issued by District Education Officer (Male) Charsadda on 11.07.2019 whereby the petitioner has been removed from service, purportedly, after denovo enquiry.

In the circumstances, the implementation of judgment in hand cannot be proceeded with any further. The present execution proceedings are, therefore, consigned. This consignment shall, however, not affect the right otherwise available to the petitioner in having resort to legal remedy against the order dated 11.07.2019.

Chairman *[Signature]*

Certified to be true copy
[Signature]
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of 12-9-18
Number of Words 1600
Copying Charge 20/-
Urgent 4/-
Total 24/-
Name of Copy
Date of Completion of 12-9-18
Date of Delivery of Copy 12-9-18

34

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) CHARSADDA.

SHOW CAUSE NOTICE.

I, Jehangir Khan District Education Male Charsadda, as competent authority, under the Khyber Pakhtunkhwa Govt: Servant (Efficiency & Discipline) rules, 2011 do hereby serve you Mr. Saeed Jan N/Qasid GHS Mirzadher Charsadda as follows:-

1.
 - i. In pursuance of the Honourable Service Tribunal Peshawar Service appeal No. 1309/2015 dated 27.07.2018 you were re-instated in service as N/Qasid against the vacant post at GHS Mirzadher Charsadda conditionally till the disposal of denovo proceedings. Vide this office Endst: No. 11169-72 dated 22.12.2018.
 - ii. Consequent upon report and recommendation of the enquiry officer you did not took over charge at GHS Mirzadher w.e.f 22.12.2018 up till date and remained absent from duty without any prior permission.
 - iii. Ongoing through the findings of the report, it is obviously proved that you are guilty of Inefficiency & absents, your self from duty under E&D rules, 2011. I am satisfied that you have committed the following acts/omissions specified in (rule 3) of the said rules.
 - (a) Guilty of Inefficiency.
 - (d) Guilty of absents himself from duty without prior permission.
2. As a result thereof, I, Jehangir Khan as competent authority, have tentatively decided to impose upon you the major penalty of removal from service under rule 4 (b) of the said rules.
3. You are, thereof, 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 seven days of its issue, it shall be presumed that you have no defence to put in and in that case failing which an ex- parte action shall be taken against you.

COMPETENT AUTHORITY
DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA

Endst: No. 6452-57 /dated charsadda the 21 / 3 /2019

Copy forwarded to the:-

1. Director (E&SE) Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Charsadda.
3. Head Master GHS Mirzadher Charsadda.
4. DMO/IMU Charsadda.
5. Mr. Saeed Jan S/O Muhammad Yaqoob /o Village Bazwan Khel P.O Tarnab Mirzadher Charsadda.
6. P/File.

DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA

35

To,

The district education officer (Male)
Charsadda.

Subject: Reply to the show cause notice dated 21-03-2019
received to me on 28-03-2019 at 08:00 am.

Respectfully Sheweth,

Reply to the show cause notice on behalf of Mr. Saeed Jan S/o M.
Yaqoob is as under,

1.
 - i. Sub para No.i of the show cause notice is incorrect, hence denied. In reply it is submitted that after the decision of my appeal in the honorable service tribunal Peshawar on appeal No. 1309/2015 decided on 27-07-2018, I filed two applications along with the decision of service tribunal Peshawar on 11-08-2018 and 19-03-2019, however, now positive reply of those applications was given to me and uptill today no reinstatement order was received to me, nor I was informed through any other sources about my reinstatement order. After the decision of service tribunal I several times visited yours offices for the purposes of my reinstatement, however no body informed me in yours office from the order of my reinstatement, nor the reinstatement order uptill today was handed to me from yours office and as such I was kept in dark about the alleged issuance of my reinstatement order dated 22-12-2018. Today on information of issuance of my reinstatement order mentioned in the show cause notice I am ready to take the charged of my duty and to perform my duty if the reinstatement order is handed to me from yours office. (Applications are attached)
 - ii. In reply to para No. ii of the show cause notice it is, submitted that no reinstatement order uptill today received to me from yours office, therefore uptill now I

did not took the charged at GHS Mirzadher. Even today after received show cause notice I went to GHS Mirzadher for the purpose of taking charge of my duty but the concerned officer/Head Master demanded reinstatement order from me which I have not received uptill today. Further no enquiry officer/enquiry committee was constituted nor I am of the knowledge of any enquiry as no notice of any kind was received to me which shows the mala fide conduct of the office in my case.

iii. In reply to para No. iii it is submitted that no misconduct or absence from duty was done by me because uptill to day no reinstatement order of me was received to me, therefore, no question of absence from duty or not taking charge in the stipulated period was arose. Further detail explanation/reply is already given by me in the above paras No. i and ii

2. In reply to para 2 it is , submitted that no reinstatement order was received to me uptill today from yours office, nor enquiry notice was given/served upon me uptill now. However if any reinstatement order was issued by your office or any enquiry officer was appointed no information update was reached/given to me, therefore, no question of any/major penalty of removal from service arose against me.

3. In reply to para No. 3 it is submitted that in view of the detail reply given by me in the above paras and sub paras the instant show cause notice may kindly be withdrawn without any further proceedings and I may kindly be given the reinstatement order for the purpose of taking charged, I may also kindly be heard in person.

4. In reply to para 4 it is submitted that the instant show cause notice was received by me today, i.e. 28-03-2019 at 8:00 Am in my village through post and today I am submitting my reply to the show cause notice.

(37)

It is, therefore, requested that the instant show cause notice No. 6452-57, dated 21-03-2019 received by me today i.e. 28-03-2019 may kindly be withdrawn without any further proceedings/action. It is, further requested that I may kindly be given reinstatement order for the purpose of taken charge in the concerned school.

Dated :-

28-03-2019

Regards: *Saeed Jan*

Saeed Jan S/o Muhammad Yaqoob

R/o Mirzadher, Tehsil Tangi, District
Charsadda.

Cell # 03149081358

28-3-2019

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) CHARSADDA
NOTIFICATION

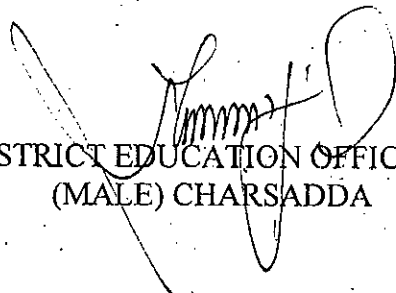
1. WHERE AS, that you Mr. Saeed Jan filed an appeal for reinstatement before the Hon'ble Khyber Pakhtunkhwa Service Tribunal.
2. AND WHERE AS, that the above-mentioned appeal was disposed of by the Hon'ble Tribunal with directions, to reinstate the appellant subject to denovo proceedings/enquiry.
3. AND WHERE AS, that the appeal was disposed of in absence of the appellant while you were in Saudi Arabia.
4. AND WHERE AS, that you were reinstated but due to your non presence did not take over charge.
5. AND WHERE AS, that the IBM report reveals that you came back on 13-03-2019 while reinstated on 22-12-2018.
6. AND WHERE AS, the enquiry officer found that you never attended the school as no school has any record even after your reinstatement.
7. AND WHERE AS, the authority having considered the charges, evidence on the record as per report of the enquiry officer, and given the opportunity of personal hearing to you Mr. Saeed Jan Class-IV, is of the view that the charges leveled against in the show cause notice has been proved.
8. NOW THEREFORE, in exercise of powers conferred by the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. The competent authority is pleased to remove you Mr. Saeed Jan as Class-IV GHS Mirzadher Charsadda.

(JEHANGIR KHAN)
DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA

Endst No: 14896-98 Dated 11/7 /2019

Copy for information:-

1. Registrar Khyber Pakhtunkhwa Service Tribunal, Peshawar.
2. Deputy Commissioner Charsadda.
3. Office File.


DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA

To

The District Education Officer (Male),
Charsadda

Subject: Departmental appeal/ representation against the order/
notification of removal from service dated: 11-07-2019
reached/ received to me on 08-08-2019 at about 11:15 a.m
through post

RESPECTFULLY SUBMITTED:

1. That the order/ notification of removal from service dated: 11-07-2019 reached & received to appellant/me on 08-08-2019 at about 11:15 a.m through post is against the law, facts & against the grounds of allegation leveled in the show cause notice, hence is liable to be set aside.
2. That no regular enquiry was conducted against the appellant nor I/ appellant was associated with any enquiry (if any) conducted and as such the appellant was condemned unheard before the imposition of major penalty of removal from service which is against the law, rules & justice.
3. That no charge sheet was given to appellant/me before the imposition of major penalty of removal from service which is a mandatory requirement. Further it clearly shows that no enquiry was conducted nor I was associated with any enquiry (if any) conducted and as such the appellant was deprived of his right of hearing & defending himself.
4. That no inquiry officer was appointed nor was any enquiry report (if any) provided to appellant/me with the show cause notice in order to properly defend the appellant before the imposition of major penalty of removal from service.

46

5. That the show cause notice was issued to me after the appellant filed second application for his reinstatement in service which clearly shows the mala fide conducted in the case of appellant.
6. That no order of re-instatement of service was issued to the appellant nor communicated/ received to the appellant and through the show cause notice the appellant got the knowledge of re-instatement order which was mentioned in the show cause notice, hence the whole proceedings against the appellant was conducted against the law, rules on the subject & against the fundamental rights provided by the Constitution of Islamic Republic of Pakistan, 1973.
7. That the appellant was removed from service during the pendency of contempt of court proceedings pending before the honourable Service Tribunal for implementation of the order dated: 27-07-2018 due to which malafidly major penalty of removal from service was imposed upon the appellant.
8. That the allegation in the show cause notice & grounds of removal from service are self contradictory orders which clearly negates the stance of your office/ department against the appellant. Further when no order of re-instatement in service was issued/ communicated to the appellant and no information of re-instatement in service was given to the appellant then taken of charge & allegation of absence from duty is baseless, hence the order of removal from service is liable to be set aside.
9. That the whole proceedings conducting against the appellant are against the law, rules on the subject and are void ab initio, hence the order of removal is liable to be set aside.
10. That the appellant was not heard in person or nor associated with the enquiry proceedings (if any conducted) or any enquiry report (if any conducted) was provided to the appellant before removal from service

(90)

which is the mandatory requirement of law before imposition of major penalty.

11. That the appellant was never travel abroad country/ Saudi Arabia which is very much clear from the regular appearance of appellant in Service Tribunal in perusing his appeal & applications to your office dated: 11-08-2018 & 19-03-2019 for re-instatement in service according to the order of Hon'ble Service Tribunal and the alleged IMB report is a concocted report which is prepared just for the purpose of avoiding implementation & not obeying the lawful order of Hon'ble Service Tribunal.

12. That the appellant is a poor person and has no regular source of income except his hope of service.

It is, therefore, requested that on acceptance of this appeal the order of removal from service dated: 11-07-2019 received by the appellant on 08-08-2019 at about 11:15 a.m through post may kindly be set aside and the appellant may kindly be re-instated in service in the ends of law & justice.

Saeed Jan

Appellant

Saeed Jan s/o Muhammad Yaqoob
Resident of Mirzadher, Tehsil Tangi District
Charsadda.

Mobile Number: 0311-9344539

Dated :- 16-08-2019

(42)

Pl. / process and
write is Done to
Report on file
w/ case & copy

Su (Complaint)

The Secretary Ministry Of Education,
Khyber Pakhtunkhwa Peshawar.

Subject: Departmental appeal/ representation against the order/ notification
of removal from service dated: 11-07-2019 reached/ received to me
on 08-08-2019 at about 11:15 a.m through post

RESPECTFULLY SUBMITTED:

1. That the appellant was appointed as Naib Qasid against the vacant post at G.H.S Tangi No.2 vide office order Endstt: 4563-66 dated: 12-06-2013. That after completion of codel requirement the appellant took the charge & joined his duties in G.H.S Tangi No.2. (Copy of appointment order & photo state copy of school attendance register is attached)
2. That on 16-07-2013 through corrigendum Endstt: 5184-89 the appellant was directed to took the charge in G.P.S Kodai (Shabqadar) which order was complied by the appellant. (Copy of corrigendum & charge report is attached).
3. That on 29-09-2013 the appellant submitted an application to the concerned D.D.O for the release of his salary but fruitless due to which the appellant for the release of his salary instituted writ petition No. 186-P/2014 which was disposed of with certain directions on 30-10-2014. (Copy of order of writ petition is attached).
4. That for the purpose of releasing salary the appellant approached the D.E.O Charsadda along with an application & order of the worthy Peshawar High Court but fruitless due to which the appellant filed Contempt of Court petition No. 468-P/2014 which was disposed of on 21-04-2015 with certain directions. (Copy of application & C.O.C petition along with order are attached)
5. That after the order dated: 21-04-2015 of the worthy Peshawar High Court, Peshawar in C.O.C when the appellant again approached to the D.E.O Charsadda but appellant was informed in the month of june 2015 that he was removed from service on 5-08-2014.

- (43)
6. That on information of removal from service appellant filed departmental appeal on 27-06-2015 to the D.E.O Charsadda for review on the order of removal from service which was not responded within the stipulated period.
 7. That being aggrieved from the order of dismissal from service the appellant filed appeal before the Khyber Pakhtunkhwa Service Tribunal Peshawar on 22-10-2015 which was allowed vide order dated: 27-07-2018 and the appellant was re-instated on service, however, the appellant was given liberty to conduct de-novo inquiry to be completed within three months. (Copy of appeal & order of Service Tribunal is attached)
 8. That on obtaining attested copy of the judgment dated: 27-07-2018 of re-instatement announced by the Hon'ble Service Tribunal, the appellant filed applications along with the judgment of Hon'ble Service Tribunal on 6-08-2018, 11-08-2018 & 19-03-2019 to the D.E.O Charsadda for his re-instatement on service but was not responded. (Copy of application are attached)
 9. That for the implementation of the judgment of Hon'ble Service Tribunal the appellant filed execution petition before the Hon'ble Service Tribunal during the pendency of which again show cause notice was given to the appellant by the D.E.O Charsadda which was reached to the appellant on 28-03-2019 at 8:00 a.m. (Copy of show cause notice is attached)
 10. That the appellant give reply of the show cause notice within the statutory period and denied all the allegation of the show cause notice but without giving the opportunity of hearing the appellant was removed from service vide notification Endst No. 14896-98 dated: 11-07-2019 which was not communicated to the appellant as apparent from the notification and the appellant received the copy of that on 8-08-2019.
 11. That the appellant filed departmental appeal to the D.E.O Charsadda on 16-08-2019 against the order of removal on the following grounds which is still not decided:

GROUNDS:

- A. That the order/ notification of removal from service dated: 11-07-2019 reached & received to appellant/me on 08-08-2019 at about 11:15 a.m through post is against the law, facts & against the grounds of allegation leveled in the show cause notice, hence is liable to be set aside.
- B. That no regular enquiry was conducted against the appellant nor the appellant was associated with any enquiry (if any) conducted and as such the appellant was condemned unheard before the imposition of major penalty of removal from service which is against the law, rules & justice.
- C. That no charge sheet was given to appellant/me before the imposition of major penalty of removal from service which is a mandatory requirement. Further it clearly shows that no enquiry was conducted nor I was associated with any enquiry (if any) conducted and as such the appellant was deprived of his right of hearing & defending himself.
- D. That no inquiry officer was appointed nor was any enquiry report (if any) provided to appellant/me with the show cause notice in order to properly defend the appellant before the imposition of major penalty of removal from service.
- E. That the show cause notice was issued to me after the appellant filed second application for his reinstatement in service which clearly shows the mala fide conducted in the case of appellant.
- F. That no order of re-instatement of service was issued to the appellant nor communicated/ received to the appellant and through the show cause notice the appellant got the knowledge of re-instatement order which was mentioned in the show cause notice, hence the whole proceedings against the appellant was conducted against the law, rules on the subject & against the fundamental rights provided by the Constitution of Islamic Republic of Pakistan, 1973.
- G. That the appellant was removed from service during the pendency of contempt of court proceedings pending before the honourable Service Tribunal for implementation of the order dated: 27-07-2018 due to which malafidly major penalty of removal from service was imposed upon the appellant.

- (45)
- H. That the allegation in the show cause notice & grounds of removal from service are self contradictory orders which clearly negates the stance of your office/ department against the appellant. Further when no order of re-instatement in service was issued/ communicated to the appellant and no information of re-instatement in service was given to the appellant then taken of charge & allegation of absence from duty is baseless, hence the order of removal from service is liable to be set aside.
- I. That the whole proceedings conducting against the appellant are against the law, rules on the subject and are void ab initio, hence the order of removal is liable to be set aside.
- J. That the appellant was not heard in person or nor associated with the enquiry proceedings (if any conducted) or any enquiry report (if any conducted) was provided to the appellant before removal from service which is the mandatory requirement of law before imposition of major penalty.
- K. That the appellant was never travel abroad country/ Saudi Arabia which is very much clear from the regular appearance of appellant in Service Tribunal in perusing his appeal & applications to your office dated: 11-08-2018 & 19-03-2019 for re-instatement in service according to the order of Hon'ble Service Tribunal and the alleged IMB report is a concocted report which is prepared just for the purpose of avoiding implementation & not obeying the lawful order of Hon'ble Service Tribunal.
- L. That the appellant is a poor person and has no regular source of income except his hope of service.

It is, therefore, requested that on acceptance of this appeal the order of removal from service dated: 11-07-2019 received by the appellant on 08-08-2019 at about 11:15 a.m through post may kindly be set aside and the appellant may kindly be re-instated in service in the ends of law & justice.

Saeed Jan
Appellant

Saeed Jan s/o Muhammad Yaqoob
Resident of Mirzadher, Tehsil Tangi District
Charsadda

0311 9344539
Dated: 2-09-2019

(57)

OFFICE OF THE HEAD MASTER GHS MIRZADHER CHARSAZZA

Endost: No. 2058-62 dated 10/06/2019

The District Education Officer (M)
Elementary & Secondary Education Charsadda

Subject: **Taking of charge attfter the order has been expired**

Respected Sir,

With greatest reverence, I am going to state that Mr. Saeed Jan was appointed as N/Qasid against the vacant post at GHS Mirzadher Charsadda vide DEO Chd. Endst: No. 11169-72 dated 22/12/2018. According to the term and condition of the order issued by the competent authority that the appointee must be taken the charge of his duty at the mentioned station within 15 days from the date of the order issued. The appontee has not taken the charge of his duty within 15 days from the date of order issued.

The competent authority has issued the show cause notice in r/o the said appontee vide DEO CHD Endost: No. 6452-57 dated 21/03/2019. The said appointee came to the staion for taking the cahрге of the post of N/Qasid after one week of the date of the show cause notice issued, which is against the term and conditions mentioned in the order (as the appointee has to take the charge within 15 days from the date of order issued). The undersigned has no authority to vilate the terms and conditions mentioned in the order. So the undersigned is unable to give charge to the said appontee after the expired date of the order.

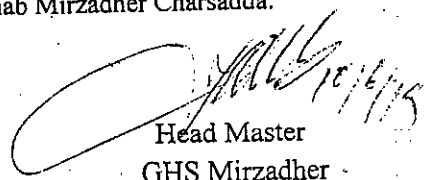
The competent authority is requested to handle the case or may issue the fresh order in respect of the said appontee that the undersigned may able to give the charge of the duty.




Thanking in anticipation and your positive response.

sd
Head Master
GHS Mirzadher

Copy forwarded to the :-

1. Director (E&SE) Khyber Pakhtunkhwa Peshawar.
2. District Account Officer Charsadda.
3. DMO/IMU Charsadda.
4. Mr. Saeed Jan S/O Muhammad Yaqoob, village Bazwan Khel P.O Tarnab Mirzadher Charsadda.
5. Office file.


Head Master
GHS Mirzadher

قیمت 50 روپے	27064			
ایڈوکیٹ:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل/ایسوسی ایشن نمبر: BC-107356				
رابطہ نمبر: 0345-5292247				

بعدالت جناب: سر جسٹس کمر ایسٹنل خیبر پختونخواہ

منجانب: ایبل منسٹ	دعویٰ:
سعید جان (ایبل منسٹ)	علت نمبر:
بنام	مورخہ:
ڈسٹرکٹ ایگزیکیوٹو جج	جرم:
(دستخط منسٹ)	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام لیسٹاؤ کیلئے سیمینارزائنٹ گماہ (یڈ وکٹیو لیسٹاؤ) کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 24-10-2019

العواہد العواہد
مقام سر جسٹس کمر ایسٹنل خیبر پختونخواہ لیسٹاؤ کے لیے منظور ہے۔

ایبل منسٹ سعید جان بنام
Sayed Jinn
17101-4896372-7 بند

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1561/2019

Saeed Jan

V/S

Govt. of Khyber Pakhtunkhwa & others

Respondents 1 to 4

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2	Affidavit		5
3	Copy of IBM is attached as Annex-A	A	6
4	Copy of enquiry attached	B	7-10


DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1561/2019

Saeed Jan

V/S

Govt of Khyber Pakhtunkhwa & others

Written comments on behalf of Respondents

Preliminary Objections:

Respectfully Sheweth:

- A. That the Appellant has no locus standi and cause of action.
- B. That the present Appeal is wrong, baseless and not maintainable, it shows no cause to be taken for adjudication, therefore, the Appeal is liable to be rejected/ dismissed.
- C. That the Appeal is unjustifiable, baseless, false, frivolous and vexatious. Hence the same is liable to be dismissed with the order of special compensatory costs in favour of Respondents.
- D. That no legal right of the appellant has been violated, therefore, the appellant has no right to file the instant appeal.
- E. That the Appellant is completely estopped/precluded by his own conduct to file this Appeal.
- G. That the Appellant has not come to this Hon' able Tribunal with clean hands. The Appeal also suffers from misstatements and concealment of facts and as such the Appellant is not entitled to equitable relief.
- H. That the Appellant has no right to file the instant Appeal and the Hon' able Services Tribunal has got no jurisdiction to adjudicate upon and the Appeal is liable to be dismissed.
- I. That the instant appeal is barred by law and limitation.

PARA WISE REPLY ON FACTS:

1. That the Para needs no comments.
2. That the Para as stated is subject to cogent proofs.
3. That the Para needs no comments:
4. That the appellant had been paid his salary for the period for which he performed his duties.
5. As is replied in the Para No.4 on facts.
6. That the appellant had been paid his salaries for the period which he performed his duties.
7. That the Para is based on facts, therefore, is subject to cogent proofs.
8. That the Para needs no comments.
9. That the Petitioner was re-instated on the directions of this Honorable Tribunal in Appeal No. 1309/2015 conditionally till the disposal of denovo proceedings. The Appeal No. 1309/2015 had been disposed of by this Honorable Tribunal on dated 27/07/2018, while travel history of the appellant reveals that the appellant departed on 12/10/2017 and stayed abroad till 12/03/2019. It shows that the appeal No. 1309/2015 had been disposed of in the absence of the appellant. *(Copy of IBM is attached as Annex-A)*
10. That the travel history of the appellant further proves that execution of the Petition was also filed in the absence of the Petitioner/Appellant.
11. That the appellant had been re-instated in service for the purpose of enquiry but never took over charge and remained absent and in furtherance of that enquiry and living abroad had been removed from service as the Para is as stated is contradictory, at one stage the appellant alleges that the removal order dated 11.07.2019 was not communicated to him and at the same time admits that the same notification had been received through post on 11.07.2018.
12. Incorrect, the departmental appeal can't be filed before Respondent No. 1 i.e. DEO Male Charsadda as the law doesn't permit it.
13. Incorrect, the DEO is not competent according the law to entertain and the appellant has no right to file the instant appeal on the following grounds amongst others.

GROUND

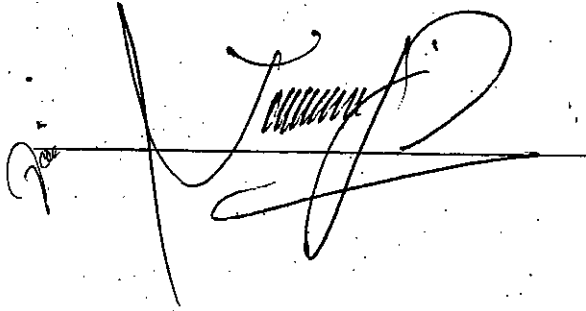
- A. Incorrect, the appellant was abroad and his brother was several time informed through Phone and through the Head Master GHS Mirzadher Charsadda but never attended this office and thus the removal order was sent to Head ^{Master} as will to the appellant.

- B. Incorrect, in pursuance of the directions rendered in appeal No. 1309/2015 the appellant had been proceeded accordingly. *(Copy of enquiry attached)*
- C. Incorrect, the appellant had been served with a show cause notice and had been proceeded in accordance with law.
- D. Incorrect, Mr. Gul Hussain Shah was appointed as enquiry officer as his name and designation is mentioned at the bottom of the enquiry report.
- E. Incorrect, first the appellant had been re-instated and then proceeded accordingly. Further no second appeal can be filed according to law and if filed is illegal.
- F. Incorrect, as the appellant was living abroad, therefore, did not join his duties as is evident from his travel history.
- G. Incorrect, the appellant had been proceeded in accordance with the law, rules and policy.
- H. Incorrect, the re-instatement order was not only communicated through post but was given to his brother Tayib Jan and also to the Head Master GHS Mirzadher Charsadda. *(Copy of dispatched letter Annex-B)*
- I. Incorrect, the appellant had been proceeded in furtherance of the Judgement in appeal No. 1309/2015; but the appellant was absent hence did not join his duty.
- J. Incorrect, the appellant had been served with a show cause notice and a regular enquiry had been conducted which proves his absence since his first appointment in GPS Kody Charsadda.
- K. Incorrect, the Para as stated is wrong, baseless, false and vexatious because the travel history had been procured from the office of Integrated Border Management System (I.B.M) with the request of DEO (M) Charsadda which is also mentioned in the IBM report that the same had been provided on the request of the DEO (Male) Charsadda. It is further stated that this Para is the sole ground for dismissal of this appeal.
- L. Incorrect, the appellant had been proceeded in accordance with prevailing law and manner on the subject.
- M. Incorrect, the alleged appearance before DEO (M) Charsadda on dated 28/03/2019 proves that the appellant had been living abroad and arrived on 13/03/2019. He should have been before DEO (M) Charsadda on 13/03/2019.
- N. That the Answering Respondents seeks permission to advance other grounds/arguments at the time of hearing of the Petition.

It is therefore, humbly stated that as the Service Appeal and execution Petition were disposed of by this Honorable Tribunal in the absence of the appellant who had been remained absent from duty and which is proved by his travel history, therefore, this Honorable Tribunal may graciously be pleased to dismissed the instant appeal in favour of Answering Respondent with heavy cost.

For Respondents 1 to 4

District Education Officer (Male) Charsadda.

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be 'T. J. P.' or similar, with a large 'T' and 'P' and a smaller 'J' in the middle. There is a small mark to the left of the line, possibly a date or initials.

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1561/2019

Saeed Jan

Vs

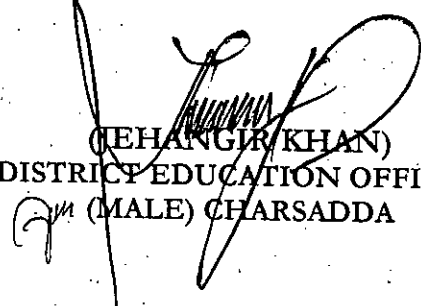
Govt of Khyber Pakhtunkhwa & others

Respondents 1-4

AFFIDAVIT

I Mr. Jahangir Khan DEO (M) Charsadda do hereby solemnly affirm that the information provided by the DEO (M) and the contents of the Para-wise comments submitted by respondents are true and correct and nothing has been concealed intentionally from this Hon' able court.

Deponent


(JHANGIR KHAN)
DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA

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OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA

No. 11721 /Dated 14 / 5 /2019

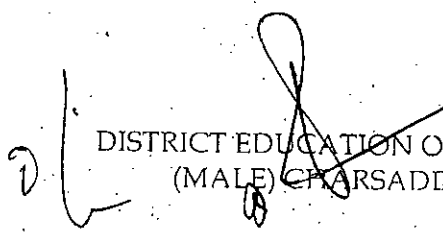
To,

The Assistant Director,
Immigration Bacha Khan Air Port,
Peshawar.

SUBJECT: - INVESTIGATION OF IN-OUT HISTORY.
Memo.

I have the honour to inform your good self that one Mr. Saeed Jan S/O Muhammad Yaqoob bearing CNIC No. 171014-896372-7 was a Class-IV in Education Department. He had remained absent from 2013-2019.

So, it is requested to your self to provide his abroad journey history if any to proceed further in the subject case as per law and rules.


DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA



TRAVEL HISTORY FOUND ON: 1710148963727

Required By: District Education Officer, Charsadda

Department: EDO

Diary No: 269 Dated 20-05-2019

Letter Number: No./1721

Request Date: 14-May-2019

Query Date: 20-May-2019

TRAVELER'S CNIC/NIC

1710148963727

PERSONAL INFORMATION:

NAME SAEED JAN

BIRTH DATE 20-FEB-1989

FATHER/HUSBAND NAME MUHAMMAD YAQOOB

NATIONALITY Pakistan

TRAVEL DETAILS:

S.NO	TRAVEL DATE	FLIGHT NO	TRAVEL STATUS	PASSPORT NO	SITENAME
✓ 1	12-Oct-17 14:55:48	NL713	departing	EE8793721	Benazir Bhutto International Airport Islamabad
✓ 2	13-Mar-19 8:33:20	SV702	arriving	EE8793721	Jinnah International Airport Karachi

27.07.2018 (ST)

CHECKED

ENQUIRY REPORT

Reference your letter No 2762-68 dated 02/02/2019 whereby undersigned have been appointed as enquiry officer in the case of Mr Saeed Jan S/O Muhammad Yaqoob N/Qasid, resident of village Mirza Dher, Tangi Charsadda for his appointment/Reinstatement in service.

FINDINGS OF ENQUIRY ARE AS UNDER:-

The undersigned visited GHS No, 02 Tangi and asked for the service record of Mr Saeed Jan, but the school administration did not possess any record of Mr Saeed. The undersigned then visited GPS Kodai No 02 on 13/02/2019, and checked the attendance register of the staff members. The accused did not assume charge in GPS Kodai. Mr Wali Khan, Chowkidar of the said school narrated that the accused had once come to assume charge on the said post, but I told him that I had already been working on the said post. After then he disappeared.

Since the Service Tribunal Peshawar has re-instated Mr Saeed Jan in service, and following the order of the Service Tribunal the DEO (M) office Charsadda re-instated Mr Saeed Jan in service on 22/12/2018 as N/Qasid against the vacant post at GHS Mirza Dher, Charsadda.

The undersigned also visited GHS Mirzadher. The Head Master of the school told that the school did not possess any service record of Mr Saeed Jan. He added that the one Mr Saeed Jan S/O Yaqoob Jan had not assumed charge during his tenure as he had been serving in GHS Mirzader since 13/09/2017 whereas the DEO (M) office Charsadda had issued his re-instatement order on 22/12/2018 (Statement attached)

In the light of above facts it is evident that the accused has never attended the school as no school has any record of his service. Even after the re-instatement order the accused did assume charge.



(MR GUL HUSSAIN SHAH)
Enquiry officer
Principal
Govt. Shahid Mian Shahzad Ijaz No 1
High School Tangi Charsadda

D. NO

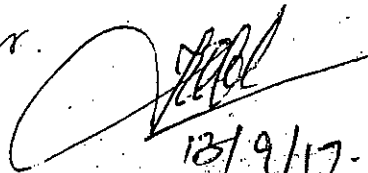
813

27-2-19

STATEMENT

97

Mr. Saeed Jan s/o Muhammad Yaqoob has not
assumed charge during my tenure since
13.09.2017 at G.H.S. Mirzadher.


13/9/17.

of sender

(10)

o. 326

For Insurance Notices see reverse. Stamps affixed except in case of insured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgment is due.

OFFICE OF THE

ADDA

NOTIFICATION

Received a registered letter addressed to _____

Date Stamp

Mr. Name of Receiving Officer *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary. Insured for Rs. (in figures) _____ (in words) _____

Officer to pro

ed as Enquiry service of Mr. gi Charsadda ie Honourable o proceedings

Saeed Jan S/O

Insurance fee Rs. _____ Ps. _____ (in words) } Weight } Kilo Grams

pursuance of the

Name and address

Khyber Pakhtunkhwa Ser. order

against him.

TORS:-

1. The Civil servant was appointed initially GHS No.02 Tangi.
2. Corrigendum order to GPS Kodai SKF.
3. The civil servant was terminated due to absence from duty.
4. That w.e.f 13.06.2013 to 09.07.2013 performed his duty and then disappeared.
5. The Honble K.P. Service Tribunal directed to re-instate the appellant and also for conducting a de-novo proceedings against him.

The enquiry officer is requested to complete the enquiry within (07 days) and detail report/recommendations be submitted to this office to proceed further in to the matter.

(SIRAJ MUHAMMAD)
DISTRICT EDUCATION OFFICER,
(MALE) CHARSADEA.

Endstt: No 813-19

Dated 09 / 01 / 2019

Copy for information to the:

1. Principal GHSS Sherpao Charsadda.
2. Principal GHS No.02 Tangi Charsadda.
3. Head Master GHS Mirzadher Tangi Charsadda.
4. SDEO (Male) Shabqadar.
5. Head Master GPS Kodai Shabqadar.
6. Saeed Jan S/O Muhammad Yaqoob r/o Village Mirzadher Tangi Charsadda.
7. Master file.

9/01/19
DISTRICT EDUCATION OFFICER
(MALE) CHARSADEA