

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 353 of 2023

Habib Ur Rehman----- Appellant

Versus

Govt of KPK through its Secretary Education E&SE KPK Peshawar and others----- Respondents

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Dated: 29/09/2023

Muha ^{Asst}
d

Spare
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submitted

D

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 353 of 2023

Hamib Ur Rehman -----Appellant

Versus

Govt of KPK through its Secretary Education E&SE KPK Peshawar and others-----Respondents

Joint parawise comments on behalf of Respondent No 1,2&4

Preliminary Objections

1. That the Appellant has no cause of action, locus standi to file the instant Appeal.
2. That the appellant has concealed material facts from the Honorable Tribunal.
3. That the matter is badly time barred.
4. That the conduct of the Appellant stopped himself to bring this instant appeal.

Khyber Pakhtunkhwa
Service Tribunal

Dispy No. 7843

Dated. 25/09/23

On the facts.

- 1- It is correct that the appellant has been appointed as Chowkidar against vacant post at GHS Bakka Khel Sub Division Wazir Bannu on merit and it was a kind of vague policy.
- 2- It is incorrect as the appellant is bound to perform his duty efficiently.
- 3- It is incorrect as the respondent No 2 made a surprise visit to GHS Bakka khel SDW Bannu and found the school closed. During his visit all the class-iv along with the appellant were found long time absent. To elaborate it, the respondent no 2 suspended all the teaching staff, vide no 5037-42 dated 20-5-2022, the principal was reported and the appellant was terminated vide no 5019-24 dated 20-5-2022 due to long time absent. **(Copy of Office Order and surprise Visit report are Annexed as Annexure – A)**
- 4- It is incorrect as the respondent no 3 was directed by the respondent no 2 with the prior consent of the respondent no 1. The respondent no 2 requested the respondent no 1 for further enquiry on the irregularities, teachers' absenteeism and non- availability of class-iv including the appellant etc.
- 5- It is incorrect, the respondent no 2 found the appellant absent and was removed from service due to prolong absence and an inquiry was initiated in this regard by the respondent no 1. The inquiry committee found the charges on the appellant genuine and the committee further learnt that the appellant was in gulf country at the time of the visit. It is

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also important to mention that the charges on the appellant were substantiated by the FIA report.

- 6- It is correct.
- 7- It is incorrect, the appeal filed by the appellant was invalid as the appellant has no right to reinstate him.
- 8- The appellant has no right to file the instant appeal.

On Grounds:

- A. It is incorrect, the appellant evaded the authorities by using forged documents and was living in a gulf country.
- B. In correct, the appellant was not served a show cause notice because he was out of the country. How come a show cause notice is served to a person who was living in a foreign country?
- C. incorrect, the respondent no 2 being a competent authority has the privilege to terminate the appellant.
- D. it is incorrect, the incharge at the time was a witness to the fact that the appellant has not been seen since his appointment as mentioned in a letter no 5043 dated 20-5-2022.
- E. In correct, the respondent no 2 is a competent authority under E&D rule 2011.
- F. In correct, the principal is in connivance with the appellant in this act as during the visit there was no attendance register of the class-iv. An attendance register was prepared with the complicity of the principal in back date to avoid the penalty.
- G. It is incorrect, the respondents are bound to obey rule & policy
- H. The appellant has no right to reinstate him due to his grave charges and the respondents are bound to uphold rule & policy..
- I. The appellant was in a gulf country and was not physically present to appear for personal hearing
- J. The appellant has no right to file this instant appeal.

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Service Appeal No. 353 of 2023

Habib Ur RehmanAppellant.

VERSUS

Government of Khyber Pakhtunkhwa & others.....Respondents

Affidavit

I, Mr. ^{ADBO} M. Asghar Vito duly authorized by District Education Officer sub division Wazir Bannu, do hereby solemnly affirms and declare on oath that accompanying written reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

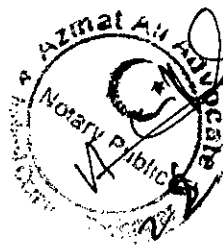
Dated 25/09/2023

Muha Asghar

Deponent.

CNIC NO 11101-1496204-5
Cell NO 03339726727

ATTESTER



9-2023

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Pray

In the light of the above stated facts, it is humbly prayed that appeal of the appellant having no valid legal grounds may very graciously be dismissed with heavy cost.

Respondent No 1


Secretary Education (E & SE)
Khyber Pakhtunkhwa Peshawar

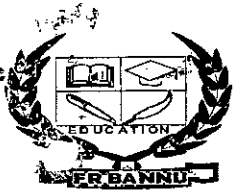
Respondent No 2


Director Education (E & SE)
Khyber Pakhtunkhwa Peshawar

Respondent No 4


District Education Officer
Male Bannu

(5)



Office of the

District EDUCATION OFFICER, SUB DIVISION WAZIR BANNU

Near Bannu Township Bezen Khel road, Bannu

Authority Letter

It is stated that Mr S/O R/O C.N.I.C No
has been authorized to submit comments in Honourable Services Tribunal Peshawar in service appeal
No 353 of 2023 titled Habib Ur Rehman Vs Govt of KPK and others on behalf of District Education Officer
Sub Division Wazir Bannu.


District Education Officer
Sub Division Wazir Bannu.

Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

No:

Dated:

NOTIFICATION

Consequent upon the surprise visit by the Competent authority and finding therein, Mr. Habib Ur Rehman, Water Carrier (Bahisti), absent at the school, GHS Baka Khol Sub-Division Wazir Bannu, on 19-05-2022, and confirmed as permanent absent from his duty since his appointment by the In-charge of the school along with all staff members, without any sanction of leave, is hereby removed from service with immediate effect.

ASSISTANT DIRECTOR (ESTAB.)
DIRECTORATE OF E&SE KP PESHAWAR

Serial No: 2007/2022

Dated: 20/05/22

Copy forwarded for information:

1. Deputy Commissioner, Bannu.
2. District Education Officer, Bannu.
3. District Account Officer, Bannu.
4. PA to Director E&SE KP Peshawar.
5. PA to Addl. Director E&SE KP Peshawar.
6. Office record.

ASSISTANT DIRECTOR (ESTAB.)
DIRECTORATE OF E&SE KP PESHAWAR

Attested
Muzaffar
22-09-22



**Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar**



No: 5048

Dated: 20/5/2022

To:

The Secretary,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: **SURPRISE VISIT / DISCIPLINARY ACTION**

Memo:

I am directed to refer to the subject cited above and to state that, during the course of a surprise visit to GHS Haka Khel, Sub-Division Wazir Danna, by the Worthy Director E&SE Khyber Pakhtunkhwa Peshawar, it was noted that the Principal was not present at the school, due to his engagement in inspection of SSC-Examination Halls, with school presenting a deserted look on following grounds:

- i. Loose Administration and Poor Academic Performance.
- ii. Teachers Absenteeism.
- ✓ iii. Absence of Class-IV's.
- iv. No students were found in school at 12.10 AM although the closing time was 12.30 PM.
- v. Two Class Rooms were found filled with old furniture which were supposed to be auctioned.
- vi. School was presenting poor look due to garbage and dirt.
- vii. Principal Office was looking like a horse-stable.
- viii. SGT was working as in-charge despite the avail. of 02 SSTs.
- ix. Non-availability of Class-IVe Attendance Register.

I am further directed to request your good self to kindly conduct an inquiry into the above mentioned points for further necessary action, please.

Handwritten signature and date: 20/5/2022

**ASSISTANT DIRECTOR (ESTAB.)
DIRECTORATE OF E&SE KP PESHAWAR**

Encl. No: _____

Date: _____

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2. District Education Officer, Bannu
3. PA to Director E&SE KP Peshawar
4. PA to Addl. Director E&SE KP Peshawar.
5. Office record.

sd.
**ASSISTANT DIRECTOR (ESTAB.)
DIRECTORATE OF E&SE KP PESHAWAR**

Handwritten notes:
Attested
muhammad
22-09-23