EEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1304/2023	
Abdul Salam C.T GHS Paindai Matta District Swat.	Appellant
Versus	:
Government of Khyber Pakhtunkhwa through Secretar Education Peshawar & Others.	y Elementary and Secondary
	Respondents.

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DISTRICT EDUCATION OFFICER (M) SWAT AT GULKADA

Sweet 04/10/23

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1304/2023 Abdul Salam C.T GHS Paindai Matta District Swat.	Appellant
Versus	-FF
Government of Khyber Pakhtunkhwa through Secretary Education Peshawar & Others.	y Elementary and Secondary
	Respondents

<u>Parawise Comments on Behalf of the Respondent No. 1 to 5.</u> Respectfully shewith

Preliminary objections

- 1. That the Appellant is not an aggrieved person within the meaning of Section 4 of the Service Tribunal Act, 1974.
- 2. That the Appellant has no cause of action / locus standi.
- 3. That the Appellant has not come to this Honorable Tribunal with clean hands.
- 4. That the Appellant has filed this instant Service Appeal just to pressurize the respondents.
- 5. The present Service Appeal is liable to be dismissed for non-joinder/mis joinder of necessary parties.
- 6. That the instant Service Appeal is against the prevailing law and rules.
- 7. That the Appellant has filed this instant Service Appeal on malafide motives.
- 8. That the instant Appeal is badly time barred.
- 9. That the instant Service Appeal is not maintainable in the present form, and above in the present circumstances of the issue.
- 10. The Appellant was estopped by his own conduct by not submitting his statement to the enquiry committee.
- 11. That the Appellant has concealed the material facts from this Honorable Tribunal.

FACTS

- 1. That the Para No.1 pertains to record, hence, needs no comments.
- 2. That the Para No.2 pertains to record, hence, needs no comments.
- 3. That the Para No.3 pertains to the earlier enquiry report, on which this Honorable Tribunal directed De-novo enquiry vide order dated 15.09.2022. Therefore, no further comments needed.
- 4. That the Para No.4 is correct to the extent of application, however, the enquiry officer being an efficient and senior officer of the Department submitted his detail report which could not be with-held on mere application of the Appellant.
- 5. That the Para No. 5 pertains to filing of Service Appeal before this Honorable Tribunal by the Appellant, hence, needs no comments.
- 6. That the para No. 6 also pertains to filing of Service Appeal before this Honorable Tribunal by the Appellant, hence, needs no comments.
- 7. That the Para No. 7 is correct to the extent of order of this Honorable Tribunal dated 15.09.2022, the rest of the para is incorrect and denied. The enquiry committee has submitted enquiry report within 60 days.
- 8. That the Para No. 8 is correct.
- 9. That the Para No. 9 is correct to the extent of filing application by the Appellant dated 30.11.2022, the rest of the para is incorrect and not admitted. The enquiry committee called all the relevant persons I,e Ex-

6

- ASDEO and Inayat ur Rahman PST and their statements have also been collected by the enquiry committee.
- 10. That the Para No. 10 is ambiguous and not clear, however, the enquiry committee submitted enquiry report on 15.02.2023 to the office of respondent no.03.
- 11. That the Para No. 11 is about the applications of the Appellant to enquiry committee and that the enquiry committee did not summon the main witnesses I,e Muhammad Gul Ex-ASDEO and Shah Dawran PSHT, however, as per enquiry report, the enquiry committee have obtained statements of the relevant officers/officials which are annexed with the enquiry report. (Enquiry report along with all annexures annexed as annexure A)
- 12. That the Para No. 12 is incorrect and denied. The re-instatement order has not been issued on 20.03.2023 by respondent No. 03. As for as the application of the Appellant dated 21.02.2023 is concerned, it was latter than re-instatement order dated 20.02.2023, therefore, it was filed being infructuous.
- 13. That the Para No. 13 is irrelevant to the present issue, hence, no comments.
- 14. That the Para No. 14 is correct to the extent of the date and number of the re-instatement order dated 20.02.2023 and to the extent that intervening period has been declared as without pay, the rest of the para is incorrect and denied. The Appellant wants to take protection and remedy on technicalities and to hide his illegalities and irregularities on technical grounds. Therefore, his this attitude and stance is not acceptable before the eyes of law.
- 15. That the Para No. 15 is correct to the extent of applications of the Appellant and the record provision by the respondent Department to the learned council of the Appellant, the rest of the para is incorrect and denied. The serial numbers mentioned by the Appellant in this para is totally baseless, incorrect and irrelevant to the issue of the Appellant. The inconsistency in serial numbers of dispatch register I,e 7751 after 7721 is just a clerical mistake and nothing more than that. The Appellant has no plausible justification in his favor, therefore, he wants to hide himself behind technicalities.
- 16. That detail reply of this para is given in para 15 above, hence, needs no comments.
- 17. That the Para No. 17 is correct to the extent of enquiries, however, the latest enquiry/De-novo enquiry has been conducted on the directions of this Honorable Tribunal. Now, the Appellant is duty bound to accept the recommendations of the enquiry committee.
- 18. That the Para No. 18 is the repetition of above paras, hence, no comments.
- 19. That the Para No. 19 is incorrect and denied. That the Appellant was properly informed and was directed to record his statement within seven days and proper opportunity was given to him but he did not submit his reply.
- 20. That the Para No. 20 is quiet astonishing and incorrect. Proper enquiries were conducted and the respondents were quiet agreed to the recommendations of the enquiry reports, therefore, there was no need of De-novo enquiry to be conducted on the whims and wishes of the Appellant.

21. That the Appellant is not an aggrieved person. The instant Service Appeal of the Appellant is bereft of any merit, hence, liable to be dismissed interalia following grounds.

GROUNDS

- 1. That the Para No. 1 is incorrect and denied. The Appellant was estopped by his own conduct by not submitting his statement to the enquiry committee.
- 2. That the Para No. 2 is incorrect and denied. The detail reply has already been given in the foregoing paras of the facts.
- 3. That the Para No. 3 is incorrect and denied. The respondent Department has acted in accordance with law, rules and policy.
- 4. That the Para No. 4 is incorrect and denied. Proper enquiry has been conducted on the directions of this Honorable Tribunal.
- 5. That Para No. 5 is repetition of the above paras, hence, no comments.
- 6. That Para No. 6 is incorrect and denied. The re-instatement order has not been issued on 20.03.2023.
- 7. That Para No. 7 incorrect and denied. The detail reply has already been given in the foregoing paras.
- 8. That the para No. 8 is incorrect and denied. The detail reply has already been given in the foregoing paras.
- 9. That the para No. 9 is incorrect and denied. The Departmental Appeal was rejected by the respondent No. 02 vide his office letter dated 21.07.2023 with a copy to the Appellant and he was also informed about the rejection of his Departmental Appeal by respondent No. 03 vide letter dated 19.08.2023. (Letters annexed as annexure B & C)
- 10. That the respondents also seeks permission of this Honorable Tribunal to raise further grounds on the time of arguments.

It is, therefore, very humbly prayed that the instant Service Appeal of the Appellant may be dismissed with cost in favor of the respondents.

> DISTRICT EDUCATION OFFICER (M) SWAT AT GULKADA

(On behalf of Respondent No. 4 & 5)

ELEMENTARY AND SECONDARY

EDUCATION KHYBER PAKHTUNKHWA

ELEMENTARY AND SECONDARY EDUCATION PESHAWAR

4

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1304/2023 Abdul Salam C.T GHS Paindai Matta District Swat Versus	Appellant
Government of Khyber Pakhtunkhwa through Secretary Electron Peshawar & Others.	mentary and SecondaryRespondents.

AFFIDAVIT

I, Hussain Ali Legal Representative, do hereby solemnly affirm and declare on oath on the directions and on the behalf of the Respondents that the contents of the comments are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honorable Tribunal. It is further stated that in this appeal, answering respondents have neither been placed expantly now their defense has been structured off.

HUSSAIN ALI LEGAL REPRESENTATIVE O/O DEO (M) SWAT

ATTESTED HER





GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

AUTHORITY LETTER

It is certified that Hussain Ali, Legal Representative Office of District Education Officer (Male) Swat, Elementary & Secondary Education Department is hereby authorized to submit para-wise comments and attend the Service Tribunal, Camp Court Swat on behalf of Respondent No. 01-05 in Service Appeal No. 1304/2023 Title Abdul Salam Vs Government of Khyber Pakhtunkhwa & Others on the eve of each hearing till the disposal of the instant case.

Elementary

econdary Education, partment.

INQUIRY REPORT IN R/O MR. ABOUL SALAM EX PSHT GPS CHARAL MATTA

INQUIRY COMMITTEE.

eto anatania)

1. Mr. Hazrat Rahman Principal GHSS Balogram Swat.

2. Muhammad Javid Principal GHS Manyar Swat.

Annexuve 'A

Reference to the DEO (M) Swal vide endstt No.5581-86 Dated: 05-01-2023 wherein 1. INTRODUCTION : the committee as mentioned above has been constituted with the direction to conduct the enquiry in accordance with the existing rules as per direction of the august court (Services Tribunal). Statement of allegation convey to the accused.

2 Procedure followed

The committee preceded the matter with the help of following tools.

- Questioner Served on Abdul Salam Ex PSHT Charai Matta (refused the reply).
- Questioner for Shah Dawran PSHT Mandor Matta regarding Rs.200000/= (Two Lacs) verbally transferred / pay by the accused.(reply attached annex. A) ü.
- Summoned to the Ex ADEO Mr. Muhammad Gui (reply attached annex B).
- Inyatur Rahmna PST Charai Matta through questioner.(Reply attached annex. C) III.
- Requested through a letter to DEO for the nomination of the departmental Representative as per (13) E&D Řules 2011.
- A letter sent by the accused after constitution of inquiry committee and before 1st meeting of the νi. committee (2)

1. FINDINGS :-

- 1. The accuse had been serving as PSHT at GPS charai w.e.f 13.11.14 to 30.11.17
- 2. Total Amount Received by the school under PTC fund during 2014 to 2017 is as under.

		1	Expenditure	Remarks
	T Date of	Amount	200000	Paid to Shah Dawran
No.	Dated	21000/=		on verbally order
1.	10-07-2014	ì		
		21000/=	632000	Cashed paid to Inval
	10-02-2015	21000/-	· ·	Rahman PSHT GPS
2.	10:02-2013	İ		Charai
			630730	Spend as said
		562000/#		
3.	09-04-2015	10000/=		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
1.	10-03-2016	10000/=		
5,	31-03-2016	335000/=		
G.	30-06-2016	670000/=	and the contract of the second	
	09-01-2017	160000/=		4-2
8.	09-01-2017	1789000/=	1462730	
			4454000	Received from
rotal	and chesikal Malta	335000/=	1454000	department
Amount Transferred to GPS Chatikal Matta			8730	Difference/excess
		1454000/=		

3. Huge amount at a time have been repeatedly drawn from bank which is a question mark on the honesty of the accused as!

S.No	Date	Amount	Remarks
3,140	27.07.15	562000	On one cheque
	17.10.17	200000	Do
	23.10.2017	200000	five pays fater
4	26.10.2017	200000	Three days later

C-T-C

Transfer of Rs: 200000 has been made on verbal order even having no authority of the s ASDEO did have.



More over transfer of amount has a legal procedure like the institution needed submit request supporting by tangible reason, SDEO recommends the case with justification to the DEO and the DEO is authority to make such transfer. He issues order in writing and then transfer of amount is made through cheques and there copies, receiving certificate is recorded and later on the institution where the amount is transferred verified. Whether proper deposited in the bank and cash book has been

The cash payment is claimed by accused that he is given it to the new incumbent is not legal no amount exceeding then approximately five hundred can be kept as cash in hand and even 5. procedural negligence on the part of accused is observed.

It is necessary part and parcel of the accounts that all the receiving amount in the public interest received by the institution may be properly recorded and each every cheque No .dated 6. and amount may be recorded with the expenditure, bill vouchers because without this practice no audit is possible.

In this case no record has been properly maintained and the School fund is dealt just like personal pocket money.

Recommendations: -

On the basis of above findings /conclusion, the committee makes the following recommendation.

1. As far as the procedural negligence in terms of transferring the Govt: amount from one entity to another has been clearly observed and the required route has not been adopted, the committee is of the view that under section a-(i) of 4 E&D rules 2011. Censure may be imposed upon the accused to make him responsible /conscious in future regarding such a sensitive matter.

2. An amount of Rs: 200000/= (Two lacs) which has been shown transferred to GPS Mandor matta can neither be justified, nor any receipt kept in record file. Therefore the recovery of the cited amount that is 200000 may be recovered from Abdul SoltamEx-PSHT GPS charral. (copy of questionnaire/statement of Mr.Shah Dawran Ex-PSHT GPS Mandor is attached as an.

3. The official may be re-instated in the service however his absent period w.c. [18/11/2019 to 05/01/2023 may be considered as leave without pay.

Signature of the inquiry officers

1. Mr. Hazrat Rahaman Principal GHSS Balogram.

2. Mr.Muhammad Javed Principal GHS Manyar

CamScanner

AI QUESTIONER FOR SHAH DAWRAN PSHT MANDOR MATTA.

(II)

S No.	Questions	Reply	Signature of concerned
1.	Had you received Rs.200000/= two lacs of PTC from Abdul Salam Ex PSHT GPS Charai?	No, I have not received the mentioned aucenid for 2000/=	
2.	If yes on whose permission?	Not received,	
3.	It yes have you received in your PTC fund recorded / Cash Book?	Mil	13/2023

Shah dawran PSHT(R)

CAPS Mandoon (Mada) CNIC = 15601-8301313-1 Mob = 0344-9666713

Chairman Inquiry Committee

Signature:

Member Inquiry Committee

Signature:



QUESTIONNAIRE FOR MUHAMMAD GUL EX ASDEO MATTA PRESENT H/M GHS PARAI.

You are required to submit your replies to the questionnaire of the inquiry Committee constituted by DEO (M) Swat vide No.5581-86 dated: 05-01-2023.

- 1. Had you directed being ASDEO to Mr. Abdul Salam Ex PSHT Charai Matta for transfer of PTC amount from GPS Charai Matta GPS Mandor Matta?
- 2. If yes did it fall under your Doman as ASDEO?
- 3. If yes had you issued any order in this regard in a black and white?
- 4. If yes how much amount had been transferred? 5. What could be the solution of the issue related to the PTC GPS Charai Matta?

Chairman of Inquiry Committee.

Member of Inquiry Committee._

CT-L





Τo,

- 1) Mr. Hazrat Rahman principal GHSS Balogram chairman of inquiry committee.
- 2) Mr. Muhammad Javid Khan principal GHS Manyar member of inquiry committee.

Subject: Statement Regarding Inquiry in R/O Abdul Salam Ex. Head Teacher GPS Charrai Biha circle Matta Swat.

Respected Sir,

The statement of the under signed along with the supporting paper regarding inquiry Abdul Salam Ex. PSHT GPS Charral Biha is here by submitted as per detail.

S.No	DOCUMENTS	ANNEXURE	PAGE
3.NO	Reply of the undersigned	************	2
<u>უ</u>	Civil suit in the court of civil Judge-I Matta Swat	Α	3-6
2	Proposal for shifting funds	В	7-8
4	Order of DEO/ competent authority	С	9
5	Procedure of the handing and taking over the amount	D	10-11

MUHAMMAD GUL)

EX. ASDEO CIRCLE MATTA SWAT NOW HEAD MASTER GHS PARRAI SWAT.

Cell# 0301-8046477

Muhammaten Sun Head Master Govt: High School Parral Swat

CTL



WRITTEN STATEMENT OF MR.MUHAMMAD GUL EX-ASDEO IN SWAT IN CONNECTION WITH INQUIRY ON R/O ABDUL SALAM EX-PSHT GPS CHARRAI CIRCLE MATTA SWAT. To,

1) Mr. Hazrat Rahman principal GHSS Balogram Swat chairman of inquiry committee

2) Mr. Muhammad Javid khan principal GHS Manyar member of inquiry committee Respected sir,

I, Mr. Muhammad Gul B-17 Ex-ASDEO remained as circle Matta Swat w.e.f 15-03-2016 to 26-04-2018 and relinquished charge of the office ASDEO on 26-04-2018.

Reference DEO (M) swat vide No 5581-86 dated 05-01-2023. In the light of material fact, documentary evidence the under signed submits his written statement as per detail below.

[according to the Ruestimaise]

1) The undersigned always perform his duty according to rules and regulation. Being ASDEO circle Matta Swat the under signed has not given any verbal / written direction to Mr. Abdul Salam Ex-PST Charral Matta Swat for transfer / hand over any amount to someone from GPS Charral

to GPS Mandoor circle Matta.

2) No the ASDEO has no authority to shift/ transfer any fund from one school to another. It is the sole authority of the district education officer/ competent authority. ASDEO can only send proposal to the competent authority for such transfer of funds only on the written application of the concerned Head Teachers.

3) No the undersigned has not issued any order in this regard in a black and white.

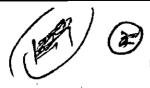
4) No the undersigned has not transfer any amount/ fund from one school to another as it is the sole authority of the district education officer/ competent authority. If the appellant / Mr. Abdul Salam under inquiry is true he may provide written proof/ order issued by the under signed (Ex. ASDEO).

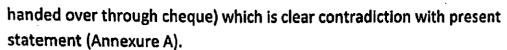
Moreover in the instant appeal the appellant stated that the amount Rs 200000/= of water supply was given to Mr. Shah Dawran Ex. Head Teacher GPS Mandoor Matta, but on the other hand the present appellant filled another civil suit in the court of learned civil judge-I Matta Swat, where he stated in para No.5 that the (amount Rs, 200000/= were

Head master,

Govt: High School, Partus, Diett, Swat.

B





5) The solution of this issue related to the PTC GPS Charral Biha that unspent amount maybe deducted from the concerned Ex-Head Teacher/ Teachers and Class-4.

Detail of other Annexures/ supporting papers.

- 1) Proposal for shifting amount (Annexure B)
- 2) Order of the DEO / competent authority shifting of amounts (Funds) from one school to another school (Annexure C).
- 3) Procedure of handing and taking over the amount through Bank cheque between two Head teachers (annexure D) which was followed by the under signed during his period of duty as ASDEO circle Matta Swat.

PRAYER

On acceptance of the above written statement and material facts, it is, therefore, humbly prayed that the under signed may please be exonerated from the inquiry in the light of facts & figures and prevailing circumstances as the undersigned is innocent in the instant case and involved malafidely.

(MUHAMIÑĂD GUL)

EX. ASDEO CIRCLE MATTA SWAT

NOW HEAD MASTER GHS PARRAI SWAT.

Cell# 0301-8046477

Mahammad Gul Head Master Govt: High School Parral Swat

C.T.C

سه المسكن عنابيت الركن

15601-4415516-7 03454850176 شما) وسيرات المبروا ليرمو جود يه.

A Colonia de la
Assistant District Officer (PAD) Liendentary a Secondary Local Syrat

c-T.C

Ammerure. D





STATEMENT OF ALLEGATION/SHOW CAUSE.

To

Mr. Abdul Salam Ex PSHT Charai Matta Swat.

Reference to the DEO (M) vides Endst No.5581-86 dated: 05-01-2023, you are hereby required to attend the inquiry committee meeting under sub section (a) of section (7) E&D rule 2011 on the grounds noted below.

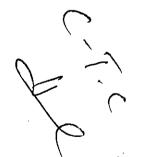
1. As to why you may not be proceeded as per recommendation of preliminary inquiry conducted by ex-Principal GHS Kanju and the mentioned recovery of Rs. 420586 may be made alongwith the required major penalty to be imposed in accordance with rules if you could not satisfy the inquiry committee through your You are awarded stipulated time of one week (07 Days) as on opportunity under If no reply as per section (7) (C) received with in the stipulated time the committee

reserves the right to decide the case as ex parry.

Chairman of Inquiry Committee.

Member of Inquiry Committee._

15601-3966728-1









Anneame

DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION

KHYBER PAKHTUNKHWA PESHAWAR.

No. 4964 /F.No./3-22/Vol-1/Re-instatement/Estab-1 Dated Peshawar the 201-2 /2023.

10

The District Education Officer (Male) Swat.

Subject: - DEPARTMENTAL APPEAL

Memo:

I am directed to refer to your letter No. 4633 Dated: 24-06-2023 on the subject cited above and to ask you that appeal in r/o Mr. Abdul Salam CT (BPS-15) GHS Pandai Matta District Swat has been rejected.

I am further directed to ask to inform the appellant concerned accordingly, please.

Director (Estab-1)

Directorate of Elementary & Secondary Edu Khyber Pakhtunkhwa, Peshawar.

Endst; No. _____

Copy forwarded to the: -.

1. Mr. Abdul Salam CT (BPS-15) GHS Pandal Matta District Swat

2. P.A to Director Elementary and Secondary Education local office.

Assistant Director (Estab-1) Directorate of Elementary & Secondary Edu Khyber Pakhtunkhwa, Peshawar.



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) SWAT

meaux

70,

Mr. Abdul Salam Ct GHS: Pandai District Swat

Subject:-

Departmental Appeal.

Мето:-

Reference to the Director Elementary and Secondary Education Khyber Pakhtunkowa Peshawar letter No. 7067/F.No/3-22/Vol-1/Re-instatement/Estab-1 dated Peshawar the 20-07-2023 on the subject cited above.

I am direct to inform you that your departmental Appeal is hereby rejected by the Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar vide letter No and dated quoted above please.

DUCATION OFFICER (M)

Endst: No.___

Copy forwarded to the Director of Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar his No quoted above.

ATION OFFICER (M)

C/1. C