#### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, CAMP COURT ABBOTTABAD

Service Appeal No. 1025/2016

Date of Institution... 30.09.2016

Date of decision... 23.11.2017

Muhammad Hafeez son of Akram Ex-PST Teacher resident of Khan Khard Cum Bakot, Tehsil and District, Abbottabad. (Appellant)

#### Versus

Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar and 3 others. (Respondents)

MR.HAMAYUN KHAN,

Advocate For appellant.

MR. KABEERULLAH KHATTAK,

Addl. Advocate General, For respondents.

MR. NIAZ MUHAMMAD KHAN,

**CHAIRMAN MEMBER** 

MR. AHMAD HASSAN,

#### **JUDGMENT**

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned counsel for the parties heard and record perused.

#### **FACTS**

The appellant is aggrieved from an order dated 24.05.2016 whereby he was retired from service prematurely, against which the appellant filed a departmental appeal on 06.06.2016 which was not responded to and thereafter he filed the present service appeal on 30.09.2016.

#### **ARGUMENTS**

- 3. The learned counsel for the appellant argued that signature of the appellant was obtained on a blank paper by ADO on 18.08.2015 which was then written by the said ADO as an application for retirement. That on the next day the appellant submitted an application to the District Education Officer concerned, stating therein that on 18.08.2015, ADO Muneeb Abbasi came to his school and asked him to sign the blank paper. That the appellant signed blank paper and he then filled the same paper and directed him that he was not required any more in service and that he had been terminated forcibly. This application was not responded to and the appellant then moved another application to the Director of Education, Elementary & Secondary Education on 04.11.2015 which was also not responded to then he filed another application on 05.11.2015 to the Secretary concerned. He further argued that on 11.1.2016 the appellant was given a show cause notice for his absence from duty from 30.09.2015 to 11.12.2015 which was duly replied to by the appellant. That thereafter, the impugned order was passed. He next contended that the whole proceedings are violative of law and rules and are not sustainable in the eyes of law.
- 4. On the other hand the learned Addl. Advocate General argued that there was a complaint on behalf of elders of the locality against the appellant regarding his inefficiency. That the appellant himself submitted an application for early retirement. That in a questionnaire during personal hearing on 14.5.2016, the appellant admitted his application for retirement.



#### **CONCLUSION.**

- 5. The very impugned order dated 24.05.2016 does not refer to any application moved by the appellant. This order does not give any clear cut message that under which provision and on which basis this order was passed. Had it been on the application of the appellant then under rules such pension is called "Retiring Pension". (under Rule 3.5 of the West Pakistan Civil Services Pension Rules). The premature pension is dealt with by Section 13 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 where under such pension can be ordered on the completion of 20 years of qualifying service for pension. But in case under Section 13, a notice is must to be given to the concerned civil servant which has not been done in this case. Presuming it for arguments sake that this order was passed on the basis of application submitted by the appellant then the concerned authority had not taken into consideration his other applications negating his application dated 18.08.2015. A civil servant cannot be dealt with by the department in the method in which the appellant was treated. Normally, when any person asks for retirement, it is the duty of the superior to look into the matter and to satisfy himself about voluntariness of the civil servant concerned and if the authority reaches the conclusion that any undue influence is exercised or application was in any manner not voluntary then such orders cannot be passed. But in the present case the appellant by so many applications to all the authorities had expressed his unwillingness of retirement. But despite all these circumstances the authority passed the order of retirement.
- 6. If the appellant was inefficient and complaints were submitted by the elders of the locality against his inefficiency, then the proper course was to have



ordered the retirement under Section 13 of the Khyber Pakhtunkhwa Civil Servants Act, 1973. But an inefficient person cannot be shown the doors out-of by adopting such indirect means.

7. Consequently the present appeal is accepted and the appellant is reinstated in service with all back benefits. The department is however, at liberty to proceed on the complaints in accordance with the observations mentioned above. Parties are left to bear their own costs. File be consigned to the record room.

(Niaz Muhammad Khan) Chairman Camp Court, A/Abad

Anmad Hassan)

Member

<u>ANNOUNCED</u> 23.11.2017

22.08.2017

Appellant in person and Mr. Muhammad Bilal, DDA alongwith Soahil Ahmad Zaib, Assistant for the respondents present. Due to general strike of the bar, counsel for the appellant is not in attendance. Seeks adjournment. Adjourned. To come up for final hearing before the D.B on 23.11.2017 at camp court, Abbottabad.

Member

Chairman
Camp court, Alabad

23.11.2017

Counsel for the appellant and Addl. Advocate General alongwith Sohail Ahmad Zaib, Assistant for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.

Member

Chairman
Camp court, A/Abad

ANNOUNCED 23.11.2017

24.11.2016

Learned counsel for the appellant argued that the appellant was serving as PST when prematurely retired from service on 24.5.2016 by the District Education Officer (M) Abbottabad where-against he preferred departmental appeal on 06.06.2016 which was not responded and hence the instant service appeal.

That the said respondent obtained signature of the appellant by force on application for retirement dated 18.08.2015 where-against he submitted another application dated 19.08.2015 complaining therein against the conduct of the said respondent but despite the same the impugned order of retirement was issued. That the impugned order is against facts and law and liable to be set aside.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 16.02.2017 before S.B at camp court, Abbottabad.

Appellant Deposited Security & Process Fee

Charman Camp Court, A/Abad

16.02.2017

Counsel for the appellant and Mr. Khuram, Assistant alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Written reply by respondents submitted. The appeal is assigned to D.B for rejoinder and final hearing for 22.08.2017 at camp court, Abbottabad.

Camp Court, AlAbad

## Form- A FORM OF ORDER SHEET

Court of		
Case No.	1025/2016	

,	Case No_	1025/2016
S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1.	30/09/2016	The appeal of Mr. Muhammad Hafeez received
	,	today by post through Mr. Hamayun Khan Advocate may be entered in the Institution Register and put up to the Learned
		Member for proper order please.
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#### BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1025 -A/2016

Muhammad Hafeez son of Akram, Ex PST teacher resident of Khan Khard Cum Bakot, Tehsil & District, Abbottabad.

...APPELLANT

#### **VERSUS**

Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and others.

...RESPONDENT

#### **SERVICE APPEAL**

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7.	Copy of order	26	"E"
8.	Copy of appeal	27-29	"F"
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..APPELLAN

Through

Dated: 26 - 9 /2016

(HAMAYUN KHAN)
Advocate High Court, Abbottabad

2)

#### BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1025 -A/2016

Muhammad Hafeez son of Akram, Ex PST teacher resident of Khan Khard Cum Bakot, Tehsil & District, Abbottabad.

...APPELLANT

Khyber Pakhtukhw Service Tribunal

VERSUS

Diary No. 1034

Dated 30 9 20/6

- 1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.
- 2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 3. District Education Officer (Male) Abbottabad.
- 4. Muneeb Abbasi Assistant Education Officer (Male) Abbottabad.

...RESPONDENT

Registrar 30 9 16

APPEAL UNDER **SECTION KPK** TRIBUNAL **AGAINST IMPUGNED** THE RETIREMENT ORDER NO. 4172/EB-H/F-NO.21/VOL/COMPLAINANT **DATED** 24/05/2016 ISSUED BY RESPONDENT NO.3 WHICH

ILLEGAL, AGAINST THE LAWS FACTS CIRCUMSTANCE AND LIABLE TO BE SET ASIDE.

PRAYER:- ON ACCEPTANCE OF THE INSTANT APPEAL, IMPUGNED RETIREMENT ORDER NO.4172 DATED 24/05/2016 MAY KINDLY BE DECLARED NULL AND VOID, AND APPELLANT BE RESISTED ALONG WITH ALL BACK BENEFITS AND ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEM FIT AND PROPER.

Respectfully Sheweth;-

This appeal mainly proceeds on bellow stated factual and legal grounds.

- That appellant was appointed on 03/08/1984 as
   P.S.T teacher in education department.
- 2. That therefore appellant joined service and continuously performed duty in different schools with full devotion and liability till 24/05/2016 and there had no complaint against appellant in respect

of duty. Copy of relevant pages of attendance register and pay slip Annexed "A".

- 3. That on 15/06/2013 respondent No.3 issued transfer order of appellant from GMPS Topa Khan Khurd to GMPS Sangal kote against vacant post and after receiving transfer order appellant took charge in the said school, and started duty therein.
- 4. That on 18/08/2015 ADO respondent No.4 on surprise visit to the school singed so called retirement order from appellant on the basis of interference of the local (MPA). Copy of application annexed as Annexure "A-1".
- 5. That on 19/08/2016 appellant preferred application before the DO / Respondent No.3 and stated all actual position of the incident. Copy of application dated 19/08/2015 annexed as Annexure "B"
- 6. That therefore, on 04/11/2015 and on 05/11/2015 appellant filed applications before respondent No.1 and 2 respectively. Copies application is annexed as Annexure "C".

- 7. That on 14/01/2016 respondent No.3 issued show cause notice on the allegation of absence form duty and on 26/01/2016 appellant filed reply of the show cause notice. Copy of show cause and reply is annexed as Annexure "D".
- 8. That thereafter, on 24/05/2016, respondent No.3 issued so called impugned retirement order of the appellant. Copy of order is annexed as Annexure "E".
- 9. That on 06/06/2016 appellant filed departmental appeal before the respondent No.2 against the impugned order dated 24/05/2016 issued by respondent No.3 but till dated respondent No.2 not given any response and similarly not passed any order on the said appeal. Copy of appeal is annexed as Annexure "F".
- 10. That feeling aggrieved with the orders so passed, appellant invokes, the jurisdiction of this Honourable Court on the following major points of law.

#### **GROUNDS**;-

- a. That impugned order dated 24/05/2016 against the law, facts and circumstances.

  Hence liable to be set aside.
- b. That order dated 24/05/2016 passed without personal hearing and legal formalities hence liable to be set aside.
- c. That impugned order passed against the basic principle of natural justice therefore liable to be set aside.
- d. That at the time of passing impugned order respondent No. 3 ignored all basic and legal requirement of law and procedure.
- e. That impugned order against the well known precedents of the superior courts of the country.

- f. That all proceeding were conducted on the direction of local (MPA) for political revenge.
- g. That order dated 214/05/2016 against the fundamental rights of the appellant.
- h. That respondent No. 3 not considered different application filed by the appellant for bringing actual facts and personal revenge of the respondent No. 4. hence order dated 24/05/2016 is liable to be set aside.
- i. That respondent No. 3 issued impugned order on the recommendation of respondent No. 4 and through which they deprived appellant from his basic right of further service hence order dated 24/05/2016 is liable to be set aside.
- j. That other points would be urge at the time of Arguments with the kind permission of this Honourable Court Tribunal Court.

It is, therefore, humbly prayed that on acceptance of the instant appeal, impugned retirement order No. 4172 dated 24/05/2016 may kindly be declared null and void, and appellant be resisted along with all back benefits and any other relief which this Honourable court deem fit and proper.

Through

Dated: 26-9 /2016

(HAMAYUN KHAN) Advocate High Court, Abbottabad

#### **VERIFICATION;-**

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

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#### **National Bank of Pakistan**

#### **Account Statement**

Account Title(s) MUHAMMAD HAFIZ S/O M.AKRAM-

Address: KALLAN

ATD

Town:

District:

City: ABBOTABAD

Province/State: KH.PAKHTOON

Country: PAKISTAN

Product Name: PLS Savings Account

Currency: PKR

CIF No: 6605472

Account No: 3082675797

IBAN: PK84NBPA1314003082675797

Postal Code:

Branch Code/Name: 1314 Nathiagali Branch

Region Name: Abbotabad

**Statement of Account** 

Statement Printing Date: 21-Jun-2016

State	ment Frinting Date. 21-Jun-2016					
1.	02-Jan-2014 SALARY	. 1	02	0.00	31,787.00	31,838.70
. 2	15-Jan-2014 PROFIT/LOSS	20157	01	0.00	764.00	32,602.70
3	15-Jan-2014 W.H.TAX	20158	01	76.40	0.00	32,526.30
4	20-Jan-2014 CASH	743481	, 20	32,000.00	0.00	526.30
5	03-Feb-2014 SALARY	1	03	0.00	29,067.00	29,593.30
6	03-Mar-2014 SALARY	1	03	0.00-	29,067.00	58,660.30
7	21-Mar-2014 CASH	743482	21	58,000.00	0.00	660.30
8	21-Mar-2014 W.H.TAX	18423482	21	174.00	0.00	486.30
9	01-Apr-2014 SALARY	1	01	0.00	29,067.00	29,553.30
10	04-Apr-2014 CASH	743483	04	29,000.00	0.00	553.30
11	02-May-2014 SALARY	1	02	0.00	31,787.00	32,340.30
12	06-May-2014 CASH	743484	06	30,000.00	0.00	2,340.30
13	02-Jun-2014 SALARY	. 1	02	0.00	31,787.00	34,127.30
14	27-Jun-2014 CASH	743485	27	33,000.00	0.00	1,127.30
·15	02-Jul-2014 SALARY	1	02	0.00	31,786.00	32,913.30
_ 16	11-Jul-2014 CASH	743486	11	32,000.00	. 0.00	913.30
17	16-Jul-2014 PROFIT/LOSS	20157	01	0.00	698.00	1,611.30
18	16-Jul-2014 W.H.TAX	20158	01	69.80	0.00	1;541.50
19	25-Jul-2014 SALARY	1	25	0.00	33,179.00	34,720.50
20	06-Aug-2014 CASH	743487	06	34,600.00	0.00	120.50
21	·01-Sep-2014 SALARY	1	-01	0.00	33,712.00	33,832.50
	12-Sep-2014 CASH	743488	12	16,500.00	0.00	17,332.50
· 23	15-Sep-2014 CASH	743489	15	15,000.00	0.00	2,332.50
<b>.</b> 24	01-Oct-2014 SALARY	· 1	01	-0.00	33,712.00	36,044.50
25	27-Oct-2014 CASH	743490	27	36,000.00	0.00	44.50
26	31-Oct-2014 SALARY	· 1	31	0.00	33,713.00	33,757.50
27	01-Dec-2014 SALARY	. 1	01	0.00	33,713.00	67,470.50
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Page 1 of 3

#### **National Bank of Pakistan**

#### **Account Statement**

Account Title(s) MUHAMMAD HAFIZ S/O M.AKRAM

Address: KALLAN

ATD

Town:

District:

City:

Province/State:

Country:

Product Name: PLS Savings Account

Currency:

CIF No: 6605472

Account No: 3082675797

IBAN:

Postal Code:

Branch Code/Name: 1314 Nathiagali Branch

Region Name: Abbotabad

**Statement of Account** 

Statement Printing Date: 21-Jun-2016

State	nent Finting Date: 21-Jun-2016				•	•
55	23-Nov-2015 CASH WITHDRAWAL	16971562		37,000.00	Q. <b>0</b> 0	192.70
. 56	30-Nov-2015 SALARY	,	30	0.00	36,917.00	37,109.70
57	07-Dec-2015 CASH WITHDRAWAL	16971563		37,000.00	0.00	109.70
58	31-Dec-2015 SALARY		31	0.00	37,632.00	37,741.70
59	07-Jan-2016 CASH WITHDRAWAL	16971564		37,000.00	. 0.00	741.70
60	11-Jan-2016 GROSS PROFIT		01	0.00	326.99	1,068.69
61	11-Jan-2016 WithHolding Tax		01	32.70	0.00	1,035.99
62	29-Jan-2016 SALARY		29	0.00	34,776.00	35, <del>811.9</del> 9
. 63	08-Feb-2016 CASH WITHDRAWAL	16971565		35,000.00	0.00	811.99
64	29-Feb-2016 SALARY		29	0.00	34,776.00	35,587.99
65	07-Mar-2016 CASH WITHDRAWAL	16971566		35,000.00	0.00	587.99
. 66	31-Mar-2016 SALARY		31	0.00	34,776.00	35,363.99
67	08-Apr-2016 CASH WITHDRAWAL	16971567		35,000.00	0.00	363.99
68	29-Apr-2016 SALARY		29	0.00	37,532.00	37,89 <del>5.9</del> 9
69	03-May-2016 CASH WITHDRAWAL	16971568	,	36,000.00	0.00	1,895,99
70	01-Jun-2016 SALARY		01	.0.00	37,632.00	( <del>39,527.</del> 99
71	02-Jun-2016 CASH WITHDRAWAL	16971569		39,000.00	0.00	527.99

Total 36 Credit transactions of amount: 1,020,749.99 Total 35 Debit transactions of amount: 1,020,273.70

1,020,273.70

1,020,749.99

Allested

Anneure A-1 18 بحرست جناب في مركف المجليش آمير رمردان حله المبدي الد عنوان . رئياترمنٹ سوس ما تدا مراس ارس میاساس 1984 ده سه مادر ارس میاساس 1984 ده سه میاران میاساس 1984 ده سه میاران میاساس ۱۹۶۰ ده سه فرمات ای روی را می ساز کا کسروی وه سال سے ذیارہ می کی ص الله مزمر موس ماری مین رکد کنا ، در اسام این رهی سے سروس سے رشار من لیا جا سہا ہے ۔ تع کارو سے رہا ترسف دی جائے لم زارس صید این رساله ی رسانه من ی مطوری دی ما کے اردرسائی محے واجیات سائل کو ادا کے جا میں Master Jan GMPS سنعل کوٹ یوس کونر بیوٹ سائل فرهفيط لي ايس تي مسرعل ميرمل لرسل آماد CNIC- 13101-0885519.1 for the Sound from of retirement wel alongwith Spoot Hon of refinement wef 20/08/2015. 19/08/2015 19/08/2015

عير نار دى - او ما در الله ليم البداراد 19 مروات والم مروري والمناع الم الف سائر يُحرف فيرفينا تُرِنْنَ وَرُفِنَا UN got Go I John Sprik 267-81 4010 34 ろからからからり Zuje will in we o've to Sije it is be lie us 7. fo ca Usi cut Go Es Vair Sh ہے۔ ماما وگ رس ہوس کے دورال سال کو سنگ ویڈیاں رے رہے ہے رو نے کی مِن مَنعَفَ سَالَى مَن مِنا - مَر مَنِيل رزي در فواستَن في دى سِن مُ سَالًا مُ رب سر سے تبیار کورند والی سال کی تورد یا گورند والی عيدة في وإ واو مسينة سال ك ويُسال تف رُ عال ació (3) من الله الله و ا المرا الله المرا من المراد ال Substed H The فر فاوع نواید ای و نسس ماهری دو سے نے تیس جبری فارع کردیا ع فيا بالى مذر الا مام في ميك فرنى الم أن ما اور أن مى مؤل ك Library who is a selection of the select ULLE CO Co wo s si colle us Ul /2 cos 6 by c W c wee غریب زوی بول می در زکرو ماج فیصلی موسے اور میر کا ماہ د Their to up a Uni will a sty who come is - in dition, the quistiful of the colored in the bill of the in - Lie Cololy - we was we would with your of of sis 19 2015 - Silve Co Think it was 5 this 2 lies

KPK wind Lille of 26213-10 ساک فرانس می این آباد م · is pier Pic or Some Meder سرک یں وردین . بر اہم طب نے مانے بحال م سلانات اشنی دینے سے دیا د ڈالے لیہ جو سے ذہری رب در واست. ورب سول ما ترب رسی ، و امه مطب میم از نني - اسريس عورس في حدادة من كو فيم سے رشائرد زار ديا مار ق من درن دارن دارنا دارنا الد مدزن بربال رئين سي رع والما مع مع الله ابور كرد فواست سنس مر اس برسوال ووان عى . در فو سے رشارد سات كے اندات كس سے سے 3.1-1969 vila 612 - 5,00 5 57984) Res Co -. تو ین وزیر ۱۹۱۹ میرند ناون بر نے کا جانوں . آر کے فران ہے فران لئاریا تو کا مرت دوئی ہے

میں ان مردنا عادلے میں کی میں اندکی وس فلی ورا لنن ولا ولا المع ولا مرین معرف می میمای یا منم مانیر مدفواست می د فین می از برسنول سنورح

محفول مربرای مرف کی اور ایمار کو کورای در ررخورس براد میملی موازمت مبری گورنیز زیران کرمول منت میمول مناکی کرف من طل میو د کمنیو ایس کاد 226 سألم صد الأرق را ل سي برس ما عرصه فوسال لو کری سرواب کا ادر م فا کار در گردندن در الول کول منتفل مو قرار کی کمن طلان می سول مرسر من عرب فاندن سی تعلق رکھا ہے۔ اور فردان حالی کا اور کو کی الله اورا مرمام ن رسو المرلی بن بے. بر در معمد مع المعر مسم و المرافي الرور في الركم على مسرفاريخ د با جوكم الم نادانعان بېرمېنى سى ادر سريمونو شى غى كامات د دېزى در جور بېل يى م الما المال من المرب المبار المال المعرب المرب المبارك المعرب المعرب المبارك المعرب ا اور صفی العروالرن کی کالور منید Melegler في درون کي کي دري. المراعبي المحاركة المراعبي المراعبي المراعبين Oute 5 2015

#### OFFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTARAD

No. 95 /F.No.21/Vol-II

Dated 11-1 /2016

#### **SHOW CAUSE NOTICE**

I Zia-ud-Din, District Education Officer (Male) Abbottabad as Competent Authority under the Khyber Pakhtoonkhawa Government servants (Efficiency & Discipline) Rules, 2011, do hereby serve you Mr. Muhammad Hafeez, PST Cover Primary School, Sangal Kot (Ciccle Birote) Abbottabad follows:

- a) You remained absent from duty w.e.from 30.9.2015 to 11.12.264 a per report of ASDEO (Circle) Birote Abbottabad vide No. 34 dat. d 15.12.2015.
- b. There is no need of holding former enquiry in this case.
- In exercise of the power conferred by the Khyber Pakhtunkhwa, Govt: Servant (Efficiency & Discipline) Rules, 2011, the Competent Authority is hereby pleased to dispense with the conduct of a cornect enquiry and serve you with the instant show cause notice vegarding your wilful absence—from duty with the direction to submit your defence in writing within 15 (fifteen) days of the issuance—of—this notice as to why the major penalty of Rule 4 (b) of the said rules should not—be imposed upon you and also intimate whether you desire to be—heard in person.
  - d. In case you failed to submit your reply within the stipulated period, it will be presumed that you have no defence to offer and varparte decision will be taken against you

COMPETENT AUTIN

Mr. Muhammad Hafeez, PST Govt: Primary School, Sangal Kot (Circle Birote) Abbottabad

Amesled

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## meane

### OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAB RETTREMENT/ENCASHMENT

Sanction is hereby accorded to the grant of encashment of leave in lieu of not availing LPR for 365 days in respect of Mr. Muhammad Hafeez PST GMPS Sangal Kot (Circle) Birote as due and admissible to him under the rules

He stands retired from service on 20.8.2015 (Pre-Mature) apon completion of 30 Years-11 Months 15 days qualifying service

Note:

- 1. Necessary entries to this effect should be made in his service book.
- 2. Recovery of over payment, if any be made good from the official concerned.

Sd/----DISTRICT EDUCATION OFFICER (M) ABBOTTABAD

Endst: No.4173 / EB-H/F.No.21/Vol-H/Complaint Dated 94-5

Copy forwarded for information and necessary action to there

Sub Divisional Education Officer (Mate) Abbottabad wir to his No.2333 dated 30.11.2015 alongwith Service Book of the above named teacher.

District Accounts Officer Abbottabad 2.

Mr. Muhammad Hafeez, PST GMPS Sangal Kot (Circig) Birgic

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ABBOTTAL

salation White in the second DEO こか3/200114-5-2016= FLO 13/15/2015 البيد المد مسوعي ريك ترسط دى يى ميرى درخواست بركاروائى كرى الله الرونيرة 1172 الماه قبل الم ーやしてっくんしょ جاب دالاس في كرت منه جهازوت رياتران الماد الحاس استرى حبيل ميل ريثام مست Elekh 7 34-5-16 (10, 41729) entrope postino 06-06-2016 (3) (1) Africa 6 2016

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## بخدمت جناب DEO (مردانه) ضلع ایبط آباد

## وضاحت منسوخي درخواست بتاريخ 18/08/2015 بابت ريٹائر منك سائل:

عنوان

جناب عالى!

مؤدبانہ گزارش ہے کہ سائل نے مورخہ 18/08/2015 کوایک درخواست بابت ریٹائر منٹ آنجناب کودی تھی جس پر جناب منیب عباقی صاحب سابقہ ADO نے مجھ سے جبری طور پردستخط کروائے تھے ہیں نے اپنی خوشی ورضا مندی کے ساتھ دستخط خیاب میں سے تھے اور میں خاری رکھنا جا ہتا ہوں۔ خبیس کئے تھے اور میں جاری رکھنا جا ہتا ہوں۔ خبیس کئے تھے اور میں خاری رکھنا جا ہتا ہوں۔ سیکہ سائل کومور خہ 18/08/2015 سے مسلسل فرائض منصبی کی اوائیگی سے روکا جاتا ہے اور مجھے رجمٹر حاضری پردستخط شبت کرنے سے زبردی روکا ہوا ہے جبکہ سائل ریگولرا پی ڈیوٹی پر حاضر ہوتا ہوں اور اپنے فرائض بطریق احسن اوا کررہا تھا جس کے شور پر میرا سابقہ ریکارڈ گواہ ہے۔

لہذا آنجناب سے التماس ہے کہ سائل کی ریٹائر منٹ والی مذکورہ بالا درخواست بتاری 18/08/2015 کومنسوخ فر مایا جاوے اور سائل کواپنے فرائض منصبی ادا کرنے کے احکامات صاور فر مائے جائیں تا کہ سائل احسن طریقے سے اپنے فرائض سرانجام دینے کے قابل ہو سکے۔

المرقوم: <u>14/05/2016</u>

: العارض:

Mifre.

PST محمد حفيظ

گورنمنٹ مسجد سکول سنگل کوٹ کھن کلال ۔ بوٹ ک<sup>ی آبو</sup>ؤٹ

Alberted Jan.

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## كورث فيس

26. Sep 2016, 3/1

# وكالت نامه

4_		
	BEFORE THE K. PIC SERVICE TRIBUNAL PULL	
Mu	عنوان: <u>رم الم و الم الم الم الم الم الم الم الم الم الم</u>	. ` -
	منجانب: AMELLANT	
₽	نوعیت مقدمہ: باعث تحریرا نکہ	
	مقدمه مندرجه میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقه آل مقام	
b	HAMAYUN KHAN ADVOCATE HIGH COURT ABBOTTA	BU)
	کودکیل مقرر کرکے اقر ارکرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ وتقر راالٹ و فیصلہ برحاف و دینے اقبال دعویٰ اور بصورت ریکر ڈگری کرانے اجراء	
<u> </u>	ت وصولی چیک روپیه وعرضی وعویٰ کی تصدیق اوراس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ ندکور	
	کی کل یاسی جزوی کاروائی کے لئے کسی اور وکیل یا مخارصاحب قانونی کواپنے ہمراہ اپنی بجائے تقرر کا اختیار	m
	بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختہ مجھ کومنظور و 	4
	قبول ہوگا۔دوران مقدمہ جوخر چہ وہر جانہ التوائے مقدمہ کے سبب ہوگا اس کے ستحق وکیل صاحب ہوں گے۔ قبیر اس مند سے معرب میں مصرف کے مادہ	. 2
	نیز بقایارتم وصول کرنے کا بھی اختیار ہوگا۔اگر کوئی پیشی مقام دورہ پر ہویا «بدسے باہر ہوتو وکیل صاحب موصوف میں مصرف میں مصرف میں میں میں میں میں مقام میں مقام کے مصرف کا	4
= v	پابند ہوں مے کہ پیروی مقدمہ نہ کورہ کریں اور اگر مخار مقرر کردہ میں کوئی جزو بقایا ہوتو وکیل صاحب موصوف عقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراداستجارت نالش بھیغہ فلسی کے دائر کرنے اور اس کی	
	۔ معمد مدن چیروں سے پابلانہ ہوں ہے۔ یر در توہ سک جرادہ کجارت ما کرا جمیعہ ک سے داکر کرتے اور اس ک پیروی کا بھی صاحب موصوف کوا ختیار ہوگا۔	1
	میرون من منب و رف و مقیار دارده د. لهذاو کالت نامة تحریر کردیا تا که سندر ہے۔	J. J.
9	26. Sep 2016. [ HEDOMABA! : PER.	

# BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.

## Appeal No. 1025/2016

Muhammad Hafeez ......Appellant

## **VERSUS**

Govt: of Khyber Pakhtunkhwa & Others.....Respondents

<u>Ioin Parawise Comments on behalf of Respondents</u>

## INDEX

Sr.#	Description	Page No's	Annexure
1	Comments alongwith Affidavit	01 to 04	
2	Copies of the teacher attendance register	05 to 08	"A"
3.	Copy of report of ASDO	09	"B"
4.	Copy of Retirement Application	10	"C"
5.	Copies of the statements	11 to 13	"D"
6. :	Copy of the letter No. 3680-21 dated 11-05-2016	14	"E"
7.	Copy of proceeding regarding personal hearing	15	"F"

Dated: | /02/2017

District Education Officer (M)
Abbottabad.

(RESPONDENT No.3)

## BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.

## **Appeal No. 1025/2016**

Muhammad Hafeez ......Appellant

#### **VERSUS**

Govt: of Khyber Pakhtunkhwa & Others.....Respondents

## **JOIN PARAWISE COMMENTS ON BEHALF OF RESPONDENTS**

### RESPECTFULLY SHEWETH -

Comments on behalf of respondents are submitted as under:-

## Preliminary objections:-

- 1. That the appellant has no cause of action to file the instant service appeal.
- 2. That the instant appeal is time barred. Hence liable to be dismissed.
- 3. That the instant appeal is not maintainable in its present form.
- 4. That the appellant has no locus standi to file instant appeal.
- 5. That the appellant has filed the present appeal just to pressurize the respondents.
- 6. That the appellant has not come to this Honorable Tribunal with clean hands.
- 7. That the appellant is estopped to sue due to his own conduct.
- 8. That the instant appeal is not maintainable due to non-joinder and misjoinder of necessary parties.
- 9. That the instant appeal is against the rules and policy of the Government.
- 10. That the respondents seek leave of this Honorable Tribunal to raise additional points at the time of arguments.
- 11. That the appellant has suppressed the material facts from this Honorable Tribunal, hence, not entitled for any relief and appeal is liable to be dismissed without any further proceeding.

## Factual objections:-

- 1. That the Para No. 1 of the instant service appeal relates to service record of the appellant.
- 2. That the Para No. 2 of the service appeal as composed is incorrect hence, denied. Appellant 'ias cheated / concealed the material facts from this Honorable Tribunai and annexed bogus / forge documents along with his service appeal as annexure "A" as per original teacher attendance register

- appellant remained absent. (Copies of the teacher attendance register are annexed as annexure "A")
- 3. That the Para No. 3 of the instant service appeal relates to record.
- 4. That the Para No. 4 of the instant service appeal as composed is incorrect hence, denied as on 18-08-2015 respondent No. 4 visited the GMPS Sangalkot and observed the poor performance of the appellant as appellant could not read the simple lines of English from the text book of class 2<sup>nd</sup> and 3<sup>rd</sup> and even could not solve of simple sums of Maths. Then appellant decided to submit his retirement application and requested Mr. Asghar to make written his retirement application because he could not write an application in urdu thereafter, appellant put his signature on the said application. (Copy of report of respondent No. 4 alongwith retirement application is annexed as annexure "B" & "C" respectively)
- 5. That the Para No. 5 of the instant service appeal as composed is incorrect hence, denied. Due to poor performance of the appellant he himself requested in presence of the Mr. Muhammad Irshad Abbassi Excounsellor, Mr. Muhammad Asghar, PST GPS Sari and locals of the community to respondent No. 4 that he could not teach and his retirement case may please be forwarded to higher authorities. (Copies of the statements are annexed as annexure "D")
- 6. That the Para No. 6 of the instant service appeal relates to record.
- 7. In reply to Para No. 7 of the instant service appeal it is stated that as per report of respondent No. 4 dated 11-01-2016 appellant remained absent from duty from 30-09-2015 to 11-12-2015. That's why show cause notice was served upon appellant.
- 8. That the Para No. 8 of the Service appeal as composed is incorrect hence, denied as respondent No. 3 called the appellant for personal hearing on 14-05-2016 vide letter No. 3680-81 dated 11-05-2016 at 10:00 AM and appellant availed the opportunity of personal hearing and during the proceeding of personal hearing appellant categorically admitted in question No. 8 that he wants to retire. (Copy of the letter No. 3680-81 dated 11-05-2016 and proceeding regarding personal hearing are annexed as annexure "E" & "F" respectively)
- 9. That Para No. 9 of the instant service appeal relates to record.
- 10.In reply to Para No. 10 of the instant service appeal appellant is just wasting the precious time of this Honorable Tribunal.

## **Grounds:-**

- a. That the ground a, as composed is incorrect hence, denied.
- b. That the ground b, as composed is incorrect hence, denied as opportunity of personal hearing was provided to appellant on 14-05-2016 vide letter No. 3680-81 dated 11-05-2016 and the same was availed by the appellant.
- c. That the ground c, as composed is incorrect hence, denied.
- d. That the grounds d, as composed is incorrect hence, denied.
- e. That the grounds e, as composed is incorrect hence, denied
- f. That the ground f, as composed is incorrect hence, denied as all the proceeding were conducted on the application as well as the choice of appellant during the proceeding of personal hearing.
- g. That the ground g, as composed is incorrect hence, denied.
- h. That the ground h, as composed is incorrect hence, denied.
- i. That the ground i, as composed is incorrect hence, denied as comprehensive reply has already been given in preceding paras.
- j. No comment.

Under the circumstances it is humbly requested that in the light of above referred facts appeal in hand may please be dismissed.

Segretary E&SEI Khyther Pakhtunkhwa

(Respondent No. 1)

Director E&SE Khyber Pakhtunkhwa Peshawar

(Respondent No. 2)

District Education Officer (M)

Abbottabad

(Respondent No. 3)

Assistant District Education Officer (M)

Abbottabad (Respondent No. 4)

## BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.

## Appeal No. 1025/2016

Muhammad Hafeez ......Appellant

## **VERSUS**

Govt: of Khyber Pakhtunkhwa & Others.....Respondents

**JOIN PARAWISE COMMENTS ON BEHALF OF RESPONDENTS** 

## **AFFIDAVIT**

I, Mr. Qazi Tajjamal Hussain, District Education Officer (M) Abbottabad, do hereby affirm and declare on oath that contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.

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## OFFICE OF THE ASDEO (M) CIRCLE BIROTE ABBOTTABAD.

TO

No: 26, Dated: 27/11/2015

The Honorable District Education Officer (M) Abbottabad.

SUBJECT:- REPORT REGARDING TO THE RETIREMENT OF MUHAMMAD HAFEEZ PST GMPS SANGALKOTE.

ີ່າກວ:-

Undersigned visited GMPS Sangalkote on 18/08/2015 and evaluated classes up 70 211 The responses of students were nil. I asked Mr. Muhammad Hafeez PST about his poor performance. He made some excuses. I asked him to read out some very simple lines of English from the text book of class 2nd & 3rd. He could not do so. Then I asked him to write to write an application in Urdu for one day leave but he failed to do so and he could not solve simple sums of Math. After this he decided to submit his retirement application. He requested Mr, Muhammad Asghar to make written his retirement application because he could write an application in Urdu. He put his stamp & signature and provided me a copy of CNIC before four persons who were witness and their written rent aments are also attached with.

For further clarification he may be called for personal hearing and to judge his ability tether he is able to work as a teacher or not before the sanction of his retirement.

he report is submitted for further necessary action please.

Circle Birote Abbottabad.

MUNBUR-REHMAN ABBASI Assil: Sub Division at Education Officer has Appoint and

فرست حنان و فرن ایجویش آمنید ر (مردان عمله است آماد عنوان .. رئیار منظ سوس عنوان .. رئیار منظ سوس اسلام ۱۱ ماسی مانت احترام مع ارس صباسا کم 1984 کوه مع ارسی کارسی کا منات ایجام دے رہے۔ سام کا سوس ہ دیا دہ ہوگی ہے۔ الراب مزرروس ماری منی رکھ کیا ۔ ارزا ساکر این رمی سے روس سے رسائرون کی کیا جا مہا ہے۔ تھے کامون سے رہا ٹرمنٹ دی جائے۔ که دا دراس صید سام که رشارمنظ کی منطوری دی ما کے ارد سائل کے واجات سائل کو ادا کیے جا کیں GMPS سنعل کوٹ لوس کون کبوٹ پرسزیمبر 8646 سائل في الس في سركل سيرمل ليسك آماد CNIC- 13101-0885519.1 H4-2-8 Submitteel in engional to SDEO(M) Atd alongwith Stock for the Same Fron of retirement wef 20/08/2015. Marian 19/08/2015

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### OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

No. 3680-8 /ADO /F.No.21/Vol:11 Dated 1-5 /2016

The Sub Divisional Education Officer, (Male) Abbottabad.

Subject:

PERSONAL HEARING

Memo:

I am directed to refer to the subject cited above and ask you to intimate Mr. Muhammad Hafeez, PST GMPS Sangal Kote to attend office of the District Education Officer (Male) Abbottabad on 14.05.2016 at 10.00 AM for personal hearing alongwith ASDEO/Attendance Register (Circle Birote).

DISTRICT EDUCATION OFFICER (M)

ABBOTTABAD

#### Endst: of even number and date:

Copy forwarded to the Assistant Director (Implementation) Provincial Ombudsman Secretariat Overseas Pakistanis Foundation Building Phase-V Haya? Abad Peshawar w/r to letter No.P.O/Complaint/0781/II/2015/4333 dated 12.4.2016.

DISTRICT EDUCATION OFFICER (M)

/2 ABBOTTABABLE

Overseas Pakistanis Foundation Office Phone # 091-92195
Website: www.t

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## KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 25 79/ST

Dated **29** / 11 / 2017

To

The District Education Officer (Male), Government of Khyber Pakhtunkhwa, Abbottabad.

Subject:

JUDGEMENT IN APPEAL NO. 1025/16, MR. MUHAMMAD HAFEEZ.

I am directed to forward herewith a certified copy of Judgment dated 23/11/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR : KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.