

2/8/2017

Counsel for the appellant and Addl:  
Advocate General for the respondents present.  
Arguments heard and record perused.

Vide our detailed judgment of today placed on connected appeal No.961/2015 titled Muhammad Shabir Versus District Education Officer (Male) Elementary and Secondary Education Department Peshawar and others. The impugned order is set-aside and the appellant is reinstated in service. The respondents are at liberty to conduct de novo inquiry within a period of 90 days from the receipt of this judgment, in the mode and manner prescribed in the rules fully associating the appellant with the inquiry proceedings. The issue of back benefits shall be subject to the outcome of the de-novo inquiry. In case inquiry is not conducted within the stipulated period, the appellant shall be deemed to have been reinstated in service from the date of dismissal from service and the absence period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room. Parties, are however, left to bear their own costs file be consigned to the record.

ANNOUNCED


2/8/2017

  
(Muhammad Hamid Mughal)  
MEMBER

  
(Gul Zeb Khan)  
MEMBER

07.02.2017

Ms. Amber, Advocate, junior to counsel for the appellant and Addl. AG for respondents present. Learned Addl. AG requested for adjournment. Request accepted. To come up for arguments on 07.04.2017 before D.B.

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

07.04.2017

Counsel for the appellant and Addl. AG for the respondents present. Counsel for the appellant requested for adjournment. To come up for final hearing for 02.08.2017 before D.B.

  
Member

  
Chairman

21.03.2016


Appellant in person, M/S Raham Taj, ADO, Hameed-ur-Rehman, AD (lit.) and Khurshid Khan, SO alongwith Addl: A.G for respondents present. Written statement by respondents No. 1, 3 and 4 submitted. The learned Addl: AG relies on the same on behalf of respondent No. 2. The appeal is assigned to D.B for rejoinder and final hearing for 30.6.2016.

  
Chairman

30.6.2016

Junior to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Junior to counsel for the appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 28.9.16

  
Member

  
Member

28.09.2016

Agent to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Rejoinder submitted and requested for adjournment. To come up for arguments on 7.2.2017 before D.B.

  
Member

  
Chairman

27.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Sweeper when subjected to inquiry on the allegations of wilful absence from duty and removed from service vide impugned order dated 24.7.2014. That the same came into the notice of appellant during the proceedings in Writ Petition preferred by the appellant before the High Court and then withdrawn on 22.4.2015 where-after he preferred departmental appeal on 14.5.2015 followed by service appeal on 25.8.2015.

Appellant Deposited  
Security & Process Fee



That the impugned order was passed by an incompetent authority as DEO was not competent authority in the case of appellant, and, moreover, the provisions of Rule-9 of E & D Rules, 2011 were not complied with.

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 26.11.2015 before S.B.

  
Chairman

26.11.2015

Appellant in person, M/S Hameed-ur-Rehman, AD (lit.) and Khurshid Khan, SO alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 21.3.2016 before S.B.

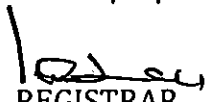

  
Chairman

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 962/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25.08.2015	<p>The appeal of Mr. Jehanzeb Khan presented today by Mr. Khushdil Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;">                       REGISTRAR,                 </p>
2	25-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>27-8-15</u></p> <p style="text-align: right;">                       CHAIRMAN                 </p>

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. 962 / of 2015

Jehanzeb Khan ... .. Appellant  
Ex-Sweeper

VERSUS

The DEO (Male) Peshawar and others ... .. Respondents

S.No	Description of documents	Date	Annexure	Page
1.	Memo of Service Appeal			1-6
2.	Application for Condonation with Affidavit			7-8
3.	Copy of Appointment order of appellant	5.11.2012	A	9-11
4.	Copy of Pay Roll of monthly salary		B	0-12
5.	Copy of Application for releasing the monthly salaries		C	13-14
6.	Copy of Writ Petition No. 1511-P of 2014	13.5.2014	D	15-22
7.	Copy of Parawise comments of respondent No.1		E	23-26
8.	Copy of letter addressed to Head Master, GPS/GMS Garhi Mumtaz Peshawar with copy of the Show Cause Notice	31.12.2013	F	27-28
9.	Copy of Extracts of Newspapers	4.7.2014	G	0-29
10.	Copy of impugned order thereby appellant was removed from service	24.7.2014	H	0-30
11.	Copy of Order Sheet thereby appellant Withdrawn Writ Petition No. 1511-P/2014	22.4.2015	I	0-31
12.	Copy of Departmental Appeal with Registered Post Receipt with Application for Condonation of Delay	15.5.2015	J	32-34
13.	Vakalat Nama			

Appellant

Through:

(Khush Dil Khan)

Advocate

Supreme Court of Pakistan

9-B, Haroon Mansion

Khyber Bazar Peshawar

Cell # 0300-5887691

Dated: 22.08.2015

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. 962 / of 2015

Jehanzeb Khan,  
Son of Mir Akbar, Ex-Sweeper  
Government Middle School Garhi Mumtaz  
Resident Lalma Delidher  
Village Badaber, District Peshawar...

K.W.P. Province  
Service Tribunal

Diary No. 1007

Date 25-8-2015

... Appellant

VERSUS

1. The District Education Officer (Male)  
Elementary and Secondary Education  
Department, Peshawar.
2. The Deputy District Education Officer (Male),  
Elementary and Secondary Education  
Department, Peshawar.
3. The Director,  
Elementary and Secondary Education Department,  
Khyber Pakhtunkhwa, Peshawar.
4. The Secretary,  
Government of Khyber Pakhtunkhwa,  
Elementary and Secondary Education  
Department, Peshawar... .. Respondents

APPEAL UNDER SECTION 4 OF KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT  
1974 AGAINST THE IMPUGNED ORDER  
DATED 24.7.2014 (ANNEX: H) THEREBY  
APPELLANT WAS REMOVED FROM  
SERVICE AGAINST WHICH HE FILED  
DEPARTMENTAL APPEAL ON 15.5.2015  
(ANNEX: J) UNDER REGISTERED POST IN  
VIEW OF ORDER OF THE HONOURABLE  
PESHAWAR HIGH COURT PESHAWAR  
VIDE ORDER SHEET DATED 22.4.2015

*[Handwritten signature]*  
20/8/15

(ANNEX: I). THE DEPARTMENTAL APPEAL  
WAS NOT DISPOSED OF WITHIN  
STATUTORY PERIOD OF NINETY DAYS.

Respectfully Sheweth:

1. That appellant was appointed as Sweeper against the newly created post on the eve of upgradation of Government Primary School to Government Middle School Garhi Mumtaz, Mera Badaber District Peshawar vide order dated 5.11.2012. He joined the duty after completing all the requisite formalities including Medical Fitness Certificate. Respondent No.1 also maintained his Service Book therein necessary entries have been made from time to time. (Copies of appointment order as annexed "A" and Pay Roll of monthly salary as annexed "B").
2. That since then, appellant was performing his duties regularly to the entire satisfaction of Head Master concerned and during this period no complaint whatever was made about his alleged absence to any quarter by any authority. Similarly he was regularly paid monthly salaries without any break.
3. That all of sudden, the monthly salaries of appellant and others Class-IV were stopped without any notice and reason, so individually every aggrieved Class-IV including appellant filed applications to higher authorities for release of their monthly salaries but no action was taken thereon, hence they filed a Writ Petition No. 1511-P/2014 titled **"Muhammad Shabbir and others Versus The Secretary, Government of Khyber Pakhtunkhwa Elementary and Secondary Education Peshawar and others"** thereto respondent No.1 filed Parawise comments on behalf of respondents No.1 to 4 with documents pertaining to disciplinary action and order of removal of appellant from service. (Copies of application as annexed "C", Writ Petition 1511-P/2014 annexed "D", Parawise comments of respondent No.1 annexed "E", letter dated 31.12.2013 with Show Cause Notice



annexed "F", Extracts of Newspapers annexed "G" and impugned order of removal from service dated 24.7.2014 as annexed "H".

4. That for the first time, appellant came to know about the disciplinary proceedings conducted against him on the false charge of absence culminating in the impugned order of removal of appellant from service when the relevant documents as referred above were filed by respondent No.1 with its Parawise comments, hence in view of this scenario he withdrew his writ petition which was allowed accordingly vide order sheet dated 22.4.2015. (Copy of order sheet as annexed "I").
5. That after obtaining attested copy of the order of the High Court dated 22.4.2015, the appellant filed Departmental Appeal before the respondent No.3 under Registered Post on 15.5.2015 with Condonation Application but same was not disposed of within statutory period of Ninety days. (Copy of Departmental Appeal with Postal Receipt as annexed "J").

**Hence the present appeal is submitted  
on the following grounds:-**

- a. That appellant has never remained absent from his duty and he regularly performed his duties punctually and without any complaint but respondent No.1 in connivance with respondent No.2 has malafidely stopped the salaries of appellant and others Class-IV being appointees of the previous government and they were politically victimized which is unfair and unjust.
- b. That when the appellant and others Class-IV approached to Honourable Peshawar High Court Peshawar through Writ Petition No. 1511-P/2014 then the respondent No.1 released the monthly salaries to other petitioners except the appellant and one Muhammad Shabbir and their salaries were not released without cogent reasons and thus appellant was discriminated.

- c. That when respondent No.1 filed Parawise comments to above referred Writ Petition, for the first time it brought the alleged documents pertaining to disciplinary proceedings conducted against the appellant at his back in clandestine manner. Earlier appellant was never intimated through any source. Hence the alleged proceedings are illegal, without lawful authority and of no legal effect liable to be set aside.
- d. That the charge of alleged absence against the appellant is baseless, frivolous, tainted with malafide intentions to remove him from service under the influence of political entity which is not sustainable under the law and rules on subject.
- e. That the Head Master of the School concerned is immediate boss of the appellant under whom supervision he was performing his duty and he is responsible for his any irregularity but during this entire period, the Head Master has never made any complaint against him to any authority. Thus under such circumstances, the impugned action of respondent No.1 is unjustified and having no legal sanctity and liable to be set aside being malafide.
- f. That respondent No.1 acted in excess of his power and authority and unlawfully charged the appellant of alleged absence without solid evidence based on documents and carried out the proceedings at the back of appellant. The letter dated 31.12.2013 with the copy of Show Cause Notice addressed to Head Master GPS/GMS Garhi Mumtaz Peshawar was never communicated under Registered Post to appellant nor he was served personally by the Head Master concerned, even the address of the School is also incorrect and incomplete which is not sufficient for proper service under the Rules.
- g. That earlier no notice or explanation was called from appellant regarding the alleged absence and malafidely concealed the

proceedings from him for ulterior motive although on stoppage of his monthly salary he submitted application for its release and even he personally visited the office of respondent No.1 and requested him for the release of his salaries but he evaded him on one pretext or other but at that moment he never disclosed the alleged proceedings carried out against him purposely.

- h. That under the Rule 9 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 in case of willful absence from duty by a government servant for seven or more days, a notice shall be issued by the competent authority through Registered Acknowledgment on his home address directing him to resume duty within fifteen days of issuance of the notice. In the case of appellant no such notice was issued by respondent No.1 through Registered Acknowledgment on his home address. Thus the action taken by the respondent No.1 resulted the impugned order of removal of appellant from service is illegal, without lawful authority, void ab initia, being violative of the mandatory provision of the above referred rules and liable to be set aside.
- i. That appellant is an illiterate person belongs to a backward area namely LALMA DELIDHER 3 Kilometers away from main Village Badaber where the Newspapers are not delivered and used by the people of area, therefore, appellant had no knowledge about the alleged notices published in the Daily Mashriq Peshawar dated 04.7.2014 and in other paper but it is irony that appellant used to visit the office of respondent No.1 during this period for releasing his salaries even then he was not informed about the impugned proceedings against him and malafidely concealed the facts from him with ulterior motive which is unfair, unjust and not warranted by law and rules on subject.

- j. That the impugned order dated 24.7.2014 whereby appellant was removed from service was not signed by respondent No.1 rather the same was signed by the respondent No.2 who is not the competent authority in the case of appellant, therefore, the impugned order is incompetent, having no legal sanctity being unsigned by the respondent No.1, hence void ab initio, of no legal effect and inoperative against the rights of appellant and liable to be set aside.
- k. That the impugned order has been passed at the back of appellant and he was condemned unheard without providing a proper opportunity of defence, thus the impugned order is illegal, without lawful authority being violative of principle of natural justice and liable to be set aside.
- l. That respondent No.3 acted in arbitrary manner and not considered the departmental appeal of appellant as required by law and rules on subject rather same was kept pending without cogent reason, which is unfair and unjust.

It is, therefore, humbly prayed that on acceptance of this Service Appeal the impugned order dated 24.7.2014 may kindly be set aside and appellant may graciously be reinstated in service from due date (13.12.2013) with all back benefits.

Dated: 22.08.2015

Through:



Appellant

(Khush Dil Khan)

Advocate

Supreme Court of Pakistan

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. \_\_\_\_\_ / of 2015

Jehanzeb Khan  
Ex-Sweeper ... .. Applicant

VERSUS

The DEO (Male) Peshawar and others ... .. Respondents

APPLICATION FOR CONDONATION OF DELAY IN  
FILING THE ACCOMPANYING APPEAL, IF ANY

Respectfully Sheweth:-

1. That the above titled Service Appeal is being filed today which is yet to be fixed for hearing.
2. That the impugned order dated 24.7.2014 passed by respondent No.1 has never communicated to appellant through any source nor was any notice issued to him before passing the said order. For the first time, appellant came to know about the impugned order when respondent No.1 filed the same with its comments before the Honourable Peshawar High Court Peshawar.
3. That respondent No.1 has malafidely and deliberately concealed the alleged disciplinary proceedings and passing the impugned order from the knowledge of appellant in order to defeat the rights of appellant, which is an illegal act and appellant should not be suffered for the act of respondent No.1.
4. That appellant has acted vigilantly and timely filed departmental appeal under Registered Post to respondent No.3 after obtaining the attested copy of the order sheet dated 22.4.2015 of the Peshawar High Court Peshawar and then timely filed this Appeal after completing the

statutory period of Ninety days of the Departmental Appeal before respondent No.1.

5. That the delay, if any, caused due to non communication of impugned order to appellant under Registered Post or otherwise, moreover, earlier no notice was given to appellant nor informed him about taking any adverse action against him. Thus the delay, if any, is not intentionally rather the same was due to lack of knowledge.

It is, therefore, humbly prayed that on acceptance of this application, the delay, if any, in filing of this appeal may graciously be condoned in the interest of justice and the main appeal may kindly be decided on merit.

  
Applicant

Through:

  
(Khush Dil Khan)

Advocate

Supreme Court of Pakistan

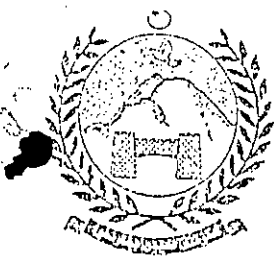
Dated: 25.08.2015

**AFFIDAVIT**

I, Jehanzeb Khan son of Mir Akbar, Ex-Sweeper, resident of Lalma Delidher Village Badaber District Peshawar, do hereby solemnly affirm and declare on Oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal



  
Deponent



EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY  
EDUCATION PESHAWAR

Annex: A . P. 9

NOTIFICATION:-

Consequent upon the approval of the District Selection Committee the Competent Authority is pleased to appoint the following candidates under the deceased employee sons quota / newly created posts of Class-IV on regular basis (Non Pensionable) in BPS-01 of the Basic Pay Scale (Rs.4800-150-9300) plus usual allowances as admissible under the rules at the school noted against their names on the below terms & conditions with effect from the date of taking over charge.

S#	Name of candidates / Father Name & Address	Designation	Appointed at	Remarks
<b>DECEASED QUOTA</b>				
1.	Mst. Rameem Begum W/O M. Ilyas (Ex N/Q)	Caller	GGHSS B.S. D Peshawar	Against Vacant Post
2	Mst. Noor Jehan W/O Zaman Gul (Ex CT)	Lab: Attendant	GGHSS Hayat Abad Peshawar	Against Vacant Post
3	Mr. Asad Akbar S/O Fazal Akbar (Ex Chowkidar)	Chowkidar	GGPS Faqir Abad Peshawar	Against Vacant Post
4	Mr. Taimur Khan S/O Wisal Khan (Ex N/Q)	Naib Qasid	GHS Civil Quarters Peshawar	Against Vacant Post
<b>FRESH CANDIDATES</b>				
1	Mr. Abdul Jabbar S/O Jamil Khan	Chowkidar	GGHS Khwaida Khel (Badber) Peshawar	Against Newly Created Post
2.	Mst. Nageena Riaz W/O Muhammad Riaz	Lab: Attendant	GGHS Khwaida Khel (Badber) Peshawar	Against Newly Created Post
3	Mr. Muhammad Riaz S/O Muhammad Akram	Naib Qasid	GGHS Khwaida Khel (Badber) Peshawar	Against Newly Created Post
4	Mst. Shabnum W/O Pervez Latif	Sweeper	GGHS Khwaida Khel (Badber) Peshawar	Against Newly Created Post
5	Mst. Roheena W/O Irfanullah	Lab: Attendant	GGHS Surizai Bala Peshawar	Against Vacant Post
6	Mr. Muhammad Nabi S/O Abdul Malik	Chowkidar	GGHS Surizai Payan Peshawar	Against Newly Created Post
7	Mst. Rasheeda Bano D/O Waseem Gul	Lab: Attendant	GGHS Surizai Payan Peshawar	Against Newly Created Post
8	Mr. Farman Shah S/O Mutahir Shah	Naib Qasid	GGHS Surizai Payan Peshawar	Against Newly Created Post
9	Mst. Azhara W/O Saleem Masih	Sweeper	GGHS Surizai Payan Peshawar	Against Newly Created Post
10	Mr. Mashal Khan S/O Hazrat Gul	Sweeper	GGMS Gul Abad Peshawar	Against Newly Created Post
11	Mr. Zia Ur Rahman S/O Gul Zameer	Naib Qasid	GGMS Gul Faam Killi Peshawar	Against Newly Created Post
12	Mr. Zahoor Ahmad S/O Abdul Munaf	Naib Qasid	GGMS Jatti Bala Peshawar	Against Newly Created Post
13	Mr. Ibadullah S/O Shahzad Gul	Sweeper	GGMS Jatti Bala Peshawar	Against Newly Created Post
14	Mr. Fayaz Khalil S/O Zakir Ullah	Naib Qasid	GGMS Landi Akhoun- Ahmad Peshawar	Against Newly Created Post
15	Mst. Abida Bibi D/O Khush Rung	Sweeper	GGMS Landi Akhoun Ahmad Peshawar	Against Newly Created Post
16	Mr. Muhammad Asif S/O Muhammad Ayaz	Chowkidar	GGPS Ayaz Koroon Peshawar	Against Newly Created Post
17	Mr. Fazal Munir S/O	Chowkidar	GGPS Behlol Zai Ghari	Against Newly

**ATTESTED**

#	Name of candidates / Father Name & Address	Designation	Appointed at	Remarks
	Ibrahim Khan		Shah Muhammad Peshawar	Created Post
18	Mr. Itbar Shah S/O Abdullah Shah	Chowkidar	GGPS Hastam Khan Koroona Peshawar	Against Newly Created Post
19	Mr. Afrad Khan S/O Abdul Qayum	Chowkidar	GGPS Masho Khel (Temar Khel) Peshawar	Against Newly Created Post
20	Mr. Fazal Rahman S/O Abdur Rahman	Chowkidar	GGPS Umeed Abad No.2 Peshawar	Against Newly Created Post
21	Mr. Majid Ur Rahman S/O Alam Khan	Chowkidar	GGPS Umar Abad Peshawar	Against Newly Created Post
22	Mr. S. Miskeen Shah S/O Mehraban Shah	Naib Qasid	GMS Budhai Peshawar	Against Newly Created Post
23	Mr. Jamil Ur Rahman S/O Sher Ali Khan	Sweeper	GMS Budhai Peshawar	Against Newly Created Post
24	Mr. Muhammad Shabir S/O Muhammad Nazir	Naib Qasid	GMS Ghari Mumtaz Peshawar	Against Newly Created Post
25	Mr. Jehanzeb Khan S/O Mir Akbar	Sweeper	GMS Ghari Mumtaz Peshawar	Against Newly Created Post
26	Mr. Niaz Ali Khan S/O Muhammad Ayub	Naib Qasid	GMS Phando Peshawar	Against Newly Created Post
27	Mr. Salman Khan S/O Nabi Khan	Sweeper	GMS Phando Peshawar	Against Newly Created Post
28	Mr. Abdur Rauf S/O Abdul Wahab	Chowkidar	GPS Mirza Killi Peshawar	Against Newly Created Post
29	Mr. Asim Ullah S/O Nasrullah Khan	Chowkidar	GPS Nasrullah Koroona (Mera Badber ) Peshawar	Against Newly Created Post
30	Mr. Hashmat Khan S/O Agha Jan	Chowkidar	GPS Tor Gul Killi Peshawar	Against Newly Created Post
31	Mr. Ikram Ullah S/O Khalil Ur Rahman	Chowkidar	GPS Urmar Miana ( Ghari Khalil Jan) Peshawar	Against Newly Created Post

TERMS & CONDITIONS:-

- 1 They will be governed by such rules and regulation as may be prescribed by the Govt: from time to time for category of Government servants to which they belong.
- 2 In case of resignation prior notice of one month should be given by the officials concerned otherwise one month pay and allowances will be forfeited in lieu thereof.
- 3 Their appointment is purely temporary and will be terminated at any time with any notice.
- 4 Their service will be liable to termination / reversion at any stage if their NIC / Domicile etc testimonial found fake. FIR will be lodged against the accused.
- 5 They should take over charge of their posts with in one month after the issue of this notification / order.
- 6 Charge report should be submitted to all concerned.
- 7 No TA / DA allowed.

ATTESTED



P. 11

8 They will produce health and age certificate from the concerned civil surgeon.

Note:- THEIR APPOINTMENT ORDERS SHALL BE VERIFIED BY THE CONCERN DRAWING AND DISBURSING OFFICERS PERSONALLY FROM THE OFFICE OF THE EDO (E & SE) PESHAWAR BEFORE HANDING OVER CHARGE TO THE OFFICIALS.

**(SHARIF GUL)**  
**EXECUTIVE DISTRICT OFFICER**  
**(E & S) EDUCATION PESHAWAR**

Endst: No. 5708-55 /File C-IV Appointments/DSC Dated 05/11/2012.

Copy forwarded for information and necessary action to the:-

1. District Accounts Officer Peshawar.
2. District Coordination Officer City District Govt: Peshawar.
- 3-4. District Officer (Male & Female) Peshawar.
- 5-6. DDO (Male & Female) Primary Peshawar.
7. Headmasters / Headmistress Concerned.
8. Supdt: Estab: Local office Peshawar.
9. Assistant Programmer DEMIS Local Office.
10. P.A to E D O (E & S.Edu) Peshawar.
- 11-46. Officials concerned.

  
**DISTRICT OFFICER (MALE)**  
**(E&S) EDUCATION PESHAWAR**

  
**ATTIESTED**

PAYMENT ADVICE

*Annex B*  
*12-12*

SIF: 74 Peshawar Dist.

Sec: 003 Month: December 2012  
 FW6017 DISTRICT OFFICER (H) SC  
 Education Schools

PIBSS#: 00693864 Buckle:  
 Name: JEHANZEB KHAN  
 Des: SWEEPER  
 NIC No: 1710114792549  
 CPF Interest Applied  
 01 Regular / Contract

NTN  
 CN #  
 Old #

PAYS AND ALLOWANCES:	FW6017
0001-Basic Pay	4,800.00
1001-House Rent Allowance 45%	1,334.00
1210-Convey Allowance 2005	4,500.00
1300-Medical Allowance	1,000.00
2119-Adhoc Relief Allow (2012)	940.00

Gross Pay and Allowances 9,596.00

DEDUCTIONS:	Subrc:
CPF Balance 624.00	312.00
3501-Benevolent Fund	120.00
3511-Addl Group Insurance	3.00
3604-Group Insurance	50.00
3770-Emp. Edu. Fund RPK	50.00

NET AMOUNT PAYABLE

QUALIFYING SERVICE YRS Deductions	MON
	543.00
	9,053.00

*J*  
 ATTESTED

AT 1313

انگریزی میں لکھی گئی ہے۔ اس کا ترجمہ انگریزی میں ہے۔  
مکالمہ

انگریزی میں لکھی گئی ہے

انگریزی میں لکھی گئی ہے۔ اس کا ترجمہ انگریزی میں ہے۔  
مکالمہ

انگریزی میں لکھی گئی ہے

انگریزی میں لکھی گئی ہے۔ اس کا ترجمہ انگریزی میں ہے۔  
مکالمہ

انگریزی میں لکھی گئی ہے۔ اس کا ترجمہ انگریزی میں ہے۔  
مکالمہ

ATTESTED

انطقه جغرافیائی حالت و احوال و دیگر امور متعلقہ سے

ملاحظہ ہو

انصاف

تیسری تاریخ مئی

ان کے احوال و حالات

ملاحظہ ہو ان کے احوال و حالات سے

ملاحظہ ہو ان کے احوال و حالات سے

ملاحظہ ہو ان کے احوال و حالات سے

ملاحظہ ہو ان کے احوال و حالات سے

صاحب علی

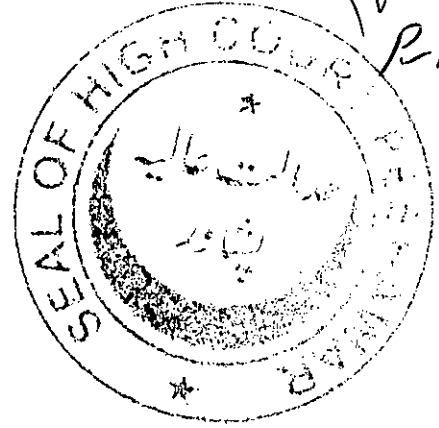
ملاحظہ ہو ان کے احوال و حالات سے

ملاحظہ ہو ان کے احوال و حالات سے

214

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. 15115/2014



1. Muhammad Shabir S/o Muhammad Nazir,  
Naib Qasid,  
GMS, Ghari Mumtaz Peshawar.
2. Jehanzeb Khan S/o Mir Akbar,  
Sweeper,  
GMS Ghari Mumtaz, Peshawar.
3. Zarman Khan S/o Gul Zaman,  
Chowkidar,  
GPS No.2 Adezai Peshawar.
4. Habibullah S/o Zala Khan,  
Chowkidar,  
GPS, Mera Hassan Khel, Peshawar.
5. Hafiz Muhammad Shah Room S/o Abdul Quddus,  
Chowkidar,  
GPS, Badaber, Peshawar.
6. Ilyas Ahmed Khan S/o Sarwar Khan,  
Chowkidar,  
GPS, Badaber, Peshawar.....Petitioners

Versus

1. The Secretary,  
Govt: of Khyber Pakhtunkhwa,  
Elementary & Secondary Education Department,  
Peshawar.
2. The Director,  
Elementary & Secondary Education Department,  
Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (M),  
Elementary & Secondary Education Department,  
District Peshawar.
4. Deputy District Education Officer (M),  
Office of the District Education Officer (M),  
Elementary & Secondary Education Department,  
District Peshawar.....Respondents

~~ATTESHE~~  
EXAMINED  
Peshawar High Court  
13 MAY 2015

RECEIVED TODAY  
Deputy Registrar  
16 MAY 2014

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

Respectfully Sheweth,

The brief facts giving rise to the present petition are as under:-

1. That petitioners have been appointed as Class-IV employees against the posts of Naib Qasid, Sweeper and Chowkidar on regular basis from their respective dates of appointment i.e. 05.11.2012, 07.06.2010, 21.01.2011 and 04.09.2000 after observing all codal formalities and posted in Government Primary/Middle Schools, District Peshawar. In pursuance of their orders of appointment they assumed the charges of their duties at respective places of posting after completing the requisite formalities including Medical Fitness Certificates. The Respondent No.3 also maintained their service books and necessary entries have been made therein from time to time. Since then they are performing their duties regularly, continuously and without any complaint. Copies of appointment orders and other necessary documents of each petitioner are attached as Annex: A, B, C and D.

2. That petitioners were regularly being paid monthly salaries with all admissible allowances since their dates of assumption of their respective duties. The annual increments were also granted, the entries of which were made from time to time in their Service Books but all of sudden, their monthly salaries were stopped since December, 2013 without cogent reasons on the query from the concerned local circle offices, they were informed that the Respondent No.4 has verbally instructed the circle offices regarding the stoppage of their salaries which has been stopped accordingly. The petitioners approached to Respondent No.3 through their written applications requesting for releasing their monthly salaries but the same remained unattended.

3. The petitioners being aggrieved of such illegal act of the Respondents No.3 & 4 and finding no adequate and efficacious remedy are constrained to file this petition on the following amongst other grounds:

Grounds:

A. That the stoppage of monthly salaries of petitioners by Respondent No.4 are unjustified, illegal and violative of their fundamental rights guaranteed under chapter I of part II of the Constitution, 1973.

B. That Respondents have not treated petitioners in accordance with law and rules on subject and malafidely stopped the salaries of petitioners without cogent reason which is unjust, unfair and not sustainable under the law.

FILED TODAY  
Deputy Registrar  
13 MAY 2014

ATTESTED  
EXAMINER  
Peshawar High Court

That Respondent No.4 has purposely stopped the salaries of petitioners for ulterior motive and to victimize them for political motives as the petitioners are the appointees of previous government while the Respondent No.4 is a local officer belongs to the area of petitioners whose posting as Deputy District Officer (M), Peshawar was made under the political influence of the present PTI government. It is pertinent to mention that his present posting as Deputy District Officer (M), Peshawar is against the law and rules on subject because the post of Deputy District Officer (M) Peshawar is of management cadre while he belongs to teaching cadre and illegally holding the post of Deputy District Officer (M) Peshawar and as such all his orders have no legal effect and sanctity.

- D. That the petitioners have been condemn unheard neither any impugned order was communicated to petitioners nor any notice was given to them. Therefore Respondent No.4 acted in arbitrary manner and such act is violative of principle of natural justice.
- E. That Respondent No.3 has also not acted in according to law and rules on subject and kept pending the applications of petitioners without any action and response malafidely.
- F. That the petitioners are still performing their respective duties at their respective places of duty and in such situation non-payment of salaries to them is against the Islamic Law which had envisaged payment of wages before sweat of toil was dried up and performance under such circumstances is amounting to forced labour which was forbidden by Article 11 of the Constitution, 1973.
- G. That the petitioners are low paid employees of Class-IV category and due to this unlawful act of stoppage of their salaries, they and their families are facing starvation for no fault of them which is not permissible under any law of the land.

It is therefore, humbly prayed that on acceptance of this petition, this Hon'ble Court may be pleased to:-

- (i) Declare the act of Respondent No.3 & 4 as unconstitutional, illegal, without lawful authority, malafide and against the principle of natural justice.

FILED TODAY  
Deputy Registrar  
13 MAY 2014

ATTESTED  
EXAMINER  
Peshawar High Court  
13 MAY 2014

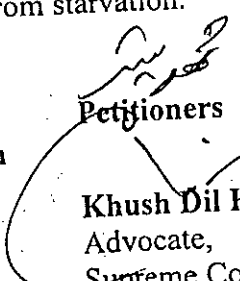
P-2 P-18

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- (ii) Direct the Respondent No.3 & 4 to release the monthly salaries of the petitioners immediately and to pay the arrears of unpaid months with all admissible allowances. Further direct the Respondent No.3 & 4 for granting due annual increments and necessary entries be made in their Service Books.
- (iii) Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioners.

**Interim Relief**

That petitioners are still performing their duties regularly so Respondent No.3 & 4 may graciously be directed to pay the salaries of the current month and onward to save the petitioners and their families from starvation.

Through  Petitioners  
**Khush Dil Khan**  
 Advocate,  
 Supreme Court of Pakistan

Dated: 10 / 05 / 2014

~~ATTEST~~  
 EXAMINER  
 Peshawar High Court.  
 13 MAY 2015

FILED TODAY  
 Deputy Registrar  
 2014



*Handwritten scribbles*

16

CERTIFICATE

Certified on instruction that petitioners have not previously moved this Hon'ble Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 regarding present matter.

Khush Dil Khan  
Advocate, Peshawar.

List of Books

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Services Law.

NOTE

1. Three spare copies of the Writ Petition are enclosed in a separate file cover.
2. Memo of addresses is also attached.

Khush Dil Khan  
Advocate, Peshawar

~~ATTESTED  
EXAMINER~~

13 MAY 2014

FILED TODAY  
Deputy Registrar  
2014

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. 1511 /2014

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Muhammad Shabir and others ..... Petitioners

Versus

The Secretary, Govt: of KP,  
Elementary & Secondary Education  
Department and others..... Respondents

Affidavit

I, Muhammad Shabir S/o Muhammad Nazir, Naib Qasid at GMS,  
Ghari Mumtaz Peshawar, (Petitioner No.1) do hereby solemnly  
affirm and declare on oath that the contents of this petition are true  
and correct to the best of my knowledge, and nothing has been  
concealed from this Hon'ble Court.

*[Signature]*

Deponent

17351 14148305

Identified by

*[Signature]*  
Khush Dil Khan  
Advocate, Peshawar

.....11641.....

Certified that the above was verified on solemnly  
affirmation before me in office, this 10th  
day of May 2014 by Muhammad Shabir  
Muhammad Nazir of Pesh  
who was identified by Khush Dil Khan Adv  
and is personally known to me:

*[Signature]*  
Oath Commissioner  
Peshawar High Court Peshawar

*[Signature]*  
Peshawar High Court

FILED TODAY  
Deputy Registrar

IN THE PESHAWAR HIGH COURT PESHAWAR.

W.P. No. 1511-P 2014

Muhammad Shabir and others .....Petitioners

Versus

The Secretary, Govt: of KP,  
Elementary & Secondary Education  
Department and others.....Respondents

Addresses of Parties.

1. Muhammad Shabir S/o Muhammad Nazir,  
Naib Qasid,  
GMS, Ghari Mumtaz Peshawar.
2. Jehanzeb Khan S/o Mir Akbar,  
Sweeper,  
GMS Ghari Mumtaz, Peshawar.
3. Zarman Khan S/o Gul Zaman,  
Chowkidar,  
GPS No.2 Adezai Peshawar.
4. Habibullah S/o Zala Khan,  
Chowkidar,  
GPS, Mera Hassan Khel, Peshawar.
5. Hafiz Muhammad Shah Room S/o Abdul Quddus,  
Chowkidar,  
GPS, Badaber, Peshawar .....Petitioners

Versus

1. The Secretary,  
Govt: of Khyber Pakhtunkhwa,  
Elementary & Secondary Education Department,  
Peshawar.
2. The Director,  
Elementary & Secondary Education Department,  
Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (M),  
Elementary & Secondary Education Department,  
District Peshawar.

~~ATTESTED~~  
~~EXAMINER~~  
~~Peshawar High Court~~

13 MAY 2015

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4. Deputy District Education Officer (M),  
Office of the District Education Officer (M),  
Elementary & Secondary Education Department,  
District Peshawar.....Respondents

Through  
Petitioners  
Khush Dil Khan  
Advocate,  
Supreme Court of Pakistan

Dated: 10 / 05 / 2014

RECEIVED  
EXAMINER  
RECORDS  
13 MAY 2014

FILED TODAY  
13 MAY 2014

Annex <sup>1</sup> ~~2~~   
 1511-P-23

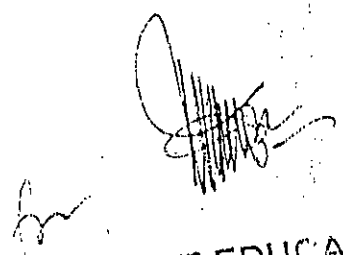
BEFORE THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION, NO. 1511-P/2014

Muhammad Shabbir Vs Secretary E&SED KPK  
Peshawar & others

Index Sheet

S.No.	Description of Documents	Annexures	Page No.
1	Para wise Comments	---	1,2 & 3
2	Show Cause Notice, Press publication, Removal Order	A, B & C	4,5,6
3	Show Cause Notice, Press publication, Removal Order	D, E & F	7,8,9
4	Request for Inquiry	G	10
5	Affidavit	---	11



DISTRICT EDUCATION OFFICER,  
(MALE) PESHAWAR

  
**ATTESTED**

KPI

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BEFORE THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION, NO. 1511-P/2014

Muhammad Shabbir

Vs

Secretary E&SED KPK Peshawar &

others

Para wise comments on and for behalf of respondents No. 1-4

Respectfully sheweth:-

The respondents submit as under:-

Preliminary Objections:

1. That the petitioners have got no cause of action / locus standi
2. That the petitioners have concealed material facts from this honourable court.
3. That the petitioners have not come to this honourable court with clean hands.
4. That the petitioners are not entitled for the relief they have claimed.
5. That the petitioners are estopped by their own conduct.
6. That the instant petition is against the relevant service rules / law.
7. This honourable court has got no jurisdiction under article 212 of 1973 constitution to entertain the instant petition.
8. That the instant petition is badly time bard and is not maintainable in its present form.
9. That the petitioners have been found guilty by the competent authority.
10. That the instant petition is based on malafide intentions just to put extra ordinary pressures on the respondents for their illegal and un-lawful service benefits.

On Facts

1. That Para-1 correct up to the extent that the petitioners have been appointed against various posts in the respondent's department, whereas the rest of para regarding their performance of official duty with regularity is incorrect and denied to the extent that.
  - a. The petitioner No.1 namely Muhammad Shabbir, Naib Qasid, of GMS Garhi Mumtaz District Peshawar has been found absent from his official duty w.e.f 13-12-2013, hence he was proceeded against the Govt. of Khyber Pakhtunkhwa E&D rules 2011 on charges of his wilful absence from his official duty w.e.f 13-12-2011, hence he was served a show cause notice No. 11068 dated: 31-12-

Khyber Pakhtunkhwa

**ATTACHED**

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accused official, then he was served a final show cause notice in the dailies Mashriq & Express Peshawar dated: 22-05-2014 and 23-05-2014 but he remained absent and did not report for duty, hence he was removed from service vide notification No. 3994-4000 dated 09/06/2014 by the respondent No.3 (copies of the referred documents are attached as annexures A.B & C)

b. Similarly the petitioner No.2 namely Jehanzeb Khan Sweepr. GMS Garhi Mumtaz District Peshawar was found absent from his official duty w.e.f 13-12-2013 as reported by the Dy. DEO (Male) Peshawar, hence he was served a show cause notice No. 11000 dated: 31-12-2013 but no reply to said show cause notice was submitted by the said official, hence a final show cause notice dated: 04-07-2014 was also served upon the said official in the dailies Mashriq & Aaj Peshawar. But again he didn't report for duty, hence he was removed from service vide notification No. 8317-23 dated: 24-07-2014 by the respondent No.3 (Copies of the said documents are annexes D,E,F.)

c. That the petitioner No.3 Muhammad Zaman was appointed vide order dated: 07-06-2010 and was adjusted at GPS No.2 Adezai as an land owner / donator as per his claim but has been found absent from his official duty as well as 2 class - IV on one post at the said school, hence his salary has been stopped by the SDEO (Male) Primary Peshawar, and the matter for further guidance has been referred to the respondent No.2 vide office memo dated: 10-02-2014 by the respondent No.3 on the report of SDEO (Male) Peshawar which is still awaited.

d. That the petitioner No.4 namely Habibullah S/o. Zala Khan and Hafiz Muhammad Shah Room (Petitioner No.5) and Ilyas Ahmad (Petitioner No.6) have been appointed from January 2009 to March 2012 by the then SDEO (M) Primary Peshawar in violation of recruitment policy on a post where already a class-IV was working, hence the present SDEO (M) Peshawar vide his office Memo no. 447 dated: 29-01-2014 has referred the matter of adjustment of these chowkidars / class-IV in the office of the DEO (M) Peshawar, hence the respondent No.3 has referred this matter to respondent no.2 for further guidance vide office Memo dated: 10-02-2014 which is still awaited to be replied, hence their monthly salaries against their respective posts have been stopped by the concerned

DDO (Ann - G.)

2. That Para-2 is incorrect and denied, detail reply has been given in para-1, hence no

ATTESTED

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3. That Para-3 is legal, however the respondents submit on the following grounds inter alia.

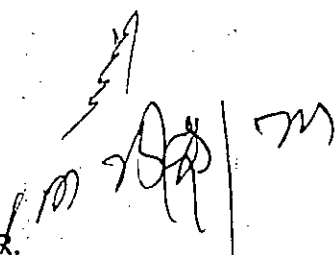
GRCUNDS


- A. That ground-A is incorrect and misleading, the act of the respondents is in accordance with law, rules & policy.
- B. That ground-B needs no comments, reply to this ground has already been given in Para-1
- C. That ground-C is incorrect and misleading. Reply to this para has been given in para-1, hence no comments.
- D. That ground-D is also needs no comments; detail reply of this para has been given in Para-1
- E. That ground-E is also incorrect and denied, hence no comments.
- F. That ground-F is incorrect; the petitioners have been found guilty on the charges as are mentioned in para-1 by the respondent no.3 and has thus observed all formalities.
- G. That ground-G is also incorrect and denied, hence no comments.

It is, therefore, submitted that on the acceptance of this reply, the petition in hand may kindly be dismissed in the favour of the respondents.

  
 DISTRICT EDUCATION OFFICER,  
 MALE PESHAWAR

ATTESTED

  
 DIRECTOR,  
 E&SED KPK, PESHAWAR

  
 SECRETARY  
 E&SED KPK, PESHAWAR



*Amended (D)*

*Amended P-27*

DISTRICT EDUCATION OFFICER,

(MALE) PESHAWAR.

No. 11069 /

Dated 31/12 /2013

To,

The Headmaster,  
GPS/GMS Garhi Mumtaz Peshawar.

Subject

**SHOW CAUSE NOTICE.**

Memo:

I am directed to refer to the subject cited above and to ask you to serve the enclosed show cause notices upon Mr Jehanzeb Sweeper GMS Garhi Mumtaz Peshawar and submit a copy thereof in token having received the notice to this office for reference and record please.

Encl: as above.



Deputy District Education Officer,

(Male) Peshawar.

*el'*

*A*  
**ATTESTED**

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.

SHOW CAUSE NOTICE.

1, (Mr. Sharif Gul, DEO (M) Peshawar), as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Jehanzeb Sweep, G/S Garhi Mumtaz Peshawar as follows:

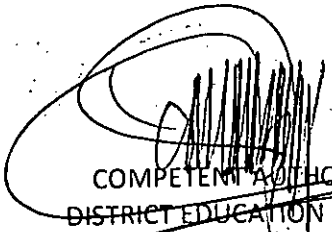
I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules:

- (i) Absent from duty w.e.f 13/12/2013 upto till date.

As a result thereof, I, as competent authority, have tentatively decided to impose upon you the major penalty under rule 4 of the said rules.

You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you.

If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defiance to put in and in that case an ex-parte action shall be taken against you.

  
COMPETENT AUTHORITY  
DISTRICT EDUCATION OFFICER,  
(Male) PESHAWAR.

AT:  ED

# مشرق

Friday 4 July / 2014

Annexure B

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**نوٹس غیر حاضری**

ہرگاہ کہ آپ جہاز زیب و لد میرا کبر سنہ بڑھ ہر جگہ برہان نیل بڑھ ہر ضلع پشاور سوپر گورنمنٹ ڈیل سکول گومٹی ممتاز پشاور مورخہ 13/12/2013 سے اپنی ڈیوٹی سے بغیر کسی اطلاع کے تاحال غیر حاضر ہیں آپ کو آپ کی غیر حاضری کے متعلق شہکار زٹوش نمبر 11068 مورخہ 31/12/2013 اور آپ کو پوسٹل ہیرنگ نمبر 8229 مورخہ 26/5/2014 کیلئے دفتر بڑا حاضر ہونے کے لئے کہا گیا آپ کو آپ کے سکول کے پچے پر آگاہ کیا گیا اور تاکید کی گئی کہ آپ فوراً اپنی ڈیوٹی پر حاضر ہو کر اپنی غیر حاضری کی وجہ بیان کریں مگر آپ نے نوٹس بڑا کی پروا نہ کی اور نہ ہی ڈیوٹی پر حاضر ہوئے۔ لہذا آپ کو ایک بار پھر بڑا زٹوش بڑا مطلع کیا جاتا ہے کہ اس نوٹس کی اشاعت کے پندرہ دن کے اندر زبردستی کے دفتر دوران اوقات کار حاضر ہو کر اپنی غیر حاضری کی وجہ بیان کریں۔ بصورت دیگر آپ کے خلاف کیٹرز کارروائی عمل میں لاتے ہوئے ای اینڈ ڈی روٹر مجریہ 2011 کے تحت حاصل کردہ اختیارات بروئے کار لاتے ہوئے آپ کو ملازمت سے برخاست کر دیا جائیگا۔

**شریف گل**  
ڈسٹرکٹ ایجوکیشن آفیسر مردانہ ضلع پشاور

Also available on [www.khyberpakhtunkhwa.gov.pk](http://www.khyberpakhtunkhwa.gov.pk) INF(P) 2668

پشاور ایبٹ آباد اسلام آباد اور کراچی سے بیک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روشن گل کی شہادت، آج کا نصب العین

**روزنامہ**

**آج**

پشاور  
پاکستان

ایڈیٹر  
عبدالواحد یوسفی

صفحہ 12

جلد 25 جمعہ 4 جولائی 2014 5 رمضان 1435 12 بجے۔ یونیس ای 1 دن کا شمارہ 176

ATTESTED

**نوٹس غیر حاضری**

ہرگاہ کہ آپ جہاز زیب و لد میرا کبر سنہ بڑھ ہر جگہ برہان نیل بڑھ ہر ضلع پشاور سوپر گورنمنٹ ڈیل سکول گومٹی ممتاز پشاور مورخہ 13/12/2013 سے اپنی ڈیوٹی سے بغیر کسی اطلاع کے تاحال غیر حاضر ہیں۔ آپ کو آپ کی غیر حاضری کے متعلق شہکار زٹوش نمبر 11068 مورخہ 31/12/2013 اور آپ کو پوسٹل ہیرنگ نمبر 8229 مورخہ 26/5/2014 کیلئے دفتر بڑا حاضر ہونے کیلئے کہا گیا۔ آپ کو آپ کے سکول کے پچے پر آگاہ کیا گیا اور تاکید کی گئی کہ آپ فوراً اپنی ڈیوٹی پر حاضر ہو کر اپنی غیر حاضری کی وجہ بیان کریں مگر آپ نے نوٹس بڑا کی پروا نہ کی اور نہ ہی ڈیوٹی پر حاضر ہوئے۔ لہذا آپ کو ایک بار پھر بڑا زٹوش بڑا مطلع کیا جاتا ہے کہ اس نوٹس کی اشاعت کے پندرہ دن کے اندر زبردستی کے دفتر دوران اوقات کار حاضر ہو کر اپنی غیر حاضری کی وجہ بیان کریں۔ بصورت دیگر آپ کے خلاف کیٹرز کارروائی عمل میں لاتے ہوئے ای اینڈ ڈی روٹر مجریہ 2011 کے تحت حاصل کردہ اختیارات بروئے کار لاتے ہوئے آپ کو ملازمت سے برخاست کر دیا جائیگا۔

**شریف گل**  
ڈسٹرکٹ ایجوکیشن آفیسر مردانہ ضلع پشاور

[www.khyberpakhtunkhwa.gov.pk](http://www.khyberpakhtunkhwa.gov.pk)

~~Ammer~~ 3-1-14

Ammer H  
P-30

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.

NOTIFICATION.

1. WHEREAS Mr. Jehanzeb Sweeper Government Middle school Garhi Mumtaz Peshawar was proceeded against under Khyber Pakhtunkhwa Govt: servant (Efficiency & Discipline) Rules, 2011, for the Charge of willful absence from duty with effect from 13-12-2013 (as reported by Dy.DEO(M) during his surprise visit).

2. WHEREAS Mr Jehanzeb Sweeper Government Middle school Garhi Mumtaz Peshawar was proceeded under Khyber Pakhtunkhwa Govt: Servant (Efficiency & Disciplinary) Rules 2011 for the charged of willful absence from duty with effect from 13-12-2013 as mentioned in the show cause notice was served upon him under registered post at his home address vide No. 11069 dated 31-12-2013.

3. WHEREAS the accused official has submitted no reply to the show cause notice.

4. WHEREAS the absentee notice were served upon Mr Jehanzeb Sweeper Government Middle school Garhi Mumtaz Peshawar through two leading daily newspapers "Mashriq and Aaj" dated 04-07-2014 but he remained absent and did not report for duty in response to the notice.

5. AND WHEREAS the competent authority (District Education Officer (M) Peshawar) after having considered the charges and evidence on record, is of the view that the charges of willful absence against the accused official has been proved.

6. NOW THEREFORE, In exercise of the powers conferred under Rules-4 (b) iii of Khyber Pakhtunkhwa Government servants (Efficiency and Discipline) Rules 2011 I the competent authority district education officer (Male) Peshawar is pleased to impose major major penalty of **Removal from service** upon Mr. Jehanzeb Sweeper Government Middle school Garhi Mumtaz Peshawar with effect from the date of his willful absence.

(SHARIF GUL)

ok District Education Officer  
(Male) Peshawar.

Endst No 8317-23 Dated Peshawar the 24/12/2014.

Copy of the above is forwarded to the:-

- 1) Accountant General Khyber Pakhtunkhwa Peshawar.
- 2) P.S to Minster for Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 3) P.S to: Secretary to GOvt: of Khyber Pakhtunkhwa (E&SE) Department.
- 4) Director (E&S. Education) Khyber Pakhtunkhwa Peshawar.
- 5) Cashier local office Peshawar
- 6) Headmaster GMS Garhi Mumtaz Peshawar
- 7) Official concerned.

ok  
Dy: District Education Officer  
(Male) Peshawar.

**ATTESTED**

Amended - 1-12-31

# PESHAWAR HIGH COURT PESHAWAR ORDER SHEET

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2

22.04.2015.

CM No. 641-P/2014 N with WR No. 1511-P/2014 M with IR M.

Present: Mr. Khushdil Khan, advocate for the petitioners.

Mr. Rab Nawaz Khan AAG for respondents.

\*\*\*\*\*

WAQAR AHMAD SETH, J: - Learned counsel

for the petitioners stated at the bar, that he wants to withdraw the instant writ petition. As such this writ petition is dismissed as withdrawn; however, he may approach to proper forum, if so advised.

Announced.

22<sup>nd</sup> April 2015

*Sd/ Waqar Ahmad Seth*

*Sd/ Orshad Qaiser*

ATTACHED

No. 22101  
 Date of Presentation of Application 13/5/15  
 No of Pages 09  
 Copying fee 1  
 Urgent Fee Tarq Jan  
 Total 18.00  
 Date of Preparation 12/5/15  
 Date of entry 13/5/15  
 Date of filing 13/5/15

CERTIFIED TO BE TRUE COPY

Registrar  
Peshawar High Court  
Authorised Under Article  
The Qanun-e-Shahadat

13 MAY 2015

To

Annex J - P32

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

**Subject: DEPARTMENTAL APPEAL UNDER SECTION 22 OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS ACT, 1973 READ WITH RULE 3 OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPEAL) RULES, 1986 AGAINST THE IMPUGNED ORDER DATED 09.06.2013 PASSED BY THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR THEREBY I WAS REMOVED FROM SERVICE.**

Respected Sir,

1. That I was appointed as Sweeper and posted in Government Middle School, Ghari Mumtaz Peshawar after observing all the codal formalities vide order dated 05.11.2012. After obtaining Medical Fitness Certificate, I assumed the charge in the said school and the department also maintained my Service Book.
2. That all of sudden, my monthly salary for the month of December, 2013 was stopped without cogent reason for which I submitted applications for its release but in vain therefore, I was constrained to file a Writ Petition No.1511/2014 in the Peshawar High Court, Peshawar for the releasing of monthly salary and the payment of outstanding amount. In the said case Pre-Admission notice was issued to Respondent Department including your good self with the direction to file comments. The District Education Officer (Male) Peshawar filed comments therewith the order of my removal from service dated 24.07.2013 was annexed and for the first time I got the knowledge about the impugned order. Copy of impugned order is as **Annex: A**.
3. That in view of new scenario, I requested the Hon'ble Bench of Peshawar High Court, Peshawar for withdrawal the said Writ Petition and approach to proper forum which was allowed on 22.04.2015. Copy of order sheet is attached as **Annex: B**.

Thus this departmental appeal is submitted on the following amongst other grounds:

**Grounds:**

- A. That District Education Officer (Male) Peshawar acted malafidely and passed the impugned order in very clandestine manner for ulterior motives just to accommodate his favourits against that very post which is not warranted by law.
- B. That the impugned order has been passed at the back of appellant without providing any opportunity of defence neither any notice was issued under registered post nor I was intimated through other source. Therefore, I was condemned unheard and the impugned order is illegal, without lawful authority being violative of principle of natural justice.
- C. That I performed my duties at the place of posting regularly, punctually and never remained absent from my duty and even no complaint regarding the alleged absence was made by the Head Master of the School to any quarter.

ATTESTED

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Thus in such circumstances, the alleged charge of absence is false, baseless and void on basis of which the impugned order was passed having no legal sanctity and liable to be set aside.

It is, therefore, humbly prayed that on acceptance of this departmental appeal, the impugned order of my removal from service dated 24.07.2013 may graciously be set aside and I may graciously be reinstated in service with all back benefits.

Yours faithfully,

Jehanzeb Khan S/o Mir Akbar,  
Ex-Sweeper,  
GMS, Ghari Mumtaz, Mera Badaber, Peshawar.

Dated: 14 / 05 / 2015

No. 373

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15/5/2015



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Name and address of sender Sirhanza Education  
Dept. of Education

ATTESTED

To

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

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**Subject: APPLICATION FOR CONDONATION OF DELAY IF ANY.**

Respected Sir,

1. That the impugned order dated 24.07.2013 thereby appellant was removed from service was never communicated to me and the same was hidden for ulterior motives and I/applicant got the knowledge at that very time when the same was annexed with the comments filed by the DEO (Male) Peshawar in Writ Petition No.1511-P/2014 which was withdrawn in view of fresh cause of action and now filing accompanied departmental appeal with the request for condonation of delay if any as under.
2. That the delay caused due to non communication of the impugned order to applicant under registered post or otherwise within time. The applicant came to know about the impugned order when the same was filed with the comments before the Peshawar High Court, Peshawar. Thus the delay if any is not intentionally rather the same was due to lack of knowledge.
3. That applicant has good case on merit so it is the demand of justice to decide the case on merit and the technicality should not be hurdle in the way of justice.

It is, therefore, humbly prayed that on acceptance of this application, the delay if any in filing the accompanied departmental appeal may graciously be condoned in the interest of justice.

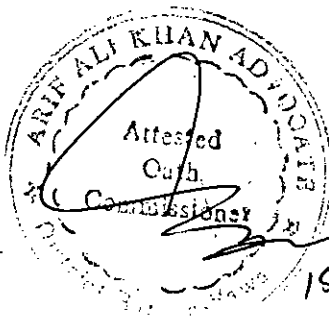
Yours faithfully,

Jehanzeb Khan S/o Mir Akbar,  
Ex-Sweeper,  
GMS, Ghari Mumtaz, Mera Badaber, Peshawar.

**Affidavit**

I, Jehanzeb Khan S/o Mir Akbar, Ex-Sweeper, GMS, Ghari Mumtaz, Mera Badaber, Peshawar, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and nothing has been concealed.

**ATTESTED**



**Deponent**



WAKALAT NAMA

IN THE COURT OF K.F. Service Tribunal, Peshawar

Jehanzeb Khan

Ex. sweeper Appellant(s)/Petitioner(s)

VERSUS

District Education Officer (male)

Peshawar Respondent(s)

I/We Jehanzeb Khan do hereby appoint  
Mr. Khush Dil Khan, Advocate Supreme Court of Pakistan in the above  
mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this \_\_\_\_\_

Attested & Accepted by



**Khush Dil Khan,**  
Advocate,  
Supreme Court of Pakistan



Signature of Executants

9-B, Haroon Mansion  
Khyber Bazar, Peshawar  
Off: Tel: 091-2213445

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

**SERVICE APPEAL NO. 962/2015**

**Jehanzeb Khan                      V/S                      Secretary (E&SE) KPK & others**

**Reply for and on behalf of the respondents**

Respectfully Sheweth:-

The Respondent submits as under:-

**Preliminary objections.**

1. That the Appellant has got no cause of action/ locus standi.
2. That the instant Appeal is badly time barred.
3. That the Appellant has concealed material facts from this Hon' able Tribunal.
4. That the Appellant is estopped by his own conduct to file the instant Appeal before this Hon' able Tribunal.
5. That the Appellant is not entitled for the relief as claimed.
6. That the instant Appeal is against the relevant service law /Rules.
7. That the instant Appeal is barred by law.
8. That the Appellant has not come with clean hands to this Hon' able Tribunal.
9. That the Appellant has been found guilty by the competent authority.

**On Facts.**

1. That Para – 1 is correct to extent that the appellant was appointed as Sweeper, GMS Gari Mumtaz by the Respondent Department, whereas the rest of the Para regarding his performance of official duty with regularity is incorrect and denied. The Appellant has been found absent from his official duty w.e.f. 13/12/2013 as reported by the Dy: DEO (Male) Peshawar during his visit dated 13/12/2013 to the above stated school, hence he was served a show cause notice No.11069 dated 31-12-2013 but no reply to the said show cause notice was submitted by the Appellant, hence a final show cause notice dated 04-07-2014 was also served upon the Appellant in the Daily "Mushriq" and Daily "AAJ" Peshawar but again he did not report for duty, hence he was removed from service under the Khyber Pakhtunkhwa Government Servants Efficiency and Discipline) Rules 2011.  
(The referred documents are attached with Appeal)

2. That Para – 2 is incorrect and misleading, hence denied. The appellant was not performing his duties.
3. That in reply to Para–3, it submitted that the appellant was not performing his duties and was absent from his duty since long. Therefore, after observing the required procedure under the E&D Rules,2011, he was removed from service.
4. That Para – 4 is incorrect and denied. The appellant was willful absent from his duties, therefore, after observing the procedure under the Efficiency and Disciplinary rules, 2011, on the charges of his willful absence from his duty, the Respondent Department removed him from service.
5. That the appellant was not justified in his Departmental Appeal and the Departmental Appeal was also badly time barred, hence his Departmental Appeal was not maintainable.


**On Grounds:-**

- a. That Ground–a is incorrect and denied. The appellant was willful absent from duty, therefore, after observing the required procedure under the E&D Rules, he was removed from service.
- b. That Ground–b is incorrect; the appellant has been treated under the law, rules and policy on the subject. He was not performing his duties and had been removed from service.
- c. Incorrect and denied. The appellant was willfully absent from duty, proper show cause/absentee notices were issued and published in two leading news papers as per requirement of the E&D Rules 2011. Moreover, the Respondents had adopted all the requirements as laid down in the E&D rules before removing him from service.
- d. That Ground – d is incorrect and misleading, hence denied. The appellant has been treated under the law, rules and policy. There was no political influence in removing the appellant from his service.
- e. That Ground – e is incorrect and misleading, hence denied. The appellant was willfully absent from his duty.
- f. That Ground – f is incorrect and denied. The appellant has been treated under the law, rules and policy on the subject.
- g. That Ground–g is incorrect and denied. The Respondent Department has fulfilled all the requirements under the E&D Rules 2011 before removing him from service.
- h. That Ground–h is incorrect and denied. The appellant has been treated under the law, rules and policy.
- i. That Ground–i is incorrect and misleading. The appellant willfully absented himself from his duty, therefore, and was removed him from service under E&D Rules 2011.


- j. That Ground-j is incorrect and denied. The entire proceedings have been carried on by the competent authorities under the law and rules.
- k. That Ground-k is incorrect and denied. The Respondents have fulfilled all the requirements under the E&D Rules, 2011 before removing him from service.
- m. That Ground-l is incorrect and denied. The Respondents have acted under the law, rules and policy.

It is, therefore, humbly prayed that on the acceptance of this reply, the appeal in hand may very kindly be dismissed with cost.

  
DIRECTOR,  
(E & SE) KPK PESHAWAR

  
18/3/2016

  
SECRETARY,  
(E & SE) KPK PESHAWAR

  
District Education Officer  
(Male) Peshawar

**BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR**

**SERVICE APPEAL NO. 962/2015**

**Jehanzeb Khan**

**V/S**

**Secretary (E&SE) KPK & others**

**Affidavit**

I, Raham Taj Khan ( ADEO- Litigation) do hereby affirm and declare on oath that the contents of the Reply to the above Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon, able Tribunal.



*Raham Taj Khan*  
Deponent.