

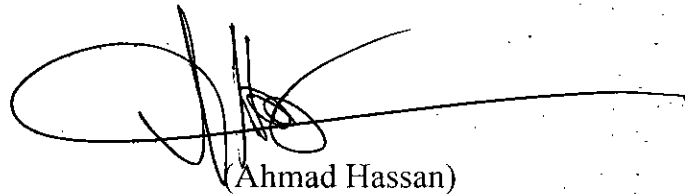
Order

22.03.2019

Counsel for the appellant present. Mr. Kabirullah, Addl: AG alongwith Mr. Muhammad Ali, ADEO and Mr. Shah Wali Ullah, Computer Operator for respondents present. Arguments heard and record perused.

This application is also accepted as per detailed judgment of today placed on file in service appeal No. 620/2016 titled "Kifayatullah -vs- District Education officer (M) Kohistan and four others." Parties are left to bear their own cost. File be consigned to the record room.

Announced:
22.03.2019



(Ahmad Hassan)
Member



(Hamid Farooq Durrani)
Chairman

13.12.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 04.02.2019 before D.B.


Member

Member

04.02.2019


Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Shah Wali Ullah, Computer Operator for the respondents present. Representative of the department stated that similar nature service appeal No. 554/2016 titled Saira Begum is fixed 13.02.2019 therefore, requested that the present appeal may also be fixed on same date. Request is accepted. To come up for arguments on 13.02.2019 before D.B-II.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

13.02.2019

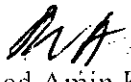
Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 22.03.2019 before D.B.

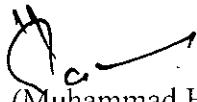

(Hussain Shah)
Member


(Muhammad Amin Khan Kund))
Member

06.08.2018


Clerk to counsel for the appellant and Mr. Muhammad Jan, learned Deputy District Attorney present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 14.09.2018 before D.B.



(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

14.09.2018

Appellant with counsel and Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Partial arguments of the Learned counsel for the appellant heard. However learned Assistant Advocate General seeks adjournment on the ground that the Additional Advocate General who would argue the present case is not available. Adjourned. To come up for further arguments on 19.09.2018 before D.B.



(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

19.09.2018


None present on behalf of the appellant. Mr. Riaz Ahmad Paindakhel, Assistant AG for the respondents present. Notice be issued to appellant for attendance for 05.11.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member


05.11.2018

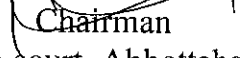
Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 13.12.2018.


CHAIRMAN

21.11.2017

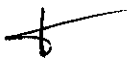
Appellant in person and Mr. Kabeerullah Khattak, Addl. AG alongwith Muhammad Alam, ADO for the respondents present. Two other connected appeals entitled "Inayatullah Rahman" and "Abdul Saboor" are fixed at Principal Seat at Peshawar for 19.12.2017. This case is also fixed for arguments at Principal Seat for arguments on 19.12.2017 before the D.B alongwith the aforementioned service appeals.


Member


Chairman
Camp court, Abbottabad.

19.12.2017

Counsel for the appellant and Asst: AG alongwith Mr. Muhammad Alam, ADO for respondents present. Learned Counsel for the appellant submits that similar two appeals no. 620/2016 entitled Kifayatullah and no. 621/2016 entitled Abdus Saboor are fixed before S.B on 10.01.2018, therefore the same appeal may also be clubbed with those two appeals. To come up for written reply on behalf of the DCO on 10.01.2018 before S.B.


Member


Chairman

21.10.2016

None present for the appellant. Mr. Shah Waliullah, Computer Operator alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Requested for adjournment. To come up for written reply/comments on 19.1.2017 before S.B at camp court, Abbottabad.


Chairman
Camp Court, A/Abad.

19.1.2017

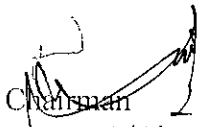
None present for appellant. Mr. Zahid Gul, ADO alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 19.07.2017 at camp court, Abbottabad.


Chairman
Camp court, A/Abad

19.07.2017

Clerk of counsel for the appellant and Mr. Muhammad Bilal, DDA alongwith Shah Waliullah, Computer Operator for the respondents present. Rejoinder submitted. Due to general strike of the Bar, counsel for the appellant is not in attendance. To come up for rejoinder and final hearing on 21.11.2017 before the D.B at camp court, Abbottabad.


Member


Chairman
Camp court, A/Abad

11.07.2016

Agent to counsel for the appellant present. Preliminary arguments could not be heard due to strike of the bar. To come up for preliminary hearing on ~~25-7-16~~.


Member

25.7.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed in the prescribed manners as Arabic Teacher in the year, 2007. That vide impugned order dated 17.02.2016 appellant was removed from service on the allegations of fake appointment where-against he preferred departmental appeal on 11.3.2016 which was not responded and hence the instant service appeal on 30.06.2016.

That appointment of the appellant was made in the prescribed manners and after fulfilling the codal formalities and that the impugned order made without affording opportunity of hearing to the appellant. That no enquiry whatsoever was conducted before the impugned order.

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 21.10.2016 before S.B at camp court, Abbottabad as the case pertains to territorial limits of Hazara Division.



Appellant Deposited
Security & Process Fee


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No: 700/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30/06/2016	<p>The appeal of Mr. Muhammad Nazir presented today by Mr. Muhammad Arif Jan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	11/07/2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>11-07-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Appeal No. 700/2016

Muhammad NazirAppellant

VERSUS

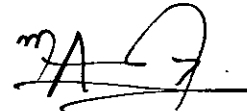
District Education Officer and othersRespondents

INDEX

S.No.	Description of Documents	Annex	Pages
1.	Memo of Petition		1-4
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3.	Addresses of Parties		6
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Appellant

Through



Muhammad Arif Jan

Advocate, Peshawar

Office: Office No.210 Al-Mumtaz Hotel
G.T. Road Peshawar.

Cell: 0333-2212213

Date: 29/6/2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 700/2016

Diary No. 682

Muhammad Nazir S/o Mirza Khan

Dated 30-6-2016

(Arabic Teacher) GMS Sheshal Keyal Kohistan.....Appellant

VERSUS

1. District Education Officer (M) Kohistan.
 2. Director Elementary and Secondary Education Khyber Pakhtunkhwa G.T Road Peshawar.
 3. District Accounts Officer District Kohistan.
 4. Govt, of Khyber Pakhtunkhwa through Secretary Education E&S Secretariats Peshawar..... Respondents
- S. Deputy Commissioner, Kohistan.

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 17-02-2016 PASSED BY RESPONDENT NO-1 VIDE WHICH THE APPELLANT WAS REMOVED FROM HIS SERVICE.

PRAYER IN APPEAL:

On acceptance of the instant appeal, the impugned order dated 17-02-2016 in respect of removal of the appellant from his service passed by respondent No-1 may graciously be set-aside and the appellant may kindly be reinstated in his service with all back benefits.

Filed to-day

Registrar
30/6/16.

Any other relief which deems fit and not specifically asked for may also be allowed in favor of appellant against respondents.

Respectfully Sheweth:

1. That the appellant was initially appointed as Arabic Teacher on 01-11-2007 where after being surplus then was adjusted under order dated 02-12-2009 and was posted at GMS Karang, Kohistan. (Copies of appointment order ^{Exchange sheet} are attached as ANNEX-A & B respectively).
AS
2. That without conducting any enquiry or considering the actual and factual position of the case, the respondent No-1 passed the impugned order dated 17-02-2016 in respect of removal from service of the appellant with retrospective effect. (Copy of order dated 17-02-2016 is attached as ANNEX-C).
3. That the appellant then preferred a departmental appeal before respondent No-2 on 11-03-2016 which is pending till date and the respondent No-2 badly fail to dispose of it in the statutory period. (Copy of Departmental appeal is attached as ANNEX-D).
4. That being aggrieved and having no other efficacious remedy except to file instant appeal on the following amongst other grounds.

GROUND:

- A. That the act, commission and omission of the respondents and the office order bearing No bearing No-12593-95 dated 17-02-2016 in respect of removal of the appellant from his service passed by respondent No-1 (hereinafter impugned) is patently illegal, unlawful, without lawful authority, of no legal effect having no value in the eyes of law thus be set-aside and the

3

appellant may kindly be reinstated in his service with all back benefits.

- B. That the appellant was rightly appointed by the then competent authority in the presence of selection committee on need basis against the vacant post in the distress situation of the area during those days so could not advertised the post and the appellant being eligible, deservable and fulfilling all the codal formities, was issued his appointment letter/order and then was rightly adjusted.
- C. That the impugned order is very harsh in nature and also does not commensurate with facts of the case moreover the mala-fide of the respondents / authority is also exist from the record, as prior to conduct an enquiry, the monthly salaries of the appellant was stopped since September, 2015 till date which is illegal and unlawful, hence be declared void and the impugned order is liable to be cancelled.
- D. That the appellant has got no alternate source of income to feed mouths of members of family hence living miserable life from hand to mouth.
- E. That while awarding the major penalty the authority also ignored the volume of service, service book of the appellant as well as the laws rules and regulations governing the subject matter.
- F. That no opportunity was provided for self defence while awarding the major penalty moreover no proper inquiry in proper manner has been conducted into the guilt of the appellant and without fulfilling the codal formalities harsh order

(4)

of removal from service were passed which are against the principle of natural justice.

- G. That there is no any complaint or inquiry pending against the appellant in any court of law or at any forum but the appellant always worked honestly and to the entire satisfaction of his superior..
- H. That the appellant also filed a writ petition before the Hon'ble Peshawar High Court Bench Abbottabad regarding release of salaries which was dismissed for wants of jurisdiction
- I. That any other ground which has not been specifically asked for and is fit in the circumstance may also be allowed in favor of the appellant against the respondents.

It is therefore, most humbly prayed that on acceptance of the instant appeal, the impugned order dated 17-02-2016 in respect of removal of the appellant from his service passed by respondent No-1 may graciously be set-aside and the appellant may kindly be reinstated in his service with all back benefits.

The respondents may also be directed to release the salaries of the appellant since Sep, 2015 till date with out any further delay or reason.

Any other relief which deems fit and not specifically asked for may also be allowed in favor of appellant against respondents.


Appellant

Through



Muhammad Arif Jan
Advocate, Peshawar.

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

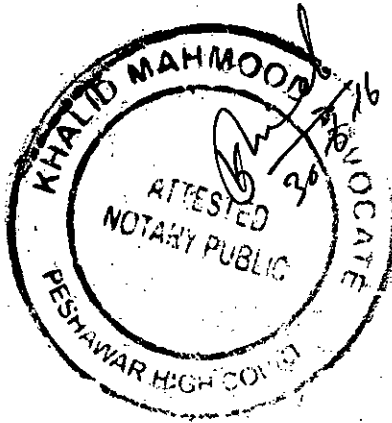
Muhammad Nazir.....Appellant

VERSUS

District Education Officer and othersRespondents

AFFIDAVIT

I, Muhammad Nazir S/o Mirza Khan (Arabic Teacher) GMS Sheshal Keyal Kohistan do hereby solemnly affirm and declare on oath that the contents of the **appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



[Handwritten Signature]
DEPONENT

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Muhammad NazirAppellant

VERSUS

District Education Officer and othersRespondents

ADDRESSES OF PARTIES


APPELLANT:

Muhammad Nazir S/o Mirza Khan (Arabic Teacher) GMS Sheshal Keyal
Kohistan

RESPONDENTS

1. District Education Officer (M) Kohistan.
2. Director Elementary and Secondary Education Khyber
Pakhtunkhwa G.T Road Peshawar.
3. District Accounts Officer District Kohistan.
4. Govt, of Khyber Pakhtunkhwa through Secretary Education
E&S Secretariats Peshawar Appellant

Through



Muhammad Arif Jan
Advocate, Peshawar.

Date: 29/6/2016

(7)

Amex-A'

P-10

OFFICE OF THE DISTRICT COORDINATION

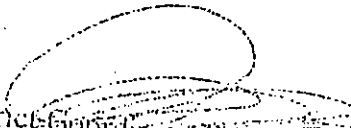
KOHISTAN

APPOINTMENT

Consquent upon approval Departmental Selection Committee S&L Kohistan, Mr. Muhammad Nazir S/O Mirza Khan R/O Pattan Kohistan a qualifying applicant is hereby appointed as AT Teacher at GHS Badakot Dsitric Kohistan against the vacant post, in BPS 09 (Rs. 3185-190-8885) plus usual allowance as due and admissible under the rules with immediate effect in the interset of public service subject to the following conditions.

CONDITIONS:

1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed to him.
3. His appointments is purely on temporary basis and liable to termination at any time with out assiging any reason/notice.
4. He will be governed by such rules & regulation enforced and as prescribed the Government from time to time for the category of the Governemnt servants to which he belong.
5. In case the above candidte failed to asume the charge of his post with in 15 days, his appointment will automatically stand canceled.
6. He should not be allowed to take over charge if his age is less than 18 years and above 35 years.
7. He should produced Age & Helath Certificate from EDO Helath Kohistan before taking over charge.



District Coordination Officer
Kohistan


Endst: No. 9775-79

dated Kohistan the 01/11/2007

Copy of the above is forwarded to the

1. PA to Director Schools & Literacy NWEF Peshawar.
2. District Nazim Kohistan.
3. Executive District Officer S&L Kohistan.
4. District Accounts Officer Kohistan.
5. Candidate concerned.

Attested



District Coordination Officer
Kohistan

Allopathy

Allopathy - Street, Kandy

Allopathy

Allopathy - Street, Kandy

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(9) Annex-D (B) ACF

**OFFICE OF THE DISTRICT EDUCATION OFFICER
(M) KOHISTAN**

OFFICE ORDER FOR REMOVAL FROM SERVICE.

Muhammad Nazir S/O Mirza Khan AT GMS Sheshal Keya.

It has been reported through some sources that your appointment is fake and bogus.

Whereas your service book was properly checked by Dy:DEO (M) and submitted the information that you have been appointed as Arabic Teacher by appointment order of DCO Office Kohistan issued under Ends: No.9775-79 dated 01/11/2007 at GHS Bada Kot.

Whereas you did not taken over charge there as, the post was not vacant, it indicate that you was appointment without the availability of post and you was re-adjusted by EDO office order issued under Endst: No.1532-35 dated 02/12/2009 and adjusted at GMS Kareen.

Whereas as per contents of your appointment order you was appointed on the recommendation of Departmental Selection Committee of the department, while as per record of the office no advertisement for the appointment of teachers has been made nor any process for the recruitment of teachers has been made by the department.

Whereas a showcause notice was issued to you vide this office order No.13373, dated: 14/12/2015 and you was asked to submit your reply but you did not reply the showcause notice.

Where a chance of personal hearing was provided to you in the same showcause notice but you did not come to office to defend your position.

Therefore as a result of above mentioned facts, I Riasat Khan DEO (M) Kohistan being Competent Authority is fully satisfied to impose upon you the major penalty of REMOVAL FROM SERVICE with retrospective effect.

District Education Officer
Male Kohistan

Endst: No. 12573-95 / Dated 17/2 /2016.

Copy of the above is forwarded to the:

- 1 (6) Director, Elementary & Secondary Education Khyber Pakhtankhwa Peshawar.
- 2 (2) District Accounts Officer Kohistan.
- 3 (3) DY: DEO (M) Kohistan
- 4 (0) Office file

District Education Officer
Male Kohistan

Attested

Signed to
replies

10

Amex-D

R.

1

To,

THE DIRECTOR,
Elementary & Secondary Education,
Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST THE
IMPUGNED ORDER ENDST. NO.12573-95
DATED 17.02.2016 PASSED BY THE DISTRICT
EDUCATION OFFICER (MALE), KOHISTAN
WHEREBY THE APPELLANT WAS
REMOVED FROM SERVICE WITH
RETROSPECTIVE EFFECT.

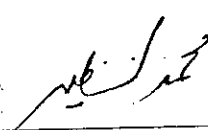
Respected Sir,

1. That, the appellant was serving as Arabic Teacher at GMS Sheeshal Kiyal, Tehsil Pattan District Kohistan, performing/discharging his professional duties regularly.
2. That, the District Education Officer (Male) Kohistan vide impugned order dated 17.02.2016 imposed major penalty of removal from service without observing legal formalities and due process of law. *Copy of impugned order is attached*
3. That, the impugned order itself is based upon suspicions and surmises, there was no legal justification with the District Education Officer to impose major penalty of removal from service upon the petitioner.
4. That, neither any show cause notice was served nor opportunity of personal hearing was afforded to the appellant.

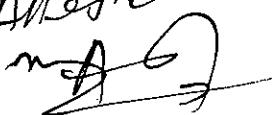
- 5. That, in the attending circumstances of the case, the District Education officer was under legal obligation to initiate an inquiry and initiate action in the light of recommendations of inquiry officer but strangely, no inquiry whatsoever was conducted/initiated so, the impugned order is not sustainable in the eye of law on its very face value.
- 6. That, the appellant was duly appointed by a duly authorized/competent authority after observing the legal process of recruitment.

It is, therefore, very humbly prayed that on acceptance of the instant appeal, the impugned order dated 17.02.2016 may please be set aside and the appellant may kindly be reinstated into service with all back benefits.

Dated 11.03.2016



MUHAMMAD NAZIR
 Son of Mirza Khan
 Arabia Teacher (AT)
 GMS Sheehal Kiyal,
 Tehsil Pattan District Kohistan
 Cell No.0346-5966434
Appellant

Attested


WAKALATNAMA

IN The Khyber Pakhtunkhwa Service Tribunal, Peshawar

M. Nazim

(Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

VERSUS

Deo & others

(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

Case Src Appeal

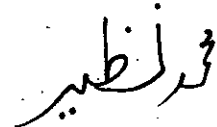
I/We, M. Nazim do hereby appoint and constitute Muhammad Arif Jan Advocate High Court, Peshawar, to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted

CLIENT/S



Muhammad Arif Jan
Advocate, High Court, Peshawar.
Office No. 6, 1st Floor
Pabbi Medical Centre, G.T. Road
Peshawar.
Mobile: 0333-2212213



21-11-16
19-1-17

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
(CAMP COURT ABBOTTABAD)

APPEAL NO 700 OF 2016

Muhammad Nazir ----- Petitioner

VERSUS

1. District Education Officer Male Kohistan
2. Director Elementary & Secondary Education KPK Peshawar
3. District Accounts Officer District Kohistan
4. Govt of Khyber Pakhtunkhwa through Secretary
(Elementary Secondary) Education Peshawar **Respondents**

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3, & 4

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3	Copy of re adjustment order from EDO office	"B"	7
4	Copy of show cause notice	"C"	8
5	Copy of removal order of petitioner	"D"	9
6	Copy of Rejection of appeal of petitioner by Director	"E"	10

Dated 27 -10-2016


Respondent No.1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
(CAMP COURT ABBOTTABAD)

APPEAL NO 700 OF 2016

Muhammad Nazir ----- Petitioner

VERSUS

1. District Education Officer Male Kohistan
 2. Director Elementary & Secondary Education KPK Peshawar
 3. District Accounts Officer District Kohistan
 4. Govt of Khyber Pakhtunkhwa through Secretary
(Elementary Secondary) Education Peshawar
- Respondents**

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3, & 4

Respectfully Sheweth:

- I. That the petitioner did not come to this Honorable Court with clean hands.
- II. That the petitioner has got no cause of action /locus standi to file the instant writ petition
- III. That the writ petition has been filed to pressurize the respondent
- IV. That the petitioner is estopped to sue through his own conduct
- V. That the present appeal is not maintainable due to non-joinder and mis-joinder of necessary parties.
- VI. That the petitioner has concealed the material facts from this Honorable Court, hence appeal is liable to be dismissed without any further proceeding.
- VII. That the petitioner has already been removed from service after Completion of all codal formalities vide order dated 17/02/2016 as well as order No.3770-72 dated 01-08-2016, hence appeal is liable to be dismissed.
- VIII. That the appeal is time bared hence not maintainable and liable to be dismissed.

Factual Objections:

1. Incorrect, strongly denied that the appointment of petitioner was reported fake and bogus and the service book of petitioner was properly checked and found that the petitioner was appointed as Arabic Teacher Vide DCO Office Order Issued Under Endost No. 9775-79 dated 01/11/2007 at GHS Bada Kot, where the post of Arabic teacher was not vacant and the petitioner did not taken over charge of the post there and later on he was readjusted by EDO Office Vide Order Issued Under Endost No. 1532-35 dated 02/12/2009 at GMS Kareen.(Copies of appointment orders are attached as Annexure A&B).It is pertinent to add that according to the contents of the appointment order, the appointment was made on the recommendation of departmental selection committee but as per record of office no advertisement for the appointment of teachers was made nor any process for the recruitment of teachers has been conducted by the department during the time of appointment of petitioner, that clearly indicates that the appointment of the petitioner is fake and bogus.
2. That as stated in Para 1 above the petitioner was appointed as Arabic Teacher Vide DCO Office Order issued Under Endost No 9775-79 dated 01/11/2007 at GHS Bada Kot where the post of Arabic Teacher was not vacant and the petitioner did not taken over charge of the post there and later on he was readjusted by EDO Office Order issued Under Endost No 1532-35 dated 02/12/2009 at GMS Kareen and the petitioner did not drawn the salary for the period with effect from 01/11/2007 to 02/12/2009.Where as the preparation and verification of service book is also fake and bogus and a show cause was served to the petitioner under Endstt: No. 13373 dated 14/12/2015. (Copy of show cause notice is attached as annexure C).
3. Incorrect strongly denied that the departmental appeal before the respondent No.2, Director E&SE KPK Peshawar vide No. 3770-72 dated 01/08/2016 has been rejected.(Copy annexed as annexure E). An another same nature writ Petition No.52-A/2016 of the petitioner is under consideration in the Honourable Peshawar High Court Abbottabad Bench
4. Incorrect strongly denied that it is the court matter hence no comments.

GROUNDS

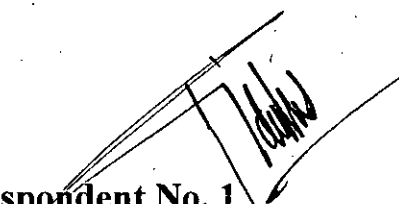
- A. Incorrect, strongly denied that as stated in Para 1 above on knowing that the appointment of the petitioner is fake and bogus, the salary of the petitioner was stopped and a show cause notice was served to petitioner Under Endst No 13373 dated 14/12/2015 and was asked to submit his reply within seven days or not later than fifteen days of the delivery of show cause notice and a chance of personal hearing was also provided to the petitioner but the petitioner neither reply to the show cause notice nor attend the office for personal hearing and lastly after fulfilling of codal formalities the petitioner Muhammad Nazir S/O Mirza Khan Arabic teacher GMS Sheshal Kial was removed from service with retrospective effect Vide Endstt: No. 12573-75 dated 17/02/2016. (Copy of Removal form service is attached as annexure D).
- B. Incorrect strongly denied as stated in 1 & 2 above of factual objections.
- C. Incorrect strongly denied that as stated in 1 , 2 & A above of factual objections.
- D. Incorrect strongly denied that as further stated that appellant has not entitled for any relief hence appeal is liable to be dismissed.
- E. Incorrect strongly denied. The petitioner was removed from service with retrospective effect Vide Office Order No 12593-95 dated 17/12/2015 and as stated in Para No. 1&2 above.
- F. Incorrect strongly denied that as stated in Para No. 1 & 2 above on knowing that the appointment of the petitioner is faked and bogus, the salary of the petitioner was stopped and a show cause notice was served and was asked to submit his reply within seven days or not later than fifteen days of the delivery of show cause notice and a chance personal hearing was also provided to the petitioner but the petitioner neither reply to the show cause notice nor attend the office for personal hearing and lastly after fulfilling of all codal formalities the petitioner was removed from service with retrospective effect.

G. Incorrect strongly denied that as stated in F above.


H. That Para H of ground pertains to the record.

I. Incorrect the respondent seeks permission for argue further points at the time of hearing.

It is therefore, in the light of above stated facts and circumstances, very humbly prayed that appeal in hand may please be dismissed with cost.


Respondent No. 1
District Education Officer,
(Male) Kohistan


DIRECTOR


Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar


SECRETARY


Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
(CAMP COURT ABBOTTABAD)

APPEAL NO 700 OF 2016

Muhammad Nazir ----- Petitioner

VERSUS

1. District Education Officer Male Kohistan
2. Director Elementary & Secondary Education KPK Peshawar
3. District Accounts Officer District Kohistan
4. Govt of Khyber Pakhtunkhwa through Secretary
(Elementary Secondary) Education Peshawar **Respondents**

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3, & 4

AFFIDAVIT

I, Fida Muhammad Khan DEO (Male) Kohistan do hereby solemnly affirm and declare that the contents of Para wise reply in the above titled Case are true and correct to the best of my knowledge and belief, and that nothing, material has been suppressed from this Honorable court.


DEPONENT

"A"

(5)

P. 10

OFFICE OF THE DISTRICT COORDINATION OFFICER KOHISTAN

APPOINTMENT:

Consequent upon approval Departmental Selection Committee S&L Kohistan, Mr. Muhammad Nazir S/O Mirza Khan R/O Pattan Kohistan a qualifying applicant is hereby appointed as AT Teacher at GHS Badakot District Kohistan against the vacant post, in BPS 09 (Rs. 3185-190-8885) plus usual allowance as due and admissible under the rules with immediate effect in the interest of public service subject to the following conditions.

Annex (A)

CONDITIONS:

1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed to him.
3. His appointments is purely on temporary basis and liable to termination at any time with out assiging any reason/notice.
4. He will be governed by such rules & regulation enforced and as prescribed the Government from time to time for the category of the Governemnt servants to which he belong.
5. In case the above candidte failed to asume the charge of his post with in 15 days, his appointment will automatically stand canceled.
6. He should not be allowed to take over charge if his age is less than 18 years and above 35 years,
7. He should produced Age & Helath Certificate from EDO Helath Kohistan before taking over charge.

District Coordination Officer
Kohistan

Enclst: No. 9775-79

dated Kohistan the 01/11/2007.

Copy of the above is forwarded to the

1. PA to Director Schools & Literac: NWEF Peshawar.
2. District Nazim Kohistan.
3. Executive District Officer S&L Kohistan.
4. District Accounts Officer Kohistan.
5. Candidate concerned.

District Coordination Officer
Kohistan

"B"

[Handwritten signature]

(6)

Ann. B

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S)
EDUCATION DISTRICT KOHISTAN AT DASSI

SUBJECT:

Adjustment of pay and emoluments made by the District Coordination
Office Kohistan vide letter No. 9723-79 dated 1/11/2009 Mr
Mahmood Raza A. Qazi is hereby adjusted at GMS (Karnig
against vacant post as sanctioned by DDO Middle Schools from the date of post
creation.

[Handwritten signature]

Executive District Officer
(E&S) Edu: Kohistan

Order No. 4834-75 / Smt. Kohistan the. 1/12 / 2009.

Copy of the above is forwarded to the:

- 1- PA to Director E&S Education: NWFP Peshwar.
- 2- District Coordination Office Kohistan.
- 3- District Administration Officer Kohistan.
- 4- DDO (M) Middle Schools Kohistan.

[Handwritten signature]

Executive District Officer
(E&S) Edu: Kohistan

65 C 2



**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) KOHISTAN**

Email: emiskohistan@yahoo.com

Phone # 0398-407128

SHOW CAUSE NOTICE

I, Riasat Khan, District Education Officer, (Male) Kohistan, as competent authority under the Khyber Pakhtunkhwa Govt: Servants (E&D) Rules, 2011, do hereby serve you, Mr. Muhammad Nazir AT GMS Sheshal Keyal, Kohistan as follows:

- That as per documents received from department,
1. As per appointment order attached in your service book and record of service book, you was appointed as AT vide appointment order issued under Endst: No.9775-79 dated 01/11/2007 of District Kohistan and you was adjusted against the vacant post by EDO Education Endst: No.4532-35 dated 02/12/2009 at GMS Kareen.
 2. Whereas according to the contents of your appointment order, you was appointed on the recommendation of departmental selection committee, while during 2007-2009, no advertisement was given and no process of recruitment has been made by the office.
 3. whereas, in your appointment order you was appointed on 01/11/2007 without the availability of post and you was again adjusted on 02/12/2009 at GMS Kareen after the gap of 02 years and 01 month.
 4. Whereas, your source-I for the drawn of salary is verified by District Account Office Kohistan 02/2014.
 5. Whereas as per record of your service book, your appointment is fake and bogus.

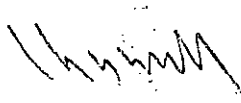
As a result thereof, I have tentatively decided to impose upon you the Major penalty of RECOVERY OF SALARY FOR THE SERVED PERIOD AND REMOVAL FROM SERVICE. Under rule 4 of the said rules.

You are, thereof required to reply the show cause as to why the aforesaid penalty should not be imposed upon you and also intimate *whether you desired to heard in person.*

If your reply will not receive within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

You are further directed that a committee is constituted to decide your case and for that you are given a chance of personal hearing on the subject matter on 28/12/2015 at 10:00am before the committee in the office of undersigned.

Endstt: No 13373 / Dated Kohistan the 14/12/ 2015


COMPETENT AUTHORITY

6 D

8
Am D

OFFICE OF THE DISTRICT EDUCATION OFFICER
(M) KOHISTAN

OFFICE ORDER FOR REMOVAL FROM SERVICE.

Muhammad Nazir S/O Mirza Khan AT GMS Sheshal Keyal.

It has been reported through some sources that your appointment is fake and bogus.

Whereas your service book was properly checked by Dy:DEO (M) and submitted the information that you have been appointed as Arabic Teacher by appointment order of DCO Office Kohistan issued under Ends: No.9775-79 dated 01/11/2007 at GMS Bada Kot.

Whereas you did not taken over charge there as, the post was not vacant, it indicate that you was appointment without the availability of post and you was re-adjusted by EDO office order issued under Ends: No.1532-35 dated 02/12/2009 and adjusted at GMS Kareen.

Whereas as per contents of your appointment order you was appointed on the recommendation of Departmental Selection Committee of the department, while as per record of the office no advertisement for the appointment of teachers has been made nor any process for the recruitment of teachers has been made by the department.

Whereas a showcause notice was issued to you vide this office order No.13373, dated: 14/12/2015 and you was asked to submit your reply but you did not reply the showcause notice.

Where a chance of personal hearing was provided to you in the same showcause notice but you did not come to office to defend your position.

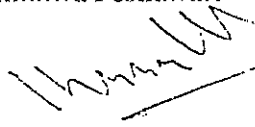
Therefore as a result of above mentioned facts, I Riasat Khan DEO (M) Kohistan being Competent Authority is fully satisfied to impose upon you the major penalty of REMOVAL FROM SERVICE with retrospective effect.



District Education Officer
Male Kohistan

Endst: No. 12573-75 / Dated 17/2 /2016.

Copy of the above is forwarded to the:

- 1 (6) Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 2 (7) District Accounts Officer Kohistan.
- 3 (8) DY: DEO (M) Kohistan.
- 4 (9) Office file.




District Education Officer
Male Kohistan.

"E"

DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA

ORDER.

1. WHEREAS, Muhammad Nazir AT GMS Sheshal Kayal Kohistan proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules, 2011.
2. AND WHEREAS As per the enquiry/study of service book of the AT concerned he was appointed as AT order issued by the DCO Kohistan vide Endst: No.9775-79 dated 01.11.2011 at GHS Badakot. He was re-adjusted by the EDO under Endst: No.532-35 dated 02.12.2009 at GMS Kareen. It indicated that he was re-adjusted with a gap of more than two years without having charge of post.
3. AND WHEREAS, the DEO (M) Kohistan issued show cause notice to the above teacher vide office No. 13373 dated 14.12.2015 and also a chance provided for personal hearing but he did not reply to show cause notice nor attended the office for personal hearing to defend himself. As per ~~the~~ report of the DEO (M) Kohistan that the AT post ^{was} not advertised for appointment nor process of recruitment of teacher has been made, clearly indicated that the appointment of the above named teacher is fake and bogus.
4. AND WHEREAS, the competent authority DEO (M) Kohistan imposed upon him penalty of Removal from service vide DEO (M) Kohistan office Endst: No.12593-95 dated 17.02.2016.
5. AND WHEREAS, the AT concerned lodged an appeal against his Removal from service to the appellate authority and the appeal was sent to the DEO (M) Kohistan for report/comments vide this office letter No.5741 dated 30.03.2016
6. AND WHEREAS, the DEO (M) Abbottabad has submitted his report/comments vide letter No.1742 dated 20.04.2016.

A/E
pl file
20/1/16

AND WHEREAS, the competent authority Director Elementary and Secondary Education Khyber Pakhtunkhwa) after having considered the charges and evidence on record, is of the view that charges against accused teacher have been proved.

NOW THEREFORE, in exercise of powers conferred under Khyber Pakhtunkhwa Servants (Efficiency & Discipline) Rules-2011 the appellate authority has decided to reject the appeal of Mr. Muhammad Nazir AT GMS Sheshal Kayal Kohistan on the above mentioned grounds.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 3770-72 /F No.162/Removal from service. Dated Peshawar the 1-8 /2016.

Copy forwarded for information and necessary action to the:-

1. District Education Officer (M) Kohistan w/r to his No.1742 dated 20.04.2016.
2. Muhammad Nazir AT GMS Sheshal Kayal Kohistan.
3. P/A to Director E&SE, Khyber Pakhtunkhwa, Peshawar.
4. Master File.

DEPUTY DIRECTOR (E&SE)
KPK Peshawar

Deputy Director (Estb:)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.

BEFORE THE COURT OF HONOURABLE SERVICE TRIBUNAL KHYBER

PAKHTUNKHWA, PESHAWAR

Misc Application No. _____/2017

In Re:

Service Appeal NO 700/2016

MUHAMMAD NAZIR

V/S

DISTRICT EDUCATION OFFICER & OTHERS

APPLICATION FOR IMPLEMMENT OF THE THEN DCO KOHISTAN (NOW
DEPUTY COMMISSIONER) KOHISTAN BEING NECESSARY PARTY AT THE
PENAL OF RESPONDENTS

Respectfully Sheweth:-

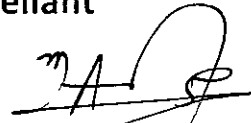
- 1) That the above titled appeal is pending adjudication before this Hounorable Tribunal and is fixed for today i.e. 17th July, 2017.
- 2) That inadvertently the Appellant could not arrayed the then DCO Kohistan (now Deputy Commissioner) Kohistan being necessary party in the column of Respondents.
- 3) That the appointment order of the Appellant issued by the requesting authority mentioned above after fulfilling all the codel formalities but astonishingly Respondent No. 1 allegedly declared the appointment order of the appellant is fake and bogus one, which could only be answered by the authority mentioned above.
- 4) That in the circumstances of the case, it is necessary that the above mentioned authority be impleaded as necessary party on the penal of Respondents.
- 5) That this Honourable Tribunal has got ample power

- 6) under the law to implead anyone, sou moto or upon the application of the either party to the appeal pending at any stage of proceedings.
- 7) That for the just decision of case, the authority mentioned above is the necessary party and without impleadment of them, this Honourable Tribunal could not pass a complete and comprehensive judgment in the eye of law.
- 8) That there is no embargo in law upon impleadment of the authority mentioned above as necessary parties.

It is, therefore, respectfully prayed that on acceptance of this application, the authority mentioned above may very graciously be impleaded as necessary parties at the penal of Respondents for the fair ends of justice.

Through:

Appellant



(MUHAMMAD ARIF JAN)

Advocate,

High Court, Peshawar

Dated: 17-07-2017

AFFIDAVIT:-

It is, solemnly affirm and declare on oath that all the contents of this application are true and correct to the best of my knowledge and nothing has been concealed or withheld from this Honourable Court.



DEPONENT



①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL NO 700 OF 2016

Muhammad Nazeer -----Petitioner

VERSUS

1. District Education Officer Male Kohistan
2. Director Elementary & Secondary Education KPK Peshawar
3. District Accounts officer District Kohistan
4. Secretary (E&S) Education Govt of Khyber PakhtunKhwa Peshawar

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 5.

INDEX

S#	Particulars of documents	Annexure	Pages
1	Comments along with affidavit		1-5
2	Copy of law & order meeting	A	6 - 8
3	Copy of Report Sent to Anti Corruption Kohistan regarding provision of Record	B	9 - 10

Dated 06-02-2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR:

APPEAL NO 700 OF 2016

Muhammad Nazeer -----Petitioner

VERSUS

1. District Education Officer Male Kohistan
2. Director Elementary & Secondary Education KPK Peshawar
3. District Accounts officer District Kohistan
4. Secretary (E&S) Education Govt of Khyber PakhtunKhwa Peshawar

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO 5.

Respectfully Sheweth:

PRILIMINARY OBJECTIONS:-

1. That the appellant has not come to this Honorable Court with clean hands.
2. That the appellant has got no cause of action/ locus standi to file the instant appeal.
3. That the appeal has been filed to pressurize the respondents.
4. That the appellants estopped to sue through his own conduct.
5. That the present appeal is not maintainable due to mis-joinder and non-joinder of necessary parties.
6. That the appellant has concealed the material facts from this Honourable Court.
7. That the appellant is not a civil servant as he has got his appointment on fake and bogus way.

Factual Objections:

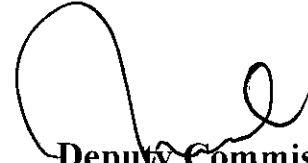
1. Para No 1 is incorrect, strongly denied with the facts that as per record of dispatch register of this office on dispatch No.9775-79 dated 01.11.2007 is not in order but is a copy of letter endost to the District Nazim Kohistan regarding monthly law & order meeting (Copy of the letter is annexed as annexure-A). Report in this matter has been sent to Anti Corruption Establishment Kohistan vide this office memo No. 21Estt/8567/DC (KH) dated 18.05.2017 (Copy of the letter is annexed as annexure-B) so the order of Muhammad Nazeer S/O Mirza Khan is completely fake and bogus.
2. Para No 2 is incorrect, strongly denied with the fact that is not concerned with Respondent No. 5.
3. Para No 3 is incorrect, strongly denied with the fact that is not concerned with Respondent No. 5.
4. Para No 4 is incorrect, strongly denied with the fact that is not concerned with Respondent No. 5.

GROUND

- A. Incorrect, strongly denied with the fact that is not concerned with Respondent No. 5.
- B. Incorrect strongly denied with the facts mention in factual objection 1.
- C. Incorrect strongly denied with the fact that is not concerned with Respondent No. 5.
- D. Incorrect, strongly denied with the fact that is not concerned with Respondent No. 5.
- E. Incorrect, strongly denied with the fact that is not concerned with Respondent No. 5.
- F. Incorrect, strongly denied with the fact that is not concerned with Respondent No. 5.

- G. Incorrect strongly denied with the fact that is not concerned with Respondent No. 5.
- H. Incorrect strongly denied with the fact that is not concerned with Respondent No. 5.
- I. That the respondents also seek permission for arguing the other points at the time of arguments.

It is therefore, in the light of above stated facts and circumstances, Very humbly prayed that the appeal in hand may please be dismissed with cost.



**Deputy Commissioner
Kohistan
Respondent No. 5**

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL NO 700 OF 2016

Muhammad Nazeer -----Petitioner

VERSUS

1. District Education Officer Male Kohistan
2. Director Elementary & Secondary Education KPK Peshawar
3. District Accounts officer District Kohistan
4. Secretary (E&S) Education Govt of Khyber Pakhtunkhwa Peshawar

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO 5.

AFFIDAVIT.

I, Noor ul Wahaj DC Office Kohistan do hereby solemnly affirm and declare that the contents of Para wise comments in the above titled case are true and correct to the best of my knowledge and belief, and that nothing, material has been suppressed from this Honourable court.

Identified by, DEPONENT.

13401 SB 29132-5

(6) 104

OFFICE OF THE
DISTRICT COORDINATION OFFICER
KOHISTAN.

No.1/Poll/PS/ 9765-74/DCO KH
Dated Dassu the 01/10/2007

To

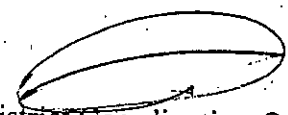
- i. The District Police Officer, Kohistan.
- ii. The District Officer, Frontier Constabulary Kohistan.
- iii. The EDO, (F&P) Kohistan.
- iv. The EDO, (Health) Kohistan.
- v. The EDO, (S&L) Kohistan.
- vi. The EDO, Works & Services Kohistan.
- vii. The EDO, Agriculture Kohistan.
- viii. The District Officer Revenue & Estate Kohistan.
- ix. The Food Inspector Kohistan.
- x. The TMO Dassu.

Subject: MONTHLY MEETING OF LAW & ORDER SITUATION
FOR THE MONTH OF OCTOBER, 2007.

Memorandum:

Enclosed please find herewith minutes of the monthly law & order situation meeting for the month of October, 2007 held on 01/11/2007 at 11:00 a:m in the office of undersigned, for favour of information & necessary action at your end.

Encls (2)

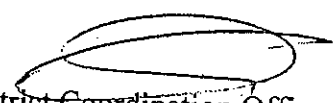

District Coordination Officer,
Kohistan.

Endst.No 9775 . 1

b/c

Copy of the above along with minutes is also forwarded to the Zilla Nazim Kohistan for favour of information, please.

Encls (2)


District Coordination Officer,
Kohistan.

o/c

(7) job

MINUTES OF THE MONTHLY MEETING OF LAW & ORDER SITUATION FOR THE MONTH OF OCTOBER, 2007 HELD ON 1/11/2007, UNDER THE CHAIRMANSHIP OF MR.DILDAR MUHAMMAD DANISH DISTRICT COORDINATOR OFFICER KOHISTAN.

A meeting of law & order situation for the month of October 2007 was held on 1/11/2007 under the chairmanship of Mr.Dildar Muhammad Danish DCO Kohistan, in which the following Officers of line departments participated:-

S.No.	Name of Officer	Designation	Name of department
01-	Mr.Alamzeb	D.P.O. KH	Police Department
02-	Malik Abdul Rashid	E.D.O.	Schools & Literacy Deptt:
03-	Mr.Javed Khan	E.D.O(F&P/D.O(R&E) KH	F&P/Revenue Deptt: Kh
04-	Dr.M.Wali Qureshi	E.D.O.	Health Department KH
05-	Mr.Bahram Khan	D.O.F.C. Kohistan	Frontier Constabulary KH
06-	Mr.Ibrahim	E.D.O.	W&SD Kohistan.
07-	Mr.Gul Muhammad	E.D.O.	Agriculture Deptt: KH
08-	Mr.Muhammad Nasim	District Officer	-do-
09-	Mr.Rashool Shah	D.S.P.	Police Department
10-	Mr.Akhtar Munir	T.M.O Dassu/A.C.O. KH	TMA/Admn: Deptts:
11-	Mr.Malook Shah	TMO.	TMA Pattan.
12-	Mr.Shaukat ali	D.F.C.	Food Department KH

The DCO Kohistan did recitation of the Holy Quran and then thanked the participants in participation in the meeting. He also explained to the participants of the purpose of holding the meeting keeping in view the prevailing law & order situation in the Country as well as in the Province. The following points of the Agenda were discussed in detail:-

1- Basha Dam:- on the query of DCO Kohistan, the Officer of Revenue Department stated that Notification of 4 of Land Acquisition Act 1898 has been prepared and sent to the WAPDA authorities for signature, but till date no response has received from it. The DCO Kohistan directed the District Officer(R&E) Kohistan to issue reminder to the quarter concerned and resolved the matter immediately. The DO(R&E) Kohistan stated that on 2/11/2007, he is personally visiting the site of Basha Dam and will submit a detailed report in this regard.


2- Checking of Bazaars:- The District food Controller Kohistan stated that the checking of bazaars in the District is being done regularly and all the essential commodities are available in the market on rock bottom. The DCO Kohistan further directed that stern action should be taken against the hoarders as per Government orders. The District Police Officer Kohistan state that in this District, there is no hoarder, moreover the local Police has been directed to accompany the Officers during checking of the Bazaars as well.

3- Prevailing law & order situation:- The DCO directed all the

this regard. He further stated that the District Police Officer Kohistan must depute Police Mobile squads at night as well as day time for security purpose. The District Police Officer Kohistan stated that the Chowkidars of the line departments are not performing their duties regularly and there is every possibility of danger to the Government Officers & their properties as well. The DCO Kohistan directed all Officers to ensure the presence of Chowkidars in their offices otherwise stern action shall be initiated against the delinquent government servant(s) found guilty in this regard.

The DCO also directed the District Officer Frontier Constabulary Kohistan to requisition the remaining platoon(s) of Frontier Constabulary from Oghi Centre so that the security measures could be strengthen keeping in view the gravity of the situation.

The meeting ended with a vote of thanks from Chair & and participants as well!


District Coordination Officer,
Kohistan.

103



OFFICE OF THE
DEPUTY COMMISSIONER
KOHISTAN.

No.21/Estt:/ 8567 /DC (KH).

Dated 18 / 05/2017

To

The Incharge Anti Corruption Establishment,
Kohistan.

Subject PROVISION OF RECORD

Memorandum:

Reference your request dated 09.05.2017 on the subject cited above.

The order bearing No. 2529-34 dated 26.04.2008 is entered in dispatch registrar but there is no record available in this office. As regard the dispatch No. 9775-79 dated 01.11.2007, this is not an order but copy of a letter Endost to the District Nazim Kohistan regarding monthly Law & order meeting & NO.9776-80 is a Letter addressed to the PSO to Chief Minister, PSO to Chief Secretary & Secretary Home Department, Peshawar sending the minutes of meeting on Law & Order situation for the month of October 2007. (copies enclosed).

End. (7)


Deputy Commissioner,
Kohistan

حکومت پاکستان
وزارت تعلیم و تربیت

محترم صاحب - ڈیپٹی کمشنر، میان
کوٹہ، ایف اے ڈی، 14/07/07، برصغیر، ایگرا، ایگرونیٹس، ایگرونیٹس، ایگرونیٹس

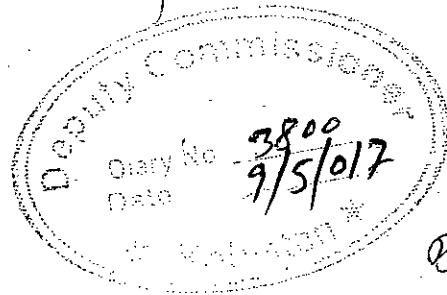
اسٹیم

معدومین فریڈ ٹوٹم سے سوال اللہ سے دعا
سے ذیل AT پیسز کے آڈٹ فائینڈنگ اور فائنڈنگ کے
میراث کے لئے فریڈ ٹوٹم کرنے کا حکم صادر فرمائیے تاکہ
میں میں فریڈ ٹوٹم کرنے کا حکم صادر فرمائیے تاکہ

AT/AT/AT
9/5/07

ڈیپٹی کمشنر، میان
ڈیپٹی کمشنر، میان
26/4/2008
039775.79
2007

نوٹ
صاحب - دیو میں کوٹہ میں سال 2008ء میں
کوٹہ میں کا افتتاح کوٹہ میں کوٹہ میں کوٹہ میں
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Dispatch for
Report please
10/5/07

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9-5-17

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جو الہ آباد چیف جج برقی و مورفہ ۱۸۰۸ تھانہ اینٹی کریپشن
 کوہستان، سیریل نمبر ۱۔ عبدالغفور ولد مولوی عبدالخالق آرڈر برقی
 2529-34 مورفہ 26-8-08 رجسٹرڈ سیم ۵۵۰ آفسی سب
 دیکھا گیا جس میں مضمون پر فلورڈ تک گئی ہے جو کہ مشکوک ہے۔

سیریل نمبر (2) محمد ظہیر ولد میرزا خان آرڈر نمبر 79-7775 غلط ہے
 قبیلہ DCO آفسی PS براہیخ فائل نمبر 11 Polla کی Endost کاپی برقی
 فلو ناظم کوہستان کو ہے۔ جس کا مضمون یہ ہے۔
 Monthly Meeting of Law & order situation for the Month of Oct: of 2017.
 اور نہ کسی کا آفسی آرڈر ہے۔ از نوٹ برقی 9775 مورفہ
 1-11-07 ہے۔

لیڈا رپورٹ عرفہ ہے

تاج دہا و سیم کلرک DC آفسی کوہستان
 15-5-17

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

S.A.No.700/2016

Muhammad Nazir.....Appellant

VERSUS

DEO and othersRespondents

REJOINDER ON BEHALF OF THE APPELLANT TO THE
COMMENTS FILED BY RESPONDENT NO.5

Respectfully Sheweth

The preliminary objections raised by answering respondents are erroneous and frivolous, having no factual and legal backing. The appellant has got a very prima-facie case and locus standi. All the objections have been raised by the respondent in his comments are totally incorrect and against the facts and circumstances.

That the appellant has rightly been appointed by the than competent authority, moreover, on a unanimous application/ complaint the Anti-Corruption Department Khyber Pakhtunkhwa also took initiated some proceedings against the appellant alongwith other, but they have too recommended their findings towards departmental action/ inquiry into the matter; hence through a single stroke of a show cause notice, the respondents removed the appellant from his legal and lawful right of service, which amounts to abuse of law.

FACTS:

- 1) Para-1 of the comments is incorrect, misleading and against the facts and circumstances. Moreover, the answering respondent, himself admitted and lead the case towards the factual controversies, which without holding proper inquiry in proper manner is not possible to meet the fair ends of justice. Hence, the impugned orders are illegal and unlawful, however, the appellant has rightly been appointed by the than competent authority. The respondent No.5 was the than competent authority, who issued the appointment letter to the appellant after fulfilling all the codal formalities, hence the denial in the present case/ situation, the custodian of the record is the respondent No.5 not the appellant.

Further stated that, the Anti-Corruption Department Khyber Pakhtunkhwa also recommended and requested that the regular inquiry shall be initiated against the appellant alongwith others by the department to reach to the conclusion, hence the

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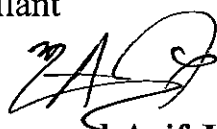
appellant himself submitted an application for regular inquiry, but the competent authority passed the impugned order in hasty manner, which is illegal and unlawful. (Copy of letter dated 09.04.2018 is attached)

- 2) Para-2 of the comments is incorrect. Detail reply has already been given in proceeding paras.
- 3) Para-3 of the comments is incorrect. Detail reply has already been given in proceeding paras.
- 4) Para-4 of the comments is incorrect. Detail reply has already been given in proceeding paras.

GROUNDS

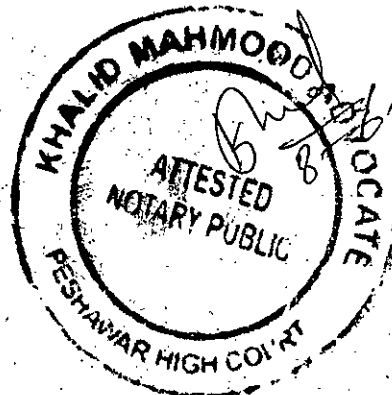
Grounds A to I are incorrect, misleading, misconceived against the facts and circumstances, the unsatisfactory reply of the respondent will not absolve him from the legal and lawful right of appointment of the appellant.

It is, therefore, humbly prayed that, on acceptance of this Rejoinder the comments filed by respondent No.5 may kindly be declared as illegal and against the facts & circumstances and the Appeal of the appellant may kindly be allowed as prayed for.

Appellant
Through 
Muhammad Arif Jan
Advocate High Court
Peshawar

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the accompanying **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.




Deponent



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**DIRECTORATE OF
ANTI-CORRUPTION ESTABLISHMENT,
KHYBER PAKHTUNKHWA,
PESHAWAR.**

No. /ACE, Dated 17/04/2018.

To

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

Subject:- OPEN ENQUIRY NO. 14/2017-EDU: AGAINST THE CONCERNED
STAFF OF ELEMENTARY AND SECONDARY EDUCATION
DEPARTMENT, DISTRICT KOHISTAN.

The subject enquiry was initiated on the basis of complaint submitted by All A.T Teachers containing allegation of corruption and irregularities in the appointment process of A.T teachers by the subject staff etc.

The matter was enquired by this Establishment, during the course of enquiry, the field staff collected relevant record from the concerned office and recorded statements of all concerned, that the allegedly departmental selection committee has appointed some Arabic teachers where in the orders of Abdul Saboor and Muhammad Nazir were detected bogus by the department and they were removed from service. Both the teachers were challenged their removal orders in Khyber Pakhtunkhwa services tribunal Peshawar and still subjudice. Negligence on the part of DEO officials, hence recommended to refer the subject enquiry to your office for departmental action and recover the salary amount form the Teachers after decision of Services Tribunal.

In view of above, it is requested that the complaint alongwith photo copies of relevant documents are sent herewith for further necessary action, under intimation to this office.

Encls:- (As above).

Assistant Director (Complaints)
For Director Anti- Corruption Estt:
Khyber Pakhtunkhwa,
Peshawar.

No. /ACE, dated /04/2018.

Copy forwarded for information to the:-

1. Assistant Director Crimes, ACE, Manshra alongwith enquiry file.
2. All A.T Teachers District Kohistan.
3. SA, ACE, Peshawar.

Assistant Director (Complaints)
For Director Anti- Corruption Estt:
Khyber Pakhtunkhwa,
Peshawar.