

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 670/2014

Date of Institution ... 24.04.2014

Date of Decision ... 12.09.2017

Muhammad Qayum son of Ziarat Muhammad (Ex-Chowkidar, GPS Bakhshali, Mardan) R/O Moh. Gharib Abad, Village Khair Abad, Mardan. ... (Appellant)

VERSUS

1. The Executive District Officer (E&SE), Mardan ... (Respondents)
and 4 others.

MST. UZMA SYED,
Advocate.

For appellant.

MR. MUHAMMAD JAN,
Deputy District Attorney.

...

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. GUL ZEB KHAN,

...

...

CHAIRMAN
MEMBERJUDGMENT

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

FACTS

2. The appellant was removed from service vide order dated 26.07.2012 from a retrospective date i.e. 15.11.2011 against which the appellant filed a departmental appeal on 12.3.2014 which was rejected on 27.3.2014 and thereafter the present appeal was filed on 24.04.2014.

ARGUMENTS

3. The learned counsel for the appellant argued that the authority initiated the proceedings and passed the impugned order under the repealed Ordinance i.e.

Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. That in view of judgment reported in NLR-2006-Services-51, the whole proceedings are void ab-initio. She also argued that the order has been given retrospective effect and in view of the judgment reported as 2007-PLD-Supreme Court-52, no retrospectivity can be given to an executive order. That no limitation runs against the appellant as the order is void being passed under the repealed law.

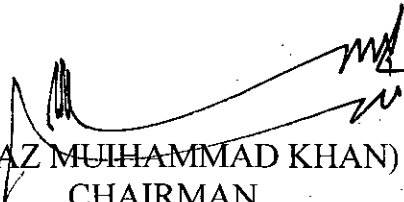
4. On the other hand, the learned Deputy District Attorney argued that mere citing of a wrong law does not vitiate the proceedings and in this regard he relied upon a judgment reported as 2010-SCMR-354. He further argued that the departmental appeal was time barred and the present appeal is therefore also time barred and limitation would run in the present case as the impugned order is not a void order and merely citing of a wrong law does not make the order even illegal. He further relied upon 2016-PTD-296.

CONCLUSION.

5. This is a settled position of law that mere citing of a wrong law would not make an order illegal provided that the spirit of the relevant law is followed by the authority. We are to see as to whether the spirit of the relevant law in vogue i.e. Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 has been fulfilled in the impugned order. While going through the impugned order we see that the competent authority had appointed an enquiry committee to scrutinize the conduct of the appellant. The competent authority had also issued a show cause notice at the home address of the appellant. Coming to the E&D Rules, 2011 the procedure was not to appoint an enquiry committee nor the competent authority was to issue show cause notice. According to Rule 9 of the said rules, the competent authority was to issue a simple notice through registered acknowledgement on the home address of the appellant, directing him to resume duty within 15 days of the issue of such notice. But the competent authority instead issued a show cause notice to the appellant and also appointed an enquiry committee and then issued advertisement in

two newspapers. All this shows that the spirit of E&D Rules, 2011 is not fulfilled and this is not an issue of mere citing of wrong law but the proceedings cannot be held to be undertaken under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. If this is the case then the judgment relied upon by the learned Deputy District Attorney of the august Supreme Court of Pakistan of 2010 is not attracted to the present case. Similarly another judgment relied upon by him of 2015 regarding void order does also not favour the department because when the whole proceedings were held to be initiated not under the E&D Rules, 2011 then the authority acted without jurisdiction and *coram non judice*. In such situation, the order becomes void and no limitation shall run against the appellant.

6. As a consequence of the above discussion, the appeal is accepted, however, the department is directed to initiate and conclude the proceedings against the appellant under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 within a period of ninety days from the date of receipt of this judgment. The question of back benefits shall be subject to outcome of denovo proceedings. In case the respondents fail to conduct and conclude denovo proceedings within the stipulated period, then the appellant shall be deemed to have been reinstated in service. Parties are left to bear their own costs. File be consigned to the record room.


(NIAZ MUHAMMAD KHAN)
CHAIRMAN


(GUL ZEB KHAN)
MEMBER

ANNOUNCED

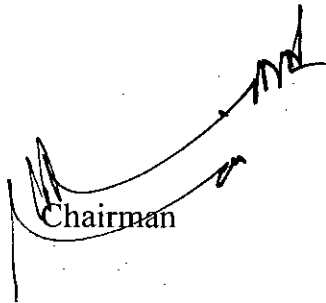
12.09.2017

12.09.2017

Appellant alongwith counsel and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Arguments heard and record perused.

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

Member 


Chairman


ANNOUNCED

12.09.2017

29.07.2016

Appellant with counsel (Ms. Uzma Syed, Advocate) and Asst: AG for respondents present. Counsel for the appellant requested for adjournment. Adjournment granted. To come up for arguments on 23.11.2016.


Member


Member

23.11.2016

Counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. Learned counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 24.3.17 before D.B.



(ABDUL LATIF)
MEMBER

(MUHAMMAD AMIR NAZIR)
MEMBER

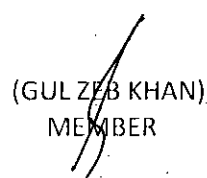
24.03.2017

Appellant with counsel Mr. Kabir Ullah Khattak Assistant AG for the respondents present. Argument could not be heard due to incomplete bench. To come up for final hearing on 31.07.2017 before D.B.


Chairman

31/7/2017

Counsel for the appellant and Mr. Zaiullah Deputy District Attorney for respondent present. Counsel for the appellant seeks adjournment. To come up for arguments on 12/9/2017 before D.B.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD HAMID MUGHAL)
MEMBER

12.08.2015


Appellant in person, M/S Naeem Akhtar, Legal Representative, Javed Ahmed, Supdt. and Khurshid Khan, SO alongwith Assistant A.G for all respondents present. Learned Assistant A.G rely on the written statement already submitted by respondents No. 3, 4 and 5 on behalf of respondent No. 2. The appeal is assigned to D.B for rejoinder and final hearing for 1.12.2015.


Chairman

01.12.2015

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 7/4/16


Member


Member

07.04.2016

Counsel for the appellant and Mr. Hameed-ur-Rehman, AD (lit.) alongwith Mr. Kabirullah Khan Khattak, Assistant AG for respondents present. Rejoinder submitted, copy whereof of handed over to learned Assistant AG. To come up for arguments on 29.7.16


Member

06

28.01.2015

Agent of counsel for the appellant, M/S Mosam Khan, AD for respondent No. 4 and Khurshid Khan, S.O for respondent No.5 alongwith Mr. Ziullah, GP for all respondents present. Written reply not submitted. The same be submitted on 30.03.2015.


Chairman

7

30.03.2015

Appellant in person and Mr. Naeem Akhtar, Legal Adviser alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments for 4.6.2015 before S.B.


Chairman

04.06.2015

Appellant in person and Mr. Naeem Akhtar, Legal Adviser alongwith Addl: AG for the respondents present. Written reply/comments on behalf of respondents No. 3,4 and 5 submitted. Notices be issued to respondents No.1 and 2 for submission of written reply/comments on 12.08.2015 before S.B.


Member

3. 04.07.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 26.07.2012, he filed departmental appeal on 12.03.2014, which has been rejected on 27.03.2014, hence the present appeal on 24.04.2014. He further contended that the impugned order dated 27.03.2014 has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules 1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 29.09.2014.

Member

4. 04.07.2014

This case be put before the Final Bench for further proceedings.

Chairman

5. 29.09.2014

Counsel for the appellant present. Notices to the respondents could not be issued due to non-deposit of security and process fee. The learned counsel for the appellant requested for further time in order to deposit the security amount and process fee. The same be ~~paid~~ ^{deposited} within a week, whereafter notices be issued to the respondents for written reply/comments on 28.01.2015.

Appellant Deposited
Security & Process Fee
Rs. 4,000/- Bank
Receipt is Attached with File.

Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 670/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	12/05/2014	<p>The appeal of Mr. Muhammad Qayum resubmitted today by Mr. Muhammad Ashfaq Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	15-5-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>4-7-2014</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>


Receipt is attached with File.
 As per Security & Process Fee
 Bank
 Appellant Deposited

The appeal of Mr. Muhammad Qayum Chowkidar GPS Bakshali received today i.e. on 24.04.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal is unsigned which may be got signed by the counsel.
- 2- Heading of the appeal is incomplete which may be completed.
- 3- Law under which appeal is filed is wrong.
- 4- Addresses of respondents No. 3 and 5 are incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974
- 5- Medical Certificate mentioned in para-3 of the memo of appeal (Annexure-B) is not attached with the appeal which may be placed on it.
- 6- Annexures of the appeal may be attested.
- 7- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.


No. 664 /S.T,

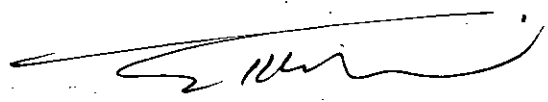

Dt. 25/04 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Ashfaq Adv. Pesh.

12.05.2014 Sir, Resubmitted after complainer, as desired.


Syed Muhammad Imran
Advocate
Mardan.



M. Ashfaq

BEFORE THE SERVICE TRIBUNAL PESHAWAR

Appeal No. 670/2014

Mr. Muhammad Qayum.....Appellant

VERSUS

The Secretary Education etc.....Respondents

INDEX

S. No	Description of Documents	Annexure	Page No.
1.	Service Appeal	-	1 to 2
2.	Affidavit	-	3
3.	Appointment Order	A	4
4.	Impugned Order	B	5
5.	Representation & Reply	C & D	6 to 7
6.	Medical Certificates and Karachi Ticket	E to J	8 to 13
7.	Leave Application dated 10-11-2011	K	14
8.	Newspaper Publication (Show Cause Notice)	L	15
9.	Wakalatnama	-	16
	Total	-	16

Dated: 24-04-2014

Appellant:

M. Qayum
(Muhammad Qayum)

Through:

[Signature]
Syed Muhammad Imran Advocate
&
[Signature]
Muhammad Ashfaq Advocate

BEFORE THE SERVICE TRIBUNAL PESHAWAR

Appeal No. 670 /2014

624
24/4/2014

Mr. Muhammad Qayum s/o Ziarat Muhammad (Ex-Chowkidar GPS Bakhshali,
Mardan) r/o Mohallah Gharib Abad, Village Khair Abad, Tehsil and District Mardan. —

(Appellant)

VERSUS

1. The Executive District Officer (Elementary and Secondary) Education Department, Mardan.
2. The Principal Government Primary School, Bakhshali, Mardan.
- ✓3. The District Education Officer (Male), Mardan.
4. The Director (Elementary and Secondary) Education Department, KPK, Peshawar.
5. The Secretary Education, KPK, Peshawar.

(Respondents)

APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974,
AGAINST THE ORDER OF THE EDO (E&S)/RESPONDENT
NO.1 VIDE ENDST NO.10594-96/PF DATED 26-07-2012,
TERMINATING THE SERVICE OF APPELLANT.

FACTS:

1. That the Appellant was appointed as Chowkidar by EDO, Schools and Lit; vide Order No. 8594/G dated 27-05-2006 and posted at GGHSS Rustam, District Mardan. (Copy is attached as Annexure "A").
2. That the service of Appellant was terminated by EDO (E&S)/Respondent No.1 vide Order dated 26-07-2012 on the alleged ground of being "Absent from Duty". (Copy is attached as Annexure "B").
3. That grieved there from, the Appellant represented there against on 12-03-2014 which representation was rejected vide Order dated 27-03-2014, hence this appeal. (Copies are attached as Annexure "C" and "D").
4. That the impugned order is unjustified, illegal, against principles of natural justice and liable to be set aside on the following amongst other grounds:

as submitted to
and filed.

24/5/14

GROUNDS:

- i. That no doubt that representation was preferred after the period of 30 days, but the same is decided on fact without objection as to Limitation, hence, delay stands condoned.
- ii. That in the year 2011 mother of the Appellant fell seriously ill and was taken to Karachi due to her bad health condition and was hospitalized there. The Appellant had to remain with her for her proper care. **(Copies of medical certificates and ticket of Karachi are attached as Annexure "E" to "J").**
- iii. That while leaving for Karachi the Appellant moved an application for grant of leave to the Respondent No.1 on 10-11-2011, but the rejection thereof was not conveyed to the Appellant, he considered the same to have been accepted. **(Copy is attached as Annexure "K").**
- iv. That absence of Appellant was not willful and deliberate, but on the sole grounds as mentioned above.
- v. That the Appellant has never been to Saudi Arabia and the said allegations are incorrect and false.
- vi. That advertisement through press does not fulfill the requirements of the show cause notice. **(Copy is attached as Annexure "L").**
- vii. That the Appellant is condemned unheard and is not provided any chance of defense, throughout.
- viii. That the Appellant is jobless after the impugned order.
- ix. That the Appellant seeks leave of this Honorable Tribunal to claim further grounds also.

It is, therefore, prayed that on acceptance of this Appeal, the impugned order may be set-aside and the Appellant may be re-instated in service with back service benefits and cost of this Appeal may also be awarded.

Dated: 24-04-2014

Appellant:

M. Qayum
(Muhammad Qayum)

Through:

[Signature]
Syed Muhammad Imran Advocate

&

[Signature]
Muhammad Ashfaq Advocate

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL
PESHAWAR

Mohammad Qayum vs Education etc

AFFIDAVIT

I, Mr. Mohammad Qyum EX Chowkidar Govt Primary School Bakshali ,Resident of Gareeb Abad ,PO Khair Abad Distt and Tehsil Mardan,do here by solemnly declare and affirm as under:-

1. That the accompanying Appeal has been drafted and filed on my instructions.
2. That the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.
3. That the deponent has not earlier filed any appeal in any bench of this Hounrable tribunal.

Verification

Verified on oath at Mardan 23 day of April 2014 that the contents of this affidavit are true and correct.



M. Qayum

Deponent

OFFICE OF THE EXECUTIVE DISTT. OFFICER SCHOOLS AND LIT. MARDAN.

Amruse
for
Attd
A

25% Retired Class-IV Sons Quota.

Consequent upon advertisement published in Daily Masirah dated 14.12.2005 and interview held on 31.12.2005 and the approval given by the Departmental Selection Committee, the undersigned is please to appoint the following candidates against the vacant class-IV @ Rs. 2500/- P.M. Fixed against the Retired Employees Children quota in the institution as noted against each on the following Terms and condition.

S.No.	Name/A.Name/Address.	Posted at	Remarks.
1-	Mohammad Fayaz S/O Lariat Mohd R/O Ghazib Road, Khairabad (Mdn).	L/Attd: at GGHSS. Kustam.	A.V. Post.
2-	Ayaz Ali S/O Said Rehman R/O Ghazib Dheri.	N/Qasib at GHS. Pato Dheri.	A.V. Post.
3-	Wilayat Khan S/O Dilawar Khan R/O Bughadada.	Chowk: GHS. Ibrahim Killi.	A.V. Post.
4-	Aziz-ur Rehman S/O Said Rehman R/O Shahbaz Garhi.	N/Q. GHS. Sawal Dheri.	A.V. Post.
5-	Mohammad Diyar S/O Lariat Mohd - Khan. (S/O Hst. Jal Bibi Rtd). R/O Hathian.	Chowk: G.E. School, Gul Malka.	A.V. Post.
6-	Ashgar Ali S/O Shamsher Khan R/O Takkar.	Chowk: GGHSS. Takkar.	A.V. Post.
7-	Shahid Khan S/O Miranshah R/O Muxarx Shamatpur (Swaryan).	Chowk: GGPS. Swaryan (Mdn).	A.V. Post.
8-	Bashir Ahmad S/O Faqir Mohd R/O Lund Khwar.	L/Attd: GHS. Takkar.	A.V. Post.

Terms and Conditions.

- 1- Their appointments are purely made on fixed pay basis for the period of 3 years which is extendable on good performance.
- 2- The appointments will liable to termination at any time without notice/reason.
- 3- Their age limit 18 to 45 years. (45 Years) and will produce health and age certificate from Medical Supdt: Mardan and will sign a service agreement.
- 4- They will take over charge within 15 days.

(Khan Wali Mohammad)
Executive Distt. Officer
Schools and Lit: Mardan.

Dated Mardan, the 27-5/2006.

Endst. No. 8594/5

Copy forwarded to the:-

- 1- DSB. NWFP. Peshawar.
2. District Nazim Mardan.
3. D.C.O. Mardan.
4. D.A.O. Mardan.
5. D.C. (M/F) S&L Mardan.
6. DDO (M/F) in Mardan Distt
- 5- Principals/H.M. and H/Teachers concerned.
- 6- Candidates concerned.

Executive District Officer
Schools and Lit: Mardan

27/5

OFFICE ORDER.

5

In exercise of KPK removal from service (Special Powers) ordinance 2000, revised in devolution of powers w.e.f. 15.11.2011 conferred upon as competent authority ordered initiation of disciplinary proceedings against Mr. Muhammad Qayum Chowkidar GPS, Bakhshali and constituted enquiry committee vide order No. 6651-54/P.F Dated 14.05.2012 to scrutinize the conduct of the accused for the allegation attached therewith.

Annexure

You, Mr, Muhammad Qayum Chowkidar GPS, Bakhshali Mardan remained well full absent from duty w.e.f 15.11.2011 till date and through a reliable sources you are reported to be abroad without permission of the competent authority.

"B"
Attested
Arif

And whereas a departmental inquiry was constituted against you to find out the facts and figures.

And whereas you did not appear before the inquiry committee and failed to produce any defence in your support, and therefore the inquiry committee recommended you for removal from service.

And whereas show cause was sent to you on your home address vide letter 3836-38 Dated 27.03.2012 which was received by Muhammad Naeem PST.

And whereas show cause notice was published in 2 (two) newspapers, which you did not responded.

And whereas you have submitted an application for one month time on 12.06.2012. But you did not attend this office upto 21.07.2012.

Now, the undersigned as competent authority is satisfied that the charges against you are proved and therefore ordered your removal from service w.e.f 15.11.2011.

(BAHADAR-KHAN MARWAT)
EXECUTIVE DISTRICT OFFICER
(E & S) EDUCATION MARDAN.

Endst: No 10594-96 /P.F

Dated 26/7/2012

Copy forwarded to the:-

1. Dy: District Officer (M) Pry: Mardan.
2. District Accounts Office Mardan.
3. Official Concerned.

No. 1847
Dated 28/7/12
DPO (M) Mardan
S & L

EXECUTICE DISTRICT OFFICER
(E & S) EDUCATION MARDAN.

OFFICE OF THE DY: DISTRICT OFFICER (MALE) PRIMARY MARDAN.

Endust: No 2080-9 Circle Gujrat File. 1/8/12.

Copy to the:-

1. Assistant District Officer Circle Gujarat Mardan follow up the above case immediately.

(6)

Annexure

4 c "

Attested

(Signature)

To,

The District Education Officer
(Male) Mardan.

Subject: RE-INSTATEMENT IN SERVICE

Respected Sir,

With due respect it is submitted that I was serving in Education Department as Chowkidar at G.P.S Bakhshali Mardan, due to my some domestic problems I went to Karachi for some time, and process my application for leave, but could not honour my application and my service was terminated.

Sir, I belong to a poor family, as I have completed 5 years & 6 months service in education department.

Therefore, it is requested that I may please be re-instated in service with all back benefits.

Thanks

Yours obediently,

M. Qayum

12/3/2014

Muhammad Qayum
Ex-Chowkidar
G.P.S Bakhshali Mardan

DISTRICT EDUCATION OFFICER
(MALE) MARDAN.

No. 2155 / Dated: 27/3 / 2014.

To

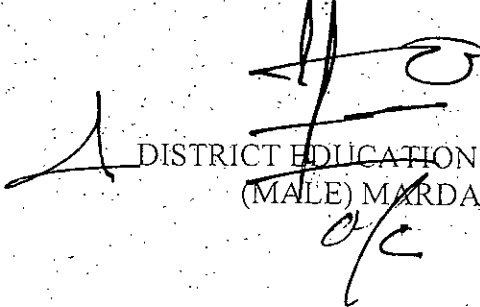
Mr. Muhammad Qayum Ex-Chowkidar
GPS, Bakhshali Mardan village: Gharib abad
P/O Khair Abad District Mardan.

Subject:- RE-INSTATEMENT IN SERVICE.

Memo:-

Reference your appeal on the subject cited above.

In this connection you are informed, that the undersigned is pleased to
reject your appeal.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN.

Page

(31)
(7)

Annuance
& D 3

Attested



Signature 'E'

Attested
[Signature]

J.P.M.C.-21

C. R. No. 93630

JINNAH POST-GRADUATE MEDICAL CENTRE

DISCHARGE TICKET

Dept. of: Medicine WD. No. Medical U-II
 Name: Mio Mohel Qayom
 Age: 624 Sex: F
 Address: main university Road
P.T.B Colony Karachi
New Askary Park

Admitted on 03/04/02 Discharged on 28/06/02

Advice:

Follow up OPD in medical II
For further management & evaluation.



Accident & Emergency Department

Jinnah Postgraduate Medical Centre
Karachi-75510

Anaesthesia
e. F.
Accepted
(Signature)

J3630

E.R. No. _____ ML No: nil Date: 03-04-10
Time: 11:45
Name: M/O M. Qayyum S/o. D/o. W/o. _____ Age: 62 M F
Address: Main University Road Al-B Colony Karachi

Presenting Complaints and Brief History:

Peripheral edema,
Distension abdomen generalized weakness,
yellow discoloration.

Examination:

Chest congested & Respiratory
distress & SpO2.
Low Blood Pressure & Brachycardia.

PROVISIONAL DIAGNOSIS:

HCV RNA Positive.

Time:	Treatment	Sign
	<u>inj. Ceftriaxone 2gm BD</u>	
	<u>inj. Decadron 4mg qd</u>	
	<u>inj. Folic Acid 5mg</u>	

Tick The Investigation sent:

- CBC
- UREA
- CREATININE
- ELECTROLYTES
- LFTS
- RBS 330 mg/dl.
- PT/INR
- URINE D/R
- ECHO CARDIOGRAM
- CT SCAN Brain Chest Abdomen Pelvis
- X-RAY Chest AP Lat. AP Lat.
- U/SOUND Chest Breast Abdomen Pelvis Kidneys & Renal Tract
- MRI

*Call attendant
by ER - Refer
to medical unit
for more
fruitful and
investigation.*

Referred to (Department) (1) medical unit (2) II (3) _____

Notes from Referral departments:

1. Name of the Department: medical unit II
Date/Time: 03/04/02
Evaluation/Management: _____

maintain 12 line
Send investigation call given
to medical unit II
medication has been given
on spot.

2. Name of the Department: _____
Date/Time: _____
Evaluation/Management: _____

3. Name of the Department: _____
Date/Time: _____
Evaluation/Management: _____

Final Outcome:
 Discharge Admit (Dept): medical II Referred (Dept): _____

Dr. Name: Dr. Shazia Sign: [Signature]

Note: Please do not detail patients in Accident & Emergency Department.
Calls should be attended as soon as possible.



(10) Anaxture
c G

JINNAH POSTGRADUATE MEDICAL CENTRE KARACHI

Attested
[Signature]

Name of Patient M/O M. Qayom Bed No. 30 Ward No. M.U. II C.R. No. 93630

CONSULTATION SHEET

Consulting Department & Physician / Surgeon <u>Medical unit II</u>	Requesting Department & Physician / Surgeon <u>Emergency</u>
Date & Time <u>3 AM 03/04/12</u>	Date & Time <u>2 AM 03/04/12</u>
Type of Comments	
IMMEDIATE <input type="checkbox"/>	URGENT <input checked="" type="checkbox"/>
ROUTINE <input type="checkbox"/>	

Reason for Consultation:

The Pts is already HCV RNA Positive & Liver cirrhosis Present.

Consultation Report:

Clinical Notes: *Patient received from Emergency at 4 AM. General Condition of Patient is not Satisfactory, Congested chest & Respiratory distress and Constipation. The Pts is Suffer from HCV RNA +ve Generalized weakness and lack of appetite. Low B.P. Broadly Concave Present.*

Treatment:

- 1mj - Ciprofloxacin 200mg x BD.*
- 1mj - Ceftriaxone 1.5mg x BD.*
- 1mj - Dexamet 4mg x 8H*
- 1mj - LoSik 20mg x BD.*
- 1mj - Solifenacin 5mg sos*

Date & Time: 3/4/12

Signature

Name: D. Ab. Jahan Mahmood

(11)

Ananture

جنح پوسٹ گریجویٹ میڈیکل سینٹر کراچی

ORTHOPAEDIC WARD NO. 14

اجازت نامہ معاہدہ برائے ہائی رسک

باجرہ بیگم

مریض کا نام

30

بیڈ نمبر

مولدہ اجناس زوجہ

دارڈ صدر علی 34

جنس

62 سال

آپریشن کا نام

ڈاکٹر کا بیان میں نے مریض کی فیملی کو دوران آپریشن پیدا ہونے والی پیچیدگیوں اور زندگی کو لاحق خطرات اور آپریشن کے بعد ہونے والی پیچیدگیوں کے بارے میں مکمل طور پر آگاہ کر دیا ہے۔

اس آپریشن میں جنرل لوکل، ریجنل اور مائیز ڈسٹھیا کثیر کا استعمال ہو سکتا ہے۔

مریض کا بیان میں علی غنی (مریض سے رشتہ) والد محمد ڈاکٹر صاحبان جن کا تعلق جنح پوسٹ گریجویٹ میڈیکل سینٹر سے ہے میرے مریض پر درجہ بالا آپریشن کرنے اور کو بیہوشی دینے کا اختیار دیتا دیتی ہوں۔

ڈاکٹر صاحبان نے مجھ کو مجوزہ آپریشن کی نوعیت، مقصد اور اس کے ساتھ ساتھ اس آپریشن سے لاحق ممکنہ خطرات سے آگاہ کر دیا ہے۔

۳۔ میں ہسپتال میں میسر تمام طبی سہولیات اور خدمات سے پوری طرح واقف ہوں اور انکو اپنے مریض کو دینے کی اجازت دیتا دیتی ہوں۔

۴۔ میں جنح پوسٹ گریجویٹ میڈیکل سینٹر اور ان سارے ڈاکٹروں کو جن کا اس آپریشن سے تعلق ہے کسی بھی قسم کے نقصان، حادثے یا غیر اتفاقی موت جو کہ میکینیکل خرابی یا آپریشن سے پیدا ہونے والی پیچیدگیوں یا دوران علاج پیدا ہونے والی پیچیدگیوں سے رونما ہوئی تو اس کا ذمہ دار ہسپتال یا اس میں کام کرنے والے کسی فرد کو ذمہ داری نہیں ٹھہراؤں گا گی۔

۵۔ میں امیرے مریض کو کائنات کی اجازت دیتا دیتی ہوں۔

اگر مریض دستخط نہ کر سکے، لیکن اس کا 11 کی رضامندی شامل ہو تو ضروری ہے کہ گواہ اسکی جگہ دستخط کرے۔ کم عمر افراد یا بچوں کے سرپرست یہاں دستخط کریں۔

علی غنی

گواہ علی غنی

نام

اجازت نامہ دینے والے کا مریض سے رشتہ

دستخط علی غنی

تاریخ 3/4/12 وقت 3am

تاریخ 3/4/12 وقت 3am



انگوٹھے کا نشان

اگر رضامندی دینے والے شخص دستخط نہ کر سکتا ہو تو اسکے انگوٹھے کا نشان ثبت کرایا جائے۔

CHECK LIST

(To be fill by TRMO / POSTGRADUATE)

Date 3/4/12Time 3Am1. Consent taken Pulse 84 B/min2. Special consent taken BP 140/80 mm/Hg3. Vitals Checked Temp 98.0 F4. Dressing / cast removed Hb % 65. Anaesthesia fitness accorded Sugar (Fasting) 120 mg/dl (Random) 330 mg6. Implants arranged WBC 25000/mm7. Blood arranged Creatinine 58. Pre Medication given Allergies nil

Doctor's Signature & Name
(Write Name in Capital Letters)

DR. ALAM

(12)

Anaxtuse
e I

Attested
J.P.M.C.-1
A. [Signature]

JINNAH POST-GRADUATE MEDICAL CENTRE KARACHI.

REGISTRATION SHEET

NAME: (Block Letters) <u>M/O MOHAMMAD QAYOUM</u>		HOSPITAL ADMISSION NO. <u>93630</u>	
AGE: <u>62y</u>	SEX: M <input type="checkbox"/> F <input checked="" type="checkbox"/>	STATUS: M <input checked="" type="checkbox"/> S <input type="checkbox"/> W <input type="checkbox"/>	Occupation:
ADDRESS: (Block Letters) <u>Main university Road P.I.B Colony Karachi</u>			
TIME AND DATE OF ADMISSION: <u>03-04-2012 at 4AM</u>			
TIME AND DATE OF DISCHARGE: <u>28-06-2012</u>			
MODE OF ADMISSION:	FROM O.P.D. <input type="checkbox"/>	EMERGENCY <input checked="" type="checkbox"/>	REFERRED <input type="checkbox"/> TRANSFER <input type="checkbox"/>
NEXT OF KIN TO BE INFORMED: (Name & Address) <u>Mohd Raza Khan</u>		Telephone: <u>0343-3035478</u>	
BED NO.: <u>30</u>	WARD NO.: <u>Medical unit II</u>		
ADMITTED UNDER THE CARE OF: <u>Dr. Abdul Jabbar Memon</u>			
DISPOSAL:	DISCHARGED <input checked="" type="checkbox"/>	DIED <input type="checkbox"/>	LEFT AGAINST ADVICE <input type="checkbox"/>
DIAGNOSIS: (FINAL)	PRIMARY DIAGNOSIS: <u>Abdominal distention</u> <u>e Collateral veins & Liver</u> <u>Cirrhosis</u>		
<u>Hcv Positive</u>	ASSOCIATED DIAGNOSIS:		
OPERATION:	PATH DIAGNOSIS	DATE:	[Signature] SURGEON

SUMMARY:
 General Condition of Patient is very poor
 Prognosis & vitals not stable. The Pts is Hcv RNA
 Positive. Suffer from Liver Cirrhosis & abdominal
 distention e Peripheral oedema.

13

Amenure

9 J 22

Attested

Attested



نماز سے مت کہو کہ مجھے کام کرنا ہے۔ کام سے کہو مجھے نماز پڑھنا ہے۔

بونیر شاہد آجوگ

بونیر سوازی ٹو کراچی

حیدرآفس: دیوانہ بابا روڈ نزد شارعہ ہول سوازی بونیر فون 0939-555494

کراچی ٹو بونیر سوازی

جنرل نیچر: شیر خان: 0342-8994520 - 0333-9594799

نیچر: سید افسر: 0332-9892865 باچا خان: 0333-9703137

تاریخ: 25-12-2015

روز: 9

سین نمبر: 35

تعداد سواری: 70

کرایہ: 1400

تعمیر: دتھلا

سرپرست اعلیٰ: الحاج سید اکبر خان * زیر انتظام: حاجی اسماعیل، حاجی تاج برین خان

محترم جناب ایگزیکٹو ڈسٹرکٹ آفیسر ایجوکیشن مردان

عنوان :- درخواست برائے لائٹ لیو ڈوسال

14 Annexure

CK

حساب عالی
لمعتالی
Attest

تیز رفتاری کی جاتی ہے کہ سائل گورنمنٹ پرائمری سکول بخشالی
میں بطور جوگنڈاز اپنی ڈیوٹی انجام دے رہا ہے۔ سائل کو کچھ گولوں
مصرفات کی وجہ سے دو سال کی چھٹی کے اندر ضرورت ہے۔ اس لیے آپ

مناصرت کی خدمت میں التماس ہے کہ سائل کو دو سال از 15-11-2011

2013-11-14 چھٹی دینے کے احکامات صادر فرمائیں مشکور و ممنون فرمادیں

بیم نواز شاہ بہرگی
فقط زیادہ آداب

السعاری

M. Dayam

محمد نعیم جوگنڈاز جی ایس بخشالی

No 187 Dated 10.11.2011
Recommended and forwarded to the ADD Circle Syral
with provision of a suitable replacement
Please.

س.س.
Head Teacher
G.P.S Bakhshali
(Mardan)

Recommended and forwarded to
D.D. (Cm) P.S. Mardan for
n/a Please.

Used
Asst. Dir. Dist. Officer
(Edu) Mardan

15

روزنامہ شرق پشاور اسلام آباد..... (4)..... 8 جون 2012ء

Amnecuse

6/6/12

Attest Steel
Auk

شوکاز نوٹس

15-11-2011 سے مسلسل غیر حاضر ہیں اور باوثوق ذرائع سے معلوم ہوا ہے کہ آپ سعودی عرب میں کام کر رہے ہیں اور پاکستان سے باہر ہیں اسلئے آپ کو بذریعہ نوٹس اطلاع دی جاتی ہے کہ آپ سات دن کے اندر واپس آنے کے لئے تیار ہو جائیں اور اپنی غیرحاضری کی مستقل وجہ بتائیں بصورت دیگر آپ کے خلاف یکطرفہ قانونی کارروائی کی جائیگی اور آپ کو ملازمت سے برطرف بھی ہو سکتی ہے۔

بہادر خان مراد ایگزیکٹو ڈسٹرکٹ آفیسر ایجوکیشن ڈپارٹمنٹ ایجوکیشن مردان

روزنامہ اسپیکر ایس، پشاور۔ جمعہ المبارک 8 جون، 2012ء

ITY



شوکاز نوٹس

آپ کو مطلع کیا جا رہا ہے کہ گزشتہ ہفتے ہفت روزہ شرق پشاور میں 15-11-2011 سے مسلسل غیر حاضر ہیں اور باوثوق ذرائع سے معلوم ہوا ہے کہ آپ سعودی عرب میں کام کر رہے ہیں اور پاکستان سے باہر ہیں اسلئے آپ کو بذریعہ نوٹس اطلاع دی جاتی ہے کہ آپ سات دن کے اندر واپس آنے کے لئے تیار ہو جائیں اور اپنی غیرحاضری کی مستقل وجہ بتائیں بصورت دیگر آپ کے خلاف یکطرفہ قانونی کارروائی کی جائیگی اور آپ کو ملازمت سے برطرف بھی ہو سکتی ہے۔

بہادر خان مراد ایگزیکٹو ڈسٹرکٹ آفیسر ایجوکیشن ڈپارٹمنٹ ایجوکیشن مردان

شاہد سرویس ٹریڈنگ کمپنی

SA 670/2014

2014ء منجانب ایڈووکیٹ
بنام سید ذوالایوب کسٹمز

24 اپریل

محمد قیس

دعویٰ سرویس ایڈووکیٹ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام شاہد کیلئے محمد اشفاق ایڈووکیٹ رینڈم سید محمد عمران ایڈووکیٹ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے وہ ہوگا۔ کوئی تارت پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

M. Ashfaq

2014

24 ماہ 1/1

المرقوم

العبد د گ العبد واہ العبد

کے لئے منظور ہے۔

26

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appela No. 670/2014

Mohammad Qayyum -----Appellant

VERSUS

Secretary Education & others -----Respondents no. 1, 2, 3, 4, 5

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

RESPECTFULLY SHEWETH,

PRELIMINARY OBJECTIONS:-

1. That the appellant has got no cause of action and locus standi to file the instant appeal.
2. That the instant appeal is bad in its present form , and incompetent, hence liable to be dismissed.
3. That the instant appeal is badly time barred.
4. That the instant appeal is not maintainable in the eye of law.
5. That the instant appeal is based on malafide and liable to be dismissed.
6. That the appellant has not come to this Honourable Tribunal with clean hands.
7. That the appellant has concealed the material facts from this Tribunal.
8. That the instant appeal is not maintainable on account of mis-joinder and non-joinder of necessary parties.
9. The appellant has been estopped by his own conduct to file the appeal.
10. That the respondents No.1 accordingly terminated the services of appellant after completion of all codal formalities vide order dated 26-07-2012, copy of which is already appended as Annexure B of the instant appeal.

ON FACTS

28

1. Para 1 pertains to record, hence no comments.
2. Para 2 is correct, to the extent of termination as appellant absented himself from his duty without any prior permission, the respondent No.1 issued show cause notice in two news papers that is Daily Mashriq and Daily Express dated 08-06-2012 copies of publication are already appended as Annexure L of the instant appeal, and then accordingly terminated the services of the appellant.
3. Para 3 pertains to record the representation of the appellant was meritless and was hopelessly time barred hence accordingly rejected.
4. Para 4 is incorrect baseless against law & facts the impugned order was issued by the respondent No.1 according to law and the answering respondent provided free and fair opportunity regarding his absence but the appellant failed to explain any cogent reason within stipulated period hence denied.

GROUND:-

- i. Para (i) of the grounds is incorrect the representation of the appellant was hopelessly time barred hence denied. Furthermore according to ruling of Supreme Court if a representation is rejected it would be considered to have been rejected both limitation as well as merit on the ground.
- ii. Para (ii) incorrect hence denied.
- iii. Para (iii) is incorrect, the appellant neither moved any application for leave nor attend the office of respondent No.1 in this connection hence denied.
- iv. Para (iv) is incorrect, baseless against law and facts the appellant was willful absent and resultantly removed from service hence denied.
- v. Para (v) is incorrect hence denied.
- vi. Para (vi) is incorrect hence denied.

24

- vii. Para (vii) is incorrect the respondent No.1 provided free and fair opportunity to appellant but he could not attend the office of the respondent No.1 nor submitted any written reply regarding the subject matter hence denied.
- viii. Para (viii) is ambiguous, incorrect and baseless hence denied.
- ix. Para (ix) is incorrect, baseless, against law & facts and the instant appeal is meritless hence liable to be dismissed.

Therefore it is humbly prayed that keeping in view the above mentioned facts the instant appeal may kindly be dismissed with cost.

Secretary to Govt of
Khyber Pakhtunkhwa E & SE Department
Peshawar

Director E & SE
Peshawar

District Education Officer
(Male) Mardan

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 670/2014

Muhammad Qayyum

VS

Education Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct. Hence no comments.
- 2 Incorrect. Hence denied.
- 3 Incorrect. While para 3 of the appeal is correct.
- 4 Not replied according to para 4 of the appeal. Moreover para 4 of the appeal is correct.

GROUND:

All grounds of the appeal of are correct, while the reply of the respondents to the grounds of appeal is incorrect.

It is, therefore, most humbly prayed that the appeal of appellatant may kindly be accepted as prayed for.

APPELLANT *M. Qayyum*
Muhammad Qayyum

Through:

Uzma
(UMZA SYED)

&

(FAIZA MIR)
ADVOCATES, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

DEPONENT

قیمت
10 روپے

45853



ایڈووکیٹ/ڈسٹیکٹ
بار کونسل ابار ایسوسی ایشن
رابطہ نمبر: 0311-9440376

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سر فہرست کے ذریعے

منجانب:	دعویٰ:
محمد	علت نمبر:
	مورثہ:
	جرم:
	تھانہ:

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی کاروائی متعلقہ

آن مقام پیشوا داد عظمیٰ سید اسد قاضی اہل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقریرات و فیصلہ برطن دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں بد دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا تاخیر یا غلطی یا اہل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل وغیرہ کی پیروی کرنے کا اختیار ہوگا اور صورت ضرورت مقدمہ مذکورہ کے کل باجوری
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ مذکورہ منظور و قبول ہوگا اور ان مقدمہ
 میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف و قبول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا نکات نامہ لکھ دیا تاکہ مندر ہے۔

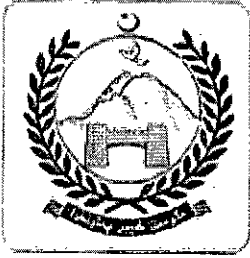
المرقوم: 7-4-2016

بد گواہ شد بد

مقام

Handwritten signature/initials on the left margin.

M. Qayyum



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 2095 /ST Dated: 15/9 /2017

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To,

The District Education Officer (Male),
Government of Khyber Paktunkhwa,
Mardan.

Subject: - **JUDGMENT IN APPEAL NO. 670/2014, MUHAMMAD QAYUM.**

I am directed to forward herewith a certified copy of judgment dated 12/09/2017 passed by this tribunal on the above subject for strict compliance.

Encl: as above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR