

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 938/2015

Date of Institution ... 31.07.2015

Date of Decision ... 01.02.2022

Mr. Muhammad Zubair Khan, Ex-C.T. Government Higher Secondary School,  
Khairabad, Nowshera. ... (Appellant)

**VERSUS**

The Secretary, Government of Khyber Pakhtunkhwa, (E&SE) Department, Civil  
Secretariat Peshawar and others. ... (Respondents)

Syed Noman Ali Bukhari,  
Advocate

... For Appellant

Muhammad Adeel Butt,  
Additional Advocate General

... For respondents

**AHMAD SULTAN TAREEN** ...  
**ATIQU-UR-REHMAN WAZIR** ...

**CHAIRMAN**  
**MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQU-UR-REHMAN WAZIR MEMBER (E):-**

Brief facts of the

case are that the appellant was appointed as Certified Teacher (CT) vide order dated 15-12-2004. During the course of his service, the appellant was dismissed from service vide order dated 11-04-2015 on the issue of fake appointment order. Feeling aggrieved, the appellant filed departmental appeal, which was not responded, hence the instant service appeal with prayers that the impugned order dated 11-04-2015 may be set aside and the appellant may be re-instated in service with all back benefits.

02. Learned counsel for the appellant has contended that the impugned order is against law, facts and norms of natural justice, therefore not tenable and liable to be set aside; that the appellant has not been treated in accordance with law,

hence his rights secured under the Constitution has badly been violated; that after serving for eleven years, the appellant was dismissed from service under the pretext that his appointment order was fake, which however is misreading and non-reading of record, as proper service book of the appellant has been made, where all such entries are made; that the appellant was not served with any show cause notice before passing the impugned order nor any regular inquiry was conducted to this effect, so as to record statement of other officials/teachers, with whom the appellant had performed duty; that the impugned order has been passed with retrospective effect, which is not permissible under the law; that the appellant has been condemned unheard and has not been treated in accordance with law.

03. Learned Additional Advocate General for the respondents has contended that neither the appellant has been appointed by the competent authority nor did assume the charge of the post in the year 2004; that the appellant joined education department through fake and bogus order in 2010, as most of the office record was destroyed in the heavy floods of 2010; that actual and combined appointment order was issued on 29-11-2004, in which name of the appellant is not included; that a proper inquiry was conducted in his case and upon recommendations of the inquiry committee, the appellant was dismissed from service.

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was appointed as CT vide order dated 15-12-2004. The appellant is equipped with the required qualification of B.Ed and M.Ed. service book of the appellant placed on record show the relevant entries of his academic qualification, his transfers from one school to other and his elevation in BPS to higher grades. The appellant served for so many years in the respondents department and it was upon report submitted by the account officer,

that an inquiry was conducted against the appellant and found his appointment order fake. Placed on record is an inquiry report, which would show that the appellant has not been associated with proceedings of the inquiry, rather the inquiry has been conducted based on verbal questions from the schools concerned, where the appellant served for so many years. The inquiry report would suggest that due to non-availability of proper record, they relied upon the available record, as the record pertaining to the appellant had been destroyed in the heavy floods in 2010 and such benefit of doubt goes in favor of the appellant.

06. We have observed that the investigation made by the respondents in case of the appellant is not enough for dispensing with his service, as the appellant is holding proper documents of his appointment, transfers and his salary account properly activated in account officer. Moreover the appellant has served for quite longer, thus developed a vested right and he is not responsible for non-availability of his record in office of the respondents, as it is an open secret such all the record destroyed during the heavy floods in 2010, hence in view of non availability of record with respondents, it cannot be said for sure that appointment order of the appellant is fake. Moreover, the appellant is holding the requisite qualification and served the department for quite longer.

07. In view of the situation, we are inclined to accept the instant appeal. The appellant is re-instated in service. The intervening period is treated as leave of the kind due. Respondents however are at liberty to conduct inquiry, if they so desire. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

01.02.2022



(AHMAD SULTAN TAREEN)  
CHAIRMAN



(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

ORDER

01.02.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondent present. Arguments heard and record perused.

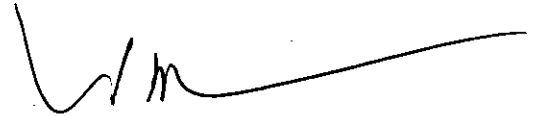
Vide our detailed judgment of today, separately placed on file, we are inclined to accept the instant appeal. The appellant is re-instated in service. The intervening period is treated as leave of the kind due. Respondents however are at liberty to conduct inquiry, if they so desire. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

01.02.2022



(AHMAD SULTAN TAREEN)  
CHAIRMAN

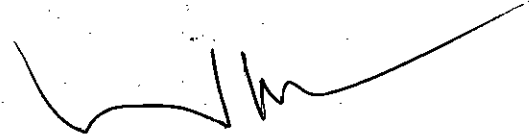


(ATIQU-UR-REHMAN WAZIR)  
MEMBER (E)

28.01.2022

Syed Noman Ali Bukhari, Advocate for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Masood Khan, ADO (Litigation) for the respondents present.

Learned counsel for the appellant is directed to produce salary slip of the appellant on the next date. Adjourned. To come up for arguments on 01.02.2022 before this D.B.



(Atiq-Ur-Rehman Wazir)  
Member (E)




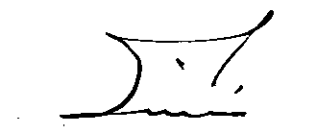
Chairman

08.09.2021

Syed Nouman Ali Bukhari, Advocate, Junior of learned counsel for the appellant present. Mr. Masood Khan, Litigation Officer alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Junior of learned counsel for the appellant requested that as connected nature service appeals are fixed for 12.11.2021, therefore, the instant appeal may be fixed for the said date. Adjourned. To come up for arguments before the D.B on 12.11.2021.

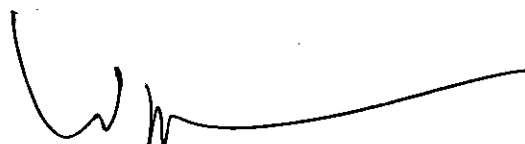
  
(ATIQ UR REHMAN WAZIR)  
MEMBER (EXECUTIVE)


  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

12.11.2021

Mr. Taimur Ali Khan, Advocate for the appellant present. Mr. Masood Khan, Litigation Officer alongwith Mr. Javed Ullah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments before the D.B on 10.02.2022.

  
(Atiq Ur Rehman Wazir)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

30.12.2020

Due to summer vacation, case is adjourned to  
17-3.2021 for the same as before.

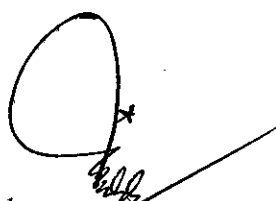
  
Reader

17.03.2021

Appellant in person and Addl: AG alongwith Mr.  
Masood Khan, ADEO for respondents present.

Former requests for adjournment as his learned counsel  
is not available today.

Adjourned to 17.05.2021 for arguments before D.B.

  
(Mian Muhammad)  
Member (E)

  
Chairman

17.5.2021

*DUE TO COVID-19, THE CASE IS ADJOURNED  
TO 8-9.2021 FOR THE SAME.*



29.10.2020

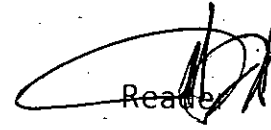
Proper D.B is on Tour, therefore, the case is  
adjourned for the same on 30.12.2020 before D.B.

  
Reader



29-4 .2020

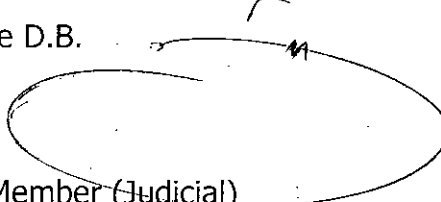
Due to COVID19, the case is adjourned to  
13/7/2020 for the same as before.

  
Reader

13.07.2020

Syed Numan Ali Bukhar/Advocate on behalf of counsel for the appellant and Mr. Ziaullah, DDA for the respondents present.

Former requests for adjournment as learned senior counsel for the appellant is engaged before Darul Qaza Bench of Peshawar High Court at Swat today. Adjourned to 02.09.2020 before the D.B.

  
Member (Judicial)

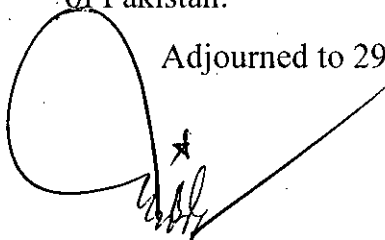
  
Chairman

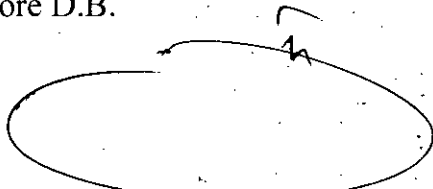
02.09.2020

Mr. Syed Noman Ali , Advocate junior to counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Yousaf Shah, ADO for respondents present.

Junior to counsel for the appellant seeks adjournment as senior counsel was busy before the august Supreme Court of Pakistan.

Adjourned to 29.10.2020 cbefore D.B.

  
(Mian Muhammad)  
Member (E)

  
(Muhammad Jamal)  
Member(J)

10.02.2020

Syed Noman Ali Bukhari, Advocate for appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 26.02.2020 for arguments before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

26.02.2020

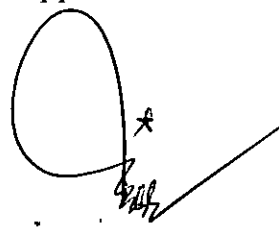
Appellant with counsel present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 18.03.2020 before D.B.

  
Member

  
Member

18.03.2020

Counsel for the appellant present. Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment on the ground that similar nature of appeal has been fixed for arguments on 29.04.2020, therefore, the same may also be clubbed with the said appeal. Adjourned. To come up for arguments on 29.04.2020 before D.B alongwith connected appeal.

  
(MAIN MUHAMMAD)  
MEMBER

  
(M.AMIN KHAN KUNDI)  
MEMBER

15.07.2019

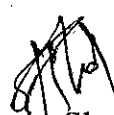
Mr. Taimur Ali Khan, learned counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 25.09.2019 for arguments before D.B.


  
(HUSSAIN SHAH)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

25.09.2019


Junior to counsel for the appellant present. Mr. Riaz Kahn Paindakhel learned Assistant Advocate General for the respondent present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is busy before the Hon'ble Peshawar High Court. Adjourned. To come up for arguments on 09.12.2019 before D.B

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

09.12.2019

Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 10.02.2020 before D.B.

  
Member

  
Member

Service Appeal No. 938/2015

23.01.2019

Appellant alongwith junior counsel Mr. Taimur Ali Khan, Advocate present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy before the Hon'ble Peshawar High Court, Peshawar and cannot attend the Tribunal today. Adjourned to 28.03.2019 for arguments before D.B.

  
(HUSSAIN SHAH)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

28.03.2019

Due to general strike of the bar, the case is adjourn. To come up for arguments on 14.06.2019 before D.B.

  
Member

  
Member

14.06.2019

Appellant in person and Addl. AG for the respondents present.

Due to general strike on the call of the Khyber Pakhtunkhwa Bar Council, the matter is adjourned to 15.3.2019 for arguments before the D.B.

  
Member

  
Chairman

17.10.2018

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the present. Junior to counsel for the appellant seeks adjournment that his senior counsel is not in attendance. Adjourned. To come up for arguments on 23.11.2018 before D.B.


  
Member

  
Member

23.11.2018

Learned counsel for the appellant Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come for arguments on 14.01.2019 before D.B.

  
Member

  
Member

14.01.2019


Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Learned counsel for the appellant stated that similar nature of appeals have been fixed for arguments on 23.01.2019, therefore, the same may also be clubbed with the said appeal as similar question of law is involved. Requested accepted. Case to come up for arguments on 23.01.2019 before D.B alongwith connected appeals.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

23.02.2018

Counsel for the appellant and Mr. Muhammad Jan, DDA for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 26.04.2018 before D.B.

  
(Ahmad Hassan)  
Member(E)

  
(Gul Zeb Khan)  
Member(E)

26.04.2018

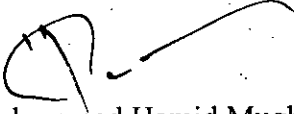
Junior to counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General present. The Tribunal is non functioned due to retirement of Hon'ble Chairman. Therefore the case is adjourned. To come up for the same on 11.07.2018.

  
READER

11.07.2018


Clerk to counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney present. Due to general strike of the bar, the case is adjourned. To come up on 21.08.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Hamid Mughal)  
Member

21.08.2018

Due to Eidul Azha vacation,  
the case is adjourned to 17-10-18.

  
Reader

06.02.2017


Mr. Taimoor Khan, junior counsel for the appellant, M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (lit.) and Inayatullah, ADEO alongwith Mr. Ziaullah, GP for respondents present. Junior counsel for the appellant stated that senior counsel is at Camp Court Swat and requested for adjournment. Adjourned. To come up for arguments on 23.05.2017 before D.B.

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

23.05.2017

Appellant alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 15.09.2017 before D.B.

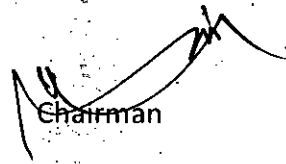
  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

15/9/2017


Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 20/12/2017 before DB.

  
MEMBER

  
Chairman

20.12.2017

Clerk of counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Due to death of his wife, learned counsel for the appellant is not in attendance. Seeks adjournment. To come up for arguments on 23.02.2018 before the D.B.

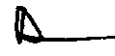
  
Member

  
Chairman

26.07.2016

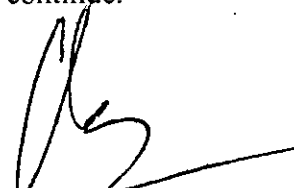
Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant requested for adjournment. Adjournment granted. To come up for arguments on 06.09.2016. The restraint order pertaining to recovery shall continue.

  
Member

  
Member

06.09.2016

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. Adjournment granted. To come up for arguments on 03.10.2016. The restraint order pertaining to recovery shall continue.

  
Member

  
Member

03.10.2016

Since 3<sup>rd</sup> October, 2016 has been declared as public holiday on account of 1<sup>st</sup> Muharram therefore, case is adjourned for the same on 6-2-17.

  
Reader



22.03.2016

Appellant with counsel and Mr. Usman Ghani, Sr.GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 03.05.2016. The restraint order shall continue.



Member



Member

03.05.2016

Counsel for the appellant and Asst: AG for respondents present. Counsel for the appellant requested for adjournment. Last opportunity granted. To come up for arguments on 07.06.2016. The restraint order shall continue.



Member



Member

07.06.2016

Appellant in person and Asst: AG for respondents present. In the inquiry report if any be produce by the respondent department for which they requested for adjournment. To come up for such record and arguments on 26.7.2016. The restraint order shall continue.



Member



Member

21.12.2015

Counsel for the appellant, M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (lit.) and Inayatullah, ADO alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 26.1.2016 before S.B. The restraint order shall continue.

  
Chairman

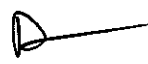
26.1.2016

Appellant with counsel, M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (lit.) and Inayatullah, ADO alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 2.3.2016. The restraint order shall continue.

  
Chairman

02.3.2016

Counsel for the appellant and Mr. Muhammad Jan, Government Pleader for the respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 22.3.16, *The restraint order shall continue.*

  
Member

  
Member

23.09.2015

Agent of counsel for the appellant present. Amended appeal has been submitted. Requested for adjournment. Adjourned to 1.10.2015 for preliminary hearing before S.B.

  
Chairman

01.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed in prescribed manners as CT (BPS-14) vide appointment order dated 15.12.2004 and after serving for about 11 years dismissed from service vide impugned order dated 11.4.2015 with recovery of Rs. 1732060/- to be deposited with Government Exchequer on the allegations of fake and bogus appointment regarding which he preferred departmental appeal on 17.4.2015 which was rejected on 10.8.2015 and hence the instant service appeal on 20.8.2015.

That neither any inquiry was conducted nor opportunity of hearing was extended to the appellant as such the impugned orders of dismissal from service as well as recovery of financial gains earned by the appellant on the basis of performing duty as CT are wrong and against law.

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 21.12.2015 before S.B. Notice of application be also issued for the date fixed. Till further orders recovery shall not be made from the appellant.

  
Chairman




Appellant Deposited  
Security & Process Fee



Form- A  
FORM OF ORDER SHEET

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

Case No. 938/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21.08.2015	<p>The appeal of Mr. Muhammad Zubair resubmitted today by Mr. Muhammad Asif Advocate may be entered in the Institution register, and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>27-8-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	27.08.2015	<p>Counsel for the appellant present. Submitted application for allowing amendment in appeal as, according to the stance of learned counsel for the appellant, order dated 10.8.2015 was passed by the departmental authority after the institution of appeal which the appellant intends to include in the memo and grounds of appeal. Application is allowed. The appellant shall submit amended appeal in office which shall be put up after scrutiny before this Tribunal for preliminary hearing on 23.9.2015.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Muhammad Zubair Khan Ex-CT GHSS Khairabad Nowshera received to-day i.e. on 31.07.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copies of appointment and dismissal order mentioned in the memo of appeal are not attached with the appeal which may be placed on it.

No. 1148 /S.T,

Dt. 31/7 /2015

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Muhammad Asif Yousafzai Adv. Pesh.

*copies of appointment and dismissal orders  
are attached as Annexure -A and Annexure L on  
page 7 and 26 respectively*



**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.**

Appeal No. 938 /2015


Mr. Muhammad Zubair Khan V/S Education Department.

**I N D E X**

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	----	01-04
2.	Suspension <u>Order</u>	----	05-06
3.	Copy of Appointment Order	A	7
4.	Copy of SSC	B	8
5.	Copy of F.A.	C	09
6.	Copy of B.Sc	D	10
7.	Copy of M.Sc	E	11
8.	Copy of B.Ed.	F	12
9.	Copy of M.Ed.	G	13
10.	Copy of Training Certificate	H	14
11.	Copy of Service Book	I	15-22
12.	Copy of show Cause Notice	J	23
	Copy of Reply	K	24-25
13.	Copy of dismissal Order	L	26
14.	Copy of D/Appeal	M	27
15.	Wakalat Nama	-----	28

APPELLANT   
Muhammad Zubair Khan

THROUGH:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

&  
  
(TAIMUR ALI KHAN)  
ADVOCATES, PESHAWAR

(1)

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.**

Appeal No. 938 /2015

Mr. Muhammad Zubair Khan, Ex-C.T.  
Government Higher Secondary School,  
Khairabad, Nowshera.

**A.W.P Province  
Service Tribunal**  
Diary No 913  
Dated 31-7-2015

**APPELLANT**

VERSUS

1. The Secretary, Government of Khyber Pakhtunkhwa, Education (E&SE) Department, Civil Secretariat, Peshawar.
2. The Director of Education (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer, (M) Nowshera.

**RESPONDENTS**

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 11.04.2015 WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE WITHOUT ANY COGENT REASONS AND AGAINST NOT ANY ACTION ON THE DEPARTMENT APPEAL OF THE APPELLANT BY THE RESPONDENT DEPARTMENT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

.....

**PRAYER:**

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 11.04.2015 MAY BE SET ASIDE AND THE APPELLANT MAY BE RE-INSTATED INTO SERVICE WITH ALL BACK & CONSEQUENTIAL BENEFITS FROM THE DATE OF TERMINATION. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

*Handwritten signature and date: 31/7/15.*

Re-submitted to-day and filed.  
*Handwritten signature and date: 20/8/15.*

**RESPECTFULLY SHEWETH:**

1. That the appellant was appointed as C.T. in the Education Department vide order dated 15 December, 2004 by the District Coordination Officer, Nowshera and performed his duty up to the entire satisfaction of his superior. Copy of Appointment Order is attached as Annexure-A.
2. That the appellant has the qualification of SSC, Intermediate, B.Sc, M.Sc, B.Ed, M.Ed and other training certificate. Copies of Certificate are attached as Annexure-B, C, D, E, F, G & H respectively.
3. That the number and date of appointment order and other entries have been recorded in the Service Book of the appellant. The relevant pages of the Service Book are attached as Annexure-I.
4. That the appellant performed his duty regularly and during the service period, no complaint has been filed against the appellant.
5. That after 11 years service, show cause has been issued against the appellant in which the major penalty of Dismissal from service and recovery of Rs.1732060/- on account of fake appointment imposed upon the appellant. The appellant submitted his reply in which he denied all charges leveled against the appellant. Copies of Show Cause Notice and Reply are attached as Annexure-J and K.
6. That the appellant has been dismissed from service vide order dated 11.04.2015 on the basis of fake appointment order of the appellant. Copy of Dismissal Order is attached as Annexure-L.
7. That the appellant filed Departmental appeal against the dismissal order dated 11.04.2015 and waited for statutory period, but no response has been received to the appellant by the respondent department within the statutory period of ninety days. Copy of Departmental appeal is attached as Annexure-M.



8. That now the appellant comes to this Honourable Tribunal on the following grounds amongst the others:

**GROUND:**

- A) That the impugned orders dated 11.04.2015 is against the law, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That the appellant has not been dealt in accordance with law and rules.
- C) That all entries have been recorded in the service book of the appellant including No. and date of his appointment order and other entries, which shows the appointment of the appellant is correct and genuine.
- D) That after 11 years service of the appellant, on what capacity the respondent department found the appointment order of the appellant as fake, which is the violation of principles of "Audi Alterum Partem".
- E) That no charge sheet, statement of allegation served on the appellant nor any regular enquiry was conducted against the appellant to record the statement of other officials/teachers, with who the appellant had performed his duties.
- F) That impugned order has been passed by the respondent department after 11 years service of the appellant, which is against the law and rules.
- G) That the appellant has regularly performed his duty from the date of his appointment.
- H) That no charge sheet and statement of allegation was served upon the appellant before imposing major punishment of dismissal from service which is the violation of law and rules.
- I) That no inquiry was conducted against the appellant before imposing major penalty which is the violation of Superior Courts judgment.

- J) That the impugned order has retrospective effect which is not permissible in the law.
- K) That the appellant has been condemned unheard and has not been treated according to law and rules.
- L) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT *Zubair*  
Muhammad Zubair Khan

THROUGH:

*M. Asif Yousafzai*  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

&  
*Taimur Ali Khan*  
(TAIMUR ALI KHAN)  
ADVOCATES, PESHAWAR

(3)

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR.**

Appeal No. \_\_\_\_\_/2015

Mr. Muhammad Zubair Khan V/S Education Department.

\*\*\*\*\*

**Application for suspending the operation of  
impugned order dated 11.04.2015 to the  
extent of recovery of Rs. 1732060 from the  
appellant till the disposal of main appeal.**

**RESPECTFULLY SHEWETH:**

1. That the appellant has filed an appeal along with this application which no date has been fixed so far.
2. That the appellant has a good prima facie case and all the ingredients are in favour of the appellant.
3. That, if the impugned order has not been suspended, then the appellant would become mentally torture.
4. That the impugned order has been passed by the respondent, which is illegal and violation of rules.

It is, therefore, most humbly prayed that the operation of recovery of payment amounting to Rs.1732060/- from the appellant as mentioned in his Dismissal Order dated 11.04.2015 may be suspended till the disposal of main appeal. Any other

6

remedy with this august Tribunal deems fit may also be awarded in favour of appellant.

Appellant *Zubair*  
Muhammad Zubair Khan

Through:

*Asif*

( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

&  
*Taimur Ali Khan*

(TAIMUR ALI KHAN)  
ADVOCATES, PESHAWAR

**AFFIDAVIT:**

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

*Asif*

Deponent

① Annex 'A' (7)

District Government Nowshera,  
D.C.O. Secretariat  
No.21/DCO/EA/NSR/1749-55  
15 December 2004

NOTIFICATION.

In pursuance to the Executive District Officer, Schools & Literacy Department Nowshera, letter No. 7576-80/EDO(S&L)/NSR/ Dated. 02-10-2004, the competent authority is please to appoint Mr. Muhammad Zubair S/O Muslim Khan, resident of village Kurvi District Nowshera, as CT teacher, at Government Middle School Kana Khel, being cleared by the District Departmental Recruitment Selection Committee in its meeting held on 15-10-2004, in BPS-09 plus all usual allowances on contract basis, in Schools & Literacy Department Nowshera, with immediate effect, on the following terms and conditions :-

- i. Your initial appointment will be for a period of three (3) years which can be extended subject to your satisfactory performance.
- ii. Your services will be governed under the Government of NWFP Contract Policy 2002.
- iii. Your services can be terminated on one month notice or one month salary in lieu thereof.
- iv. You will avail the benefit of Contributory Provident Fund (CPF) through 5% contribution of minimum of your pay and 5% contribution to be made by the Government.
- v. You will not contribute to General Provided Fund (GPF) and shall not be entitled for pension and gratuity benefits.

-sd-  
District Coordination Officer,  
Nowshera

Endst: Even No. & Date:

Copy forwarded for information to:

1. The Director Schools & Literacy, NWFP Peshawar.
2. The Executive District Officer, Schools & Literacy Department Nowshera
3. The District Officer, (M), Schools & Literacy Deptt: Nowshera
4. The District Accounts Officer, Nowshera
5. The teacher concerned. If the above offer of appointment on contract basis is acceptable to you on the above terms and conditions, you are advised to submit your arrival report to the office of Executive District Officer, S&L Deptt: Nowshera for duty, after Medical examination from the Medical Superintendent DHQ Hospital Nowshera.
6. Office Copy.

District Coordination Officer,  
Nowshera

ATTACHED  
4

s. No. 0711724

Roll No. 20533

B



**BOARD OF INTERMEDIATE AND SECONDARY EDUCATION**

**Peshawar N.W.F.P. Pakistan**

**Secondary School Certificate Examination**

**SESSION 1990 (ANNUAL)**



THIS IS TO CERTIFY THAT Muhammad Zubair Khan  
Muslim Khan

Son/Daughter of \_\_\_\_\_  
 and a student of Govt. High School Tarkha Peshawar

has passed the Secondary School Certificate Examination  
 of the Board of Intermediate & Secondary Education, Peshawar held in March 1990  
 as a Regular candidate. He/She obtained 508 Marks out of 850  
 and has been placed in Grade C Representing Good

The Candidate passed in the following subjects:

1. English
2. Urdu
3. Islamiyat
4. Pakistan Studies
5. Mathematics
6. Chemistry
7. Physics
8. Biology

He/She has been awarded Grade B on the basis of internal  
 assessment by the Institution concerned.

Date of birth according to admission form is Twenty Third August,  
one thousand nine hundred and Seventy Four (23-8-1974)

*[Signature]*  
 Asstt. Secretary  
 11th August 1990

*[Signature]*  
 Secretary

*This certificate is issued without alteration or erasure.*

**ATTESTED**  
 \*


S. No. 289719

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

Roll No. 57148

ع 9

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Peshawar N.W.F.P. Pakistan  
INTERMEDIATE EXAMINATION  
Pre-Engineering Group  
SESSION 1994 (ANNUAL)

THIS IS TO CERTIFY THAT Muhammad Zubair Khan  
Son/Daughter of Muslim Khan  
and a resident of Nowshera District  
Registered No. 68-B/PB-90 has passed the *Intermediate Examination* of the  
Board of Intermediate and Secondary Education, Peshawar held in May/June 1994.  
as a *Private candidate*. He/She obtained 453 Marks out of 1100  
and has been placed in Grade D Representing Fair  
the Examination was taken as a whole/in parts.

Asstt. Secretary

Secretary

This certificate is issued without alteration of erasure.

ATTESTED  
/

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

University of Peshawar  
(Pakistan)

Session ANNUAL 1996

MOHAMMAD ZUBAIR KHAN SON of MUSLIM KHAN

and a student

of GOVT. DEGREE COLLEGE PARI having passed the prescribed

examination held in AUGUST 1996 is this day admitted by the University  
of Peshawar to the Degree of

Bachelor of Science

in the SECOND Division

The examination was taken as a whole / in parts

Serial No. 018967

Registration No. 94-PB-529

Roll No. 6080

Result declared on FEBRUARY 15, 1997



M. Iqbal Khan  
Registrar

Countersigned

Z. Iqbal Khan

Vice-Chancellor

RECEIVED

D  
19



GOMAL UNIVERSITY



DERA ISMAIL KHAN

"E"

11

Passed/Re-appear/Failed in Agg

DETAILED MARKS CERTIFICATE S: 96-98

Msc Mathematics Examination 19 Annual / Supplementary / Final Term.

Roll No. 3171 Aug: 2000

Mr / Miss Mohammad Zubair Khan.

The candidate secured the following marks & has been placed in First Division.

SUBJECTS	Total Number of Marks allotted	MARKS OBTAINED	
		In figures	In words
1: Math: Stat: -II	100	75	Seventy five.
2: Numerical Analysis.	100	52	fifty two.
3: Meas: + Integ:	100	63	Sixty three.
4: Funct: Analysis -II.	100	57	fifty seven.
5: PDE.	100	65	Sixty five.
6: V. Voce.	100	57	fifty seven.
7: Agg: of 3rd Term.	500	311	Three hundred & Eleven.
8: " " 2nd "	500	252	Two hundred & fifty two.
9: " " 1st "	500	327	Three hundred & Twenty Seven.
10: <u>Gravac Marks for die:</u>		01	one only.
<b>TOTAL</b>	<b>2100</b>	<b>1260</b>	<b>one thousand, two hundred &amp; sixty only.</b>

No 032866

Dated 13.3.192001.

Abdulmajeed  
Controller of Examinations,  
Gomal University, Dera Ismail Khan.

ATTESTED  
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"F"  
① 12

# Allama Iqbal Open University Islamabad



64613

Serial No. \_\_\_\_\_

Certified that Mr. / Ms. MUHAMMAD ZUBAIR KHAN

Son / Daughter of MUSLIM KHAN

Registration No: 00-NNA-0655 Roll No: K-6066365

having completed the prescribed requirements in semester  
AUTUMN 2001

\_\_\_\_\_ is awarded the degree of:

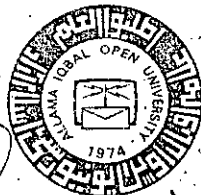
## Bachelor of Education (B.Ed)

He/She has secured 61 % marks and has been placed in B grade.

*Fajrol*  
CONTROLLER OF EXAMINATIONS

Result declared on: August 12, 2002

ISLAMABAD. DATED: August 25, 2004



*[Signature]*  
VICE-CHANCELLOR

THIS DEGREE IS TO BE READ IN CONJUNCTION WITH THE TRANSCRIPT, ISSUED SEPARATELY

ATTESTED

*[Signature]*

13

# Allama Iqbal Open University Islamabad



Serial No. 35266

Certified that Mr. / Ms. **MUHAMMAD ZUBAIR KHAN**


Son / Daughter of **MUSLIM KHAN**

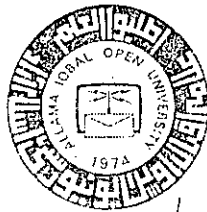
Registration No: **00-NNA-0655** Roll No: **AK664078**

having successfully completed the prescribed requirements  
in semester **SPRING 2012** is awarded the degree of

*Master of Education (M.Ed.)*

He/She has secured **60** % marks and has been placed in **B** grade.

  
CONTROLLER OF EXAMINATIONS



  
VICE-CHANCELLOR

Result declared on: **February 15, 2013**

Date of Issue: **December 19, 2013**

**ATTESTED**

NOTE: THIS DEGREE IS TO BE READ IN CONJUNCTION WITH THE TRANSCRIPT/PROVISIONAL CERTIFICATE ISSUED SEPARATELY

S. No.

2679

"H"

14

# Departmental Examinations Education Department



NWFP

## Detailed Marks Certificate

Training Classes Examination CT (General)

Name Muhammad Zubair Khan

Session 2001

Father's name Muhammad Khan

Roll No. 872

Subject	باعت معلما	Maximum Marks	Marks obtained		
			Internal	External	Total
1. Theory and History of Education		100			39
2. Child Development		100			55
3. School and Community Development		100			47
4. General Methodology & Preparation of Teaching Aids		100			43
5. Counselling Testing and Evaluation		100			40
6. Organisation of Elementary Education of School Management		100			75
7. English		100			46
8. Science/Maths		100			83
9. Social Studies		100			71
10. Islamiyat		100			60
11. Teaching Practice		200			130
Total		1200			689

Note: Errors/omissions excepted.

Passed/Failed \_\_\_\_\_ Division: NWFP

Prepared by \_\_\_\_\_

Checked by \_\_\_\_\_  
Department

Date of Declaration of Result \_\_\_\_\_

Registrar  
Departmental Examinations Education  
NWFP, Peshawar

*Sign hundred & eighty nine*

**ATTESTED**

Heirs,			
1.			
2.			
3.			
Verification	(3) Passed SSC Examination from BISE Peshawar under Roll No: 20533 in 1990 Marks obtained 508/850 and placed Grade 'B'		
	(2) Passed FSC Examination from BISE Peshawar under Roll No: 57148 in 1994 Marks obtained 453/1100 and placed Grade "D"		
	(3) Passed BSC Examination from university of Peshawar under Roll No: 6080 in 1996 Marks obtained 322/550 and placed Div. 2nd.		
	(4) Passed MSc Examination from university of Peshawar D. J. Khan under Roll No: 3171 in 2000 Marks obtained: 1260/2100 and placed Div. 1st.		
Qualification	(5) Passed C.T Examination from R.D.E. Peshawar under Roll No: 872 in 2001 Marks obtained 689/1200 and placed Div. 1st.		
English	(6) Passed B-ed Examination from D.I.O. Islamabad under Roll No: K-6066365 in Autumn 2001		
Pushto	Marks obtained 552/900 61% and placed Grade 'B'		
Urdu	Pleadership examination		
Plan-drawing	Training School Final examination		
Finger Print	Other qualifications		
Drill Instructing			
Court Duties			
Reserve Duties			

Signature  
 Date

ATTESTED

[Signature]

Note: The entries on this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

(Signature) 16

1. Name: MR. MUHAMMAD ZUBAIR KHAN

2. Race: Afghan

3. Residence: M.C.H. P.O. Tams Jaba Kurvi Tehsil and Dist. Nowshera

4. Father's name and residence: Muslim Khan

5. Date of birth by Christian era as nearly as can be ascertained: (23-8-1974) Twenty Third August N.H. Seventy Four.

6. Exact height by measurement: 5-8

7. Personal marks for identification: Nil

8. Left hand thumb and Finger impression of (Non-Gazetted) officer:

Little Finger:

Ring Finger:

Middle Finger:

Fore Finger:

Thumb:

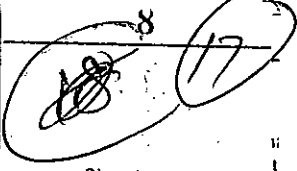
9. Signature of Government Servant: Zubair

ATTESTED

10. Signature and designation of the Head of the office, or other Attesting Officer:

(Signature) [Faint stamp]

(Signature)

1	2	3	4	5	6	7	8
Name of Post	Substantive Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) Whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant
C.T. Post		BPS No = 9	Rs. 2410/-	145/-	676.0		
MS. Kana Kader	Temp	Rs. 2410/-	PM			16/12/04	Zubair
		BPS-14 (3100-240-10300)					
		Rs. 3100/-	PM			16/12/04	Zubair
		BPS-14 (3565-275-11885)					
		Rs. 3565/-	PM			1/7/05	Zubair
		2007 OFFICE OF THE ACCOUNTANT GENERAL N.W.F.P. PESHAWAR. PAY FIXED IN THE REVISED PAY SCALES 2007. 4/12-315-13550 (14)					
		Rs. 3840/-	PM			1/12/05	Zubair
		Rs. 4115/-	PM			1/12/06	Zubair
		BPS-14 (4100-315-13550)					
		Rs. 4730/-	PM			1/7/07	Zubair

ATTESTED



18

9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 7 to 8	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer.	15 Reference to any recorded punishment or cessure, or reward or praise of the Government. Servant
				Nature and dura- tion of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debtible to another Government		
					Period		
					Appointed against the post of OT at ems. Kana Kull NSR on contract basis is BRS No=9		
					vide DCO Nowshera under Endt No=1749-SS dt 15/04		
	30/6/05						
	30/5/05	A/m			See call certified on 16/12/04 to 30/5/05 from my call and other kind of this office.		
	30/11/06						
	30/6/07				See call certified on 1/12/05 to 30/11/06		
	30/11/07	A/m					

ATTESTED

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Name of Post

Whether substantive or officiating and whether permanent or temporary.

If officiating, state (i) substantive appointment, or (ii) Whether service counts for pension under Art. 371 C.S.R.

Pay in substantive post

Additional pay for officiating

Other emolument falling under the term "pay"

Date of Appointment

Signature of Government servant

Signature of the holder or other in all cases

Rs 5045/- PM

12

Zubair

07

Revised Entry in the light of

BPS-15 (4350-550-14850)

Pay in BPS-14 on 11/10/07 at 4700/- Zubair

Pay fixed in B-15 on 11/10/07 at 5050/- Zubair

BPS-15

✓

BPS-15 (5220-420-17820)

Zubair

Rs 6060/- PM

12/08

Zubair

on 6480/- PM

12/08

Zubair

Rs 6900/- PM

11/27/08

Zubair

Rs 7320/- PM

11/27/2010

Zubair

CT

GHS Nizampur

Rs 7320/- PM

04/01/2011

ATTESTED

✓

SINGHS

Signature and Designation of the head of the office or other attesting officer (columns 1 to 8)

Date of termination or appointment

Reason of termination (such as promotion, transfer, dismissal, etc.)

Signature of the head of the office or other attesting officer

Leave

Nature and duration of leave taken

Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government

Signature of the head of the office or other attesting officer.

Reference to any recorded punishment or censure, or reward or praise of the Government Servant

20

2004  
OFFICE OF THE ACCOUNTANT GENERAL  
N.W.F.P. PESHAWAR  
PAY FIXED BY THE GOVERNMENT  
5220-420-17820 (15)  
6068  
2008  
2008  
Accountant General  
Pay Fixation Party N.W.F.P. Peshawar.

Allowed 15 days  
1-10-07 Sanctioned  
D.O. 18/11/07  
D.O. 30/11/07

*[Signature]*  
Officer  
N.W.F.P. Peshawar

30/08  
*[Signature]*

Service verified up to 12/06  
to 30/08

*[Signature]*  
Officer  
N.W.F.P. Peshawar

*[Signature]*  
30/08  
A/02

Service verified up to 12/08  
to 31/12/08

*[Signature]*  
D.O. 1/1/09

*[Signature]*  
30/09  
A/3  
*[Signature]*

*[Signature]*  
30/11/09  
A/1  
*[Signature]*

ATTESTED

*[Signature]*  
03/01/10  
Nizam  
District Officer  
N.W.F.P. Peshawar

Service verified up to 31-1-2011 to 30-4-2011

Principal  
N.W.F.P. Peshawar  
30/4/2011  
Principal  
N.W.F.P. Peshawar  
Principal  
N.W.F.P. Peshawar

1	2	3	4	5	6	7	8
Name of Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) Whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant
			REVISED PAY SCALE Rs. 15 (8500-700-29500)				(21) (Signature)
(C.T) GABS Khan Sd/- (PDR)			Rs. 12000/p.m			7/2011	Zubair
do			Rs. 12700/p.m			12/2011	Zubair
- do -			Rs. 13400/p.m			01/12/2012	Zubair
- do -			Rs. 14100/p.m			01/12/2013	Zubair

ATTESTED  
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Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8

Date of termination or appointment

Reason of termination (such as promotion, transfer, dismissal, etc.)

Signature of the head of the office or other attesting officer

Nature and duration of leave taken

Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government

Signature of the head of the office or other attesting officer.

Reference to any recorded punishment or cesure, or reward or praise of the Government Servent

Period: Government to which debitable

*[Signature]*  
Reason - 12/17/12  
Detail on 1/20/11

*[Signature]*

*[Signature]*

*[Signature]*  
Reason - 12/17/12  
Detail on 1/20/11

*[Signature]*

Service verified with 1-5-2011  
To 30-1-2011  
and other records of this office

*[Signature]*

*[Signature]*

Services verified with 1-12-2011 to 30/11/2012  
from the Ag. Post of the office record.

*[Signature]*

*[Signature]*

Services verified with 1-12-2012 to 30/11/2013  
from the Ag. Post of the office record.

ATTESTED

*[Signature]*



DISTRICT EDUCATION OFFICER (MALE)

NOWSHERA

(Office Phone//0923-9220228, Fax//0923-9220228)

28/01/15  
23  
28/01/15

SHOW CAUSE NOTICE

I, Mr. Muhammad Inam Toru District Education Officer (Male), Nowshera, under the Khyber Pakhtunkhwa Government Servants Efficiently & Disciplinary Rules 2011, do hereby serve you, Mr. Muhammad Zubair Khan CT GHS Khairabad Nowshera.

1. (i) That consequent upon the report submitted by the Account Officer (B&AO) Local Office during the checking of internal Audit with reference his Para No.4, the inquiry has been conducted against you regarding your Fake appointment by the inquiry Officer( Mr. Noor Jamal Principal GHS Badrashi)/Inquiry Committee.

(ii) On going through the findings of the inquiry officer/inquiry committee, the material on record and other connected papers including your defense before the inquiry officer/inquiry committee,-

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

That your appointment is fake and bogus ab-initio

2. As a result therefore, I, as competent authority, have tentatively decided to impose upon you the major penalty of Removal from service under Rule 4(1) (b) (iii) of the said rules.
3. It is also recommended by the enquiry officer/Enquiry committee payment made to you in this regard from the date of 1st appointment will be recovered through District Revenue Officer and will be deposited into Govt treasury.
3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-par tee action shall be taken against you.

(Muhammad Inam Toru)  
Competent Authority / District Education Officer  
(Male) Nowshera

Ends: No. 615-19/DEO (M) NSR/EA-S/PE Show Cause/Muhammad Zubair CT/ Dated Nowshera the 23/01/2015

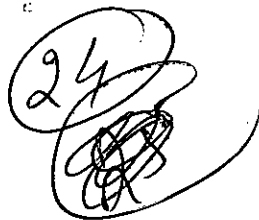
Copy of the above is forwarded for information to the:

1. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Senior District Accounts Officer Nowshera
3. Principal GHSS Khair Abad Nowshera with the remarks that the pay of the concerned teacher may be stopped immediately under intimation to this office.
4. Principal GHS Badrashi Nowshera.
- ✓ 5. Mr. Muhammad Zubair CT.GHSS Khairabad Nowshera.

District Education Officer  
(Male) Nowshera

ATTESTED

To

K (24) 

The Competent Authority/  
District Education Officer (Male),  
Nowshera.

Subject: **REPLY TO SHOW CAUSE NOTICE**

R/Sir,

Kindly/<sup>refer</sup> to the Show Cause Notice vide Endst. No.615-19/DEO(M) NSR/EA-S/File. Show Cause; dated 23.01.2015 received on 28.01.2015.

In light of the above Show Cause Notice, the reply is submitted with the following submissions:

1. That I have been appointed by the competent authority after fulfilling all formalities.
2. That I have been regularly performed my duties since my appointment.
3. That no charge sheet and statement of allegations have been served on me, which is required under the rules.
4. That one sided enquiry has been conducted against me and no chance of personal hearing was given to me by the enquiry committee and the whole action was taken on fact findings enquiry which is against the law and rules.
5. That the appointment order of the applicant is valid and has been passed by the competent authority and the applicant can not be punished due to missing record by the department during the heavy flood in district Nowshera.
6. That I never committed any misconduct as mentioned in the show cause notice.
7. That even I have not been participated in the enquiry to defend my rights and condemned unheard.

ATTESTED



25

It is, therefore, requested that in light of the above submissions, my reply to show cause notice may kindly be accepted and may be exonerated from the charges leveled against me.

Yours Obediently,

Muhammad Zubair  
CT GHSS khairabad  
Nowshera

ATTESTED

X



OFFICE OF THE  
DISTRICT EDUCATION OFFICER (MALE)

NOWSHERA

(Office Phone#0923-9220228, Fax#0923-9220228)

L (26)  
E

**NOTIFICATION:**

1. WHEREAS, Mr. Muhammad Zubair Khan Designation C.T o/o GHSS, Khairabad Nowshera was proceeded against the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules-2011 for the charges of badly cheated the Education Department for producing of fake and bogus appointment and consequently Rs 1732060/- was drawn as salary fraudulently.
2. AND WHEREAS, the competent authority has constituted the Inquiry Committee vide this office letter No. 7067-72 dated 04/12/2013 under the Chairmanship of Mr. Noor Jamal Principal GHS, Badrashi Nowshera to probe into the matter.
3. AND WHEREAS, the Inquiry officer submitted his report vide his memo: No.4585 dated 28/11/2014 and recommended the Major penalty of DISMISSAL from service & An amount of Rs: 1732060/- against Mr. Muhammad Zubair CT GHSS Khair Abad NSR.
5. AND WHEREAS, a show cause notice was served upon him under E&D rules-2011 and personal hearing done but the competent authority has not been satisfied from his reply, thus it is sure that the teacher concerned was actually involved in case.
6. AND WHEREAS, report of the Inquiry committee, the competent authority, after having considered the charges, evidence on the record, explanation of the accused official, of the view that the charges against Mr. Muhammad Zubair have been proved.

NOW, THEREFORE, in exercise of the powers conferred on me by the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules-2011 Rule-4 (1)(b)(iv), the Competent Authority (DEO Female Nowshera) is pleased to impose Major penalty of (i) DISMISSAL from Service (ii) An amount of Rs: 1732060/- be deposited with Govt. exchequer under proper head upon Mr. Muhammad Zubair Designation C.T GHSS, Khairabad Nowshera for the charges leveled against him.

(MUHAMMAD INAM TORU)  
DISTRICT EDUCATION OFFICER  
(MALE) NOWSHERA

Enst; No. 1322-29 /DEO(M) NSR/Estab Branch/File. Dismissal of M.Zubair CT GHSS Khairabad NSR Dated 11/04/2015  
Copy forwarded for information and necessary action to the:

1. Director E/S Education Khyber Pakhtunkhwa Peshawar#
2. Senior District Accounts Officer Nowshera
3. District Collector Officer Revenue Department Nowshera
4. Chairman Enquiry Committee Principal GHS Badrashi.
5. Principal GHSS, Khairabad Nowshera
6. Mr. Muhammad Zubair Khan CT GHSS, Khairabad Nowshera
7. ADEO Establishment Secondary (Male) Local Office
8. Superintendent Establishment Local Office

ATTESTED  
E

DISTRICT EDUCATION OFFICER  
(MALE) NOWSHERA

11/4/15



جناب عالی

گزارش ہے۔ کہ سائل محکمہ تعلیم ضلع نوشہرہ میں مورخہ 15 دسمبر 2004 کو بحیثیت سی ٹی ٹیچر بھرتی ہوا تھا۔ جس کا آرڈر نمبر 21/DCO/EA/NSR/1749-55 (کاپی اپیل کے ساتھ منسلک ہے) جاری ہوا تھا۔ 2014 میں میرے خلاف ایک انکوائری کی گئی، جس کے بعد مورخہ 23/01/2015 کو مجھے ایک شوکاز نوٹس دیا گیا۔ کہ تمہارا آرڈر بوگس ہے۔ جس کے متعلق اپنا جواب داخل کرو۔ (شوکانوٹس کی کاپی ساتھ منسلک ہے۔) مورخہ 10/02/2015 کو میں نے شوکانوٹس کا جواب دے دیا (جس کی کاپی ساتھ منسلک ہے۔)

Competent Authority کے ساتھ میری پرسنل ہیئرنگ (Personal Hearing) بھی نہیں ہوئی۔ کسی اور سے کروائی گئی جو کہ قانون کے خلاف ہے۔ جس کے باوجود میری (Dismissal) اور اونٹنواریکوری کا آرڈر جاری کیا گیا جو کہ سراسر ناانصافی ہے۔ میں تقریباً دس سال سروس کر چکا ہوں۔ اتنے عرصے کے بعد میرا بھرتی آرڈر بوگس قرار دینا سمجھ سے بالاتر اور قانون اور انصاف کے تقاضوں کے خلاف ہے۔ دس سال سروس کرنے کے بعد اب میں Over Age ہوں۔ اور دوسری جگہ ملازمت کرنا مشکل بلکہ ناممکن ہے۔ اس لئے آپ سے اپیل کی جاتی ہے کہ میرے خلاف کیس کو ختم کیا جائے اور مجھے تمام مراعات سمیت سروس پر بحال کیا جائے۔ مندرجہ ذیل کاغذات ساتھ منسلک ہیں۔

Flag A ۱۔ بھرتی آرڈر

Flag B ۲۔ شوکانوٹس

Flag C ۳۔ جواب شوکانوٹس

Flag D ۴۔ ڈسمس آرڈر

Flag E ۵۔ کاپی سروس بک

G.H.S.S خیر آباد نوشہرہ

C.T. محمد زبیر خاں

اپیل کنندہ:

مورخہ 17/04/2015

کاپی برائے اطلاع

۱۔ سینئر ڈسٹرکٹ اکاؤنٹس آفیسر نوشہرہ

۲۔ ڈسٹرکٹ کلکٹر آفیسر ریونیو نوشہرہ

۳۔ پرنسپل گورنمنٹ ہائر سیکنڈری سکول خیر آباد نوشہرہ

۴۔ ڈسٹرکٹ ایجوکیشن آفیسر نوشہرہ

ATTESTED  
\*

# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal, Peshawar

Muhammad Zubair

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Education Deptt:

(Respondent)  
(Defendant)

I/We Muhammad Zubair

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

Zubair

( CLIENT )

ACCEPTED

M. Asif Yousafzai

**M. ASIF YOUSAFZAI**  
Advocate

Taimur Ali Khan

**TAIMUR ALI KHAN**  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO. 938/2015

Muhammad Zubair

VS

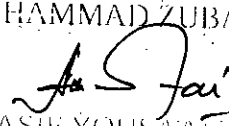
Education Deptt.

APPLICATION FOR ALLOWING AMENDMENT IN THE INSTANT  
APPEAL OR INCLUDE THE ORDER DATED 10.8.2015 AS  
IMPUGNED FINAL ORDER IN THE INSTANT APPEAL.

R. SHAWETH.

- 1- That the above noted appeal was filed against the order dated 11.04.2015 whereby the appellant was removed from service. The appellant filed appeal against that order on 17.04.2015 and instituted the present appeal on 31.7.2015 after expiry of ninety days.
- 2- That after the institution of appeal the respondents have rejected the appeal of appellant on 10.08.2015 and as such the appellant could not include the final rejection order in the instant appeal as one of the impugned order.
- 3- That the appeal is in preliminary stage and there is no legal hurdle in including the final rejection order as impugned order or allowing to amend the appeal.

Therefore, it is humbly prayed that either include the order dated 10.08.2015 as one of the impugned order in the instant appeal or allow the appellant to amend the appeal and its prayer as per need to meet the ends of justice and to avoid legal complications.

APPELLANT  
MUHAMMAD ZUBAIR  
THROUGH:  
  
MASIF YOUSAFZAI  
ADVOCATE.

AFFIAVIT.

It is affirmed that the contents of application are true and correct.

  
DEPONENT.

DIRECTORATE OF ELEMENTARY & SECY; EDUCATION  
KHYBER PAKHTUNKHWA, PESHAWAR

OFFICE ORDER.

1. **WHEREAS**, the District Education Officer (M) Nowshera to impose major penalty of dismissal from service and recovery of Rs, 17, 32,060/- upon Muhammad Zubair Khan Ex CT GHSS Khair Abad District Nowshera vide notification issued under endorsement No. 1322-29 dated 11-04-2015.
2. **AND WHEREAS**, Muhammad Zubair Ex CT GHSS Khair Abad District Nowshera to lodge an appeal before the Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar being appellat authority.
3. **AND WHEREAS**, the Director Elementary & Secondary Education, Khyber Pakhtunkhwa to ask the DEO (M) Nowshera for complete report in light of appeal of Muhammad Zubair Khan Ex CT GHSS Khair Abad, Nowshera vide No. 8660 dated 30-06-2015.
4. **AND WHEREAS**, the District Education Officer (Male) Nowshera to submit complete report along with a copy of Inquiry report conducted against Muhammad Zubair Khan Ex CT GHSS Khair Abad Nowshera vide No. 3515 dated 13/07-2015.
5. **NOW THEREFORE**, the appeal of Muhammad Zubair Khan Ex CT GHSS Khair Abad Nowshera was considered as per relevant law/rules/policy keeping in view the report of District Education Officer (M) Nowshera, the appeal is hereby rejected/ regretted on the following grounds:-

That the appointment order shown/ issued by the District Coordination Officer Nowshera under endorsement No. 21/DCO/EA/NSR/1749-55 dated 15-12-2004 has been found fake and bogus as per report of Inquiry".

Deputy Director (Estab)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

Endst: No. 1688-91/281/A-15/KC (C) Dated Peshawar at the 10/8/2015  
Copy of the above is to the:-

1. District Education Officer (M) Nowshera w/r to his letter No. 3515 dated 13/07-2015.
2. Principal GHSS Khair Abad, Nowshera.
3. Muhammad Zubair Khan Ex CT GHSS Khair Abad Nowshera
4. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.

Deputy Director (Estab)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO. 938/2015

Muhammad Zubair.

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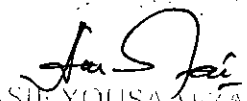
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THROUGH:

APPELLANT  
MUHAMMAD ZUBAIR

  
MASIF YOUSAFZAI  
ADVOCATE.

AFFIAVIT.

It is affirmed that the contents of application are true and correct.

  
DEPONENT.

DIRECTORATE OF ELEMENTARY & SECY; EDUCATION  
KHYBER PAKHTUNKHWA, PESHAWAR

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Deputy Director (Estab)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

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Deputy Director (Estab)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

du

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO. 938/2015

Muhammad Zubair,

VS

Education Deptt.

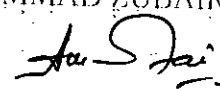
APPLICATION FOR ALLOWING AMENDMENT IN THE INSTANT  
APPEAL OR INCLUDE THE ORDER DATED 10.8.2015 AS  
IMPUGNED FINAL ORDER IN THE INSTANT APPEAL.

RESPECTFULLY,

- 1- That the above noted appeal was filed against the order dated 11.04.2015 whereby the appellant was removed from service. The appellant filed appeal against that order on 17.04.2015 and instituted the present appeal on 31.7.2015 after expiry of ninety days.
- 2- That after the institution of appeal the respondents have rejected the appeal of appellant on 10.08.2015 and as such the appellant could not include the final rejection order in the instant appeal as one of the impugned order.
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THROUGH:

APPELLANT  
MUHAMMAD ZUBAIR  
  
MASIF YOUSAFZAI  
ADVOCATE.

AFFIAVIT.

It is affirmed that the contents of application are true and correct.

  
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DIRECTORATE OF ELEMENTARY & SECY; EDUCATION  
KHYBER PAKHTUNKHWA, PESHAWAR

**OFFICE ORDER.**

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Deputy Director (Estab)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

Endst: No. 1688-91/281/A-15/KC (C)

Dated Peshawar athe 10/8/ 2015

Copy of the above is to the:-

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2. Principal GHSS Khair Abad, Nowshera.
3. Muhammad Zubair Khan Ex CT GHSS Khair Abad Nowshera
4. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.

Deputy Director (Estab)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa



**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR**

Appeal No 938/2015

**Mr. Muhamad Zubair Khan.....Appellant**

**VERSUS**

1- **Secretary (E & S) Education Khyber Pakhtunkhwa, Peshawar & others.**  
..... Respondents

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2.	Affidavit	_____	03
3	<i>Enquiry Report</i>		<i>04-07</i>
4	<i>General Appointment order</i>		<i>08</i>

**Deponent**

①

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR**

Appeal No 938/2015

**Mr. Muhamad Zubair Khan.....Appellant**

**VERSUS**

**1- Secretary (E & S) Education Khyber Pakhtunkhwa, Peshawar & others.  
..... Respondents**

**Respectively Sheweth**

**Written comments/reply on behalf of respondents.**

**Preliminary Objections**

1. That the Appellant has no cause of action/locus standi to file the instant appeal.
2. That this honorable service tribunal has got no jurisdiction to entertain the present appeal.
3. That the present Appeal is bad for non-joinder and mis joinder of necessary parties.
4. That the instant appeal is badly time barred.
5. That the appellant has concealed material facts from this honorable service tribunal.
6. That the appellant is estopped by his own conduct, by deed and by law to file the instant appeal.
7. That the instant appeal is not maintainable in its present form.

**Factual Objection**

- 1 In correct. The appellant was neither been appointed by the competent authority nor did assume the charge of the post in the year 2004. The appellant joined the Education Department through fake and bogus order in the year 2010, as the most of the Office record was destroyed in the heavy flood 2010. When this fact came to the notice of the appellant he exploit the situation and entered though fake order.
- 2 Pertain to the appellant record.
- 3 In correct. No and date of appointment order and other entries recorded in the Service Book of the appellant is fake and bogus. The combined appointment order of the Certified Teachers and other teachers was issued on 29/11/2004 in which the name of the appellant is not included.
- 4 Incorrect. The appellant was neither appointed by the competent authority nor performed any duty.
- 5 In correct. The appellant served about 05 years through fake order not 11 years.
- 6 Correct. That after proper enquiry the appointment order was found fake.
- 7 Pertain to record. Detail reply of the grounds are as under:-

Grounds:

- A. Incorrect. The notification/ order dated 11/04/2015 is according to law, Rules and facts.
- B. Incorrect. The appellant was dealt in accordance with law and rules.
- C. Incorrect. Entries recorded in the Service Book are fake and bogus.
- D. Incorrect. The appellant served about 05 years through fake order not 11 years. Moreover Principals of "Audi Alterum Partem" is not applicable to the instant case.
- E. Incorrect. All the codal formalities were fulfilled before issuance of notification dated 11/04/2015. A proper enquiry was also conducted before issuance of notification dated 11/04/2015.
- F. Incorrect. The notification dated 11/04/2015 is according to law and rules.
- G. Incorrect. The appellant was neither appointed by the competent authority nor assumed the charge of his post from the date of appointment.
- H. Incorrect. All the codal formalities was fulfilled before imposing major penalty.
- I. Incorrect. A proper enquiry was also conducted before imposing major penalty.
- J. Incorrect. The appointment order of the appellant is fake and bogus "ab initio". Hence create no right.
- K. Incorrect.
- L. The respondents also be permitted to advance other arguments at the time of hearing.

It is therefore, requested before your honor that the present appeal is illegal, against facts and without force, may kindly be dismissed with cost.

**Respondent No.1**

Secretary (E&S) Department,  
Govt: of KPK.



**Respondent No. 2**

Director (E&SE)  
Govt: of KPK

**Respondent No.3**

District Education Officer (M)  
Nowshera

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR**

Appeal No 938/2015


**Mr. Muhamad Zubair Khan.....Appellant**

**VERSUS**

**1- Secretary (E & S) Education Khyber Pakhtunkhwa, Peshawar & others.  
..... Respondents**

**AFFIDAVITE**

I Nisar Muhammad District Education Officer (M) Nowshera do solemnly affirmed and declare on oath that the contents of Par wise comments/ reply on behalf of respondent are true and correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.

  
**Deponent**  
23/15

ENQUIRY REPORT AGAINST MR.MUHAMMAD ZUBAIR C.T, GHSS KHAIR ABAD NOWSHERA.

ENQUIRY COMMITTEE

- 1- MR. NOOR JAMAL KHAN PRINCIPAL (BPS-19), GHS BADRASHI NOWSHERA.
- 2- MR.KHALID SHAH EX-PRINCIPAL, GHSS ZKKS NOW DY:DIRECTOR PITE PESHAWAR.

NAME OF ACCUSED

MR.MUHAMMAD ZUBAIR C.T. GHSS KHAIR ABAD DISTRICT NOWSHERA.

CHARGES:-

FAKE APPOINTMENT OF MUHAMMAD ZUBAIR C.T

Date of Enquiry: 01-02-2014,25.3.2014,15.5.2014,12.6.2014 & Onward

INTRODUCTION.

We the enquiry committee consists on Mr.Noor Jamal Khan Principal (BPS-19), GHS Badrashi Nowshera and Mr.Khalid Shah Ex-Principal, GHSS Ziarat Kaka Sahib Nowshera now Dy:Director PITE Peshawar conducted an enquiry against Mr.Muhammad Zubair C.T, GHSS Khair Abad Nowshera for the charges mentioned above vide District Education Officer (Male) Nowshera Notification No.7067-72 dated 04-12-2013 (Annex-A).

PROCEEDINGS:-

BRIEF HISTORY OF THE CASE.

The accused was summoned to appear before the enquiry committee. The enquiry committee visited GHSS Khair Abad Nowshera on dated 01-02-2014. The accused teacher was present in the school. He was directed to produce original service documents for thorough checking and verification (Annex-B). He failed to provide the relevant documents within due

course of time. He was directed vide letter No.4187 dated 15-03-2014 to appear before the enquiry committee and provide the relevant documents (Annex-C). He appeared before the enquiry committee on dated 25-03-2014. A questionnaire consists on relevant questions were served upon him (Annex-D). He submitted written reply on the spot which is not satisfactory (Annex-E). He failed to provide complete required documents. The available relevant record was checked thoroughly along with original service book. According to his written replies, he served in 04 Schools i.e GMS Kana Khel, GMS Camp Koroona, GHSS Nizampur and GHSS Khair Abad while the entries recorded in original service book shows that he has never performed duty at GMS Camp Koroona Nowshera. He has shown himself transferred from GMS Kana Khel to GHSS Nizampur NSR through fake signature of Mr.Roz Wali Khan Ex- EDO E&SE Nowshera order endstt No.2673-75 dated 30-12-2010 (Annex-F). The accused teacher recorded entries of Higher Scale of BPS-14 and BPS-15 showing issued vide DCO Nowshera endstt No. 3031-35 dated 31-12-2004 (After 15 days) and No 3511-112 dated 30-11-2007 consecutively. However he failed to provide sanction of the competent authority which is required well before the entries in original service book.

The DCO Nowshera has already finalized the Recruitment process and issued the combined Appointment order of CT,DM,PET (M&F) vide his office endstt No.21/ DCO/EA/NSR/1754-1862 Dated 29-11-2004 (Annex-G) wherein the name of the accused was not included as the accused was neither applied for the said post nor falls on Merit. According to the accused, he has been appointed in the light of appeal vide DCO Nowshera order endstt No.21/DCO/EA/NSR/ 1749- 55 Dated 15-12-2004 (Annex-H). His statement regarding Appointment order issued vide above mentioned No is quite fake & bogus for the reason that:-

- (i) Appeal can be considered as and when the tentative Merit List is displayed for the information of all concerned candidates and submission of appeals of aggrieved candidates if any within 30 days resultantly.the Merit list will be finalized after decision on appeals and the recruitment order will be issued. There is no provision for appeal after preparation of final merit list and issuance of Recruitment order.
- (ii) There is clear variation in the Endstt No. of the original actual recruitment order and the fake order of the accused as the original genuine order has been issued vide DCO NSR Endstt No. 21/ DCO/EA/NSR/NSR/1754-1862 Dated 29-11-2004 ( See Annex-G) while the fake order of the accused shown issued vide endstt No. 21/DCO/EA/NSR/ 1749- 55 Dated 15-12-2004 (See Annex-H). After at least sixteen days while the endstt No recorded is 04 Nos before the original order which is impossible in any circumstances which clearly indicate that the appointment order is totally fake and cheating with the E&SE Deptt: It is astonishing to say that the

(6)

genuine order was issued on 29-11-2004 while the fake order issued on 15-12-2004 which shows that the endstt No. of fake appointment order is also fake and not in sequence.

The enquiry committee visited GMS Kana Khel Nowshera on dated 12-06-2014. According to 1st Appointment entry recorded in original service book, the accused shown himself appointed at GMS Kana Khel NSR through above mentioned fake order. The Head Master concerned was requested to provide the attendance record and other relevant documents of the accused teacher. He stated in black & white that neither Muhammad Zubair has taken over charge at GMS Kana Khel and nor performed any single day duty at the said school. He further stated that the entry recorded in service book showing the date of taking over charge (1st Appointment) and relieving are quite fake & bogus (Annex- I).

The enquiry committee visited GHSS Nizampur Nowshera on dated 15-05-2014. The Principal concerned was requested to provide the relevant record of the accused. The accused teacher has taken over charge at GHSS Nizampur on 03-01-2011 in the light of fake transfer order mentioned above. He served up to 27-04-2014 and then transferred to GHSS Khair Abad Nowshera vide EDO E&SE Nowshera order endstt No.479-82 dated 27-04-2011 (Annex-J).

While checking his original service book it was observed that he has relieved from duty at GHSS Nizampur on 30-04-2011 and took over charge at GHSS Khair Abad NSR on 01-07-2011. No entry regarding the intervening period i.e 01-05-2011 to 30-06-2011 has been made in original service book which shows the negligence and weak financial management of the DDO Concerned as he has signed the said service book blindly. (Annex K & L)

### CONCLUSION.

In the light of above mentioned facts and documentary proof on record, it has been proved that:-

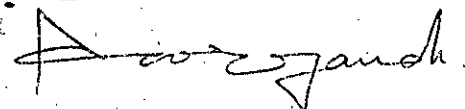
- i) The original Appointment order of the accused teacher is quite fake & bogus and he badly cheated the Education Deptt:
- ii) He has not taken over charge at GMS Kana Khel Nowshera as recorded in his original service book.
- iii) The transfer order from GMS Kana Khel to GHSS Nizampur is also fake and bogus and we have fully satisfied that in this case the method of recruitment through transfer were exercised also the flood on 29-07-2010 at District Nowshera was badly used by some Officers/ Officials of the Deptt, which cause the extra loss to the public exchequer.

- (7)
- iv) No sanction of competent authority for awarding of BPS-14 and BPS-15 was provided for verification/ confirmation. Although entries of BS-14 & BS-15 have been recorded in the service book.
  - v) The 1st appointment entry recorded in service book has been signed by Inhanud Din as District Officer (M) E&SE Deptt: Nowshera while the record indicate that Mr. Inhanud Din was working as Head Master at GHS Pahari Katti Khel while Mr. Riaz Bahar was working as District Officer (Male) Nowshera. Similarly the name of the Deptt: at that time was Schools & Literacy not E&SED upto June, 2008.
  - vi) Most of the entries in original service book have been signed by the single person Inhanud Din instead of concerned DDO which seems to be bogus and fake.
  - vii) The accused teacher in the written reply of question -10 recorded that he has open an account # C-4064-3 in NBP Taru Jabba Nowshera in the year 2010, which is itself evidence that he has not performed the duty at any station.


### RECOMMENDATION.

It is therefore suggested that:-

- 1- The Appointment order of the accused teacher is not valid since its issuance. Therefore his pay may be stopped with immediate effect and his pay may be recovered since his 1st appointment and deposit into Govt treasury under proper head.
- 2- Major penalty of DISMISSAL from Service under E&D Rules, 2011 may be imposed upon him.
- 3- The case of the responsible Officers/Officials involved in this bungling maybe brought into the notice of higher authorities for disciplinary action against them.



1-(MR.NOOR JAMAL KHAN)  
Principal/Enquiry Officer,  
GHS Badrashi NSR.



2-(MR.KHALID SHAH)  
Ex-Principal,GHS ZKKS/  
Now Dy:Director PITE Peshawar/  
Enquiry Officer.



Annex 'G'

(8)

**NOTIFICATION**

In pursuance to this office Notification No. 21/DCO/EA/NSR/1342/1512 dated 27-11-2004, the following newly appointed CT/DM/PET Male & Female Teachers of Schools & Literacy Department, Nowshera, are hereby posted to the post mentioned against their names with immediate effect in the public interest:-

S.No	Name & Designation	Place of posting
1	Zahid Ali CT	GMS Bakhtai
2	Gulzar CT	GHSS ZKK Sahib
3	Haider Zaman CT	GMS Gharib Pura
4	Sajid Ali CT	GMS Wabar
5	Naceemullah CT	GHS Shaidu
6	Inayat Ali Shah CT	GHS No.1 NSR Kalan
7	Bismullah Khan CT	GMS Jabbi
8	Arshullah DM	GHS Mughulki
9	Sagheerullah DM	GMS Marooba
10	Zahoor Hussain DM	GHSS Nizampur
11	Fazil Khan DM	GHS Mali Khel
12	Muhammad Tariq DM	GMS Darvazgai
13	Inayat-ur-Rehman DM	GMS Chashmai
14	Alam Khan DM	GMS Afrido Killi
15	Imdad Hussain DM	GMS Garu
16	Zia Muhammad DM	GHS Pir Pai
17	Sahar Gul DM	GMS Aziz Abad
18	Majeed Khan PET	GMS Darvazgai
19	Muhammad Saeed PET	GMS Jungri
20	Irfan Ali PET	GHS Kheshgi Bala
21	Zahid Hussain PET	GMS Chashmai
22	Asad Iqbal PET	GHS Marooba
23	Zulfiqar Ali PET	GMS Miri Esa
24	Khadim Ali PET	GHS No.1 NSR Cantt
25	Sher Asghar PET	GMS Kana Khel
26	Secma Sardar CT	GGMS Kana Khel
27	Anees Begum CT	GGMS Kana Khel
28	Zubida Khan CT	GGMS Muhib Banda
29	Tahira Bibi CT	GGMS Kahi
30	Asma Rafique CT	GGMS Kutar Pan
31	Naveeda CT	GGMS Jalozai
32	Shakila Bano CT	GGMS Kahi
33	Furhanda Nasrat CT	GGMS Bara Banda
34	Nagina Hassan CT	GGMS Palosai Pavan
35	Shabana DM	GGMS B.B. Pura
36	Kalsoom Begum DM	GGMS Kahi
37	Farzana Sayed DM	GGMS Manki Sharif
38	Ghazala Yasmeen DM	GGHS Badrashi
39	Asma Habib DM	GGMS Kotli Kalan
40	Shazia DM	GGMS Makeen Abad
41	Secma Naz DM	GGMS Inzari
42	Raveeda Begum DM	GGHS Shaidu
43	Mahi Sarwat DM	GGMS Spin Khak
44	Ulfat Nasreen DM	GGMS Palosai Pavan
45	Sadia Hussain DM	GGHS Pir Pai
46	Asma Perveen DM	GGMS Mandoori
47	Gul Naz DM	GGMS Nadeh (Jehangir)
48	Shazia Bano DM	GGMS Chashmai
49	Night Perveen PET	GGMS Kutar Pan
50	Shahida Gul PET	GGHS Nowshera Kalan

218-1-4557-1818

District Coordination Officer,  
Nowshera.

Encl. No. & date.

- Copy for information and reaction to:-
1. The PS to Minister for Education, NWFP Peshawar.
  2. The PS to Secretary Schools & Literacy Deptt. NWFP Peshawar.
  3. The Director Schools & Literacy Deptt. NWFP Peshawar.
  4. Executive District Officer, Schools & Literacy Department Nowshera.
  5. The DO(M&F), Schools & Literacy Deptt. Nowshera.
  6. The District Accounts Officer, Nowshera.
  7. The PS to District Nazim, Nowshera.
  8. The Principal/H. Master concerned.
  9. The officials concerned.
  10. Office copy.

District Coordination Officer,  
Nowshera.

**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No. 938/2015

Muhammad Zubair Khan.....

**(Appellant)**

Versus

1. Secretary (E & S) Education Khyber Pakhtunkhwa,  
Peshawar & others..... **(Respondents)**

.....

**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 Incorrect. While Para-1 of the appeal is correct. Moreover, the appointment order is not fake and scanned by the appellant, as the appellant was appointed as C.T by the competent authority after fulfilling all codal formalities vide order dated 15.12.2004. Moreover, the provincial Inspection Team initiated inquiry against the 73 employees of Education Deptt: in district Nowshera, but Muhammad Zubair Khan were terminated by the DEO Nowshera before the inquiry report of the Provincial Inspection Team, while others are still serving in the education Deptt: and also receiving their salaries.
- 2 No comments by endorsed department, which means that, have admitted Para-2 of the appeal is correct.

- 5 Incorrect. While Para-5 of the appeal is correct.
- 6 Admitted correct by the respondent's department hence need no comments. Moreover, there is no proper enquiry was conducted.
- 7 No comments by endorsed department, which means that, have admitted Para-7 of the appeal is correct.
- 8 Not replied by the respondent's department which means they admitted Para-8 of appeal as correct.
- 9 legal

**GROUND:**

- A) Incorrect. While Para-A of the appeal is correct. Moreover, the appellant was appointed as C.T by the competent authority after fulfilling all codal formalities vide order dated 15.12.2004.
- B) Incorrect. The appellant has not been treated according to law and rules so for.
- C) Incorrect. While Para-C of the appeal is correct.
- D) Incorrect. While Para-D of the appeal is correct.
- E) Incorrect. While Para-E of the appeal is correct.
- F) Not replied accordingly to the Para-F of the appeal. Moreover, Para-F of the written statement is incorrect.
- G) Incorrect. While Para-G of the appeal is correct. Moreover, As explained in above Para-A of appeal.
- H) Incorrect. While Para-H of the appeal is correct.
- I) Incorrect. While Para-I of the appeal is correct.
- J) Incorrect. While Para-J of the appeal is correct. Moreover, the respondents admitted that in facts

already that rejection order was passed after statutory period of ninety days. Which could not be passed under E&D Rules 2011 after statutory period of ninety days, order is not tenable and liable to be set aside.

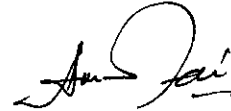
- K) Incorrect. While Para-K of the appeal is correct.
- L) Not replied by the respondent's department which means they admitted Para-L of appeal as correct.
- M) Legal.

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

**APPELLANT**

Muhammad Zubair Khan

Through:



**(M. ASIF YOUSAFZAI)  
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 and nothing has been concealed from Hon'able Tribunal.



  
**DEPONENT**