BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.596/2023

Aziz Ullah Shah

Versus

Govt of KP, through Secretary Education and others

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District Education Officer (M) Lakki Marwat.

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Aziz Ullah Shah

Diary No. 8466

Versus

Barrel 23-1, - 2023

Govt of KP, through Secretary Education and others

Written Reply on behalf of Respondents No-1,2,3&4.

Respectfully Sheweth:

Preliminary Objections:

- **A.** The appeal is wholly incompetent and untenable.
- **B.** The appellant has not come to the Hon'ble tribunal with clean hands.
- **C.** The appeal is filed by the appellant with mala-fide intent.
- **D.** The appeal is suffer from exaggeration and mis-statement.
- **E.** The appellant has no locus standi and cause of action.
- **F.** That the appellant is barred from preferring instant appeal, because he is guilty of concealment of actual facts.
- G. That the appellant was properly served with absence notices on his home address through registered service mail. Furthermore, absence notice was published in prominent newspaper but the appellant failed to comply with the direction. Hence under section (9) of E&D rules of 2011 all codal formalities have been adopted before his removal from services.
- **H.** The appellant has not come to the Hon'ble Tribunal with clean hands. The appeal also suffers from mis-statement and concealment of facts and as such the appellant is not entitled to any relief.

REPLY ON FACTS:

1. That Para No.1 did not concern the respondents. Hence need no reply.

- 2. That Para No. 2 in concerned with the appellant. Furthermore, the appellant was served with the absence notice vide No. 4395 dated. 3-09-2022 with the direction to resume his official duty within 15 days but appellant failed to resume his duty. (Absence notice Annexed A)
- 3. That Para No.3. It is submitted that the promotion issue was not raised before proper forum. Moreover, promotion case is pending before Honorable Peshawar High Court Bannu bench and appellant removal from service was due to his will full absence from the official duty.
- 4. That Para No.4 is in-correct. The FIR was correctly lodged and para pertains to court record.
- 5. That Para No. 5. It is submitted that the appellant was correctly involved in FIR and the appellant was proceeded in accordance with law by the law enforcing agency.
- 6. That Para No. 6 is incorrect. The salary of the appellant was stopped due to illegal activities and above said FIR. It is pertinent to mention that the appellant was charged for detaining the students of entire school, hence his salary was correctly stopped. Moreover, the appellant is habitual absentee therefore due to his conduct, salary was stopped. Moreover, pay was released on the directions of Honorable Peshawar High Court Bannu Bench directions. (Copy of absentee report along with FIR, Pictorial evidence of School, Copy of Attendance register, Copy of Pay roll and Salary slip of Appellant are annexed as B, C, D, E, F & G).
- 7. That Para No.7 is incorrect. The appellant was acquitted on compromise because the complainant was harassed by the appellant, therefore the complainant withdrew from his charges. Further Para pertains to court record.
- 8. That Para No. 8 is incorrect. The High Court ordered to release the salary of the appellant for few months and thereafter the salary was against stopped because the appellant was absent from his duty.
- 9. That Para No.9 is incorrect. The appellant was transferred due to his conduct with the staff and students of the school. It is pertinent to mention that the appellant has initiated 4 /5 litigation against department in civil courts and his conduct with the staff of the school was very abusive hence his transfer was

need of the day. Furthermore, appellant is civil servant and he can be transferred to any station in the best interest of public service under the rules and policy.

- 10. That Para No.10. The appellant is habitual litigant and again he has filed civil suit just to harass the department. The appellant joined the duty but for few days.
- 11. That Para No.11. It is submitted that the appellant's writ petition in respect of salary was pending and before its disposal on merits the salary of appellant was correctly stopped due to his habitual absentee behavior.
- 12. That Para No.12. It is submitted that the appellant has no enmity in the area. As he is habitual absentee and appellant harass the previous school staff, hence he could not be let to take charge in the previous school again. It is pertinent to mention that civil servant is not permitted to choose his place of posting.
- 13. That Para No.13 is incorrect. Respondent has issued absence notice through registered service on his home address to resume his official duty but he failed to do so. Moreover, he failed to justify his absence with cogent reason and his final absence notice was published in daily aaj dated 24-10-2022 with the direction to resumed his duty. Furthermore, all the codal formalities as per Section-9 of Govt. Service Rules 2011 has been fulfilled before his removal. (Final Absentee notice in newspaper dated. 24-10-2022, and removal order dated. 2-12-2022 are annexed as H & I)
- 14. That Para No.14 pertains to record.
- 15. That Para No.15. It is submitted that after complete satisfaction the appellant was removed from service. Prior to removal show cause and publication was made in respect of appellant's absence from duty. Moreover, under section-9 of E&D Rules 2011, in case of will full absence there is no need of formal inquiry or show cause and as per above Para all the codal formalities have been adopted and his removal was as per law, rules and policy.
- **16.** That Para NO.16. The representation of the appellant was disposed of in accordance with law as mentioned detail in above paras.



17. That The appellant's removal from service order is in accordance with law. The instant appeal is baseless and filed to pressurize department, therefore is liable to be dismissed.

REPLYON GROUNDS:

- a) That Para-A is incorrect. The order dated: 02-12-2022 is in accordance with law and after adopting proper procedure and rules the appellant was removed from service.
- b) That Para No. B is incorrect. There is no personal grudge on the part of the respondents. The appellant was dealt in accordance with law and policy of the department.
- c) That Para No. C. It is submitted that the FIR was lodged correctly as the appellant and his father armed with weapon, detained the school staff and children, therefore the law was set to motion.
- d) That Para No. D is incorrect. The respondent No.3 / D.E.O (M) Lakki Marwat is competent to proceed with the matter and in the instant case the competent authority proceeded in accordance with law as the appellant was habitual absentee hence correctly removed from service.
- e) That Para No. E is incorrect. The whole record of the appellant shows his conduct and behavior. He has initiated 4/5 litigation in civil courts against department along with defamation etc. He is habitual absentee; hence the appellant is not entitled to any relief.
- f) That Para No. F. The removal orders are issued after complete satisfaction and after adopting proper procedure, hence the appeal is liable to be set at naught.
- g) That Para No. G is incorrect. No discrimination has been done to appellant neither he was subject to any victimization nor was treated against law. The appellant was treated as per rules, policy and fairly and after complete satisfaction in respect of his absence from duty and conduct he was removed from service.
- h) That Para H is incorrect. Limitation applies in instant case.



- i) That Para No. I is incorrect. There are more that dozens of complaints against appellant for his rude and abusive behavior with school staff and students. The removal order was based on proper law and policy.
- j) That Para No. J is incorrect. The appellant was informed through absent notice and publication for his reply and appearance but he didn't bother to appear before competent authority or on his duty. Hence the removal order was correctly issued.
- k) That Para No. K. The order of removal is as per law and after proper satisfaction in respect of absence of appellant from his duty.
- 1) That Para No.I is incorrect. The competent authority exercised his powers as per rules and policy.
- m) That Para No. M The counsel of the respondents may please be allowed to raise further points at the time of arguments.

It is, therefore, most respectfully prayed that the appeal of the appellant may kindly be dismissed with special compensatory costs coupled with expenses of litigation.

Elementary & Secondary Education

Peshawar

Respondent No. 01

Elementary & Secondary Education Peshawar

Respondent No. 02

District Education Officer
(M) Lakki marwat.

Respondent No. 3 & 4

AFFIDAVIT

I, Kashif Munir Litigation Officer O/O DEO Male Lakki Marwat, do hereby solemnly affirm and declare upon oath that the contents of the accompanied written reply are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Hon'ble Tribunal.

In this apposed the answering Deponent
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محکمہ ابتدائ و تانوی تعلیم (مردانہ) لکی مروت

تاريخ ______ تاريخ

مراسله نمبر 03/9/2022

منجانب: لسشركت ايجوكيشن أفيسر (مردانم) لكي مروت

بجانب 1. عزيز الله شاه ولد سيد بادشاه سكنه مثوره ً ذاكخانه غزني خيل ضلع لكي مروت تحصيل غزني خيل

عنوان: غير حاضري نوٹس

باداست

بحوالہ رپورت موصولہ از بیڈ ماسٹر گورنمنٹ بانی سکول مٹورہ آپ عزیز شہ شاہ چرکیدار ۔ جی ۔ ایچ ۔ ایس ۔ مٹورہ 03 ستمبر 2021 سے سکول ڈیوٹی سے خیر حاضر ہیں۔ آپ کو بدایت کی جاتی ہے ۔ کہ مذکورہ غیر حاضری نوٹس موصول ہونے کے 15 یوم کے اندر اندر سرکاری ڈیوٹی پر حاضر ہوکر زیر دستخطی کے رو برو اپنی غیر حاضری کی معقول وجہ بیان کریں ، بصورت دیگر آپ کے خلاف ای اینڈ ڈی رولز 2011 کے تحت تاذیبی کاروای عمل میں دیگر آپ کے خلاف ای اینڈ ڈی رولز 2011 کے تحت تاذیبی کاروای عمل میں

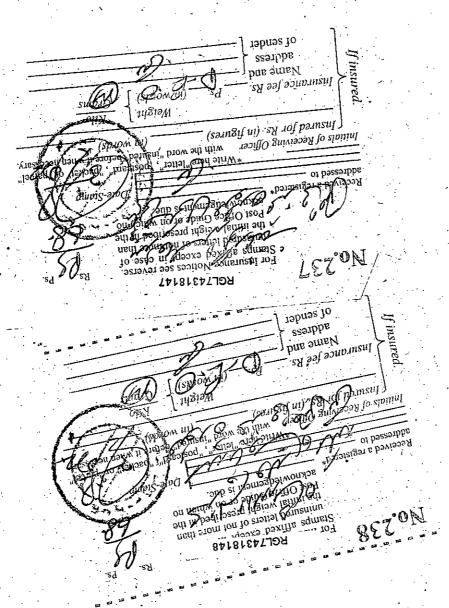
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نقول بزائے اطلاع:

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ڈسٹرکٹ ایجوکیشن نمیسر (مردانہ) لکی مروث م

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OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER

MALE Lakki Marwat

Email: sdeomlakki@gmail.com

No: 1/65 dated 12 /12/2020

To

The District Education Officer

(Male) Lakki Marwat.

SUBJECT: ABSENTEE REPORT AND ILLEGAL ACTIVITIES OF MR. AZIZ

ULLAH CHOWKIDAR GPS SHAISTA MATORA.

Memo:-

Reference your good office letter No.6405 dated: 03-12-2020 it is stated that Mr. Aziz Ullah Shah is absent from school and is involved in other activities, Mr. Aziz Ullah Shah does not seem sound and normal from his behavior. He has misbehaved with school staff, ASDEO and DCMAs.

- 1. He once locked teachers and students in school. The school PSHT phoned ASDEO (C). ASDEO (C) phoned the police station Ghazni Khel and SHO rushed to the school and released them. FIR was lodged on 04-03-2019 but the teacher, could not pursue properly as they were threatened. (FIR attached).
- 2. He does not allow the school PTC for utilization of funds and pressurize it that he will utilize the fund as PTC cannot utilize transparently.
- 3. The chowkidar has not performed his duty since 04-03-2019 and is continuously absent from the school as per school attendance register. The undersigned visited the school on 08-12-2020. The school looked like a field due to thorny plants/trees and high grass and scattered bricks (Photocopy attached).
- 4. The said chowkidar pay was stopped w.e.f 01-10-2019 to 31-08-2020 that was released on your good office/legal advisor MR. Kashif Rehman w.e.f 01-09-2020.
- 5. As per PSHT written report, when the school opened on 06-08-2020, both the batteries were missing. The solar system is non-functional.

Your good self is requested to proceed the said chowkidar under conduct E & D rules, as he has kept the education of the students at stake. And the teacher are regularly requesting for transfer from the school.

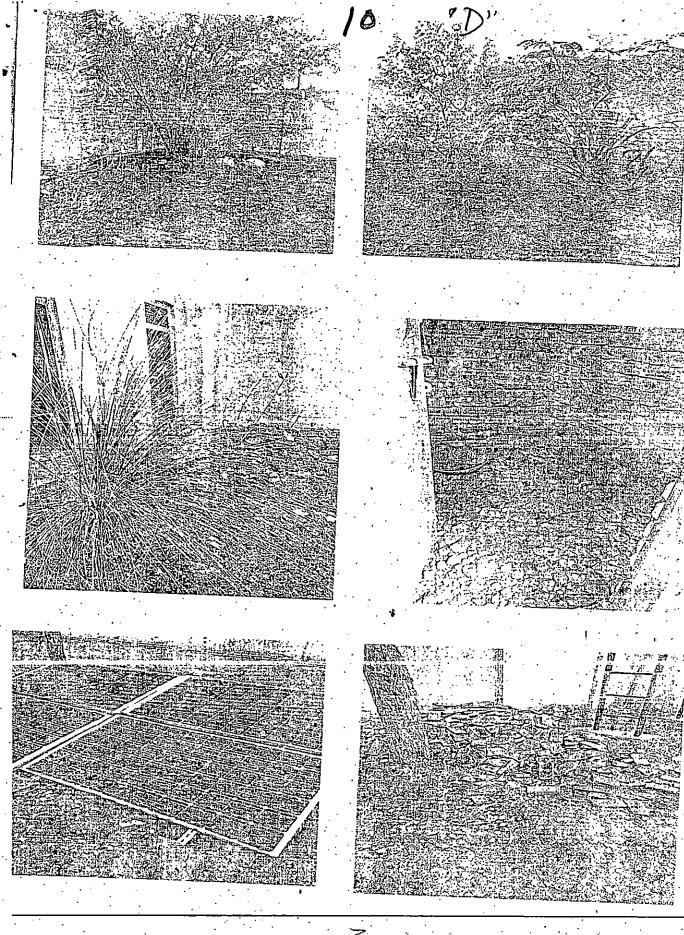
Sub-Divisional Education Officer (Male Kakki Marwat

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PAYROLL SYSTEM
AMENDMENT FORM
SINGLE EMPLOYEE ENTRY

LK-6004

OFFICE OF THE

Sub-Divisional Education Officer (Male) Lakki Marwat

FOR THE MONTH 10/2020

, LK-6004

DDO Code: Personal No:

295743

Employee Name: Aziz Ullah Shah

CNIC No:

FORM PAY 02

Date:

Grade /Scale

4 Chowkidar

GPS Shaista Matora

	Regular Pay			Adjusti	nent		
Regular Code	Description	Amount Rs.	Arrear Code	Description	Amount Rs.	No of Months	Remarks
0001	Basic Pay	15620	5801 .	Basic Pay	15620	Р	
1000	House Rent Allowance 30%	1458	5002	HRA	1458	Р	D As por The Directions of pass
1210	Conveyance Allowance	1765	5011	C.A	1785		
1300	Medical Allowance	1500	5012	M.A	1500	-	High Court Ranny Bench Mi
1516	Dress Allowance	100	5026	D.A	100	P	1 - a wilar for
1567	Washing Allowance	100	-5070	W.A	100	P	pay of the chowseld
1833	Integrated Allowance	-	5288	Intg; A	-	1	D As per The Directions of Pass. High court Rannu Bench The pay of the Chowleidar for month of October, soro alongs the arraars of Septembers. be released.
1505 .	Charge Allowance		5022	Charge. A	-	·	mouth of October, solo
2148	Adhoc Allowance 2013	347	5309	ARA.13	347	P	1 Castambers
2199	Adhoc Allowance 2015	243	5964	ARA 15	243	Р	the coroars of septen
2211	Adhoc Allowance 2016 10%	1235	5975	ARA 16	1235	P	
2224	Adhoc Allowance 2017, 10%	1562	5990	ARA 17	1562	Р	be released.
2247	Adhoc Allowance 2018 10%	1562	5322	ARA 18	1562	P	
2264	Adhoc Allowance 2019 10%	1562		ARA 19	1562	P	
	Gross Pay	27074	4.	Total	27074	<u> </u>	
30	GP Fund	830		GP Fund	830		
3501	Benevolent Fund	300		B.F	300		
3990	EEF KPK	60		EEF KPK	60	<u> </u>	,
4004	Ret; Benefit & Death Comp;	300		RB & DC	300		
	Total Deduction	1490	Te	otal Ded:	1490		
	Net Pay	25584		et Arrear	25534	1.	

tout

Prepared By

Audit/Checked By

3.19/2

Entered Verified By

	BALANCE Gazetted: N	KEPAID uckle No.:	ide: 04 NTN: B	(80136585) Gr:	CHOWKIDAR A M O U N T			00295743 AZIZULLAH SHA P A Y MENTS
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NATIONAL BANK OF PAKISTAN NEP TITER KHEL LAKKI MARWAT LAKKI MARWAT S5,493.00 01.08.2019 31.08.2019 NET PAY S5,493.00 01.08.2019 31.08.2019

arrears of September 2020 may immediately be released. Chowkidar GPS No. Shaista Matora for the month of October 2020 along with the Justice Musarat Hilali and Sahibzada Asadullah the pay in R/O Mr. Aziz Ullah Shah

DEDICATIONS 1,581,00-

Branch Codé, 231305 NBP TITER, KHEL LAKKI
PAYMENTS, NBP TITER, KHEL LAKKI

2264 Adhoc Relief All 201

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20077 -عزيز البدشاه ولدسيد بادشاه چوكيدار گورنمنت مائي سكول منوره عنلع لكي مروت اسكنه منور ا بحوالبه ربورث موصوله از هیر ماسر گورنمنٹ بائی سکول مثورہ ضلع کلی مروت ا بتاری 22/08/2022 سپ مسمی عزیز الله شاہ ولد سید یا دشاہ چوکیدار گورنمنٹ ہائی سکول مٹور ہضائع لکی مروت مور خد 03/09/2021 سے سکول ڈیوٹی سے بغیر کسی اطلاع کے مسلسل أبر حاضر يائے محتے آپ كو بذراجه رجشرؤ ذاك نوش غير حاضرى تمبر 9 3 4 رز پخ 2022-03-03 سکول اور گھر کے پتہ پرروانہ کیا گیا اتا ہے، کی طرف ہے غیرحاضری ا نوٹس کا تئر رہی جواب مرصول ہوالبین تب نے سٹر میں حاضری کی رپورٹ ہیں کی ہیڈیاستر تاور نمنسٹہ ہائی سکول مٹورہ ضلع کئی مروت کی جہتی نمبر22 بتاریخ 2022-10-03 کی روسیہ السياسلسل ذيوتي سے غير راضر بيل لبذات بكواخبار إراك ذريع فأسل نوكس غير حاضرى ری کرتے ہوئے مدایت کی رتی ہے کہ 5 میں کے اندر ندر سکول میں حاضری کی ربورہ ار بر را در زیر تفطی کے سامنے بیش بوکراین یا مانسری کی مقدل مجد بیان کریں بصورت دیکے یے رہے سکومت نے بر پختونخو کے گورنمنٹ سروش ای اینڈ ڈی روٹر 2011 کے اس فنباطی کرروان عمل میر دن جائے گر جوکہ آپ کی طازمت سے برخواعلی برختی ہوسکتی ۔ جند Registered



Office of The District Education Officer Male Lakki Marwat

Ph: (0969)538291 email: <u>emislakki@yahoo.com</u> <u>www.facebook.com/deomale</u> Lakki, www.twitter.com/deo_m_lakki

OFFICE ORDER:-

- 1. WHEREAS, Mr. Aziz Ullah S/O Syed Badshah Chowkidar Govt. High School Matora Lakki Marwat was proceeded under the Khyber Pakhtunkhwa Govt. Servants Efficiency & Discipline (E&D) Rules-2011 amended on 31-12-2021 for the charges of his habitual willful absence from official duty w.e.f. 03-09-2021 till date, as per report of the Head Master GHS Matora Lakki Marwat dated. 22-08-2022.
- 2. AND WHEREAS, The District Education Officer (Male) Lakki Marwat served an absence notice upon the cited official on his home address through registered covering letter vide No.4395 dated. 03-09-2022, with the directions to resume his official duty within fifteen (15) days.
- 3. AND WHEREAS, in view of the above, the cited official neither resumed his official duty in GHS Matora Lakki Marwat, nor appeared before office of DEO (Male) Lakki Marwat to justify his willful absence.
- 4. AND WHEREAS, District Education Officer (Male) Lakki Marwat published an absence notice through daily Newspapers "Ajj" dated. 24-10-2022, with the directions to resume his official duty and explain the reasons of willful absence before the competent authority but he willfully failed to follow the directions.
- 5. AND WHEREAS, minor penalty of withholding one (1) increment has already been imposed upon the Ex-Official vide this office No. 3994 dated. 06-08-2022.
- 6. AND NOW THEREFORE, in light of the above record and in exercise of powers conferred under Govt. Servants Efficiency & Discipline Rules-2011 amended vide date 31-12-2021, the competent authority (District Education Officer Male Lakki Marwat), is satisfied and is pleased to impose Major Penalty of "Removal from Service" (Rule-4 (1) (b) (iii) of the ibid rule) upon Mr. Aziz Ullah Ex-Chowkidar GHS Matora Lakki Marwat from the date of absence.

(Muhammad Ilyas Khan Khattak)

District Education Office

Endst No. $\underline{7748-53}$ Dated. $\underline{02-12-2022}$ (Male) Lakki Marwat. Copy to the:-

1) Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

2) District Monitoring Officer (EMA), Lakki Marwat.

3) District Accounts Officer, Lakki Marwat.

4) Deputy District Education Officer (Male) Local Office.

5) Head Master/DDO GHS Matora with the directions to:-

(a) Recover illegally paid salary during the above cited period, if any, at earliest under intimation to this office (b) Record necessary entry in his service book.

6) Mr. Aziz Ullah S/O Syed Badshah Ex-Chowkidar GHS Matora R/O Matora

Tehsil Ghazni Khel District Lakki Marwat.

District Education Officer (Male) Lakki Marwat.

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AUTHORITY

Mr. Kashif Munir Litigation Officer O/O the District Education Officer (Male) Lakki Marwat is hereby authorized to Submit Reply in Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in S.A 596/2023 Titled Aziz Ullah Shah Versus Government of Khyber Pakhtunkhwa on behalf of the undersigned.

District Education Officer (M)

Lakki Marwat

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