


FORM OF ORDER SHEET

Court of _____

Appeal No. 2209/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/10/2023	<p>The appeal of Mr. Muhammad Adnan presented today by Mr. M. Asif Yousafzai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshai is given to the counsel for the appellant.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 2209 /2023

Muhammad Adnan

V/S

Govt: of KP & others.

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APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT
OF PAKISTAN


(SYED NOMAN ALI BUKHARI)

ADVOCATE HIGH COURT,


(HILAL ZUBAIR)

ADVOCATE PESHAWAR,

Room No.FR-08, 4th Floor,

Bilour Plaza Peshawar Cantt:

Cell # 03339103240

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 2209/2023

Muhammad Adnan, Ex-Senior Scale Stenographer,
Establishment & Administration Department,
Govt: of Khyber Pakhtunkhwa, Peshawar.

(APPELLANT)

VERSUS

1. The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Chief Secretary Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary to Govt: of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar.
4. The Secretary to Govt: of Khyber Pakhtunkhwa. (E&SE) Department, Civil Secretariat, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 17.07.2023 WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE AND AGAINST THE REJECTION ORDER DATED 10/10/2023 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 17.07.2023 AND 10-10-2023 MAY KINDLY BE SET-ASIDE AND THE RESPONDENTS MAY PLEASE BE DIRECTED TO REINSTATE THE APPELLANT INTO HIS SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:-

1. That the appellant was working in Establishment Department for the last 03-years and since his appointment the appellant has performing his duty with great devotion and honesty whatsoever assigned to him and no complaint has been filed regarding his performance.
2. That the letter dated 10.11.2022 was issued by the Section Officer Elementary & Secondary Education Department Govt: of Khyber Pakhtunkhwa wherein, it is stated that he was involved in corrupt practice i.e *"for the reasons that he has been involved in issuing fake transfer order of two subject specialists furthermore, he was allegedly demanded Rs. 60,000/- from the said two Subject Specialist"* **Copy of Letter dated 10.11.2022 is attached as Annexure-A.**
3. That letter dated 20.12.2022 through Section Officer (E-IV) informed Mr. Abdul Haq regard that you are appointed by the competent authority as Inquiry Officer to conduct Inquiry to dig-out fact regarding the allegations leveled against the appellant, wherein the charge sheet and statement of allegations was also served upon the appellant, Wherein the appellant give proper reply to the charge sheet and statement of allegation and rebutted the entire allegations leveled against him with proof. **Copy of memo dated 20.12.2022, charge sheet and statement of allegations & reply to charge sheet are attached as Annex-B, C & D.**
4. That on dated 04.01.2023 the nominated inquiry officer call the appellant for personal hearing on dated 09.01.2023. **Copy of memo dated 09.01.2023 is attached as Annex-E.**
5. That the inquiry was conducted against the appellant without giving any chance of cross examination and recommended minor penalty to the appellant. **Copy of Inquiry Report is attached as Annex-F.**
6. That thereafter show cause notice was served upon the appellant dated on 05.12.2023 in which it is recommended by the Chief Secretary Khyber Pakhtunkhwa (Competent Authority) dismissal from service, whereon dated 19.05.2023 the appellant give reply to the show cause notice and rebutted all the entire allegations leveled against him

Copy of Show Cause Notice and reply to Show Cause Notice are attached as Annexure-G & H.

7. That on dated 17.07.2023 a notification was issued by the Chief Secretary Khyber Pakhtunkhwa whereby the appellant was removal from service. Copy of impugned order dated 17.07.2023 is attached as Annex-I.
8. That the appellant filed departmental appeal against the impugned order dated 17.07.2023 which was rejected on 10.10.2023 without showing any reasons and for no good grounds. Copy of departmental appeal and rejection order dated 10.10.2023 are attached as Annexure-J & K.
9. That now the appellant comes to this Honourable Tribunal for redressal of his grievances on the following grounds amongst others.

GROUND:-

- A) That the impugned order dated 17.07.2023 are against the law, facts, norms of justice material on record, therefore, not tenable and liable to be set aside.
- B) That the opportunity of cross examination was not given to the appellant which is against the Section (11)(i) of the E&D Rules, 2011.
- C) That according to the Judgment of Superior Court that the competent authority did not agree with the recommendation given by the inquiry the competent authority is bound to give reason for the same.
- D) That the regards power of the transfer appellant clears the position, reply to the show cause notice and the charge sheet the posting/transfer are not domain of the appellant but it as came in the domain of Secretary E&SE Department who is competent to issue transfer order of Subject Specialist.
- E) That the appellant has been condemned unheard in violation of Article 10-A of the Constitution of Islamic republic of Pakistan and in violation of maxim "Audi Alterum Partum" and has not been treated according to law and rules. That according to reported judgment cited as *2019 CLC 1750* stated that Audi Alterum Partum" shall be read as

F) part and parcel of the every statute. The same principle held in the Superior Court judgments cited as 2016 SCMR 943, 2010 SCMR 1554 and 2020 PLC(cs) 67.

G) That the penalty of removal from service is very harsh which was passed in violation of law and rules, therefore, the same is not sustainable in the eyes of law.

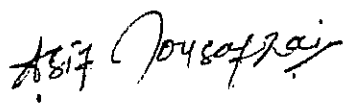
H) That the appellant has not been treated in accordance with law and rules and has been condemned unheard through out.

I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

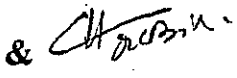
It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.


APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT
OF PAKISTAN


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,


(HILAL ZUBAIR)
ADVOCATE PESHAWAR,

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2023

Muhammad Adnan

V/S

Govt. of KP etc.

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.


DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.


(SYED NOMAN ALI BUKHARI)

ADVOCATE HIGH COURT

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2023

Muhammad Adnan

V/S

Govt: of KP & etc.

AFFIDAVIT

I, Muhammad Adnan Ex-Senior Scale Stenographer Establishment & Administration Department Khyber Pakhtunkhwa, Peshawar (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.


DEPONENT

Muhammad Adnan





A

(7)

Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department

No. SOG/E&SE/1-31/2022
Dated Peshawar the 10/11/2022

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment Department.

Subject: SURRENDER OF SERVICES OF MUHAMMAD ADNAN SENIOR
SCALE STENOGRAPHER (BS-16), E&SE DEPARTMENT.

Dear Sir,

I am directed to refer to the subject noted above and to state that the services of Muhammad Adnan, Senior Scale Stenographer (BS-16) are no more required to this department and his services are hereby surrendered to Establishment Department for the reason that he has been involved in issuing fake transfer orders of two Subject Specialists (copy enclosed). Furthermore, he has allegedly demanded Rs. 60,000/- from the said two Subject Specialists (Their statements are enclosed).

2. In view of the above, it is requested that being employee of Establishment Department, disciplinary action may be initiated against him under E&D Rules 2011, for the said corrupt practices, please.

Yours faithfully,

Section Officer (General)

Endst: No. & date even.

Copy forwarded to:

1. P.S to Secretary, E&SE Department.
2. P.S to Special Secretary E&SE Department.
3. P.A to Additional Secretary (G), E&SE Department.
4. P.A to Additional Secretary (E), E&SE Department.
5. P.A to Deputy Secretary (Admn), E&SE Department.
7. Accountant/Cashier, E&SE Department, with the direction to stop his salary from Accountant General, Khyber Pakhtunkhwa, with immediate effect.
8. ✓ Muhammad Adnan, Senior Scale Stenographer (BS-16), Complaint Section E&SE Department, with the direction to immediately report to Section Officer (E-IV), Establishment Department.

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to be true Copy

Section Officer (General)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

No. SOE.IV E&AD 9(487)/2021
Dated Peshawar December 20, 2022

To

Mr. Abdul Haq (PMS, BS-17),
Section Officer (E-III),
Establishment Department.

Subject: - SURRENDER OF MUHAMMAD ADNAN, SENIOR SCALE
STENOGRAPHER (BS-16) E&SE DEPARTMENT

I am directed to refer to the subject noted above and to inform that the Competent Authority is pleased to appoint you as inquiry officer to conduct inquiry against Muhammad Adnan, Sr. Scale Stenographer (BS-16), Elementary & Secondary Department to dig out the facts and investigate the charges leveled against him under Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, within the stipulated time.

2. Copies of Charge Sheet and Statement of Allegations are enclosed.
Encl: As Above.

(SIRAJ MUHAMMAD)
SECTION OFFICER (E-IV)

Endst: Even No. & Date.

Copy forwarded to: -

1. PS to Secretary, E& SE Department.
2. Section Officer (General), E& SE Department with the request to assist and provide relevant record to the inquiry officer during the course of inquiry.
3. PA to Addl. Secretary (E), Establishment Department.
3. PA to Dy. Secretary (E), Establishment Department.
4. Official concerned along with copies of Charge Sheet and Statement of Allegations.

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SECTION OFFICER (E-IV)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

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CHARGE SHEET

I, Dr. Shahzad Khan Bangash, Chief Secretary Khyber Pakhtunkhwa, as Competent Authority hereby charge you, Mr. Muhammad Adnan, (Senior Scale Stenographer BS-16), presently posted in Elementary & Secondary Education, Department as follows:

That you while posted in Elementary & Secondary Education Department for official duties committed the following irregularities: -

- i. You have provided fake posting/transfer notification to Mr. Sami Ullah and Mr. Mati Ullah, Subject Specialists from GHSS Nandrak Kohat to GHSS Jandrai Karak and demanded a reasonable amount from both the Subject Specialists.
- ii. Your this irresponsible behavior is prejudicial to good order and service discipline.

2. By reason of the above, you appear to be guilty of misconduct under Rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the rules ibid.

3. You are, therefore, required to submit your written defense within ten (10) days or not more than fourteen (14) days of the receipt of this charge sheet to the inquiry officer / committee, as the case may be.

4. Your written defense, if any, should reach the enquiry officer / committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be initiated against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

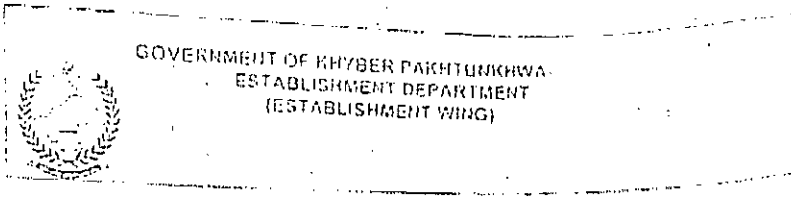
(Dr. Shahzad Khan Bangash)
Chief Secretary, Khyber Pakhtunkhwa

Muhammad Adnan, Senior Scale Stenographer (BS-16)
E&SE Education, Department.

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DISCIPLINARY ACTION

1. Dr. Shahzad Khan Bangash, Chief Secretary Khyber Pakhtunkhwa, Government of Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Mr. Muhammad Adnan, Senior Scale, Non-regular (GS-16), currently posted in Elementary & Secondary Education Department has rendered himself liable to be proceeded against, as he has committed the following acts/ omissions, within the meaning of Rule 3 of the Khyber Pakhtunkhwa Government Services (Efficiency & Discipline) Rules, 2011:

STATEMENT OF ALLEGATIONS

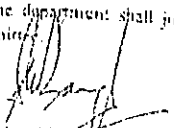
- i. He has provided fake posting/transfer notification to Mr. Sami Ullah and Mr. Mati Ullah, Subject Specialists from GHSS Mandrak Kohat to GHSS Jandral Karak and demanded a reasonable amount from both the Subject Specialists
- ii. His irresponsible behavior is prejudicial to good order and service discipline.

2. For the purpose of inquiry against the accused with reference to the above allegations, an inquiry officer/committee, consisting of the following officer(s), is constituted under 10(1)(a) of the Idid rules.

Mr. Abdul Haq, PERS (BS-17) SO. E-III, Establi. Deptt.

3. The inquiry officer/committee shall, in accordance with the provision of the Idid rules, provide reasonable opportunity of hearing to the accused, record its finding and make within Sixty (60) days of the receipt of this order, recommendations with regard to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/committee.


(Dr. Shahzad Khan Bangash)
Chief Secretary, Khyber Pakhtunkhwa

Muhammad Adnan, Senior Scale Non-regular (GS-16)
B&SE, Islamabad.

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IN REPLY OF CHARGE SHEET AND STATEMENT OF ALLEGATION

It is humbly submitted that I, Mr. Muhammad Adnan Senior Scale Stenographer have been serving in Elementary & Secondary Education Department for the last three years. Being an employee of the said Department and resident of southern region, many people approach us for their posting / transfer, thus these two Subject Specialists came to me through one of my teacher and explained their problems.

As per in terms of Establishment Department letter No. SO(O&M) E&AD/3-15/2007 dated 26.07.2013 posting / transfer of the officers up to BS-18 may be made at the level of the Department concerned in consultation with Minister In charge, so here in education department all the posting / transfer orders are issued with the approval of the Minister E&SE Department.

Each teacher of Education Department wants posting / adjustment at their nearest station to his home, for this purpose he visits the department and brings recommendation / references from political figures and Government officers. It may be noted that staff of (both Govt Servant & Private) in the office of the Minister / Advisors / Special Assistant to Chief Minister are working and managing the work of officers for their ulterior motives.

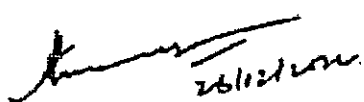
Mr. Mehboob-ur-Rehman r/o Peshawar is also working in office of Minister Elementary & Secondary Education Department. He deals with posting / transfer in Education Department. I introduced these Subject Specialists with him and he assured that he will post them as per their desired stations / schools. Later on, he provided the order copies to me and I sent him through WhatsApp messenger and in compliance of the orders, they assumed their charges in their respective schools and got their salaries accordingly.

After some time, someone made a complaint against the said posting / transfer orders and stated that the said orders are fake. But I have no concern with that order as that order was handed over to me by Mr. Mehboob-ur-Rehman. Neither I have demanded a single penny from these Subject Specialists nor I was provided any amount. May be someone else has demanded a specific amount from them on my name, so these are baseless allegation.

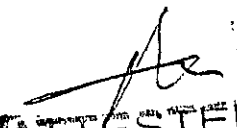
Furthermore, it is added that you can check my service record, never ever I have been involved in any sort of such activities. Education Department surrendered me to Establishment Department unilaterally and without giving a chance of fair trial and initiated disciplinary proceeding on the behest of Minister office to cover their illegal activities. They are trying their best to indulge me in the instant case and make me scapegoat and save their blue eyed.

It is therefore, requested that the charges against the under signed may be dropped and may be exonerated from the allegation leveled.

I may also be heard in person, please.


Muhammad Adnan
Senior Scale Stenographer
E&SE Department

6/6


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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(ESTABLISHMENT WING)
Email: soeiiisection@gmail.com

No. SOE-III (E&AD)3-4/Inquiry/2023
Dated Peshawar the 04th January, 2023

091-9210524

To

Muhammad Adnan, Senior Scale Stenographer (BS-16),
E-IV Section, Establishment Department.
Contact No. 0300-9096422

SUBJECT: PERSONAL HEARING

The Competent Authority / Chief Secretary Khyber Pakhtunkhwa has appointed the undersigned as Inquiry Officer to conduct inquiry against you.

2. To proceed further with the inquiry, you are directed to appear before the undersigned on 9th January, 2023, at 02:00PM for personal hearing.

(ABDUL HAQ)
(SECTION OFFICER (E-III)/
INQUIRY OFFICER)

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SUBJECT: INQUIRY REPORT AGAINST MUHAMMAD ADNAN SENIOR SCALE STENOGRAPHER (BS-16) ELEMENTARY & SECONDARY EDUCATION DEPARTMENT.

The Chief Secretary Khyber Pakhtunkhwa had appointed the undersigned as inquiry officer which was conveyed vide the Section Officer (E-IV), Establishment Department Khyber Pakhtunkhwa letter NO.SOE.IV E&AD 9(487)/2021 dated 20.12.2022 along with the charge sheet and statement of allegations duly approved and signed by the Chief Secretary Khyber Pakhtunkhwa against Muhammad Adnan Senior Scale Stenographer (BS-16) for formal inquiry under E&D Rules, 2011.

2. The charge sheet and statement of allegations against the accused official state that:

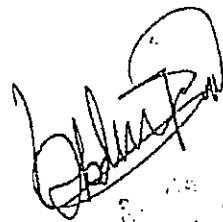
- i. The accused official provided fake Posting / Transfer notification to Mr. Sami Ullah and Mr. Mati Ullah, Subject Specialists form GHSS Nandrak Kohat to GHSS Jandrai Karak and demanded a reasonable amount from both the Subject Specialists.
- ii. This irresponsible behavior of the accused official is prejudicial to good order and service discipline.

3. The undersigned proceeded with the inquiry, vide letter No.SOE.III (E&AD)3-4/Inquiry/2022 dated 20.12.2022 requesting the Section Officer (General) Elementary & Secondary Education Department to provide the following relevant information through departmental representative:

- i. Fake Posting/ Transfer Notification in respect of Mr. Sami Ullah and Mr. Mati Ullah, Subject Specialists from GHSS Nandrak, Kohat to Jandrai Karak
- ii. Complete address and contact number of Mr. Sami Ullah and Mr. Mati Ullah, Subject Specialists as well as the their statements.
- iii. Complete record of the case

4. In response, the Section Officer (General) Elementary & Secondary Education Department vide letter No.SOG/E&SE/1-31/2022 dated 27.12.2022 provided the requisite information.

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Section Officer (General)
Elementary & Administration
Civil Secretariat
Khyber Pakhtunkhwa

5. On 26.12.2022 the accused official appeared before the undersigned / Inquiry Officer and submitted his written defense / statement. In his written statement the accused official stated that "Each teacher of education department wants posting / adjustment at their nearest station to his home, for this purpose he visits the department and brings recommendations / references from political figures and government officers. It may be noted that staff of (both Govt. Servants & Private) in the office of the Minister / Advisor / Special Assistant to Chief Minister are working and managing the work of officers for their ulterior motives. Mr. Mehboob-ur-Rehman r/o Peshawar is also working in office of the Minister Elementary & Secondary Education Department. He deals with posting / transfer in Education Department. I introduced these Subject Specialists with him and he assured that he will post them as per their desired stations / Schools. Later on, he provided the order copies to me and I sent him through Whatsapp messenger and in compliance of the orders, they assumed their charges in their respective schools and got their salaries accordingly".

6. The departmental representative of Education Department along with Mr. Sami Ullah Subject Specialist Chemistry and Mr. Mati Ullah Subject Specialist Physics were asked to appear before the undersigned on 03.01.2023 vide letter No.SOE.III(E&AD)3-4/Inquiry/2022 dated 27.12.2022. The departmental representative along with the above mentioned subject specialists appeared before the Inquiry Officer and the written statement of the subject Specialists were obtained. Mr. Sami ullah Subject Specialist Chemistry in his written statement stated that he was promoted from the post of SST (BS-16) to SS (BS-17) in 2018 and posted in GHSS Nandraka Kohat for five years. The said school/station was 175 KM away from his house therefore, he submitted application for transfer in Elementary & Secondary Education Department but no action was taken on his application. When he submitted application for transfer in August 2022, in September 2022 ban was imposed on Posting / Transfer. Therefore, he met Muhammad Adnan Senior Scale Stenographer (BS-16) whom he knew before. Muhammad Adnan called him on 10/11 September 2022 and stated that he will issue posting order, in back date and demanded Rs. 60,000/- to which the subject specialists agreed. Accordingly,

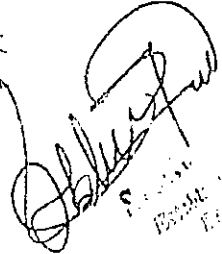
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[Handwritten Signature]
 Director
 Civil Service
 Cyber Pakhtunkhwa

Muhammad Adnan conveyed back dated order (31.08.2022) of posting / transfer of Mr. Sami ullah Subject Specialist Chemistry on his whatsapp number on 13.09.2022. Mr. Mati Ullah Subject Specialist Physics in his written statement stated that after the order of Mr. Sami ullah Subject Specialist Chemistry, he also approached Muhammad Adnan through Sami Ullah and accordingly his back dated posting / transfer order was also issued/conveyed by Muhammad Adnan demanding Rs. 60,000/-. Within few days someone made complaint in Education Department against the above mentioned fake orders and the Section Officer (Male) Education Department asked them to appear before him on 21.09.2022 and stated that the posting / transfer orders were fake and thus inquiry was started. The Departmental representative also assisted the undersigned / inquiry officer and provided the copy of orders regarding ban on posting / transfer as well as specimen signature of Section Officer (Schools Male) of that period i.e. August/September, 2022.

7. The undersigned/inquiry officer also provided an opportunity of personal hearing to the accused official on 09.01.2023 vide letter No.SOE.III (E&AD)3-4/Inquiry/2022 dated 04.01.2023. The accused official appeared before the undersigned/inquiry officer and answered to questions put forward to him. Muhammad Adnan during personal hearing stated that he belongs to D.I.Khan. He has 03 Children and lives with his family in Peshawar. He joined Government Service in 2013 as Junior Scale Stenographer (BPS-14) and was posted in Sports Department upto 2016 without any service training. In 2019, upon promotion, he was posted in Elementary & Secondary Education Department as Senior Scale Stenographer (BPS-16) where he served in the office of Section Officers (Schools Male), Litigation-II and Computer Cell. In August/September 2022 he was posted in Computer Cell/Section Officer Complaints office of Elementary & Secondary Education Department when the above mentioned fake orders were issued. During personal hearing he again confirmed that Mr. Mehboob ur Rehman R/O Peshawar working in the office of the Minister Education gave him both the fake posting / transfer orders and he just simply conveyed the said orders to the concerned subject specialist on whatsapp. Mr. Mehboob ur Rehman had demanded Rs. 60,000/- each for the said posting / transfer orders. Mr. Sami Ullah Subject Specialist Chemistry

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Section Officer (Male)
Civil Services
Education Department
Peshawar

sent the requisite the Rs. 60,000/- to Muhammad Adnan through Jazz Cash in two installment i.e. Rs. 35,000/- and Rs. 25,000/- (60,000/-). Muhammad Adnan claims that he handed over the said amount to Mr. Mehboob ur Rehman and when the posting orders were proved fake, Mr. Mehboob ur Rehman returned the said amount to Muhammad Adnan and he reimbursed the same to Mr. Sami Ullah Subject Specialist Chemistry. Documentary proof of receiving and reimbursing Rs. 50,000/- by Mr. Adnan was provided through supplementary statement dated 01-03-2023. The evidence indicate that on 12-09-2022, Muhammad Adnan received Rs. 30,000/- and Rs. 10,000/- in his Jazz Cash Account and Mr. Adnan reimbursed Rs. 50,000/- to Sami Ullah on 22-09-2022. As far as Mehboob Ur Rehman is concerned, as stated by the accused official, he is a private person/ party worker associated with Ex-Minister Education Mr. Shahram Tarkai, and E&D rules do not apply on private persons.

8. Foregoing in view, the undersigned / inquiry officer hereby submit the following recommendations:

- i. The charges leveled against Muhammad Adnan Senior Scale Stenographer (BPS-16) stand proved and he is proved guilty under Rule-3 (b) & (c) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the penalty mentioned in Rule-4 (a)(ii) withholding increment for two years may be imposed.
- ii. FIR U/S 162/417/419 Pakistan Panel Code may be registered against Mehboob ur Rehman r/o Peshawar by Elementary & Secondary Education Department making Muhammad Adnan as witness in the case.
- iii. Inquiry against Mr. Sami ullah, Subject Specialist Chemistry and Mr. Mati Ullah Subject Specialist, Physics (BS-17) may also be initiated under E&D Rules, 2011.

9. The Inquiry Report along with relevant documents duly signed by the undersigned is submitted on 21-03-2023.

(ABDUL HAQ)

Section Officer E-III / Inquiry Officer
Establishment Department.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

No. SOE.IV (E&AD)9(487)/2021
Dated Peshawar 12.05.2023

To

Muhammad Adnan,
Senior Scale Stenographer (BS-16),
E&SE Department.

Subject: - SHOW CAUSE NOTICE

I am directed to refer to the subject noted above and to enclose herewith Show Cause Notice duly signed by the Competent Authority with the direction to submit your reply within the stipulated time for further necessary action, please.

Encl: As above:


SIRAJ MUHAMMAD
SECTION OFFICER (E-IV)

Copy to:-

Section Officer (Gen), Elementary & Secondary Education Department along with a copy of Show Cause Notice.


SECTION OFFICER (E-IV)


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to be true Com




GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

SHOW CAUSE NOTICE

I, Nadeem Aslam Chaudhary, Chief Secretary, Government of Khyber Pakhtunkhwa, as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Muhammad Adnan, Senior Scale Stenographer (BS-16), Elementary & Secondary Education Department as follows:-

- (i) that consequent upon the completion of inquiry conducted against you by the inquiry officer/inquiry committee for which you were given opportunity of hearing vide communication No. SOE-III(E&AD)3-4/inquiry/2023 dated:04.01.2023; and
 - (ii) on going through the findings and recommendations of the inquiry officer/inquiry committee, the material on record and other connected papers including your defense before the inquiry officer/inquiry committee: -
2. I am satisfied that you have committed the act of misconduct specified in rule 3 of the said rules.
 3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Dismissal from Service under rule 4 of the said rules.
 4. You are, thereof, 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.
 5. If no reply to this notice is received within ten (10) days, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
 6. A copy of findings of the inquiry by the inquiry officer / inquiry committee is enclosed.

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(NADEEM ASLAM CHAUDHARY)
Chief Secretary, Khyber Pakhtunkhwa

Muhammad Adnan, Sr Scale Stenographer (BS-16),
E&SE Education Department

To

The Section Officer (E-IV),
Establishment Department (Establishment Wing),
Peshawar

19/05/23

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Subject: - SHOW CAUSE NOTICE

Reference Establishment Department letter No. SOE.IV(E&AD)9(487)2021 dated 12.02.2023

Dear Sir,

I am in receipt of Show Cause notice issued vide letter under reference in the matter titled "Surrender of services of Muhammad Adnan Senior Scale Stenographer (BS-16), E&SE Department".

2. That in the above-referred Show Cause Notice, the undersigned has been held accused, pursuant to a report devised by an Inquiry Officer, Mr. Abdul Haq (Section Officer PMS BS-17), the then SOE-III, Establishment Department, in the following recommendations;

i. The charges leveled against Muhammad Adnan Senior Scale Stenographer (BS-16) stand proved guilty under Rule-3 (b) & (c) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, the penalty mentioned in Rule-4 (a)(ii) withholding increment for two years may be imposed.

3. As a result whereof, I am tentatively proposed to the penalty of "Dismissal from Service" under rule 4 of the E&D Rule, 2011.

4. That in response to the above, the undersigned has some concerns that I have been provided an opportunity of defense / personal hearing but the Inquiry Officer has recorded certain replies to verbal questions in his own words as he has never issued me any questionnaire for reply in my own words.

5. That in the inquiry report, no name of the complainant and department representative has been given, which creates doubts. No cross examination opportunity was given to the accused / official to cross examine the department representative as well as the Subject Specialists. Nothing in the inquiry report to prove the charge that I demanded reasonable amount from both the Subject Specialists.

6. That as per Rule 11(7) E&D Rules, 2011, the Inquiry Officer was bound to give findings however no findings have been given in the report, therefore the whole proceedings are defective, furthermore, the inquiry officer recommended the penalty mentioned in Rule-4 (a)(ii) withholding increment for two years may be imposed, while the Competent Authority imposed major penalty of "dismissal from service" which is not covered under the rules.

7. That my case was initiated by E&SE Department on the behest of Ex-minister E&SE office to cover their illegal activities, and surrendered my services to Establishment Department unilaterally and without giving me a chance of fair trial. They are trying their best to indulge me in the instant case and make me scapegoat and save their blue eyed, while I once again saying that my role in this matter was in good faith and my only aim was to facilitate the respectable teachers in that case.

8. It is therefore, requested that the charges against the under signed are baseless and the penalty imposed upon me as "dismissal from service" is very harsh, therefore the Competent Authority is requested as my elders to show mercy on me and make some relief as I am a human and human make mistakes because man is prone to error. Hence my case should be considered on the basis of human compassion.

9. I may also be heard in person, please.

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Muhammad Adnan
Senior Scale Stenographer
E&SE Department

19/05/2023

Final



I (20)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

Dated Peshawar, the July 17th, 2023

NOTIFICATION

No. SO E-IV (ED)/ 9(487)/2021: - WHEREAS, Muhammad Adnan, Senior Scale Stenographer (BPS-16), Elementary & Secondary Education Department was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, for the charges leveled against him in the Charge Sheet and Statement of Allegation.

2. AND WHEREAS, Mr. Abdul Haq (PMS BS-17), Section Officer, Establishment Department was appointed as Inquiry Officer to probe into the charges leveled against the accused and submit finding / recommendations.

3. AND WHEREAS, the Inquiry Officer, after perusal and examination of the case, evidence produced before him and explanation of the accused, submitted his report whereby the charges leveled against the accused were proved.

4. AND WHEREAS, Show cause Notice was served upon the accused and major penalty of "Dismissal from Service" was tentatively imposed in terms of Rule-14(4) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

5. AND WHEREAS, Mr. Tariq Salam (PAS BS-19), Additional Secretary (Staff) to Chief Secretary was appointed as hearing officer by the competent authority to afford personal hearing to the accused on behalf of the competent authority.

6. NOW, THEREFORE, I, Nadeem Aslam Chaudhary, Chief Secretary, Khyber Pakhtunkhwa, being the Competent Authority under Rule-4(2)(a) of the Khyber Pakhtunkhwa Civil Servants (APT) Rules, 1989, after having considered the facts of the case, defense offered by the accused, evidence on record, findings of the Inquiry Officer and recommendation of the hearing officer, do hereby impose the major penalty of "Removal from Service" under Rule 14 (5)(ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 upon the accused namely Muhammad Adnan, Senior Scale Stenographer (BPS-16), Elementary & Secondary Education Department..

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

Endst: Even No. & Date.

Copy of the above is forwarded to: -

1. Accountant General, Khyber Pakhtunkhwa.
2. Section Officer (General), E&SE Department.
3. P.S to Secretary, Establishment Department.
4. P.S to Special Secretary (E), Establishment Department.
5. PA to Addl. Secretary (E), Establishment Department
6. PA to Dy. Secretary (E), Establishment Department.
7. The official concerned.

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SECTION OFFICER (E-IV)

J (21)

To

The Honorable Chief Minister,
Khyber Pakhtunkhwa Peshawar.

Subject: - APPEAL FOR EXONERATION / REINSTATMENT INTO SERVICE ON HUMANITARIAN GROUNDS

Respected Sir,

With due respect it is submitted that I am Muhammad Adnan working as Senior Scale Stenographer (BS-16) in Elementary & Secondary Education Department upon which a major penalty of (Removal from Service) has been imposed by Establishment Department vide Notification No. SO E-IV (ED)/ 9(487)/2021 dated July 17th, 2023 (Annex-I).

2. Brief fact of the case that being an employee of the Elementary & Secondary Education Department, many people/teachers approach us for their posting / transfer, thus the two Subject Specialists came to me through one of my teachers requested for their transfer. As per in terms of Establishment Department letter No. SO(O&M) E&AD/3-15/2007 dated 26.07.2013 posting / transfer of the officers up to BS-18 may be made at the level of the Department concerned in consultation with Minister In charge, so in Education Department all the posting / transfer orders are issued with the approval of the Minister E&SE Department as a result they placed orders in the names given by me which were later canceled based on an unknown complaint and an inquiry was made stating that the orders were fake, as a result of Inquiry Report, the Inquiry Officer recommended to stop the annual increment of one year as punishment but unfortunately the competent authority gave major penalty of removal from service.

3. That in response to the above, the undersigned has some concerns that I have been provided an opportunity of defense / personal hearing, but the Inquiry Officer has recorded certain replies to verbal questions in his own words as he has never issued me any questionnaire for reply in my own words. Also in the inquiry report, no name of the complainant and department representative has been given, which creates doubts. No cross examination opportunity was given to me to cross examine the departmental representative as well as the Subject Specialists. Nothing in the inquiry report to prove the charge that I demanded reasonable amount from both the Subject Specialists.

4. It is pertinent to mention here that as per Rule 11(7) E&D Rules, 2011, the Inquiry Officer was bound to give findings however no findings have been given in the report, therefore the whole proceedings are defective, furthermore, the inquiry officer recommended the penalty mentioned in Rule-4 (a)(ii) withholding increment for two years may be imposed, while the Competent Authority imposed major penalty of "dismissal from service" which is not covered under the rules.

5. Feeling aggrieved with the decision of competent authority and I think that I have nothing to do with it because I was neither in the concerned section nor a competent authority to sign any piece of paper. Further, the allegations leveled against the applicant are completely false, baseless, fabricated and fictitious, which have no relation to reality, and further, my omission is not such that the undersigned has been removed from the service, which is gross injustice.

6. Furthermore, it is added that I have been serving various departments for the past 10 years and this job is my only source of livelihood from which I support my household expenses. Therefore, it is very polite request to you sir that the sustenance of my family should not be taken away and that I should be reinstated in my job so that I can support myself and my family.

7. Dear Sir, in light of the above explanation it is very kindly requested that the above mention decision of penalty for "Removal from Service" may please be set aside on humanitarian ground and to meet the spirit of justice. Further the applicant assures that I will not give any opportunity to complain to the superior officers in future.

8. I along with my whole family will always pray for this act of kindness

o/c ATTESTED to be true Copy
Muhammad Adnan
Senior Scale Stenographer
31/07/23

Dated 31.07.2023

Office of the PSCM
Diary No. 5278/2023
Dated 31/07/2023

U-No-~~5278~~
PSCM

Through Registered Post / Out Today

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(ESTABLISHMENT WING)

No. SOE.IV (E&AD)09(487)/2021
Dated Peshawar 10.10.2023

To

Muhammad Adnan,
Ex-Senior Scale Stenographer (BS-16),
Village & Post Office Paniala Tehsil Pahar Pur,
District Dera Ismail Khan.
Contact: 0300-9096422, 0345-9873564.

Subject: - APPEAL FOR EXONERATION/REINSTATEMENT SERVICE ON HUMANITARIAN GROUNDS

I am directed to refer to the subject noted above and to convey that your departmental appeal for setting aside the major penalty of "Removal from Service" was processed and regretted by the appellate authority i.e Chief Minister, Khyber Pakhtunkhwa.


SECTION OFFICER (E-IV)


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VAKALAT NAMA

NO. _____ /2023

IN THE COURT OF Service Tribunal Peshawar

Muhammed Adnan

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt : of KP

(Respondent)
(Defendant)

I M. Adnan (Appellant), Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court of Pakistan & Syed Noman Ali Bukhari, Advocate High Court** 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.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us.

Dated 25 / 10 / 2023

[Signature]
11/10/23
(CLIENT)

ACCEPTED [Signature]

(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
OF PAKISTAN.

& [Signature]
(S. NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

[Signature]
HILAL HATO ZUBAIR
ADVOCATE

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