

14.11.2016

Appellant in person and Addl:AG alongwith Mr. Daud Jan, Supdt for respondents present. Appellant requested for time to file rejoinder. To come up for rejoinder and arguments on 24.03.2017.



(ABDUL LATIF)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

24.03.2017

Counsel for the appellant and Assistant A.G for the respondents present. Counsel for the appellant submitted application for withdrawal of the appeal.

In view of the above, the appeal is dismissed as withdrawn. File be consigned to the record room.



Chairman

ANNOUNCED
24.03.2017

24.03.17.

5

24.08.2015

Appellant in person and Mr. Daud Jan, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 10.11.2015 before S.B.


Chairman

10.11.2015

Appellant in person and Mr. Daud Jan, Supdt. alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 25.4.2016.


Chairman

25.04.2016

Counsel for the appellant and Mr. Jehangir Khan, Office litigation Haripur alongwith Mr. Adeel But, GP for official respondents present. Rejoinder submitted. To come up for arguments on 21.7.2016 before D.B.


Chairman

21.07.2016

Appellant in person and Mr. Ziaullah, GP for respondents present. Appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 14.11.2016.


Member


Member

3 .

13.05.2015

None for the appellant present. Notice to counsel for the appellant be issued for 27.05.2015 for preliminary hearing before S.B.


Chairman

4

27.05.2015

Counsel for the appellant present. Submitted application alongwith amended appeal with a prayer to allow the appellant to implead Secretary Administration and Coordination FATA as a party to the appeal. Application allowed and amended appeal placed on record.

Learned counsel for the appellant argued that the appellant was serving as Chowikadar at GGPS Walayat Kalay when his mother fell ill and the appellant constrained to apply for earned leave and proceed to Karachi to look after his ailing mother. That the appellant also assigned his duty to his son so as to look after the school in his absence. That vide order dated 17.12.2014 the services of the appellant were terminated regarding which he preferred departmental appeal on 12.1.2015 which was not responded and hence the instant service appeal on 8.5.2015.

That the appellant has put in more than 20 years service and was having earned leave to his credit and, additionally, has also assigned the duty to his son and as such the impugned order of termination of service without inquiry is void and not sustainable in 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 for 24.8.2015 before S.B.


Chairman

Appellant Deposited
Security & Process Fee



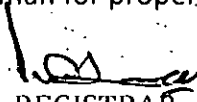


Form- A

FORM OF ORDER SHEET

Court of

Case No.

421/2015

S.No:	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	08-05-2015	<p>The appeal of Mr. Asghar presented today by Mr. Noor Badshah Bangash Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p> REGISTRAR</p>
2	11-5-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>13-5-2015</u>.</p> <p> CHAIRMAN</p> <p></p>

Before the KPK Service Tribunal Peshawar

Asghar s/o Kinab Gul Ex-Chrookider
G.G.P.S walayat Kalay Jaraki PR, Kohat

^v
Secretary Educ: FATA & Others

Subject: Withdrawal of service appeal

Sheweth,

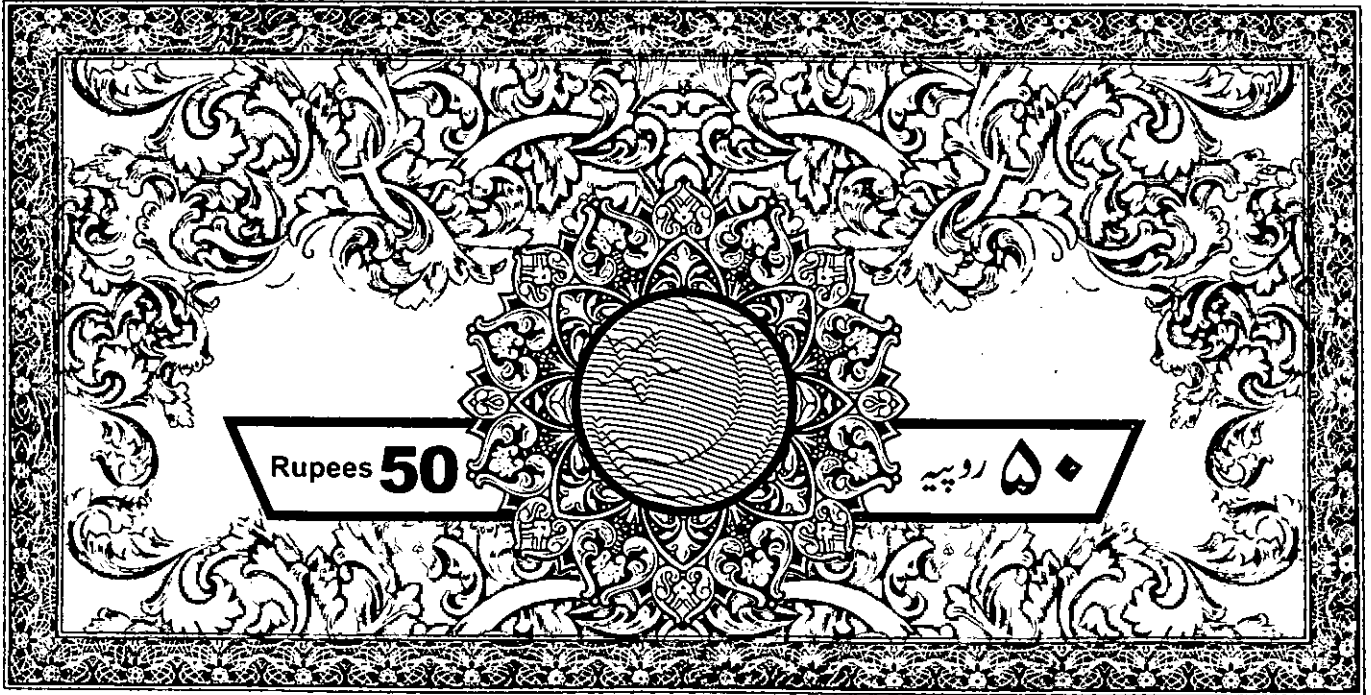
In the cited case, date is fixed for today for arguments.

2. The appellant wants to withdraw the subject appeal and does not want to proceed further in the matter.

In view of above it is requested that the subject appeal may please be dismissed as withdrawn.

27/24/3/2017

NO. 207/2017
Dr. Asghar
Through (Now Sad Sukh) Bangash,
Advocate, Kohat.



کدیت فنڈ - ع - عدالت سپریم فیڈرل بیٹا اور

۱

سیکشن ۱۱(۱) و فیروز

نام

منسٹر

رجسٹرڈ

مختیار نامہ خاص برائے بیرونی مقدمہ

اپنی سہیل منسٹر عدالت کے مقدمات کی طرف سے جو اس کی عدالت میں منسٹر عدالت کے فیصلے کے تحت
 منسٹر عدالت کے فیصلے کے تحت منسٹر عدالت کے فیصلے کے تحت

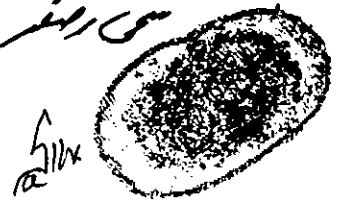
یہ کہ منسٹر عدالت کا مقدمات منسٹر عدالت کے فیصلے کے تحت منسٹر عدالت کے فیصلے کے تحت منسٹر عدالت کے فیصلے کے تحت
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 مختیار نامہ خاص عدالت

22401-2912640-7
 منسٹر

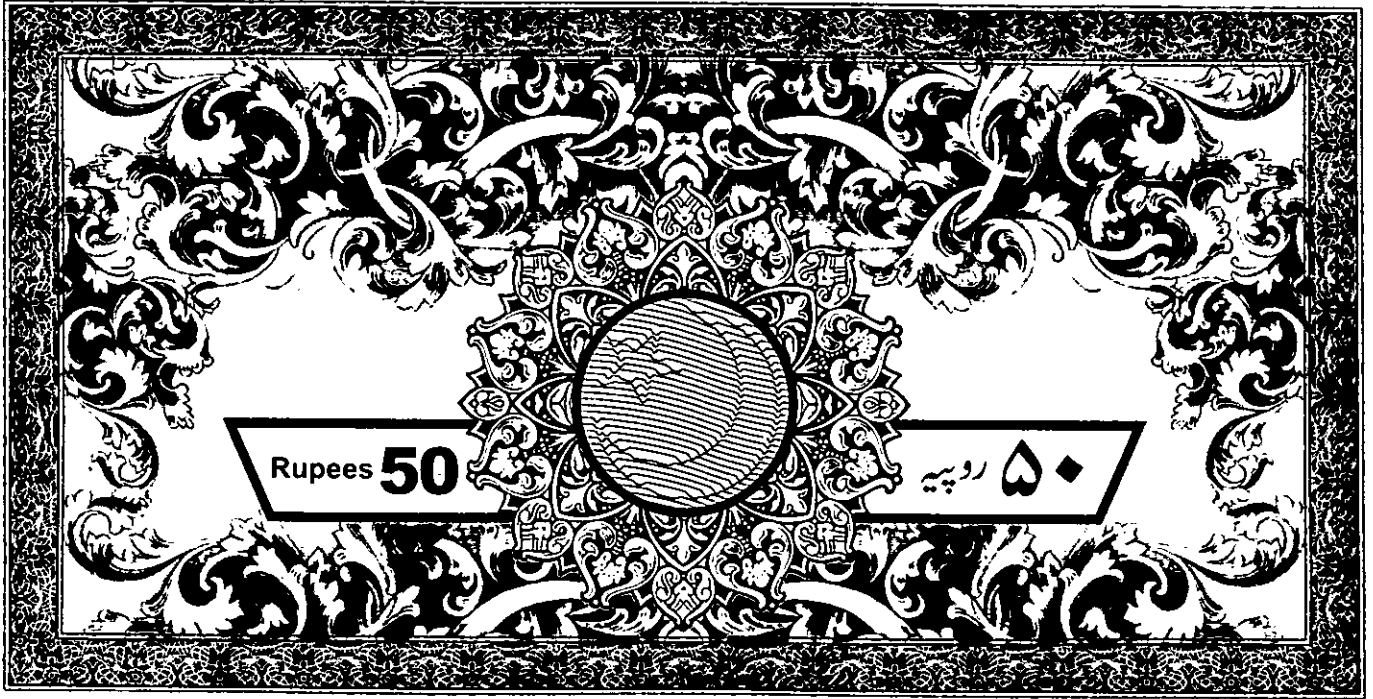
@abdullah

SHER HAIDER
 Advocate
 Oath Commissioner
 Distt Courts Kohat

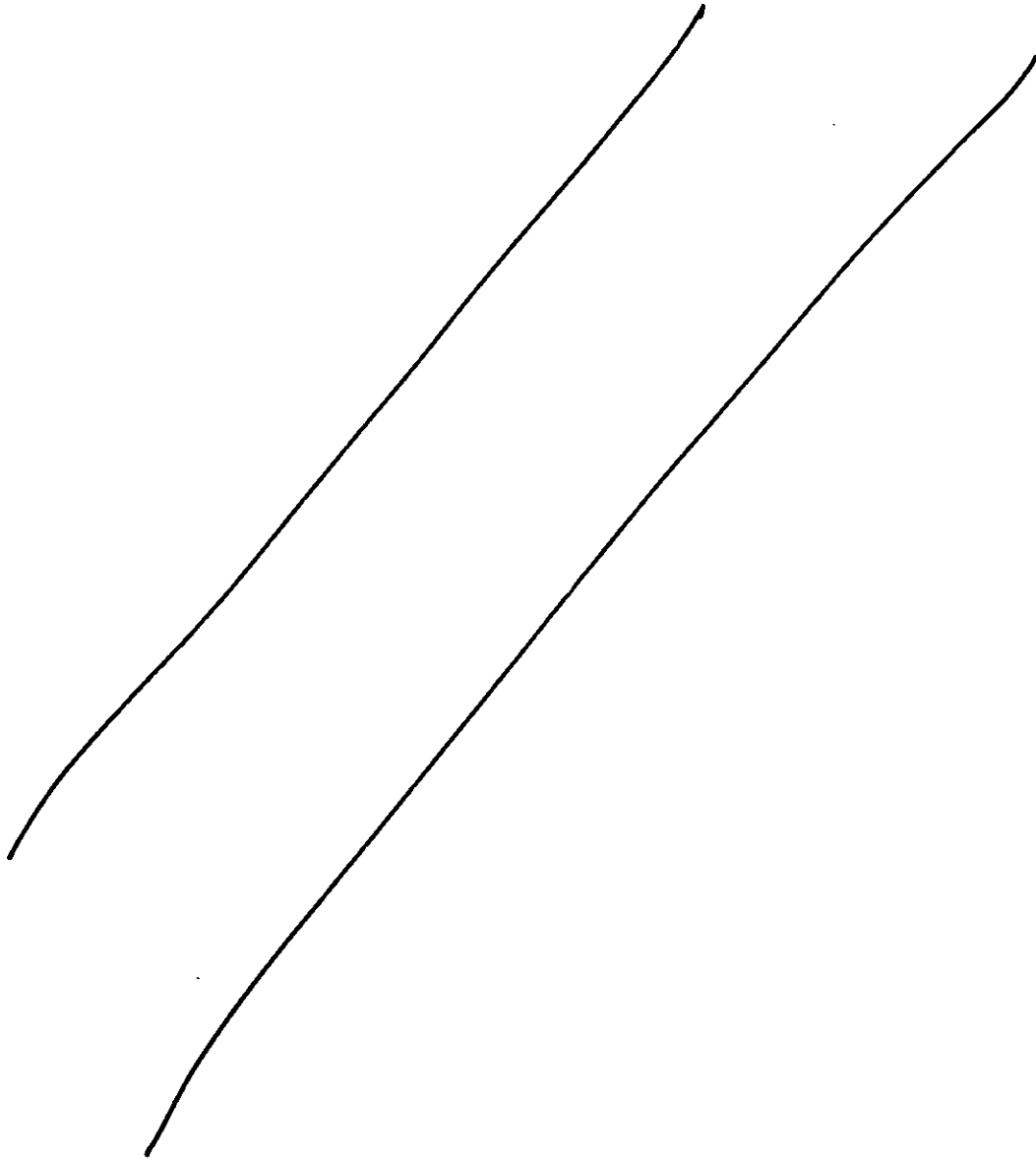


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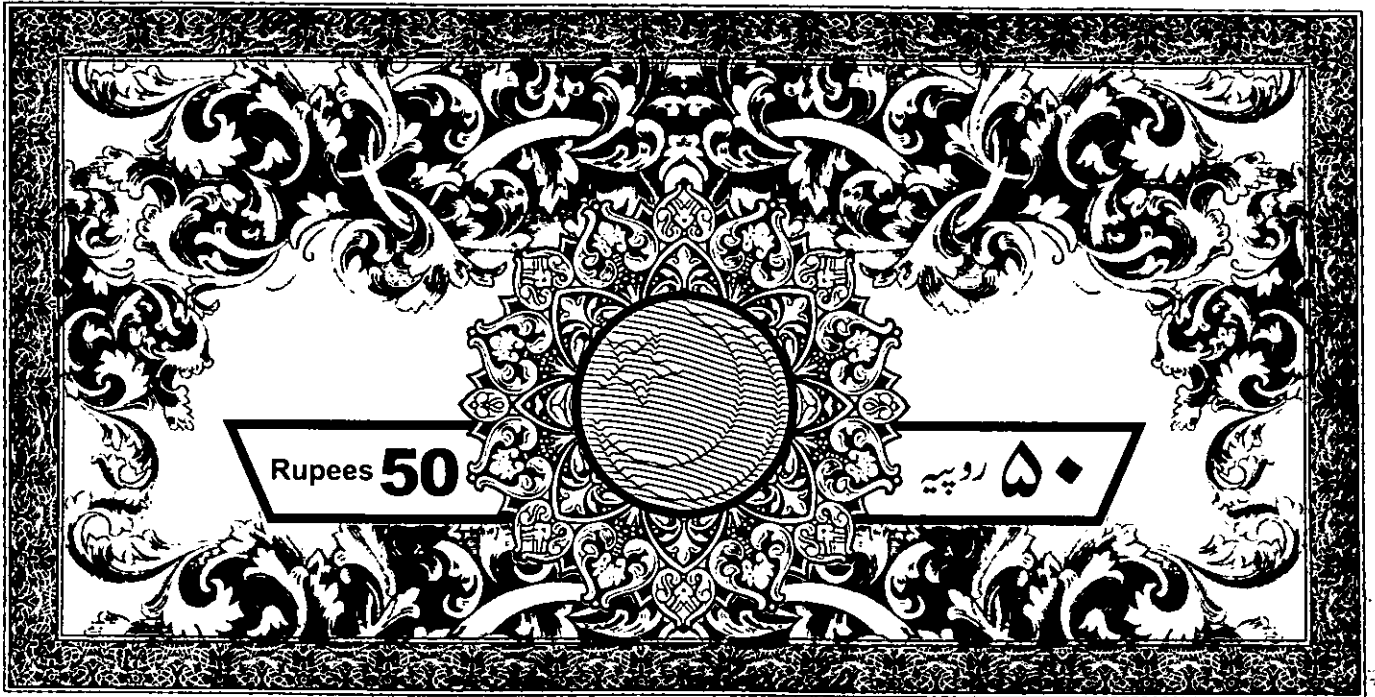
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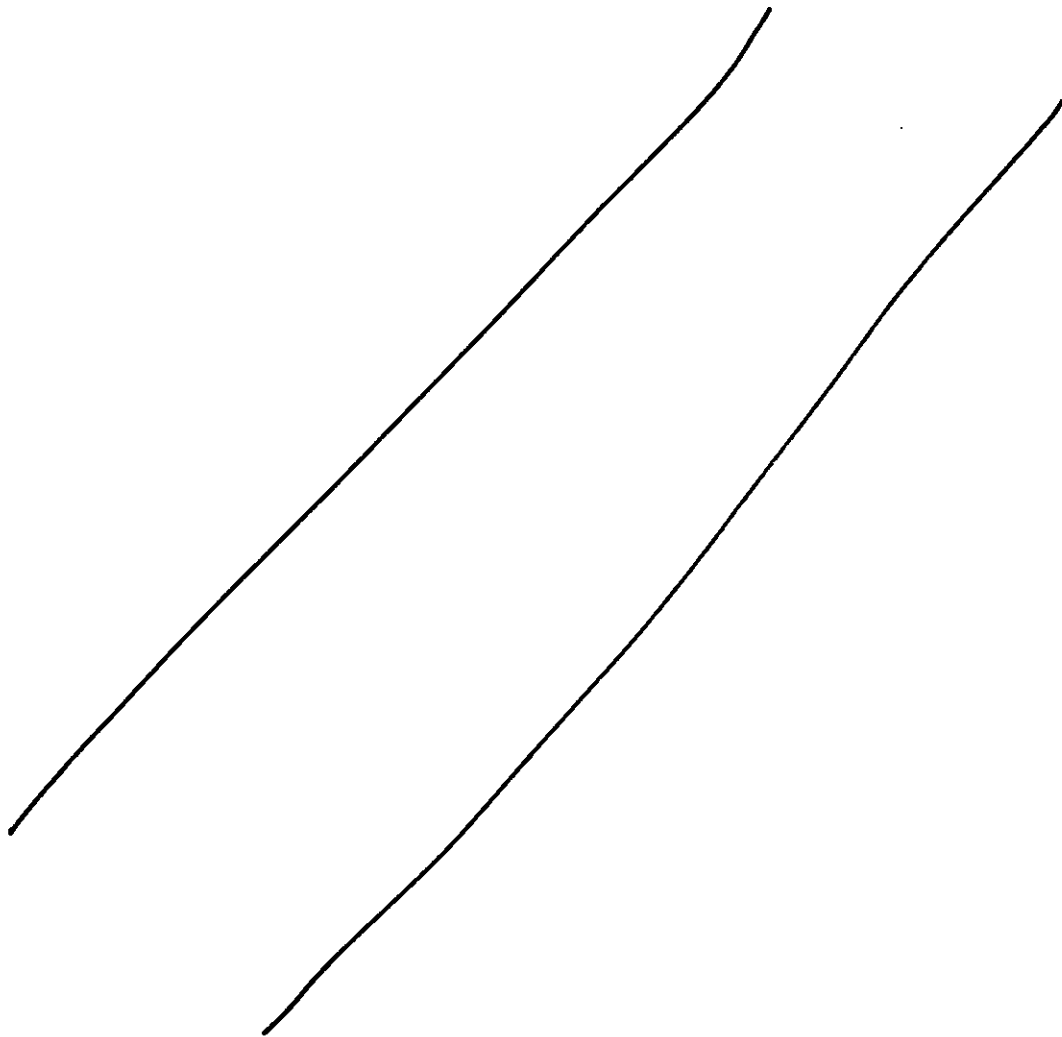
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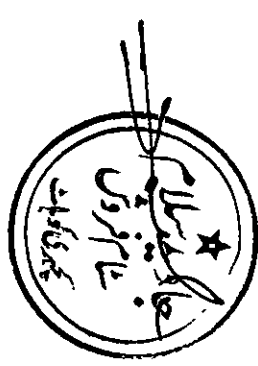
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21 MAY 2015
KOHAT



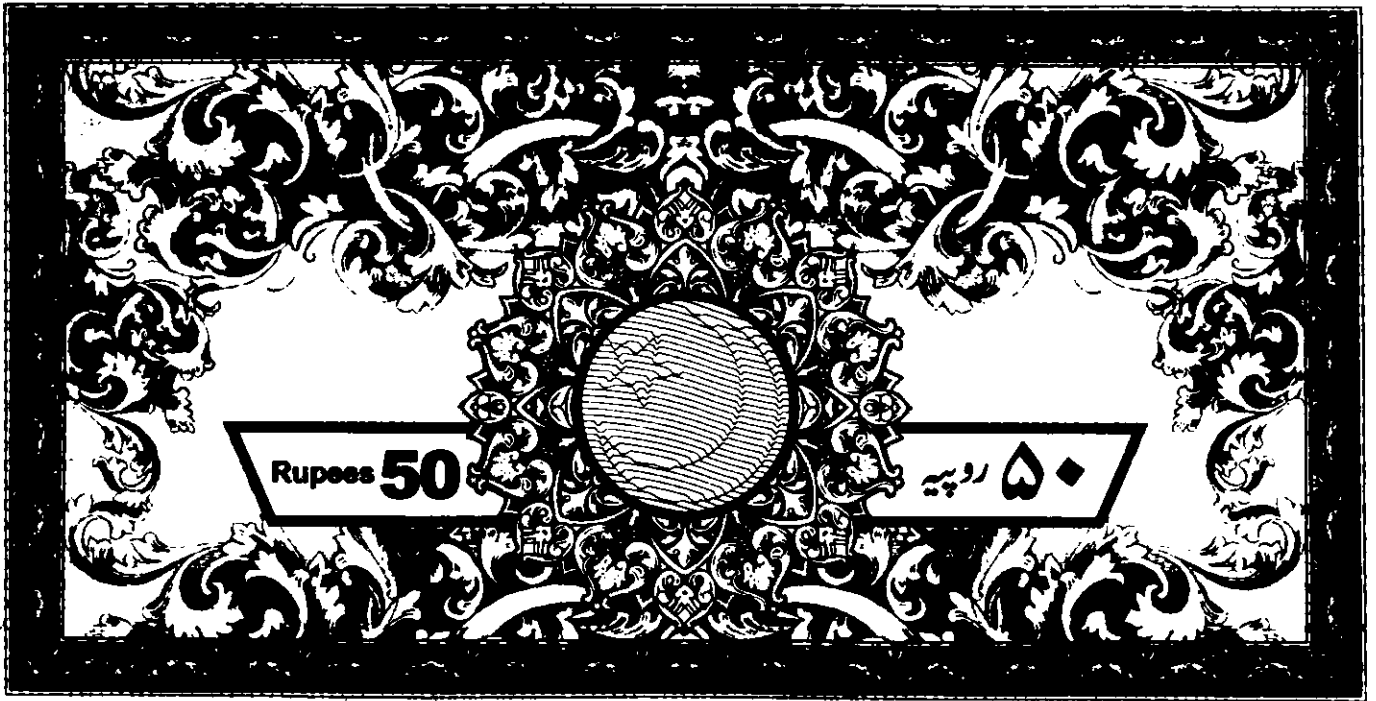
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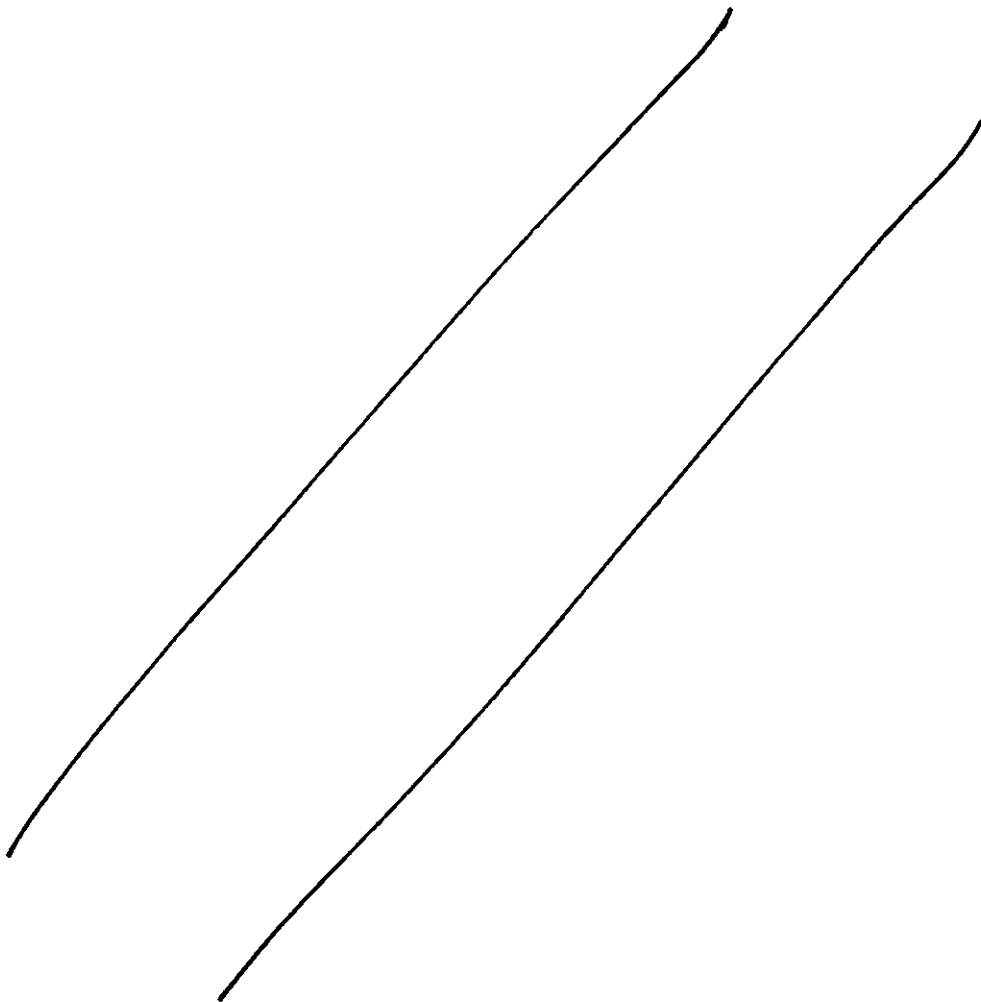
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23/5/15



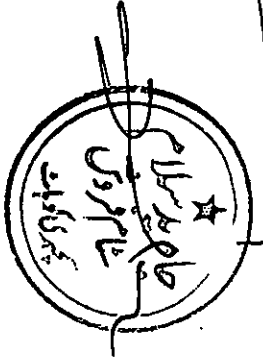
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21 MAY 2015
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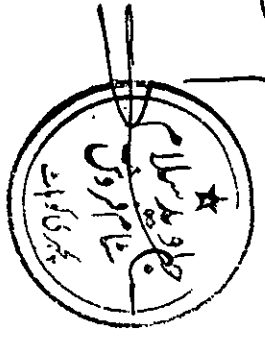


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KOHAT PRESS
21 MAY 2015
KOHAT

956
23/5/15



KOHAT TREASURY
21 MAY 2015
KOHAT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 421/2015

Asghar S/o Kinab Gul Ex-Chowkidar Govt. Girls Primary School
Walayat Kalay Jawaki FR Kohat. (Appellant)

VERSUS

Director of Education FATA, FATA Secretariat Peshawar etc.
(Respondents)

INDEX

S.No	Description	Annexure	Pages
1.	Memo of appeal.	-	1-4
2.	Appointment order of appellant and service book	A	5-10
3.	Impugned order dt: 17-2-2014 and departmental appeal and receipt of courier service.	B & C	11-15
4.	Affidavits	D & E	16-17
5.	Vakalatnama		18

Appellant *Abdullah*
Asghar (Ex-Chowkidar)
Through Abdullah

Dated: 06-5-2015.

Through:

Noor Badshah
Noor Badshah Bangash
Advocate,
Distt: Courts Kohat.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal no. 421/2015

Asghar S/o Kinab Gul Ex-Chowkidar Govt. Girls Primary School

Walayat Kalay Jawaki FR Kohat.

(Appellant)

VERSUS

K.W.F. Province
Service Tribunal

Diary No. 469

Dated 08-5-2015

1. Director of Education FATA, FATA Secretariat Peshawar.

2. Agency Education Officer FR, Kohat.

(Respondents)

APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT
1974 WHEREBY THE RESPONDENT NO.1 HAS NOT DISPOSED
OFF THE APPEAL WITHIN THE STATUTORY PERIOD AS THE
RESPONDENT NO.2 HAS TERMINATED THE SERVICES OF THE
APPELLANT VIDE HIS ORDER NO.2373 DATED 17-12-2014
ON ACCOUNT OF WILLFUL ABSENCE FROM DUTY.

Prayer in Appeal:

On acceptance of this appeal the impugned order referred to above may please set aside being illegal arbitrary against law and contrary to prescribed service rules and against the facts and circumstances of the case. Therefore the appellant may graciously be reinstated in services with all back benefits. Further prayed any relief deem appropriate may also be extended in favour of appellant to meet the requirements of justice.

Respectfully Sheweth

Facts :

Filed to-day
10/5/15
Registrar
8/5/15

1. Facts giving rise to the present appeal are that the appellant joined service on 12-9-1995 as Chowkidar in Edu: Deptt: and performed his duties with great care, efficiently and to the entire satisfaction of his superiors. The appellant rendered about 20 years service which is evident from the record. Copy of annexure-A.
2. That the appellant while on duty received message from Karachi in connection with his ailing mother to come immediately, as maximum portion of family members of the appellant are residing in Karachi.
3. That before leaving to Karachi to attend ailing mother the appellant got permission from Teaching Staff as the GGPS Walayat Khan Kalay inside the compound wall of the appellant and requested that his son Abdullah will perform duty as Chowkidar in the above mentioned school till his arrival from Karachi as he had to attend the patient as there was no responsible member to look after her. Necessary permission was granted in this regard and the appellant proceeded to Karachi and his son performed duty of Chowkidar at the said School which is evident from the record.
4. That later on it came into the knowledge of appellant that his service has been terminated vide impugned order mentioned above. Dissatisfied with the termination order, the appellant preferred a Departmental appeal before respondent No.1 who could not dispose off the appeal within the statutory period. Copy of annexure-B & C.

5. That feeling aggrieved the appellant submit the instant appeal on the following grounds amongst others.

Grounds:

- a) That the impugned orders referred to above is against law, contrary to prescribed services rules, capricious and also against the fact and circumstances of the case, hence liable to be set-aside.
- b) That no notice was received by the appellant as well as their family members. No proclamation notice published in the daily newspaper as the appellant was busy in Karachi in connection with look after his ailing mother. The appellant was in the anticipation that his son had already been deputed for duty with the permission of the teaching staff and was fully satisfied about his performance as Chowkidar on the said school as the said school was situated within the premises of the appellant house.
- c) That the teaching staff has attested the affidavit which prima facie established the stance of the appellant to the effect that his son had performed duty in the said school very honestly and absence of the appellant from willful absence of duty, question of his absence does not arise. Therefore the impugned order is untenable. Copies of annexure D & E.
- d) That the respondent No.2 has passed the impugned order of the appellant in cursory manner and did not take into consideration the various aspects of the case and also did not ascertain the actual position from the teaching staff about absence of the

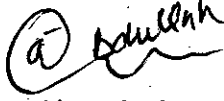
appellant and no proper enquiry conducted to ascertain the factual position as required under the rules. Thus the respondent Deptt: has committed illegalities / irregularities, hence calling for interference of this honourable court with the prayer that the appellant deserve to be reinstated in service for which he has rendered 20 years at his credit as Chowkidar. It is significant to mention here, if this honourable court does not agree with regard to reinstatement in service of the appellant, then he may be compulsorily retired from service as he has rendered sufficient service at his credit. The appellant is supporting large family including poor and old parents and facing hardships in these hard days to meet the requirements of daily necessities of life.

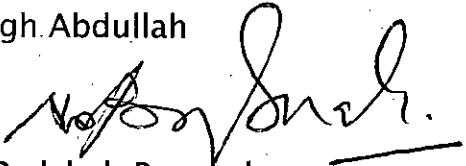
a) That the appeal is within time.

In view of the above, it is humbly prayed, that on acceptance of the instant appeal the impugned orders referred to above may please be set-aside and the appellant may graciously be reinstated in service with all back benefits (OR) any order deems appropriate may also be passed in this regard for ends of justice.

Dated: 06-5-2015.

Through:

Appellant 
Asghar (Ex-Chowkidar)
Through Abdullah


Noor Badshah Bangash
Advocate,
Distt: Courts Kohat.

POINTMENT OF CLASS IV:

Consequent upon the recommendation of the Assistant Political Agent Kohat, vide his letter NO 1599 Dated 10/9/95.

The appointment of the following Chowkidar / Caller are hereby ordered in BPS NO 1 plus usual allowances against newly created posts in the interest of public service w.e.f their taking over charge, Their names and Schools are listed against each.

NO	NAME AND FATHER'S NAME		NAME OF SCHOOLS	REMARKS
	Abdullah Khan Sher Alam.	S/O	GGPS Sunni Khel FR Kohat.	Newly created Chowkidar post.
	Bibi Bastaja Sharif Khen.	D/O	GGPS Sunni Khel FR Kohat.	Newly created Caller post.
	Asanullah Khen Khan Mohammad.	S/O	GGPS Mazid Khel No2 FR Kohat.	Newly created Chowkidar post.
	Gul Bajan Mehboob Khan.	W/O	GGPS Mazid Khel No 2 FR Kohat.	Newly created Caller post.
	Asghar Kinab Gul.	S/O	GGPS Jammu Jawaki FR Kohat.	Newly created Chowkidar post.
	Khalid Mewa Bibi Willayat Khan.	S/O	GGPS Jammu Jawaki FR Kohat.	Newly created Caller post.

Notes :-

1. Charge report should be submitted in duplicate to this office.
2. They are directed to get their Health & Age Certificate from D.H.Q Civil Hospital Kohat.

Their Appointment made purely on temporary basis which can be terminated any time without assigning any reason.

They will not be handed/taken over charge if he is below 18 and above then 45 years of age.

ATTESTED
To be true copy

[Signature]
Advocate
Kohat.

[Signature]
Agency Education Officer,
Orakzai Agency & FR Kohat.

File NO 742-46 Dated FR KT the 12 / 9 / 1995.

to the:-

1. H/T GGPS Sunni Khel FR Kohat.
2. H/T GGPS Mazid Khel No 2 FR Kohat.
3. H/T GGPS Jammu FR Kohat.
4. Candidate concerned.
5. General File.

12/9/95

[Signature]
Agency Education Officer,
Orakzai Agency & FR Kohat.

6

SERVICE BOOK

ATTESTED

To be true copy

Advocate
B.A.L.L.B. Advocate
of the High Court

Name نام _____

Father's Name والد کا نام _____

Qualification قابلیت _____

Designation عہدہ _____

Department محکمہ _____

Permanent Address مستقل پتہ _____

وہاب خان صاحب

1	2	3	4		5		6	7	8						
Name of Post	Whether Substantive or officiating and whether permanent or temporary	If officiating (II) whether service counts for pension under rule 3-26 of C.S.R. (Pb.) Volume II	Pay in substantive position		Additional pay for officiating		Other emoluments falling under the term pay	Date of appointment	Signature of Government						
			Rs.	Ps.	Rs.	Ps.									
درجہ ملازمت	عارضی مستقل تمام مقام	انڈیا مارکیٹ ہے تو کیا وہ درجہ کے مطابق پیش کرنا سکتی ہے	مختارہ بطور عارضی ملازمت	زائد مختارہ بطور تمام مقام	ماہوار مختارہ دیگر الانڈس	تاریخ تقرری		Chand... at 55/5 Jamma J.R.A. Khet	B.K.C. 1. 12. 55 - 35 - 1774	P.S. 12415/PA	12/9/55				
—da—			P.S. 1280/PA			1/12/55		—da—			P.S. 1315/PA			1/12/55	
—da—			P.S. 1350/PA			1/12/55									

TO BE TRUE COPY
 [Signature]
 THE CHIEF SECRETARY
 L.L.B. AUGUST 1955
 [Signature]

8

1. Name (نام) Alghar

2. Nationality and Religion (قومیت اور مذہب) Pakistani Islam

3. Residence (رہائش) Jamu Mander F.R Kohat

4. Father's name and residence (پدر کا نام اور رہائش) Kinsh Gul Jamu

5. Date of birth by Christian era (مذہب کے مطابق پیدائش کی تاریخ) 8-8-1974
or as far as can be ascertained (جس قدر معلوم ہو سکے)

6. Exact height by measurement (قد کا پیمائش) 1.70 M

7. Personal mark of identification (پہچان کی نشانی) Mark on hand

8. Left hand/right hand thumb and finger-impressions of (Non-gazetted officer) (بازو کی نمونہ اور انگلیوں کی نشانیوں کے نشانات)

Little Finger (چھٹکی) Ring Finger (پہلو کی انگلی) Middle Finger (اگلی) (اگلی کے ساتھ کی انگلی) (اگلی کے ساتھ کی انگلی) (اگلی کے ساتھ کی انگلی)
Fore Finger (اگلی کے ساتھ کی انگلی) Thumb (بازو کی نمونہ)

9. Signature of Govt. Servant (سرکاری ملازم کی دستخط)

10. Signature and designation of the Head of the Office or other Attesting officer (رہنما کی دستخط اور عہدہ)

Agency Education Officer
Ghazal Agency F.R Kohat

Note: The entries in this page should be renewed or re-attested at least every five years and the signatures in lines 9 and 10 should be dated. Finger prints need not be taken after every 5 years under this rule.

یہ صفحہ ہر پانچ سال بعد تجدید کرنا ضروری ہے اور نمبر 9 اور 10 میں دستخطوں کے ساتھ تاریخ کوئی مہینہ و دن لکھیں۔
انگلیوں کی نشانیوں کو ہر پانچ سال کے بعد لے کر لینے کی ضرورت نہیں۔

ATTESTED

(Handwritten signature)

10	11	12	13	14	15		
Signature of Government Servant	Date of termination or Government	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 of average pay up to four months (or earned leave not exceeding 120 days) to 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 praised of the Government servants
<i>[Signature]</i>	11/11/97	دوران نقولت	<i>[Signature]</i>	رخصت کی نوعیت و مدت	حاجت نامہ کی رخصت کے لئے اوسط پوراہہ	<i>[Signature]</i>	کوئی ریکارڈ نہیں
<i>[Signature]</i>	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97	<i>[Signature]</i>	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97
<i>[Signature]</i>	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97	<i>[Signature]</i>	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97
<i>[Signature]</i>	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97	<i>[Signature]</i>	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97
<i>[Signature]</i>	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97	<i>[Signature]</i>	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97	A.S.O. P.R. 30/11/97

Appended against Chow Post
 necessary credit at ...
 ...
 No 742-46-12-9-25

Passed ...
 ...
 ...

ATTEST BY
 To be true copy

Agency ...
 Office ...

Verif. ...
 Office ...

vice-Verif. ...
 Office ...

D

16

Health & Age Certificate

Take over charge
on 12/9/95

Name Asghar

Caste Afghani

Father's Name Khan Ghani

Residence Jamrud, P.O. Kohat. Agency Formation Office
Graham's Road, Kohat

Date of Birth 3.3.74

Height 1.70 m

Personal mark of Identification IC No. 159-74-025838

I do hereby certify that I have examined Mr Asghar
a candidate for employment in the office of Education Deptt.
and cannot discover that he had any disease communicable or
other constitutional affection or bodily infirmity except *MR*

I do not consider this as disqualification for
employment in the office of the Education Deptt.
His age according to his own statement is 21 yrs
and by appearance about 21 years.

Medical Superintendent,
LM/Distt HQ Hospital, Kohat.

ATTESTED
To be true copy
13/9/95

Signature
MAGS BAI SHAN BAI
B.A.L.S. Advocate
Kohat

11

Annex - (B)

OFFICE OF THE AGENCY EDUCATION OFFICER , ORAKZAI AGENCY & FR KOHAT.

OFFICE OF THE AGENCY EDUCATION OFFICER FR KOHAT AT KDA KOHAT.

No. 2373

Dated: 17/12/2014.

TERMINATION ORDER.

As per instructions of Secretary AI & C FATA Peshawar Letter No. FS/Coord/C-III/1-6/Edu., Health 1493-1514 dated: 21-05-2014 & endorsed by DE FATA, Peshawar No. 7138-58 dated: 23-05-2014 & again secretary AI & C FATA. No. FS/Coord/C-III/1-6/Edu., Health / 4535-57 dated: 27-11-2014, The following Class-IV servants were found will fully absent from their duties during the process of verification.

The notices were issued on their home as well as school address, but they failed to report back for their duties. Their names were advertised in the two daily news papers but they did not report for their duties and remained will fully absent. So keeping in view the above instruction, the following class IV servants are here by terminated from their services as per E & D rules 2011.

S.No	Name of Official	Designation	Schools	Remakes
1.	Arshad Khan	Sweeper	GHS Sheendhand Jawaki FR Kohat.	Terminated due to will full absence from duty.
2.	Muhammad Zahid	Chowkidar	GFCS Mir Akber Kalli Jawaki FR Kohat.	----do----
3.	Azim Khan	Chowkidar	GPS Alam Khel Toor Chapper FR Kohat.	----do----
4.	Shah Wali	Chowkidar	GPS Feroz Khel Toor Chapper FR Kohat.	----do----
5.	Shah Nawaz	Chowkidar	GHS Sheendhand Jawaki FR Kohat.	----do----
6.	Asghar Khan	Chowkidar	GGPS Willayat Khan Kalli Jawaki FR Kohat.	----do----

[Handwritten signature]

Agency Education Officer
FR Kohat. 3

CC:

1. Director of Education FATA, KPK Peshawar.
2. Deputy Commissioner Kohat.
3. Assistant Political Agent FR Kohat.
4. MNA NA-17.
5. AAEO FR Kohat.
6. Principal Concerned.
7. Head Teacher Concerned.
8. Candidate Concerned.

To be true copy
[Signature]
SAD SHAN BANGAL
B.A.L.L.S. Advocate
FR Kohat

Agency Education Officer
FR Kohat.

12

Annex (C)

BEFORE THE DIRECTOR EDUCATION FATA SECRETARIATE
PESHAWAR

Asghar S/o Kinab Gul Ex-Chowkidar Govt. Girls Primary School
Walayat Kalay Jawaki FR Kohat. (Appellant)

VERSUS

Agency Education Officer FR, Kohat. (Respondent)

DEPARTMENTAL APPEAL / REPRESENTATION AGAINST
THE IMPUGNED ORDER VIDE NO.2373 DATED 17-12--
2014, WHEREBY RESPONDENT HAS TERMINATED THE
APPELLANT ON ACCOUNT OF WILLFUL ABSENCE FROM
DUTY.

Prayer:

On acceptance of this appeal the impugned order referred to above may please be set aside being illegal against the prescribed services rules, arbitrary and against the facts and circumstances of the case. Therefore, the appellant may graciously be reinstated in service with all back benefits. Further prayed any relief deems appropriate to the circumstance of the case which has not been asked for may also be extended in favour of appellant for ends of justice.

TESTIFIED
To be true copy
[Signature]
AGENCY EDUCATION OFFICER
FATA SECRETARIATE
Kohat.

13

Respectfully Sheweth

Facts / Grounds:

1. Facts giving rise to the present appeal are that the appellant joined service on 12-9-1995 as Chowkidar in the Education Department and performed his duties with great care, efficiently into the entire satisfaction of his superiors and thus rendered 20 years at his credit.
2. That the appellant proceeded to Karachi in connection with his ailing mother as maximum portion of family members residing in Karachi. He directed his son to perform duty as Chowkidar in the above mentioned school till his arrival from Karachi as he had to attend the patient as there was no responsible member to look after her. The son of the appellant performed his duty in the said school which is evident from the record.
3. That later on it came into the knowledge of appellant that his services has been terminated vide impugned order mentioned above. Therefore, the appellant aggrieved and submit the instant appeal.
4. That no notice was received by the appellant and their family members as well and no proclamation noticed in the newspaper as he was in Karachi and busy in connection with to look after his ailing mother. The appellant was in the anticipation that his son was deputed for duty and the school staff were fully satisfied about the performing duties of the applicant's sons in his place. In this connection they had also attested the affidavit which prima facie established that his son had performed duties in the said school

ATTESTED
To be true copy
KOCHE BAD SHAH BANGSHI
Advocate
R.A.L.S. Advocate
Khan

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and question of his absence does not arise. Therefore, the impugned order is untenable. Copies attached for perusal please.

5. That willful absence was not committed intentionally but due to the above mentioned facts. The respondent had not bothered to ascertain the factual position from the concerned school and in cursory manner passed termination order from service which is against the prescribed services rules. Therefore, the matter needs to be reviewed. The appellant has rendered 20 years service and there was no complaint against him. According to the local rewaj in Jawaki there are many instances available in which persons are performing their duties in absence of the actual civil government servant in case of emergency. Hence the impugned order is not sustainable in the eyes of law.

6. That the appeal is within time.

In view of the above, it is humbly prayed that on acceptance of this appeal the impugned order referred to above may please be set aside and appellant may graciously be reinstated in services with all back benefits for ends of justice.

Appellant
Asghar S/o Kinab Gul Ex-Chowkidar

Dated: 12-1-2015.

Through:

Asad Ullah
Noor Badshah Bangash
Noor Badshah Bangash
Advocate,
Distt: Courts Kohat.

ATTESTED
Noor Badshah Bangash
NOOR BADSHAH BANGASH
S.A.L.L.B. Advocate
Distt: Courts Kohat.

DCS DELTEX COURIER SERVICE

DOMESTIC & INTERNATIONAL COURIERS
 TEL: 5369291-5369942-5857903 KH: 2444736-4534049 RVP: 5531866-5534711
 SB: 2376375-2872164 FSD: 643517 PEW: 217993 UET: 822751 MUX: 571634

CLIENT REGD. No.	ORIGIN OHT	DESTINATION	CN NO.	WEIGHT	PIECES
		KEW	No 256266	0.5	1
FROM: (SHIPPER)	TO: (CONSIGNEE)			DOC.	PARCEL
H. Sghar AVESHAD KOHAT TO BE DELIVERED Director for Education G. S. S. Secretariat Islamabad				CHARGES	
				V. CHG.	
				G.S.T.	
				TOTAL	
COLLECTION INFORMATION			DELIVERY INFORMATION		Shipper Signature
Courier Code	Date	Time	Receiver	Date	

Terms & Conditions: 1. DCS is not responsible for any damage to contents of shipment. 2. Liability of DCS for any loss or damage of shipment shall in no way exceed a maximum amount of Rs. 100 per shipment. 3. DCS shall not be liable in any event for any consequential loss or damage. 4. DCS is not liable for any loss or damage to contents of shipment if such damage is caused by fire, theft, pilferage, or any other cause, whether or not DCS acknowledges that such damage might be incurred including, but not limited to loss of income profit interest or any or loss of market. 5. DCS is not liable for any loss or damage to contents of shipment if such damage is caused by fire, theft, pilferage, or any other cause, whether or not DCS acknowledges that such damage might be incurred including, but not limited to loss of income profit interest or any or loss of market. 6. DCS is not liable for any loss or damage to contents of shipment if such damage is caused by fire, theft, pilferage, or any other cause, whether or not DCS acknowledges that such damage might be incurred including, but not limited to loss of income profit interest or any or loss of market. 7. DCS will not carry passport letters, Post Cards, Cash, Currency, Securities, Travelers Cheques, Gold, Precious Stones/Jewels, Drugs or any item, the carriage of which is prohibited by any law of any country or Federal Government of Pakistan. If the above noted items are handed over to DCS by any shipper by giving a false statement, DCS shall not be responsible for the loss/damage of such items, providing the item insured by the shipper by insurance company.

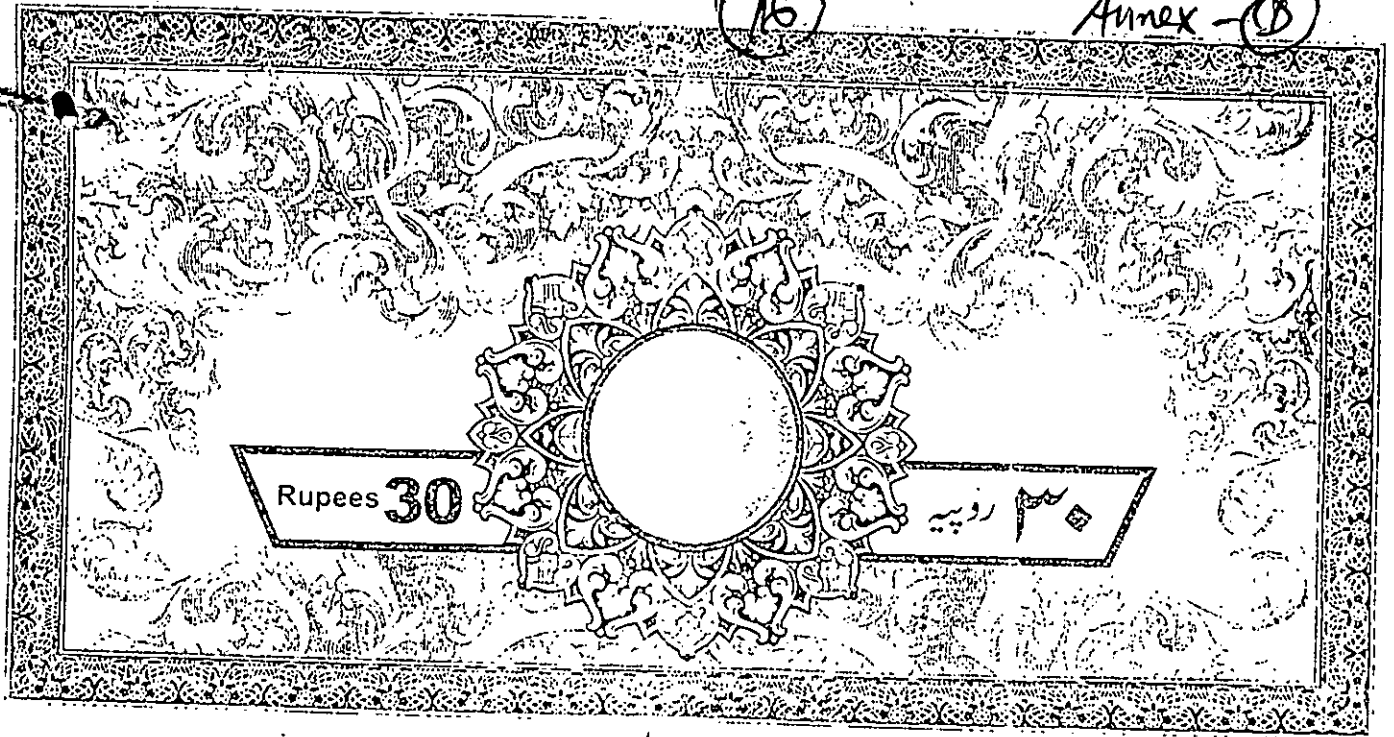
پاکسٹن ڈیلٹیکس کوریئر سروس کی طرف سے ہر شے کی ترسیل کے لیے ایک ہی پتہ استعمال کرنا ہے۔ اگر آپ کو کسی اور پتے پر ترسیل کرنا ہے تو اسے واضح طور پر لکھ کر دینا ہے۔ DCS کے لیے ہر شے کی ترسیل کے لیے ایک ہی پتہ استعمال کرنا ہے۔ اگر آپ کو کسی اور پتے پر ترسیل کرنا ہے تو اسے واضح طور پر لکھ کر دینا ہے۔

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1951

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بیان حلفی

منجانب: مایا ننگہ ملک دلایت خان ولد دولت خان ملک ٹلنگل ولد خطاب گل ساکنان جموں منڈر دلایت خان کے FR کوہاٹ کے ہیں اور خانقا ذیل بیان کرتے ہیں:

۱۔ یہ کہ ہم مقرران خانقا کہتے ہیں کہ عبداللہ ولد اصغر نڈ کور، سکول میں چوکیداری کے فرائض احسن طریقے سے سرانجام دے رہا ہے۔ جو عبداللہ کے والد اپنی ملکیتی زمین سکول کے نام پر اس شرط پر وقف کی ہے کہ ٹکڑہ میرے بیٹے کو بھرتی کر کے اسے قبائلی رسم و رواج کے مطابق ماہوار تنخواہ ادا کریگا۔

۲۔ یہ کہ ٹکڑہ تعلیم نے اس پر کوئی عذر و اعتراض نہیں کیا جو چوکیداری کے قواعد و ضوابط کے مطابق اپنی ذیوی سرانجام دے رہا ہے اور ٹکڑہ اسکی ذیوی سے مطمئن ہے۔ اور نہ ہی کبھی اسکے خلاف کوئی شکایت موصول نہ ہوئی۔

خانقا بیان کرتے ہیں کہ جملہ امور بیان حلفی ہذا تا حد علم و یقین کے ہمارے درست اور صحیح ہیں جن میں کوئی امر مبنی بر دروغ نہیں اور نہ ہی کوئی امر پوشیدہ رکھا گیا ہے۔

مورخہ: 10-1-2015

ملک ٹلنگل

(22401-8113951-5)

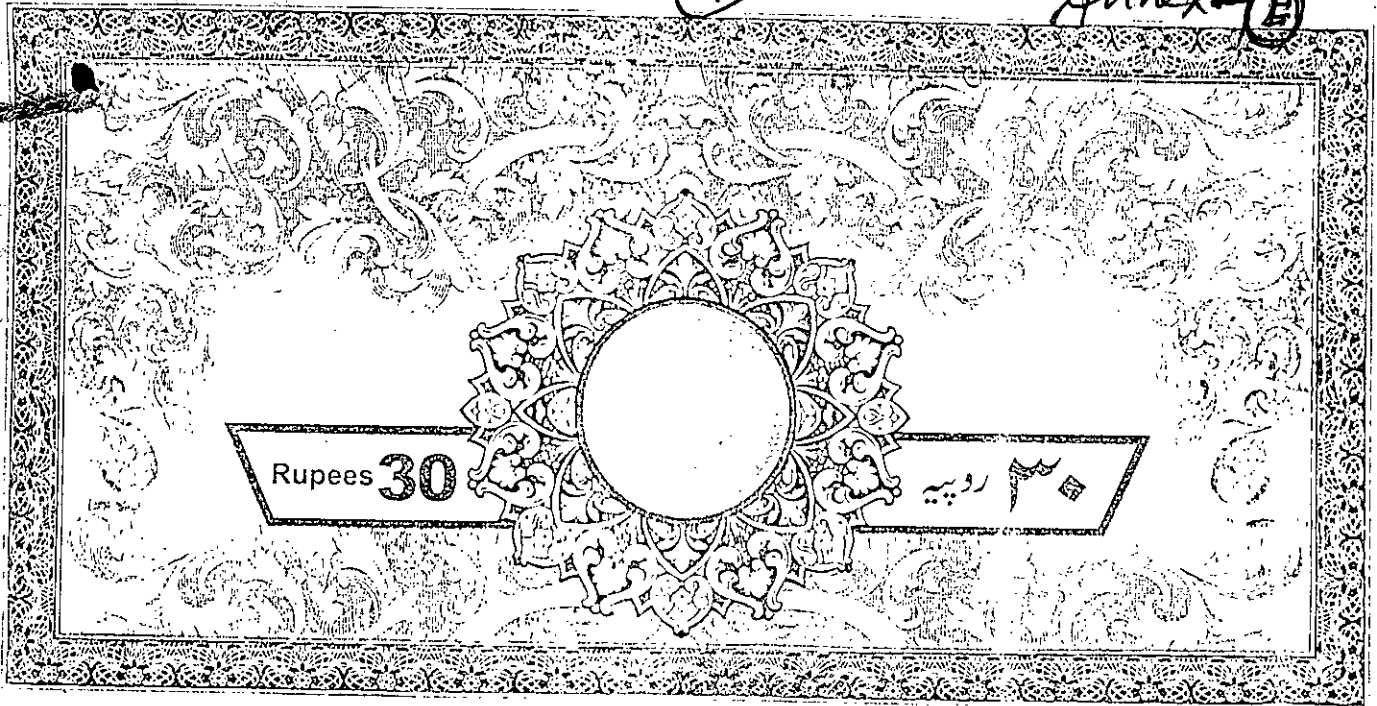
ملک دلایت خان

(22401-7259679-3)

ATTESTED

ATTESTED
Pir Qasim Shah
Oath Dar and
District Courts Kohat
10-1-15

ADVOCATE
SAD SHAN BANGOR
S.A.L.L.B. Advocate
Kohat



بیانِ حلفی

منجانب: مایا ننگہ مساتان ناہیدہ زوجہ رحمن الدین، جمیلہ جان زوجہ وحید گل اور بصور سلطان زوجہ غلام مرتضیٰ حال استائیاں GGPS واقع جموں منڈیر ولایت خان کلبے FR کو بات کی ہیں اور حلفاً ذیل بیان کرتی ہیں:

۱۔ یہ کہ ہم مقرران حلفاً کہتی ہیں کہ عبداللہ ولد اصغر مذکورہ سکول میں چوکیداری کے فرائض احسن طریقے سے سرانجام دے رہا ہے۔ اور محکمہ اسے قبائلی رسم و رواج کے مطابق ماہوار تنخواہ ادا کرتا ہے۔

۲۔ یہ کہ اس دوران ہمیں کبھی چوکیدار کے خلاف کوئی شکوہ و شکایت موصول نہ ہوئی ہے۔ اور تمام سٹاف چوکیدار کے قول و فعل اور ڈیوٹی سے مطمئن ہے۔

حلفاً بیان کرتے ہیں کہ جملہ امور بیانِ حلفی ہذا اتحادِ ظہم و یقین کے ہمارے درست اور صحیح ہیں جن میں کوئی امر مبنی بر دروغ نہیں اور نہ ہی کوئی امر پوشیدہ رکھا گیا ہے۔

مورخہ: 10-1-2015

Nasir Sultan
بصور سلطان

22401-4085313-0

Jamila Jan
جمیلہ جان

14300-F100622=8

Nahid
ناہیدہ

14301-6821005-0

Pir Qasim Sheh
ATTESTED
Pir Qasim Sheh Advocate
Oath Commissioner
District Court, Kohat
10-1-15

ATTESTED

S. A. S. Advocate
S. A. S. Advocate
District Court, Kohat

(18)

بعدالت جناب ایڈووکیٹ جنرل سپریم کورٹ لاہور

کورٹ نمبر

۲۰۱۵ء منجانب
appellant -

نام
Director of Education
FATA, Peshawar.

امضہ

مقدمہ

علت نمبر

جرم زبردفعہ

مورخہ

تھانہ (SVC appeal)

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جوابدہی کل کارروائی متعلقہ آس مقام کے لیے

نور بادشاہ نیگس ایڈووکیٹ کورٹ

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا اختیار ہوگا۔ نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجرا اور وصولی چیک در روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی و نیز دائر کرنے اپیل نگرانی نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور کے کل یا جزو کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا اس کے مستحق کیا صاحب موصوف ہوں گے نیز بقایا خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

۲۰۱۵

امضہ
@adallah

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المرقوم

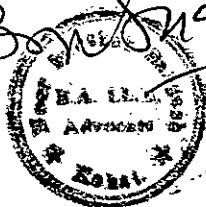
(Appellant)

Asghar through
Abdullah
attest & accepted

کے لیے منظور ہے

مقام کوہاٹ

no objection



BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No: 421/2015

Asghar S/O Kinab Gul Ex-Chowkikdar GGPS Walayat Kalay FR Kohat.....Appellant.

VERSUS

1. Director Education FATA Warsak Road Peshawar.
2. Agency Education Officer FR Kohat.....Respondents.

Para-wise comments on behalf of respondent No: 1 and 2.

Respectively Sheweth:

Preliminary Objection

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct to bring the present appeal.
5. That the appeal is bad due to non-joinder and misjoinder of ^{the} necessary parties.
6. That the appeal is barred by law and no departmental appeal is made to the competent authority against the impugned order. Hence not maintainable under Section-4 of Service Tribunal Act.

On Facts:


1. No comments. Subject to proof.
2. Subject to proof. However the appellant should have applied for leave as per rules in fact the appellant went abroad and serving there.
3. According to the statement given by the Agency Education Officer FR Kohat being Competent Authority for the appellant vide letter No. 2632 dated 09/02/2015 (copy attached as Annexure-A). The appellant was found willfully absent from the duty during his verification process. The Agency Education Officer further stated that he is performing his duty in Dubai which is against the service rules. Being a Government Servant he is violating the Govt rules. After observing of all codal formalities i.e notices and advertisement in two daily news papers have been fulfilled (Copy attached as Annexure-B/C). The service of the appellant has been terminated.
4. Incorrect. No departmental appeal has been filed against the order. The appeal of the appellant is totally baseless and illegal.
5. Needs no comments.

Grounds:


- a. Incorrect. The impugned order is according to law and rules.
- b. Incorrect. In this regard three notices have been sent to the appellant with the direction to resume his duty but no response have been made from appellant side (Copy of the notices are attached as Annexure- D/E/F). Detail reply has been given in Para-3
- c. Incorrect. The services of the appellant has been terminated by the Competent Authority after observing of all codal formalities.
- d. Incorrect. The appellant was found willfully absent from his duty during verification process and he was performing his duty in DUBAI which is against the spirit of the rules invogue in Education Department.
- e. Incorrect. As explained in Para No.4 above.

In light of the above facts it is humbly requested to please dismiss the appeal having no legal grounds with cost.

Respondent NO.1


Director Education FATA
Peshawar.


Respondent NO.2


Agency Education Officer
FR Kohat

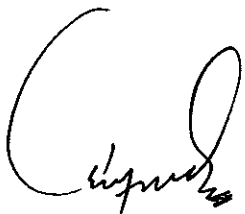
AFFIDAVIT

We the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our Knowledge and belief that nothing has been concealed from this Honorable Tribunal.

Respondent NO.1


Director Education FATA
Peshawar.

Respondent NO.2


Agency Education Officer
FR Kohat



Ashgar Khan
29/8/15

OFFICE OF THE AGENCY EDUCATION OFFICER

F.R KOHAT

Gate No. 2 K.D.A Kohat

Phone: 0922 220121 Fax: 0922 220121

Letter No: 2632 Dated: 9/2/2015.

A

To

The Director of Education
FATA, Secretariat Peshawar.

Subject: - DEPARTMENTAL APPEAL BY EX-CHOWKIDAR MR. ASHGAR S/O
KINAB GUL GGPS WILAYAT KHAN KALLI FR KOHAT.

Memo,

Reference your letter No. 1229 dated: 02/02/2015. It is requested in your honour that this office has mentioned in the termination order. Mr. Ashgar Khan S/O Kinab Gul was found will fully absent from his duty during verification process. According to reliable sources he is performing his duty in Dubai which is against the services rule.

Being a govt. servant he is violating the govt. rule. Agency Education Officer is a competent authority to take action against the culprit from BPS-01 to 10. Following instruction from secretary AI&C he has been terminated.

His appeal is totally baseless & illegal because all the codal formalities i.e ~~three~~ notices & advertisement in two daily news papers have been fulfilled. During this whole period which is about two months, he failed to report back for his duty. So, his appeal should not be entertained.

Agency Education Officer
F.R Kohat.

19-014

1601

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شمارت: ایجنسی ایجوکیشن آفس ایف آر کوہاٹ سے ایجنسی ایجوکیشن آفس ایف آر کوہاٹ
بیانات: ایجنسی ایجوکیشن آفس ایف آر کوہاٹ سے ایجنسی ایجوکیشن آفس ایف آر کوہاٹ

نوٹس غیر حاضری

عنوان:-

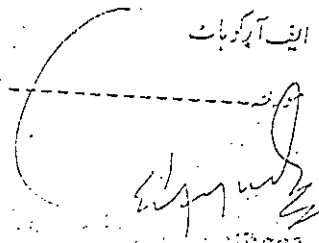
یادداشت:-

آپ کو نوٹس لکھا گیا ہے کہ آپ کو 7 دن اور زیادہ سے زیادہ 14 دن کے اندر ڈیوٹی پر حاضر ہوں اور غیر حاضری کی وجوہات تحریری طور پر پیش کریں۔
بمطابق Efficiency & Discipline Rule 2011 کے تحت قانونی کارروائی میں لائی جائیگی، جس میں آپ کی سرورس سے بروخاشی ہو سکتی ہے۔

نمبر:-
نقل برائے

ایجنسی ایجوکیشن آفس ایف آر کوہاٹ

ایف آر کوہاٹ


Agency Education Officer
F. T. Kohat

نقل برائے اطلاع:-

- | | |
|---|-----------------------------------|
| 1 | ڈائریکٹر ایجوکیشن فائنڈیشن اور سچ |
| 2 | ایف آر کوہاٹ |
| 3 | ایجنسی ایجوکیشن آفس ایف آر کوہاٹ |
| 4 | |

ایجنسی ایجوکیشن آفس ایف آر کوہاٹ

ایف آر کوہاٹ

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

(E)

2

25-8-14

1478

ایف آئی آر

Handwritten text in Urdu script, likely a subject line or case description.

ڈپٹی رجسٹرار

آپ کو درخواست ہے کہ آپ کو 14 دن اور زیادہ سے زیادہ 14 دن کے اندر ڈپٹی رجسٹرار اور ڈپٹی سیکریٹری کی ذمہ داریوں کو پیش کرنے کے لئے Efficiency & Discipline Rule, 2011 کے تحت قانونی کارروائی میں لائی جائے گی جس میں آپ کی سروس سے برخاستگی کے بارے میں...

ایف آئی آر

25/8/14

1478

Handwritten signature and stamp of the Registrar.

Handwritten signature and stamp of the Deputy Registrar.

ایف آئی آر

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

"D" "F"

نمبر 1379

تاریخ 5-8-2019

منجانب: ایجنسی ایجوکیشن آفر ایف آر کوہاٹ

بجانب: ڈائریکٹر ایجوکیشن ناٹا پشاور

نوٹس غیر حاضری

عنوان:-

یادداشت:-

آپ مورخہ 20/7/2019

آپ کو بذریعہ نوٹس بعد اطلاع کیا جاتا ہے کہ آپ کم از کم 7 دن اور زیادہ سے زیادہ 14 دن کے اندر ڈیوٹی پر حاضر ہوں اور غیر حاضری کی وجوہات تحریری طور پر پیش کریں۔ بصورت دیگر آپ کے خلاف Efficiency & Discipline Rule 2011 کے تحت قانونی کارروائی عمل میں لائی جائیگی، جس میں آپ کی سروس سے برطرفی کا امکان ہے۔

ایجنسی ایجوکیشن آفر ایف آر کوہاٹ

Agency Head: Omleez
F. R. Kohat

5-8-2019

نمبر 1380-81
نقل برائے اطلاع:-

ڈائریکٹر ایجوکیشن ناٹا پشاور

D. C. Kohat
D. C. Kohat

- 1.
- 2.
- 3.
- 4.

ایجنسی ایجوکیشن آفر ایف آر کوہاٹ
Agency Head: Omleez
F. R. Kohat

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Asghar S/o Kinab Gul Ex-Chowkidar Govt. Girls Primary School
Walayat Kalay Jawaki FR Kohat. (Appellant)

VERSUS

1. Secretary AI & C FATA, FATA Secretariat Peshawar.
2. Director of Education FATA, FATA Secretariat Peshawar.
3. Agency Education Officer FR, Kohat. (Respondents)

impleading of object No 1 and
PERMISSION REGARDING / FILING OF APPEAL IN RESPECT OF THE
APPELLANT ON ACCOUNT OF NON-IMPLEADING RESPONDENT NO.1
I.E. SECRETARY FATA EDU: FATA, FATA SECRETARIAT PESHAWAR DUE
TO MISTAKE OVER SIGHT.

Respectfully Sheweth;

The petitioner would like to submit that an appeal U/S 4 of KPK Service Tribunal Act 1974 was preferred in this honourable tribunal on 06-5-2015 and it was received after thorough scrutiny etc.

That a notice for preliminary hearing has been received and date is fixed for today. On perusal already preferred appeal, it was found that name of Secretary Edu: FATA, FATA Secretariat Peshawar has not been impleaded due to mistake over sight, who is necessary party.

In view of the above, it is humbly prayed, that permission for impleading the Secretary FATA Edu: may please be made to avoid any legal flaw for ends of justice.

Dated: 23-5-2015.

Through:

Abdullah
Appellant
Asghar (Ex-Chowkidar)
Through Abdullah

Noor Badshah
Noor Badshah Bangash
Advocate,
Distt: Courts Kohat.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Asghar S/o Kinab Gul Ex-Chowkidar Govt. Girls Primary School
Walayat Kalay Jawaki FR Kohat (Appellant)

VERSUS

1. Secretary A1 & C FATA, FATA Secretariat Peshawar.
2. Director of Education FATA, FATA Secretariat Peshawar.
3. Agency Education Officer FR, Kohat. (Respondents)

APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT
1974 WHEREBY THE RESPONDENT NO.2 HAS NOT DISPOSED
OFF THE APPEAL WITHIN THE STATUTORY PERIOD AS THE
RESPONDENT NO.3 HAS TERMINATED THE SERVICES OF THE
APPELLANT VIDE HIS ORDER NO.2373 DATED 17-12-2014
ON ACCOUNT OF WILLFUL ABSENCE FROM DUTY.

Prayer in Appeal:

On acceptance of this appeal the impugned order referred to above may please ^{be} set aside being illegal arbitrary against law and contrary to prescribed service rules and against the facts and circumstances of the case. Therefore the appellant may graciously be reinstated in services with all back benefits. Further prayed any relief deem appropriate may also be extended in favour of appellant to meet the requirements of justice.

Respectfully Sheweth

Facts :

1. Facts giving rise to the present appeal are that the appellant joined service on 12-9-1995 as Chowkidar in Edu: Deptt: and performed his duties with great care, efficiently and to the entire satisfaction of his superiors. The appellant rendered about 20 years service which is evident from the record. Copy of annexure-A.
2. That the appellant while on duty received message from Karachi in connection with his ailing mother to come immediately, as

maximum portion of family members of the appellant are residing in Karachi.

3. That before leaving to Karachi to attend ailing mother the appellant got permission from Teaching Staff as the GGPS Walayat Khan Kalay ^{is situated} inside the compound wall of the appellant and requested that his son Abdullah will perform duty as Chowkidar in the above mentioned school till his arrival from Karachi as he had to attend the patient as there was no responsible member to look after her. Necessary permission was granted in this regard and the appellant proceeded to Karachi and his son performed duty of Chowkidar at the said School which is evident from the record.
4. That later on it came into the knowledge of appellant that his service has been terminated vide impugned order mentioned above. Dissatisfied with the termination order, the appellant preferred a Departmental appeal before respondent No.2 who could not dispose off the appeal within the statutory period. Copy of annexure-B & C.
5. That feeling aggrieved the appellant submit the instant appeal on the following grounds amongst others.

Grounds:

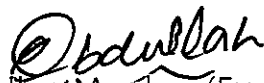
- a) That the impugned orders referred to above is against law, contrary to prescribed services rules, capricious and also against the fact and circumstances of the case, hence liable to be set-aside.
- b) That no notice was received by the appellant as well as their family members. No proclamation notice published in the daily newspaper as the appellant was busy in Karachi in connection with look after his ailing mother. The appellant was in the anticipation that his son had already been deputed for duty with the permission of the teaching staff and was fully satisfied about his performance as Chowkidar on the said school as the said school was situated within the premises of the appellant house. No opportunity provided to the appellant to defend his case. It was incumbent upon the respondents to ascertain to actual position, but they could not do their job in true spirit. Therefore, the impugned order is liable to be set aside.
- c) That the teaching staff has attested the affidavit which prima facie established the stance of the appellant to the effect that

his son had performed duty in the said school very honestly and absence of the appellant from willful absence of duty, question of his absence does not arise. Therefore the impugned order is untenable. Copies of annexure D & E.

- d) That the respondent No.3 has passed termination order on the instructions of respondent No.1 and endorsed by respondent No.2 as incorporated in the impugned order, while the respondent No.3 issued termination order in respect of the appellant in cursory manner and did not take into consideration the various aspects of the case and also did not ascertain the actual position from the teaching staff about absence of the appellant and no proper enquiry conducted to ascertain the factual position as required under the rules. Thus the respondent Deptt: has committed illegalities / irregularities, hence calling for interference of this honourable court with the prayer that the appellant deserve to be reinstated in service for which he has rendered 20 years at his credit as Chowkidar. It is significant to mention here if this honourable court does not agree with regard to reinstatement in service of the appellant, then he may be compulsorily retired from service as he has rendered sufficient service at his credit. The appellant is supporting large family including poor and old parents and facing hardships in these hard days to meet the requirements of daily necessities of life.

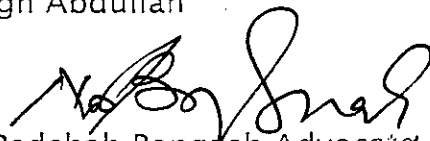
- a) That the appeal is within time.

In view of the above, it is humbly prayed, that on acceptance of the instant appeal the impugned orders referred to above may please be set-aside and the appellant may graciously be reinstated in service with all back benefits (OR) any order deems appropriate may also be passed in this regard for ends of justice.


Appellant Asghar (Ex-Chowkidar)
Through Abdullah

Dated: 23-5-2015.

Through:


Noor Badshah Bangash Advocate,
Distt: Courts Kohat.